SB

59

SHEE ATIKA, INCORPORATED

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March 23, 1978

Senator Kay Poland
Chairman, Senate Resources Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99801

Dear Senator Poland

The Board of Directors of Shee Atika, Inc. have directed me to convey their concerns to the Senate Resource Committee relating to the administration's proposed forest practices act.

We would very much like to see a forest practices act adopted this year. We are equally interested; however, in seeing that a practical and fair forest practices act is adopted. Several points were noted by our Directors during their attendance at the Senate Resource Committee work session, held March 8th, at which Mr. Jeff Haynes present the administration's draft bill. Shee Atika, Inc. would like to express the following concerns relating to those points:

1. We need a forest practices act this year.

   A. It appears that operations and activities on privately owned forest lands will be regulated through other authority, with less concern or emphasis on private forest management, if an act is not adopted this year.

   B. Section 208 of the Federal Water Polution Control Act essentially mandates the State to adopt an act; BUT we can adopt a practical act to satisfy the Section 208 requirements. Sec. 208 does not require us to adopt a "California" type act which is both difficult expensive to administer and unfair to the private land owner.

2. We feel that the administration's draft bill is generally acceptable with the following critical exceptions:

   A. Forestry on private and state or municipal land should be administered from a level comparable to atleast the Division status within state government. Forest resources deserve attention and status equal to Commercial Fisheries, Sport Fisheries etc. if not equivilant to Fish and Game and Environmental Conservation.

   B. The Forestry branch should be led by a professional forester. This is necessary to insure that administration of a forest practices act have continuity without being subject to a possible political reward system, to insure appreciation for forest management problems by the administrator, to insure communication between the forest land owner and the administrato and to insure that in inter division or inter department relationships modern technical forestry is represented and understood.

C. Alaska's forest practices act should incorporate a notification system for activities on private lands, not a permit system as in the administrati draft. We have no objection to the "prior approval permit" system on public lands. At the Resources committee meeting Mr. Haynes did not adequately discuss the differences between these two systems. The basic difference is that a permit system (as proposed in the administration's dra requires the state's permission before a land owner can conduct activities on private lands; while, a notification system requires that a land owner inform the state prior to any activity on private land and that the land owner obey state law and regulation. Mr. Haynes reported that a notificati system was nothing mc ' than requiring a land owner to "mail a postcard" to the state when he ' she was planning to conduct a forestry operation cn his or her land. This is absolutely untrue. The administration probabl has proposed a prior approval "permit" system because it wants the state to have a reasonable amount of influence on forest practices on private lands. That objective is reasonable and very acceptable for us as a land owner. That same objective can be accomplished; however, by tailoring a notificati system in the proposed forest practices act. The notification system works very well in Oregon and it will work well in Alaska. We don't need to burden the private land owners and the state with the inherent problems of a California type prior approval "permit" system to accomplish the objecti of insuring that privately owned forest resources are properly managed. We would suggest that the "permit" system in the administration's draft be replaced by a"notification" system which required 30 days prior notification b an operator or owner including filing of operation plans which identify wh activity (s) is/are planned, what equipment will be used, where roads will be located, where streams are located, how the area be refo sted etc. The plans should include location of the affected area on a USGS 1" mile topographic map with road & bridge locations, activity boundaries, streams, campsites, land fills, log storage areas, fuel storage areas, rock pits, water source, sewage disposal system, and landings identified and located. This is the same information that would be required by the administration's draft. We suggest that in lieu of a "permit" system the act should authori the state to require a pre-orperation meeting wi h the operator or land own This would give the state an opportunity to exp'ain any concerns and advise the land owner/operator of the probable consequence of an activity. The need for a pre-operation meeting shuld be left to the discretion of the reviewing officer. We would advocate and endorse very stiff penalties(as i the administration's bill) to insure compliance with state law and regulati under a true "notification" system. We would not be adverse to posting a reasonable bond prior to any operation on our lands. If the state consider adopting the preformance bond concept; however, it would be desirable to include some means of exempting small landowners and operators and guarantee ing that the bond amount would be no larger than that required to both encourage compliance and cover the expense of correcting a possible adverse situation created by an illegal activity.

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A true notification system (as used in Oregon) is far less expensive to administer than a permit system which requires state consent as suggested by the administration. Considering volume harvested California's permit system is 6.5 times as expensive for that state's taxpayers when compared to Oregon's notification system. Considering the number of operation notices filed California's permit system is 27.3 times as expensive as a notification act. It is logical to conclude that these costs would increase by a blanket 25% cost of business factor and 25% allowance for increased transportation expense in Alaska. Transportaion represents only 7% of Oregon and California's forest practices connected budget while it would probably approach 33% of the forest practices budget in Alaska. The transportation allowance would tend to be much higher under a "permit" system as a "permit" system has an inherent characteristic which encourages state enforcement personnel to make several visits to each operation prior, during and following the activity. Fixed administrative expenses will also be much higher in Alaska due to the relatively fewer number of operations here and smaller annual yield when compared with Oregon and California.

D. We agree with Senator Meland's concern regarding the administration's provision 41,17.040 b (6) that "allowance be made for scenic and asthetic quality in or adjacent to areas of substantial importance to the tourism industry." This provision will undoubtedly foster many law suits as people disagree on such items as:

1. What constitutes "allowance"?

2. What is "scenic and asthetic quality"?

3. What constitutes "substantial importance"?

Mr. Haynes indicated that this section intended to authorize the state to use an incentive program to compensate land owners for the economic impact of state restrictions under this section. If this is the intent, we suggest that the act should mention the state's authority to compensate a land owner for volutarily curtailing any activity related to "scenic quality" which the state finds objectionable. We further suggest that the implication that a land owner can be prevented from managing his resources (if the state feels the activity would conflict with "scenic value") be stricken.

We would like to express the following views on other points discussed in the committee session March 8.

1. We endorse that portion of the administrations bill which sets mandatory standards for reforestation and conversion to non-forest uses. These are reasonable standards which we plan to meet and surpass.

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2. We concur with Senator Sumner's concern about who has the burden (landowner or state ?) under Section 41.17.040 b(1) of the administration's bill which states "timber harvesting is limited to areas where data and information indicate an absence of reforestation problems which would preclude that area from producing a sustained yield of merchantable timber". This problem could easily be corrected, and the objective retained, by modifing the passage to read "timber harvesting may be limited in areas where data and information indicate that it would produce unsolvable reforestation problems which would preclude that area from producing a sustained yield of merchantable timber."

Thank you for your consideration. We were pleased to note the committee's expression of concern for the rights of the private landowner at the March 8 meeting.

Sincerely

Warren R. Weathers
Executive Director Shee Atika, Inc.

WRW/nmw

An Alaska Forest Resources and Practices Act has been in the works for four years.

This legislation is urgently needed to provide policy and program direction with respect to development and conservation of forest resources on state and certain private land.

Other states have waited too long to pass forest practices legislation, acting only after controversy became intolerable and attitudes were irreconcilable. By enacting CSSB 59 now, before logging in Alaska reaches its greatest intensity, we can avoid that mistake, develop forest management measures through the combined expertise of all interested parties, and permit Alaska to enjoy a national reputation for leadership in the administration of forest resources.

The process by which this bill was developed demonstates that consensus among forest users is possible if the proper mechanism is employed. Originally introduced by the Administration, the legislation was the subject of hearings in two previous legislative sessions. After last year's hearing in Senate Resources, there was still substantial disagreement; consequently, a working group composed of members of the Administration and all affected user groups was established by the Resources Committee and requested to come up with a consensus bill. The response was a Sponsor Subsistute, further revised by Senate Resources and subsequently Senate Finance as Committee Substitutes.

(1)

Undoubtedly, no one is ecstatic with the final product. It is the result of hundreds of hours of negotiation involving the Legislature, the Administration, native corporations, the forest products industry, the Forest Service, conservation groups, commercial fishermen's representatives, and professional foresters associations. However, it is a compromise which all have indicated they can live with, and which is probably the best result possible given the very controversial nature of this subject. Such legislation is inevitable in the long run, and to delay it to future sessions would only result in massive duplication of the work already done with no significant guarantee of a better bill. Moreover, in the interim, there would be no adequate vehicle to resolve the user conflicts which are certain to occur.

CSSSSB 59 would establish a Division of Forest, Land and Water Management in the Department of Natural Resources, with specified responsibilities over forest affairs. It would be headed by a State Forester selected by the commissioner from nominees submitted by a Board of Forestry; the Board would also advise and comment on proposed regulations and related matters. The State Forester would have a wide range of authorities and duties, including management of state forests, public education and assistance, and development of regulations embodying desirable forest practices on state and designated private land.

(2)

Special provision is made to incorporate the State Forester into the process of developing nonpoint source water pollution control measures so that an acceptable state program is formulated and we are not ultimately pre-empted by the Environmental Protection Agency in this very sensitive area.

Incidental and small scale commercial operations and harvesting primarily for noncommercial or personal use are exempted from the bill to protect homesteaders and other small landowners from unwarranted government regulation.

The State Forester would be directed by a set of policy standards, with one set for public land and another for private land to reflect the difference in state interest in such lands and to protect the prerogatives of private landowners.

Promulgated regulations governing forest practices would be applied to public and private land, supervised through a notification process, and enforced through an administrative penalties provision with special allowances to insure that the government's enforcement discretion is not abused.

The State Forester would be required to develop a plan to implement the policies and provisions of the bill and to report to the Legislature at two year intervals on the operations of the Division and to show that the policies and provisions are being carried out.

In summary, this bill would accomplish a state purpose of the first magnitude without unjustified government interference or duplication of existing government entities, and I urge that the Senate take favorable action.

(3)

Major Changes in Finance Committee Substitute:

1. Division:

   -required to be established;
   -retitled Forest, Land and Water Management (responsibilities from Resources Committee Substitute retained)
   -Director selected from list submitted by Board of Forestry

2. Exemption for small landowners modified to focus more on the manner in which the timber is being used rather than the type of land from which it is harvested. In practice, this is really a form change as it was not intended to alter the coverage of the exemption.

3. Standards Applicable to Private Land; reinsertion of standard for reforestation, substantially modified from original Sponsor Subsitute version.

4. Review of Operations: changed from limited prior approval to modification system.

Rules Committee Substitute contained three corrections of clerical errors made in typing Finance Committee Substitute.

April 6, 1978

The Honorable John L. Rader
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

Under 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 substitute bill for SB 59 (forest resources and practices), introduced by me during the 1977 legislative session. This sponsor substitute is the result of a considerable amount of further study and numerous meetings involving persons and organizations concerned with forest resources and practices. The following statement of the reasons for this legislation and the section-by-section analysis go into some detail in order to provide evidence of legislative intent.

I. REASONS FOR THE LEGISLATION

The purpose of the legislation is to establish a program for the administration of forest resources in Alaska so that the state may realize, over the long term, the wide variety of products, benefits, and services obtainable from forestland.

It is especially important that this legislation be enacted before use of forest resources in Alaska reaches its greatest intensity. States which have delayed passage of appropriate forest practices Acts until an absolute necessity arose have often experienced a climate of conflict which complicated legislative deliberations and reduced the quality of the legislative product. In addition, some options for approaches to administration and for realization of objectives were already foreclosed. Enactment of an Alaska Forest Resources and Practices Act at this time would permit consideration of potential measures and programs in an atmosphere conducive to

solutions mutually agreeable to all parties. Most important, it will allow conflicts to be resolved in advance, precluding potential disruption of operations in the field.

While a state forest resources program is necessary and desirable, it is not the intention of this legislation to create a massive new bureaucracy which would only result in waste of government funds and manpower. Rather, the approach used is to fill existing gaps in the statutes through enabling legislation which would provide for a thorough forest management program without duplicating or overlapping existing government programs of the Department of Natural Resources or other state agencies. Emphasis is placed on cooperation between these agencies to achieve generally desired objectives.

Development of this transmittal letter reflects my wish to limit the language of the Act to essential matters while providing the intent behind its provisions. I offer the Act and the letter as a package, with the statements of intent in the letter to govern application and interpretation of the Act. The appropriate committees of the legislature are strongly urged to adopt this transmittal letter as the committee report on the bill.

II. SECTION-BY-SECTION ANALYSIS

Section 10. Declaration of Intent.

Section 10 contains a brief statement of the findings of the legislature and the purpose of the legislation. Paragraph (1) recognizes the range and variety of forest resources; that forest products include not only timber but other products obtained from the land and water (including marine areas) influenced by forest ecosystems; that multiple products, benefits, and services are obtained from forest resources; and that forest resources and values often escape quantification.

Paragraph (2) reflects my desire that the various businesses and other activities (whether or not commercial) which are dependent upon forest resources receive the support of the state for their continuation in the government's forest resources program. The term "economic enterprises" is intended to be comprehensive, including not only existing businesses but those industries which may be developed as new forest resources become accessible or economically viable, and recognizing that forest resources present opportunities for small businesses as well as large corporations.

"Activities and pursuits" includes those which are not necessarily revenue-generating, and would encompass subsistence use.

Paragraph (3) declares that the programs and measures provided for in the Act are not only desirable but a basic duty of the state and implement the directives contained in several of the sections of Article VIII, Alaska Constitution. It is especially critical that timber supplies and other renewable resources be maintained and available in perpetuity to protect the longevity and insure the stability of the forest products industry, to insure that enterprises dependent on forest resources continue to make a substantial contribution to the Alaskan economy, to prevent impairment of the capability of the land and water to produce renewable resources, and to make certain that forest land generates the services and benefits, whether commercial or not, which Alaskans have come to expect from it.

Paragraph (4) contains two important concepts. First, much contemporary legislation has relied excessively on regulatory measures to achieve desired goals when this approach may in fact be both onerous and inefficient. Therefore, this Act would direct that regulations, services, and incentives be employed in the combination which is most likely to accomplish the purposes of the Act.

Second, the state has not to date developed a high-profile forestry program emphasizing the expertise of professional foresters, which is inherently necessary if forest resource administration in Alaska is to be successful. As a result, paragraph (4) stresses the importance of forest resource professionals as an essential element to complete the state's multidisciplinary capacity.

Paragraph (5) addresses the need for the state to carry out its responsibilities for control of nonpoint source pollution under the Federal Water Pollution Control Act under the leadership of the Department of Environmental Conservation, which is the lead agency under law for this program. The Environmental Protection Agency has left it to the states to devise their own approaches in this area, but has indicated that the federal government will assume control if a state does not develop an approved program. The Department of Environmental Conservation may legally delegate its authority with respect to this program to the Department of Natural Resources or otherwise use the forestry expertise of DNR with respect to development of the nonpoint source program, and the regulations developed under this chapter could be used in conjunction with this program.

Paragraph (6) recognizes that regulations adopted under the Alaska Coastal Management Act must address forestry matters; to avoid conflicting regulations, it is necessary that those adopted under this Act be used under the Coastal Management Act, superseding any forestry regulations previously adopted under the CZM Act. However, any prior efforts under CZM should be considered in adopting regulations under this Act.

Section 20. Administration.

This section designates the officials responsible for administration of the Act and establishes authority for carrying out desirable forest resources programs.

Subsection (a) reflects the request of numerous interest groups that a division responsible for forestry be created within state government in order to (1) provide recognition for forestry and forest products, as has already been done for many other natural resources, (2) bring the expertise of professional foresters to bear on forest management issues, and (3) establish a contact and focus point in the government for the forest products industry and other users of forest resources. This subsection expresses the governor's power to create a Division of Forest, Land and Water Management with the director to be known as the state forester. It is emphasized that the state forester must be a trained professional with the requisite education and fully experienced with the many issues and subjects inevitable in the administration of the Act.

Subsection (b) provides that the ultimate responsibility for implementing the Act is vested in the commissioner. However, the expertise of forest resource managers cannot be employed unless the forestry expertise housed in the division is fully used. Consequently, it is expected that the commissioner will delegate authority for daily administration of the Act to the state forester, reserving to himself only those matters requiring the attention of a cabinet officer. Moreover, the commissioner and the state government in general should make use of the state forester on other forestry matters even though they may technically be beyond the purview of the Act.

I recognize that it will take some time to develop completely the program envisioned by the legislation. However, by creating the division, naming a state forester, and listing the functions assigned to him, I expect that the program ultimately formulated will exceed the accepted minimums for administration of forest resources. Specifically, I intend

that the commissioner and the state forester employ foresight and innovation rather than being constrained by conventional attitudes so that Alaska's forest management effort enjoys a national reputation for leadership and competence.

Forest managers are expected to calculate timber harvests and rotation ages in a way which insures sustained yield and a steady supply; this has been difficult in the past on state land because the acreage available for timber use has not remained constant. Subsection (c) provides for the opportunity to establish a minimum fixed timber supply base from which to make sustained yield calculations. In addition, the state will ultimately determine that land which it wishes to retain in state ownership for multiple use purposes, some of which will be forested land. While subsection (c) does not mean that all of the state's retained land will be designated as state forests (as opposed to some other category), it does allow for the designation of that land with substantial timber and other resources for retention. Failure to designate state forest land as a state forest does not, of course, remove it from the provisions of this chapter.

The ultimate success of the state's forest management program will depend on the knowledge available to decisionmakers. Numerous subjects and issues invite research and experimentation, and subsection (d) sanctions the designation of special forest units for this purpose. I would anticipate the use of such forests for analysis of exotic stocks; development of genetically superior stocks; evaluation of the effects of land use activities and of methods to reduce adverse impacts; experimentation with advanced harvesting, extraction and transportation techniques and equipment; examination of programs for control of disease, fire, and insect infestation; cooperative projects with other agencies respecting compatible management of multiple resources; and any other activities enhancing or refining forest management efforts. Such forests must be limited to the minimal size necessary for conducting the research or experiment so that ill-considered major projects may not be continued under the guise of scientific investigation.

Reforestation and afforestation must be the highest priority among silvicultural programs, being most directly related to maintenance of perpetual supplies of timber. Within funding capacity, the commissioner is expected to make available planting stock to assist operators in meeting reforestation requirements of the Act, although this does not relieve their duty to observe those requirements. The term "nurseries and

greenhouses" is not intended to be restrictive; all facilities providing planting stock (including containerized greenhouses and other advanced versions) are consistent with this section. "Forest vegetation" was used instead of forest trees since there may be instances where ground cover or other plants will be beneficial in forest management. Subsection (e) also provides that the commissioner may charge for providing planting stock, with any proceeds to go to the general fund.

Subsection (f) authorizes a full range of professional management services and participation in federal assistance programs such as those conducted by the Forest Service under their state and private forestry division. Since there will be many new timber operators and owners in the state in the near future, education and management assistance efforts may provide expertise which would be otherwise unavailable, leading to more efficient operations and better forest practices. Such services must be closely coordinated with regulatory and review requirements, as is discussed later in this analysis.

As discussed earlier, the Department of Environmental Conservation may legally delegate authority to the Department of Natural Resources for development of regulations necessary to implement the forestry portion of the state program for control of nonpoint source pollution under the Federal Water Pollution Control Act, as amended, or to use any other arrangement to take advantage of the forestry expertise of DNR. Subsection (g) formalizes this authorization and directs DNR to seek a cooperative agreement on this subject. However, it also reemphasizes that DEC is the lead agency and that any regulations or cooperative agreements must be approved by the commissioner of environmental conservation before they become effective.

Since maximum contact with forest resource constituencies is critical if the government and the private sector are to understand each other's positions and interests, subsection (h) places a duty on the commissioner to consult with all appropriate parties in the administration of the Act. The commissioner is expected to consult continuously with other state agencies possessing natural resource management responsibilities and to draw fully upon their expertise; this is expecially true where DNR has no expertise of its own in a particular subject area. The term "landowners" should be construed to include adjacent landowners with respect to operations which may affect them. Moreover, the commissioner is not limited to entities within the state; federal

agencies, and agencies and institutions of other states and of foreign countries should be contacted to provide the state forester with maximum access to information on new management techniques and other matters. The provision on cooperative agreements and contracts is intended to permit formalization of consultation, management, and other activities where desirable.

With respect to subsection (i), there were a number of requests for creation of an advisory committee or board to assist the state forester. However, establishment of a specific committee or board by statute automatically initiates a useless controversy over the makeup of the entity. Moreover, while a general advisory committee may be important, creation of special committees on particular issues of special importance may also be warranted from time to time. While the bill endorses the advisory committee approach where appropriate, it provides flexibility which is the key to a successful advisory committee system, and thus leaves it to the department to determine the particulars. The commissioner is, nevertheless, directed to establish at least one advisory committee, and it is expected that the commissioner will use the advisory committee system (1) to develop specific approaches to implementing the standards in sec. 40 through the advice of professionals and other interested persons, (2) to formulate the particulars of the exemptions under sec. 30(c), and (3) to carry out consultative duties under subsection (h).

Moreover, advisory committees created must be representative of the various constituencies dependent on or affected by management of forest resources so that a full range of public opinion is received. Advisory committees should meet regularly, and members should be appointed to specified terms long enough to permit them to become familiar with the issues and to make meaningful recommendations. The commissioner should appoint an advisory committee as soon as possible after the effective date of the Act to assist in the development of regulations. The provision on travel and expenses is intended to be used only where advisory committee activities are clearly necessary and of benefit to the state.

While there were several suggestions for a provision mandating the location of the state forester, I believe that access to trained forestry personnel by the public is more directly responsible for the success of a government forestry program. Therefore, subsection (j) speaks to distribution of the department's foresters rather than the location of the state forester.

The introduction to this analysis stressed the importance of avoiding duplication of existing authority in the enactment of forest practices legislation. Subsection (k) fulfills this objective by insuring that the statutory prerogatives of other agencies are retained and that this Act is not viewed as other than supplemental to the overall state regulatory framework for forest resources. The only exceptions are that (1) forestry regulations developed under this chapter shall be used as the forestry segment of the Coastal Management Act program and (2) if authorized by the commissioner of environmental conservation, regulations adopted under this chapter may serve as the forestry portion of the state program for control of nonpoint source pollution.

Subsection (l) is self-explanatory.

Section 30. Applicability.

This section specifies the applicability of the Act to particular land and activities.

Subsection (a) is self-explanatory. The limitation in SB 59 to commercial forest land was removed as it was considered to be illogical and extremely difficult to administer. Municipalities are not prevented from adopting ordinances which embody stricter standards and practices than those promulgated under this Act.

Subsection (b) reflects the fact that state standards adopted under the Federal Water Pollution Control Act may be made applicable to federal lands.

Subsection (c) covers exemptions. The intent of this provision is to limit the applicability of this Act to major commercial operations which genuinely affect the objectives of this chapter relating to the maintenance of a stable and healthy forest products industry and the perpetuation of supplies of renewable resources. Consequently, the commissioner is required to make exemptions by regulation to insure that small landowners who expect to be able to sell or otherwise use their timber will be permitted to do so. Since it is impossible to determine in all cases what is a "small landowner", the commissioner may determine the particulars through exemption regulations. However, any owner of the tracts described is entitled to an exemption unless his tract is being used as a part of a major commercial operation, as where a logging company purchases the timber rights to numerous contiguous tracts in order to conduct a large scale logging program. With respect to tracts larger than 160

acres which are not part of a homestead, farm, or residential or recreational property, the commissioner may exempt them if they are not capable of being managed as a sustained yield forest unit.

Section 40. Regulatory and Administrative Standards.

The best approach to forest practices legislation is to avoid placing specific practices measures in the statute; instead, practices should be developed through the regulatory process, with such regulations and other administrative actions governed by guiding standards contained in the Act. Section 40 contains such standards.

Subsection (a) contains standards applicable to all forest land, regardless of whether in public or private ownership.

Paragraph (1) recognizes the importance of determining the reforestation capacity of land before timber harvesting. The determination is to be made by the government. This standard is not intended to mandate a non-declining yield type of management, but it does reflect the paramount state interest in having all forest land (unless legitimately converted to another use) continue to produce merchantable timber over the long term.

Paragraph (2) dictates that important information relative to any decision should be collected and used, and that it should be current. In some cases, land managers have become lax in keeping abreast of recent developments in their field, and make decisions based more on their status as professionals rather than through true analysis of a situation. This standard is not intended to be an unwarranted obstacle to management activities or to focus the burden of developing data on the operator. It does, however, place a duty on the manager to account for his actions in a convincing way.

Paragraph (3) mandates recognition of the concepts of environmentally sensitive areas and best management practices in conjunction with nonpoint source measures if adopted under this chapter. A number of approaches could be utilized, depending on the objective to be achieved, including standards, quantitative limitations, and zones or management units.

Paragraph (4) identifies two important elements often missing in forest resource management; first, that forest practices requirements often impose real costs on the operator, and should be weighed in terms of the public benefits realized;

and second, that a format for the harvest of trees convenient for government managers may be unrealistic for operators in view of marketing conditions.

Paragraph (5) recognizes the fundamental public trust obligation of the state to insure that the capability of the land to produce renewable resources is not impaired. While a particular species of tree or wildlife may have little relative value now, the future may find it suddenly in great demand. If the land is incapable of producing it to the demand level, an important land management option is lost, to the detriment of the public welfare.

Paragraph (6) reflects that loss of scenic quality may have an impact beyond the boundaries of the land where the activity is taking place. While this standard permits consideration of scenic factors where economically feasible, it is not intended as a prohibition on land-use activities, especially on private land where private landowners are justified in using resources subject to their ownership. It is directed primarily at public land where scenic quality is one of the multiple uses and values deserving recognition in a public land management program. In situations where an area is an important source of tourism and recreation, for example, a landscape architect might be employed in the design of the layout.

Subsection (c) contains those additional standards appropriate for public land.

Paragraph (1) follows similar federal legislation by applying the principles of multiple use and sustained yield to public land. These concepts are so well accepted as desirable objectives that further explanation is unnecessary. Once again, the approach which allows satisfaction of present needs without foreclosing future options is the most desirable.

Paragraph (2) injects another common principle in forest management. Specifically, while multiple use necessarily involves combining compatible uses within a large land area, forest practices and allocations result in assigning priority uses to particular areas. This standard provides that any allocation system should be implemented through analysis of the capability of the land and the resources and values present.

Paragraph (3) does not require that all uses be given equal distribution in the implementation of a multiple-use system.

It does, however, require that the process begin without any preconceptions or prejudices on the part of land managers.

Paragraph (4) recognizes the need to accommodate the concerns and requirements of the many forest resource constituencies.

Section 50. Administrative Plan and Report.

Subsection (a) requires that a plan be developed by the department demonstrating compliance with the Act. Without such a planning process, it would be difficult for the department to direct all of its activities and programs toward meeting uniform goals. Moreover, there would be no guarantee that a long range blueprint (based on a rotation age or similar concept) for forest management would be formulated; this is necessary if undesirable consequences are to be addressed before they become impossible to deal with. It is expected that the plan will concern itself specifically with management issues of interest to the public, such as harvesting methodology, timber management philosophy, and a system for perpetuation of supplies of renewable resources. While the plan will necessarily be revised and augmented over time to reflect new information and management techniques, the first draft should accompany the first report to the legislature required by subsection (b).

Subsection (b) requires a report to the legislature demonstrating accountability with respect to subsection (a).

Subsection (c) directs the preparation of recommendations for financial incentives as part of the threefold approach to achieving the objectives of the Act (regulations, services, and incentives).

Section 60. Regulations.

This section vests authority for regulations governing forest practices. Regulations may be adopted, of course, to implement other portions of the Act as well.

Subsection (a) lists the subject areas for regulations. They are intended to cover appropriate silvicultural and related activities necessary for forest management without encroaching on functions traditionally performed by other agencies. It is expected that a set of at least interim regulations would be developed by early 1979.

There has been a number of requests for a one-stop permit process. The department should not be vested with authority

to actually approve permit applications on behalf of other agencies since that is a matter for their discretion. However, an operator should not have to visit each agency and division which requires a permit. Therefore, this section allows the operator to make all of his permit applications through one place and to be informed of the outcome by the department. Where applicable, the provisions of AS 46.3[illegible] should be used to coordinate multiple permit determinations.

Subsections (c) and (d) are self-explanatory.

Section 70. Review and Approval of Operations.

This section is intended to institute a review process which combines the best elements of the notification system and the prior-approval system without incorporating their disadvantages as well.

Subsection (a) is, of course, subject to any exemptions granted under sec. 30(c).

Subsection (b) stresses the importance of the professional management services approach. If there is early and consistent contact between operators and the department with respect to pending operations, the operator will gain maximum benefit from assistance programs, understand applicable regulations so as to avoid inadvertent violations, provide state officials with a full understanding of his interests and needs, and in general facilitate administration of the Act. With full cooperation between operators and the state, review under this section could be rendered largely a formality. Moreover, while the statutory requirements must be met, I recognize that operations may range from a one-time harvest occupying one season to an ongoing harvest program taking place continuously for years. The commissioner is expected to tailor this process to various proposed projects so that unnecessary bureaucratic obstacles are not erected.

The review process in subsections (c) through (i) imposes an ironclad time frame on the length of the government review. There are no exceptions. The notification description should consist of a logging and access plan so that the location of land-use activities is easily discerned. The extended period in subsection (d) is to be authorized only where the complexity of the subject matter makes it physically impossible for a 20-day review, such as for a proposed operation involving many thousands of acres to take place over a number of years. If state agencies possess the manpower to review the operation within 20 days, an extension

should not be authorized. Moreover, an extension should only be for the period necessary to complete the review, and not necessarily for the full additional 20 days. Above all, the commissioner must insure that extensions are not used as an excuse for bureaucratic delay. This extension is not to be employed as an excuse for bureaucratic delay.

Subsection (e)(4) recognizes that there may be instances where a particular phase of an operation requires closer examination; it is emphasized that additional materials required of the operator under this language must be carefully limited to only those matters requiring additional review, and not used as an excuse for the forest managers to force the operator to do their work for them. Once again, if the professional management services approach is fully used, the review process in this section should not become an issue.

With respect to public notice under subsection (h), notice should be given locally as well where there is no newspaper published in the area.

Subsection (i) stresses that site examinations may be used where such would benefit the review process.

Subsection (j) prohibits substantial deviation from approved plans. "Substantial deviation" means a departure significant enough to jeopardize attainment of the objectives of the Act. Close contact between the operator and the department should permit any problems to be resolved in advance of a crisis.

Subsection (k) reflects that there will be some instances where immediate action is necessary, as in the case of salvage of trees, fire hazards, or other situations where a genuine emergency is involved.

The authority for posting of security under subsection (m) is to be used only where necessary. Obtaining bonds and other security devices is often difficult, especially for small operators, and may prevent them from doing business at all. Where security is required, the amount should be geared to the actual danger being protected against, possibly through some type of sliding scale arrangement.

Subsection (n) is self-explanatory. This was not intended to apply to operations which have already been completed.

Section 80. Deployment of Broadcast Chemicals.

Regulation of forest practices must necessarily reflect the state of the art. All consequences cannot be known in advance of operating; with an appropriate margin of error built in, such operations can be conducted successfully even though there are many unknowns regarding particular impacts.

Broadcast chemicals are a special case, however, as they involve the introduction of a foreign substance into the ecosystem. The state, for example, very strictly controls the introduction of exotic wildlife into Alaska because biologists often have little idea as to how a new species will interreact with the existing species composition. Foreign substances pose similar dangers to the forest ecosystem. I believe that forest managers should have a reasonable idea of the effects of using a foreign substance before it is applied on a large scale. While this section leaves to the discretion of the commissioner of environmental conservation the methodology to be used in regulating broadcast chemicals, it may well be advisable to undertake testing of some substances under controlled conditions before permitting commercial application of the substance.

Section 90. Conversion of Forest Land to Other Uses.

The provision in this section is a requirement of due process. However, it is my intent that proposed conversions be closely monitored so that subterfuge is not employed to escape responsibilities for reforestation. Moreover, while continued use as productive forest land cannot be required, it may be permissible to specify minimum revegetation of land for water quality purposes.

Section 100. Inspections, Investigations, and Enforcement.

This section authorizes each agency with statutory responsibilities over forest land to enforce those responsibilities. However, it also directs affected agencies to coordinate their enforcement activities so that operators are not subjected to differing interpretations of the same law or other undesirable or unnecessary procedures; interagency enforcement teams could be used to avoid this problem. Enforcement agents should avoid entering upon private land unless there is good reason to be there.

Section 110. Prohibitions, Penalties, and Enforcement Procedures.

The enforcement procedures in this section are straightforward and need no detailed explanation. Several features of this section should be stressed, however.

First, there are no criminal penalties. An administrative (civil) penalty system is used instead. Fines and penalties imposed are judicially reviewable under sec. 120.

Second, the burden of proof is, of course, on the state. An order resulting from a proceeding may be tailored to the exact nature of the violation so that the punishment is not disproportionate to the violation. A number of factors must be considered in determining a fine so that it reflects the gravity of the violation; it is expected that some type of fine schedule will be developed by the department so that penalties for the same offense are uniform.

Third, any emergency orders are limited to actual emergencies and have a duration of 21 days; therefore, they cannot be used as an excuse for not holding a hearing except in the context of an emergency.

Fourth, the bill establishes a hearing system designed to insure that operators are given a fair opportunity to present their case, and it recognizes that any proceeding instituted against a respondent may visit considerable expense and inconvenience on him. Special provisions are inserted to provide assistance to a respondent and to permit him to select an informal, nonadversary hearing process.

Fifth, the bill provides for a hearing officer who is not a state employee and who is not in any way connected with the preparation of the state's case.

Section 120. Appeals and Judicial Review.

This section is self-explanatory.

Section 130. Civil Action.

This section is self-explanatory. However, in order to discourage frivolous or obstructionist suits, I would hope that judges adjudicating cases brought under this section having no serious merit would impose costs and fees on the plaintiff under Civil Rule 82.

Section 950. Definitions.

While the definitions are self-explanatory, special mention must be made of the definition in paragraph (13). The intent of this definition, as the term is used in the Act, is to insure that consequences recognizable on the basis of the present state of the art of forest resource management are

reflected in management decisions, and that decisions include the establishment of a margin of error where it is understood that the consequences of an action are unknown. It is expected that studies undertaken by the state forester (using experimental forests and/or commercial logging operations) will be used to continually increase the bank of knowledge relating to the impacts of logging and other land use activities, and that the results would be described in the report submitted under § 50.

Partially exempt service.

Section 2 of the bill amends the section of the State Personnel Act listing the positions in the exempt service. It adds the state forester, consistent with the new chapter in sec. 1 of the bill.

Effective Date.

The effective date of the Act is January 1, 1979. However, it is expected that the department will engage in preparatory activities immediately so that full implementation may begin on the effective date.

Sincerely,

Jay S. Hammond
Governor

GOLDBELT, INCORPORATED
130 SEWARD STREET, SUITE 302 • JUNEAU, ALASKA 99801 • (907) 586-6244

TESTIMONY OF JOSEPH G. WILSON
ON BEHALF OF GOLDBELT, INCORPORATED ON
PROPOSED SPONSOR SUBSTITUTE
SENATE BILL NO. 59
IN THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE - SECOND SESSION
A BILL RELATING TO FOREST RESOURCES AND PRACTICES

Madame Chairman, Members of the Committee, My name is Joseph G. Wilson. I am the President and Chairman of the Board of Directors of Goldbelt, Incorporated, the Alaska Native Claims Corporation organized by the Juneau Natives for the purpose of selecting land pursuant to Section 14 H (3) of the Alaska Native Claims Settlement Act of 1971. Goldbelt has 2,700 shareholders, each of whom is a duly enrolled Alaska Native. Goldbelt will own the surface estate of 23,040 acres of land in Northern Southeast Alaska that will have substantial timber value.

Goldbelts concern with Proposed Sponsor Substitute Senate Bill No. 59 lies in its impact on our right as private land owners to manage our forest lands.

Goldbelt has reviewed Sealaska's amendments to the Proposed Sponsor Substitute Senate Bill 59, Alaska Forest Practices Act and consider these to be the minimum requirements for the protection of private property interests.

The amendments focus on 1.) a Board of Forestry is established with broad representation from industry, property owners, and other interest groups. An important consideration of the Board is that their responsibility will be to directly participate in the formulation of draft regulations pertaining to the

MANAGEMENT AND USE OF FOREST RESOURCES. 2.) THE ORGANIZATION FOR A DIVISION OF FORESTRY LED BY A STATE FORESTER WITH SUFFICIENT FORESTRY EDUCATIONAL BACKGROUND. 3.) THE AMENDMENTS ADDRESS THE STANDARDS OF REGULATIONS WITH EMPHASIS ON THE ECONOMIC ENVIRONMENT OF THE INDUSTRY AND RECOGNITION THAT MAN IS AN ESSENTIAL FEATURE IN MANAGING THE FOREST AND RELATED RESOURCES.

GOLDBELT CONSIDERS THESE TO BE THE BASIC MINIMUM REQUIREMENTS FOR THE PROTECTION OF PRIVATE LAND OWNERSHIP INTERESTS. WITHOUT THESE AMENDMENTS, GOLDBELT, INCORPORATED WOULD BE OPPOSED TO THE PASSAGE OF THIS LEGISLATION DURING THIS SESSION.

MADAME CHAIRMAN, WE THANK YOU FOR THE OPPORTUNITY TO TESTIFY.

Testimony of Robert E. LePesche, Commissioner
Department of Natural Resources
on the
Sponsor Substitute for Senate Bill 59

Senate Resources Committee
April 10, 1973

Thank you for the opportunity to testify before the Committee on the Sponsor Substitute for Senate Bill 59, an Act relating to forest resources and practices.

As you know, a forest practices act has been in the works for more than three years. We consider it an extremely high priority. Only if we enact such legislation before logging reaches its greatest intensity are we in a position to (1) head off user groups conflicts before they occur, (2) establish forest practices and other ground rules before equipment is moved into the field, (3) provide the highest level of professional assistance to logging operators, and (4) fully realize the benefits of a healthy forest products industry while insuring perpetual supplies of renewable forest resources. Accomodating the many constituencies which depend upon forest resources will be difficult and complex, and we must start now. Most states have waited too long to adopt forest practices legislation, and have suffered for it. We should not repeat that mistake. By acting now, the establishment of a high profile professional forestry program will permit Alaska to occupy a position of national leadership in forest management.

During the hearings held by this Committee last year, it was evident that there was opposition to a number of provisions of the Administration Bill. Consequently, you asked that we work with affected interest groups in an attempt to come up with legislation which would respond to and reconcile the many points of view in

this controversial area.

In the interim period, we have tried to negotiate solutions to the problems with the bill with the Forest Service, state government entities, professional foresters, the forest products industry, native corporations, conservation groups, fishermen, and others. Of course, virtually everyone in Alaska has some stake in the management of Alaska's forests, and it was impossible to talk with all of them. Nevertheless, we did work continuously with those who evidenced a desire to participate in the revision of S.B. 59. Indeed, I cannot think of many pieces of legislation which have undergone the scrutiny, discussion, and reworking which has taken place on S.B. 59. At this point, the bill belongs as much to those participants as it does to us, and we believe the Sponsor Substitute is about as close as we can come to consensus legislation. It is certainly superior to the original S.B. 59, and we are indebted to those who have worked with us for the numerous improvements made and to this Committee for providing the forum to do so. We expect that the bill will receive considerable support from a number of different interest groups.

The Committee will note that we have submitted a rather lengthy transmittal letter along with the Sponsor Substitute. This letter contains the many statements of intent requested by persons and organizations who worked on the bill. The bill and the letter should be considered a package representing our efforts over the past year. As a result, we urge in the strongest terms that, if the bill is passed out favorably by this Committee, the transmittal letter be adopted as the Committee Report on the legislation.

The specifics of the legislation were reviewed with you at the working session of the Committee several weeks ago. Consequently, I will reserve going into that level of detail until responding to your questions when the testimony is completed. I would like to underscore, however, that the bill-

(1) establishes a visible professional forestry program in the Department of Natural Resources;

(2) adopts a threefold approach to forest management to include assistance by professional foresters and economic incentives as well as regulations;

(3) mandates thorough consultation with public and private entities through advisory committees and other mechanisms;

(4) exempts from regulation small landowners who may wish to sell their timber but are not really in the forest products business;

(5) allows for coordination of forestry regulations under this Act, the Coastal Management Act, and the Federal Water Pollution Control Act to avoid duplication and insure that appropriate disciplines are involved;

(6) establishes general policies for forest management, separated into those appropriate for public and for private land, and covering such matters as reforestation, providing for the needs of all constituencies, avoiding unwarranted economic burdens on operators, and insuring retention of the productive capacity of forest land with respect to renewable resources;

(7) authorizes regulations but precludes duplication of the programs of other agencies;

(8) limits government oversight of operations to a restricted and closely controlled review process;

(9) requires a report to the legislature showing that DNR has complied with and carried out the legislation;

(10) leaves development of specific standards to a regulatory process involving

all interest groups;

(11) permits genuine conversion of forest land to other uses; and

(12) employs an administrative penalty system rather than criminal sanctions, with special safeguards to avoid undue burdens on an operator charged with a violation.

In addition, two matters warrant special mention. First, there has been an obvious desire on the part of industry to obtain a high level forestry program, and therefore considerable discussion on the locus of a forestry division and the state forester. After a meeting in my office with representatives of various interest groups, we have redrafted certain parts of the bill to incorporate what we believe should be an acceptable compromise. Section 020 no longer requires that the Division of Forest, Land, and Water Management be in the Division of Lands, and Section 050(c) requires us to report to the Legislature in two years on the operations of the Division and, in consultation with interested parties, to develop recommendations regarding the qualifications of the state forester and the location of the Division as well as the legal authorities of the Department relating to forestry.

Second, several suggestions for changes were made by Committee members at the working session. As a result, we have (1) clarified and made more express the exemption for small landowners in §030, (2) added a definition of "silviculture" in §950, (3) deleted the provision in §110(a) that each day of a violation constitutes a separate offense, (4) added to the definition of "sustained yield" in §950 to clarify reforestation requirements, and (5) and added language to the transmittal letter to deter unwarranted intrusions on private land by state officials.

In concluding, I would stress again the importance of gaining passage of the Sponsor Substitute this year before many new operations get under way. If the bill is enacted, it is our intention to create the Division of Forest, Land, and Water Management immediately and to name an advisory committee with representation of all forest resources constituencies to work with us in the implementation of our forestry program.

At this point, I would ask that you hear from the persons who have indicated a desire to testify, since they will be able to speak to many of the issues which you are undoubtedly concerned about. Along with other members of the Administration, I will be available during the course of the hearings to answer questions on the bill and to provide any other assistance. Again, I appreciate the opportunity to testify, and I thank the Committee for the interest it has already shown in this bill.

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UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

P. O. Box 1628, Juneau, Alaska 99811

1510

April 24, 1978

Honorable Kay Poland
Alaska State Senate
Pouch Y
Juneau, Alaska 99811

Dear Senator Poland:

I have been following with a great deal of both personal and professional interest, the development of State forest practices legislation. I have been impressed with your concern to assure that the legislation provides the environmental protection necessary, and at the same time protects the rights of private landowners. The issues involved in forest practices on private land are indeed more complex than on public land.

Section 41.17.060 on regulatory and administrative standards, is of particular interest to us. This section authorizes the implementation of specific regulatory forest practices on the ground, and through membership on the Board of Forestry, we look forward to participating in the development of those regulations.

The policy of the Forest Service nationally, has been to encourage and support sound State forest practices legislation. Our previous testimony before your Committee attests to this.

An additional consideration in Alaska is the requirement in the Alaska Native Claims Settlement Act that lands selected by the Native corporations be managed under certain specified practices. Sub-section K, Section 22, states that:

> "Any patents to lands under this Act which are located within the boundaries of a National Forest shall contain such conditions as the Secretary deems necessary to assure that such lands are managed under the principle of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent National Forest lands for a period of twelve years."

The job that now faces us is to develop standards and guidelines to meet the intent stated by Congress. We expect the State Forest Practices

Act now under development by your Committee will significantly aid in meeting Congressional requirements.

The work you and your Committee have done in bringing the various interests together on Statewide forest practices issues is of great value. I might suggest a meeting with ourselves, you and some of the other interests, as a way toward developing a practical approach in complying with the forest practices provision of ANCSA. I would welcome your counsel on this.

Sincerely,

Robert H Tracy

for JOHN A. SANDOR
Regional Forester

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
P. O. Box 1628, Juneau, Alaska

April 10, 1978

TESTIMONY FOR THE SENATE RESOURCE COMMITTEE
SENATE BILL NO. 59, SPONSOR SUBSTITUTE

MADAM CHAIRMAN AND MEMBERS OF THE COMMITTEE:

MY NAME IS MARVIN C. MEIER, U. S. FOREST SERVICE, AND I AM TESTIFYING TODAY FOR REGIONAL FORESTER, JOHN. A. SANDOR.

WE ARE PLEASED TO HAVE THIS OPPORTUNITY TO SHARE OUR THOUGHTS ON THE PROPOSED FOREST PRACTICES ACT, SPONSOR SUBSTITUTE FOR SENATE BILL No. 59. WE HAVE A KEEN INTEREST IN THE DEVELOPMENT OF A STRONG STATE FORESTRY PROGRAM BECAUSE WE FIRMLY BELIEVE THAT ALASKANS WILL PROFIT IN MANY WAYS FROM THE DEVELOPMENT OF SUCH A PROGRAM. THE BILL UNDER CONSIDERATION WILL BE HELPFUL IN ACHIEVING THIS OBJECTIVE. IT IS THE RESULT OF A COOPERATIVE EFFORT OF LEGISLATIVE, EXECUTIVE, AND PROFESSTIONAL FORESTRY EXPERTISE.

MADAM CHAIRMAN, YOUR PERSONAL LEADERSHIP AND THE EFFORTS OF THIS COMMITTEE HAVE BEEN EFFECTIVE IN IMPROVING THE PROPOSED FOREST PRACTICES ACT THAT HAS EVOLVED THESE PAST THREE YEARS. IT HAS BEEN A PLEASURE FOR THE FOREST SERVICE TO WORK WITH THE STATE, YOUR COMMITTEE, AND OTHERS IN THIS EFFORT.

ALTHOUGH WE WILL NOT DISCUSS THE BILL IN GREAT DETAIL, THERE ARE SOME POINTS ON WHICH WE DO WISH TO COMMENT. FIRST, THE BILL WILL STRENGTHEN THE STATE FORESTRY AGENCY AND THE ROLE OF THE

STATE FORESTER. IN THIS GREAT STATE WITH THE VAST ACREAGE OF FORESTS AND RELATED RENEWABLE RESOURCES, THE APPLICATION OF SOUND FOREST PRACTICES MUST BE ASSURED. THE MANAGEMENT OF THE STATE'S FOREST RESOURCES IS EXTREMELY IMPORTANT FOR TIMBER, FISHERIES AND WILDLIFE, RECREATION, WATER, AND OTHER USES. THE FULL VALUE OF FOREST RESOURCE MANAGEMENT WILL BE REALIZED ONLY IF THE STATE CONTINUES TO HAVE COMPETENT, PROFESSIONAL PERSONNEL IN THE POLICY MAKING POSITIONS DIRECTING THE PROTECTION AND MANAGEMENT OF THESE RESOURCES. THE EXPERIENCE IN MOST WESTERN STATES CLEARLY ILLUSTRATES THIS.

THE BILL PROVIDES FOR THE DEVELOPMENT OF INCENTIVES AS A WAY OF ACHIEVING GOOD FOREST MANAGEMENT. SEVERAL OF THE LOWER 48 STATES HAVE ESTABLISHED, OR ARE WORKING TOWARD THE ESTABLISHMENT OF, INCENTIVE PROGRAMS. THEIR EXPERIENCE WILL BE HELPFUL TO ALASKA. THE INCENTIVES NEED TO BE THOUGHT OF IN BROAD TERMS AS INCENTIVES TO ALL FOREST RESOURCES AND OVERALL FOREST LAND MANAGEMENT, NOT JUST TIMBER MANAGEMENT. THE SECTION ON INCENTIVES AND COOPERATIVE FOREST MANAGEMENT WILL ENCOURAGE AND ASSIST PRIVATE FOREST LANDOWNERS TO USE THEIR LAND AND RESOURCES TO THEIR OWN BENEFIT, AND IN WAYS IN WHICH SOCIETY AS A WHOLE DOES NOT SUFFER.

THE BILL'S SECTION ON REGULATORY PROCEDURES WILL ALSO HELP PROTECT ALASKA'S RESOURCES. THIS PART OF THE PROGRAM IS IMPORTANT TO ASSURE THAT FOREST-RELATED RESOURCES ARE WISELY MANAGED FOR COMMODITY AS WELL AS ENVIRONMENTAL GOALS.

THE BILL PROVIDES FOR THE STATE'S CONTINUED PARTICIPATION AND INVOLVEMENT IN THE FEDERAL COOPERATIVE FORESTRY PROGRAMS. THESE PROGRAMS HAVE PROVEN THEMSELVES VALUABLE TO MOST OTHER STATES. THIS WILL WILL HELP ASSURE THE CONTINUATION AND EXPANSION OF ALASKA'S PARTICIPATION IN THESE PROGRAMS. IN FISCAL YEAR 1978, THE FOREST SERVICE WILL PROVIDE OVER $700,000 FOR COOPERATIVE PROGRAM FUNDING, WHICH IS A 40 PERCENT INCREASE OVER FISCAL YEAR 1977. WE CANNOT PROMISE THIS KIND OF INCREASE EACH YEAR, HOWEVER, THE U. S. DEPARTMENT OF AGRICULTURE DOES RECOGNIZE THE IMPORTANCE OF A STRONG COOPERATIVE FORESTRY PROGRAM HERE AND NOW. THE FOREST SERVICE IS COMMITTED TO SUPPORTING AND AND CONTINUING SUCH A PROGRAM.

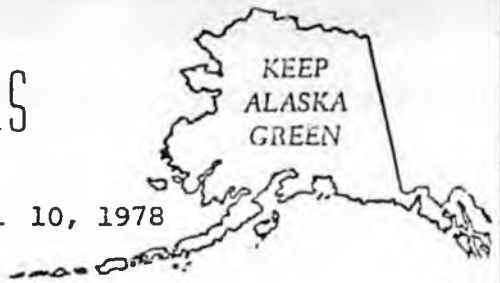
THE BILL AUTHORIZES DESIGNATION OF STATE FORESTS FOR RETENTION AS MULTIPLE-USE LANDS AND AUTHORIZES THE ESTABLISHMENT OF STATE TREE NURSERIES. SUCH AUTHORITIES ARE SOUND, AND AGAIN ARE PROVEN IN THE EXPERIENCE OF OTHER STATES. THERE ARE FOREST REGENERATION NEEDS NOW, AND THESE NEEDS ARE LIKELY TO INCREASE AS MORE TIMBER IS HARVESTED. TO THE EXTENT THAT PRIVATE NURSERIES ARE NOT ABLE TO PROVIDE THE STOCK THAT IS NEEDED AT AN AFFORDABLE PRICE, WE ADVOCATE STATE SUPPORTED NURSERIES. THEY WOULD RESULT IN BETTER LAND UTILIZATION, THEREBY REDUCING THE AMOUNT OF LAND IMPACTED BY A GIVEN TIMBER HARVEST LEVEL. ALSO, A STATE SUPPORTED NURSERY COULD LEAD TO DEVELOPMENT OF IMPROVED PLANTING STOCK.

AGAIN, IT HAS BEEN A PLEAURE WORKING WITH VARIOUS STATE PERSONNEL AND WITH YOUR COMMITTEE IN THE DEVELOPMENT OF THIS PROPOSED LEGISLATION. THE ENACTMENT AND IMPLEMENTATION OF THE PROPOSED BILL SHOULD HELP ASSURE THE SOUND MANAGEMENT OF ALASKA'S FORESTS AND RELATED RENEWABLE RESOURCES.

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

SOCIETY OF AMERICAN FORESTERS

Alaska Section



April 10, 1978

TESTIMONY FOR THE SENATE RESOURCES COMMITTEE
SENATE BILL NO. 59, SPONSOR SUBSTITUTE

MADAM CHAIRMAN AND MEMBERS OF THE COMMITTEE;

MY NAME IS BOB JANES AND I AM APPEARING TODAY FOR THE ALASKA SECTION OF THE SOCIETY OF AMERICAN FORESTERS.

WE WELCOME THIS OPPORTUNITY TO GIVE TESTIMONY IN FAVOR OF THE CURRENT SPONSOR SUBSTITUTE FOR SENATE BILL NO. 59. THE ALASKA SECTION REPRESENTS OVER 200 PROFESSIONAL FORESTERS THROUGHOUT THE STATE OF ALASKA, AND IS PART OF A NATIONAL ORGANIZATION OF MORE THAN 20,000 SUCH MEMBERS. DURING THE PAST THREE YEARS, WE HAVE BEEN ACTIVE IN HELPING TO FORMULATE LEGISLATION FOR A SOUND STATE FOREST PRACTICES ACT IN ALASKA. A YEAR AGO, WE MADE AN IN-DEPTH ANALYSIS OF SENATE BILL NO. 59, BY TESTING IT AGAINST OUR SOCIETY OF AMERICAN FORESTERS RECOMMENDED NATIONAL CRITERIA FOR A COMPETENT STATE FOREST PRACTICES ACT. WE ARE HAPPY TO SEE THAT SUGGESTIONS AS A RESULT OF THAT EFFORT HAVE BEEN INCORPORATED INTO THE SPONSOR SUBSTITUTE BEFORE YOU TODAY.

ONE OF OUR PRIMARY CONCERNS A YEAR AGO, WAS THE NEED FOR THE STATE FORESTER TO PLAY A MORE PROMINENT AND AUTHORITATIVE ROLE IN ADMINISTERING THE ACT IN A SOUND AND PROFESSIONAL MANNER. SINCE THE DIRECTOR OF THE DIVISION OF FOREST, LAND, AND WATER

MANAGEMENT WILL BE THE STATE FORESTER, AND SINCE THIS PERSON MUST HAVE PROFESSIONAL NATURAL RESOURCES LAND MANAGEMENT CREDENTIALS, IT APPEARS THE ORGANIZATIONAL STRUCTURE NOW PROVIDES FOR OVERCOMING THAT PARTICULAR PROBLEM. WITH PROPER DELEGATED AUTHORITY EXTENDED BY THE COMMISSIONER, THE STATE FORESTER SHOULD BE ABLE TO OPERATE IN A LEADERSHIP ROLE IN THE MANNER WE ENVISION IS NECESSARY. WE MUST EMPHASIZE, HOWEVER, THE IMPORTANCE OF DELEGATING SIGNIFICANT AUTHORITIES TO THE STATE FORESTER. OTHERWISE, A PROGRESSIVE STATE FORESTRY AWARENESS IN ALASKA COULD AGAIN BACKSLIDE, AND OBSTRUCT SOUND PROTECTION, MANAGEMENT AND UTILIZATION OF THE ABUNDANCE OF NATURAL RESOURCES THIS GREAT STATE HAS.

ANOTHER OF OUR MAJOR CONCERNS IN THE PAST WAS THE EFFECT THIS LEGISLATION WOULD HAVE ON PRIVATE LANDOWNERS. CRITERIA #7 OF OUR NATIONAL GUIDELINES STATES "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 BURDENED." IN PREVIOUS INPUT, WE EXPRESSED THOUGHTS ABOUT THE APPARENT INAPPROPRIATE INVASION OF RIGHTS AGAINST PRIVATE LANDOWNERS BECAUSE OF UNDULY RESTRICTIVE REGULATORY PRACTICES. FOR EXAMPLE, THERE WAS A PROVISION IN PREVIOUS PROPOSED LEGISLATION THAT READ "TIMBER HARVESTING IS NOT PERMITTED IN AN AREA UNLESS RELEVANT DATA AND INFORMATION INDICATE THAT THERE WILL BE NO REFORESTATION PROBLEMS LEADING TO THE INABILITY OF THAT AREA TO PRODUCE A SUSTAINED YIELD OF MERCHANTABLE TIMBER." WE COMMENTED THAT WHILE THIS MAY BE APPROPRIATE FOR STATE OR MUNICIPAL FOREST LANDS, IT

WAS NOT APPROPRIATE AS A BASIS FOR DEPRIVING A PRIVATE LANDOWNER OF ECONOMIC VALUES THAT EXISTED ON HIS OWN LAND. THE CORRESPONDING REGULATORY STANDARD IN THE CURRENT SPONSOR SUBSTITUTE, SEC. 41.17.040 (B) (1), NOW READS "TIMBER HARVESTING IS LIMITED TO AREAS WHERE DATA AND INFORMATION DEMONSTRATE THAT NATURAL OR ARTIFICIAL REFORESTATION TECHNIQUES WILL RESULT IN THE PRODUCTION OF A SUSTAINED YIELD OF MERCHANTABLE TIMBER FROM THAT AREA." DURING THE OPERATOR NOTIFICATION PROCESS WITH THE COMMISSIONER, THIS REQUIRED DETERMINATION SHOULD BE EASILY RESOLVED. ANOTHER OVERLY RESTRICTIVE PROVISION IN THE SAME SECTION OF THE PREVIOUSLY PROPOSED LEGISLATION READ, "SCENIC AND AESTHETIC QUALITY SHALL BE MAINTAINED IN OR ADJACENT TO AREAS OF SIGNIFICANT IMPORTANCE TO THE TOURISM AND RECREATION INDUSTRY." THE CORRESPONDING REGULATORY STANDARD NOW READS "WHERE ECONOMICALLY PRACTICABLE, ALLOWANCE MAY BE MADE FOR SCENIC AND AESTHETIC QUALITY IN OR ADJACENT TO AREAS OF SUBSTANTIAL IMPORTANCE TO THE TOURISM AND RECREATION INDUSTRY." IN ESSENCE, THESE TYPES OF UNDULY RESTRICTIVE MEASURES HAVE BEEN ELIMINATED AND WE BELIEVE PRIVATE LANDOWNERS ARE NOW GIVEN FAIR CONSIDERATION IN THE SPONSOR SUBSTITUTE BILL. IN ADDITION, SECTION 41.17.070 HAS BEEN SUBSTANTIALLY IMPROVED REGARDING REVIEW AND APPROVAL OF OPERATIONS EVERY EFFORT WILL BE MADE TO LIMIT THE REVIEW AND APPROVAL PERIOD TO A MAXIMUM OF 20 DAYS. WITH THESE EXAMPLES, IT IS DEMONSTRATED THAT UNDULY BURDENSOME REQUIREMENTS HAVE BEEN STREAMLINED OVER THE PREVIOUS BILL.

PROPOSED LEGISLATION FOR AN ALASKA FOREST PRACTICES ACT STARTED IN THE SECOND SESSION OF THE NINTH LEGISLATURE. IT CONTINUED IN THE FIRST SESSION OF THE TENTH LEGISLATURE, AND IS NOW IN ITS THIRD YEAR. TO HELP ASSURE SOUND PROFESSIONAL MANAGEMENT OF ALASKA'S

FOREST LAND RESOURCES AT THE EARLIEST POSSIBLE TIME, WE URGE YOUR COMMITTEE TO AGGRESSIVELY STRIVE FOR ADOPTION OF THIS SPONSOR SUBSTITUTE FOR SENATE BILL No. 59, DURING THIS SECOND SESSION OF THE TENTH LEGISLATURE.

THANK YOU FOR LISTENING TO US TODAY.