



**City and Borough of Wrangell  
Borough Assembly Meeting  
AGENDA**

**September 8, 2015 – 7:00 p.m.**

**Location: Assembly Chambers, City Hall**

**1. CALL TO ORDER**

- a. PLEDGE OF ALLEGIANCE led by Assembly Member Daniel Blake
- b. INVOCATION to be given by a member of the Baha'i Faith
- c. CEREMONIAL MATTERS – *Community Presentations, Proclamations, Certificates of Service, Guest Introductions*

**2. ROLL CALL**

**3. AMENDMENTS TO THE AGENDA**

**4. CONFLICT OF INTEREST**

**5. CONSENT AGENDA**

- a. Item (\*) 6a

**6. APPROVAL OF MINUTES**

- \*a. Minutes of the Public Hearing and Regular Assembly meetings held August 25, 2015

**7. COMMUNICATIONS**

**8. BOROUGH MANAGER'S REPORT**

- a. Wrangell Medical Center Update – Marla Sanger

**9. BOROUGH CLERK'S FILE**

**10. MAYOR/ASSEMBLY REPORTS AND APPOINTMENTS**

- a. Reports by Assembly Members
- b. Appointment to fill the vacancy on the Planning & Zoning Commission
- c. Appointment to fill the vacancy on the Hospital Board

**11. PERSONS TO BE HEARD**

**12. UNFINISHED BUSINESS**

- a. **PROPOSED ORDINANCE No. 906:** AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING CHAPTER 10.46(C), PROHIBITION OF CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE, AMENDING THE VIOLATION OF SUCH OFFENCE (*second reading*)

- b. **PROPOSED ORDINANCE No. 907:** AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING THE MINOR OFFENSE FINE SCHEDULE IN CHAPTER 1.20, GENERAL PENALTY, OF THE WRANGELL MUNICIPAL CODE (*second reading*)
- c. Discussion and possible action to change the Property Tax payment due date, previously adopted by Ordinance No. 901 on May 26, 2015

### **13. NEW BUSINESS**

- a. **PROPOSED RESOLUTION No. 09-15-1329:** RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, DESIGNATING CANVASS BOARD DUTIES TO THREE ASSEMBLY MEMBERS FOR CANVASSING THE RESULTS OF THE REGULAR ELECTION TO BE HELD OCTOBER 6, 2015
- b. **PROPOSED RESOLUTION No. 09-15-1330:** A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, URGING THE STATE OF ALASKA TO FILE A PETITION FOR CERTIORARI IN THE US SUPREME COURT IN RESPONSE TO THE NINTH CIRCUIT EN BANC PANEL'S REVERSAL OF THE NINTH CIRCUIT REGULAR THREE-JUDGE PANEL'S DECISION ON THE TONGASS EXEMPTION FROM THE ROADLESS RULE
- c. Approval to hold a Special Assembly Meeting on Monday, October 12, 2015, at 12:00 p.m. (noon) to Certify the Election Results from the Regular Election

### **14. ATTORNEY'S FILE**

### **15. EXECUTIVE SESSION**

### **16. ADJOURNMENT**

# Agenda Items 1 - 6

## CITY & BOROUGH OF WRANGELL

### BOROUGH ASSEMBLY

#### AGENDA ITEM

September 8, 2015

#### **ITEM NO. 1 CALL TO ORDER:**

**INFORMATION:** *The Mayor, by code, is required to call the meeting to order at 7:00 p.m. in the Borough Assembly Chambers. Special meetings or continued meetings may be called for at differing times but at the same location. Notice of such will be required by the Borough Clerk. The Mayor will call the meeting to order according to such special or continued meeting notice. At all meetings of the assembly, four assembly members or three members and the mayor shall constitute a quorum for the transaction of business, but a smaller number less than a quorum may adjourn a meeting to a later date.*

#### **RECOMMENDED ACTION:**

The Mayor, as presiding officer, is to call the meeting of the Borough Assembly to order, with the following actions to follow:

- a. Pledge of Allegiance to be given by Assembly Member Daniel Blake
- b. Invocation to be given by \_\_\_\_\_
- c. CEREMONIAL MATTERS – *Community Presentations, Proclamations, Certificates of Service, Guest Introductions*

#### **ITEM NO. 2 ROLL CALL – BOROUGH CLERK:**

**INFORMATION:** *The Borough Clerk shall conduct a roll call of each elected and duly qualified Assembly Member. Such call shall result in an entry of those present or absent from the meeting. The roll call is primarily utilized in determining if sufficient member(s) are present to conduct a meeting. The Borough Clerk may randomly change the conduct of the roll to be fair to the members of the governing body unless the council determined an adopted procedure for roll call which is different than currently in use.*

#### **RECOMMENDED ACTION:**

Borough Clerk to conduct a roll call by voice vote. Each member to signify by saying here, present (or equal) to give evidence of attendance.

#### **ITEM NO. 3 AMENDMENTS TO THE AGENDA:**

**INFORMATION:** *The assembly may amend the agenda at the beginning of its meeting. The outline of the agenda shall be as from time to time prescribed and amended by resolution of the assembly. (WMC 3.04.100)*

#### **RECOMMENDED ACTION:**

The Mayor should request of the members if there are any amendments to the posted agenda. ***THE MAYOR MAY RULE ON ANY REQUEST OR THE ASSEMBLY MEMBERS MAY VOTE ON EACH AMENDMENT.***

**ITEM NO. 4 CONFLICT OF INTEREST:**

**INFORMATION:** *The purpose of this agenda item is to set reasonable standards of conduct for elected and appointed public officials and for city employees, so that the public may be assured that its trust in such persons is well placed and that the officials and employees themselves are aware of the high standards of conduct demanded of persons in like office and position.*

*An elected city official may not participate in any official action in which he/she or a member of his/her household has a substantial financial interest.*

**ITEM NO. 5 CONSENT AGENDA:**

**INFORMATION:** *Items listed on the Consent Agenda or marked with an asterisk (\*) are considered part of the Consent Agenda and will be passed in one motion unless the item has been removed by an Assembly Member or the Mayor and placed on the regular agenda under Unfinished Business.*

**RECOMMENDED ACTION:**

Move to approve those Agenda items listed under the Consent Agenda and those marked with an asterisk (\*) Item:

***\*6a***

**ITEM NO. 6 APPROVAL OF MINUTES:**

**INFORMATION:**

***6a*** *Minutes of the Public Hearing and Regular Assembly meetings held August 25, 2015*

**Minutes of Public Hearing  
Held August 28, 2015**

Mayor David L. Jack called the Public Hearing to order at 6:30 p.m., August 25, 2015, in the Borough Assembly Chambers. Assembly Members Mitchell, Decker and Powell were present. Assembly Member Rooney, Prysunka and Blake were absent. Borough Manager Jeff Jabusch and Borough Clerk Lane were also in attendance.

**Public Hearing Item:**

- a. **PROPOSED ORDINANCE NO. 905:** A NON-CODE ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, ESTABLISHING DUE DATES FOR THE PAYMENT OF 2015 PROPERTY TAXES, AS A TRANSITIONAL MEASURE FOR IMPLEMENTATION OF ORDINANCE NO. 901, WHICH AMENDED THE PROPERTY TAX DUE DATES IN CHAPTER 5.04 OF THE WRANGELL MUNICIPAL CODE (*second reading*)

**WRITTEN TESTIMONY**

***Deanna and Darrel Gross, 5.25 Mile Zimovia Highway,*** submitted email correspondence to the Borough Clerk, requesting that the Borough Assembly consider keeping the property tax payment due dates September 15 and December 15, 2015. The Gross's also stated in their correspondence that if there could not be two payments, that if the Assembly would consider making the one payment due date October 15 because this would allow them to use the PFD, if need be.

***Lindsey Gross, 605 Mumford Street Apt 4, Anchorage,*** also submitted email correspondence to the Borough Clerk, requesting that the Borough Assembly consider keeping the property tax payment due dates September 15 and December 15, 2015. Ms. Gross stated that she would like to see it left at two due dates and not just one.

**ORAL TESTIMONY - None**

Public Hearing recessed at 6:38 p.m.

Public Hearing reconvened at 6:50 p.m.

Public Hearing Adjourned at 6:51 p.m.

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David L. Jack, Mayor

ATTEST: \_\_\_\_\_  
Kim Lane, MMC, Borough Clerk

## **Minutes of Regular Assembly Meeting Held on August 25, 2015**

Mayor David L. Jack called the Regular Assembly meeting to order at 7:00 p.m., August 25, 2015, in the Borough Assembly Chambers. Assembly Members Mitchell, Powell and Decker were present. Assembly Member Blake, Rooney and Prysunka were absent. Borough Manager Jeff Jabusch and Borough Clerk Lane were also in attendance.

Pledge of Allegiance was led by Assembly Member Julie Decker.

Invocation was given by Nettie Covalt with the Presbyterian Church.

### **CEREMONIAL MATTERS** – *Community Presentations, Proclamations, Certificates of Service, Guest Introductions*

- i. Certificate of Service – Cyni Waddington, School Board**
- ii. Proclamation – Childhood Cancer Awareness Month**
- iii. Aaron Angerman, WCA presentation** gave an in depth account of the Canada/U.S. Transboundary Mining issues. He urges the residents of Wrangell and the Borough Assembly to get involved and to educate others about what is happening.

The Borough Assembly urged Mr. Angerman to please come back to give reports as to the progress of this issue.

### **AMENDMENTS TO THE AGENDA**

Manager Jabusch requested that Item 13g (Approval for the Sewer Pump project procurement), not be considered by the Assembly this evening. Jabusch requested to be able to report on the issue when it came up. It was agreed by the Assembly to change the item to "Discussion of the Sewer Pump project procurement".

**CONFLICT OF INTEREST** - None

### **CONSENT AGENDA**

***M/S: Decker/Powell, to approve Consent Agenda Items marked with an (\*) asterisk; 6a, 7a, 7b, and 7c. Motion approved unanimously by polled vote.***

### **APPROVAL OF MINUTES**

The minutes of the Public Hearing and Regular Assembly meetings held July 28, 2015, and Minutes of the Special Assembly meeting held August 12, 2015 were approved, as presented.

### **COMMUNICATIONS**

- \*a. Minutes of the Regular School Board meeting held June 15, 2015
- \*b. Travel Expense Report for the Months of Feb. thru Aug., 2015
- \*c. Minutes of the Hospital Board meetings held: Regular, May 20, 2015; Special, June 8, 2015; Executive Committee Special, July 2, 2015; Regular, July 15, 2015; CEO Search Committee Special, July 22, 2015; CEO Search Committee Special, July 29, 2015; Special, August 6, 2015

### **BOROUGH MANAGER'S REPORT**

Manager Jabusch's report was provided.

### **BOROUGH CLERK'S FILE**

The Borough Clerk's Report was provided.

## **MAYOR/ASSEMBLY REPORTS AND APPOINTMENTS**

### **10a Reports by Assembly Members**

Assembly Member Decker reported that there was a go fund me account set up for the victims' families what were touched by the tragic Sitka landslide. Decker also said that Shell Oil was potentially looking to move some of their operations; believed that we should put together some information and reach out to the appropriate people to see if Wrangell could meet their needs. Decker also asked that there be a resolution or a letter of support on the next agenda for the Roadless Rule. There were no objections from the Assembly.

### **10b Appointment to fill the Vacancy on the Planning & Zoning Commission**

As there were no letters of interest received for this vacancy, the Mayor directed the Borough Clerk to continue advertising for the vacancy.

**PERSONS TO BE HEARD** - None

## **UNFINISHED BUSINESS**

**12a PROPOSED ORDINANCE NO. 905:** A NON-CODE ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, ESTABLISHING DUE DATES FOR THE PAYMENT OF 2015 PROPERTY TAXES, AS A TRANSITIONAL MEASURE FOR IMPLEMENTATION OF ORDINANCE NO. 901, WHICH AMENDED THE PROPERTY TAX DUE DATES IN CHAPTER 5.04 OF THE WRANGELL MUNICIPAL CODE (*second reading*)

***M/S: Powell/Mitchell, to adopt Ordinance No. 905.***

Assembly Member Powell stated that he had received numerous requests to move the payment due date to October, to allow for the PFD's to come in.

After further discussion, Powell asked that an item be added to the next Regular Assembly meeting agenda to consider changing the due date for property tax payments from September 15<sup>th</sup> to sometime in October. There were no objections from the Assembly.

Assembly Member Decker clarified for the public that the ordinance being considered was to allow for people to make 1/2 of their property tax payment on or before September 15<sup>th</sup> and the other 1/2 of their property tax payment on or before December 15<sup>th</sup> and that next year, the single payment would begin with the payment being due on or before September 15<sup>th</sup>.

***Motion approved unanimously by polled vote.***

## **NEW BUSINESS**

**13a PROPOSED ORDINANCE NO. 906:** AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING SECTION 10.46.010, CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE PROHIBITED, OF THE WRANGELL MUNICIPAL CODE, TO REVISE THE PENALTY PROVISION TO REFERENCE THE MINOR OFFENSE FINE SCHEDULE IN WMC 1.20.050 (*first reading*)

***M/S: Powell/Mitchell, to approve first reading of Ordinance No. 906, and move to a second with a Public Hearing to be held on September 8, 2015. Motion approved unanimously by polled vote.***

**13b PROPOSED ORDINANCE NO. 907:** AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING THE MINOR OFFENSE FINE SCHEDULE IN CHAPTER 1.20, GENERAL PENALTY, OF THE WRANGELL MUNICIPAL CODE (*first reading*)

*M/S: Powell/Decker, to approve first reading of Ordinance No. 907, and move to a second with a Public Hearing to be held on September 8, 2015. Motion approved unanimously by polled vote.*

**13c PROPOSED RESOLUTION NO. 08-15-1328:** A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING THE PARTICIPATION AGREEMENT WITH THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS) OF ALASKA BY EXEMPTING THOMAS BAY POWER AUTHORITY EMPLOYEES.

*M/S: Mitchell/Powell, to approve Resolution No. 08-15-1328, amending the participation agreement with the Public Employees Retirement System. Motion approved unanimously by polled vote.*

**13d** Approval of a Professional Services Contract for Assessment Services

*M/S: Decker/Mitchell, to Move to approve a Professional Services Contract for Assessment Services in Wrangell to Appraisal Company of Alaska LLC for the 2016, 2017, & 2018 assessment years. Motion approved unanimously by polled vote.*

**13e** Approval of a bid award for the purchase of an Ozone Generator

*M/S: Powell/Decker, to approve a contract award to Ozone Water Systems, Inc. for the supply of one Ozone Generator in the amount of \$174,690.00 with funding to come from the Water Department's FY 2016 fixed assets budget and also to include a budget amendment in the amount of \$24,690.00 from the Water Department's Reserve fund to complete the funding needed for the procurement. Motion approved unanimously by polled vote.*

**13f** Approval of a bid award for the Cassiar Street Roadway and Utilities Improvements, Phase 2 project

*M/S: Decker/Powell, to authorize the Borough Manager to enter into a contract with BW Enterprises, LLC for the construction of the Cassiar Street Roadway and Utilities Improvements, Phase II, for the amount of \$135,500 which includes the Base Bid amount and Alternates 1, 2, and 3 to be paid from DCCED and DEC Grant funds and \$16,000 to come from the City Sales, Street Construction Fund. Motion approved unanimously by polled vote.*

**13g** Discussion of the Sewer Pump project procurement

Manager Jabusch gave an extensive explanation on the process that the City has gone through so far; grant agency had originally said that we could not install just one pump and that they would not pay on the project if both pumps were not completed. Jabusch stated that City Staff was working very closely with the granting agency to try and get an extension on the project so that both pumps could be ordered and installed; should hear from the granting agency within a day or two.



**ATTORNEY'S FILE** – Summary report was provided to the Borough Assembly.

**EXECUTIVE SESSION** – None

Regular Assembly Meeting adjourned at 8:06 p.m.

ATTEST: \_\_\_\_\_  
Kim Lane, MMC, Borough Clerk

\_\_\_\_\_  
David L. Jack, Mayor

Unapproved

# Agenda Item 7

## CITY & BOROUGH OF WRANGELL

### BOROUGH ASSEMBLY AGENDA ITEM September 8, 2015

#### **COMMUNICATIONS:**

INFORMATION: The Assembly may receive items for Communications, reasons only which do not require separate action. This is an avenue to keep the Assembly informed, for the public to enter items on the record, if necessary. The Assembly also receives agenda communications directly by their constituents, Borough Manager, other agencies' Officers and Department Directors.

**A MAIL BOX IS ALSO AVAILABLE IN THE BOROUGH CLERK'S OFFICE FOR EACH MEMBER OF THE ASSEMBLY AND SHOULD BE CHECKED ON A ROUTINE SCHEDULE.**

All items appearing under Communications on the Agenda have been approved under the Consent Agenda unless removed by an Assembly Member or the Mayor and placed on the regular agenda under Unfinished Business.

\*a. - None

## **MEMORANDUM**

**TO: HONORABLE MAYOR AND MEMBERS OF THE ASSEMBLY  
CITY AND BOROUGH OF WRANGELL**

**FROM: JEFF JABUSCH  
BOROUGH MANAGER**

**SUBJECT: MANAGER'S REPORT**

**DATE: September 4, 2015**

### **Library:**

The summer reading program wrapped up on August 8<sup>th</sup> with a pool pizza party. 119 kids finished the program. Considering this is for K through 8<sup>th</sup> grade, it is a huge percentage of that age of the school population. There were 191 prizes which are drawings. The entire program other than staff wages is donated. The school furnishes the computers for the kids to take tests on the books they read and all of the prizes, pizza's and other parts of the program are all from donations from businesses, organizations and private people. A very successful program. Our youth have always scored extremely well state wide in reading and part of that success is that they read year round.

### **Mike Allen Timber Sale:**

Mike has contacted the city and said that he will finish the sale soon. All went well, and soon we will advertise that people can get firewood from a stockpile of wood not used by Mike. We also believe that mental health wants to allow some access on their land for some of the downed wood that they have from the previous timber sale. We are getting awaiting written confirmation on that.

### **911 System:**

We just found out and have received the paperwork for purchase of a new 911 system which is greatly needed. The grant is for \$235,000. This plus another \$45,000 we plan to put towards it when we sale the boat that was confiscated by the police should get us there. This grant is federal funds routed through the State of Alaska's Division of Homeland Security.

### **Contractor Program:**

We implemented the plan on September 1, 2015. To date we only have 6 contractors signed up. Hopefully, that number will increase. The whole idea was to spread work out to more contractors, and if we don't get more, it will actually restrict the number of contractors getting work. We are continuing to advertise for contractors to submit their paperwork to get on the list. If someone does complain that they are not getting work, all they have to do is sign up. We also have had a couple of questions and little issues but it's going OK so far.

### **Projects being worked on:**

- **Cassiar Street Improvements**- the Cassiar bid for Phase II was awarded to BW Enterprises as they were the only bidder. They have been given their letter that they can proceed. Work is expected to be done this fall.
- **Evergreen Road Improvements**  
Nothing new on this project that the State's DOT/PF is managing. They expect to have a community meeting in November to discuss mainly with the property owners what lands need to be purchase for the project.
- **Sewer Pump Station**- We are frantically working with both granting agencies to get the bids out on this project as soon as possible so that we can meet our June 30, 2015 deadline.

### **Swimming Pool:**

The swimming pool just filled the position of recreation coordinator. Bridgett Davidson was hired with an effective date of August 24<sup>th</sup>. Bridgett has been a pool staff lifeguard and other duties as a part time employee. She brings a degree in education and physical education. This combined with her working knowledge of the pool and other parks and recreation programs will be an asset for the Parks and Recreation Department.

### **Shell Oil:**

We have sent a letter of interest to Shell Oil as we have heard they are looking at the possibility of having some or all of their winter storage and work done in Southeast Alaska. Our letter is an invitation to consider us in their process and to invite them here. We are not quite sure what their needs are, so not completely clear if we can offer something that meets their needs or not. We will report when something more is known.

# Agenda Item 9

## CITY & BOROUGH OF WRANGELL

### **BOROUGH ASSEMBLY AGENDA ITEM**

### **CLERK'S REPORT September 8, 2015**

#### Mark Your Calendar:

- 9/10 Planning & Zoning Commission mtg. @ 7pm in the Assembly Chambers
- 9/12 Community Market 10am to noon at the Nolan Center
- 9/16 Hospital Board mtg. @ 5:30 pm at the Nolan Center
- 9/22 Regular Borough Assembly mtg. @ 7 pm in the Assembly Chambers
  
- 9/15-16 SEAPA Board Mtg. to be held in Petersburg, with times TBD

Assembly Member Decker will be attending the **Southeast Conference Annual Summer Meeting** which will be held in Prince Rupert this year from September 15-17.

#### **Regular Borough Election - Tues., October 6, 2015**

Absentee Voting begins Monday, September 21, 2015 from 9:00 am to 5:00 pm at City Hall. Voters may vote an absentee ballot until 5:00 pm, Monday, October 5, 2015.

Below is the list of those who will appear on the October 6th Regular Borough Election Ballot:

Assembly - Two (three-year terms)	David Powell Becky Rooney
John Martin	Clay Hammer John Martin
School Board – Two (three-year terms)	Tamara Groshong - Two (three-year terms) Rolland C. Howell Aleisha Mollen
School Board - One (unexpired term until October 2016)	Beth Comstock Pamella McCloskey
Hospital Board – Two (four-year terms)	Maxlyn Wiederspohn Woody Wilson

Letters of interest are being accepted for the following Boards and Committee vacancies:

- Planning & Zoning Commission two– (three year terms)
- Parks & Recreation two – (three year terms)
- Wrangell Convention & Visitors Bureau one – (three year term)
- Economic Development Committee three - (three year terms)
- Nolan Museum/Civic Center Board three – (three year terms)

**Deadline for Letters of Interest is 5:00 p.m., Wednesday, October 7, 2015.**

# Agenda Items 10a, b, & c

## CITY & BOROUGH OF WRANGELL

BOROUGH ASSEMBLY  
AGENDA ITEM  
September 8, 2015

### MAYOR/ASSEMBLY REPORTS AND APPOINTMENTS:

INFORMATION: This agenda item is reserved for the Mayor and Assembly Member's special reports. Such information items as municipal league activities, reports from committees on which members sit, conference attendance, etc., are examples of items included here.

- **Item 10a**      Reports by Assembly Members
  
- **Item 10b**      Appointment to fill the vacancy on the Planning & Zoning Commission

*There were no letters of interest received for this vacancy.*

Appointment to be made by the Mayor, with the consensus of the Borough Assembly.

**If there is not a consensus from the Assembly, an Assembly Member can make a motion to appoint..... :**

Move to appoint \_\_\_\_\_ to fill the vacancy on the Planning & Zoning Commission for the unexpired term ending October 2017.

➤ **Item 10c**      **Appointment to fill the vacancy on the Wrangell Medical Center Board**

*There were no letters of interest received for this vacancy.*

**Appointment to be made by the Mayor, with the consensus of the Borough Assembly.**

**If there is not a consensus from the Assembly, an Assembly Member can make a motion to appoint..... :**

Move to appoint \_\_\_\_\_ to fill the vacancy on the Wrangell Medical Center Board for the unexpired term ending October 2015.



# Agenda Item 12a

## CITY & BOROUGH OF WRANGELL

### BOROUGH ASSEMBLY AGENDA ITEM September 8, 2015

#### INFORMATION:

**PROPOSED ORDINANCE NO. 906:** AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING SECTION 10.46.010, CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE PROHIBITED, OF THE WRANGELL MUNICIPAL CODE, TO REVISE THE PENALTY PROVISION TO REFERENCE THE MINOR OFFENSE FINE SCHEDULE IN WMC 1.20.050 *(second reading)*

#### **Background**

*The proposed Ordinance is being brought forward in order to move the penalty for violation from title 10 and place it in the minor offence fine schedule in title 1. This is a requirement of the State of Alaska's Court System. Essentially, if we do not list the fines and/or penalties in the fine schedule in Title 1, the violation is a mandatory court appearance.*

*Having the fines and/or penalties listed out in Title 1 will help law enforcement and the residents of Wrangell to be clear on what the penalty/fee is for each violation.*

*Also as stated above, this is a **requirement** of the State of Alaska's Court System.*

#### Attachments:

#### **1. Proposed Ordinance No. 906**

#### **RECOMMENDED ACTION:**

Move to adopt Ordinance No. 906.

CITY AND BOROUGH OF WRANGELL, ALASKA

ORDINANCE NO. 906

AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING SECTION 10.46.010, CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE PROHIBITED, OF THE WRANGELL MUNICIPAL CODE, TO REVISE THE PENALTY PROVISION TO REFERENCE THE MINOR OFFENSE FINE SCHEDULE IN WMC 1.20.050

[The changes to the existing code are shown as follows: the words that are underlined are to be added and the words that are **[bolded and in brackets are to be deleted]**.]

SEC. 1. Action. The purpose of this ordinance is to amend the Section 10.46.010, Consumption of marijuana in a public place prohibited, of the Wrangell Municipal Code to amend the provision on penalty for violation.

SEC. 2. Amendment. Section 10.46.010 of the Wrangell Municipal Code is amended to read:

**10.46.010 Consumption of marijuana in a public place prohibited.**

A. It is unlawful for any person to knowingly consume marijuana when the person is:

1. On, in, or upon any public place, except as permitted by ordinance, regulation, statute or permit; or

2. Outdoors on private property adjacent to a public place, and without consent of the owner or person in control thereof.

B. For purposes of this section, the definitions of the words and phrases below shall apply:

1. “Consume” shall have the meaning, in all conjugate forms, of “consumption” set forth in AS 17.38.900.

2. “Marijuana” shall have the meaning set forth in AS 17.38.900.

3. “Public place” means a place to which the public or a substantial group of persons has access

and includes, but is not limited to, streets, highways, sidewalks, alleys, transportation facilities, parking areas, convention centers, sports arenas, schools, places of business or amusement, shopping centers, malls, parks, playgrounds, jails, and hallways, lobbies, doorways, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

C. Any person violating any provision of this chapter is guilty of an infraction and shall be punished by the fine established in the WMC 1.20.050 fine schedule if the offense is listed in that fine schedule or by a fine of up to \$500.00 if the offense is not listed in the WMC 1.20.050 fine schedule**[Violation of this section is a minor offense punishable by a fine of \$100.00].**

SEC. 3.        Classification. This ordinance is of a permanent nature and shall be codified in the Wrangell Municipal Code.

SEC. 4.        Severability. If any portion of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

SEC. 5.        Effective Date. This ordinance shall be effective upon adoption.

PASSED IN FIRST READING: August 25, 2015.

PASSED IN SECOND READING: \_\_\_\_\_, 2015.

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David L. Jack, Mayor

ATTEST:

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Kim Lane, Borough Clerk

# Agenda Item 12b

## CITY & BOROUGH OF WRANGELL

### BOROUGH ASSEMBLY AGENDA ITEM September 8, 2015

#### INFORMATION:

**PROPOSED ORDINANCE NO. 907:** AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING THE MINOR OFFENSE FINE SCHEDULE IN CHAPTER 1.20, GENERAL PENALTY, OF THE WRANGELL MUNICIPAL CODE (*second reading*)

#### **Background**

*The proposed Ordinance is being brought forward in order to add the prior ordinance fines/penalties to the fine schedule in Title 1. This is a requirement of the State of Alaska's Court System. Essentially, if we do not list the fines and/or penalties in the fine schedule in Title 1, the violation is a mandatory court appearance.*

*Having the fines and/or penalties listed out in Title 1 will help law enforcement and the residents of Wrangell to be clear on what the penalty/fee is for each violation.*

*Also as stated above, this is a **requirement** of the State of Alaska's Court System.*

#### Attachments:

1. **Proposed Ordinance No. 907**

#### **RECOMMENDED ACTION:**

Move to adopt Ordinance no. 907.

CITY AND BOROUGH OF WRANGELL, ALASKA

ORDINANCE NO. 907

AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING THE MINOR OFFENSE FINE SCHEDULE IN CHAPTER 1.20, GENERAL PENALTY, OF THE WRANGELL MUNICIPAL CODE

BE IT ORDAINED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA:

[The changes to the existing code are shown as follows: the words that are underlined are to be added and the words that are **[bolded and in brackets are to be deleted]**.]

SEC. 1.        Action. The purpose of this ordinance is to amend the Minor Offense Fine Schedule in Section 1.20.050 of Chapter 1.20, General Penalty, of the Wrangell Municipal Code to add to the fine schedule offenses relating to Section 10.46.010, Consumption of marijuana in a public place prohibited.

SEC. 2.        Amendment. Section 1.20.050 of the Wrangell Municipal Code is amended to read:

**1.20.050 Minor Offense Fine Schedule.**

In accordance with AS 29.25.070(a), citations for the following offenses may be disposed of as provided in AS 12.25.195-.230, without a court appearance, upon payment of the fine amounts listed below plus the state surcharge required by AS 12.55.039 and AS 29.25.074. Fines must be paid to the police department. If an offense is not listed on a fine schedule, the defendant must appear in court to answer the charges. The Alaska Court System's Rules of Minor Offense Procedure apply to all offenses listed below. Citations charging these offenses must meet the requirements of Minor Offense Rule 3. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine amount for that offense listed below.

Section	Offense	Penalty/Fine
7.04.010	Cruelty – Abandonment	\$200
7.04.020	Animals at large prohibited	First offense - \$15, second offense - \$50, third offense - \$100. Fourth and subsequent offenses are mandatory court appearance offenses with a minimum fine of \$200 and a maximum fine of \$500.00.
7.08.010	Licensing	\$25.00 fine for each offense.
7.08.020	Dog Vaccination required	\$50.00 fine for each offense.

7.08.030	At large – Prohibited – Nuisance declared	First offense - \$15, second offense - \$50, third offense - \$100. Fourth and subsequent offenses are mandatory court appearance offenses with a minimum fine of \$200 and a maximum fine of \$500.00.
7.08.035	Objectionable animals	First offense - \$15, second offense - \$50, third offense - \$100. Fourth and subsequent offenses are mandatory court appearance offenses with a minimum fine of \$200 and a maximum fine of \$500.00.
7.08.040	Restraint requirements	First offense - \$15, second offense - \$50, third offense - \$100. Fourth and subsequent offenses are mandatory court appearance offenses with a minimum fine of \$200 and a maximum fine of \$500.00.
7.08.045 & 7.08.050	Off-leash areas & Off –leash area rules	First offense - \$15, second offense - \$50, third offense - \$100. Fourth and subsequent offenses are mandatory court appearance offenses with a minimum fine of \$200 and a maximum fine of \$500.00.
7.08.115	Potentially dangerous and dangerous dogs: violation of restrictions, confinement requirements, and sign requirements	First offense - \$200. Second and subsequent offenses are mandatory court appearance offenses with a minimum fine of \$300 and a maximum fine of \$500.00.
7.08.120	Biting dog – Confinement	First offense - \$200. Second and subsequent offenses are mandatory court appearance offenses with a minimum fine of \$300 and a maximum fine of \$500.00.
7.08.140	Proclamation to confine all dogs during epidemic	First offense - \$200 Second and subsequent offenses are mandatory court appearance offenses with a minimum fine of \$300 and a maximum fine of \$500.00.
7.08.150	Interference with animal enforcement agents	First offense - \$200 Second and subsequent offenses are mandatory court appearance offenses with a minimum fine of \$300 and a maximum fine of \$500.00.
9.12.020, 9.12.030,	Fireworks where prohibited;	First offense - \$200. Second and

& 9.12.040	sale where prohibited; display violations	subsequent offenses are mandatory court appearance offenses with a minimum fine of \$300 and a maximum fine of \$500.00.
10.18.010	Abuse of 911 system	First offense - \$200. Second and subsequent offenses are mandatory court appearance offenses with a minimum fine of \$300 and a maximum fine of \$500.00.
10.36.010	Discharge of firearms and other weapons prohibited within certain areas	First offense - \$200. Second and subsequent offenses are mandatory court appearance offenses with a minimum fine of \$300 and a maximum fine of \$500.00.
<u>10.46.010(A)(1)</u>	<u>Consumption of marijuana in a public place prohibited</u>	<u>\$100.00 fine for each offense.</u>
<u>10.46.010(A)(2)</u>	<u>Consume marijuana outdoors adjacent public place without consent of property owner</u>	<u>\$100.00 fine for each offense.</u>

SEC. 3. Classification. This ordinance is of a permanent nature and shall be codified in the Wrangell Municipal Code.

SEC. 4. Severability. If any portion of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

SEC. 5. Effective Date. This ordinance shall be effective upon adoption.

PASSED IN FIRST READING: August 25, 2015.

PASSED IN SECOND READING: \_\_\_\_\_, 2015.

\_\_\_\_\_  
David L. Jack, Mayor

ATTEST:

\_\_\_\_\_  
Kim Lane, Borough Clerk

# **Agenda Item 12c**

## **CITY & BOROUGH OF WRANGELL**

### **BOROUGH ASSEMBLY AGENDA ITEM September 8, 2015**

#### **INFORMATION:**

Discussion and possible action to change the Property Tax payment due date, previously adopted by Ordinance No. 901 on May 26, 2015

#### **Attachments:**

1. Previously adopted ordinance no. 901

#### **RECOMMENDED ACTION:**

Discussion and possible action.



CITY AND BOROUGH OF WRANGELL, ALASKA

ORDINANCE NO. 901

AN ORDINANCE OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, AMENDING SECTIONS 5.04.350 AND 5.04.360 OF CHAPTER 5.04, PROPERTY TAX, OF THE WRANGELL MUNICIPAL CODE TO AMEND THE DUE DATE FOR PAYMENT OF PROPERTY TAXES AND THE PENALTY AND INTEREST FOR LATE PAYMENTS OF PROPERTY TAXES

BE IT ORDAINED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA:

[The changes to the existing code are shown as follows: the words that are underlined are to be added and the words that are **[bolded and in brackets are to be deleted]**.]

SEC. 1. Action. The purpose of this ordinance is to amend Sections 5.04.350 and 5.04.360 of the Wrangell Municipal Code relating to the delinquent date for payment of property taxes and the penalty and interest for late payments of property taxes.

SEC. 2. Amendments. Sections 5.04.350 and 5.04.360 of the Wrangell Municipal Code are amended to read:

**5.04.350 Delinquent date for payment of taxes.**

All taxes levied in accordance with this chapter shall be due and payable on or before September 15**[August 15<sup>th</sup>]** of the assessment year and shall become delinquent if not paid before 5:00 p.m. on said date, or, if payment is received through the mail after said date, when the mailed payment is postmarked after said date **[; provided, however, that the taxpayer shall have the right to pay such taxes in two equal installments. If the taxpayer pays the taxes in two installments, the first one-half installment shall be due and payable on or before August 15th, the second one-half installment shall be due and payable on or before December 15th of the same year and shall become delinquent if not paid before 5:00 p.m. on said date, or, if payment is received through the mail after said date, when the mailed payment is postmarked after said date. Penalty and interest on an unpaid installment shall accrue from the date the installment becomes due]**.

Section 5.04.360 Penalty and interest for late payments.

When the general tax provided for in this chapter is not paid on or before the due date, penalties and interest will accrue as follows:

A. A penalty of 10 percent of the unpaid taxes shall be added thereto immediately upon delinquency. [If the first one-half installment is not paid when due, a penalty of 10 percent, together with interest at the rate of eight percent per year on the unpaid installment, not including penalty, from due date until paid in full, shall be added thereto.]

B. Interest at an annual rate of 10 percent shall accrue upon all unpaid taxes, not including penalty, from the due date until paid in full. When interest is applied, it shall be calculated and accrue on a daily basis. [After the due date for the payment of the second one-half installment, a total penalty of not to exceed 10 percent shall be added to all delinquent taxes, and interest at the rate of eight percent per year shall accrue, as provided in this section, upon all unpaid taxes, not including the penalty, from due date until paid in full.]

SEC. 3. Classification. This ordinance is of a permanent nature and shall be codified in the Wrangell Municipal Code.

SEC. 4. Severability. If any portion of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.


SEC. 5. Effective Date. This ordinance shall be effective upon adoption.

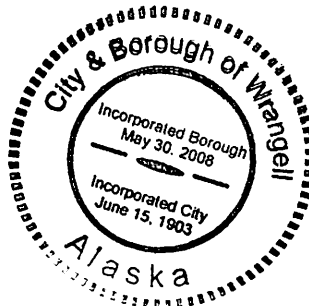
PASSED IN FIRST READING: May 12, 2015.

PASSED IN SECOND READING: May 26, 2015.

  
\_\_\_\_\_  
David L. Jack, Mayor

ATTEST:

  
\_\_\_\_\_  
Kim Lane, Borough Clerk



# **Agenda Item 13a**

## **CITY & BOROUGH OF WRANGELL**

### **BOROUGH ASSEMBLY AGENDA ITEM September 8, 2015**

#### **INFORMATION:**

**PROPOSED RESOLUTION No. 09-15-1329:** RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, DESIGNATING CANVASS BOARD DUTIES TO THREE ASSEMBLY MEMBERS FOR CANVASSING THE RESULTS OF THE REGULAR ELECTION TO BE HELD OCTOBER 6, 2015

#### **Attachments:**

- 1. Proposed Resolution No. 09-15-1329**

#### **RECOMMENDED ACTION:**

Move to adopt Resolution No. 09-15-1329, designating three Assembly Members to Canvass the results of the Regular Borough Election.

CITY AND BOROUGH OF WRANGELL

RESOLUTION NO. 09-15-1329

A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, DESIGNATING CANVASS BOARD DUTIES TO THREE ASSEMBLY MEMBERS FOR CANVASSING THE RESULTS OF THE REGULAR ELECTION TO BE HELD OCTOBER 6, 2015

WHEREAS, Wrangell Municipal Code Sec. 2.28.050 Canvass Board, provides that the Council shall, prior to the date of the election, designate three council members to serve on the Canvass Board; and

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, that Mayor David Jack and Assembly Members Julie Decker and Daniel Blake be designated to serve on the Canvass Board and to attend the election, pursuant to Wrangell Municipal Code Sec. 2.28.050 to be held within six days after the election, pursuant to Wrangell Municipal Code Sec. 2.28.060 Canvass of Returns-Procedures Generally.

ADOPTED: \_\_\_\_\_, 2015

\_\_\_\_\_  
David L. Jack, Mayor

ATTEST: \_\_\_\_\_  
Kim Lane, MMC, Borough Clerk

# Agenda Item 13b

## CITY & BOROUGH OF WRANGELL

### BOROUGH ASSEMBLY AGENDA ITEM September 8, 2015

#### INFORMATION:

**PROPOSED RESOLUTION No. 09-15-1330:** A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, URGING THE STATE OF ALASKA TO FILE A PETITION FOR CERTIORARI IN THE US SUPREME COURT IN RESPONSE TO THE NINTH CIRCUIT EN BANC PANEL'S REVERSAL OF THE NINTH CIRCUIT REGULAR THREE-JUDGE PANEL'S DECISION ON THE TONGASS EXEMPTION FROM THE ROADLESS RULE *(Added at the request of Assembly Member Decker)*

#### Attachments:

1. **Proposed Resolution No. 09-15-1330**
2. Letter from Senator Stedman's office

#### RECOMMENDED ACTION:

Move to adopt Resolution No. 09-15-1330.

CITY AND BOROUGH OF WRANGELL

RESOLUTION NO. 09-15-1330

A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, URGING THE STATE OF ALASKA TO FILE A PETITION FOR CERTIORARI IN THE US SUPREME COURT IN RESPONSE TO THE NINTH CIRCUIT *EN BANC* PANEL'S REVERSAL OF THE NINTH CIRCUIT REGULAR THREE-JUDGE PANEL'S DECISION ON THE TONGASS EXEMPTION FROM THE ROADLESS RULE

- A. **WHEREAS**, the Tongass National Forest is the largest national forest in the nation, and
- B. **WHEREAS**, the City and Borough of Wrangell encompasses 1,652,480 acres within the Tongass National Forest; and
- C. **WHEREAS**, the acres of Tongass National Forest lands constitute 97.28% of the estimated 1,652,480 acres of land within the boundaries of the City and Borough of Wrangell; and
- D. **WHEREAS**, the 1,652,480 acres of Tongass National Forest lands within the City and Borough of Wrangell, and additional Tongass National Forest lands adjoining the boundaries of the City and Borough of Wrangell are vital to the social and economic well-being of the residents of the City and Borough of Wrangell and those in the remainder of Southeast Alaska; and
- E. **WHEREAS**, on January 12, 2001, eight days before the end of Bill Clinton's final term as President of the United States, the US Department of Agriculture published a 30-page notice in the Federal Register (pp. 3244 -3273) of the adoption of federal regulations – 36 CFR Part 294, the "Roadless Rule" – effective sixty days later on March 13, 2001, "to establish prohibitions on road construction, road reconstruction, and timber harvesting in inventoried roadless areas on National Forest System lands;" and
- F. **WHEREAS**, on January 20, 2001, George W. Bush succeeded Bill Clinton as President and, within days, delayed regulations put in place during the final days of Bill Clinton's Administration; and
- G. **WHEREAS**, on May 4, 2001, the Bush Administration announced that it would allow the Roadless Rule to go into effect on May 12, 2001, but would move at a later date to amend it; and
- H. **WHEREAS**, the State of Alaska filed a Complaint against the 2001 Roadless Rule on the grounds, among others, that it violated § 1326(a), the "no more" clause of the Alaska National Interest Lands Conservation Act (ANILCA) and § 101, the "seek to meet timber demand" clause, of the Tongass Timber Reform Act; and
- I. **WHEREAS**, the State of Alaska settled the case with the Department of Justice in June 2003; and on July 15, 2003, pursuant to the Settlement Agreement, the Forest Service promulgated a proposed rule to exempt the Tongass National Forest from the 2001 Roadless

Rule until completion of the rulemaking process for any permanent amendments to the Roadless Rule; and

- J. **WHEREAS**, the Organized Village of Kake; The Boat Company; Alaska Wilderness Recreation and Tourism Association; Southeast Alaska Conservation Council; Natural Resources Defense Council; Tongass Conservation Society; Greenpeace, Inc.; Wrangell Resource Council; Center For Biological Diversity; Defenders of Wildlife; Cascadia Wildlands; and Sierra Club brought an action against the US Department of Agriculture, the US Forest Service, and several federal officials challenging the 2003 Forest Service rule which temporarily exempted the Tongass National Forest from the Roadless Rule; the State of Alaska and the Alaska Forest Association intervened as Defendants; and
- K. **WHEREAS**, on March 4, 2011, US District Judge John W. Sedwick vacated the 2003 Tongass exemption and reinstated the Roadless Rule on the Tongass, finding that the US Department of Agriculture offered “no reasoned explanation as to why the Tongass Forest Plan protections it found deficient in [2001], were deemed sufficient in [2003];” and
- L. **WHEREAS**, the US Department of Agriculture declined to appeal; however, on June 20, 2011, the State of Alaska appealed the matter to the US Court of Appeals for the Ninth Circuit; and
- M. **WHEREAS**, on March 26, 2014, a regular three-judge panel of the Ninth Circuit reversed the District Court Judge Sedwick’s order, stating:

The panel reversed the district court’s order, which invalidated a 2003 United States Department of Agriculture regulation temporarily exempting the Tongass National Forest in Alaska from application of the 2001 Roadless Area Conservation Rule.

The panel held that in its 2003 Record of Decision, the Department of Agriculture articulated a number of legitimate grounds for temporarily exempting the Tongass Forest from the 2001 Roadless Rule. The panel concluded that these grounds and the Department of Agriculture’s reasoning in reaching its decision were neither arbitrary nor capricious. . . .

- N. **WHEREAS**, the Organized Village of Kake; The Boat Company; Alaska Wilderness Recreation and Tourism Association; Southeast Alaska Conservation Council; Natural Resources Defense Council; Tongass Conservation Society; Greenpeace, Inc.; Wrangell Resource Council; Center For Biological Diversity; Defenders of Wildlife; Cascadia Wildlands; and Sierra Club subsequently requested and obtained an *en banc* panel review of the regular panel’s decision (where the case is heard before all the judges of a court rather than by a panel selected from them); and
- O. **WHEREAS**, on July 29, 2015, the Ninth Circuit’s 11-judge *en banc* panel, in a 6 to 5 decision, ruled that the US Department of Agriculture’s reasoning in exempting the Tongass National Forest from the Roadless Rule was arbitrary and capricious – the opposite conclusion reached on March 26, 2014, by a regular three-judge panel of the Ninth Circuit; and

P. **WHEREAS**, the Roadless Rule seriously impacts the social and economic well-being of the residents of the City and Borough of Wrangell and the remainder of Southeast Alaska in that the Roadless Rule precludes access to an estimated 9.6 million acres of the Tongass National Forest in addition to some 5.6 million acres of Wilderness and other Congressional land set asides, out of a total of 16.8 million acres in the entire Tongass National Forest; the Roadless Rule also prohibits timber sales in Inventoried Roadless Areas, prevents access to renewable energy resources, and makes access to locatable minerals more difficult.

**NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL** as follows:

**Section 1.** The Assembly hereby strongly urges Governor William M. Walker to direct the filing of a Petition for Certiorari in the US Supreme Court in response to the Ninth Circuit *en banc* panel's reversal of the Ninth Circuit three-judge panel's decision on the Tongass exemption from the Roadless Rule.

**Section 2.** The Borough Clerk is directed to provide a copy of this resolution to the following immediately upon adoption:

The Honorable William M. Walker, Governor, State of Alaska; and  
The Honorable Craig W. Richards, Attorney General, State of Alaska.

**Section 3.** For informational purposes, the Borough Clerk is directed to provide a copy of this resolution to the following upon adoption:

The Honorable Lisa Murkowski, US Senator for Alaska;  
The Honorable Dan Sullivan, US Senator for Alaska;  
The Honorable Don Young, Congressman for Alaska;  
Kip Knudson, Director, Washington Office of the Governor;  
Owen Graham, Executive Director, Alaska Forest Association; and

**Section 4.** Effective Date. This resolution shall be effective immediately.

ADOPTED: \_\_\_\_\_, 2015

\_\_\_\_\_  
David L. Jack, Mayor

ATTEST: \_\_\_\_\_  
Kim Lane, MMC, Borough Clerk



AUG 21 2015

# ALASKA STATE LEGISLATURE

## SESSION

State Capitol, Rm30  
Juneau, Alaska 99801-1182  
(907) 465-3873 Phone  
(907) 465-3922 Fax  
(877) 463-3873 Toll Free  
Sen.Bert.Stedman@akleg.gov



## INTERIM

1900 1st Ave., Suite 310  
Ketchikan, AK 99901-6442  
Phone (907) 225-8088  
Fax (907) 225-0713

201 Katlian St., Suite 103  
Sitka, AK 99835-7561  
Phone (907) 747-2952  
Fax (907) 747-5807

## SENATOR BERT K. STEDMAN

August 18, 2015

Craig Richards  
Attorney General  
State of Alaska  
Post Office Box  
Juneau, Alaska 99802

Dear Attorney General:

Respectfully requesting you to ask the United States Supreme Court to review the 9<sup>th</sup> Circuit Court of Appeals recent decision (6-5) wiping out the Tongass National Forest (Tongass) exemption on technical and procedural grounds. The Federal Government has used the roadless rule to the disadvantage of Southeast Alaskans on what they can and cannot do in the Tongass. Good paying family wage jobs have been lost, small businesses closed, and the development of hydroelectric power made more difficult and expensive.

While I am not an attorney, I read the 9<sup>th</sup> Circuit decision to say the roadless exemption is invalid because the United States Forest Service (USFS) failed to adequately explain why it reversed its prior position in 2001 and nothing had changed by 2003 when the exemption was adopted.

However, an obvious change did occur between 2001 and 2003. First, there was the lawsuit by the State of Alaska (State) and other parties challenging the roadless rule. The State's lawsuit pointed out how the roadless rule violated federal laws such as the "no more" clause of the Alaska National Interest Lands Conservation Act, and would lead to violations of the Tongass Timber Reform Act. In order for a sale to even be considered enough timber must be offered for the sale in the Tongass to meet the demand. The case settled with the Federal Government agreeing to put a temporary exemption in place and to complete a new and valid regulatory process considering an exemption.

Second, after notice to the public was given, thousands of comments on the impacts of the roadless rule in the Tongass were received. These comments were reviewed, and weighed by the agency in making its decision to issue an exemption. *Vol. 68, Federal Register, No. 135, Page 41865, July 15, 2003*

I believe the exemption was within the discretion of the agency to adopt. As the dissent in the July 29, 2015, opinion stated: "Congress ... did not authorize a judge ... to set aside an agency

## District R

Angoon • Coffman Cove • Craig • Edna Bay • Elfin Cove • Hollis • Hoonah • Hydaburg • Hyder • Kake • Kasaan  
Ketchikan • Klawock • Klukwan • Kupreanof • Metlakatla • Meyers Chuck • Nauyasut • Pelican • Petersburg  
Point Baker • Port Alexander • Port Protection • Saxman • Sitka • Tenakee Springs • Thorne Bay • Whale Pass • Wrangell

decision because the reasons the agency proffered ... were not, from the viewpoint of the bench "good" enough. ... Agency decisions must stand if not "arbitrary or capricious. ... The Department also met the APA's requirements by explaining that the exemption would allow for a better balance between environmental preservation, road access, and timber availability. The balance the Department struck is reasonable and well within its mandate under that National Forest Management Act and the Tongass Timber Reform Act ..." *Slip Opinion, No. 11-35517, July 29, 2015, pp-47-48, (9<sup>th</sup> Cir.)*

Ultimately, if all efforts to save the exemption in the court system have been exhausted, and the 9<sup>th</sup> Circuit Court of Appeals decision stands, the State of Alaska should ask the United States Forest Service to keep its promise in the settlement agreement, and sue if it refuses. The Federal Government promised Alaskans it would put a temporary exemption in place and complete (from start to finish) a valid administrative process for an exemption. Until such a process is completed, the Federal Government has not lived up to its end of the bargain.

Sincerely,



Senator Bert Stedman

Enclosures: Federal Register

Cc: Senator Lisa Murkowski  
Senator Dan Sullivan  
Congressman Don Young  
Owen Graham, Alaska Forest Association





how the Department ultimately addresses protecting roadless values would depend on a number of factors. Those included court decisions, public comments, and practical options for amending the current rule or using other administrative tools to implement inventoried roadless area protections.

During the public comment period for the first ANPR that closed on September 11, 2001, the Forest Service received over 726,000 responses. The responses represented two main points of view on natural resource management and perspectives on resource decisionmaking: (1) Emphasis on environmental protection and preservation, and support for making national decisions; and (2) emphasis on responsible active management, and support for local decisions made through the forest planning process. A 1,200 page summary of this public comment was prepared in May of 2002, and is available on the Forest Service internet site for Roadless Area Conservation at <http://www.roadless.fs.fed.us>.

#### *Relationship of Rulemaking Proposals to Alaska Litigation*

In January of 2001, the State of Alaska and six other parties filed a lawsuit against USDA contending that the roadless rule violated various statutes. On June 10, 2003, a settlement agreement was signed by the U.S. Department of Justice, the State of Alaska, and intervenor-plaintiffs to resolve and dismiss this litigation. This settlement agreement calls for the Federal Government to publish in the **Federal Register**, within 60 days: (1) A proposed temporary regulation that would exempt the Tongass National Forest from the application of the roadless rule until completion of the rulemaking process for any permanent amendments to the roadless rule; and (2) an advance notice of proposed rulemaking to exempt both the Tongass and the Chugach National Forests from the application of the roadless rule. This advance notice of proposed rulemaking, and a proposed rule published elsewhere in today's **Federal Register** to exempt the Tongass National Forest from the applicability of the roadless rule, fulfill these terms of the settlement agreement.

#### *A Unique Situation Exists in the State of Alaska*

In 1980, Congress passed the Alaska National Interest Lands Conservation Act (ANILCA). In ANILCA, Congress found that the Act provided the proper balance between the protection of environmental values while providing

opportunity for the satisfaction of the economic and social needs of the people in Alaska. The Act set aside millions of acres in Alaska for the National Park Service, Forest Service, National Monuments, National Wildlife Refuges and Wilderness Areas.

If the Tongass and the Chugach National Forests are exempted from the roadless rule, the Forests would continue to be managed pursuant to the existing Forest Plans. Both the 1997 Revised Forest Plan (as readopted by the February 2003 Record of Decision) for the Tongass and the 2002 Revised Forest Plan for the Chugach were developed through fair and open planning processes, based on years of extensive public involvement and thorough scientific review, and provide full consideration of social, economic, and ecological values. The net effect of amending the roadless rule to exclude National Forest System lands in the State of Alaska would be to allow timber harvest in approximately 300,000 additional acres (approximately 3 percent) on the Tongass out of 9.34 million inventoried roadless acres, and possible access and development on 150,000 additional acres out of 5.4 million roadless acres on the Chugach. Timber harvest would be prohibited on approximately 95 percent of National Forest System lands in the State of Alaska under the existing forest plans, if both the Tongass and the Chugach National Forests were excluded from application of the prohibitions of the roadless rule.

#### **Public Comment Solicitation**

All interested parties are encouraged to express their views in response to this request for public comment on the following question:

Should any exemption from the applicability of the roadless rule to the Tongass National Forest be made permanent and also apply to the Chugach National Forest?

#### **Regulatory Findings**

This second advance notice of proposed rulemaking is being issued to report on public input received and to obtain public comment regarding the protection and management of inventoried roadless areas in the State of Alaska. Because the Department is not proposing any specific action at this time, there are no regulatory findings associated with this notice. Comments received will help the Department determine the extent and scope of any future rulemaking.

#### **Conclusion**

The Department of Agriculture is considering a permanent exemption for the Tongass and Chugach National Forests from the applicability of the roadless rule. Public input and comment received through this second advance notice of proposed rulemaking will help inform the Department's consideration of future rulemaking proposals.

Dated: June 30, 2003.

**Dale N. Bosworth,**

Chief,

[FR Doc. 03-17419 Filed 7-14-03; 8:45 am]

BILLING CODE 3410-11-P

#### **DEPARTMENT OF AGRICULTURE**

##### **Forest Service**

##### **36 CFR Part 294**

##### **RIN 0596-AC04**

##### **Special Areas; Roadless Area Conservation; Applicability to the Tongass National Forest, Alaska**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of proposed rulemaking; request for comment.

**SUMMARY:** The Department of Agriculture, Forest Service is proposing to amend regulations concerning the Roadless Area Conservation Rule (hereinafter, referred to as the roadless rule) to exempt the Tongass National Forest (hereinafter, referred to as the Tongass) from prohibitions against timber harvest, road construction, and reconstruction in inventoried roadless areas until a final rule is promulgated as announced by the Forest Service on July 10, 2001, in an advance notice of proposed rulemaking.

In seeking public comment on this proposal to amend the roadless rule, the agency is fulfilling part of the Department's obligations under the June 10, 2003 settlement agreement for *State of Alaska v. USDA*, while maintaining the ecological values of inventoried roadless areas in the Tongass National Forest.

In *State of Alaska v. USDA*, the State of Alaska and other plaintiffs alleged that the roadless rule violated a number of federal statutes, including the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). Passed overwhelmingly by Congress in 1980, ANILCA sets aside millions of acres in Alaska for the National Park Service, Forest Service, National Monuments, National Wildlife Refuges, and Wilderness Areas with the



understanding that sufficient protection and balance would be ensured between protected areas and multiple-use managed areas, and that there would be no more administrative land withdrawals. The Alaska lawsuit alleged that USDA violated ANILCA by applying the requirements of the roadless rule to Alaska's national forests. USDA settled the lawsuit by agreeing to publish this proposed rule to temporarily exempt the Tongass from the application of the roadless rule, and to publish the separate advance notice of proposed rulemaking (located elsewhere in the same part of today's **Federal Register**) requesting comment on whether to exempt permanently the Tongass and the Chugach National Forests in Alaska from the application of the roadless rule.

Under the settlement, the vast majority of Alaska National Forests will remain off limits to development. Timber harvest will be prohibited on more than 95 percent of Alaska National Forests as required under existing forest plans. Exempting the Tongass National Forest from the application of the roadless rule would make approximately 300,000 roadless acres available for forest management—slightly more than 3 percent of the 9.3 million roadless acres in the Tongass, or 0.5 percent of the total roadless acres nationwide. Exempting the Chugach National Forest from the application of the roadless rule would permit roaded access on approximately 150,000 acres—less than 3 percent of the forest's 5.4 million roadless acres, or 0.3 percent of the total roadless acres nationwide. The proposals under the settlement would preserve all old-growth reserves, riparian buffers, beach fringe buffers, roadless areas, and other protections contained in the forest plans. The roadless rule would also continue to apply to the 43.7 million roadless acres in national forests outside of Alaska.

Public comment is invited and will be considered in the development of the final rule.

**DATES:** Comments must be postmarked by August 14, 2003.

**ADDRESSES:** Send written comments to: Roadless TNF, Content Analysis Team, USDA Forest Service, P.O. Box 22810, Salt Lake City, UT 84122; by electronic mail to [roadlesstnf@fs.fed.us](mailto:roadlesstnf@fs.fed.us); or by facsimile to (801) 880-2808. If you intend to submit comments in batched e-mails from the same server, please be aware that electronic security safeguards on Forest Service and Department of Agriculture computer systems intended to prevent commercial spamming may limit batched e-mail access. The Forest

Service is interested in receiving all comments on this proposed rule, however, so please call (801) 517-1020 to facilitate transfer of comments in batched e-mail messages. Please note that all comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The agency cannot confirm receipt of comments. Individuals wishing to inspect the comments should call Jody Sutton at (801) 517-1023 to schedule an appointment.

**FOR FURTHER INFORMATION CONTACT:** In Washington, DC contact: Dave Barone, Planning Specialist, Ecosystem Management Coordination Staff, Forest Service, USDA, (202) 205-1019; and in Juneau, Alaska contact: Jan Lerum, Regional Planner, Forest Service, USDA, (907) 586-8796.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background and Litigation History**

On January 12, 2001, the Department published a final rule entitled "Special Areas; Roadless Area Conservation" (66 FR 3244) ("the roadless rule"). The roadless rule was a discretionary rule that fundamentally changed the Forest Service's longstanding approach to management of inventoried roadless areas by establishing nationwide prohibitions generally limiting, with some exceptions, timber harvest, road construction, and reconstruction within inventoried roadless areas in national forests. A draft environmental impact statement (DEIS) (May 2000) and final environmental impact statement (FEIS) (November 2000) were prepared and included consideration of alternatives that specifically exempted the Tongass National Forest from the roadless rule's prohibitions. As described in the FEIS, the roadless rule was predicted to cause substantial social and economic hardship in communities throughout Southeast Alaska (FEIS Vol. 1, 3-202, 3-326 to 3-350, 3-371 to 3-392). Nonetheless, the final rule extended the rule's prohibitions to the Tongass National Forest.

The roadless rule has been subject to a number of lawsuits in Federal district courts in Idaho, Utah, North Dakota, Wyoming, Alaska, and the District of Columbia. In one of these lawsuits, the District Court of Idaho issued a nationwide preliminary injunction prohibiting implementation of the roadless rule. The preliminary injunction decision was reversed and remanded by a panel of the Ninth Circuit Court of Appeals. The Ninth Circuit held that the Forest Service's preparation of the environmental impact statement for the

roadless rule was in conformance with the general statutory requirements of the National Environmental Policy Act.

In another lawsuit, the State of Alaska and six other parties alleged that the roadless rule violated the Administrative Procedure Act, National Forest Management Act, National Environmental Policy Act, Alaska National Interest Lands Conservation Act, Tongass Timber Reform Act and other laws. In the June 10, 2003, settlement of that lawsuit, the Department committed to publishing a proposed rule with request for comment that would exempt the Tongass National Forest from application of the roadless rule. The Department made no representations regarding the content or substance of any final rule that may result.

If the Tongass National Forest is exempted from the prohibitions in the roadless rule, the Forest would continue to be managed pursuant to the 1997 Tongass Forest Plan with non-significant amendments, as readopted in the February 2003 Record of Decision (2003 Plan) issued in response to the district court's remand of the 1997 Plan in *Sierra Club v. Rey*, (D. Alaska). Both documents were developed through fair and open planning processes, based on years of extensive public involvement and thorough scientific review. The 2003 Tongass Forest Plan provides a full consideration of social, economic, and ecological values in Southeast Alaska. This rulemaking does not propose to reduce any of the old-growth reserves, riparian buffers, beach fringe buffers, or other standards and guidelines of the 2003 Tongass Forest Plan or, in any way, impact the protections afforded by the plan.

##### **Congress Has Given Specific Direction To Protect the National Interest in Alaska Public Lands**

Congress has provided specific direction to protect the national interest in the public lands in Alaska. The Alaska National Interest Lands Conservation Act (ANILCA) of 1980 (16 U.S.C. 3210) established vast areas of conservation system units, including more than 50 percent of the combined acreage of all designated wilderness areas in the Nation. Congress further found that the Act provides sufficient protection for the national interest in the scenic, natural, cultural, and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people.



In 1990, Congress provided additional management direction to reflect national interests in Alaska by passing the Tongass Timber Reform Act. The Tongass Timber Reform Act amended ANILCA by directing the Secretary of Agriculture, subject to certain limitations, to seek to provide a supply of timber from the Tongass National Forest which (1) meets the annual market demand for timber and (2) meets the market demand for timber for each planning cycle.

The Department will consider whether the proposed rule better implements the national interests proclaimed by Congress for the Tongass National Forest.

#### **Most Southeast Alaska Communities Are Significantly Impacted by the Roadless Rule**

There are thirty two communities within the boundary of the Tongass National Forest. Most Southeast Alaska communities lack road and utility connections to other communities and to the mainland systems. Because most Southeast Alaska communities are surrounded on land by inventoried roadless areas of the Tongass National Forest, the roadless rule significantly limits the ability of communities to develop road and utility connections that almost all other communities in the United States take for granted. If the proposed rule is adopted, communities in Southeast Alaska would be able to propose road and utility connections across national forest system land that will benefit their communities. Any such community proposal would then be evaluated on its own merits.

In addition, the preponderance of federal land in Southeast Alaska results in communities being more dependent upon Tongass National Forest lands and having fewer alternative lands to generate jobs and economic activity. The communities of Southeast Alaska are particularly affected by the roadless rule prohibitions. The FEIS estimated that approximately 900 jobs could be lost in Southeast Alaska due to the application of the roadless rule.

#### **Roadless Areas Are Common, Not Rare, on the Tongass National Forest**

The 16.8 million acre Tongass National Forest in Southeast Alaska is approximately 90 percent roadless and undeveloped. The vast majority of the 9.34 million acres of inventoried roadless areas and their associated values in the Tongass are already either protected through Congressional designation or through the Tongass Forest Plan.

Congress has designated 39 percent of the Tongass as Wilderness, National Monument, or other special designations which prohibit commercial timber harvest and road construction, with certain limited exceptions. An additional 39 percent of the Tongass is managed under the Forest Plan to maintain natural settings where commercial timber harvest and road construction are not allowed. About 4 percent of the Tongass is designated suitable for commercial timber harvest, with about half of that area contained within inventoried roadless areas. The remaining 18 percent of the Forest is managed for various multiple uses. The Tongass Forest Plan provides high levels of resource protection, and has been designed to assure ecological sustainability over time while allowing some development to occur that supports communities dependent on the management of National Forest System lands in Southeast Alaska.

In addition, the State of Alaska as a whole has an extensive network of protected areas. Alaska has the greatest amount of land and the highest percentage of its land base in conservation reserves of any state. Federal lands comprise 59 percent of the state and 40 percent of federal lands in Alaska are in conservation system units.

#### **Different Approaches Considered for the Tongass National Forest**

The unique situation of the Tongass National Forest has been recognized throughout the Forest Service's process for examining prohibitions in inventoried roadless areas. The process for developing the roadless rule included different options for the Tongass in each stage of the promulgation of the rule and each stage of the environmental impact statement.

In February 1999, the agency exempted the Tongass and other forests with recently revised forest plans from an interim rule prohibiting new road construction. The October 1999 Notice of Intent to prepare an environmental impact statement for the roadless rule specifically requested comment on whether or not the rule should apply to the Tongass National Forest in light of the recent revision of the Tongass Forest Plan and the ongoing economic transition of communities and the timber program in Southeast Alaska. The May 2000 DEIS for the roadless rule proposed to postpone making a decision for the Tongass until April 2004, in association with the 5-year review of the Tongass Forest Plan.

The preferred alternative was altered in the November 2000 FEIS to include

prohibitions on timber harvest, as well as road construction and reconstruction on the Tongass, effective April 2004. The FEIS recognized that the economic and social impacts of including the Tongass in the roadless rule's prohibitions could be of considerable consequence in communities where the forest products industry is a significant component of local economies. The FEIS also noted that if the Tongass was exempt from the roadless rule prohibitions, loss of habitat and species abundance would not pose an unacceptable risk to diversity across the forest.

The final January 12, 2001 roadless rule directed an immediate prohibition on timber harvest, road construction, and reconstruction in roadless areas, except for projects that already had a notice of availability of a draft environmental impact statement published in the **Federal Register**.

#### **Litigation Settlement**

In January 2001, the State of Alaska filed a lawsuit against the United States Department of Agriculture contending the roadless rule violated the Administrative Procedure Act, National Forest Management Act, National Environmental Policy Act, Alaska National Interest Lands Conservation Act, Tongass Timber Reform Act and other laws.

In fulfillment of one of its obligations under the settlement agreement for *State of Alaska v. USDA*, and after consideration of the circumstances surrounding the development and promulgation of the roadless rule relative to the Tongass and the implications of implementing the rule, the Department is seeking public comment on this proposal to amend the roadless rule. This proposed rule has been developed in light of the factors and issues described in this preamble, including serious concerns about the previously disclosed economic and social hardships the application of the rule's prohibitions would cause in communities throughout Southeast Alaska.

#### **Conclusion**

For the reasons identified in this preamble, the Department is proposing to amend paragraph (d) of § 294.14 of the Roadless Area Conservation Rule to exempt the Tongass National Forest from prohibitions against timber harvest, road construction, and reconstruction in inventoried roadless areas until the Department promulgates a revised final roadless area conservation rule as announced in the



July 10, 2001, advance notice of proposed rulemaking (66 FR 35918).

#### Regulatory Certifications

##### Regulatory Impact

This proposed rule has been reviewed under USDA procedures and Executive Order (E.O.) 12866, Regulatory Planning and Review, and designated as significant by the Office of Management and Budget (OMB). OMB has reviewed this proposed rule since it raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866. A cost-benefit analysis has been conducted on the impact of this proposed rule and incorporates by reference the detailed regulatory impact analysis prepared for the January 12, 2001, roadless rule, which included the Tongass Exempt Alternative. Much of this analysis was discussed and disclosed in the FEIS for the roadless rule. A review of the data and information from the original analysis and the information disclosed in the FEIS found that it is still relevant, pertinent, and sufficient in regard to exempting the Tongass from the application of the roadless rule. The Department has concluded that no new information exists today that would significantly alter the results of the original analysis.

Moreover, this proposed rule has been considered in light of Executive Order 13272 regarding proper consideration of small entities and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which amended the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial and final regulatory flexibility analysis was conducted on the proposed and final roadless area conservation rule, which included the effects associated with the Tongass National Forest. An initial small entities flexibility assessment for this proposed rule has been made and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by SBREFA. This proposed rule will not impose record keeping requirements; will not affect small entities' competitive position in relation to large entities; and will not affect small entities' cash flow, liquidity, or ability to remain in the market.

##### Environmental Impact

The Department prepared a Draft EIS (May 2000) and Final EIS (November 2000) in association with promulgation of the roadless area conservation rule. The DEIS and FEIS examined in detail sets of Tongass-specific alternatives. In

the DEIS the Department proposed the Tongass Deferred Alternative, which would not have applied the rule's prohibitions to the Tongass National Forest but would have required that the agency make a determination as part of the five-year plan review whether to prohibit road construction in unroaded portions of inventoried roadless areas, and would have directed that an evaluation of whether and how to protect roadless characteristics, in the context of multiple use management, be conducted during the next Tongass Forest Plan revision. In the FEIS, the Department identified the Tongass "Not Exempt" as the Preferred Alternative, which would have treated the Tongass National Forest the same as all other national forests, but delayed implementation of the rule's prohibitions until April 2004. This delay would have served as a social and economic mitigation measure by providing a transition period for communities most affected by changes in management of inventoried roadless areas in the Tongass. In the final rule published on January 12, 2001, however, the Department selected the Tongass "Not Exempt" alternative which immediately applied the rule's prohibitions to inventoried roadless areas on the Tongass, but allowed road construction, reconstruction, and the cutting, sale, and removal of timber from inventoried roadless areas where a notice of availability for a draft environmental impact statement for such activities was published in the Federal Register prior to January 12, 2001.

In February 2003, in compliance with the district court's order in *Sierra Club v. Key* (D. Alaska), the Forest Service issued a Record of Decision (ROD) and a Supplemental Environmental Impact Statement (SEIS) to the 1997 Revised Tongass Forest Plan that examined the site-specific wilderness and non-roadless areas on the Forest as part of the forest planning process. The February 2003 ROD, Section 335 of the 2003 Omnibus Appropriations Act provides that the ROD for the 2003 SEIS for the 1997 Tongass Land Management Plan shall not be reviewed under any Forest Service administrative appeal process, and its adequacy shall not be subject to judicial review by any court in the United States. Because the 2000 FEIS for the final roadless area conservation rule

considered exempting the Tongass National Forest as a detailed alternative, the decision to issue this proposed amendment is expected to be based on the decision to issue the Department finds that there are significant new circumstances or information relevant to environmental concerns and bearing on this alternative or its impacts that would warrant additional environmental impact analysis. A final determination will be made before adoption of the final rule. The FEIS is available in the document archives section of the Roadless Area Conservation internet site at <http://www.roadless.fs.fed.us>.

##### No Takings Implications

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12360, and it has been determined that the proposed rule will not pose the risk of a taking of a Constitutionally-protected private property, as the rule is limited to exempting temporarily the applicability of the roadless area conservation rule to the Tongass National Forest.

##### Energy Effects

This proposed rule has been analyzed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this proposed rule does not constitute a significant energy action as defined in the Executive order.

##### Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Department has not identified any State or local laws or regulations found to be in conflict. However, in that case, (1) no retroactive effect would be given to this proposed rule; and (2) the Department would not require the use of administrative proceedings before parties could file suit in court challenging its provisions. Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538), which the President signed into law on March 22, 1995, the Department has assessed the effects of this proposed rule on State, local and tribal governments and the private sector. This proposed rule does not



compel the expenditure of \$100 million or more by any State, local, or tribal government, or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

*Federalism and Consultation and Coordination With Indian Tribal Governments*

The Department has considered this proposed rule under the requirements of Executive Order 13132, Federalism. The agency has made a preliminary assessment that the rule conforms with the federalism principles set out in this Executive order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Based on comments received on this proposed rule, the Department will consider if any additional consultation will be needed with State and local governments prior to adopting a final rule.

Moreover, this proposed rule does not have tribal implications as defined by Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. However, Forest Service line officers in the field have been asked

to make contact with Tribes to ensure awareness of this proposed rule and conduct government-to-government dialog.

*Controlling Paperwork Burdens on the Public*

This proposed rule does not contain any record keeping, reporting requirements, or other information collection requirements as defined in 5 CFR part 1320, and therefore imposes no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

*Government Paperwork Elimination Act Compliance*

The Forest Service is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

**List of Subjects in 36 CFR Part 294**

National Forests, Navigation (air), Recreation and recreation areas, Wilderness areas.

Therefore, for the reasons set forth in the preamble, the Department of

Agriculture proposes to amend part 294 of title 36 of the Code of Federal Regulations as follows:

**PART 294—SPECIAL AREAS**

**Subpart B—Protection of Inventoried Roadless Areas**

1. The authority citation for subpart B continues to read as follows:

**Authority:** 16 U.S.C. 472, 529, 551, 1608, 1613; 23 U.S.C. 201, 205.

2. Revise paragraph (d) of § 294.14 to read as follows:

**§ 294.14 Scope and applicability.**

\* \* \* \* \*

(d) Until the USDA promulgates a revised final roadless area conservation rule [to which the agency originally sought public comments in the July 10, 2001, advance notice of proposed rulemaking (66 FR 35918)], this subpart does not apply to road construction, reconstruction, or the cutting, sale, or removal of timber in inventoried roadless areas in the Tongass National Forest.

\* \* \* \* \*

Dated: July 2, 2003.

**Joel D. Holtrop,**  
*Acting Chief.*

[FR Doc. 03-17420 Filed 7-14-03; 8:45 am]

**BILLING CODE 3410-11-P**

# **Agenda Item 13c**

## **CITY & BOROUGH OF WRANGELL**

### **BOROUGH ASSEMBLY AGENDA ITEM September 8, 2015**

#### **INFORMATION:**

Approval to hold a Special Assembly Meeting on Monday, October 12, 2015, at 12:00 p.m. (noon) to Certify the Election Results from the Regular Election

#### **Attachments:**

1. none

#### **RECOMMENDED ACTION:**

Move to approve a Special Assembly Meeting to be held on Monday, October 12, 2015, at 12:00 p.m. (noon) to certify the Election Results from the Regular Election to be held on October 6, 2015.



# **Agenda Item 14**

## **CITY & BOROUGH OF WRANGELL**

**BOROUGH ASSEMBLY  
AGENDA ITEM  
September 8, 2015**

INFORMATION:

ATTORNEY'S FILE – None

# **Agenda Item 15**

## **CITY & BOROUGH OF WRANGELL**

**BOROUGH ASSEMBLY  
AGENDA ITEM  
September 8, 2015**

Executive Session – None