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## Tongass road construction blocked

9th circuit court: Environmental groups wanted to preserve intact watershed

By Dan Joling

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In a split decision, a federal appeals court on Tuesday blocked construction of new roads that were to be part of a Tongass National Forest timber sale. A three-judge panel of the 9th U.S. Circuit Court of Appeals acknowledged that a mill in the area faced a risk of closure but said environmental groups were not required to abandon their rights on the mill's account.

"The road-building activities will cause an immediate and irreparable change to the part of the now-roadless old-growth forest that would be affected by the challenged timber sale," the majority wrote.

The dissenting judge, Andrew J. Kleinfeld, said there was plenty of time to consider the Forest Service timber plan as a whole without stopping the sale.

"The hardship to the mill employees who will be thrown out of work, and the mill owner, strikes me as much greater," he wrote.

The majority judges -- A. Wallace Tashima and Ronald M. Gould -- set a deadline of late December for briefs in the case and ordered a hearing in February in Seattle.

Tom Waldo, an attorney for Earthjustice, said the decision blocks 380 acres of logging that would have affected 9.5 square miles of old-growth forest. He said almost all of Thorne Arm has been logged before and that the watershed, with important salmon and steelhead runs, is the only remaining intact roadless watershed in the arm.

The environmental groups successfully argued that the Forest Service overestimated the demand for Tongass timber.

According to the lawsuit, the agency exaggerated Tongass logging levels and put much more land in logging designations than the agency's own economists indicated was necessary to supply local mills.

The agency acknowledged the error but said it was harmless.

Bruce Baker, president of the Southeast Alaska Conservation Council board of directors and a former deputy director of the state Department of Fish and Game's habitat division, said the mistake was not minor.

"Impacts of these errors are felt all over the Tongass, in places where Alaskans struggle to safeguard their hunting grounds, fisheries and business opportunities," he said.

The Natural Resources Defense Council, the Southeast Alaska Conservation Council, the Wilderness Society, the Sierra Club, the National Audubon Society and the Center for Biological Diversity filed the lawsuit.