

Oct. 20, 2002

TO:

Reviewing Officer  
USDA Forest Service  
Attn: NFS- EMC Staff (Barbara Timberlake)  
Stop Code 1104  
1400 Independence Avenue  
Washington D.C. 20250-1140

And,

Regional Forester  
USDA Forest Service, Alaska Region  
P.O. Box 21628  
Juneau, AK 99801-1628

FROM:

Appellant  
Jeanne M. Follett  
Mile 36, Seward Hwy.  
(P.O. Box 69)  
Moose Pass, AK. 99631  
(907) 288-3184

Please accept the enclosed Notice of Appeal and Points of Appeal.

The decision I am appealing is the Preferred Alternative as described in the FEIS and the resulting Revised Forest Plan, with modifications described in the Record of Decision, page 3. The document in which the decision is contained is the Revised Land and Resource Management Plan of the Chugach National Forest Record of Decision, R 10 MB-480b. The date of the decision was May 31, 2002, and the deciding officer was Regional Forester Dennis E. Bschor.

I have lived in Alaska since 1948, first in the Anchorage and Girdwood areas and then in Moose Pass since 1977. I have been an active user of the Chugach National Forest and my property abuts the forest boundary. My husband and I were the owners and operators of Trail Lake Lodge in Moose Pass from 1989 to 1996.

In writing this appeal I want to emphasize that I do not view this as a conflict between motorized and non-motorized users, but as an unwarranted and ill-advised locking up of the forest for a select few.

I am not well versed in the appeal process so I am hoping that you will consider my comments even though the enclosed may contain some procedural error.

Thank you for your consideration.

Very truly yours,



Jeanne M. Follett

Oct. 20, 2002

Reviewing Officer: USDA Forest Service  
Attn: NFS-EMC Staff (Barbara Timberlake)  
Stop Code 1104  
1400 Independence Ave. SW  
Washington, D.C. 20250-1104

And,

Regional Forester  
USDA Forest Service, Alaska Region  
P.O. Box 21628  
Juneau, AK 99801-1628

Appellant: Jeanne M. Follett  
Mile 36, Seward Highway  
(PO Box 69)  
Moose Pass, AK 99631  
907-288-3184

This letter is a Notice of Appeal filed pursuant to 36 CFR part 217, page 46 in the Record of Decision.

\* The decision I am appealing is the Preferred Alternative as described in the Final Environmental Impact Statement and the Resulting Revised Forest Plan, including areas available for motorized and non motorized activities, with modifications further described in the Record of Decision, as stated on page 3 of the ROD.

- The document in which the decision is contained is the Revised Land and Management Plan Record of Decision, R 10 MB-480b. The date of the decision was May 31, 2002, and the Deciding Officer was Regional Forester Dennis E. Bschor.

The specific portion of the document to which I object is the closing to winter motorized use of these areas:

- The Carter/Crescent Lake area including the area bordering the Seward and Sterling Highways
- The Seward Highway corridor north of the Sterling-Seward highway junction and the Quartz Creek drainage
- The Summit Lake area north of Moose Pass
- The Russian Lakes Trail in Cooper Landing.
- Trail River Campground in the Moose Pass area

(continued)

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Notice of Appeal  
Jeanne M. Follett

### **Points of Appeal**

I am seeking relief from what I feel is an arbitrary and capricious decision that severely and adversely affects my lifestyle and my right to the use of and enjoyment of PUBLIC lands for the following reasons:

1. The USDA Forest Service was in violation of 36 CFR (Code of Federal Regulation) 219.12 [Collaboration and cooperatively developed landscape goals] because:

The public was not involved at key points in the Environmental Analysis process.

The public was denied the right to comment on the proposed closures because these proposals were not included in any of the alternatives nor in the draft preferred alternative that the public reviewed.

The USDA Forest Service failed to hold any meetings in Moose Pass, the area that will be the most severely impacted by these closures, which would have informed the public that these closures were being considered.

2. The USDA Forest Service violated 36 CFR 219.21 Social and Economic Suitability by failing to adequately research and document the economic and social impact these closures will have on the Moose Pass community.
3. The Revised Land and Resource Management Plan is in violation of the Alaska National Interest Conservation Act as it impinges upon the right of the public to pursue traditional activities.
4. There are inconsistencies between the EIS, the Revised Management Plan and the Winter Motorized map.

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**1. The USDA Forest Service was in violation of 36 CFR (Code of Federal Regulation) 219.12 [Collaboration and cooperatively developed landscape goals].**

**This regulation states: “The responsible official must provide early and frequent opportunities for people to participate openly and meaningfully in planning taking into account the diverse roles, jurisdictions, and responsibilities of interested and affected organizations, groups, and individuals.”**

**Further policy is propounded in EIS 3-508: “The opinions of potentially affected residents are an important consideration in the planning process.”**

FACT: The public was not involved at key points in the Environmental Analysis process.

FACT: The Forest Service states in the Final Environmental Impact Statement Chapter 6, page 2, top paragraph, “Follow-up Meetings: As a follow-up the interdisciplinary team (ID Team) held a meeting in each of the communities on the Kenai Peninsula. Meetings were conducted in Anchorage, Girdwood, Seward, Soldotna, and Hope in March 2001.

FACT: There were no meetings held in the most highly affected communities of Moose Pass and Cooper Landing in March 2001, nor at any time since.

FACT: The meeting in Seward was not well advertised or attended. The public had no other way to find out about major changes being proposed nor were there any further drafts released for comment. Seward is 30 miles distant from Moose Pass. Anchorage, Girdwood, Soldotna, and Hope are farther yet.

FACT: The Forest Service has used the Moose Pass community hall for many meetings on various other topics, showing that it is aware that the building is available to meet with the residents of Moose Pass. Additionally, my husband and I are on the USFS mailing list for notices. I have received many notices about “planned burns” and mineral extraction, but none that described such major changes to existing multi-use policy.

FACT: Residents of Moose Pass met Friday, Oct. 18, 2002, and voted unanimously to empower the Moose Pass community club (Moose Pass Sportsmen’s Club) to appeal the Forest Service Plan on behalf of the community.

FACT: The documents of the USFS prove by themselves the new policy goes against the wishes of the public. EIS Appendix K: Kenai Peninsula Borough Resolution 2000-108 dated 11/21/00, references a Soldotna public meeting where over 200 people overwhelmingly supported no further snow machine closures and wanted even more areas open and trailheads constructed. This resolution also references the USFS quote that they have not completed any scientific studies to support closing any of the existing trails or trailheads to snowmachines because of any major ecological or social conflicts. This resolution passed by a 9 to 0 vote.

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In addition, from "Planning for the Future of the Chugach National Forest" and "Your Community's Quality of Life" surveys, a majority of the respondents in 10 out of 12 communities indicated a preference for the current amount of open areas, and more communities secondarily prefer increased access rather than decreased access.

**CONCLUSION: The Forest Service thereby violated its own policy by failing to seek the input of Moose Pass residents. The Forest Service had the ability and opportunity to hold a local meeting, but arbitrarily chose not to do so. The community meeting of Oct. 18, 2002, disclosed that the residents of this area were unaware that these closures were being considered and allowed the residents to voice their overwhelming disapproval. This shows that the Forest Service neglected its duty in this area to inform the residents most affected and to seek their opinion.**

**Further, the Forest Service went against the public opinion surveys and our local government resolution when it closed these areas to motorized use.**

- 2. The USDA Forest Service violated 36 CFR 219.21 Social and Economic Suitability by failing to adequately research and document the economic and social impact these closures will have on the Moose Pass community.**

**This regulation states in part: "the responsible official must develop or supplement the information and analyses related to the following: 1) Describe and analyze, as appropriate, the following: i ) demographic trends.... ii ) Employment, income, and other economic trends;... 2) Analyze community or region risk and vulnerability..."**

**FACT: In 1997 the U.S. Senate designated the Moose Pass area as a "HUB" area (economically disadvantaged.)**

**FACT: General studies that apply to Southcentral Alaska have been made, but these address only the summer months, not the long and difficult winter season.**

**FACT: Numerous general studies, including those made regarding Yellowstone National Park, have shown that winter motorized users provide significant economic impact to the local economy, while the so-called "quiet sports" provide little if any.**

**FACT: As the former owners of Trail Lake Lodge we relied heavily on the winter snowmobile trade to help our business stay open during the winter. I can state categorically that we never would have been able to remain open had these closures been in effect then, and this would have resulted in the loss of 8 to 12 local jobs during the winter months.**

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FACT: The owners of Summit Lake Lodge, also heavily affected by these closures, have closed for the winter and have indicated that they will no longer be open in the winter because of these closures. This has directly resulted in the loss of many local jobs as well as the loss of social activities such as dining out that many persons from the surrounding areas enjoyed.

FACT: EIS 3-543 states that "In order to estimate employment impacts associated with recreation several elements are necessary to conduct a reasonable and meaningful analysis...." This section goes on to list all of the things the planning team does not know about the local economy and yet the Deciding Officer arbitrarily and capriciously saw fit to make sweeping changes despite having no information on how it will affect the local economy.

FACT: This policy will have extreme negative effects on the three local restaurants, grocery store and bed and breakfasts that rely on winter snowmobile trade. NO OWNERS OF THESE BUSINESSES WERE CONTACTED AND ASKED THEIR OPINION OR ASKED TO ANALYSE THE EFFECT ON THEIR BUSINESSES.

FACT: The Forest Service decision to close these areas goes directly against its stated values in the Environmental Impact Statement. Reference point: EIS 3-515: "Moreover, one of the major themes of the Revised Forest Plan is the allocation and management of recreation opportunities. Consequently it is in this area that the plan may have its most important economic impacts."

FACT: EIS 3-518 states: "For many Alaskans, proximity and access to natural environments and the various activities these environments support is a major amenity and fundamental reason for their choice to live where they do. This becomes another important way in which the Chugach National Forest can contribute to local economies within the planning area." I did choose in 1976 to purchase property in the Tern Lake area and relocate there from Girdwood, because it afforded me the opportunity to use and enjoy the Chugach National Forest. My property adjoins the forest boundary.

The key to surviving the long Alaskan winters is to participate in all that winter has to offer and to me winter sports is a large part of that.

I have enjoyed both alpine and cross-country skiing. I have used a snowmobile to pack trails for skiing and dog mushing, to tour the forest for scenic beauty, for photography and social outings, to go ice fishing, to visit neighboring communities, and to harvest firewood for home heating.

During the summer I have hiked and climbed, hunted and fished, picked berries and enjoyed bird watching.

I have been an active, frequent and responsible user of the forest.

Advancing age has restricted many of my former pursuits and what is left to me to enjoy the most is the ability to tour parts of the forest by snowmobile. My riding skills are not such that I can access the steep Lost Lake area that remains open or the ice caps of the backcountry. Trailering our machines to distant areas is becoming less and less of an option.

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The closing of these areas, the Carter-Crescent area in particular, means that I can no longer ride a machine on the frozen swamps behind my house, putt along to Tern Lake and ride over the long-abandoned Old Sterling Highway to Cooper Landing. I can no longer ride to Summit Lake Lodge to have lunch and visit with my friends. I cannot use a snowmachine to pack a ski trail through the woods in my neighborhood. I cannot use a machine to go 100 feet behind my house and harvest the stands of beetle-killed spruce.

My husband I this year finished building a new home using local craftsmen. We had decided to spend our retirement here because of the opportunities described above.

Now, my way of life is forever changed. These are the social impacts of this policy as it affects other senior citizens, my neighbors and me. This is not an area that receives a high density of winter use and I see no plausible reason for its closure.

**3. The Revised Land and Resource Management Plan is in violation of the Alaska National Interest Conservation Act as it impinges upon the right of the public to pursue traditional activities. Further, it violates the USFS policy itself (reference EIS Glossary 51).**

*FACT: This act provides for the right of the public to pursue its traditional activities. This also includes the right to use motorized vehicles (snowmachines) to accomplish these activities. I have outlined above the activities I have participated in during my 54 years in Alaska and have described what effect this policy will have on me. What I have not discussed is how sad it makes me to see parts of my forest being locked up.*

**4. There are inconsistencies between the EIS, the Revised Management Plan and the Winter Motorized map.**

*FACT: Both the EIS access appendix and the RMP show the Old Sterling Highway as being open to motorized winter use. The Winter Management Plan map shows the entire area as being closed to motorized use. The EIS and the RMP show this long-abandoned road as 0.9 miles long. This road actually is about eight to nine miles long.*

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## SUMMATION

I believe that I have shown the need for relief from the Revised Management Plan. The USFS has failed in its responsibility to manage the forest for the use and enjoyment of the entire public.

It has not shown the need to restrict more areas from motorized use

It has, in fact, shown that it disregarded available public input and local government resolution by deciding to close vast areas of the forest to motorized users.

I have shown that it has, whether by design or neglect, failed to properly notify the residents of the area most affected by this policy, and failed to seek its opinion.

The USFS has violated its own regulations by failing to assess the potential for extreme economic hardship that this policy will visit upon Moose Pass and the surrounding areas.

The irony of this Draconian policy is that it will not in fact produce the desired result, that of "quiet zones". For the truth is that the Forest Service plan itself allows these areas to be used by motorized users for subsistence purposes. The settlements of Cooper Landing and Hope are designated "rural" for subsistence and those residents have the right to access these areas by snowmachine for subsistence use. And, this use can be as simple an activity as riding around "scouting" for ptarmigan.

This irony creates an enforcement nightmare, as the officer will be required to stop every snowmachine or ATV rider and demand proof of residency.

For the people of Moose Pass it creates discrimination. We apparently live on the wrong side of the same mountain.

Although the residents of Cooper Landing and Hope can continue to use these areas, the recreational riders from Soldotna/Kenai, Girdwood, Anchorage and Seward who brought the economic impact to our town are now locked out of vast areas of rideable terrain.

A quick perusal of the USFS Winter Motorized Management map seems to show vast areas of the forest remaining open to motorized users. A personal knowledge of the terrain in these open areas reveals otherwise. It is a land of steep mountains with severe avalanche danger, ice caps and glaciers criss-crossed with treacherous crevasses, areas inaccessible to snowmachines, and areas that require riding skills beyond the ability of the average person and certainly no place that parents would take their children for family outings.

If this plan is allowed to remain in place it will set a horrendously capricious precedent that may have disastrous consequences for other communities and for Americans in general to pursue their right to the use and enjoyment of their public lands.