

**OVERVIEW -
YAKUTAT
RESOURCE
CONSERVATION
COUNCIL**

A. C. Testimony at House Resources Hearing

A. History of use in the area from Icy Bay to Cape Suckling.

The Yakutat Natives have used this area for over 300 years. The history of use by past and present residents is well documented in numerous studies conducted over the last hundred years (the most recent of which was conducted in 1984 & 85 by the dept. of Fish and Game subsistence div.) There are five native clans in Yakutat. One of the Clans Kogwaanton, which has many decedents living in Yakutat today and many native allotments in this region, claims the territory from Icy Bay to Cape Suckling. One very large native village existed on the Kaliakh River. In the last hundred years most of the natives moved to Yakutat as a result of missionary influence and a desire to educate their children in the school there. Today residents both native and non-native continue to use the resources in the Icy Bay to Cape Suckling region, probably more than any other residents anywhere else. 95% of the commercial fishing activities are conducted by Yakutat residents. Yakutats use of subsistence resources is well documented and recognized by the Boards of Fish and Game. Guiding for hunting and fishing as well as other types of tourism have played an important role in Yakutats economy. Economic losses in commercial fishing and tourism, and reductions in subsistence resources as a result of logging the area have already occurred.

I point these facts out to help you understand why we are so hart sickened and angry with DNR management in the area. It seems DNR has intentionally left Yakutat out of the planing process to avoid negative feedback or the raising of issues that would curtail their desire for unobstructed harvesting of the area. The lack of public process and the failure to protect other resources and there uses are the most important Issues here. Nobody in Yakutat knew the area was being classified forest resource land in 1980. DNR notices either have been nonexistent or lacked enough information for the public to know what was going on. In 1983 DNR held a public meeting after the Icy Cape II timber contract had been awarded and promised to hold public hearings in Yakutat before making any more harvest plans. This has not occurred. Since that time DNR extended the Icy Cape II contract and transferred timber rights to the University without including Yakutat before the action took place. The Posting for the University timber transfer contained no mention of volumes of timber or a map showing the area involved. The public meeting was held after the transfer. Only recently did DNR hold a Public meeting in Yakutat before a action has taken place, and it seems because of the previous transfers DNR has already made up its mind how it will manage.

The management guidelines to protect other resources have been compromised, and violated repeatedly, and as a result drastic declines in fish and wildlife populations have occurred.

We do not believe that DNR is operating under sustained yield in this area as required by the Constitution. DNR does not take into account the amount of area needed to protect fish and wildlife, or the areas that are not possible to log due to soil conditions, economics, or other factors. Other statistics used to justify sustained yield are very questionable as well.

All these facts demonstrates DNR lack of concern for other resources besides timber.

The committee asks that you support the establishment of a Wildlife Refuge in the area to protect the World class fish and wildlife resources and do whatever possible in your power to see that these management abuses do not occur again.

Thank You for this opportunity to testify today.

John F. Vale

Chairman
Yakutat Advisory Committee

1. Sustained Yield
 - A. no areas retained for wildlife
 - B. areas included with poor soil conditions;
 1. wetlands, mountain slopes.
 - C. areas included that are uneconomical to log;
 1. mountain slopes, 8,000 board feet per. acre.
 - D. regeneration has been poor and is mostly hemlock
 1. will thinning be required in the future.
 2. rotation periods are questionable.
2. Management Guidelines
 - A. buffer strips on beaches, and along streams.
 - B. size of clearcuts
 - C. consultation with Fish and Game
 - D. not enough concern for other resources

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

February 16, 1990

The Honorable Curt Menard
Alaska State Representative
P.O. Box V
Juneau, AK 99811

Dear Representative Menard:

Thank you for the opportunity you provided us recently to present an overview of the activities in the Icy Cape area. I understand from staff that it was a frank exchange of views that went well beyond the allotted time. We have been involved in many hours of discussion on these issues, both before and after the hearing-- especially now as we work through the public comment on the proposed expansion of the Icy Cape II timber sale and the site specific plan. I'd like to offer some observations on the issues, and let you know of our management plans for this area.

First, we recognize that both the University of Alaska and Chugach Alaska have claims to timber resources in the area due to prior commitments made through litigation settlements.

The University settlement was required because of legislative changes to the Municipal Entitlement Act made in 1978. The settlement required years of work, and a portion of it, timber cutting rights in the Yakataga area, is currently the subject of litigation. It is not possible to revisit the settlement at this time. In addition, we must recognize that any plan or classification of these timber areas must be consistent with the University settlement and conveyance, and cannot adversely affect the University's rights.

Likewise, Chugach Alaska asserts a claim against the state for 16-20 million board feet of timber in the Yakataga area as a result of its purchase of the rights of the Sullivan contract. A part of those contract rights is a previous commitment made by the Sheffield administration as a settlement of litigation. That settlement creates an ongoing legal obligation for the state. We may decide, through the public process we are now in the midst of, that we cannot meet that obligation in this location.

We have looked throughout the entire state for alternative timber sources; however, none are acceptable. The state's available timber is either tied up in the proposed Seldovia land exchange, too far away, or otherwise uneconomical for Chugach to access.

Without available forest land, I am without many options. My staff has worked closely with staff from the Department of Fish and Game to resolve outstanding problems in this area over the past few weeks; we continue to respond to public comment. In the end, approval of the timber sale expansion may be the only option--as long as it is designed with appropriate protection for mountain goat habitat and other non-timber resources.

However, I am aware that there has been a great deal of controversy in this region. I recognize the need for comprehensive planning--an effort which has not been done to date because of the priority given to other areas with more pressing resource conflicts.

To ensure that an area-wide plan occurs before the department commits to additional timber harvest in this area, I am amending the site-specific plan to change most of the existing Forest Land classifications in the Yakataga area to Resource Management, and will specify that these lands will remain closed to further timber harvest (except for the existing University and Chugach commitments) until further planning is accomplished. This way, neither I nor future administrations can change that policy without first conducting a public planning process.

I do not know when such a plan can be scheduled. Our planning staff is currently fully committed to other projects, such as the Susitna Forest Plan, and the Susitna Recreational Rivers Plan. Therefore, our ability to do a plan for this area in the near term is subject to legislative appropriation.

I believe this approach will solve the problem of long-term decision making in the area while allowing the state to meet its legal obligations. We will satisfy the need for a comprehensive look at the area and give people the assurance that there will be no additional timber harvest pending the outcome of that planning effort. It also makes the best of the problematic short-term decisions facing us--although those decisions will not satisfy all people.

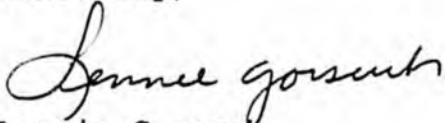
Representative Menard

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February 16, 1990

I would be happy to discuss this in further detail with you and will be in touch with your office to set up an appointment.

Sincerely,

A handwritten signature in cursive script that reads "Lennie Gorsuch".

Lennie Gorsuch
Commissioner

cc: Rod Swope, Deputy Commissioner
Gary Gustafson, Director
Division of Land and Water Management
Bob Loeffler, Division of Land and Water Management

BRIEFING PAPER FOR YAKATAGA AREA
Prepared by ADF&G Habitat Division
February 16, 1990

Location: The area addressed here is located between Cape Suckling and Cape Yakataga on the northeast gulf coast.

Area Description: The area is a wide coastal plain sandwiched between the exposed northeast gulf to the south and the Bering Glacier and Robinson Mountains to the north. Several major river systems transect the area including Kiklukh River, Tashalich River, Seal River, Tsiu River, Tsivat River, Kaliakh River, Chuiki River, Duktoth River, and Yakataga River. A string of glacial lakes rings the toe of Bering Glacier.

The area includes large expanses of riparian and sedge/muskeg wetlands with extensive ponding formed by glacial moraines and enhanced by beaver dam building activity. Better drained sites support healthy stands of Sitka spruce, western hemlock, and mountain hemlock. Alder thickets crowd the lowlands. Western black cottonwood are also present. In the lowlands, the flatness of the terrain provides for widely braided river channels with extensive communities of riparian willow.

Fish and Wildlife Resources: The coastal lowlands located between the mountains of Cape Suckling and Cape Yakataga provide an oasis of productive habitat for fish and wildlife.

The area lies along the main Pacific migration route of birds flying north to breed. The high coastal mountain range funnels millions of birds along the narrow coastal corridor. A majority of waterfowl migrating north along the coast stop to rest and feed in these coastal lowlands on their way to summer nesting grounds. A minimum of 295 trumpeter swans were counted in the proposed refuge in 1985, with nesting concentrated in the Kiklukh and Tashalich River drainages, the Kaliakh and Chiuki River drainages and the numerous beaver ponds of the Tsiu and Tsivat River floodplains. The Chiuki River, a tributary of the Kaliakh River, has one of the highest swan nesting densities in the state. A minimum of 62 trumpeter swans have been observed wintering within the proposed refuge boundary (1989) primarily in the Tashalich and Tsiu/Tsivat River lower drainages.

Hundreds of bald eagles winter in high densities along the lower stream reaches.

Upwards of 500 moose are known to use the coastal lowlands. In the winter they concentrate between the Tashalich River and Seal River and along the Tsiu River floodplain.

About 700 mountain goats inhabit the more mountainous regions. Extreme weather conditions and heavy snowfall often drive goats to lower elevations during winter. At these times, goats can be found in lowland forests along the coast.

One-hundred fifty to two hundred brown bear inhabit the area. In the spring they concentrate along the Kiklukh River, on the lowlands between Bering Glacier and the coast, and along the coast from the Tsiu River to Cape Yakataga to feed on newly emergent vegetation. In the summer, brown and black bears concentrate along fish streams to feed. The most heavily fished systems are the Kiklukh, Tsiu, Kaliakh, and Kulthieth rivers.

Approximately 35 - 50 wolves are estimated to occur in the proposed refuge. Their numbers have been slowly increasing in recent years. Other furbearers found in the area include wolverine, coyote, lynx, marten, mink, land otter and beaver.

Four species of salmon (king, sockeye, coho, and pink) occur in the area, although coho salmon are by far the most prevalent. Dolly Varden, cutthroat trout, and steelhead are also documented.

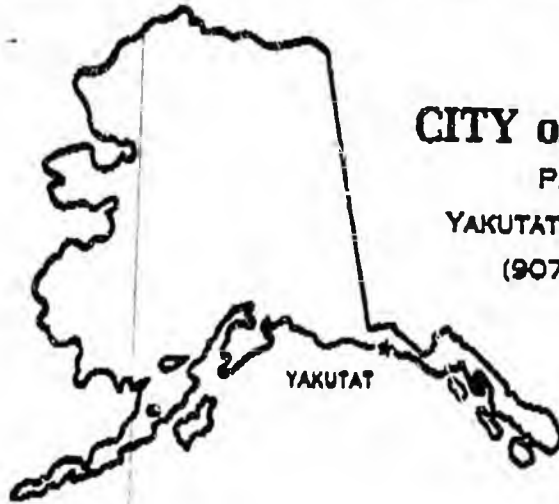
Current Fish and Wildlife Uses: The proposed Yakataga State Game Refuge is accessible by boat or plane and has long been an important hunting and fishing area for Yakutat residents. Within the proposed refuge boundaries, moose, mountain goats, black and brown bear and waterfowl are hunted by residents and guided non-residents. An average of 4 guide/outfitters have service the non-resident hunting/fishing public within the boundaries in recent years. Commercial setnet sites are concentrated at the mouths of every major river. The Tsiu/Tsivat River system is one of the richest commercial fishing systems for its size and type. Sport fishing opportunities are abundant. Outfitters and guides take fishermen into the area to fish for salmon; the Tsiu River is a popular coho fishing stream.

Effect of Creating a Refuge: The effect of creating a refuge would be to emphasize the fish and wildlife values of the area while allowing other uses to occur as long as they are compatible with that primary purpose. It would also give the Department of Fish and Game (ADF&G) a greater role in land use decisions.

Need for Management Planning: Whether or not the legislature decides to create a refuge, public use area, or state forest the administration should initiate a regional plan for the area. The plan would assess all the resource values and set land use policy before major commitments of resources are made. This will avoid piecemeal decisions that can and have caused significant impacts to wildlife, and frustrated the public's need to understand and participate in the decisions that affect management of resources they depend on.

Staffing Needs: If the legislature directs the administration to begin a plan immediately and not wait until ongoing plans are completed, the department will need funding to participate.

ADF&G strongly supports the proposed amendment to the Forest Resources and Practices Act (FRPA) and the fiscal note that goes with it. If the fiscal note is approved, three of the department's six new positions will be assigned to southeast Alaska and one of those will focus on timber harvest in northern Southeast including the Yakataga area. Without this new position, the department will be left with what we have now -- the equivalent of one-half a position -- to deal with timber harvest on all lands in northern Southeast. If the FRPA and fiscal note do not pass we will be unable to give adequate attention to timber harvest and other uses of the Yakataga area



CITY of YAKUTAT

P.O. Box 6
YAKUTAT, ALASKA 99689
(907) 784-3323

February 16, 1990

The Honorable Curt Menard
The Honorable Cliff Davidson
House Resources Committee

As requested the following comments may be used as Yakutat's recommendations for corrective action regarding the DNR management policies in the Icy Bay - Yakataga area.

1. Review the existing Icy Cape II extension to be sure that it meets all State requirements for sale procedures as well as sale value to the State.
2. Review the University settlement (one time cutting rights - 3 tracts) for procedural integrity, particularly in light of pending lawsuits on the matter.
3. Require that a management plan be initiated prior to further development operations. Such a planning effort should make heavy use of the public process, and be prepared as a multi agency effort (ADF&G, DEC, DNR).
4. That timber harvest development proceed only if the other resource values are not reduced as a result of that action.
5. A multi agency review be undertaken (ADF&G, DNR, DEC, DGC) to assure ACMP compliance and the single agency review process is corrected to insure that each agency is notified before actions are implemented, not after the fact. These review requirements, or standards, should be incorporated into the Forest Practices Act legislation presently in committee.
6. Require that an ACMP Plan review be conducted again for both the Icy Cape II extension and the University settlement activities after classification is completed.
7. Require that another ACMP review be conducted for the

Yakataga Land Classification process which is presently underway, unless the area plan process is initiated before classification is completed.

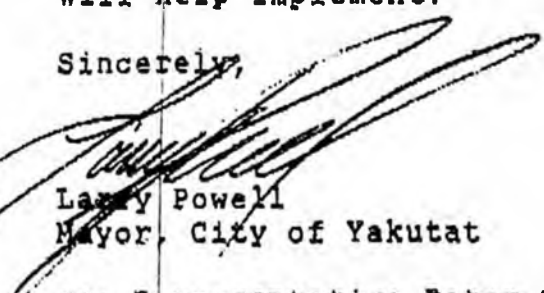
8. Because of the resounding public outcry the Yakataga Wildlife Refuge bill should continue to receive the full support of the Resource Committee to insure that a true multiple use approach to area resources is implemented.

Since the current wildlife and recreation values exceed that of a timber base value per annum and the future respective resource valuation (particularly in light of 150 year rotations); it is wise to place a refuge status on these lands. Because this designation does not preclude mining, oil and gas exploration and development, or timber harvest in a safe and sound manner, it is doubly wise to promote refuge status.

Those resources with the highest values should receive priority consideration which has not been the department policy to date.

Thank you for the opportunity to comment. The City of Yakutat is looking forward to the changes that the Committee will help implement.

Sincerely,



Larry Powell
Mayor, City of Yakutat

cc: Representative Peter Goll
Senator Richard Eliason
Southeast Alaska Conservation Council
Yakatat Fish and Game Advisory Committee
Yakatat City Council
Yakatat Planning and Zoning Commission

Yakutat Fish And Game Advisory Committee
2-12-90

To: The Honorable Curt Menard
The honorable Cliff Davidson
House Resources Committee

Thank you for the opportunity to testify at the recent oversight hearing on DNR management in the Cape Yakataga area. It was pleasing, after all these years of not being heard, to have a chance to point out DNRs poor management up there.

We request that you move forward with the following two solutions to resolve the problems in the area.

1. Passing House Bill 346, the Yakataga Refuge Bill, would go a long way to solving the problems up there. The Bill would protect most of the fish and wildlife habitat and the higher economic values in tourism, recreation, and commercial fishing. However the possibility of the Bill not getting through the legislature and seeing no real improvement still exists.
2. Developing an comprehensive area plan for the region could be accomplished balancing the needs of the refuge with those of the timber industry. An area plan would take a great deal longer to develop. As Rep. Goll mentioned at the hearing a area plan should have several rounds of public hearings to collect information about the resources and the issues involved with their uses. There should then be public hearings to allow for proper consideration of those issues. The past history of DNR management in the area cast doubt that DNR can develop an area plan and give fair consideration to other uses besides timber. We would recommend the area plan be conducted by some other agency.

The effects of the refuge or a area plan on the proposed timber harvesting and the University timber transfer needs mentioning. The State needs to step back and review both court settlements. The Icy Cape II timber settlement needs to be renegotiated. The operator (Sullivan Inc.) never lived up to his end of the court settlement. Payment of stumpage fees was not complied with as required by the terms of the settlement. The operator also violated the terms of the contract by illegally building sub standard roads, cutting buffer strips, and leave strips (substantially more than indicated by DNR at the House Resources hearing). For these reasons the Icy Cape II contract and court settlement should be renegotiated with the new operator (Chugach Native Corp.). The University timber transfer was illegal for numerous reasons and was not equitable to the State.

The transfer was in effect a de facto timber sale without public process or proper consideration for other resources. For these reasons we believe both court settlements should be reviewed and considered in a area plan that takes in to account the importance of the other resources in that region.

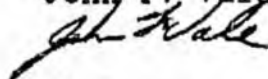
We feel that the fish and wildlife, their habitats, and the related industries have not received fair consideration in planning for the region. The area has been managed for a single use, timber harvesting, with negative effects on other uses.

The committee recommends moving forward with both solutions to resolve the problems in the area. The Refuge bill could allow timber harvesting, but would give priority to the fish and wildlife and their industries. The area plan could then address a truly balanced approach to multiple use.

The State through DNR has not been harvesting timber under sustained yield as required by the constitution. Once a area plan is concluded, and the area needed to protect fish and wildlife, or the places that are uneconomical to log do to soil conditions or other reasons are withdrawn from the timber base, a realistic sustained yield formula can be determined.

Thanks for your consideration on this matter and we look forward to some constructive changes with your help.

John F. Vale



Chairman
Yakutat Advisory Committee



CORDOVA DISTRICT FISHERMEN UNITED

P.O. Box 939

Cordova, Alaska 99574

(907) 424-3447

February 9, 1990

Chairman Curt Menard
P.O. Box V
Juneau, Alaska 99811

Dear Representative Menard:

Thank you for the opportunity to comment on the lands issue in the Cape Yakataga area.

As you may be aware, CDFU has become increasingly concerned with DNR's management style in this economically diverse area, as for all practical purposes it has bypassed the public process to promote and support a single land use logging.

In looking for solutions to the mounting resource conflicts in the area, you must keep in mind several items:

(1) For all practical purposes, DNR has removed the entire area east of the White River from use by competing user groups by its excessive timber harvests over the last 20 years. This leaves a continually smaller area for use by commercial and sport fishermen, hunters, etc. Non action by the legislature will ensure the continuation of this process and only intensify the dispute.

(2) Prior to specifying any one solution, the issue of the timber rights that DNR has committed to both Chugach Alaska Corp. and the University of Alaska must be resolved. An area management plan for instance, would be worthless with 470 million board feet of timber to be logged. The entire plan would have to be built around these previous commitments.

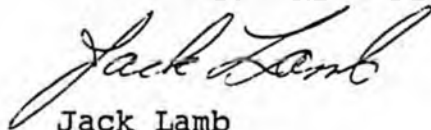
Of the solutions that have been discussed, we strongly favor the Yakataga State Game Refuge proposal. This should at a minimum include the area between Cape Suckling and the Duktoth River.

The advantages of this plan are that a majority of the extensive network of anadromous salmon streams in the area would be protected-ensuring the survival of the rich silver salmon populations. At this time, all of the commercial setnet fishing occurs within these boundaries, along with all of the sport fish guiding, and most of the hunting activities.

The disadvantages of this plan are that the rapidly declining Mountain Goat population would still not be afforded any protection in their last stronghold-the Brower Ridge. Also, the entire Yakataga drainage, where a major portion of the remaining timber is located would still be available for harvest without any new guidelines. One possible solution here would be the re-drafting of the Cape Yakataga Site Specific Plan by a joint DNR and ADF&G team to come up with a workable plan to deal with the specific location.

Sincerely,

CORDOVA DISTRICT FISHERMEN UNITED



Jack Lamb
Vice President

cc: Governor Steve Cowper
Representative Cliff Davidson
Senator Bettye Fahrenkamp
Senator Dick Eliason
Senator Jay Kerttula
Senator Mike Szymanski
Representative Gene Kubina



Statewide Office of Land Management
Butrovich Building • Suite 211 • 210 Yukon Drive • Fairbanks • Alaska • 99775
(907) 474-7421 • FAX: (907) 474-7554

February 19, 1990

Representative Curt Menard
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Menard:

I was recently requested by your office to provide you with information regarding several Gulf Coast timber issues. On behalf of the University, I therefore offer the following:

1. The University obtained title to Gulf Coast timber located on three tracts of State land and other property through settlement of litigation. The terms were approved by two commissioners of the Department of Natural Resources.
2. The monetary value of the overall settlement was \$5 million less than the appraised value of the land that was taken from the University. In an effort to amicably resolve litigation, the University accepted a significantly lower settlement value.
3. The University already owns title to the Gulf Coast timber it received through the settlement. Legislation preventing the University from realizing the value of this timber would require compensation to the University in cash or other liquid assets which are comparable to the current fair market value of the timber.
4. The settlement value of the timber was determined by two separate independent appraisers, verified by an independent consultant and reviewed and accepted by the Director of the Division of Forestry. Its value has changed during the past three years, as has the value of the remainder of the settlement package. But timber is a volatile commodity and its value may swing lower before the University gets a chance to harvest it.
5. Tongass timber is better than Gulf Coast timber, and therefore commands a higher price. It also has better, well established markets and generally requires less infrastructure.

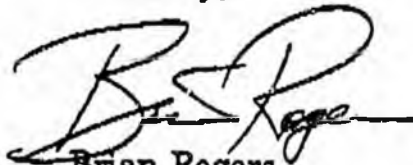
Representative Curt Menard
February 19, 1990
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6. Revenues generated from University trust land are placed into the University's Natural Resources Fund to support research on fisheries, timber and other resource related issues.

In addition to the above, the University supports the preservation of existing infrastructure at Icy Bay and Yakataga and provision for the construction of additional infrastructure to efficiently harvest its timber.

As you are aware, many of the above issues surrounding the University's Gulf Coast timber are the subject of litigation in the Superior Court. The record of appeal in this case consists of thirty-nine boxes of documents. Hundreds of pages of briefing have been filed in the action. What is provided to you here is a short summary of some of the issues addressed in the case. Please advise if you wish additional information.

Sincerely,



Brian Rogers
Vice President for Finance

Enclosures

cc: President Donald O'Dowd
Vice President William Kauffman
Martin Epstein, Director
Statewide Office of Land Management

University of Alaska

**LAND GRANT
OF THE
UNIVERSITY OF ALASKA**

BACKGROUND

In 1929, the U.S. Congress passed an act which granted to the Territory of Alaska 100,000 acres of public land for the exclusive use and benefit of the Agricultural College and School of Mines, the predecessor of the University of Alaska. All income from these lands was to be placed in a trust fund for the benefit of the University. This trust obligation and the terms and conditions of the Act of 1929 were specifically consented to by the State of Alaska in its Constitution. The State Department of Revenue currently manages the Land Grant Trust Fund for the University. It contains nearly \$14 million. In addition, the University owns 150,000 acres of land and 450 million board feet of timber on the Gulf Coast.

In 1978, the Alaska legislature was being pressured by various boroughs and municipalities for conveyance to them of state lands within their boundaries. In response, the legislature passed the Municipal Entitlements Act. Among other things, the Municipal Entitlements Act allowed qualified boroughs and municipalities to select nearby vacant school, university, or mental health trust lands for its public purpose and expansion needs. Prior to the Municipal Entitlements Act, these lands were not available for borough or municipal selection.

It was recognized, however, that these trust lands had significant value and consequently the legislature instructed DNR to "...trade land of equal value to the trusts for those lands selected by municipalities."

In May of 1979, Anchorage selected, under the Municipal Entitlements Act, seven parcels consisting of 921 acres of University trust

land within its boundaries. Prior to Anchorage's selection, on April 23, 1979, the University filed a civil action claiming that DNR had mismanaged University lands and had breached the federal trust imposed by the Act of 1929. That suit also sought, among other things, a declaration that a portion of the Municipal Entitlements Act was unconstitutional and a violation of the federal trust. Notwithstanding the pendency of this lawsuit, DNR approved Anchorage's selection applications in March and April of 1980.

On February 27, 1981, the Alaska Supreme Court decided a separate lawsuit, which challenged the legislative inclusion of University trust lands in the newly created Chugach State Park. In language which strongly reaffirmed the existence of trust obligations and restrictions attached to University trust lands, the court ruled that the University was entitled to "the remedy of inverse condemnation" and must be compensated for the taking of University trust lands. This compensation was required to be in the form either of payment of "monetary damages" or "a mutually agreeable land exchange."

On March 12, 1982, the University and DNR settled the mismanagement issue raised in the 1979 litigation. This settlement agreement (Settlement I) between the University and DNR was ratified and approved by the Alaska legislature, which also declared that University lands were not to be treated as state public domain lands. It also transferred management authority of the trust lands to the University and reconstituted the trust through payment of cash and transfer of DNR land.

Thereafter, the University, Anchorage, and DNR engaged in lengthy negotiations to try to resolve the Municipal Entitlements Act issue.

During this time of negotiation, the Alaska legislature removed University trust lands from future municipal selections. This ended further raids on the University trust lands but did not address the process of replacing those lands already taken.

Settlement discussions between the University, Anchorage, and DNR reached an impasse in the summer of 1985. Accordingly, on October 9, 1985, the University again filed its court challenge to the Municipal Entitlements Act. The complaint in that matter sought to have the Municipal Entitlements Act declared invalid and unconstitutional. In the alternative, it sought to stay the conveyance of the seven trust parcels to Anchorage until the University had agreed to replacement lands.

On April 9, 1986, the University filed a motion for summary judgment in that case which was denied by the court, and the matter was appealed to the Alaska Supreme Court. The settlement of that appeal (Settlement II) is a "replacement" of the lands taken by Anchorage in 1979. The Municipal Entitlements Act is the mechanism through which the settlement was carried out, whereby the University received portions of the Gulf Coast timber.

**SETTLEMENT II
(HOW THE UNIVERSITY OBTAINED THE GULF COAST TIMBER)**

On December 18, 1986, DNR and the University signed a memorandum of understanding (MOU), beginning a one-year period of intense activities by DNR, the State Attorney General's office, various other State resource agencies, and the University. The first steps taken by DNR and the University under the MOU were to "redite the designation of replacement lands ... and obtain the Board of Regents concurrence in such replacement lands" as required by the Municipal Entitlements Act. This included valuation of the University lands taken and assembling and appraising a pool of replacement land to be exchanged for the land selected by Anchorage. The land selected by the Municipality of Anchorage was appraised at \$30.5 million; however, in the interest of proceeding amicably and expeditiously, the University agreed to reduce the value of replacement land by \$5.75 million to \$24.75 million. DNR land and interests in land of equivalent value were to be transferred to the University.

On April 10, 1987, Commissioner Judith Brady of DNR issued her ninety-one page preliminary decision regarding the exchange and initiated the process of public and agency review of that decision. The preliminary decision announced an intention to convey to the University 2,170 acres of timber in the Yakataga area, parcels of land throughout the state, and a package of land sales contracts. The University had requested full fee title to the Yakataga parcel. However, DNR only offered limited timber and retained ownership of the land to protect long-term public interest since the State is the major land owner in the Yakataga forest. DNR also retained the mineral estate on the other lands.

Extensive public notice of this preliminary decision was carried out through several means, including publication in sixteen newspapers throughout the state. In addition, the notice was sent by certified mail to numerous municipalities, boroughs, native corporations, and interested resource parties throughout the state.

In conjunction with the initial public notice, DNR held several hearings throughout the state. Among those participating in the hearings were representatives of the City of Yakutat and South East Alaska Conservation Council (SEACC).

Adjustments were made to the April 10, 1987 preliminary decision as a result of the considerations raised during the public comment period. Those parcels receiving strong public opposition, including property near Yakutat, Juneau and Homer, were removed from the replacement pool. To replace them, Commissioner Brady issued the first supplement to the preliminary decision on May 28, 1987. That supplement added timber rights in the Cape Suckling area as replacement for those parcels deleted, and again triggered the publication and public comment process.

Further adjustments were made to the replacement land pool in response to agency and public comments. A final amendment to the preliminary decision in July of 1987 added the White River timber tract. This amendment received the same public notice treatment as the original preliminary decision and the first supplement.

Along with the public notice and comment process, the amount of inter-agency discussion preceding the Commissioner's final finding was substantial. Letters were sent by DNR to various state agencies informing them of the settlement, the assembling of a replacement land pool, and requesting comments on any of the parcels of land contained in that pool.

The first of these letters went out in February of 1987 to the Division of Forestry, the Division of Mining, the Division of Oil and Gas, the Division of Agriculture, the Division of Land and Water Management, the Alaska Power Authority, the Department of Transportation, and the Department of Fish and Game. Subsequent letters were sent by DNR to those agencies in April and June of 1987. In addition, on August 7, 1987, a six-page letter was sent by the deputy director of DNR to over forty individuals, governmental bodies, and agencies, including the cities of Cordova and Yakutat, the Department of Governmental Coordination, the Department of Fish and Game, and the Division of Forestry. That letter requested comments on the consistency of the proposed conveyance with the Alaska Coastal Management Program (ACMP).

By fall of 1987 there had been at least three public hearings, three public notices issued, numerous inter-agency meetings, numerous inter-agency exchanges of documents, and a request for comment under the ACMP.

On December 4, 1987, Commissioner Brady executed her final best interest finding (the final finding) which transferred to the University a surface only interest in 20,000 acres of land, a package of land sale contracts, and the Gulf Coast timber. This was followed up by a letter from Governor Cowper supporting the Gulf Coast timber transfer and assuring compliance with adequate environmental protection measures.

The final finding was accepted by the University of Alaska Board of Regents on December 16, 1987.

On January 4, 1988, SEACC petitioned DNR to reconsider conveying these timber rights to the University. On January 7, 1988, Commissioner Brady denied this petition.

A supplemental public hearing was held on February 29, 1988 in Cordova. "The purpose of the meeting was to answer questions and gather information from local residents regarding state land and timber to be conveyed to the university under the settlement for purposes of future university land management." Approximately forty people attended this hearing to voice their opinions on the conveyance.

Appeals to the Superior Court were filed by the City of Yakutat and coalition of interests lead by the Yakutat Fisherman's Association and by SEACC.

On February 6, 1989, the Court remanded the decision to the new Commissioner of DNR for reconsideration. The remand gave the appellants yet another opportunity to submit additional written comments and documents to the Commissioner and to fully explain their objections to the timber conveyance.

On June 1, 1989, Commissioner Gorsuch issued a finding and decision on appellants' second petition for reconsideration (the decision on remand) in ADL 228456, affirming with slight modifications Commissioner Brady's earlier final finding. The decision on remand increased protection by requiring timber harvest leave strips on streams later found to be anadromous, and by requiring the university to submit a yearly harvest plan for DNR's approval.

This decision on remand was accepted by the University of Alaska's Board of Regents on June 13, 1989.

These portions of the Gulf Coast timber were transferred to the University on October 6, 1989.

The appeal is now in the State Superior Court.

VALUATION AND OTHER TIMBER ISSUES

Valuation - Pursuant to the terms of the MOU, the University received replacement land or interests in land equal in value to its trust lands conveyed by DNR to Anchorage based on an agreed-upon appraisal process. The cost of the appraisals was borne by the University. The State reserved the right to approve appraisers and to review an appraisal prior to its acceptance. The portions of the Gulf Coast timber received by the University were appraised by a qualified consulting forester mutually acceptable to the University and the State based on current market conditions at the time of the appraisal. The resulting appraised value of the timber submitted by the consulting forester had to be acceptable to both the University and the State or be mediated by a third party agreed upon by both. The appraiser considered the valid existing rights, encumbrances, and restrictions of each parcel.

Among the factors considered by the appraiser in arriving at the appraised value were: 1) DNR's unwillingness to guarantee the actual harvestable volume of the tracts, 2) that it may be difficult or impossible to acquire necessary harvest operation permits at Cape Suckling, 3) that it may be physically difficult or impossible to operate at Cape Suckling, 4) the huge infrastructure costs at Cape Suckling, and 5) the fact that there are no provisions for the University to cut more timber if prices drop significantly.

The appraisal was submitted to DNR on October 10, 1987. The Division of Forestry scrutinized the appraisal and took the position that it was at the low end of an acceptable range, and negotiations arrived at stumpage values acceptable to all parties.

As part of the remand process the timber was reappraised by a different consulting forester and the value was substantiated, and a third consulting forester confirmed the State's timber inventory.

Land Planning, Classification and Sustained Yield - The Division of Forestry, along with the Department of Fish and Game, and DNR established the general timber harvesting requirements applicable to the University's Gulf Coast timber. DNR had long standing plans to manage the Yakataga forest with an emphasis on its timber resources. The 1980 Land Planning Report for the Yakataga forest contains sustained yield production estimates of 25 million board feet per year and recommended forest classification for the tracts conveyed in ADL 223456. The White River and Suckling tracts were so classified. Yakataga was not classified at that time solely because it was still in federal ownership. An analysis performed by a University professor concluded that DNR's annual sustained yield estimate of 25 million board feet was extremely conservative, but acceptable for the University's timber tracts.

Wildlife and Riparian Protection - Along with incorporating all applicable state and federal laws, DNR, after consultation with the Department of Fish and Game, relied on its experience from the nearby Icy Cape timber harvest sites and Fish and Game's wildlife data to implement specific habitat and riparian zones. These zones removed large areas of timber from harvesting to protect goats and other wildlife, and established large riparian zones, wildlife corridors and leave strips, which in some instances are in excess of the proposed modifications to the Forest Practices Act. In addition, the University and DNR are required to execute further manage-

ment agreements and the University must submit all road building and harvest plans to DNR for prior approval.

Gulf Coast Timber is Not Tongass Timber - In fact, they are significantly different in quality. Tongass timber is highly sought after and of greater value. Tongass timber is older and slower growing, resulting in bigger, stronger trees. Due to its constant exposure, Gulf Coast timber is shorter and more limby, significantly reducing its value. Infra-structure development costs for the Yakataga and Suckling parcels significantly reduce the value of timber from those areas. Loading at Icy Bay is difficult, reducing the value of the White River and Yakataga timber. Prior operator's poor marketing significantly weakened the price of Gulf Coast timber overall.

Timber Prices are Volatile and Cyclical - The timber rights which the University received were appraised based on its stumpage value. This value was determined as of the summer of 1987, at the same time as the valuation of the trust lands taken from the University. Stumpage value is usually determined by subtracting operating costs from sales price. Sales price was only slightly above operating costs in 1987. Sales prices for timber are cyclical; they have increased significantly during the last three years. Meanwhile, operating costs have stayed about the same. Accordingly, there has been a dramatic increase in stumpage value recently. However, in the early 1980s timber prices were extremely low. During the twenty years that the University will be harvesting its Gulf Coast timber, stumpage prices will vary considerably, as timber sales prices fluctuate.

Today's Value vs. Settlement II Value - The University selected over \$24 million worth of land and interests in land as part of Settlement II. Some selections have risen in value, others have fallen. This is the nature of markets. Today, the University's Gulf Coast timber is of greater value than when it was appraised for Settlement II. For its Gulf Coast timber, the University expects to receive compensation at the current appraised fair market value: 1) through timber sales for local manufacture and export, or 2) through sale or exchange for acceptable assets of comparable liquidity with the State, or 3) in cash in the event the University is prevented from logging the properties.



February 19, 1990

Representative Curt Menard
P.O. Box V(MS3100)
Juneau, AK 99811

Dear Representative Menard:

The long term management of the Icy Bay - Cape Yakataga - Cape Suckling area has historically been of significant interest and concern to Chugach Alaska Corporation. The Corporation appreciates this opportunity to comment on the complex issue of resource management on State lands within this area.

Chugach Alaska Corporation is the regional native corporation for the Prince William Sound - Gulf of Alaska region. Its boundaries range from the southern tip of the Kenai Peninsula on the west, to the 141st meridian near the Malaspina Glacier between Icy Bay and Yakutat on the east. Roughly one third of the Corporation's land entitlement is either within or immediately adjacent to this area. Chugach Alaska Corporation is an ANCSA corporation and as such, the Board of Directors and Management are charged with two main objectives, 1) to operate at a profit; and 2) to create employment opportunities for its shareholders and residents within the south-central Alaska region.

Chugach Alaska Corporation (Chugach) takes pride in the fact that it is a multi-resource development corporation, with existing operations in the fisheries, timber and tourism industries. Chugach firmly believes that the Icy Bay - Cape Yakataga - Cape Suckling area can be managed by the State of Alaska under a multiple use program. Wildlife, fisheries, timber, oil, and recreational concerns within this vast area can coexist. With this concept in mind, Chugach offers the following comments regarding the resources and future management of the Icy Bay - Cape Yakataga - Cape Suckling area.

Timber

The harvest of timber appears to be the most controversial activity proposed within the Icy Bay - Cape Yakataga - Cape Suckling area. Under a sustained yield program, timber harvesting can be maintained while adequately protecting and in some cases enhancing the fish and wildlife resources as well as recreational and mineral development activities within the area. This area is one of the few large contiguous areas of forest land from which the State of Alaska can provide a long term sustained yield of timber and this management direction must be encouraged.

Chugach spent almost two years on a feasibility analysis on which the decision to construct and operate a modern "state-of-the-art" sawmill facility located in Seward, Alaska was based. Included in that analysis was the assumption that the State of Alaska would continue to manage the Icy Bay - Cape Yakataga - Cape Suckling area on a sustained yield timber harvest regime and as such would always provide a potential supply of domestic quality sawlogs and pulp logs for the sawmill. The primary reason for the purchase of Sullivan, Inc. in December, 1988, which included the Icy Cape Timber Sales, was to provide a guaranteed timber supply for the sawmill. In this regard, of the Corporation's 1989 harvest at Icy Bay, 62.6% will be processed within the State of Alaska.

The sawmill facility in Seward will employ approximately 100 - 125 personnel. Direct employment at Icy Bay during the 1989 season totaled 55. This is a vivid example of Chugach's commitment to provide economic diversification and employment opportunities to its shareholders and residents of Alaska. If you include all the support personnel involved with the timber harvest and manufacturing operations, with the State's assistance and encouragement, the timber resources within the Icy Bay - Cape Yakataga - Cape Suckling area can provide long term employment stability within south-central Alaska.

Fisheries

Approximately 45% of Chugach Alaska Corporation's revenue is from its fisheries related operations. As such, the proper management of this resource and management activities which might impact the fisheries resources are of significant interest and concern to the Corporation. Chugach does not feel that the timber harvest operations at Icy Bay have had a significant adverse impact, if any, on the fisheries within the area. The Corporation has been involved in the recent efforts on the revision of the State's Forest Practices Act and Regulations and believes the proposed legislation to adequately address fisheries concerns regarding future timber harvest activities on State and private lands.

A specific area on which several agencies and organizations have expressed concerns regarding the fisheries resources and potential conflicts with other management activities is located west of the the Kaliakh River. Chugach shares these concerns, however the Corporation does not feel that enough site specific information is available at this time to properly determine what uses can and cannot be authorized within this area.

Wildlife

Chugach feels that the State of Alaska has become more sophisticated in recent years with regards to the management of the wildlife resources in the area. This is particularly apparent in the design and harvest unit layout of the Icy Cape 2 Timber Sale, and the Settlement Agreement Timber west of White River.

Numerous concerns have been raised regarding the decline of goat populations and the effects of timber harvesting. Although Chugach shares these concerns, the Corporation does not feel that the decline can be attributed to any one specific cause. It is also interesting to note that under current management activities, an increase in the areas moose population has occurred. Management decisions regarding the wildlife resources must not continue to be focused strictly on protection and the "status-quo" of existing populations, but should also include enhancement opportunities.

Recreation

The Icy Bay - Cape Yakataga - Cape Suckling area is such a vast area that there is an opportunity for the State of Alaska to provide a variety of recreational activities ranging from the remote "wilderness experience" to those involving vehicular access. The recent application by a local guide from Yakutat, to the Department of Natural Resources for a land use permit covering the area from Icy Bay to White River, for hunting and fishing purposes, is a good example of how timber harvest and recreation activities are compatible.

Mineral Development

Chugach Alaska Corporation believes that the existing mining (gold) activities within the area must be allowed continued operation. The Icy Bay - Cape Yakataga - Cape Suckling area is an area potentially rich in its mineral resources, including oil and gas, and the State of Alaska should promote the exploration of these resources and, if feasible, their development.

Access

Economically feasible access to private land ownership adjacent to and/or within State ownership must be guaranteed.


Legislative land use designation

Chugach Alaska Corporation feels that the designation of either a Wildlife Refuge and/or a State Forest in the Icy Bay - Cape Yakataga - Cape Suckling area would be premature and the Corporation could not support either action at this time. The Corporation believes that a more reasonable approach to be taken by the State would be to commit to an intensive land use planning process for the area similar to those which were developed for the Prince William Sound and the Susitna Valley. Legislative designations based on emotionalism rather than facts and sound resource management decisions are rarely in the best interests of the State of Alaska and its residents.

Proper and consistent management of the Icy Bay - Cape Yakataga - Cape Suckling area is indeed a complex and controversial issue that the State of Alaska must seriously address. Whatever the planning process the State decides to embark upon, Chugach Alaska Corporation is interested in the long term management of the area and must be included in the decision making process. In the short term, Chugach has a responsibility to its shareholders and as such is requesting to harvest the timber which the State of Alaska is obligated to make available to the Corporation under the Court Ordered Settlement Agreement.

Again, thank you for this opportunity to provide comment on this issue.

Sincerely,



Paul M. Tveiten



Southeast Alaska Conservation Council

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

SOUTHEAST ALASKA CONSERVATION COUNCIL POSITION STATEMENT ON HB 346 AND YAKATAGA FOREST MANAGEMENT PROBLEMS

By Request of House Resources Committee
February 20, 1990

HB 346

SEACC, the Southeast Alaska Conservation Council (a coalition of 13 member groups from 11 southeast Alaska communities, representing approximately 2000 individuals), supports establishment of a state game refuge in the Yakataga Forest. Previous land management has been entirely for large-scale logging operations, to the detriment of the exceptional fish and wildlife values of the area. A state game refuge would help protect these values while still assuring continuation of multiple use. However, because of certain specific concerns not addressed in the current legislation, we believe HB 346 should be amended as follows:

1. Change refuge boundaries to include all state land between Icy Bay and Cape Suckling, including submerged tidelands. The entire Yakataga Forest should be subject to special legislative recognition for its unique values. However, we must assure explicit protection of all existing and traditional non-destructive uses of the Yakataga Forest for commercial and sport fishing, subsistence, commercial and sport hunting, and tourism.

2. Legislatively designate all state land west and north of Cape Yakataga (includes Yakataga River valley) to be managed for protection, enhancement and sustainable harvest of wildlife and fish. Timber harvest should only be allowed in this habitat protection area where it will either benefit or can be demonstrated not to harm wildlife and fish resources. In areas east of Cape Yakataga, timber harvest should be allowed to continue if consistent with DNR's other multiple-use mandates, as determined by the land management planning process, but remedial actions should be taken to protect the remaining wildlife and fish populations in the areas already logged.

3. Require completion and approval of a refuge management plan, like DNR area plans, for entire area prior to state authorizing or allowing any further timber harvest activities (including construction of new facilities) on state-owned land. Department of Fish and Game and DNR should plan and manage entire refuge by concurrence -- i.e., both agencies must agree to management decisions. Fish and Game would be lead agency for activities west of Cape Yakataga; DNR would take lead on activities east of Cape Yakataga.

4. Direct DNR to replace University settlement timber at current appraisal value if the University chooses to trade it back to state. Previous settlement attempt failed because DNR refused to recognize current value of timber. We believe the University would be amenable to trade if they could get fair value. The 32,000 acre near Cape Suckling would be highest priority for return to state, followed by the Yakataga River area. DNR should be allowed to provide in trade any land, interest in land, or appropriated funds, or combination of these three. However, DNR's replacement action must be consistent with its other legal requirements and authorities.

YAKATAGA FOREST MANAGEMENT PROBLEMS

DNR Operates According To Internal Plan

The root of Yakataga Forest mismanagement is DNR's unilateral, internal decision -- made 20 years ago and still operative -- to manage the entire Yakataga Forest for large-scale clearcut logging, instead of for multiple-use and sustained yield of all forest resources. Without specific authority, the Division of Forestry has been acting as the land manager for this forest -- assuring that forestry is the dominant use.

No legislative direction, bona fide land classification or planning process, or public demand has ever supported or ratified DNR's own, single-use plan for the forest. DNR refuses to listen to the public and change its mind about the proper use of this area. The legislature must step in and restore a balance by legislatively protecting critical wildlife and fish habitat areas.

Timber Commitments Assure Logging Dominates Land-Use

Since 1969, DNR has sold a succession of large, long-term timber sales in the Yakataga Forest in order to implement their own management plan, both through the Title 38 authority and in settlement of some of the myriad lawsuits spawned by DNR's management. These sales were made before DNR completed an assessment of local demand for wood, a proper forest inventory, or a consideration of impacts on other forest resources.

As a direct result of this failure, timber has been exported without even rudimentary processing, timber volumes have been overestimated, timber values underestimated, environmental concerns have taken a back seat to fulfilling contract terms, and fish and wildlife resources have suffered. Every time a concern was raised about the sales, DNR could respond that there was no longer any choice, that the commitments had already been made.

Though the two Icy Cape sales are now complete (and beyond remedial action), 463 million board feet of outstanding timber contracts or commitments remain. No rational or meaningful land planning can be done unless these previous commitments can be removed. This problem must also be unravelled by the legislature.

DNR Unfairly Uses Third Parties To Accomplish Logging Plans

By using as hostages third parties like Sullivan Logging, the University of Alaska, or Chugach Corporation, DNR accomplishes its otherwise illegal or harmful logging plans. Whenever questions arise about the propriety or quality of a timber management decision by DNR, the agency thrusts an unwitting third party between itself and the angry public.

Thus, for example, Fish and Game could not enforce the law or timber contract terms in the Icy Cape II sale against nearly bankrupt Sullivan Logging without being accused of endangering timber jobs. Similarly, the City of Yakutat and others have been forced to fight against the otherwise public-spirited University of Alaska to stop a destructive timber giveaway. Now, mill jobs in Chugach's Seward plant hang by a thread, while DNR tries to ratify future sales far away from this summer's critical logs or correct its mistakes

in the University transfer.

Members of the public do not wish to fight each other; the Yakataga area is large and rich enough to serve all current public needs. But DNR must not be allowed to continue hiding behind public needs it has served but actually gone out and created in an effort to get the area logged. Any legislative solution to Yakataga Forest management problems must fairly protect all innocent third parties without doing further harm to the Yakataga Forest's non-timber resources.

Resource Management Control Must Be Unified

DNR is normally charged with authority for management of state lands and resources. In many places, particularly where an area is managed primarily by the Division of Land and Water Management, this management scheme works well enough. But DNR's Division of Forestry has been the primary manager of the Yakataga Forest for 20 years. Since this division is focused on timber development and has little fish and wildlife expertise or interest, it cannot do an adequate job of protecting these resources in the Yakataga Forest.

For such places, where considerable fish or wildlife resources are at stake, the legislature has in the past given Fish and Game its own land management authority -- so that protecting fish and wildlife means more than prohibiting harvest once the critical habitat is gone and the populations are endangered. Any legislative solution to the Yakataga Forest problems must give Fish and Game land management and planning status at least equal to that already retained by DNR.

OTHER ISSUES OF CONCERN

Chugach Corporation

SEACC is maintaining discussions with Chugach to determine how their interests can be protected in a manner consistent with our goals. As stated above, we see Chugach as an essentially unwitting entrant into this controversy. We still lack much of the information we need to adequately assess the problems raised by the Icy Cape II extension, but we recognize and respect Chugach's interest in the area and reasonable concern about all the resource values of the Yakataga Forest. We also favor a solution which does not hinder the operation of the Seward sawmill.

University Timber Harvest

SEACC has been unable to find a mutually acceptable solution to the University timber sale problem. SEACC has made a series of offers to the University, at its request, to settle the litigation over DNR's 443 million board foot timber sale to the University. All of these offers have then been rejected and we currently have no dialogue with the University, though we remain receptive to any reasonable counter-offer.

However, as another unwitting participant, the University has been forced into a position where it must log to get what it really wants, which is money to run the University. It is perfectly understandable then that our latest settlement offer was rejected because DNR refused to compensate the University for the actual current value of any timber traded back to the state. We advocate providing the University with the incentive to trade in its

timber holdings by recognizing its real value.

Regardless of the University's willingness to come to the table, SEACC advocates applying any of the habitat protection in the refuge legislation or management plan to all the University timber parcels. Because these parcels would be managed by DNR, much like any other timber sale, the University must comply with the applicable state laws at the time they file harvest plans called for in the timber contract. Moreover, the University is already on record as promising to run a model timber operation that will not harm wildlife and fish populations and resources. Therefore, as long as timber harvest is allowed in the refuge, it is immaterial what particular management restrictions are placed on the University's operations to protect other state resources. No rights currently possessed by the University, even if they win the litigation, will be affected by fish and wildlife protection measures.

The Alaska Waveriders Association
17250 Andreanoff Drive
Juneau, AK 99801
(907) 789-3436

February 15, 1990

The Honorable Curt Menard
The Honorable Cliff Davidson
Co-Chairs, House Resource Committee
The Alaska Legislature
Pouch V
Juneau, AK 99811

Dear Representatives Menard and Davidson:

On behalf of our organization and all the people of Alaska, I'd like to commend you for your efforts to resolve resource use conflicts in the Cape Yakataga area. This isn't an easy problem, but it's an important one, and you deserve a great deal of credit for taking the initiative. In particular, thank you for sponsoring HB 346. Before we present specific recommendations on HB 346, we feel it is necessary to briefly explain our understanding of the situation.

Without prior planning or public input, the Division of Forestry began selling timber in the Icy Cape area approximately 20 years ago. Subsequently, the Division of Forestry had trouble controlling some of the operator/purchasers on the one hand and, on the other, including the Department of Fish and Game in important management decisions. As a result, various associated resources such as anadromous fish streams and mountain goat habitat were damaged. The Division of Forestry may have made progress on these problems. However, logging is shifting westward. From testimony presented in the February 1st hearing, the logging is approaching areas with increasingly high fisheries values and decreasing timber volumes and quality. Much of the timber grows in hummocks or islands in the midst of braided anadromous streams, in associated riparian corridors, or on south facing slopes which are critical winter goat habitat. If this scenario is remotely accurate, then the conflicts between logging and other forest uses are about to increase exponentially, and the Division of Forestry and the Department of Fish and Game are going to find more things to fight over, not less.

Our proposal is based on our belief that these conflicts are unacceptable. We believe that scenic, recreational, and fish and wildlife values significantly outweigh the commercial timber potential of the area in question. Finally, we believe that Refuge designation should not

preclude but should allow for existing uses such as subsistence and commercial fishing and placer mining.

Ours is a statewide organization. Our comments are based on our knowledge of Alaska's entire coastline. The Cape Yakataga to Cape Suckling region has some of the highest scenic and recreation values in the state. This potential must not be attritted away by massive, unplanned clearcutting.

Specific Comments on HB 346

We recommend that:

Refuge Boundaries be extended to include all state land and submerged tidelands between Icy Cape on the east and Cape Suckling on the west.

Manage all lands west and north of the White River for fish and wildlife protection and enhancement.

Resolution of Third-party interests:

Throughout its tenure, the Division of Forestry has allocated resources to third-parties to make it impossible to do anything but log this region. In order to accomplish the above-mentioned goals, third-party interests must be satisfied. Specifically:

Chugach Timber Corporation should be compensated for lost revenue and business opportunities, either by making timber available elsewhere on State lands, or by some form of cash compensation, or combination thereof. We note with some curiosity, that in spite of claims that this timber is essential to the success of CTC's mill, only slightly over half of it is actually destined for the mill. Finally, CTC has testified that the 16-20 million board feet under discussion are vital to CTC's long-term timber supply needs. We don't understand how the 10 to 12.4 million board feet actually destined for the mill could sustain operations for more than a year or two, at most. But even though we don't understand or agree with their analysis, we nonetheless think that CTC, its shareholders, and its employees should not suffer financially.

The University Land Trust should be compensated. DNR's previous actions relative to the University Land Trust we find particularly distasteful. First, DOF significantly undervalued the timber, then they proposed to exempt the University from the normal regulations which are designed to protect other forest-related resources. Both of these abrogated DNR's responsibilities to the people of Alaska. While education is unquestionably worthy of public support,

paying for it with the wanton destruction of public resources and the future productivity of land sends the wrong message to everyone, faculty, students, and public.

Commercial and subsistence fishermen, placer miners, and others must be allowed to keep using the area without facing a tangle of new regulations and restrictions.

Presently, it makes no sense to begin land use planning for the region. While we support, in principle, the concept of land use planning, some of our members have had experience (the Haines Land Use Plan) with planning processes that are driven by or constrained by a priori allocations of resources (to logging). As a result, we would not support planning in the Cape Yakataga situation, unless all previous commitments of resources were terminated first.

In the absence of the current constraints and commitments, we would support a regional planning process conducted by some other DNR entity, say the Division of Land & Water Management. However, based on our understanding of the area's resources and the Alaska political climate, we are confident that a legitimate planning process would produce a refuge closely resembling the one we have proposed above. Indeed, the Division of Forestry's refusal to undertake such a planning process suggests they also fear that the results would not be favorable to their long-standing intent to see the entire region clearcut.

In conclusion, these, gentlemen, are complex issues. To facilitate your task, we have endeavored to make our comments as clear and concise as possible. Should we have failed, should you have any questions, please do not hesitate to contact us. Once again, we appreciate the opportunity to comment on HB 346, "An Act establishing a Yakataga State Game Refuge."

Sincerely,



Ronald Kreher,
President of the Board

Yakutat Resource Conservation Council

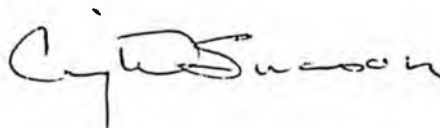
1-10-90

To: The Honorable Steve Cooper
Governor
State Of Alaska

This letter is in regards to the purposed classification for lands in the Cape Yakataga to cape Suckling area and the purposed Icy Cape Timber extension. The purposed logging in this area is not in the best interest of the State of Alaska. The State has already logged over 4,000 acres leading up to this area with considerable damage to other resources in the area. The State also transferred the timber rights to the University on 38,000 acres of land, with over 6,000 acres in the immediate vicinity of the purposed timber extension. The previous logging has caused a 75% decrease in the surrounding goat population. This goat population was one of the largest, healthiest, and most highly praised populations in Country. The timber ext. will send the remaining healthy goat population into a slide just as the previous logging has done to the adjacent goats. The timber harvest guidelines have failed miserably to protect wildlife, and nothing has changed in the current plan. The long term economic benefits in recreation and tourism far out way the short term gains from this timber harvest.

We urge you to support a wildlife habitat classification for these lands. WE ask that you instruct DNR to find other ways to meet the needs of the court settlement in this timber contract. there are lots of alternatives that could be explored to meet timber needs in this area.

Thank you for your consideration



Yakutat Resource Conservation Council

P.O. Box 211
Yakutat AK. 99689

Yakutat Fish And Game Advisory Committee

1-05-90

Thank you for the opportunity to comment on the Site Specific Land Use Plan for the Cape Yakataga area, and the Proposed Finding, Decision and ACMP Consistency Determination Modification of the Icy Cape II Timber Sale. The Yakutat Advisory Committee is recognized through State regulation as having advisory authority on fish and wildlife matters. The committee represents a broad spectrum of the local community including both native and non native leaders, commercial fisherman, sports fisherman, subsistence users, as well as guides, and members of the logging industry.

This public review process has been almost nonexistent since the start of logging in the Icy Bay to Cape Suckling area, in spite of the fact that we are the closest community and have used the resources there for hundreds of years. This is demonstrated by the fact that DNR has never held a public meeting in Yakutat before making a classification or land use decision. Additionally DNR either didn't post notices of their actions or didn't supply enough information for the public to know what was going on. This lack of public process is precisely the reason why other DNR actions in the area are tied up in court.

The Advisory Committee objects to the Site Specific Plan being rushed through the public process. There has not been adequate time to review it. DNR should have held a public meetings when developing the plan to inform the public and gather comment on concerns and issues. It is my understanding that ADF+G is still preparing their comments on the plan right now. The public should have the benefit of those comments during the review process.

We further object to the Icy Cape II Timber ext. and ACMP consistency determination being put through the public the process now. The land should be classified first so the public knows what standards or guidelines the area will be managed under before developing comments on the timber extension plan. DNR objectivity is clearly in question. The land is not even classified yet and DNR has already committed the timber. Both plans are slanted towards timber harvest activities, and do not offer enough other alternatives. For example all three alternatives for area 3 include timber harvesting. It is clear DNR intends to cut this area no matter what the public says. DNR has had over 3 1/2 years since the court settlement to go through the public process in this area, and only now three months before the chain saws are scheduled to start cutting is the public being involved. This doesn't seem to be a meaningful public process as required by the constitution.

What the Committee recommends, and is really needed here, is an Area Plan that takes in to consideration the entire region as a whole. A area plan that addresses the cumulative effects of the massive clear cutting already leading up to the area, the 38,000 acres to be harvested by the University, as well as those on private lands. a area plan that takes into account the amount of area needed to protect fish and wildlife habitat. A area plan that truly takes into account multiple use. This plan does not do that.

The Yakutat Advisory Committee supports the establishment of the Yakataga State Game Refuge. We therefor recommend that all 7 areas be classified Wildlife Habitat. We agree this area should be managed for multiple use, and we recognize that the Wildlife Habitat classification does not preclude development from occurring. This classification means if there is a conflict between development and preserving important wildlife habitat than development must be altered to accommodate protection for that habitat.

Area 3

There are very serious wildlife concerns in area 3 that warrant this area to classified Wildlife Habitat. First and foremost of these concerns is the effect the Icy Cape II Timber extension, and the University timber harvest will have on the goat population. We agree with DNR that this is the single most important wildlife issue effected by this decision. We belive that the removal of winter goat habitat has caused a drastic decline in the goat population between White River and Icy Bay next to the Icy Cape I and II timber harvest. ADF+G surveys demonstrate this quite clearly. these surveys show a 75% decline in the goat population from White River to Icy Bay (east W.R.). A significant portion of the goat population in this area were in the extreme eastern portion of the area where no clear cutting has occurred. The results in the east W.R. area are tempered by the fact that ADFG spent three times the normal amount of time looking for goats than they ordinarily do. The same surveys show a slight increase in the population from White River to Cape Yakataga (west W.R.). There is no evidence that shows there is any difference in the number of predators between the two areas. There is no difference in the weather. ADF+G statistics show a higher percentage of harvests on the west side than the east side yet the population has remained healthy. the logging roads have provided a great deal more access, but ADF+G has concluded quote (the differences in natural environmental conditions and legal hunting pressure are few . How ever there are several major unnatural differences. The east side has a substantial area of clear cut timber, a great deal of heavy vehicle traffic on a substantial road system, a large seasonal population of loggers, and the human activities associated with logging)

unquote. The ADF+G goes on to state that it seems to be very clear that logging has promoted the decline in some way. There remains a lot to be learned about how goats react to human activities. However, through out the Pacific Northwest logging activities have repeatedly, in some way caused declines in adjacent populations of mountain goats.

The two most important natural differences between the two areas are elevation of the Brower Ridge and the nature of the slopes leading up to the ridge. The ridge in area 3b, the west side of White River is considerably lower in elevation than the east side, thus the goats are more accessible and in closer proximity to the timber harvest areas. The east side has benches of timber above the clear cuts that provided some level of winter habitat. The west side has no benches, just a narrow strip of low land that rises directly to the top of the ridge. If the very limited stands of old growth timber in this area are harvested there is little doubt the remaining goats will be in serious trouble. The only other old growth timber on the west side has been transferred to the University.

The studies that DNR quotes in formulating the timber harvest guidelines also stress the importance of mature forest stands, and that this habitat may provide the only exposed ground during times of heavy snow. In areas of deep snow, such as the project area, goats are forced to utilize forested habitat as winter range. The study goes on to recommend that winter range should be protected with a 400 meter buffer, and special consideration should be given to southerly aspect low elevation sites. this is exactly the type of terrain in the sale extension area. local residents who hunt goats for subsistence know this is true, because they wait for goats to come down to those areas to hunt them.

DNR says the management guidelines will mitigate the losses of goat habitat. They say the goats use the areas above 400 ft., and along the beach, but imply the areas in between are not important. This is not true, those areas of old growth are critical during times of heavy snow. DNR says they will not cut timber above the 400 ft. level, and they will not harvest a 400 ft. buffer strip along the beach, and that guidelines call for corridors along streams. DNR fails to point out that these guidelines have failed to mitigate losses to habitat in the previous two sales. DNR fails to point out that every habitat protection recommended by and agreed to by both DNR and ADF+G have been violated or compromised, from the buffer strips along the streams, to the buffer along the beach, to the 1/4 mile migration corridors, on some of the rivers and streams, to consultation with the ADF+G.

The effects of a logging camp of 60 to 100 people in Cape Yakataga on the goat population needs mentioning. It seems quite likely a logging camp will be established in the Cape Yakataga area. The ALASCOM communications site has a series of steps that leads 75% of the way up Brower Ridge. The plan does not mention this. What will a camp in Yakataga with increase access do to the goat population on Brower Ridge.

Timber harvest will reduce other wildlife resources as well. Clear cuts will create less browse for bears with the reduction of berries and other shrubs. the statement that removal of the forest canopy will create more opportunities to forage makes no sense to me, especially when you consider the second generation forest will chock out just about everything, and this effect will last a very long time.

Trapping is a important subsistence resource, and practically goes unmentioned. habitat for furbearers will be reduced as timber harvesting increases. This long term economic effect is not mentioned.

The Advisory Committee does not believe the wildlife population should be sacrificed to extend the logging through this area. We recommend that area 3 be classified wildlife habitat, and managed for multiple use.

The Committee recommends looking elsewhere to fill the needs of the Icy Cape II court settlement. We believe other alternatives exist. the illegal harvest of the White River leave strip, the buffer strip on the beach, and non payment of stumpage fees are grounds for canceling the contract. this fact should help convince the timber co. to renegotiate the contract for a cash settlement or timber in an other location.

The Committee sees the past actions of the Division of Forestry that allowed the habitat protections in the Icy Cape I and II timber sales to be consistently violated, compromised, and eroded along with the guidelines in the purposed timber extension are not consistent with the conservation of fish and wildlife resources and violates the objectives in section 46.40.020 items 1,2,3,5,6, and 8 of the Alaska Coastal Management Program.

The Committee demands that no habitat mitigation measures be altered with out the expressed written agreement of the Alaska Dept. of Fish and Game Habitat Divi. before the action takes place. We are very concerned about the guidelines that allow the cleanup of windthrown as it occurs. this cleanup should only occur with ADF+G concurrence.

Area 1,2, and 5

More alternatives are needed in this plan. DNR states the land is not suitable for development or land sales, but does have some wildlife habitat, and should have no active management. With these conditions why not manage as wildlife habitat. We recommend this area be managed for Wildlife Habitat.

Area 6

We recommend the State select this area and manage it for fish and Wildlife Habitat. This area has an important Coho Salmon run which will benefit the subsistence, commercial, and sport fisheries for many years. Wildlife populations are substantial. Economic returns should increase in the future with increased tourism. DNR says it should be retained in its natural environment with no active management, therefore it should be Wildlife Habitat.

area 7

The Advisory Committee strongly recommends area 7 be classified Wildlife Habitat. The Huge economic value of the commercial fisheries is too important to allow any other classification. The commercial Troll, Crab, and Set Net fisheries bring an annual economic return of over 3,000,000 to 4,000,000 dollars annually. additionally this area is a major migration rout for millions of salmon, and birds headed down the coast. Also the Northern Sea Lion population has suffered drastic declines in recent times and NOAA is implementing protections to try and reverse that trend. This is important Sea Lion and Seal habitat. Wildlife Habitat classification still allows other uses that do not directly conflict with fish and wildlife. The existing Log Transfer Site should be classified Waterfront Development.

The Committee further recommends that all lands in the White River to Cape Suckling area go through the classification process again. The original classification process was illegal because there was no meaningful public process.

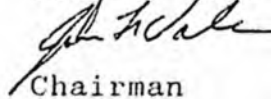
The Committee does not believe the proposed timber extension is in the best interest of the State. The plan sacrifices more valuable long term resources for short term gains. We again recommend looking at other alternatives to settle with the logging co. in Icy Bay.

~~The volumes of timber being harvested in the Icy Bay to Cape Suckling area are not consistent with the provisions of the Alaska Constitution that require sustained yield. The figures used to justify the level of harvesting do not take into account the amount of area needed to protect fish and wildlife habitat, or the areas that are not possible to log~~

because of soil conditions, economics or location. These areas are substantial, and since DNR does not know how much area they encompass their figures are invalid. Additionally DNR doesn't take into account that second generation forest will have to be thinned to obtain a marketable tree. This fact goes unmentioned. How much will thinning cost the State. If thinning doesn't *occur*, that will effect volumes and lenth of rotation period in the sustained yield formula.

Thanks again for involving the public this time. We stand ready to assist you in developing alternatives in this area, and look forward to being involved in future management decision.

John F. Vale



Chairman

Yakutat Advisory Committee

MEMORANDUM

State of Alaska
DEPARTMENT OF FISH AND GAME

TO: Frank Rue
Director

DATE: August 28, 1989

FILE NO.:

THRU: Rick Reed
Regional Supervisor

TELEPHONE NO.: 747-5828

SUBJECT: Icy Cape Timber
Sale Background

FROM: Dave Hardy ^{DN}
Area Habitat Biologist
Sitka

Thank you for meeting with us to discuss Icy Cape timber sale history and issues. The following summarizes the Icy Cape situation in greater detail. Please give Rick or myself a call if you would like clarification or additional back up.

Icy Cape I:

The Icy Cape I timber sale comprised 206 mmbf and extended from the Icy Bay log transfer facility to Poul Creek (see attached map). All timber has now been harvested with the exception of one unit comprising slightly over 1 mmbf which will probably not be cut because of high access costs. Icy Cape I is planned to be closed out in December of 1989. The last lawsuit was settled for this sale as part of the 1986 court settlement. Icy Cape I logging practices were poor from a fish and wildlife perspective, affecting substantial fish habitat and focussing public and agency concerns on wildlife (goat) habitat.

Icy Cape II, pre-contract negotiations:

Rick participated in these negotiations and can fill in any gaps. In the late 1970's DNR & DF&G considered a number of proposals for additions to the Icy Cape I sale (primarily necessary because DNR overestimated available volume) and the proposed Icy Cape II sale. In 1980 when this was a hot issue, Game Division conducted a 10 day wildlife habitat survey; subsequently several meetings and a field trip were held to discuss general and site specific issues. Our negotiated agreement with DNR was summarized in the attached January 18 and April 30, 1980 memoranda. DNR parties to the agreement were Mike Peacock, Dale Wallingford, and John Sturgeon. In brief we negotiated a 400' wide uncut strip along the beach, leave strips along specified creeks, an uncut strip between Poul and Lawrence Creeks, a 1/4 mile wide leave area on the east side of the White River, and no cleanup of blowdown in designated leave areas. Also, Rick specified that "all leave areas should be measured beginning at the spruce/hemlock timber and not from the stream edge or center of the stream." These negotiations were documented in the 9/5/80 "best interest" and ACMP consistency finding (attached), and the Icy Cape II sale was laid out to conform to these guidelines. As explained in the final finding P.5, "The location of roads, stream crossings, cutting unit boundaries and buffer zones for this timber sale was made through a joint DNR & DF&G effort." DF&G subsequently agreed to some specific modifications (for example in 1984 Rick concurred "with removal of the blowdown timber in the Johnson Creek leave strip.") Other stipulated habitat protection areas

have since been cut without prior notice to or agreement by the DF&G.

Icy Cape II Contract (SC-557):

This contract was let in December of 1983 to Sullivan Inc.; South Central also bid on the timber. The sale area extended from midway between Poul and Lawrence Creeks to the White River (see map), and totalled 2070 acres of which 1028 were identified for cutting in units 5 through 12. It included "all timber within designated cutting units" and addressed harvest specifications, penalties for cutting or damaging undesignated trees, erosion control, protection of fish habitat, road standards, annual operating plan and review, responsibilities of purchaser, requirements for improvements (bridges/culverts etc.) prior to hauling, operation of equipment in and removal of debris from streams, and authorized specific "quarries" or borrow pits, among other things. DNR contract enforcement provisions were primarily stop work orders, followed by contract revocation. However monetary penalties were prescribed for cutting outside of flagged and painted boundary lines. Presale agreements with DF&G about leave strips, cutting unit elevation limits, etc were not written into the contract. However, the final finding documented these agreements, and found that contract terms including multiple state approvals would provide for their protection.

1986 Settlement Agreement:

Although DNR provided me a copy of the settlement agreement, I have not yet seen the plaintiff's briefs which list their allegations of DNR's failings or liabilities. The agreement settled a lawsuit from South Central (Joe Henri) on Icy Cape I, including a covenant not to sue, settled a lawsuit from Sullivan, rescinded an Icy Cape II contract revocation order, and amended "the Timber Contract to permit harvesting of additional timber approximating at least 16 MMBF but not to exceed 20 MMBF, comparable in quality, species distribution and production cost to that of the Icy Cape II Timber Contract (approximately 70% Spruce, 30% Hemlock), to be harvested in the area west of the White River, in cutting units to be designated by the State in its discretion within industry standards and subject to the Forest Practices Act (AS 41.17.010-.950) and regulations implementing that Act within one year of notice by Sullivan that logging is proposed to occur." Sullivan's lawsuit was his response to the State's 1985 notice of termination of contract, primarily for non-payment of stumpage fees (\$666,821.00) plus interest. Up to \$400,000 could be earned by Sullivan through purchaser credit work, primarily on roads and bridges. Stumpage rates were redetermined and were to be readjusted quarterly to follow the market selling values. Base rates were \$10.20/mbf spruce and \$3.50 for hemlock. It seems to me that given the unprecedented timber prices now being paid in Asia, the state should be adjusting the rates rapidly upward. The contract was extended to November 30, 1990. All parties agreed that "no timber harvesting will occur in section 9 of T 22 S, R 20 E, C.R.M." (this is the eastern half of the Poul/Lawrence leave strip). A specific listing of road and bridge repair/replacement/realignment projects was included. Whether these are all needed or worth the money spent is a reasonable question. DNR has subsequently decided not to complete some of the alignment projects. I am aware of no transportation planning or decision by DNR as to what will

happen with the roads when this sale is terminated. If the intent is to pull all the culverts and bridges and put roads to bed, then the level of investment now occurring may not be prudent. The contract (8,C,13) indicates that after use has been terminated, the primary road will be put to bed with "bridges and culverts removed and placed on the east bank of each river..." unless other arrangements are specified by DNR.

Although a number of timber sales have occurred on state and private lands, the four successful operator lawsuits on Icy Cape I and II sales are unique to my knowledge. I have been told that three were settled out of court. It seems to me that the key element in DNR's willingness to settle out of court is their strong desire to maintain and expand state timber sales. In most arenas this desire is tempered by public and agency involvement. In a negotiated court settlement it becomes solely a DNR/industry decision which circumvents public processes. It seems to me that DNR's difficulty in adequately separating public from timber industry interests is what has made the Susitna Tyonek timber sale so explosive. I suspect that an in depth review of the negotiated settlements will show elements of that relationship here.

The main fish and wildlife problem with this settlement is that it authorized harvest of 16-20 mmbf of timber from the area west of the White River without any of the public or agency planning or review processes mandated by statute and regulation. Also, it does not appear to me to conform to DNR disposal statutes and regulations (see 11AAC 55.040 et. seq.). Because the sale volume was overestimated in Units 5-12, it has also led to harvest of negotiated buffer strips comprising important residual fish and wildlife habitat.

DOF sale administrators have not been able to maintain very much control over operators. Last year, Sullivan, not DNR, made many of the decisions about what he did, where, when, how and with what approvals. He built roads out of sand, logged across unit lines, failed to fulfill all his bridge or other repair requirements, waffled on his sale payments, conducted unpermitted activities in streams (including fish streams), modified bridge designs and gravel pits at will, etc.. Many of these had adverse consequences to fish and wildlife habitat. As you know, our enforcement efforts on fish stream violations were hindered by the fact that DNR elected to apply for (and be responsible for) fish habitat permits. The contract clearly says that "Any permits necessary to operations under this contract shall be obtained by the Purchaser prior to commencing such operations." There are many reasons why DNR has been relatively unsuccessful at maintaining operator control. Stop work orders increase potential lawsuit liability, and have not been encouraged by upper level DNR staff. Sale cancellation is a very difficult step for DNR to contemplate.

Classification and Title 38 Planning:

Township 21 S, R. 18 E, is currently unclassified; it begins about 1 1/2 miles west of the White River and extends to Cape Yakataga. Most of the 16-20 mmbf is scheduled to come from this Township, (see attached map). In terms of public or agency involvement DNR has yet to begin the classification process, although a draft is now undergoing internal

review. I have asked for a copy but DNR declined. To my knowledge, no Title 38 Area or Regional land use planning processes have been completed for this area. As I understand it the bulk of the lands to the west of the White River were classified "Resource Management Lands" under the 1985 statewide omnibus classification. Reclassification would appear to be desirable prior to logging on such lands. I do not know if the current classification process includes reclassification as well.

Forest Practices Plans:

The forest practices regulations (11AAC 95.110, and 120) require "detailed transportation and timber harvest plans... (which) must take into consideration other forest resources and the extent to which these resources will be affected..." These "must be developed by the district involved and approved by the state forester before roadbuilding and harvesting commences." The transportation plan is to be revised and updated at no more than five year intervals. I am aware of no plans prepared for the Icy Cape I and II or add-on timber sale areas. Six months ago we reviewed an agency draft of a DNR 5 year plan for southeast. However it was ambiguous about what planning processes it was intended to fulfill, and not adequately detailed. We felt it needed a lot of work before it could reasonably be released for public review. This area is not a state forest; no forest plans have been prepared. If planning occurs for this area, then we will probably need policy level support to achieve a partnership role in that process.

Forest Practices Regulations:

The best interest finding indicates that "...the Forest Practices Act Regulations will be part of the sale contract, to ensure continuous growing and harvesting of commercial forest species under sound forest practices." We have not made a detailed assessment of adherence to the Forest Practices statutes and regulations. However, I understand that recent regeneration surveys for Icy Cape have found about 10% of the area to be below required stocking densities. I am aware of no plans for ~~planting or other measures to achieve desired levels of regrowth.~~

Annual Operating Plan:

The contract requires an annual operating plan to be submitted to DNR by the operator by January 15 of each year. When the contract was signed it was assumed that the operator would specify roads and units out of those listed in the contract. West of the White River, operator identification of roads and units has obvious problems. DNR must review the operator's plan and approve or disapprove it in writing..."within a reasonable period of time." The contract specifies that:

"On maps of a scale of 1 inch equals 400 feet, the PURCHASER will, as a minimum, graphically show the following information for the respective operating year:

- G. General location of all subsequent years' logging, color coded by year; and
- H. General location of spur roads not designated by the STATE which may be constructed; and
- I. Location of current year cutting units; and

- J. Temporary stream crossings; and
- K. Location of landings and probable sequence of logging; and
- L. Location of tractor yarding roads; and
- M. Location of all gravel pits to be used; and
- N. Location of any new improvements or work on existing improvements owned or utilized by the PURCHASER in conjunction with this contract."

It does not appear to me that the operator has consistently adhered to these planning specifications or timing. Annual plans have varied a great deal in quality, and have not all been submitted by January 15. I suspect DNR and operator files will not be complete for many of the contract and regulation required written approvals for plan modifications, spur roads, stream crossings, etc. It seems unusual that, for this year for State lands west of the White River, the only planning process being implemented is an annual operating plan prepared by the operator with DNR approval.

ACMP Consistency:

Icy Cape I was sold prior to ACMP implementation. Icy Cape II was sold in December of 1983. As discussed earlier, the Icy Cape II ACMP consistency finding listed specific negotiated measures such as streamside and coastal buffers, elevation limits, and F&G participation in location of roads, stream crossings, unit boundaries, and buffer zones as central to the sale's ACMP consistency. As discussed earlier, the sale documents specified the area and acreage covered, identified specific units, gravel pits, and 442 stations of mainline road. It seems to me that modifications or additions to units and roads, new gravel pits, etc. should be jointly evaluated by resource agencies as required by the ACMP project alteration policy. Instead DNR has treated these as single agency, contract administration decisions. Besides the original Icy Cape II finding, no ACMP reviews have been initiated by DNR for timber sale, road building or related activities east or west of the White River. DNR's position is that all road building and timber harvest activities are covered by the original Icy Cape II sale finding, ~~irrespective of subsequent changes or additions. However, DNR has also indicated that the~~ ACMP clearly does apply to state timber sales. You may wish to consider discussing this with Diane Mayer or Jim Powell. One of the few ACMP reviews for this area (it required a COE permit) was done this summer for maintenance of and modifications to the sort yard and log dump, rerouting Carson Creek, and disposal of wood waste in an old gravel pit. DOF authorized use of the pit, and the applicant began filling it with wood waste before the ACMP review was completed and while DEC and the applicant were negotiating terms and conditions of the disposal permit. Our ability to influence DNR decisions would be greatly enhanced if DNR implemented the ACMP project alteration policy, and also planning and ACMP consistency review procedures for the lands west of the White River.

Informal Planning:

Most state timber sales follow a hierarchy of public and agency reviews including classification, disposal, and sale planning and administration which allow opportunities to minimize or mitigate impacts. In the absence of these for the Icy Cape II add on, Rick and I encouraged DNR and Chugach Timber Corporation (CTC) to work with us in an informal review of the

several years worth of timber remaining to be harvested. As you know, in the past year wildlife biologists conducted wildlife surveys of the area, and Habitat staff surveyed streams. We met once in Juneau and once at Icy Bay with DNR and CTC to discuss the larger picture. Our intent was to work out the general layout and road location issues so that implementation problems would be reduced. The effort we put into this was aborted when DNR informed us that their failure to classify T 21 S, R 18 E made it off limits for logging this year and, if anything, the operator would have to intensify timber cutting in the 1 1/2 mile strip between the White River and R 18E. DNR is feeling pressured by the agreement to make 16-20 mmbf available to the operator within one year of his request, and inability to classify in a timely fashion. DNR did not allow the operator to work west of the White River until he first completed harvest in the original Icy Cape II sale area; that occurred this month. The informal planning process has not been effective, and we see no signs that it will be in the future.

DNR Approvals:

The contract requires DNR approvals for the following: location and construction of roads, location of borrow pits, annual operating plan, any deviation from the approved plan, tractor yarding (otherwise only cable systems are allowed), "completion of applicable contract requirements prior to moving yarding equipment to a new landing or setting", locations of suitable landings (logs can only be decked at approved landings), tractor operation within 100' of streams, "all use and any alteration of log storage and transfer facilities", a camp plan, final inspection of work done by the purchaser, bridge plans (DNR prepares or approves purchaser's plans), "all primary and secondary roads along a road section must be fully constructed and approved by the State" (prior to hauling logs), any deviations from road construction specifications, deviations from road lines, location of roads and landings, encroachment on or alteration of permanent or intermittent water channels, operation of heavy equipment in streams, use of herbicides, and how and when roads are put to bed. ~~Some of these might be considered to be permits or authorizations~~ under the ACMP. Except for fish stream activities we have usually not been copied with these; DNR believes most are their sole purview under contract administration, and not subject to interagency review or discussion. I have repeatedly asked to be involved in gravel pit location and design. DNR advised me that I would only be allowed to participate in gravel pit review for floodplains, as required by forest practices regulations. Even this minimal commitment has not been met.

Unit Changes:

A major concern of this department has been harvest of timber outside of the original Units 5 thru 12, especially in negotiated leave strips. DNR has been slow to provide documentation of the size, location and authorization for these. Some of the limited information provided has been inaccurate. For example, DOF repeatedly said the proposed Unit 11, 43 acre addition was below the 400' elevation limit, until Herman Griese documented it at 540'. I am now trying to learn more about cuts outside of the originally approved units, especially where, when, and what

occurred and whether they were discussed with or approved by anyone other than DOF staff. In terms of process, a worst case example is the recent harvest of blowdown timber in the White River leave strip. DNR authorized it, harvest occurred, and we have yet to be notified. We learned of it through an overflight by Herman while conducting goat surveys.

Unit 11:

Among the most difficult recent issues to deal with have been the several proposed Unit 11 expansions, and maintenance of buffer strips. In the spring of 1988 we reviewed Unit 11 on the ground, approved Felton Creek crossing locations (resident Dolly Varden), and recommended deletion of approximately 21 acres from Unit 11. The lower portion was deleted because of braided fish habitat, soft ground and poor trees. It would be difficult or impossible to log this area without substantial equipment operation or tree felling in streams. Bruce Johnson recommended dropping the narrow strip east of the east fork because of water quality concerns and problems with yarding over the stream. No mention was made of alternate timber. On a later field trip in July of 1988 I was handed a map showing a 43 acre addition uphill of Unit 11. Herman, a day later, found substantial goat sign in the addition and his altimeter indicated it was above the 400' limit. After a teleconference involving Bruce Baker and Jim McAllister, DF&G was allowed two weeks to identify, evaluate and recommend alternatives. I still do not understand why it was our responsibility to develop alternatives and not DNR's.

We met that timeline, although it required a special trip to Juneau, and we were able to obtain relatively little information about potential alternatives from DNR. We still recommended the 43 acre add-on be deleted. Six months later we received a memo from Bruce Johnson explaining that DOF intended to harvest the addition and justifying it with his assessment of fish and wildlife habitat values and environmental trade offs. F&G staff disagreed with his assessment. We documented points of disagreement and requested reconsideration. Several memos and meetings later, including an Icy Bay field trip on June 21 and 22 with Rick and Jim we negotiated a small uphill Unit 11 extension but opposed any other additions, and asked for a final Unit 11 map (which was never sent). Our next contact was on August 21 when I received through Rick (Bruce didn't send one to me directly) an August 16 authorization to CTC to harvest a new .26 acre, Unit 11 addition to the east. Based on our several meetings, it was our understanding that DNR would notify us if they believed additional volume was necessary, and we would then jointly evaluate alternatives. We were not given that opportunity. Our only option for effective involvement after the fact was, once again, elevation. We elected not to elevate this specific issue, but instead to elevate the larger issue of improving coordination and communication at Icy Bay. We did follow up with a request for implementation of site specific measures to reduce potential water quality problems with logging in or near the east fork of Felton Creek and one principle tributary. Of course there has been no time for a field review to evaluate site specific concerns or resolve them. The partnership role we were accorded in Icy Cape II sale decisions is clearly no longer operable.

Problem Analysis:

There is an old bureaucratic adage which says "that which we are given to administer we presently imagine we own", and DNR has administered timber sales at icy Bay for almost 20 years. The pattern of ignoring public processes which might provide checks and balances on Icy Cape sale administration is clear from the record. I believe that this behavior results from the fact that these processes would: 1) take staff time and energy; 2) reduce DNR's freedom to make or change decisions. 3) require fairly rigid review timelines; and, 4) might further impede DOF's ability to fulfill their commitments to the operator (by requiring greater consideration for other resources). The cost has been paid by erosion of public resources other than timber.

The Icy Bay timber sales show a history of DNR commitments to the industry which they have had difficulty fulfilling. DNR overestimated and oversold the available volume in both the Icy Cape I and II sales. This has caused a great deal of pressure to harvest leave strips, and other areas outside of the original sale units. For a variety of reasons, DNR has not provided adequate manpower or support to stay ahead of contractual obligations to lay out, approve, or otherwise control sale activities. Administration seems to be a rush, do it now process. When considering available timber, DNR has tended to underestimate the acreage and volume necessary to provide for "amenities" resources such as fish and wildlife.

State obligations for the area west of the White River are perhaps impossible to meet. Because of the large muskegs, the amount of road required per volume harvested is high, even assuming no leave strips or other mitigation. The hemlock volume is more prevalent than in Icy Cape II, leaving spruce a scarce commodity. Maintaining a 1/4 mile leave strip on the west side of the White River eliminated a lot of spruce from proposed cutting, and required an additional mile or so of road to harvest alternate volume in a long finger of timber up the coast. As you will ~~recollect the settlement agreement mandated volume, timber quality,~~
~~species mix and production cost comparable to the Icy Cape II contract.~~ Hauling costs are always greater the further you go from a log dump. Clearly, this agreement favored industry by setting difficult standards for sale administration, and providing what appears to be fertile ground for a future lawsuit. DNR still has to conduct a planning and classification action before the operator can access much of this timber.

In large measure because of over commitments to industry, DNR has been unwilling to make or adhere to firm commitments to F&G regarding fish and wildlife mitigation measures. Unit 11 is an example of how DNR has manipulated the review and decision process to optimize their freedom. Basically decisions were made based on internal DNR criteria, and announced after the fact. When we elevated, DOF held the initial decision in abeyance while other activities proceeded, then modified it months later, again after the fact. The only time we have been able to obtain a firm commitment from DOF has been when DOF decisionmakers were embarrassed. For example, when we were misinformed of the altitude of the Unit 11 addition and proved this wrong, DOF backed away from that

proposal. Also, DOF staff were uncomfortable with the extensive cutting Icy Cape in the White River east leave strip during our field review this spring, and finally agreed to leave a 1/4 mile buffer on the west side. We have been requesting that buffer for years. It is documented in Rick's pre-Icy Cape II sale correspondence and in much greater detail since then. Instead of being partners in their decisions, we have been relegated to the role of reacting after-the-fact. Consequently, we spend as much time reacting as we do working together on sale issues. This is neither efficient nor effective.

DNR has also overcommitted their staff in terms of meeting their public trust responsibilities. The planning and public agency involvement processes such as ACMP consistency have been avoided for so long that options are now seriously limited. As one DOF staff indicated... "we have to classify T21S for forestry; we've already committed it to timber harvest." DNR will argue that potential planning alternatives are now so limited that it is meaningless to plan. From my perspective, in the absence of formal written agreements and a clear process for ensuring commitments are met, my efforts to balance sale activities with fish and wildlife habitat needs will essentially be meaningless.

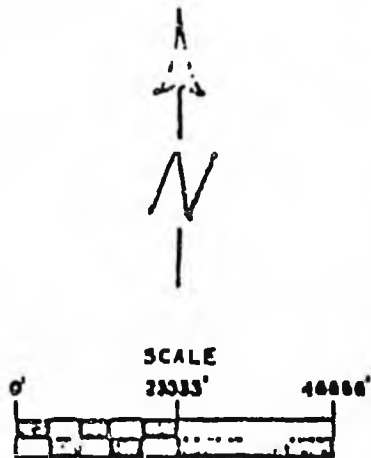
The key questions to be resolved are:

1. How do we convince DNR to make the commitments necessary to balance the remaining 16-20 mmbf timber harvest west of the White River with fish and wildlife habitat needs?
 2. How can we ensure that DNR enforces past and future fish and wildlife habitat agreements?
 3. How can we reassume our partnership role with DNR, ie participate as equals in State decisions?
 4. How can we increase the efficiency and effectiveness of DF&G's work at Icy Bay?
-
5. How can the state better provide for public involvement in decisions affecting public resources in this area?

We have tried informal processes and failed. I believe that the only way to ensure a reasonably firm commitment to fish and wildlife protection measures is to require that DNR follow the planning processes, public and agency reviews to the full extent contemplated by law and statute. Without these formal reviews, we will continue to be ineffective in meeting our responsibilities.

Thank you for your attention to these matters.

cc	Herman Griese	Bob Johnson
	Kieth Weiland	Rob Bosworth
	Ron Josephson	

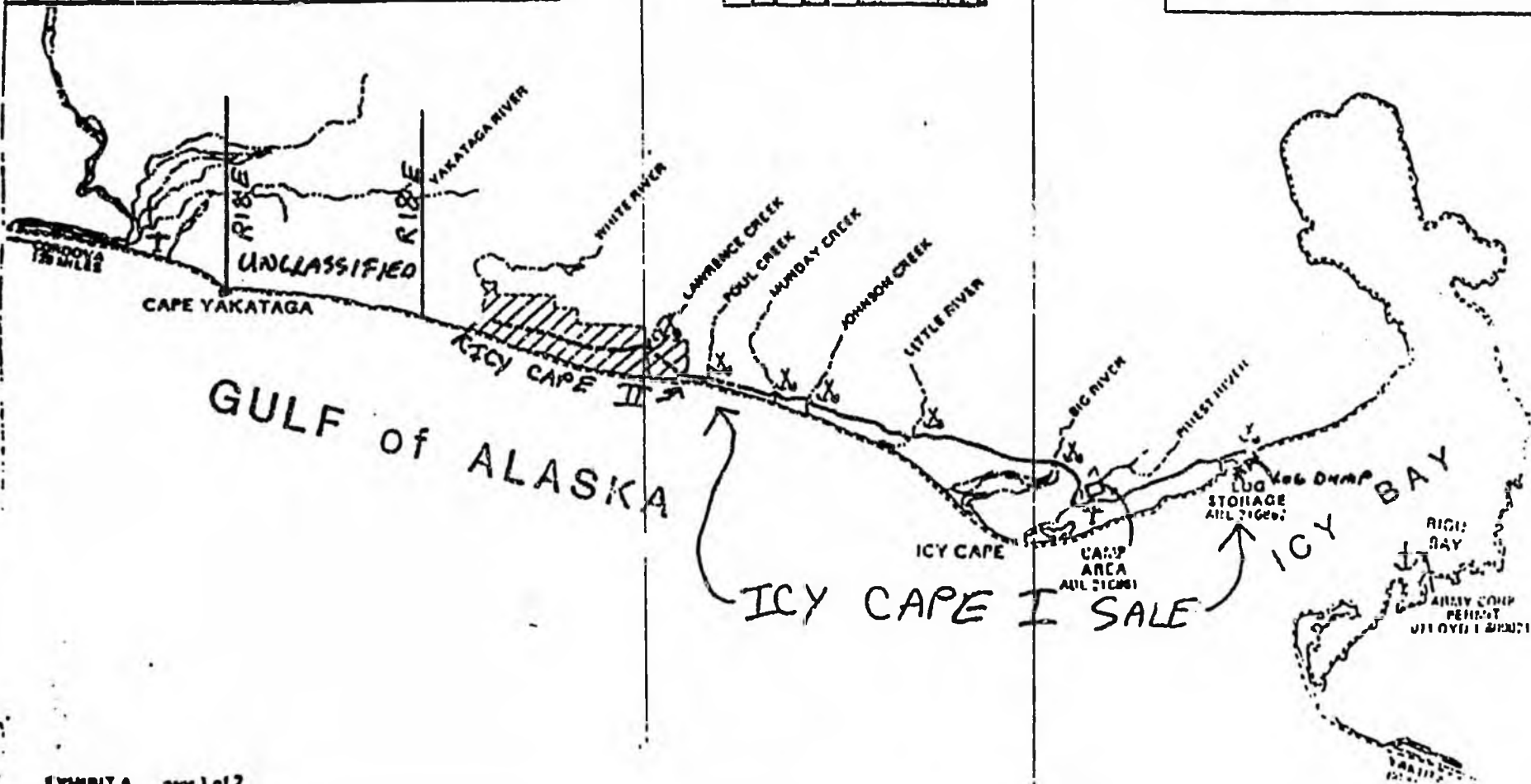


STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FORESTRY

TIMBER SALE SC-557
ICY CAPE NUMBER 2

10

	SALT AREA
	EXISTING ROAD
	PROPOSED ROAD
	APPROVED CHAVEL SOURCE
	AIRSTRIIP
	ANCHORAGE
	STREAM
	OCEAN



M E M O R A N D U M
S T A T E O F A L A S K A
Dept. of Fish and Game Div. of Wildlife Conservation

TO: Bob Johnson
Sport Fish Division
Yakutat

Date: 21 Dec 89

Phone: 424-3215

FROM: Herman Griese *HG*
Div. of Wildlife Conservation
Cordova

Subject: Icy Bay Mt.
Goat Information

Per your request for information on mountain goat survey and hunter harvest for the Icy Bay-Cape Yakataga area, I have summarized data and presented my impression of factors influencing goat populations in that area. At the meeting here in Cordova last week I presented this data at the request of the public and the reluctant request of Rod Swope, Deputy Commissioner DNR.

Mountain goat surveys by nature produce variable results. Factors that influence surveys are numerous. Surveys conducted between 1977 and 1989 at Icy Bay and Cape Yakataga were conducted within a 2-week time frame, around the first week of August. Time of day can influence survey results. Observability of goats and the chances of seeing the greatest % of goat populations are best the last 3 hours of daylight. Next best would be the first 2 hours of daylight, prior to sun hitting the goats. The hotter the goats become the more difficult it is to find them, thus surveys in the middle of the day are likely to represent a small sample of the entire population. Overcast days, being cooler, tend to produce more representative survey results. Aircraft type affects air speed of survey, and the best results come from slow maneuverable aircraft. There is inherent variation among observers. Few surveys of goat populations could ever be expected to locate 100% of the population, in fact most surveys are considered to locate between 60 and 80% under the best conditions. With all these qualifiers in mind the surveys conducted over the years for the areas east (East WR) and west (West WR) of the White River are presented below.

Date	Time	Number of goats (% kids)		Acraft	Obsrv
		East WR	West WR		
7/28/77	0958	398-410(25)	-----	C-180	R.Quimby
8/3/77	0945	-----	43(35)	C-180	R.Quimby
3/4/84	1000	204(22)	-----	PA-18	B.Dinneford
3/4/84	1217	-----	39(28)	PA-18	B.Dinneford
8/11/89	1931	97(27)	-----	PA-18	H.Griese
8/11/89	2100	-----	81(20)	PA-18	H.Griese

Survey conditions were considered to be "excellent" in all surveys except for the 1989 survey of East WR, it was considered to be "good" due to sun glare.

What should stand out is that survey times and aircraft type have progressed to provide near optimum survey results. The decline in goat numbers in East WR is likely to have been tempered by increased effort to find goats in later surveys. The decline is probably more dramatic than surveys indicate.

Factors that commonly effect mountain goat population declines include excessive harvest (legal and illegal), predation, deep snow or extremely icy winters, disturbance during critical life stages (winter and spring), and habitat loss. It is apparent that any weather condition experienced by one side of White River would be experienced equally by the other side. And likewise, predation by wolves, which apparently began during the 1970's, is likely to have affected both sides. In recent field activities in West WR wolf scat was located that contained goat hair and hooves. However, we have no indication that wolves have been more common on one side versus the other. That leaves human harvest to consider. Illegal goat harvest can not be measured, but if one were to believe DNR and past camp managers at Icy Bay, logger are above reproach and do not engage in such activities. On the other hand, some past residents at Cape Yakataga were probably not too concerned about legalities in harvesting goats.

Hunters have been required to report goat harvest in Unit 6 since 1975. It is safe to say, however, that reporting has been less than 100%. In 1985, I found that reporting by all Unit 6 goat hunters may underestimate legal goat harvest by as much as 30%. The harvest numbers used in the attached figures and further discussions are therefore minimum legal harvest numbers.

After decades of research and population monitoring of mountain goats, wildlife managers have determined that hunter harvest should not exceed 5% of healthy populations, especially if the harvest approaches 50% females. Since

surveys are not considered to represent 100% of populations, we have established upper allowable harvest levels at 7% of observed numbers for each population of goats in Unit 6.

In figures 1 and 2, I am presenting 3 statistics for goat populations east and west of White River. Using the left side y axis of the graphs I have illustrated magnitude of survey results. The solid lines between these survey points represent the indicated population in years between surveys. Using the right side y axis I have depicted reported goat harvest (+) and 7% (of observed numbers) allowable harvest levels by a dashed line. These graphs allow a comparison of reported harvest and its relation to acceptable harvest levels. Excessive harvest was a more common occurrence in West WR (Fig. 1). The same comparison of data for East WR (Fig. 2), even if considering an additional 30% increase in harvest number due to under reporting, apparently indicates that hunter harvest alone can not explain the dramatic decline.

Mt. goat harvest by hunters and poachers is generally influenced by ease of access. Both areas were subject to aircraft access by possessing substantial airstrips and potential for beach landings. Clearly, the many logging roads developed east of the White River have improved access to goat populations for hunters. Yet reported harvest is not indicated as a significant factor in the decline.

The differences in natural environmental conditions and legal hunting pressure between areas east and west of the White River are few. However, there are several major unnatural differences. The east side has a substantial area of clearcut timber, a great deal of heavy vehicle traffic on a substantial road system, a large seasonal population of loggers, and the human activities associated with logging.

What has influenced the population of goats east of the White River to decline is not clear. Considering the differences in remaining habitat and logging activities, it seems to be very clear that logging has promoted the decline in some way. Logging activities may have disturbed goats enough to force them to vacate historical range. In the survey notes of R. Quimby in 1977 he noted:

"Whether by coincidence or not, there were many fewer goats above the logging area than on either side. Possibly the goats move away from the noise or perhaps those areas (of habitat) are not as good for some reason"

There remains a lot to be learned about how goats react to human activities. However, throughout the Pacific Northwest logging activities have repeatedly, in some way caused declines in adjacent populations of mountain goats.

Fig. 2. MT. GOAT POPULATION TRENDS VS REPORTED HARVEST
ICY BAY TO WHITE RIVER, GMU GA, 1975-1989.

EAST WR

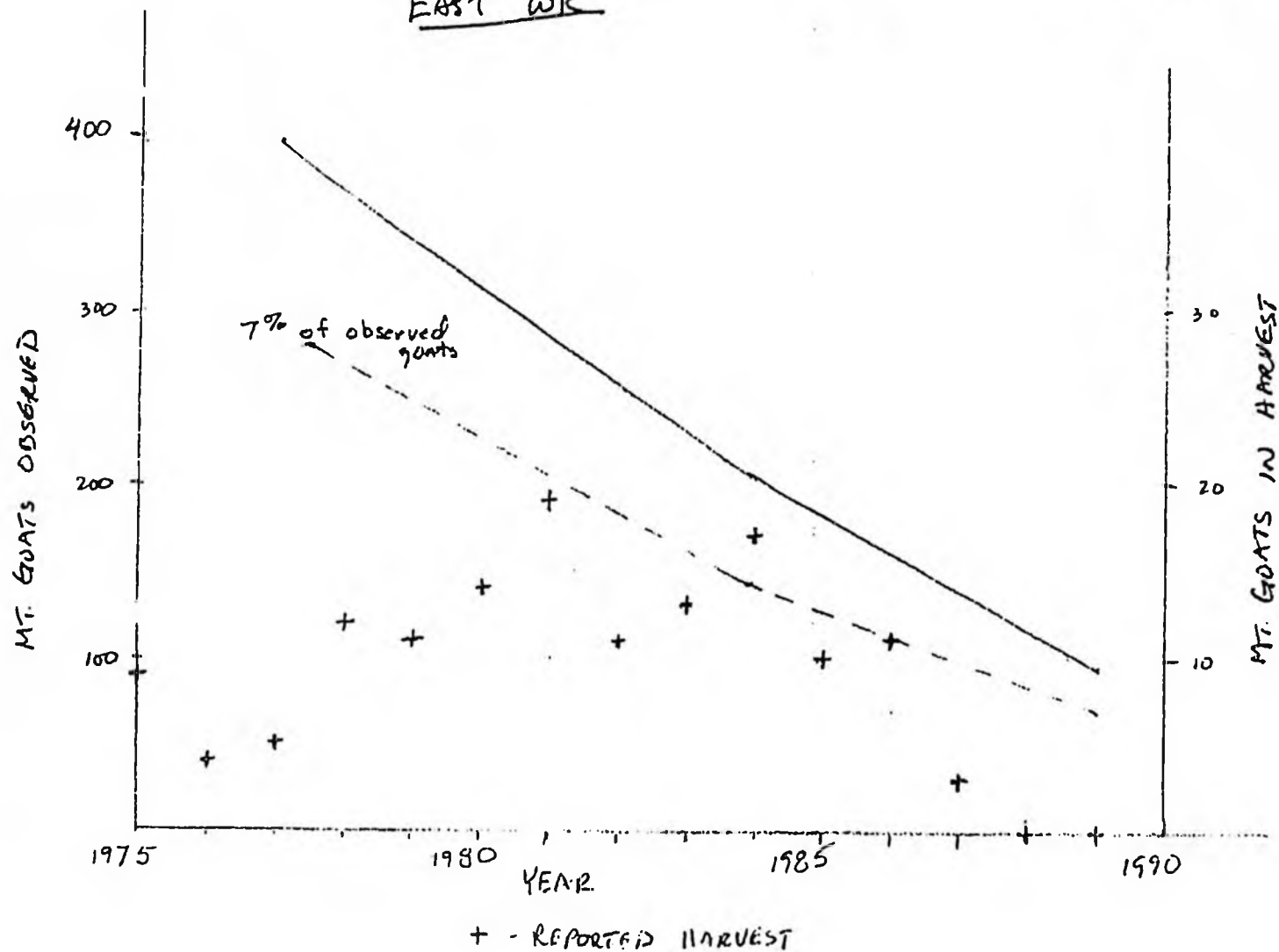
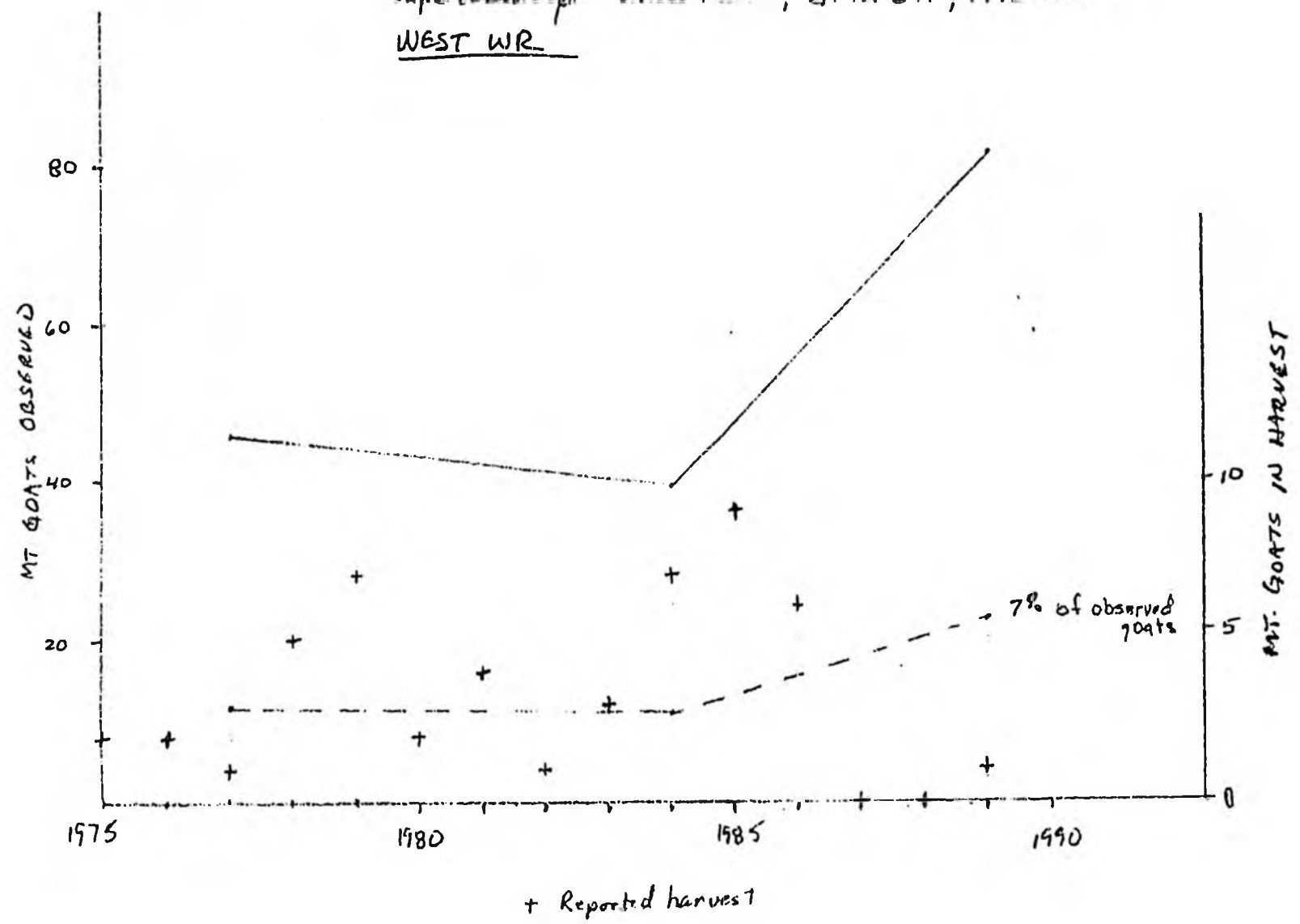


Fig. 1.

MT GOAT POPULATION TRENDS vs. REPORTED HARVEST
Sape Yekatequn - White River, GMU 6A, 1975-1989
WEST WR



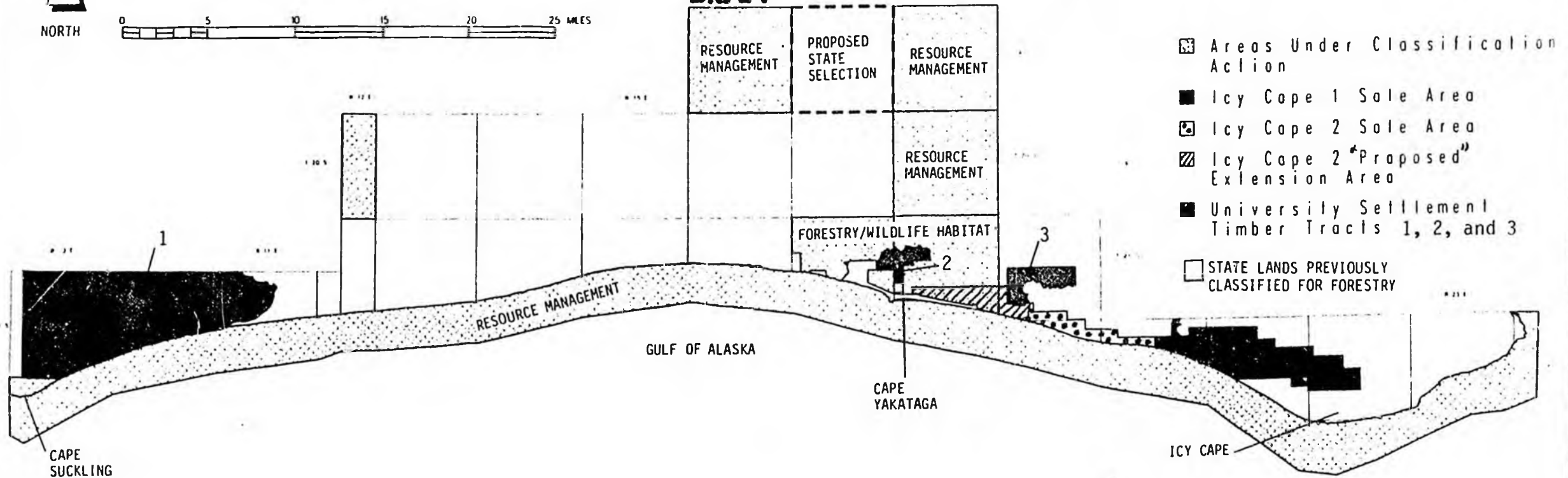
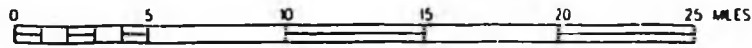
cc. J. Westlund, WC, Anchorage
D. Hardy, Habitat, Sitka

Yakataga Area Timber Sale Boundaries and Classification Areas

DRAFT



NORTH



- Areas Under Classification Action
- Icy Cape 1 Sale Area
- Icy Cape 2 Sale Area
- Icy Cape 2 "Proposed" Extension Area
- University Settlement Timber Tracts 1, 2, and 3
- STATE LANDS PREVIOUSLY CLASSIFIED FOR FORESTRY

JUNEAU 1/15/88

Yakutat opposes state's timber transfer plan

THE ASSOCIATED PRESS

ANCHORAGE - The City of Yakutat is challenging the state's plan to transfer timber rights on nearly 90,000 acres to the University of Alaska as part of court settlement.

Yakutat asked this week for administrative review of the Department of Natural Resources' plan involving 443 million board feet of timber worth an estimated \$3 million.

The timber rights are part of a \$24.7 million settlement between the department and the university in a dispute over lands held in trust for mental health programs.

The university sued to regain the value of trust land transferred to the

Municipality of Anchorage. In the settlement reached in December, the state agreed to transfer about 20,000 acres to the university.

Yakutat claims the state gave inadequate notice of the proposed settlement. It also says the DNR lacks the authority to transfer or exchange timber rights.

Mayor Larry Powell said the city opposes the transfer because it fears timber harvesting on the nearby land could damage fish and wildlife habitat important to Yakutat residents.

"I've been telling them that there are a lot of problems in Icy Bay," referring to a another area where the state has held timber sales. "There

need to be radical changes in the harvest techniques, procedures and the sale layouts in terms of protection so that fish and wildlife habitat are not destroyed."

The disputed area is located between Cordova and Yakutat, along the forested lowlands between the Gulf of Alaska and the Wrangell-St. Elias Mountains.

"The rivers from Icy Bay to Cape Suckling contribute to the fish processing facilities in Yakutat and the economy of commercial fishermen who are predominantly from Yakutat," Powell said.

"I believe there is so much con-

troversy that the university is getting 'a pig in a poke' that the Department of Natural Resources has transferred a lot of controversial values to the university as opposed to some land and values that are pretty solid," he said.

"We feel that DNR has no business making a commitment on those lands at this time, or if they do, then there should be provisions in the transfer that makes a commitment that there will be no allowable logging, harvest or layout until all surveying and cataloging by Fish and Game and the Department of Environmental Conservation is complete," Powell said.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF FORESTRY

COMMENTS PRESENTED

FOR

THE CITY OF YAKUTAT

BY

LARRY E. POWELL, MAYOR

RE: PUBLIC MEETING - YAKUTAT

YAKATAGA LAND USE PLAN

AND CLASSIFICATION

WE WOULD LIKE TO WELCOME ALL DNR STAFF TO YAKUTAT TO RECEIVE THIS COMMUNITY'S COMMENTS ON PROPOSED STATE ACTIONS IN THE YAKATAGA AREA. AS YOU ARE AWARE, THE CITIZENS OF YAKUTAT HAVE TRADITIONALLY, AS WELL AS CURRENTLY, UTILIZED THE AREAS BEING PROPOSED FOR CLASSIFICATION MORE THAN ANY OTHER RESIDENTS OF THIS STATE. BECAUSE OF THIS FACTOR, YAKUTAT HAS PROPOSED AND PETITIONED THE FORMATION OF A COASTAL RESOURCE SERVICE AREA, (ALASKA COASTAL ZONE MANAGEMENT PROGRAM), ENCOMPASSING ALL OF THE AREA ENVISIONED IN THIS CLASSIFICATION EFFORT (STILL PENDING WITH THE DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS); DRAFTED A BILL CREATING THE YAKATAGA STATE GAME REFUGE, (ENCOMPASSING NEARLY ALL OF STATE LANDS BETWEEN CAPE YAKATAGA AND CAPE SUCKLING), WITH THE ASSISTANCE OF REPRESENTATIVE PETER GOLL'S STAFF, DEPARTMENT OF FISH AND GAME - HABITAT DIVISION, AND SEAAC STAFF. THIS BILL HAS BEEN INTRODUCED BY THE HOUSE RESOURCE COMMITTEE AND WILL HOPEFULLY BE ACTED UPON IN THIS SESSION OF THE LEGISLATURE; PROMULGATED INVESTIGATION OF POTENTIAL BOROUGH FORMULATION UP TO CAPE SUCKLING; AND INITIATED A LAWSUIT AGAINST THE DEPARTMENT OF NATURAL RESOURCES AND UNIVERSITY TO:

- (1) PREVENT TRANSFER OF TIMBER CUTTING RIGHTS TO THE UNIVERSITY IN THE SUCKLING HILLS REGION (PARCEL).
- (2) PREVENT TRANSFER OF TIMBER CUTTING RIGHTS IN THE YAKATAGA AND WHITE RIVER DRAINAGES WITHOUT ADEQUATE

AGREED TO SAFEGUARDS WHICH WOULD ASSURE ZERO (0)
HABITAT LOSS TO FISH AND GAME AND MINIMIZE LOSS TO
RECREATIONAL RESOURCE VALUES.

THIS COMMUNITY HAS BEEN REQUESTING FOR NEARLY TWELVE YEARS,
THAT A PUBLIC HEARING BE HELD IN YAKUTAT ON STATE RESOURCES
ISSUES IN THE ICY BY - YAKATAGA AREA. I COMMEND THE
DEPARTMENT STAFF FOR BEING HERE TONIGHT. HOWEVER; WE
PROTEST VIOLENTLY TO A "PUBLIC MEETING" RATHER THAN A TRULY
MEANINGFUL PUBLIC HEARING PROCESS. WE REQUESTED THE MORE
FORMAL HEARING PROCESS AND WERE TURNED DOWN. AT THE LAST
MEETING HELD IN YAKUTAT, (NOV. 1987) THE REGIONAL FORESTER
ASSURED US THAT ANY FURTHER TIMBER SALES OR PROCESSES WOULD
INCORPORATE A PUBLIC HEARING IN YAKUTAT ON THE AGENDA.
THERE SEEMS TO BE NO END TO THIS LEGACY OF ABROGATED
AGREEMENTS (DF&G) AND BROKEN PROMISES.

WE APPRECIATE THAT A SEPARATE PLANNING AND CLASSIFICATION
EFFORT FOR UNCLASSIFIED LAND - INCLUDING THE ADDITION AREA,
IS IN PROGRESS AT THIS TIME. HOWEVER, IN THE NORMAL
SEQUENCE OF EVENTS A PLANNING AND CLASSIFICATION ACTION
PRECEDES A LAND OR TIMBER DISPOSAL AND THE RELATED ACMP
CONSISTENCY REVIEW. IN BOTH CASES (1) UNIVERSITY TIMBER
DISPOSAL (2) SULLIVAN - CHUGACH ALASKA PRE-ORDAINED
COMMITMENT OF ADDITIONAL TIMBER SALE, THE DEFACTO TIMBER
SALES HERE ILLEGALLY PRECEDE PUBLIC PROCESSES WHICH ARE THE
PUBLIC'S RIGHT UNDER THE ALASKA STATE CONSTITUTION. IT IS

NOT NECESSARY TO CITE THEM TONIGHT AS YOU KNOW THEM WELL.
THAT IS PRECISELY WHY WE ARE PRESENTLY ENGAGED IN PROTRACTED
LITIGATION.

WITH THAT IN MIND WE RESPECTFULLY REQUEST AND DEMAND THAT
ANOTHER ACMP REVIEW BE ACCOMPLISHED AFTER THE PLANNING AND
CLASSIFICATION PROCESS HAS BEEN COMPLETED. WE BELIEVE THAT
AN ACMP PROJECT REVIEW AT THIS TIME IS NOT APPROPRIATE,
SINCE WE DO NOT YET KNOW HOW THE LAND WILL BE CLASSIFIED AND
WHAT ISSUES, CONCERNS, OBJECTIVES, GOALS, STANDARDS OR
GUIDELINES WILL BE ADOPTED UNDER THE CLASSIFICATION ACTION.
WE ARE ESPECIALLY CONCERNED WITH OBJECTIVES, STANDARDS, AND
GUIDELINES TO MAINTAIN AND ENHANCE FISH AND WILDLIFE
HABITAT, AS WELL AS RECREATIONAL, SUBSISTENCE AND COMMERCIAL
USES. THE OBJECTIVES FOR THE SALE ADDITION WILL HAVE TO BE
CONSISTENT WITH THE RESULTS OF THE PLANNING AND
CLASSIFICATION PROCESS.

THE ACMP REVIEW FOR THE ICY CAPE II SALE WAS DONE IN 1983.
THE SPECIFICS OF THAT REVIEW AND THE SALE DOCUMENTS REQUIRED
DNR TO JOINTLY EVALUATE, WITH THE OTHER RESOURCE
AGENCIES, PROJECT ALTERATIONS SUCH AS SALE AREA AND ACREAGE
COVERED, SPECIFIC CUTTING UNITS, GRAVEL PITS, LEAVE (BUFFER
AND WILDLIFE CORRIDORS) STRIPS, AND ROAD LOCATIONS. THIS
WAS NOT DONE IN THE PAST, BUT MUST BE ROUTINE, SHOULD ANY
FURTHER DEVELOPMENT OCCUR. THE CITY MAY REQUEST A HEARING
BEFORE THE ALASKA COASTAL POLICY COUNCIL REGARDING IMPROPER
IMPLEMENTATION OF THE 1983 ACMP REVIEW OR ANY FUTURE ACMP

REVIEWS IN THE YAKATAGA AREA.

THE LIST OF AGENCY VIOLATION IN THE PAST 18 YEARS OF LOGGING AT ICY BAY ARE SO NUMEROUS THAT IT IS NOT POSSIBLE TO LIST THEM ALL HERE TODAY, HOWEVER; A FOLLOW UP LETTER WILL POINT TO THE MOST SERIOUS. THE ONLY PURPOSE IN REGURGITATING THEM BACK AT YOU IS THE HOPE OF A FIRM COMMITMENT THAT THEY WILL NOT BE REPEATED IN ANY FUTURE ACTIONS. MAYBE IT IS BECAUSE OF THESE THAT DNR SHOULD NO LONGER SEVERELY COMPROMISE REMAINING RESOURCE VALUES IN THE AREA THROUGH DISGUSTING MANAGEMENT ACTIONS.

IT MAY WELL BE THAT OTHER ALTERNATIVES WILL BE SOUGHT TO RESOLVE THE SALE EXTENSION QUESTION. IT IS SIMPLY NOT GOOD ENOUGH FOR THE DEVELOPMENT TO ESPOUSE THAT "WE HAVE TO CLASSIFY T 21 S FOR FORESTRY: WE HAVE ALREADY COMMITTED IT TO TIMBER HARVEST."

IN BEING CONSISTENT WITH PAST CITY ACTIONS IT IS RECOMMENDED THAT THE FOLLOWING AREAS BE CLASSIFIED AS WILD LIFE HABITAT LAND: AREA 1, 2, 3A, 3B, 4, 5, & 6

FURTHER, TO AGAIN BE CONSISTENT WITH THE INTENT OF THE YAKATAGA STATE GAME REFUGE PROPOSAL, THE STATE SHOULD BEGIN THE PROCESS OF RECLASSIFYING LANDS BETWEEN CAPE SUCKLING AND CAPE YAKATAGA AS WILDLIFE HABITAT. A FORESTRY CLASSIFICATION, GIVEN THE OTHER HIGHER RESOURCE VALUES PRESENT IN THE AREA, IS INCONSISTENT WITH WISE PUBLIC POLICY AND GENERAL PUBLIC SENTIMENT.

THANK YOU FOR THE OPPORTUNITY TO PRESENT OUR COMMENTS. WE
HOPE THAT YOU USE THE PUBLIC POLICY COMMENTS FROM THIS
MEETING AS WELL AS THOSE FROM CORDOVA WISELY. IT IS OUR
DESIRE THAT YOU UNDERSTAND THAT OUR PEOPLE LIVE AND WORK IN
THIS AREA AND ITS LONGEVITY AND HEALTH REFLECT DIRECTLY UPON
THE WELFARE AND ECONOMY OF THIS COMMUNITY.

THANK YOU,
LARRY E. POWELL,
MAYOR



CITY of YAKUTAT

P.O. Box 6

YAKUTAT, ALASKA 99689

(907) 784-3323

January 15, 1990

Department of Natural Resources
Division of Forestry
ATTEN: Jim McAllister, Regional Forester
400 Willoughby Avenue, 5th Floor
Juneau, Alaska 99801

Dear Mr. McAllister:

The City of Yakutat would like to submit our comments on the Site Specific Land Use Plan for the Cape Yakataga area, and the Proposed Finding, Decision and ACMP Consistency Determination, Modification of the Icy Cape II Timber Sale.

First, we would like to thank the staff of DNR for holding the public meeting in Yakutat on January 8, 1990. At this meeting we were told that DNR uses the terms "meeting" and "hearing" interchangeably. Because of this, the City requests that DNR transcribe the tapes of the meeting and submit this record as public comment. We feel that this will be the most meaningful result of the public meeting process.

The City of Yakutat protests the ACMP review process taking place concurrently with the classification process. The standard procedure is that an area be classified prior to the ACMP review. The City requests that another ACMP review be undertaken after the classification and planning process is completed.

The City also objects to the fact that the classification process is taking place after DNR has committed the timber. It is illegal to commit resources before the classification process has taken place. This sequence of events subverts the public process which is a right under the Alaska State Constitution. Also in reference to the fact that the timber has already been committed, it is quite clear that both documents, the Site Specific Plan, and the ACMP review, are biased towards timber harvest activities.

There are several issues discussed in both the Site Specific Land Use Plan, and the Proposed Finding, Decision and ACMP Consistency Determination, Modification of the Icy Cape II Timber Sale, which we will comment on first. We will then comment on each document individually.

We believe that, within the study area, the historical and cultural significance of the Yakutat Tlingit has not been adequately emphasized. Oral and written histories clearly show that the historical lands of the Yakutat Tlingit extend to Cape Suckling.

The subsistence use of resources is an important part of the culture and lifestyle of Yakutat. A 237 page technical report, published in May 1986 by the Division of Subsistence, ADF&G, documents contemporary patterns and changes of subsistence use in the Yakutat area. The abstract of this report states that the average household harvested, from the area near Dry Bay north to Cape Suckling, 1,105 pounds of fish and wildlife during 1984. This is an average of 398 pounds per household member. Almost 20% came from the area of Icy Bay to Cape Suckling.

The area in question is contained within the regional boundaries of the Chugach Alaska Corporation. However, it must be recognized that this is a result of legislation, which was mandated for political and economic reasons. These boundaries have no existence prior to ANCSA.

The City of Yakutat reminds DNR that the State of Alaska has established interim coastal zone boundaries which are to be used as program boundaries until final ones are proposed by the CRSA Board, and adopted by CPC, and the federal Department of Commerce. The area between Cape Fairweather and Cape Suckling is recognized as being within the Yakutat sphere of influence and the biophysical boundaries for the Yakutat Coastal Management Plan. This plan was adopted in 1981, and includes resource analysis and implementation techniques for the entire area.

It was mentioned at the public meeting and in both documents that there are only two anadromous streams within the study area. Historically this is not true. It is only due to the deplorable management of past timber harvest that there are not more anadromous streams.

Site Specific Land Use Plan

The City of Yakutat supports the establishment of the Yakataga State Game Refuge. Therefore, the City recommends that areas 1,2, 3A, 3B, 4, 5, & 6, be classified as Wildlife Habitat. Furthermore, in order to be consistent with the intent of the Yakataga State Game Refuge proposal, the State should begin the process of reclassifying lands between Cape

Suckling and Cape Yakataga as Wildlife Habitat. A Forestry classification, given the other higher resource values of the area, is inconsistent with wise public policy, public sentiment, and not in the best interest of the State.

DNR can not classify any region for forestry simply to meet the needs of the Icy Cape II court settlement. Other alternatives do exist. The City of Yakutat demands that DNR seek other options. In light of the poor management of past timber harvest we can not allow history to repeat itself.

Proposed Finding, Decision and ACMP Consistency Determination, Modification of the Icy Cape II Timber Sale.

The City of Yakutat feels that the importance of the Yakutat setnet, and sport fisheries were diminished in this study. Further research would indicate a much greater significance than was suggested in this document.

The City believes that the sustained yield calculations have been misrepresented. The total timber harvest as been averaged over the past 19 years. However, harvesting did not take place each of those 19 years.

The economic benefits that Yakutat would derive from the timber sale are short term in effect. Once harvesting was complete all benefits would be lost. Not to mention all long term benefits would be lost as a result of timber harvest. Subsistence, commercial, and sport fisheries, subsistence and sport hunting, as well as aesthetic and recreational uses would be seriously impacted.

The City of Yakutat requests that all leave strips, or "no harvest zones", be 1/4 of a mile. This will insure the greatest protection of wildlife habitat. Also, due to the highly dynamic coastline leave strips must be calculated from the edge of the forest, not the beach.

Once again, we thank DNR for holding a public meeting in Yakutat, and for the opportunity to comment on the Site Specific Land Use Plan and the Proposed Finding, Decision, and ACMP Consistency Determination, Modification of the Icy Cape II Timber Sale. The City hopes that all comments will be considered, and used wisely.

Sincerely,



Beth McKibben
Acting City Planner