

understanding that sufficient protection and balance would be ensured between protected areas and multiple-use managed areas, and that there would be no more administrative land withdrawals. The Alaska lawsuit alleged that USDA violated ANILCA by applying the requirements of the roadless rule to Alaska's national forests. USDA settled the lawsuit by agreeing to publish this proposed rule to temporarily exempt the Tongass from the application of the roadless rule, and to publish the separate advance notice of proposed rulemaking (located elsewhere in the same part of today's **Federal Register**) requesting comment on whether to exempt permanently the Tongass and the Chugach National Forests in Alaska from the application of the roadless rule.

Under the settlement, the vast majority of Alaska National Forests will remain off limits to development. Timber harvest will be prohibited on more than 95 percent of Alaska National Forests as required under existing forest plans. Exempting the Tongass National Forest from the application of the roadless rule would make approximately 300,000 roadless acres available for forest management—slightly more than 3 percent of the 9.3 million roadless acres in the Tongass, or 0.5 percent of the total roadless acres nationwide. Exempting the Chugach National Forest from the application of the roadless rule would permit roaded access on approximately 150,000 acres—less than 3 percent of the forest's 5.4 million roadless acres, or 0.3 percent of the total roadless acres nationwide. The proposals under the settlement would preserve all old-growth reserves, riparian buffers, beach fringe buffers, roadless areas, and other protections contained in the forest plans. The roadless rule would also continue to apply to the 43.7 million roadless acres in national forests outside of Alaska.

Public comment is invited and will be considered in the development of the final rule.

DATES: Comments must be postmarked by August 14, 2003.

ADDRESSES: Send written comments to: Roadless TNF, Content Analysis Team, USDA Forest Service, P.O. Box 22810, Salt Lake City, UT 84122; by electronic mail to roadlesstnf@fs.fed.us; or by facsimile to (801) 880-2808. If you intend to submit comments in batched e-mails from the same server, please be aware that electronic security safeguards on Forest Service and Department of Agriculture computer systems intended to prevent commercial spamming may limit batched e-mail access. The Forest

Service is interested in receiving all comments on this proposed rule, however, so please call (801) 517-1020 to facilitate transfer of comments in batched e-mail messages. Please note that all comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The agency cannot confirm receipt of comments. Individuals wishing to inspect the comments should call Jody Sutton at (801) 517-1023 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: In Washington, DC contact: Dave Barone, Planning Specialist, Ecosystem Management Coordination Staff, Forest Service, USDA, (202) 205-1019; and in Juneau, Alaska contact: Jan Lerum, Regional Planner, Forest Service, USDA, (907) 586-8796.

SUPPLEMENTARY INFORMATION:

Background and Litigation History

On January 12, 2001, the Department published a final rule entitled "Special Areas; Roadless Area Conservation" (66 FR 3244) ("the roadless rule"). The roadless rule was a discretionary rule that fundamentally changed the Forest Service's longstanding approach to management of inventoried roadless areas by establishing nationwide prohibitions generally limiting, with some exceptions, timber harvest, road construction, and reconstruction within inventoried roadless areas in national forests. A draft environmental impact statement (DEIS) (May 2000) and final environmental impact statement (FEIS) (November 2000) were prepared and included consideration of alternatives that specifically exempted the Tongass National Forest from the roadless rule's prohibitions. As described in the FEIS, the roadless rule was predicted to cause substantial social and economic hardship in communities throughout Southeast Alaska (FEIS Vol. 1, 3-202, 3-326 to 3-350, 3-371 to 3-392). Nonetheless, the final rule extended the rule's prohibitions to the Tongass National Forest.

The roadless rule has been subject to a number of lawsuits in Federal district courts in Idaho, Utah, North Dakota, Wyoming, Alaska, and the District of Columbia. In one of these lawsuits, the District Court of Idaho issued a nationwide preliminary injunction prohibiting implementation of the roadless rule. The preliminary injunction decision was reversed and remanded by a panel of the Ninth Circuit Court of Appeals. The Ninth Circuit held that the Forest Service's preparation of the environmental impact statement for the

roadless rule was in conformance with the general statutory requirements of the National Environmental Policy Act.

In another lawsuit, the State of Alaska and six other parties alleged that the roadless rule violated the Administrative Procedure Act, National Forest Management Act, National Environmental Policy Act, Alaska National Interest Lands Conservation Act, Tongass Timber Reform Act and other laws. In the June 10, 2003, settlement of that lawsuit, the Department committed to publishing a proposed rule with request for comment that would exempt the Tongass National Forest from application of the roadless rule. The Department made no representations regarding the content or substance of any final rule that may result.

If the Tongass National Forest is exempted from the prohibitions in the roadless rule, the Forest would continue to be managed pursuant to the 1997 Tongass Forest Plan with non-significant amendments, as readopted in the February 2003 Record of Decision (2003 Plan) issued in response to the district court's remand of the 1997 Plan in *Sierra Club v. Rey*, (D. Alaska). Both documents were developed through fair and open planning processes, based on years of extensive public involvement and thorough scientific review. The 2003 Tongass Forest Plan provides a full consideration of social, economic, and ecological values in Southeast Alaska. This rulemaking does not propose to reduce any of the old-growth reserves, riparian buffers, beach fringe buffers, or other standards and guidelines of the 2003 Tongass Forest Plan or, in any way, impact the protections afforded by the plan.

Congress Has Given Specific Direction To Protect the National Interest in Alaska Public Lands

Congress has provided specific direction to protect the national interest in the public lands in Alaska. The Alaska National Interest Lands Conservation Act (ANILCA) of 1980 (16 U.S.C. 3210) established vast areas of conservation system units, including more than 50 percent of the combined acreage of all designated wilderness areas in the Nation. Congress further found that the Act provides sufficient protection for the national interest in the scenic, natural, cultural, and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people.