

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 4, 2015

1:05 p.m.

MEMBERS PRESENT

Representative Benjamin Nageak, Co-Chair
Representative David Talerico, Co-Chair
Representative Craig Johnson
Representative Paul Seaton
Representative Andy Josephson
Representative Geran Tarr

MEMBERS ABSENT

Representative Mike Hawker, Vice Chair
Representative Bob Herron
Representative Kurt Olson

COMMITTEE CALENDAR

OVERVIEW(S): BIOMASS OVERVIEW

- HEARD

HOUSE BILL NO. 87

"An Act relating to the sale of timber on state land; and providing for an effective date."

- HEARD & HELD

CONFIRMATION HEARING(S):

Alaska Oil and Gas Conservation Commission

Michael Gallagher - Anchorage

- CONFIRMATION(S) ADVANCED

PREVIOUS COMMITTEE ACTION

BILL: HB 87

SHORT TITLE: TIMBER SALES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/30/15 (H) READ THE FIRST TIME - REFERRALS

01/30/15 (H) RES
02/13/15 (H) RES AT 1:00 PM BARNES 124
02/13/15 (H) Heard & Held
02/13/15 (H) MINUTE(RES)
02/18/15 (H) FIN REFERRAL ADDED AFTER RES
03/04/15 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

DAVID STANCLIFF, Vice President
Tok Chamber of Commerce
Tok, Alaska

POSITION STATEMENT: Presented an overview on biomass energy together with a slideshow entitled "From Menace to Meals.

JOE YOUNG, Owner
Young's Timber, Inc.
Tok, Alaska

POSITION STATEMENT: Provided a PowerPoint overview of Young's Timber, Inc.

Chris Maisch, Director
Division of Forestry
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: Presented committee substitute changes for HB 87, Version W.

Kirk Dahlstrom, Stockholder and General Manager
Viking Lumber Company
Klawock, Alaska

POSITION STATEMENT: Testified in support of HB 87.

DAVE STANCLIFF
Tok Chamber of Commerce
City of Tok
Tok, Alaska

POSITION STATEMENT: Expressed concerns regarding HB 87.

JOE YOUNG
Young Timber, Inc.
Tok, Alaska

POSITION STATEMENT: Expressed concerns regarding HB 87.

SHELLY WRIGHT, Executive Director
Southeast Conference
Sitka, Alaska

POSITION STATEMENT: Testified in support of HB 87.

CHELSEA GOUCHER, Executive Director
Greater Ketchikan Chamber of Commerce
Ketchikan, Alaska

POSITION STATEMENT: Testified in support of HB 87.

REBECCA KNIGHT
Petersburg, Alaska

POSITION STATEMENT: Testified in opposition to HB 87.

ERIN McLARNON, Executive Director
Working Forest Group
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 87.

MIKE SALLEE
Ketchikan, Alaska

POSITION STATEMENT: Expressed concerns regarding HB 87.

DAVID BEEBE
City of Kupreanof
Kupreanof, Alaska

POSITION STATEMENT: Testified in opposition to HB 87.

MICHAEL GALLAGHER, Appointee
Alaska Oil and Gas Conservation Commission
Anchorage, Alaska

POSITION STATEMENT: As appointee to the Alaska Oil and Gas Conservation Commission, discussed his qualifications and answered questions.

ACTION NARRATIVE

[1:05:12 PM](#)

CO-CHAIR DAVID TALERICO called the House Resources Standing Committee meeting to order at 1:05 p.m. Representatives Seaton, Josephson, Tarr, Johnson, Nageak, and Talerico were present at the call to order.

OVERVIEW(S): Biomass Overview

[1:06:28 PM](#)

CO-CHAIR TALERICO announced that the first order of business is an overview on biomass presented by the Tok Chamber of Commerce.

1:07:05 PM

DAVID STANCLIFF, Vice President, Tok Chamber of Commerce, said he also worked Alaska Gateway School District in preparing the presentation. He noted he has also worked with the Alaska Power and Telephone, the utility looking at providing less expensive electrical energy possibly through biomass. He advised it took many years of discussion to bring the Tanana State Forest from a general land classification to a state forest of 1.8 million acres along the Tanana River. He advised that at the time the testimony was being taken there was indication that not everyone wanted to see land classified in a manner that might shut down land disposal which was a big topic at the time. He explained that the winning argument over that period of time was to look at the economy available through the use of forest products from the Tanana Valley State Forest.

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MR. STANCLIFF referred to the slideshow "Menace to Meals," slide 2, and explained that the young man in the greenhouse, through a legislative appropriation, learned to plant and grow a carrot. He noted it wouldn't have happened if Alaska had not transitioned from menace to meals. Slide 3, is typical of the 33 thousand acres of old growth forest, non-commercial timber, both black and white spruce, ready to burn. With reference to slide 4, he stated the legislature spent over \$100 million fighting fires due to Alaska's 100-year old climatic forest that wants to burn. On a typical summer day, in the Upper Tanana Valley, there are up to 1,000 lightning strikes. He noted the aspen are dying as there is not room for trees to grow, and few animals due to the canopies. He advised that a 30-foot circle contains energy equal to five gallons of fossil fuel and once the 30-foot circle is harvested, unlike fossil fuel, it grows back. He remarked there has never been a question of cutting trees in Tok, because if they are not cut they will burn anyway. He referred to the slide and read "5 major fires/million acres plus/3 major community exits." Slide 5, shows proper forest management with selective thinning and trimming, and he related that the animals come back. He explained that carbon capturing is better as the trees are healthier and the fire doesn't spread along the ground to ladder fuels because it has been trimmed away. He highlighted that this photo is close to the Tok School, which is the emergency gathering place when a forest fire happens in Tok and the children had an opportunity to watch the process in making the school fire wise.

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MR. STANCLIFF referred to slide 6, and related there is a 25-year contract, engineered by the Division of Forestry, to help thin out the 33,000 acres of hazardous fuel. He indicated that unlike a clear cut that would occur in Southeast or other places, the cuts in Tok would be checker board cuts leaving islands of spruce trees, corridors for wild life, and fire breaks for escape for residents. Slide 7, shows decks of harvested material and he indicated that once trees are cut they are "decked" and those decks are converted into fuel. Slide 8, he explained that the harvest takes place when the ground is solid, often in the winter, the decks are placed out of beetle range, and placed for easy access. He explained that the first step to reduce hazardous fuel to a controllable fuel for incineration is a chipper. He noted that through a legislative appropriation the school purchased a chipper that now provides wood fuel for both the Tok and Delta Schools, and provides it in the form indicated on slide 9. He remarked that the chipper will chip 35 tons of fuel an hour, each ton of fuel is equal to a cord of wood, and each cord of wood is equal to 100 gallons of fuel oil, and that is what is fed into the boiler.

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MR. STANCLIFF referred to slide 10, and stated that the decks are transported to the fuel yard, bunches of trees go into the chipper, chips are then put in a heated floor bin. The bin is heated in the winter otherwise the stored material with moisture in it starts to freeze. He emphasized that this causes a problem as the system for this boiler is entirely automated with cork screw feeders onto a conveyer, it is metered to run automatically and feed the boiler. Slide 11, shows the 5.5 million British thermal unit (BTU) boiler in the school and, he mentioned, the energy in one wood match equals 1 BTU. With reference to slide 12, he advised that the boiler provides enough heat for the entire school, of which creates steam and under the foil cover is a low speed steam driven turbine over 80 years old. The turbine produces heat and power for the school and saves \$250,000 by displacing huge amounts of fossil fuel. He remarked the capacity is currently at 45 KW rather than the 75 KW it is capable of only because there is so much heat it can't be dissipated fast enough so the capacity has to stay at 45 KW. He said they want to do other things such as, rather than heat the DOT building with "30 million thousand" gallons of fuel oil, heat it with the biomass plant. Tok is looking at

taking the state investment that has worked so well for the school and expanding it outward. He related that slide 13, indicates the benefits and savings to the Tok School. He informed the committee that the electrical load utility has worked with the school for balance so that it does not interrupt the power with the grid in Tok. He said it is an isolated grid and not on the main line.

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MR. STANCLIFF referred to slide 14, and he related that it represents their pride and joy, a 100 foot by 40 foot greenhouse. He said the railing along the soil beds were donated by the Department of Transportation, and there are volunteers from the community teaching the children how to turn fire into food. They are taught how to take heat that would normally burn in an environmentally normal way and create smoke in the atmosphere, and burn it cleanly. He explained that the particle density out of the stack on the biomass plant is cleaner than fossil fuel, is clean as natural gas with 13 parts per million. A German made scrubber takes all of the major particles out that are put back into the ground along with ashes as fertilizer. He indicated that the building on the right is the processing plant where the food from the greenhouse is processed and delivered to six schools in the district. Those schools no longer have to order their vegetables from Anchorage in a truck, as the vegetables are grown by the children in the Tok School to feed their neighboring schools with this food. Slide 15, shows children being taught by an extension service from the University of Alaska. He stated that they are still growing plants green even though it is -20 degrees in October and November. Slide 16, indicates that the children follow every part of the process in their learning from the harvesting of the trees, consuming the fuel, heating of the greenhouse, growing and processing the food, he said. Slide 17, is the first campus in the state striving to be net zero with its energy and able to produce energy all from local energy sources. He stated that for every acre that burns it costs the Department of Natural Resources over \$20,000 to fight the fire. He opined they are making homes safer by clearing around elders and senior's homes, and just by cleaning up the community and making it fire wise there is more fuel than the school could possibly burn

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MR. STANCLIFF referred to slide 18, and offered this is what a fire looks like when it runs its natural course, but when applying his presentation, the energy can also help grow fresh food when harnessed. Slide 19, depicts tomatoes on the vine. He pointed to slide 20, and stated that when air quality is significantly improves, everyone benefits. The slide shows the processing room where vegetables are cut and ready to serve, he conveyed. Slide 21, reads, "The people of Tok and our School District thank the Legislature for their support of our vision," which is a model that can be used in other communities as more biomass heat moves into rural Alaska, he posited. From a social position, he offered, fire wising communities, protecting them, saving people's lives, and creating a fossil fuel free environment, allows that the legislature does not have to appropriate funds. He remarked that when pellets and wood logs begin to travel up and down the rivers instead of fossil fuel, Alaska has a safer and better climate, and an industry for rural Alaska that makes sense from a socioeconomic and mathematical point of view. He related that it is an industry that sustains itself, and young people who want to be trained on fire crews trained to help communities become fire wise, and go out on fire calls. In that regard, it offers jobs in the communities that will eventually put food on plates. Slide 22, reads, "Where adults and their children understand how to use our natural forest energy to convert a menace into a meal." He suggested taking this model on a different scale with varying applications, employ people in rural Alaska, give them hope and a local job, rather than responding to fire and spending millions of dollars on suppression. He further suggested spending money on training young people to mitigate and prevent fire, and to also use the trees in a more environmentally sensible manner.

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REPRESENTATIVE JOSEPHSON asked how long the recycle period is to return the boreal forest to this height of timber.

MR. STANCLIFF opined that if the forest is allowed to regenerate on its own with no management performed within that area, there are a lot trees coming back that will choke each other out and it is a different scenario. Therefore, he said, proper management allows spruce trees a timeframe of 80-90 years, regarding aspen trees, which is a more favorable crop when attempting to fire wise a community because the fire doesn't race through the aspen forest as quickly, it is a much shorter time. He advised that planning and management of the forest has

been performed over the years with the Tanana Valley State Forest group in Fairbanks. He said it involves everyone in the environmental community to ascertain that there is a sustainable amount of fuel available in the Tanana Valley State Forest Plan, and currently they are using approximately two percent. Although, he remarked, if the utility were to go into action and generate a mega power it would probably use 15-20 percent of it. He offered that Jeff Hermanns, Area Forester, Department of Natural Resources (DNR) made things happen in Tok as he works to be certain Alaska has sustainable forests of all ages in keeping with the mission of the Division of Forestry. He highlighted that there is a longer growing period for spruce trees, but if the trees are managed well the productivity is much greater for wildlife and the environment.

The committee took a brief at-ease.

[1:24:59 PM](#)

JOE YOUNG, Young's Timber, Inc., referred to Slide 1, and stated it is an aerial view of Young's Timber, Inc., located approximately six miles east of Tok. It shows large piles of slabs, and a large golden pile of sawdust which has been the driving force of his business. The slide also depicts the communication tower of Alaska Power & Telephone Company (AP&T). He noted that slides 2, was taken on top of AP&T's tower. He pointed to slide 3, and stated that it all started in 1997 when Senator Georgianna Lincoln was able to obtain \$230,000 worth of funding. Slide 4, indicates the history and timber sales timeline of the Division of Forestry in Tok, together with the importance of Jeff Hermanns to "us." Slides 5-12, depict Mr. Young's various pieces of equipment. Slide 13, shows logs salvaged from fires in which they cut out the best log parts to make "D" style house logs for log cabins. These logs are standing dry and are approximately 15 percent moisture content so when building log houses they don't shrink and twist or move around and the rest of the log is then fire wood. Slides 14-17, are pictures of log homes. He referred to slide 18, and opined that they tried to set up a good foundation with timber contracts the Tok Division of Forestry provided. He offered that they have long term wood fiber contracts in place, 300 acres for the facility, harvesting equipment in place, an experienced and versatile crew, the value-added facility is up and operating, and he stated he assembles log homes throughout the state. Slide 19, reads, "YTI's issue that developed was ... how to utilize the sawdust, slabs, pole timber, and small ends of saw logs into a value-added product for total utilization.

The solution is ..." He pointed to slide 20, and indicated that the solution is a fuel log and pellets company. Slide 21, indicates that the energy solution was for a biomass burner to burn the dirty chips and to dry the clean chips for the pellets and fuel logs. He said he worked with AP&T for an Interrupted Power Purchase Agreement for a low rate compared to the commercial rate currently in Tok, and that the Regulatory Commission of Alaska approved this because he is creating a new product with more jobs and potentially lower energy costs. Slide 22, is a schematic of the new power plant to be built. Slide 23, is a picture of 30 acres of cleared land for the power plant. Slides 24-34, depicts various machinery used to produce fuel logs, pellets, and chips.

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MR. YOUNG pointed to slide 35 and stated one ton of energy logs has the BTU equivalent of two cords of firewood at 25 percent. He said slide 36, shows the entity they sent an 8 pound fuel log for testing, ash content (0.35 percent), BTU's (68,000) per log, and the moisture content of the log (8.01 percent.) He referred to slide 37, and stated the new green pellet plant job projections are 3 yearly jobs, and 24 seasonal jobs. Slide 38, relates to the Upper Tanana River Basin Ecosystem and he advised it is a unique ecosystem in that it is 1500 feet above sea level, surrounded by mountains, drier climate, and the soils are mixed differently. He described the Tanana River as eastward from and including the Johnson Rover watershed to the Canadian border, it has unique bedrock and surficial geology, topography, soils and vegetation, with an opportunity to practice ecosystem management, and use local knowledge and science together. He noted his family's vision, which includes future generation's family that is looking for sustainability of the forest and economy in Tok while being conscious of ecosystem management. He opined that for Tok to become energy independent and grow their own food, the forest is where Tok will make its living.

[1:42:18 PM](#)

REPRESENTATIVE TARR referred to both projects presented to the committee, and questioned whether all of the timber he is harvesting is through negotiated sale on state land.

MR. YOUNG replied "Yes it is." He explained that they are all negotiated AS 38.05.118(c), which is the forestry law that has spurred all of this development.

REPRESENTATIVE TARR commented that under the current budget proposal the Division of Forestry essentially goes away. She asked what impact it would have on his wood source relative to what he has available now, and what would be needed in the future.

MR. YOUNG explained that he is not asking for more money, just asking to maintain the Division of Forestry office as it is now. He opined it is important to have a good fire crew in the summer as Tok is basically the most fire prone community in the state. At the same time, he pointed out, Tok has approximately 6,000 acres under contract between 12 operators. He said that closing the office during the winter would be detrimental as that is when all the activity happens. He offered that currently there are 12 commercial operators and 420 personal use permit holders that cut trees in the forest. He expressed that without the Division of Forestry being the referee there will be conflict. He said his main focus is to show a positive revenue stream for the state and in order to accomplish a positive revenue stream the state needs to maintain the office at the capacity it is right now. He is aware of the budget deficit but "maybe there are other places that cuts can be made." He opined that with the shortfall in the budget, the state would want to promote areas creating new revenue.

[1:45:10 PM](#)

REPRESENTATIVE JOSEPHSON asked each witness to advise the committee of the amount of investment in hardware they have made to date.

MR. STANCLIFF advised that the Alaska Energy Authority (AEA) investment into the school heating system was approximately 3.1 million, the electrical portion as the low speed steam turbine was \$325,000, the greenhouse was approximately \$40,000, and the canopy to cover the chips and a log loading trailer was approximately \$80,000. He said the investment pays off at the rate it is producing. Therefore, he noted, if they could make it more efficient with a little bit of help it will pay off in approximately 13 years, and the life of the equipment is conservatively 25 years. He expressed that Tok now has a music teacher and school counselor due to savings in the fossil fuel convert that allowed funding to happen.

MR. YOUNG advised that he personally has invested approximately \$1.5 million in his business to date, and is prepared to invest an additional \$4 million, with the operators combined investing

\$5 million. He offered that between the public and private sector, there has been over \$10 million worth of investment in the Tok area.

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REPRESENTATIVE JOSEPHSON quiered whether there is any process in the state with an operation as sophisticated as his.

MR. YOUNG replied that there are operations such as, Dry Creek, Northland Wood Products, operators in the Valley, and Southeast Alaska and noted he is not the only business producing Alaskan value added products.

MR. STANCLIFF answered that on the school side he knows it is the only school of its size in the nation or worldwide that has both heat and power from chips.

[1:47:35 PM](#)

REPRESENTATIVE TARR referred to Mr. Young's current contracts and asked how many years they will provide a supply for his business.

MR. YOUNG responded there is a 10 year supply and most small business administration loans are for 7 years.

[1:48:00 PM](#)

REPRESENTATIVE SEATON said he appreciates the presentation because this committee had gone forward in the past in recommending the Garn wood heating system boilers which are in Tok and Port Graham, and several other places. He stated this presentation was helpful in considering diversifying a sustainable economy. He asked whether the pellets are the same as produced by Viking Lumber, and whether the economics of the pellets coming out of Tok are similar to the economics produced in other mills, such as Southeastern.

MR. YOUNG answered that he performed quite a bit of marketing and competition studies. As to economics, he related that he believes the market is there to be had and will expand rapidly in the next five years, and noted that he harvests his own timber and has value added mills with no residue. He pointed out that Tok sits at the crossroads so the distance they haul their logs is shorter than in Fairbanks, and they are within striking distance from Whitehorse, Yukon.

REPRESENTATIVE SEATON stated that approximately three years ago this committee forwarded a proposal to stimulate the use of peat throughout the state and offered thousands of tons of free peat to people who would develop the operation.

[1:51:22 PM](#)

CO-CHAIR TALERICO asked the location of where the products from the greenhouse are going [in Alaska].

MR. STANCLIFF answered that the schools are located in Eagle, Northway, Dot Lake, Tanacross, Mentasta, Tetlin, and Tok. He described Tok as a hub for children from the other schools coming in to be schooled in the greenhouse and the growing process. He advised the committee that the price of electricity in Tok is \$.51 cents a kilowatt hour, and the Tok grocery store pays \$39,000 a month on its electrical bill. He highlighted that Mr. Young worked with AP&T to obtain a reduced rate so he could make the figures work on his investment. He conveyed that the house rate with Power Cost Equalization (PCE) is \$.31 cents a kilowatt hour, and the average bill on his 1100 square foot home is \$300 per month during this time of year. Combine that amount with fossil fuel and the committee know why there will be a big market for some of the wood products available. He extended that the success in Tok is due to an area forester from the private sector who understands math, understands how to get things done, and formed partnerships with Doyon, AUTNA, TCC, and to some extent with the Department of Labor and created a fire academy. He explained that the fire academy trained 80 young people from villages all across Alaska so fire crews could earn money as Alaskans on a fire rather than flying people to Alaska at \$50,000 a jet load with all of the money leaving the state. Mr. Stancliff related that the area forester built miles of roads for access for small operators with pickup trucks and chain saws and the price of fossil fuel he guaranteed there were a lot of small operators. He added that the Chamber of Commerce worked with the school district who worked with the Division of Forestry, with Joe Young, and AP&T, and described it as a combined effort. He offered that the portions that made it work is that the legislature has been willing to advance some money, and his group has been willing to make it come in on budget, on time, and always reported back on its success.

[1:54:08 PM](#)

The committee took a brief at-ease.

HB 87-TIMBER SALES

[1:55:37 PM](#)

CO-CHAIR TALERICO announced that the next order of business is HOUSE BILL NO. 87, "An Act relating to the sale of timber on state land; and providing for an effective date."

[1:55:44 PM](#)

CO-CHAIR NAGEAK moved to adopt proposed committee substitute (CS) for HB 87, labeled 29-GH1022\W, Bullard, 2/26/15, as the working document.

REPRESENTATIVE SEATON objected for discussion purposes.

[1:56:24 PM](#)

CHRIS MAISCH, Director of Forestry, Division of Forestry, Department of Natural Resources, said there was discussion regarding [Version A, Sec. 1, AS 38.05.110(c)], page 1, lines 4-6, regarding "best interest," which read:

(c) If a sale of timber may be offered under multiple provisions of AS 38.05.110-38.05.123, the commissioner shall determine under which of the applicable provisions to offer the timber consistent with the best interest of the state.

MR. MAISCH referred to a 2/17/15, memo directed to Senator Cathy Giessel from Thomas Lenhart, Senior Assistant Attorney General, of which Mr. Maisch would paraphrase. He advised that [small "b"] "best interest" is interpreted by law as a general statement such as it would be in his best interest to prepare when speaking to the committee, as opposed to a capital "B" Best interest which is a best interest finding by law. Subsequent to speaking with knowledgeable people, Version W was prepared wherein the last part of the sentence on line 6 is deleted ["consistent with the best interest of the state."]. He then referred to [Version A, Sec. 2, AS 38.05.118(a), page 1] lines [8-9], which read:

(a) Notwithstanding **AS 38.05.115 and 38.05.120,**
and upon a finding that the sale is in the best
interest of the state ...

MR. MAISCH noted that the above reference is where there should be a finding required under the state's best interest finding process. He noted that it is the capital "B" Best interest which is well defined in statute and law and has an important part of all of the decision making the state does regarding its natural resources. He opined that the CS fixes potential confusion identified earlier.

[1:58:41 PM](#)

REPRESENTATIVE SEATON withdrew his objection. There being no further objection, Version W was before the committee.

[1:59:04 PM](#)

MR. MAISCH pointed out that the two previous witnesses from the City of Tok have used the AS 38.05.118 sale authority, and stressed that by dropping the section he is proposing will make this authority applicable statewide. Currently, due to the three criteria, only certain parts of the state can participate in a timber sale offered under this authority. He noted that the authority will still be available for the Division of Forestry to use and it will not minimize its ability to perform an AS 38.05.118 timber sale statewide if HB 87 passes. He reminded the committee members that the problem in Southeast Alaska is that the section currently requires an excess allowable cut, and in Southeast Alaska after the next two years there will no longer be the excess allowable cut. He noted that is the way the Division of Forestry is able to direct some of the logs off state sales to local manufacturing and mills in Southeast Alaska, as opposed to being purchased under AS 38.05.120 authority as a log that would go export which receives no additional manufacturing in the state. He opined that it is one of the goals of this particular change to allow the Division of Forestry to continue to choose the negotiated sale option when it is in the best interest of the state, which will be addressed in the best interest finding.

[2:00:40 PM](#)

REPRESENTATIVE SEATON surmised that with the passage of HB 87 the "get over the hump" of only allowing that if there is excess cut available, then the Division of Forestry would be able to offer a negotiated sale with additional value added throughout the state.

MR. MAISCH replied that Representative Seaton is correct as it would make it a statewide tool. He reiterated that the earlier part of the bill clarifies the authority the commissioner already has to choose the appropriate timber sale authority to be used when the state offers timber in the State of Alaska. He noted that the majority of the sales offered statewide are performed as AS 38.05.120 sales which are competitive sales either through sealed bid, or outcry. He offered that where it is in the state's best interest to use one of the other authorities, it will do that.

[2:01:45 PM](#)

REPRESENTATIVE JOSEPHSON noted that he read most of the U.S. Supreme Court Decision South-Central Timber Development v. Wunnicke, 104 S.Ct. 2237 (1984), and asked how the Division of Forestry dealt with the holding which said that essentially the Congress had not expressly said that this kind of sale could occur without a competitive process as it violated negative or dormant commerce.

MR. MAISCH responded that there is some clarity in the regulations on that which does allow the Division of Forestry to consider additional things before it offers this timber for sale, 11 AAC 71.055(b) lists criteria the Division of Forestry can consider as part of the process, which read:

(b) In determining whether a negotiated sale under this section is in the best interests of the state, the commissioner will consider

(1) the local manufacturer's

(A) financial backing and capability;

(B) experience in the proposed undertaking; and

(C) ability to meet bonding or insurance requirements; and

(2) any other factors the commissioner determines to be in the best interests of the state.

MR. MAISCH stated that if there is interest the Division of Forestry will put together a Request for Proposals (RFP) to give

potential negotiators the opportunity to present the best case for how they would use the raw material. He said they may review the number of job created, type of manufacturing accomplished with the use of the state wood, and the financial ability of the proposer to actually complete what they are proposing to do. Essentially, he noted the Division of Forestry performs due diligence as part of the RFP process and it can make the process fairly simple, or complex. Historically, he advised the process has been kept fairly simple because a lot of process is not necessary in most cases. He opined that it is addressed in the best interest finding which gives the Division of Forestry the ability to choose the best applicant to negotiate with for the rest of the terms of the contract.

[2:03:59 PM](#)

REPRESENTATIVE JOSEPHSON surmised it was sort of a negotiated sale light, or a modified negotiated sale to keep a (small "c") competitive element to it.

MR. MAISCH answered that basically the RFP is the competitive piece Representative Josephson referenced in the earlier U.S. Supreme Court case to not run afoul of the ruling that they made ... that would be interpreted as the competitive part of the process.

[2:04:38 PM](#)

CO-CHAIR TALERICO opened public testimony.

[2:05:17 PM](#)

KIRK DAHLSTROM, Stockholder and General Manager, Viking Lumber Company, said Viking Lumber bought a bankrupt sawmill in Klawock, Alaska 21 years ago and it has operated steadily since that time. The Forest Service provided approximately 98 percent of Viking Lumber's timber supply for the first 10 years of operation. Subsequently, he noted, the Forest Service became unpredictable and the Alaska Department of Natural Resources (DNR) has come through over and over again the past 10 years supplying timber when Viking Lumber was in dire need. He opined that Viking Lumber has only negotiated one or two sales as most have been through the RFP process. On two occasions Viking Lumber has had temporary restraining orders imposed by a federal judge on Forest Service timber sales and the state came through with negotiated sales and kept Viking Lumber operating through that period. He remarked that Viking Lumber has approximately

22 million feet of logs per year, with annual sales of approximately \$17 million, and the only money that leaves the state is the stumpage for the Forest Service. He offered that with the contractors that build the roads, log and cut the timber, and load barge and ships, the company employs approximately 140 people year-round. He described Viking Lumber as the largest supplier of piano stock out of Sitka Spruce in the world which means if Viking Lumber goes out of business there will be no grand or baby grand pianos. He further described the company as the largest supplier of dimension red cedar lumber in the United States, which might seem funny because only approximately 8 million feet a year is cut. Most red cedar mills do not cut dimension, as they cut siding or boards. He explained that the company also cuts a high grade hemlock product as all of the hemlock goes into the manufacture of vertical grain doors, and window stock, as almost no lumber Viking Lumber cuts goes into the construction of homes as it goes into finish, decks, gazebos, and pianos. He stated he supports HB 87, because it works to keep the company alive and believes it will in the future.

[2:08:46 PM](#)

REPRESENTATIVE JOSEPHSON referred to Mr. Dahlstrom's statement regarding federal stumpage, but this is all state land and he requested clarification.

MR. DAHLSTROM answered that of the \$17 million per year in revenue involving a Forest Service sale, the stumpage they pay on that goes into the general fund of the federal government, and state timber goes to the state.

[2:09:24 PM](#)

DAVE STANCLIFF, Tok Chamber of Commerce, City of Tok, said many years ago an issue of state authority came before the House Resources Standing Committee. In the 1980s, there were massive land trades going on and the commissioner at the time asked that sideboards be put on the land trades. He stated that the commissioner believed the state was losing value in the land trades but the statutes were so wide open that there was no way to get a better handle on it. There is a statute that for land trades exceeding values of \$500,000 or more, legislative approval was required. He explained that the government is made up of checks and balances, and HB 87 transfers a much wider authority to the Division of Forestry and a commissioner who the committee may trust today, but this bill goes beyond all

administrations. He offered that there is no check or balance by the legislative branch for this trust factor that is before the committee. He opined that government works when one branch or the other might get slightly out of balance, there is another branch that can bring it back into balance. He related that his concern is the broad based authority of a state resource without checks and balances in place. He urged the committee to reach out and get more of the timber users in the state involved as his understanding is that this bill was introduced before any of those people were involved in the deliberative process. He highlighted that this is a monumental change of authority and the committee should take it seriously.

[2:11:51 PM](#)

REPRESENTATIVE JOSEPHSON asked, in terms of state residents that could be dissenters, doesn't this enhance the value of an industry and create a tendency to keep logs in Alaska rather than sending them to Asia.

MR. STANCLIFF answered that the aforementioned advantages are there, but he argued that there are always things beyond the immediate and not necessarily on the surface. Perhaps in Southeast Alaska, he pointed out, this would be a good solution, but in the Tok area if a warehouse were to negotiate a sale under conditions that may or may not seem fair it could wipe a business like Mr. Young off the map. He related that the provision put into statute years ago was so exceptions could be made for small and medium size business and the sideboards would still be there for larger users. He urged the committee not to rush and take some time. Although, he said, in the end everyone may comfortable and move ahead, but it is a big decision and the users affected should have more involvement.

[2:13:32 PM](#)

REPRESENTATIVE TARR surmised that Mr. Stancliff does not have a suggestion for remedying the situation, other than the committee engaging affected parties more before moving forward. She asked whether he could suggest examples of the checks and balances necessary.

MR. STANCLIFF advised that there are many examples of branches of government, especially the legislative branch, having those types of ability. He suggested that rather than the legislature approving every sale, which could become cumbersome and political, give the legislature the ability to veto or by two-

thirds majority vote veto. He offered that it can be set up in any manner including public interest wherein everyone is happy. Although, in the cases he cited years ago where there was a concern by the commissioner over what was happening ... concern enough to ask the legislature for help. He opined that "we" need to be careful.

2:15:19 PM

JOE YOUNG, Young's Timber, Inc., offered concern that he learned of this bill approximately two weeks ago and he wondered about the "new" transparency of this administration. He expressed concern regarding repeal of AS 38.05.118(c) clause as without it his business would not be in existence. He stated that to repeal the clause after it has been a good tool especially in rural Alaska ... he cannot agree. Another concern is that HB 87 adds more confusion to the patch work of forestry laws. He offered concern for someone working in the industry attempting to figure out all the laws. A person can go to the Division of Forestry who advises that their interpretation is "this," but the person reads something as "that," is a concern. He questioned the rush to get the bill pass so fast, not advising anyone regarding the repeal of AS 38.05.118(c), and the confusion of all of the laws together is discouraging to him.

2:17:41 PM

REPRESENTATIVE JOSEPHSON offered his understanding that the language here, with the tweak just made, was taken from the Susitna Forest bill of which was vetted over the last two years. He asked Mr. Young whether he was aware of that bill.

MR. YOUNG replied that he knew "they" were trying to establish a state forest in the Susitna Valley, but that's all he thought it was for.

REPRESENTATIVE JOSEPHSON referred to AS 38.05.118(c) and posited that the removal of (c) would be good for Mr. Young as he would no longer have to prove up that Tok has a bad economy, or that Mr. Young had underutilized timber, or underutilize allowable cut. Now, he remarked, the commissioner through the director can more easily make a negotiated sale.

MR. YOUNG opined that AS 38.95.118(c) is in place and he believes the bill gives the commissioner or the director too much power. He questioned a situation where he wanted to do a negotiated timber sale and the commissioner decides it is not in

the best interest of the state. He asked what recourse he would have after that determination. He described AS 38.05.118(c) as checks and balances because if a person makes a request to the Division of Forestry, of which he has made many requests and sometimes not received a response, that law is there for Mr. Young's protection and he does not want to see it go away.

REPRESENTATIVE JOSEPHSON referred to Mr. Young's comment that he has not always received responses to his requests from the Division of Forestry, as opposed to Mr. Stancliff praising the forester as being a great employee bringing pieces together.

MR. YOUNG clarified that upper management, within the Division of Forestry, did not reply to his requests.

2:20:05 PM

REPRESENTATIVE JOHNSON requested that Mr. Maisch respond to the prior statements.

MR. MAISCH responded that the three clauses there right now do not compel the Division of Forestry to actually use this authority. Currently, the commissioner and Division of Forestry determines what timber sale authority it will use through the best interest finding process. He expressed that the Division of Forestry does not want to be "the referee between two parties and who really gets to negotiate a timber sale," which is why it generally uses its AS 38.05.120 authority. For example, he offered, when the AP&T project (building a power facility using wood) was first enumerated for Tok, the Division of Forestry started an AS 38.05.118 negotiated sale process. As it published the preliminary best interest finding, which is open to public and agency comment, it became apparent there was competitive interest by another party that was equally as well qualified to potentially negotiate a sale with the Division of Forestry. He explained that rather than continue with a final best interest finding, the Division backed up and decided it would offer this sale as an AS 38.05.120 competitive bid sale so the most appropriate parties could bid on this resource. He described that as a situation where the Division of Forestry started down one path and found that it would not work as well as anticipated, so went back and did it differently. He noted that a best interest finding has a formal administrative appeal process as well as a civil appeal process so there are checks and balances in place to protect parties that have commented on the preliminary bid, including parties that may not have been chosen to negotiate with. Another example, he offered, is in

Fairbanks where the Division is performing an AS 38.05.123 sale for the pellet mill, which is another form of negotiated sales under the Division's timber sale authority - that's the high value added negotiated sale authority. He explained that within the briefing paper is a summary of five different authorities the Division of Forestry has to negotiate wood. He noted that it was the same issue there in that a local saw mill was concerned about not being able to receive the supply of wood it needed if the Division of Forestry performed a long-term contract with the pellet mill. Again, he offered, the Division of Forestry modified, after the preliminary best interest finding (BIF) process, the final BIF process and took those comments into consideration. He explained that the Division of Forestry then structured the proposed sale differently by withholding any high quality White Spruce saw logs from the AS 38.05.123 contract and offered those competitively.

2:24:02 PM

SHELLY WRIGHT, Executive Director, Southeast Conference, said the Southeast Conference is the economic development organization for Southeast Alaska, and it supports HB 87. She noted that Southeast Alaska does not quite the success stories that Tok has, as it is not doing well in the timber department. The State of Alaska Timber Sale Program is important to Southeast Alaska, and as previously stated, without state timber 140 people on Prince of Wales Island would be out of a job. She offered that Viking Lumber is hanging on only through the assistance of private land owners and the State of Alaska Timber Sales. The federal government has not been able or willing to provide timber to Southeast Alaska for quite some time and the federal government owns or manages most of the land in Southeast Alaska. She remarked that this legislation will give the state Timber Program more flexibility to determine how timber is sold and what it is used for. Relaxing the requirements for offering 25-year sales statewide provides a guarantee for investments in the industry and stability for the work force. Allowing the DNR commissioner and the [Division of Forestry] the flexibility to determine which applicable sale method is best is not only good for the buyer, it also gives the state the advantage of receiving the best return on the timber. Under the Forest Land Use Plan it is imperative the best use of timber is used across the state. She explained that biomass energy processors, wood product manufacturers, and international trades are all important economic drivers for the industry and state. This legislation will increase the option for the industry and allow the state an even better partner with interested private

investors. As is known, growth in private investment and resilient communities are the only things that will save the state in this time of a shrinking budget and uncertainty, she stated. She offered that the Southeast Conference previously sent a letter of support for this legislation.

[2:27:06 PM](#)

CHELSEA GOUCHER, Executive Director, Greater Ketchikan Chamber of Commerce, said the Greater Ketchikan Chamber of Commerce supports HB 87 in that it has worked hard to promote economic diversities, regional growth, a climate good for business, a life style that attracts year round residents, and a stable productive work force. The existence of a timber industry supports each aspect of this mission unequivocally and for this reason the Greater Ketchikan Chamber of Commerce encourages the passage of HB 87. She stated that now, more than ever, is interest in Biomass energy and a demand for wood fibers that indicates the State of Alaska should take a proactive stance in providing timber and access to forest products for this and other burgeoning value added industries. Additionally, she pointed out, what remains of the traditional timber industry in regions like Southern Southeast Alaska is more dependent than ever on the State of Alaska and continues to face nearly insurmountable obstacles from the federal government. The timber offered in negotiated state sales help sustain jobs in industry across the state, particularly both in Ketchikan and Prince of Wales Island. Currently, she stated, no opportunity to better the lives of individuals living in Alaska should be overlooked. It is inarguable that this bill offers real opportunities for Alaskans everywhere. She requested the committee note the support of the Greater Ketchikan Chamber of Commerce and of Ketchikan's business community for HB 87, and the potential it possesses to positively impact the lives and livelihoods of Alaskans.

[2:29:11 PM](#)

REBECCA KNIGHT expressed that she just received a copy of the proposed committee substitute and has had little opportunity to review it so will offer her prepared testimony. House Bill 87 should be rejected in its entirety as it would suspend the same yield requirement for large timber sales on state forests. She said she questions whether private sector landholders like Weyerhaeuser and Georgia Pacific, and their professional foresters would undertake an unsustainable business practice as proposed by this bill. She offered that it is a poster child

for squandering public resources to the detriment of future generations. This bill will allow long-term 25-year contracts for timber to be negotiated without advertisement or competitive bid which is a questionable business practice. She remarked that given proposed huge state government budget cuts recently approved by the House Finance Committee it would not be prudent to support such contracts when there is no assurance that the funds to administer those contracts would be available down the road. She said it could leave the state at risk of contract cancelation and associated compensation costs.

MS. KNIGHT stated that the bill give primacy of the state's public lands to logging above all other resources, above fish, wildlife, subsistence needs, recreation, and scenic quality. She related that her commercial fishing family depends on quality fish habitat, however, this habitat will not even receive the minimal protections out on federal lands. She described 100 foot no cut buffers as the norm on most federal streams, yet streams on state lands will only receive 66 foot buffers. She stated that these buffers are routinely granted exemptions particularly when there is large timber in the stream-side area. She expressed this is exactly the habitat that provides shade and stream stability to the state's valuable fishery sources. She highlighted that she is unconvinced that essential fish habitat is adequately protected under these circumstances and that she is also miffed at the rush to push this bill through committee with little consideration for other uses. She opined that state timber in Southeast Alaska will be exported in the round providing few jobs to the very industry that this bill is supposedly intended to prop up. She described it as another subsidy with no real payback. The bill would require a finding that the sale is in the best interest of the state, however, these findings are made by DNR which, she described, as the timber extraction arm of state government. She posited that the Alaska Forest Practices Act is weak and in serious need of overhaul, and that these findings are heavily biased toward logging. She expressed that the kind of forest resources important to most people are fish, wildlife, and the opportunity for subsistence which only receives cursory considerations from DNR. She asked that the committee consult with expert Alaska Department of Fish & Game, Fish and Wildlife biologists that are free of restrictions of DNR's one voice timber promotion policy.

[2:33:08 PM](#)

ERIN McLARNON, Executive Director, Working Forest Group, said she is a Board of Forestry member and an executive director of the Working Forest Group. She advised she is testifying in support of HB 87 that will enable the commissioner of DNR to better respond to the economic and geographic realities of the forest product industry. She stated that who would have guessed that a primary demand for state timber would be for biomass energy purposes. The bill will allow DNR to offer negotiated timber sale for up to 25-years, which is crucial to medium to large biomass energy projects to get off the ground. The bill also offers DNR the flexibility to determine which applicable sale method is in the best interests of the state for each timber sale. She described it as a win-win not only for the State of Alaska, but also its fiber users.

[2:34:15 PM](#)

MIKE SALLEE said he is a commercial harvest diver and has owned and operated a small Volkswagen engine powered mobile dimensioned saw mill close to 35 years. He noted that there are a couple dozen of these mills in Ketchikan, over 300 in Southeast, and over 400 statewide. He said he primarily mills salvage timber that has been carried to salt water by wind storms or landslides. Secondarily, he has milled neighbors logs cleared from their shoreline home sites, milled 10,000 board foot free use timber, and once purchased several thousand feet of logs at the local U.S. Forest Service yard auction. Occasionally people will tow logs that he mills in exchange for some of the lumber from those logs. He stated he does not cut live trees by himself to feed his mill. He offered that he mills less than 100,000 board feet annually and has produced framing lumber, decking, cedar siding, yellow cedar for bentwood boxes, totems, paddles, house timbers and wooden boat timbers. His concern with HB 87 is that it creates 25-year contracts and that sales tailored to large scale operations will result in local merchantable wood going away. He pointed out that he just saw this bill yesterday for the first time and hasn't had a good chance to digest it, but a lot of wood is going away, especially the yellow cedar that is declining due to allegedly climate change that results in the loss of snow cover that prevents freezing of the yellow cedar shallow roots. He noted it appears there is a partnership between the timber industry and the state forest manager and that partnership does not appear to address climate change and the need to keep carbon stored in forests in Southeast Alaska. In addition, he pointed out that large scale operations tend to target the most valuable timber and little of it remains in a local borough for processing. He offered that

he does not know if HB 87 applies to Mental Health Trust lands and the University of Alaska timber lands but has been sorely disappointed with the amount of merchantable trees cut down and left in the woods on Mental Health Trust lands helicopter sales. He conveyed that they've also left a lot of slash and tops which it is a mess in a lot of areas that they've logged. He expressed that much of the Mental Health Trust land timber was exported. He offered his apprehensive of more discretion being given to a politically appointed commissioner. He noted it has been interesting to him how the state can malign the U. S. Forest Service while saying nothing about private Native Corporations shipping vast value out of the state with little impetus to help the rest of the timber industry. He mentioned that the concept of a working forest also means it has ecosystem services that the forest performs other than just working for people. He expressed that the ecosystem services is an important part of the picture.

[2:38:03 PM](#)

DAVID BEEBE, City of Kupreanof, said he is representing the City of Kupreanof. He commented that while Governor Bill Walker cites his authority under the Alaska State Constitution, Article III, Section 18, the Governor's bill is fundamentally at odds with the Alaska State Constitution, Article VIII, Section 4, which read:

Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial users.

MR. BEEBE commented that sustained yield of these fish and wildlife resources requires that ecosystem services function without significant impairment. The State of Alaska has long known that significant impairment of Southeast forest habitats, structure, function, and composition, precludes the sustainable yield of Sitka Black Tailed Deer and other wildlife. He advised that emergency closures and significant restrictions on deer hunting presently exist in a 20-mile or more radius surrounding the City of Kupreanof. He stated that the Department of Fish & Game (ADF&G) published a statistical summary of the season's deer hunter harvest in all of Southeast communities in 1961. In terms of hunter's success, Petersburg ranked the highest of all communities of Southeast with a hunter success rate of 97 percent, which is an average of 3.5 deer per hunter. Yet, in

2012, 147 hunters on Mitkof Island required 565 deer hunter days to harvest 22 deer. He noted that the restrictions on Mitkof Island have just been imposed on Lindenberg Peninsula, where the City of Kupreanof is located. He stated that the area is the hunting destination of last resort with regard to weather protected access to deer. He highlighted that there is glaring evidence that the state's failure to abide by the sustained yield principle invoked in the Alaska State Constitution [is apparent]. He recommended that everyone consider the oath of office taken to defend the Alaska State Constitution and, he asked the committee members to uphold the oath they took by voting no on moving HB 87 out of committee.

[2:41:04 PM](#)

CO-CHAIR TALERICO closed public testimony.

[2:41:07 PM](#)

REPRESENTATIVE JOSEPHSON referred to a prior statement that the AS 38.05.118 bill could be used as a backdoor way to ship timber in the round.

MR. MAISCH advised that he did hear that statement but it is not a correct assertion.

REPRESENTATIVE JOSEPHSON asked why that statement was incorrect.

MR. MAISCH responded that the Division of Forestry goes through the best interest finding process to negotiate the sale with the purpose of trying to keep state timber processed and mills in Alaska. He referred to the previously mentioned U.S. Supreme Court case where the state tried to restrict round log export and explained that this is the authority crafted after that case was lost to enable Alaska to have an ability to actually keep logs on shore in Alaska to be processed.

[2:42:26 PM](#)

CO-CHAIR TALERICO held over HB 87.

[2:42:55 PM](#)

The committee took a brief at-ease.

CONFIRMATION HEARING(S):
Alaska Oil and Gas Conservation Commission

2:43:46 PM

CO-CHAIR NAGEAK announced that the final order of business would be the hearing on the appointment of Michael Gallagher to the position on the Alaska Oil and Gas Conservation Commission. (Committee packets contain biographical information on the appointee.)

CO-CHAIR NAGEAK opened public testimony.

2:44:58 PM

REPRESENTATIVE JOSEPHSON questioned whether Mr. Gallagher was seeking the seat under AS 31.05.009(3), which read:

(3) one member who shall have training or experience that gives the person a fundamental understanding of the oil and gas industry in the state.

MICHAEL GALLAGHER, Appointee, Alaska Oil and Gas Conservation Commission, responded to Representative Josephson that he is correct.

REPRESENTATIVE JOSEPHSON asked Mr. Gallagher's background that gives him a fundamental understanding of the oil and gas industry.

MR. GALLAGHER responded that over the last 38 years he has been involved one way or another in the oil and gas industry in Alaska. He said he spent 14 years in the field, and the remainder of the time he worked for the Laborers Union where he was involved in oil and gas development in the state. Subsequent to retirement, he worked for Ahtna Construction which is primarily pipeline work and was the operations manager and then interim president, CEO, with work at the Valdez Marine Terminal and "a lot on the pipeline."

2:46:43 PM

REPRESENTATIVE TARR noted that Mr. Gallagher has been on the job a handful of weeks in a technical position. She requested information regarding how he is getting up to speed and feeling prepared going forward.

MR. GALLAGHER answered that during his first week on the job he "felt like he was drinking from a fire hose," and since that

time he has figured out exactly what is going on within the commission as the majority of the work is processing permits for the producers. He advised that he reads plans well and understands what they are doing there, he has been able to take a tour of a drilling rig in Kenai, and he feels comfortable today from what he has seen. He offered that he participated in his first public hearing on the BLM Legacy Well that the federal government is considering dismantling and abandoning. He described it as fun with a real learning curve, but feels comfortable.

[2:48:41 PM](#)

REPRESENTATIVE SEATON noted that during the initial meeting with Mr. Gallagher he asked how he would balance oil and gas and preventing wastage of hydro-carbons. He offered Mr. Gallagher another opportunity to respond to that question.

MR. GALLAGHER responded that his understanding of the Alaska Statutes is that Alaska needs to get as much hydro-carbon out of the reservoir as possible. He related that he will listen to the reservoir engineer to figure out the best way to do that in order that Alaska can recover as much oil and gas as possible.

REPRESENTATIVE SEATON restated his question in that within Mr. Gallagher's consideration of wastage whether he is comparing those on a per molecule per BTU per dollar basis. He asked how he will go forward in preventing wastage on balancing those two items.

MR. GALLAGHER answered that he would have to review expert opinions from the engineers.

[2:50:45 PM](#)

CO-CHAIR TALERICO offered his understanding that the committee is not committing support nor opposition to this appointment, but rather confirm the committee has met its obligation to have the hearing for Mr. Gallagher.

CO-CHAIR NAGEAK closed public testimony.

[2:51:48 PM](#)

CO-CHAIR NAGEAK announced he will forward the name of Michael Gallagher to the joint session of the House and Senate for confirmation. No objections were stated.

2:52:02 PM

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:52 p.m.