

CITY OF CRAIG MEMORANDUM

To: Craig City Council
From: Jon Bolling, City Administrator
Date: January 29, 2021
RE: Consider Intervenor Status in Roadless Rule Litigation

At its January 21 meeting, the city council directed staff to collect data on the effect of the Roadless Rule as it applies to the Tongass National Forest.

Background

The original 2001 Roadless Rule identified 110 inventoried roadless areas (IRA) in the Tongass National Forest that total 9.37 million acres, about 56% of the forest. Some of those roadless areas, about 847,000 acres, lie within LUD-II designated (non-development) sites; those sites do not permit most development activities even without application of the Roadless Rule. Prince of Wales and the islands to the west account for 22 IRAs, totaling about 1,162,337 acres. The Roadless Rule prohibits, limits, and/or otherwise further regulates certain development activities in IRAs beyond what would otherwise be allowed without the rule in place.

Two decades of litigation followed application of the rule to the Tongass. At least one of those cases remains open today in Federal Circuit Court in Washington, DC. The City of Craig is a party to that case.

During the Trump Administration, a new rulemaking process began that would exempt the Tongass from application of the rule, known as the Alaska Roadless Areas (ARA) Rule. The preferred alternative resulting from the ARA process is the total exemption of the Tongass from the original Roadless Rule. That rule is now finalized. At least one lawsuit has been filed against the federal government in Alaska Federal District Court to prevent application of the ARA rule. As a result both the 2001 original rule and the recent ARA rule will be litigated simultaneously in two different federal courts. That is complicated enough for the attorneys accustomed to complex legal proceedings, and it makes the layman's analysis more difficult.

Informational Materials

I have tried, in response to the council's January 21 direction, to compile as complete a packet as possible as to Roadless Areas in the Tongass and on POW Island without overwhelming all of you with the thousands of pages from the Federal Register, related regulations, court rulings, publications, tables, graphs, and other materials in the public record. A summary of those materials is provided below.

1. Maps

Attached is a series of maps. I chose maps that convey information about size and location of IRAs, as well as what areas would be subject to development without the Roadless Rule, and how the suitable timber base is altered by the application of the rule. Please note that Alternative 6 to the ARA exempts the Tongass from the Roadless Rule.

A. Roadless Area Inventory – dated January 2008

This map shows in tan color the inventoried roadless areas (IRAs) across the Tongass, based on the 2001 Roadless Rule. Each IRA on the map includes a three-digit identifier number.

B. Rulemaking for Alaska Roadless, Map 1: Alternative 1

This map shows IRAs in dark green. The IRAs shown on the map are those that would continue to exist if the ARA was not applied.

C. Rulemaking for Alaska Roadless, Map 6: Alternative 6

This map shows how the ARA rule, exempting the Tongass, would designate former IRAs into development and non-development designations. In other words, with the Tongass now exempt from the Roadless Rule, not all the IRAs would be subject to development.

D. Rulemaking for Alaska Roadless, Map 7: Alternative 1 with Suitable

This map demonstrates how the suitable old growth and young growth timber bases are located relative to IRAs.

E. Rulemaking for Alaska Roadless, Map 12: Alternative 6 with Suitable

This map demonstrates how the suitable old growth and young growth timber bases are located in the absence of the Roadless Rule.

2. Descriptions & Tables

A. Appendix E -- Craig Community Use Area

This print out, also attached, from the final Forest Service EIS document for the ARA Rule, profiles what the USFS calls the Craig Community Use Area. The document provides some data on use of the area by Craig residents for deer hunting, with additional information as to suitable timber harvest acreage.

B. Table ES-2

Attached is Table ES-2, from the ARA documents, provides detail as to the acreage subject to the ARA exemption, and the acreage suitable for old growth timber production. As noted above, remember that Alternative 6 of the ARA is the rule recently put into effect.

3. Litigation Filings

A. List of Plaintiffs Litigating Against the ARA Rule

Attached is a cover page of the recent litigation filed seeking to overturn the ARA rule.

B. List of Past Intervenor Applicants Asked to Support the ARA Rule

Attached is a partial list of organizations who intervened in past roadless rule litigation. I am told that some of these, and other parties, have been asked to join as intervenors.

Council Consideration

The council's February 4 meeting agenda will include just one item for the council: discussion/action as to whether to join as an intervenor in support of the ARA. The motion to join as an intervenor is already before the council, so no new motion is required prior to a

discussion or vote on the question. Any councilmember is, of course, able to by motion offer an amendment to the existing motion.

Please note that in my recent conversation with Steve Silver, I am told that once the supporters of the ARA rule file their intervenor brief, it will be difficult to add additional intervenor parties to the litigation.

As stated above, there is much, much more in the public record as to the Roadless Rule. You can find more information at <https://www.fs.usda.gov/roadmain/roadless/alaskaroadlessrule>, and by entering “Tongass Roadless Rule” in any internet search engine.

Recommendation

That the council discuss the merits of joining with plaintiffs supporting the Alaska Rule exemption and vote on the matter.