

HB

40

UNITED STATES DEPARTMENT OF AGRICULTURE  
FOREST SERVICE

P.O. Box 1628, Juneau, AK 99802

1510

January 25, 1977

The Honorable Alvin Osterback  
Chairman House Resources  
Alaska State House of Representatives  
Pouch V  
Juneau, Alaska 99811



*File AB  
40  
in  
Out of  
Committee*

Dear Representative Osterback:

This responds to your request for a statement on forestry activities at the State level. The Forest Service strongly supports measures which will strengthen the professional forestry staff and organization of State governments so that professional forestry expertise can better serve the needs of people in the management of forests and related resources. With the imminent acquisition of the full 103.4 million acres of land provided by the Statehood Act and approximately 44 million acres transferring to Native ownership, such measures are timely.

The State forestry staff is already charged with responsibility for protecting State and private lands from fire, insect, and disease attack. A statewide organization able to meet these demands needs the equipment, experienced managers, and training to provide this support. It needs the cooperation of local communities to provide the manpower during periods of extreme fire hazard, and it must be able to react rapidly to minimize delays in meeting these demands. A trained statewide organization can effectively handle such situations.

Our present State forestry organization is beginning the major task of fielding fire protection forces to protect Alaskan life and property with the gradual phase out of the Bureau of Land Management protection contract. Experience in firefighting and organization of a cadre of district personnel capable of leading temporary firefighters is of paramount importance for making the operation function.

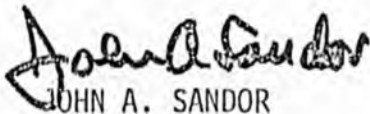
In the area of management, the renewable resources of forest and rangelands include timber production, fish and wildlife habitat, recreational opportunities, wilderness experiences, and watersheds. Minerals management is also related to these resources. The State Forestry organization, working through cooperative Federal-State programs, can provide technical, and in some cases financial, assistance to establish, protect, manage, and use forest and related resources.

The Forest Service works closely with the State Forestry organization of the States and Territories. The National Association of State Foresters is an organization with substantial leadership in promoting sound forest practices on all non-Federal lands. We would encourage the State to examine the opportunities to strengthen its organization to meet the rapidly expanding challenge of its forests. The National Association of State Foresters and individual State organizations have demonstrated the merits of sound forest management practices. A number of States have established forest practice laws and regulation. Their experience could be very helpful in your efforts.

In summary, we believe Alaska now needs a strong State forestry organization operating at a level of government that reflects the emerging importance of this resource activity. Additionally, a comprehensive State forestry program is needed that focuses not only on State lands but is also designed to provide forestry assistance of all kinds to Alaska's new landowners. Numerous federal grant programs exist requiring some state matching funds that are specifically directed to this purpose. The State Forester needs authority and a mandate to participate in these programs.

Many bush communities, wanting to develop sound management programs for their lands, are now requesting forestry and land management assistance. With a strong forestry organization and program the state can be responsive to their citizens needs. We believe it very important that any forestry legislation considered this session address these concerns.

Sincerely,



JOHN A. SANDOR  
Regional Forester



*gave copy to Sally Smith, Juneau*

# Alaska Rural Development Council

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### SEALASKA CORP

### YUKON-KUSKOKWIM HEALTH CORP

January 20, 1977

Mr. Alvin Osterback  
Chairman, House Resources Committee  
Alaska State Legislature  
Pouch A  
Juneau, Alaska 99811

Dear Mr. Osterback:

The enclosed Resolution regarding establishment of a State Division of Forestry was adopted today in Anchorage, during a regular quarterly meeting of this Council.

The Resolution specifically relates to House Bill No. 40 which proposes to create a Division of Forestry within the Department of Natural Resources. We believe the valuable forest land resources on the State and private lands of Alaska need increased professional attention under a stronger State Forester's organization than now exists.

Establishment of a Division of Forestry would help to accomplish this by elevating the existing resource management of forested lands from a Section of Forestry within the Division of Land and Water Management in the Department of Natural Resources, to a higher level of management and authority.

Forest land management is a type of agricultural use, and it affects State-wide development of rural areas in which our Council is specifically concerned. We join with other organizations and groups in the State in support of establishing a State Division of Forestry.

Sincerely,

Ted Freeman  
Chairman  
Alaska Rural Development Council

enclosure

CHAIRMAN—Ted Freeman, Soil Conservation Service, 204 East Fifth Ave., Rm. 217, Anchorage, AK 99501.  
VICE-CHAIRMAN—Pete Probasco, Cooperative Extension Service, 3211 Providence Ave., Anchorage, AK 99504.  
EXECUTIVE SECRETARY—James Matthews, Cooperative Extension Service, University of Alaska, Fairbanks, AK 99701.

ALASKA RURAL DEVELOPMENT COUNCIL

RESOLUTION

To support legislation for establishing a State Division of Forestry within the Department of Natural Resources

WHEREAS, the State of Alaska is in the process of selecting 103.4 million acres of land under the Statehood Act, and Native Corporations are in the process of selecting 43 million acres of land under the Alaska Native Claims Settlement Act, and

WHEREAS, State selection lands now comprise a significant portion, approximately 6 million acres, or 25% of the commercial forest lands of Alaska, with significant additional acreage of similar value to be selected in the near future, and

WHEREAS, Native Corporation lands now comprise approximately 15 million acres of forest land containing high value renewable resources, and

WHEREAS, the forest resource industry has a high expansion potential on both State and private lands which will contribute significantly to State and local economy in rural areas of Alaska, and

WHEREAS, strong State leadership is essential to provide professional forest land management and protection against wildland fire, insect, and disease losses for all State and private lands, and at the same time enhance and sustain high resource values consistent with other high environmental values, and

WHEREAS, House Bill No. 40 has been introduced in the First Session of the Tenth Legislature of the State of Alaska, to create a Division of Forestry within the Department of Natural Resources, and

WHEREAS, a State Division of Forestry should develop increased professional capability to not only more effectively manage State forested lands under its jurisdiction, but also to more effectively deliver technical assistance to new Native Corporation and other private landowners at a critical time in development and management of their lands, and

WHEREAS, a State Division of Forestry should also stimulate increased federal financial assistance, and related federal assistance through regular U.S.D.A. agency programs, such as extension forestry education, and through cooperative state and federal programs of forest fire control, forest management, and forest insect and disease management,

NOW THEREFORE BE IT RESOLVED, the Alaska Rural Development Council supports legislative action such as House Bill No. 40 to create a

State Division of Forestry and strengthening of professional forestry leadership and authority within the State Forester's organization, and

BE IT FURTHER RESOLVED, that copies of this Resolution be sent to Jay S. Hammond, Governor of Alaska; Guy R. Martin, Commissioner, Alaska Department of Natural Resources; and the House Resources Committee and Senate Resources Committees of the Alaska State Legislature.

COOK INLET CHAPTER  
JUNEAU CHAPTER  
KETCHIKAN CHAPTER  
YUKON RIVER CHAPTER  
SITKA CHAPTER

# SOCIETY OF AMERICAN FORESTERS

Alaska Section



HB  
40

March 1, 1977

The Honorable Alvin Osterback  
Chairman, House Resources Committee  
Alaska State House of Representatives  
Pouch V  
Juneau, Alaska 99811

Dear Representative Osterback:

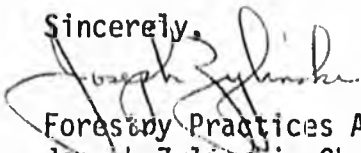
This is in regard to H.B. No. 40 "An Act Creating a Division of Forestry within the Department of Natural Resources...".

The Alaska Section of the Society of American Foresters views H.B. No. 40 as a companion bill to S.B. No. 59 which is an Act relating to forest practices. We favor the establishment of a Division of Forestry. However, we are concerned that the bill does not speak to the establishment of the position of a professionally qualified State Forester. We believe this is essential to provide the professionalism and leadership needed to the conduct and promotion of a sound forestry program within the State of Alaska.

For your additional information and use, we have enclosed a copy of the Society's evaluation of S.B. No. 59 and our letter to Senator Kay ~~Poland~~ **Poland** which essentially reiterates our position.

We would be pleased to assist you in any way in the development of H.B. No. 40.

Sincerely,

  
Forestry Practices Act Committee  
Joseph Zylinski, Chairman, P.O. Box 1305, Juneau, Ak 99802  
Michael S. Leach  
Frank Price  
Robert Janes

Enclosure

COOK INLET CHAPTER  
JUNEAU CHAPTER  
KETCHIKAN CHAPTER  
YUKON RIVER CHAPTER  
SITKA CHAPTER

# SOCIETY OF AMERICAN FORESTERS

Alaska Section



February 11, 1977

The Honorable Kay Poland  
Chairman, Senate Resources Committee  
Alaska State Senate  
Capitol Building  
Juneau, Alaska 99811

Dear Senator Poland:

The Alaska Section of the Society of American Foresters has had a continuing interest in proposed Forest Practices legislation for the State of Alaska. The Alaska Section represents over 200 professional foresters and is a part of a National organization consisting of over 20,000 professional foresters.

The Society of American Foresters does not advocate that States should enact laws which regulate forest practices. This is for each State to decide, based on its needs in terms of environmental protection and forest land productivity which are likely to vary from State to State. Nevertheless, we are concerned that if a Forest Practices Act is enacted in a given State, it be a competent law. To this end, the Society has established "criteria for a competent State Practices Act", a copy of which is enclosed.

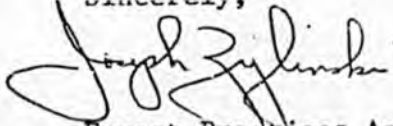
In 1976, we tested S.B. No. 563 against the Society criteria, but unfortunately, only one of our recommendations was incorporated into S.B. No. 59. We have again tested S. B. No. 59 against this same criteria. We sincerely hope that our enclosed analysis and recommendations will be helpful and useful to you and your Committee in developing a competent forest practices act for the State of Alaska.

We recognize the importance of the proposed legislation, especially in view of the fact that more than one-third of the entire State of Alaska of 141,000,000 acres are classified as forest land. Of this amount, 18,650,000 acres are in the coastal western hemlock timber type, with 1,187,000 acres in State ownership and 1,340,000 acres in Native land ownership. The remaining 122,350,000 acres are spruce-hardwood timber types in the Interior, with 27,089,000 acres in State ownership and 16,190,000 acres in Native land ownership.

This means 32.5% or nearly one-third of Alaska's forested lands are now in State and private land ownership. Subsequent State and Native selections will substantially add to this acreage.

Please advise if we can be of additional service. We would be happy to work with you on developing specific language, definitions or other aspects as you consider appropriate.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph Zylinski".

Forest Practices Act Committee, Alaska Section, SAF  
Joseph Zylinski, Chairman  
Michael S. Leach  
Frank Price  
Robert Janes

Enclosure

TESTING SENATE BILL 59  
AGAINST SOCIETY OF AMERICAN FORESTERS  
CRITERIA FOR A COMPETENT STATE  
FOREST PRACTICE ACT  
PREPARED BY JUNEAU CHAPTER  
SOCIETY OF AMERICAN FORESTERS  
FEBRUARY 10, 1977

1. "A Forest Practices Act should encourage the application of scientific knowledge and forest management principles in order that society can obtain the largest net sum of benefits from forest lands. Such an Act should reflect full consideration of both its social and private costs and benefits."

Since the Act designates the Commissioner of the Department of Natural Resources as the person responsible to administer the Act, there is no assurance that scientific and forest management principles will be applied. It is recommended that the State Forester play a more prominent role in administering the Act to assure a sound professional approach. He should be specifically named in the Act and his responsibilities clearly defined.

To be really effective a Division of Forestry should be established with the State Forester as Director. The Act then would be administered by this Division.

2. "A Forest Practices Act should insure the productivity of forest lands and protect the environment, including air and water quality."

Review of this Act indicates that this criteria is adequately covered. Although air pollution is not specifically mentioned, it is assumed that air pollution is included in the review by other agencies, i.e. Department of Environmental Conservation.

3. "State-initiated regulation of forest practices is preferable to regulation initiated by federal and local governments. A Forest Practices Act should recognize regional forest variations within a state's boundaries."

Section 41.17.060 (b) provides "the Commissioner may establish regions, districts, or other subdivisions of forest land within the state in which different regulations apply to reflect varying conditions throughout the state."

It appears that this criteria is fully met by S.B. 59.

4. "A Forest Practices Act should be coordinated and in compliance with related regulatory programs in order to minimize jurisdictional conflicts and administrative costs. Such an Act should be consistent with public forestry research, education, technical assistance and financial incentive programs."

This Act does not specifically provide for acknowledgment that compliance with the Act constitutes compliance with State Federal water quality standards, including non-point pollution. This feature should be integrated into the notification system. Review without objection by other state agencies affected should constitute compliance.

Section 41.17.020 (b) provides for the designation and operation of experimental forests; (c) establishing cooperative forestry programs and extension service programs; (d) establishing and maintaining forest tree nurseries.

There is no provision for forestry education or financial incentive programs. These features should be made a part of the cooperative forestry and extension service programs. Funds would have to be made available for the incentive program.

5. "A Forest Practices Act should clearly define the forest land to be covered under the Act as well as any standards and terms applied with respect to forest practices, air and water quality and soil erosion. A Forest Practices Act should use terminology which is generally accepted by the professions concerned."

Section 41.17.030 establishes exemptions to the provisions of the Act. Subsection (b)(1) indicates that a tract less than 160 acres does not fall under the provisions of the Act. While we believe certain operations are so small as to cause little concern to the citizens of the State, we recognize that a timber harvest of 160 acres at the mouth of certain streams or adjacent to certain estuarine areas could have substantial effects on offsite users if timber harvesting is conducted improperly. As with most resource management policies we find it difficult to establish an acreage limit where impacts are a matter of general public concern. However, we believe this is an administrative detail best left to professionals to prescribe on a case to case basis. We would prefer that the Board, along with the State Forester, establish guidelines that are based on a combination of resource factors including, but not limited to, acreage.

The definitions in Section 41.17.950 are a credit to this bill. Definitions specified are close to meeting SAF criteria No. 5. Improvement of some definitions is needed. We would be more than willing to coordinate this section with the various professions involved and recommend appropriate language.

6. "A Forest Practices Act should establish procedures and guidelines for the development and adoption of regulations, but make no attempt to specify the regulations themselves."

We believe the proposed bill generally meets this criteria and have only one suggestion. The suggestion is that Section 41.17.060 provide for procedures (probably a subsection (14) should be added) aimed at establishing regulations for maintaining State water quality standards and protecting the environment of aquatic and offsite fisheries resources commensurate with economic values represented.

7. "A Forest Practices Act should allow a forest landowner latitude in applying professional forestry expertise and forest management principles. Administrative requirements for forest landowners and operators should not be unduly burdensome."

We find the bill reaches far beyond our criteria in this respect and from a number of different aspects. In essence we believe the provisions of the Bill are unduly burdensome and deprive forest landowners of land resource value and operational latitude without any form of compensation for this taking of basic rights. For instance:

1. Subsection 41.17.040 (b) provides equal regulations for State, municipal, and private land. Item (1) under this subsection (p.4) places the burden of proof on the landowner. While this may be appropriate for State or municipal forest lands, it is not appropriate as a basis for depriving a private landowner of economic values that exist on his own land. The burden of proof should be on the administering agency.

2. Item (3) under this subsection (p.4) requires administration of forest land with respect to production levels of timber products to allow reasonable consideration for marketing conditions. We submit that there is little likelihood that State officials will have access to sufficient data on an individual land owners marketing conditions to warrant any regulation on this account. Even if sufficient trend data for forest products operations at large within a district are available to the State, there can be little justification in regulating any individual landowner's harvest plan since that individual's market opportunities simply are not the concern of the State. This is another illustration of the need to consider regulation of private forest land separately from State or municipal lands.

3. Item (5) under this subsection (p.4) requires the maintenance of scenery in or adjacent to areas important to the tourism and recreation industry. Again, such an imposition on a private landowner is questionable while it can be mandated for State or municipal lands.

4. Section 41.17.050 requires that this Act shall be administered so as to protect forest land from "depletion", "overharvesting", "unsatisfactory forest management", etc. In our view such objectives, while perhaps appropriate for public lands, are not entirely applicable to all private lands in Alaska.

This Section also requires that the State conduct periodic inventories of timber on lands subject to the Act. While we agree that the State needs such authority, there is little reason to require it as a State function. The nationwide Forest Survey of the Forest Service has traditionally provided such service to states and to private and other forest landowners as well as to the various federal agencies.

Section 41.17.060 (d) is an improvement over old S.B. No. 563. This approaches a one-stop-shopping service that will benefit the operator and reduce the amount of work and frustration needed to wade through an unfamiliar bureaucratic requirements. This Section needs to be worded in such a manner to imply that approval of the plan also carries with it a certification that it meets with State air and water quality standards and grants all necessary permits, such as: tideland or other land and water use or occupancy.

Section 41.17.070, subsection (b) provides a "notification" procedure as contrasted to a permit process. We endorse this concept as being more efficient and less burdensome on the private landowner. We believe this notification should reflect an operator's "planned" operation rather than a proposal.

It is noted that up to a total of at least 85 days is provided for the State to make up its mind on each timber harvest plan. While this may be appropriate for public land activities, it is unduly burdensome and debilitating with respect to planned activities on private lands.

Under subsection (d) (3) (p.8) any other agency of the State may trigger a 20 day delay in a crucial operation. Again, we emphasize the importance of eliminating unduly burdensome requirements.

Under subsections (c) and (g) the State must ask for comment on each harvesting plan from both State agencies and by the citizenry through newspaper invitation. This is an open invitation to delays in legitimate plans of a private economic entity. We believe the needed agency coordination should be developed with a Forest Practices Board during the promulgation of regulations and any private landowner's plan or actual operation conducted in compliance with these State regulations should not be postponed or denied.

We endorse subsection (i) of this section.

Subsection (j) limits State approval of deviations from approved plans. Approval is contingent upon consultation with other affected State agencies. We believe a strong professional head of the Forestry Agency can provide an appropriate and expeditious decision on such matters without violating valid concerns of other agencies and without delaying a crucial decision to an operator.

Section 41.17.080 adopts the attitude that chemicals are not a bonafide attribute of productive forest management. The burden of proof is put on the landowner to prove no adverse consequences. We believe the State's policy should be the other way around, i.e. any application of chemicals for forestry purposes which is lawful is acceptable unless evidence in the hands of the State Forestry Agency shows otherwise. To do otherwise is to deprive a landowner of the opportunity to profit by modern day forest practices.

8. "Where boards, commissions or advisory bodies are used, their composition should represent the broad public interest with at least a majority of the membership being knowledgeable and experienced in the scientific management of forest resources."

A major weakness of the bill is that it creates weakness in the administering agency. First, there is no recognition that a strong Forestry Agency is needed to achieve competent and beneficial regulation of forest practices. A demonstrably effective arrangement for achieving such a goal is to provide for a professional State Forester to administer the Act and a Forest Practices Board to promulgate those necessary procedures or

regulations which can't be efficiently established through the legislative process. Forest practices in the State of Oregon have been, over the years, notably more advanced than other west coast states and without the forest practice legislative upheavals experienced in sister states. Oregon has long operated under the State Forester-Forest Practices Board approach.

Next is the problem of gaining support for a forest practices act from forest landowners or forestry experienced residents of the State when the Act will be administered by an appointee subject to change with each new State administration. Forestry programs and regulations must have more continuity and stability to be successful.

Our suggestions for solving this dilemma is to establish a board and a State Forester or Director, perhaps along the lines outlined in the EPA model Forest Practices Act. An additional suggestion varying from the EPA model is that a majority of the board members be knowledgeable and experienced in the scientific management of forest resources. Such a board should include at least one member from the Forest Products Industry and one from an Alaskan Native Corporation.

Recognizing that the question of establishing a strong and professional forestry agency is a major philosophical difference between the Administration and the Society, we wish to point out that the Alaska Section of the Society has been a leader, possibly the first, in advocating that it is timely for Alaska to adopt forest practices legislation. We will not support legislation that is not competent in the forest practices field.

9. "The development of forest practice regulations should be accomplished with due consideration of the knowledge and opinions of forest landowners, timber operators, forestry and related professionals and the public, and should take into account regional forest variations and disparities in land ownership patterns. Public hearings are necessary to achieve these purposes.

It appears that SB No. 59 meets this criteria. However, we recommend emphasis on technical assistance and incentive programs rather than on regulation of activities.

10. "Using appropriate State administrative procedures, forest practice regulations should be adopted by a State forestry agency or board with responsibility for interagency coordination. Forest practice regulations should rest upon scientific knowledge and professionally recognized forest management principles. The regulations should be administered and enforced by a single state agency with adequate staffing and forestry expertise."

The bill fails to provide for a state forestry agency or a board with responsibility for interagency coordination. All powers are vested in the Commissioner who may delegate authority to his subordinate employees or units within the Department of Natural Resources to the extent he considers advisable. This does not guarantee that regulations would be

administered and enforced by an entity within the Department with either adequate staffing, forestry expertise, and funding.

The conversion of nearly 150 million acres of federal land to state and private ownership will occur in the near future. This will involve many millions of acres of forest land. It is reasonable to assume that the Commissioner could satisfactorily perform all of the administrative and regulatory functions as described in SB No. 59 without delegation. The very scope of other activities and responsibilities vested within his Department would necessitate delegation.

The Governor, in transmitting essentially this same bill to the previous Legislature, indicated a desire to administer and regulate forest practices on state and private lands within existing structures and personnel resources of the Department to avoid the creation of a new bureaucracy and to keep government regulation at a minimum. We subscribe to that philosophy. However, we contend that the existing structure, personnel, and professional resources of the Department are insufficient to perform satisfactorily the state and private forestry workload presently existent within the State without even considering the 150 million acres moving from federal to State and private status.

While the Governor's motives are admirable, we believe that the imposition of an additional sizable workload upon an existing skeletal capability would be a disservice to the State, its forest and related resources and a derogation of the stated findings and purposes of SB No. 59.

In this regard, we urge the identification of a State Forester established within and heading a Division of Forestry. In addition, funding and professional forestry manpower needed by the State Forester to administer and enforce a Forest Practice Act need to be recognized and provided for in SB No. 59.

11. "A Forest Practices Act should provide for effective administration and enforcement, with adequate provisions for due process, to achieve the objectives and purposes of the Act. Administrative and enforcement procedures should be efficient and expeditious. Provisions should also be included for the use of continuing education, information and training programs to implement regulations adopted under the Act. Forest management operations conducted in accordance with adopted forest practice regulations should be considered to have met the requirements of laws pertaining to soil sedimentation and air and water quality."

Senate Bill No. 59 contains a considerable amount of administrative and regulatory detail. We believe the Bill should provide for these features in broad terms. The development of details should be left to the State Forester who would work with the various publics in a series of scheduled and well-advertised public meetings. Resultant administrative and regulatory details developed within that medium would be substantially more palatable, relevant, and acceptable.

The Bill should provide for the use of continuing education, information,

and training programs designed to implement regulations adopted under the Act. The State Forester should play a key role in this activity.

These features would go a long way toward developing public acceptance of a Forest Practices Act.

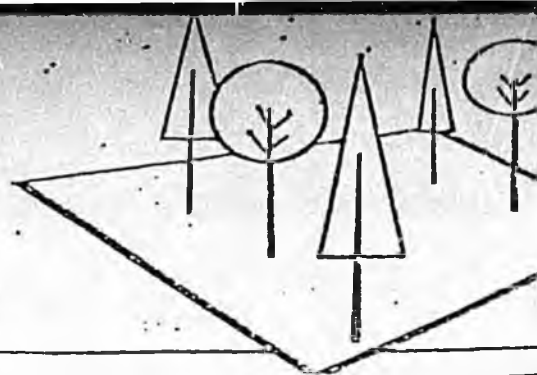
12. "A Forest Practices Act should not preclude the legitimate conversion of forest land to other uses."

Senate Bill No. 59 appears to meet this criteria.

#### General Comment

Section 41.17.040 (c) (3) states that "...all resources and values are of equal priority;...." This is inconsistent with the definition for multiple use contained in Section 41.17.950. We concur with the definition of multiple use and that consideration in any activity must be given to the relative value of the various resources.

# SOCIETY OF AMERICAN FORESTERS



## CRITERIA FOR A COMPETENT STATE FOREST PRACTICES ACT\*

The Society of American Foresters (SAF) has prepared its "Criteria for a Competent State Forest Practices Act" to aid legislators and other groups considering the development or adoption of legislation to regulate forest practices. The paragraphs below are provided as an introduction and should be read carefully so that the "Criteria" can be considered in its proper perspective.

Controversy over the regulation of forest practices in the United States has reached national proportions in three periods prior to the current debate, namely 1910-1911, 1923-1924 and 1938-1952. The sources of these earlier controversies were widespread public concern over future timber supplies, poor timber harvesting practices and wildfire, and the consequent damage in terms of soil erosion and sedimentation of watercourses.

The present focus on state forest practice legislation is a result of the recent sharp increase in public concern over the quality of life in the United States. This change has caused Federal enactment of several far-reaching environmental laws, many of which apply to water quality, to include the Federal Water Pollution Control Act Amendments of 1972. This law is the basis for the Environmental Protection Agency development of a "Suggested State Forest Practices Act" in late 1974.

There has been and remains a concomitant concern for the potential and actual productivity of the forest lands in the United States. When some activities related to forest land management are improperly performed, accelerated soil erosion can result in a significant reduction in water quality and the capacity of the land to produce vegetation. In addition to man-caused siltation of watercourses, other forms of water pollution can result. Certainly, occurrences of this kind ought to be discouraged or at least kept within acceptable limits. This can be done through various education, training and financial incentive programs. Activities which diminish a forest's capacity to grow trees can also be discouraged or prevented through regulation by states or other authority. For this purpose regulation might be useful, and in some cases, necessary.

If the forest management activities involving soil disturbance are properly performed, water quality and the potential productivity of forest soil can be maintained. In fact, certain forest management practices can increase tree growth and provide for wildlife habitat and recreational opportunities substantially beyond the natural limitations of many forest lands. These practices ought to be encouraged, and can be through various education and incentive programs. However, the efficacy of legal coercion in the form of regulation of forest practices is questionable so far as encouraging intensive forest management. The bulk of experience indicates that regulation is better employed to enforce minimum performance standards. Expectations to achieve anything more appear unwarranted.

\*A statement approved by the Society of American Foresters, July 1975.

The Society of American Foresters does not advocate that states should enact laws which regulate forest practices. This is for each state to decide based on its needs in terms of environmental protection and forest land productivity which are likely to vary from state to state. Nevertheless, SAF is concerned that if a Forest Practices Act is enacted in a given state, it be a competent law. To this end SAF undertook the task of developing its "Criteria for a Competent State Forest Practices Act" set forth below.

There are twelve criteria. In some cases it was found necessary to either expand on a given criterion or to address a current issue. These are the purposes of the short paragraphs which follow some of the criteria.

SAF is prepared to elaborate, where necessary, upon any of the following "Criteria" and to assist in discussions or deliberations regarding the regulation of forest practices.

#### Criteria for a Competent State Forest Practices Act

1. A Forest Practices Act should encourage the application of scientific knowledge and forest management principles in order that society can obtain the largest net sum of benefits from forest lands. Such an Act should reflect full consideration of both its social and private costs and benefits.
2. A Forest Practices Act should insure the productivity of forest lands and protect the environment, including air and water quality.
3. State-initiated regulation of forest practices is preferable to regulation initiated by federal and local governments. A Forest Practices Act should recognize regional forest variations within a state's boundaries.

One of the principal arguments for state regulation of forest practices is the immense variability of forest types within the boundaries of most states. A regular practice of states which have forest practices acts is to divide the state in two or more forest districts. Subsequently, separate forest practice regulations are developed for each forest district. This procedure is quite defensible.

4. A Forest Practices Act should be coordinated and in compliance with related regulatory programs in order to minimize jurisdictional conflicts and administrative costs. Such an Act should be consistent with public forestry research, education, technical assistance and financial incentive programs.

If a Forest Practices Act becomes law in a state, it would be but one part of a body of laws, regulations and programs relating to forest resources. Efforts to integrate elements of a Forest Practices Act with other existing laws, regulations and programs should be encouraged. Duplications in agency jurisdictions should be minimized.

5. A Forest Practices Act should clearly define the forest land to be covered under the Act as well as any standards and terms applied with respect to forest practices, air and water quality and soil erosion. A Forest Practices Act should use terminology which is generally accepted by the professions concerned.

Because a Forest Practices Act deals directly with scientific phenomena, to clarify the Act's purposes and scope technical terminology should be employed where appropriate, and standards and terms should be operationally defined.

6. A Forest Practices Act should establish procedures and guidelines for the development and adoption of regulations, but make no attempt to specify the regulations themselves.

Forests are inherently heterogeneous. Furthermore, scientific knowledge of forests and forest management techniques is rapidly evolving. Therefore, a Forest Practices Act would be best designed if it prescribed the procedures by which forest practice regulations are developed and implemented rather than specify the regulations themselves.

Where a Forest Practices Act provides for reforestation, specific stocking standards should evolve from the same process used to develop forest practice regulations.

7. A Forest Practices Act should allow a forest landowner latitude in applying professional forestry expertise and forest management principles. Administrative requirements for forest landowners and operators should not be unduly burdensome.

A Forest Practices Act could so encumber a forest landowner with its requirements that he would forego opportunities to sell his timber, and hence, would have little inducement to manage his land for timber production. In such cases, timber supplies will be adversely affected. There will also be a misallocation of resources if, as a result, intensive timber management techniques are applied to lands which are relatively less suited for timber production.

8. Where boards, commissions or advisory bodies are used, their composition should represent the broad public interest with at least a majority of the membership being knowledgeable and experienced in the scientific management of forest resources.

A widely accepted arrangement for developing forest practice regulations is through an appointed board or commission. If this arrangement is employed, at least a majority of the board's members should be selected on the basis of their education, knowledge and experience in the scientific management of forest resources. Together the board members should be broadly representative of the public interest in forest resources, to include the interests of private forest landowners and timber operators.

9. The development of forest practice regulations should be accomplished with due consideration of the knowledge and opinions of forest landowners, timber operators, forestry and related professionals and the public, and should take into account regional forest variations and disparities in land ownership patterns. Public hearings are necessary to achieve these purposes.

10. Using appropriate state administrative procedures, forest practice regulations should be adopted by a state forestry agency or board with responsibility for interagency coordination. Forest practice regulations should rest upon scientific knowledge and professionally recognized forest management principles. The regulations should be administered and enforced by a single state agency with adequate staffing and forestry expertise.

11. A Forest Practices Act should provide for effective administration and enforcement, with adequate provisions for due process, to achieve the objectives and purposes of the Act. Administrative and enforcement procedures should be efficient and expeditious. Provisions should also be included for the use of continuing education, information and training programs to implement regulations adopted under the Act. Forest management operations conducted in accordance with adopted forest practice regulations should be considered to have met the requirements of laws pertaining to soil sedimentation and air and water quality.

Two methods by which an administrative agency may be advised of an intended timber harvesting operation are by a so-called "notification scheme" and by a system requiring state approval prior to the commencement of timber harvesting. Under a notification scheme, the forest landowner, timber owner, or timber operator notifies the administering agency of his intent to harvest and the location of the harvesting site, together with other pertinent information. Under the "prior approval" system, the forest landowner, timber owner or timber operator submits an explicit statement, application or plan stating his intentions and must await approval by the administering state agency. To date there is no evidence which of these schemes ultimately results in a greater degree of environmental protection or more productive forest land. However, the costs of a prior approval system appear to be inherently greater than those of a notification scheme, all other things being equal. Therefore, a notification scheme should be given preferential consideration.

Instruments which have been effective in enforcing forest practice regulations include: (1) informal conferences, (2) notices to comply, (3) "stop work orders," and ultimately, (4) agency authority to take corrective action at the violator's expense where environmental damage has occurred or is imminent. It should be recognized that the effectiveness of these instruments does not preclude the existence or the possible development of other effective means for enforcement.

12. *A Forest Practices Act should not preclude the legitimate conversion of forest land to other uses.*

A Forest Practices Act which would prevent a forest landowner from converting his land to uses other than timber production would severely infringe upon his property rights. Nevertheless, the landowner's legal right to such conversion should not become a means for evading the provisions of a Forest Practices Act.

#### ABOUT THE SOCIETY

The Society of American Foresters, with over 19,000 members, is the national organization representing all segments of the forestry profession of the United States including public and private practitioners, researchers, administrators, educators, and forestry students.

Objectives of the Society are: To advance the science, technology, education, and practice of professional forestry in America, and to use the knowledge and skills of the profession to benefit society.

Gifford Pinchot and six other pioneer foresters established the Society in 1900.

Members subscribe to a strict code of professional ethics. The Society is the accreditation authority for professional forestry education in the U.S. It publishes the *Journal of Forestry* and *Forest Science*.





Alaska State Legislature  
House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol  
Juneau, Alaska 99811  
(907) 465-3715

M E M O R A N D U M

4 March 1977

SUBJECT: Forest Resources & Practices

TO: House Resources Committee Members

FROM: Alvin Osterback, Chairman  
House Resources Committee

Comments on SB 59 An Act relating to forest practices

Comments on SB 59 An Act relating to forest resources and practices are filed in your drawer under SB 59 etc. Although that bill is in the Senate Resources Committee at this time, these comments are relative to HB 40 also.

*Alvin Osterback*

STATEMENT MADE TO ALASKA HOUSE OF REPRESENTATIVES  
RESOURCES COMMITTEE

MARCH 2, 1977  
HOUSE BILL 40

"AN ACT CREATING A DIVISION OF FORESTRY WITHIN THE  
DEPARTMENT OF NATURAL RESOURCES; AND PROVIDING FOR  
AN EFFECTIVE DATE."

MISTER CHAIRMAN, MY NAME IS PETER HUBERTH, I AM GENERAL MANAGER  
OF THE FOREST PRODUCTS DIVISION OF THE SEALASKA CORPORATION, THE  
NATIVE REGIONAL CORPORATION FOR SOUTHEAST ALASKA.

UPON CONVEYANCE OF OUR LANDS, WHICH WILL BE SELECTED FROM WITHIN  
THE TONGASS NATIONAL FOREST, SEALASKA CORPORATION WILL UNDOUBTEDLY  
HAVE THE LARGEST COMMERCIAL PRIVATELY OWNED FOREST INVENTORY IN  
THE STATE OF ALASKA. WITH RECEIPT OF SUCH A SIGNIFICANT RESOURCE  
COMES THE RESPONSIBILITY FOR WISE USE AND MANAGEMENT WHICH OUR  
CORPORATION FULLY ACCEPTS AND INTENDS TO IMPLEMENT. THE ALASKA  
NATIVES HAVE ALWAYS BEEN WISE USERS OF NATURAL RESOURCES AND WE  
IN SEALASKA FULLY INTEND TO CONTINUE THAT TRADITION.

ADDITIONALLY, IT IS MY OBSERVATION FROM DISCUSSIONS WITH  
NATIVES FROM OTHER REGIONAL AND FROM MANY VILLAGE CORPORATIONS

THAT CONCERN FOR PROPER USE OF NATURAL RESOURCES IS A TRADITION WHICH HAS NOT BEEN LOST.

WITH THIS AS BACKGROUND, WE HAVE REVIEWED HOUSE BILL 40 AND WISH TO OFFER COMMENTS TO YOU AND THE MEMBERS OF YOUR COMMITTEE IN ORDER TO ASSIST YOU IN ASSURING THAT RESPONSIBLE AND EQUITABLE FOREST REGULATIONS ARE IMPLEMENTED IN A TIMELY FASHION SO AS TO REASSURE THE STATE THAT PRIVATE FOREST LANDS WILL BE WISELY MANAGED.

WITH THIS GENERAL INFORMATION AS BACKGROUND, I WISH TO COMMENT ON HOUSE BILL 40 ON BEHALF OF MY CORPORATION. WE HAVE REVIEWED THE PROPOSED LEGISLATION AND AGREE WITH THE CONCEPTS WHICH HAVE BEEN INCLUDED THEREIN. BASED ON ANALYSES OF FOREST PRACTICE LAWS IN THE THREE STATES WHICH BORDER ON THE PACIFIC IN THE LOWER '48, WE FEEL THAT THE SPONSORS OF THIS LEGISLATION HAVE DONE A VERY COMMENDABLE JOB OF INSURING THAT THERE ARE BROAD ARTICLES CONTAINED IN THE ACT WHICH WILL PROVIDE FOR THE RESPONSIBLE DEVELOPMENT OF THE COMMERCIAL FORESTS ON STATE, MUNICIPAL GOVERNMENT, AND PRIVATE LANDS.

OF PRIME IMPORTANCE TO THE FOREST LANDOWNER AND USER IS THAT THERE BE A STRONG DIVISION OF FORESTRY WITHIN THE DEPARTMENT OF NATURAL RESOURCES. SUCH A DIVISION MUST BE AT A SUFFICIENTLY

HIGH LEVEL TO ALLOW THE STATE FORESTER TO BE ABLE TO SET POLICY AND MAKE DECISIONS INVOLVING THE ADMINISTRATION OF REGULATIONS AND THE MANAGEMENT OF FOREST LANDS. THEREFORE, THE STATE FORESTER WILL BE AN INDIVIDUAL WHO REPORTS DIRECTLY TO THE COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES AND WILL HAVE A BACKGROUND WHICH INCLUDES A FORMAL EDUCATION AND SIGNIFICANT EXPERIENCE IN FOREST MANAGEMENT. TO DILUTE THE ADMINISTRATION OF FOREST RESOURCES AND PRACTICES IN ANY WAY OTHER THAN JUST DESCRIBED PLACES A SIGNIFICANT BURDEN ON THE FOREST LANDOWNER AND DENIES TO THE CITIZENS OF THE STATE THE TYPE OF RESPONSIBLE IMPLEMENTATION OF FOREST REGULATIONS WHICH EVERYBODY DESERVES.

IN REFERENCE TO SEC. 38.05.041, DIVISION OF FORESTRY, SEALASKA CORPORATION ENDORSES THE 12 DUTIES AND FUNCTIONS RELATING TO THE MANAGEMENT OF FORESTS WITHIN THE STATE. IT IS FELT THAT A STATE FORESTER WHO HAS THE APPROPRIATE EDUCATION AND EXPERIENCE IN THE FIELD OF FOREST MANAGEMENT WILL BE ABLE TO TAKE RESPONSIBILITY FOR THE FUNCTIONS LISTED AND PROMULGATE REGULATIONS WHICH WILL PROVIDE APPROPRIATE INCENTIVES FOR THE PRIVATE LANDOWNER TO IMPLEMENT RESPONSIBLE FOREST PRACTICES.

WE WOULD HOPE THAT SUCH FOREST PRACTICES AND TIMBER MANAGEMENT REGULATIONS WHICH MIGHT BE PROMULGATED AT A LATER DATE WOULD TAKE INTO CONSIDERATION THE ECONOMIC NEEDS OF THE PRIVATE

LANDOWNER. THIS IS LARGELY DUE TO THE VERY HIGH COSTS OF UNDERTAKING FOREST PRACTICE OPERATIONS IN OUR STATE COMPARED TO THE LOWER '48.

ASSUMING THAT THERE WILL BE AT A LATER DATE SOME REGULATIONS INVOLVING A DEFINITION OF COMMERCIAL FORESTS AND FOREST LANDS, WE WOULD HOPE THAT SUCH REGULATIONS WOULD STILL ALLOW THE INDIVIDUAL COMMERCIAL FOREST LANDOWNER TO HAVE THE OPPORTUNITY TO SPEED UP HIS HARVEST SCHEDULE IF MARKETS AND PERSONAL ECONOMIC NEEDS ARE CRITICAL TO HIM. EVEN IN SOUTHEAST ALASKA, WHERE A NATIVE VILLAGE CORPORATION MAY OWN MORE THAN 20,000 ACRES OF COMMERCIAL FOREST RESOURCE, THERE WOULD PROBABLY BE ONLY SIX SEPERATE TIMES DURING A FOREST ROTATION IN WHICH A COMMERCIAL LOGGER WOULD BE BROUGHT IN TO OPERATE ON HIS LANDS. THIS IS DUE TO THE LARGE AMOUNT OF VOLUME WHICH MUST BE MOVED FAIRLY RAPIDLY IN ORDER TO UNDERWRITE THE VERY HIGH COSTS OF MOVING TO A NEW OPERATION AND SETTING UP THE NECESSARY SOCIAL AND INDUSTRIAL INFRASTRUCTURE FOR ITS SUPPORT.

WHILE THERE ARE FOREST PRACTICES ACTS EXISTING WHICH PROTECT AGAINST "OVER-HARVESTING" AND UNSATISFACTORY FOREST MANAGEMENT, ETC., THESE ARE VERY DIFFICULT TERMS TO DEFINE. IT MIGHT BE BETTER FOR SUBSEQUENT REGULATIONS TO LEAVE THESE TERMS ALONE, BUT THEN ASSURE THAT COMMERCIAL FOREST LANDS ARE PROPERLY REFORESTED AND STOCKED AFTER HARVESTING.

THERE IS A CONSIDERABLE RANGE OF COMMERCIAL FOREST TYPES IN THE STATE OF ALASKA INCLUDING OLD-GROWTH, VERY LARGE TREES IN THE PANHANDLE AND CHUGACH, TO RELATIVELY SMALL ASPEN AND SPRUCE IN THE INTERIOR. THEREFORE WE WOULD ENCOURAGE THE DIVISION OF FORESTRY TO UNDERTAKE A REGIONALIZATION PROGRAM WHICH WOULD ALLOW FOR REGIONS OF SIMILAR FOREST TYPES AND COVER WITH THE ATTENDENT PROBLEMS OF MANAGEMENT IN EACH REGION.

ADDITIONALLY, A NOTIFICATION PROCESS INSTEAD OF AN APPLICATION IN ORDER TO UNDERTAKE VARIOUS FOREST PRACTICES IS OF REAL BENEFIT TO ALL OF THE CITIZENS IN THE STATE BECAUSE IT REDUCES TIMBER HARVEST AND SILVICULTURE COSTS TO THE INDIVIDUAL PRIVATE LANDOWNER THEREBY PROVIDING MORE FUNDS WHICH CAN BE OF ECONOMIC BENEFIT TO THE STATE. IT WOULD BE MORE EFFICIENT FOR ALL PARTIES IF THE NOTIFICATION PROCESS OPERATED SIMILARLY TO A "ONE STOP" PERMIT SYSTEM. THE STATE FORESTER WOULD CIRCULATE THE NOTIFICATION TO ALL INTERESTED STATE AGENCIES SO THAT THOSE CONCERNED COULD MONITOR LAND MANAGEMENT ACTIVITIES UNDERTAKEN BY AN OPERATOR.

ASSUMING THERE IS A REASONABLE BODY OF REGULATIONS PROMULGATED AT A LATER DATE, THE PRIVATE LANDOWNER SHOULD BE ABLE TO VARY HIS FOREST PRACTICES ASSUMING THAT HE STAYS WITHIN THE REGULATIONS AND GUIDELINES FOR HIS REGION.

FINALLY WHERE ALLEGED VIOLATIONS ARE DISCOVERED BY EMPLOYEES OF THE STATE FORESTRY DIVISION, THERE SHOULD BE A PROVISION FOR THE OPERATOR TO IMMEDIATELY CORRECT THE SITUATION IF HE AGREES WITH THE REPRESENTATIVE OF THE STATE FORESTER. IF THE OPERATOR DOES NOT AGREE, THEN THERE SHOULD BE AN EQUITABLE HEARING PROCESS IN THE REGULATIONS WHICH INCLUDES THE FACT THAT (1) THE HEARING OFFICER WILL HAVE A FORESTRY BACKGROUND IN ORDER TO BE ABLE TO PROPERLY ASSESS THE ALLEGED VIOLATION, (2) THE PROCEDURES OF ANY SUCH HEARING WILL INCLUDE THE FACT THAT THE OPERATOR DOES NOT HAVE TO HAVE A LAWYER PRESENT IN ORDER TO FULLY PRESENT HIS CASE, AND (3) THE HEARING WILL TAKE PLACE AS CLOSE TO THE AREA OF OPERATION AS POSSIBLE AND IN MANY CASES AT THE ACTUAL SITE IN ORDER FOR THE HEARING OFFICER TO MAKE HIS OWN INDEPENDENT ASSESSMENT OF THE ALLEGED VIOLATION. ADDITIONALLY, THE HEARING SHOULD TAKE PLACE IN A TIMEFRAME WHICH IS VERY CLOSE TO THE DISCOVERY OF THE ALLEGED VIOLATION.

ALTHOUGH NOT DIRECTLY GERMAIN TO THE SECTIONS IN THE ACT, I WOULD LIKE TO COMMENT ON SOME PROVISIONS IN SENATE BILL 59. THESE PROVISIONS ARE ESPECIALLY ONEROUS TO THE PRIVATE FOREST LANDOWNER AND YOU MAY HAVE THEM CALLED TO YOUR ATTENTION, AT A LATER DATE.

SENATE BILL 59 (IN SEC. 41.17.040(B)(5)) PROVIDES THAT THE PRIVATE LANDOWNER MUST MANAGE HIS FOREST RESOURCE IN A MANNER WHICH WILL NOT DETRACT FROM SCENIC AND AESTHETIC QUALITY IN OR ADJACENT TO AREAS WHERE THERE IS OR COULD BE SIGNIFICANT IMPORTANCE TO TOURISM. WE VIEW SUCH A PROVISION WITH A HIGH DEGREE OF CONSTERNATION. THE STANDARD DENIES TO THE RESPONSIBLE FOREST MANAGER THE RIGHT TO IMPLEMENT PROPER SILVICULTURAL PRACTICES TO ENHANCE THE FOREST RESOURCE. ADDITIONALLY, ITS' LAMENTABLE LACK OF SPECIFICITY PLACES THE DEPARTMENT OF NATURAL RESOURCES AND THE PRIVATE LANDOWNER IN AN UNTENABLE AREA OF INTERPRETATION.

OF SIGNIFICANT IMPORTANCE TO THE CITIZENS OF THE STATE AND THE FOREST LANDOWNER IS THAT AN EQUITABLE HEARING PROCESS BE IMPLEMENTED WHICH ALLOWS THE REVIEW OF ALLEGED VIOLATIONS BY INDEPENDENT HEARING EXAMINERS WHO ARE QUALIFIED WITHIN THE FORESTRY FIELD. SENATE BILL 59 PROVIDES FOR THE COMMISSIONER TO APPOINT A STATE EMPLOYEE AS HEARING OFFICER AND THE COMMISSIONER DETERMINES THE HEARING PROCEDURES. IF MISUSED, SUCH A SITUATION COULD LEAD TO HAVING THE ALLEGED VIOLATOR BEING PLACED IN A VERY UNEQUAL SITUATION. WITH APPROPRIATE INPUT FROM INTERESTED PARTIES, A STATE FORESTER CAN SET EQUITABLE PROCEDURES FOR THE HEARING OF ALLEGED VIOLATIONS AND CAN ASSURE THE ALLEGED VIOLATOR THAT THE STATE IS SYMPATHETIC TO HIS SITUATION AND YET IS PROPERLY

DISCHARGING ITS RESPONSIBILITIES TO ALL OF THE CITIZENS IN THE STATE. NATURALLY, SHOULD THE ALLEGED VIOLATOR FEEL THAT THE HEARING PROCESS WAS NOT SUFFICIENTLY FAIR TO HIM, THEN HE WOULD HAVE RECOURSE TO APPEALS AND JUDICIAL REVIEW.

SEALASKA CORPORATION HAS OTHER CONCERNS ABOUT SOME LINE ITEMS CONTAINED IN SENATE BILL 59, AND WE WILL BE HAPPY TO MAKE THEM AVAILABLE TO YOU SHOULD YOUR COMMITTEE CONSIDER A BILL SIMILAR TO IT AT A LATER DATE.

I CONSIDER HOUSE BILL 40 TO BE A LOGICAL PIECE OF LEGISLATION WHICH WILL PROVIDE FOR THE ORGANIZATION OF A STATE FORESTRY DIVISION WITH THE SUBSEQUENT PROMULGATION OF RESPONSIBLE FOREST REGULATIONS WHICH PROVIDE FOR THE COMMERCIAL FOREST LANDS THROUGHOUT THE STATE AND YET MINIMIZE THE COMPLEXITY OF SUCH REGULATIONS IN ORDER TO MEET THE NEEDS OF INDIVIDUAL REGIONS AND COMMERCIAL FOREST LANDOWNERS.

IT WILL BE VERY IMPORTANT THAT THE HOUSE ACT IN A FORCEFUL MANNER TO INSURE THAT THIS PIECE OF LEGISLATION PREVAILS AND IS OFFERED TO THE GOVERNOR FOR HIS APPROVAL.

THANK YOU FOR ALLOWING ME TO APPEAR BEFORE YOU AND I WILL BE GLAD TO ANSWER ANY QUESTIONS WHICH YOU OR THE MEMBERS OF YOUR COMMITTEE MAY HAVE.

I THANK YOU MISTER CHAIRMAN.



JUNEAU ALASKA

# Alaska State Legislature House

HOUSE RESOURCES COMMITTEE

8 MARCH 1977

## AGENDA

Call Meeting to Order. \_\_\_\_\_

Bill Under Consideration: \_\_\_\_\_

HB 40 Dvsn. of Forestry - Within D.N.R. \_\_\_\_\_

Discussion, Questions.

Adjournment.

*Terry Gardiner - Citizens*

Introduced: 1/12/77  
Referred: Resources and  
Finance

BY GARDINER, ELIASON AND  
FREEMAN

1 IN THE HOUSE

2 HOUSE BILL NO. 40

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating a division of forestry within the  
7 Department of Natural Resources; and providing for an  
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 44.37 is amended by adding a new section to read:

11 ARTICLE 4. DIVISION OF FORESTRY.

12 Sec. 44.37.200. DIVISION OF FORESTRY. There is created in the  
13 Department of Natural Resources the division of forestry.

14 \* Sec. 2. AS 38.05 is amended by adding new sections to read:

15 Sec. 38.05.041. DIVISION OF FORESTRY. The division of forestry  
16 shall perform all duties and functions relating to management of the  
17 state forests which were performed by the division of lands before the  
18 effective date of this Act, including but not limited to

19 (1) the disposal of timber and materials under secs. 110 -120  
20 of this chapter;

21 (2) the state program for the protection of forested land  
22 under AS 41.15;

23 (3) the dissemination of public information regarding forest  
24 practices and timber management;

25 (4) the adoption of regulations in accordance with the Admin-  
26 istrative Procedure Act (AS 44.62) necessary to implement secs. 41 - 43  
27 of this chapter;

28 (5) a system of regular inspection of timber sales by state  
29 foresters;

State hood O

- 2 -

1 (6) the establishment of sound forest practices necessary to  
2 ensure the continuous growing and harvesting of commercial forest tree  
3 species and the protection of the soil, air, fish and wildlife, and  
4 water resources;

5 (7) administering AS 45.50.210 - 45.50.325 relating to log  
6 brands;

7 (8) the maintenance of necessary records and files regarding  
8 timber management;

9 (9) the selection and employment of personnel which the di-  
10 rector considers necessary for the proper operations of the division;

11 (10) coordination and cooperation with federal agencies in  
12 the development of national forest management plans;

13 (11) cooperation with the Joint Federal-State Land Use Plan-  
14 ning Commission;

15 (12) performance of administrative duties and functions, dele-  
16 gation of duties, and execution of the administrative powers similar to  
17 other divisions within state departments.

18 Sec. 38.05.043. TIMBER OPERATION OR FOREST PRACTICES REGULATIONS.  
19 Regulations that provide guidelines for the conduct of timber operations  
20 shall be used as standards by persons harvesting timber resources and  
21 shall include, but not be limited to, measures for fire prevention and  
22 control, soil erosion control, water quality and watershed control,  
23 flood control, stocking, protection against timber operations which un-  
24 necessarily destroy young timber growth or timber productivity of the  
25 soil, prevention and control of damage by forest insects, pests and  
26 disease. In developing these regulations, the division shall solicit  
27 and consider recommendations from

28 (1) the Department of Fish and Game, relating to the protec-  
29 tion of fish and wildlife;

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(2) the Department of Environmental Conservation, relating to air and water quality and waste disposal;

(3) the division of policy development and planning, relating to land use planning; and

(4) other public and private interested sources, including representatives of the forest products industry and timber owners and operators.

\* Sec. 3. Regulations, rules, orders or other Acts in effect with respect to forest management and practices covered under this Act shall continue in full force and effect until amended, repealed, modified or rescinded as the director of the division of forestry determines in accordance with law. Existing contracts made by a department, division or agency transferred to and under the jurisdiction of the division of forestry under this Act shall continue in full force and effect until amended, repealed, modified or rescinded as the director of the division of forestry determines in accordance with law.

\* Sec. 4. This Act takes effect July 1, 1977.

~~4/15/77~~

Area

Sec. 41.17.070 - State Employee

(SB 59)

Consider ~~them~~ later -  
CALL (SEALASKA)

#

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL  
JUNEAU 99811

November 5, 1976

JAY S. HAMMOND, GOVERNOR

DNR 4

### M E M O R A N D U M

TO: The Honorable Jay S. Hammond  
Governor

FROM: Avrum M. Gross *6-1*  
Attorney General *AMG*

RE: Attached bill on forest resources  
and practices  
Our File No. J-77-001-77

Attached is a bill (a slightly revised version of last legislature's SB 563) which has been requested and reviewed by numerous agencies, although the lead agency is the Department of Natural Resources. A few relatively minor modifications of last year's bill have been worked out with Alaska Lumber and Pulp Company and the Alaska Loggers Association.

We have spent considerable time soliciting the comments of interested organizations on this subject, and made numerous changes to reflect their recommendations before introduction of the bill last year. We will continue to work with these organizations up to and during the upcoming session to obtain consensus on this legislation if possible.

A draft transmittal letter to the legislature, explaining the bill, is attached.

AMG:md:JH

D R A F T

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill which relates to state forest resources and practices. This bill has been extensively reviewed by various state agencies and interested organizations, including representatives of the forest products industry; it contains provisions responding to concerns expressed by them.

In addition to Alaska's incomparable mineral wealth, the forest land and water resources of Alaska are among the most valuable natural resources of the state. This land not only holds timber resources which are vital to the economic well-being of the state and the numerous businesses and activities dependent on timber, but the land is also important as the habitat for fish and wildlife, as collection areas for our water resources, and as places for people to fish, hunt, or simply find peace with themselves.

The purpose of this bill is to provide, with a minimum of new bureaucracy, the essentials necessary to foster the longevity of Alaska's forest products industries while concurrently benefiting from all other forest values along the way. This can be done only through adopting some controls over forest practices, but the controls in the bill have intentionally been kept to a minimum.

The focus of the bill throughout is to create new authority only where gaps exist in present authority, and specifically to avoid the creation of a new bureaucracy to deal with forest practices. Furthermore, the authority to be exercised over private forest land, which is treated distinctly from state forest land, emphasizes only a few basic objectives. Our intention is, above all, to keep government regulation at the basic minimum necessary to do the job.

Instead of creating a new entity to deal with forest practices, responsibility is housed in the Department of Natural Resources which, with its experience in land administration, is the most logical choice. The commissioner would administer the Act, with full powers of delegation to existing structures and personnel resources within the department. This will provide for implementation of the Act with a minimum of disruption and expense and without significant inconvenience to the affected public.

Not all timber harvest activities in the state are subject to regulation. Certain activities are exempted. For example, with regard to private and municipal forest land, only commercial forest land, as defined by the Act, is covered. In addition, unconnected small tracts of 160 acres or less under single ownership are excluded from the provisions of the bill to avoid regulation of activities which have minimal impact. The commissioner

also may exempt certain types of operations of forest land from regulation regardless of where they occur, if unnecessary to achieve the objectives of the legislation.

Fostering a continuous supply of timber is another objective, and, here, no complex or restrictive system of allowable cuts or production limits is imposed. Rather, the commissioner is simply charged with reporting to the legislature at two-year intervals on his administration of the Act; his report must demonstrate his plan for insuring a long-term sustained yield of timber.

As to utilization of timber in a manner compatible with other resource values, this bill does not copy the approach used in several other states of incorporating highly detailed forest practice restrictions and codes. Instead, the commissioner is authorized to adopt regulations governing forest practices with respect to subject matter areas that are common in forest practices legislation. He is guided by certain regulatory and administrative standards which are flexible enough to encourage practicality without sacrificing the objectives of the legislation. Most important, these guiding standards distinguish private forest land (which may not be available for general public use) from state and municipal forest land (which will normally be open to the public), and designate the objectives that are appropriate for each. For example, forest administration on public forest

land must be based on the principle of multiple use of all of the resources and values, and encourages recognition of all resources and values. On the other hand, since private forest land owners may elect to concentrate on particular uses and exclude others, their land is not subject to the multiple use directive.

Timber harvesting will be taking place across the state. Some of this harvesting will be covered by the policies of the bill and the regulations issued under it. Consequently, there must be some means of assuring that those regulations are complied with and that the objectives of the bill are reached. Two different systems have been used in other states. The notification system merely requires a timber harvester to notify the state that he intends to operate on forest land; no advance approval is necessary. The advantage of the notification system is that it is simple and administratively inexpensive (at least the process itself is). The disadvantages are that the government may be largely unaware of what is happening in particular projects and violations may escape notice. In addition, the timber harvester has little or no contact with the administrative authority, leading to the likelihood of misunderstandings and a large number of inadvertent violations. Other states use varying degrees of a prior-approval system. In some cases, highly detailed plans approaching impact-statement detail are required; in addition, they may have to be prepared by a licensed forester. The benefits of this system

include a much greater familiarity with operations taking place around the state, the opportunity to identify undesirable aspects of operations before any damage occurs, and the chance to work out differences with the operator before the project is initiated. On the negative side, the prior-approval system can be highly expensive, onerous to the operator, and may lead to extensive delays.

This bill uses neither system exclusively; rather, it incorporates the positive and eliminates the negative aspects of each. Before operating, the timber harvester must submit a brief description of the proposed project. It is to be reviewed during a relatively brief time by the commissioner (with input from affected agencies) for consistency with the applicable policies and regulations, and approved or conditioned to insure that consistency. Only if substantial problems appear would more detailed plans be required, and these would apply only to the particular problem area rather than to the entire project. To protect against bureaucratic footdragging, there is a statutory maximum time which the commissioner may use for review and approval, and there are no exceptions. There is also a statutory directive that paperwork be kept to a minimum to prevent inconvenience to the operator. This approach will require only that amount of information and participation from the operator necessary to provide the commissioner with familiarity as to the nature of forest development operations and to identify in advance serious problems.

Finally, in the event of a violation, the bill uses an administrative fine system (with full due process guarantees) rather than criminal penalties. Criteria are set out for establishing the amount of the fine. Judicial review of the administrative fine is provided.

I am convinced that this bill is well suited to Alaska and will greatly benefit the natural resources and general well-being of the state. I urge your favorable consideration.

Sincerely,

Jay S. Hammond  
Governor