

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE

February 15, 2006

3:50 p.m.

MEMBERS PRESENT

Senator Ralph Seekins, Vice Chair
Senator Ben Stevens
Senator Fred Dyson
Senator Bert Stedman
Senator Kim Elton

MEMBERS ABSENT

Senator Thomas Wagoner, Chair
Senator Albert Kookesh

COMMITTEE CALENDAR

CONFIRMATION HEARING:

Commercial Fisheries Limited Entry Commission - Bruce Twomley
CONFIRMATION ADVANCED

SENATE BILL NO. 262

"An Act relating to riparian protection standards for forest resources and practices; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 262

SHORT TITLE: FOREST RESOURCES & PRACTICES STANDARDS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/01/06	(S)	READ THE FIRST TIME - REFERRALS
02/01/06	(S)	RES, FIN
02/15/06	(S)	RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

BRUCE TWOMLEY
Juneau AK 99801

POSITION STATEMENT: Nominee to the Commercial Fisheries Entry Commission (CFEC).

MARTY FREEMAN, Manager

Forest Resources Program
Department of Natural Resources
400 Willoughby Ave.
Juneau, AK 99801-1724
POSITION STATEMENT: Supported SB 262.

RICK SMERIGLIO
Board of Forestry
Moose Pass AK
POSITION STATEMENT: Supported SB 262.

ACTION NARRATIVE

VICE CHAIR RALPH SEEKINS called the Senate Resources Standing Committee meeting to order at [3:50:30 PM](#). Present were Senators Kim Elton, Fred Dyson, Bert Stedman and Vice Chair Ralph Seekins, who announced that he would chair the meeting today.

BRUCE TWOMLEY, nominee to the Commercial Fisheries Entry Commission (CFEC) said he was first appointed to the commission by Governor Jay Hammond in 1982. Prior to that, he was a lawyer with Alaska Legal Services for 10 years.

SENATOR ELTON said he thought it was remarkable to find people like Mr. Twomley who have served under many different people and no one can say anything bad about him.

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SENATOR ELTON moved to forward Mr. Twomley's name to the full body. There were no objections and it was so ordered.

[3:55:48 PM](#) at ease [3:57:05 PM](#)

SB 262-FOREST RESOURCES & PRACTICES STANDARDS

VICE CHAIR RALPH SEEKINS announced SB 262 to be up for consideration.

MARTY FREEMAN, Manager, Forest Resources Program, Department of Natural Resources (DNR), said she served as the co-chair of the two committees that helped develop this bill - a science and technical committee and an implementation group. She also serves as the division's liaison to the Board of Forestry. She said that SB 262 is the result of hard work by many people, which has resulted in broad support. It responds to a request from the Board of Forestry that the resources agencies review the riparian management standards throughout the state. She

previously completed a review for region 1, the coastal region of Alaska, in 1999 and a similar review for region 3, the Interior, in 2003.

The review for region 2, parts of Southcentral Alaska, has been completed. SB 262 is not a wholesale revision of the Act, but rather targets and is tailored to standards of riparian management and stream buffer standards that are unique to region 2, which has been using interim standards since 1990. Under the interim standards, timber harvesting could occur up to the bank of anadromous streams under certain conditions while the rest of the state has buffers on all anadromous waters. She said the Board of Forestry endorsed the bill.

MS. FREEMAN said that key points in the bill's development are that the process was based on the best available science and was developed with many diverse interests involved. The proposed changes help insure that the goals of the Act, to provide adequate protection to fish habitat and water quality and to support healthy timber and fishing industries, are met.

The bill classifies water bodies that have anadromous fish or high-value resident fish into four types. High-value resident fish are populations that are actually harvested and used by someone. The four types are types 2A and 2B, and the large dynamic rivers, both glacial and non-glacial. These have a recommended buffer of 150 ft. with provisions for widening that buffer where there are actively eroding banks. The purpose of these buffers is primarily to get large woody debris into the stream, which helps to provide fish habitat by creating pools, islands and providing substrate for growth of the macro invertebrates that are important for food.

On smaller, and both glacial and non-glacial, dynamic rivers less than 50 ft. wide, that have stable banks, and on lakes there is a recommended buffer of 100 ft., which is similar to the existing standard. For the smallest streams less than three ft. wide, the buffer would be 50 ft. In the next 50 ft., harvesting can occur, but can't cause rutting that would introduce sediment into the small streams.

MS. FREEMAN said that SB 262 also applies riparian standards to estuaries that are adjacent to anadromous or high-value resident fish streams; however region 2 has few of these estuaries. It also includes a definition for riparian area means for region 2 that is based on the proposed buffer standards. Lastly, the bill keeps in place a special management zone, which extends out to

300 ft. from the stream bank on anadromous or high-value resident fish streams and in that area timber harvesting has to be designed to maintain or enhance important wildlife habitat. This applies to state land only. This is an existing standard in the Act, but the bill makes it clear that it's not just maintenance of habitat; it can be maintenance or enhancement.

She said the recommended buffers are wider than the interim standards on the large dynamic rivers and the 2A and 2B streams; they are narrower on the smaller ones, 2D class; and the same on 2C, the remainder of the streams. These buffers are tailored specifically to the unique conditions in region 2.

Scientists have identified several reasons for using wider buffers for the dynamic rivers in region 2. First, many more of the large dynamic rivers occur in forested areas where harvesting is an option. That's different from either region 1 or region 3. Secondly, the timber volumes per acre are lower there than in either regions 3 or 1. That means to get the same amount of wood in the stream to provide habitat, it must be collected from a larger area. Timber values are also less in region 1.

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Third, more of the wood that is in the riparian area consist of deciduous trees, particularly cottonwoods, which decay more quickly and, therefore, don't stay as long in the stream to provide habitat. Fourth, there is a wider distribution of anadromous and high-value resident fish streams in the forested portions of this region and lastly, there is disproportionately high-use of the fish in high-value fisheries, particularly for sport fishing. Region 2 covers only about 11 percent of the land area in the state, but it accounts for 30 to 50 percent of the recreational fishing.

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The bill has one technical error on page 5, line 26, where AS 41.17.118 is repealed and reenacted. It should say AS 41.17.118 (a) only. There is no intent to change the two other subsections, (b) and (c).

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SENATOR STEDMAN said he didn't see letters of support or opposition, but he figured there had been a lot of work done and compromise within the industry.

MS. FREEMAN agreed that was correct. Letters have come in from the Mental Health Trust Land Management Office, the Resource Development Counsel (RDC), Department of Environmental Conservation (DEC). The Alaska Forest Association also supported SB 262.

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VICE CHAIR SEEKINS said he didn't want to clutter up statutes with findings and asked if the department would object if those were eliminated and the committee attached a letter of intent.

MS. FREEMAN replied that she understood that would be fine. The Board of Forestry wanted the findings included to make it clear that these provisions apply specifically to region 2.

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SENATOR SEEKINS asked her to explain in more detail why region 2 was treated differently than regions 1 and 3.

MS. FREEMAN replied that the forest conditions and the species and distribution of the fish are different in those regions.

SENATOR SEEKINS said that the buffer is double in region 2 compared to regions 1 and 3.

MS. FREEMAN replied that the buffer is 66 ft. in region 1 on state land and 100 ft. on private and public land; in region 3, it's 100 ft. The difference is the extent of overlap between the large dynamic rivers and forest habitat where there's potential for harvesting and the conditions of the forest - lower timber volumes, higher fish value and for a species that don't reside in the water as long, in terms of their ability to provide fish habitat. That is specific to the large dynamic rivers.

SENATOR SEEKINS asked what the standards are in 2B waters for regions 1 and 3.

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MS. FREEMAN replied that the classification system for waters is different in each region. In region 1, types 1A are the anadromous waters that are low gradient streams - the most productive are salmon streams. Type 1B waters are anadromous, but with a higher gradient. Type C and D waters are tributaries to anadromous streams that are not anadromous, themselves, and those are broken out based on different gradients above and below 12 percent. The standards for type 1A on public land are 100 ft. in both cases; on private land it's 66 ft.. On type B

streams it's 66 ft. or to the break of the slope, whichever comes first. Those are streams that are typically incised and controlled by bedrock so the channel isn't moving around.

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SENATOR SEEKINS asked if that includes the outer bends that are subject to erosion.

MS. FREEMAN replied that those rivers are typically not eroding in the same way that 50 ft. wide and greater rivers are. Those have a very dynamic channel. The channels for the 1A and 1B waters where they are overlapping with the harvested areas are not the same kind as those of a large dynamic river, typically.

SENATOR SEEKINS asked if the buffer for 2B waters in subparagraph (2), is 325 ft. in region 2, but 66 ft. in regions 1 and 3.

MS. FREEMAN replied yes - the 325 ft. buffer is only on actively eroding bends and if a terrace doesn't exist that would prevent the riverbank from actually eroding.

She explained that large woody debris gets into rivers in two different ways. On the large dynamic rivers it occurs by natural erosion of the bank; on the smaller streams it occurs by tree fall from the bank into the stream. Where the stream bank is stable, the buffer is set basically by the height of the tree. Within two-thirds of tree height, you get 95 percent of the large woody debris into the stream. On the large dynamic rivers it occurs by the river actually moving.

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SENATOR SEEKINS asked if the standards in the bill have been agreed to by the timber industry.

MS. FREEMAN replied yes.

SENATOR SEEKINS said he was confused by the line that was drawn half-way down the middle of the Kenai Peninsula.

MS. FREEMAN informed him that the line is actually a division between forest types. The east side of the Kenai Peninsula has coastal forest with Sitka Spruce and Western Hemlock; the west side has white spruce and mixed hard woods.

She pointed out that one of the important things for the industry in SB 262 is that on the smaller streams the buffers

are narrowed. Many of them are unnamed and unmapped, but there is a very dense network. In region 2, they are anadromous if they have water for the most part, which is very different than region 1 that has high-gradient streams. The existing buffer on those streams is 100 ft. now and that was of concern to the industry, because it's very difficult to design around a network of very tiny streams.

SENATOR SEEKINS said he thought the Kenai River was in both of those districts.

MS. FREEMAN replied that it does flow through both; it is one of the three glacial rivers that has stable banks and has a 100 ft. buffer - a type 2C.

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RICK SMERIGLIO, Moose Pass, said he is a member of the Board of Forestry, which has endorsed the proposal. He said there was a lack of opposition, because of the consensus that went into it. He was assured by the governor's special assistant for resources that it was not the intent to delete (b) and (c) of AS 41.17.118(a)(b)(c) and that it was a drafting oversight that could be fixed with a technical amendment.

VICE CHAIR SEEKINS said he would hold SB 262 for further work and adjourned the meeting at [4:20:31 PM](#).