

August 15, 2013

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Beth Pendleton, Regional Forester
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Dear Ms. Pendleton:

Below, I submit an appeal of the Big Thorne Project Record of Decision (ROD) and associated Final Environmental Impact Statement (FEIS).

Notice of Appeal

This is an appeal of the Record of Decision (ROD) and associated Final Environmental Impact Statement (FEIS) for the Big Thorne Project. I file this appeal pursuant to 36 C.F.R. § 215.

Tongass National Forest Supervisor Forrest Cole signed the Big Thorne ROD on June 28, 2013. The ROD authorizes the removal of approximately 148.9 million board feet (MMBF) of timber by clearcut and partial cut logging. The Ketchikan Daily News published the corrected official notice for this project on July 2, 2013. Therefore, the appeal period for this decision ends Friday, August 16, 2013 and this appeal is timely. I file this appeal electronically *and* via US Postal Service Certified Mail. Exhibits are attached to this appeal.

Interest of Appellant: The appellant is a 38-year resident of SE Alaska. She has utilized the Tongass National Forest, including the project area, for a variety of uses including fishing, recreation, subsistence, wildlife viewing and other activities during that entire period and has participated in Tongass Forest issues for decades.

Basis of Appeal

The Failure of the Forest Service to Provide a Copy of the Big Thorne Project FEIS and ROD in a Timely Manner Violates Federal Law.

After waiting more than a reasonable length of time to receive a copy of the Big Thorne Project Record of Decision (ROD) and associated Final Environmental Impact Statement (FEIS) I finally requested copies on July 22, 2013 to Mr. Frank Roberts, Thorne Bay Ranger District.¹ Despite timely submission of my substantive comments to the Draft Environmental Impact Statement for this project² along with the July 22 request to provide “ASAP” both a DVD and hard copy of the Big Thorne Project FEIS and ROD³, the Forest Service has failed, to date, to provide the requested hard copy.

First, the failure of the agency to provide *any* document to me promptly following issuance of a decision is unlawful. Secondly, the agency further erred by failing to provide the requested hard copy after my specific request to do so “ASAP”. This violates 36 CFR 215.7(a) which requires the responsible official to “promptly mail the Record of Decision (ROD) or the Decision Notice (DN) and Finding of No Significant Impact (FONSI) to those who requested the decision document and those who submitted substantive comments during the comment period (§ [215.6](#)).”

Apparently, my name was not even on the mailing list for the project as evidenced from Mr. Roberts email response that he would “add my name to the mailing list”. For the record, I previously requested copies of the

¹ See, July 22, 2013 and November 8-9, 2012 email exchange between appellant and Mr. Frank Roberts/USFS Thorne Bay Ranger District. **Exhibit A.**

² See, BTP FEIS. Appendix B, Table B-1. Appellant submitted timely, substantive comments to the Draft Environmental Impact Statement (DEIS) for the proposed Big Thorne Project on Dec. 10, 2012 as evidenced in the FEIS. Appellant is referenced in the FEIS under “Individuals, organizations, and agencies submitting comments on the Big Thorne Project Draft EIS”. Appellant also incorporated “by reference, the comments of the Greater Southeast Alaska Conservation Community (GSACC) et al for the Big Thorne Project DEIS” in her comments to the DEIS.

³ See, July 22, 2013 email exchange between appellant and Mr. Frank Roberts/USFS Thorne Bay Ranger District. The appellant requested him to “...send the hard copy of the FEIS and ROD for the Big Thorne project ... ASAP?” Mr. Roberts wrote, in response to that request, “Hello Rebecca – I will add you to the mailing list and send you a copy as soon as it get here from the printer.” **Exhibit A.**

DEIS from your agency on November 8, 2012⁴ so given that request and submission of my comments for the FEIS it would seem my name should have been on the mailing list.

Moreover, your agency failed to offer at least the DVD after I initially requested both hard copy and DVD versions, apparently based on the fact that both versions were not available at the same time. So I had to follow up with a specific request that at least the DVD be sent immediately. Mr. Roberts then wrote that he would mail it in time for the next mail plane. Mr. Roberts, apparently unsure of what was provided to me, just followed up one day prior to the appeal deadline, to “double check” and inquire whether I received the DVD and hard copy.⁵ A DVD version of the FEIS and ROD did arrive on July 27, 2013 – over three weeks after official notification of the BTP decision in the paper of record. The paper hard copy has never arrived.

Not only did I previously request copies of the DEIS in late 2012 and submit timely, substantive comments for the FEIS, but I also specifically requested a hard copy of the documents “ASAP” in my July 22, 2013 email. I also notified you and Mr. Cole of your agency’s failure to provide these documents in a letter sent to you and Forrest Cole via USPS Certified Mail August 9, 2013.⁶

I requested a hard copy of the FEIS and ROD as well as a DVD version for a variety of reasons mostly associated with the difficulty of an in-depth examination of the electronic version on my home computer. The geographic scope and complexity of the project is simply too large to limit meaningful analysis to my small lap top screen. For instance, maps provided in electronic form must be either reduced in size to get the “big picture” or enlarged to the extent that scrolling back and forth/up and down for a better view is necessary. Either way, this renders the electronic version virtually useless and prevents meaningful examination of the project - and its impacts - on a landscape scale.

Any attempt by your agency to cast my comments as not substantive are moot. For instance, your agency *specifically* responded to my substantive comments, in relation to the incidence of Acid Rock Drainage (ARD) in

⁴ See, Email exchange between Mr. Roberts and appellant November 8-9, 2012. **Exhibit B.**

⁵ See, Email from Mr. Roberts/Thorne Bay Ranger District. August 15, 2013. **Exhibit C.**

⁶ See, Letter of August 8, 2013 from appellant to Pendleton and Cole, mailed Certified - Return Receipt - August 9, 2013. **Exhibit D.**

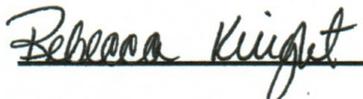
the project area⁷ plus I incorporated “by reference” the comments of the Greater SE Alaska Conservation Community (GSACC) et al in my comments for the FEIS.

I do not understand the reluctance of your agency to eagerly and promptly provide these documents in this - the age of collaboration and can only conclude that the intent of the Forest Service was to withhold these documents for the expressed purpose of limiting public participation.

Failure to provide these documents in a timely manner prevented me from exercising my right to determine if the FEIS and ROD addressed my concerns and whether its landscape scale altering provisions met legal requirements. Therefore, my right to decide whether or not to appeal the substantive provisions of the project were impinged.

Relief Requested: For the reasons stated above, I request that the decision to approve the ROD and FEIS be reversed and that the project be cancelled in its entirety due to the failure to comply with 36 CFR 215.7(a).

Sincerely,

A handwritten signature in cursive script that reads "Rebecca Knight". The signature is written in black ink and is positioned above a horizontal line.

Rebecca Knight
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⁷ See, Big Thorne Project Final EIS Response to Comments on Draft EIS – APPENDIX B at B-37.