

S B

465

SENATE AMENDMENT

BY Senator Dick Eliason

To: _____ SENATE BILL No. 465

To: _____ HOUSE BILL No. _____

PAGE:

LINE:

1

13

After "Forest." add the following:

The management plan established by the commissioner under AS 41.17.230 for the Yakataga State Forest may not permit an activity within the rivers, streams, lakes, or estuaries of the Yakataga State Forest that results in a detrimental change in water quality, quantity, temperature, or other natural habitat conditions of the Yakataga State Forest.

TESTIMONY OF JULIE KOEHLER
REPRESENTING THE SOUTHEAST ALASKA CONSERVATION COUNCIL
IN SUPPORT OF SB 465, ESTABLISHING THE YAKATAGA STATE FOREST
BEFORE THE SENATE RESOURCES COMMITTEE
APRIL 13, 1988

Mr. Chairman, members of the Committee, thank you for the opportunity to testify today in support of SB 465 which would establish the Yakutat State Forest.

~~My name is Julie Koehler.~~ I represent the Southeast Alaska Conservation Council, a coalition of 13 community-based conservation groups from 11 communities in Southeast Alaska, including Yakutat. All together, our member organizations represent thousands of Alaskan conservationists.

SEACC supports SB 465 because the coastline and resources between Icy Bay and Cape Suckling are deserving of wise, multiple-use management. State forest designation would require the adoption of a management plan before logging could take place.

Presently, this area is economically and traditionally important to the residents of Cordova and Yakutat for subsistence, commercial fishing of all five species of Pacific salmon, sport fishing, big game guiding, and wilderness lodges.

Because there has been no management planning to date, portions of this area have already been subjected to irresponsible, poorly administered state timber sales. Since the 1960's, the Alaska Department of Natural Resources (DNR) has authorized two massive timber sales from Icy Bay to the White River, with very little oversight or control. The result is one clearcut 13 miles long and one 5 miles long. What timber was left standing along streambanks was quickly blown down and then harvested as a salvage sale. Furthermore, much of the logged areas lack regeneration of either spruce or hemlock.

These timber sales not only violate Title 16 (which protects fisheries) -- we believe they violate the principles of sustained yield management which are guaranteed in the state constitution. If such timber mismanagement is allowed to extend down the coast, all other uses of the lands between Cape Yakataga and Cape Suckling will be destroyed.

Logging can only co-exist with other valuable resources if it is done rationally, according to a multiple-use plan. However, ADF&G has not yet even catalogued all the fish streams in this area. Studies of this area are imperative to the development of a management plan which would consider all of the resources and their present uses.

By requiring a management plan prior to any further logging, SB 465 would ensure that the people in Cordova and Yakutat have a chance to influence management of this area. SB 465 would give local people a chance to participate in their own economic future.

Mr. Chairman, although SEACC supports SB 465, we would like to suggest one strengthening amendment. We would like to see a section added to specifically prohibit any detrimental change in water quality, quantity, temperature, and natural conditions in anadromous fish habitat. We believe the fish resources of this area warrant strict protection.

In closing, we would like to thank Senator Eliason for taking a strong stand for wise resource development by introducing SB 465. We urge you to pass this bill with the amendment I have described. Thank you again for this opportunity to testify.

PROPOSED AMENDMENT TO SB 465
YAKATAGA STATE FOREST LEGISLATION

* Section 5. For all stream systems, lakes, and estuaries containing anadromous fish species or their habitat within the Yakataga State Forest, the Commissioner shall permit no activity that results in a detrimental change in water quality, quantity, temperature, or other natural habitat conditions.

TELECONFERENCE PARTICIPATION

SPONSOR (5) RES

DATE/TIME 4/13 1:30-3:30

SUBJECT SB 386 - APUC
SB 465 - YAKATAGA st. forest

LIO'S
(moderator)

	TESTIFY	OBSERVE	TESTIFY	OBSERVE
ANCHORAGE ()	✓ Charles Nash University		PETERSBURG * ()	
BARROW * ()			SITKA ()	
BETHEL ()			SOLDOTNA ()	
DELTA JUNCTION * ()			VALDEZ * ()	
DILLINGHAM * ()			LTC'S	
FAIRBANKS ()			HOMER	
GLENNALLEN * ()			WRANGELL	
JUNEAU ()			OFFNETS	
KETCHIKAN ()			OFF1	YAKATAGA / John VALE Larry Powell
KODIAK ()			OFF2	CORDOVA / Pete + Belle nicholson DALE Ranney
KOTZEBUE ()			OFF3	
MAT-SU ()			OFF4	
NOME ()			OFF5	
			OFF6	

VTS'S ON BACK

* SESSION ONLY

VTS'S	U	T	O	TOTAL		U	T	O	TOTAL
AMB - AMBLER					MET - METLAKATLA				
ANA - ANAKTUVUK PASS					MOS - MOSQUITO LAKE				
AND - ANDERSON					NAK - NAKNEK				
ANG - ANGOON					NEN - NENANA				
CAN - CANTWELL					NEW - NEWHALEN				
CHS - CHISTOCHINA					NIK - NIKISKI				
CHI - CHITINA					NOR - NOORVIK				
COP - COPPER CENTER					NOT - NORTH TONSINA				
COR - CORDOVA					NOW - NORTHWAY				
CRA - CRAIG					PEL - PELICAN				
DOT - DOT LAKE					PTH - POINT HOPE				
EAG - EAGLE					SAV - SAVOONGA				
FTY - FT. YUKON					SDP - SAND POINT				
GAK - GAKONA					SEW - SEWARD				
GAL - GALENA					SLW - SELAWIK				
GAM - GAMBELL					SHS - SHISHMAREF				
HNS - HAINES					SLA - SLAWA				
HEA - HEALY					SKG - SKAGWAY				
HOO - HOONAH					STP - ST. PAUL				
HPB - HOOPER BAY					TOG - TOGIAK				
HYD - HYDABURG					TOK - TOK				
KAK - KAKE					OOK - TOOKSOOK				
KAT - KAKTOVIK					UAK - UNALASKA				
KEN - KENNY LAKE					UNK - UNALAKLEET				
KLA - KLAWOCK					WAI - WAINWRIGHT				
MEN - MENTASTA					YAK - YAKUTAT				

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 13, 1988

SUBJECT: Yakataga State Forest: valid existing rights
(SB 465)

TO: Senator Dick Eliason

FROM: Richard A. Bradley
Legislative Counsel *RAB*

Sheila Peterson has asked that I comment on some issues that have arisen in the context of the enactment of the bill.

She notes that there may be a timber contract in place on land that will become a part of the Yakataga State Forest. I have advised her that contracts that were in place before the enactment of SB 465 would continue in effect because those contracts have created valid existing rights. They would continue in effect until they expire or are sooner terminated by mutual agreement of the parties.

Of course, the corollary of that premise is also correct--that any contracts entered into after the effective date of SB 465 would be subject to the provisions of SB 465.

If I may be of further assistance, please advise.

RAB:bb
b4/131

April 12, 1988

Mr. Chairman, Honorable Members of the Senate;

~~My name is Don Bremner~~, I'm a Tlingit Indian from Yakutat, Alaska. I'm (37) years old and was born and raised in Yakutat.

I'm here to speak in support of the formation of the Yakataga State Forest. I'm here to speak on behalf of myself and as Chairman of the Yakutat Fishermen's Association, representing the Commercial Fishermen of Yakutat.

My testimony is based upon clear, concise and sound facts. These facts are in areas of Yakutat Tlingit Traditions and customs; clear and concise physical, biological and economical management considerations regarding the Yakataga land, fur, fish, and game of the Yakataga area. As I continue these facts will portray how this Yakataga area from Cape Suckling to Icy Bay is a part of the life-style and livelihood of Yakutat residents.

My second round of facts will pertain to present negative and adverse management practices taking place by the State of Alaska.

My third round of facts will address weaknesses of present land, fur, fish and game management practices of the Yakataga area.

I will close my testimony today by requesting and encouraging your support in the formation of the Yakataga State Forest.

Therefore, in reverting back to the past and present Yakutat Tlingit Traditional and customary uses of the Yakataga area which compel our fishermen and residents of Yakutat to desire the State Forest protection of this land are;

1. From time immemorial, my fathers tribe, the Ginexqwan, lived in this area around the Tsiu and Kaliakh Rivers. My fathers tribe migrated from the upper Copper River into this area and in time, eventually migrated to the present community area of Yakutat. We donot presently have legal title or control of this area as a tribe, and I won't argue this point here, but, in our minds and hearts, and in real life, many of our Grandfathers and Grandmothers are buried in this part of our country. We in Yakutat recognize and respect this traditional historical fact and request that this area be protected and preserved on these grounds.
2. Parallel to this fact is that in the past and present, my fathers tribe and residents of Yakutat, Cordova and Anchorage have established customary hunting and fishing uses of the area for subsistence, commercial fishing, hunting and guiding, and tourism uses of this area. This area has also been an area for trapping of fur-bearing mammals.

3. We have an established Traditional and Customary use of the area which needs State Forest protection, but, on the other hand, it has been identified that a large number of animals use the area for food, shelter, mating and rearing of their species. This includes large game animals such as moose, black and brown bear, wolves, wolverine, mountain goat and sheep. There are many smaller fur-bearing mammals in the area such as land otter, beaver, mink, marten, and other smaller mammals.
4. It has also been identified that many birds use the area for food, shelter, mating and rearing of their young. Such birds include swans, Canadian Geese, ducks, Arctic Terns, gulls, and other mainland birds common to Alaska. It's important to note that our State Bird, the Ptarmigan uses the area as well as our National Symbolic Bird the Bald Eagle and other raptors such as various species of hawks. All of these mammals and birds need this form of State protection and I mention this in their interest.
5. Finally, many species of salmon such as Coho, Reds, and Pinks use many of the rivers and streams in this area for migration routes, spawning and rearing of their young. It has been identified that other in-stream fish such as trout and steelhead use rivers and streams in the area for migration routes, spawning and rearing. All of these fish species need this State Forest protection as an advantage over man-made and naturally imposed survival of the fittest efforts taking place within the area.
6. This concludes the number of Traditional and Customary facts I chose to support my testimony at this time. It should be obvious from present State of Alaska records which are weak in recording such information as presented, that there is a large volume of Traditional and Customary uses in the area which need this State Forest protection.

In the area of clear and concise physical facts which support my testimony mainly refer to physical land boundary uses by residents of Yakutat. They are:

1. Yakutat residents have established traditional, customary and commercial fishing uses of the land from Cape Suckling to Cape Spencer. Evidence of this use is documented in numerous Tlingit History journals, local common knowledge, Federal Government Commercial Fish and Game research and studies, State of Alaska Commercial Fish and Game research and studies, both the Federal Government and State of Alaska has documented the Yakutat residents subsistence use of the land from Cape Suckling to Cape Spencer.
2. These physical land boundaries used by Yakutat residents are recorded in all of the mentioned documents and are commonly recognized by Yakutat residents, the Federal Government and State of Alaska.

3. As a result, it would not be a new issue to the residents of Yakutat to attempt in protecting our historical physical land boundaries in the Yakataga area with this State Forest Status. Even though our Yakutat physical land boundaries are Historically established, this State Forest Status is needed as a current modern protection mechanism to help preserve the land and its resources for future established uses and residents.

There is a clear and concise biological ecosystem within the area with a clear chain of interaction between the fur, fish, fowl, birds and land in consideration. Its not my position to represent myself as a Fish and Game biologist, but, to emphasis the important biological relationship and interaction of the fur, fish, game and birds with the land. For example;

1. There cannot be or won't be an optimal yield or survival rate of each species without proper land, resources, and habitat, so that these fish and game species could survive in a state of least resistance against man-made and natural predation.
2. The land, habitat and residual resources become the food, shelter and rearing area for each species. This State Forest Status will enhance current protection mechanisms in a positive manner.

There is an established Historical economic environment based on fish and game within the area;

1. My Tlingit ancestors and current residents of Yakutat, Cordova, and Anchorage make an economic living on a yearly basis from the fish and game within the area. This income is a large portion of the only form of money to be made throughout the year.
2. If anyone has even spent one day in Yakutat it would be evident that the economic mainstay of our community is commercial fishing.
3. It's common knowledge in Yakutat and there are written documents which provide evidence that Yakutat Tlingits have always used the fish and game in the area as a form of livelihood. This continues on today in the form of commercial salmon set-netting and trolling. These fisheries take place within the rivers and streams within the area and on adjacent tidal zones of influence.
4. Commercial trollers from all around the State of Alaska and Washington benefit from the proper protection and management of the salmon species which spawn and are reared within the area.
5. Many of the salmon species, shellfish and bottomfish use the rivers, streams and adjacent coastal waters for migration and are transboundary resources.
6. As a result, it would be beneficial to have this State Forest Status to help protect the survival of these fish and game species.

7. This will in turn protect an established economic livelihood for residents of Yakutat, Cordova, Anchorage, and commercial trollers from other communities in Alaska and Washington.

As mentioned earlier, my second round of facts will pertain to past and present negative adverse Forest Management practices taking place within the area of consideration. What we in Yakutat see as past and present negative adverse Forest Management practices are in two areas;

1. The first area concerns the past and present adverse logging taking place within the area. These timber cutting sales have encompassed approximately (13) miles of continuous land and (275,000,000) Board Feet of trees. This in our eyes reflects and amounted to a weak and unregulated, unmonitored logging program in a high energy coast prone to winds, high seas, erosion and blowdown.
2. As a result, it has been identified that the land, fur, fish and game has already been damaged by this large adverse clear-cut logging.
3. The second area which influences and affects this adverse logging is the weakness of the Alaska State Forest Practices Act and the lack of intergovernmental coordination which does not take place when such development is being considered or during the time development is taking place. This Alaska Forest Practices Act was master-minded by the timber development industry and is compatible for the logging industry as a legal veil for unregulated and unmonitored logging.
4. This Alaska Forest Status will act as a supplemental form of protection from unchecked adverse development to protect the land, fur, fish and game habitat from irreparable harm.
5. All of these facts are on record with State Agencies as official complaints filed by various groups and individuals at various legal public hearings throughout the State. At this time such practices by the logging industry and State of Alaska are in the process of being sued for their negligent and improper management of the forest environment of the area.
6. Yakutat fishermen and residents encourage the protection of the remaining forest environment in the area of consideration for its future uses and residents.

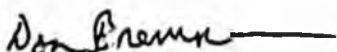
The past and present weaknesses of the fur, fish and game management practices refer to circumstances within the Alaska Department of Fish and Game and Federal Fish and Game Management Agencies. These weaknesses are;

1. The Alaska Department of Fish and Game, Alaska Coastal Policy Council and City of Yakutat has recognized the Biophysical Boundaries of the Yakutat Region to be from Cape Suckling to Cape Spencer under various management plans.
2. The Yakutat Region from Cape Suckling to Icy Bay encompasses approximately (80) linear miles of land, and with areas of direct influence, land in-ward with an indirect influence on the coastal zone, a corresponding coastal zone, and coastal ocean waters with direct interaction with the coastal zone.
3. This total area encompasses approximately (2800) square miles of land and water.
4. Within this area numerous Alaska and Federal Government Agencies manage the many species of fur, fish, game, fowl, land, water, habitat and subsurface.
5. There is a total of (27) State Agencies and (21) Federal Agencies which have an influence on the management of the Yakutat Region in consideration.
6. The weakness of this intergovernment multiagency control results in neglect, overlapping legal authority with little interagency coordination and consistency reviews of plans or management.
7. The most important point to make is that all of these Agencies have an in-office, paper legal authority to control or manage a real resource, but, these agencies lack the time, money, personnel and equipment to properly survey, catalogue, implement, and monitor each resource properly under a sustained yield or optimal yield program.
8. As a result, the resources, land and habitat is irreparably harmed from mismanagement.
9. At least, this State Forest Status will provide up-front common management protections for the land, resource, and habitat.

In conclusion, based on these preliminary facts the Yakutat Fishermen's Association, members and residents of Yakutat encourage your support in the formation of the Yakataga State Forest.

Because of our historical, cultural, and economic ties to the Cape Suckling/Yakataga area Yakutat has a long history of planning, monitoring and influencing what happens in those areas and by our presence here have set a goal to continue to do so.

Thank-You,



Don Bremner, Chairman
Yakutat Fishermen's Association

Mr. Chairman and members of the Senate Resources Committee, ~~my name is Hank Porter~~ and I'm Chairman of the Yakutat Fish and Game Advisory Committee.

I'm here today to represent the feelings of our group concerning the desperate need of the creation of the Yakataga State Forest which includes state owned lands between Icy Bay and Cape Suckling. This is an area of the state that is rich in fish and game resources and natural beauty. However, you will see as the public testimony proceeds much of this area's natural resources have already been damaged by large scale timber clear cuts that were poorly planned and you will see that this poor planning process continues to happen by the Alaska Department of Natural Resources.

First I would like to stress the importance of this area for its commercial fishing value. As many of you are probably aware, Yakutat is a community that relies heavily on commercial fishing for its economic backbone as many other areas of the state do. There are 160 set net permits in Yakutat that are permitted to fish this area and 15 set net permits from the Cordova area. The area under consideration produces over a half million dollars annually to the set gillnet fishermen. This does not include the additional employment that is created for aircraft that fly the fish to Yakutat and Cordova and the additional employment for cannery workers.

There are also about twenty trollers that work the coast line in this area, mainly on the silver salmon stocks that spawn in the numerous rivers and streams that cover this land.

Also there are numerous sportfishermen from Anchorage and other areas of Alaska that utilize this area. During August and September twin otter aircraft bring plane loads of sportsfishermen in from Anchorage on a daily basis, as weather permits, to fish.

This area, or what's left of it, is also critically important habitat for moose, bear, mountain goats and numerous other fur bearing animals that are important for big game commercial guiding, sport and subsistence hunting, and for tourists who want to see these animals in their natural environment.

All of the values I have mentioned generate revenue for residents of Alaska and have the possibility of doing so for many years into the future. Much of this area is already ruined by poorly planned logging practices, and much of the remaining area is threatened by continued timber harvest.

At this time Mr. Chairman, I would like to pass around a few pictures that clearly illustrate the timber harvest at its worst. I had hoped to have more pictures for you, however some are presently being used to write articles about this area.

As you can clearly see from these pictures the size of the clear cuts are unbelievable. The largest clear cut in this area runs for approximately thirteen miles. Thin leave strips were left along some rivers and streams but due to the high wind velocity they were blown right over and of course timber salvage sale was put in place to log right up to rivers and streams. Now as you look at these pictures you can clearly see that this is no way to manage the state's resources for multiple-use management.

What we have happening is short term gains for the timber industry at the cost of many other user groups whose uses could go on indefinitely if this area is properly managed.

I did not come here on behalf of the Yakutat Fish and Game Advisory Committee to debate the pros and cons of the 37,777 acre timber transfer rights from DNR to the University of Alaska for logging purposes. However, I feel compelled to point out some of the problems with this large scale transaction which continues to threaten other beneficial uses of resources through multiple-use management.

1. Jim McAllister from the Department of Natural Resources has informed myself and others that Seal River will be used as a log transfer facility for the harvest area between Cape Suckling and Seal River which contains the most timber in the proposed harvest. Seal River is an anadromous system that contains some important fish populations, among them sockeye salmon. The idea of using an anadromous river for a log transfer site is appalling and dangerous. Branches, bark, sawdust and other waste products will be carried up Seal River by the tidal influences.
2. There are numerous salmon spawning systems in the area between Cape Suckling and Icy Bay that have not yet been classified as anadromous systems. Our area finfish management biologist, Greg Thomason, has stated that it would probably take two ADF&G staff personnel with the use of helicopters a full summer to complete this task. Without this knowledge, how can you plan a timber harvest and ensure that you won't be damaging important fisheries habitat?
3. At a public meeting held by the City of Yakutat on November 13, 1987, Rick Reed, Region 1 Supervisor, Habitat Division for ADF&G stated that they were very short in manpower and budget and seriously doubted that they could conduct the proper on-site ground evaluations of these areas to ensure proper protection of fish and game resources.
4. The area between Icy Bay and Cape Suckling is situated in a position in the Gulf of Alaska that is subject to extreme high velocity southeast winds. This has already been proven by the blown over leave strips along rivers and streams in the area that has already been logged. If you look at a map of the Gulf of Alaska, you will see that this is even more true in the area between Cape Suckling and White River. Once this area is opened up to logging a great deal of additional timber will be blown down, especially along the thin leave strips of anadromous rivers and streams which are also important habitat to game populations. To the best of my knowledge this problem hasn't even been studied. However, the possibility is mentioned in a memorandum from Greg Thomason to Rick Reed.

One final point I would like to make concerning the timber transfer from DNR to the University of Alaska is that the benefit to the state treasury is only \$78.41 per acre. Just imagine the damage that has already been done to this area and the additional damage that could be done for only \$78.41 per acre, and all the other uses of important resources that will be subject to long

term damage. Many of the trees in this area are two to three hundred years old.

Mr. Chairman and members of the Senate Resources Committee, we cannot ask you to correct the severe damage that has already been done to this area. However, you have it within your power to start the process in motion to make the area between Icy Bay and Cap. Suckling a state forest which would require a management plan which would include a lot of public input and save what's left of this beautiful and bountiful area for true multiple-use management.

Thank you for the opportunity to present our concerns today.



UNITED FISHERMEN OF ALASKA

211 4th Street, Suite 106
Juneau, AK 99801
907-586-2820

April 12, 1988

To: Members of Senate Resources Committee

At its annual meeting in February, the board of directors of United Fishermen of Alaska passed a resolution concerning timber harvest plans for the land addressed in this bill.

The UFA board believes that logging and fishing can coexist in the same area. We realize, however, that some foresight must be used to accomplish this.

Our reasons for supporting Senate Bill 465 are the same as the reasons expressed in our resolution asking that the transfer of the area's timber rights to the University of Alaska be postponed.

Specifically we are asking that accommodations be made for the existing commercial activities in the area. We think it will not be of economic benefit to the state to allow a new activity to displace industries already in operation.

By postponing logging until a management plan is in place, as stipulated in this bill, you will be allowing all of us to work within the system you have already mandated in statute. You will be allowing all those interested in the resources of the area to work out mutually acceptable agreements.

We urge your support of SB 465.



UNITED FISHERMEN OF ALASKA

211 4th Street, Suite 106
Juneau, AK 99801
907-586-2820

UNITED FISHERMEN OF ALASKA

Resolution 88-10

WHEREAS Alaska's Department of Natural Resources recently conveyed to the University of Alaska the rights to harvest the standing timber on 37,500 acres of land along the Gulf of Alaska between Icy Bay and Cape Suckling, Alaska; and

WHEREAS the transfer action did not fully address the other land and water uses in the area; and

WHEREAS this area also contains abundant and valuable fisheries resources which have not been inventoried and which have been inadequately surveyed; and

WHEREAS some major waterways appear to have been granted some protection but there is no assurance that tributaries important for salmon spawning and rearing habitat have even been officially identified let alone protected; and

WHEREAS the primary species produced by the area is coho salmon which must have calm, protected waters such as beaver ponds for overwintering to ensure successful survival and these areas have not been clearly identified and provisions for their protection have not been made; and

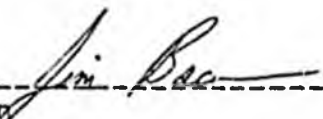
WHEREAS this process did not adequately solicit information from users already economically dependent on other renewable resources in the transfer area; and

WHEREAS related timber harvest activities, such as areas for log storage and transfer facilities, that may conflict with traditional fisheries activities should be subject to greater public review to mitigate such conflicts; and

WHEREAS the fishermen of Yakutat and Cordova are extremely concerned about the impacts on the area's fisheries that may occur as the result of these actions;

NOW THEREFORE BE IT RESOLVED that United Fishermen of Alaska requests Governor Steve Cowper to hold in abeyance all actions relating to the transfer of timber harvest rights to the University of Alaska until a full public review has been held including public notices, public hearings and an extensive public comment period; and

BE IT FURTHER RESOLVED that this public review take place in a timely fashion so as not to occur during the summer fishing season.



Jim Bacon
President

3-1-88

Date



CORDOVA DISTRICT FISHERMEN UNITED

P.O. Box 939

Cordova, Alaska 99574

(907) 424-3447

April 11, 1988

Senator John B. Coghill, Chairman
Senate Resource Committee
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, AK 99811

Dear Senator Coghill:

Cordova District Fishermen United supports SB 465, an Act establishing the Yakataga State Forest.

We feel that all uses of the resources in Yakataga should be considered, especially commercial fishing, subsistence, hunting and recreational, before clear-cut logging is permitted. We also feel that it is important that the DNR not permit logging within the Yakataga State Forest until a management plan has been adopted.

We appreciate your attention to this matter of importance to all commercial fishermen.

Sincerely,

CORDOVA DISTRICT FISHERMEN UNITED

Gerald McCune
Gerald McCune
President

GM/mb1

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1798
PHONE: (907) 465-2400

March 9, 1988

The Honorable Jack Coghill
Chair, Senate Resources Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Coghill:

Subject: Senate Bill 465, an act that will establish the Yakataga State Forest.

Position: Language that prohibits management activity within the State Forest until a management plan is adopted runs contrary to obligations existing from the settlement arrived at between the Department of Natural Resources and the University of Alaska.

Background: The establishment of a State Forest will commit state-owned lands between Cape Suckling and Icy Bay to long term public retention. The land will be managed for multiple use and sustained yield. There are approximately 460,000 acres within the area of which an estimated 87,000 acres are highly productive forest lands. Currently this area produces 40 Alaskan jobs and \$650,000 dollars in timber royalties to the state annually. The annual gross sales receipts of the timber operators at Icy Bay is between 3 to 5 million dollars.

Since 1970, 210 million board feet of timber has been harvested within the proposed State Forest. At present the state has a contractual obligation to provide a total of 60 million board feet of timber through the end of 1990. In addition, the state is in the process of transferring the timber rights to 444 million board feet of timber to the University of Alaska as part of the University of Alaska - Municipality of Anchorage Settlement. This transfer is now under litigation. Also, the state has millions of dollars invested in roads, bridges, landing strip and barging facility at Icy Bay that require annual maintenance. The landing strip and road system also serves the growing need of the mining industry located in the area and access for recreationists and hunters.

Senator Coghill

- 2 -

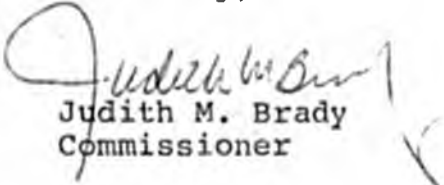
March 9, 1988

Specifically, the department is concerned about language in this bill which may limit the department's ability to meet the obligations it presently has in this region.

The Fiscal Note reflects the need for an added planner to coordinate the planning, one resource forester to gather and analyze resource data, and dollars to complete forest data base automation. These positions would be needed for the timely planning of this area.

We look forward to working with the committee and staff as this bill progresses.

Sincerely,



Judith M. Brady
Commissioner

cc: Committee Members
Bill Sponsors
Rod Swope
Bob Evans

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: SB 465
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: March 8, 1988
Title: Creation of Yakataga State Forest
Sponsor: Eliaison
Requestor: Senate Resource Committee

Agency Affected: DNR/Div. of Forestry
BRU: Forest Management
Components: Forestry

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		92.7	92.7	92.7	92.7	
TRAVEL		12.0	12.0	12.0	12.0	
CONTRACTUAL		50.0	50.0	50.0	50.0	
SUPPLIES		10.0	10.0	10.0	10.0	
EQUIPMENT		2.0	2.0	2.0	2.0	
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		166.7	166.7	166.7	166.7	

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		166.7	166.7	166.7	166.7	
FEDERAL FUNDS						
OTHER						
TOTAL		166.7	166.7	166.7	166.7	

POSITIONS:

FULL-TIME		2	2	2	2	
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The creation of the Yakataga State Forest will provide opportunities for Forest Management by having a dedicated resource base for forest management.

Prepared by: John Galea
Division: Forestry

Phone: 465-2491
Date: March 9, 1988

Approved by Commissioner: [Signature]
Agency: _____

Date: 3.9.88

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Position Title Forester II		No. of Positions 1	Range/Step 16A	Barg. Unit GGU
Time Status PFT	Staff Months 12	Location Juneau		Election District 92
Type of Expenditure		Justification SB 465		
		Funding for a 12-month position to be stationed in Juneau. The Forester will be responsible for the completion of a forestry data base in order that accurate data can be used in the planning process. This position will also be responsible for generating output maps, files to aid decisions on the plan. Also to provide technical assistance in running computer programs utilized in the planning process. The Forester will aid the planner as needed in plan development.		
Amount				
1	2	3		
Salary	2702 x 12	32.4		
Benefits	910 x 12	10.9		
Premium Pay				
Other				
Total Personal Services		43.3	43.3	
Travel		2.0		
Contractual		30.0		
Commodities		5.0		
Equipment		2.0		
Other				
Tot. Cost		82.3		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	82.3		
GF Program Receipts	1005			
Other				

**Request For
New Position**

Agency Natural Resources
 BRU Forest Management
 Component Forest Management

Page 2 of 3
 Revised Date

FY 89

Position Title Natural Resource Manager I			No. of Positions 1	Range/Step 18A	Org. Unit GCU
Time Status PFT	Staff Months 12		Location Juneau		Election District 92
Type of Expenditure			Justification SB 465		
		Amount	<p>This position will coordinate the development and implementation of State Forest Management Plans within the Southeast Region. Incumbent will be responsible for organizing and chairing Interagency planning teams for gathering pertinent planning information, for preparing draft plans, for arranging and conducting public hearings, and for preparing the final plan for submission to and approval of the commissioner. Subsequent to management plan completion incumbent will be responsible for coordinating implementation of the plans. Incumbent will coordinate development of operating plans for Interagency review. Will review and recommend amendments to plan and will coordinate preparation of plan updates.</p>		
1	2	3			
Salary	3113 x 12	37.4			
Benefits	1000 x 12	12.0			
Premium Pay					
Other					
Total Personal Services		49.4			
Travel		10.0			
Contractual		20.0			
Commodities		5.0			
Equipment					
Other					
Total Cost		84.4			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	84.4			
GF Program Receipts	1005				
Other					

**Request For
New Position**

Agency Natural Resources
 BRU Forest Management
 Component Forest Management

Page 3 of 3
 Revised Date

FY 89

ALASKA STATE LEGISLATURE . SENATE

SENATOR RICHARD I. ELIASON

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, VICE CHAIRMAN
LEGISLATIVE COUNCIL
RESOURCES COMMITTEE
FISHERIES SUBCOMMITTEE, CHAIRMAN



P.O. BOX 143
SITKA, ALASKA 99835
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4916

M E M O R A N D U M

TO: Senator Jack Coghill, Chair
Senate Resources Committee

FROM: Senator Dick Eliason *Dick*

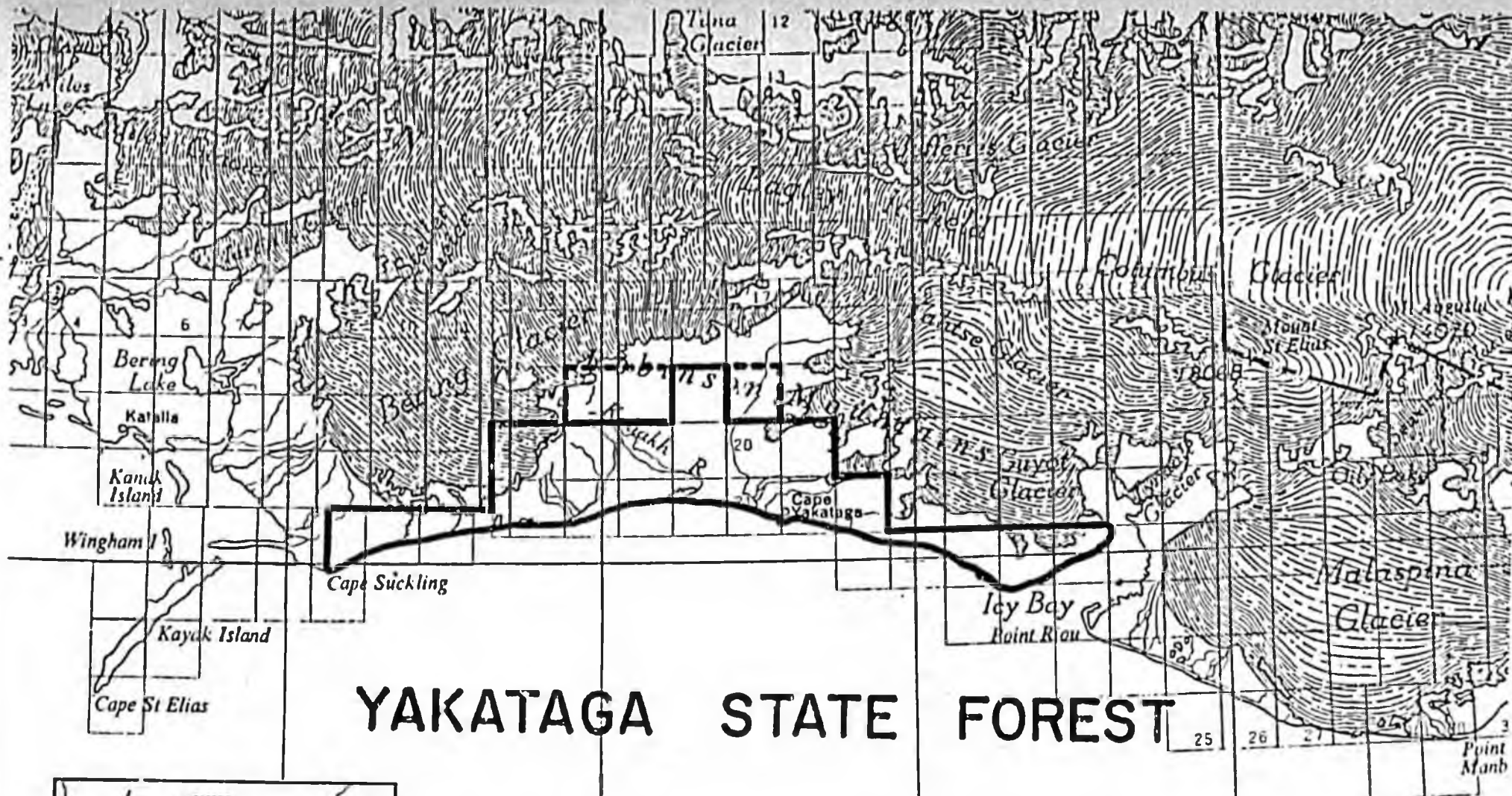
RE: SB 465 - An Act establishing the Yakataga State Forest

DATE: March 14, 1988

Senate Bill 465 would establish the Yakataga State Forest along the coast of the Gulf of Alaska, between Cape Suckling and Icy Bay.

Approximately 460,000 acres of state owned land are included in the proposed state forest. Designating this land as a state forest will commit the state to managing the land for multiple use under a long-term development plan.

The Commissioner of Natural Resources shall prepare a management plan consistent with AS 38.04.005 within three years of the establishment of the state forest. Until the management plan has been adopted, no logging within the proposed Yakataga State Forest is allowed.



LOCATION MAP

- FOREST BOUNDARY
- - - - - ADDITIONS IF NATIVE RELINQUISHED



RATIONALE FOR A STATE FOREST SYSTEM

Historically, the forests of Alaska have provided its inhabitants with building materials, fuel, recreational opportunities, diversity of wildlife and untold other benefits. Recent rapid shifts in ownership patterns and single-use allocations of that land have severely hampered public availability of these resources and stifled the development of a viable forest products industry, especially in the interior of Alaska.

The full impact of these encroachments on the public use of the land, if allowed to continue, will not be fully realized for years and possibly decades. Continued pressures to further reduce the publicly owned forest land available for multiple-use management is eroding this base.

It is in the best interest of the State to legislatively designate large tracts of primarily forested lands for long-term public retention and management for a multiplicity of resources, as envisioned by the framers of the Constitution of the State of Alaska.

Simple classification of the land as "forested" does not assure that this diversity of benefits, so needed by Alaska, will remain available for future generations.

Forest land in private ownership might well produce the forest products necessary for the development of the State, but not allow the use of the land for its other resource values by the general public.

A state forest system is a use-oriented concept. It would not only provide the incentive to develop a stable forest products industry capable of reducing the amount of lumber being imported to meet our needs (some 75% of the sawn lumber used in the Interior), but also provide access for hunting, fishing, camping, berry picking, etc. State forests are not a lockup, but a dependable year-after-year source of all the renewable resources of the State, for all the residents of the State.

FISHING & FLYING

Outfitters Transporters

Box 2349
Cordova, AK 99574

January 10, 1988

Steve Cowper
Office of the Governor
Juneau, Alaska 99811

Dear Governor Cowper;

This letter is in reference to the University of Alaska land trade with the DNR, specifically the section granting timber rights to the University in the Cape Yakataga and Cape Suckling areas.

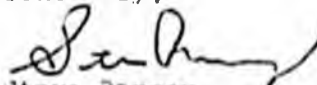
My family and I are long time users of this area, as commercial fishermen and now also as a commercial outfitter, providing aircraft charter and other services to the people that use this area. We have seen a rapid, healthy growth in the area as the commercial and sport fisheries, hunting and tourist industries have expanded, greatly aiding the local economies. For its size, this area is possibly the richest in the state in fish and wildlife values, with its much sought after Silver Salmon, Moose, Bears and Mountain Goats all extremely numerous. As directly adjacent to the Wrangell St. Elias Park, this coastal plain will continue to become an increasingly popular destination as tourists seek out its spectacular scenery.

These completely renewable natural resource industries are now to be replaced with a single timber industry. Yet, we the users of the area have had no chance to even voice our concerns as this huge 400 million board ft. sale was rushed through. Several key Fish and game officials charged with managing the area were not even aware of all or parts of the sale. There has been no effort on the part of DNR to even attempt to contact affected users of the area, and more importantly, no attempt has been made to draw up an overall plan for the area or even recognize critical areas to habitat.

While timber harvest has its important place in the Alaska economy, it should not be done at the expense of other much needed jobs. Also, due to the extremely long growth cycle in this area, it should be done with planning and with consideration for the areas other valuable resources.

I am requesting that this timber sale be stopped, and future sales adequately involve the users and general public.

Sincerely,



Steve Ranney

907-424-3324

LAND DESCRIPTION: CAPE SUCKLING TO ICY BAY

The land basically is divided by Cape Yakataga geographically. From Icy Bay to Cape Yakataga, a gradually narrowing lowland is backed by steep, near-vertical cliffs that give way to glaciers and icefields. At Cape Yakataga, the entire area is basically the forelands and drainage of the eastern face of the Bering Glacier. The entire beach is sandy, with constant surf.

All rivers in the area are short, due to the area being surrounded by icefields. Between Icy Bay and Cape Yakataga, they are mainly small and glacial. Westward there are larger rivers. Nearly all are salmon producers. For their size, they are some of the best silver producers in the state.

In general, the area is probably the most productive and prolific spot in the state for wildlife, considering its small size.

The trees in the area vary greatly. It is not a highly forested area. Between White River and Icy Bay, it was generally predominantly spruce with mixed hemlock. There were also large swamp and muskeg areas. Towards Cape Yakataga, the trees are mainly located on the slopes, with muskeg at the bottom. The Yakataga River valley has considerable growth of mixed spruce/hemlock. There are only three major stands of primarily spruce between there and eastern Tsiu River. Otherwise, there are large stands of willow and cottonwood and muskeg. The entire Tsiu drainage, to Seal River is a mixture of widely scattered spruce, willow, cottonwood, rolling grassy hills, sand dunes and sandy areas. At Tashalich River there is a moderately wide band of old growth spruce that runs to Kiktukh River. This stretch is fronted by huge rolling, grass-covered sand dunes that run from Seal River to Cape Suckling. Suckling Hills is basically surrounded by a narrow strip of mixed spruce and hemlock on steep slopes.

Animal life, as previously mentioned, is extremely rich. At one time, Icy Bay was claimed by Fish and Game to have the highest concentration of Mountain Goats in the state. The area between Icy Bay and Cape Yakataga was particularly prolific. While they have declined significantly, they are still numerous in the Cape Yakataga vicinity (Brower Ridge) and increasingly in the Suckling Hills as well as virtually all the river drainages. The moose have arrived relatively recently and are faring extremely well. Some claim that it is the fastest growing moose herd in the State, but it is hard to tell, as there have not been any moose counts for several years. The moose are extremely numerous on both sides of the Suckling Hills and the Tsiu and Kaliahk drainages. They extend to Cape Yakataga in fair numbers. Only a few are seen east to Icy Bay. I have never seen

a moose in the regrowth areas. Bears, both Black and Brown, are also very populous. In the Fall when the salmon are running, the banks of some of the rivers are literally covered with tracks. One hunter saw 16 black bears on the Suckling Hills in one day! A large scale big game guide claims never to have sent a client home without his bear in four years (Spring and Fall) with only one exception. The area is also rich with coyotes, wolves and furbearers. A large population of swans, geese, eagles, and other birds nest in the area.

Fish are found in nearly all the water. Kiktukh River supports a considerable run of silvers and trout and is fished in good years commercially. Tashalich River has a good run of silvers; Seal River has a run of both sockeye and silvers. Mid-Timber Lake is usually landlocked and has landlocked silvers and trout. Tsiu River has an extremely large silver run as well as sockeye and steelhead. Kaliahk and Ducktoth have excellent silver runs as well as some pink, chum, and king salmon. The Tsiu and Kaliahk are both fished commercially and the Dukttoth occasionally. The rest of the streams to Icy Bay have not even been properly indexed. However, several are fished commercially on occasion.

PRESENT COMMERCIAL USE

Fishing, by both sport and commercial fishermen, brings in the most revenue for the area. This area is an overlap area for a joint-use between Yakutat setnet fishermen and Prince William Sound setnet fishermen. Trollers are working the area in increasing numbers. (This is their northern boundary.) This is the most lucrative fishing area for Yakutat fishermen for silvers, mainly on the Tsiu and Kaliahk. This year approximately 50 permits fished the area. (Roughly half the active Yakutat permits.) The Tsiu River alone contributes up to 600,000 pounds of fish to the commercial catch. Sport fishermen have discovered the area, mainly concentrating on the Tsiu and Kiktukh Rivers. There are two outfitters that work the area as well as fly-in operators. (This includes Ryan and Era using 19-passenger aircraft!)

Fish-hauling is another source of employment as fish must be hauled to either Cordova or Yakutat for processing. Aircraft ranging from the Cessna 180 to C-46s are used.

Big game hunting is also a big use. There are several big game guides registered in this joint use area. Two are active with one running a very large operation. With a trophy hunt bringing between \$5,000 and \$10,000, it is definitely big business. Two outfitters also bring people in on hunting trips, utilizing mainly the Suckling Hills, Kaliahk, and Cape Yakataga areas. A guide used to operate in the Mundy Creek area but was forced out by the logging. The area is also used by outdoorsmen and women as it is truly Alaska at its finest. Cape Suckling is a favorite spot due to its scenic beauty, sandy beaches and great beachcombing!

Trapping has been the mainstay of the area's longest permanent residents, now in their second generation.

Mining is also conducted in the area, mainly in the White River and Cape Yakataga areas. This is for gold and there are several active claims.

There has been oil exploration in the past, mainly to test the offshore potential. This has been inactive for many years. (I believe since the early sixties.)

AREA RESIDENTS

There have been people living at Cape Yakataga for a long time. It is an abandoned Federal Aviation Administration station and White Alice station. (Currently, both the FAA and Alascom maintain equipment at Cape Yakataga.) There are currently three people that live there permanently and several more in the summer.

FAST LOGGING ACTIVITY

The logging activity in the Icy Bay area started in 1969. A twenty year contract was awarded for 206 million board feet of spruce and hemlock. A later contract in approximately 1983 awarded another 40 million board feet. Timber was originally sold to Kenai Lumber. In a court fight that eventually ended up in Supreme Court, they were allowed to export in the round.

The logging is essentially one huge clearcut that starts roughly one mile west of Icy Bay, and runs to White River. The western end is currently being logged and there are several small parcels that were left out at the request of Fish and game. These may come up for logging later. Logging has for the most part proceeded westward, with the timber being trucked to a launch site near Carson Creek in Icy Bay. Bundles are then towed to a storage area and loaded onto a ship.

The logging camp has never drawn on the local communities for either labor or supplies. With South-Central Timber, the previous operator, the workforce was mainly from Salmon Idaho.

The clearcut is the largest and most destructive that I've seen. Now totaling nearly 25 miles in length, the first 20 are unbroken by leave strips. Particularly in the eastern end, the cut is piled high with slash as only the best timber was pulled out. At places leave strips of negligible width were left. These promptly blew down, and then the timber would be logged as salvage after only a short delay.

It should be noted that the area is buffeted by extreme winds. This, combined with the thin topsoil makes the blowdown of the minimal leave strips almost guaranteed. Regrowth is also fairly slow.



Southeast Alaska Conservation Council

SEACC • P.O. Box 021692 • Juneau, Alaska 99802 • (907-586-6942)

January 4, 1988

Ms. Judith M. Brady
Commissioner
Department of Natural Resources
State of Alaska
P. O. Box M
Juneau, Alaska 99811

RE: University Land Settlement
ADL 223456
Final Finding and Decision (12/4/87)

PETITION FOR RECONSIDERATION

Dear Commissioner Brady:

On behalf of the Southeast Alaska Conservation Council (SEACC); The Alaska Center for the Environment (ACE); Fishing and Flying, Inc., an Alaska corporation based in Cordova, Alaska; and Henry Porter, a resident of Yakutat, Alaska, we hereby request your withdrawal for reconsideration of the decision referenced above. We further request that the portions of this decision conveying logging rights on parcels 20 (Yakataga), A148 (Cape Suckling) and A154 (White River) be immediately eliminated from your decision.

If these parcels are not immediately removed from the settlement, we respectfully request that you then refer this matter to a hearing officer and order further information gathering by DNR, including public hearings in Yakutat, Cordova, Anchorage and Juneau to complete the administrative record and provide a solid basis to support a new decision based on a thorough re-examination of all the relevant evidence.

Reasons supporting our request are set forth below.

PETITIONERS' IDENTITY AND INTERESTS

SEACC is a coalition of twelve member groups from ten communities in Southeast Alaska, as well as over 750 individual members. SEACC is dedicated to ensuring maximum protection for the unique natural environment of Southeast and Southcentral Alaska, including the area between Icy Bay and Cape Suckling. The use and enjoyment of these public lands by members of SEACC will be adversely impacted by the decision appealed herein.

ACE is a nonprofit environmental education and advocacy organization based in Anchorage, representing approximately 750 members. ACE's purpose is to influence public attitudes and government policy to bring about sound environmental decisions and to promote the conservation of Alaska's natural resources. The use and enjoyment of the area between Icy Bay and Cape Suckling by members of ACE will be adversely impacted by the decision appealed herein.

Fishing and Flying, Inc., is an Alaska corporation based in Cordova, Alaska, engaged in the business of air taxi service, outfitting and guiding. Fishing and Flying does a substantial portion of its business in the area between Icy Bay and Cape Suckling. The use and enjoyment of these public lands by Fishing and Flying and its business interests conducted thereon will be adversely impacted by the decision appealed herein.

Henry Porter is a resident of Yakutat, Alaska. Mr. Porter is a commercial fisherman who does a significant portion of his fishing in the area between Icy Bay and Cape Suckling. The use and enjoyment of these public lands by Mr. Porter as a commercial fisherman and as a resident of the State will be adversely impacted by the decision appealed herein.

STATEMENT OF REASONS IN SUPPORT OF
PETITION FOR RECONSIDERATION

A. DNR Lacks Legal Authority to Include Logging Rights in the University Land Settlement

The decision by DNR to include timber rights on the parcels in Yakataga, White River and Cape Suckling in the university land settlement is clearly in excess of the statutory authority granted the department under the Alaska Constitution and statutes and is, therefore, illegal. It is an axiom of administrative law that agencies are bound in their actions by the authority granted them under applicable statutes. Yet, in this case, DNR went well outside of its existing authority to dispose of timber, failing to follow proper procedures, and creating a new, unprecedented category of state timber sales. This ultra vires action cannot withstand judicial scrutiny and should be withdrawn.

DNR cites a number of authorities at page two of the Final Finding which, it purports, provide ample authority for the actions taken. However, careful examination of these statutes reveals that they do not authorize or contemplate the conveyance of logging rights at all.

For example, DNR cites former AS 29.18.206 (now AS 29.65.060). This statute only authorizes identification and conveyance of "general grant land," not timber interests. The statute specifically defines the term "general grant land" as patented or tentatively approved land. See AS 29.65.130(3)(A). Nowhere does the statute contemplate or authorize the sale of timber.

DNR also cites AS 38.05.810 as authority supporting this decision. This section, dealing with conveyances of state land or resources to charitable institutions or public agencies for public service purposes, is misapplied in an effort to justify this action. The conveyance of logging rights by DNR to the University provides no general public benefit or service. It envisions a purely commercial interest, for profit, to benefit not the general public, but the University itself. Surely, not even DNR would attempt to argue that some public good is being provided to the people by the removal of 448 million board feet of timber. Moreover, the statute requires the agency seeking state land to make an application for such land. The University has not submitted any such application here; understandably, since they intend no public benefit operation. Again, the statute relied upon by DNR fails to support the action.

Sections 38.05.185(a); 38.05.035(e) and others cited similarly fail to grant DNR the authority to bypass normal timber sales procedures outlined in AS 38.05.110-120. Indeed, other DNR land disposal authority must be read in the context of these specific statutes dealing with timber sale procedures. See, e.g., 2A Sand, Sutherland Statutory Construction, 53.01; State v. GLP, 590 P.2d 65 (Alaska 1979) (statutes should be construed harmoniously). Nothing in the general authorities cited by DNR bypasses or nullifies the clearly delineated timber sale procedures in sections 38.05.110-120. DNR failed to follow these required legal procedures in this decision.

B. DNR's Action Violates Article VIII,
Sections 4 and 10, of the Alaska Constitution

DNR's action in regard to the timber parcels, essentially allowing a timber sale outside of legal channels, violates Article VIII, sections 4 and 10, of the Alaska Constitution. Section 4 requires that state renewable resources be managed for sustained yield. Section 10 requires that no disposal of public resources be made without such "safeguards of the public interest as may be prescribed by law." DNR's action violates both provisions.

Article VIII, Section 4, has been defined by the Alaska Supreme Court as "permitting timber cutting at a level that cannot be sustained over a forest rotation period only in unusual circumstances." SEACC v. State, 665 P.2d 544, 548 n.12 (Alaska 1983). Such unusual circumstances are not present here, but the DNR decision requires logging of over 448 million board feet of timber over a period of between 20 and 40 years. We believe this clearly indicates a violation of the sustained yield provisions of the Constitution.

Nowhere does this decision discuss the annual sustained yield capacity of the areas proposed for logging, or even the general area between Icy Bay and Cape Suckling. We also note that state timber sales and development here apparently have already proceeded without benefit of comprehensive land planning or classification as required by AS 38.05.300 and other statutes. This area has already been subjected

to extremely heavy cutting over a relatively short term with insufficient state involvement. Additional logging of the scope envisioned here, in the brief time frame allowed, appears highly likely to exceed the sustained yield capacity of the land.

Moreover, the DNR decision does not place limitations on how quickly these state lands can be logged. There is no safeguard to insure sustained-yield management of these state timber lands by the University. Indeed, there is a countervailing disincentive to conservation in the time limits for completion of logging contained in Appendix I. Thus, under DNR's terms, a prudent manager would attempt to cut as much as possible as quickly as possible in order to avoid forfeiture of logging rights.

Finally, the action by DNR, setting up a timber sale outside of legislatively approved procedures and safeguards violates Article VIII, Section 10, because it bypasses the "safeguards of the public interest" contained in AS 38.05.110-120, and related regulations.

AS 38.05.110, for example, requires that state timber sales be preceded by cruises of timber and an assessment of supply and demand to determine the appropriate amount of timber to provide. DNR has not done this for the logging parcels included in its university land settlement. AS 38.05.115 requires that sales include provisions providing for sustained yield. As explained above, this also has not been accomplished. AS 38.05.120 requires competitive bidding of state timber sales. No bids have been taken here. AS 38.05.118 allows negotiated sales, without bidding, but only where there is a high level of local unemployment, underutilized timber manufacturing capacity, and an underutilized allowable cut. No such findings have been made here. In sum, the public interest has not been protected.

C. DNR's Action Fails to Consider Traditional Uses as Required by AS 38.05.830

DNR's decision makes findings under AS 38.05.830 regarding impacts to traditional use of the land for a number of the parcels involved in the university land settlement, but fails to make such findings for the three logging rights parcels in Yakataga, White River and Cape Suckling.

This error is particularly egregious here, where so many important traditional uses are at stake. The areas subject to logging under the DNR decision provide exceptional wildlife and fisheries habitat, perhaps unparalleled in Alaska, for a variety of species, including Alaskan brown (grizzly) bear, black bear, moose, wolf, wolverine, bald eagles, waterfowl, and substantial salmon populations. These resources support a large commercial fishing fleet, subsistence and sport hunting and fishing, wilderness outfitting and guiding, and other significant economic and social activity. Further, these lands have become increasingly important for recreation and tourism. Yet nowhere does the DNR decision catalog these uses, or discuss with any degree of specificity how or if they will be impacted by the proposed

massive industrial logging program, including by our rough estimates about 20,000 acres of clearcuts and perhaps as much as 200 miles of logging roads. We question whether DNR has collected adequate information on which to determine impacts to traditional use.

DNR also seems to assume that the few wildlife protection measures contained in the Final Finding cover all the potential conflicts with traditional uses. However, it is highly unlikely that this is the case. We question the efficacy of the measures included in the logging rights conveyance for protection of the goat, moose and fish populations.

First, the boundaries of the riparian zones that are less than 1/4 mile in width are unlikely to be windfirm in an area where winter winds regularly exceed hurricane force (greater than 75 knots). Thus, they will eventually blow down and be harvested as salvage and provide no buffer for fish habitat protection. Second, there is no indication that moose habitat needs are limited to the riparian areas. We have no idea, nor can we determine from the decision, where DNR got this idea. Finally, Fish and Game Department memos indicate their belief that goats use areas below the 200' contour on the Suckling Hills in severe winters. Thus, the habitat protection provisions do not protect critical habitat.

Worse yet, the Fish and Game Department also points out that a full stream survey of the areas subject to logging under this settlement has never been performed. Indeed, the Yakutat area biologist apparently was never consulted about this proposal and was reduced to submitting comments after DNR's final decision. Thus, DNR cannot assure adequate protection of fish habitat in this agreement because it lacks even basic knowledge of which streams or watercourses are sensitive, need special protection, or even contain fish.

Finally, although goat, brown bear, and moose are important game species on which traditional uses depend heavily, no mention whatsoever is made, nor is any mitigation provided for, the deleterious impacts of logging activities and logging roads on these species. Industrial development of this pristine area poses a grave threat to its goat, moose and brown bear populations. Road access, human occupancy, noise and traffic, illegal hunting and defense of life and property killings all result from operations of the scale proposed here. DNR's decision simply fails to even discuss this problem, much less propose effective mitigation. We cannot imagine how DNR could ignore such a crucial factor in its decisionmaking process.

D. DNR Erroneously Determined That Its Action Was Consistent With the Alaska Coastal Management Program (ACMP)

The Alaska Coastal Management Program requires that state land use actions be consistent with the standards set forth in 6 AAC 80. For many of the reasons set forth above, as well as due to other significant data gaps, erroneous information, or simple mistakes made by DNR,

the decision to convey the three parcels for logging does not meet ACMP standards.

First of all, DNR has not assured that logging of these parcels as proposed will be consistent with protection of estuarine and wetland habitat, or rivers, streams and lakes, as required by 6 AAC 80.130. Nor has DNR assured protection of water quality, required by 6 AAC 80.140, which is actually a responsibility of the Department of Environmental Conservation (DEC). DEC should be consulted here for its own determination. Nor has DNR adequately assessed subsistence use of the areas between Icy Bay and Cape Suckling, or specific use of the logging areas to make a meaningful determination under 6 AAC 80.120. We believe DNR cannot assure, as required, continued subsistence opportunities in this area if the logging is allowed. Finally, we find no indication that DNR has complied with 6 AAC 80.150 and identified important cultural and historical sites along this coast, despite the fact that the entire Gulf of Alaska coast from Prince William Sound to Dixon Entrance is rich in cultural and historic resources.

E. DNR's Decision is Arbitrary and Capricious

From the foregoing, it is obvious that DNR's action in conveying state timber interests to the University as part of the decision appealed herein, is arbitrary and capricious, in excess of statutory authority, outside of legal procedures, and violative of the Alaska Constitution. Therefore, DNR's determination that this action is in the "best interest" of the state cannot be sustained.

Moreover, DNR's decision was not subject to sufficient public notice given the gravity of the actions proposed. We believe most of the interested public remains uninformed about this proposal, as a direct result of DNR's failure to provide more than the bare statutory minimum public involvement in this decision. This amount of public notice was insufficient under the circumstances, meeting only the letter but not the purpose of the various public involvement laws.

We therefore respectfully request, as stated above, that the decision be withdrawn and corrected. Thank you for your prompt consideration of this petition. We look forward to a decision.

Sincerely,



Steven E. Kallick
Staff Attorney
Southeast Alaska Conservation Council
Attorney for Petitioners

cc: Governor Steve Cowper
Commissioner Don Collinsworth
Commissioner Denny Kelso
Senator Dick Eliason
Representative Peter Goll
The Honorable Larry Powell,
Mayor of Yakutat
Ms. Ann Parish, President,
University of Alaska Board of Regents



Sen. Fanning

Brian Rogers
Vice President for Finance
(907) 474-1449

University of Alaska
Fairbanks, Alaska 99775-6260
January 15, 1988

JAN 25 1988

Editor
The Cordova Times
P. O. Box 200
Cordova, AK 99574

Dear Editor:

The State of Alaska, through its Department of Natural Resources, recently settled a longstanding land dispute with the University of Alaska. Some 20,000 acres of land and land-related assets are being conveyed to the university in lieu of university lands in Anchorage which were selected by the municipality in 1978 through a provision of the Municipal Entitlement Act. This settlement was the product of many months of analyses and appraisals of lands throughout the State. As a land grant university, the University of Alaska owns and manages a land portfolio for the benefit of university programs. The Anchorage lands were by far the most valuable lands in this portfolio and had the greatest income potential. Replacing these lands on a value basis, which was the essence of the settlement, required the university and the Department of Natural Resources to look throughout the State for income opportunities.

Three of the selections in the University/State of Alaska Land Settlement are timber cutting rights in the Gulf Coast region. Two of the selections are located in the vicinity of Cape Yakataga, adjacent to the active Icy Cape II timber sale. One selection is located near Cape Suckling. In all three cases, the university is receiving title to the standing volume of timber in these units and the right to harvest this timber. The State is retaining ownership of the land. In the case of the timber at Cape Yakataga, the university contemplates a logging program which would take place over the next 10-12 years beginning in 1988, utilizing the road system already in place from the Icy Cape I and II sale. At Cape Suckling, because no existing infrastructure is in place, harvest planning and design of a log transfer facility as well as acquisition of all requisite permits are necessary before any harvest activities will begin. We expect this to take at least three years, with ample opportunities for public involvement in the permitting process.

Throughout the settlement negotiations, the university and the Department of Natural Resources worked with other agencies and the public to mitigate possible land use conflicts. In the case of the timber selection, the Alaska Department of Fish and Game (ADF&G) was involved throughout the negotiation process, insuring that the proposed timber harvesting program would be compatible with the interests of commercial, sport fishing and big

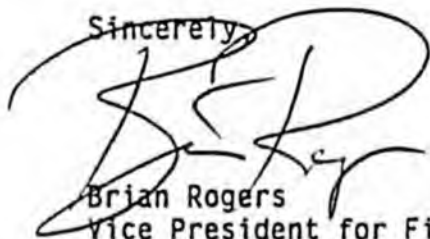
University of Alaska

game management. All streams, both anadromous and non-anadromous, are protected by streamside management corridors, in some cases as wide as a quarter mile. ADF&G will be involved in all harvest planning, and additional funds for travel for ADF&G and Division of Forestry sale administration personnel have been allocated as a part of the settlement.

The University of Alaska is the center of higher education, research and extension service in Alaska. Revenue generated from the sale of logs from a timber harvesting program on the Gulf Coast will go directly to support university programs. The timber harvesting program will also be an opportunity for university faculty and students to conduct research on the many aspects of management of coastal spruce and hemlock. It is a program which is similar to timber harvesting programs conducted by the University of Washington, the University of Idaho and Oregon State University. We believe that it is in the university's interest, as well as the public interest, that these forest lands be managed by the university using the highest standards of care consistent with the ability to derive revenues from our timber properties.

We expect that many people in the Cordova area may have questions about the program I have just described, as well as about other lands in the Cordova area that the university has acquired through this land settlement. In December, we participated in a community meeting in Yakutat where the university's land settlement and Gulf Coast timber program were discussed. We plan to hold a similar meeting in Cordova in late February to solicit public comment and share in more detailed information about the land settlement and our long-term resource development plans. We hope that this letter and the public meeting will help Alaskans in the Cordova area to understand the university's intentions regarding the management of its trust land portfolio. We look forward to meeting with you in February.

Sincerely,



Brian Rogers
Vice President for Finance

BR/mab

cc: Governor Cowper
Senator Kerttula
Representative Cato
Senator Fanning
Representative Goll
Rick Steiner, Cordova Marine Advisory Program
Bruce Baker, Habitat Division, ADF&G
Jim McAlister, Regional Manager, DNR Division of Forestry
Larry Powell, Mayor, Yakutat