

**FINAL MINUTES**  
**Board of Forestry Meeting**  
**Tuesday–Wednesday, February 12–13, 2008**  
**DNR Office Building, 3700 Airport Way, Fairbanks**

**Introduction**

**Call to Order and Roll Call.** Chairman Maisch called the meeting to order at 8:42 a.m. Fairbanks and Juneau conference rooms were connected. Board members present were Rob Bosworth, Matthew Cronin, Jack DiMarchi, Erin McLarnon, Wayne Nicolls, Rick Rogers, and Nathan Soboleff for Ron Wolfe. Bill Oliver was absent. A quorum was present.

**Public Meeting Notice.** The meeting was noticed by issuing public service announcements and press releases, mailing announcements to interested parties, and posting a notice on the state and Department of Natural Resources (DNR) websites (*see handout*). DOF has been investigating teleconferencing options. There are still two issues – first, using freeteleconference.com means that the cost for the state phone lines double because the service is not through the state's contract provider. Second, the Attorney General's Office has raised an issue over charging people to participate in a Board meeting. For this meeting, the call-in number is through the state system as in the past, and presenters are provided with access to the teleconference call-in number.

**Approval of agenda.** (*See handout*) The agenda was unanimously approved subject to possible changes due to Dave Albert being stuck in Juneau by weather.

**Approval of Minutes.** The Board reviewed and unanimously approved the October 9, 2007 minutes with one minor correction. (*see handout*)

**Announcements.**

- The Tongass Futures Roundtable winter meeting will be in Juneau on February 27-28 at the Mendenhall Visitors Center.
- The State Society of American Foresters meeting will be March 27-29 in Juneau, all are welcome, and the Governor is scheduled to be the banquet speaker.
- The Alaska Forest Association spring meeting is March 6-8 in Juneau.

**Old Business**

**FY09 budgets.**

DNR Forest Practices budget. Maisch described the proposed operating and capital (CIP) budgets for the Division of Forestry (*see handout*). DNR has submitted an increment request for addition General Fund money to offset FY09 decreases in federal Section 319 money for Forest Resources & Practices Act (FRPA) implementation. This would move \$85,000 of Division of Forestry (DOF) funding and \$65,000 of Office of Habitat Management & Permitting (OHMP) funding from federal receipt authority to the state General Fund. Originally, FRPA implementation was funded solely by the state. When state funding decreased, federal 319 money helped support implementation, along with smaller inputs from other sources.

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Nicolls commented that NASF is extremely important and influential for the US Forest Service. He noted that prior to Jeff Jahnke's tenure as State Forester, Alaska didn't participate much. Maisch concurred, and added that it's an organization that likes to get things done. It includes the state and territorial foresters. There are three subregions; Alaska is part of the Western Forestry Leadership Coalition.

**Note:** Ron Wolfe joined the meeting on-line; Nathan Soboleff stepped down. Ed Wood from the Mitkof Highway Homeowners Association also joined on-line, along with Dave Beebe from Petersburg.

**FRPA standards re landslides and public safety.** Marty Freeman summarized questions and discussion to date with respect to FRPA standards on mass wasting and public safety.

The Mitkof Highway Homeowners' Association (MHHA) raised concerns over risks to public safety from proposed timber harvesting on Mental Health land on Mitkof Island. The Mental Health Trust and its operator, Alcan Alaska Timber Corporation, submitted a DPO for operations. Based on review of the DPO and maps, and field inspection by DOF and OHMP, and subject to the agencies' comments, proposed operations would be consistent with the Act and regulations. No operations have occurred to date. Prior to operations, a renewal notice must be submitted, or if changes are proposed to the original DPO, a Change in Operations must be submitted. No renewal notice or Change in Operations has been received at this time.

MHHA has requested that the following statement be added to FRPA:

*"Activities that increase susceptibility to slope failures (such as logging) should be prohibited or restricted if slope failures pose a danger to life or property. Critical facilities, homes, and other building for human occupancy should not be located in areas susceptible to major slope failures."*

Three questions were raised at the October 9 Board meeting.

1. Can consideration of public safety be included in reviews of compliance with the FRPA and regulations? No, per consultation with the Attorney General's Office, the existing act does not provide the authority to address public safety issues.
2. Can a consideration of public safety be added to the Act or regulations? Per consultation with the Attorney General's Office, adding standards for public safety would require a statutory change to the Forest Resources & Practices Act. Regulations on public safety could not be adopted without a change to the Act.
3. Do other authorities apply to public safety hazards from forestry operations? Yes – common law principles with respect to harm caused through negligence would apply. Also, local government with planning powers could adopt ordinances under Title 29 addressing public safety or use planning and zoning powers to address land use issues. Mental Health Trust operations would be subject to local ordinances.

Maisch added that the Division looked at the Oregon and Washington forest practices statutes. Both states added specific language on public safety in landslide hazard areas to their forest

practices acts in recent years. Options for Alaska include local government action through ordinances, or adding language on public safety in landslide hazard areas to FRPA. If a FRPA change is undertaken, Maisch recommended doing it through a science and technical committee process. Opening the Act isn't taken lightly; there's always a risk of other changes, but we have been able to prevent that in the past. A public safety amendment would be new ground.

Rogers said that this is an interesting issue. The Act now is not a permit program. It's hard to understand what the change would look like if the state were to decide whether a landowner could log a slope based on a risk assessment. It would make it more of a permit.

Freeman said that in Washington, a notification must be submitted that leads to a determination whether or not an environmental impact statement is needed under the State Environmental Policy Act. Oregon established a matrix of risk to public safety and likelihood of mass wasting. Associated standards include progressively more restrictive BMPs up to a prohibition on harvesting in the highest risk areas. Both state programs require a field visit by someone with expertise in landslide risk.

Rogers asked whether a change to FRPA would shift the burden of liability for risk from private landowners to the state. If so, would the state act in an ultra-conservative manner if it would be accountable if something goes wrong. That has big implications for the industry.

Cronin commented that this issue has been raised on Mental Health Trust land, but would apply to other lands, and could be extended to anything. This takes the forestry act and opens it to complaints about any impacts. The issue might be better left to the legal entities. Freeman noted that the Washington and Oregon considerations for public safety apply only to landslides, not to all forestry issues. Cronin concluded that he didn't feel qualified to comment because of the legal issues.

Bosworth asked about the status of the Mental Health logging proposal. Freeman said that their DPO had been approved, but no operations have occurred to date. The Mental Health Trust would have to submit a renewal notice or a Change of Operations before proceeding.

Wood reported that Mental Health Trust leaders were going to visit the Alaska Congressional delegation this month to determine whether there is sufficient support for a 20,000-acre exchange involving several parcels, not just the 2,600 acres on Mitkof. The proposal would address other places like Deer Mountain in Ketchikan. He said that Harry Noah, the Trust's executive director, said that if the exchange effort fails, they would revisit the timber option.

DiMarchi observed that this issue hasn't come up before because most of our logging is in remote areas. If it's unlikely to occur elsewhere, he doesn't think we want to reopen the bill to accommodate Mitkof, when they are also playing other cards.

Rogers commented that he doesn't want to get bogged down in the specifics of the Mitkof situation. However, it does illustrate the complexities. There are multiple professional opinions on the level of risk for this site. If DNR tries to assess risk, there is some subjectivity. The Board doesn't have specifics of what the landowner proposed. The Trust seems to be taking steps to mitigate the risk, and there is a difference of opinion on whether that goes far enough. Some risks are inherent whether or not harvesting occurs; human activities can exacerbate the



**DRAFT MINUTES**  
**Board of Forestry Meeting**  
**Tuesday-Wednesday, November 29-30, 2011**  
**DNR Large Conference Room, 3700 Airport Way, Fairbanks, AK**

NOTE: As of  
3/29/2012, no  
FINAL version of  
these Minutes had  
been posted on  
DOF website.

**Tuesday, November 29, 2011**

**Call to Order and Roll Call.** Chairman Chris Maisch called the meeting to order at 8:35 a.m. The Anchorage and Juneau teleconference sites were connected. Rob Bosworth, Jeff Foley, Erin McLarnon, Mark Vinsel, Ron Wolfe, Wayne Nicolls, and Eric Nichols were present and a quorum was established. Matt Cronin was absent.

**Public Meeting Notice.** The meeting was noticed by issuing public service announcements and press releases, mailing announcements to interested parties, and posting a notice on the state and Department of Natural Resources (DNR) websites. *(See handout)*

**Approval of agenda.** *(See handout)* The agenda was unanimously approved with adjustments on timing. Wolfe requested an opportunity for some updates on items raised at last meeting.

Matt Cronin joined by teleconference.

**Approval of Minutes.** The Board reviewed and unanimously approved the August 30-31, 2011 minutes with one typo correction. *(See handout)*

**Announcements.**

- Introduction of attendees. Wolfe welcomed Randy Bates, ADF&G Director of Habitat and hoped he would be able to attend some Board meetings in person.
- Maisch announced that the Alaska Timber Jobs Task Force will meet in Fairbanks December 1-2 with field trip to Superior Pellets, Dry Creek (Logging & Milling Associates), and Delta School wood boiler. Board members are welcome to attend.
- Vinsel recommended inviting Jeffrey Jones, Governor's Office special assistant for natural resources, to the next Board meeting. He said Jones has attended recent fisheries meetings and is enthusiastic about learning about other resources.
- Wolfe attended the November 2011 SAF annual meeting, and noted that the 40<sup>th</sup> anniversary of the federal Clean Water Act is next year. He would like the Board to have an information campaign on the success of FRPA in preventing nonpoint source pollution and protecting water quality.
- Bosworth asked for a report from Wolfe on the Juneau Economic Development Corporation (JEDC) economic cluster. Wolfe explained that the Obama administration came through Southeast Alaska with a transition plan and asset mapping. After that JEDC facilitated a series of cluster working groups for marine, tourism, timber, and renewable energy to identify assets and develop a strategic plan for each sector. The timber group continues to meet. Wolfe suggested a presentation at the winter Board meeting. The timber cluster work included an



Vinsel asked whether the Board would be acting outside its responsibility if members inserted themselves into a particular situation such that a landowner felt we were taking from their property to benefit a different landowner when the Board doesn't have public safety authority. Would Board members be liable in that case? Saxby replied that the analysis is the same regarding liability. The question is whether or not it would be legal. Legal issues would arise when the Dept. of Law reviews draft regulations for legality before they are published. The regulation attorney would determine whether there is legal authority to adopt the regulation. If not, it wouldn't go forward.

A Board member (source?) noted that the S&TC and IG input provides good forestry information. Where do we direct these citizens go who are asking for help? Maisch said that the Board's previous recommendation was that it was a local government issue. He noted that the City of Petersburg also discussed the landslide safety issue on Mitkof Island previously and did not reach agreement on how to approach it. Jandreau noted that there are some residences that are not in organized municipalities. Maisch agreed, although the Mitkof area is in a municipality. Other examples of municipal safety ordinances address floodplains and avalanche zones. Nichols added ordinances on fire risk. Slenkamp emphasized that there has been no activity on the Mitkof ground by the Trust. The recent slides on Mitkof all occurred in the absence of forest activity – public safety risks exist in the absence of forest activity. Maisch summarized that no one agency has jurisdiction on this issue. We may be asked this question because it's not clear who else can do this. Wolfe disagreed. He stated that the local government has the authority to deal with it. The S&TC did a good job of assessing the hazards. This issue is restricted to Petersburg; other areas with this risk have largely already been harvested.

Nichols added that there is a civil liability for private entities if something does happen, whether it's blowdown on a neighboring property, runoff, or landslides. The risks have typically been addressed through litigation rather than legislation.

Vinsel asked what the Commissioner, Governor, and Legislature thinks. Do they want us to bring public safety into FRPA? Maisch replied that the Board makes recommendations. The Board could state that they aren't comfortable making a recommendation to expand the authority. The DNR Commissioner, who is also the former Attorney General, expressed some concern that the Board hadn't addressed public safety, although he was open to the Board process. It struck him odd that the Board didn't address public safety with regard to forest operations. The Board could pass the buck, but this Board was appointed to get good advice on issues like this.

Nichols declared that it is extremely difficult to regulate a natural phenomenon. FRPA does a good job of regulating bad decisions on the ground like putting fill on unstable ground. It's hard to regulate issues between land owners – how much of the landslide risk is natural, how much is associated with the forest operations? These things happen with every major storm event in Southeast Alaska. We can't regulate something caused by natural events. Maisch commented that there is a risk for operating on a steep slope, and that is also a financial decision. Different landowners accept different levels of risk. We hope liability deters bad decisions.



Suzanne West stated that she knows that a family was unable to get landslide insurance. If an insurance applicant knows that the Trust still has plans for a timber sale and doesn't acknowledge that, it could be considered fraud. She has climbed to the apex of the slides – what came down in the channel is all logging debris. On the recent slide she did a line of sight estimate and it appears that the slide started on the Trust property.

Hanley asked whether the Trust made its land selection from state lands. Slenkamp explained that the Mitkof parcel is original Trust land -- it predates the state selections. Hanley asked whether the Trust had discussed trading this parcel for other state land. Slenkamp said that the Trust is open to all proposals. Hanley recognized that the state Southeast State Forest land base is limited, but the Trust could look at lands elsewhere in the state. **Curran commented that DOF wouldn't want to manage the Mitkof land.**

Maisch summarized the Board's discussion. The Board doesn't want to reconsider the original decision to not request authority for public safety under the FRPA.

**One Tree Education Program.** Jan Dawe, UAF, said that the Fairbanks community is eager for forestry information, and desirous of participating in forest management activities. The Alaska Boreal Forest Council developed some forestry education programs, including Tapping into Spring, which engaged students.

The One Tree Alaska program tries to use all parts of a tree to make different products (*see handout*). The organizers originally invited the community in to see how many things could be made from one birch tree. She showed examples of knitting needles made from birch flitches, and leftovers from the needles were used to make artist's charcoal. The charcoal project was used to discuss the combustion process and products with students, thus integrating science and art.

The trees for the project came from the Tanana Valley State Forest. The original funding came from the USDA National Institute of Food and Agriculture (NIFA) Wood Utilization Research Program with 13 cooperating universities. The program looked at efficient uses of low-value wood to develop and promote renewable materials. It demonstrates vertical integration of wood values. One Tree emphasizes local resources that are locally used and locally sold. One Tree Alaska is an outreach program to K-12 schools. Dawe wanted the program to increase awareness of K-12 students on how wood resources can be used and how that could benefit the local economy.

Participants harvested and skinned the tree for bark, then main limbs, and green leaves. All tree parts were labeled, packed, and ready for delivery to about 30 local artisans and scientists. They took samples to document the tree's age – it was 6.5" dbh and 67 years old. Teachers wanted students to be involved, so One Tree cut the tops of 16 more birch (the upper 40 feet).

Studying phenology became a focus for seven classrooms – they forced branches to bud burst, and studied dormancy. There is little opportunity to do plant work during the school year. Climate

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**MINUTES**  
**Board of Forestry Meeting**  
**Wednesday-Thursday, March 17-18, 2010**  
**Anchorage, Alaska**

**Wednesday, March 17**

**Call to Order and Roll Call.** Chairman Maisch called the meeting to order at 8:35 a.m. Anchorage and Fairbanks teleconference rooms were connected. All board members were present: Rob Bosworth, Jeff Foley, Erin McLarnon, Matt Cronin, Wayne Nicolls, Mark Vinsel, Ron Wolfe, and Eric Nichols.

**Public Meeting Notice.** The meeting was noticed by issuing public service announcements and press releases, mailing announcements to interested parties, and posting a notice on the state and Department of Natural Resources (DNR) websites. (*See handout*)

**Approval of agenda.** (*See handout*) The agenda was unanimously approved with a change of the speaker on the state of the timber industry and on the Sustainable Forestry Initiative from Owen Graham to George Woodbury, and a date correction on the prior meeting's minutes.

**Approval of Minutes.** The Board reviewed and unanimously approved the October 7-8, 2010 minutes with minor grammatical corrections. (*See handout*).

**Announcements.**

- Wolfe said that there is a hearing today in Washington D.C. on HR2099, the bill on the Sealaska land entitlement. Byron Mallott is the witness for Sealaska and testimony will be posted on the Sealaska website.
- Freeman reported that Society of American Foresters (SAF) policy is to grant continuing education credit for Board field trips, but not for meetings. SAF has evaluated the August BOF field trip at six Category 1 CFE credit hours. Thanks go to Jim LaBau from the Alaska SAF for help in getting credit approved.
- The joint Alaska Northern Forest Cooperative/SAF meeting will be held in Anchorage with a 2-day meeting and a 1-day field trip on April 29-May 1, 2010. DOF will send the agenda to the Board. The theme is on traditional and new views of forestry in Alaska. Andy Youngblood is completing a study on reforestation in the interior and may present it at the meeting. Wolfe asked that the Board's regards be sent to Youngblood.

**Old Business I**

**Proposed FY11 operating and CIP budgets; FY12 FRPA budget needs.** Kerry Howard, ADF&G Division of Habitat director reviewed the Habitat Division history (*see handouts*). Habitat management statutes go back to the late 1950s. The Sport Fish, Commercial Fisheries, and Game Division had habitat responsibilities before a separate Habitat Division was created. Peak staffing for the division occurred in the late 1970s to early 80s. In 2003, the Governor moved the division to DNR as the Office of Habitat Management and Permitting. At that time, the division's staff was reduced by 18%, and its budget was decreased 11%. The Division was moved back to ADF&G in 2008, and now has 47 positions in three regional offices and three area offices. Habitat Division recently closed the Petersburg office, and moved its functions to the Juneau office.

DOF consulted with the Attorney General's office, who advised us that public safety could be added to one section of the FRPA, e.g., AS 41.17.060(B) (5) without requiring that public safety be considered under the Act's other provisions.

DOF also prepared four documents (*see handouts*). The first is the revised text for the scoping map legend (*see handout*). The second is an update of the *White Paper on Landslides, Public Safety, and FRPA*. The update includes a summary of the science and technical committee findings, an expanded section on other approaches to this issue that includes British Columbia and California, and a section on authorities for public safety.

- British Columbia – The B.C. forest practices act does not specifically address public safety and landslides, however, the Minister of Forests and Range has the power to intervene on any activity that is likely to have a catastrophic impact on public safety. The minister can stop the activity and require a remedy or mitigation.
- California -- The state review team for a timber harvest plan includes an engineering geologist who reviews the plan with respect to slope stability, and inspects sites if necessary. One purpose of site inspections is to look for public safety hazards, and if appropriate recommend additional measures to reduce hazards to public safety. The California Forest Practices Act doesn't directly address public safety, but actions under the Act must be consistent with the California Environmental Quality Act, which does include public safety. Timber Harvest Plans are also subject to interagency review and public hearings. In addition,
  - Use of heavy equipment for tractor operations is prohibited on steep or erosive slopes.
  - Mechanical timber harvesting other than cable or helicopter yarding is prohibited in winter.
  - Site-specific exceptions may be made through an individual Timber Harvest Plan.
  - Sensitive watersheds may be identified for additional planning and protection measures; designation is based in part on risks to public safety.
- Authorities for public safety reside in multiple agencies and all levels of government. At the state level, at least nine departments have authority for certain aspects of public safety. Local governments (e.g., municipalities under AS 29) and federal entities (e.g., OSHA, Federal Highway Administration, and Homeland Security) also have public safety authorities.

The third document is a draft chart showing options for addressing public safety issues from landslides associated with commercial forest operations. Freeman prepared the draft and consulted with other agencies to make sure information on authorities was correct. DOF has not pulled together an Implementation Group to further identify options – before undertaking that effort, the Division wants to be sure that the Board needs additional information beyond the chart. An Implementation Group requires a significant commitment of time from agencies and private entities, and many of the options are outside FRPA authority. The Board could not pursue those options beyond making recommendations to the responsible entity.

Lastly, we prepared a draft decision tree showing four general paths for addressing FRPA-related portions of the public safety issue:

- I. Amending FRPA to add public safety to the considerations for preventing or minimizing adverse effects of erosion and mass wasting
- II. No change to FRPA; Amend the regulations to adopt definitions to clarify authorities and BMPs to minimize effects on fish habitat and water quality, e.g., BMPs for helicopter yarding, selective harvesting, etc.
- III. No change to FRPA or regulations. Initiate addition non-regulatory actions such as training.
- IV. No new FRPA-related action.



Under all options, existing BMPs would apply, along with civil liability, and opportunities to address safety issues through local ordinances.

Like the Board, the Division of Forestry has been seriously weighing the options for addressing this issue. At this time, the Division's preferred alternative would be Option II on the decision tree. This would update the FRPA regulations to clearly define key terms, including,

- o "unstable or slide-prone slope" (11AAC95.200(a)(9); .290(a),(b),(d)); .345(b)),
- o "slope that has a high risk of slope failure" (11AAC 95.280(d)(1)), and
- o "fill material prone to mass wasting" (11 AAC 95.290(b) (2)), .345(b) (4).

It would also establish BMPs for harvesting and yarding methods in unstable or slide-prone areas, possibly including requirements for helicopter operations or partial harvesting in these areas. We believe Option II is necessary to address gaps in the existing BMPs, which would not be addressed by options III or IV. It also retains FRPA's focus on resource management, although these changes for water quality and fish habitat would have side benefits for reducing public safety risks. Given the small footprint of populated areas in risk zones on the scoping map, and the variety of land use actions that could result in slide hazards in populated areas, we believe the public safety component of landslide hazards is best addressed through land use regulation authorities. Freeman noted that areas with potential for slides near Hollis, Whale Pass, Port St. Nicholas, and Klawock Lake are currently outside incorporated communities.

If the Board chooses Option II, DOF would convene a scientific and technical committee to recommend definitions and updates to the BMPs, followed by an implementation group to determine how to best implement the technical recommendations on the ground.

Maisch asked whether the potential slide area on Mitkof island is in the Petersburg borough. Ed Wood, Mitkof Highway Homeowners Association (MHHA), responded that Petersburg is a city, not a borough. Petersburg doesn't have land use regulations or zoning on that hillside yet. The city does have a hazard mitigation plan, and landslides are listed as the second priority for hazards, after downtown conflagration. Wood noted that the Board previously advocated for "one-stop shopping" rather than a collection of local ordinances to address this issue. Maisch recognized the value of "one-stop shopping", but noted that some local governments such as the Mat-Su Borough already have local zoning that affects forestry. Nichols said that is true for the Ketchikan Gateway Borough as well. Wolfe stated that "one-stop shopping" is a laudable goal, but forestry operations also have Title 16, resident fish, and US Coast Guard regulations to deal with.

Nichols said that Freeman and the committee have done an exceptional job of answering the questions that came up. There are numerous high-risk areas, and all have been harvested. He is not aware of public safety issues in the last 20 years associated with those harvests. There is one parcel that's unharvested, and it's involved in a potential trade with the Mental Health Trust. Even areas harvested in 1960 wouldn't be harvested for at least another 20 years.

Cronin asked what would happen if there was a forest operation on state land, and there was an accident with logs rolling off a truck and impacting private property. Maisch responded that there would be an Occupational Safety and Health Administration (OSHA) investigation, a check for negligence, and troopers would be involved if it were on a highway. An actual log truck to log truck accident with property damage was handled like any other accident on a public highway. If a fatality occurred, OSHA would definitely be involved. DOF dealt with one fatality on a logging road at a railroad crossing. Cronin asked what would happen if a forest practice involved some impact other than a landslide. Nichols replied that almost every major landowner, including the state, requires general liability insurance. If there's an accident, there is a determination of whether it was operator error or beyond the operator's control. Wolfe said that Sealaska even requires silviculture operators to have liability insurance. Vinsel asked whether a policy would still be in effect if something happened after logging.





concurred that training is important, but said that Option III doesn't get to where we need to go, especially with respect to helicopter logging which wasn't a common practice when FRPA adopted.

Cronin asked whether the second decision point on the tree operates under existing authority only. Maisch said yes.

Nichols said that in a landslide situation, if you have a public safety issue, you have already impacted water and fish. If you address water, fish, and landslides adequately it will address public safety issues associated with landslides. Cronin agreed that if you develop BMPs to protect water quality and fish habitat you will reach the same goal.

McLarnon asked whether the DPO has a check box for steep slopes. Nichols said there is a box— for unstable slopes. Freeman added that there are BMPs attached to areas with unstable or steep slopes. Nichols asked whether a check in the steep slope box warrants an on-the-ground inspection. Could that be a public safety check-box? Maisch said that it couldn't be a public safety check-off without a change to the Act. Nudelman said that seeing a check in the box does alert reviewers, and those operations typically get added scrutiny. DOF can't tell landowners they can't operate in those areas, but can make recommendations. In Icy Bay, for example, DOF recommended against an upper road, which the proposer pulled back.

Vinsel said that with the Mitkof Highway close to the road and the marine channel, fish migrate there. He agreed that threats to public safety also would affect fish.

Clark recounted that he has been on both sides of a DPO. As a DOF forester, he would want to do a prior inspection on a DPO with steep slopes and roading. As an operator, he would want DOF to come out as another set of eyes to check layout. He might also want to check with DEC. ADF&G may or may not want to come out.

Wood reported that there is only one salmon stream in the MHHA area and it is not in the MHT area. He said that he did ask Pat Palkovic, DOF forester, to come and check for public safety concerns and she declined to do that. Maisch said that it is correct that DOF couldn't consider public safety as part of the DPO. Wolfe said that there would still be water quality issues.

McLarnon wants to be sure that the Board's choice doesn't jeopardize a land exchange -- would rumors of a process affect the effort to go to the Legislature in the fall? Would Option II jeopardize a land exchange? Slenkamp said it would depend on what BMPs are written. The MHT proposed timber sale already implemented BMPs much beyond what DPO required. Risk is something the Trust deals with. If new BMPs reduce the amount of timber to be harvested, it would affect an exchange. Maisch said that the proposed exchange shouldn't be weighted too heavily. Wood commented that the MHT lands may not be valued higher in an appraisal, but they have a high political value.

Freeman clarified the process under Option II – DOF would convene a Science and Technical Committee which would make recommendations to the Board. If the Board believes the recommendations are on the right track, DOF would take them to an Implementation Group with representatives of the affected interests, including forest landowners, homeowners, timber industry, etc. The Implementation Group would be charged with figuring out how to make the science and technical recommendations work on the ground in a practical manner. The group's recommendations would be brought back to the Board for their review before deciding whether or not to proceed with the formal regulatory process. DOF wouldn't proceed with regulations on which the Board can't reach consensus.



Cronin suggested that if the agencies saw something going on that was counter to the law but not in their authority, they could notify whoever does have that authority. Option II is a good way to go, as long as problems identified are forwarded to whoever does that authority. Maisch noted that no entity currently has authority for this issue except for local governments, and they haven't taken that step in the Petersburg area. Cronin said that if FRPA has good BMPs for its authority, but citizens still have concerns, it's out of our hands. We're going in circles because we don't have the authority. Maisch noted that the issue for the Board is whether to request a statutory change to grant that authority to FRPA.

Nicolls observed that the Board is working hard to try not to amend the Act. Down the road there might be other safety things that might have us want to get into safety. Maisch noted that under in AS 41, DNR does have public safety responsibility for life and property with respect to wildland fire. Equipment safety issues are covered by OSHA. Nichols said that the two issues are the potential for slides and for impacts to water supplies. Hanley stated that drinking water supplies are covered by DEC. Wolfe commented that there is a narrow incidence of this problem.

Wolfe agreed that restrictions on harvest can affect land value. However, with the variation process the timber industry can get significant value out of riparian areas. We shouldn't ignore value – if harvest were to be prohibited, we would have to look at that. If changes put a private landowner in that position, they have changed the dynamics of FRPA.

Bosworth moved, and McLarnon and Nicolls seconded the following motion:

- ▶ **That the Board adopt Option II from the decision tree. McLarnon and Nicolls seconded.**

Nichols said that he wouldn't support Option II because he didn't know what direction the BMPs would take. He supported Option III with training for DOF. If the unstable slope box checked, a field visit should be required. He is willing to consider recommendations for BMPs before endorsing. Freeman clarified that Option II isn't a commitment to adopting regulations, but it is a commitment to draft proposed BMPs which would then come back to the Board for a recommendation on whether to proceed or not. Wolfe said that the Board needs to vote the motion up or down, or offer a friendly amendment clarifying that. The offeror and seconders accepted a friendly amendment to the following language.

- ▶ **That the Board adopt Option II from the decision tree. Option II is the process of drafting BMPs for review by the Board before deciding whether or not to proceed toward adopting them as regulations.**

Cronin asked whether there are other non-regulatory options besides training. Foley suggestion that there could be more inspections.

- ▶ **Motion unanimously adopted.**

Freeman said the next step would be convening a Science and Technical Committee to recommend appropriate BMPs. She asked for Board input on the types of expertise that are needed on the committee, and on individuals who can provide that expertise.

Nichols recommended including helicopter harvesting expertise, and recommended Columbia Helicopters.

Cronin asked whether there is a way of getting at taking issues if recommended BMPs would restrict landowners' ability to harvest timber. Maisch said that "taking issues" were addressed in developing the riparian buffers. Private landowners willingly donated that value for the greater good. Cronin said that



# Alaska's Constitution

A C I T I Z E N ' S G U I D E

Fourth Edition

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## Article VIII

examples—were articulated. Thus, Alaska’s natural resource article was a unique product of the 1956 convention, and it remains unique among the states, even though constitutional treatment of natural resource and environmental issues in other states has grown through amendment and revision in recent years.

Article VIII of Alaska’s constitution clearly establishes that the natural resources of Alaska should be developed. Indeed, to the convention delegates, the very success of statehood hung in the balance. But while this article creates a strong presumption in favor of resource development, it will not abide that which is wasteful, biologically exhaustive, rooted in special privilege, narrowly selfish or contrary to the rights of others and the larger public interest. With certain exceptions, this article allows the government to sell, lease or give away public land and resources, but it may do so only in accordance with constitutional and statutory guidelines, and all transactions must be in full public view.

Despite their philosophical aversion to the “giveaway” of public resources, the delegates were enamored with the long-established federal method of disposing of public mineral lands, which allows a person to obtain the right to receive fee title to a legitimate mineral deposit by filing a claim to it and performing certain tasks thereafter. Meanwhile, a draft article on natural resources prepared by consultants to the convention called for the state to retain in public ownership the subsurface title to all mineral lands and to lease the right to produce minerals from these lands. Congress was predisposed to the same idea, and in all likelihood was going to prohibit the state from transferring out of state ownership the mineral rights to land acquired from the federal government. Nonetheless, in the constitution the delegates opted for the existing federal system of obtaining full title to mineral lands “if not prohibited by Congress.” As it happened, Congress forced on the state the leasing alternative and required the state to retain ownership of the minerals on its land.

Delegates debated at some length the organization of the executive agency to be charged with managing natural resources. There was vocal public support for a commission of fish and game to oversee the management of those resources (as there was support for the creation of a constitutional board of education to head the state department of education). In the end, however, the delegates left the way open for a board to head a principal department but willed to the legislature the task of deciding when and where (see discussion of Article III, Section 25).

It is not surprising that controversies over resource management have been among the most bitter in Alaska’s political history and that the courts have been called on frequently to decide the meaning of constitutional language in the context of these disputes. This is because natural resources loom so large in the lives of so many Alaskans, if not as a source of livelihood then as source of cherished recreation. It is also because the language of this article is general and often opaque. A major challenge of the resource agencies has been to manage in the interest of conservation and to satisfy the needs of various user groups without creating special privileges and exclusive rights, which the constitution abhors. The courts have had to determine when management schemes reasonably limit







# **FRPA Landslide Science & Technical Committee**

**Update on Scoping of Landslide Hazards in  
Potential Timber Harvest Areas**

**October 7, 2009**

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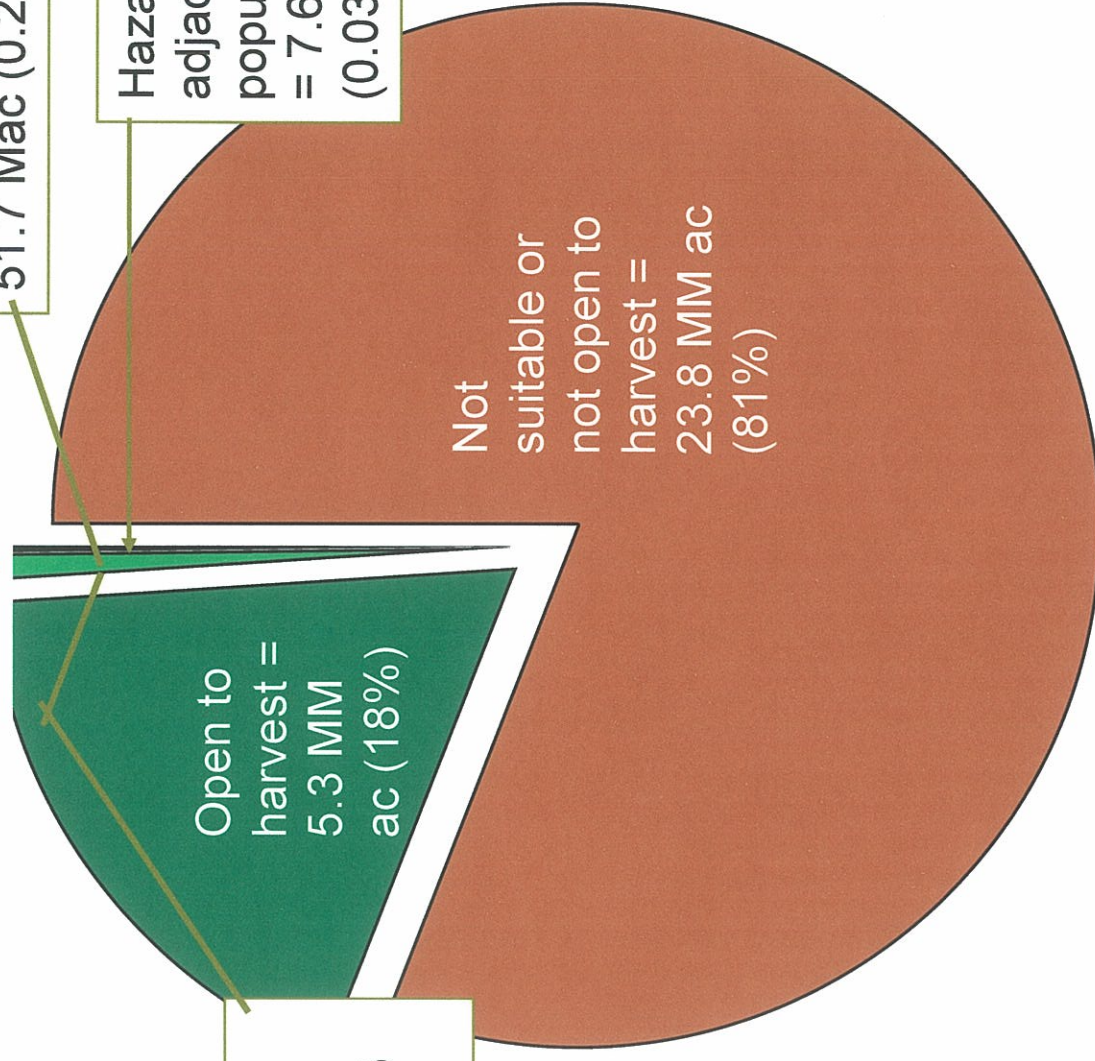


# Affected municipalities and communities

Community	Hazard in boundary?	Hazard in pop. area?
City & Borough of Wrangell		
Haines Borough		
Ketchikan Gateway Borough		
Cordova		
City of Ketchikan		
Petersburg		
Craig		
Coffman Cove		
Thorne Bay		
Kasaan		?
Hollis		
Whale Pass		?



Harvest status of land in analysis area  
(29.4 MMac in SE Alaska from Yakutat  
south; does not include Cordova)



Open to harvest  
within 1/2-mi of  
public road and  
in hazard zone =  
51.7 Mac (0.2%)

Hazard zones  
adjacent to  
populated areas  
= 7.6 Mac  
(0.03%)

Open to harvest  
within 1/2-mi of  
public road = 285  
Mac (0.8%)



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