HB

607

SANTCO SOUTHEAST ALASKA NATIVE TIMBER CORPORATION

PRESIDENT
Clarence Jackson Sr.
Box 200, Kake, Alaska 99830

SECRETARY
Marjorie Young
Box 73, Craig, Alaska 99921

March 5, 1976

Honorable Nels A. Anderson, Jr.
House of Representatives
State of Alaska
Pouch V
Juneau, Alaska 99811

Re: H.B. 607 Sponsor Rep. Miller/Beirne
S.B. 563 Sponsor by the Rules Committee by Request of the Governor. Relating to Alaska Forest Practices Act and Resources

Dear Representative Anderson:

The Southeast Alaska Native Timber Corporation (SANTCO) was formed by tne village corporations, urban corporations and regional corporation established pursuant to the Alaska Native Claims Settlement Act (ANSCA) with its sole intent to provide the natives of Southeastern Alaska a means to inventory, classify, plan, develop, harvest, reforest and manufacture timber resources on lands each is a beneficiary of under ANSCA. The shareowners, living predominantly in communities in the Tongass National Forest where these lands are located number over 16,000 persons. Although, patent to lands, pursuant to ANSCA are yet to be conveyed to the participant corporations, it is estimated that over 400,000 acres of timbered lands will be conveyed. In anticipation of this occurence, our member corporations individually and collectively, have been working to inventory, classify and plan for the use of the newly acquired properties. This process is not yet completed.

As we are all aware, the timber industry in our region is at an all time low - in harvesting, production, marketing and jobs.. Natives and non-natives alike are being affected by the negative economic impact of this occurence. On top of all this, a federal court ruling regarding the "clear cut" method of harvesting timber threatens to completely bring to a standstill, a basic industry of our State. Constant pressure by federal environmental requirements threaten to make obsolete present processing facilities in the region and prohibits construction of planned new facilities. Further, lawsuits relating to preservation of certain land areas of our State by the Sierra Club and other environmental interests promote set asides of vast land areas for special purposes and special interests thereby prohibiting a comprehensive view of the natural resources of the State remaining available for development. After careful observation, the members of SANTCO advance, based on these circumstances, that this is no time to promote restrictive legislation on a prime resource until the aforementioned problems are settled out.

At this moment in history, the only people owning, the greatest part of Alaska, private timber lands are the Native Corporations. H.B. 607 and S.B. 563 is clearly aimed at native ownership and use of lands. Members of SANTCO would like to remind this body that Alaska Natives were and are still the first conservationists in Alaska.

We are not about to destroy our remaining meager resources. The Alaska Native Claims Settlement Act requires that, at a minimum, that we manage our lands under a multiple use sustained yeild management plan no less stringent than that of the U.S. Forest Service. This plan must be filed with Congress. For the interim, it is believed that the public's interest will be considered through this process.

In discussions pertaining to the legislation before this session, concern has been raised as to the extent of the State of Alaska interests. Both bills purport to treat potentially timbered lands owned by the State of Alaska and those owned by the private sector similiarly and without distinction. Firstly, at this time, it is not clear as to what level the State of Alaska is involved with timber resources. Although the State pursuant to the Statehood Act, is allowed to select up to 400,000 acres of land within the National Forest, the State Administration has failed to do so. In this vain, as a pre-requisite to any State Forestry Practices Act, SANTCO believes it important that the State legislature provide some guidance to the Administration by providing or requesting the State's plan of selection, means for inventory and classification, committment and outline of a multiple use/sustained yeild plan, designation of land set asides for special purposes, plan for protection and preservation of other natural resources pursuant to the Constitution of the State of Alaska and lastly, a specific plan and schedule to put State lands into the flow of economics and commerce. Secondly, both bills broadly interpret the State's jurisdiction to regulate commerce related to the timber industry and to protect other natural resources and the general welfare of the people pursuant to the State Constitution with little regard to the property rights and interests of of private citizens. In the opinion of SANTCO, it is important that any legislation narrowly construct the responsibilities of the State of Alaska pursuant to its Constitution. Furthermore, the bill, as presented, prescribes an excessive regulation of timber commerce not presently included as precedence in statute for any other industry or business in the State of Alaska. Additionally, the legislation strains the level of restrictions on the civil rights of citizens and property owners, not envisioned in the State Constitution. The legislature should clearly review the possibility of separating the need for law governing forest management of State lands from that of private landholdings.

At a recent meeting of the Board of Directors of SANTCO, it was concluded upon the

advise of legal counsel and various members, that the Alaska Forestry Practices Act legislation as presented before this session of the legislature is detrimental to the interests of private landowners/timber owners. The Board voted to oppose the advancement of the H.B. 607 and S.B. 563 during this session of the legislature. It is hoped that your office could lend its support toward "shelving" or detering progress on these matters. This is not to say that the native timber interests are totally opposed to some form of legislation relating to the Alaska Forestry Practices and Resources in the future, however, it is our intent that a longer process for development of the legislation take place, possibly under the guidance of the Legislative Council. Through a committee of this forum, a series of hearings through the affected areas of the State could take place and an extensive analysis of the timber situations, legislative alternatives and other considerations be made.

Thanking you for this consideration.

Sincerely,

S.E. ALASKA NATIVE TIMBER CORPORATION
Legislative Committee

Joe Wilson
Chairman

cc: Robert W. Loescher, SANTCO Legislative Committee
Ethel Staton - SANTCO Legislative Committee
Gerald Gray - SANTCO Legislative Committee
Glenn Charles - SANTCO Legislative Committee
Warren Weathers - SANTCO Legislative Committee
Clarence Jackson - SANTCO Legislative Committee
Board of Directors - SANTCO
Central Council of the Tlingit & Haida Indians of Alaska
Executive Committee/Delegates
Alaska Native Brotherhood/Sisterhood
SEALASKA - Board of Directors
Alaska Loggers Association

RWL:JW:lg

Sealaska Position Paper

AFN Board Meeting February 23, 1976

Discussion of Pending Resource Legislation

Forest Practices Act (HB607 and SB563)

Sealaska Corporation has consistently supported the concept of a good forest practices act. We feel that there is merit in having an established set of guidelines available within one department of the State rather than be subjected to various and possibly inconsistent standards by numerous departments of State government. We have so advised the State of Alaska of this position. However, although we have indicated support for some type of forest practices act, this should not preclude either the Alaska Federation of Natives or the other regions from examining the threshold issue:should Native selections be burdened by this State legislation?

Because of our previous commitment, our remarks therefore are directed towards specific problems in the two forest practices act introduced into the Ninth Legislature.

In our opinion, neither of the bills introduced into the Ninth Legislature achieves the status of a "good" forest practices act. First, although Sealaska Corporation has had the opportunity to work with the Administration on SB563, the bills were basically formulated with little public input. More importantly, any forest practices act will be directed toward the Native corporations as the only large private timber owners and neither

Representative Miller nor the Administration attempted to gather substantial input from the majority of these affected future land owners. This absence of landowner input has created a glaring deficiency in Representative Miller's bill (HB507) in that the forestry board set up in his bill could not contain any person who has a financial interest in the timber industry. Due to the revenue sharing provisions of Section 7(i) of the Alaska Native Claims Settlement Act all Alaskan Natives have a financial interest in the timber industry and hence all are precluded from serving on the board! We do not like to believe that this was Representative Miller's intent but communication with the Native landowning corporations would have eliminated this harmful provision from his bill.

Disregarding the implications of 7(i), it is generally conceded that timber landowners and operators must be represented on forestry boards and committees for these bodies to properly and effectively execute their duties. The Oregeon State forest practices act, generally recognized as one of the best such acts, requires that two-thirds of the forest practice committee "...be private landowners, private timber owners or authorized representatives of such land owners or timber owners who regularly engage in operations." Sealaska Corporation is still evaluating the pros and cons of the use of said boards and/or committees and has not taken a position in this regard as yet. It therefore appears to us that if boards and/or committees are to be established to implement a forest practices act that such boards and/or committees must have timber landowner (i.e., Native corporation) representation.

A major deficiency in the Administration Bill (SB563) which is covered

in Representative Miller's Bill (HB607) is the status of the State Forester. The Administration Bill (SB563) assigns implementation duties to the Commissioner of Natural Resources and permits him to delegate these duties to persons or divisions within his Department. At the present, the State Forester is buried within the Division of Lands and preliminary discussions with Commissioner Martin indicate that he intends to keep the State Forester subordinate to the Director of the Division of Lands. We believe the State Forester should at least have direct access to the Commissioner. If a State Board of Forestry is formed, perhaps even a Department of Forestry is warranted in order to provide the State Forester with Cabinet Status.

One thing that appears very obvious to us, the person charged with implementing the forest practices act must be a professional forester with substantial status in the State Administration for his voice to be heeded during plicy deliberations. A State Forester buried in the Division of Lands and subordinate to the Director of the Division of Lands will not have much of a voice in State forest practice policy decisions.

House Bill 607 (Miller) contains an illconceived, impractical provision which allows and even encourages municipalities to enact forest practice ordinances more strict than the State Act. In addition to the fact that municipal ordinances would introduce uncertainties to the extent that timber operations could be virtually impossible, the lack of forestry expertise in the municipalities could result in ordinances which would work against the constitutional provision of management on a sustained yield basis. Any entrepreneur, individual or corporate, entering into a long term venture such as timber harvesting must do

everything possible to minimize uncertainties. The imposition of municipal ordinances on timber owners would create such vast uncertainties that timber operation could become economically hamstrung.

House bill 607 also contains a complex stocking formula which does not properly belong in statutory form. Generally speaking, management prescription should be implemented through regulations so as to be flexible as new management procedures come into practice. The general problem with the Forest Service Organic Act for example, is that a management prescription requiring individual tree marking was included in the statute. When clear-cutting management practices developed there was no easy way to modify the statutory management prescription.

There are many other minor problem provisions with both proposed forest practice act bills. However, rather than trying to modify these bills we believe that neither bill should be implemented and instead a forest practices act interim committee be formed, similar to that formed last year for the Coastal Zone Management. This committee would then work with concerned individuals and organizations, particularly the Native timber owning corporations, to put together a forest practices act to be introduced in the Tenth Legislature.

Coastal Zone Management (SB519)

Sealaska supports the concept of Coastal Zone Management but questions the wisdom of SB519. This bill alledgedly was introduced to show legislative support for coastal zone management. The bill, if enacted would merely direct the Governor to review existing statues relating to Coastal Zone Management and recommend to the Legislature those

additional statutes necessary to establish a coastal management program satisfactory to the federal government. (Federal approval of the State program makes the State eligible for federal Coastal Zone Management funds to implement the State program. There are no sanctions if the State fails to implement a coastal program.) The avowed hope of the bill's supporters is that passage of SB519 will quiet those who alledge no legislative support for Coastal Zone Management. However, any sword can cut two ways and one could argue that defeat of SB519 would acknowledge legislative disapproval of the whole Coastal Zone Management program!

We understand that the basic benefit to the State in implementing a coastal management program acceptable to the federal government is not the federal funds but the consistency clause in the federal Coastal Zone Management Act. That clause provides that after a State Coastal Zone Management program has been accepted by the United States Department of Commerce, all federal agencies operating in the State must conform to the State program. This would for instance, require the United States Forest Service and the Bureau of Land Management to conform with the State Program. (Incidently, if the forest practices act were identified as part of the coastal management program the United States Forest Service would be obligated to conform with the State Act). Consequently, it appears to us that if the benefits of Coastal Zone Management are primarily through State-Federal consistency then a coastal management program need only apply to State and Federal Land. Private land owners, including Native corporations, could be subjected to the coastal management program only on a voluntary basis. This position was suggested to the federal coastal management officials in January 1976 and although they had never considered such a program they could not at that time see any basic objection to such a proposal.

Sealaska therefore has no position insofar as SB519 is concerned, but feels very strongly that any coastal management program should be voluntary insofar as involvement of private lands are concerned.