

**ALASKA STATE LEGISLATURE  
SENATE JUDICIARY STANDING COMMITTEE**

February 17, 2014

1:38 p.m.

**MEMBERS PRESENT**

Senator John Coghill, Chair  
Senator Donald Olson  
Senator Bill Wielechowski

**MEMBERS ABSENT**

Senator Lesil McGuire, Vice Chair  
Senator Fred Dyson

**COMMITTEE CALENDAR**

SENATE CONCURRENT RESOLUTION NO. 2

Urging the governor to acquire land in the Tongass National Forest from the United States government by purchase or negotiation or by seeking amendment to the Alaska Statehood Act.

- HEARD & HELD

SENATE JOINT RESOLUTION NO. 21

Proposing amendments to the Constitution of the State of Alaska to increase the number of members on the judicial council and relating to the initial terms of new members appointed to the judicial council.

- SCHEDULED BUT NOT HEARD

SENATE BILL NO. 128

"An Act relating to the crime of harassment."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SCR 2

SHORT TITLE: ACQUIRE TONGASS NATIONAL FOREST LAND

SPONSOR(s): SENATOR(s) STEDMAN

03/28/13	(S)	READ THE FIRST TIME - REFERRALS
03/28/13	(S)	JUD
04/05/13	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

04/05/13 (S) Heard & Held  
04/05/13 (S) MINUTE(JUD)  
02/17/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

#### **WITNESS REGISTER**

CHRISTIE JAMIESON, Staff  
Senator Bert Stedman  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented SCR 2 on behalf of the sponsor.

LARRY EDWARDS, representing himself  
Sitka, Alaska

**POSITION STATEMENT:** Testified in opposition to SCR 2.

JOSEPH SEBATHIAN, representing himself  
Kupreanof, Alaska

**POSITION STATEMENT:** Testified in opposition to SCR 2.

DON HERNANDEZ, representing himself  
Point Baker, Alaska

**POSITION STATEMENT:** Testified in opposition to SCR 2.

#### **ACTION NARRATIVE**

[1:38:20 PM](#)

**CHAIR JOHN COGHILL** called the Senate Judiciary Standing Committee meeting to order at 1:38 p.m. Present at the call to order were Senators Olson, Wielechowski, and Chair Coghill.

#### **SCR 2-ACQUIRE TONGASS NATIONAL FOREST LAND**

[1:38:47 PM](#)

**CHAIR COGHILL** announced the consideration of SCR 2. "Urging the governor to acquire land in the Tongass National Forest from the United States government by purchase or negotiation or by seeking amendment to the Alaska Statehood Act." This was the second hearing.

[1:39:14 PM](#)

**CHRISTIE JAMIESON**, Staff, Senator Bert Stedman, introduced SCR 2 on behalf of the sponsor. She read the following sponsor statement into the record: [Original punctuation provided.]

The Tongass National Forest was created in 1907 by President Theodore Roosevelt. Today, it is the largest

national forest in the United States with 16.8 million acres. In 1947 Congress enacted the Tongass Timber Act the purpose of which was to clear the way for long term timber sales on the Tongass. From the 1950's through the early 1990's, the commercial harvest of timber from the Tongass National Forest formed a major part of the economy in Southeast Alaska.

Unfortunately, that's no longer the case because the timber industry does not have access to an adequate volume of timber supply that can be economically harvested from the Tongass National Forest. Interestingly, only 400,000 acres of the Tongass have been harvested between its creation in 1907 and today. In addition, there were more sawmills operating on the Tongass in 1900 than there are today. The reasons behind the lack of timber supply began in 1980 when Congress passed the Alaska National Interest Lands Conservation Act (ANILCA) establishing 4.5 million acres of Wilderness and National Monuments in Southeast Alaska. In order to ensure that these land withdrawals from the available timber base did not harm the existing timber industry, ANILCA mandated that the Forest Service offer 450 million board feet of timber annually. Then in 1990, Congress passed the Tongass Timber Reform Act (TTRA) creating another 1.1 million acres of Wilderness and Roadless Area set asides, further reducing acreage in the Tongass National Forest that could be used for timber harvest. In 1997 the Forest Service adopted a new land management plan for the Tongass National Forest and switched to "ecosystem management." Under this new philosophy, attention to timber sale economics was abandoned. However, in 2005 the 1997 Tongass Land Management Plan (TLMP) was set aside and nine major timber sale environmental impact statements were enjoined pending preparation of an amended Forest Land and Resource Management Plan. (See the 9th Circuit's Decision in *Natural Resources Defense Council v. United States Forest Service*, 421 F.3d 797 (9th Cir.2005)). The 1997 Forest Plan was enjoined, not because of an environmental problem, but because of a Forest Service math error in computing the volume of timber needed to meet market demand.

Every significant timber sale the Forest Service has attempted to make since adoption of the 2008 Amended

TLMP has been litigated. This litigation has caused annual Forest Service sales to be reduced to 30-40 MMBF, not nearly enough to supply the integrated industry advocated by the Governor's Timber Task Force.

Moreover, the Secretary of Agriculture interfered with implementation of the 2008 Amended TLMP with his 2010 announcement of an "immediate transition from old growth timber to second growth timber." This announcement was made notwithstanding the fact that there is insufficient second growth timber on the Tongass that meets the definition of cumulative mean annual increment required by the National Forest Management Act (NFMA). Timber sales in old growth were delayed while Forest Service professionals have tried to make it clear to the Secretary that an "immediate" transition to second growth would violate the NFMA. In March 2011 the Federal District Court for the District of Alaska set aside the Tongass Exemption from the 2001 Roadless Rule, which the State had negotiated with the Federal Government in 2003. This has resulted in 9.6 million acres of non-timber harvest areas being created on the Tongass in addition to the 5.6 million acres of non-timber-harvest Wilderness areas. In addition, the Roadless Areas create a serious impediment to mining and to hydropower and other renewable energy opportunities on the Tongass.

The Tongass National Forest currently encompasses about 93% of the available timberlands in Southeast Alaska. However, only two percent of the Tongass National Forest is managed for the purpose of providing local communities with the opportunity to harvest timber. Consequently, the Forest Service has monopoly power over the timber supply. In the past four years, several efforts to revitalize the timber industry in Southeast Alaska have failed because a timber industry cannot exist without an adequate timber supply. Since the U.S. Forest Service is no longer able to provide enough timber in the Tongass National Forest to sustain a viable timber industry in Southeast Alaska, it is time for the Governor to intervene.

Under the Alaska Statehood Act, the federal government provided Alaska with a 103,350,000 acre land

entitlement. Of that original land entitlement, 5,500,000 acres still remain available for selection. SCR 2 urges the Governor to take steps necessary to select land in the Tongass National Forest as part of the Alaska Statehood Act.

However, Section 6 of the Alaska Statehood Act limits the state's selection of land from the Tongass and Chugiak national forests to 400,000 acres and further limits the use of that land to recreation and community expansion. The state should be entitled to select some of its remaining land entitlement from the Tongass National Forest without being limited to recreation and community expansion. This could be achieved through efforts by the Governor to negotiate the transfer or the sale of timberland in the Tongass National Forest or by working with our federal delegation to amend the Alaska Statehood Act.

MS. JAMIESON summarized the sponsor's testimony during the initial bill hearing on 4/5/13, which included information about the termination of timber contracts and subsequent decline of the timber industry in Southeast. The sponsor described SCR 2 as an effort to open the discussion about a Tongass land selection if it's not possible to work with the federal government on reasonable access to a timber supply and mines. The other alternative is to have the governor initiate discussions to purchase land in the Tongass National Forest. She concluded that the repercussions of closing the pulp mills in Southeast was equivalent to Anchorage losing the airport or Fairbanks losing the military bases.

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SENATOR WIELECHOWSKI asked if the Alaska Statehood Act has been amended.

MS. JAMIESON said she didn't know.

SENATOR WIELECHOWSKI asked if the state had attempted to purchase national forest lands before.

MS. JAMIESON offered to follow up with an answer.

SENATOR WIELECHOWSKI asked how many acres the sponsor would like the governor to purchase, if other states have done this, and the cost per acre.

CHAIR COGHILL suggested Ms. Jamieson make note of the questions and have the sponsor follow up with the answers. He said he was particularly interested in knowing if any state had successfully negotiated this type of land transaction.

SENATOR WIELECHOWSKI expressed interest in knowing if there were past attempts by the governor to negotiate the purchase of national forest lands.

CHAIR COGHILL commented that establishing the state forest land is probably the closest. He asked Ms. Jamieson to request that the sponsor refresh the committee on this process during the next hearing.

SENATOR OLSON asked if the sponsor has a preference for an outright purchase or trade for other lands.

MS. JAMIESON indicated she would add that to the list of questions that need answers.

SENATOR WIELECHOWSKI asked for information about the fiscal impact to purchase and manage the land.

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CHAIR COGHILL opened public testimony.

[1:53:45 PM](#)

LARRY EDWARDS, representing himself, Sitka, Alaska, testified in opposition to SCR 2. He said the legislation is predicated on a 2012 report of the Alaska Timber Jobs Task Force that is highly misleading. Some of the faulty claims in the report are incorporated in SCR 2. For example, the "Whereas" statements on page 2, lines 10 and 13, give percentages of the whole Tongass, but two-thirds of the forest is either non-forest or nonproductive forest so the statistics aren't meaningful. He said the industry's difficulty now is that the timber stands on national forest, Native corporation and university lands have been cherry picked and mostly liquidated.

MR. EDWARDS said that SJR 2 doesn't give an accurate portrayal of the situation in Southeast and should not be passed. Rather, Bill Shoaf, in his book "The Taking of the Tongass: Alaska's Rainforest" more accurately describes what has happened in this region. The point is that the industry has cut itself out of a future that would look anything like its past. He concluded that taking more timber out of the Tongass for the state to cut under its lax rules under the Forest Practices Act will decimate other

parts of the economy that rely on subsistence, commercial fishing and tourism.

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SENATOR OLSON asked what he has done for a living.

MR. EDWARDS replied he originally came to Alaska as an engineer for the Alaska Pulp Company. After that he worked at the cold storage and as a fish and wildlife tech. He retired from Fish and Game a few years ago and now works for Green Peace.

SENATOR OLSON asked the sentiment in Sitka towards this resolution.

MR. EDWARDS said after the mill closed in 1993 there was some effort to open a sawmill, but it wasn't supported by the community. He noted that Sitka has had small mills from time to time, but it isn't really suited to this kind of industry any longer because the timber to support a mill is long gone.

SENATOR OLSON asked what percentage of the population in Sitka doesn't support the resolution.

MR. EDWARDS replied that most people in town aren't aware of the resolution.

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JOSEPH SEBATHIAN, representing himself, Kupreanof, Alaska, testified in opposition to SCR 2. He described the resolution as another attempt to bring back the glory days of the timber industry when the present-day industry is almost entirely supported by round-log exports. He disagreed with the sponsor statement that only 400,000 acres of the Tongass have been harvested because it disregards the more than 1 million acres of Sealaska, Mental Health Trust, state forest, and university lands that were logged off the Tongass in the 1980s and early 1990s. He urged the committee to drop the resolution and tend to serious solutions to the real problems facing the state.

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DON HERNANDEZ, representing himself, Point Baker, Alaska, testified in opposition to SCR 2. He spoke of the value of the Tongass National Forest, ensuring that the public continues to have a meaningful role in its management, and the importance of keeping the Tongass intact. He related that he was living and working in Thorne and Rowan bays in the mid-1970s during the heyday of the pulp company logging. During that time, he

witnessed the devastating effects of logging prior to the National Forest Management Act and the National Environmental Policy Act. Logging practices at that time were harmful and have had a long-term impact to both fish and wildlife, he said.

It took local effort and the help of some national groups to enact the legislation that brought more public inclusion and balance to forest management, he said. However, the people who have a vital interest in their local resources do not always have the influence they deserve when they are opposed by those in power. In fact, the smaller the group that has influence, the more likely it is that policy will be dominated by a special interest.

MR. HERNANDEZ said he ascribes to the vision of the man who devoted his presidency to busting the powerful cartels that controlled the nation's natural resources. President Theodore Roosevelt believed that placing the most valued lands in the hands of the general public was the best way to prevent them from being controlled by special interests. He urged the committee not to undo that legacy.

CHAIR COGHILL listed the items he'd like the sponsor to address: whether any state has successfully negotiated a land transfer with the federal government; whether just two percent of the Tongass is managed for timber harvest; the percentage of old growth standing today and where the stands are located; and harvest levels and subsequent management of Native corporation and mental health trust lands. He offered his experience that much of the land in Alaska is of national interest. Those interests go from conservation to preservation, whereas the interests of Alaskans generally go from production to conservation. This resolution brings those opposing views to the forefront, he said.

CHAIR COGHILL stated he would hold SCR 2 in committee for further consideration.

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There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:12 p.m.