

– House Bill 91 –
Testimony before the State of Alaska, House Resources Committee
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by
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1. Mr. Chair and House Resources Committee members, my name is Michele Pfundt, I am a resident of Petersburg and a member of the Mitkof Highway Homeowners Association. I would like to request that you pass House Bill 91 into the House of Representatives for consideration.
2. Alaska's forests contain a great resource, and it is a resource that currently is not protected under the Alaska Forest Resources and Practices Act. That great resource is the people of Alaska, Alaska's greatest resource.
3. The greatest legislation that can be addressed by any legislator is that proposed by the people. House Bill 91 is such legislation, born through the diligence of a few for the protection of the many in Alaska. HB 91 is a preventative measure designed to give statutory authority to the Division of Forestry to safeguard the public in timber harvest practices.
4. In December 2005, a large state agency, which owns land throughout this state as a private landowner, submitted a logging plan to the Alaska Department of Natural Resources to log parcels of land uphill from residents and transit routes in Petersburg. That logging plan was signed without consideration of the danger that that logging plan may pose to the members of the local community.
5. Upon hearing about this plan, many of our local citizens gathered together and formed the Mitkof Highway Homeowners Association. We are a mixed group of average citizens, many of whom, like myself, have never opposed any logging activity before. However, we had enough knowledge of the terrain and effects of logging to be concerned about logging a steep gradient behind our homes. Our concern over the plan to log Petersburg's backdrop on steep slopes behind the homes of over 95 families and the daily transit way of over 800 vehicles led us to seek the assistance of Douglas Swanston. Dr. Swanston, retired United States Forest Service geologist, is the leading authority on logging steep hillsides and he confirmed that the logging plan presented to the community of Petersburg was unsafe. It was at that time that we discovered that the Alaska Forest Resources and Practices Act protects fish spawning streams or fresh water, but that it does not provide the Division of Forestry the authority to address public safety related to timber harvest activities. We were told that there was nothing that we could do except wait for any damage resulting from possible unsafe logging practices, and then sue the person or entity responsible, or enact local zoning ordinances.
6. Petersburg's story is not a singular incident in this state. We live in a rainforest and the most logical place for settlement in Southeast Alaska is on the shoreline at the base of large, steep mountains. It's a beautiful place to live but living in this rainforest and seeking a sustainable harvest of timber can sometimes conflict. When these conflicts arise then the public which lives at the base of these steep hillsides must be protected for they are the very reason that we must protect the fish and the water sources. The Board of Forestry's Science and Technical Committee found that only 1/4 of 1 % of the loggable timber lands under state control are of such a gradient and are above homes or important transit roads. Yet in just one community, there are almost 100 families affected by this lack of a public safety provision. Across the state there are many more families living in this limited area who will be positively affected by this legislation.
7. We know that when there is a dangerous practice that has the potential of affecting many individuals in a state, then legislation is the proper way to address the situation. The purpose of good legislation is to proactively address conflicts between adjacent landowners, not to expect its citizens to "duke it out" after one landowner injures another. Especially when the Division of Forestry has been given the mandate to administer the state's forested lands and passing House Bill 91 can guide them in addressing public safety.
8. As citizens who sought Representative Wilson's aide in proposing this legislation, the Mitkof Highway Homeowners Association is very aware that legislation may not be the first avenue to addressing this problem. However, we have arrived at this present time having attempted to address this problem through the proper channels. The Mitkof Highway Homeowners Association approached the Board of Forestry, through the State Forester, asking them to form

policy or recommend that the Forest Resources and Practices Act be amended to include a consideration of public safety. They sought the advice of the Alaska State Attorney General and were told that they could NOT consider public safety in logging practices because the very words "public safety" were not included in the Alaska Forest Resources and Practices Act. They also determined that they could not amend the Forest Resources and Practices Act, that such an amendment was beyond a policy change and would require a legislative amendment. After we started working on HB91 the Board of forestry has twice voted to not take an official stand on HB91, instead recommending that, at the present, local communities should rely on their own zoning ordinances. However, this is a statewide issue and local zoning ordinances place an undue burden upon local communities. Local communities do not have access to a Science and Technical Committee as the Board of Forestry does. Local communities are put in fear of a takings action that they are ill-equipped to defend if they now enact those zoning laws. Requiring local zoning ordinances also does not work for a statewide problem when many of the communities in Alaska are unorganized and have no zoning authority. Mitkof Highway Homeowners Association has diligently went through the whole administrative process without a solution. It was only after all of this that Mitkof Highway Homeowners Association sought the assistance of Representative Peggy Wilson for a legislative solution and HB 91 was born.

9. Alaska's constitution inherently guarantees that the state, by way of its government and agencies, must consider the safety of its public. However, there are currently no public safety considerations within the Alaska Forest Resources and Practices Act regarding timber harvesting. How is it, then, that an agency or a legislative act can operate in contravention of the Alaska State Constitution? The States of Washington, Oregon, and California, as well as the western provinces of Canada have all recognized that their forest practices acts should contain public safety considerations. In this situation, Alaska truly is the last frontier, but in this situation it is not a mark of honor but one of shame. Alaska should remain the last frontier in its mystique but never in its sworn ability to consider the safety of its public, because it is its public, its people, that are truly its greatest resource.

10. Thank you, Mr. Chair and members of the committee for your consideration of House Bill 91.

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