



# Keep anti-environment riders for Alaska out of spending bill

BY DAVID A. SUPER, OPINION CONTRIBUTOR — 03/15/18 04:45 PM EDT

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When Republicans in prior Congresses acted against [earmarks](#), they were concerned about both cost and fairness. Even if a program would have received the same funding either way, eliminating the earmark gave communities across the country a fair chance to compete for funding. Unfortunately, that principle of fairness is under constant assault by interest groups seeking special advantages. Earmarks' prospects have been looking up lately, with President Trump [openly musing](#) about bringing them back.

As if on cue, Alaska Sen. Lisa Murkowski (R) is providing a compelling demonstration of just how bad earmarks can be. She also demonstrated how earmarks persist despite efforts to eliminate them: the riders she is seeking to include in the pending omnibus appropriations bill nominally change policy rather than setting aside funding. Yet they fit the earmark profile to a tee: wasteful, unfair, and undemocratic.

Her [first rider would void](#) the 2016 Tongass National Forest Plan and require the Forest Service to promulgate a new plan to her liking. In marked contrast to her efforts to slip these riders into legislation without public debate, the Forest Plan resulted from multi-year consultations. The Forest Service gathers interested parties — local communities, employers such as the tourism and timber industries, groups of hunters and fishers, state officials, environmental organizations, and others — to seek ways of [balancing the competing needs](#) for the forests and plan for its operation in coming years.

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Murkowski's rider would wipe out the hard work of all these people and direct the Forest Service to effectively [do the bidding](#) of the timber industry. Erasing the results of open, cooperative deliberation with a back-room sweetheart deal inserted into a huge must-pass omnibus spending bill without debate on the floor of either chamber of Congress would make a mockery of citizen participation in government.

The second rider would abruptly [exempt](#) Alaska from the landmark [Roadless Area Conservation Rule](#) promulgated in 2001. This rule protects nearly 50 million acres of national forests and wetlands from road-building and new logging activities. It was the result of a rule-making process in which [1.6 million people](#) sent in their views. The overwhelming majority of public comments supported protecting of our dwindling natural areas.

The rule is [far from absolute](#) — new roads are permitted to aid isolated communities and for other important purposes. But the rule did sharply curtail an egregious form of corporate welfare: having taxpayers build and maintain roads just to facilitate commercial logging. As it stands, vast networks of logging roads exist throughout our national forests.

Murkowski would exempt Alaska from the Roadless Rule that governs the rest of the country. In doing so, she prioritizes not even her whole state but just one commercial interest in that state — the timber industry — over everyone else. When lands are deforested, increased sedimentation and warmer waters can damage fisheries. Deforested lands also are of little interest to hunters and tourists. Both fishing and tourism are much [bigger industries](#) in Alaska than is logging.

Like so many earmarks, this rider is fiscally irresponsible. The Forest Service's budget is already wholly incapable of keeping up with maintenance needs on existing roads, including 5,000 miles in the Tongass National Forest alone. Giving the Forest Service even more roads to keep up — and in an expensive place like Alaska — will mean even longer waits for road repairs in the rest of the country. Also, the Forest Service has been [spending far more](#) on facilitating commercial logging in federal forests in Alaska than it receives in royalties.

Murkowski also opposes a [recent decision](#) of the federal appellate court covering Alaska. The court found that rules limiting the use of hovercraft on streams and rivers within national parks apply in Alaska just as they do in the rest of the country. Overturning this finding (the petitioner is [making a second bid](#) to have his case heard at the Supreme Court) could have profound implications for land and water management practices across national forests, refuges and wilderness. If the National Park Service and other agencies cannot limit hovercraft, they might not be able to limit other uses like large-scale placer mining, or large-scale commercial operations on most rivers and lakes on federal lands across Alaska.

Just as traditional earmarks seek to exempt favored projects from the funding competitions that apply to everyone else, Murkowski's riders make no pretense of setting good public policy for the nation as a whole. Instead, the constant themes are that her state should be immune from the rules that govern the rest of us and disregard for thoughtful decision-makers: stakeholder negotiators, an agency responding to over a million public commenters, and federal courts.

Having already won the mother of all earmarks — a [provision](#) in the tax bill authorizing drilling on the sensitive coastal plain of the Alaska National

Wildlife Refuge – Murkowski can hardly claim to have been neglected. The idea that anyone can declare themselves above the rules that govern everyone else is deeply corrosive to democracy. Congressional leaders should keep these proposals out of the forthcoming omnibus spending bill.

*David A. Super is a professor of law at Georgetown Law. He also served for several years as the general counsel for the Center on Budget and Policy Priorities.*

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