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Southeast Legislative Chronicles

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Loggers, fishermen, environmentalists like it!

Forest Practices Act to bring 'peace to the forest'

by Bob Tkacz

Supporters of the Alaska Forest Practices Act from both the logging industry and environmentalist community admit the bill is a weird duck.

They explain that its unusual nature and, to date in Alaska, the lengthy and unique process used to write the bill, warranted in a distinctive product. Moreover, they claim success in achieving the goal of "peace and predictability in the forest."

The bill passed the House, April 21, on a party line vote after reconsideration and defeat of an amendment which, proponents say, would have gutted the bill.

The amendment, first passed during an April 20 House debate, would have changed the word "shall" to "may" in the section of the bill requiring timber operators to file detailed plans of operation with the state forester before beginning work.

As finally approved by the House, the 33-page bill requires the adoption of site-specific forest land use plans for any stands of timber before they can be sold. It requires inclusion of any proposed sale on two five year sale schedules before execution of the sale.

While the wording may seem to say the bill

delays any timber sales for ten years or more, other provisions declare that five year sales are to be prepared annually and that the inclusion clause does not apply until one year after the first five-year schedule is prepared. Effectively that means timber can be sold one year after the act is signed into law.

The Act involves the Departments of Natural Resources, Fish & Game and Environmental Conservation in regulation of logging, requiring the Board of Forestry to work not only with these state departments, but "other affected agencies and parties, and the forest-dependent industries."

All the department have an effective "veto" authority over questions dealing with their area of regulation.

The bill requires that the DNR commissioner give "due deference" to each agency in its area of expertise, but can override their recommendations with a written explanation.

While commonly used in coastal zone management planning and other areas of law, the term "due deference" is new to forest management legislation. It is defined in the bill to mean "that deference that is appropriate in the context of the agency's expertise and area of responsibility and all the evidence available

to support a factual assertion.

"Where due deference is given," the definition continues, "if the commissioner does not agree with a commenting agency, the commissioner shall prepare a written statement of the reasons for the disagreement."

If the disagreement continues procedure calls for higher level re-evaluation within the disputing agencies. A hallmark of the bill is repeated review among disputing agencies before a final decision is made.

The bill won the support of fisheries interests, in large part, because of its protections for salmon streams.

Buffer zones along fish-bearing running through both public and private land can be 50, 66 or 100 ft wide, depending on how the stream is categorized on the basis of the volume of fish it carries, the slope of the terrain running toward it and other factors.

Finally, though loggers can face criminal charges as well as civil penalties for violation of the statute, they also have the opportunity to overcome the arguments of any state agency and convince the commissioner of DNR that they can, for example, log near a stream without damaging it. They still face penalties if they fail to do so, but at least have the opportunity to make their own case.

To questions over the unusual aspects of the bill both environmental and timber industry supports agree "the system is unique."

"We think it's a great piece of legislation and it ought to be passed immediately," said Rick Harris, Sealaska vice president for resource planning and administration. He estimated that owners of 90% of the privately held timber in

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Fish farming fight reaches Sen. Resources

Legislation which would ban finfish farming in Alaska is about to face its final challenge of the 1990 legislative session after being moved to the Senate Resources Committee, April 18.

At the same time a new version of a bill, dormant since the 1989 session, which would permit finfish farming first was scheduled for a hearing before the Senate Resources Committee, on April 27, then was removed from its agenda.

The Resources Committee is chaired by Bettye Fahrenkamp, a Fairbanks Democrat who has consistently declared that a fish farming ban bill will never pass out of her committee. Sen. Dick Eliason's farming ban bill has been growing moss in Fahrenkamp's committee since it arrived there Jan. 19.

Eliason's bill is the companion to Rep. Ben Grussendorf's HB 432, newly arrived in Fahrenkamp's committee after House passage and a hearing before Eliason's Senate labor & Commerce Committee. It would prohibit "any growth or cultivation of finfish in captivity," except that conducted by state or private

nonprofit corporations for fisheries enhancement purposes.

The Resources Committee schedule for the week of April 22-28 does not include HB 432, but did have a spot for SB 195. During the April 21 Senate floor session Fahrenkamp announced that her bill was removed from the committee's schedule. She explained later that, as a courtesy to Rep. Grussendorf, whose bill was referred to her committee first, this session, she cancelled the hearing on SB 195.

The move could be an indication of some compromise or agreement between Fahrenkamp and Grussendorf. But when the senator was asked if HB 432 would be scheduled for a hearing she responded, "I don't know."

Introduced last year by Sen. Fahrenkamp, SB 195 would allow finfish farming in marine waters with a permit issued by the Dept. of Fish & Game. Permit conditions and criteria for finfish farming would be similar to those

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Quote of the week

'I think he's got reality well in hand, but this is a legislative body and I don't think that's practical.'

—Sen. Jan Faiks during Senate debate of the spending limit on an amendment proposed by Sen. John Binkley.

Sen. subcommittee nixes extra bucks for Columbia winter sailing

The Senate Finance Subcommittee with oversight on the Alaska Marine Highway System (AMHS) budget has excluded a request for a \$1 million increase in operating funds from the Blue Camoe spending plan.

Despite the arguments of Sen. Lloyd Jones, and Jim Duncan, of Juneau, both subcommittee members, the panel at an April 21 meeting, denied \$1,078,400 in funding in increases, termed increments in legislative parlance, to the ferry system as part of its rejection of \$2.3 million in increment rejections for the entire Dept. of Transportation.

Specifically, the rejected AMHS requests break down to \$420,000 for two weeks additional operating time for the M/V Columbia and \$407,800 for Southeast and \$250,600 for vessel increased overhaul and fuel costs increments.

In practical terms the unavailable operating funds could result in cancellation of a plan to operate the M/V Columbia in place of the M/V

Malaspina between October, 1990 and January, 1991. The proposal for that replacement is projected to earn a \$250,000 profit beyond the \$1 million Columbia operating costs.

In total the subcommittee approved \$1.9 million in increments for the Marine Highway System of \$3 million in requests. Those include \$1.79 million to maintain the funding base of the Southeast ferry system at its fiscal 1988 level, \$86,900 for the Southwest system at the FY '88 level, and \$80,000 for federally mandated drug test for system employees.

The case for approval of the \$1 million increment is not totally lost as the entire legislative process becomes more and more fluid as the session runs through its final days.

Showing some frustration with the subcommittee's penny-wise thinking, Sen. Jones emphasized that the extra million bucks would not cost the state a dime, but earn a quarter-million dollars profit. He also pointed out that the projected income for fiscal 1991 of

\$37.1 million would not be realized if the system doesn't invest the necessary monies in operating funds.

"I can't see not letting provide that service as long as they're paying for it. Every bit of it is covered," Jones declared. He also warned that without the extra operating funds the system may not earn the \$37.1 million it is projected to next fiscal year.

"You're not saving money by not authorizing it," Sen. Duncan added with his own emphasis on the point that ferry vessels tied to the dock still stack up maintenance costs, they just don't earn any revenue.

"It's like selling hotdogs. You don't get the money unless you sell the hotdogs," Duncan said.

Despite the setback, the prospects for including the increment in the AMHS budget are not at all hopeless. Finance Committee Cochairman Rick Uehling (R-Anch.) did not entirely write off the request saying during the hearing, "We'll take a look at this again."

Significantly, Sen. Steve Frank (R-Fairbanks) seemed to have been unaware before the subcommittee meeting that the \$1 million investment would actually be repaid with a profit.

Frank's position is notable because Sen. Uehling said the \$1 million proposal would be run past his highly influential, cochairman, Sen. John Binkley (R-Bethel), before a final decision was taken. Reached by the *Chronicles* late that afternoon, Binkley said he wanted to hear the basic arguments on the question as well as recommendations from Sens. Uehling and Frank on the question.

Binkley also said the issue would probably be decided, within the Senate at least, by April 24 when the DOT budget would be closed out by the Finance Committee. The entire question still remains fluid in that the House has been writing different budget amounts than those from the Senate and the two bodies will send delegates to conference committees to work out final budget plans.

Jones, Duncan disagree on effects of spending cap on AMHS earnings

Southeast Senators Lloyd Jones and Jim Duncan came down on opposite sides of the fence, last week, on the effects the state spending limit approved by the Senate, will have on the Alaska Marine Highway System.

Duncan warned that the measure will limit the newly-legislated ability of the ferry system to use any increased revenue it earns, known as program receipts, to improve or expand its operations.

Jones said the resolution will have no effect on the ferry system unless it earns 100% of its operating expenses. Since Alaska's income will probably be falling in the next few years the question of breaking a spending limit is irrelevant anyway, he added.

The spending cap, SJR 5 was approved by a 15-5 vote, April 18, after a lengthy debate which included proposal of 15 amendments and several attempts to rescind, or reconsider, the defeat or passage of many of those.

Jones, and Sitka Sen. Dick Eliason, both Republicans, were cosponsors of the resolution and backed its passage. Sen. Duncan and fellow Democrats Bettye Fahrenkamp, Jay Kerttula, Pat Pourchot and Fred Zharoff cast the only "nay" votes on final passage consideration. However, the vote was not strictly along party lines with Democrats Pat Rodey, Mike Szymanski and Al Adams voting for passage.

If the measure is passed by the House it will go before the voters in the November election.

As approved by the Senate, SJR 5, would automatically be repealed in 1996. Its primary goals, Jones said, is to move the state through the expected transition period of decreasing income gradually and avoid the prospect of massive state budget cuts in one year.

It would set a spending limit of \$2.3 billion for fiscal 1992 (July 1, 1991 to June 30, 1992).

In the next four years state spending would be limited to five percent less than the previous year's spending amount. The formula would set a spending cap for FY 1993 \$115 million less than that for FY 1992. By 1996 maximum state spending would be \$1.8 billion, but the cut is not as much as it would seem.

Exempted from consideration as part of total state spending are any appropriations into the Permanent Fund or for Permanent Fund dividends; for relief of disasters or emergencies declared by the governor; to the budget reserve; for payment of principal and interest on state-issued general obligation or revenue bonds; for participation in federally mandated aid programs for low income persons; and, from general obligation or revenue bond income.

In addition, the spending limit can be exceeded at any time with a two-thirds vote of both houses of the legislature.

Many of the amendments proposed in the Senate debate were attempts to add still other exemptions.

As introduced by Sen. Jan Faiks (R-Anch.), the annual reduction was set at one percent of the previous year's spending. Bethel Republican John Binkley moved the increase to a five percent cut, explaining that one percent would do little to bring state spending down to affordable limits.

Binkley's amendment was defeated on its first consideration on a 10-10 vote when Republicans Faiks, Steve Frank, Rick Halford, Tim Kelly, Arliss Sturgulewski and Rick Uehling joined Duncan, Fahrenkamp, Pourchot and Zharoff in opposing it.

Later in the day, however, Faiks and Halford switched positions on a vote to reconsider the defeat of Binkley's amendment. Sen. Rodey

Spending, continued page 3

Southeast

Legislative Chronicles

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Hoffman amendment casts subsistence issue as states' rights question, not rural v. urban

The House Resources Committee has responded to the troublingly vague section of the Alaska National Interest Land Conservation Act (ANILCA) with a general proposal designed to solve the state's subsistence law problem.

Passed, April 21, the amended version of HJR 74 does not specify a subsistence preference for Natives, rural residents or any identified group. Instead, it casts the constitutional question in a states rights light rather than that of a Native vs. non-Native, or rural vs. urban debate.

The original version of HJR 74, introduced by Rep. George Jacko (D-Pedro Bay) would have granted subsistence priority based on local residency, customary and traditional use or dependence on resources for food and other purposes.

Prepared by Rep. Lyman Hoffman (D-Bethel), the amendment which was adopted declares, "Nothing in this constitution prohibits the legislature from enacting laws relating to subsistence uses of fish and wildlife and other wild renewable natural resources that are consistent with valid federal laws in order to retain management authority over those resources by the state."

The problem the legislature faces began last December when the Alaska Supreme Court declared the preference for rural residents in the existing subsistence law was unconstitutional discrimination against urban communities. The court gave the state until

July 1 to change its law by staying its decision until that date.

At that time, if no change in the law is made, federal authorities would take over management of fish and game resources in Alaska under provisions of ANILCA.

Gov. Cowper and various legislators have introduced various proposals for a constitutional amendment which give preference in resource allocation to Natives, rural or local residents. Any proposal which is passed by the legislature would still go before the voters in this November's state election, but the possibility exists that the high court would extend the stay of its decision until the election in recognition of the attempt to resolve the dilemma.

The problem faced by everyone proposing a solution is that ANILCA requires a subsistence preference for rural residents but does not provide a definition of "rural," leaving state agencies stuck between the federal law and equal protection requirements of the state constitution.

Representatives of sportsmen's groups and others opposed to any natural resource preference for anyone continue to call for legislative or court action to amend ANILCA, but the state congressional delegation, and most Native groups are opposed to such an attempt.

Rep. Ramona Barnes (R-Anch.) has introduced a bill which would make subsistence use of resources the top priority

among all consumptive uses and direct the Boards of Fish & Game to adopt hunting and fishing regulations giving preference based on "customary and direct dependence" on the resources, local residency and availability of alternate resources. Her proposal has received no action this session.

Hoffman aid Mike Smith explained to the Resources Committee that the primary intention of the amendment is to allow the state to retain management authority over fish and game resources.

"This is not a subsistence preference issue. It is a statehood and states rights issued," Smith said.

Any resolution which is passed by the legislature will go before the voters in November. Supporters of a Native preference have expressed fears of a divisive election campaign, which they could lose, if the question is characterized as urban against rural or Native against non-Native.

The key to the Hoffman amendment is that it gives the legislature constitutional latitude to respond to ANILCA as it is currently written, or any future version if it or other federal laws are amended, but does not require the lawmakers to act.

Gov. Steve Cowper supports the Hoffman amendment, according to Molly McCammon, special assistant to the commissioner of fish & game. She said the governor will issue a formal statement on the amendment during its hearing by the House Judiciary Committee which now has the proposal.

The Hoffman amendment is also supported by the statewide Alaska Native community, Alaska Federation of Natives Pres. Julie Kitka told the Resources Committee in an April 26 hearing.

Also testifying that day were representative of the Territorial Sportsmen of Juneau, the Alaska Outdoor Council and Cook Inlet Professional Sportsfishing Association, all urging the legislature to challenge ANILCA.

Sterling Eide, representing the Cook Inlet group, told the committee that the lives of fishing guides and bed & breakfast owners are "threatened" by subsistence preferences for any particular group.

The Resources Committee moved the amended HJR 74 with three "Do Pass" recommendations, from Chairman Cliff Davidson (D-Kodiak), and Reps. Richard Foster (D-Nome) and George Jacko. Giving the proposal no recommendation were Reps. Bert Sharp (R-Fairbanks), Curt Mendard (D-Wasilla) and Bill Hudson (R-Juneau.)

Hudson explained later that his recommendation was based on uncertainty that the amendment gives the legislature the legal authority which its proponents say. He raised the question during committee discussion, but Davidson suggested it would best be debated in the Judiciary Committee.

Southeast senators split on spending

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also reversed his stance, but the motion to rescind the previous action passed 11-9.

On the vote to reconsider the amendment Sen. Pres. Kelly joined the majority to pass Binkley's amendment 12-8.

Sen. Duncan called the amendment "ridiculous," both because it would make the resolution more difficult to pass in the House and because an annual cut of the prescribed amount in state spending would be difficult to achieve.

Sen. Kertula, before changing his position, also opposed the amendment on grounds that when the projected inflation rate of 4.7% was coupled with the 5% cut, the reductions mandated would be "impossible."

Speaking against the entire resolution, Duncan emphasized that innovations to ferry system management, such as the program receipts spending plan introduced this session, would be rendered useless.

"Even if the Alaska Marine Highway System generates more revenue it won't be able to use them," Duncan declared. He added that, when state income is low the resolution would pit the marine highway system against education, social service and other programs generally given higher budget priorities.

Sen. Bettye Fahrenkamp joined Duncan's argument declaring that the Juneau senator was correct, according to Jim Ayers, marine highway system director.

Jones was unswayed, observing that the resolution "is just facing reality. To say a 'No' vote spells the Alaska Marine Highway System's doom, I object to that.

In an interview following the Senate debate, Jones said the bottom line is that Alaska will not have the money to spend regardless of where the limit is set.

He also noted that, if the state's financial fortunes improve the legislation can be repealed before 1996 and, in any year, a two-thirds vote can exempt programs from the spending cap.

Asked if all of the ways around the cap make it a sham, Jones said its central purpose is to plan for the projected income drops.

"It forces us to plan to keep the budget in balance with revenues forecast for the next four or five years and that's only good fiscal planning. We're not trying to take program receipts away from the ferry system. I'm going to predict we're going to make sure the ferry system gets its program receipts one way or the other."

Forest Act may bring peace, continued from page 1

Alaska support HB 331.

And while maintaining that "the old Forest Practices Act was not critically flawed," Harris said the new bill, if passed, will bring "peace to the forest."

Negotiations on the bill began almost two years ago, the result of feelings on the part of both loggers and environmentalists that there must be a better way of settling forestry-related disputes than the constant legal warfare of the past years, and the successful example set by Washington state's solution to the same problems.

The results of that state's negotiations, Harris said, was "almost a lovefest. You had guys from Weyerhaeuser standing there with their arms around guys from Audubon."

The amity resulted from negotiations conducted under two rules: 1) attempts must be made to see the other side's side; and, 2) no party could quit negotiating without explaining why.

In November 1988 Sealaska invited all native corporations with timber interests to a conference, Harris said.

The Southeast Native corporation explained,

Harris said, "If we don't take a pro-active role we're going to get something jammed down our throats much like we saw happening in the Tongass National Forest in Congress." He conceded that environmentalists' gains in the Tongass debate and in Lower 48 national forests, and their tactic of tying up logging activities with lengthy court actions carved the writing on the logging industry's wall.

The Cooperative Fishery/Forestry Working Group, including representatives of those industries, the governor's office and environmentalists began negotiations which lasted until last year.

When the drafting process was completed, he added, "out of it there's been a level of mutual respect developed between interests who have traditionally been antagonists."

Now, both sides are working to make sure the legislature does not tamper with funding for the bill which averages \$252,000 per year for DEC and ranges from \$392,000 to \$508,000 per year for DNR. Most of the funds would be used to put agency staff in the forests to assure loggers use proper procedures or to attest to their proper forest practices,

depending on one's point of view.

At a House Finance Committee session Alaska Environmental Lobby, Inc. spokesman Bill Glude summarized the new allies' position: "If you're favoring the timber industry you need to have field people. If you're concerned with the timber industry you need field people."

Rep. Ramona Bame (R-Anch.) spoke at length against HB 331 during the Finance hearing calling it, "probably the most convoluted bill I've ever seen." In a later interview, she said she was representing no constituency and declared repeatedly that "no one" had spoken to her about the bill.

On the House floor Rep. Robin Taylor introduced a dozen of the amendments which were considered in his attempt to fight passage.

Harris said complaints voiced by both legislators would, in some instances, have hurt the timber industry and could not suggest why the Republicans opposed the bill so avidly. Without specifying he termed the opposition "A small group philosophically opposed to the process we went through."

"There's some other things going on and we call that politics," Harris said.

Finfish showdown likely in Sen. Resources, continued from page 1

now in use for shellfish and aquatic plant farming, according to the current version of the bill. Before the bill's hearing was cancelled, Fahrenkamp aid Tom Moyer said a committee substitute for SB 195 was to be discussed at the April 27 meeting. The new version of the bill was not being released by the senator's office as of April 21.

Grussendorf, on April 19, said he planned to visit the senator to discuss the finfish farming issue with her. The Sitka Democrat has made no secret of his plans to hold Fahrenkamp's bills in his House Rules Committee if she refuses to let a ban bill out of her committee.

The Rules Committee of both houses is the body which schedules bills for their final floor votes. As chairman of House Rules, Grussendorf, technically, can prevent any bill from receiving a final passage vote.

Before the Resources Committee schedule was published Grussendorf said HB 432 would not be heard the week of April 22, but also declared, "There's plenty of time" to pass the ban bill.

Fahrenkamp, and fish farming supporters, have been saying throughout the legislative session that they are willing to compromise, but HB 432 could not become the vehicle for compromise because its title declares that its purpose is to ban finfish farming.

A bill's title must accurately reflect its contents and cannot be changed by the second body hearing the bill without the concurrence of the originating body, according to legislative rules of operation.

Fahrenkamp's SB 195 could be amended to restrict finfish farming to a degree which may give it a chance at passage, although opponents of fish farming have steadily maintained a no-compromise stance.

Fahrenkamp has written legislation which she showed to members of the United Fishermen of Alaska and the Alaska Mariculture Association for comment, but has not yet released publicly. A hint at what the mystery bill contains may have been given at the April 18 Labor & Commerce Committee hearing.

"It's time to make some political compromises," AMA Pres. Roger Painter testified during the hearing. "We have run up the white flag on net pen rearing of salmon, but we do believe there are opportunities in some other areas."

Painter proposed four concepts "designed to respond to concerns raised by commercial fishermen" including:

—"provide farmers with only limited property rights to brood stock by continued common property ownership of the gene pool.

—"provide Alaska Dept. of Fish & Game authority to require wastewater discharge treatments and other broad regulatory controls over disease and genetics.

—"prohibit importation of non-indigenous salmon stocks.

—"limit brood stock access to surplus stocks." Labor & Commerce Chairman Dick Eliason said, after the hearing, that he wasn't very impressed by Painter's proposals, the last three of which are already part of state law.

Aside from Painter's testimony and that of David Daisy, an Anchorage member of the AMA, 21 of 22 others spoke in support of the ban bill. The 22nd person, a Department of Fish & Game representative, did not take a position.

Representatives of nine fishermen's and environmentalist groups declared their support for the ban bill.

Richard Hellard, of the Alaska Wildlife Alliance warned that "a lot" of herbicide and insecticide is used in finfish farming which could affect wild fish stocks and other species. Like Sierra Club spokeswoman Emily Barnett, he also warned that fish farms would attract bears or other predators which then would likely be killed to protect the penned fish.

Many fisheries group speakers declared that Alaska must protect and promote its wild salmon stocks as the best means of competing in a market glutted with farmed salmon.

UFA Mariculture Committee cochairwoman Sonia Corazza said Alaska has 43% of the world's remaining wild salmon stocks, adding that they should be viewed as "a national trust" as well as a marketing opportunity.

She also noted that permitting fish farming would be a substantial state policy change in that farming is a private industry in which eggs, smolt and fish are privately owned. Commercial fishing is permitted only as controlled access to a public resource.

"Private ownership of fish is incompatible with our ideals," said Larry Irving, one of three Fairbanks residents who testified in favor of HB 432.

"Alaska is one large fish farm that God made. Leave it that way," said Dan McLean, also from Fairbanks. He later added, "This is the age of AIDS and it looks to me and sounds to me like fish have AIDS somewhere in the world. Let's keep our fish clean."

Following the teleconference hearing, HB 421 received "Do Pass" recommendations from committee Eliason, Jack Coghill (R-Nenana), Pat Rodey (D-Anchorage) and Jay Kertula (D-Palmer). Committee member Jan Faiks (R-Anchorage) gave the bill no recommendation.

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Progress made on FPA revisions

After nearly a year and a half of negotiations, representatives of Alaska's major timber, fishing and environmental organizations have reached a consensus on a major revision of the state's Forest Practices Act.

"Private timber owners made substantial concessions to reach this agreement," said Bob Loiselle, executive director of the Forest Alliance. "We believe this bill can establish a new framework for environmentally sound development of Alaska's forested lands."

The heart of the bill is a system classifying streams into nine categories and establishing buffers along high value fishery production streams and rivers. For the first time, buffer requirements would be established for timber harvest operations on private lands. On privately owned lands, 66-foot no-cut buffers would be required along most high value fishery waters.

To reach consensus, the timber industry agreed to abandon provisions in the existing draft of legislation which proposed a more complex buffer scheme but one which capped the amount of timber required to be left in a given operating area at 5 percent. As a trade off for imposing mandatory no-cut buffers on private land and eliminating the 5 percent cap, the bill directs the Commissioner of the Department of Natural Resources to adopt specific regulations for granting a variance to buffer requirement for streams of lower fishery value.

"Trees should be left where they will do the most good for fishery protection, and everyone at the table agreed that leaving 66 feet of trees on both sides of small streams was not always necessary," Loiselle said.

Buffers required for harvests on public lands would be larger. On state land north of the Alaska Range, 100-foot special harvest zones would be required near streams. Harvest would be allowed consistent with the protection of fishery and wildlife habitat. On state lands south of the range, there would be a 100-foot no-cut buffer near streams followed by an additional 200-foot special harvest zone in which timber could be taken.

To achieve consensus on the bill, the timber industry also agreed to accept more restrictive buffers for harvests which would take place on municipal, University and other public lands.

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Foresters to cut firebreaks among beetle-killed spruce



John Sturgeon

The U.S. Forest Service plans to cut firebreaks in a portion of the insect-ravaged Chugach National Forest to reduce the threat of fires this summer in popular recreation areas. The spruce bark beetle has killed virtually all of the forest near the Cooper Landing area on the Kenai Peninsula creating 27,000 acres of dead white spruce trees and major fire hazards.

Former state forester John Sturgeon, a member of the Forest Alliance, says the spruce beetle infestation and fire hazard is an example of what happens when proper forest management does not take place.

Please see **BETLES**, Back page

Natives angered by attorney's racist comments

Leaders of several timber owning Native corporations recently expressed outrage at statements made by an attorney contending that Native Alaskans would be better off leading a subsistence lifestyle than earning cash from harvesting timber.

In an *Anchorage Times* article about planned logging on Montague Island, attorney Patti Saunders, representing the Sierra Club, Wilderness Society, Alaska Center for the Environment, Alaska Wildlife Alliance and several individuals, was quoted as saying she didn't see the merit of getting Natives in the region "addicted to a paycheck." The environmental groups are suing to block development of a logging road on the island.

"I am truly disappointed," said Michael Chittick, president of Chugach Alaska Corporation, the Native regional corporation whose shareholders come from the Prince William Sound region and which owns a sawmill in Seward to which the timber would be shipped. "It's appalling to suggest that Natives, unlike other Alaskans, shouldn't be allowed to earn a paycheck."

Chittick was joined by the Alaska Federation of Natives, Koncor Forest Products and Cook Inlet Region, Inc. in an open letter sent to the environmental organizations.

"Apparently you don't like the idea of Natives working through our corporations to better themselves, to create good jobs and healthy payrolls and to improve our own standard of living," the letter stated.

"Alaskan Natives have worked hard to be independent of government assistance and to provide a better life for ourselves and our children. When profit-making Native corporations were established, our principal assets were the natural resources on our lands," they said. "Yet from day one we have had to fight you for the right to realize economic benefits from these resources."

"The statement of your attorney makes it clear that what we're dealing with is not simply an issue of environmental protection but one of race. We've gotten a glimpse of your true motivation, and we don't like what we see," the letter concluded.

Chittick said Chugach would prefer to work with the environmental community to make sure that timber harvesting on Montague Island and other areas of Prince William Sound proceeds with the least possible environmental impacts.

Alliance donation helps feed the moose

The Forest Alliance recently made a \$1000 contribution to a help protect moose in the Mat-Su valley which are being slaughtered in car and railroad accidents. The funds were donated to the effort being coordinated by Representative Ramona Barnes, R-Anchorage.

Barnes has raised about \$20,000 in private contributions which has been used primarily to plow trails to direct moose away from the highway and railroad tracks and toward browse upon which the moose can feed.

"We're pleased to be making this donation," said Alliance executive director Bob Loiselle. "What's happening because of the harsh winter is a tragedy but one which could have been substantially reduced if timber harvests had been allowed in the area. The browse upon which moose depend for food is a natural result of logging activity."

"While we're pleased to help the moose now, in the future we would prefer to see responsible logging practices allowed so that the issue of starving moose is prevented in the first place rather than dealt with after the fact," he said.

Mission Statement

The Forest Alliance is a broad-based coalition of organizations, businesses, Alaska forest land owners and individuals dedicated to the responsible management and use of Alaska's forest resources and to environmentally sound development of those resources to provide economic opportunities to the citizens of the state.

We believe that development of Alaska's forest resources can take place while, at the same time, protecting and enhancing co-existing natural resources. The Alliance is dedicated to the principle that wise management of Alaska's forest lands today will guarantee that this renewable resource will be able to meet the needs of Alaskans for generations to come.

Toward that goal, the Alliance mission is to increase the public understanding of and appreciation for the management of Alaska's renewable forest resources and the forest products industry through dissemination of accurate, timely information.

Our goal is to promote environmentally sound development of Alaska's forested lands in a manner which will achieve protection of water quality, fish and wildlife and other uses while allowing operation of a viable forest products industry.

Forest Facts

- Timber exports have skyrocketed in recent years, both in volume and in value. Fiscal 1989 saw \$613 million in exports, a 29% increase over the prior year and a 300% increase over the last 4 years. (U.S. Forest Service)

- 90% of Alaska timber exports goes to Japan. Other shipments go primarily to Korea and China.

- In 1986, 1987 and 1988 the timber industry posted double digit percentage employment gains. The U.S. Forest Service, using an extremely conservative multiplier, estimates that for every 3 jobs in the timber industry, 1 additional job is created.



Last year Koncor Forest Products distributed white spruce to many first grade students in Anchorage. Alaska Pulp Corporation distributed seedlings of Alaska's state tree, Sitka spruce, to 7,000 students in Juneau, Haines and Sitka. (Photo courtesy Koncor Forest Products)

Reforestation update

Lawmakers introduce bills to plant more trees

Bills have been introduced in both the state House and Senate seeking funds for the state land reforestation fund. HB 495, introduced by Representative Curt Menard and 4 co-sponsors asks for \$800,000. Meanwhile, Senate bill 511 by the Senate Resources committee seeks just over \$2.3 million.

Under the Senate bill, \$1,052,000 would be given to the Division of Forestry for capital expenses involved in reforestation. The money would be used largely to upgrade the state's tree nursery in Eagle River. \$1,271,731 would be given to the Division for operating expenses. The nursery has been operating with one paid staffer and labor supplied from nearby prisons. The Forest Alliance strongly supports legislative efforts to fund reforestation activity.

"The passage of this funding would demonstrate a sound financial commitment to one of Alaska's most important renewable resources," said Bob Loiselle.

Foresters have estimated there are between 8,000 and 14,000 thousand acres needing replanting, most of it in Southcentral and Interior forests. The Southcentral backlog lies primarily near Tyonek across Cook Inlet from Anchorage, where a salvage sale harvested beetle-killed spruce. Most of the Interior's tracts are scattered where fires, insects and past harvests have left areas treeless or inadequately stocked with trees.

The legislation was referred to both the Resources and Finance committees of both the House and Senate.

Valley rec bill stalls in Juneau

Legislation to set aside 2 million acres in a remote Susitna Valley recreation area in which commercial timber harvests would be banned appears dead on arrival in the legislature.

The bill was recently the subject of a Senate Community and Regional Affairs committee hearing. Senator Mike Szymanski, a committee member, said the legislation does not have the votes needed for passage at least as it currently is proposed.

The only timber cutting allowed by the bill would be for personal use for firewood or to build a cabin or lodge. The legislation is opposed by both the Departments of Natural Resources and Fish and Game.



House Resources committee co-chairmen Rep. Curt Menard and Rep. Cliff Davidson confer during a hearing on the Forest Practices Act.

Compromise Tongass bill headed for showdown on U.S. Senate floor

The U.S. Senate is expected to vote soon on legislation which would rewrite 50-year contracts for timber harvests in the Tongass National Forest.

The Senate Energy and Natural Resources Committee passed the bill to the floor earlier this month on a 19-0 vote after approving an amendment by U.S. Senator Frank Murkowski which would allow harvest near trout streams but would retain buffers near salmon streams.

The Senate version calls for rewriting the timber contracts as opposed to House-passed legislation last year which would cancel the long term agreements with the Sitka and Ketchikan pulp mills.

The Senate bill eliminates the automatic appropriation of the U.S. Forest Service for the Tongass and directs that harvest levels "seek to meet market demand for timber."

The Tongass forest covers 17 million acres of which 1.7 million are designated for timber harvest. 5.4 million are designated wilderness. The Senate bill would set an additional 673,000 off-limits to harvesting while the House bill designates 1.8 million acres of current forest land as wilderness.

Differences between the two versions are expected to be worked out in a conference committee.

Juneau lawyer Jim Clark, who represents the timber industry in Washington, D.C., called the Senate bill a good compromise. "It is a very balanced approach," he said.

Busy summer ahead for Chugach, Klukwan & Timber Trading Co.

Klukwan Forest Products' logging operation near Ninilchik is in full swing providing economic benefits to Homer. Monthly payments of \$15,000-\$20,000 per month, depending on production, are made to the city for rent of log storage space on the Homer Spit. \$87,000 had been paid through mid-February.

Klukwan's operation is taking place on land owned by the Ninilchik Native Corporation. As part of the harvesting agreement, Klukwan is leaving buffer strips of trees standing to protect important fish and wildlife habitat.

State officials have agreed to allow timber harvest activities along the Gulf of Alaska coastline near Icy Bay. The action by the Department of Natural Resources resulted from a 4-year old court settlement in which state officials promised access to new forests to a logging company.

Chugach Alaska Corporation, the Native regional corporation for Prince William Sound, has been given the green light to harvest as much as 20 million board feet of spruce and hemlock beginning this year. The operation will help supply timber for Chugach's new \$20 million sawmill in Seward.

Department of Natural Resources officials maintain the area in which logging will occur is large enough to support both the harvest and other land uses. The new sale represents only 600 acres of about 6,000 in the region.

"We're pretty happy with the units as they've been laid out," said Rick Reed, a Fish and Game regional supervisor.

Timber harvests should begin in a few months now that plans to build a log transfer facility and floating dock 14 miles east of Port Graham have been approved by the state. Chugach Forest Products estimates it will harvest 100 million board feet of timber from the area near Windy Bay in the next five years.

The state approved the plans after ensuring the log transfer facility and camp complied with provisions of the Alaska Coastal management Program. Approval was contingent upon Chugach's commitment to remove the dock after the harvest is completed.

Chugach's Timber Division Manager Paul Tweiten said construction and harvest would begin this spring. Tweiten added that Chugach will voluntarily leave buffer strips of trees along streams to protect fish habitat.

Klukwan Forest Products has been awarded the bid to log 1.7 million board feet of round log timber valued at about \$4 million. The harvest will occur on the Jacquot allotments in the Chilkat Valley. Klukwan has the next two winters to remove the timber from the allotments but isn't likely to start the project this year due to an April 15 deadline.

The Bureau of Indian Affairs recently rebid the four allotment sale for harvest of spruce and hemlock. KFP matched the high bid. A company official said the harvest would help the Native firm round out log ships and provide a different grain of wood to Pacific markets.

As a deadline approached, state negotiators hammered out an agreement to buy more than 24,000 acres of private land holdings within Kachemak Bay State Park. Rights to harvest timber on the land, though, had been previously sold, and the state must still strike a deal with Timber Trading Company which owns the rights.

The agreement between the Department of Natural Resources and the Seldovia Native Association calls for the state to pay \$15.49 million in cash. The state has negotiated for more than 15 years to trade land for the park acreage.

The Seldovia Native Association had planned to harvest timber from at least 4,435 acres of the land, located across Kachemak Bay from Homer. SNA sold the timber rights to Timber Trading Company leaving the state with the task of negotiating a deal with TTC. The company is asking \$8 million for the timber while the state has been offering half the amount.

The major unresolved question on the land purchase now is whether the legislature will appropriate the funds to pay for the land deal.

Alaska Pulp gets high marks for safety

Alaska Pulp Corporation has improved its occupational injury rate and its safety standing compared to most other pulp mills in the West according to information compiled by the Pacific Coast Association of Pulp and Paper Manufacturers.

Of the 45 mills rated, Alaska Pulp ranked 14th, one place above the 1988 ranking. APC's injury incidence rate dropped 15 percent in 1989 from the previous year. 6.27 incidences per 200,000 employee hours were reported last year compared to 7.34 in 1988.

During 1989, APC workers totalled 860,969 man-hours and 27 recordable cases of injury. APC was below the industry average in both years and well below the average rate for Washington, Oregon and California mills where the majority of western U.S. pulp mills operate.

"We work on safety," said APC Executive Vice-President Frank Roppel. "If we can't provide a safe workplace for our employees, then we have no business being in business."

Member Profiles

The Forest Alliance is comprised of many diverse companies and organizations. Each month in this space we will profile a few.

Cook Inlet Region, Inc.

The Anchorage-based Native regional corporation established under terms of the 1971 Alaska Native Claims Settlement Act owns approximately 700,000 acres of surface estate and 1.7 million acres of subsurface estate in Alaska. Some 100,000 acres of CIRI's surface estate have the potential for commercial timber development, with most of those lands located in the Kenai Peninsula and Matanuska-Susitna boroughs. CIRI recently completed its first-ever sale of timber harvest rights covering approximately 32,000 acres on the Kenai Peninsula near Ninilchik.

Ketchikan Pulp Company

A wholly owned subsidiary of Louisiana-Pacific Corporation, KPC is located in Southeast Alaska and employs 950 people. KPC has a 210,000 ton-per-year sulfite dissolving pulp mill in Ward Cove. Its Annette Hemlock Mill located at Metlakatla produces 40 million board feet of sawn cants a year. Ketchikan Sawmill, a new facility at Ward Cove, has an annual capacity of 60 million board feet of dimensional lumber. Logging camps and sort yards furnish logs under a long term contract with the U.S. Forest Service from the Tongass National Forest. KPC also purchases logs from private timber sources.

Koniag, Inc.

The Kodiak-based Native regional corporation owns just over 41% of an Afognak joint venture established under terms of the 1980 Alaska National Interest Lands Conservation Act. The Afognak joint venture, which originally encompassed some 250,000 acres on that island near Kodiak, was established to consolidate Kodiak-area Native land entitlements and provide a vehicle for joint timber operations.



From
the
Executive
Director

Bob
Loiselle

On what we hope and believe to be the eve of passage of a major revision to the state's forest practices act, there is no joy in the offices and logging camps of timber owners and operators.

Landowners in particular have given a great deal to achieve consensus on this measure. Doubts tend to linger, particularly for some of those who have not been close to the process. Can we be certain that we have done the right thing? Absolutely not.

The process and issues are far too complex for certainty. What we can be certain of, however, is that, collectively, landowners and industry people have worked very hard on this process and, in every instance, have done what they sincerely believed to be right. Right for an industry that stretches from the Tongass to the Tanana and beyond. Right for federal timber operators and right for timber owning village corporations in the Interior and a lot of folks in between.

One of the major roadblocks to getting agreement with all the varied interests represented on the steering committee was a fundamental lack of trust among the groups. Through this process we have come to know each other, and I think we closed the credibility gap to a certain extent. We will still have significant disagreements, but we are now better equipped to deal with our differences.

We have also learned to work better together as an industry, especially considering how diverse we are. The Forest Alliance represents a new and formidable force for the advancement of good forestry and a viable forest industry in Alaska. It has been very gratifying to see our members pull together to get a deal that all could live with. To the extent that we have failed in achieving this, it has not been for lack of sincere effort.

No one should underestimate the degree of sacrifice required of the timber owner by this new act. It will literally cost our members millions of dollars in foregone timber. Those who might contemplate further "donations" in the way of taxes, additional timber or costly regulations should be forewarned that any such proposals will be met with vigorous opposition.

Now that we can see the light at the end of the tunnel on this process, we are anxious to get on with the critical task of insuring Alaska develops its timber resources to their full potential, consistent, of course, with the protection of other important resources.

Finally, on behalf of the Alliance, I would like to thank Diane Mayer of the Department of Commerce and Economic Development for mediating the final agreement. Her expertise, credibility, intelligence and patience were instrumental in bringing the negotiations to near consensus. Through her efforts, the legislature now has before it a package that should be relatively easy and straightforward to deal with.

Alliance booth planned for Sportsman show

The Forest Alliance will be on display when it sponsors a booth at the Great Alaska Sportsman show April 5-8 at the Sullivan Arena in Anchorage. The Alliance will distribute literature about how proper forest management benefits wildlife populations and fishery production and how timber harvests can exist in concert with recreational use of Alaska's lands. "This is an excellent opportunity to demonstrate how our industry actually produces many benefits upon which sportsmen depend," said Bob Loiselle, executive director of the Alliance.

CONSENSUS: Timber, fishing, environmental groups see eye to eye

continued from Page 1

The original bill, introduced last session, would have allowed harvesting within 100 feet of streams. The new agreement calls for 100-foot no-cut buffers on those lands.

Mat-Su Borough assemblyman Ted Smith, a member of the Alliance, could not agree to that provision and said he will argue his point directly to the legislature. Smith contends that grant lands, such as those conveyed to the university for revenue producing purposes, should be treated as private lands. He proposed that buffers on university and municipal lands have the same 66-foot no cut buffer required for private lands south of the Alaska Range. Fishermen and environmental groups refused to negotiate for anything less than a 100-foot no-cut buffer.

The committee also agreed to language outlining how the act would apply to federal lands, a key issue which remained unresolved after the 1989 legislative session.

The panel also agreed that the Act, if passed by the legislature this session, would apply to timber harvests this summer. However, for plans already submitted to the state for approval, if habitat protection is substantially equivalent to what the new law requires, timber operators will not be required to submit a new plan.

The Senate Resources committee approved the compromise and passed the bill out of committee to Senate Finance on March 21. An identical version of the legislation

was being reviewed in the House Resources committee as this newsletter was going to press.

"We went into this process in a spirit of cooperation and compromise," Loiselle said. "Everyone who has been involved in this process deserves a lot of credit. We're hopeful for quick legislative approval of this balanced approach."

BEETLES: USFS plans to cut firebreaks

continued from page 1

"In a managed forest those trees would have been harvested or, if in a natural ecosystem, fire would have destroyed those trees and a new crop would have been in there by now," he said in a recent speech. "The trees killed by bark beetles are no good for lumber within two years, and they now present a serious fire hazard."

Crews plan to begin clearing 200 to 500-foot wide paths in April north of the Sterling highway. The longest of the firebreaks will run about two miles in a northerly direction from a point west of the Resurrection Pass Trailhead. A shorter cleared area will start at the Kenai River east of Juneau Creek and continue north for about a mile.



ALLIANCE

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Forest bill sprouts life of its own

The state Department of Natural Resources is in the midst of a lengthy exercise to re-write its forest management law, and nobody seems to know why it's being done or how to go about it.

Last year Gov. Steve Cowper formed the Alaska Forest Practices Review Steering Committee, a 13-member group representing the timber industry, private timber landholders, fishermen and environmentalists.

The committee came up with a fragile compromise behind a 30-page bill that Cowper introduced in the Legislature last spring. The Legislature didn't act on the bill, and the steering



Fred Pratt

Free-lance journalist Fred Pratt has been covering Alaska business and politics for the past 18 years.

committee's support unraveled after the legislative session ended.

Now DNR is pressing ahead, hoping the bill might still pass next year. DNR is even writing regulations as though the bill were already law, hoping that when it does pass, the state can adopt the regulations and put them into effect immediately.

That's a rather backward way of going about things. Last Tuesday, the state Board of Forestry reviewed progress in a meeting here. DNR's staff told the board they had already scrapped a key part of the bill and drafted regulations going in another direction.

The legislative resource committees held a statewide teleconference on forest bills Thursday, so DNR could tell them how it's writing regulations for a bill that hasn't even passed its first committee yet. In addition, the Alaska Loggers Association offered to tailor its members' harvests this year to the standards in the bill.

One wonders why we need the bill at all, since we're already pretending it's law.

The steering committee's bill sets "riparian standards" specifying how much timber must be left by loggers along the banks of streams and lakes. These are the most sensitive and productive wildlife habitats, not only for fisheries but for animals as well. They are also where you find a lot of the biggest trees.

Private landholders are covered by these standards as well, along with municipal government and University of Alaska forest lands.

This sounds easier in policy than it is in practice. The bill specifies different riparian standards for nine types of waterways on private land alone.

The riparian standard would be based on "basal area," the cross-sectional area of a tree measured 4½ feet above the ground. The idea is that loggers would leave a lot of small trees to protect the riparian zone and cut larger, more valuable trees.

But it confused even the Forestry Board members meeting here. A DNR official writing the new regulations said the agency staff already decided the basal-area standard won't work, and they're going in a different direction.

Timber sales and oversight cutting are revised in a plan similar to what the state does with oil and gas. Sales are scheduled five years in advance after being aired for public comments.

Criminal penalties are added for violating timber cutting agreements. Current law provides for only civil penalties.

A new system covers annual timber cutting plans submitted by loggers for review by the government and the public. DNR could issue "stop work orders" in places where it sees an imminent and significant threat to the environment.

The Board of Forestry would be cut from its present 13 members to seven, with each seat designated for a representative of a special interest group. Among those excluded would be miners, (See FOREST, Page D-2)

FOREST BILL

(Continued from Page D-1)
recreational users or private cabin inholders on state forest lands.

The scope of this project can be seen in the page-long list of things DNR is supposed to consider in writing its regulations.

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United States
Department of
Agriculture

Forest
Service

Alaska Region

Reply to: 2600

Date: August 2, 1988

Subject: NMFS Riparian Management Policy

To: Forest Supervisors

Enclosed for your information is a copy of the 1988 National Marine Fisheries Service Policy for riparian habitat protection in Alaska. It appears the policy is more restrictive than the provisions in our Regional Aquatic Habitat Management Handbook even though our Handbook is designed to ensure maintenance of fish habitat. Our handbook was reviewed by members of the Working Group on Cooperative Forestry/Fisheries Research and judged acceptable guidance in maintaining fish habitats. We will be requesting the Working Group to review the present research interpretations related to streamside management.

Please continue to use the principles and provisions of the Region's Handbook. If you have any immediate questions, please contact Dave Gibbons at 586-7918.

PHIL J. JANIK
Director of Wildlife and
Fisheries

Enclosure

cc:

RF/DRF
Staff Directors- TM, E&M, RN, & LMW
Alaska Working Group Members
National Marine Fisheries Service

070788 1145 wlf 2600 dg



Caring for the Land and Serving People

FS-6200-28(7-82)

Forest Service rejects buffer guidelines

by SEACC STAFF

A new policy advocating stream buffer protection for all anadromous fish streams and their tributaries in Alaska was adopted by the National Marine Fisheries Service (NMFS) last year. The new NMFS policy strengthens earlier guidelines by calling for a minimum 30 meter-wide (100 foot) buffer zone of "natural/existing undisturbed forest" to be maintained on each side of anadromous fish streams in areas subject to logging, road-building, or associated development.

According to NMFS Alaska Region Director Robert W. McVey, the policy revision was necessary because new information and experience showed continuous degradation of fisheries habitat by logging activities. The earlier policy allowed flexibility in establishing width of buffers and in selectively harvesting within the buffer zones based on topography, resource values, and stream conditions.

Shortly after NMFS announced

the new policy, the U.S. Forest Service rejected it. In a memo to the supervisors of the Tongass and Chugach National Forests, Phil Janik, Director of Wildlife and Fisheries for the Alaska Region of the Forest Service, told them to ignore the NMFS policy recommendation and continue to use current Forest Service streamside management practices. Those practices allow many important fish streams and tributaries in Alaska to be jeopardized by clearcutting down to the stream banks, by leaving inadequate buffers, or by allowing logging within designated buffers which may violate their integrity and diminish their value to fisheries.

Although NMFS is the agency of the National Oceanic and Atmospheric Administration in the federal Department of Commerce charged with fisheries research and management, it does not have the authority to implement or enforce land management policies which would require stream buffers. Its policies are

only recommendations to federal land managers such as the Forest Service.

SEACC's Bart Kochler praised the new NMFS policy. "We think this is an important policy statement and the Forest Service and others should implement it immediately on all anadromous fish streams and their tributaries," he said.

"But," cautioned Kochler, "this policy should not be used as a substitute for protecting the natural condition of entire critical fishery watersheds that are on the chopping block, such as Kadashan, Lisianski, Nutkwa, Chuck, and Karta rivers, Shipley Lake, and rivers of the Yakutat Forelands."

NMFS emphasized that its call for 30 meter wide inviolate buffer zones was an absolute minimum for fisheries protection, and that in some cases a wider zone is necessary. NMFS research has shown that clearcutting without retaining adequate buffer zones can affect important fish producing habitat on both a short- and long-term basis.

Short-term impacts (up to 20 years) include increased sedimentation, changes in stream temperature and flow, and reduced quantities of large, woody debris, important for nutrients and rearing habitat.

Long-term impacts (20-100 years) include shading out of the stream by second-growth canopy, reduction in large woody debris, continued sedimentation from bank erosion, landslides and roads, and changes in the stream channel itself.

SEACC is dismayed, but not surprised, that the Forest Service has specifically chosen to ignore these new recommendations based on current scientific research. With 85% of the agency's budget fueling its giant timber program, is it any wonder that timber mining always comes first?

IN MEMORIAM:

Frances

"Bunny"

Mathisen

by KAY GREENOUGH

It is painful to accept that a dear friend is gone. Frances Roundtree Mathisen, known as Bunny to her family and friends, died in Petersburg on January 2, 1989.

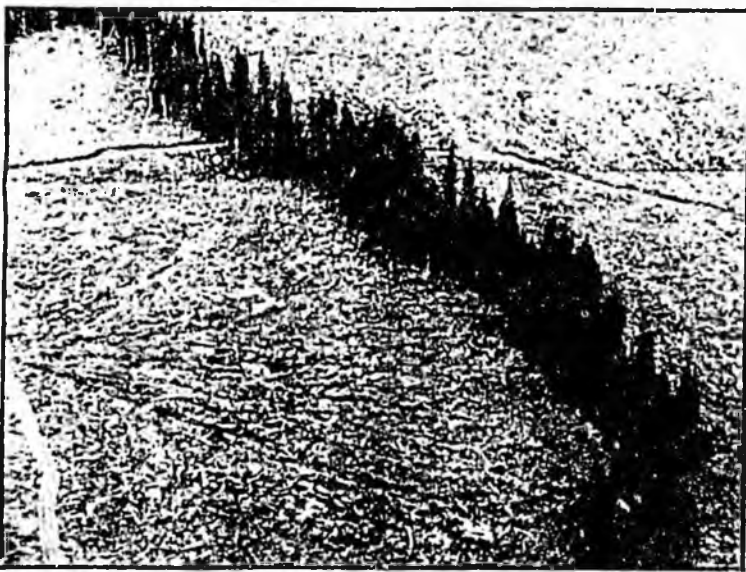
I first met Bunny in the winter of 1979. I'll never forget her stunning beauty, her sense of dignity, and most of all, her bravery in speaking out as a conservationist during the heat of the Alaska Lands Act battle.

At a large hearing in Juneau, I remember Bunny walking up to the front of the room to speak, setting the tone for each conservationist who spoke after her, all coming to the front, too, rather than standing where they sat. Another time she calmly asked Alaska Senator Ted Stevens, a bitter opponent of the Alaska Lands Act, to stop yelling at her so she could explain to him why he should support protecting Southeast Alaska's valuable fisheries and wildlife habitat. It was Bunny who, through one of her many connections, managed to get a meeting with Senator "Scoop" Jackson, then chairman of the powerful Energy and Natural Resources Committee. By the end of the meeting she had convinced him to include Petersburg Creek on Mitkof Island as a Wilderness area in the final version of the legislation.

Bunny's perspective on environmental issues in the Tongass was unique. She grew up in Southeast Alaska in a family that had worked in logging. Many of her friends in Petersburg, like the Reids, were loggers. She did, however, clearly understand what was happening to the old-growth forest as a result of the Forest Service's pandering to the two large pulp mills.

Whenever I mused that she was an extraordinary person, Bunny would chide me for being silly, saying that she was a very ordinary woman. But there truly was nothing ordinary about Bunny Mathisen. Her exceptional convictions and style made a difference, in the history of the Tongass.

Kay Greenough was executive director of SEACC during the fight for passage of the Alaska Lands Act.



Forest Service "buffer strip" on northeast Chichagof Island.
(Bart Kochler)

State forest law undergoes review

by SEACC STAFF

Responding to concerns that Alaska's 11-year-old Forest Practices Act is failing to protect the state's fish and wildlife resources, Governor Cowper last summer appointed a committee to review the law. The act, which directs the way timber is harvested on state, municipal, and private lands is plagued with difficulties that stem from vague wording, lack of protection for fisheries and other nontimber resources, lax enforcement, and inadequate funding.

The 13-member steering committee is charged with developing legislative amendments to

strengthen the Forest Practices Act—amendments that all interest groups must agree to. Included on the committee are representatives from state agencies, private timber companies, municipalities that own timber, commercial and sport fishing groups, and environmental organizations (including SEACC). Outside mediators are attempting to help the various interest groups reach a consensus by March 1, 1989.

Issues being discussed include: the management of riparian (stream buffer strips) and wildlife habitat, water quality, enforcement, monitoring, permitting, public involvement and planning processes on forested

private and public lands, and the composition and role of the Board of Forestry. As the discussions proceed, all agreements on individual issues are considered tentative until final consensus on a package of amendments is reached.

At the last round of meetings in January the group agreed to design a stream classification system for public and private lands. Under this system, riparian (streamside) lands would be afforded protection based on scientific evidence for what is needed to ensure healthy fish populations.

Discussions of wildlife habitat Review continued on p. 12

Will clearcutting Tongass old-growth forests help reverse the worldwide greenhouse effect?

Scientific studies indicate no

by SEACC STAFF

During the last Congress some effort was devoted to including Tongass Timber Reform language into a Senate bill relating to the greenhouse effect. While the bill never passed, a new debate was stimulated, along with a new wave of disinformation from the timber industry and Alaska Senator Frank Murkowski.

Last year the timber industry and Murkowski claimed that clearcutting would help reverse the greenhouse effect. Their argument is that since trees absorb carbon from the atmosphere to grow new wood, fast growing second-growth forests would take more carbon pollution from the atmosphere than "decadent" old-growth, thus leading to a cleaner atmosphere around the globe. If only the world's environmental problems were so simple!

As usual, the industry and Murkowski are looking at only one small element of the problem without understanding how it relates to the big picture. To see what is wrong with their reasoning, one needs to know how trees and logging really fit into the big picture of the greenhouse effect.

The greenhouse effect simply stated is the world wide warming of the atmosphere caused by pollution trapping heat that would otherwise escape to outer space. Carbon dioxide (CO₂) is one of the primary gases in the atmosphere contributing to the greenhouse effect. The burning of fossil fuels, scientists say, is overwhelmingly the main cause of the greenhouse effect because it releases so much carbon into the atmosphere.

Plants, especially trees, could be a positive influence on global carbon since every molecule of sugar manufactured by plants through the process of photosynthesis requires six molecules of carbon from the atmosphere. This sugar is the chemical energy that all plants use to grow new tissue (like wood). So the more plants there are, or the more they grow, the more carbon they theoretically take out of the atmosphere.

But, just like animals, plants also release carbon to the atmosphere. When living plants use their energy stores to maintain their tissues or to grow new tissue, they respire--releasing carbon to the atmosphere. When plants die, they slowly release carbon to the atmosphere as they

rot away; and, when their tissues are burned carbon is released to the atmosphere.

Therefore, what really matters is the net result of any change in the carbon cycle: how much carbon will go into the atmosphere and how much will be absorbed or stored by plants or animals?

Forests can indeed decrease global carbon in the atmosphere if:

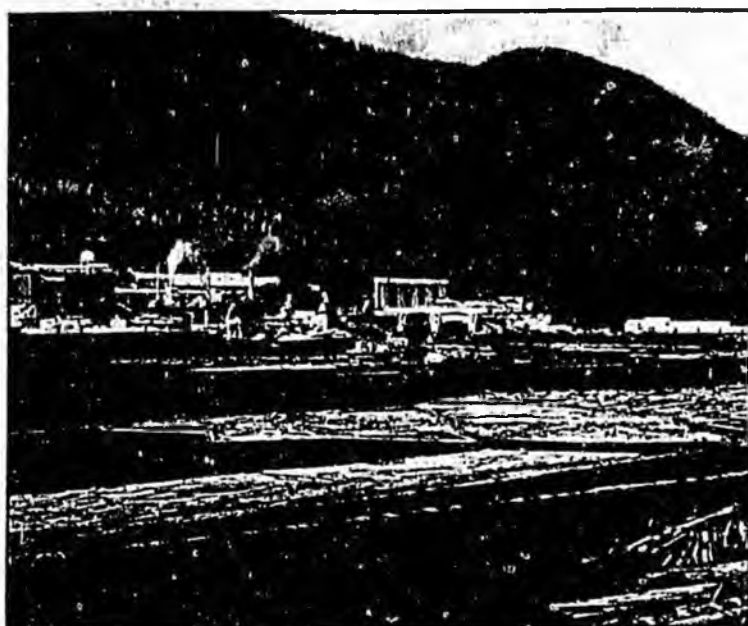
- 1) There is a high density and size of trees (at least 10-30 years old over a large portion of the globe;
- 2) A high total ecosystem growth rate is maintained over long periods of time; and last, but not least;
- 3) The rate of carbon release to the atmosphere is not altered by burning or otherwise processing wood accumulated by the trees (e.g. If the wood is not used for paper, pulp, or chemical products which are short lived and are usually burned when disposed of).

Of course, the last point is one which the industry and Senator Murkowski have somehow overlooked.

So how does all of this relate to logging on the Tongass?

There are two possible net outcomes to the global carbon cycle if a substantial proportion of the old-growth rain forests on the Tongass are logged and replaced by fast growing second-growth forests: 1) no change; or 2) an increase in global carbon. The most likely outcome is probably a slight increase in atmospheric carbon, not a decrease as Murkowski and the industry contend. The increase would be slight because of the short growing season, small amount of land (globally), and relatively slow tree growth rate (compared to the tropics).

The reason for the increase is that in the old-growth forests, carbon accumulates in wood for 200 to as many as 1000 years before being slowly released through rot and decay. Managed second-growth forests on the Tongass, however, would accumulate carbon in their wood for only 80-120 years, the length of one rotation period. After cutting, most of the carbon would be returned to the atmosphere when the wood was converted to pulp, paper, or other chemicals that quickly rot or are disposed of by burning.



As long as Tongass timber (whether old growth or second growth) is processed into pulp and other products, the greenhouse effect is exacerbated. Carbon is released to the atmosphere by the processing itself and by disposal of the products through burning or rotting. (Julie Koehler)

So, converting large tracts of the Tongass to second growth will not reverse the greenhouse effect but exacerbate it.

Maybe somebody should thank Senator Murkowski for his interest in the survival of mankind through combating the greenhouse effect. But, if he really wants to help solve the problem through forest practices he should convince the Forest Service and the timber industry that, as their contribution to this serious global dilemma, they should stop clearcutting old growth, and they should manage

cutover lands on a long rotation (or as old growth) and refrain from utilizing wood products from these forests until the world decreases its burning of fossil fuels.

The above conclusions are clearly supported in the U.S. Dept. of Energy report, "The prospect of solving the CO₂ problem through global reforestation." Gregg Marland, February 1988. Environmental Sciences Division, Oak Ridge National Laboratory, P.O. Box X, Oak Ridge, TN 37831-6038. 66 pp.



THE TONGASS: Alaska's Vanishing Rain Forest

Photographs by Robert Glenn Ketchum,
Text by Robert Glenn Ketchum & Carey D. Ketchum
Introduction by Roderick Nash

Robert Glenn Ketchum, a well-known landscape photographer, has created a vivid document of the Tongass, one of America's rarest national treasures. Environmental and industrial policies have turned the area into a battleground, and this remarkable book serves as an invaluable record of events that could affect public policy forever. 58 full color photographs, 11 1/2 x 10 1/2, 112 pp., \$30.00

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Subsistence hearings called inadequate by residents

USFS agrees to revise process

by NEVETTE BOWEN

The Forest Service is revising its hearing process for evaluating potential logging and other development impacts on subsistence uses because of objections to previous hearings. Subsistence users and the Southeast Regional Fish and Game Advisory Council objected to the hearing procedures used for Ketchikan Pulp Company's (KPC) 1989-94 timber operating plan for Prince of Wales Island.

The hearings were intended to inform the public of potential development plans and to provide the Forest Service with the opportunity to work with subsistence users in reducing the impacts on subsistence caused by those plans on the island.

Under Section 810 of ANILCA the Forest Service is required to hold these hearings whenever logging and roading may "significantly restrict subsistence uses." ANILCA then requires the Forest Service to make a formal determination after the hearings as to whether restricting subsistence uses will be necessary in order to provide timber—in this case, timber for KPC.

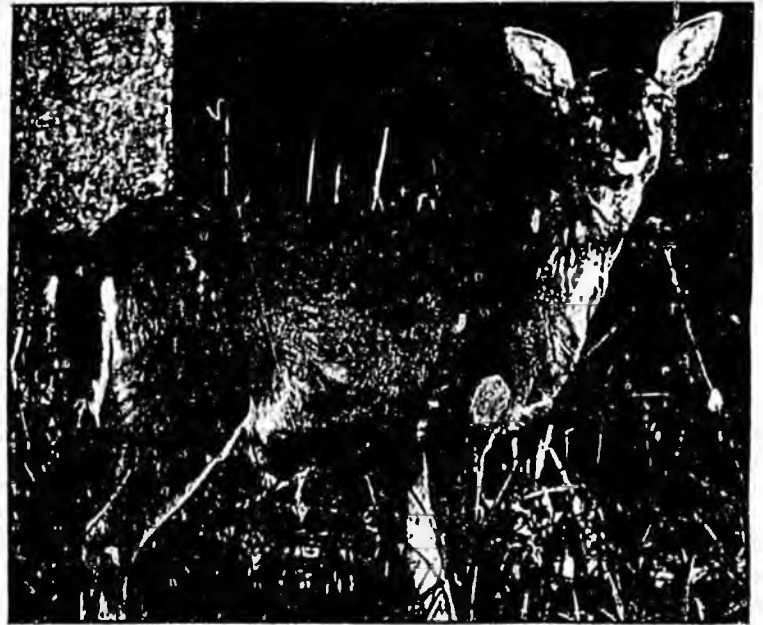
The Forest Service failed to comply with the letter and spirit of the law.

Not only did the agency never explain Section 810, it never even mentioned it. The agency presented no information explaining the cumulative and projected long-term effects that logging under KPC's 50-year contract will have on subsistence patterns on the island. The Forest Service refused to answer questions or allow any discussion—it simply recorded oral testimony.

Responding to his constituents' concerns, Rep. Peter Goll, whose

district includes all of Prince of Wales Island, met with Forest Service officials to iron out a solution to the problem. The meeting resulted in the agency agreeing that from now on all Section 810 hearings will be preceded by an informal Forest Service presentation with the hearing to follow. The agency also agreed to re-conduct hearings if enough people request them.

Under the agreement with Rep. Goll, hearings will also include a presentation of maps showing proposed cut areas, possible future cutting areas, and comparisons to maps of community subsistence areas. The Forest Service will also discuss the possible effects and cumulative effects on subsistence resources over a 50-year period. Following the presentation, the agency will answer questions and encourage people



High-volume, old-growth timber stands are essential to the survival of the Sitka black-tailed deer, a key resource to subsistence users. At the end of the first 100-year rotation, half of the now important available deer winter habitat will be lost forever. (Scott Foster)

to identify logging alternatives which will have the least impact on subsistence patterns when they testify.

The deadline for written comments by those who rely on

Prince of Wales for subsistence is March 10th. Those who think another hearing is necessary should contact Mike Lunn, Forest Supervisor, Ketchikan Area, and request one (225-3101).

Subsistence lawsuit temporarily resolved, logging deferred on NE Chichagof Is.

by JULIE KOEHLER

The first lawsuit ever filed about the impact of logging and road building on subsistence has been temporarily resolved. The decision is important to all residents depending on the subsistence resources of the Tongass.

On January 25, 1989, the federal government and plaintiffs in *Hanlon v. Barton* agreed in federal court to an injunction deferring many areas around Hoonah from timber development pending the Forest Service's evaluation of the effects of that development on subsistence and the environment. As a result, the

Forest Service has agreed to hold subsistence hearings in Hoonah this spring and to make findings about the impact of its timber development plans on subsistence.

The injunction followed a federal district court opinion in November 1988, which found that the Forest Service's current 5-year operating plan for the Alaska Pulp Corporation failed to comply with the requirements of Section 810 of the Alaska Lands Act (ANILCA) in protecting subsistence and of the National Environmental Policy Act (NEPA) in protecting the environment.

The plaintiffs, subsistence-

dependent residents of Hoonah, sued the Forest Service in July 1988, charging that the scale of logging on northeast Chichagof Island will reduce wildlife habitat dramatically and that the agency is ignoring the impacts caused by roading the area.

Last fall, the Alaska Dept. of Fish and Game ordered an emergency closure of northeast Chichagof Island to brown bear hunting and the Board of Game cut the bag limit of deer for nonsubsistence hunters in half, from 6 deer to 3. Need for the closure and restrictions was caused by extensive logging and roading of the area.

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3701 EAST TUDOR RD. ANCHORAGE, ALASKA 99507

Volunteers needed for beach cleanup in May

NANCY HOLGUIN and JOAQUIN ESTUS, Alaska Division of Governmental Coordination, kindly wrote this article at the request of SEACC.

We need you to help clean up Southeast Alaska's beaches! Governor Cowper is proclaiming May 1989 as "Marine Litter Cleanup Month." This year's cleanup expands successful projects begun in 1988 when volunteers collected thousands of pounds of garbage along Alaska's beaches from Ketchikan to Prince William Sound.

Trash in the ocean has become an increasingly serious problem in recent years, even in remote areas of Alaska. Every year, thousands of marine mammals, waterfowl, and fish are killed when they eat or get trapped in marine debris.

The problem is particularly acute here in Southeast because so many Alaskans depend on the sea and its resources for their livelihood—for commercial fishing, tourism, and for food. The problem is also complex; primarily because many of Alaska's coastal communities have inadequate facilities for handling their own solid waste, often being overwhelmed when increased amounts of garbage are brought in by ships.

Fortunately, people are working on solutions at all levels of government, in the private and nonprofit sectors, and as individuals.

At the federal level, the United States ratified an amendment to the Marpol (Marine Pollution) International Treaty in 1987. The amendment,



Volunteers collected thousands of pounds of garbage in last year's beach cleanup. (Nancy Holguin)

known as Annex V, prohibits ships from disposing of plastics or other synthetic materials anywhere in the ocean.

The U.S. Plastic Pollution Research and Control Act, which took effect on December 31, 1988, implements the Marpol Annex V requirements in the U.S. The Act expands the restrictions on ocean dumping in U.S. waters beyond the requirements of Annex V. It prohibits ships from dumping any garbage within three miles of the coastline, and restricts the disposal of non-plastic garbage between three and 25 miles offshore. The Act also requires U.S. ports to provide, or ensure the availability of, adequate reception facilities for garbage brought by ships transacting business at the port. Coast

Guard regulations to carry out these requirements are due to take effect in mid-February.

The National Marine Fisheries Service is funding projects to help port communities cope with the additional garbage. One is a model port project being done by the Pacific Marine Fisheries Commission. The other project focuses on port communities in Southwest Alaska, but the results will be useful for other coastal communities affected by the new Marpol requirements.

Education and disposal programs will be established at Homer and Petersburg, and at two model ports in each of the other Pacific coastal states (Washington, Oregon, and California). Information from the model ports will be made avail-

able to all west coast ports.

The Southwest Alaska Municipal Conference is identifying solutions to the impending solid waste disposal problem in their region. They're investigating various possible solutions, including ship-board incinerators or compactors, back-hauling (vessels that have just unloaded cargo pick up and transport garbage to a solid waste treatment facility), and using regional barges to transport solid waste from small communities to those that have adequate treatment facilities.

Beach cleanups were started in Southeast Alaska last year. A joint federal-state-local task force led by the Forest Service used beach cleanups to focus attention on marine debris and its effects on wildlife. Beach cleanups were held in Juneau, Ketchikan, and Petersburg. Independent of the task force, cleanups were also held for Admiralty Island Nat'l Monument, Glacier Bay Nat'l Park, Prince William Sound, and Seward.

Ordinary citizens, as individuals and in groups, are making a difference in the battle against marine litter. But Southeast Alaska has many miles of coastline, much of it remote from larger communities. People from all over Southeast are needed to make this effort a regionwide success.

Won't you join in this year's cleanup? If you can participate, or help organize a cleanup in your area, please contact us (Nancy Holguin or Joaquin Estus) at the Division of Governmental Coordination, Alaska Coastal Management Program, Box AW, Juneau 99811, or phone 465-3562.

Tenakee continues fight against Forest Service tyranny

by DIANE ZIEL

Thanks to the generous contributions of Tenakee Springs' many supporters, over \$1800 has been raised for the Indian River Right-of-Way Legal Defense Fund, buying the community many hours of excellent legal work.

In December, Anchorage-based public interest attorney Eric Smith filed an answer to the Forest Service's suit that attempts to gain title of Tenakee's property over which the right-of-way runs. The answer to the Forest Service's condemnation proceedings was filed in late January.

The contradictions of the Forest Service claiming to own the land and filing a suit to gain title, while at the same time acknowledging that the city owns the land so that they must condemn, underlines the Forest Service's determination to control

Tenakee's land, the road access, and ultimately, the community's way of life.

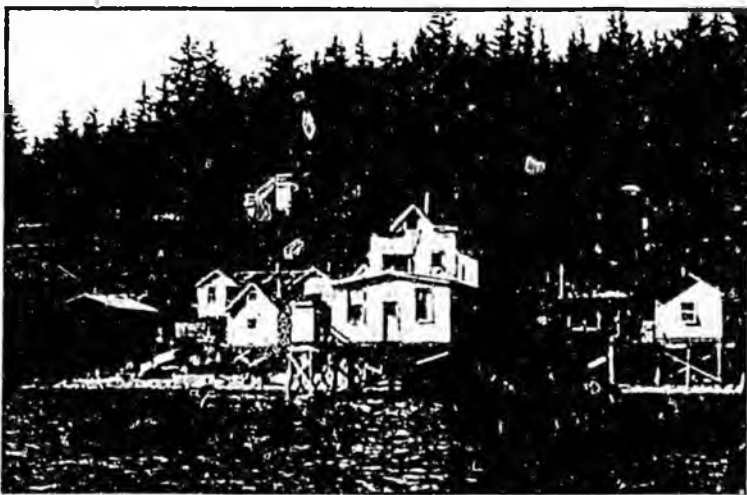
People have been sending the city inspirational comments along with their contributions. Words of encouragement have included: "We are among the many people of Southeast Alaska who support your courageous stand against the heavy hand of Forest Service 'land management' tyranny." "I wish my community had never connected by road to the outside. The peaceful, hospitable fishing town I grew up in is gone forever." "I've had it with the Forest Service's development bent and poor stewardship of the Tongass....You must defend your way of life." "A developed Tenakee with road access is a Tenakee diminished." "Fight them, I'm with you and behind you."

The time and money donated are greatly appreciated as Tenakee could not afford to carry on

this fight alone any longer. However, just as important, perhaps even more important, is the moral support that accompanies every note. Thank you.

Diane Ziel, Tenakee resident and former mayor, has spent nearly 4

years fighting to keep Tenakee unconnected to the Forest Service's NE Chichagof Island road system. Donations to Tenakee's fight can be made out to Indian River Legal Defense Fund, c/o Box 44, Tenakee Springs, AK 99841.



SENATE

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 3-15-90
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

FIN

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 3-22-90

5/3/89

Mr. President:

RES

Committee considered SB 317

forest resources and practices and to the management of forest lands; efd

and recommended:

[☒] replace with CS SB 317 (Res) [☒] same title
[] attached amendment(s) and [] new title
[] _____ letter of intent adopted

[☒] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

FISCAL NOTE(S) attached [] zero
[] appropriation no FN attached

[☒] fiscal impact FTG DHR DEC
[] Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

Curtis Ingham
Mike Halford
Drank

OTHER RECOMMENDATIONS

J. K. L. No Rec
Paul J. Hancock No Rec

Chair signature and recommendation

[] Committee backup attached



317

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 3, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to forest resources and practices and to the management of forest land. This bill would make substantial changes in the Alaska Forest Practices Act to meet the needs of a growing and viable timber industry in Alaska while ensuring the protection of public forest resources, including fish habitat and water quality.

Last year, I directed the state resource agencies to conduct a public review of the Forest Practices Act and to make recommendations for improvement in the Act, its regulations, and implementation. In order to facilitate an objective and balanced review, a steering committee was formed including representatives of timber land owners and operators, state agencies, and users of public resources that are affected by forest practices. Because I felt that it would be possible to review the state's forest practices program and meet both the needs of the state's growing timber industry while achieving appropriate protection for public forest resources, the committee attempted to operate by unanimous consent. This approach ensured that the committee's decisions respected all interests.

The bill provides for a streamside management program that strikes a fair balance between the needs of the timber industry and those of fish habitat and water quality protection. It provides for significant timber harvest while providing appropriate protection for public resources. Riparian standards for timber harvest differ depending upon land ownership, stream type, and region. For example, on private land in southeast Alaska, streamside areas of up to 30 meters will be managed for the protection of water quality and fish habitat, although timber operators will not be required to leave more than five percent of their timber volume for this purpose. In this way, strong resource protection exists without requiring any one private

owner to shoulder an undue portion of the resource protection costs.

The bill provides an improved process for efficient and detailed review of timber harvest plans. This efficient review allows the timber industry to quickly respond to changing timber markets, but ensures that harvest operations conform to forest practice standards and regulations. To coordinate overlapping agency jurisdiction, the provisions of the bill and the regulations will serve, with the approval of the commissioner of environmental conservation, as the forest practice standards for the Department of Environmental Conservation's program to control nonpoint source pollution. Except for activities subject to AS 16.05.840 or AS 16.05.870, the regulations will also serve as the upland fish habitat protection for timber harvest activities.

A system of coordination between state agencies with enforcement authority over timber operations is established to ensure consistent and non-duplicative action. The Department of Natural Resources would have additional enforcement authority, including the authority to issue stop-work orders, to impose civil and criminal penalties, and to issue remedial orders to correct damage resulting from the violation of forest practices standards. The administrative enforcement process is simplified by providing for hearings to be conducted by an employee of the Department of Natural Resources with appeals to the commissioner.

An additional planning process would be required under the bill before state timber sales. The additional planning will improve public review and will require the state to plan timber harvests that fully integrate resource protection into the sale design. The department would also be required to annually prepare a five-year schedule of proposed timber sales for state land. Except for small sales and emergencies such as salvage, a proposed sale would have to appear on the two five-year schedules preceding the sale. The five-year schedule will inform the public and the timber industry of the state's long-term plans.

Finally, the Board of Forestry would be restructured to a smaller, more balanced membership. This balanced board would provide a forum for representatives of affected interests to discuss and resolve forestry issues before they become divisive. The board has the authority to provide advice concerning research and implementation of the Forest Practices Act and regulations. The board would include a member or representative of a fishing orga-

nization, a Native corporation, an environmental organization, and a forest industry trade association as well as a professional fish or wildlife biologist and a professional forester.

Drafts of this bill have been discussed extensively by the members of the Forest Practices Act Steering Committee and with other representatives of the timber industry, environmental groups, and fishing organizations. The bill is the product of discussion and compromise to meet the major concerns of all those affected by its provisions.

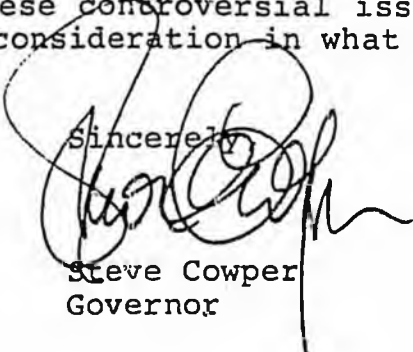
The bill I am transmitting achieves near consensus; it has the support of all but one of the steering committee members. It is supported by representatives of Native corporations, boroughs, fishing groups, and environmental groups but not by the Alaska Loggers Association (ALA).

The ALA objects to a provision of the bill that the association believes would affect harvest on federal land through the Alaska Coastal Management Program. AS 41.17.900(b), in the current law, requires federal harvest to be consistent with the Alaska Forest Practices Act. The bill proposes to amend the law to ensure that the general level of resource protection must be consistent, but that the federal harvest need not follow the specific provisions of that Act. The ALA still fears that this amendment might disrupt an orderly federal planning process that provides sufficient protection.

I realize that it is late in the session for introducing a bill, however, the committee's long and difficult work was not completed until early this week. I felt that it was important to allow the committee to conclude its work and was therefore unable to introduce this bill earlier in the session.

Because of the importance of the bill, and the extraordinary and fragile achievement of reaching near-total consensus on these controversial issues, I urge your prompt and favorable consideration in what little time remains in the session.

Sincerely,



Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Forest Resources & Practices Act

Agency Affected: Environmental Conservation
BRU: Environmental Quality

Sponsor: Rules Committee
Requestor: Governor

Components: Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		171.1	171.1	171.1	171.1	171.1
TRAVEL		15.0	15.0	15.0	15.0	15.0
CONTRACTUAL		42.0	42.0	42.0	42.0	42.0
SUPPLIES		4.0	4.0	4.0	4.0	4.0
EQUIPMENT		20.0	20.0	20.0	20.0	20.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		252.1	252.1	252.1	252.1	252.1

CAPITAL						

REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		252.1	252.1	252.1	252.1	252.1
FEDERAL FUNDS		-0-	-0-	-0-	-0-	-0-
OTHER		-0-	-0-	-0-	-0-	-0-
TOTAL		252.1	252.1	252.1	252.1	252.1

POSITIONS:

FULL-TIME		4	4	4	4	4
PART-TIME		-0-	-0-	-0-	-0-	-0-
TEMPORARY		-0-	-0-	-0-	-0-	-0-

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Dave Sturdevant Phone: 465-2653
Division: Environmental Quality Date: 5-2-89

Approved by Commissioner: *ADK* Date: 5/2/89
Agency: Environmental Conservation

Distribution (by preper):

Legislative Finance
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Office of Management and Budget
Impacted Agency(ies)

Attachment
Forest Practices Act Funding

	WQM Ecol II	WQM CT III	SERO EFO II	SCRO EFO II	Total
100's	51.1	30.0	45.0	45.0	171.1
200's	5.0	0.0	5.0	5.0	15.0
300's	8.0	8.0	13.0 ^{1/}	13.0 ^{1/}	42.0
400's	1.0	1.0	1.0	1.0	4.0
500's	5.0	5.0	5.0	5.0	20.0
Total	70.1	44.0	69.0	69.0	252.1

^{1/} Includes \$5.0 for contractual support of field monitoring for water quality compliance

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Forest Practices Act

Agency Affected: Dept. of Fish and Game
BRU: Habitat

Sponsor: Rules Committee
Requestor: Governor

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	24.8	297.0	297.0	297.0	297.0	297.0
TRAVEL	2.6	31.5	31.5	31.5	31.5	31.5
CONTRACTUAL	3.7	44.9	44.9	44.9	44.9	44.9
SUPPLIES	0.2	2.0	2.0	2.0	2.0	2.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	31.3	375.4	375.4	375.4	375.4	375.4

CAPITAL						

REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	6	6	6	6	6	6
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: Frank R. [Signature]
Division: Habitat

Phone: 465-4105
Date: 5/1/89

Approved by Commissioner: [Signature]
Agency: Department of Fish and Game

Date: 5/2/89

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

FISCAL NOTE

This fiscal note is based on the assumptions that 1) an amended FPA or associated regulations will provide performance standards for activities in riparian management zones, 2) we will need to maintain a significantly greater field presence than we are now in order to effectively implement the standards, 3) we will need to spend significantly more time participating in the Department of Natural Resources' preparation of forest management plans for state lands, and 4) the level of timber harvest north of the Alaska Range does not increase in the immediate future.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Forest Practices Act Revisions
Sponsor: _____
Requestor: _____

Agency Affected: Natural Resources
BRU: Forest Management
Components: Forest Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		306.4				
TRAVEL		40.0				
CONTRACTUAL		32.0				
SUPPLIES		21.1				
EQUIPMENT		38.2				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		437.7	0	0	0	0

CAPITAL						

REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		437.7	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL		437.7	0	0	0	0

POSITIONS:

FULL-TIME		6				
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See attached

Prepared by: George K. Hollett
Division: Forestry

Phone: 465-2491
Date: 5-2-89

Approved by Commissioner: [Signature]
Agency: _____

Date: 5/2/89

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

DEPARTMENT OF NATURAL RESOURCES
FOREST PRACTICES

Program Summary:

Due to low markets in 1986, the number of notifications received for operations on private lands dropped to a level where budget cuts were made. Increased markets in 1988 has brought about a 173% increase in notifications. With no new funding, the forest practice personnel staff months have not increased to a level necessary to handle the inspections necessary with the increased notifications. FY 1988 saw a 16% increase in inspections with present staff but this is far short of what is needed.

Lack of travel dollars has seriously limited field inspection opportunities. A high level of inspection activity not only ensures compliance with the Forest Practice Act, but also allows us to identify potential problems early and prevent violations. Due to the lack of inspections, the character of forest practices administration has been forced away from land owner assistance and toward enforcement.

What we will need to do the new proposal being considered by the Forest Practice Review Committee.

Total funding needs are \$437,700 broken down as follows:

Southeast Region - \$125,000

Add one Clerk Typist III at Ketchikan and replace six months of Federal Funds for a Clerk Typist III at Juneau. This support staff will free up time now spent in the office by the Forest Practices Foresters doing administrative work and should allow for 30% more field time for necessary inspections. Also will allow for the Ketchikan office to be open full time for the five days per week.

Add one Forester III to be the Southeast Region forest practice coordinator. This position will also be able to fill in on forest practice work within the region on an as needed basis and be the liaison between the field staff and other agency personnel.

Added travel funding will meet the necessary inspection schedule of the increased notifications.

Southcentral Region - \$167,800

Add one Forester II to the Kenai-Kodiak Area to work on the additional forest practice work that is taking place on the Kenai Peninsula and in Prince William Sound. Presently the only position available for the forest practice work is also responsible for all the timber sales on state land so both jobs have suffered.

Add one Forester III to regional staff and replace Federal Funds for an Administrative Assistant I in regional office. The senior Forest Practices Forester will handle notifications and inspections on the remainder of the Gulf of Alaska, Valdez-Copper River, Mat-Su and Southwest areas. Duties will also include being the coordinator between regional field personnel and other agency employees working in forest practices.

The Administrative Assistant I will work at providing the necessary budgetary work needed by the regional forest practice personnel so they can spend more time in the field and less on administrative work.

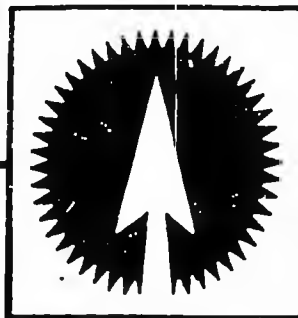
Additional travel and contractual funds are also included to provide the support needed to do the field inspections.

Central Office - \$144,900

Add one Forest Engineer and one Forester II to the staff. The engineer is badly needed to provide expertise in soil stability, logging systems and transportation evaluations. Serve as an expert witness on technical matters. Further responsibilities include research proposal evaluation, support for divisional timber sales, and audit function for Forest Practice compliance on state timber sales. The staff forester position would handle data-base management including reforestation verification, forest practices statistics and public notice provisions as well as be available for temporary assignment around the state to assist in field evaluations during peak periods.

Additional travel and contractual funds are also included to provide the support needed.

Alaska Loggers Association, Inc.



111 STEDMAN, SUITE 200
KETCHIKAN, ALASKA 99901
Phone 907-225-6114

April 23, 1989

Mr. Tom Hawkins
Assistant Commissioner
Alaska Department of
Natural Resources
P. O. Box 107005
Anchorage, AK 99510

Dear Tom:

The Alaska Loggers Association (ALA) Forest Practices Act Committee has reviewed the status of the proposed Forest Practices Act as it came out of the Steering Committee's meeting of April 22, 1989. We recognize that many people have put in long hours and effort in a thoughtful attempt to reach a consensus on a bill.

Regrettably, the process has not left enough time for maturation of all of the issues that need to be addressed to the point of consensus. Furthermore, the process has not left enough time for review of the proposed legislation by all of the people in our Association who would be affected by it. As you know, the people who actually do the timber harvesting are the people who will bear the burden of performing these tasks and we simply have no choice other than to share with them the requirements of the new legislation and to discuss with them in detail what it would mean to them. We would then want to come back with proposed changes. This is part of the give and take of any legislative process, and certainly part of what an Association is required to do for its members. We therefore ask for your understanding in appreciating why the Alaska Loggers Association cannot say "yes" to proceeding with this legislation in this session of the Legislature. Indeed, we believe that were the ALA to agree to it, there would not be sufficient time for the Legislature to review this important change in public policy in a manner which adequately considers the issues raised and what they will mean to State resources in the future.

Accordingly, we propose that after everyone involved with this process has had an opportunity for a much needed rest, we return to the negotiating table and continue the discussions so that we can introduce responsible, fully thought out and fully reviewed legislation in the 1990 Legislature. The unease which so many of the members of the Steering Committee seem to feel makes

Alaska Loggers Association, Inc.

it clear to the ALA that other members have the same concerns, but they are also concerned about "appearing" to be pulling out of the process. For example, we note the Southeast Alaska Conservation Council's (SEACC's) position statement on April 19, 1989, in which SEACC said, among other things,

SEACC's participation in the consensus process was premised on completion by March 1. Seven weeks later we continue to debate. Chances for passage of this agreement in the current legislative session are poor at best.

Given our concern on timing and that of others, the ALA believes that good public policy requires the kind of careful review that the continuation of the process proposed above would bring. It is far better to have good legislation which all of the participants in the process can support seven to eight months from now than to have legislation which is not complete, has not been reviewed by our members and cannot be reviewed by the Legislature itself in a responsible manner simply for political appearances. We believe we have a greater responsibility to the public than that.

Accordingly, the ALA cannot ratify the proposed legislation at this time, but would like your response to our proposal for continuing the effort.

Yours very truly,

Donald L. Finney
Manager,

Alaska Loggers Association, Inc.



111 STEDMAN, SUITE 200
KETCHIKAN, ALASKA 99801
Phone 907-225-6114

May 3, 1989

The Honorable Bettye Fahrenkamp
Chairman, Resources Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

The Alaska Loggers Association (ALA) is disappointed to learn that a state forest practices bill has been introduced by the Governor that does not prevent the application of the state forest practices to federal land through the consistency provisions of the State Coastal Zone Management Act. This is distressing because at the onset of the forest practices revision process, the ALA was advised that the process would move only by consensus agreement. This was the mechanism which was designed to cause negotiations to continue to resolution or stalemate. We were not aware that a stalemate had been reached until today. Indeed, as late as Sunday, April 30, we were still discussing alternative language with the Division of Governmental Coordination that might resolve one of the major problems which the Alaska Loggers Association has with the legislation, which had been presented to the Steering Committee.

The second reason why the state action is distressing is that it had been agreed going into this process that the State Forest Practices Act was to have no impact on federal land. Indeed, there were some within the Department of Natural Resources who agreed that the ALA should not even be included on the Steering Committee because there was no intent to impact federal land.

In order not to impact federal land, several positive steps needed to be taken in the legislation. Two weeks before the negotiations among the members of the Steering Committee ended, the legislation was

Alaska Loggers Association, Inc.

produced and the Alaska Loggers Association learned that the State Forest Practices Act would apply to federal land through the consistency provisions of the Coastal Zone Management Act. We immediately raised the concern in an effort to find a resolution satisfactory to all sides. The ALA proposed language, the Division of Governmental Coordination found unacceptable. At that point, a second proposal was made based upon discussions between the ALA's attorney, a member of the Division of the Governmental Coordination staff and the Attorney General's office. This proposal, as we said earlier, was also under discussion through Sunday, April 30th.

Attached to this letter is our last proposal for legislation solving the Coastal Zone problem from the ALA's point of view. We urge that legislation not go forward in this session of the Legislature so that the consistency problem and other problems can be taken care of between the sessions of the Legislature in an orderly way. We pledge to work to resolve this issue with the Governor's office, the Department of Natural Resources and the Consensus Group Steering Committee in the meantime. If legislation does go forward, please consider the attachment as our request for an amendment.

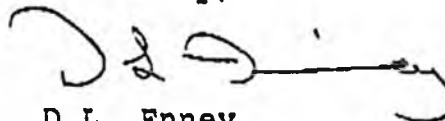
Another major issue of concern has to do with management on state land. The 30 meter no cut zone plus due deference to the Alaska Department of Fish and Game (ADF&G) for the next 60 meters is unacceptable to the ALA. While we understand that there may be changes in the language submitted by the Governor, we really need time to review those changes and to determine their significance.

In the event that the legislation introduced today is delayed until the next session as we are requesting, we would also urge that the Habitat Regulations from the ADF&G and/or Section 319 regulations under the Clean Water Act by DEC and ADF&G be delayed through your good offices pending a resolution in the next session of the Legislature of the key issues facing the state through the State Forest Practices Act.

Alaska Loggers Association, Inc.

We appreciate your courtesy on this matter.
Please let me know if you have any questions.

Sincerely,



D.L. Fnney
General Manager

DLF:es

cc Commissioner Lenny Gorsuch
Lenny Mayo

ENT BY:ROME/JUNEAU

: 5- 3-88 : 10:25 :

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SECTION 205. STANDARDS FOR DETERMINING
THE CONSISTENCY OF TIMBER HARVESTING
AND PROCESSING ON A NATIONAL FOREST LAND

a. The Legislature declares that applicable federal land and resource management plans promulgated under the Forest and Rangeland Renewable Resources Planning Act of 1976, as amended (16 U.S.C. Sec. 1601 et. seq.), meet or exceed State standards for the protection of forest resources.

b. For purposes of 16 U.S.C. Sec. 1456(c) (Section 307(c) of the Coastal Zone Management Act of 1972, P.L.-92-583) standards incorporated in applicable federal land and resource management plans promulgated pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, (16 U.S.C. 1601 et. seq.) shall serve as the forest management standards and policies for activities on National Forest Lands so long as those standards and policies meet or exceed the following standards:

(i) the location of facilities and the layout of logging systems must be sited so as to minimize adverse environmental impacts;

(ii) free passage and movement of fish in coastal water must be allowed; and

(iii) timber harvest and timber management activities must be planned so as to protect streambanks and shorelines, minimize adverse impacts on fish resources and habitats, and minimize adverse impacts on wildlife resources and habitats.

(iv) onshore storage of logs must be encouraged;

(v) sites for in-water dumping and storage of logs must be selected and these activities conducted so as to minimize adverse effects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;

(vi) roads for log transport and harvest area access must be planned, designed, and constructed so as to minimize mass wasting, erosion, sedimentation, and interference with drainage, and must be adequately maintained until they are

returned to their pre-road natural drainage patterns (put-to-bed); and

(vii) stream crossings, including bridges and culverts, must be designed to withstand seasonal high water and flooding, and must allow the free passage and movement of fish.



April 27, 1989

APR 28 1989

Senator Bettye Fahrenkamp
Chairperson, Senate Resources Committee
Post Office Box V
Juneau, Alaska 99811

Re: Forest Practices Steering Committee

Dear Senator Fahrenkamp:

Over the past six months, the Forest Practices Steering Committee has been involved in intensive negotiations aimed at developing consensus revisions to the Alaska Forest Practices Act. Sealaska Corporation has been active in the committee's workings from the outset, and is dedicated to its success.

Given the number of issues facing the committee; the depth of feeling and economic stakes of those issues; and the diversity of interests involved, the committee's task was exceedingly difficult. Remarkably, the committee has virtually succeeded. After six months of nearly full-time effort, and in a remarkable spirit of cooperation, the committee has produced proposed legislation that: (1) is acceptable to most committee members; and (2) leaves only a few outstanding issues among the remaining minority.

In the committee's bill, all sides have made significant concessions -- concessions that would be impossible outside the special atmosphere of the committee process. Industry has agreed to stringent new restrictions on streamside harvesting that can take up to 5% of a company's timber, forcing it to leave substantial volumes of extremely high quality timber. Industry has also agreed to give the Department of Natural Resources sweeping new powers to change or halt private timber operations. On the other hand, environmental groups have agreed to an absolute prohibition on lawsuits aimed at stopping private timber operations, and have

agreed to retain the existing notification system instead of creating a new permit program.

Our understanding, at this point, is that with the end of the legislative session, the 15 steering committee participants will scatter to the wind, and push their own personal special interest forest practices agenda. We are particularly worried that the state resource agencies will take unilateral action and promulgate regulations using inappropriate statutory authorities to create new, one-sided forest practices rules that would destroy the committee's efforts. Specifically, we have been warned that the Department of Fish and Game is, under the guise of its authority over anadromous streams, planning to enact new habitat regulations establishing broad streamside buffer zones and other upland land use regulations. We are also concerned that the Department of Environmental Conservation may attempt to use a new and untested federal planning program -- the so-called "§319 program" -- to create broad new rules governing upland logging. This would put DEC squarely in the business of state land use controls, and ADF&G has already recommended that DEC establish a land use permit program for timber operations under that federal statute.

Either initiative would usurp the legislature's prerogative over this important public policy issue. It would also deny the legislature the benefits of the committee's work, since unilateral action of this magnitude would inevitably destroy both the committee's product and its spirit. The legislature has a large stake in the committee's work, and we believe that it is in its interest to forestall any action that would impair the legislature's ability to develop a comprehensive resolution of forest practices issues next session.

Accordingly, we would request the Senate Resources Committee to provide active oversight of this issue during the interim. Specifically, we would hope the committee would provide clear direction to the Department of Fish and Game, DEC, DNR and others, that unilateral actions jeopardizing the committee's consensus will not be tolerated. Sealaska shares ADF&G's and other state resource agencies' disappointment over the inability, thus far, to achieve complete consensus. Sealaska's investments in this process are as heavy as anyone's. We believe, however, that full consensus remains so close that our conduct, and the conduct of others, should still be tailored toward preserving and building upon that success. Leaving the table now, and embarking on a course of confrontation, would cause a terrible waste. Sealaska is requesting that Governor Cowper exercise his administrative authority to ensure agency administrative actions do not jeopardize the efforts of the steering committee.

April 27, 1989

Sealaska realizes that the Senate Resources Committee has been very patient with the steering committee process, and would hope that, now, the Resources Committee will give our product the support and protection that it deserves. Our corporation looks forward to working with the committee next year, and helping the committee, in the interim, in any way it can to assure that the progress we have achieved is not undone.

Sincerely,

SEALASKA CORPORATION

Robert W. Loescher
Senior Vice President,
Resource Management

cc: Governor Cowper
Forest Practices Steering Committee
Rep. Curt Menard
Rep. Cliff Davidson
Southeast Alaska Legislators
Sam Kito

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CS SB 317 (Res)
PUBLISH DATE: 3/22/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Forest Resources and Practices
Act _____
Sponsor: Rules Committee
Requestor: Senate Resources Committee

Agency Affected: DEC
BRU: Environmental Quality
Components: Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	173.5	173.5	173.5	173.5	173.5	173.5
TRAVEL	22.0	22.0	22.0	22.0	22.0	22.0
CONTRACTUAL	38.0	38.0	38.0	38.0	38.0	38.0
SUPPLIES	3.5	3.5	3.5	3.5	3.5	3.5
EQUIPMENT	15.1	15.1	15.1	15.1	15.1	15.1
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	252.1	252.1	252.1	252.1	252.1	252.1

CAPITAL						

REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	252.1	252.1	252.1	252.1	252.1	252.1
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	252.1	252.1	252.1	252.1	252.1	252.1

POSITIONS:

FULL-TIME	3.5	3.5	3.5	3.5	3.5	3.5
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

ANALYSIS ATTACHED

Prepared by: Dave Sturdevant
Division: Environmental Quality

Phone: 465-2653
Date: _____

Approved by Commissioner: ADK
Agency: Environmental Conservation

Date: 16 Mar 90

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

The Department is responsible for water quality under State law and the federal Clean Water Act. The revised Forest Resources and Practices Act establishes the Department of Environmental Conservation as the lead agency for water quality and control of nonpoint source pollution in forest practices. The Forest Resources and Practices Act will establish the nonpoint source pollution control requirements under both State law and the Clean Water Act within the forest practices regulations. Major areas of involvement for the Department include:

- participation in development of Forest Practices regulations and best management practices, and approval of the regulations;
- development of a cooperative agreement among the Departments of Natural Resources, Fish and Game, and Environmental Conservation covering regulations, best management practices, permits, inspections, enforcement and training;
- development of an interagency "uniform enforcement policy;"
- review of forest plans and timber harvest contracts on State lands, and review of all plans of operation for timber harvest on private lands;
- inspection of timber harvest operations, provision of technical assistance, and enforcement activities; and
- development of cooperative efforts in water quality monitoring.

The Department presently has one FTE in Forest Practices for all of southeast Alaska, and .5 FTE for all of southcentral Alaska, both newly established in FY 90. To reasonably carry out its responsibilities under the act, the Department will require a minimum of 3.5 additional FTEs. Of these positions, .5 FTE would be added to the existing .5 FTE in southcentral Alaska. Two new positions would be established as field officers in southeast Alaska in addition to the one existing position. These three positions would be located in Ketchikan, Sitka and Juneau. One additional position would be established as the Forest Practices coordinator in the central office, Juneau. Additional contractual money (\$10.0) will be necessary with the Juneau position for support of field monitoring for water quality compliance.

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist II	52.1	4.0	18.0	1.0	4.3	79.4
Env. Field Officer II	47.7	7.0	8.0	1.0	4.3	68.0
Env. Field Officer II	47.7	7.0	8.0	1.0	4.3	68.0
Ecologist II	26.0	4.0	4.0	0.5	2.2	36.7
	-----	-----	-----	-----	-----	-----
TOTALS	173.5	22.0	38.0	3.5	15.1	252.1

Position Title Ecologist II		No. of Positions 1	Range/Step 18B	Barg. Unit GGU
Time Status Permanent FT	Staff Months 12	Location Juneau		Election District
Type of Expenditure		Amount		
1	2	3		
Salary	\$38,712			
Benefits	13,342			
Premium Pay				
Other				
Total Personal Services		\$52,054		
Travel		4,000		
Contractual		18,000		
Commodities		1,000		
Equipment		4,300		
Other				
Total Cost		\$79,354		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	\$79,354		
GF Program Receipts	1005			
Other				
Justification Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring with them increased potential for water quality impacts. The department has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in water quality protection under the Forest Practices program, including approval of the corresponding new Forest Practices regulations. This position is the central coordinator and interagency liaison for the Department's activities: revised regulations; Best Management Practices; water quality monitoring activities; application of water quality standards; uniform enforcement policy; technical training programs; cooperative agreements; and procedural matters. The position will participate in ongoing harvest activities, reviewing private plans of operation and State forest plans. The position also will serve as liaison with the U.S. Forest Service and other federal agencies, participating in similar activities to those described.				

**Request For
New Position**

Agency **Environmental Conservation**
BRU **Environmental Quality**
Component **EQ Projects**

Page 1 of 1
Revised Date **2/6/90**

FY 91

Position Title Environmental Field Officer II			No. of Positions 1	Range/Step 16B	Barg. Unit GGU
Time Status Permanent FT	Staff Months 12		Location Ketchikan		Election District
Type of Expenditure			Amount		
1	2	3			
Salary	\$35,076				
Benefits	12,627				
Premium Pay					
Other					
Total Personal Services			\$47,703		
Travel			7,000		
Contractual			8,000		
Commodities			1,000		
Equipment			4,300		
Other					
Total Cost			\$68,003		
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004		\$68,003		
GF Program Receipts	1005				
Other					
Justification Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring increased potential for water quality impacts. The Department currently has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in monitoring and enforcement of Forest Practices. This position will be based in the Ketchikan District Office and will serve that area in Forest Practices matters. This field position, plus a similar new field position in Sitka will increase the field staff in the Southeast Region to 3.0 FTEs. The position will review and comment on plans of operation, State forest plans, and federal EISs and harvest plans; review permit applications for log transfer facilities and logging camp facilities; conduct field inspections and enforcement; and conduct water quality monitoring activities.					

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component EQ Projects

Page 1 of 1
 Revised Date 2/8/90

FY 91

Position Title Environmental Field Officer II			No. of Positions 1	Range/Step 16B	Barg. Unit GGU
Time Status Permanent FT	Staff Months 12		Location Sitka		Election District
Type of Expenditure			Justification		
1		2	3		
Salary		\$35,076	Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring increased potential for water quality impacts. The Department currently has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in monitoring and enforcement of Forest Practices. This position will be based in the Sitka District Office and will serve that area in Forest Practices matters. This field position, plus a similar new field position in Ketchikan, will increase the field staff in the Southeast Region to 3.0 FTEs. The position will review and comment on plans of operation, State forest plans, and federal EISs and harvest plans; review permit applications for log transfer facilities and logging camp facilities; conduct field inspections and enforcement; and conduct water quality monitoring activities.		
Benefits		12,627			
Premium Pay					
Other					
Total Personal Services		\$47,703			
Travel		7,000			
Contractual		8,000			
Commodities		1,000			
Equipment		4,300			
Other					
Total Cost		\$68,003			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	\$68,003			
GF Program Receipts	1005				
Other					

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component EQ Projects

Page 1 of 1
 Revised Date 2/8/89

FY 91

Position Title Ecologist II		No. of Positions 1	Range/Step 18B	Barg. Unit GGU
Time Status Permanent PT	Staff Months 6	Location Anchorage		Election District
Type of Expenditure		Justification		
1	2	3		
Salary	\$19,356	Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring increased potential for water quality impacts. The Department currently has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in monitoring and enforcement of Forest Practices. This field position, 0.5 FTE, will increase the existing 0.5 FTE in the Anchorage office to 1.0 FTE. This position will serve the entire southcentral region in Forest Practices matters. The position will review and comment on plans of operation, State forest plans, and federal EISs and harvest plans; review permit applications for log transfer facilities and logging camp facilities; conduct field inspections and enforcement; and conduct water quality monitoring activities.		
Benefits	6,671			
Premium Pay				
Other				
Total Personal Services		\$26,027		
Travel		4,000		
Contractual		4,000		
Commodities		500		
Equipment		2,200		
Other				
Total Cost		\$36,727		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	\$36,727		
GF Program Receipts	1005			
Other				

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component EQ Projects

Page 1 of 1
 Revised Date 2/8/90

FY 91

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : CS SB 317

PUBLISH DATE :

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Forest Resources and Practices
Act _____
Sponsor: Rules Committee
Requestor: Senate Resources Committee

Agency Affected: DEC
BRU: Environmental Quality
Components: Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	173.5	173.5	173.5	173.5	173.5	173.5
TRAVEL	22.0	22.0	22.0	22.0	22.0	22.0
CONTRACTUAL	38.0	38.0	38.0	38.0	38.0	38.0
SUPPLIES	3.5	3.5	3.5	3.5	3.5	3.5
EQUIPMENT	15.1	15.1	15.1	15.1	15.1	13.1
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	252.1	252.1	252.1	252.1	252.1	252.1

CAPITAL						

REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	252.1	252.1	252.1	252.1	252.1	252.1
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	252.1	252.1	252.1	252.1	252.1	252.1

POSITIONS:

FULL-TIME	3.5	3.5	3.5	3.5	3.5	3.5
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

ANALYSIS ATTACHED

Prepared by: Dave Sturdevant

Division: Environmental Quality

Phone : 465-2653

Date : _____

Approved by Commissioner: ADK

Agency: Environmental Conservation

Date: 16 Mar 90

Distribution (by preparer) :

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

The Department is responsible for water quality under State law and the federal Clean Water Act. The revised Forest Resources and Practices Act establishes the Department of Environmental Conservation as the lead agency for water quality and control of nonpoint source pollution in forest practices. The Forest Resources and Practices Act will establish the nonpoint source pollution control requirements under both State law and the Clean Water Act within the forest practices regulations. Major areas of involvement for the Department include:

- participation in development of Forest Practices regulations and best management practices, and approval of the regulations;
- development of a cooperative agreement among the Departments of Natural Resources, Fish and Game, and Environmental Conservation covering regulations, best management practices, permits, inspections, enforcement and training;
- development of an interagency "uniform enforcement policy;"
- review of forest plans and timber harvest contracts on State lands, and review of all plans of operation for timber harvest on private lands;
- inspection of timber harvest operations, provision of technical assistance, and enforcement activities; and
- development of cooperative efforts in water quality monitoring.

The Department presently has one FTE in Forest Practices for all of southeast Alaska, and .5 FTE for all of southcentral Alaska, both newly established in FY 90. To reasonably carry out its responsibilities under the act, the Department will require a minimum of 3.5 additional FTEs. Of these positions, .5 FTE would be added to the existing .5 FTE in southcentral Alaska. Two new positions would be established as field officers in southeast Alaska in addition to the one existing position. These three positions would be located in Ketchikan, Sitka and Juneau. One additional position would be established as the Forest Practices coordinator in the central office, Juneau. Additional contractual money (\$10.0) will be necessary with the Juneau position for support of field monitoring for water quality compliance.

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist II	52.1	4.0	18.0	1.0	4.3	79.4
Env. Field Officer II	47.7	7.0	8.0	1.0	4.3	68.0
Env. Field Officer II	47.7	7.0	8.0	1.0	4.3	68.0
Ecologist II	26.0	4.0	4.0	0.5	2.2	36.7
	----	----	----	----	----	-----
TOTALS	173.5	22.0	38.0	3.5	15.1	252.1

Position Title Ecologist II		No. of Positions 1	Range/Step 18B	Barg. Unit GGU
Time Status Permanent FT	Staff Months 12	Location Juneau		Election District
Type of Expenditure		Justification		
1	2	3		
Salary	\$38,712	Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring with them increased potential for water quality impacts. The department has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in water quality protection under the Forest Practices program, including approval of the corresponding new Forest Practices regulations. This position is the central coordinator and interagency liaison for the Department's activities: revised regulations; Best Management Practices; water quality monitoring activities; application of water quality standards; uniform enforcement policy; technical training programs; cooperative agreements; and procedural matters. The position will participate in ongoing harvest activities, reviewing private plans of operation and State forest plans. The position also will serve as liaison with the U.S. Forest Service and other federal agencies, participating in similar activities to those described.		
Benefits	13,342			
Premium Pay				
Other				
Total Personal Services		\$52,054		
Travel		4,000		
Contractual		18,000		
Commodities		1,000		
Equipment		4,300		
Other				
Total Cost		\$79,354		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	\$79,354		
GF Program Receipts	1005			
Other				

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component EQ Projects

Page 1 of 1
 Revised Date 2/6/90

FY 91

Position Title Environmental Field Officer II			No. of Positions 1	Range/Step 16B	Barg. Unit GGU
Time Status Permanent FT		Staff Months 12	Location Ketchikan		Election District
Type of Expenditure			Justification		
1	2	3	Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring increased potential for water quality impacts. The Department currently has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in monitoring and enforcement of Forest Practices. This position will be based in the Ketchikan District Office and will serve that area in Forest Practices matters. This field position, plus a similar new field position in Sitka will increase the field staff in the Southeast Region to 3.0 FTEs. The position will review and comment on plans of operation, State forest plans, and federal EISs and harvest plans; review permit applications for log transfer facilities and logging camp facilities; conduct field inspections and enforcement; and conduct water quality monitoring activities.		
Salary	\$35,076				
Benefits	12,627				
Premium Pay					
Other					
Total Personal Services		\$47,703			
Travel		7,000			
Contractual		8,000			
Commodities		1,000			
Equipment		4,300			
Other					
Total Cost		\$68,003			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	\$68,003			
GF Program Receipts	1005				
Other					

**Request for
New Position**

Agency **Environmental Conservation**
 BRU **Environmental Quality**
 Component **EQ Projects**

Page 1 of 1
 Revised Date 2/8/90

FY 91

Position Title Environmental Field Officer II			No. of Positions 1	Range/Step 16B	Barg. Unit GGU
Time Status Permanent FT	Staff Months 12		Location Sitka		Election District
Type of Expenditure			Justification		
1		2	3		
Salary		\$35,076	Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring increased potential for water quality impacts. The Department currently has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in monitoring and enforcement of Forest Practices. This position will be based in the Sitka District Office and will serve that area in Forest Practices matters. This field position, plus a similar new field position in Ketchikan, will increase the field staff in the Southeast Region to 3.0 FTEs. The position will review and comment on plans of operation, State forest plans, and federal EISs and harvest plans; review permit applications for log transfer facilities and logging camp facilities; conduct field inspections and enforcement; and conduct water quality monitoring activities.		
Benefits		12,627			
Premium Pay					
Other					
Total Personal Services			\$47,703		
Travel			7,000		
Contractual			8,000		
Commodities			1,000		
Equipment			4,300		
Other					
Total Cost			\$68,003		
Funding Source for Total Cost:					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004		\$68,003		
GF Program Receipts	1005				
Other					

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component EQ Projects

Page 1 of 1
 Revised Date 2/8/89

FY 91

Position Title Ecologist II			No. of Positions 1	Range/Step 18B	Barg. Unit GGU																										
Time Status Permanent PT	Staff Months 6		Location Anchorage		Election District																										
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>Amount</th> </tr> <tr> <th>1</th> <th>2</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td>\$19,356</td> </tr> <tr> <td>Benefits</td> <td>6,671</td> </tr> <tr> <td>Premium Pay</td> <td></td> </tr> <tr> <td>Other</td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td>\$26,027</td> </tr> <tr> <td>Travel</td> <td>4,000</td> </tr> <tr> <td>Contractual</td> <td>4,000</td> </tr> <tr> <td>Commodities</td> <td>500</td> </tr> <tr> <td>Equipment</td> <td>2,200</td> </tr> <tr> <td>Other</td> <td></td> </tr> <tr> <td>Total Cost</td> <td>\$36,727</td> </tr> </tbody> </table>			Type of Expenditure	Amount	1	2	Salary	\$19,356	Benefits	6,671	Premium Pay		Other		Total Personal Services	\$26,027	Travel	4,000	Contractual	4,000	Commodities	500	Equipment	2,200	Other		Total Cost	\$36,727	Justification Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring increased potential for water quality impacts. The Department currently has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in monitoring and enforcement of Forest Practices. This field position, 0.5 FTE, will increase the existing 0.5 FTE in the Anchorage office to 1.0 FTE. This position will serve the entire southcentral region in Forest Practices matters. The position will review and comment on plans of operation, State forest plans, and federal EISs and harvest plans; review permit applications for log transfer facilities and logging camp facilities; conduct field inspections and enforcement; and conduct water quality monitoring activities.		
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Other																															

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component EQ Projects

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 Revised Date 2/8/90

FY 91

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Forest Practices Act

Agency Affected: Dept. of Fish and Game
BRU: Habitat

Sponsor: Rules Committee
Requestor: Governor

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	24.8	297.0	297.0	297.0	297.0	297.0
TRAVEL	2.6	31.5	31.5	31.5	31.5	31.5
CONTRACTUAL	3.7	44.9	44.9	44.9	44.9	44.9
SUPPLIES	0.2	2.0	2.0	2.0	2.0	2.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	31.3	375.4	375.4	375.4	375.4	375.4

CAPITAL						

REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	6	6	6	6	6	6
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: Frank Bue Director
Division: Habitat

Phone: 465-4105
Date: 5/1/89

Approved by Commissioner: Norman Dell
Agency: Department of Fish and Game

Date: 5/2/89

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

FISCAL NOTE

This fiscal note is based on the assumptions that 1) an amended FPA or associated regulations will provide performance standards for activities in riparian management zones, 2) we will need to maintain a significantly greater field presence than we are now in order to effectively implement the standards, 3) we will need to spend significantly more time participating in the Department of Natural Resources' preparation of forest management plans for state lands, and 4) the level of timber harvest north of the Alaska Range does not increase in the immediate future.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Fish and Game
Title: Forest Resources and Practices Act BRU: Habitat
Sponsor: Rules Components: Habitat
Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	297.0	297.0	297.0	297.0	297.0	
TRAVEL	31.5	31.5	31.5	31.5	31.5	
CONTRACTUAL	44.9	44.9	44.9	44.9	44.9	
SUPPLIES	2.0	2.0	2.0	2.0	2.0	
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	375.4	375.4	375.4	375.4	375.4	

CAPITAL	0	0	0	0	0	

REVENUE	0	0	0	0	0	

FUNDING: (Thousands of Dollars)

GENERAL FUND	375.4	375.4	375.4	375.4	375.4	
FEDERAL FUNDS	0	0	0	0	0	
OTHER	0	0	0	0	0	
TOTAL	375.4	375.4	375.4	375.4	375.4	

POSITIONS:

FULL-TIME	6.0	6.0	6.0	6.0	6.0	
PART-TIME	0	0	0	0	0	
TEMPORARY	0	0	0	0	0	

ANALYSIS : (Attach a separate page if necessary)

see attached

Prepared by: Frank Rue, Director *Frank Rue* Phone: 465-4105
Division: Habitat

Approved by Commissioner: *William H. Miller* Date: 3/19/90
Agency: Department of Fish and Game

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Continuation for CSSB 317 Fiscal Note

The fiscal impact of the Committee Substitute during the last 3 months of 1990 is one quarter of the cost for FY 91

Line 100	74.3
Line 200	7.9
Line 300	11.2
Line 400	0.5
Total Operating	<u>93.9</u>

The line item requirements for the committee substitute are the same as those identified in February 1989 (see attached memorandum) in anticipation of Forest Resources and Practices Act amendments.

The division currently has the equivalent of approximately four full-time positions working on forest practices and forest plans in southeast and southcentral Alaska. This level of staffing is woefully inadequate to deal effectively with the intensive and widespread timber activities on private, state, and federal lands.

The three additional positions for Southeastern and three additional positions for Southcentral requested here will allow the division to do a reasonable job of implementing the new act. Experience clearly shows that the act will only be successfully implemented if we have enough people to work with timber owners as they develop and implement their operations.

MEMORANDUM

State of Alaska

DEPARTMENT OF FISH AND GAME

TO: Bob Loeffler
Resource Allocation
Section
Division of Land and
Water Management
Department of Natural
Resources

DATE: February 22, 1989

FILE NO.:

TELEPHONE NO.: 465-4105

SUBJECT: Forest Practices
Funding

FROM: *Frank Rue*
Frank Rue
Director
Habitat Division
Department of Fish and Game

At last week's Forest Practices Steering Committee meeting, we understood Jim Waldo to request that agencies estimate their additional funding needs for minimum effective implementation of a revised Forest Resources and Practices Act (FPA).

The following estimates are based on the assumptions that 1) an amended FPA or associated regulations will provide performance standards for activities in riparian management zones, 2) we will need to maintain a significantly greater field presence than we are now in order to effectively implement the standards, 3) we will need to spend significantly more time participating in your department's preparation of forest management plans for state lands, and 4) the level of timber harvest north of the Alaska Range does not increase in the immediate future.

Additional Funding Requirement

Sitka Office:

Habitat Biologist II (12 months)	48.4
Line 200	4.5
Line 300	4.3
Line 400	0.5

Petersburg Office:

Habitat Biologist II (12 months)	48.4
Line 200	4.0
Line 300	4.3
Line 400	0.5

Ketchikan Office:

Habitat Biologist II (12 months)	48.4
Line 200	4.5
Line 300	4.3
Line 400	0.5

Douglas Regional Office:

Line 200	2.5
Line 300	2.0
Line 400	0.5
Subtotal	<u>177.6</u>

Anchorage Regional Office:

Habitat Biologist III (12 months)	55.0
Habitat Biologist II (24 months)	96.8
Line 200 (travel to Afognak, Cordova, Valdez, McGrath, Kodiak, Denai, and Mat-Su Valley)	16.0
Line 300 (Contractual for vessel and aircraft charters to reach logging areas for stream surveys and enforcement work)	30.0
Subtotal	<u>197.8</u>
TOTAL	<u>375.4</u>

Once again, these estimates reflect additional funding required for minimum effective implementation of an FPA. We assume that you will distribute this memorandum to steering committee members. If there are questions, please call either me or Bruce Baker (465-4105).

cc: Norman Cohen

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CS SB 317(Res)
PUBLISH DATE: 5/13/90

FISCAL NOTE

REQUEST:

Revision Date: 5/16/90
Title: Forest Practices Act Revision

Agency Affected: Natural Resources
BRU: Forest Management

Sponsor: _____
Requestor: Governor

Components: Forest Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	285.9	294.5	344.5	354.8	365.4	376.3
TRAVEL	45.0	45.0	53.7	57.7	57.7	59.0
CONTRACTUAL	32.0	32.0	47.1	47.1	47.1	49.0
SUPPLIES	21.1	21.1	22.3	22.3	22.3	24.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	437.7	392.6	467.6	481.9	492.5	508.3

CAPITAL						

REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	437.7	392.6	467.6	481.9	492.5	508.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	6	6	7	7	7	7
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: George K. Hollett
Division: Forestry

Phone: 762-2503
Date: 5/16/90

Approved by Commissioner: [Signature]
Agency: _____

Date: 3/16/90

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

Senate Bill 317

Assumptions: The following list of assumptions have a direct effect on the required funding the first five years after passage of the bill:

1. Much public involvement will be needed in the development of regulations. Travel to areas around the state and public meetings will be necessary.
2. Increased field inspections will be necessary to see that standards are being met and riparian areas are left.
3. Training of state personnel in insect and disease activities will take place.
4. Notifications will continue to increase for the next two years while the markets are high.
5. Appeals of stop-work orders and directives will take place during the first few years as all parties learn the new requirements calling for more enforcement work.
6. Board of Forestry will become more active in their operations by having more meetings and requiring more time and effort by staff.
7. Higher demand by the public for review of notifications.
8. Higher coordination of inspections, review and enforcement activities will be required of state agencies.

DEPARTMENT OF NATURAL RESOURCES
FOREST PRACTICES

Program Summary:

Due to low markets in 1986, the number of notifications received for operations on private lands declined and the division reduced the budget accordingly. Increased timber markets in 1988 has increase notifications by 173%. With no new funding available, the forest practice personnel staff months could not be increased to a level necessary to handle inspection requirements. In FY 1988 a 13% increase in inspections over FY 1987 was accomplished with the present division staff. However, in FY 1989 field inspection accomplishment decreased by 11% below FY 1988 because other duties and increased notifications demanded more office time.

The lack of travel dollars has seriously limited field inspection opportunities. A high level of inspection activity is important to not only ensure compliance with the Forest Practice Act, but to also allow identification of potential problems early enough to prevent violations. Due to the lack of adequate inspections, the character of forest practices administration has been forced away from land owner assistance and targeted toward enforcement.

Total funding needs of \$437,700 is detailed as follows:

Southeast Region - \$123,000

Add one full time Clerk Typist III at Ketchikan. This support staff will free up time now spent in the office by the Forest Practices Foresters doing administrative work and should allow for 30% more field time for necessary inspections. This will also allow the Ketchikan office to be open full time for five days per week.

Add one Natural Resource Manager I to be the Southeast Region Forest Practice Coordinator. This position will also be support forest practice work region-wide on an as needed basis and serve as the liaison between the field staff and other agency personnel.

Added travel funding will meet the necessary inspection schedule for the increased notifications.

Southcentral Region - \$149,600

Add one Forester II to the Kenai-Kodiak Area to work on the additional forest practice work that is occurring on the Kenai Peninsula. Notifications have increased from 4 in 1987 to 10 in 1989 with acres increasing from 3,287 to 41,935 during the period. Presently the only position available for the forest practice work is also responsible for all the timber sales on state land in the area. Because of this dual role neither area of responsibility has been accomplished. The new saw mill at Seward, heavy spruce bark beetle kill and large native ownerships on the Kenai Peninsula all point to increasing forest practice work for the next five years. We estimate notification acres will increase by some 58,000 acres in the next five years.

Add one Natural Resource Manager I to regional staff. The senior Forest Practices Forester will handle notifications and inspections on the remainder of the Gulf of Alaska, Valdez-Copper River, Anchorage Mat-Su and Southwest areas. Duties will also include being the coordinator between regional field personnel and other agency employees working in forest practices. The regions forest practice work has increased from 9 notifications in 1987 to 20 in 1989 and acres have increased from 6,287 to 50,286 during the same period. We estimate that at least seven (7) new operations with some 91,000 acres will begin operations in the next five years.

Additional travel and contractual funds are also required to provide the support needed to do the field inspections.

Central Office - \$165,100

Add one Forest Engineer and one Natural Resource Manager II to the Staff. The engineer is badly needed to provide expertise in soil stability, logging systems and transportation evaluations. This position would also serve as an expert witness on technical matters. Further responsibilities include research proposal evaluation, support for divisional timber sales, and audit function for Forest Practice compliance on state timber sales.

The Natural Resource Manager II position would Serve as a Section Chief to assure consistent direction in state-wide forest practices inspection and enforcement is achieved. This position would also handle data-base management including reforestation verification, forest practices statistics and public notice provisions as well as be available for temporary assignment around the state to assist in field evaluations during peak periods.

FOREST PRACTICES

This position will also act as the Board of Forestry-Division of Forestry Coordinator. Meeting preparation, and gathering of research information are some of the duties that will be performed.

Development of training materials and classes for bringing operators and other agency personnel up to speed on the requirements of the FPA.

Additional travel and contractual funds are required to provide the support needed.

Northern Region

Current markets and market projections indicate a continued increase of interest in both white spruce and hardwoods in the Interior of Alaska. With Native Corporate ownerships well along on completing inventories of timber resource developments will be forthcoming in the next few years. At least one Regional corporation is involved in negotiations for development as well as contracting for feasibility studies. Two village Corporations have active sales under contract.

The increasing thoughts of development of resources along with the increase in spruce bark beetle activity indicate that the Northern Region will become involved in forest practices in the next few years. One Forester II position would need to be added within three years to be in place to handle this increase. Total increased cost in year three would be \$95,000.

Position Title Natural Resource Manager II			No. of Positions 1	Range/Step 20/A	Barg. Unit GGU																										
Time Status PFT	Staff Months 12		Location Anchorage	Election District 7																											
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>Amount</th> </tr> <tr> <th>1</th> <th>2</th> </tr> </thead> <tbody> <tr> <td>Salary* 3590 x 12</td> <td>43,080</td> </tr> <tr> <td>Benefits* 1217 x 12</td> <td>14,604</td> </tr> <tr> <td>Premium Pay (Included in Above)</td> <td></td> </tr> <tr> <td>Other</td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td>57.7</td> </tr> <tr> <td>Travel</td> <td>10.0</td> </tr> <tr> <td>Contractual</td> <td>6.5</td> </tr> <tr> <td>Commodities</td> <td>4.1</td> </tr> <tr> <td>Equipment</td> <td>9.4</td> </tr> <tr> <td>Other</td> <td></td> </tr> <tr> <td>Total Cost</td> <td>87.7</td> </tr> </tbody> </table>			Type of Expenditure	Amount	1	2	Salary* 3590 x 12	43,080	Benefits* 1217 x 12	14,604	Premium Pay (Included in Above)		Other		Total Personal Services	57.7	Travel	10.0	Contractual	6.5	Commodities	4.1	Equipment	9.4	Other		Total Cost	87.7	Justification An additional full time Natural Resource Manager II position would serve as a Section Chief to assure consistent direction in state-wide Forest Practices inspections and enforcement is achieved. The position would also handle data base management including reforestation verification, forest practices statistics and public notice provisions as well as be available for temporary assignment around the state to assist in field inspections during peak periods. This position will also serve as staff to the Board of Forestry. Meeting preparation, taking of minutes and research information gathering are some of the duties that will be performed. Coordination of training opportunities and materials will assure that the same subjects are handled in a similar manner. Working with the Insect and Disease Forester and the U.S. Forest Service training classes both in the office and field will be developed to bring the divisions field staff to a knowledgeable level to handle that portion of the Forest Practice Act.		
Type of Expenditure	Amount																														
1	2																														
Salary* 3590 x 12	43,080																														
Benefits* 1217 x 12	14,604																														
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Other																															
* Personal Services Salary and Benefits Costs are from PACS.																															

REQUEST FOR
NEW POSITION

AGENCY Natural Resources
 BRU Forest Management
 COMPONENT Forest Management

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Position Title Natural Resource Manager I			No. of Positions 1	Range/Step 18/A	Barg. Unit GG
Time Status PFT	Staff Months 12		Location Juneau		Election District 4
Type of Expenditure			Amount		
1	2	3			
Salary* 3113 x 12	37,356	////////////////////			
Benefits* 1099 x 12	13,188	////////////////////			
Premium Pay (Included in Above)	////////////////////	////////////////////			
Other	////////////////////	////////////////////			
Total Personal Services	////////////////////	50.5			
Travel			5.0		
Contractual			7.5		
Commodities			2.0		
Equipment			10.3		
Other					
Total Cost			75.3		
Funding Source for Total Cost					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004	75.3			
Program Receipts/GF	1005				
I-A Receipts	1007				
CLP Receipts	1061				
Other					
* Personal Services Salary and Benefits Costs are from PACS.					

The new Forest Practice Act calls for more and better coordination between the State agencies. Field activities are handled by each agency's local personnel but region-wide coordination must take place at a higher level. The addition of one full time Natural Resource Manager I to the division's southeast region office will provide the needed forest practice coordinator. This position will also be able to fill in on forest practice work within the region on an as-needed basis, develop agency and operator training opportunities, meet with the Board of Forestry and act as a hearing officer. This position will be responsible for working on development of the new regulations and handling all of the public process of review within the Southeast Region.

REQUEST FOR
NEW POSITION

AGENCY Natural Resources
 ORG Forest Management
 COMPONENT Forest Management

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 Revised Date _____

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Position Title Natural Resource Manager I			No. of Positions 1	Range/Step 18/A	Barg. Unit GG
Time Status PFT			Staff Months 12		
			Location Anchorage		Election District 7
Justification					
The new Forest Practice Act calls for more and better coordination between the State agencies. Field activities are handled by each agency's local personnel but region-wide coordination must take place at a higher level. The addition of one full time Natural Resource Manager I to the divisions southcentral region office will provide the needed forest practice coordinator. This position will also handle notifications and inspections in the Valdez-Copper River, Mat-Su and Southwest areas. The position will develop training opportunities for agency and operator personnel, meet with the Board of Forestry and act as a hearing officer. This position will be responsible for working on development of the new regulations and handling all of the public process of review within the Southcentral Region.					
Type of Expenditure			Amount		
1			2		
Salary* 3113 x 12			37,356		
Benefits* 1099 x 12			13,188		
Premium Pay (Included in Above)			//////////		
Other			//////////		
Total Personal Services			50.5		
Travel			10.0		
Contractual			5.5		
Commodities			2.0		
Equipment			9.4		
Other					
Total Cost			77.4		
Funding Source for Total Cost					
Federal Receipts 1002					
G.F. Match 1003					
General Fund 1004			77.4		
Program Receipts/GF 1005					
I-A Receipts 1007					
CIF Receipts 1001					
Other					
* Personal Services Salary and Benefits Costs are from PACS.					

REQUEST FOR
NEW POSITION

AGENCY **Natural Resources**
 DRU **Forest Management**
 COMPONENT **Forest Management**

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Position Title Forester II Time Status PFT		No. of Positions 1 Range/Step 16/A Barg. Unit GG	
Staff Months 12		Location Soldotna Election District 5	
Justification The Kenai Peninsula has seen a large increase in Native Land timber operations which have resulted in forest practice notifications. The opening of the Chugach Native Cooperation sawmill at Seward in 1990 will provide the needed log outlet that has been missing to see a major increase of logging activity. The addition of a full time Forester II in the Kenai-Kodiak Area office will provide the necessary position to meet the increase and not take the only personnel available for conducting state timber sales away from their job. The spruce beetle kill facing the Kenai Peninsula is demanding all the present forester's time. With the support staff in place this position will be able to spend full time on forest practice work.			

Type of Expenditure	Amount	Amount
1	2	3
Salary* 2895 x 12	34,740	//////////
Benefits* 1049 x 12	12,588	//////////
Premium Pay (Included In Above)	//////////	//////////
Other	//////////	//////////
Total Personal Services	//////////	47.3
Travel		10.0
Contractual		3.5
Commodities		2.0
Equipment		9.4
Other		
Total Cost		72.2

Funding Source for Total Cost		Amount
Federal Receipts	1002	
G.T. Match	1003	
General Fund	1004	72.2
Program Receipts/GF	1005	
I-A Receipts	1007	
CLP Receipts	1061	
Other		

* Personal Services Salary and Benefits Costs are from PACS.

REQUEST FOR
NEW POSITION

AGENCY Natural Resources
 BRU Forest Management
 COMPONENT Forest Management

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FY 91

Position Title			No. of Positions	Range/Step	Barg. Unit
Logging-Engineer			1	18/A	GG
Time Status	Staff Months		Location Anchorage		Election District
PFT	12				7
Type of Expenditure			Justification		
1	2	Amount	The addition of one full time engineer position will provide expertise in soil stability, logging systems and transportation evaluations. Serve as an expert witness on technical matters. Further responsibilities include research proposal evaluation, and audit function for Forest Practice compliance on state timber sales. New regulations are required to be developed covering areas of road construction, location, maintenance and removal; landing location and construction; drainage construction; material sources and spoil disposal sites; log transfer, sort yards and storage facilities. All of these require the knowledge of an engineer to see that the public is being protected. The division presently does not have an engineer position and this addition will provide the needed expertise to adequately review the above actions as they come in on notifications. This position will be available for statewide work.		
Salary* 3113 x 12	37,356	//////////			
Benefits* 1099 x 12	13,188	//////////			
Premium Pay (Included In Above)	//////////	//////////			
Other	//////////	//////////			
Total Personal Services	//////////	50.5			
Travel		10.0			
Contractual		4.5			
Commodities		3.0			
Equipment		9.4			
Other					
Total Cost		77.4			
Funding Source for Total Cost					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004	77.4			
Program Receipts/GF	1005				
I-A Receipts	1007				
CFR Receipts	1061				
Other					
* Personal Services Salary and Benefits Costs are from PACS.					

REQUEST FOR
NEW POSITION

AGENCY Natural Resources
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FY 91

Position Title Clerk Typist III			No. of Positions 1	Range/Step 8/A	Barg. Unit GG
Time Status PFT	Staff Months 12		Location Ketchikan		Election District 1
Type of Expenditure			Justification		
1	2	Amount 3	The Ketchikan Area Office had an increase of 27% in forest practice notifications between 1987 and 1988. During 1989 some decrease was noted but the acreage size increased as a way around notification. Without support help in the office the Forest Practice Forester has been required to spend more and more time in doing administrative work. Total number of inspections during 1989 dropped. The addition of a full time Clerk Typist III will allow for about 30% more field time for the forester. With increased notifications and required inspections more field time is needed. More time in the field will help prevent damage from taking place and better cooperation between the operator and the State. Additional office help will also allow for the office to be open full time for the five days per week.		
Salary* 1678 x 12	20,136	//////////			
Benefits* 771 x 12	9,252	//////////			
Premium Pay (Included in Above)	//////////	//////////			
Other	//////////	//////////			
Total Personal Services	//////////	29.4			
Travel					
Contractual		4.5			
Commodities		8.0			
Equipment		5.8			
Other					
Total Cost		47.7			
Funding Source for Total Cost					
Federal Receipts	1002		47.7		
G.F. Match	1003				
General Fund	1004				
Program Receipts/GF	1005				
I-A Receipts	1007				
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FY 91

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: SB 317
PUBLISH DATE: 5/3/89

FISCAL NOTE

REQUEST:

Revision Date: 5/16/90
Title: Forest Practices Act Revision

Agency Affected: Natural Resources
BRU: Forest Management

Sponsor: _____
Requestor: Governor

Components: Forest Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	285.9	294.5	344.5	354.8	365.4	376.3
TRAVEL	45.0	45.0	53.7	57.7	57.7	59.0
CONTRACTUAL	32.0	32.0	47.1	47.1	47.1	49.0
SUPPLIES	21.1	21.1	22.3	22.3	22.3	24.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	437.7	392.6	467.6	481.9	492.5	508.3

CAPITAL						

REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	437.7	392.6	467.6	481.9	492.5	508.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

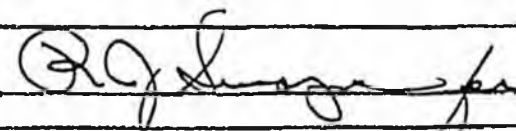
FULL-TIME	6	6	7	7	7	7
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: George K. Hollett
Division: Forestry

Phone: 762-2503
Date: 5/16/90

Approved by Commissioner: 
Agency: _____

Date: 3/16/90

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Senate Bill 317

Assumptions: The following list of assumptions have a direct effect on the required funding the first five years after passage of the bill:

1. Much public involvement will be needed in the development of regulations. Travel to areas around the state and public meetings will be necessary.
2. Increased field inspections will be necessary to see that standards are being met and riparian areas are left.
3. Training of state personnel in insect and disease activities will take place.
4. Notifications will continue to increase for the next two years while the markets are high.
5. Appeals of stop-work orders and directives will take place during the first few years as all parties learn the new requirements calling for more enforcement work.
6. Board of Forestry will become more active in their operations by having more meetings and requiring more time and effort by staff.
7. Higher demand by the public for review of notifications.
8. Higher coordination of inspections, review and enforcement activities will be required of state agencies.

DEPARTMENT OF NATURAL RESOURCES
FOREST PRACTICES

Program Summary:

Due to low markets in 1986, the number of notifications received for operations on private lands declined and the division reduced the budget accordingly. Increased timber markets in 1988 has increase notifications by 173%. With no new funding available, the forest practice personnel staff months could not be increased to a level necessary to handle inspection requirements. In FY 1988 a 13% increase in inspections over FY 1987 was accomplished with the present division staff. However, in FY 1989 field inspection accomplishment decreased by 11% below FY 1988 because other duties and increased notifications demanded more office time.

The lack of travel dollars has seriously limited field inspection opportunities. A high level of inspection activity is important to not only ensure compliance with the Forest Practice Act, but to also allow identification of potential problems early enough to prevent violations. Due to the lack of adequate inspections, the character of forest practices administration has been forced away from land owner assistance and targeted toward enforcement.

Total funding needs of \$437,700 is detailed as follows:

Southeast Region - \$123,000

Add one full time Clerk Typist III at Ketchikan. This support staff will free up time now spent in the office by the Forest Practices Foresters doing administrative work and should allow for 30% more field time for necessary inspections. This will also allow the Ketchikan office to be open full time for five days per week. ----

Add one Natural Resource Manager I to be the Southeast Region Forest Practice Coordinator. This position will also be support forest practice work region-wide on an as needed basis and serve as the liaison between the field staff and other agency personnel.

Added travel funding will meet the necessary inspection schedule for the increased notifications.

Southcentral Region - \$149,600

Add one Forester II to the Kenai-Kodiak Area to work on the additional forest practice work that is occurring on the Kenai Peninsula. Notifications have increased from 4 in 1987 to 10 in 1989 with acres increasing from 3,287 to 41,935 during the period. Presently the only position available for the forest practice work is also responsible for all the timber sales on state land in the area. Because of this dual role neither area of responsibility has been accomplished. The new saw mill at Seward, heavy spruce bark beetle kill and large native ownerships on the Kenai Peninsula all point to increasing forest practice work for the next five years. We estimate notification acres will increase by some 58,000 acres in the next five years

Add one Natural Resource Manager I to regional staff. The senior Forest Practices Forester will handle notifications and inspections on the remainder of the Gulf of Alaska, Valdez-Copper River, Anchorage Mat-Su and Southwest areas. Duties will also include being the coordinator between regional field personnel and other agency employees working in forest practices. The regions forest practice work has increased form 9 notifications in 1987 to 20 in 1989 and acres have increased from 6,287 to 50,286 during the same period. We estimate that at least seven (7) new operations with some 91,000 acres will begin operations in the next five years.

Additional travel and contractual funds are also required to provide the support needed to do the field inspections.

Central Office - \$165,100

Add one Forest Engineer and one Natural Resource Manager II to the Staff. The engineer is badly needed to provide expertise in soil stability, logging systems and transportation evaluations. This position would also serve as an expert witness on technical matters. Further responsibilities include research proposal evaluation, support for divisional timber sales, and audit function for Forest Practice compliance on state timber sales.

The Natural Resource Manager II position would Serve as a Section Chief to assure consistent direction in state-wide forest practices inspection and enforcement is achieved. This position would also handle data-base management including reforestation verification, forest practices statistics and public notice provisions as well as be available for temporary assignment around the state to assist in field evaluations during peak periods.

FOREST PRACTICES

This position will also act as the Board of Forestry-Division of Forestry Coordinator. Meeting preparation, and gathering of research information are some of the duties that will be performed.

Development of training materials and classes for bringing operators and other agency personnel up to speed on the requirements of the FPA.

Additional travel and contractual funds are required to provide the support needed.

Northern Region

Current markets and market projections indicate a continued increase of interest in both white spruce and hardwoods in the Interior of Alaska. With Native Corporate ownerships well along on completing inventories of timber resource developments will be forthcoming in the next few years. At least one Regional corporation is involved in negotiations for development as well as contracting for feasibility studies. Two village Corporations have active sales under contract.

The increasing thoughts of development of resources along with the increase in spruce bark beetle activity indicate that the Northern Region will become involved in forest practices in the next few years. One Forester II position would need to be added within three years to be in place to handle this increase. Total increased cost in year three would be \$95,000.

Position Title Natural Resource Manager II			No. of Positions 1	Range/Step 20/A	Barg. Unit GGU																										
Time Status PFT	Staff Months 12		Location Anchorage		Election District 7																										
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Position Title Natural Resource Manager I			No. of Positions 1	Range/Step 13/A	Barg. Unit GG																																							
Line Status Staff Months			Location Juneau		Election District 4																																							
PFT 12			Justification																																									
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Type of Expenditure		Amount																																										
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Position Title Forester II Time Status PFT		Staff Months 12	Ns. of Positions 1	Range/Step 16/A	Barg. Unit GG																																							
Location Soldotna			Election District 5																																									
Justification The Kenai Peninsula has seen a large increase in Native Land timber operations which have resulted in forest practice notifications. The opening of the Chugach Native Cooperation sawmill at Seward in 1990 will provide the needed log outlet that has been missing to see a major increase of logging activity. The addition of a full time Forester II in the Kenai-Kodiak Area office will provide the necessary position to meet the increase and not take the only personnel available for conducting state timber sales away from their job. The spruce beetle kill facing the Kenai Peninsula is demanding all the present forester's time. With the support staff in place this position will be able to spend full time on forest practice work.																																												
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Position Title Logging Engineer			No. of Positions 1	Range/Step 18/A	Barg. Unit GG
Time Status PFT	Staff Months 12		Location Anchorage		Election District 7
Type of Expenditure			Justification		
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Time Status PER	Staff Months 12	Location Ketchikan		Election District 1																								
		Justification																										
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REQUEST FOR
NEW POSITION

AGENCY Natural Resources
 BRU Forest Management
 COMPONENT Forest Management

Page 1 of 1
 Revised Date

FY 91



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER SB 317	SPONSOR Governor
SHORT TITLE OF BILL Forest Resources and Practices			
DEPARTMENT POSITION Support			
PREPARED BY Bruce H. Baker	DATE 5/5/89	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 5/5/89

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Dept. of Environmental Conservation Dept. of Natural Resources	CONSTITUENT GROUP(S) AFFECTED BY BILL All users of state, municipal, or private forests, or the forest resources provided by such forested lands
ORGANIZATIONAL SUPPORT FOR BILL See attached	ORGANIZATIONAL OPPOSITION TO BILL See attached

FISCAL IMPACT: ☐ NONE ☒ FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

See attached

ANALYSIS OF BILL/PROGRAM EFFECTS

See attached

AMENDMENTS PROPOSED

None

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Organizational Support for Bill

A high degree of agreement was reached between commercial fishermen, the timber industry, major private forest owners, environmental interests, affected boroughs, and state resource agencies serving on the Governor's Forest Practices Steering Committee.

Organizational Opposition to Bill

We are aware of no opposition among Forest Practices Steering Committee members but we understand there are one or two remaining issues that timber interests believe need further resolution.

Background/Legislative Intent

The bill has been developed to ensure achievement of the intent language that is in the existing Forest Resources and Practices Act. That language requires that Alaska's forest resources furnish fish and wildlife, tourism, outdoor recreation, water, oil, and air, as well as timber and wood products, and that these resources be managed in perpetuity.

Analysis of Bill/Program Effects

The bill was developed by the Forest Practices Steering Committee on the basis of unanimous consensus. The following are major accomplishments or effects of the bill:

- Board of Forestry: Membership on the advisory Board of Forestry has been reduced from 14 to 7 members, and the composition of the board has been brought into balance, with the number of members representing users of non-timber forest resources equaling the number representing timber products.
- Performance Standards: Performance standards for forest practices that have been highly controversial are either featured in the bill itself or have been agreed to in principle by Forest Practices Steering Committee members for inclusion in the state's revision of existing forest practices regulations.
- Enforcement: Performance standards provided for in the bill are, in contrast to the existing law, enforceable, and violations of such standards may be subject to criminal action. ADNR has authority under the bill to stop violations that threaten to violate the act before they occur. The operator does, however, have the right to appeal such a decision.

Bill Analysis
SB 317
(Page 3 of 3)

- Streamside Protection: The bill contains specific streamside management standards for activities on private forest land in the coastal Sitka spruce-western hemlock forest. Provisions are included in the bill that call for the development of corresponding streamside management standards for private forest holdings in the boreal white spruce/black spruce/birch/aspen forest. Streamside management standards are also provided for state lands in the boreal forest. These standards are to be promulgated by regulation within one year.
- Forest Practices Regulations: The bill provides more specific guidance than the current law as to which forest practices regulations need to be developed for.
- Forest Management Planning for State Lands: In addition to the provision of minimum standards for streamside protection on state lands in the state's Forest Resources and Practices Act, the bill includes an amendment to a separate statute which deals with Forest Land Use Plans. The amendment requires that, among other things, fish and wildlife habitat and fish and wildlife use considerations be discussed in a forest land use plan.
- Wildlife on Private Land: The bill fosters cooperation between private forest owners and the Department of Fish and Game in identifying areas of important wildlife habitat and in developing methods for their protection.
- Forest Insect and Disease Management: Although the part of the act dealing with prevention and suppression of forest insect or disease outbreaks has been strengthened, it has been done in a way that ensures the protection of fish and wildlife and their habitat.

go0529sE
Bradley
3/21/90

Original sponsor(s): Rules/Governor

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 317 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to forest resources and practices
7 and to the management of forest lands; and providing
8 for an effective date."

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

10 * Section 1. AS 38.05 is amended by adding new sections to read:

11 Sec. 38.05.112. FOREST LAND USE PLANS. (a) The department may
12 not sell or harvest timber, except for isolated personal use timber
13 harvest, until a site-specific forest land use plan has been adopted.
14 A forest land use plan is required whether or not a regional or area
15 land use plan under AS 38.04.065(a) or a forest management plan under
16 AS 41.17.230 has been adopted.

17 (b) The commissioner shall base a forest land use plan on the
18 best available data, including information provided by other agencies
19 describing the immediate and long-term effects of individual and
20 collective forest activities on the timber base and on other resources
21 and uses.

22 (c) In addition to the requirements of AS 38.04.065(b), a forest
23 land use plan shall consider

24 (1) commercial timber harvesting, including related activ-
25 ities;

26 (2) harvesting of forest products for personal use;

27 (3) fish and wildlife habitat, including

28 (A) identification and protection of important wild-
29 life habitat;

1 (B) retention of riparian, wetland, and ocean-shore-
2 line vegetation critical for fish and wildlife habitat; and

3 (C) classification of water bodies according to phys-
4 ical characteristics;

5 (4) uses of forest land for nontimber purposes, including

6 (A) recreation, tourism, and related activities;

7 (B) mining, mining claims, mineral leaseholds, and
8 material extraction;

9 (C) uses of fish and wildlife;

10 (D) agriculture, including grazing; and

11 (E) other resources and uses appropriate to the area,
12 including compatible traditional uses;

13 (5) soil characteristics and productivity;

14 (6) water quality; and

15 (7) watershed management.

16 (d) A management plan prepared by the commissioner must consider
17 and permit the uses described in (c) of this section. If the commis-
18 sioner finds that a permitted use is incompatible with one or more
19 other uses in a portion of a state forest, the commissioner shall
20 affirmatively state in the management plan that finding of incom-
21 patibility for the specific area where the incompatibility is antic-
22 ipated to exist and the time period when the incompatibility is antic-
23 ipated to exist together with the reasons for each finding.

24 Sec. 38.05.113. FIVE-YEAR SALE SCHEDULE. (a) The department
25 shall annually prepare a five-year schedule of timber sales planned on
26 all lands managed by the department. The schedule must be of suffi-
27 cient specificity that it provides a basis for the department to
28 allocate its resources in considering and designing sales and in
29 conducting economic and environmental analyses. The schedule must

1 inform the public and the timber products industry of long-term plans
2 and provide a basis for public comment.

3 (b) Except as provided in (c) of this section, a proposed sale
4 may not be held unless it has been included in the two five-year
5 schedules preceding the sale. This requirement does not apply until
6 one year after the first five-year schedule is prepared under this
7 section.

8 (c) The department may adopt regulations exempting small and
9 emergency sales from the requirements of this section.

10 * Sec. 2. AS 41.17.010 is amended to read:

11 Sec. 41.17.010. DECLARATION OF INTENT. The legislature declares
12 that

13 (1) the forest resources of Alaska are among the most
14 valuable natural resources of the state, and furnish timber and wood
15 products, fish and wildlife, tourism, outdoor recreation, water, soil,
16 air, minerals, and general health and welfare;

17 (2) economic enterprises and other activities and pursuits
18 derived from forest resources warrant the continuing recognition and
19 support of the state;

20 (3) the state has a fundamental obligation to ensure that
21 management of forest resources guarantees perpetual supplies of renew-
22 able resources, provides nonrenewable resources in a manner consistent
23 with that obligation, and serves the needs of all Alaska for the many
24 products, benefits, and services obtained from them;

25 (4) government administration of forest resources should
26 combine professional management services, regulatory measures, and
27 economic incentives in a complementary fashion, and should draw upon
28 the expertise of professional foresters in conjunction with other
29 disciplines;

(5) under the leadership of the Department of Environmental Conservation as lead agency, the state should exercise its full responsibility and authority for control of nonpoint source pollution with respect to the Federal Water Pollution Control Act, as amended;

(6) subject to AS 41.17.098(c), the provisions of this chapter, and regulations adopted under this chapter, with the approval of the Department of Environmental Conservation, establish the non-point source pollution requirements under state law and sec. 319 of the Clean Water Act for activities subject to this chapter;

(7) except for activities subject to AS 16.05.840 or 16.-05.870 and regulations authorized by those sections, this chapter and regulations adopted under this chapter establish the fish habitat protection standards, policies, and review processes under state law [SUBJECT TO 16 U.S.C. 1456(f) (SEC. 307(f) OF THE COASTAL ZONE MANAGEMENT ACT OF 1972, P.L. 92-583), THE PROVISIONS OF THIS CHAPTER SHALL BE THE BASIS FOR FOREST MANAGEMENT STANDARDS, POLICIES, AND GUIDELINES DEVELOPED UNDER THE ALASKA COASTAL MANAGEMENT ACT].

* Sec. 3. AS 41.17.041 is repealed and reenacted to read:

Sec. 41.17.041. BOARD OF FORESTRY. (a) The Board of Forestry is established in the Department of Natural Resources, division of forestry.

(b) The board is composed of nine members appointed by the governor:

(1) a representative of a statewide commercial fishermen's organization;

(2) a representative of a Native corporation established under 43 U.S.C. 1601-1628 (Alaska Native Claims Settlement Act);

(3) a representative of an environmental organization;

(4) a representative of a forest industry trade

1 association;

2 (5) a professional fish or wildlife biologist who is not
3 employed in that capacity by a state, municipal, or federal government
4 agency, except for university employment;

5 (6) a professional forester who is not employed in that
6 capacity by a state, municipal, or federal government agency, except
7 for university employment;

8 (7) a representative of a statewide mining organization;

9 (8) a representative of a statewide recreational organi-
10 zation; and

11 (9) the state forester, who serves ex officio and without a
12 vote.

13 (c) The state forester is the presiding officer of the board and
14 shall, in consultation with the board, establish procedures for sched-
15 uling and organizing board meetings. Seven voting members of the
16 board constitute a quorum. Each decision of the board requires the
17 affirmative vote of each voting member present less one.

18 (d) A board member who is unable to attend a meeting may desig-
19 nate an alternate who possesses the same qualifications as the board
20 member.

21 (e) The division shall serve as staff to the board. The depart-
22 ment, the Department of Fish and Game, and the Department of Environ-
23 mental Conservation shall provide technical staffing and information
24 as needed by the board.

25 * Sec. 4. AS 41.17.047 is repealed and reenacted to read:

26 Sec. 41.17.047. POWERS AND DUTIES OF BOARD. (a) The board
27 shall review and comment to the commissioner on regulations proposed
28 for adoption under this chapter.

29 (b) The board shall provide a forum for representatives of

1 affected interests to discuss and attempt to resolve issues relevant
2 to this chapter and to the forest resources of the state.

3 (c) The board, working with the department, the Department of
4 Environmental Conservation, the Department of Fish and Game, other
5 affected agencies and parties, and the forest-dependent industries,
6 shall conduct an annual survey of research needs related to forest
7 practices. The board shall review research proposals and shall make
8 recommendations to promote research projects that would address these
9 needs to the governor and the legislature.

10 (d) The board shall coordinate the monitoring of the implementa-
11 tion and effectiveness of this chapter, the regulations, and best
12 management practices adopted under this chapter in meeting state water
13 quality standards, fish and wildlife habitat requirements, and other
14 forestry objectives. The board shall report annually to the
15 legislature and the governor on the effectiveness of this chapter and
16 regulations adopted under it, with its recommendations for changes and
17 for needed research and monitoring. The state forester, the
18 Department of Fish and Game, and the Department of Environmental
19 Conservation shall each present an annual report, independently, to
20 the board on the effectiveness of this chapter, the regulations, and
21 best management practices adopted under this chapter that protect the
22 resources for which they have statutory responsibility, and shall make
23 recommendations for changes to correct procedural or substantive
24 problems. The board shall forward the reports to the legislature as
25 part of its annual report. The board shall hold hearings at least
26 once annually in southeast, southcentral, and interior Alaska for
27 purposes of taking public testimony on the subjects.

28 * Sec. 5. AS 41.17.055(d) is repealed and reenacted to read:

29 (d) The commissioner may develop regulations under this chapter

1 as part of the state program for control of nonpoint source pollution
2 under the Federal Water Pollution Control Act, as amended. However,
3 the Department of Environmental Conservation is the lead agency for
4 water quality and control of nonpoint source pollution under that Act,
5 and the regulations are therefore subject to the approval of the
6 commissioner of environmental conservation.

7 * Sec. 6. AS 41.17.060(b) is amended to read:

8 (b) With respect to state, municipal, and private forest land,
9 the following standards apply:

10 (1) to the maximum extent possible, all applicable data and
11 information of applicable disciplines shall be updated and used in
12 making decisions relative to the management of forest resources;

13 (2) environmentally sensitive areas [AND BEST MANAGEMENT
14 PRACTICES] shall be recognized in the development of regulations and
15 best management practices that are designed to implement [IMPLEMEN-
16 TATION OF ANY] nonpoint source pollution control measures authorized
17 under this chapter;

18 (3) administration of forest land shall consider marketing
19 conditions and other economic constraints affecting the forest land-
20 owner, timber owner, or the operator;

21 (4) to the fullest extent practicable, harvested forest
22 land shall be reforested, naturally or artificially, so as to result
23 in a sustained yield of merchantable timber from that land; if artifi-
24 cial planting is required, silviculturally acceptable seedlings must
25 first be available for planting at an economically fair price in the
26 state; and

27 (5) significant adverse effects of soil erosion and mass
28 wasting on water quality and fish habitat shall be prevented or min-
29 imized.

1 * Sec. 7. AS 41.17.060(c) is amended to read:

2 (c) With respect to state and municipal forest land only, the
3 following standards also apply:

4 (1) forest land shall be administered for the multiple use
5 of the renewable and nonrenewable resources and for the sustained
6 yield of the renewable resources of the land in the manner that
7 [WHICH] best provides for the present needs and preserves the future
8 options of the people of the state;

9 (2) a [ANY] system of allocating predominant uses or values
10 to particular units within a contiguous area of land shall reflect in
11 reasonable proportion the various resources and values present in that
12 area;

13 (3) to the extent its capacity permits, forest land shall
14 be administered so as to provide for the continuation of businesses,
15 activities, and lifestyles that [WHICH] are dependent upon or derived
16 from forest resources;

17 (4) timber harvesting is limited to areas where data and
18 information demonstrate that natural or artificial reforestation
19 techniques will result in the production of a sustained yield of
20 merchantable timber from that area;

21 (5) there may not be [ANY] significant impairment of the
22 productivity of the land and water with respect to renewable re-
23 sources; [AND]

24 (6) [WHERE ECONOMICALLY PRACTICABLE,] allowance shall [MAY]
25 be made for scenic quality in or adjacent to areas of substantial
26 importance to the tourism and recreation industry; and

27 (7) allowance shall be made for important fish and wildlife
28 habitat.

29 * Sec. 8. AS 41.17.070(b) is repealed and reenacted to read:

(b) To maintain a record of division decision making for public and agency review, the commissioner shall compile and index each decision made under this chapter regarding directives, stop work orders, waivers from requirements, decisions of hearing officers, and decisions on appeals. The commissioner shall submit a summary of this record annually to the board.

* Sec. 9. AS 41.17.080 is repealed and reenacted to read:

Sec. 41.17.080. REGULATIONS. (a) The commissioner may adopt regulations necessary to accomplish the purposes of this chapter under AS 44.62 (Administrative Procedure Act) regarding forest practices such as

- (1) road construction and maintenance, including
 - (A) road location, construction, maintenance, and post-operation management or removal;
 - (B) landing location and construction;
 - (C) drainage structures;
 - (D) material sources and spoil disposal sites;
- (2) timber harvesting, including
 - (A) timber harvest unit planning and design;
 - (B) felling and bucking;
 - (C) cable yarding, shovel, tractor, and wheeled skidder systems;
 - (D) landing clean-up;
 - (E) slash disposal;
- (3) log transfer, sort yards, and storage facilities, including
 - (A) location, design, and construction;
 - (B) maintenance;
 - (C) closure;

- 1 (D) log storage, rafting, and identification;
2 (4) reforestation, including
3 (A) site preparation and rehabilitation;
4 (B) prescribed burning;
5 (C) exemptions from reforestation requirements;
6 (5) prevention and suppression of forest insects and dis-
7 eases;
8 (6) salvage logging;
9 (7) vegetative management; and
10 (8) fire and flood hazard management.

11 (b) The commissioner shall adopt regulations specifying the
12 information to be submitted under AS 41.17.090(c) in the detailed plan
13 of operations to enable the division to determine whether the activ-
14 ities comply with the requirements of this chapter.

15 (c) The commissioner may establish regions, districts, or other
16 subdivisions of forest land in the state in which different regu-
17 lations apply to reflect varying conditions in the state or to facil-
18 itate administration. In adopting regulations, the commissioner shall
19 make appropriate distinctions between public and private land.

20 (d) The commissioner shall adopt only those regulations neces-
21 sary to accomplish the purposes of this chapter and shall avoid regu-
22 lations that increase operating costs without yielding significant
23 benefits to public resources.

24 * Sec. 10. AS 41.17 is amended by adding new sections to read:

25 Sec. 41.17.082. CONTROL OF INFESTATIONS AND DISEASE. (a) All
26 forest clearing operations and silvicultural systems must be designed
27 to reduce the likelihood of increased insect infestation and disease
28 infections that threaten forest resources.

29 (b) A forest landowner may not conduct or approve timber

1 clearing activities that create conditions fostering outbreaks of
2 infestation or infection that threaten forest resources on forest
3 lands belonging to another person. If the commissioner finds, after
4 notice and hearing, that there has been a violation of this subsec-
5 tion, the commissioner may

6 (1) require the forest landowner, at that person's expense,
7 to remove promptly or cure the conditions fostering outbreaks of
8 infestation or infection; and

9 (2) require the forest landowner, at that person's expense,
10 to undertake environmentally sound, effective, and cost-efficient
11 actions to control the infestation or infection in the immediate
12 vicinity of the improper timber clearing activity.

13 (c) If a forest landowner does not comply with a final order of
14 the commissioner under (b)(1) or (b)(2) of this section, the commis-
15 sioner may enter onto the land and undertake the actions ordered and
16 the landowner is liable for the cost of the actions. The commissioner
17 shall deliver to the landowner an itemized statement of expenses
18 incurred.

19 (d) The commissioner may undertake surveys and appraisals to
20 obtain data on regional insect infestations and disease conditions.
21 Upon a determination that an area is infested with forest insects or
22 infected with diseases injurious to forest resources and that the
23 infestation or infection threatens the forest land or timber of adja-
24 cent owners, the commissioner may establish the boundaries of an
25 infestation or infection zone. The commissioner may enter into an
26 agreement with an owner or with a governmental agency to control or
27 suppress infestation or infection within the zone. Upon a determina-
28 tion by the commissioner that insect and disease control work within
29 the zone is no longer necessary or feasible, the commissioner shall

1 terminate the zone.

2 Sec. 41.17.083. CLEARING OF FOREST LAND FOR NON-TIMBER PURPOSES.

3 A state agency, municipality, or public utility shall determine wheth-
4 er the timber to be removed has significant salvage value before
5 approving or conducting clearing of forest land for purposes other
6 than timber harvest. If the timber has significant salvage value, the
7 agency or utility shall salvage the timber as part of the clearing
8 process.

9 * Sec. 11. AS 41.17 is amended by adding a new section to read:

10 Sec. 41.17.087. VARIATION FROM REQUIREMENTS. (a) A forest
11 landowner, timber owner, or operator may propose for a particular
12 activity a variation from a requirement imposed by this chapter or the
13 regulations adopted under this chapter. If the state forester deter-
14 mines that the harm intended to be avoided by the requirement is not
15 likely to occur because of site-specific circumstances relating to the
16 particular activity and is not likely to cause significant harm to
17 fish habitat or water quality, the state forester shall agree to the
18 proposed variation. If the state forester does not agree to the
19 proposed variation, a forest landowner, timber owner, or operator may
20 appeal to the commissioner. The appellants shall conform to the
21 requirement during the pendency of the appeal.

22 (b) The commissioner shall adopt regulations that specify the
23 standards under which a variation will be granted for harvesting
24 timber within the riparian area of

25 (1) a low gradient Type A water body with a width of five
26 feet or less; and

27 (2) other appropriate water body types.

28 (c) A determination by the state forester under (a) of this
29 section and regulations by the commissioner under (b) of this section

1 shall give due deference under AS 41.17.098.

2 * Sec. 12. AS 41.17.090 is repealed and reenacted to read:

3 Sec. 41.17.090. NOTIFICATION OF PLANS TO HARVEST TIMBER. (a)
4 Operations on forest land shall be reviewed under this section for
5 consistency with the policies and provisions of this chapter and
6 regulations adopted under this chapter.

7 (b) A forest landowner, timber owner, or operator may provide to
8 the commissioner a voluntary plan of operations that describes the
9 long-term plans for timber harvesting. The purpose of a voluntary
10 plan is to give the division and the public an early opportunity to
11 review plans, to identify areas of concern, and to allow the agencies
12 and the public to provide local knowledge and early notice of poten-
13 tial problems to the forest landowner, timber owner, or operator.

14 (c) Before beginning operations on forest land, the operator
15 shall provide the state forester with a detailed plan of operations.
16 The detailed plan of operations must include

17 (1) a description of the proposed operations, identifying
18 the land involved and the action proposed in sufficient detail to
19 inform the public of the nature and location of the proposed opera-
20 tions; the description must include a map and must be in a form suit-
21 able for duplication;

22 (2) the name, address, and approving signature of the
23 forest landowner, timber owner, and operator; and

24 (3) other information required in the regulations adopted
25 under this chapter.

26 (d) Within five days after receipt of a detailed plan of opera-
27 tions under (c) of this section, the state forester shall distribute
28 the information received under (c) of this section to affected state
29 agencies and coastal districts, and shall distribute the information

1 received under (c)(1) of this section to each member of the public who
2 has asked to receive copies of notifications for the affected area.

3 (e) Within 30 days after receipt of a detailed plan of opera-
4 tions, the state forester shall review the plan to determine if the
5 operations are consistent with this chapter and regulations adopted
6 under this chapter. Operations may begin under the plan upon the
7 expiration of the 30-day period or upon notice from the state forester
8 that the review has been completed, whichever occurs first, unless the
9 division has issued a stop work order for a particular portion of the
10 plan or has notified the operator that a one-time, 10-day extension is
11 necessary for agency review under AS 41.17.098(f). The operator may
12 proceed with operations not covered by the stop work order, notice of
13 field inspection, or the agency review. During the review of a de-
14 tailed plan of operations, if a question arises concerning the proper
15 classification of water body type for purposes of the standards in
16 AS 41.17.116(a), the Department of Fish and Game may resolve the
17 question.

18 (f) If the state forester determines that a field inspection is
19 necessary to determine consistency of the detailed plan of operations
20 or a portion of the plan with applicable standards, the state forester
21 shall notify the operator. The notice of field inspection may not
22 cover more than the minimum area necessary to determine compliance
23 with this chapter and applicable regulations. The operator shall
24 inform the state forester when the site will be available for an
25 inspection. The state forester shall conduct the field inspection
26 within 21 days after the date that the site will be accessible and
27 available unless the operator otherwise agrees, and the operator may
28 begin operations at the conclusion of the 21-day period unless the
29 state forester has issued a stop work order under AS 41.17.138.

1 (g) During the review of a detailed plan of operations, modi-
2 fications to accommodate comments may be made without requiring the
3 operator to resubmit the plan. After the review of the detailed plan
4 of operations made under (e) and (f) of this section, an operator
5 shall notify the state forester of a proposed substantial change in
6 operations by following the procedures specified in (c) - (f) of this
7 section.

8 (h) Information and paperwork required of the operator under
9 this section is limited to that necessary to accomplish the purposes
10 of this section.

11 (i) An operator shall renew a detailed plan of operations annu-
12 ally.

13 * Sec. 13. AS 41.17 is amended by adding a new section to read:

14 Sec. 41.17.098. INTERAGENCY COORDINATION AND REEVALUATION. (a)
15 In administering this chapter, the commissioner shall coordinate with
16 other agencies and affected coastal districts that have jurisdiction
17 over activities subject to regulation under this chapter.

18 (b) In a review or implementation of a detailed plan of opera-
19 tions under AS 41.17.090 and in a decision on a proposed variation
20 from requirements under AS 41.17.087, the commissioner shall consider
21 the comments of each affected state agency and, where applicable,
22 coastal districts.

23 (c) The commissioner shall give due deference to the Department
24 of Environmental Conservation in decisions concerning water quality.
25 The commissioner of environmental conservation retains the authority
26 to adopt nonpoint source pollution regulations for activities subject
27 to this chapter to the extent that regulations are not adopted by the
28 commissioner of natural resources and approved by the commissioner of
29 environmental conservation under this chapter. The commissioner of

1 environmental conservation may withdraw approval of regulations adopt-
2 ed by the commissioner of natural resources under this chapter by
3 following the procedure for the adoption, amendment, and repeal of
4 regulations under AS 44.62.180 - 44.62.290.

5 (d) The commissioner shall recognize the expertise of the De-
6 partment of Fish and Game with regard to fish and wildlife habitat.
7 On private land, the commissioner shall give due deference to the
8 Department of Fish and Game regarding effects on fish habitat from
9 timber operations including variations to riparian standards, desig-
10 nation of alternative site-specific riparian protection plans, and
11 road location decision within riparian areas. On public land, the
12 commissioner shall give due deference to the Department of Fish and
13 Game regarding effects on fish and wildlife habitat from timber op-
14 erations including timber harvest in riparian areas, variations to
15 riparian standards, and road location decisions within riparian areas.
16 In making decisions under under AS 41.17.087, the commissioner shall
17 recognize fish habitat as the primary value in riparian areas.

18 (e) In this section, "due deference" means that deference that
19 is appropriate in the context of the agency's expertise and area of
20 responsibility and all the evidence available to support a factual
21 assertion. Where due deference is given, if the commissioner does not
22 agree with a commenting agency, the commissioner shall prepare a
23 written statement of the reasons for the disagreement.

24 (f) If a disagreement described in (e) of this section exists,
25 an officer of an agency may require reevaluation of the disagreement
26 at a higher level within the agencies, or by the governor if
27 necessary, before a decision is made by the commissioner.

28 * Sec. 14. AS 41.17 is amended by adding new sections to read:

29 ARTICLE 1A. RIPARIAN MANAGEMENT.

1 Sec. 41.17.115. INTENT FOR RIPARIAN AREAS. The commissioner
2 shall protect riparian areas from the significant adverse effects of
3 timber harvest activities on fish habitat and water quality. The
4 management intent for riparian areas is the adequate preservation of
5 fish habitat by maintaining a short- and long-term source of large
6 woody debris, stream bank stability, channel morphology, water temper-
7 atures, stream flows, water quality, adequate nutrient cycling, food
8 sources, clean spawning gravels, and sunlight. The commissioner shall
9 adopt regulations for the protection of riparian areas; the regu-
10 lations may include higher standards of protection for fish and other
11 public resources on land managed by the department than on other
12 public land or private land. The regulations may vary by region of
13 the state and must take into consideration reasonable classification
14 of water bodies and the economic feasibility of timber operations.

15 Sec. 41.17.116. RIPARIAN STANDARDS FOR PRIVATE LAND. (a)
16 Private forest land adjacent to the following types of waters and
17 located in a coastal forest of spruce or hemlock is subject to the
18 riparian protection standards established in this section:

19 (1) along a Type A water body, harvest of timber may not be
20 undertaken within 66 feet of the water body;

21 (2) along a Type B water body, timber harvest operations
22 within 100 feet of the stream or to the break of the slope, whichever
23 area is smaller, must be conducted in compliance with slope stability
24 standards established in regulations adopted under this chapter;

25 (3) along a Type C water body, timber harvest operations in
26 the area within 50 feet of the stream or to the break of the slope,
27 whichever area is smaller, must be conducted in compliance with slope
28 stability standards established in regulations adopted under this
29 chapter.

1 (b) The commissioner shall adopt regulations for private land
2 outside of the coastal forest of spruce or hemlock that designate the
3 riparian areas to be protected and the restrictions on timber harvest-
4 ing operations within the areas that are necessary for their pro-
5 tection under the management goals established in AS 41.17.115.

6 Sec. 41.17.118. RIPARIAN STANDARDS FOR STATE LAND. (a) The
7 riparian standards for state land are as follows:

8 (1) on state forest land managed by the department that is
9 located north of the Alaska Range, harvest of timber may not be under-
10 taken within 100 feet immediately adjacent to an anadromous or high
11 value resident fish water body unless the division determines that
12 adequate protection remains for the fish habitat;

13 (2) on state forest land managed by the department that is
14 located south of the Alaska Range,

15 (A) harvest of timber may not be undertaken within 100
16 feet immediately adjacent to an anadromous or high value resident
17 fish water body:

18 (B) between 100 and 300 feet from the water body,
19 timber harvest may occur but must be consistent with the mainte-
20 nance of important fish and wildlife habitat.

21 (b) The commissioner may impose additional riparian protection
22 standards for timber harvest operations through the adoption of land
23 use plans under AS 38.04.065 and under forest management plans and
24 reports under AS 38.05.112 and AS 41.17.230.

25 (c) In the absence of a site-specific determination by the
26 Department of Fish and Game, the commissioner shall presume for plan-
27 ning purposes that a stream is anadromous if it is connected to ana-
28 dromous waters that are without Department of Fish and Game documenta-
29 tion of a physical blockage and has a stream gradient of 8 percent or

1 less.

2 Sec. 41.17.119. MINIMUM RIPARIAN STANDARDS FOR OTHER PUBLIC
3 LAND. On public land other than state land, harvest of timber may not
4 occur

5 (1) within 100 feet from the shore or bank of an anadromous
6 or high value resident fish water body that is located south of the
7 Alaska Range;

8 (2) within 100 feet immediately adjacent to an anadromous
9 or high value resident fish water body north of the Alaska Range
10 unless the commissioner determines that adequate protection remains
11 for the fish habitat.

12 * Sec. 15. AS 41.17 is amended by adding a new section to read:

13 Sec. 41.17.125. ENFORCEMENT COORDINATION. All state agencies
14 with enforcement authority over an activity subject to regulation
15 under this chapter shall establish a uniform enforcement strategy that
16 avoids duplication and inconsistencies. All participating agencies
17 shall agree to and comply with the contents of the uniform strategy.
18 In developing and implementing the uniform strategy, each state agency
19 retains its authority to determine the appropriate remedies under the
20 statutes and regulations it administers.

21 * Sec. 16. AS 41.17.131 is repealed and reenacted to read:

22 Sec. 41.17.131. PENALTIES FOR VIOLATIONS. (a) An operator,
23 forest landowner, or timber owner who violates or permits a violation
24 of this chapter, a regulation adopted under this chapter, a directive
25 issued under AS 41.17.136, or a stop work order issued under AS 41.-
26 17.138 is liable. after notice and hearing, for a civil fine in an
27 amount not to exceed \$10,000 to be assessed by the commissioner. In
28 determining the amount of civil fine, the commissioner shall consider

29 (1) the character and degree of injury to forest resources

1 and values;

2 (2) the degree of intent or negligence of the respondent in
3 causing or permitting the violation;

4 (3) the character and number of past violations caused or
5 permitted by the respondent; and

6 (4) if the information is available, the net economic
7 savings realized by the respondent through the violation.

8 (b) An operator, forest landowner, or timber owner that, with
9 criminal negligence, violates or permits a violation of this chapter,
10 a regulation adopted under this chapter, a directive issued under
11 AS 41.17.136, or a stop work order issued under AS 41.17.138 is guilty
12 of a class A misdemeanor. In this subsection, "criminal negligence"
13 has the meaning given in AS 11.81.900(a).

14 (c) Each day that a violation described in this section occurs
15 is a separate violation.

16 (d) If a respondent violates a directive issued under AS 41.-
17 17.136 or a stop work order issued under AS 41.17.138, the attorney
18 general, at the request of the commissioner, may seek an injunction
19 requiring the respondent to suspend all or part of the operations
20 until the respondent complies with the directive or stop work order,
21 and requiring the respondent to repair or correct damage resulting
22 from the violation.

23 (e) If a respondent violates a directive issued under AS 41.-
24 17.136 that requires the respondent to repair or correct damage, the
25 commissioner may proceed to repair or correct the damage using state
26 agency employees or contractors and the respondent is liable for the
27 cost of the repair. The commissioner shall deliver to the respondent
28 an itemized statement of expenses incurred.

29 * Sec. 17. AS 41.17 is amended by adding a new section to read:

1 Sec. 41.17.136. DIRECTIVES. (a) Upon a determination that a
2 planned or ongoing activity violates or would violate this chapter or
3 a regulation adopted under it, the state forester shall notify the
4 respondent in writing and direct the respondent to halt or avoid the
5 violation or to repair or correct any damage resulting from the viola-
6 tion. The written notification must include a summary of the basis
7 for the directive.

8 (b) The respondent may either comply with the directive or
9 request a hearing under AS 41.17.139 within 15 days of receipt of the
10 notification. If a hearing is requested, the respondent may continue
11 with the activity unless the state forester issues a stop work order
12 under AS 41.17.138. If the directive is affirmed by the hearing
13 officer, the respondent shall cease the activity unless a stay is
14 issued under AS 41.17.143(c) or by the superior court.

15 * Sec. 18. AS 41.17 is amended by adding a new section to read:

16 Sec. 41.17.138. STOP WORK ORDERS. (a) Upon a determination
17 that a violation of this chapter or a regulation adopted under it is
18 occurring or is likely to occur and that significant harm to public
19 resources is likely to occur if work is not halted before a hearing
20 can be held, the state forester may issue a stop work order requiring
21 the respondent to stop the violation or otherwise halt the threatened
22 harm. A stop work order must be in writing and must state the facts
23 on which it is based.

24 (b) The state forester shall immediately refer the matter to a
25 hearing officer for determination of the validity of the stop work
26 order under AS 41.17.139. The hearing officer shall consider any
27 arguments and evidence presented by the respondent within five work-
28 days after receipt of the stop work order and shall then make an imme-
29 diate decision sustaining or reversing the stop work order. The stop

1 work order is of no further effect if it is not sustained by the
2 hearing officer within the five-workday period. A stop work order may
3 be sustained only upon the same grounds on which it was originally
4 issued.

5 * Sec. 19. AS 41.17.139 is amended to read:

6 Sec. 41.17.139. HEARING PROCEDURES. (a) Unless otherwise
7 specified, proceedings under AS 41.17.131 - 41.17.139 are not subject
8 to the Administrative Procedure Act (AS 44.62). A hearing under
9 AS 41.17.136 or 41.17.138 [AS 41.17.131 - 41.17.139] shall be held
10 before the state forester, a regional forester, or another employee of
11 the division with similar qualifications acting as a hearing officer.
12 A hearing on an appeal under AS 41.17.087 and a hearing under AS 41.-
13 17.082(b) shall be held before the commissioner or the commissioner's
14 designee [, APPOINTED BY THE ATTORNEY GENERAL FROM AMONG MEMBERS OF
15 THE ALASKA BAR ASSOCIATION WHO HAVE BEEN NOMINATED BY THE BOARD OF
16 FORESTRY AND WHO ARE KNOWLEDGEABLE AND EXPERIENCED IN THE SUBJECT
17 MATTER]. A person who has assisted in the preparation of the di-
18 vision's [STATE'S] case [OR WHO IS A STATE EMPLOYEE] is ineligible.
19 Hearings are not limited by common law, statutory, or judicial rules
20 of evidence; however, the hearing officer may admit only that evidence
21 that [WHICH] appears to be reliable and trustworthy. All hearings
22 shall be open to the public. Written or oral testimony may be submit-
23 ted. A party to a hearing may make written or oral argument, secure
24 the issuance of a subpoena under AS 44.62.430, offer testimony or
25 other evidence, and cross-examine witnesses. The hearing officer
26 shall endeavor, in conducting any hearing, to ensure that the respon-
27 dent understands the proceedings and that the facts supporting the
28 position of each party have been adequately presented. [HEARINGS
29 SHALL BE HELD AS CLOSE AS PRACTICABLE TO THE LOCATION OF THE ALLEGED

1 VIOLATION. TESTIMONY GIVEN AT THE HEARING SHALL BE RECORDED.]

2 (b) If the respondent notifies the commissioner within five days
3 before the hearing provided for in (a) of this section, the following
4 rules and procedures apply to the hearing:

5 (1) the hearing shall be a nonadversary proceeding, with
6 the hearing officer fully and impartially representing the interests
7 of the state and the respondent;

8 (2) the hearing officer shall thoroughly investigate the
9 facts and circumstances relating to the alleged violation, including
10 taking testimony from appropriate persons, collecting and examining
11 documents and other evidence, and performing other actions consistent
12 with due process of law; and

13 (3) the hearing officer shall issue a decision in accor-
14 dance with the applicable procedures of (a) of this section.

15 * Sec. 20. AS 41.17.139 is amended by adding a new subsection to read:

16 (c) The hearing officer shall select the location of the hear-
17 ing, giving consideration to the convenience of the parties and wit-
18 nesses. The hearing officer may permit witnesses to testify through
19 teleconferencing.

20 * Sec. 21. AS 41.17.143 is repealed and reenacted to read:

21 Sec. 41.17.143. APPEALS AND JUDICIAL REVIEW. (a) A decision by
22 a hearing officer under AS 41.17.136 or 41.17.138 or by the commis-
23 sioner under AS 41.17.082(b), 41.17.087, or 41.17.131(a) constitutes
24 final agency action that may be appealed to the superior court within
25 30 days after it is issued. Judicial review shall be as provided in
26 AS 44.62.560 and 44.62.570.

27 (b) An operator, forest landowner, or timber owner may request
28 the commissioner to reconsider the decision of a hearing officer
29 within 30 days after it is issued. Reconsideration is not a precondi-

tion of judicial review under (a) of this section. If reconsideration is requested, the final agency action for purposes of judicial review is a decision by the commissioner to affirm, modify, or reverse the hearing officer or to deny the request for reconsideration.

(c) The commissioner may stay or modify a directive or order pending administrative or judicial review. A stay or modification may not be appealed separately from an appeal of the substantive decision.

(d) A person, except the aggrieved forest landowner, timber owner, or operator, may not maintain an administrative or judicial appeal, or other action or proceeding of any kind, challenging a decision or failure to act by the department with respect to the compliance of a timber operation on private forest land with this chapter or a regulation, standard, directive, or order issued under this chapter. This subsection does not prohibit the maintenance of an action

(1) for an alleged violation of a constitutional right; or

(2) against the department regarding a regulation, standard, or systematic course of conduct that does not involve a challenge to, or attempt to enjoin, stay, modify, or otherwise affect a timber operation on private forest land subject to this chapter.

* Sec. 22. AS 41.17.210(a) is amended to read:

(a) The governor may propose to the legislature the establishment of state forests consisting primarily of commercially valuable forest land determined by the governor to be necessary for retention in state ownership for management under the principles of multiple use and sustained yield and consistent with AS 38.04.005. The proposal of the governor shall include a report and recommendations of the commissioner including

(1) a preliminary forest inventory;

(2) a summary of the testimony offered at public hearings

1 held on the management of the proposed state forest in communities
2 proximately located to a proposed state forest;

3 (3) the findings of the commissioner on anticipated incom-
4 p. abilities of uses described in AS 38.05.112(c) [AS 41.17.230(e)]
5 under AS 38.05.112(d) [AS 41.17.230(f)];

6 (4) written comments from appropriate state agencies on the
7 compatibility of the uses described in AS 38.05.112(c) [AS 41.17.-
8 230(e)] within the proposed state forest;

9 (5) an estimate of the cost of a full implementation of an
10 operational level forest inventory and the management plan.

11 * Sec. 23. AS 41.17.400(c) is amended to read:

12 (c) In addition to the uses described in AS 38.05.112(c)
13 [AS 41.17.230(e)], the commissioner may establish transportation
14 corridors within the Tanana Valley State Forest.

15 * Sec. 24. AS 41.17.900(b) is repealed and reenacted to read:

16 (b) For federal land,

17 (1) the degree of resource protection may not be less than
18 that established by this chapter for state land except that AS 41.17.-
19 119 establishes the minimum riparian standard;

20 (2) a timber harvest activity subject to this chapter shall
21 satisfy the requirement to be consistent to the maximum extent practi-
22 cable with the Alaska coastal zone management program if the federal
23 land management plans, guidelines, and standards applicable to that
24 timber harvest activity provide no less resource protection than the
25 standards that are established in this chapter provide for state land
26 except that

27 (A) AS 41.17.119 establishes the minimum riparian
28 standards; and

29 (B) this paragraph does not apply to a timber harvest

1 activity that requires a state or federal authorization under a
2 provision of law other than this chapter.

3 * Sec. 25. AS 41.17.900 is amended by adding new subsections to read:

4 (e) Subject to 16 U.S.C. 1456(f) (Sec. 307(f) of the Coastal
5 Zone Management Act of 1972, P.L. 92-583) as to private land, this
6 chapter and the regulations adopted under this chapter establish the
7 forest management standards, policies, and review processes under
8 AS 46.40 (Alaska Coastal Management Act). This subsection does not
9 apply to timber harvest activity that requires a state or federal
10 authorization under a provision of law other than this chapter.

11 (f) This chapter does not diminish the rights, privileges, or
12 immunities of Alaska Natives or Alaska Native corporations with re-
13 spect to land conveyed under 43 U.S.C. 1601 - 1628 (Alaska Native
14 Claims Settlement Act), and does not alter or diminish the authority
15 of the Department of Fish and Game under AS 16, of the Department of
16 Environmental Conservation under AS 46, or of a state agency under
17 other law.

18 * Sec. 26. AS 41.17 is amended by adding a new section to read:

19 Sec. 41.17.910. WILDLIFE HABITAT ON PRIVATE LAND. (a) The
20 Department of Fish and Game and the commissioner shall work coopera-
21 tively with private forest landowners and timber owners to protect,
22 maintain, and enhance wildlife habitat to the maximum extent practica-
23 ble, consistent with the interests of the owners in the use of their
24 timber resources.

25 (b) The Department of Fish and Game shall provide educational
26 and technical assistance and extension services to owners of private
27 forest land or timber to assist in identifying important wildlife
28 habitat and to assist in designing voluntary management techniques
29 that minimize adverse effects on wildlife habitat.

1 (c) The Department of Fish and Game and the landowner shall
2 cooperate in identifying areas of important wildlife habitat on
3 private forest land and in developing methods for their protection.
4 Methods of protection for wildlife habitat may include, with the
5 agreement of the landowner, the purchase of fee title, purchase of
6 conservation easements, and land exchanges.

7 (d) This section does not alter or diminish the authority and
8 responsibility of the state over wildlife on private land.

9 * Sec. 27. AS 41.17.950 is repealed and reenacted to read:

10 Sec. 41.17.950. DEFINITIONS. In this chapter, unless the con-
11 text otherwise requires,

12 (1) "anadromous water body" means the portion of a fresh
13 water body or estuarine area that

14 (A) is cataloged under AS 16.05.870 as important for
15 anadromous fish; or

16 (B) is not cataloged under AS 16.05.870 as important
17 for anadromous fish but has been determined by the Department of
18 Fish and Game to contain or exhibit evidence of anadromous fish
19 in which event the anadromous portion of the stream or waterway
20 extends up to the first point of physical blockage;

21 (2) "board" means the Board of Forestry established in
22 AS 41.17.041;

23 (3) "broadcast chemicals" includes pesticides, herbicides,
24 fungicides, fertilizers, poisons, and any other substances

25 (A) used for silvicultural management or related
26 purposes;

27 (B) not native to the ecosystem in which they are
28 being applied; and

29 (C) having a foreseeable adverse impact on the welfare

1 of renewable resources, as determined by the commissioner of
2 environmental conservation;

3 (4) "division" means the division of forestry;

4 (5) "forest land" means land stocked or having been stocked
5 with forest trees of any size and not currently developed for nonfor-
6 est use, regardless of whether presently available or accessible for
7 commercial purposes, and includes any such land under state, municipi-
8 pal, or private ownership;

9 (6) "forest landowner" means a person who owns forest land,
10 but does not include the owner of mineral or subsurface rights only;

11 (7) "high value resident fish" means resident fish popu-
12 lations that are used for recreational, personal use, commercial, or
13 subsistence purposes;

14 (8) "multiple use" means

5 (A) the management of all the various resources of
6 forest land so that they are used in the combination that will
7 best meet the needs of the citizens of the state, making the most
8 judicious use of the land for some or all of these resources or
9 related values, benefits, and services over areas large enough to
0 provide sufficient latitude for periodic adjustments in use to
1 conform to changing needs and conditions;

2 (B) that some land will be used for less than all of
3 the resources; and

4 (C) harmonious and coordinated management of the
5 various resources, each with the other, without significant
6 impairment of the productivity of the land and water, with con-
7 sideration being given to the relative values of the various
8 resources, and not necessarily the combination of uses that will
9 give the greatest dollar return or the greatest unit output;

1 (9) "operations" means timber harvesting or activities
2 associated with timber harvesting or forest development unless
3 exempted under AS 41.17.900(a) - (c);

4 (10) "operator" means a person who is engaged in timber
5 harvesting or activities associated with timber harvesting or forest
6 development, or who contracts with others to conduct operations for
7 that person, except a person who is engaged in an operation as an
8 employee with wages or piecework as the sole compensation;

9 (11) "other public land" means state land managed by state
10 agencies other than the department, land owned by a municipality, and
11 land owned by the University of Alaska;

12 (12) "person" has the meaning given in AS 01.10.060 and also
13 includes a joint venture;

14 (13) "riparian area" means

15 (A) the areas specified in AS 41.17.116(a) on private
16 land in the coastal forest of spruce or hemlock;

17 (B) the areas specified in regulations adopted by the
18 commissioner under AS 41.17.116(b) on private land outside the
19 coastal forest of spruce or hemlock;

20 (C) the area 100 feet from the shore or bank or an
21 anadromous or high value resident fish water body on state land
22 managed by the department and on other public land;

23 (14) "significant impairment of the productivity of the land
24 and water" means an activity that may foreseeably result in prolonged
25 or substantial damage to renewable resources or prolonged or substan-
26 tial reduction of the continuing capability of the land or water to
27 produce renewable resources at their natural or historic levels;

28 (15) "silviculture" means the art of producing and tending a
29 forest, the application of the knowledge of silvics in the treatment

1 of a forest, and the theory and practice of controlling and managing
2 forest establishment, composition, and growth;

3 (16) "state forest" means an area designated by the legis-
4 lature and retained in state ownership in order to

5 (A) provide a base for sustained yield management of
6 renewable resources; and

7 (B) permit a variety of beneficial uses;

8 (17) "sustained yield" means the achievement and maintenance
9 in perpetuity of a high level annual or regular periodic output of the
10 various renewable resources of forest land and water without signifi-
11 cant impairment of the productivity of the land and water, but does
12 not require that timber be harvested in a non-declining yield basis
13 over a rotation period;

14 (18) "timber owner" means a person who owns timber on forest
15 land or who has the rights to timber, but does not own the land it-
16 self;

17 (19) "Type A water body" means an anadromous water body that
18 is

19 (A) a stream or river of any size having an average
20 gradient of eight percent or less, with banks held in place by
21 vegetation, channels that are not incised, and a substrate com-
22 posed of rubble, gravel, sand or silt;

23 (B) wetlands and lakes, including their outlets; and

24 (C) an estuarine area delimited by the presence of
25 salt-tolerant vegetation;

26 (20) "Type B water body" means an anadromous water body that
27 is a fish stream or river of any size having an average gradient of
28 eight percent or less, a channel that is incised and contained by the
29 geomorphology and not by vegetation, and a substrate that ranges from

1 rubble to bedrock; and

2 (21) "Type C water body" means a stream that is tributary to
3 anadromous waters and that is incised greater than 28 degrees, has an
4 average gradient of greater than eight percent, is narrower than 20
5 feet between ordinary high water marks, has a substrate of rubble and
6 bedrock, and is a mountain slope stream at the upper end of the water-
7 shed.

8 * Sec. 28. LEGISLATIVE REVIEW. The legislature acknowledges and recog-
9 nizes that this Act is adopted on an interim basis because it involves a
10 significant increase in agency responsibility, is based on many untested
11 assumptions, and depends for its efficacy on many factors beyond the con-
12 trol of the state. Therefore, it is the intent of the legislature that the
13 operation of this Act and regulations adopted under this Act be fully
14 reviewed and the Act amended as necessary after the second full field
15 season ends in 1992. This period is intended to allow for further research
16 and to gain experience implementing the Act and its regulations. It is the
17 intent of the legislature that a representative group be convened for the
18 review or that it be conducted by the Board of Forestry. It is the intent
19 of the legislature that the review occur with full public input and parti-
20 cipation. No later than January 1, 1993, the Board of Forestry, the De-
21 partment of Natural Resources, the Department of Environmental Conserva-
22 tion, and the Department of Fish and Game shall submit, along with the
23 reports required by AS 41.17.047(d), any proposed amendments to this chap-
24 ter. The legislature may hold hearings to consider these or other amend-
25 ments and may take whatever action is required to accomplish the intent and
26 purposes of this Act.

27 * Sec. 29. INITIAL TERMS OF MEMBERS OF BOARD OF FORESTRY. The initial
28 terms of the members of the Board of Forestry appointed under AS 41.17.041,
29 as enacted by sec. 3 of this Act, are for two members, one year; for three

1 members, two years; and for three members, three years.

2 * Sec. 30. INTERIM RIPARIAN PROTECTION FOR THE COASTAL FOREST. A
3 notification for timber harvest activities within the coastal forest of
4 spruce or hemlock filed under AS 41.17.090 before the effective date of
5 this section shall be reviewed by the commissioner of natural resources to
6 determine if the proposed operations provide protection that is substan-
7 tially equivalent to the fish habitat protection that is provided by
8 AS 41.17.116, as enacted by sec. 14 of this Act. If the commissioner
9 determines that protection that is substantially equivalent to that provid-
10 ed by AS 41.17.116 has been offered or if the forest landowner, timber
11 owner, or operator complies with an alternate protection plan proposed by
12 the commissioner, operations covered by the notification are not subject to
13 AS 41.17.116. If the commissioner determines that the notification does
14 not provide protection that is substantially equivalent to that provided by
15 AS 41.17.116, the operator must either resubmit the notification in confor-
16 mance with this standard or comply with AS 41.17.116. The failure by the
17 commissioner to make a determination on a notification within 30 days from
18 the effective date of this section constitutes a determination that the
19 notification provides protection that is substantially equivalent to the
20 fish habitat protection that is provided by AS 41.17.116.

21 * Sec. 31. INTERIM RIPARIAN PROTECTION OUTSIDE THE COASTAL FOREST.
22 Until regulations are adopted by the commissioner of natural resources
23 under AS 41.17.116(b), as enacted by sec. 14 of this Act, timber harvest
24 operations on forest land within 100 feet from the shore or bank of an
25 anadromous or high value resident fish water body must be sited and de-
26 signed primarily to protect fish habitat and water quality.

27 * Sec. 32. AS 41.17.118, as enacted by sec. 14 of this Act, does not
28 alter the terms of an existing contract or the outcome of litigation pend-
29 ing on the effective date of this Act. An amendment to or renewal of an

Original sponsor(s): Rules/Governor

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 317 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to forest resources and practices
7 and to the management of forest lands; and providing
8 for an effective date."

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

10 * Section 1. AS 38.05 is amended by adding new sections to read:

11 Sec. 38.05.112. FOREST LAND USE PLANS. (a) The department may
12 not sell or harvest timber, except for isolated personal use timber
13 harvest, until a site-specific forest land use plan has been adopted.
14 A forest land use plan is required whether or not a regional or area
15 land use plan under AS 38.04.065(a) or a forest management plan under
16 AS 41.17.230 has been adopted.

17 (b) The commissioner shall base a forest land use plan on the
18 best available data, including information provided by other agencies
19 describing the immediate and long-term effects of individual and
20 collective forest activities on the timber base and on other resources
21 and uses.

22 (c) In addition to the requirements of AS 38.04.065(b), a forest
23 land use plan shall consider

24 (1) commercial timber harvesting, including related activ-
25 ities;

26 (2) harvesting of forest products for personal use;

27 (3) fish and wildlife habitat, including

28 (A) identification and protection of important wild-
29 life habitat;

1 (B) retention of riparian, wetland, and ocean-shore-
2 line vegetation critical for fish and wildlife habitat; and

3 (C) classification of water bodies according to phys-
4 ical characteristics;

5 (4) uses of forest land for nontimber purposes, including

6 (A) recreation, tourism, and related activities;

7 (B) mining, mining claims, mineral leaseholds, and
8 material extraction;

9 (C) uses of fish and wildlife;

10 (D) agriculture, including ~~grazing~~; and

11 (E) other resources and uses appropriate to the area,
12 including compatible traditional uses;

13 (5) soil characteristics and productivity;

14 (6) water quality; and

15 (7) watershed management.

16 (d) A management plan prepared by the commissioner must consider
17 and permit the uses described in (c) of this section. If the commis-
18 sioner finds that a permitted use is incompatible with one or more
19 other uses in a portion of a state forest, the commissioner shall
20 affirmatively state in the management plan that finding of incom-
21 patibility for the specific area where the incompatibility is antic-
22 ipated to exist and the time period when the incompatibility is antic-
23 ipated to exist together with the reasons for each finding.

24 Sec. 38.05.113. FIVE-YEAR SALE SCHEDULE. (a) The department
25 shall annually prepare a five-year schedule of timber sales planned on
26 all lands managed by the department. The schedule must be of suffi-
27 cient specificity that it provides a basis for the department to
28 allocate its resources in considering and designing sales and in
29 conducting economic and environmental analyses. The schedule must

1 inform the public and the timber products industry of long-term plans
2 and provide a basis for public comment.

3 (b) Except as provided in (c) of this section, a proposed sale
4 may not be held unless it has been included in the two five-year
5 schedules preceding the sale. This requirement does not apply until
6 one year after the first five-year schedule is prepared under this
7 section.

8 (c) The department may adopt regulations exempting small and
9 emergency sales from the requirements of this section.

10 * Sec. 2. AS 41.17.010 is amended to read:

11 Sec. 41.17.010. DECLARATION OF INTENT. The legislature declares
12 that

13 (1) the forest resources of Alaska are among the most
14 valuable natural resources of the state, and furnish timber and wood
15 products, fish and wildlife, tourism, outdoor recreation, water, soil,
16 air, minerals, and general health and welfare;

17 (2) economic enterprises and other activities and pursuits
18 derived from forest resources warrant the continuing recognition and
19 support of the state;

20 (3) the state has a fundamental obligation to ensure that
21 management of forest resources guarantees perpetual supplies of renew-
22 able resources, provides nonrenewable resources in a manner consistent
23 with that obligation, and serves the needs of all Alaska for the many
24 products, benefits, and services obtained from them;

25 (4) government administration of forest resources should
26 combine professional management services, regulatory measures, and
27 economic incentives in a complementary fashion, and should draw upon
28 the expertise of professional foresters in conjunction with other
29 disciplines;

1 (5) under the leadership of the Department of Environmental
2 Conservation as lead agency, the state should exercise its full re-
3 sponsibility and authority for control of nonpoint source pollution
4 with respect to the Federal Water Pollution Control Act, as amended;

5 *sec 2* (6) subject to AS 41.17.098(c), the provisions of this
6 chapter, and regulations adopted under this chapter, with the approval
7 of the Department of Environmental Conservation the commissioner shall
8 establish the nonpoint source pollution requirements under state law
9 and sec. 319 of the Clean Water Act for activities subject to this
10 chapter;

11 (7) except for activities subject to AS 16.05.840 or
12 16.05.870 and regulations authorized by those sections, this chapter
13 and regulations adopted under this chapter establish the fish habitat
14 protection standards, policies, and review processes under state law
15 [SUBJECT TO 16 U.S.C. 1456(f) (SEC. 307(f) OF THE COASTAL ZONE MANAGE-
16 MENT ACT OF 1972, P.L. 92-583), THE PROVISIONS OF THIS CHAPTER SHALL
17 BE THE BASIS FOR FOREST MANAGEMENT STANDARDS, POLICIES, AND GUIDELINES
18 DEVELOPED UNDER THE ALASKA COASTAL MANAGEMENT ACT].

19 * Sec. 3. AS 41.17.041 is repealed and reenacted to read:

20 *sec 3* Sec. 41.17.041. BOARD OF FORESTRY. (a) The Board of Forestry
21 is established in the Department of Natural Resources, division of
22 forestry.

23 (b) The board is composed of nine members appointed by the
24 governor:

25 (1) a representative of a statewide commercial fishermen's
26 organization;

27 (2) a representative of a Native corporation established
28 under 43 U.S.C. 1601-1628 (Alaska Native Claims Settlement Act);

29 (3) a representative of an environmental organization;

1 (4) a representative of a forest industry trade associa-
2 tion;

3 (5) a professional fish or wildlife biologist who is not
4 employed in that capacity by a state, municipal, or federal government
5 agency, except for university employment;

6 (6) a professional forester who is not employed in that
7 capacity by a state, municipal, or federal government agency, except
8 for university employment;

9 (7) a representative of a statewide mining organization;

10 (8) a representative of a statewide tourism organization;

11 and

12 (9) the state forester, who serves ex officio and without a
13 vote.

14 (c) The state forester is the presiding officer of the board and
15 shall, in consultation with the board, establish procedures for sched-
16 uling and organizing board meetings. Seven voting members of the
17 board constitute a quorum. Each decision of the board requires the
18 affirmative vote of each voting member present less one.

19 (d) A board member who is unable to attend a meeting may desig-
20 nate an alternate who possesses the same qualifications as the board
21 member.

22 (e) The division shall serve as staff to the board. The depart-
23 ment, the Department of Fish and Game, and the Department of Environ-
24 mental Conservation shall provide technical staffing and information
25 as needed by the board.

26 * Sec. 4. AS 41.17.047 is repealed and reenacted to read:

27 Sec. 41.17.047. POWERS AND DUTIES OF BOARD. (a) The board
28 shall review and comment to the commissioner on regulations proposed
29 for adoption under this chapter.

1 (b) The board shall provide a forum for representatives of
2 affected interests to discuss and attempt to resolve issues relevant
3 to this chapter and to the forest resources of the state.

4 (c) The board, working with the department, the Department of
5 Environmental Conservation, the Department of Fish and Game, other
6 affected agencies and parties, and the forest-dependent industries,
7 shall conduct an annual survey of research needs related to forest
8 practices. The board shall review research proposals and shall make
9 recommendations to promote research projects that would address these
10 needs to the governor and the legislature.

11 (d) The board shall coordinate the implementation and effective-
12 ness of this chapter, the regulations, and best management practices
13 adopted under this chapter in meeting state water quality standards,
14 fish and wildlife habitat requirements, and other forestry objectives.
15 The board shall report annually to the legislature and the governor on
16 the effectiveness of this chapter and regulations adopted under it,
17 with its recommendations for changes and for needed research and
18 monitoring. The state forester, the Department of Fish and Game, and
19 the Department of Environmental Conservation shall each present an
20 annual report, independently, to the board on the effectiveness of
21 this chapter, the regulations, and best management practices adopted
22 under this chapter that protect the resources for which they have
23 statutory responsibility, and shall make recommendations for changes
24 to correct procedural or substantive problems. The board shall for-
25 ward the reports to the legislature as part of its annual report. The
26 board shall hold hearings at least once annually in southeast, south-
27 central, and interior Alaska for purposes of taking public testimony
28 on the subjects.

29 * Sec. 5. AS 41.17.055(d) is repealed and reenacted to read:

1 (d) The Department of Environmental Conservation is the lead
2 agency for water quality and control of nonpoint source pollution
3 under the Federal Water Pollution Control Act and the regulations
4 adopted by the commissioner under this chapter as part of the state
5 program for control of nonpoint source pollution under the Federal
6 Water Pollution Control Act, as amended, are subject to the approval
7 of the commissioner of environmental conservation.

8 * Sec. 6. AS 41.17.060(b) is amended to read:

9 (b) With respect to state, municipal, and private forest land,
10 the following standards apply:

11 (1) to the maximum extent possible, all applicable data and
12 information of applicable disciplines shall be updated and used in
13 making decisions relative to the management of forest resources;

14 (2) environmentally sensitive areas [AND BEST MANAGEMENT
15 PRACTICES] shall be recognized in the development of regulations and
16 best management practices that are designed to implement [IMPLEMENTA-
17 TION OF ANY] nonpoint source pollution control measures authorized
18 under this chapter;

19 (3) administration of forest land shall consider marketing
20 conditions and other economic constraints affecting the forest land-
21 owner, timber owner, or the operator;

22 (4) to the fullest extent practicable, harvested forest
23 land shall be reforested, naturally or artificially, so as to result
24 in a sustained yield of merchantable timber from that land; if artifi-
25 cial planting is required, silviculturally acceptable seedlings must
26 first be available for planting at an economically fair price in the
27 state; and

28 (5) significant adverse effects of soil erosion and mass
29 wasting on water quality and fish habitat shall be prevented or

1 minimized.

2 * Sec. 7. AS 41.17.060(c) is amended to read:

3 (c) With respect to state and municipal forest land only, the
4 following standards also apply:

5 (1) forest land shall be administered for the multiple use
6 of the renewable and nonrenewable resources and for the sustained
7 yield of the renewable resources of the land in the manner that
8 [WHICH] best provides for the present needs and preserves the future
9 options of the people of the state;

10 (2) a [ANY] system of allocating predominant uses or values
11 to particular units within a contiguous area of land shall reflect in
12 reasonable proportion the various resources and values present in that
13 area;

14 (3) to the extent its capacity permits, forest land shall
15 be administered so as to provide for the continuation of businesses,
16 activities, and lifestyles that [WHICH] are dependent upon or derived
17 from forest resources;

18 (4) timber harvesting is limited to areas where data and
19 information demonstrate that natural or artificial reforestation
20 techniques will result in the production of a sustained yield of
21 merchantable timber from that area;

22 (5) there may not be [ANY] significant impairment of the
23 productivity of the land and water with respect to renewable re-
24 sources; [AND]

25 (6) [WHERE ECONOMICALLY PRACTICABLE,] allowance shall [MAY]
26 be made for scenic quality in or adjacent to areas of substantial
27 importance to the tourism and recreation industry; and

28 (7) allowance shall be made for important fish and wildlife
29 habitat.

1 * Sec. 8. AS 41.17.070(b) is repealed and reenacted to read:

2 (b) To maintain a record of division decision making for public
3 *Sec 12* and agency review, the commissioner shall compile and index each de-
4 cision made under this chapter regarding directives, stop work orders,
5 waivers from requirements, decisions of hearing officers, and deci-
6 sions on appeals. The commissioner shall submit a summary of this
7 record annually to the board.

8 * Sec. 9. AS 41.17.080 is repealed and reenacted to read:

9 *Sec 14* Sec. 41.17.080. REGULATIONS. (a) The commissioner may adopt
10 regulations necessary to accomplish the purposes of this chapter under
11 AS 44.62 (Administrative Procedure Act) regarding forest practices
12 such as

13 (1) road construction and maintenance, including

14 (A) road location, construction, maintenance, and
15 post-operation management & removal;

16 (B) landing location and construction;

17 (C) drainage structures;

18 (D) material sources and spoil disposal sites;

19 (2) timber harvesting, including

20 (A) timber harvest unit planning and design;

21 (B) felling and bucking;

22 (C) cable yarding, shovel, tractor, and wheeled skid-
23 der systems;

24 (D) landing clean-up;

25 (E) slash disposal;

26 (3) log transfer, sort yards, and storage facilities,
27 including

28 (A) location, design, and construction;

29 (B) maintenance;

- 1 (C) closure;
- 2 (D) log storage, rafting, and identification;
- 3 (4) reforestation, including
- 4 (A) site preparation and rehabilitation;
- 5 (B) prescribed burning;
- 6 (C) exemptions from reforestation requirements;
- 7 (5) prevention and suppression of forest insects and dis-
- 8 eases;
- 9 (6) salvage logging;
- 10 (7) vegetative management; and
- 11 (8) fire and flood hazard management.

12 (b) The commissioner shall adopt regulations specifying the
13 information to be submitted under AS 41.17.090(c) in the detailed plan
14 of operations to enable the division to determine whether the activ-
15 ities comply with the requirements of this chapter.

16 (c) The commissioner may establish regions, districts, or other
17 subdivisions of forest land in the state in which different regu-
18 lations apply to reflect varying conditions in the state or to facil-
19 itate administration. In adopting regulations, the commissioner shall
20 make appropriate distinctions between public and private land.

21 (d) The commissioner shall adopt only those regulations neces-
22 sary to accomplish the purposes of this chapter and shall avoid regu-
23 lations that increase operating costs without yielding significant
24 benefits to public resources.

25 * Sec. 10. AS 41.17 is amended by adding new sections to read:

26 180 15 Sec. 41.17.082. CONTROL OF INFESTATIONS AND DISEASE. (a) All
27 forest clearing operations and silvicultural systems must be designed
28 to reduce the likelihood of increased insect infestation and disease
29 infections that threaten forest resources.

1 (b) A forest landowner may not conduct or approve timber clear-
2 ing activities that create conditions fostering outbreaks of infesta-
3 tion or infection that threaten forest resources on forest lands
4 belonging to another person. If the commissioner finds, after notice
5 and hearing, that there has been a violation of this subsection, the
6 commissioner may

7 (1) require the forest landowner, at that person's expense,
8 to remove promptly or cure the conditions fostering outbreaks of
9 infestation or infection; and

10 (2) require the forest landowner, at that person's expense,
11 to undertake environmentally sound, effective, and cost-efficient
12 actions to control the infestation or infection in the immediate
13 vicinity of the improper timber clearing activity.

14 (c) If a forest landowner does not comply with a final order of
15 the commissioner under (b)(1) or (b)(2) of this section, the commis-
16 sioner may enter onto the land and undertake the actions ordered and
17 the landowner is liable for the cost of the actions. The commissioner
18 shall deliver to the landowner an itemized statement of expenses
19 incurred.

20 (d) The commissioner may undertake surveys and appraisals to
21 obtain data on regional insect infestations and disease conditions.
22 Upon a determination that an area is infested with forest insects or
23 infected with diseases injurious to forest resources and that the
24 infestation or infection threatens the forest land or timber of adja-
25 cent owners, the commissioner may establish the boundaries of an
26 infestation or infection zone. The commissioner may enter into an
27 agreement with an owner or with a governmental agency to control or
28 suppress infestation or infection within the zone. Upon a determina-
29 tion by the commissioner that insect and disease control work within

1 the zone is no longer necessary or feasible, the commissioner shall
2 terminate the zone.

3 Sec. 41.17.083. CLEARING OF FOREST LAND FOR NON-TIMBER PURPOSES.
4 A state agency, municipality, or public utility shall determine wheth-
5 er the timber to be removed has significant salvage value before
6 approving or conducting clearing of forest land for purposes other
7 than timber harvest. If the timber has significant salvage value, the
8 agency or utility shall salvage the timber as part of the clearing
9 process.

10 * Sec. 11. AS 41.17 is amended by adding a new section to read:

11 Sec. 41.17.087. VARIATION FROM REQUIREMENTS. (a) A forest
12 landowner, timber owner, or operator may propose for a particular
13 activity a variation from a requirement imposed by this chapter or the
14 regulations adopted under this chapter. If the state forester deter-
15 mines that the harm intended to be avoided by the requirement is not
16 likely to occur because of site-specific circumstances relating to the
17 particular activity and is not likely to cause significant harm to
18 fish habitat or water quality, the state forester shall agree to the
19 proposed variation. If the state forester does not agree to the
20 proposed variation, a forest landowner, timber owner, or operator may
21 appeal to the commissioner. The appellants shall conform to the
22 requirement during the pendency of the appeal.

23 (b) The commissioner shall adopt regulations that specify the
24 standards under which a variation will be granted for harvesting
25 timber within the riparian area of appropriate water body types.

26 (c) A determination by the state forester under (a) of this
27 section and regulations by the commissioner under (b) of this section
28 shall give due deference under AS 41.17.098.

29 * Sec. 12. AS 41.17.090 is repealed and reenacted to read:

1 Sec. 41.17.090. NOTIFICATION OF PLANS TO HARVEST TIMBER. (a)

2 Operations on forest land shall be reviewed under this section for
3 consistency with the policies and provisions of this chapter and
4 regulations adopted under this chapter.

5 (b) A forest landowner, timber owner, or operator may provide to
6 the commissioner a voluntary plan of operations that describes the
7 long-term plans for timber harvesting. The purpose of a voluntary
8 plan is to give the division and the public an early opportunity to
9 review plans, to identify areas of concern, and to allow the agencies
10 and the public to provide local knowledge and early notice of poten-
11 tial problems to the forest landowner, timber owner, or operator.

12 (c) Before beginning operations on forest land, the operator
13 shall provide the state forester with a detailed plan of operations.
14 The detailed plan of operations must include

15 (1) a description of the proposed operations, identifying
16 the land involved and the action proposed in sufficient detail to
17 inform the public of the nature and location of the proposed opera-
18 tions; the description must include a map and must be in a form suit-
19 able for duplication;

20 (2) the name, address, and approving signature of the
21 forest landowner, timber owner, and operator; and

22 (3) other information required in the regulations adopted
23 under this chapter.

24 (d) Within five days after receipt of a detailed plan of opera-
25 tions under (c) of this section, the state forester shall distribute
26 the information received under (c) of this section to affected state
27 agencies and coastal districts, and shall distribute the information
28 received under (c)(1) of this section to each member of the public who
29 has asked to receive copies of notifications for the affected area.

1 (e) Within 30 days after receipt of a detailed plan of opera-
2 tions, the state forester shall review the plan to determine if the
3 operations are consistent with this chapter and regulations adopted
4 under this chapter. Operations may begin under the plan upon the
5 expiration of the 30-day period or upon notice from the state forester
6 that the review has been completed, whichever occurs first, unless the
7 division has issued a stop work order for a particular portion of the
8 plan or has notified the operator that a one-time, 10-day extension is
9 necessary for agency review under AS 41.17.098(f). The operator may
10 proceed with operations not covered by the stop work order, notice of
11 field inspection, or the agency review. During the review of a de-
12 tailed plan of operations, if a question arises concerning the proper
13 classification of water body type for purposes of the standards in
14 AS 41.17.116(a), the Department of Fish and Game may resolve the
15 question.

16 (f) If the state forester determines that a field inspection is
17 necessary to determine consistency of the detailed plan of operations
18 or a portion of the plan with applicable standards, the state forester
19 shall notify the operator. The notice of field inspection may not
20 cover more than the minimum area necessary to determine compliance
21 with this chapter and applicable regulations. The operator shall
22 inform the state forester when the site will be available for an
23 inspection. The state forester shall conduct the field inspection
24 within 21 days after the date that the site will be available unless
25 the operator otherwise agrees, and the operator may begin operations
26 at the conclusion of the 21-day period unless the state forester has
27 issued a stop work order under AS 41.17.138.

28 (g) During the review of a detailed plan of operations, modi-
29 fications to accommodate comments may be made without requiring the

1 operator to resubmit the plan. After the review of the detailed plan
2 of operations made under (e) and (f) of this section, an operator
3 shall notify the state forester of a proposed substantial change in
4 operations by following the procedures specified in (c) - (f) of this
5 section.

6 (h) Information and paperwork required of the operator under
7 this section is limited to that necessary to accomplish the purposes
8 of this section.

9 (i) An operator shall renew a detailed plan of operations annu-
10 ally.

11 * Sec. 13. AS 41.17 is amended by adding a new section to read:

12 *Sec 19* Sec. 41.17.098. INTERAGENCY COORDINATION. (a) In administering
13 this chapter, the commissioner shall coordinate with other agencies
14 and affected coastal districts that have jurisdiction over activities
15 subject to regulation under this chapter.

16 (b) In a review or implementation of a detailed plan of opera-
17 tions under AS 41.17.090 and in a decision on a proposed variation
18 from requirements under AS 41.17.087, the commissioner shall consider
19 the comments of each affected state agency and, where applicable,
20 coastal districts.

21 (c) The commissioner shall give due deference to the Department
22 of Environmental Conservation in decisions concerning water quality.
23 The commissioner of environmental conservation retains the authority
24 to adopt nonpoint source pollution regulations for activities subject
25 to this chapter to the extent that regulations are not adopted by the
26 commissioner of natural resources and approved by the commissioner of
27 environmental conservation under this chapter. The commissioner of
28 environmental conservation may withdraw approval of regulations adopt-
29 ed by the commissioner of natural resources under this chapter by

1 following the procedure for the adoption, amendment, and repeal of
2 regulations under AS 44.62.180 - 44.62.290.

3 (d) The commissioner shall recognize the expertise of the De-
4 partment of Fish and Game with regard to fish and wildlife habitat.
5 On private land, the commissioner shall give due deference to the
6 Department of Fish and Game regarding effects on fish habitat from
7 timber operations including variations to riparian standards, desig-
8 nation of alternative site-specific riparian protection plans, and
9 road location decision within riparian areas. On public land, the
10 commissioner shall give due deference to the Department of Fish and
11 Game regarding effects on fish and wildlife habitat from timber op-
12 erations including timber harvest in riparian areas, variations to
13 riparian standards, and road location decisions within riparian areas.
14 In making decisions under under AS 41.17.087, the commissioner shall
15 recognize fish habitat as the primary value in riparian areas.

16 (e) In this section, "due deference" means that deference that
17 is appropriate in the context of the agency's expertise and area of
18 responsibility and all the evidence available to support a factual
19 assertion. Where due deference is given, if the commissioner does not
20 agree with a commenting agency, the commissioner shall prepare a
21 written statement of the reasons for the disagreement.

22 (f) Any agency may require the review by a superior officer of a
23 decision.

24 * Sec. 14. AS 41.17 is amended by adding new sections to read:

25 ARTICLE 1A. RIPARIAN MANAGEMENT.

26 *Sec 19*
27 Sec. 41.17.115. INTENT FOR RIPARIAN AREAS. The commissioner
28 shall protect riparian areas from the significant adverse effects of
29 timber harvest activities on fish habitat and water quality. The
management intent for riparian areas is the adequate preservation of

1 fish habitat by maintaining a short- and long-term source of large
2 woody debris, stream bank stability, channel morphology, water temper-
3 atures, stream flows, water quality, adequate nutrient cycling, food
4 sources, clean spawning gravels, and sunlight. The commissioner shall
5 adopt regulations for the protection of riparian areas; the regu-
6 lations may include higher standards of protection for fish and other
7 public resources on land managed by the department than on other
8 public land or private land. The regulations may vary by region of
9 the state and must take into consideration reasonable classification
10 of water bodies and the economic feasibility of timber operations.

11 Sec. 41.17.116. RIPARIAN STANDARDS FOR PRIVATE LAND. (a)
12 Private forest land adjacent to the following types of waters and
13 located in a coastal forest of spruce or hemlock is subject to the
14 riparian protection standards established in this section:

15 (1) along a Type A water body, harvest of timber may not be
16 undertaken within 66 feet of the water body;

17 (2) along a Type B water body, timber harvest operations
18 within 100 feet of the stream or to the break of the slope, whichever
19 *amend* area is smaller, must be conducted in compliance with slope stability
20 standards established in regulations adopted under this chapter;

21 (3) along a Type C water body, timber harvest operations in
22 the area within 50 feet of the stream or to the break of the slope,
23 whichever area is smaller, must be conducted in compliance with slope
24 stability standards established in regulations adopted under this
25 chapter.

26 (b) The commissioner shall adopt regulations for private land
27 outside of the coastal forest of spruce or hemlock that designate the
28 riparian areas to be protected and the restrictions on timber harvest-
29 ing operations within the areas that are necessary for their

1 protection under the management goals established in AS 41.17.115.

2 Sec. 41.17.118. RIPARIAN STANDARDS FOR STATE LAND. (a) The
3 riparian standards for state land are as follows:

4 (1) on state forest land managed by the department that is
5 located north of the Alaska Range, harvest of timber may not be under-
6 taken within 100 feet immediately adjacent to an anadromous or high
7 value resident fish water body unless the division determines that
8 adequate protection remains for the fish habitat;

9 (2) on state forest land managed by the department that is
10 located south of the Alaska Range,

11 (A) harvest of timber may not be undertaken within 100
12 feet immediately adjacent to an anadromous or high value resident
13 fish water body;

14 (B) between 100 and 300 feet from the water body,
15 timber harvest may occur but must be consistent with the mainte-
16 nance of important fish and wildlife habitat.

17 (b) The commissioner may impose additional riparian protection
18 standards for timber harvest operations through the adoption of land
19 use plans under AS 38.04.065 and under forest management plans and
20 reports under AS 38.05.112 and AS 41.17.230.

21 Sec. 41.17.119. MINIMUM RIPARIAN STANDARDS FOR OTHER PUBLIC
22 LAND. On public land other than state land, harvest of timber may not
23 occur

24 (1) within 100 feet from the shore or bank of an anadromous
25 or high value resident fish water body that is located south of the
26 Alaska Range;

27 (2) within 100 feet immediately adjacent to an anadromous
28 or high value resident fish water body north of the Alaska Range
29 unless the commissioner determines that adequate protection remains

1 for the fish habitat.

2 * Sec. 15. AS 41.17 is amended by adding a new section to read:

3 *SPC 20* Sec. 41.17.125. ENFORCEMENT COORDINATION. Each state agency
4 with enforcement authority over an activity subject to regulation
5 under this chapter shall establish a uniform enforcement strategy that
6 avoids duplication and inconsistencies. Each participating agency
7 shall agree to and comply with the contents of the uniform strategy.
8 In developing and implementing the uniform strategy, each state agency
9 retains its authority to determine the appropriate remedies under the
10 statutes and regulations it administers.

11 * Sec. 16. AS 41.17.131 is repealed and reenacted to read:

12 *SPC 21* Sec. 41.17.131. PENALTIES FOR VIOLATIONS. (a) An operator,
13 forest landowner, or timber owner who violates or permits a violation
14 of this chapter, a regulation adopted under this chapter, a directive
15 issued under AS 41.17.136, or a stop work order issued under AS 41.-
16 17.138 is liable, after notice and hearing, for a civil fine in an
17 amount not to exceed \$10,000 to be assessed by the commissioner. In
18 determining the amount of civil fine, the commissioner shall consider

19 (1) the character and degree of injury to forest resources
20 and values;

21 (2) the degree of intent or negligence of the respondent in
22 causing or permitting the violation;

23 (3) the character and number of past violations caused or
24 permitted by the respondent; and

25 (4) if the information is available, the net economic
26 savings realized by the respondent through the violation.

27 (b) An operator, forest landowner, or timber owner that, with
28 criminal negligence, violates or permits a violation of this chapter,
29 a regulation adopted under this chapter, a directive issued under

1 AS 41.17.136, or a stop work order issued under AS 41.17.138 is guilty
2 of a class A misdemeanor. In this subsection, "criminal negligence"
3 has the meaning given in AS 11.81.900(a).

4 (c) Each day that a violation described in this section occurs
5 is a separate violation.

6 (d) If a respondent violates a directive issued under AS 41.-
7 17.136 or a stop work order issued under AS 41.17.138, the attorney
8 general, at the request of the commissioner, may seek an injunction
9 requiring the respondent to suspend all or part of the operations
10 until the respondent complies with the directive or stop work order,
11 and requiring the respondent to repair or correct damage resulting
12 from the violation.

13 (e) If a respondent violates a directive issued under AS 41.-
14 17.136 that requires the respondent to repair or correct damage, the
15 commissioner may proceed to repair or correct the damage using state
16 agency employees or contractors and the respondent is liable for the
17 cost of the repair. The commissioner shall deliver to the respondent
18 an itemized statement of expenses incurred.

19 * Sec. 17. AS 41.17 is amended by adding a new section to read:

20 Sec. 41.17.136. DIRECTIVES. (a) Upon a determination that a
21 planned or ongoing activity violates or would violate this chapter or
22 a regulation adopted under it, the state forester shall notify the
23 respondent in writing and direct the respondent to halt or avoid the
24 violation or to repair or correct any damage resulting from the viola-
25 tion. The written notification must include a summary of the basis
26 for the directive.

27 (b) The respondent may either comply with the directive or
28 request a hearing under AS 41.17.139 within 15 days of receipt of the
29 notification. If a hearing is requested, the respondent may continue

1 with the activity unless the state forester issues a stop work order
2 under AS 41.17.138. If the directive is affirmed by the hearing
3 officer, the respondent shall cease the activity unless a stay is
4 issued under AS 41.17.143(c) or by the superior court.

5 * Sec. 18. AS 41.17 is amended by adding a new section to read:

6 *Sec 23* Sec. 41.17.138. STOP WORK ORDERS. (a) Upon a determination
7 that a violation of this chapter or a regulation adopted under it is
8 occurring or is likely to occur and that significant harm to public
9 resources is likely to occur if work is not halted before a hearing
10 can be held, the state forester may issue a stop work order requiring
11 the respondent to stop the violation or otherwise halt the threatened
12 harm. A stop work order must be in writing and must state the facts
13 on which it is based.

14 (b) The state forester shall immediately refer the matter to a
15 hearing officer for determination of the validity of the stop work
16 order under AS 41.17.139. The hearing officer shall consider any
17 arguments and evidence presented by the respondent within five work-
18 days after receipt of the stop work order and shall then make an imme-
19 diate decision sustaining or reversing the stop work order. The stop
20 work order is of no further effect if it is not sustained by the
21 hearing officer within the five-workday period. A stop work order may
22 be sustained only upon the same grounds on which it was originally
23 issued.

24 * Sec. 19. AS 41.17.139 is amended to read:

25 *Sec 24* Sec. 41.17.139. HEARING PROCEDURES. (a) Unless otherwise
26 specified, proceedings under AS 41.17.131 - 41.17.139 are not subject
27 to the Administrative Procedure Act (AS 44.62). A hearing under
28 AS 41.17.136 or 41.17.138, [AS 41.17.131 - 41.17.139] shall be held
29 before the state forester, a regional forester, or another employee of

1 the division with similar qualifications acting as a hearing officer.
2 A hearing on an appeal under AS 41.17.037 and a hearing under AS 41.-
3 17.082(b) shall be held before the commissioner or the commissioner's
4 designee [, APPOINTED BY THE ATTORNEY GENERAL FROM AMONG MEMBERS OF
5 THE ALASKA BAR ASSOCIATION WHO HAVE BEEN NOMINATED BY THE BOARD OF
6 FORESTRY AND WHO ARE KNOWLEDGEABLE AND EXPERIENCED IN THE SUBJECT
7 MATTER]. A person who has assisted in the preparation of the di-
8 vision's [STATE'S] case [OR WHO IS A STATE EMPLOYEE] is ineligible.
9 Hearings are not limited by common law, statutory, or judicial rules
10 of evidence; however, the hearing officer may admit only that evidence
11 that [WHICH] appears to be reliable and trustworthy. All hearings
12 shall be open to the public. Written or oral testimony may be submit-
13 ted. A party to a hearing may make written or oral argument, secure
14 the issuance of a subpoena under AS 44.62.430, offer testimony or
15 other evidence, and cross-examine witnesses. The hearing officer
16 shall endeavor, in conducting any hearing, to ensure that the respon-
17 dent understands the proceedings and that the facts supporting the
18 position of each party have been adequately presented. [HEARINGS
19 SHALL BE HELD AS CLOSE AS PRACTICABLE TO THE LOCATION OF THE ALLEGED
20 VIOLATION. TESTIMONY GIVEN AT THE HEARING SHALL BE RECORDED.]

21 (b) If the respondent notifies the commissioner within five days
22 before the hearing provided for in (a) of this section, the following
23 rules and procedures apply to the hearing:

24 (1) the hearing shall be a nonadversary proceeding, with
25 the hearing officer fully and impartially representing the interests
26 of the state and the respondent;

27 (2) the hearing officer shall thoroughly investigate the
28 facts and circumstances relating to the alleged violation, including
29 taking testimony from appropriate persons, collecting and examining

1 documents and other evidence, and performing other actions consistent
2 with due process of law; and

3 (3) the hearing officer shall issue a decision in accor-
4 dance with the applicable procedures of (a) of this section.

5 * Sec. 20. AS 41.17.139 is amended by adding a new subsection to read:

6 (c) The hearing officer shall select the location of the hear-
7 ing, giving consideration to the convenience of the parties and wit-
8 nesses. The hearing officer may permit witnesses to testify through
9 teleconferencing.

10 * Sec. 21. AS 41.17.143 is repealed and reenacted to read:

11 Sec. 41.17.143. APPEALS AND JUDICIAL REVIEW. (a) A decision by
12 a hearing officer under AS 41.17.136 or 41.17.138 or by the commis-
13 sioner under AS 41.17.082(b), 41.17.087, or 41.17.131(a) constitutes
14 final agency action that may be appealed to the superior court within
15 30 days after it is issued. Judicial review shall be as provided in
16 AS 44.62.560 and 44.62.570.

17 (b) An operator, forest landowner, or timber owner may request
18 the commissioner to reconsider the decision of a hearing officer
19 within 30 days after it is issued. Reconsideration is not a precondi-
20 tion of judicial review under (a) of this section. If reconsideration
21 is requested, the final agency action for purposes of judicial review
22 is a decision by the commissioner to affirm, modify, or reverse the
23 hearing officer or to deny the request for reconsideration.

24 (c) The commissioner may stay or modify a directive or order
25 pending administrative or judicial review. A stay or modification may
26 not be appealed separately from an appeal of the substantive decision.

27 (d) A person, except the aggrieved forest landowner, timber
28 owner, or operator, may not maintain an administrative or judicial ap-
29 peal, or other action or proceeding of any kind, challenging a

1 decision or failure to act by the department with respect to the
2 compliance of a timber operation on private forest land with this
3 chapter or a regulation, standard, directive, or order issued under
4 this chapter. This subsection does not prohibit the maintenance of an
5 action

6 (1) for an alleged violation of a constitutional right; or

7 (2) against the department regarding a regulation, stan-
8 dard, or systematic course of conduct that does not involve a chal-
9 lenge to, or attempt to enjoin, stay, modify, or otherwise affect a
10 timber operation on private forest land subject to this chapter.

11 * Sec. 22. AS 41.17.210(a) is amended to read:

12 (a) The governor may propose to the legislature the establish-
13 ment of state forests consisting primarily of commercially valuable
14 forest land determined by the governor to be necessary for retention
15 in state ownership for management under the principles of multiple use
16 and sustained yield and consistent with AS 38.04.005. The proposal of
17 the governor shall include a report and recommendations of the commis-
18 sioner including

19 (1) a preliminary forest inventory;

20 (2) a summary of the testimony offered at public hearings
21 held on the management of the proposed state forest in communities
22 proximately located to a proposed state forest;

23 (3) the findings of the commissioner on anticipated incom-
24 patibilities of uses described in AS 38.05.112(c) [AS 41.17.230(e)]
25 under AS 38.05.112(d) [AS 41.17.230(f)];

26 (4) written comments from appropriate state agencies on the
27 compatibility of the uses described in AS 38.05.112(c) [AS 41.17.-
28 230(e)] within the proposed state forest;

29 (5) an estimate of the cost of a full implementation of an

1 operational level forest inventory and the management plan.

2 * Sec. 23. AS 41.17.400(c) is amended to read:

3 (c) In addition to the uses described in AS 38.05.112(c)
4 [AS 41.17.230(e)], the commissioner may establish transportation
5 corridors within the Tanana Valley State Forest.

6 * Sec. 24. AS 41.17.900(b) is repealed and reenacted to read:

7 (b) For federal land,

8 (1) the degree of resource protection may not be less than
9 that established by this chapter for state land except that AS 41.17.-
10 119 establishes the minimum riparian standard;

11 (2) a timber harvest activity shall satisfy the requirement
12 to be consistent to the maximum extent practicable with the Alaska
13 coastal zone management program if the federal land management plans,
14 guidelines, and standards applicable to a timber harvest activity
15 establish no less resource protection than the standards established
16 under this chapter for state land except that

17 (A) AS 41.17.119 establishes the minimum riparian
18 standards; and

19 (B) this paragraph does not apply to a timber harvest
20 activity that requires a state or federal authorization under a
21 provision of law other than this chapter.

22 * Sec. 25. AS 41.17.900 is amended by adding new subsections to read:

23 (e) Subject to 16 U.S.C. 1456(f) (Sec. 307(f) of the Coastal
24 Zone Management Act of 1972, P.L. 92-583) as to private land, this
25 chapter and the regulations adopted under this chapter establish the
26 forest management standards, policies, and review processes under
27 AS 46.40 (Alaska Coastal Management Act). This subsection does not
28 apply to timber harvest that requires a federal authorization under a
29 provision of law not within this chapter.

1 (f) This chapter does not diminish the rights, privileges, or
2 immunities of Alaska Natives or Alaska Native corporations with re-
3 spect to land conveyed under 43 U.S.C. 1601 - 1628 (Alaska Native
4 Claims Settlement Act), and does not alter or diminish the authority
5 of the Department of Fish and Game under AS 16, of the Department of
6 Environmental Conservation under AS 46, or of a state agency under
7 other law.

8 * Sec. 26. AS 41.17 is amended by adding a new section to read:

9 Sec. 41.17.910. WILDLIFE HABITAT ON PRIVATE LAND. (a) The
10 Department of Fish and Game and the commissioner shall work coopera-
11 tively with private forest landowners and timber owners to protect,
12 maintain, and enhance wildlife habitat to the maximum extent practica-
13 ble, consistent with the interests of the owners in the use of their
14 timber resources.

15 (b) The Department of Fish and Game shall provide educational
16 and technical assistance and extension services to owners of private
17 forest land or timber to assist in identifying important wildlife
18 habitat and to assist in designing voluntary management techniques
19 that minimize adverse effects on wildlife habitat.

20 (c) The Department of Fish and Game and the landowner shall
21 cooperate in identifying areas of important wildlife habitat on pri-
22 vate forest land and in developing methods for their protection.
23 Methods of protection for wildlife habitat may include, with the
24 agreement of the landowner, the purchase of fee title, purchase of
25 conservation easements, and land exchanges.

26 (d) This section does not alter or diminish the authority and
27 responsibility of the state over wildlife on private land.

28 * Sec. 27. AS 41.17.950 is repealed and reenacted to read:

29 Sec. 41.17.950. DEFINITIONS. In this chapter, unless the

1 context otherwise requires,

2 (1) "anadromous water body" means the portion of a fresh
3 water body or estuarine area that

4 (A) is cataloged under AS 16.05.870 as important for
5 anadromous fish; or

6 (B) is not cataloged under AS 16.05.870 as important
7 for anadromous fish but has been determined by the Department of
8 Fish and Game to contain or exhibit evidence of anadromous fish
9 in which event the anadromous portion of the stream or waterway
10 extends up to the first point of physical blockage;

11 (2) "board" means the Board of Forestry established in
12 AS 41.17.041;

13 (3) "broadcast chemicals" includes pesticides, herbicides,
14 fungicides, fertilizers, poisons, and any other substances

15 (A) used for silvicultural management or related
16 purposes;

17 (B) not native to the ecosystem in which they are
18 being applied; and

19 (C) having a foreseeable adverse impact on the welfare
20 of renewable resources, as determined by the commissioner of
21 environmental conservation;

22 (4) "division" means the division of forestry;

23 (5) "forest land" means land stocked or having been stocked
24 with forest trees of any size and not currently developed for nonfor-
25 est use, regardless of whether presently available or accessible for
26 commercial purposes, and includes any such land under state, municipi-
27 pal, or private ownership;

28 (6) "forest landowner" means a person who owns forest land,
29 but does not include the owner of mineral or subsurface rights only;

1 (7) "high value resident fish" means resident fish popu-
2 lations that are used for recreational, personal use, commercial, or
3 subsistence purposes;

4 (8) "multiple use" means

5 (A) the management of all the various resources of
6 forest land so that they are used in the combination that will
7 best meet the needs of the citizens of the state, making the most
8 judicious use of the land for some or all of these resources or
9 related values, benefits, and services over areas large enough to
10 provide sufficient latitude for periodic adjustments in use to
11 conform to changing needs and conditions;

12 (B) that some land will be used for less than all of
13 the resources; and

14 (C) harmonious and coordinated management of the
15 various resources, each with the other, without significant
16 impairment of the productivity of the land and water, with con-
17 sideration being given to the relative values of the various
18 resources, and not necessarily the combination of uses that will
19 give the greatest dollar return or the greatest unit output;

20 (9) "operations" means timber harvesting or activities
21 associated with timber harvesting or forest development unless exempt-
22 ed under AS 41.17.900(a) - (c);

23 (10) "operator" means a person who is engaged in timber
24 harvesting or activities associated with timber harvesting or forest
25 development, or who contracts with others to conduct operations for
26 that person, except a person who is engaged in an operation as an
27 employe with wages or piecework as the sole compensation;

28 (11) "other public land" means state land managed by state
29 agencies other than the department, land owned by a municipality, and

1 land owned by the University of Alaska;

2 (12) "person" has the meaning given in AS 01.10.060 and also
3 includes a joint venture;

4 (13) "riparian area" means

5 (A) the areas specified in AS 41.17.116(a) on private
6 land in the coastal forest of spruce or hemlock;

7 (B) the areas specified in regulations adopted by the
8 commissioner under AS 41.17.116(b) on private land outside the
9 coastal forest of spruce or hemlock;

10 (C) the area 100 feet from the shore or bank or an
11 anadromous or high value resident fish water body on state land
12 managed by the department and on other public land;

13 (14) "significant impairment of the productivity of the land
14 and water" means an activity that may foreseeably result in prolonged
15 or substantial damage to renewable resources or prolonged or substan-
16 tial reduction of the continuing capability of the land or water to
17 produce renewable resources at their natural or historic levels;

18 (15) "silviculture" means the art of producing and tending a
19 forest, the application of the knowledge of silvics in the treatment
20 of a forest, and the theory and practice of controlling and managing
21 forest establishment, composition, and growth;

22 (16) "state forest" means an area designated by the legis-
23 lature and retained in state ownership in order to

24 (A) provide a base for sustained yield management of
25 renewable resources; and

26 (B) permit a variety of beneficial uses;

27 (17) "sustained yield" means the achievement and maintenance
28 in perpetuity of a high level annual or regular periodic output of the
29 various renewable resources of forest land and water without

1 significant impairment of the productivity of the land and water, but
2 does not require that timber be harvested in a non-declining yield
3 basis over a rotation period;

4 (18) "timber owner" means a person who owns timber on forest
5 land or who has the rights to timber, but does not own the land it-
6 self;

7 (19) "Type A water body" means an anadromous water body that
8 is

9 (A) a stream or river of any size having an average
10 gradient of eight percent or less, with banks held in place by
11 vegetation, channels that are not incised, and a substrate com-
12 posed of rubble, gravel, sand or silt;

13 (B) wetlands and lakes, including their outlets; and

14 (C) an estuarine area delimited by the presence of
15 salt-tolerant vegetation;

16 (20) "Type B water body" means an anadromous water body that
17 is a fish stream or river of any size having an average gradient of
18 eight percent or less, a channel that is incised and contained by the
19 geomorphology and not by vegetation, and a substrate that ranges from
20 rubble to bedrock; and

21 (21) "Type C water body" means a stream that is tributary to
22 anadromous waters and that is incised greater than 28 degrees, has an
23 average gradient of greater than eight percent, is narrower than 20
24 feet between ordinary high water marks, has a substrate of rubble and
25 bedrock, and is a mountain slope stream at the upper end of the water-
26 shed.

27 * Sec. 28. LEGISLATIVE REVIEW. The legislature acknowledges and recog-
28 nizes that this Act is adopted on an interim basis because it involves a
29 significant increase in agency responsibility, is based on many untested

1 assumptions, and depends for its efficacy on many factors beyond the con-
2 trol of the state. Therefore, it is the intent of the legislature that the
3 operation of this Act and regulations adopted under this Act be fully
4 reviewed and the Act amended as necessary after the second full field
5 season ends in 1992. This period is intended to allow for further research
6 and to gain experience implementing the Act and its regulations. It is the
7 intent of the legislature that a representative group be convened for the
8 review or that it be conducted by the Board of Forestry. It is the intent
9 of the legislature that the review occur with full public input and parti-
10 cipation. No later than January 1, 1993, the Board of Forestry, the De-
11 partment of Natural Resources, the Department of Environmental Conserva-
12 tion, and the Department of Fish and Game shall submit, along with the
13 reports required by AS 41.17.047(d), any proposed amendments to this chap-
14 ter. The legislature may hold hearings to consider these or other amend-
15 ments and may take whatever action is required to accomplish the intent and
16 purposes of this Act.

17 *Sec 29* * Sec. 29. INITIAL TERMS OF MEMBERS OF BOARD OF FORESTRY. The initial
18 terms of the members of the Board of Forestry appointed under AS 41.17.041,
19 as enacted by sec. 3 of this Act, are for two members, one year; for three
20 members, two years; and for three members, three years.

21 * Sec. 30. INTERIM RIPARIAN PROTECTION FOR THE COASTAL FOREST. A
22 notification for timber harvest activities within the coastal forest of
23 spruce or hemlock filed under AS 41.17.090 before the effective date of
24 this section shall be reviewed by the commissioner of natural resources to
25 determine if the proposed operations provide protection that is substan-
26 tially equivalent to the fish habitat protection that is provided by
27 AS 41.17.116, as enacted by sec. 14 of this Act. If the commissioner
28 determines that protection that is substantially equivalent to that provid-
29 ed by AS 41.17.116 has been offered or if the forest landowner, timber

owner, or operator complies with an alternate protection plan proposed by the commissioner, operations covered by the notification are not subject to AS 41.17.116. If the commissioner determines that the notification does not provide protection that is substantially equivalent to that provided by AS 41.17.116, the operator shall comply with AS 41.17.116. The failure by the commissioner to make a determination on a notification within 30 days from the effective date of this section constitutes a determination that the notification provides protection that is substantially equivalent to the fish habitat protection that is provided by AS 41.17.116.

* Sec. 31. INTERIM RIPARIAN PROTECTION OUTSIDE THE COASTAL FOREST. Until regulations are adopted by the commissioner of natural resources under AS 41.17.116(b), as enacted by sec. 14 of this Act, timber harvest operations on forest land within 100 feet from the shore or bank of an anadromous or high value resident fish water body must be sited and designed primarily to protect fish habitat and water quality.

* Sec. 32. AS 41.17.118, as enacted by sec. 14 of this Act, does not alter the terms of an existing contract or the outcome of litigation pending on the effective date of this Act. An amendment to or renewal of an existing state timber contract must be consistent with AS 38.05 and AS 41.17.

* Sec. 33. AS 41.17.133, 41.17.135, 41.17.137, and 41.17.141 are repealed.

* Sec. 34. AS 14.17.230(e) and 14.17.230(f) are repealed.

* Sec. 35. AS 41.17.010(5), as amended in sec. 2 of this Act, takes effect immediately under AS 01.10.070(c).

* Sec. 36. Sections 1, 3 - 4, 6 - 8, 10 - 11, 13 - 14, 22 - 23, 27, 29 - 32, and 34 of this Act take effect immediately under AS 01.10.070(c).

* Sec. 37. Except as provided in secs. 34 and 35 of this Act, this Act takes effect October 1, 1990.

go0529hE
Bradley
3/15/90

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 331 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to forest resources and practices
7 and to the management of forest lands; and providing
8 for an effective date."

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

10 * Section 1. AS 38.05 is amended by adding new sections to read:

11 Sec. 38.05.112. FOREST LAND USE PLANS. (a) The department may
12 not sell or harvest timber, except for isolated personal use timber
13 harvest, until a site-specific forest land use plan has been adopted.
14 A forest land use plan is required whether or not a regional or area
15 land use plan under AS 38.04.065(a) or a forest management plan under
16 AS 41.17.230 has been adopted.

17 (b) The commissioner shall base a forest land use plan on the
18 best available data, including information provided by other agencies
19 describing the immediate and long-term effects of individual and
20 collective forest activities on the timber base and on other resources
21 and uses.

22 (c) In addition to the requirements of AS 38.04.065(b), a forest
23 land use plan shall consider

24 (1) commercial timber harvesting, including related activ-
25 ities;

26 (2) harvesting of forest products for personal use;

27 (3) fish and wildlife habitat, including

28 (A) identification and protection of important wild-
29 life habitat;

(B) retention of riparian, wetland, and ocean-shoreline vegetation critical for fish and wildlife habitat; and

(C) classification of waterbodies according to physical characteristics;

(4) uses of forest land for nontimber purposes, including

(A) recreation, tourism, and related activities;

(B) mining, mining claims, mineral leaseholds, and material extraction;

(C) uses of fish and wildlife;

(D) agriculture, including grazing; and

(E) other resources and uses appropriate to the area, including compatible traditional uses;

(5) soil characteristics and productivity;

(6) water quality; and

(7) watershed management.

(d) — 41.17.230(f)
Sec. 38.05.113. FIVE-YEAR SALE SCHEDULE. (a) The department shall annually prepare a five-year schedule of timber sales planned on all lands managed by the department. The schedule must be of sufficient specificity that it provides a basis for the department to allocate its resources in considering and designing sales and in conducting economic and environmental analyses. The schedule must inform the public and the timber products industry of long-term plans and provide a basis for public comment.

(b) Except as provided in (c) of this section, a proposed sale may not be held unless it has been included in the two five-year schedules preceding the sale. This requirement does not apply until one year after the first five-year schedule is prepared under this section.

(c) The department may adopt regulations exempting small and

1 emergency sales from the requirements of this section.

2 * Sec. 2. AS 41.17.010 is amended to read:

3 Sec. 41.17.010. DECLARATION OF INTENT. The legislature declares
4 that

5 (1) the forest resources of Alaska are among the most
6 valuable natural resources of the state, and furnish timber and wood
7 products, fish and wildlife, tourism, outdoor recreation, water, soil,
8 air, minerals, and general health and welfare;

9 (2) economic enterprises and other activities and pursuits
10 derived from forest resources warrant the continuing recognition and
11 support of the state;

12 (3) the state has a fundamental obligation to ensure that
13 management of forest resources guarantees perpetual supplies of renew-
14 able resources, provides nonrenewable resources in a manner consistent
15 with that obligation, and serves the needs of all Alaska for the many
16 products, benefits, and services obtained from them;

17 (4) government administration of forest resources should
18 combine professional management services, regulatory measures, and
19 economic incentives in a complementary fashion, and should draw upon
20 the expertise of professional foresters in conjunction with other
21 disciplines;

22 (5) under the leadership of the Department of Environmental
23 Conservation as lead agency, the state should exercise its full re-
24 sponsibility and authority for control of nonpoint source pollution
25 with respect to the Federal Water Pollution Control Act, as amended
26 and, subject to AS 41.17.098(c), the provisions of this chapter and
27 regulations adopted under this chapter, with the approval of the
28 Department of Environmental Conservation, the commissioner shall
29 establish the nonpoint source pollution requirements under state law

1 and sec. 319 of the Clean Water Act, for activities subject to this
2 chapter;

3 *become*
4 *900(c)* (6) subject to 16 U.S.C. 1456(f) (Sec. 307(f) of the Coast-
5 al Zone Management Act of 1972, P.L. 92-583), for private land, the
6 provisions of this chapter and regulations adopted under this chapter
7 establish the [SHALL BE THE BASIS FOR] forest management standards,
8 policies, and review processes for purposes of [GUIDELINES DEVELOPED
9 UNDER] the Alaska Coastal Management Act;

10 (7) except for activities subject to AS 16.05.840 or
11 16.05.870 and regulations authorized by those sections, this chapter
12 and regulations adopted under this chapter establish the fish habitat
13 protection standards, policies, and review processes under state law.

14 * Sec. 3. AS 41.17.041 is repealed and reenacted to read:

15 Sec. 41.17.041. BOARD OF FORESTRY. (a) The Board of Forestry
16 is established in the Department of Natural Resources, division of
17 forestry.

18 (b) The board is composed of ⁹seven members appointed by the
19 governor:

20 (1) a representative of a statewide commercial fishermen's
21 organization;

22 (2) a representative of a Native corporation established
23 under 43 U.S.C. 1601-1628 (Alaska Native Claims Settlement Act);

24 (3) a representative of an environmental organization;

25 (4) a representative of a forest industry trade associa-
26 tion;

27 (5) a professional fish or wildlife biologist who is not
28 employed in that capacity by a state, municipal, or federal government
29 agency, except for university employment;

(6) a professional forester who is not employed in that

1 capacity by a state, municipal, or federal government agency, except
2 for university employment;

3 (7) a representative of the mining industry;

4 (8) a representative of the tourism industry; and

5 (9) the state forester, who serves ex officio and without a
6 vote.

7 (c) The state forester is the presiding officer of the board and
8 shall, in consultation with the board, establish procedures for sched-
9 uling and organizing board meetings. Five voting members of the board
10 constitute a quorum. Each decision of the board requires the affirma-
11 tive vote of each voting member present less one.

12 (d) A board member who is unable to attend a meeting may desig-
13 nate an alternate who possesses the same qualifications as the board
14 member.

15 (e) The division shall serve as staff to the board. The depart-
16 ment, the Department of Fish and Game, and the Department of Environ-
17 mental Conservation shall provide technical staffing and information
18 as needed by the board.

19 * Sec. 4. AS 41.17.047 is repealed and reenacted to read:

20 Sec. 41.17.047. POWERS AND DUTIES OF BOARD. (a) The board
21 shall review and comment to the commissioner on regulations proposed
22 for adoption under this chapter.

23 (b) The board shall provide a forum for representatives of
24 affected interests to discuss and attempt to resolve issues relevant
25 to this chapter and to the forest resources of the state.

26 (c) The board, working with the department, the Department of
27 Environmental Conservation, the Department of Fish and Game, other
28 affected agencies and parties, and the forest-dependent industries,
29 shall conduct an annual survey of research needs related to forest

1 practices. The board shall review research proposals and shall make
2 recommendations to promote research projects that would address these
3 needs to the governor and the legislature.

4 (d) The board shall coordinate the implementation and effective-
5 ness of this chapter, the regulations, and best management practices
6 adopted under this chapter in meeting state water quality standards,
7 fish and wildlife habitat requirements, and other forestry objectives.
8 The board shall report annually to the legislature and the governor on
9 the effectiveness of this chapter and regulations adopted under it,
10 with its recommendations for changes and for needed research and
11 monitoring. The state forester, the Department of Fish and Game, and
12 the Department of Environmental Conservation shall each present an
13 annual report, independently, to the board on the effectiveness of
14 this chapter, the regulations, and best management practices adopted
15 under this chapter that protect the resources for which they have
16 statutory responsibility, and shall make recommendations for changes
17 to correct procedural or substantive problems. The board shall for-
18 ward the reports to the legislature as part of its annual report. The
19 board shall hold hearings at least once annually in southeast, south-
20 central, and interior Alaska for purposes of taking public testimony
21 on the subjects.

22 * Sec. 5. AS 41.17.055(d) is repealed and reenacted to read:

23 (d) The Department of Environmental Conservation is the lead
24 agency for water quality and control of nonpoint source pollution
25 under the Federal Water Pollution Control Act and the regulations
26 adopted by the commissioner under this chapter as part of the state
27 program for control of nonpoint source pollution under the Federal
28 Water Pollution Control Act, as amended, are subject to the approval
29 of the commissioner of environmental conservation.

1 * Sec. 6. AS 41.17.060(b) is amended to read:

2 (b) With respect to state, municipal, and private forest land,
3 the following standards apply:

4 (1) to the maximum extent possible, all applicable data and
5 information of applicable disciplines shall be updated and used in
6 making decisions relative to the management of forest resources;

7 (2) environmentally sensitive areas [AND BEST MANAGEMENT
8 PRACTICES] shall be recognized in the development of regulations and
9 best management practices that are designed to implement [IMPLEMENTA-
10 TION OF ANY] nonpoint source pollution control measures authorized
11 under this chapter;

12 (3) administration of forest land shall consider marketing
13 conditions and other economic constraints affecting the forest land-
14 owner, timber owner, or the operator;

15 (4) to the fullest extent practicable, harvested forest
16 land shall be reforested, naturally or artificially, so as to result
17 in a sustained yield of merchantable timber from that land; if artifi-
18 cial planting is required, silviculturally acceptable seedlings must
19 first be available for planting at an economically fair price in the
20 state; and

21 (5) significant adverse effects of soil erosion and mass
22 wasting on water quality and fish habitat shall be prevented or min-
23 imized.

24 * Sec. 7. AS 41.17.060(c) is amended to read:

25 (c) With respect to state and municipal forest land only, the
26 following standards also apply:

27 (1) forest land shall be administered for the multiple use
28 of the renewable and nonrenewable resources and for the sustained
29 yield of the renewable resources of the land in the manner that

1 [WHICH] best provides for the present needs and preserves the future
2 options of the people of the state;

3 (2) a [ANY] system of allocating predominant uses or values
4 to particular units within a contiguous area of land shall reflect in
5 reasonable proportion the various resources and values present in that
6 area;

7 (3) to the extent its capacity permits, forest land shall
8 be administered so as to provide for the continuation of businesses,
9 activities, and lifestyles that [WHICH] are dependent upon or derived
10 from forest resources;

11 (4) timber harvesting is limited to areas where data and
12 information demonstrate that natural or artificial reforestation
13 techniques will result in the production of a sustained yield of
14 merchantable timber from that area;

15 (5) there may not be [ANY] significant impairment of the
16 productivity of the land and water with respect to renewable re-
17 sources; [AND]

18 (6) [WHERE ECONOMICALLY PRACTICABLE,] allowance shall [MAY]
19 be made for scenic quality in or adjacent to areas of substantial
20 importance to the tourism and recreation industry; and

21 (7) allowance shall be made for important fish and wildlife
22 habitat.

23 * Sec. 8. AS 41.17.070(b) is repealed and reenacted to read:

24 (b) To maintain a record of division decision making for public
25 and agency review, the commissioner shall compile and index each de-
26 cision made under this chapter regarding directives, stop work orders,
27 waivers from requirements, decisions of hearing officers, and deci-
28 sions on appeals. The commissioner shall submit a summary of this
29 record annually to the board.

1 * Sec. 9. AS 41.17.080 is repealed and reenacted to read:

2 Sec. 41.17.080. REGULATIONS. (a) The commissioner may adopt
3 regulations necessary to accomplish the purposes of this chapter under
4 AS 44.62 (Administrative Procedure Act) regarding forest practices
5 such as

6 (1) road construction and maintenance, including

7 (A) road location, construction, maintenance, and
8 post-operation management or removal;

9 (B) landing location and construction;

10 (C) drainage structures;

11 (D) material sources and spoil disposal sites;

12 (2) timber harvesting, including

13 (A) timber harvest unit planning and design;

14 (B) felling and bucking;

15 (C) cable yarding, shovel, tractor, and wheeled skid-
16 der systems;

17 (D) landing clean-up;

18 (E) slash disposal;

19 (3) log transfer, sort yards, and storage facilities,
20 including

21 (A) location, design, and construction;

22 (B) maintenance;

23 (C) closure;

24 (D) log storage, rafting, and identification;

25 (4) reforestation, including

26 (A) site preparation and rehabilitation;

27 (B) prescribed burning;

28 (C) exemptions from reforestation requirements;

29 (5) prevention and suppression of forest insects and

1 diseases;

2 (6) salvage logging;

3 (7) vegetative management; and

4 (8) fire and flood hazard management.

5 (b) The commissioner shall adopt regulations specifying the
6 information to be submitted under AS 41.17.090(c) in the detailed plan
7 of operations to enable the division to determine whether the activ-
8 ities comply with the requirements of this chapter.

9 (c) The commissioner may establish regions, districts, or other
10 subdivisions of forest land in the state in which different regu-
11 lations apply to reflect varying conditions in the state or to facil-
12 itate administration. In adopting regulations, the commissioner shall
13 make appropriate distinctions between public and private land.

14 (d) The commissioner shall adopt only those regulations neces-
15 sary to accomplish the purposes of this chapter and shall avoid regu-
16 lations that increase operating costs without yielding significant
17 benefits to public resources.

18 * Sec. 10. AS 41.17 is amended by adding new sections to read:

19 Sec. 41.17.082. CONTROL OF INFESTATIONS AND DISEASE. (a) All
20 forest clearing operations and silvicultural systems must be designed
21 to reduce the likelihood of increased insect infestation and disease
22 infections that threaten forest resources.

23 (b) A forest landowner may not conduct or approve timber clear-
24 ing activities that create conditions fostering outbreaks of infesta-
25 tion or infection that threaten forest resources on forest lands
26 belonging to another person. If the commissioner finds, after notice
27 and hearing, that there has been a violation of this subsection, the
28 commissioner may

29 (1) require the forest landowner, at that person's expense,

1 to remove promptly or cure the conditions fostering outbreaks of
2 infestation or infection; and

3 (2) require the forest landowner, at that person's expense,
4 to undertake environmentally sound, effective, and cost-efficient
5 actions to control the infestation or infection in the immediate
6 vicinity of the improper timber clearing activity.

7 (c) If a forest landowner does not comply with a final order of
8 the commissioner under (b)(1) or (b)(2) of this section, the commis-
9 sioner may enter onto the land and undertake the actions ordered and
10 the landowner is liable for the cost of the actions. The commissioner
11 shall deliver to the landowner an itemized statement of expenses
12 incurred.

13 (d) The commissioner may undertake surveys and appraisals to
14 obtain data on regional insect infestations and disease conditions.
15 Upon a determination that an area is infested with forest insects or
16 infected with diseases injurious to forest resources and that the
17 infestation or infection threatens the forest land or timber of adja-
18 cent owners, the commissioner may establish the boundaries of an
19 infestation or infection zone. The commissioner may enter into an
20 agreement with an owner or with a governmental agency to control or
21 suppress infestation or infection within the zone. Upon a determina-
22 tion by the commissioner that insect and disease control work within
23 the zone is no longer necessary or feasible, the commissioner shall
24 terminate the zone.

25 Sec. 41.17.083. CLEARING OF FOREST LAND FOR NON-TIMBER PURPOSES.
26 A state agency, municipality, or public utility shall determine wheth-
27 er the timber to be removed has significant salvage value before
28 approving or conducting clearing of forest land for purposes other
29 than timber harvest. If the timber has significant salvage value, the

agency or utility shall salvage the timber as part of the clearing process.

* Sec. 11. AS 41.17 is amended by adding a new section to read:

Sec. 41.17.087. VARIATION FROM REQUIREMENTS. (a) A forest landowner, timber owner, or operator may propose for a particular activity a variation from a requirement imposed by this chapter or the regulations adopted under this chapter. If the state forester determines, consistently with AS 41.17.098, that the harm intended to be avoided by the requirement is not likely to occur because of site-specific circumstances relating to the particular activity and is not likely to cause significant harm to fish habitat or water quality, the state forester shall agree to the proposed variation. If the state forester does not agree to the proposed variation, a forest landowner, timber owner, or operator may appeal to the commissioner. The appellants shall conform to the requirement during the pendency of the appeal.

(b) The commissioner shall adopt regulations that ^{+ reg adopted by the comm under (b) specify the standards} are consistent with AS 41.17.098 and that specify the standards under which variations under (a) of this section will be granted for

(1) harvesting timber within the riparian area of ^{low gradient} a Type A water body;

(2) low gradient streams with a width of five feet or less;

and

(3) other appropriate water body types.

* Sec. 12. AS 41.17.090 is repealed and reenacted to read:

Sec. 41.17.090. NOTIFICATION OF PLANS TO HARVEST TIMBER. (a) Operations on forest land shall be reviewed under this section for consistency with the policies and provisions of this chapter and regulations adopted under this chapter.

1 (b) A forest landowner, timber owner, or operator may provide to
2 the commissioner a voluntary plan of operations that describes the
3 long-term plans for timber harvesting. The purpose of a voluntary
4 plan is to give the division and the public an early opportunity to
5 review plans, to identify areas of concern, and to allow the agencies
6 and the public to provide local knowledge and early notice of poten-
7 tial problems to the forest landowner, timber owner, or operator.

8 (c) Before beginning operations on forest land, the operator
9 shall provide the state forester with a detailed plan of operations.
10 The detailed plan of operations must include

11 (1) a description of the proposed operations, identifying
12 the land involved and the action proposed in sufficient detail to
13 inform the public of the nature and location of the proposed opera-
14 tions; the description must include a map and must be in a form it-
15 able for duplication;

16 (2) the name, address, and approving signature of the
17 forest landowner, timber owner, and operator; and

18 (3) other information required in the regulations adopted
19 under this chapter.

20 (d) Within five days after receipt of a detailed plan of opera-
21 tions under (c) of this section, the state forester shall distribute
22 the information received under (c) of this section to affected state
23 agencies and coastal districts, and shall distribute the information
24 received under (c)(1) of this section to each member of the public who
25 has asked to receive copies of notifications for the affected area.

26 (e) Within 30 days after receipt of a detailed plan of opera-
27 tions, the state forester shall review the plan to determine if the
28 operations are consistent with this chapter and regulations adopted
29 under this chapter. Operations may begin under the plan upon the

1 expiration of the 30-day period or upon notice from the state forester
2 that the review has been completed, whichever occurs first, unless the
3 division has issued a stop work order for a particular portion of the
4 plan or has notified the operator that a one-time, 10-day extension is
5 necessary for agency review under AS 41.17.098(f). The operator may
6 proceed with operations not covered by the stop work order, notice of
7 field inspection, or the agency review. During the review of a
8 detailed plan of operations, if a question arises concerning the
9 proper classification of water body type for purposes of the standards
10 in AS 41.17.116(a), the Department of Fish and Game may resolve the
11 question.

12 (f) If the state forester determines that a field inspection is
13 necessary to determine consistency of the detailed plan of operations
14 or a portion of the plan with applicable standards, the state forester
15 shall notify the operator. The notice of field inspection may not
16 cover more than the minimum area necessary to determine compliance
17 with this chapter and applicable regulations. The operator shall
18 inform the state forester when the site will be available for an
19 inspection. The state forester shall conduct the field inspection
20 within 21 days after the date that the site will be available unless
21 the operator otherwise agrees, and the operator may begin operations
22 at the conclusion of the 21-day period unless the state forester has
23 issued a stop work order under AS 41.17.138.

24 (g) During the review of a detailed plan of operations, modi-
25 fications to accommodate comments may be made without requiring the
26 operator to resubmit the plan. After the review of the detailed plan
27 of operations made under (e) and (f) of this section, an operator
28 shall notify the state forester of a proposed substantial change in
29 operations by following the procedures specified in (c) - (f) of this

1 section.

2 (h) Information and paperwork required of the operator under
3 this section is limited to that necessary to accomplish the purposes
4 of this section.

5 (i) An operator shall renew a detailed plan of operations annu-
6 ally.

7 * Sec. 13. AS 41.17 is amended by adding a new section to read:

8 Sec. 41.17.098. INTERAGENCY COORDINATION. (a) In administering
9 this chapter, the commissioner shall coordinate with other agencies
10 and affected coastal districts that have jurisdiction over activities
11 subject to regulation under this chapter.

12 (b) In a review or implementation of a detailed plan of opera-
13 tions under AS 41.17.090 and in a decision on a proposed variation
14 from requirements under AS 41.17.087, the commissioner shall consider
15 the comments of each affected state agency and, where applicable,
16 coastal districts.

17 (c) The commissioner shall give due deference to the Department
18 of Environmental Conservation in decisions concerning water quality.
19 The commissioner of environmental conservation retains the authority
20 to adopt nonpoint source pollution regulations for activities subject
21 to this chapter to the extent that regulations are not adopted by the
22 commissioner of natural resources and approved by the commissioner of
23 environmental conservation under this chapter. The commissioner of
24 environmental conservation may withdraw approval of regulations
25 adopted by the commissioner of natural resources under this chapter by
26 following the procedure for the adoption, amendment, and repeal of
27 regulations under AS 44.62.180 - 44.62.290.

28 (d) The commissioner shall recognize the expertise of the De-
29 partment of Fish and Game with regard to fish and wildlife habitat.

1 On private land, the commissioner shall give due deference to the
2 Department of Fish and Game regarding impacts to fish habitat from
3 timber operations including variations to riparian standards, desig-
4 nation of alternative site-specific riparian protection plans, and
5 road location decision within riparian areas. On public land, the
6 commissioner shall give due deference to the Department of Fish and
7 Game regarding impacts to fish and wildlife habitat from timber op-
8 erations including timber harvest in riparian areas, variations to
9 riparian standards, and road location decisions within riparian areas.
10 In making decisions under under AS 41.17.087, the commissioner shall
11 recognize fish habitat as the primary value in riparian areas.

12 (e) In this section, "due deference" means that deference that
13 is appropriate in the context of the agency's expertise and area of
14 responsibility and all the evidence available to support a factual
15 assertion. Where due deference is given, if the commissioner does not
16 agree with a commenting agency, the commissioner shall prepare a
17 written statement of the reasons for the disagreement.

18 (f) Any agency may require the review by a superior officer of a
19 decision.

20 * Sec. 14. AS 41.17 is amended by adding new sections to read:

21 ARTICLE 1A. RIPARIAN MANAGEMENT.

22 Sec. 41.17.115. INTENT FOR RIPARIAN AREAS. The commissioner
23 shall protect riparian areas from the significant adverse effects of
24 timber harvest activities on fish habitat and water quality. The
25 management intent for riparian areas is the adequate preservation of
26 fish habitat by maintaining a short- and long-term source of large
27 woody debris, stream bank stability, channel morphology, water temper-
28 atures, stream flows, water quality, adequate nutrient cycling, food
29 sources, clean spawning gravels, and sunlight. The commissioner shall

adopt regulations for the protection of riparian areas; the regulations may include higher standards of protection for fish and other public resources on land managed by the department than on other public land or private land. The regulations may vary by region of the state and must take into consideration reasonable classification of water bodies and the economic feasibility of timber operations.

Sec. 41.17.116. RIPARIAN STANDARDS FOR PRIVATE LAND. (a) Private forest land adjacent to the following types of waters and located in a coastal forest of spruce or hemlock is subject to the riparian protection standards established in this section:

(1) along a Type A water body, harvest of timber may not be undertaken within 66 feet of the water body;

(2) along a Type B water body, timber harvest operations within 100 feet of the stream or to the break of the slope, whichever area is smaller, must be conducted in compliance with slope stability standards established in regulations adopted under this chapter;

(3) along a Type C water body, timber harvest operations in the area within 50 feet of the stream or to the break of the slope, whichever area is smaller, must be conducted in compliance with slope stability standards established in regulations adopted under this chapter.

(b) The commissioner shall adopt regulations for private land outside of the coastal forest ~~of~~ ^{NORTH Range} spruce or hemlock that designate the riparian areas to be protected and the restrictions on timber harvesting operations within the areas that are necessary for their protection under the management goals established in AS 41.17.115. [Until regulations are adopted, the standards established in AS 41.17.119 apply. PL 19, p. 5, timber harvest 4-21-20 see 9/10/20] end of 11/20/20

other private land
Sec. 41.17.118. RIPARIAN STANDARDS FOR STATE LAND. (a) The

1 riparian standards for state land are as follows:

2 (1) on state forest land managed by the department that is
3 located north of the Alaska Range, harvest of timber may not be under-
4 taken within 100 feet immediately adjacent to an anadromous or high
5 value resident fish water body unless the division determines that
6 adequate protection remains for the fish habitat;

7 (2) on state forest land managed by the department that is
8 located south of the Alaska Range, harvest of timber may not be under-
9 taken within 100 feet immediately adjacent to an anadromous or high
10 value resident fish water body;

11 ~~(3)~~ between 100 and 300 feet from the water body, timber
12 harvest may occur but must be consistent with the maintenance of
13 important fish and wildlife habitat.

14 (b) The commissioner may impose additional riparian protection
15 standards for timber harvest operations through the adoption of land
16 use plans under AS 38.04.065 and under forest management plans and
17 reports under AS 38.05.112 and AS 41.17.230.

18 ~~(c)~~ move from def.
19 Sec. 41.17.119. MINIMUM RIPARIAN STANDARDS FOR OTHER PUBLIC
20 LAND. On other public land, harvest of timber may not occur

21 (1) within 100 feet from the shore or bank of an anadromous
22 or high value resident fish water body that is located south of the
23 Alaska Range;

24 (2) within 100 feet immediately adjacent to an anadromous
25 or high value resident fish water body north of the Alaska Range
26 unless the commissioner determines that adequate protection remains
27 for the fish habitat.

28 * Sec. 15. AS 41.17 is amended by adding a new section to read:

29 Sec. 41.17.125. ENFORCEMENT COORDINATION. Each state agency
with enforcement authority over an activity subject to regulation

1 under this chapter shall establish a uniform enforcement strategy that
2 avoids duplication and inconsistencies. Each participating agency
3 shall agree to and comply with the contents of the uniform strategy.
4 In developing and implementing the uniform strategy, each state agency
5 retains its authority to determine the appropriate remedies under the
6 statutes and regulations it administers.

7 * Sec. 16. AS 41.17.131 is repealed and reenacted to read:

8 Sec. 41.17.131. PENALTIES FOR VIOLATIONS. (a) An operator,
9 forest landowner, or timber owner who violates or permits a violation
10 of this chapter, a regulation adopted under this chapter, a directive
11 issued under AS 41.17.136, or a stop work order issued under AS 41.-
12 17.138 is liable, after notice and hearing, for a civil fine in an
13 amount not to exceed \$10,000 to be assessed by the commissioner. In
14 determining the amount of civil fine, the commissioner shall consider

15 (1) the character and degree of injury to forest resources
16 and values;

17 (2) the degree of intent or negligence of the respondent in
18 causing or permitting the violation;

19 (3) the character and number of past violations caused or
20 permitted by the respondent; and

21 (4) if the information is available, the net economic
22 savings realized by the respondent through the violation.

23 (b) An operator, forest landowner, or timber owner that, with
24 criminal negligence, violates or permits a violation of this chapter,
25 a regulation adopted under this chapter, a directive issued under
26 AS 41.17.136, or a stop work order issued under AS 41.17.138 is guilty
27 of a class A misdemeanor. In this subsection, "criminal negligence"
28 has the meaning given in AS 11.81.900(a).

29 (c) Each day that a violation described in this section occurs

1 is a separate violation.

2 (d) If a respondent violates a directive issued under AS 41.-
3 17.136 or a stop work order issued under AS 41.17.138, the attorney
4 general, at the request of the commissioner, may seek an injunction
5 requiring the respondent to suspend all or part of the operations
6 until the respondent complies with the directive or stop work order,
7 and requiring the respondent to repair or correct damage resulting
8 from the violation.

9 (e) If a respondent violates a directive issued under AS 41.-
10 17.136 that requires the respondent to repair or correct damage, the
11 commissioner may proceed to repair or correct the damage using state
12 agency employees or contractors and the respondent is liable for the
13 cost of the repair. The commissioner shall deliver to the respondent
14 an itemized statement of expenses incurred.

15 * Sec. 17. AS 41.17 is amended by adding a new section to read:

16 Sec. 41.17.136. DIRECTIVES. (a) Upon a determination that a
17 planned or ongoing activity violates or would violate this chapter or
18 a regulation adopted under it, the state forester shall notify the
19 respondent in writing and direct the respondent to halt or avoid the
20 violation or to repair or correct any damage resulting from the viola-
21 tion. The written notification must include a summary of the basis
22 for the directive.

23 (b) The respondent may either comply with the directive or
24 request a hearing under AS 41.17.139 within 15 days of receipt of the
25 notification. If a hearing is requested, the respondent may continue
26 with the activity unless the state forester issues a stop work order
27 under AS 41.17.138. If the directive is affirmed by the hearing
28 officer, the respondent shall cease the activity unless a stay is
29 issued under AS 41.17.143(c) or by the superior court.

1 * Sec. 18. AS 41.17 is amended by adding a new section to read:

2 Sec. 41.17.138. STOP WORK ORDERS. (a) Upon a determination
3 that a violation of this chapter or a regulation adopted under it is
4 occurring or is likely to occur and that significant harm to public
5 resources is likely to occur if work is not halted before a hearing
6 can be held, the state forester may issue a stop work order requiring
7 the respondent to stop the violation or otherwise halt the threatened
8 harm. A stop work order must be in writing and must state the facts
9 on which it is based.

10 (b) The state forester shall immediately refer the matter to a
11 hearing officer for determination of the validity of the stop work
12 order under AS 41.17.139. The hearing officer shall consider any
13 arguments and evidence presented by the respondent within five work-
14 days after receipt of the stop work order and shall then make an imme-
15 diate decision sustaining or reversing the stop work order. The stop
16 work order is of no further effect if it is not sustained by the
17 hearing officer within the five-workday period. A stop work order may
18 be sustained only upon the same grounds on which it was originally
19 issued.

20 * Sec. 19. AS 41.17.139 is amended to read:

21 Sec. 41.17.139. HEARING PROCEDURES. (a) Unless otherwise
22 specified, proceedings under AS 41.17.131 - 41.17.139 are not subject
23 to the Administrative Procedure Act (AS 44.62). A hearing under
24 AS 41.17.136 or 41.17.138 [AS 41.17.131 - 41.17.139] shall be held
25 before the state forester, a regional forester, or another employee of
26 the division with similar qualifications acting as a hearing officer.
27 A hearing on an appeal under AS 41.17.087 and a hearing under AS 41.-
28 17.082(b) shall be held before the commissioner or the commissioner's
29 designee [, APPOINTED BY THE ATTORNEY GENERAL FROM AMONG MEMBERS OF

1 THE ALASKA BAR ASSOCIATION WHO HAVE BEEN NOMINATED BY THE BOARD OF
2 FORESTRY AND WHO ARE KNOWLEDGEABLE AND EXPERIENCED IN THE SUBJECT
3 MATTER]. A person who has assisted in the preparation of the di-
4 vision's [STATE'S] case [OR WHO IS A STATE EMPLOYEE] is ineligible.
5 Hearings are not limited by common law, statutory, or judicial rules
6 of evidence; however, the hearing officer may admit only that evidence
7 that [WHICH] appears to be reliable and trustworthy. All hearings
8 shall be open to the public. Written or oral testimony may be submit-
9 ted. A party to a hearing may make written or oral argument, secure
10 the issuance of a subpoena under AS 44.62.430, offer testimony or
11 other evidence, and cross-examine witnesses. The hearing officer
12 shall endeavor, in conducting any hearing, to ensure that the respon-
13 dent understands the proceedings and that the facts supporting the
14 position of each party have been adequately presented. [HEARINGS
15 SHALL BE HELD AS CLOSE AS PRACTICABLE TO THE LOCATION OF THE ALLEGED
16 VIOLATION. TESTIMONY GIVEN AT THE HEARING SHALL BE RECORDED.]

17 (b) If the respondent notifies the commissioner within five days
18 before the hearing provided for in (a) of this section, the following
19 rules and procedures apply to the hearing:

20 (1) the hearing shall be a nonadversary proceeding, with
21 the hearing officer fully and impartially representing the interests
22 of the state and the respondent;

23 (2) the hearing officer shall thoroughly investigate the
24 facts and circumstances relating to the alleged violation, including
25 taking testimony from appropriate persons, collecting and examining
26 documents and other evidence, and performing other actions consistent
27 with due process of law; and

28 (3) the hearing officer shall issue a decision in accor-
29 dance with the applicable procedures of (a) of this section.

1 * Sec. 20. AS 41.17.139 is amended by adding a new subsection to read:

2 (c) The hearing officer shall select the location of the hear-
3 ing, giving consideration to the convenience of the parties and wit-
4 nesses. The hearing officer may permit witnesses to testify through
5 teleconferencing.

6 * Sec. 21. AS 41.17.143 is repealed and reenacted to read:

7 Sec. 41.17.143. APPEALS AND JUDICIAL REVIEW. (a) A decision by
8 a hearing officer under AS 41.17.136 or 41.17.138 or by the commis-
9 sioner under AS 41.17.082(b), 41.17.087, or 41.17.131(a) constitutes
10 final agency action that may be appealed to the superior court within
11 30 days after it is issued. Judicial review shall be as provided in
12 AS 44.62.560 and 44.62.570.

13 (b) An operator, forest landowner, or timber owner may request
14 the commissioner to reconsider the decision of a hearing officer
15 within 30 days after it is issued. Reconsideration is not a precondi-
16 tion of judicial review under (a) of this section. If reconsideration
17 is requested, the final agency action for purposes of judicial review
18 is a decision by the commissioner to affirm, modify, or reverse the
19 hearing officer or to deny the request for reconsideration.

20 (c) The commissioner may stay or modify a directive or order
21 pending administrative or judicial review. A stay or modification may
22 not be appealed separately from an appeal of the substantive decision.

23 (d) A person, except the aggrieved forest landowner, timber
24 owner, or operator, may not maintain an administrative or judicial ap-
25 peal, or other action or proceeding of any kind, challenging a deci-
26 sion or failure to act by the department with respect to the compli-
27 ance of a timber operation on private forest land with this chapter or
28 a regulation, standard, directive, or order issued under this chapter.
29 This subsection does not prohibit the maintenance of an action

- (1) for an alleged violation of a constitutional right; or
- (2) against the department regarding a regulation, standard, or systematic course of conduct that does not involve a challenge to, or attempt to enjoin, stay, modify, or otherwise affect a timber operation on private forest land subject to this chapter.

* Sec. 22. AS 41.17.230(f) is repealed and reenacted to read:

move to 82 (f) A management plan prepared by the commissioner must consider and permit the uses described in AS 38.05.112(c). If the commissioner finds that a permitted use is incompatible with one or more other uses in a portion of a state forest, the commissioner shall affirmatively state in the management plan that finding of incompatibility for the specific area where and the time period when the incompatibility is anticipated to exist together with the reasons for each finding.

* Sec. 23. AS 41.17.900(b) is repealed and reenacted to read:

(b) The degree of resource protection on federal land may not be less than that provided for by this chapter on state land. The specific provisions of this chapter and its implementing regulations are not applicable to federal land either directly or for purposes of compliance with the Coastal Zone Management Act.

* Sec. 24. AS 41.17.900 is amended by adding a new subsection to read:

(e) This chapter does not diminish the rights, privileges, or immunities of Alaska Natives or Alaska Native corporations with respect to land conveyed under 43 U.S.C. 1601 - 1628 (Alaska Native Claims Settlement Act), and does not alter or diminish the authority of the Department of Fish and Game under AS 16, of the Department of Environmental Conservation under AS 46, or of a state agency under other law.

* Sec. 25. AS 41.17 is amended by adding a new section to read:

Sec. 41.17.910. WILDLIFE HABITAT ON PRIVATE LAND. (a) The

1 Department of Fish and Game and the commissioner shall work coopera-
2 tively with private forest landowners and timber owners to protect,
3 maintain, and enhance wildlife habitat to the maximum extent practica-
4 ble, consistent with the interests of the owners in the use of their
5 timber resources.

6 (b) The Department of Fish and Game shall provide educational
7 and technical assistance and extension services to owners of private
8 forest land or timber to assist in identifying important wildlife
9 habitat and to assist in designing voluntary management techniques
10 that minimize adverse effects on wildlife habitat.

11 (c) The Department of Fish and Game and the landowner shall
12 cooperate in identifying areas of important wildlife habitat on pri-
13 vate forest land and in developing methods for their protection.
14 Methods of protection for wildlife habitat may include, with the
15 agreement of the landowner, the purchase of fee title, purchase of
16 conservation easements, and land exchanges.

17 (d) This section does not alter or diminish the authority and
18 responsibility of the state over wildlife on private land.

19 * Sec. 26. AS 41.17.950 is repealed and reenacted to read:

20 Sec. 41.17.950. DEFINITIONS. In this chapter, unless the con-
21 text otherwise requires,

22 (1) "anadromous water body" means the portion of a fresh
23 water body or estuarine area ^{that} up to the first point of physical block-
24 age that

25 (A) is cataloged under AS 16.05.870 as important for
26 anadromous fish;

27 (B) is not cataloged under AS 16.05.870 as important
28 for anadromous fish but has been determined by the Department of
29 Fish and Game to contain or exhibit evidence of anadromous fish;

then add long fr def. -25-
in which event → + blockage

1 or

2 (C) in the absence of a cataloging under AS 16.05.870
3 or a determination under (B) of this paragraph, is state land and
4 is connected to an anadromous water body that is without documen-
5 tation by the Department of Fish and Game of a stream gradient of
6 more than eight percent;

7 (2) "board" means the Board of Forestry established in
8 AS 41.17.041;

9 (3) "broadcast chemicals" includes pesticides, herbicides,
10 fungicides, fertilizers, poisons, and any other substances

11 (A) used for silvicultural management or related
12 purposes;

13 (B) not native to the ecosystem in which they are
14 being applied; and

15 (C) having a foreseeable adverse impact on the welfare
16 of renewable resources, as determined by the commissioner of
17 environmental conservation;

18 (4) "division" means the division of forestry;

19 (5) "forest land" means land stocked or having been stocked
20 with forest trees of any size and not currently developed for nonfor-
21 est use, regardless of whether presently available or accessible for
22 commercial purposes, and includes any such land under state, municipi-
23 pal, or private ownership;

24 (6) "forest landowner" means a person who owns forest land,
25 but does not include the owner of mineral or subsurface rights only;

26 (7) "multiple use" means *high value resident fish def.*

27 (A) the management of all the various resources of
28 forest land so that they are used in the combination that will
29 best meet the needs of the citizens of the state, making the most

1 judicious use of the land for some or all of these resources or
2 related values, benefits, and services over areas large enough to
3 provide sufficient latitude for periodic adjustments in use to
4 conform to changing needs and conditions;

5 (B) that some land will be used for less than all of
6 the resources; and

7 (C) harmonious and coordinated management of the
8 various resources, each with the other, without significant
9 impairment of the productivity of the land and water, with con-
10 sideration being given to the relative values of the various
11 resources, and not necessarily the combination of uses that will
12 give the greatest dollar return or the greatest unit output;

13 (8) "operations" means timber harvesting or activities
14 associated with timber harvesting or forest development unless exempt-
15 ed under AS 41.17.900(a) - (c);

16 (9) "operator" means a person who is engaged in timber
17 harvesting or activities associated with timber harvesting or forest
18 development, or who contracts with others to conduct operations for
19 that person, except a person who is engaged in an operation as an
20 employee with wages or piecework as the sole compensation;

21 (10) "other public land" means state land managed by state
22 agencies other than the department, land owned by a municipality, and
23 land owned by the University of Alaska;

24 (11) "person" has the meaning given in AS 01.10.060 and also
25 includes a joint venture;

26 (12) "riparian area" means

27 (A) the areas specified in AS 41.17.116(a) on private
28 land in the coastal forest of spruce or hemlock;

29 (B) the areas specified in regulations adopted by the

1 commissioner under AS 41.17.116(b) on private land outside the
2 coastal forest of spruce or hemlock;

3 (C) the area 100 feet from the shore or bank or an
4 anadromous or high value resident fish water body on state land
5 managed by the department and on other public land;

6 (13) "significant impairment of the productivity of the land
7 and water" means an activity that may foreseeably result in prolonged
8 or substantial damage to renewable resources or prolonged or substan-
9 tial reduction of the continuing capability of the land or water to
10 produce renewable resources at their natural or historic levels;

11 (14) "silviculture" means the art of producing and tending a
12 forest, the application of the knowledge of silvics in the treatment
13 of a forest, and the theory and practice of controlling and managing
14 forest establishment, composition, and growth;

15 (15) "state forest" means an area designated by the legis-
16 lature and retained in state ownership in order to

17 (A) provide a base for sustained yield management of
18 renewable resources; and

19 (B) permit a variety of beneficial uses;

20 (16) "sustained yield" means the achievement and maintenance
21 in perpetuity of a high level annual or regular periodic output of the
22 various renewable resources of forest land and water without signifi-
23 cant impairment of the productivity of the land and water, but does
24 not require that timber be harvested in a non-declining yield basis
25 over a rotation period;

26 (17) "timber owner" means a person who owns timber on forest
27 land or who has the rights to timber, but does not own the land it-
28 self;

29 (18) "Type A water body" means an anadromous water body

1 that is

2 (A) a stream or river of any size having an average
3 gradient of eight percent or less, with banks held in place by
4 vegetation, channels that are not incised, and a substrate com-
5 posed of rubble, gravel, sand or silt;

6 (B) wetlands and lakes, including their outlets; and

7 (C) an estuarine area delimited by the presence of
8 salt-tolerant vegetation;

9 (19) "Type B water body" means an anadromous water body that
10 is a fish stream or river of any size having an average gradient of
11 eight percent or less, a channel that is incised and contained by the
12 geomorphology and not by vegetation, and a substrate that ranges from
13 rubble to bedrock; and

14 (20) "Type C water body" means a stream that is tributary to
15 anadromous waters and that is incised greater than 28 degrees, has an
16 average gradient of greater than eight percent, is narrower than 20
17 feet between ordinary high water marks, has a substrate of rubble and
18 bedrock, and is a mountain slope stream at the upper end of the water-
19 shed.

20 * Sec. 27. LEGISLATIVE REVIEW. The legislature acknowledges and recog-
21 nizes that this Act is adopted on an interim basis because it involves a
22 significant increase in agency responsibility, is based on many untested
23 assumptions, and depends for its efficacy on many factors beyond the con-
24 trol of the state. Therefore, it is the intent of the legislature that the
25 operation of this Act and regulations adopted under this Act be fully
26 reviewed and the Act amended as necessary after the second full field
27 season ends in 199²~~1~~. This period is intended to allow for further research
28 and to gain experience implementing the Act and its regulations. It is the
29 intent of the legislature that a representative group be convened for the

review or that it be conducted by the Board of Forestry. It is the intent of the legislature that the review occur with full public input and participation. No later than January 1, 199³~~2~~, the Board of Forestry, the Department of Natural Resources, the Department of Environmental Conservation, and the Department of Fish and Game shall submit, along with the reports required by AS 41.17.047(d), any proposed amendments to this chapter. The legislature may hold hearings to consider these or other amendments and may take whatever action is required to accomplish the intent and purposes of this Act.

* Sec. 28. INITIAL TERMS OF MEMBERS OF BOARD OF FORESTRY. The initial terms of the members of the Board of Forestry appointed under AS 41.17.041, as enacted by sec. 3 of this Act, are for two members, one year; for three members, two years; and for three members, three years.

* Sec. 29. INTERIM RIPARIAN PROTECTION. *For Coastal Spruce forest section* A notification filed under AS 41.17.090 before the effective date of this Act shall be reviewed by the commissioner of natural resources to determine if the proposed operations provide protection that is substantially equivalent to the fish habitat protection that is provided by AS 41.17.116, as enacted by sec. 14 of this Act. If the commissioner determines that protection that is substantially equivalent to that provided by AS 41.17.116 has been offered or if the forest landowner, timber owner, or operator complies with an alternate protection plan proposed by the commissioner, operations covered by the notification are not subject to AS 41.17.116. If the commissioner determines that the notification does not provide protection that is substantially equivalent to that provided by AS 41.17.116, the operator shall comply with AS 41.17.116. The failure by the commissioner to make a determination on a notification within 30 days from the effective date of this Act constitutes a determination that the notification *provides substantially equivalent protection* ~~complies with AS 41.17.116.~~

* Sec. 30. AS 41.17.118, as enacted by sec. 14 of this Act, does not

Alaska State Legislature

Senate Resources Committee

Senator Bettye Fahrenkamp, Chairman
Senator Jay Kerttula, Vice Chairman
Senator Dick Eliason
Senator Steve Frank
Senator Rick Halford
Senator Arliss Sturgulewski
Senator Fred Zharoff



P.O. Box V
Juneau, Alaska 99811
(907) 465-4907

To: Senate Resources Committee
From: Staff, Senate Resources Committee
Re: CS SB 317 (Resources) draft 3/21/90 go0529sE

CS SB 317 (Res) SB 317

Sec. 1	was Sec 1 and Sec 26 1 (d)
Sec. 2	was Sec 2 and Sec 4
Sec 3	was Sec 5
Sec 4	was Sec 7
Sec 5	was Sec 8
Sec 6	was Sec 9 and 10
Sec 7	was Sec 11 and 12
Sec 8	was Sec 13
Sec 9	was Sec 14
Sec 10	was Sec 15
Sec 11	was Sec 16
Sec 12	was Sec 17
Sec 13	was Sec 18
Sec 14	was Sec 19
Sec 15	was Sec 20
Sec 16	was Sec 21
Sec 17	was Sec 22
Sec 18	was Sec 23
Sec 19	was Sec 24
Sec 20	was Sec 24 (c)
Sec 21	was Sec 25
Sec 22	is new

Sec 23	is new
Sec 24	was Sec 27
CS SB 317 (Res)	SB 317
Sec 25 (e)	was Sec 3
(f)	was Sec 28
Sec 26	was Sec 29
Sec 27	was Sec 30
Sec 28	was Sec 31
Sec 29	was Sec 6
Sec 30	is new
Sec 31	was Sec 19 41.17.116 (b) (in part)
Sec 32	was Sec 19 41.17.118 (3)
Sec 33	was Sec 32
Sec 34 - 37	are new

Alaska State Legislature

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Senator Fred Zharoff



P.O. Box V
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To: Senate Resources Committee

From: Nancy Petersen
Staff, Senate Resources Committee

Date: March 21, 1990 900529SE

Re: SB 317, Forest Practices Act Sectional Analysis

Sec. 1. 38.05.112, Forest Land Use Plans, 5 Year Schedule
This section requires additional planning prior to state timber sales. The division of forestry must prepare a site-specific plan before all state timber sales that fully integrates appropriate resource protection measures into the sale design. This site-specific design would also improve public review of individual timber sales.

This section requires the department to annually prepare a five-year timber schedule of the proposed state timber sales. Except for small and emergency sales such as salvage, a proposed sale would be required to be on the five-year schedules for two years preceding the sale.

Sec. 2. 41.17.010, Declaration of Intent

This section coordinates overlapping agency jurisdiction regulating timber harvest activities. Regulations of the amended forest practices act will serve as timber harvest standards for non-point source pollution, with DEC as lead agency. Regulations of the amended forest practices act provide the fish and habitat protection standards except for those activities subject to AS 16.06.840 and 16.05.870.

Sec. 3 41.17.041, Board of Forestry

This section restructures and reduces the current board from a 14 member to a 9 member board. Drops U.S. Forest Service member, Society of American Foresters member, and adds a professional forester not employed by government, except the university. Drops the Alaska Logger Assn. member. The new board would consist of:

- 1) a representative of a statewide commercial fishermen's organization;
- 2) a representative of a Native corporation established under ANCSA;
- 3) a member of an environmental organization;
- 4) a representative of a forest industry trade association;
- 5) a professional fish or wildlife biologist not employed in that capacity, by government, except the university;
- 6) a professional forester not employed in that capacity by government, except the university;

- 7) a representative of a statewide mining organization;
- 8) a member of a statewide recreational organization; and
- 9) the state forester, who serves ex officio and without a vote.

Sec. 4 41.17.047, Duties of the Board

This section expands the existing duties to include providing a forum for resolving forestry issues; coordinating an annual survey of research needs; monitoring the implementation, taking public testimony statewide, reviewing and making recommendations for changes to the forest practices act. Current duties include commenting on regulations. It is intended to be a consensus decision making body.

Sec. 5 41.17.055 (d)

Establishes DEC as lead agency for water quality and control of nonpoint source pollution and the regulations adopted become the state program for control of nonpoint source pollution, subject to approval of the DEC commissioner.

Sec. 6 41.17.060 (b), State, municipal, and private forest land standards. Subsection (2) is a technical change to clarify existing law regarding environmentally sensitive areas in non-point pollution control measures. Subsection (5) Adds to the list of standards established for forest practices to include: significant adverse effects of soil erosion and mass wasting on water quality and fish habitat.

Sec. 7 41.17.060 (c) Additional standards for state and municipal forest land: Under (6) Changes the standard for scenic quality by requiring that allowance shall be made for scenic quality in or adjacent to areas of substantial importance to the tourism and recreation industry, and under (7) Adds new language that an allowance shall be made for important fish and wildlife habitat.

Sec. 8 41.17.070 (b) Changes the reporting requirement to the legislature from 2 years to annually. Requires the department to record decisions made under the act for use by the public and state agencies in assessing the effectiveness of implementation of the act.

Section 9 41.17.080

Expands the list of regulations the commissioner may adopt regarding forest practices to include all phases of timber harvest and to make appropriate distinctions between public and private land; and directs the commissioner to only adopt those regulations that yield significant benefits to public resources.

Section 10 41.17.082, Control of Infestations and Disease.

Adds a new section to require the commissioner to take action to control forest infestation and disease outbreaks that threaten forest resources. It establishes the procedures for remedy of creating such conditions to include requirements for removing the conditions at the owner's expense. It establishes authority, under non-compliance, for the commissioner to enter onto the land and

take necessary action. And authority to undertake surveys to obtain data on regional insect infestation.

Section 11 41.17.087, Variation from requirements.

Adds a new section that allows a landowner or operator variation from requirements or regulations under this chapter on a site-specific basis. The commissioner shall adopt regulations that specify the standards under which a variation will be granted for harvesting timber within the riparian area.

Sec. 12 41.17.090 Notification of Plans to Harvest Timber.

This section provides an improved process for efficient and detailed review of timber harvest plans which allows the timber industry to respond to changing timber markets but ensures that harvest operations conform to forest practices standards and regulations. It allows forest landowners and operators to file a voluntary plan of operations for long term plans for timber harvesting in order to give the public an opportunity to review plans and establishes that unless a stop work order is issued, the operations may begin under the plan after 30 days, or within the time period upon notice that the review is completed. It allows for a onetime 10 day extension for the agency review.

Subsection (f) establishes a field inspection when necessary to determine consistency of the detailed plan of operations upon notification to the operator and that the scope shall be limited to the minimum area necessary to determine compliance with this chapter. The operator shall inform the state forester when the site is available for inspection. If not conducted within 21 days, or unless otherwise agreed upon by the operator and state forester, operations may begin. Subsection (g) allows for modifications to accommodate comments without requiring the operator to resubmit the plan.

Sec. 13 41.17.098, Inter-agency Coordination.

Since there is an overlapping agency expertise for issues concerning timber harvest, this section provides coordination mechanisms for DNR, F&G, and DEC. It retains DNR as the lead agency but ensures that the appropriate agency expertise from F&G and DEC is included for issues that directly are within their expertise. Adds a new section which requires the DNR commissioner to coordinate with other agencies that have jurisdiction over activities subject to forest practices and affected coastal districts.

Sec. 14 41.17.115, Intent for Riparian Areas.

Private Lands:

Along Type A water body, 66 feet no cut zone

Along Type B water body, 100 foot conditional harvest zone, in compliance with slope stability standards

Along Type C water body, 50 foot conditional harvest in compliance with slope stability standards

State Land: North of the Alaska Range:

On anadromous or high value resident fish water body:

100 foot no cut zone, unless the division determines adequate protection for the fish habitat remains.

State Land: South of the Alaska Range:

On anadromous or high value resident fish water body:

100 foot no cut zone

100 - 300 foot conditional harvest zone, consistent with the maintenance of important fish and wildlife habitat.

Other Public Land: North of the Alaska Range::

On anadromous or high value resident fish water body:

100 foot no cut zone, unless the commissioner determines that adequate protection remains for fish habitat.

Other Public Land: South of the Alaska Range:

100 foot no cut zone subject to variance procedures.

Sec. 16:, 41.17.131, Penalties

This section streamlines existing procedures for levying civil penalties of up to \$10,000 per violation and adds additional authority to allow the state to issue citations for a class A misdemeanor for violations of this act.

Sec. 17, Directives

This section provides that DNR may issue enforceable, written orders directing that timber operations that violate or would violate this act or its regulations be changed. These directives may be written as part of the DNR office or field review of private timber operations as provided under Section 12 of the act. Directives may be appealed and operations may continue pending the outcome of the appeal.

Sec. 18, Stop Work Orders

This section provides that DNR may issue Stop Work orders if the forester determines a violation of the act or its regulation is occurring, or is likely to occur, and that significant harm to public resources will result if work is not halted. A stop-work order may be written as part of the DNR office or field review of private timber operations as provided under Section 12 of this act. Stop-work orders may be appealed, but the operation must stop pending the outcome of the appeal.

Section 19, and 20 Hearing Procedures. This section amends the hearing process by deleting the requirement that hearings be held before a lawyer appointed by the attorney general. Under the new process hearing officers may be an employee of the department. The new process should be less costly for the department and more efficient for both the landowner and the department.

Sec. 21, Appeals and Judicial Review

This section provides appeal procedures from DNR department decisions. It also provides that parties other than an aggrieved forest landowner, timber owner, or operator may not receive judicial review of individual timber harvest decisions. Third parties may, however, seek judicial review of regulations or of a systematic error in DNR decisions.

Sec. 22, 41.17.210 (a), and Sec. 23, 41.17.400 (c):

Technical amendments which cite title 38. Sections 41.17.230 (e) and (f) were moved under AS 38.05.112 (c). These sections were more appropriate to public lands.

Sec. 24 41.17.900 (b) Federal lands standard.

This section would require that the degree of resource protection may not be less than that established for state lands, and be consistent with the Alaska Coastal Management Program, except that minimum riparian standards are established under 41.17.119 (other public lands). Activities that require state or federal authorization under other laws are subject to the routine Alaska Coastal Management Program (ACMP) standards and procedures.

Sec. 25 41.17.900 (e) Private lands standard.

This section establishes that the amended forest practices act will serve as the Alaska Coastal Management Program for harvest activities on private lands.

Sec. 26

This section provides that state agencies and private landowners will establish cooperative, voluntary processes for protection of wildlife habitat on private land.

Sec. 27

This section provides definitions.

Sec. 28

This section provides for legislative review.

Sec. 29

This section provides for the initial terms of members of the Board of Forestry.

Sec. 30

This section provides for interim riparian protection for the coastal forest. Notification filed prior to the effective date of this section shall be reviewed by the commissioner to determine if the proposed operations provide protection that is substantially equivalent to the fish habitat protection that is provided under 41.17.116 (private lands). If not, the operator shall comply. If the operator has not received notification within 30 days, the plan is considered substantially equivalent to the fish habitat protection under 41.17.116.

Sec. 31

Provides interim protection for riparian protection outside the coastal forest. Timber harvest within 100 feet from the shore or bank of an anadromous or high value resident fish water body must be sited and designed to protect fish habitat and water quality.

Sec. 32

Provides that existing contracts or pending litigation are not altered by the act.

Sec. 33

Repeals 41.17.133, 41.17.135, 41.17.137, and 41.17.141.

Sec. 34. Repeals 41.17.230 (e) and 41.17.230 (f) as those sections were moved to Title 38.

Sec. 35. 41.17.010 (5) becomes effective immediately.

Sec. 36. Provides an immediate effective date for those sections affected.

Sec. 37. Provides for an immediate effective date for all other sections.

Alaska State Legislature

Senate Resources Committee

Senator Bettye Fahrenkamp, Chairman
Senator Jay Kertula, Vice Chairman
Senator Dick Eliason
Senator Steve Frank
Senator Rick Hallford
Senator Arliss Sturgulewski
Senator Fred Zharoff



P.O. Box V
Juneau, Alaska 99811
(907) 465-4907

To: Senate Resources Committee members
From: Nancy Petersen
Staff, Senate Resources Committee
Re: CS SB 317 (Res) 90 0529 s E
Date: March 21, 1990

Changes to the bill:

Throughout the bill meters are converted to feet.

Section 2

(6) technical change, replace [SET OUT] with establish.

Section 3

Increased the board membership to add two members:

a representative of a statewide mining organization

a representative of a statewide recreational organization

The quorum changed from five to seven.

Section 11

AS 41.17.087

(a) technical [CONSISTENT WITH AS 41.17.098]

(b) The commissioner shall adopt regulations that specify the standards under which a variation will be granted for harvesting timber within the riparian area of

(1) a low gradient Type A water body with a width of five feet or less; and

(2) other appropriate water body types.

(c) A determination by the state forester under (a) of this section and regulations by the commissioner under (b) of this section shall give due deference under AS 41.17.098.

Section 13 Interagency Coordination.

(f) If a disagreement referenced in (e) exists an officer of the agency may require reevaluation of the disagreement at a higher level within the agencies, or by the Governor, if necessary, before a decision is rendered by the commissioner.

Section 14

Riparian Standards for Private Land

Previously buffers were designed on a formula which requires a 50 foot no cut zone, allowed 50 % of the next 50 foot zone to be harvested with a maximum buffer volume not exceeding 5% of the commercial timber in the watershed. The formula was dropped and a 66 foot buffer was established as follows:

- 1) along a Type A water body, harvest of timber may not be undertaken within 66 feet of the water body

Riparian Standards for State Land:

(c) In the absence of a site-specific determination by the Department of Fish and Game, the commissioner shall presume for planning purposes that a stream is anadromous if it is connected to anadromous waters that are without Department of Fish and Game documentation of a physical blockage and has a stream gradient of 8 percent or less.

Riparian standards for other public land:

On public land other than state land, harvest of timber may not occur

(1) within 100 feet from the shore or bank of an anadromous or high value resident fish water body that is located south of the Alaska Range;

(2) within 100 feet immediately adjacent to an anadromous or high value resident fish water body north of the Alaska Range unless the commissioner determines that adequate protection remains for the fish habitat.

Section 16

Technical correction. New language reads:

(c) Each day that a violation described in this section occurs is a separate violation. The sentence is rewritten to be consistent with other penalty provisions in current law.

Section 21

Technical change:

(d) [NO] A person, except the aggrieved forest landowner, timber owner, or operator, may [NOT] not maintain an administrative or judicial appeal, or other action or proceeding of any kind, challenging a decision or failure to act by the department with respect to the compliance of a timber operation on private forest land with this chapter or a regulation, standard, directive or order issued under this chapter.

Section 22 Technical change.

This section is added to cross reference language moved to Title 38.

a) The governor may propose to the legislature the establishment of state forests consisting primarily of commercially valuable forest land determined by the governor to be necessary for retention in state ownership for management under the principles of multiple use and sustained yield and consistent with AS 38.04.005. The proposal of the governor shall include a report and recommendations of the commissioner including

- (1) a preliminary forest inventory;
- (2) a summary of the testimony offered at public hearings held on the management of the proposed state forest in communities proximately located to a proposed state forest;
- (3) the findings of the commissioner on anticipated incompatibilities of uses described in AS 38.05.112 (c) [AS 41.17.230 (e)] under AS 38.05.112 (d) [AS 41.17.230 (f)];
- (4) written comments from appropriate state agencies on the compatibility of the uses described in AS 38.05.112 (d) [AS 41.17.230(e)] within the proposed state forest;
- (5) an estimate of the cost of a full implementation of an operational level forest inventory and the management plan.

Section 23

This section is added to cross reference language moved to Title 38.

(c) In addition to the uses described in AS 38.05.112 (c) [AS 41.17.230(e)], the commissioner may establish transportation corridors within the Tanana Valley State Forest.

Section 24

(b) For federal land,

- (1) the degree of resource protection may not be less than that established by this chapter for state land except that AS 41.17.119 establishes the minimum riparian standard;
- (2) a timber harvest activity subject to this chapter shall satisfy the requirement to be consistent to the maximum extent practicable with the Alaska coastal zone management program if the federal land management plans, guidelines, and standards applicable to that timber harvest activity provide no less resource protection than the standards that are established in this chapter provide for state land except that
 - (A) AS 41.17.119 establishes the minimum riparian standards;
 - and
 - (B) this paragraph does not apply to a timber harvest activity that requires a state or federal authorization under a provision of law other than this chapter.

Section 25

(e) Subject to 16 U.S.C. 1456 (f) (Sec. 307 (f) of the Coastal Zone Management Act of 1972, P.L. 92-583) as to private land, this chapter and the regulations adopted under this chapter establish the forest management standards, policies, and review processes under AS 46.40 (Alaska Coastal Management Act). This subsection does not apply to timber harvest activity that requires a state or federal authorization under a provision of law other than this chapter.

Section 27 Definitions:

Definitions were added:

(1) "Anadromous" waterbody means that portion of any freshwater body, or estuarine area, that:

(A) is catalogued under AS 16.05.870 as important for anadromous fish; or

(b) is not catalogued under AS 16.05.870 as important for anadromous fish but has been determined by the Department of Fish and Game to contain or exhibit evidence of anadromous fish in which event the anadromous portion of the stream or waterway extends up to the first point of physical blockage;

(7) "high value resident fish" means resident fish populations that are used for recreational, personal use, commercial, or subsistence purposes;

Section 28 The dates were changed to add one year to reflect a two year review which was originally intended.

Section 30 Interim Riparian Protection for the Coastal Forest.

This is a new section to provide for interim riparian protection.

Section 35

Originally the bill had an effective date of January 1, 1990. Under the CS, under section 2, AS 41.17.010 (5) has an immediate effective date.

Section 36

Sections 1, 3 -4, 6 -8, 10 -11, 13 -14, 22 -23, 27, 29 -32, and 34 take effect immediately .

Section 37

And the CS provides that except for those sections listed in Sec. 35 and Sec. 36, the bill takes effect October 1, 1990.

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH • STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

M E M O R A N D U M

March 21, 1990

SUBJECT: Proposed amendment relating to assignments of
use area permits (6-1718Aaa)

TO: Senator Bettye Fahrenkamp
Chair Senate Resources Committee

FROM: George Utermohle *GU*
Legislative Counsel

Amendment 6-1718Aaa to SB 422 proposes the deletion of sub-section (b) from AS 08.54.670 (Page 9, line 27 through page 10, line 3).

The material to be deleted prevents a guide-outfitter from selling lodges, cabins, boats, aircraft, and other equipment to another guide-outfitter who is the assignee of a use area permit formerly held by the seller of the property and equipment at a price that exceeded the replacement value of the property.

One of the objections that the Alaska Supreme Court had to the former exclusive guiding area system in the Owsicheck decision was that the guides could treat an exclusive guiding area as personal property and sell it to other guides. The ability of a guide to sell an exclusive guiding area was one of those attributes of an exclusive franchise to use game that the court found to violate the common use clause of the Alaska Constitution. The Task Force on Guiding and Game addressed this issue in its proposal for guide-outfitter use areas by allowing guide-outfitters to assign their use areas to other guide-outfitters but prohibited them from selling the permit or otherwise receiving anything of value in exchange for the assignment of the permit. In order to prevent a guide-outfitter from receiving a payment for the assignment of the permit under the guise of selling other property to the assignee, the Task Force prohibited the guide-outfitter from receiving more than the replacement value for the property. The assumption was that if the assignee of the permit paid more than the replacement value of

Senator Bettye Fahrenkamp

Page 2

March 21, 1990

the property then the excess was really a payment for the assignment of the permit. The assignment of the permit was void if the amount paid for the property exceeded the replacement value of the property.

During further consideration of this issue, the Task Force decided to further restrict the procedure for the assignment of use area permits by taking away the power of guide-outfitters to determine who would succeed them as assignees of the use area. Use area permits may be assigned only by the Big Game Commercial Services Board. Guide-outfitters would no longer have an opportunity to determine who their successors would be. This approach eliminated the possibility of collusion between the assignor and assignee of use area permit.

This approach also eliminated the need for the Board to monitor the transfer of property between a former permit holder and the new assignee of the permit. Since the former permit holders do not determine who will succeed them, there is no opportunity for the former permittees to receive payment for assigning the permit to particular persons.

Thus subsection (b) of AS 08.54.670 could be deleted without affecting the integrity of the use area permit system proposed by SB 422. Deletion of this provision would also ease the burden on the Board by eliminating the responsibility of the Board to monitor the sales of property between former permit holders and assignees of use area permits.

GU:pl
WKP3;066

Enclosure

A M E N D M E N T

OFFERED IN THE SENATE

TO: SB 422

Page 9, line 27 through page 10, line 3:

Delete all material.

Reletter the following subsections accordingly.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: SB 317
PUBLISH DATE: 5/3/89

FISCAL NOTE

REQUEST:

Revision Date: 5/16/90
Title: Forest Practices Act Revision

Agency Affected: Natural Resources
BRU: Forest Management

Sponsor: _____
Requestor: Governor

Components: Forest Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	285.9	294.5	344.5	354.8	365.4	376.3
TRAVEL	45.0	45.0	53.7	57.7	57.7	59.0
CONTRACTUAL	32.0	32.0	47.1	47.1	47.1	49.0
SUPPLIES	21.1	21.1	22.3	22.3	22.3	24.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	437.7	392.6	467.6	481.9	492.5	508.3

CAPITAL						

REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	437.7	392.6	467.6	481.9	492.5	508.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	6	6	7	7	7	7
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: George K. Hollett
Division: Forestry

Phone: 762-2503
Date: 5/16/90

Approved by Commissioner: 
Agency: _____

Date: 3/16/90

Distribution (by preparer):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

Senate Bill 317

Assumptions: The following list of assumptions have a direct effect on the required funding the first five years after passage of the bill:

1. Much public involvement will be needed in the development of regulations. Travel to areas around the state and public meetings will be necessary.
2. Increased field inspections will be necessary to see that standards are being met and riparian areas are left.
3. Training of state personnel in insect and disease activities will take place.
4. Notifications will continue to increase for the next two years while the markets are high.
5. Appeals of stop-work orders and directives will take place during the first few years as all parties learn the new requirements calling for more enforcement work.
6. Board of Forestry will become more active in their operations by having more meetings and requiring more time and effort by staff.
7. Higher demand by the public for review of notifications.
8. Higher coordination of inspections, review and enforcement activities will be required of state agencies.

DEPARTMENT OF NATURAL RESOURCES
FOREST PRACTICES

Program Summary:

Due to low markets in 1986, the number of notifications received for operations on private lands declined and the division reduced the budget accordingly. Increased timber markets in 1988 has increase notifications by 173%. With no new funding available, the forest practice personnel staff months could not be increased to a level necessary to handle inspection requirements. In FY 1988 a 13% increase in inspections over FY 1987 was accomplished with the present division staff. However, in FY 1989 field inspection accomplishment decreased by 11% below FY 1988 because other duties and increased notifications demanded more office time.

The lack of travel dollars has seriously limited field inspection opportunities. A high level of inspection activity is important to not only ensure compliance with the Forest Practice Act, but to also allow identification of potential problems early enough to prevent violations. Due to the lack of adequate inspections, the character of forest practices administration has been forced away from land owner assistance and targeted toward enforcement.

Total funding needs of \$437,700 is detailed as follows:

Southeast Region - \$123,000

Add one full time Clerk Typist III at Ketchikan. This support staff will free up time now spent in the office by the Forest Practices Foresters doing administrative work and should allow for 30% more field time for necessary inspections. This will also allow the Ketchikan office to be open full time for five days per week.

Add one Natural Resource Manager I to be the Southeast Region Forest Practice Coordinator. This position will also be support forest practice work region-wide on an as needed basis and serve as the liaison between the field staff and other agency personnel.

Added travel funding will meet the necessary inspection schedule for the increased notifications.

Southcentral Region - \$149,600

Add one Forester II to the Kenai-Kodiak Area to work on the additional forest practice work that is occurring on the Kenai Peninsula. Notifications have increased from 4 in 1987 to 10 in 1989 with acres increasing from 3,287 to 41,935 during the period. Presently the only position available for the forest practice work is also responsible for all the timber sales on state land in the area. Because of this dual role neither area of responsibility has been accomplished. The new saw mill at Seward, heavy spruce bark beetle kill and large native ownerships on the Kenai Peninsula all point to increasing forest practice work for the next five years. We estimate notification acres will increase by some 58,000 acres in the next five years.

Add one Natural Resource Manager I to regional staff. The senior Forest Practices Forester will handle notifications and inspections on the remainder of the Gulf of Alaska, Valdez-Copper River, Anchorage Mat-Su and Southwest areas. Duties will also include being the coordinator between regional field personnel and other agency employees working in forest practices. The regions forest practice work has increased from 9 notifications in 1987 to 20 in 1989 and acres have increased from 6,287 to 50,286 during the same period. We estimate that at least seven (7) new operations with some 91,000 acres will begin operations in the next five years.

Additional travel and contractual funds are also required to provide the support needed to do the field inspections.

Central Office - \$165,100

Add one Forest Engineer and one Natural Resource Manager II to the Staff. The engineer is badly needed to provide expertise in soil stability, logging systems and transportation evaluations. This position would also serve as an expert witness on technical matters. Further responsibilities include research proposal evaluation, support for divisional timber sales, and audit function for Forest Practice compliance on state timber sales.

The Natural Resource Manager II position would serve as a Section Chief to assure consistent direction in state-wide forest practices inspection and enforcement is achieved. This position would also handle data-base management including reforestation verification, forest practices statistics and public notice provisions as well as be available for temporary assignment around the state to assist in field evaluations during peak periods.

FOREST PRACTICES

This position will also act as the Board of Forestry-Division of Forestry Coordinator. Meeting preparation, and gathering of research information are some of the duties that will be performed.

Development of training materials and classes for bringing operators and other agency personnel up to speed on the requirements of the FPA.

Additional travel and contractual funds are required to provide the support needed.

Northern Region

Current markets and market projections indicate a continued increase of interest in both white spruce and hardwoods in the Interior of Alaska. With Native Corporate ownerships well along on completing inventories of timber resource developments will be forthcoming in the next few years. At least one Regional corporation is involved in negotiations for development as well as contracting for feasibility studies. Two village Corporations have active sales under contract.

The increasing thoughts of development of resources along with the increase in spruce bark beetle activity indicate that the Northern Region will become involved in forest practices in the next few years. One Forester II position would need to be added within three years to be in place to handle this increase. Total increased cost in year three would be \$95,000.

Position Title Natural Resource Manager I			No. of Positions 1	Range/Step 18/A	Barg. Unit GG																																																												
Time Status PFT			Location Jungau		Election District 4																																																												
Staff Months 12			Justification																																																														
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>1</th> <th>2</th> <th>Amount</th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary* 3113 x 12</td> <td></td> <td>37,356</td> <td>////////////////</td> <td></td> </tr> <tr> <td>Benefits* 1099 x 12</td> <td></td> <td>13,188</td> <td>////////////////</td> <td></td> </tr> <tr> <td>Premium Pay (Included In Above)</td> <td></td> <td>////////////////</td> <td>////////////////</td> <td></td> </tr> <tr> <td>Other</td> <td></td> <td>////////////////</td> <td>////////////////</td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td></td> <td>////////////////</td> <td></td> <td>50.5</td> </tr> <tr> <td>Travel</td> <td></td> <td></td> <td></td> <td>5.0</td> </tr> <tr> <td>Contractual</td> <td></td> <td></td> <td></td> <td>7.5</td> </tr> <tr> <td>Commodities</td> <td></td> <td></td> <td></td> <td>2.0</td> </tr> <tr> <td>Equipment</td> <td></td> <td></td> <td></td> <td>10.3</td> </tr> <tr> <td>Other</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total Cost</td> <td></td> <td></td> <td></td> <td>75.3</td> </tr> </tbody> </table>						Type of Expenditure	1	2	Amount	3	Salary* 3113 x 12		37,356	////////////////		Benefits* 1099 x 12		13,188	////////////////		Premium Pay (Included In Above)		////////////////	////////////////		Other		////////////////	////////////////		Total Personal Services		////////////////		50.5	Travel				5.0	Contractual				7.5	Commodities				2.0	Equipment				10.3	Other					Total Cost				75.3
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The new Forest Practice Act calls for more and better coordination between the State agencies. Field activities are handled by each agency's local personnel but region-wide coordination must take place at a higher level. The addition of one full time Natural Resource Manager I to the division's southeast region office will provide the needed forest practice coordinator. This position will also be able to fill in on forest practice work within the region on an as-needed basis, develop agency and operator training opportunities, meet with the Board of Forestry and act as a hearing officer. This position will be responsible for working on development of the new regulations and handling all of the public process of review within the Southeast Region.

REQUEST FOR
NEW POSITION

AGENCY

Natural Resources

BUD

Forest Management

COMPONENT

Forest Management

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Revised Date

FY 91

Position Title Natural Resource Manager II		No. of Positions I	Range/Step 20/A	Barg. Unit GGU																										
Time Status PFT	Staff Months 12	Location Anchorage		Election District 7																										
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>Amount</th> </tr> <tr> <th>1</th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary* 3590 x 12</td> <td>43,080</td> </tr> <tr> <td>Benefits* 1217 x 12</td> <td>14,604</td> </tr> <tr> <td>Premium Pay (Included in Above)</td> <td></td> </tr> <tr> <td>Other</td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td>57.7</td> </tr> <tr> <td>Travel</td> <td>10.0</td> </tr> <tr> <td>Contractual</td> <td>6.5</td> </tr> <tr> <td>Commodities</td> <td>4.1</td> </tr> <tr> <td>Equipment</td> <td>9.4</td> </tr> <tr> <td>Other</td> <td></td> </tr> <tr> <td>Total Cost</td> <td>87.7</td> </tr> </tbody> </table>		Type of Expenditure	Amount	1	3	Salary* 3590 x 12	43,080	Benefits* 1217 x 12	14,604	Premium Pay (Included in Above)		Other		Total Personal Services	57.7	Travel	10.0	Contractual	6.5	Commodities	4.1	Equipment	9.4	Other		Total Cost	87.7	Justification An additional full time Natural Resource Manager II position would serve as a Section Chief to assure consistent direction in state-wide Forest Practices inspections and enforcement is achieved. The position would also handle data base management including reforestation verification, forest practices statistics and public notice provisions as well as be available for temporary assignment around the state to assist in field inspections during peak periods.		
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Funding Source for Total Cost																														
Federal Receipts	1002																													
G.F. Hatch	1003																													
General Fund	1004																													
Program Receipts/GF	1005																													
I-A Receipts	1007																													
CIP Receipts	1061																													
Other																														
* Personal Services Salary and Benefits Costs are from MACS.		Coordination of training opportunities and materials will assure that the same subjects are handled in a similar manner. Working with the Insect and Disease Forester and the U.S. Forest Service training classes both in the office and field will be developed to bring the divisions field staff to a knowledgeable level to handle that portion of the Forest Practice Act.																												

REQUEST FOR
NEW POSITION

AGENCY Natural Resources
BRJ Forest Management
COMPONENT Forest Management

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Revised Date

FY 91

Position Title Natural Resource Manager I			No. of Positions 1	Range/Step 18/A	Barg. Unit GG	
Time Status PFT	Staff Months 12		Location Anchorage		Election District 7	
Type of Expenditure			The new Forest Practice Act calls for more and better coordination between the State agencies. Field activities are handled by each agency's local personnel but region-wide coordination must take place at a higher level. The addition of one full time Natural Resource Manager I to the Division's southcentral region office will provide the needed forest practice coordinator. This position will also handle notifications and inspections in the Valdez-Copper River, Mat-Su and Southwest areas. The position will develop training opportunities for agency and operator personnel, meet with the Board of Forestry and act as a hearing officer. This position will be responsible for working on development of the new regulations and handling all of the public process of review within the Southcentral Region.			
1		2				3
Salary* 3113 x 12		37,356				////////////////
Benefits* 1099 x 12		13,188				////////////////
Premium Pay (Included in Above)		////////////////				////////////////
Other		////////////////				////////////////
Total Personal Services		////////////////				50.5
Travel						10.0
Contractual						5.5
Commodities						2.0
Equipment						9.4
Other						
Total Cost						77.4
Funding Source for Total Cost						
Federal Receipts 1832						
G.P. Hatch 1833						
General Fund 1034			77.4			
Program Receipts/GF 1005						
I-A Receipts 1007						
CIF Receipts 1061						
Other						
* Personal Services Salary and Benefits Costs are from PACS.						

REQUEST FOR
NEW POSITION

AGENCY Natural Resources
 BRU Forest Management
 COMPONENT Forest Management

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 Revised Date

FY 91

Position title Forester II			Us. of Positions 1	Range/Step 16/A	Barg. Unit GG
Time Status PFT	Staff Months 12		Location Soldotna		Election District 5
Type of Expenditure			Amount		
1			3		
Salary* 2895 x 12			34,740		
Benefits* 1049 x 12			12,568		
Premium Pay (included in Above)			//////////		
Other			//////////		
Total Personal Services			47.3		
Travel			10.0		
Contractual			3.5		
Commodities			2.0		
Equipment			9.4		
Other					
Total Cost			72.2		
Funding Source for Total Cost					
Federal Receipts 1002					
G.F. Hatch 1003					
General Fund 1004			72.2		
Program Receipts/GF 1005					
I-A Receipts 1007					
CIP Receipts 1061					
Other					
* Personal Services Salary and Benefits Costs are from PACS.					
Justification					
The Kenai Peninsula has seen a large increase in Native Land timber operations which have resulted in forest practice notifications. The opening of the Chugach Native Cooperation sawmill at Seward in 1990 will provide the needed log outlet that has been missing to see a major increase of logging activity. The addition of a full time Forester II in the Kenai-Kodiak Area office will provide the necessary position to meet the increase and not take the only personnel available for conducting state timber sales away from their job. The spruce beetle kill facing the Kenai Peninsula is demanding all the present forester's time. With the support staff in place this position will be able to spend full time on forest practice work.					

REQUEST FOR
NEW POSITION

AGENCY Natural Resources

BRW Forest Management

COMMITTEE Forest Management

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Revised Date

FY 91

Position Title Logging Engineer		No. of Positions 1	Range/Step 18/A	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Anchorage		Election District 7
Type of Expenditure		Justification		
1	2	3		
Salary* 3113 x 12	37,356	The addition of one full time engineer position will provide expertise in soil stability, logging systems and transportation evaluations. Serve as an expert witness on technical matters. Further responsibilities include research proposal evaluation, and audit function for Forest Practice compliance on state timber sales. New regulations are required to be developed covering areas of road construction, location, maintenance and removal; landing location and construction; drainage construction; material sources and spoil disposal sites; log transfer, sort yards and storage facilities. All of these require the knowledge of an engineer to see that the public is being protected. The division presently does not have an engineer position and this addition will provide the needed expertise to adequately review the above actions as they come in on notifications. This position will be available for statewide work.		
Benefits* 1099 x 12	13,188			
Premium Pay (Included in Above)				
Other				
Total Personal Services	50.5			
Travel	10.0			
Contractual	4.5			
Commodities	3.0			
Equipment	9.4			
Other				
Total Cost	77.4			
Funding Source for Total Cost				
Federal Receipts	P002			
G.F. Match	P003			
General Fund	1004	77.4		
Program Receipts/GF	1005			
I-A Receipts	1007			
CIP Receipts	1061			
Other				
* Personal Services Salary and Benefits Costs are from PACS.				

REQUEST FOR
NEW POSITION

AGENCY Natural Resources

BRU Forest Management

COMMISSION Forest Management

Page 1 of 1
Revised Date

FY 91

Page 9 of 11

Position Title Clerk Typist III			No. of Positions 1	Range/Step 8/A	Barg. Unit GG
Time Status PFT	Staff Months 12		Location Ketchikan		Election District 1
Type of Expenditure			Justification		
1	2	3	The Ketchikan Area Office had an increase of 27% in forest practice notifications between 1987 and 1988. During 1989 some decrease was noted but the acreage size increased as a way around notification. Without support help in the office the Forest Practice Forester has been required to spend more and more time in doing administrative work. Total number of inspections during 1989 dropped. The addition of a full time Clerk Typist III will allow for about 30% more field time for the forester. With increased notifications and required inspections more field time is needed. More time in the field will help prevent damage from taking place and better cooperation between the operator and the State. Additional office help will also allow for the office to be open full time for the five days per week.		
Salary* 1678 x 12	20,136	//////////			
Benefits* 771 x 12	9,252	//////////			
Premium Pay (Included in Above)	//////////	//////////			
Other	//////////	//////////			
Total Personal Services	//////////	29.4			
Travel					
Contractual		4.5			
Commodities		8.0			
Equipment		5.8			
Other					
Total Cost		47.7			
Funding Source for Total Cost					
Federal Receipts	1002				
S.F. Match	1003		47.7		
General Fund	1004				
Program Receipts/GF	1005				
I-A Receipts	1007				
CLP Receipts	1061				
Other					
* Personal Services Salary and Benefits Costs are from PACS.					

REQUEST FOR
NEW POSITION

AGENCY Natural Resources
 BRD Forest Management
 COMPONENT Forest Management

Page 1 of 1
 Revised Date

FY 91

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

DIVISION OF HABITAT

STEVE COWPER, GOVERNOR

BOX 3-2000
JUNEAU, ALASKA 99802
PHONE: (907) 465-4106

March 15, 1990

Mr. John L. Sturgeon, President
Koncor Forest Products Co.
3501 Denali, Suite 202
Anchorage, AK 99503

Dear John,

You and others in the Timber Alliance have asked that I clarify this department's position on variations from the riparian standard on private lands for Type A, low-gradient streams with a width of five feet or less that also have low value for fish. At the working group meeting last week, I said that we have a lower level of concern for small, low-gradient streams with low fish values. However, many small, low-gradient streams provide important rearing habitat, especially for coho salmon.

Given the above understanding and the fact that the regulations on this subject are yet to be written, what I suggest here should be viewed as conceptual. It should, however, give you a better idea of the types of criteria I think will be important to capture in the regulations.

ADF&G will be most likely to agree to variations for Type A, low-gradient streams less than five feet wide with low fish values if the following criteria are met.

The proposed method of logging does not present a high risk of soil disturbance and stream sedimentation;

Bank and stream channel stability can be assured;

Sufficient trees within the 20 meter buffer are left standing and alive so there is a future source of large woody debris, and;

Trees proposed for harvest are either not likely to contribute wood to the stream or they are not important for maintaining natural stream flow or temperature.

As I said, we will need to develop these concepts further in the regulations and then see how they work in the field.

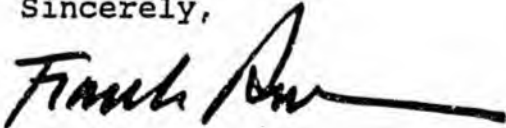
The timber industry has also asked for clarification on whether roads can cross buffers and rigging for cable logging systems can be hung from trees in buffers. There is no question that roads

March 15, 1990

will be allowed to cross buffers. Our main concern will be to have them cross as perpendicular to the buffer as is practical. Hanging rigging from trees in a buffer and any associated clearing is an issue that may come up if buffers create operational constraints. I see no problem hanging rigging in a buffer if no trees are cut or killed and damage is minimal. Where trees need to be cut, I think the intent of 41.17.115 is to address the issue in the regulations and the variation process.

I look forward to working with you and other members of the Alliance in getting the new act passed and the regulations implementing it adopted.

Sincerely,

A handwritten signature in dark ink, appearing to read "Frank Rue", with a long horizontal flourish extending to the right.

Frank Rue, Director
Habitat Division

cc: Members of the FPA Working Group
Representative Curt Menard, Co-chairman,
House Resources Committee
Senator Bettye Fahrenkamp, Chairman,
Senate Resources Committee



Alaska State Legislature

HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3715

MEMORANDUM

TO: MEMBERS OF HOUSE RESOURCES COMMITTEE
MEMBERS OF SENATE RESOURCES COMMITTEE

FROM: REP. CURT MENARD, CO-CHAIR HOUSE RESOURCES
REP. CLIFF DAVIDSON, CO-CHAIR HOUSE RESOURCES

DATE: FEBRUARY 5, 1990

RE: FOREST PRACTICES ACT HEARING IN TALKEETNA

We would like to invite members of the Senate and House Resources Committees to attend a hearing on H.B. 331 and S.B. 317, the proposed forest practices act revisions, in Talkeetna.

The hearing will be held on Saturday, February 17, from 1 - 4 p.m. at the Talkeetna Elementary School. The purpose of the hearing is to obtain public comment on the proposed revisions.

If you are interested in attending, please contact Johanna Munson on Rep. Menard's staff so that we can coordinate transportation and lodging arrangements.

Box 020241
Juneau, Alaska 99802

May 5, 1989

Honorable Betty Farenkamp
Senate Resources Committee
Alaska Legislature
Juneau, Alaska

Dear Senator Farenkamp:

For the Record SB 317

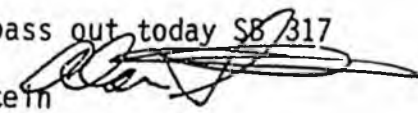
I endorse speedy committee approval and passage of this Forest Practices Bill. It is the result of compromise and mediation between representatives of all effected parties.

In my view, substantial damage occurs to salmon streams without the buffer strip provision contained in the bill. Mud slides into creeks after logging killing eggs and small fry. Exhibit 1, a Fish and Game memo, documents 47 landslides in Southeast alone last November. These slides occur during heavy rains in four year cycles. Without the buffer, mud damages our salmon resource.

Fish kills result from high summer temperature when the umbrella of trees are cut. Exhibit 2 is a list the Forest Service compiled last year showing up to 30,000 estimated salmon kills resulting from the high temperatures which result when we cut trees next to streams. This SB 317 will reduce the effects of clearcutting.

Staff monitoring is not done adequately. I have discovered the state has no turbidity meters which are instruments for measuring how much mud is in the water; like tankers without tug escorts, logging without monitoring is an invitation to destruction of a priceless living resource which the oil spill should have made everyone aware can no longer be accepted. Exhibit 3 gives but one example of roads build directly into salmon streams in 1988. As Exhibit 4 from Fish and Game makes clear, "policies regarding streams may be inadequate for stream protection." As we must do with oil, so we must also do with timber. We must error on the side of caution and create buffers which eliminate some need for monitoring. As Exhibit 5 shows, almost three years elapsed between a promise of the Forest Service and today. I swear, no consistent monitoring for State Water quality regulation occurs on salmon streams in Southeast Alaska. The legislature has provided not enough money and no staff are regularly assigned to monitor water quality with instruments.

Please pass out today SB 317


Alan Stein
fisherman

To: Gary Gunstrom
Regional Research Supervisor
Commercial Fisheries
Juneau, Region I

Date: January 6, 1989

From: John Edgington
Land Use Project
Commercial Fisheries
Petersburg

Subject: Landslides

Observations of landslide areas stopped abruptly with the addition of new snow and poor flying weather. Reports of landslides will probably continue again with the start-up of spring activities.

The following areas and numbers of landslides have been reported:

<u>Area</u>	<u>Landslides</u>	
Lake St. Nicholas	3	
Rush Creek	1	* (tributary of Goose Cr.)
Ratz Harbor	1	* (more than one)
Bustier Creek	1	
Deer Bay	2	
Natzuhini River	3	*
Big Salt	1	
Long Island	2	
Fubar Creek	1	
Anita Bay	1	
Mitkof Island	4	
Kupreanof Island	2	
S. Kulu Island		
Elena Bay	1	
W. Thetis Bay	1	*
Gedny Harbor	1	
Crowley Bight	1	
Howard Cove	1	
N.W. Affleck Creek	1	
Three Mile Arm	1	
E. Port Camden	1	
N. Kulu Island		
Saginaw Creek	7	*
Security Bay East	3	*
Saginaw Bay East	1	*
Kadake Creek	1	*
Rowan Bay	1	
Muddy River	1	(Thomas Bay)
Pavlof Creek	1	*
Kadashan River	1	*
Kennel Creek	1	*
Kelsall River	1	*

Total 47 12 * = Salmon Stream Influence

EXHIBIT 1

fish kill listing

Hancym 15 1 12 K, 115.

new/old	Stream name	stream no.	est mort	peak esc	rep. yrs	notes	
1	13	Very Inlet Cr	101-23-19	2000	24000	1977	-
2	14	Wassal Cove	101-30-09	<500	6000	1977	-
3	15	Keta River	101-30-30	<500	24000	1977	-
4	16	Cabin/Bartholomew Cr	101-55-09	<500	20000	1977	-
5	12	Traitors River	101-90-29	15000	108100-'77	1963.77	-
6	17	Naha River	101-90-50	20000	90000	1977	-
7	18	Port Stewart Cr	101-90-92	7000	17000	1977	-
8	19	Sunny Cr	102-40-87	1500	50000	1977	-
9	57	Harris River	102-60-82	-	-	1986	12.000 pinks
10	11	Lower Karta River	102-60-87	-	-	1982	-
11	20	Nutkwa Cr	103-21-08	500-1000	17600	1977	-
12	03	Shinaku Cr	103-60-13	-	-	1987	-
13	04	Steelhead Cr	103-60-29	-	-	1987	-
14	05	Black Bear Cr	103-60-31	-	-	1987	-
66	06	Port St Nicholas	103-60-59	-	-	1987	-
70	56	Trocadero Bay	103-60-75/77	-	-	1986	n. and s. streams 84 of run
15	21	Sarheen Cr	103-90-04	1000	35000	1977	-
16	22	Haukati Cr	103-90-26	500	5000	1977	-
17	01	Staney Cr	103-90-30	2000-1977	60200-'77	1977.79.87	-
18	02	Sheheen Cr	103-90-42	500-1000	50000-'77	1977.87	-
19	23	Kell Bay Cr	105-10-32	2400	13800	1977.87	87:500
20	24	Tunehean Cr	105-32-04	500-1000	6600	1977.79	-
21	51	Irish Cr	105-32-12	-	-	1979	-
22	25	Big John Cr	105-32-16	400	1000	1977.79	-
23	26	Calder Cr	105-42-05	1500	31520	1977	87:600
24	27	El Capitan Cr	105-42-09	5000	45000	1977	87:200
25	28	Shiplay Bay	105-43	500-1000	9000	1977.87	87:400
26	50	Long Cr	105-43-06	25 coho	-	1974	reported by John Edgington
27	29	Falls Cr	106-21-04	3000	29500	1977.79	-
28	30	Trout Cr	106-21-04	105	6925	1977	-
29	31	Mosman Cr	106-22-08	1500-200	37500	1977	-
30	32	Burnett Inlet	106-22-14	unknown	3000	1977	-
31	33	Navy Cr	106-22-16	8000	29000	1977.79	-
32	08	Porcupine Cr	106-30-10	300	22000	1981.79	79:500 out of 50000
33	34	Big (108) Cr	106-30-80	500	34800	1977	-
34	35	Exchange Cove	106-30-85	57	9275	1977	-
35	07	Anan Cr	107-20-01	10000	146000-77	1951.77.79	more yrs? FS fish ladder 1979
36	36	Canoe Pass	107-20-20	200	13150	1977	-
37	37	Menefee Cr	107-20-30	1500	42000	1977	-
38	38	Fool's Inlet	107-20-70	1000	16400	1977	-
39	39	Thoms Cr	107-30-30	2500	27000	1977.79	-
40	09	Snake Cr(Olive Cove)	107-30-70	30000	63000-1977	1949.77	-
69	55	Blind Slough	108-30-45	-	-	1987	fr. Don Cornelius-juv-dried up
41	10	Sashin Cr	109-10-09	-	-	1981	-
42	59	Tyee Cr east	109-30-16	1140	-	1987	-
43	52	Kadake Cr	109-42-30	3400	-	1987	obs Lonnie Anderson, fisherman
44	60	Saginaw Bay S Hd	109-44-37	3300	-	1987	-
45	61	Saginaw Cr	109-44-39	2400	-	1987	-
67	53	Band Cove	109-45-43	5-600	-	1987	-
68	54	Washington Bay	109-51-07	2-300	-	1987	-
46	40	Rowen Bay 1	109-52-07	430	11600	1977	-
47	41	Rowen Bay 2	109-52-08	2450	8733	1977	-
48	42	Alecks Cr	109-62-13	1870	27500	1977.87	87:13500.100 chum
49	43	Sample Cr	109-62-14	360	22400	1977	-
50	44	Petrof Bay East Arm	109-62-20	1385	4000	1977	-
51	45	Petrof Bay head	109-62-22	unknown	4200	1977	-

Exhibit 2

larger.

fish kill listing

new	old	Stream name	stream no.	est mort	peak esc	rep. yrs	notes
52	46	Petrof Bay West Arm	109-62-24	2630	9400	1977	-
53	47	Petrof right	109-62-26	840	4470	1977	-
54	48	Thetis Arm-Wm Cr	109-62-28	670	10750	1977	-
55	49	Thetis Arm East Head	109-62-29	225	6500	1977	-
56	62	Old Man's Cr	110-22-02	2400	-	1987	60 chum
57	63	Pybus N. Arm East	110-22-03	100	-	1987	100 f chum
58	64	Amber Cr	110-22-04	2300	-	1987	-
59	65	Donkey Cr	110-22-12	625	-	1987	-
60	66	Cannery Cr	110-22-14	5700	-	1987	-
61	67	Last Chance Cr	110-23-04	4600	-	1987	87:4600-some unspawned
62	68	West of Marker Cr	110-23-07	1800	-	1987	1800-some unspawned
63	69	Snug Cove Cr	110-23-19	2100	-	1987	-
64	70	Negro Cr	110-34-14	2000	-	1987	-
65	58	Indian River	112-42-08	750	-	1986	pinks
-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-

MEMORANDUM

State of Alaska

TO Jack Gustafson
Area Habitat Biologist
Habitat Division
Department of Fish and Game
Ketchikan

DATE November 9, 1988

FILE NO

TELEPHONE NO 755-2331

FROM Glenn Freeman *of Flysch.*
Fisheries Biologist
Department of Fish and Game
Habitat Division
Klawock

SUBJECT Field Inspection of
Forest Service Roding/
Logging Activities at
Rush Peak

On November 3, 1988 an interagency field inspection was conducted by U. S. Forest Service and Alaska Department of Fish and Game staff in the upper Thorne River drainage, near Rush Peak. The following individuals were present during the inspection: Debbie Norton, Acting Thorne Bay District Ranger; Vince Harke, Biological Technician; Bill Sills and Ken Methvin, Engineers from the Ketchikan F. S. Supervisor's Office; and myself. The purpose of this inspection was to document existing and potential impacts adjacent to and within Rush Creek, cataloged anadromous stream #102-70-10580-2017-3010-4018, as caused by approved Forest Service roading and logging activities.

Perhaps a letter dated March 6, 1987 from John Erickson, Fish and Wildlife Staff Officer and Biologist for Thorne Bay Ranger District (at that time), to the District Ranger best summarizes the district's fisheries staff feelings regarding the Rush Creek work. In the second and third paragraphs of this letter Mr. Erickson stated, "Because of the quality of this habitat and the high potential impacts associated with this proposed road construction I recommend that another location be found for the road or delete the road totally from the area. Possible impacts are channel construction, siltation of spawning and rearing habitat and mass wasting into the creek."

Road 3013-200 was constructed during September 1988 parallel to upper Rush Creek, above Rush Lake, in sections of steep terrain. Of particular concern is road construction in a steep section approximately 0.5 miles north of the new bridge crossing over Rush Creek. The road was constructed to within approximately 80 feet of Rush Creek in this steep area where a natural slide had already been documented by fisheries staff at Thorne Bay Ranger District. Material from the natural slide appeared to extend just to the edge of the stream channel. Additional overburden approximately 40 feet in width slid down slope from an origin immediately adjacent to the new road, atop and slightly upstream of portions of the natural slide and into Rush Creek. Forest Service personnel would not or could not comment on the date(s) of the roadside slide. Large materials introduced into the stream channel by the

Exhibit 3

slides prior to this inspection did not appear to significantly alter the normal stream flow at this site. However, the upper slide appears active and there appears to be a high probability that additional overburden will continue to impact the stream channel. Road stability in this area is also a major concern. Subsurface runoff was observed atop bedrock on the upslope of the road, at the site of the recent slide. Road ditching improvements appeared to be necessary to reduce erosion potential in this stretch. Excavated materials from roading activity were endhauled to the vicinity of a rock pit located approximately one mile north of the slides, along the 3013-200 Road. Vegetative slash covered the area exposed by the latest slide. Grass seed was apparently not spread atop soils exposed in conjunction with this roading project.

A 70-foot Hamilton metal bridge was installed on about October 1, 1988 across Rush Creek near the end of the 3013-200 Road, approximately 0.5 miles south of the slides. Prior to the bridge, the stream had a main channel approximately 33 feet wide along the east bank and two smaller side channels. Seemingly every fisheries consideration was ignored at this stream crossing. Heavy equipment crossings, instream work, and bridge installation all occurred well outside the requested timing window of May 15-August 15 set by Forest Service fisheries staff. The high water stream channel at the bridge crossing was effectively narrowed from a pre-project (i.e., natural) width of 117 feet to approximately 35 feet. The new 35 foot "stream width" includes a 72 inch CMP culvert which was installed to accommodate the middle side channel, the latter not discernible during this inspection. Road fill displaced the remaining 82+ feet of original stream width at the stream crossing. Thus, the side channel along the west stream bank was completely blocked by road fill. The blocked side channel flowed during normal conditions prior to bridge installation, according to Vince Harke. This side channel appears to have provided high quality coho rearing habitat prior to the road crossing. Two juvenile salmonids, apparently coho, were observed near the head end of the blocked side channel. Installation of a CMP should be considered during the window period to restore flows in this side channel if the bridge may not be removed for several years. The immediate vicinity of Rush Creek at the crossing site was characterized by potentially high quality coho spawning gravels. On an October 13 fisheries survey, Vince said he observed active coho spawning immediately upstream and downstream of the bridge. Specifically, he observed 14 live, spawning adult coho and 40 completed reds along the portion of Rush Creek upstream of Rush Lake. Fisheries staff (FS) were present but were not notified of the bridge work outside the identified timing window. The decision to do this work was reportedly that of the District Ranger.

X X X X



November 9, 1988

Ken Bethvin and Bill Sillis stated that an attempt was made by the contractor to bridge heavy equipment on logs above the stream but that the logs were actually ground on the streambed upon crossing. Ken said that he recommended the use of a 15 to 20 foot diameter CMP culvert at the stream crossing rather than the "maximum width" Hamilton bridge which was installed. Debbie Norton inquired what was to be done with the road fill in the channel when the bridge is pulled. I suggested this decision should be made by fisheries staff at a later date and that such work be done during the window period.

Road construction was completed along the 3013-225 Road up to the first stream, a resident fish tributary some 600 feet above the confluence at Rush Creek. The contractor was on hand at this site to express his interest in completing the stream crossing and the remainder of the road. Upon discussion of fisheries concerns to protect downstream water quality and limit cumulative impacts to Rush Creek, Debbie denied the contractor's request. Road 3013-220 parallels Rush Creek north from the 3013-200 Road intersection along the east stream bank. Road construction was completed to a rock pit above and adjacent to Rush Creek, opposite from the slides approximately 0.5 miles from the 3013-200 Road intersection. An additional 0.5 miles of the 3013-220 Road is proposed to access proposed Unit 597-32. The completed portion of this road crossed about five small water quality tributaries of Rush Creek. Small CMP culverts were installed at each road crossing. Timber within portions of Unit 597-18 on both sides of the road were felled prior to this inspection. The rock pit appears to be located only 200-300 feet upslope from Rush Creek. Water quality problems associated with the rock pit have resulted in impacts to Rush Creek as noted in a Forest Service memo dated October 27, 1988.

In summary, road design and construction timing of the 3013-200 Road system was a disaster from a fisheries and water quality standpoint. Future monitoring should be conducted to address existing and potential problems associated with the slides, stream channel changes, LOD and debris transport at the constricted bridge crossing, and cumulative water quality impacts to Rush Creek.

Copies of available Forest Service memos and correspondence regarding the Rush Creek area are attached for additional information.

cc: Steve Hoffman, Area Management Biologist, Sport Fish Division, Ketchikan

Frank Rue
Director
Habitat Division

February 10, 1989

465-4290

Weekly Report
2/6 - 2/10

Richard D. Reed
Regional Supervisor
Habitat Division

Items for the Governor's Report: none

Items for the Bulletin: none

Items for the Commissioner: none

Items for the Director:

1. Forest Service: With the occurrence of several recent events it is becoming more evident that several FS policies regarding streams may be inadequate for the protection of fisheries habitat. These are chronic-type problems which need to be resolved so that suitable habitat protection standards are automatic and large amounts of staff field time are not consumed having to attempt to address each new impact that arises. These problems include, but are not limited to, inadequate stream crossing designs, the placement of culverts in spawning habitat, the replacement of bridges with CMPAs, ignoring construction timing windows, not following the correct construction timing window for the species present, blasting streambanks in haphazard attempts to create rearing habitat, not following the recommendations of FS biologists, restraining the limits as to the recommendations which can be made by FS biologists, the claim of loggers that they can fell into cataloged anadromous habitats, provided the trees and limbs are removed within 48 hours, and the perception of District Rangers that they need to consider ADF&G input on these concerns as advisory only and that adherence to stream protection standards are not within the state's authority or responsibility.

Within the last several months, in the Ketchikan area, examples of these problems include a misguided habitat "enhancement" (blasting) project on Ward Creek, road crossing designs which would block fish passage on the Control Lake-Coffman Cove road, an undesirable roading alignment resulting in massive soil failures entering Rush Creek spawning habitat building the Rush Creek

Exhibit 4

stream crossings in spawning habitat without timing (no ADF&G contact), improper timing standards on newly issued contracts, and bridge removals followed by the installations of inadequate permanent culverts. The latest example includes numerous crossing structures in the Lancaster Cove area where the design and construction timing are inadequate for the protection of fisheries resources. It seems that once again the time has arrived to attempt to resolve these concerns collectively, rather than individually.

cc: Region I Staff
A. Ott, Habitat
L. Trasky, Habitat
D. Anderson, Game
R. Bosworth, Subsistence
B. Sele, FRED
F. Gaffney, Sport Fish
S. Marshall, Comm. Fish.



United States
Department of
Agriculture

Forest
Service

Region 10

P.O. Box 21628
Juneau, AK 99802-1628

Reply to: 2600

Date: April 20, 1987

COMMISSIONER'S OFFICE

RECEIVED
APR 21 1987

Mr. Don Collinsworth, Commissioner
Alaska Department of Fish and Game
P.O. Box 3-2000
Juneau, AK 99802

DEPARTMENT OF FISH AND GAME

Don
Dear Mr. Collinsworth:

We have reviewed with interest the long-term cooperative monitoring study proposal by Gary Gunstrom of your Region 1 Commercial Fish Division Staff. It is a very timely suggestion since we are presently examining our monitoring activities in relation to the effectiveness of our aquatic habitat management prescriptions associated with all land management activities, including the expected benefits from our fish habitat improvement structures and treatments. We plan to continue focusing our monitoring efforts in these areas and improve our ability to measure the effectiveness of these practices in achieving our goal of maintaining and improving fish habitat production.

After our analysis of information and funding needs is complete, we will be contacting the Department to discuss the opportunities for solidifying these monitoring efforts into an effective cooperative venture. We expect to have our analysis completed in the near future.

We appreciated receiving Gary's letter.

Sincerely,

PHILIP J. JANIK
Director of Wildlife
and Fisheries Management

040987 1420 WLF 2600 DG



Exhibit 5



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

NATIONAL MARINE FISHERIES SERVICE, ALASKA REGION

POLICY

FOR RIPARIAN HABITAT PROTECTION IN ALASKA

1988

INTRODUCTION

National Marine Fisheries Service (NMFS) issued a policy statement in 1976 on the "Protection of Fisheries Resources During Logging Operations in Alaska". This policy called for a mandatory buffer zone of riparian vegetation along both banks of all salmon streams; buffer width was to be based on resource values, topography, wind-firmness, and stream size. Some management activities (e.g., selective harvesting) could be allowed within the prescribed buffer zone. The policy was issued because of the importance of anadromous salmonids in Alaska's economy and because of continuous degradation of fisheries habitat by logging activities. New information and experience suggests that our policy be revised. What follows is our revised statement of policy and the supporting background information.

THE POLICY

In order to maintain optimum production of anadromous salmonids the NMFS policy is to advocate the protection of riparian habitat through the retention of buffer zones along all anadromous fish streams and their tributaries in Alaska. NMFS will seek to ensure that a minimum buffer zone width of 30 meters (100 feet) be maintained on each side of the stream, and should consist of the natural/existing undisturbed forest. This policy addresses only the minimum buffer zone width. In some cases a wider zone is necessary to protect riparian resources. Additional research is needed from which more site-specific prescriptions can be developed.



DISCUSSION

Research conducted under the auspices of the Alaska Working Group on Cooperative Forestry/Fisheries Research has confirmed that riparian vegetation is an important and essential component of anadromous salmonid habitat. This streamside zone is required to sustain optimum egg-to-fry survival, smolt yield, and adult returns. Riparian vegetation left along streams protects salmonid habitat from the effects of clearcutting by maintaining the natural temperature regime, maintaining channel stability, maintaining undercut banks and instream habitat, preventing erosion and sedimentation, providing cover for winter habitat, and permitting adequate sunlight for food production. In essence, riparian vegetation controls and maintains the natural integrity of a stream's characteristics which have evolved in harmony with the development of the old-growth forest for hundreds of years.

Clearcutting without retention of an adequate zone of riparian vegetation can affect habitat, which in turn affects fish production on both a short- and long-term basis. Short-term (1-20 years) impacts can result from increased sedimentation, altered temperature and flow regimes, and reduced quantity of large woody debris. Long-term impacts (20-100 years) can result from closure of the second-growth canopy, reduced input of large woody debris, changes in stream channel morphology, and continued sedimentation from bank erosion, landslides, and roads.

Properly designed buffer zones are an effective management tool for protecting riparian vegetation and can help prevent both short- and long-term adverse impacts on fish and wildlife habitat. Current research by NMFS shows that nearly all of the large woody debris in streams of southeastern Alaska originates from trees within 30 meters (100 feet) of the streambank. Other research shows that canopy shading necessary to maintain natural stream temperature regimes also comes from trees within 30 meters of the stream. These two factors, large woody debris and canopy cover, control stream characteristics essential to salmonid habitat. They also are directly related to the quantity and quality of trees within the riparian zone. There are indications that situations exist where a 30-meter buffer zone is not adequate. There are also special situations in which removal of riparian vegetation is considered a fishery habitat management option to open the forest canopy. In the absence of definitive research findings, buffer zone width in these areas should be set through an interdisciplinary team approach. Team members should take into account wind-firmness, topography, values of fisheries and wildlife habitat, and other resource uses.

Special techniques for selective harvesting of timber within the prescribed boundaries of the buffer zone may be beneficial in some cases for enhancing aquatic productivity; however, prescriptions for stream-side harvest of timber are premature pending research to determine whether there might be long-term impacts on fish habitat.

APPROVED BY:

Robert W. Mcvey
ROBERT W. MCVEY, Director, Alaska Region

Date:

5/3/88

REFERENCES

- Beschta, Robert L., Robert E. Bilby, George W. Brown, L. Blair Holtby, and Terry D. Hofstra. 1987. Stream Temperature and Aquatic Habitat: Fisheries and Forestry Interactions. In: Streamside Management, Forestry and Fishery Interactions Edited by Ernest O. Salo. and Terrance W. Cundy. Institute of Forest Resources, Contribution No. 57. University of Washington, Seattle, WA. Pp 191-232.
- Hartman, G., J.C. Scrivener, L.B. Holtby, and L. Powell. 1987. Some Effects of Different Streamside Treatments on Physical Conditions and Fish Population Processes in Carnation Creek, a Coastal Rain Forest Stream in British Columbia. IN: Streamside Management: Forestry and Fishery Interactions. Edited by Ernest O. Salo and Terrance W. Cundy. Institute of Forest Resources. Contribution No. 57. University of Washington, Seattle, WA. Pp 330-372.
- Koski, K V., Jonathan Heifetz, Scott Johnson, Michael Murphy, and John Thedinga, 1984. Evaluation of Buffer Strips for Protection of Salmonid Rearing Habitat and Implication for Enhancement. IN: Proceedings of Pacific Northwest Stream Habitat Management Workshop (Thomas J. Hasler, editor). Humboldt State University, Arcata, CA. Pp 138-159.
- Murphy, M.L., J. Heifetz, S.W. Johnson, K V. Koski, and J.F. Thedinga. 1986. Effects of Clear-cut Logging with and without Buffer Strips on Juvenile Salmonids in Alaskan Streams. Can. J. Fish. Aquat. Sci. 43:1521-1533.
- Murphy, Michael L., J. Mitchel Lorenz, Jonathan Heifetz, John F. Thedinga, K V. Koski, and Scott W. Johnson 1987. The Relationship Between Stream Classification, Fish, and Habitat in Southeast Alaska. USDA, Forest Service R10-MB-10, Wildlife and Fisheries Habitat Management Note No. 12. Juneau, AK. 63 pp.

★ Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 1267

Fairbanks, Alaska 99707

907 452-4761

May 4, 1989

MAY 8 1989

The Honorable Steve Cowper
Governor, State of Alaska
PO Box A
Juneau, Alaska 99811

Dear Governor Cowper,

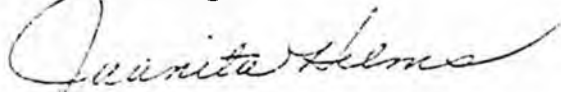
I am writing in support of introduction and passage of the Alaska Forest Practices Act revision. The intent of this legislation has been painstakingly hammered out over the past months by the Forest Practices Review Committee. The committee had representation from all groups interested in the Management of Timber and other resources, which are found in, or depend on forest ecosystems.

My support for this legislation is based on its impact on the Forest Resources within the Fairbanks North Star Borough. I further believe that it is important to preserve the work that has gone into arriving at the agreements which are the core of the revision legislation.

Throughout the forest practices revision process, the various boroughs have been provided with representation in the form of John Duffy/Ted Smith who are from the Mat-Su Borough, and who consulted with us regularly as the process went through. I do feel that there are some areas where further research is necessary to determine what protection measures are really necessary for the protection of Fish and Wildlife habitats. In spite of these areas where questions remain, the legislation is a step in the right direction, and provides the framework for further refinements through operation of the Board of Forestry.

I would appreciate your support of this legislation.

Sincerely,



Juanita Helms, Mayor
Fairbanks North Star Borough

cc: Lennie Gorsuch, Commissioner
Department of Natural Resources

Bob Loeffler, FPA Coordinator
Department of Natural Resources



**COPY FOR YOUR
INFORMATION**

APR 28 1989

April 27, 1989

Honorable Steve Cowper
Governor, State of Alaska
Post Office Box A
Juneau, Alaska 99811

Re: Forest Practices Committee

Dear Governor Cowper:

On behalf of Sealaska Corporation, I wanted to thank you personally, and your Department of Natural Resources, for the commitments your administration has made to ensure the success of the Forest Practices Steering Committee's efforts. Over the past six months, Tom Hawkins, Bob Dick and Bob Loeffler have put in long and often unpleasant hours holding together a very fragile process.

Largely because of their sacrifices, the steering committee has virtually succeeded in accomplishing a nearly impossible goal: a revised Forest Practices Act acceptable to every forest user. Both sides have made concessions that would not have been made outside the steering committee process. In the compromise bill, for example, industry agreed both to stringent new streamside protection requirements and greatly increased DNR authorities over private timber operations. Environmentalists, on the other hand, abandoned their preference for a permit system under the act, and agreed to an absolute statutory prohibition on third-party lawsuits.

As you know, although the committee's product is acceptable in its present form to most committee participants, a small number of issues have kept the remaining minority from joining the consensus. In the spirit with which the committee has undertaken its task, it is important that everyone honor the seriousness of the remaining concerns, and work towards their resolution. It would be a tragedy, and a waste, for the committee's efforts to be lost when we are so close to final agreement.

Unfortunately, it appears as though some parties, frustrated at the lack of current total consensus, are now prepared to leave the table and embark on unilateral actions that would destroy the committee's efforts. The Department of Fish and Game is considering the adoption of so-called "habitat regulations" that would establish streamside buffer zones satisfactory to that department's views. We are also concerned that the Department of Environmental Conservation will use a new and untested federal planning program -- the so-called "\$319 program" -- to create broad new rules governing upland logging. This would put DEC squarely in the business of state land use controls, and ADF&G has already recommended that DEC establish a land use permit program for timber operations under that federal statute.

If either agency initiative is pursued, or indeed if any state agency chooses to take a confrontational course between sessions, the forest practices debate will erupt. The battle would be fought on political, rather than reasoned terms, with the ultimate result probably satisfactory to no one. It would be as though the efforts of the past six months had not occurred.

Sealaska is confident that the steering committee's bill will form the basis for forestry legislation. When that occurs, it will be your administrations' credit for trusting Alaskans to work out their problems themselves. In the meantime, those of us who have worked so hard with the steering committee need your leadership to calm agency impatience, and stay the course. Your administration made the right decision in placing its hopes with the steering committee, and the degree of progress the committee has made in so short a time should strengthen our commitment to the ultimate enactment of the committee's legislation.

Thank you again for the creative leadership you have shown on this issue, and thank you for the assurances we know you will give that the administration, and each of its agencies,

Governor Steve Cowper

-3-

April 27, 1989

remains committed to addressing forest practices issues through the steering committee process.

Sincerely,

SEALASKA CORPORATION



Robert W. Loescher
Senior Vice President,
Resource Management

cc: Sen. Farhenkamp
Rep. Menard
Rep. Davidson
Forest Practices Steering Committee
Southeast Alaska Legislators
Sam Kito



United States
Department of
Agriculture

Forest
Service

Region 10

P.O. Box 21628
Juneau, AK 99802-1628

Reply to: 2600

Date: April 20, 1987

COMMISSIONER'S OFFICE

RECEIVED
APR 21 1987

Mr. Don Collinsworth, Commissioner
Alaska Department of Fish and Game
P.O. Box 3-2000
Juneau, AK 99802

DEPARTMENT OF FISH AND GAME

Don
Dear Mr. Collinsworth:

We have reviewed with interest the long-term cooperative monitoring study proposal by Gary Gunstrom of your Region 1 Commercial Fish Division Staff. It is a very timely suggestion since we are presently examining our monitoring activities in relation to the effectiveness of our aquatic habitat management prescriptions associated with all land management activities, including the expected benefits from our fish habitat improvement structures and treatments. We plan to continue focusing our monitoring efforts in these areas and improve our ability to measure the effectiveness of these practices in achieving our goal of maintaining and improving fish habitat production.

After our analysis of information and funding needs is complete, we will be contacting the Department to discuss the opportunities for solidifying these monitoring efforts into an effective cooperative venture. We expect to have our analysis completed in the near future.

We appreciated receiving Gary's letter.

Sincerely,

PHILIP J. JANIK
Director of Wildlife
and Fisheries Management

040987 1420 WLF 2600 DG



Exhibit 5



Southeast Alaska Conservation Council

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

May 5, 1989

The Honorable Bettye Fahrenkamp
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

The Southeast Alaska Conservation Council (SEACC) would like to go on record supporting SB 317 which revises the current Forest Practices Act.

WE MUST MAKE IT CLEAR THAT WE SUPPORT THIS LEGISLATION ONLY IF NO CHANGES ARE MADE, WHATSOEVER.

SB 317 is the result of months of arduous work by many diverse parties to solve major problems in State forest practices law through the consensus process. SEACC's board and staff have invested an enormous amount of time and energy in making this consensus work. Consensus development was based on the trust that the final result would be supported by all participating parties and passed by the Alaska Legislature unamended. As with all compromises, no one is entirely happy with everything, but at this point we believe it represents a workable solution to current management problems.

The health of Alaska's commercial fisheries is of utmost importance. Therefore, federal land management agencies who manage the public trust of land, river systems and habitat, should grant the same level of riparian habitat protection as established for State lands in SB 317.

This is especially critical to residents of Southeast Alaska where 90% of the salmon harvested in the region are spawned and reared in Tongass National Forest watersheds. We should not put these fisheries at risk.

SEACC, along with 5 other groups, endorsed this point in the Steering Committee meeting on February 13, 1989 by stating that "on all publicly owned lands on all stream types, there will be a minimum no cut buffer strip of 100 meters within a 300 meter RMZ" (see attachment). The language in SB 317 has drastically reduced the 100 meters to 30 meters, but we are willing to accept that standard as a rock-bottom minimum.

Thank you for your prompt scheduling of this important legislation.

Sincerely,

Bart Koehler
Executive Director

PELICAN FORESTRY COUNCIL * FRIENDS OF BERNERS BAY, Juneau * WRANGELL RESOURCE COUNCIL * SITKA CONSERVATION SOCIETY
FALSE ISLAND-KOOK LAKE COUNCIL, Tenakee Springs * LYNN CANAL CONSERVATION, Haines * TAKU CONSERVATION SOCIETY, Juneau
NARROWS CONSERVATION COALITION, Petersburg * FRIENDS OF GLACIER BAY, Gustavus * TONGASS CONSERVATION SOCIETY, Ketchikan
ALASKA SOCIETY OF AMERICAN FORESTDWELLERS, Point Baker * JUNEAU GROUP SIERRA CLUB * YAKUTAT RESOURCE CONSERVATION COUNCIL

U.F.A., S.V.A., A.C.E., S.E.A.C.C.,
C.D.F.U., F. & G. R.C.

17 Feb 1989

INTERIM RIPARIAN ZONE MANAGEMENT POLICY

FOR PRIVATE LANDS IN COASTAL FORESTS

Since a no cut buffer strip on stream channel "type 1" would have a double impact: 1) withdrawal of timber within the buffer, and 2) making large amounts of other timber inoperable, we are suggesting eliminating a mandatory buffer strip along all stream channel "type 1". However this stream channel type would still have a 15 meter Riparian Management Zone (RMZ) within which there would be flexible prescriptions to minimize negative impacts to stream water quality.

Since the value of prime fisheries habitat is so great, and because we do not know enough to fully anticipate the numerous possible impacts of present and future timber harvest on fisheries production, and because we do not have the funding to adequately administer selective logging close to streams:

THERE WILL BE A NO CUT BUFFER ZONE OF 30 METERS ON ALL STREAMS ON ALL OTHER CHANNEL TYPES. Additionally these other stream types would have RMZ's of the following dimensions:

- * type 2, 3, 6, and 8 60 meters
- * type 4, 5, 5a, and 7 90 meters

FOR ALL OTHER LANDS

There is very little scientific research to establish the minimum buffer strips necessary to protect important fisheries resources in the wide variety of riparian zones within the State of Alaska. However, in specific areas, the state has established no cut buffer strips of 100 feet to 1/4 mile.

→ On all publicly owned lands on all stream types there will be a minimum no cut buffer strip of 100 meters within a 300 meter RMZ. This policy only addresses the minimum no cut buffer zone width. In some cases a wider no cut zone will be necessary to protect fisheries resources. This standard should also be applied to private lands in boreal forests.

**ALASKA PULP CORPORATION**

P.O. BOX 1050 • SITKA, ALASKA 99835

May 4, 1989

MAY 5 1989

The Honorable Bettye Fahrenkamp
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

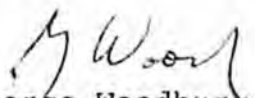
The Alaska Pulp Corporation (APC) has had an opportunity for a limited review of the Forest Practices Act proposed by the Governor. APC completely supports the request for deferral of this legislation until the next legislative session which was made by the Alaska Loggers Association (ALA) in a letter to you dated May 3, 1989.

In addition to the point made by the ALA regarding the failure of the legislation to prevent federal lands from being impacted through consistency requirements (as we had been promised at the outset), APC believes that the change to prescriptions from performance based regulations is a major change in land management and is poor public policy. Furthermore, we believe that some of the proposals are anti-multiple use and foreign to the manner in which timber harvesting activities have been conducted on State lands in the past. We predict that this type of approach could ultimately result in the inability to perform any timber harvesting on State, municipal or university lands in Alaska. This is a matter which deserves your careful examination before you approve it.

You should not rubber stamp the Governor's proposal. It requires your careful attention and the opportunity for public hearings throughout the State to determine whether or not the Legislature should make this fundamental change in management of timber lands belonging to the State.

Should you decide to go ahead with hearings on this matter in this session of the Legislature, APC wishes to have the opportunity to testify and be heard on the subject and explain why we believe it is not in the public interest to pass this legislation.

Yours very truly,


George Woodbury

GWS:sd/504

Alaska Loggers Association, Inc.



111 STEDMAN, SUITE 200
KETCHIKAN, ALASKA 99901
Phone 907-225-6114

May 3, 1989

MAY 5 1989

6861 5 MAY

The Honorable Bettye Fahrenkamp
Chairman, Resources Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

The Alaska Loggers Association (ALA) is disappointed to learn that a state forest practices bill has been introduced by the Governor that does not prevent the application of the state forest practices to federal land through the consistency provisions of the State Coastal Zone Management Act. This is distressing because at the onset of the forest practices revision process, the ALA was advised that the process would move only by consensus agreement. This was the mechanism which was designed to cause negotiations to continue to resolution or stalemate. We were not aware that a stalemate had been reached until today. Indeed, as late as Sunday, April 30, we were still discussing alternative language with the Division of Governmental Coordination that might resolve one of the major problems which the Alaska Loggers Association has with the legislation, which had been presented to the Steering Committee.

The second reason why the state action is distressing is that it had been agreed going into this process that the State Forest Practices Act was to have no impact on federal land. Indeed, there were some within the Department of Natural Resources who agreed that the ALA should not even be included on the Steering Committee because there was no intent to impact federal land.

In order not to impact federal land, several positive steps needed to be taken in the legislation. Two weeks before the negotiations among the members of the Steering Committee ended, the legislation was

Alaska Loggers Association, Inc.

produced and the Alaska Loggers Association learned that the State Forest Practices Act would apply to federal land through the consistency provisions of the Coastal Zone Management Act. We immediately raised the concern in an effort to find a resolution satisfactory to all sides. The ALA proposed language, the Division of Governmental Coordination found unacceptable. At that point, a second proposal was made based upon discussions between the ALA's attorney, a member of the Division of the Governmental Coordination staff and the Attorney General's office. This proposal, as we said earlier, was also under discussion through Sunday, April 30th.

Attached to this letter is our last proposal for legislation solving the Coastal Zone problem from the ALA's point of view. We urge that legislation not go forward in this session of the Legislature so that the consistency problem and other problems can be taken care of between the sessions of the Legislature in an orderly way. We pledge to work to resolve this issue with the Governor's office, the Department of Natural Resources and the Consensus Group Steering Committee in the meantime. If legislation does go forward, please consider the attachment as our request for an amendment.

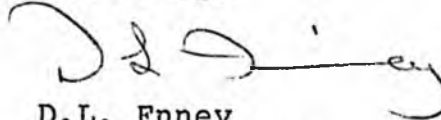
Another major issue of concern has to do with management on state land. The 30 meter no cut zone plus due deference to the Alaska Department of Fish and Game (ADF&G) for the next 60 meters is unacceptable to the ALA. While we understand that there may be changes in the language submitted by the Governor, we really need time to review those changes and to determine their significance.

In the event that the legislation introduced today is delayed until the next session as we are requesting, we would also urge that the Habitat Regulations from the ADF&G and/or Section 319 regulations under the Clean Water Act by DEC and ADF&G be delayed through your good offices pending a resolution in the next session of the Legislature of the key issues facing the state through the State Forest Practices Act.

Alaska Loggers Association, Inc.

We appreciate your courtesy on this matter.
Please let me know if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D.L. Fnney', with a long horizontal stroke extending to the right.

D.L. Fnney
General Manager

DLF:es

cc Commissioner Lenny Gorsuch
Denby Lloyd

SECTION 205. STANDARDS FOR DETERMINING
THE CONSISTENCY OF TIMBER HARVESTING
AND PROCESSING ON A NATIONAL FOREST LAND

a. The Legislature declares that applicable federal land and resource management plans promulgated under the Forest and Rangeland Renewable Resources Planning Act of 1976, as amended (16 U.S.C. Sec. 1601 et. seq.), meet or exceed State standards for the protection of forest resources.

b. For purposes of 16 U.S.C. Sec. 1456(c) (Section 307(c) of the Coastal Zone Management Act of 1972, P.L.-92-583) standards incorporated in applicable federal land and resource management plans promulgated pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, (16 U.S.C. 1601 et. seq. shall serve as the forest management standards and policies for activities on National Forest Lands so long as those standards and policies meet or exceed the following standards:

(i) the location of facilities and the layout of logging systems must be sited so as to minimize adverse environmental impacts;

(ii) free passage and movement of fish in coastal water must be allowed; and

(iii) timber harvest and timber management activities must be planned so as to protect streambanks and shorelines, minimize adverse impacts on fish resources and habitats, and minimize adverse impacts on wildlife resources and habitats.

(iv) onshore storage of logs must be encouraged;

(v) sites for in-water dumping and storage of logs must be selected and these activities conducted so as to minimize adverse effects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;

(vi) roads for log transport and harvest area access must be planned, designed, and constructed so as to minimize mass wasting, erosion, sedimentation, and interference with drainage, and must be adequately maintained until they are

returned to their pre-road natural drainage patterns (put-to-bed); and

(vii) stream crossings, including bridges and culverts, must be designed to withstand seasonal high water and flooding, and must allow the free passage and movement of fish.

are the most critical fish and wildlife habitat.

The destructive effects of logging and roading on prime fisheries are well understood and documented. But in their 1985 report to Congress concerning the status of Tongass National Forest management, the Forest Service claimed that both full protection of the biological potential of fisheries habitats and clearcut logging can occur at the same time. This is an impossible claim. When pressed with criticisms, the Forest Service claims that it is "working on the issue" developing new methods and creating "fish habitat management units." But at present the agency's claims have been meaningless.

Since the approval of the Tongass Land Management Plan in 1979, no implementation of Fish Habitat Management Units (FHMU's) has occurred in 80% of the timber sale environmental documents, according to the Alaska Department of Fish and Game. In FHMU's currently under planning consideration, logging of up to 75% of the timber along streams would be allowed.

The Forest Service's latest attempt (as part of the Alaska Pulp Corporation's 1986-90 Operating Plan) at dealing with FHMU's is very revealing. At first blush, the protection of Class A (Highest Value Streams) fisheries seems assured since the agency states, "We estimate 80% of the trees will be retained for Class A fish habitat." In the next breath, however, they state that "second growth trees will be considered in meeting this objective." (That means cutting the prime old growth to get on with the business of protecting streamside habitat with "second growth.") Take another look and you'll discover that all coniferous trees less than 12 inches diameter at breast height (DBH) will be left to protect habitat. That means all the big old growth over 12 inches DBH will be logged unless they are leaning over the river. This is further emphasized by the phrase "where possible, preference for retention will be given to lower value trees." (This special management zone is only 100 feet wide on either side of the streams.)

It is obvious that FHMU's are only a smokescreen. The emphasis is clearly on timber production, not on fish habitat protection.



(Photo courtesy Alaska Dept. Fish and Game)



Aboard a fish packer. (Photo courtesy the Alaska Dept. Fish and Game)

Additionally, the Forest Service has yet to truly protect streams with real buffers where no trees are cut. Clearcutting to the banks along fish streams is still a common practice in the Tongass. For example, virtually all the alternative development plans for the Alaska Pulp Corporation's 5-year 1986-90 Timber Operating Plan on Chichagof Island would have directly affected 40% of the Class I stream miles of the highly valuable Lisianski River system. This would have included 21 stream crossings by logging roads! Fortunately, the Lisianski River has been given a temporary 5-year reprieve from cutting. But it is still on the chopping block unless it is permanently protected from the implementation of the Alaska Pulp Corporation's 50-year contract. Kadashan has also been given a temporary deferral, but the Forest Service wants to build the road through the heart of the drainage as soon as possible. Ultimate cutting plans include several logging units directly adjacent to the Kadashan River.

It is clear that the few buffers retained in the Tongass are not consistently implemented. And even these have no guarantee of permanent protection.

The chilling truth is that one out of every two high value fishery watersheds in the Tongass are presently scheduled to be logged and slashed by roads. Unless

changes are made during the next few years, more than two out of three high value fisheries watersheds will remain outside of designated wilderness and thus open to future logging and/or road building. It should be noted that watersheds classified as LUD II (administrative backcountry) in the Tongass Land Plan have no guarantee for protection since roads can be built in these areas, and logging operation can be authorized. LUD I release areas, such as the Karta River, are only safe until the Tongass Land Management Plan is revised.

We are facing a major crossroads for the future of the Tongass National Forest and the commercial fisheries of Southeast Alaska. In 1987, Congress is considering reform legislation for the Tongass. Between 1988-90 the Tongass Land Management Plan is scheduled for public comment and revision. Also coming up for review in the next few years will be another set of 5-year timber operating plans for Alaska Pulp and Louisiana Pacific's 50-year contract areas.

Time is running out for many of the critically important, unprotected commercial fishery watersheds in the Tongass. Yet the opportunity to truly change the course of this great forest is still within our grasp—if we all hang tough and work together.

Logging effects Shellfish

Finfish are not commercial species which can be affected by logging. Shellfish, too, are affected. In their 1985 report, *Logging in Southeast Alaska and its Relationship to Wildlife, Fisheries, and Economics*, the Territorial Sportsmen noted the following.

"During log dumping and rafting processes, bark is knocked from logs and sinks to the bottom, often in large quantities. This accumulation can greatly increase oxygen demand, resulting in reduced populations of marine benthic organisms, (such as crabs, and other shellfish), and can also smother the bottom so thoroughly that recolonization by benthic forms is prevented.

Observations at several dump sites in Southeast Alaska showed that significant accumulations of organic debris may persist for long periods of time. Marine animals, including crabs and clams, were very scarce in some areas compared with nearby

areas without log dump sites. In general, the impact of these log facilities depends on several conditions including the type and age of the facility and the characteristics of the water (depth, influence of tidal currents, etc.).

Water storage of logs also results in a release of soluble organic compounds (leachates) which further increases the oxygen demand in the storage area. Length of storage, species of logs stored, and various estuarine conditions all influence the effects on marine communities. Much remains to be learned about the effects of water-based log handling in Southeast Alaska. The economic as well as biological considerations involved in rafting and towing versus barging, for example, need to be determined. In general, any method which reduces the amount of bark and other log debris accumulating on the bottom is preferred."



Klukwan Forest Products, Inc.

P.O. Box 34659 • Juneau, Alaska 99803-4659

(907) 789-7104 Fax: (907) 789-0675

April 29, 1989

The Honorable Governor Cowper
Office of the Governor
P.O. Box A
Juneau, AK. 99811-0101

MAY 3 1989

Dear Governor Cowper:

We would like to echo Bob Loescher's comments in his April 27, 1989 letter to you regarding forest practices. Bob said it so well that there is little else for me to add.

I would simply like to say that we are very close. So close, indeed, that I would advocate that the process of drafting regulations which reflect the Agreement begin. I firmly believe that the two remaining issues, namely the size of the streamside buffers on certain state lands and the effects of the Act on federal lands can be taken care of in fairly short order.

Even if legislation is not passed until early next session, with the regulations ready, the actual implementation of the Act should not be delayed much, if any, beyond the original time frame (beginning of the 1990 logging season).

Again, we support the process and advocate that it be brought to its logical conclusion, rather than abandoning it because time frames were not met. We appreciate you giving us the opportunity to participate in resolving these issues and pledge our wholehearted support in completing the assigned task.

Sincerely,

Robert G. Loiselle
Chief Executive Officer

RGL:edl

cc: Sen. Fahrenkamp
Rep. Menard
Forest Practice's Steering Committee

Whitestone Logging, Inc.

Box 389

Hoonah, Alaska 99829

May 5, 1989

Senator Bettye Fahrenkamp
Senate Resources Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp,

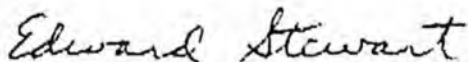
Whitestone Logging, Inc. has reviewed the proposed revision of the Forest Practices Act. We would like to request a deferral of this legislation. This revised Act is a product of a group of people working diligently to accomplish a given task on a given date for the Governor. As a result many of the proposed prescriptions in the Act are impractical and will waste time, money and resources for little or no environmental benefit.

Our industry, as well as other industries that use the National and State Forests, are operating in an atmosphere of environmental hysteria created by the Tongass debate and the Exxon oil spill. We feel that in this type of atmosphere thoughtful and practical legislation regarding wise resource use cannot be made.

It is very difficult to operate under the current State and Federal regulations regarding timber harvesting. If we continue on the present course of greater governmental harassment and control we will cease to exist as a viable company. The cost of carrying the government is killing us.

It has been stated several times that government is an industry. This is not true. Government regulates, controls and defends - it does not produce. In our country a healthy industry produces jobs and incomes, and in so doing produces a healthy government.

Sincerely,



Edward Stewart

cc: Curt Menard
Cliff Davidson

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PHONE: (907) 277-6693
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**ROBERT B. BAKER
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**L. G. BERRY
HAROLD E. SNOW, JR.
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**JULIA B. BOCKMON
JOSEPH D. DARNELL
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GREGORY G. SILVEY
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**CARL W. WINNER

WASHINGTON OFFICE

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STEVEN W. SILVER
BRADLEY D. GILMAN

ROBERTSON, MONAGLE & EASTAUGH

A PROFESSIONAL CORPORATION
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JUNEAU, ALASKA 99802

May 6, 1989

JUNEAU OFFICE

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OF COUNSEL
F.O. EASTAUGH

ROYAL ARCH GUNNISON (1873-1918)
R. E. ROBERTSON (1885-1961)
M. E. MONAGLE (1902-1985)
JAMES F. CLARK
PAUL M. HOFFMAN
D. ELIZABETH CUADRA**
ROBERT P. BLASCO
MARY A. NORDALE
THOMAS J. SLAGLE

ADMITTED IN WASHINGTON, D.C.**
AND ALASKA

ALL OTHERS ADMITTED
IN ALASKA

The Honorable Bettye Fahrenkamp
Chairman, Senate Resources
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

The Honorable Curt Menard
The Honorable Cliff Davidson
Co-Chairmen, House Resources
Alaska State Legislature
Juneau, Alaska 99811

Dear Senator Fahrenkamp, Representative Menard and
Representative Davidson:

You had asked for a short memorandum in layman's terms describing the difference between what is presently proposed in Section 27 of the proposed State Forest Practices Act and what is proposed in the Alaska Loggers Association's (ALA's) attached amendment with respect to application of the proposed State Forest Practices Act to federal land. This is an extremely complicated subject, and thus the shorter and more general the explanation, the more likely one is to fall into technical error. With this caveat in mind, we make the following points:

(1) What the Federal Coastal Zone Management Act Requires. National Forest and other federal lands are excluded from the Alaska Coastal Zone. However, Section 307(a) of the Federal Coastal Zone Management Act of 1972 requires:

Each federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs (emphasis added).

Senator Bettye Fahrenkamp
Representative Curt Menard
Representative Cliff Davidson
Page 2

The term "consistent to the maximum extent practicable" is defined in 15 C.F.R. Sec. 930.32, which states in pertinent part in subsection (a):

Accordingly, when read together, Sections 307(c)(1) and (2) and 307(e) require federal agencies, whenever legally permissible, to consider state management programs as supplemental requirements to be adhered to in addition to existing agency mandates.

In California Coastal Commission v. Granite Rock, 480 U.S. 572 (1987), the United States Supreme Court found that these requirements even extended to obtaining state permits where they did not conflict with federal law.

In short, the ALA believes that, absent some explicit direction from the Alaska Legislature, the Federal Coastal Zone Management Act will require the application of the State Forest Practices Act to National Forest land through CZM consistency determinations.

(2) What Section 27 of the Proposed Act Requires.
Proposed Section 27 would repeal AS 41.17.900(b) and re-enact it to read as follows:

(b) The degree of resource protection on federal land shall be no less than that provided by this chapter for state lands, however, the specific provisions of this chapter and its implementing regulations are not applicable to federal lands either directly or for purposes of compliance with the Coastal Zone Management Act. (emphasis added)

The underlined language makes it explicit that the State Forest Practices Act, as it applies to state land is the standard which the federal program must meet "to the maximum extent practicable." The language which is not underlined states that the federal agencies only have to meet the substantive standards of the State Forest Practices Act, not the procedural requirements. Thus, reading the entire section together, it makes the proposed State Forest Practices Act the standard for federal land even though the procedural requirements of the State Forest Practices Act would not apply.

Federal land timber operators are gravely concerned about what may emerge as the State standards when regulations are promulgated pursuant to the directions of the proposed State Forest

Senator Bettye Fahrenkamp
Representative Curt Menard
Representative Cliff Davidson
Page 3

Act. The proposed Forest Practices Act moves away from normal multiple use management, as heretofore practiced on State lands and presently practiced on federal lands, to a more prescriptive type approach (see proposed Sec. 14). The requirement in the law for the 30 meter no harvest zones along streams and the prescriptive regulations which will be written under new AS 41.17.080 on state lands could result in preventing timber development on the approximately 32 million acres of state forest land.¹ While the Alaska Legislature may see this as necessary to protect state resources, federal timber operators believe that federal resources on the Tongass National Forest have been well managed under the multiple use system. They want to keep a system which uses the expertise of land managers in making site specific determinations of multiple use trade offs pursuant to performance based standards rather than replace it with centrally drawn regulations, produced at someone's desk, which may or may not apply to site specific situations.

Federal timber operators have no idea what regulations will be promulgated under the prescriptive direction of AS 41.17.080. Further, there is no question that they will be subject to lawsuits on consistency grounds to determine whether or not harvesting in the riparian zone on federal lands meets the same standards as would be achieved on State lands with its 30 meter no harvest zone.

(3) What the ALA Proposal Would Do. The ALA proposal first would make a finding that for consistency purposes, it is in the public interest to have a different system (multiple use) on federal land than the system on state lands (prescriptions).

In subsection (b), the amendment states that the standards the State will use for purposes of consistency determinations will be the higher of what is in the Forest Service's Federal Forest Management Program or what had been the State Coastal Zone regulations for timber processing prior to passage of the State Forest Practices Act in 1978 (which preempted those regulations). This will assure the continued high standard that the Forest Service has achieved on National Forest, but retain the existing multiple use management approach.

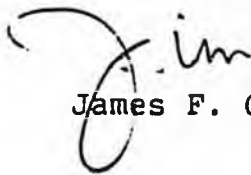
¹ Unlike the provision for private lands in the proposed State Forest Practices Act, there is no 5% cap on the amount of timber on State or municipal lands which can be precluded from harvest.

Senator Bettye Fahrenkamp
Representative Curt Menard
Representative Cliff Davidson
Page 4

The ALA reasonably believed going into this process that there would be no fundamental change in the way National Forest lands are managed were the proposed State Forest Practices Act to become law. The attached amendment would enact that commitment into law. While it is true that language could be crafted which would prevent the proposed State Forest Practices Act from applying to National Forest land without nailing down what the new standard would be in statute, the ALA is opposed to this approach. The standard for consistency with the State Forest practice standards is set forth in the existing Forest Practices Act and the 5% protection for private landowners is in the statute. Accordingly, it would be unfair for our federal timber operators to give up their present statutory protection and be left to the vagaries of what the ACMP might do in the future by way of regulation.

Thank you for the opportunity to provide this information. Please let me know if there are any questions we can answer.

Yours very truly,

A handwritten signature in dark ink, appearing to read "J. Clark", is written over the typed name.

James F. Clark

JFC:sd/506
Attachments

PROPOSED ALASKA LOGGERS ASSOCIATION AMENDMENT
SETTING FORTH THE STANDARDS FOR DETERMINING
THE CONSISTENCY OF THE STATE
FOREST PRACTICES ACT ON NATIONAL FOREST LAND

The material now in Section 27 of the proposed bill is deleted and new Section 27 would read as follows:

AS 41.17.900(b) is repealed and re-enacted to read

(b)(i) The Legislature finds that it is in the public interest that the standards set forth in subsection (ii) be the State standards for purposes of 16 U.S.C. Sec. 1456(c) (Section 307(c) of the Coastal Zone Management Act of 1972, P.L. 92-583) and the Alaska Coastal Zone Management Act, AS 46.40.010 et seq. (Sec. 1, Ch. 108 SLA 1978), even though the standards set forth in subsection (ii) may be different from the standards for the protection of forest resources under this Act.

(ii) For purposes of 16 U.S.C. Sec. 1456(c) (Section 307(c) of the Coastal Zone Management Act of 1972, P.L. 92-583) and the Alaska Coastal Zone Management Act, AS 46.40.010 et seq. (Sec. 1, Ch. 108 SLA 1978), standards incorporated in applicable federal land and resource management plans promulgated pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, (16 U.S.C. 1601 et. seq.) shall serve as the forest management standards, policies, and guidelines developed under the Alaska Coastal Management Act, AS 46.40.010 et seq. (Sec. 1 Ch. 108 SLA 1978), for activities on National Forest Lands so long as those standards and policies meet or exceed the following standards:

(A) the location of facilities and the layout of logging systems must be sited so as to minimize adverse environmental impacts;

(B) free passage and movement of fish in coastal water must be assured; and

(C) timber harvest and timber management activities must be planned so as to protect streambanks and shorelines, minimize adverse impacts on fish resources and habitats, and minimize adverse impacts on wildlife resources and habitats.

(D) onshore storage of logs must be encouraged;

(E) sites for in-water dumping and storage of logs must be selected and these activities conducted so as to minimize adverse effects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;

(F) roads for log transport and harvest area access must be planned, designed, and constructed so as to minimize mass wasting, erosion, sedimentation, and interference with drainage, and must be adequately maintained until they are returned to their pre-road natural drainage patterns (put-to-bed); and

(G) stream crossings, including bridges and culverts, must be kept to a minimum number, must be designed to withstand seasonal high water and flooding, and must provide for the free passage and movement of fish.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 485-2400

May 5, 1989

The Honorable Bettye Fahrenkamp
Chairman, Resources Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

The bill before you represents substantial changes to the Alaska Forest Practices Act. It is the result of almost six months of work by representatives of the timber industry, the state resource agencies, and fishing and environmental groups. I believe that this bill, as a result of hard work and compromises by all interest groups, will allow Alaska's forest practices program to both meet the needs of Alaska's growing timber industry and achieve appropriate protection for public resources such as fish habitat and water quality. I would like to take this opportunity explain the consensus mediation process used to arrive at this bill -- the Alaska Forest Practices Act Review, and explain the provisions of the bill.

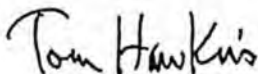
Last year, the Governor directed the state resource agencies to conduct a public review of the Forest Practices Act and to make recommendations for any improvements in the Act, its regulations, and implementation. In order to facilitate an objective and balanced review, a steering committee was formed, including representatives of timber land owners and operators, state agencies, and users of public resources that are affected by forest practices. Because the agencies felt it would be possible to review the state's forest practices program and meet both the needs of the timber industry and resource protection needs for fish habitat and water quality, the committee attempted to operate by unanimous consent. This approach ensured that the committee's decisions respected all interests.

The bill before you achieves near total consensus; it has the support of representatives of Native Corporations, boroughs, fishing groups, and environmental groups. There have been question raised to a provision of the bill that might affect harvest on federal land through the Alaska Coastal Management Program. (For information on that section, please see the attached bill analysis, Section 27.) Agency staff will be available during the committee hearing to discuss any questions raised on this issue.

The committee's long and difficult work was not completed until early this week, and so the bill could not be introduced earlier. However, because of the importance of the bill and the extraordinary and fragile achievement of achieving near-total consensus on these controversial issues, I urge your prompt and favorable consideration.

Attached is an analysis of the bill.

Sincerely,



 Lennie Gorsuch
Commissioner

**Bill Analysis
Senate Bill 317**

**An Act relating to forest resources and practices and to the management of forest lands;
and providing for an effective date**

Section 1: State Timber Planning Process. Title 38 is amended to require additional planning before state timber sales. The division of forestry must prepare a site-specific plan before all state timber sales that fully integrates appropriate resource protection measures into the sale design. This site-specific design would also improve public review of individual timber sales.

The department would also be required to annually prepare a five-year timber schedule of proposed state timber sales. Except for small sales and emergencies such as salvage, a proposed sale would be required to appear on the two five-year schedules preceding the sale. The five-year schedule will inform the public and the timber industry of the state's long-term plans.

Section 2, 3 and 4: Coordinating Overlapping Agency Jurisdiction. These sections coordinate overlapping agency jurisdiction regulating timber harvest activities.

Section 2: DEC. Regulations of the amended forest practices act will serve as timber harvest standards for non-point source pollution under the leadership of DEC.

Section 3: ACMP. The amended forest practices act will serve as the Coastal Management Program for harvest activities on private land.

Section 4: DF&G. Regulations of the amended forest practices act provide the fish habitat protection standards except for those activities subject to AS 16.06.840 and AS 16.05.870.

Section 5: Board of Forestry Membership. The current 13-member board of forestry is restructured to a smaller, more balanced, 7-member board. (See section 7 for duties of the board.) It also details qualifications for board members, staffing requirements, and voting procedures.

Section 6: Board of Forestry Terms of Office. The section amends existing terms of office to provide staggered terms of office for the Board of Forestry.

Section 7: Powers and Duties of the Board of Forestry. This section amends the duties of the Board of Forestry. Existing duties include only commenting on regulations. New duties are added: providing a forum for discussion for representatives of affected interests to discuss and resolve forestry issues before they become divisive; coordinating an annual survey of research needs; coordinating the monitoring of the implementation and effectiveness of the forest practices program and making recommendations for change; and holding annual hearings in southeast, southcentral, and interior Alaska to take public testimony on the state's forest practices program.

Section 8: Technical Change, Coordination with DEC. References to DEC's program for non-point source water pollution are amended to be consistent with the coordination provisions in Section 3.

Section 9: Technical Change, Non-point Source Pollution Control. Wording is changed to make clear the meaning of the existing law concerning recognition of environmentally sensitive areas in non-point source pollution control measures.

Section 10: Standard for Soil Erosion and Mass Wasting. The section provides a standard of minimizing or preventing significant adverse effects of soil erosion and mass wasting.

Section 11: Standard for Scenic Quality. The existing standard for scenic quality near tourism and recreation areas is amended. The standard applies to state and municipal land only. The standard would be implemented by regulations of the act, and by state and municipal planning for timber harvest.

Section 12: Standard for Important Fish and Wildlife Habitat. A new standard is added that requires planning for harvest allowance be made for important fish and wildlife habitat. The standard applies to state and municipal land only. The standard would be implemented by regulations of the act, and by state and municipal planning for timber harvest.

Section 13: Records for Public and Agency Review. The division is required to maintain a records of decisions made under the act for use by the public and state agencies in assessing the effectiveness of implementation of the act.

Section 14: Regulations. This section provides a list of forestry activities subject to regulation under the act; allows the commissioner to establish regions and make appropriate distinctions between public and private land; and directs the commissioner to only adopt those regulations that yield significant benefits.

Section 15: Control of Infestation and Disease. A new section of the act is added that allows the commissioner to take action to control forest infestation and disease outbreaks that threaten forest resources.

Section 16: Variation from Requirements of the Act. The state forester is directed to allow variations from forest practice requirements established under this act. The state forester may allow variations to requirements he determines that the harm such as degradation of fish habitat or water quality not likely to occur because of site-specific circumstances of the particular activity. It allows private landowners to appeal an adverse decision by the state forester, but they must conform to the requirement during the period of the appeal.

Section 17: Review of Private and Municipal Timber Harvest Operations. The section provides an improved process for efficient and detailed review of timber harvest plans. This efficient review allows the timber industry to respond to changing timber markets but ensures that harvest operations conform to forest practices standards and regulations. The section also requires public review of private harvest plans. Review by state agencies may occur in the office or, if necessary, in the field prior to the start of the operations.

Section 18: Interagency Coordination. Because of overlapping agency expertise for issues concerning timber harvest, this section provides coordination mechanisms for DNR, DF&G, DEC, and where appropriate, coastal districts. The coordination system retains DNR as the lead agency for forest practices but ensures that the appropriate agency expertise from DF&G and DEC is included for forest practice issues that involve their expertise. The section requires that the agencies recognize fish habitat as the primary value within the riparian areas established under the bill.

Section 19: Riparian Management. This section of the bill provides for a streamside management program that strikes a fair balance between the needs of the timber industry and those of fish habitat and water quality protection. It provides for significant timber harvest while providing appropriate protection for public resources. Riparian standards for timber harvest differ depending on land ownership, stream, type, and region. The section also provides the intent of riparian management standards: a list of fish habitat

components that the riparian standards are designed to protect.

On private land in southeast Alaska, streamside areas of up to 30 meters will be managed for the protection of fish habitat and water quality, although timber operators will not be required to leave more than five percent of their timber volume for this purposes. In this way, strong resource protection exists without requiring any one private owner to shoulder an undue portion of the resource protection costs.

On private land outside southeast Alaska, it directs the commissioner to establish riparian protection standards and provides interim standards until regulations are drafted.

On state land north of the Alaska Range, timber harvest within 30-meters of an anadromous or high value resident fish waterbody will be allowed where adequate protection remains for fish habitat.

On state land south of the Alaska Range, no timber harvest is allowed within 30-meters of an anadromous or high value resident fish waterbody. Within the adjacent 60-meters, timber harvest must be consistent with the maintenance of important fish and wildlife habitat.

For municipal and trust lands, timber harvest within 30-meters of an anadromous or high-value resident fish waterbody must be sited and designed primarily to protect fish habitat and water quality.

Section 20: Enforcement Coordination. Because existing overlapping jurisdiction by DEC, DF&G, and the department of law, and because of additional authorities provided DNR by this bill, this section directs the agencies to establish "uniform enforcement strategy." The strategy requires a method of coordinating enforcement that avoids duplicating and inconsistent enforcement by the agencies. All agencies retain existing enforcement authorities.

Section 21: Penalties for Violations. This section amends the act by streamlining existing procedures for levying civil penalties of up to \$10,000 per violation, and adds additional enforcement authorities. Under these additional authorities, the state may issue a citation for a class A misdemeanor for violations of the act, its regulations, agency directives or stop orders; also, DNR may issue remedial orders requiring operators to repair or correct damage resulting from a violation.

Section 22: Directives. This new section provides that DNR may issue enforceable, written orders directing that timber operations that violate or would violate this act or its regulations be changed. These directives may be written as part of the DNR office or field review of private timber operations as provided under Section 17 of the act. Directives may be appealed and operations may continue pending the outcome of the appeal.

Section 23: Stop-work Orders. If the forester determines that a violation of the act or its regulation is occurring or is likely to occur and that significant harm to public resources is likely to occur if work is not halted before a hearing, the state forester may issue a stop-work order. A stop-work order may be written as part of the DNR office or field review of private timber operations as provided under Section 17 of the act. Stop-work orders may be appealed, but the operation must stop pending the outcome of the appeal.

Section 24: Hearing Procedures. This section amends the cumbersome hearing process existing law by deleting the requirement that hearings be held before lawyer appointed by the attorney general. The new process allows the hearing officer to be an employee of the department. The new process will be quicker, and more efficient for both the landowners and the department. It will also be significantly less costly for the department.

Section 25: Appeals and Judicial Review. This section provides appeal procedures from department decisions. It provides for appeal of DNR decisions by landowners or timber operators to the state forester, in some cases to the commissioner, and gives the option of going to court. Also it provides that parties other than an aggrieved forest landowner, timber owner, or operator may not receive judicial review of individual timber harvest decisions. Third parties may, however, seek judicial review of regulations, or of a systematic error in DNR decisions.

Section 26: State Forest Plans, technical change. This section changes existing law by deleting a list of uses to consider in completing plans; and instead referencing a similar list in Title 38 (section 1 of this bill). It eliminates confusion from two close but not identical lists with similar purposes.

Section 27: Affect on Federal Timber Harvest. Other sections of this bill set specific standards for activities on state, municipal, and private land. This section states that the bill's specific resource protection provisions, such as riparian management zones defined for private, state, and municipal lands, do not apply to timber harvest activities on federal land. However, the bill proposes that the federal government achieve a level of resource protection commensurate with that provided for on state lands. This would occur as the federal agency, primarily the Forest Service, proceeds with its normal environmental planning process for timber harvest activities. While this measure does create a broad performance test for operations on federal land, the real effect on Forest Service actions is not considered to be significant, given the generally higher federal requirements for environmental protection.

The bill assures that federal lands will not be subject to the specific forest practice act standards "either directly or for purposes of compliance with the (federal) Coastal Zone Management Act." This statement effectively severs the applicability of the Act's specific standards to National Forests and other federal lands. However, some participants in the forest practices discussions wanted to take the point one step further to resolve a long-standing discussion of what specific environmental protection the state can ask the federal government to provide on National Forest lands through the coastal management consistency process.

The forest practices act discussions did not address federal timber harvest activities in any detail. Therefore, the parties to the consensus decided that the bill was not the appropriate vehicle to include specific environmental protection standards for federal lands, nor address the application of coastal management standards to federal timber harvest activities. Instead, the vehicle to address this question will be through a change to the Alaska Coastal Management Program regulation established for timber harvest and processing by the Alaska Coastal Policy Council (CPC). Following enactment of the forest practices act, the CPC will amend this timber harvest standard as necessary to address lands not covered by the forest practices act, including federal lands. The CPC will provide for the full involvement of the federal government, industry, and the public in drafting the new timber harvest standards.

Section 28: The Act Does Not Alter Other Rights and Jurisdictions. This new section of the act confirms that it does not alter or diminish the authorities of DF&G under title 16, DEC under title 46, or any state agency under other laws. It also confirms that the act does not diminish the rights of Alaska Native or of Alaska Native corporations with respect to the Alaska Native Claims Settlement Act.

Section 29: Wildlife on Private Land. This new section provides that state agencies and private landowners will establish cooperative, voluntary processes for protection of wildlife habitat on private land.

Section 30: Definitions, technical changes. This section provides definitions necessary for the act. Few changes are made.

Section 31: Legislative Review. This section provides legislative acknowledgement that this act should be reviewed by the legislature within three years after further research and experience is gained in implementing the act.

Section 32: Repeal of Superceded Sections.

Section 33: Effective Date. An effective Date is provided: January 1, 1990.



Mission Statement

The Forest Alliance is a broad-based coalition of organizations, businesses, Alaska forest land owners and individuals dedicated to the responsible management and use of Alaska's forest resources and to environmentally sound development of those resources to provide economic opportunities to the citizens of the state. We believe that development of Alaska's forest resources can take place while, at the same time, protecting and enhancing co-existing natural resources. The Alliance is dedicated to the principle that wise management of Alaska's forest lands today will guarantee that this renewable resource will be able to meet the needs of Alaskans for generations to come.

Toward that goal, the Alliance mission is to:

- A) Increase the public understanding of and appreciation for the management of Alaska's renewable forest resources and the forest products industry through dissemination of accurate, timely information;
- B) Promote environmentally sound development of Alaska's forested lands in a manner which will achieve protection of water quality, fish and wildlife and other uses while allowing operation of a viable forest products industry;
- C) Inform and educate the public, media, administrative and legislative officials about critical issues related to land use and management of Alaska's forested lands;
- D) Promote passage by the Alaska Legislature of significant revisions to Alaska's Forest Practices Act which will provide safeguards for co-existing land uses while, at the same time, allow the continued operation of a viable forest products industry in Alaska;
- E) Advocate for allocation of sufficient state resources to adequately and responsibly administer regulations concerning management of state and private forest lands.
- F) Advocate for responsible regulations to establish fair and efficient public notification and review processes of land and forest management plans and clear enforcement guidelines and policies that protect rights of both the public and landowners;
- G) Encourage cooperative agreements and working relationships between co-existing users of Alaska's resources;
- H) Promote the rights of private forest land owners.

10624 Starlight Court • Juneau, Alaska 99801 • (907) 463-2581 • FAX (907) 463-2584

Alagnak Native Corporation
Ahtna, Inc.
Alaska Loggers Association
Alaska Pulp Corporation
Atigun Forest Products
Chukot Lumber Company

Chugach Forest Products, Inc.
Citikun
Cook Inlet Region, Inc.
Deyon, Ltd.
The Eyak Corporation

Goldbelt, Inc.
Huna Totem Corporation
ITT Rayonier, Inc.
Kavlico, Inc.
Ketchikan Pulp Company

Klawock Heenya Corporation
Klukwan Forest Products
Klukwan, Inc.
Koncar Forest Products
Sealaska Corporation

Shee Atika, Incorporated
Tanana Chiefs Conference
Tatitlek Native Corporation
Timber Trading Company
West Coast Stevedoring

May 5, 1989

KFP

Koncor Forest Products Company

3501 Denali, Suite 202
Anchorage, Alaska 99503
(907) 562-3335 FAX (907) 562-0599

Senator Bettye Fahrenkamp
P.O. Box V
Juneau, AK 99811

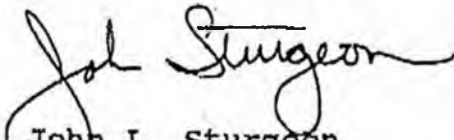
Dear Senator Fahrenkamp:

It is Koncor's understanding that a hearing has been scheduled for Senate Bill 317 which will revise the current forest practices law. Koncor would like to go on record supporting this proposed legislation.

Koncor has spent a tremendous amount of time and money working to develop the language in this proposal. All parties that worked on the development of this compromise can readily point out concerns. However, that is to be expected of any product developed by a compromise process. Since this is a product of compromise we can support it only if no changes are made. A change could tip the balance that we all worked so hard to secure.

The private land owners of Alaska are making some tremendous sacrifices in this revised forest practices legislation. The legislature should assure that State agencies do not exceed the intent of these statute changes through unreasonable regulations. If unreasonable regulations are promulgated the sacrifices of private landowners could quickly be converted into a death sentence for Alaska's forest products industry.

Sincerely,


John L. Sturgeon
President

JLS/mlm

LARRY SMITH

235 7879

FRITZ CREEK 99603

SC FIG Regional Council

DNR - no stat
language on reg
not to specify DNR comm
mk reg. Plans to meet w/
DNR.

WILDLIFE HABITAT
PRIVATE LANDS

state
sovereignty?

INTENT

ON PRIVATE LANDS, THE STATE DESIRES TO PROTECT, MAINTAIN,
AND WHERE POSSIBLE, ENHANCE FISH AND WILDLIFE HABITAT. THE
PROTECTION OF WILDLIFE HABITAT ON PRIVATE LANDS SHALL BE
UNDERTAKEN PURSUANT TO A COOPERATIVE AGREEMENT OR
UNDERSTANDING BY AND BETWEEN THE PRIVATE LANDOWNER AND THE
APPROPRIATE AGENCY OR AGENCIES OF THE STATE.

THE PRIVATE LANDOWNERS AND THE STATE ARE ENCOURAGED TO
DEVELOP THESE AGREEMENTS. THROUGH THESE AGREEMENTS THE
DEPARTMENT OF FISH AND GAME SHOULD COOPERATE WITH THE
PRIVATE LANDOWNER TO IDENTIFY CRITICAL WILDLIFE HABITATS.
AGREEMENTS SHOULD ADDRESS HOW THE DEPARTMENT WILL PROVIDE
ASSISTENCE IN THE FURTHER EVALUATION OF SUCH HABITATS.

TO FURTHER THIS PROCESS THE STATE SHALL THROUGH A
COOPERATIVE PROCESS PROVIDE EDUCATION, TECHNICAL ASSISTENCE,
AND EXTENSION SERVICES TO HELP THE LANDOWNER AND OPERATOR TO
ASSESS WILDLIFE HABITAT VALUES AND TO DESIGN MANAGEMENT
OPTIONS TO TO PROVIDE WILDLIFE HABITAT AND TO MEET THE THE
LANDOWNERS MANAGEMENT AND USE OBJECTIVES.

To the extent that wildlife habitat
can be enhanced

(3)

SE private Riparian Management Zone

The riparian (streamside) zone is of particular importance to both the fisheries and timber resources.

The zone provides many of the critical components necessary to produce long-term fisheries resources. It also contains many of the most productive tree growing areas. In light of these facts, the parties recognize the need to both protect fish habitat and meet the needs of the logging industry, private timber owners, and those dependent on timber and forest resources.

The parties, therefore, agree that there should be a riparian management zone along all streams. In implementing a riparian management system, the parties recognize that the landowner has a public trust responsibility to provide protection for the fisheries resources, and the general public has the responsibility to allow the landowner to realize economic return from their timber resources.

In summary, the task is to provide for the necessary protection of the fishery habitat without unnecessarily reducing timber harvest or increasing the costs of timber operation: "The goal must be that one dollar of costs achieves one dollar of protection."

Fisheries Habitat Components. The parties agree that the riparian management system must address the following components:

- * 1. Streambank Stability, and Channel morphology (form)
- * 2. Large Woody Debris
- * 3. Temperature
- * 4. Turbidity and Sedimentation
- 5. Discharge Peaks and Streamflow
- 6. Nutrients
- 7. Other Water Quality
- 8. Food Resources
- 9. Gravel
- 10. Sunlight

* = component to address first. Whatever Riparian Management system could address these four components would likely also be sufficient for the remaining five (although we should check to make sure).

Timber Operational Components. The parties agree that the riparian management system must address the following components:

- 1. the volume of the merchantable timber required to be left standing;
- 2. the operational costs within and adjacent to the riparian zone;
- 3. the impact on the ability to harvest adjacent timber; and
- 4. the safety of those woods.

5. Isler proposes windform design.

Riparian Management Standards. The parties agree to develop Riparian Management Standards and an implementation program to achieve the results described above. The standards will be based on a stream classification system. The size of the riparian management zone, the leave tree requirements, and operational constraints will be specified for each stream category.

Future Site-specific Alternative Plans. The parties agree that the regulations should permit and the agencies and industry should pursue site specific plans which will achieve the best fit between the requirements of the fisheries habitat and timber operating components. The

Baker - this does not capture where it gap arrived.

long-term goal should be site-specific plans which meet fisheries needs (performance goals) with the least impact on timber operations. The primary constraint to achieving this goal is the time and expense required to successfully utilize this approach.

Monitoring and Evaluation. The parties recognize that our understanding of the riparian zone management requirements and inter-actions is limited. Therefore monitoring, research, gathering information on experience and research in other areas will be a priority.

Review of Riparian Management Program. The parties agree that the requirements, standards, and implementation of the program on the ground (including site-specific plans) shall be thoroughly reviewed after (5-6) years to assess the effectiveness of these provisions.

May 2, 1989

Commissioner Don Collinsworth
Alaska Department of Fish and Game
Post Office Box 3-2000
Juneau, Alaska 99811

Commissioner Dennis Kelso
Alaska Department of Environmental Conservation:
Post Office Box O
Juneau, Alaska 99811-1800

Commissioner Lennie Boston-Gorsuch
Department of Natural Resources
400 Willoughby Avenue
Juneau, Alaska 99801

Re: Forest Practices Act: Steering Committee Process

Dear Commissioners Collinsworth, Kelso and Gorsuch:

On behalf of the Senate Resources Committee, I wanted to express my appreciation for the effort your agencies have devoted to the Forest Practices Steering Committee process. As a result of the dedication of your agencies and others toward building a consensus on this controversial issue, the steering committee has virtually succeeded in its task.

While the steering committee was unable to achieve consensus on every issue facing it, it has produced proposed legislation that leaves only one or two issues subject to some disagreement. The steering committee's success has meant that the principals themselves have worked out most forest practices issues in a way that is satisfactory to all, sparing the legislature the long and acrimonious debate that would otherwise attend this kind of controversy.

May 3, 1989
Page 2

Because of the time it has saved us, and the quality of its product, the legislature has a major stake in preserving the steering committee's consensus until legislation can be enacted next year. To do this, all of the participants must avoid the natural temptation to strike out on their own, and pursue their own forest practices initiatives in the interim. If individual state agencies begin promulgating their own forest practices rules, be they through "habitat regulations", "§319 regulations" or otherwise, before the legislature can act next year, the existing consensus would collapse. My committee would be denied the benefit of the steering committee's work, and would be required to rehear all of the positions that should have been accommodated through the steering committee process. That waste of resources -- ours and yours -- would be a great disappointment to my committee.

The forest practices debate raises a number of serious public policy issues, and establishing new forest practices rules is the legislature's job. To preserve my committee's jurisdiction over this matter, I need your help in assuring that no unilateral initiatives are undertaken in the interim that would cause division among steering committee participants.

Thank you again for the resources you have devoted to this effort, and the Senate Resources Committee looks forward to working with you next year to put the finishing touches on a splendid accomplishment.

Sincerely,

Bettye Fahrenkamp, Chair
Senate Resources Committee

Options for relating to management of federal lands under the Forest Practices Act.

Option 1 (Current SB 317/HB 331):

OBJECTIVE: Creates a broad performance test for operation on federal lands, but severs the applicability of specific FPA standards to federal lands.

LANGUAGE AS 41.17.900(b):

The degree of resource protection on federal land shall be no less than that provided for by this chapter for state land. However, the specific provisions of this chapter and its implementing regulations are not applicable to federal land either directly or for purposes of compliance with the Coastal Zone Management Act.

Option 2:

OBJECTIVE: Keep FPA neutral with respect to federal land management.

LANGUAGE AS 41.17.900(b):

The legislature finds that it is in the public interest that the state standards under 16 U.S.C. Sec. 1456(c) (Section 307(c) of the Coastal Zone Management Act of 1972, P.L. 92-583) may be different from the standards for the protection of forest resources under this Act, and the provisions of this chapter and its implementing regulations are not applicable to federal land either directly or for purposes of compliance with the Coastal Zone Management Act.

Option 3:

OBJECTIVE: Establish in statute specific standards for review of federal activities which are distinct from FPA standards and which are based on the prior Coastal Policy Council regulatory standard.

LANGUAGE AS 4.17.900(b):

(1) The legislature finds that it is in the public interest that the standards set forth in subsection (2) be the state standards under 16 U.S.C. Sec. 1456(c) (Section 307(c) of the Coastal Zone Management Act of 1972, P.L. 92-583) even though those standards may be different from the standards for the protection of forest resources under this Act.

(2) For purposes of 16 U.S.C. Sec. 1456(c) (Section 307(c) of the Coastal Zone Management Act of 1972, P.L. 92-583) standards incorporated in applicable federal land and resource management plans promulgated pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, (16 U.S.C. 1601 et. seq.) shall serve as the Alaska Coastal Management Act (Sec. 1 Ch. 108 SLA 1979) timber harvest and processing standard on National Forest Lands so long as those standards and policies meet or exceed the following standards:

(i) the location of facilities and the layout of logging systems must be sited so as to minimize adverse environmental impacts;

(ii) free passage and movement of fish in coastal water must be assured; and

(iii) timber harvest and timber management activities must be planned so as to protect streambanks and shorelines, prevent adverse impacts on fish resources and habitats, and minimize adverse impacts on wildlife resources and habitats;

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(vi) roads for log transport and harvest area access must be planned, designed, and constructed so as to minimize mass wasting, erosion, sedimentation, and interference with drainage, and must be adequately maintained until they are returned to their pre-road natural drainage patterns (put-to-bed); and

(vii) stream crossings, including bridges and culverts, must be kept a minimum and designed to withstand seasonal high water and flooding, and must provide for free passage and movement of fish.

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ADMITTED IN WASHINGTON, D.C.**
AND ALASKA

ALL OTHERS ADMITTED
IN ALASKA

April 28, 1989

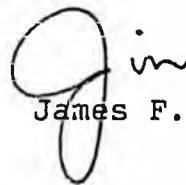
The Honorable Bettye Fahrenkamp
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Re: Forest Practices Act

Dear Senator Fahrenkamp:

Attached is a copy of a letter stating Alaska Loggers Association's (ALA's) position regarding the Alaska Forest Practices Act. Essentially, the ALA believes more work needs to be done on the Act to achieve a final document and that such work cannot be completed prior to the next session of the Legislature. However, even as this is written, we are working with State agencies to resolve unresolved issues prior to the end of this session. As the attached letter from Bob Loescher of Sealaska Corporation points out, that unilateral agency action would be unproductive to successful completion of the process. The ALA agrees with the points made in Mr. Loescher's letter.

Yours very truly,



James F. Clark

JFC:sd/429
Enclosure

Options for relating to management of federal lands under the Forest Practices Act.

Option 1 (Current SB 317/HB 331):

OBJECTIVE: Creates a broad performance test for operation on federal lands, but severs the applicability of specific FPA standards to federal lands.

LANGUAGE AS 41.17.900(b):

The degree of resource protection on federal land shall be no less than that provided for by this chapter for state land. However, the specific provisions of this chapter and its implementing regulations are not applicable to federal land either directly or for purposes of compliance with the Coastal Zone Management Act.

Option 2:

OBJECTIVE: Keep FPA neutral with respect to federal land management.

LANGUAGE AS 41.17.900(b):

The legislature finds that it is in the public interest that the state standards under 16 U.S.C. Sec. 1456(c) (Section 307(c) of the Coastal Zone Management Act of 1972, P.L. 92-583) may be different from the standards for the protection of forest resources under this Act, and the provisions of this chapter and its implementing regulations are not applicable to federal land either directly or for purposes of compliance with the Coastal Zone Management Act.

Option 3:

OBJECTIVE: Establish in statute specific standards for review of federal activities which are distinct from FPA standards and which are based on the prior Coastal Policy Council regulatory standard.

LANGUAGE AS 4.17.900(b):

(1) The legislature finds that it is in the public interest that the standards set forth in subsection (2) be the state standards under 16 U.S.C. Sec. 1456(c) (Section 307(c) of the Coastal Zone Management Act of 1972, P.L. 92-583) even though those standards may be different from the standards for the protection of forest resources under this Act.

(2) For purposes of 16 U.S.C. Sec. 1456(c) (Section 307(c) of the Coastal Zone Management Act of 1972, P.L. 92-583) standards incorporated in applicable federal land and resource management plans promulgated pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, (16 U.S.C. 1601 et. seq.) shall serve as the Alaska Coastal Management Act (Sec. 1 Ch. 108 SLA 1978) timber harvest and processing standard on National Forest Lands so long as those standards and policies meet or exceed the following standards:

(i) the location of facilities and the layout of logging systems must be sited so as to minimize adverse environmental impacts;

(ii) free passage and movement of fish in coastal water must be assured; and

(iii) timber harvest and timber management activities must be planned so as to protect streambanks and shorelines, prevent adverse impacts on fish resources and habitats, and minimize adverse impacts on wildlife resources and habitats;

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MEMORANDUM (Brief Communications)

State of Alaska

TO:	Name <i>Alan Stein</i>	Dept./Div./Sect.	M
FROM:	Name <i>Gary Gunstrom</i>	Dept./Div./Sect.	Tr
SUBJ.:	<i>Phil Davik's reply</i>		Date <i>2/16</i>

*Found it! There was never any follow-
to this.*

G.

★ Fairbanks North Star Borough

809 Pioneer Road

P.O. Box 1267

Fairbanks, Alaska 99707

907/452-4761

May 4, 1989

The Honorable Steve Cowper
Governor, State of Alaska
PO Box A
Juneau, Alaska 99811

Dear Governor Cowper,

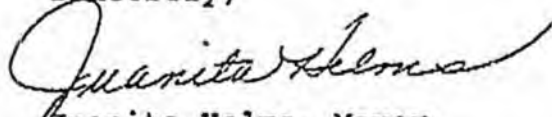
I am writing in support of introduction and passage of the Alaska Forest Practices Act revision. The intent of this legislation has been painstakingly hammered out over the past months by the Forest Practices Review Committee. The committee had representation from all groups interested in the Management of Timber and other resources, which are found in, or depend on forest ecosystems.

My support for this legislation is based on its impact on the Forest Resources within the Fairbanks North Star Borough. I further believe that it is important to preserve the work that has gone into arriving at the agreements which are the core of the revision legislation.

Throughout the forest practices revision process, the various boroughs have been provided with representation in the form of John Duffy/Ted Smith who are from the Mat-Su Borough, and who consulted with us regularly as the process went through. I do feel that there are some areas where further research is necessary to determine what protection measures are really necessary for the protection of Fish and Wildlife habitats. In spite of these areas where questions remain, the legislation is a step in the right direction, and provides the framework for further refinements through operation of the Board of Forestry.

I would appreciate your support of this legislation.

Sincerely,



Juanita Helms, Mayor
Fairbanks North Star Borough

cc: Lennie Gorsuch, Commissioner
Department of Natural Resources

Bob Loeffler, FPA Coordinator
Department of Natural Resources

Ken Castner's 10/12 teleconference testimony.

FOREST PRACTICES ACT

NOT FAVOR

- Steering Committee is self appointed. It is not a fact finding Task Force.
- Loggers have the most to lose; that is because they are almost unrestricted in their present activities. New act is needed to balance rights of public with profit demands of industry. Need real forest practices . . . not a timber extraction bill.
- One of the reasons the fiscal note is so large is because the bill is so overwhelmingly complicated. A logger will not be able to measure back from a stream bank and begin cutting. A regulator can not simply fly over a harvest area to inspect buffers. The riparian cutting area (with the unworkable basal cap) will be very complex, perhaps even computer generated.
- The loggers say the public should pay for the costs of the act. The act is to prevent environmental degradation. Water quality and habitat protection are not for sale. The non-riparian impacts are large enough.
- There is a curious lack of mention of sustained yield. Isn't this a forest practice? The State Constitution demands sustained yield practices.
- Reforestation and thinning requirements should be included, and in the case of state or municipal lands, be bonded for, in the bid price of the timber sale.
- Board of Forestry should elect their own chairman and change voting to majority rule. As set up, it amounts to minority rule. Any two people can prevent passage or change.
- If the Legislature believes that all the missions held by DF&G and DEC should be combined into DNR then they should do so completely and not in an incremental piecemeal fashion.

- There are no bonding requirements for failure of performance. Post-cutting bankruptcy is not uncommon in the Pacific Northwest. Who pays, then, for removal of the unwanted deadfall that provide prime breeding for the forest damaging spruce bark beetle? Who pays for removal of temporary fuel storage facilities, equipment and buildings that have been left behind? Who pays for replanting and thinning? Aren't these considered "forest practices"?

- There is a lot of work needed on this bill to make it both workable and affordable. It would not be appropriate to return the bill to the steering committee for further work. The House and Senate Resources Committees are now the correct venue for this topic.

- Thank you.

Fahrenkamp SB317



UNITED COOK INLET DRIFT ASSOCIATION

BOX 4649 - KENAI, ALASKA 99611

(907) 283-3600

FAX COVER LETTER
FAX NUMBER (907) 283-3306

DATE: January 31, 1990 TIME: 10:00 am

NUMBER OF PAGES (INCLUDING COVER LETTER): 3

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL (907) 283-3600 AS SOON AS POSSIBLE.

TO: Senator Fahrenkamp FROM: Mya Black
Representative Menard Theo Matthews
Representative Davidson
Governor Cooper

SUBJECT: _____



UNITED COOK INLET DRIFT ASSOCIATION

BOX 4649 - KENAI, ALASKA 99611

January 30, 1990

Bettye Fahrenkamp, Chair
Senate Resources Committee
Room 125, Capitol Building
Juneau, AK 99811

Curt Menard, Co-Chair
Cliff Davidson, Co-Chair
House Resources Committee
Room 125, Capitol Building
Juneau, AK 99811

Dear Senator Fahrenkamp, Representative Menard, and Representative Davidson:

Since the joint House and Senate Resource Committees will be discussing Forest Practices Act legislation introduced by the Governor, the United Cook Inlet Drift Association (UCIDA) Board felt it might be timely to pass on a few initial comments to committee members.

UCIDA supports the Governor's legislation with the following conditions:

First, any deviation from the "consensus" agreement proposed by the timber industry will necessitate UCIDA withdrawing all support and pressing for alternative legislation. This is especially true of buffer strips on state land and Federal consistency provisions.

Secondly, the site specific nature of the "agreement" on private lands makes funding of the legislation an integral part of the overall plan to institute this agreement. Indeed, as stated in the Final Report (June, 1989) of the Alaska Forest Practices Act Review (p. 4) "The parties' agreement is to the entire plan... not to individual parts of it. Thus, if the agreement is changed, including failure to pass funds to implement it (emphasis ours), the parties are not bound to continue their support."

Given the importance of funding, UCIDA respectfully requests your insight **as soon as possible** into the probability of funding being provided should the bill pass.

Finally, the first draft regulations by the Department of Forestry to implement the Forest Practices Act agreement were totally unacceptable. They merely served to water down provisions seen by the fishing industry as essential to implement the "spirit and intent of the agreement." UCIDA regards the proper wording of implementing regulations as a vital part of the agreement.

In conclusion, UCIDA appreciates the joint Resources Committees taking the time to review the Forest Practices Act agreement. At this time, UCIDA supports the Governor's bill and requests its passage as submitted. Our major concern early in this legislative session is that attempts to alter the agreement, a lack of funding or indeed failure to pass any legislation simply furthers the interests of those in the timber industry who are quite satisfied with the status quo. In that event, both Alaska's forests and our attempts to foster a working relationship with the timber industry will suffer.

Sincerely,

Theo Matthews
MB

Theo Matthews
President

cc: Governor Cowper
Senator Fischer
Senator Szymanski
Senator Kerttula
Representative Swackhammer
Representative Navarre
United Fishermen of Alaska

1/31/90

Doug Ogden, Pres.
AK. Sportfish Assn.

PO Box 200593

561-1840

fax - 561-1843

Anch. AK 99520

Forest Practices Act

Don't want to reduce 100' buffer zone.

In favor of bill, ^{with} 100' buffer zone.

TESTIMONY OF ROBERT W. LOESCHER
before the
JOINT HOUSE/SENATE RESOURCES COMMITTEE
regarding revisions to the Forest Practices Act

January 31, 1990

MY NAME IS ROBERT W. LOESCHER AND I AM EXECUTIVE VICE PRESIDENT OF SEALASKA CORPORATION. SEALASKA HAS BEEN AN ENTHUSIASTIC SUPPORTER OF THE CONSENSUS PROCESS FOR ADDRESSING POSSIBLE CHANGES TO ALASKA'S FOREST PRACTICES ACT SINCE ITS INCEPTION IN LATE 1987. SEALASKA HAS DEDICATED CONSIDERABLE TIME AND RESOURCES WORKING WITH OTHER STEERING COMMITTEE PARTICIPANTS TO CRAFT CONSENSUS LEGISLATION, AND HAS WILLINGLY COMPROMISED ON A BROAD RANGE OF MATTERS OF SUBSTANTIAL CORPORATE IMPORTANCE. THE RESULTS OF OUR EFFORT, AND THE EFFORTS OF OUR COLLEAGUES, APPEAR IN SB 317, AND ITS HOUSE COUNTERPART HB 331. AS WE HAVE SAID BEFORE, SEALASKA SUPPORTS THAT LEGISLATION AND URGES THE LEGISLATURE TO ENACT IT THIS SESSION.

SEALASKA RECOGNIZES THAT DIFFERENCES REMAIN ON TWO IMPORTANT ISSUES. THE FIRST IS THE APPLICATION OF THE ACT'S NEW STANDARDS TO FEDERAL LANDS; THE SECOND INVOLVES THE DEGREE OF RIPARIAN PROTECTION APPROPRIATE FOR STATE LANDS. IT IS OUR HOPE THAT THOSE PRINCIPALLY INVOLVED IN THIS ISSUE CAN QUICKLY REACH AN AGREEMENT THAT WILL LEAVE ALL STEERING COMMITTEE PARTICIPANTS SATISFIED WITH THE LEGISLATION AS A WHOLE.

OVER THE PAST SIX MONTHS, THE STATE HAS BEGUN THE ARDUOUS TASK OF WRITING IMPLEMENTING REGULATIONS TO THE LEGISLATION, AND SEALASKA HAS SUPPORTED THAT EFFORT. INEVITABLY, THAT EXERCISE HAS ALERTED THE STEERING COMMITTEE TO THE NEED FOR A NUMBER OF TECHNICAL CHANGES TO THE LEGISLATION. A NUMBER OF THESE CHANGES HAVE BEEN DISCUSSED BY THE STEERING COMMITTEE, AND ALL THE PARTICIPANTS AGREE THAT TECHNICAL AMENDMENTS CAN AND MUST BE MADE TO THE LEGISLATION WITHOUT JEOPARDIZING THE UNDERLYING CONSENSUS.

FOR EXAMPLE, SB 317 PROVIDES THAT THE LEGISLATION'S RIPARIAN PROTECTION REQUIREMENTS CANNOT RESULT IN THE FORCED RETENTION OF MORE THAN 5% OF AN OPERATOR'S TIMBER. THE BILL CURRENTLY PROVIDES THAT THIS CEILING WILL BE MEASURED ON A SO-CALLED "BASAL AREA" BASIS--A BASIS WHICH THE STEERING COMMITTEE NOW CONCEDES IS A CUMBERSOME MEASURE THAT ADEQUATELY PROTECTS NO ONE'S CONCERNS. AS A RESULT, PARTICIPANTS HAVE AGREED TO AN AMENDMENT WHICH WOULD ESTABLISH THE MEASURE AS EITHER BASAL AREA, OR ANY "OTHER COMPARABLE MEASURE." THE TECHNICAL TASK OF DEVISING AN APPROPRIATE ALTERNATIVE MEASURE WILL THEN BE DONE IN THE DEPARTMENT OF NATURAL RESOURCES' REGULATIONS.

FURTHER, THE STEERING COMMITTEE AGREED TO ESTABLISH A TECHNICAL AMENDMENT PROCESS, UNDER WHICH COMMITTEE MEMBERS WOULD FORWARD PROPOSED TECHNICAL AMENDMENTS TO THE PRINCIPAL STATE AGENCIES INVOLVED. THE RESULT, HOPEFULLY, WILL BE A

PACKAGE OF TECHNICAL AMENDMENTS THAT WILL YIELD A BETTER BILL WITHOUT GENERATING ADDITIONAL CONTROVERSY.

OBVIOUSLY, THE LEGISLATURE IS GOING TO EXERCISE ITS INDEPENDENT JUDGMENT ON THIS LEGISLATION. IN THE COURSE OF DOING SO, IT WILL BE ASKED TO CONSIDER AMENDMENTS BOTH TECHNICAL AND SUBSTANTIVE. I'M SURE THAT ALL STEERING COMMITTEE PARTICIPANTS WILL RECOGNIZE THAT THIS DEBATE IS AN INHERENT PART OF THE LEGISLATIVE PROCESS. THE FOREST, WE HOPE, WILL NOT BE LOST FOR THE TREES. WHILE STEERING COMMITTEE PARTICIPANTS WILL INEVITABLY DISAGREE OVER WHETHER A PARTICULAR AMENDMENT IS A TECHNICAL IMPROVEMENT, OR A REOPENER, I HOPE THAT NONE OF US LOSE SIGHT OF THE OVERALL GOALS WE ARE DEDICATED TO ACHIEVING. THE STRUCTURE OF THE LEGISLATION, AND ITS PRINCIPAL ELEMENTS, ARE A SOUND, CREATIVE, AND WORKABLE COMPROMISE. AND, IT IS MY HOPE THAT THE REMARKABLE ATTRIBUTES OF THIS LEGISLATION ARE NOT LOST IN THE MORE TECHNICAL DEBATE THAT BEGINS TODAY.

THANK YOU FOR THE HARD LOOK THAT I KNOW YOUR COMMITTEES WILL GIVE THIS LEGISLATION, AND SEALASKA LOOKS FORWARD TO WORKING WITH YOU IN THE COMING MONTHS.

Testimony of Thyesh Shaub
For The Alaska Loggers Association
Joint House-Senate Resources Committee Hearing
January 31, 1990
Juneau, Alaska

Senator Fahrenkamp, Representative Menard and Davidson, and members of the Committee, my name is Thyesh Shaub. I am director of governmental affairs for the Alaska Loggers Association (ALA).

The Alaska Loggers Association formed in 1957 as a private, non-profit organization comprised of companies related to Alaska's forest products industry. Currently there are 115 regular member companies and 180 associate member companies. The regular members companies alone have over 4000 employees who are directly involved in timber operations.

My testimony before you today will be very similar to the message I gave you last May and at the joint hearing held in Palmer in October. We still have two major concerns: 1) the effect of this legislation on the management of federal timberlands and 2) the mandated 30 meter no harvest zone on state lands south of the Alaska range.

The Alaska Loggers Association is part of the newly formed Forest Alliance. You all received information packets about the Forest Alliance last week. The Forest Alliance members are currently working on a few amendments including the federal and state land issues I have mentioned.

Regarding the coastal zone management issue on federal lands - as we understood it, the revision of the act was to apply to private, state and municipal lands only. It was understood that it would be neutral to federal lands. However, because the Forest Practices Act serves as the standard for the Coastal Zone Consistency process, federal lands were affected.

Although the Alaska Loggers Association has been through several draft amendments to remedy this problem, we have not yet landed on the solution. We could easily have an amendment that would satisfy the industry but our goal is to forward an amendment to you that is acceptable to the Forest Service and the State of Alaska. We have begun meetings that will hopefully lead us to that end.

Regarding the buffer issue on state land we have a problem with a rigid 30 meter no harvest zone. We recognize the importance of the protection of fish habitat and water quality. We believe this can be achieved with a more flexible

standard that would allow for site specific decision making by the regulating agencies. The original steering committee agreement allowed for this type of flexibility on state land. If necessary, a flexible standard could be made more stringent on a local level through the land planning process. During legislative drafting this standard for state land was changed to a 30 meter no harvest zone. We would like to see the flexibility restored.

I would like to emphasize that through alot of hard work and dedication by all who were involved, the Forest Practices Steering Committee came very close to consensus. However we did not reach complete consensus. As I have explained, we still have a couple problem areas to fix before the Alaska Loggers Association can fully support this legislation.

I will keep you informed as to the progress of the amendment language regarding these issues.

Thank you for the opportunity to testify.



Alaska Center for the Environment

700 H Street, Suite 4 • Anchorage, Alaska 99501 • (907) 274-3621

TESTIMONY TO THE JOINT SENATE/HOUSE RESOURCES COMMITTEE

By Cliff Eames, Issues Director, Alaska Center for the Environment, speaking for Steering Committee Member Alan Phipps

October 12, 1989

On behalf of the Alaska Center for the Environment and the Susitna Valley Association (Loisann Reeder will also be testifying later on behalf of the SVA), I appreciate the opportunity to testify this morning regarding the proposed amendments to the Forest Practices Act. ACE and SVA continue to support the proposed amendments to the Act, even though we believe an amended Act would still fall short of adequately protecting our fish, wildlife, water quality, and the continued future health of our forests. We feel that improvements to the woefully inadequate existing act are needed immediately, and therefore urge the legislature to pass this bill into law this session.

I would like to briefly outline and discuss what we consider to be both the strong points and the inadequacies of the proposed amendments. We believe that the portions of the proposal that go the farthest towards improved forest practices include:

1. The restructured Board of Forestry. The new Board, with more balanced representation, will hopefully provide for increased sensitivity to the concerns of all forest dependent industries and users, not just logging interests. For example, the timber sales that were proposed for the Susitna Valley two years ago have made the tourism and recreation industries generally, Anchorage hotel owners, local lodge owners, air taxi operators, guides and outfitters, local residents, owners of recreational cabins, fishermen, hunters, and other recreationists, extremely sensitive to the very high value of the existing, uncut forest in the valley, a resource that they had taken for granted previously.

2. The increased provisions for enforcement, including enforceable directives, stop work orders, and criminal penalties for non-compliance.

3. Requirements for an improved public process on state lands, including a Five Year Timber Sale Schedule and an enhanced Best Interest Finding process.

4. Provisions for achieving the same level of resource protection on federal lands as that required on state lands.

5. Most importantly, the requirement on state lands south of the Alaska Range for a 30 meter no-cut zone plus a 60 meter management zone along all anadromous and high value resident fish waters. This is absolutely essential to the future protection of our fish, wildlife, and water quality, as recent examples of fish die-offs along unbuffered streams in southeast Alaska have again demonstrated. This 30 meter no-cut buffer and 60 meter management zone requirement provides the minimum of protection, and is based on scientific data, including the National Marine Fisheries Service policy which advocates the retention of a minimum 30 meter no-cut zone.

On the other hand, we believe that the proposal falls short in a number of ways:

1. Riparian management standards for private lands are an extremely complex formula which will be difficult to calculate and enforce, and which do not provide the minimum 30 meter no-cut protection advocated by the National Marine Fisheries Service. We reject the underlying assumption articulated in the final report that the people of the state should "share the risk" of the adequate protection of their publicly owned fish, wildlife, and water quality resources.

2. The riparian buffer requirement for borough lands is a 30 meter "special management zone". Borough lands should be held to the same level of resource protection as state lands. Therefore, riparian management standards for borough lands should include a 30 meter no-cut zone plus a 60 meter management zone.

3. There are no requirements of any kind for buffers along tidelands on public or private land.

4. Loggers are not required to obtain a permit prior to the commencement of logging activities on borough or private land. The proposed notification system perpetuates the opportunity for loggers to proceed with timber harvest without ensuring adequate review by the state. It also precludes adequate opportunities for public review and comment, and does not provide for public

appeals of agency actions, even though the right of appeal is specifically given to the timber operator. A permit process is the only way that the state can adequately monitor and enforce the law to ensure protection of public resources.

5. There is no requirement for protection of wildlife habitat on private land, even though wildlife is a public resource.

6. There is no maximum allowable size for clearcuts on public or private land, or provisions to ensure adequate leave strips between clearcuts for wildlife cover.

7. There is no "citizen suit" provision allowing for public opportunity to ensure enforcement of the act.

8. Under the proposed act, ADF&G has an advisory role only on decisions relating to protection of fish and wildlife habitat, and DEC has an advisory role only on decisions relating to water quality. In response to comments made by Sealaska, I would like to add that we have urged the administration to release the draft habitat regulations, as proposed by ADF&G, for public review and comment. Additionally, we would adamantly oppose any erosion of ADF&G's authority.

9. The bill does not address the continuing problem of how to ensure adequate reforestation. According to the Division of Forestry's recently released Timber Sale Review Report, "In Northern and Southcentral regions, there is a severe problem with reforestation after timber harvest".

10. The committee process failed to resolve the question of how to adequately fund the administration and enforcement of the provisions of the proposed revisions, and did not research or consider ways to ensure adequate funding other than merely requesting additional funds from the legislature.

Our continued support of this bill depends on several things. First, there must be adequate funding as proposed in the accompanying fiscal note; without adequate funding, there will be an appearance of reform without the reality; the proposed revisions will merely perpetuate the inadequacies of the existing act. Secondly, the bill must pass with no weakening amendments; we are specifically concerned about ongoing discussions regarding deleting the bill's provision for equal protection on federal land. This provision is essential to this compromise, and must not be deleted.

(over)

Since there are so many weaknesses in the bill, we feel that the legislative review provision is also essential. We strongly believe that after two field seasons the inadequacies of these proposed amendments will be apparent, and that substantial improvements will need to be made at that time. We urge the legislature to take seriously the intent language recognizing the adoption of this act as an interim measure.

Finally, an improved process on paper cannot ensure adequate and proper management of our resources. As we have seen with the Kashwitna Unit of the Willow Sub-basin Area Plan, it is critical that state agencies observe the provisions of existing planning documents and laws regarding procedural requirements. Existing statutes, regulations, and planning documents must be consulted and understood prior to laying out and selling timber, and public processes must be observed in good faith.

Thank you for the opportunity to appear before the committee this morning. Again, we urge the quick passage of this bill without substantial changes.

I would be happy to try to answer any questions you might have.



Alaska Center for the Environment

700 H Street, Suite 4 • Anchorage, Alaska 99501 • (907) 274-3621

TESTIMONY TO THE JOINT SENATE/HOUSE RESOURCES COMMITTEE

FEB 7 1990

RE: HB 331 / SB 317 Amendments to the Forest Practices Act

By Alan Phipps, ACE State Land Use Specialist, member of Forest Practices Act Review Steering Committee

January 31, 1990

In October we testified to the Joint Committee, detailing what we see as the strengths and weaknesses of this proposed legislation. In the interest of efficiency I won't repeat that testimony here today. Instead I would like to focus on the ongoing attempts by the timber industry and the Mat-Su Borough to delete from the proposed legislation two provisions which we consider to be essential components of the amendments.

I am disturbed by the distortion of the Steering Committee process by the newly formed Forest Alliance, to which four of the five pro-logging Steering Committee members belong. They are characterizing themselves as supporting the agreement, while actively seeking changes. They justify this by saying that the changes they seek are "unresolved issues". There are no unresolved issues. HB 331 and SB 317 are the result of the work of the committee, and were submitted to the legislature as such by the governor. These bills include essential provisions for mandatory buffers on state lands south of the Alaska Range, and equivalent resource protection on federal lands.

These provisions were negotiated as a part of the final package, and enabled ACE and the Susitna Valley Association to support the agreement. We agreed to support the bill, and as Steering Committee members agreed to observe the ground rule that we support the bill without seeking changes. The logger's characterization of these provisions as last minute changes not agreed to by the full steering committee misrepresents the mediated consensus process, and the ground rules the committee established for this process. We all agreed that the proposal could only be viewed as an integrated, holistic document. The ground rule was that members of the committee could only support or oppose the entire package.

HB 331 and SB 317 are a political compromise. The assertion that it impacts unequally on land owners is true, but that is because we lacked the political clout in the committee to require private and borough land owners to adequately protect public resources

based on documented science. Mandatory 100' no-cut plus 200' management zone buffers on state lands are based on the National Marine Fisheries Service policy for minimum protection of fish habitat and is supported by documented scientific evidence. In addition, mandatory buffers ensure minimum protection in the face of inadequate funding and the ever-present problem of insufficient field staff for site-specific monitoring and enforcement.

The assertion made by the Forest Alliance that the state lands buffer provision has "no biological justification" is indefensible. The argument being forwarded by the Mat-Su borough that no-cut buffers will wither, die and turn into grasslands if not actively managed is also indefensible. The forests of Alaska were here when we got here, and have been here for thousands if not millions of years. If they couldn't survive without us, they wouldn't have been here in the first place.

We were concerned from the very beginning of this effort a year and a half ago that the logging community had no incentive to see a successful completion of this process. We still question whether they have any incentive to see a new bill passed. Their strategy of appearing to support the agreement while actively working to change it indicates that perhaps they are only interested in stalling any legislative action which would ensure the adequate protection of our fish, wildlife, and water resources. It has also put the environmental community at an extreme disadvantage in promoting improvements to the bill, since we have remained faithful to the ground rules of the agreement.

If the Committee wishes to consider amendments, we would be happy to put forth for consideration several items which we feel would greatly improve the legislation, including:

1. Strengthening and simplifying buffer requirements on borough and private lands;
2. Permits in lieu of "enhanced notification"
3. Third party lawsuits;
4. Improved public involvement;
5. Tax on raw log exports.

Please see the enclosed testimony given by ACE at the October 12, 1989 hearing for a more complete listing of items we believe would strengthen the legislation.

I urge the legislature to quickly pass this bill as written in order to provide at least minimal protection for our publicly owned fish, wildlife, and water.

SB317

JAN 29 1990

PO Box 202045
Anchorage, AK 99520
January 24, 1990

Senator Bettye Fahrenkamp
Senate Resources Committee
PO Box V
Juneau, AK 99811

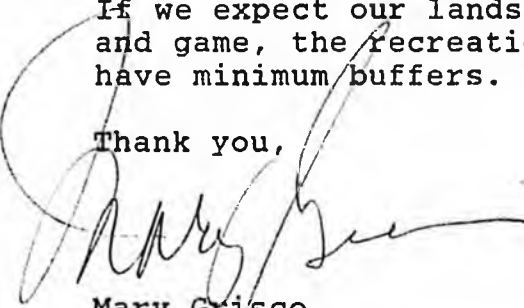
Dear Senator Fahrenkamp and Members,

I am writing regarding the upcoming hearing on the revised Forest Practices Act.

I urge that you retain at least 100 foot and in some cases, 200 foot buffers around every body of water. The protection of our water resources and habitat must remain of the highest priority.

If we expect our lands to continue to support fish and game, the recreational industry and clean water, we must have minimum buffers.

Thank you,



Mary Grisco

EEB 12 1990

Nancy J. Hiltbrand
Wildlife
Afognak Island 99697

Greetings:

I am writing to you from the present logging practices occurring on Afognak Island, which is located in the Kodiak Archipelago in Alaska.

Wide cleared swaths are emerging from the forest at an alarming rate, with an extreme disregard for proper ecological logging techniques.

Afognak Island is a stronghold of the Kodiak brown bear, The Bald Eagle, Golden Eagle, and Sea Otter, all of which are endangered species. In addition, the Roosevelt Elk, Sitka Black Tail Deer and myriad of other wildlife who are dependent on the health of the forest co-exist here.

In addition to the disappearing wildlife habitat, anadromous fish habitats are being destroyed by this clearcutting, which descends directly down to the edge of tributaries, rivers and the ocean, with little regard for State and Federal regulations.

Many buffer zones of trees left from previous logging, which were intended for protection and reforestation, are presently being taken due to the ease of access, lax enforcement of regulations and disregard for the law.

These buffer zones are of extreme importance:

- 1) To protect all anadromous fish streams and rivers, including all tributaries which run into these rivers, from erosion, runoff, and siltation.
- 2) To provide a safe shelter corridor from winter snow, to the pattern edge for Deer, Elk, bear and all other species to forage.
- 3) Nesting sites.
- 4) These buffer zones produce seed for the future generations of Spruce.
- 5) Carrying capacity.

Due to this wealth of wildlife, Afognak is of great economic importance i.e. tourism, consumptive, and non-consumptive activities. It is a major commercial fishing area, for Salmon, herring, crab, and bottom fish all which use Afognak's many bays lakes and rivers for spawning and growing.

All elements of a forest must be present for a healthy ecosystem. The more complex and diverse the forest community the greater the long-term stability and productivity.

I ask that this problem be addressed before it escalates into irreparable damage to this fragile ecosystem.

I will be sending you copy. Thank-you.

With kind regards,

Nancy J. Hiltbrand

Nancy J. Hiltbrand
Fish Commission
BDFH-Kodiak Bay Hatchery
Afognak Island

Please pass Forestry Practices Act.

Consider posing a raw log tax or keeping logs in Alaska for processing.

We must become more self-sufficient. Otherwise we're giving it away and liquidating our assets whereas we could gain much more. Thank you for all your hard work Bettye.

Hillstrand
Kitoi Bay
Kodiak, 99697

Bettye M. Fahrenkamp
Box V
Juneau, Alaska
99811



Respond
A friend



March 1, 1990

Senator Bettye M. Fahrenkamp
Alaska State Legislature
Capitol Building, Room 125
P. O. Box V
Juneau, Alaska 99811

Representative Curt D. Menard
Alaska State Legislature
Capitol Building, Room 110
P. O. Box V
Juneau, Alaska 99811

Re: Forest Practices Legislation
Our File No.: 600,100.646

Dear Senator Fahrenkamp and Representative Merard:

On behalf of Sealaska Corporation, I wanted to thank both of you for bringing the Steering Committee participants together during a work session on the evening of February 27, 1990. As a result of your efforts, the participants were able to agree on language on one issue which has heretofore been a substantial impediment to final agreement -- that is, treatment of federal lands under the Coastal Zone Management Act.

At the meeting, the participants, from the Alaska Loggers Association on one side to the Southeast Alaska Conservation Council on the other, agreed to the specific language enclosed with this letter. This has always been a "language" controversy, and Tuesday night's session ended weeks of unsuccessful word bargaining.

The negotiated federal lands/CZM language was developed in response to a package of proposed amendments prepared by UFA. To

Senator Bettye M. Fahrenkamp
Representative Curt D. Menard
March 1, 1990
Page 2

make this package work, everyone is continuing to work on individual elements of the package. The parties have made significant progress by putting behind us the precise language on the federal lands/CZM issue that would go into a committee substitute.

All this happened in large part because of your efforts. Resolving this language issue was an important first step, and the parties intend to meet again next week to address the other issues before us.

Thank you for your help.

Sincerely,



Robert Loescher
Executive Vice President,
Resource Management

RL/JKT/amw
cc: Members of Forest Alliance
Southeast Village Corporations
Tom Dillon
Jim Clark
UFA
SEACC

Federal Lands
Steering Committee Working Group
Substitute Language
Feb. 27, 1990

DRAFT

1. Amend Section 27 of SB 317 to read as follows:

AS 41.17.900 is amended as follows:

AS 41.17.900. Applicability. (a) Unless otherwise specified, this chapter applies to forest land under state, municipal, or private ownership.

(b) [THE PROVISIONS OF THIS CHAPTER APPLICABLE TO STATE LAND ARE APPLICABLE TO FOREST LAND UNDER FEDERAL OWNERSHIP TO THE EXTENT PERMITTED BY LAW.] The degree of resource protection on federal land shall be no less than that provided for by this chapter for state land, except that the minimum riparian standard shall be that set in Sec. 41.17.119. [HOWEVER, THE SPECIFIC PROVISIONS OF THIS CHAPTER AND ITS IMPLEMENTING REGULATIONS ARE NOT APPLICABLE TO FEDERAL LAND EITHER DIRECTLY OR FOR PURPOSES OF COMPLIANCE WITH THE COASTAL ZONE MANAGEMENT ACT.] Compliance with this standard shall satisfy the requirements of the Alaska Coastal Management Program for forest management activities covered by this chapter.

(c) Subject to 16 U.S.C. § 1456(f) (§ 307(f) of the Coastal Zone Management Act of 1972, P.L. 92-583), for private lands, the provisions of this chapter and the regulations adopted under this chapter set out the forest management standards, policies, and review processes for purposes of the Alaska Coastal Management Act.

[(c)] (d) The commissioner shall exempt by regulation from the provisions of this chapter

(1) minor, small scale, or incidental commercial operations of little significance with respect to the purposes of this chapter; and

(2) operations for primarily noncommercial purposes, including, but not limited to the harvesting of timber for personal use.

[(d)] (e) Notwithstanding any other provision of this chapter, the commissioner may not employ the authority vested by this chapter so as to duplicate or preempt the statutory authority of other state agencies to adopt regulations or undertake other administrative actions governing resources, values, or activities on forest land except for (1) regulations under the Coastal Management Act; and (2) if authorized by the commissioner environmental conservation regulations relating to control of nonpoint source pollution. (§ 1 ch 108 SLA 1978)

(f) Nothing in this chapter diminishes the rights, privileges or immunities of Alaska Natives or Alaska Native corporations with respect to land conveyed under 43 U.S.C. 1601-1628 (Alaska Native Claims Settlement Act), or to alter or diminish the authority of the Department of Fish and Game under AS 16 or of the Department of Environmental Conservation under AS 46 or of any state agency under other laws.

2. Delete Section 3 and 28 of SB 317.



Alaska State Legislature

HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES

POUCH V
JUNEAU, ALASKA 99801
(907) 465-3715

MEMORANDUM

TO: FOREST PRACTICES ACT TASK FORCE MEMBERS

FROM: REP. CURT MENARD, CO-CHAIR HOUSE RESOURCES COMM.
REP. CLIFF DAVIDSON, CO-CHAIR HOUSE RESOURCES COMM.
SEN. BETTYE FAHRENKAMP, CHAIR SENATE RESOURCES COMM.

DATE: JANUARY 22, 1990

RE: JOINT HOUSE & SENATE RESOURCES COMMITTEE HEARING

We are writing to let you know that the House and Senate Resources Committees will be hearing H.B. 331 and S.B. 317 regarding the proposed forest practices act revisions on Wednesday, January 31, at approximately 2:15 p.m. in the Capitol, Room 124. The hearing will immediately follow a presentation by the Alaska Board of Forestry scheduled to begin at 1:30 p.m.

We would like to request that you be present to update House and Senate Committee members on your position regarding the proposed revisions. Each task force member, including each resource agency, will be allotted 3 minutes of oral testimony. Additional written testimony can be presented to the Committees.

We look forward to seeing you there.



**WILDLIFE
FEDERATION
OF ALASKA**

The Alaska Affiliate of the
National Wildlife Federation

FEB 8 1990

Forest Practices
Act

RE: HB 331, SB 371; Streamside buffers

January 31, 1990

Senator Bettye Fahrenkamp
P. O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

The Wildlife Federation of Alaska strongly opposes efforts to weaken the proposed Forest Practices Act by eliminating or reducing mandatory streamside buffers.

Last year the Forest Practices Act Steering Committee discussed, debated, and negotiated proposed amendments to the Forest Practices Act. Although WFA was not directly represented on the committee, we did participate in several meetings, and we also worked very closely with the representatives of the Alaska Center for the Environment. Throughout the entire process, WFA considered mandatory streamside buffers to be the MOST important element of any amendments. Our support for mandatory streamside buffers is based on two primary factors. First, buffers are necessary to protect fish habitat. Second, clearly stated minimum buffers are easy to understand and enforce, in contrast to case-by-case determinations which require an army of State employees to review, determine, and oversee.

In the end, the Steering Committee reached certain compromises. The result is HB 331/SB 317. The compromises are not entirely to our liking, and we find the compromise, at best, minimally acceptable. The requirements for buffers are in many instances based on "political" considerations, such as land status and ownership, rather than on the biological requirements of fish habitat. The requirements too often vary and require individual determinations, which will strain agencies. As stated, we found the compromises minimally acceptable, but such is the nature of compromise.

Opponents of buffers and other protections are now trying to subvert this process. They argue that varying the width of buffer by ownership is illogical, and then argue to reduce or eliminate all minimum buffers. They are, of course,

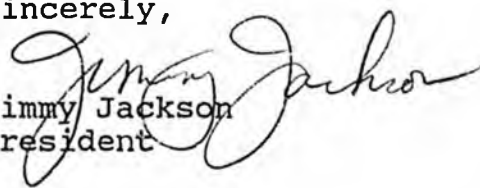
correct that the need for buffers should not vary by ownership, but they are incorrect that the buffers should, therefore, be reduced and eliminated. Logically, the minimum 100 foot no-cut buffers should apply everywhere. Politically, the compromise was not to apply that standard, for example, on private land. Any further "compromise" to reduce or eliminate streamside buffers is totally unwarranted and unacceptable.

Opponents are also trying to eliminate provisions of the bill which would provide the same level of resource protection on federal logging areas as on state lands. Again these opponents are attempting to achieve more than they achieved through the compromises reached by the committee and, again, such compromise would destroy the balance of interests which was achieved.

WFA urges you to reject all attempts to reduce the protections to streams which are contained in b HB 331 and SB 317. If the proposed protections are weakened in any way whatsoever, WFA would oppose the legislations and urge you to defeat it.

Thank you for your consideration and interest.

Sincerely,


Jimmy Jackson
President

HEARING BEFORE SENATE RESOURCES
COMMITTEE (SEN. FAHRENKAMP) ON MON.
2-19-90 AT 2:00 PM - LEGIS. AFFAIRS OFFICE

PURPOSE: TESTIMONY RE AMENDMENTS TO
FOREST PRACTICES ACT.

FIND POSITION: CURRENT LAW IS ADEQUATE
PROVIDED DIVISION OF FORESTRY IS GIVEN
SUFFICIENT FUNDING FOR ENFORCEMENT.
PROPOSED AMENDMENTS ARE OVERKILL AND
CREATE A VERY NEGATIVE ~~ENV~~ ENVIRONMENT
RE THE FOREST INDUSTRY, AT A TIME WHEN
THE STATE SHOULD BE DOING ALL IT CAN TO
ENCOURAGE RESPONSIBLE FOREST INDUSTRY
DEVELOPMENT. BILL SHOULD NOT PASS WITHOUT
MAJOR CHANGES FOCUSING ON LESS
REGULATION, NOT MORE.

Read For Ron Aickens (FIDC)
by LARRY Kelly
709 2nd Ave.
FAIRBANKS, AK 99701
452.1105



FEB 22 1990

For Release
February 16, 1990

Contacts:
Bob Loiselle 463-1581
Virginia McKinney/
Jeff Day 277-5454

FOREST ALLIANCE GIVES GROUND ON STREAMSIDE BUFFERS

In a major policy shift, the Forest Alliance announced today that it is dropping its opposition to one of the most restrictive provisions of the draft amendments to the Forest Practices Act. On the eve of legislative hearings scheduled in Talkeetna, Fairbanks and Juneau, the newly formed group of Alaska forest owners and operators dropped its opposition to a proposed 30-meter no cut buffer around all anadromous and high value resident fish waters on state lands south of the Alaska range.

"We're relieved and happy to be making this concession," says Allianc. Executive Director Bob Loiselle. "It brings us one step closer to total agreement on these important changes to the Forest Practices Act. And if all the diverse interest groups can sign off on the package of changes, that will dramatically increase the probability of getting a bill out of the Legislature this spring."

--more--

10624 Starlight Court • Juneau, Alaska 99801 • (907) 463-2581 • FAX (907) 463-2584

Alognak Native Corporation
Ahtna, Inc.
Alaska Loggers Association
Alaska Pulp Corporation
Alden Forest Products

Chilkoot Lumber Company
Chugach Forest Products, Inc.
Citikoo
Cook Inlet Region, Inc.
Doyon, Ltd.

The Eyak Corporation
Goldbell, Inc.
ITT Rayonier, Inc.
Kavilco, Inc.
Ketchikan Pulp Company

Klawock Heenya Corporation
Klukwan Forest Products
Klukwan, Inc.
Koncor Forest Products
Sealaska Corporation

Shee Aika, Incorporated
Tanana Chiefs Conference
Tatitlek Native Corporation
Timber Trading Company
West Coast Stevedoring

The Forest Practices Act governs timber harvesting practices on state, municipal and private lands. The complex set of revisions to the 12-year-old law were hammered out last year in a months-long steering committee process which brought together representatives of fishermen, environmentalists, resource agencies and the industry. The compromise package was introduced as SB 317 and HB 331. At the heart of the legislation is a streamside management program for protecting fisheries habitat and water quality.

To resolve the buffer issue, the Alliance is advocating a return to the intent of the original agreement reached last spring: language which establishes the 100-foot no cut zone only on state lands where there is no areawide plan already in place.

Key to the Forest Alliance's change in position, according to Loiselle, was a Department of Natural Resources memo outlining which state lands would be impacted by the 30-meter no cut provision.

"Based on this information, we feel the original agreement language is workable," he says. "We saw that as a practical matter, the amount of state land subject to this inflexible buffer would not be as significant as we had feared.

--more--

"Make no mistake, the Alliance remains firmly opposed to inflexible buffers slapped along streams without biological justification. But in this case we made the decision to take a pragmatic approach for the sake of achieving passage of the bill.

"I'm confident now that we can put this issue behind us," says Loiselle. "That leaves only the one problem still outstanding: impact of the Forest Practices Act changes on federal lands. Our people have been working hard with the agencies and the other interest groups, trying to get this one resolved. It's been tough, but I remain hopeful.

"When all is said and done, all of us want this bill--industry, fishermen, environmentalists. We've worked hard to lay our differences to rest, and we're so close now to total consensus that I can taste it."

##

Testimony of Robert G. Loiselle
For The Forest Alliance
Senate Resources Committee Hearing
SB 317
March 19, 1990
Juneau, Alaska

The Forest Alliance is a broadly constituted organization of forest land owners, manufacturers, loggers and others having commercial and professional interests in the proper management and development of forest lands. The members of the Alliance include all of the major private timber owners in the state of Alaska. The Alliance was formed in late 1989, and has undertaken the special mission of bringing the broad support of the timber industry to the Forest Practices Act, Senate Bill 317 and House Bill 331.

At the beginning of the legislative session, the Forest Practices Act had the general support of the Forest Alliance and its members. We believed that there were only a few points of disagreement between the timber industry and the other interested groups, and that these differences were not insurmountable. As we testified on February 27, a proposal from the United Fishermen of Alaska had been made that very day, and we believed that the proposal could form the basis for agreement on the terms of the Forest Practices Act.

As a result of hard work on the part of the members of the Alliance, the other interested groups, the state agencies, and particularly our moderator, Diane Mayer, we believe that agreement has been reached upon the terms of a bill that enjoys the support of the Forest Alliance, as well as all of the other interested parties.

This bill incorporates a number of carefully drawn provisions reflecting compromise on a number of issues of great importance to the interested parties. In our view, it can establish a new framework for environmentally sound development of Alaska's forested lands. We urge you to adopt this bill, and the amendments agreed by the interested parties, without significant change.

As a result of the management prescriptions embodied in the act, the members of the Alliance will contribute valuable resources, in the form of merchantable timber left standing and in the form of increased operating costs, to the protection of public resources. The Alliance has agreed to a provision of the act that makes the new riparian standards or their substantial equivalent, effective upon passage of the act, in order that these new protective measures be implemented as soon as possible. In fact, many Alliance members are already voluntarily providing buffer zones and a number of major land owners have put strict buffer provisions in their timber sale agreements.

Wise development and protection of forested lands will require the commitment of significant state resources to develop final regulations implementing the Forest Practices Act and to make available the expertise of the state's foresters, biologists, soil scientists and water quality specialists. In that regard, the members of the Forest Alliance believe that adequate funding of the act, as proposed by the state agencies, is essential. We ask that you give special consideration to these fiscal requirements and that you provide the funding necessary to carry out the purposes of the act.

Having stated the support of the Alliance for the act, I want to turn to three of the provisions of the bill for special comment.

Proposed AS 41.17.116(1), as set out in the proposed amendment, would impose a 66-foot no-harvest zone along virtually all anadromous fish streams that flow through private lands. The members of the Alliance have accepted this requirement on the understanding that appropriate relief from this strict prescription will be afforded under the variations provision, proposed AS 41.17.087. The proposed new subsection (B), we believe, will require the commissioner to adopt regulations providing for the more or less routine agreement to variations in the riparian no-harvest requirement in certain cases. These cases are those where measures other than the full 66-foot no-harvest zone would provide for effective protection of fish habitat. We also expect that variances will be granted to permit such things as hanging logging rigging in the buffer zones or the cutting of a few trees for narrow yarding corridors to permit logs to be brought through the zone, as long as they are suspended and do no damage to the zone. This technique permits road building to be minimized, a result that all parties find desirable. And clearly, the road construction across the buffer zones will be permitted as long as the disruption to the zone is minimized, particularly by making the crossings as perpendicular to the zone as possible.

Proposed AS 41.17.119 changes the riparian standard for other public land from essentially a 100 foot conditional harvest zone to a 100 foot no-cut zone. This is the one issue that the working group was not able to reach agreement on. The representative of

the Mat-Su Borough, an Alliance member, will be asking for support for more local control on this issue than is provided for in the bill. We are confident that you will be able to find an equitable solution to this one remaining issue.

We note that Section 27 of the bill continues in effect a provision that dictates the degree of resource protection on federal lands. We question the effectiveness under the federal constitution of any state law that attempts to regulate federal lands, except in a manner allowed by federal law, such as the Coastal Zone Management Act. The provisions of proposed AS 41.17.900(b) (1), as currently written, would not, we believe, pass constitutional scrutiny. Alliance members whose activities may be affected by this provision will likely challenge its constitutionality if it is ever applied to regulate directly timber harvest on federal lands.

In conclusion, let me again state that the Forest Alliance supports SB 317/HB 331 with the amendments being proposed. We ask that you adopt the bill without significant further amendment. We understand that there may be some minor wording changes made to more adequately reflect the agreement reached and we would like the opportunity to review these changes before giving our final endorsement to the bill.

I would be happy at this time to respond to any questions you may have.

City of Tenakee Springs

RESOLUTION 90-12

MAR 29 1990

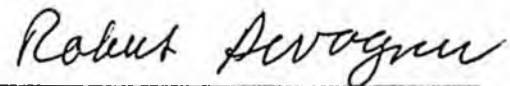
In the Council
March 22, 1990

Introduced by
Robert Pegues

A RESOLUTION FOR THE CITY OF TENAKEE SPRINGS, ALASKA
SUPPORTING CHANGES IN ALASKA STATUTES TO PROVIDE
MINIMUM 100 FT BUFFERS ALONG ANADROMOUS STREAMS

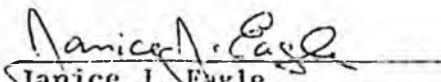
- WHEREAS, the fisheries resource of Southeast Alaska is dependent largely upon the quality of our streams and lakes; and
- WHEREAS, these waters constitute the habitat of the resource which is the life-blood of the commercial fisheries industry, and produce also the stock for the sports and subsistence fisheries; and
- WHEREAS, numerous studies have demonstrated that timber harvest and roading operations affect, often negatively, fisheries habitat; and
- WHEREAS, factors associated with logging practices which can affect the habitat of anadromous and resident fish populations include large organic debris, channel stability, stream temperature, nutrient content, stream flow and sediment; interrelated factors whose total accumulated effects often have the greatest impact; and
- WHEREAS, the 1979 Forest Practices Act does not provide minimum enforceable standards to safeguard the integrity of this critical environment during both planning for logging activities and operation of road building; then
- THEREFORE BE IT RESOLVED by the common council of the City of Tenakee Springs, Alaska to urge the Alaska State Legislature to adopt changes in the statute to provide minimum 100 foot buffer zones on each side of all anadromous streams and their tributaries, and that buffers should consist of the existing, natural undisturbed forest.

ADOPTED 4 YES, 3 ABSENT THIS 22ND DAY OF MARCH 1990



Robert P. Wagner
City Council President
ex officio MAYOR

ATTEST:



Janice J. Eagle
City Clerk

Whitestone Logging, Inc.

Box 389
Hoonah, Alaska 99829

March 18, 1990

MAR 20 1990

The Honorable Bettye Fahrenkamp
Alaska State Legislature
Capitol Building Rm. 125
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp,

Much of what we have said against the revision of the Forest Practices Act in 1989 has been restated by Mr. Joseph R Henry in his letter to you on March 6th of this year. We would like to emphasize one very important point for you to consider when you are contemplating changing the act.

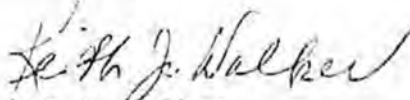
A mandatory no-cut zone, regardless of size, would be the single most crippling blow to forest management given in a legislative body.

We support site specific management of the riparian zone for anadromous streams. We support policies that will enhance fisheries on forested land, but we will not support a policy that will further the goals of the detractors of our industry.

A mandatory no-cut zone, even if only a few feet in width, would become a judicial weapon that would enable the preservationists to entangle us in litigation and regulatory harassment.

Any organization that agrees to a no-cut zone of any width along a waterbody on State, Federal or private land does not speak for the owners, managers or employees of this company.

Sincerely,


Keith J Walker

MAR 20 1990

TELEX 30 9763
TELETYPE 907 741 5585
TELEPHONE 907 747 2211



ALASKA PULP CORPORATION

4600 SAWMILL CREEK ROAD
SITKA, AK 99835-9801

March 14, 1990

The Honorable Bettye Fahrenkamp
Alaska State Legislature
Capitol Bldg., Rm. 125
P.O. Box V
Juneau, Alaska 99811

Re: Forest Practices Legislation

Dear Senator Fahrenkamp:

For over a year now, Alaska Pulp Corporation (APC) has carefully observed the State Forest Practices Act process. APC will be impacted by the Act through the Federal Coastal Zone Act. That is, the Forest Service must find that its timber sales are consistent, to the maximum extent practicable, with State Forest Practice standards. Federal lands were not impacted by the original State Forest Practices Act in 1978. When the Governor began this process two years ago, it was our understanding from the Administration that federal lands would not be impacted. Just before the legislation was introduced last year, that changed because certain groups claimed that it had in fact been their intent to impact federal land. The legislative process was held up last year to provide time to resolve this issue in the legislation.

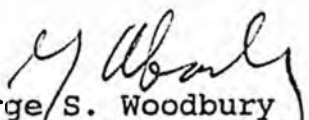
The language now proposed to address this issue has many problems. For example, in proposed Section 41.17.900(b)(1), the State has unconstitutionally directed the federal government how to manage federal land. More important, in proposed Section 41.17.119, there is a flat prohibition against any harvest along "any water body" which we would call a Class I stream on National Forest land. The prohibition is so strong and comprehensive that we are certain a State court could preclude road building through buffers to cross streams and could preclude any other legitimate timber harvest activity within buffers. Accordingly, as a matter of public policy, APC desires to include language in Section 41.17.119 that authorizes roads to cross buffer strips; authorizes the harvest of blow down salvage timber (timber which is diseased, burned, or killed by insects); and allows use of cable yarding and logging systems inside the buffer strip area. Placing rigging on trees within the buffer, instead of outside of the buffer reduces the angle of deflection and lets us move trees fully suspended over Class I streams. This will prevent sedimentation of streams and thus, is good environmental practice. Finally, there should be authorization to harvest timber within a buffer zone where it would provide fisheries enhancement. APC's proposed language is attached as Exhibit A to this letter.

Senator Bettye Fahrenkamp
March 14, 1990
Page 2

Permitting the foregoing seems eminently reasonable. Therefore, we are shocked to learn from our colleagues the concern that the addition of such language would "break the deal." From APC's perspective, as one who could be directly impacted on federal lands, because such activities are not permitted within buffer strips on state lands, there is a serious public policy problem in passing the State Forest Practices Act if reasonable timber harvest activities are to be precluded. We urge that the language we have attached be added to this legislation.

Yours very truly,

ALASKA PULP CORPORATION


George S. Woodbury
Vice President - Timber Operations

GSW:lh

cc: Senator Dick Eliason
Robert Loiselle
Robert Loescher
John Sturgeon
Ron Wolfe
Don Finney
Owen Graham
Tom Dillon
Mike Barton
Bob Maynard

EXHIBIT A

At the end of the first sentence of AS 41.17.119, add the following:

...provided, however, that timber within such 100 foot zones may be harvested to provide stream enhancement, to control fire, insects and disease; and to remove blown down timber; and provided further that road crossings of streams, cable yarding corridors, and approved logging systems shall be allowed within the 100 foot zones.

Whitestone Logging, Inc.

Box 389
Hoonah, Alaska 99829

MAR 20 1990

March 18, 1990

The Honorable Bettye Fahrenkamp
Alaska State Legislature
Capital Building, Rm. 125
P.O. Box V
Juneau, Alaska 99811

Re: Forest Practices Legislation

Dear Senator Fahrenkamp,

I have been involved in efforts to revise the State Forest Practices Act from the beginning and am represented in the Forest Alliance through Alaska Loggers Association and as a Sherstone Inc. board member in Cordova.

My company, Whitestone Logging Inc., is half owner of 350 million board feet of timber in Prince William Sound near Cordova. We also hold contracts to log and build road on Federal land near Hoonah and on private land owned by Sealaska west of Hoonah. The present direction of the F.P.A. revision causing it to impact Federal land and timber means that every area of our operations will be potentially affected.

It became apparent early on that the requirement by the Governor for a consensus on the revision committee would result in fuzzy language giving the regulatory agencies no clear direction. It also became clear that a power struggle was going on between A.D.F.&G and D.N.R. The A.D.F.&G. has shown an increasing anti-development bias. To add to their power base, A.D.F.&G. have allied themselves with the D.E.C. to form a de-facto "super agency" which pushes D.N.R. aside. The lack of clear direction in the F.P.A. revision leaves wide areas of regulation open to agency discretion. The "super agency" A.D.F.&G./D.E.C. clearly intends to move into this discretionary vacuum. The whole thrust of the F.P.A. revision has become to protect fisheries. Protecting fisheries is a worthy goal but should not be the only one. Protecting fisheries should be balanced with protection of the forest industry, mining, tourism and recreation.

I believe the worst part of S.B.317 or H.B.331 is the confiscation of private land and timber. I don't see how any other face can be put on mandatory buffer zones on private land no matter what their dimensions. A.D.F.&G. has adopted certain unsubstantiated studies by various groups, such as National Marine Fisheries Lab, as gospel. These studies are flawed by unfounded assumptions and not supported by what is actually

Whitestone Logging, Inc.

Box 389

Hoonah, Alaska 99829

happening on the ground.

I believe this bill would stifle and probably kill any chance of a viable timber industry in the interior. With the already almost intolerable burden of regulation borne by industry, who would be foolish enough to invest further when in constant jeopardy from the "discretionary" judgement of some agency individual?

Millions of board feet of timber have been killed on the Kenai while state agencies wring their hands in impotency. The Hemlock Looper is infesting timber in Prince William Sound and is now in the third year of increasing virulence. Is this vast natural renewable resource to be wasted. Surely this can not be in the best interest of anyone. If the bug-killed timber on the Kenai is not harvested by man in the near future then nature will surely harvest it in an inferno.

We have been stunned by the rapid collapse of totalitarian governments in Eastern Europe. They obviously didn't work and the released rage of millions of oppressed citizens is testimony to that fact. Is this a time for Alaska, which was built and populated by strong willed individuals, to seek our own socialist government agency dominated state. I say no! I believe many thousand of fellow Alaskans also say no!

Even though many hours of intense labor and many dollars have been spent on this revision effort, this bill should not be adopted unless it is truly beneficial. I don't believe it is. The process and results of forming S.B.317 or H.B.331 are fatally flawed. It should be rejected. The money and time spent are not wasted but can form the foundation for a new and better directed effort.

Sincerely,

A handwritten signature in cursive script, appearing to read "Edward Stewart", with a large, stylized flourish at the end.

Edward Stewart



MAR 21 1990

March 20, 1990

Sen. Bettye Fahrenkamp
P.O. Box V
Juneau, Alaska 99811

Dear Sen. Fahrenkamp:

You may have seen an article entitled "Loggers group opposes consensus on revising Forest Practices Act" in last night's Juneau Empire (3/19/90).

This headline could not be farther from the truth. Both the Forest Alliance and the Alaska Loggers Association support the amended bill currently before both resources committees.

We have no idea how this reporter could have reached this conclusion, but it is dead wrong.

Please feel free to contact me or Thyges Shaub at the Alaska Loggers Association (463-3175) if you have any questions.

Sincerely,

Robert G. Loiselle
Executive Director

10624 Starlight Court • Juneau, Alaska 99801 • (907) 463-2581 • FAX (907) 463-2584

Alagnak Native Corporation
Ahna, Inc.
Alaska Loggers Association
Alaska Pulp Corporation
Atikon Forest Products

Chilkoot Lumber Company
Chugach Forest Products, Inc.
Citikon
Cook Inlet Region, Inc.
Doyon, Ltd.

The Eyak Corporation
Goldbelt, Inc.
ITT Rayonier, Inc.
Kavilco, Inc.
Ketchikan Pulp Company

Klawock Heenya Corporation
Klukwan Forest Products
Klukwan, Inc.
Koncor Forest Products
Sealaska Corporation

Shee Atika, Incorporated
Tanana Chiefs Conference
Tatitlek Native Corporation
Timber Trading Company
West Coast Sievedoring



MAY 3 1990

April 27, 1990

Bob Girt
Wayne Valentic
Sealaska Timber Corporation
2030 Sea Level Drive, Suite 202
Ketchikan, AK 99901

Dear Bob and Wayne:

Enclosed you will find the April 19, 1990 Forest Practices inspection report by Chris Westwood of the Alaska Department of Natural Resources. I wanted to personally take time and thank each of you for the excellent job that you are obviously doing on road and unit layout, and logging in the Cabin Creek drainage area. It is through your constructive efforts that we will be able to effectively log this area while still providing protection for fisheries habitat, protection of water quality and achieving compliance with the revised Forest Practices Act.

Thank you both for a job well done.

Sincerely,

SEALASKA CORPORATION

Richard P. Harris
Vice President
Resource Planning and Administration

RPH:mt

cc: Gildersleeve Logging
Byron I. Mallott
Marlene Johnson
Robert W. Loescher
Jack Coady
Commissioner Lennie Gorsuch
Commissioner Don Collinsworth
Commissioner Dennis Kelso
House Resources Committee Co-Chairmen
Senate Resources Committee Chairman

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF FORESTRY

FILE #12-203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

STEVE COWPER, GOVERNOR

April 19, 1990

Mr. Bob Girt
Chief Logging Engineer
Sealaska Timber Corporation
2030 Sea Level Dr, Suite 202
Ketchikan, AK 99901

RE: Cabin Creek (SE-88-010)

Dear Bob:

Enclosed are two Forest Practices Inspection Reports dated March 29, 1990. These reports cover Sealaska Corporation's land at Cabin Creek.

Please sign and return the original white copies to me.

Feel free to contact me if you have any questions concerning these reports or forest practices in general.

Sincerely,

Chris Westwood
Ketchikan Forester

Enclosure

cc/enc: J. Gustafson, DF&G, Ketchikan
C/ Kent, DEC, Juneau
✓ R. Harris, Sealaska, Juneau
W. Valentic, Sealaska Timber, Ketchikan
K. Gildersleeve, Gildersleeve Logging, Ketchikan
B. Askren, Sealaska Timber, Ketchikan
G. Freeman, DF&G, Klawock
J. McAllister, DOF, Juneau

RECEIVED
APR 20 1990

SEALASKA CORPORATION
NATURAL RESOURCES DEPT.

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF FORESTRY

FOREST PRACTICES INSPECTION REPORT

SE-88-010

Operation No.

Cabin Creek

Name

Page 1 of 3

Operator: Sealaska Timber Corp. Date: 3/29/90
Location: Polk Inlet Type of Inspection: Operational
Travel Time: 2 hrs. Priority: High Inspection Time: 4 hrs

Individuals Present:

Name	Representing	Name	Representing
<u>Wayne Valentic</u>	<u>STC</u>		

This report contains recommendations and inspection results pertaining to the following:

☐ Reforestation	☐ Aesthetics	☐ Slash
☒ Road Construction & Maintenance	☐ Log Transfer & Storage	☒ Harvesting
☐ Wildlife Consideration	☐ Cleanup & Stabilization	☐ Other

Inspection Results/Recommendations/Required Actions: Recommended actions are provided in order to prevent violation of the Forest Resources and Practices Act.

1000 Road from port yard to upper Cabin Creek bridge
looks good. Ditches and culverts are in as requested, and
working well.

Upper Cabin Creek bridge was placed outside of timing
with no machine crossings or in stream work. Excellent
job. The near bank shows only minor disturbance and
the far bank is intact and shows no disturbance.
very good job. Small 30ft log stringer bridge. just

This report indicates the conditions found to exist at the time of this inspection for those items checked or noted above. It does not imply that all parts of the operation were inspected nor does it indicate items not inspected are approved.

Signatures:

Operator

Christina Westwood
State Forester or Authorized Representative

Date

4/8/90
Date

Cabin Creek

SE-88-010

March 29, 1990

before the upper bridge, is well placed. Small overflow Channel is intact and the eastern bank shows minimal disturbance. The west bank required more excavation, but this was discussed and ~~approved~~ approved during an earlier inspection.

Drove out the 1000 road on the north side of the valley along the newer construction. Steep slopes and areas of glacial till (blue clay) were noted, but it looks as if these have been taken into account in the construction practices. Continue the full bench construction and minimize side casting. When yarding on these steep slopes maintain at least partial suspension to minimize soil and site disturbance. In one particularly tough area large left trees were going to be marked. The use of these should help considerably. Ditches were being improved and culverts installed at the time of inspection, please continue in this manner.

1160 Rd. Road is well built and turned out better than I thought it would. Small creek to the east of the road is a tributary to Cabin Creek. It is my understanding that a buffer strip ^{should} be left along the creek for about $\frac{1}{3}$ its length. Excellent. ^{in your} Trees were also left along both sides of the steep 'V' notch that enters this creek from the east. The cutters have done an excellent job of keeping debris out of the notch. The area to the southeast of the notch is ~~is~~ approved for cross stream yarding. Maintain at least partial suspension to minimize disturbance. When cutting and yarding the timber ~~at~~ ~~down~~ upstream from the buffer, along the creek, minimize deposition of debris

(CW)

Cabin Creek
SE-88-010
March 29, 1990

and clean as an on going process.

4000 Rd + Lower Cabin Creek Bridge: 60 ft. bridge will be sufficient.

This should provide adequate length to protect the low, vegetative, undercut banks. If the bridge is placed outside of the timing window with no machine crossings or in stream work, please try and notify ADOF and ADFG at least 48 hours ahead of time for possible on-site monitoring.

Small tributary to the east was flagged with blue and white fish flagging. Buffer left along stream is greatly appreciated. This is voluntary compliance to the highest degree.

Small overflow/rivulet just past bridge should have a 18" culvert installed and bedded for fish passage. Small fish creek in Unit 3 is flagged and should be protected. Directionally fall timber away from creek and leave as much non merch + undisturbed brush along the banks as possible. A 36" culvert should be adequate; bed for fish passage. A small clump of hemlocks will most likely have to be removed ~~to~~ in order to install the culvert properly.

STC ^{Gibbersteeve log.} is doing an excellent job of voluntary compliance. The buffer strips along Cabin Lake, Cabin Creek, the low gradient tributaries to Cabin Creek and along some 'V' notches and salt water are appreciated and I believe show STC's effort to its fullest. Thankyou.

Chris Westwood
4/8/90

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF FORESTRY

STEVE COWPER, GOVERNOR

PO BOX 7-005
ANCHORAGE ALASKA 99510
PHONE (907) ~~561-2020~~ 762-2117

September 21, 1989

Dear Board of Forestry Members:

Since the agenda for the October 10, 1989 meeting is booked full, I am sending you a "preview summary" of the Managed Forest Resource Program. Our new program name is the TREE Program-Total Resource Enhancement. At the June board meeting, members requested involvement in the project before the public review stage. Please realize that this document is at the in-house DRAFT stage. It has not been provided to other agencies, nor the public. I would appreciate any initial in-sights you might provide me with at this time. How can this document better serve your constituents in the future? Please give me a call at 762-2131, or write by October 20th, 1989.

The Division of Forestry staff is busy reviewing the draft document and adding specific Area and Regional Office tasks, with target dates for completion. The Regional Foresters will be meeting October 24-26, 1989 to revise the draft document and to prioritize the tasks. Upon completion of the revisions, we will be preparing a draft document to go out for agency review. The Board of Forestry review will be included during the agency review period, and you will have a full thirty days to give us specific comments at that time.

We will now be holding a separate public review period, rather than one that coincides with the agency review. We will be holding statewide public meetings and a thirty day comment period in January 1990. It is a change from our earlier schedule, but one that should allow for a more in-depth review of the proposals.

We will be submitting the Legislature with a draft document in January, rather than the final. An up-dated time schedule is attached.

If you have any questions concerning the project after reviewing this summary, please call me. I would enjoy hearing from you at any time.

Sincerely,



Lisa Holzapfel
Statewide Planning Manager

Attachments

ALASKA MANAGED FOREST RESOURCE PROGRAM REVISED 1989-90 SCHEDULE

June 1989

Organization Process and Research Past Efforts

July 1989

Interview Staff Statewide/Develop Mission Statement

August 1989

Division-wide Development of Mission/Goals/Tasks

September 1989

Incorporate Staff Revisions; Modify Mission Statements

October 1989

Manager's Meeting to Finalize and Prioritize Division Mission/Goals/Tasks

November 1989

Prepare Agency Review Draft; Brief DNR Director's; Agency Review of Draft Document (30 days)

December 1989

Incorporate Agency Comments; Prepare Public Review Draft and Informational Brochure

January 1990

Public Review of Draft (30 days); Hold Statewide Public Meetings

February 1990

Incorporate Public Comments into Draft Final Document

March 1990

Review of Draft Final Document; Prepare Final Document

April 1990

Prepare and Print Final Document; Distribute Final Document Statewide

May 1990

Initiate Statewide Forest Resource Planning Efforts

THE TREE PROGRAM— TOTAL RESOURCE ENHANCEMENT

Program Mission: Provide sound forest ecosystem management to the people of Alaska.

Resource Management Program Mission: Make available on a sustained yield basis, at a reasonable cost, all those products and benefits usually associated with a forest.

Goal A: Maintain a high level of forest productivity.

Objective 1: To identify and establish a forest land base for sustained yield production by FY 94.

Objective 2: To provide management to existing commercial timber stands improving their annual growth to a minimum of 65 cubic feet/acre/year.

Objective 3: To support resource planning efforts statewide.

Objective 4: To provide area offices with forest inventory statistics and analysis, vegetative type maps, and resource (aerial) photography, and produce inventory publications for the general public.

Objective 5: To provide genetically superior product for regeneration of public and private forest lands by FY 1995.

Objective 6: To ensure that forest resources are used efficiently when developed under state contracts.

Goal B: Improve the efficiency and quality of the timber sale preparation and administration.

Objective 1: To conduct a statewide audit of timber sale procedures to determine differences and suggest improvements by 9/15/89.

Objective 2: To provide adequate and timely information to the public and other land managers to facilitate their participation in forest harvest planning in accordance with AS 38.05.945.

Objective 3: To offer timber sales of sizes and durations consistent with industry demand and silvicultural objectives.

Objective 4: To develop statewide standards (PPM's) for preparation, administration, appraisal, and engineering. Take into consideration, regional differences and needs.

Objective 5: To provide adequate training and certification to our staff in timber sale preparation and administration.

Objective 6: To develop routine and periodic quality control systems to evaluate sale preparation and administration performance by 7/1/91.

Objective 7: To manage the timber sale work force to effectively accomplish the objectives of the timber sale program by including it as a part of the annual work plan by 7/1/90.

Objective 8: To recover federal suppression money for permanent full-time and seasonal employees.

Goal C: Protect water quality, fish and wildlife habitat, and other forest values through the use of appropriate forest practices.

Objective 1: At a minimum, to ensure that forest practices standards prescribed by the Forest Practices Act are applied to timber sales on state lands at all times.

Objective 2: To enforce all contract specifications relating to protection of other resources.

Objective 3: To coordinate with other resource agencies during planning and preparation to ensure that all resource values are addressed on each sale at all times.

Objective 4: To develop meaningful five year plans in each region/area and submit them to other agencies and the public for review every year.

Goal D: Identify research information desired, locate and distribute existing data, and develop a funded program for conducting additional research in the event deficiencies exist.

Objective 1: To perform an internal survey to identify desired research.

Objective 2: To locate and consolidate existing research for central collection and distribution.

Objective 3: To identify additional research needs.

Objective 4: To develop a funded program for additional research.

Goal E: Provide for cost effective regeneration on state lands meeting the requirements of the Forest Practices Act (FPA).

Objective 1: To establish standards for stocking level and species mix for site classification by Area.

Objective 2: To regenerate productive sites currently below stocking standards which have been harvested or burned.

Objective 3: To improve regeneration on future harvest areas to reduce need for remedial treatments and reduce post sale costs.

Objective 4: To improve growing stock through improved seed quality and genetics.

Objective 5: To operate a nursery program providing a genetically sound healthy seedling at a cost within industry standards meeting total planting requirements for the Division of Forestry.

Objective 6: To provide a sound fiscal base for reforestation.

Goal F: Ensure a direct and indirect return on investment.

Objective 1: To accurately determine the return on investment of forest land management.

Forest Protection Program Mission: Minimize to the extent practical and economically reasonable, the detrimental impacts from destructive agents on the forest resources on public, private, and municipal lands.

Goal A: Provide wildfire protection at a level consistent with the values of the resources at risk.

Objective 1: To provide cost effective fire suppression by using state of the art systems in detection, initial attack, prevention, suppression, and logistical support capabilities.

Objective 2: To reduce and prevent the number and size of human caused fires occurring in the railbelt and roadnet regions of the state by 10% in the next 5 years.

Objective 3: To maintain the division's ability to exchange personnel with the federal cooperators in-state and in the lower 48 states.

Objective 4: To develop and implement a prevention program designed to reduce the frequency of unpermitted debris burning and fireworks fires by 25% over the next 2 years.

Objective 5: To support public and private land managers in applying fire as a safe and effective resource tool.

Goal B: Protect water quality, fish and wildlife habitat, and other forest values through the use of appropriate forest practices.

Objective 1: At a minimum, to ensure that forest practices standards prescribed by the Forest Practices Act are applied to timber sales on state lands at all times.

Objective 2: To enforce contract specification relating to protection of other resources.

Objective 3: TO coordinate with other resource agencies during planning and preparation to ensure that all resource values are addressed on each sale at all times.

Objective 4: To develop meaningful five year plans in each region/area and submit them to other agencies and the public for review every year.

Goal C: Minimize the adverse impacts from forest pests, such as insects and disease, through good forest health and ecosystem management policies.

Objective 1: To complete a comprehensive policy statement which defines the state's role in integrated forest pest management.

Objective 2: TO develop the Policy and Procedure Manual (PPM) for applying and implementing the state's policy concerning integrated forest pest management.

Objective 3: To identify and assign a person in each region and area as the primary position to serve as the lead person for integrated forest pest management. The person will address concerns, field coordination, request training needs, and implement policies and procedures.

Objective 4: To designate integrated forest pest management personnel throughout the division to meet annually for training,

coordination of field efforts, and a review of policies and procedures including development of any recommended changes, additions or deletions in policy. Evaluation of program to be included.

Objective 5: To include integrated forest pest management into field operations and planning.

Objective 6: To assign an integrated forest pest management specialist to review each initial attack fire, and prescribed fire plan, to ensure that there will not be residual problems with forest pests.

Objective 7: To participate in cooperative research of forest pests on a continuing basis.

Objective 8: To coordinate and participate in annual detection surveys of state land, and municipal and private lands where feasible.

Objective 9: To coordinate integrated forest pest management efforts with all other land owners wherever feasible.

Goal D: Minimize adverse environmental impacts from public use of state land.

Objective 1: To eliminate timber trespasses which adversely effect utilization of state managed forests.

Objective 2: To minimize significant adverse public impacts on state forest lands.

Forestry Assistance (on non-state lands) Program Mission: Assist landowners and businesses in attaining their goals while contributing to the economic diversity and quality of life in Alaska.

Goal A: Assist private and municipal land managers to achieve their management goals. (Service Forestry.)

Objective 1: To provide assistance to every interested private and municipal owner within three weeks of receiving request.

Goal B: Provide existing and potential industry with technical assistance necessary to be more competitive in the market place. (Marketing and Utilization.)

Objective 1: To provide assistance to all existing and potential industry within five weeks of receiving request.

Goal C: Direct research projects toward solving operational problems.

Objective 1: To initiate one research project every year that provide answers to current operational problems/issues.

Goal D: Keep program staff abreast of state-of-the-art management and marketing opportunities.

Objective 1: To provide structured training program to all program staff within three years of employment and keep them current in state-of-the-art technology and opportunities.

Objective 2: To provide structured training program to all program staff within three years of employment and keep them current in state-of-the-art technology and opportunities.

Support Services Program Mission: Provide administrative and technical services necessary to support program activities and fully meet state administrative directives.

Goal A: Provide high standard, professionally managed and operated, aviation support for total division requirements.

Objective 1: To maintain the current standards identified for contracting, in-flight procedures, operating procedures, interagency commitments.

Objective 2: To maintain the excellent safety record.

Objective 3: To enhance use of the Division of Forestry aircraft.

Goal B: Manage the organization to provide directives, program priorities, and accomplishment reports so that the work force knows what work is required and when it is due.

Objective 1: To establish a sound set of policy and procedures to guide the Division of Forestry's operations.

Objective 2: To provide an easily accessible and easily updatable way of using the Division of Forestry's policy and procedure manual.

Objective 3: TO provide an easy-universal method of accomplishment reporting.

Objective 4: To provide a work planning system to effectively guide the Division of Forestry activities.

Goal C: Manage property to provide effective maintenance, storage, and accountability, to support various programs of the division.

Objective 1: To maintain division equipment and facilities to proper standards.

Objective 2: To maintain property accountability commensurate with department directives.

Objective 3: To provide adequate space for warehouse storage at each facility.

Objective 4: To provide inventory and stock values for state annual financial report.

Goal D: Manage the work force to provide effective personnel support to the project budget and programs of the division.

Objective 1: To complete all performance evaluations on time.

Objective 2: To streamline the effectiveness of the Division of Forestry paperwork.

Objective 3: To familiarize the Division of Forestry administrative personnel with the personnel policies and procedures issued by the Division of Management.

Objective 4: To provide and maintain an eager and stimulated workforce.

Goal E: Assure that Division of Forestry employees have up-to-date knowledge on how to do their jobs.

Objective 1: To provide a means for making sure the division trains for its needs.

Objective 2: To develop statewide performance and training standards for specific forestry skills such as cruising and scaling.

Objective 3: To establish training priorities for the division.

Objective 4: To provide a budget to properly train the workforce.

Goal F: Manage the budgeted funds of the division to maintain fiscal integrity and to support division programs.

Objective 1: To follow U.S.F.S./OMB and the division of Management instructions and timeframes for budget preparation.

Objective 2: To assist program managers in maintaining integrity for their allocated funds.

Public Relations Program Mission: Provide factual and timely information to public and sister agencies about resource issues and the role of the division.

Goal A: To determine the public and sister agencies needs and perceptions of forest management.

Objective 1: To periodically determine the public and sister agencies needs and perceptions.

Goal B: Educate the public and sister agencies about resource management and the Division of Forestry.

Objective 1: To educate the public and sister agencies about the dynamics of the forest ecosystem and environmentally sound resource management.

Objective 2: To educate the public and sister agencies about the economic benefits derived from the forest ecosystem.

Objective 3: To educate the public that a healthy forest improves the quality of life for all.

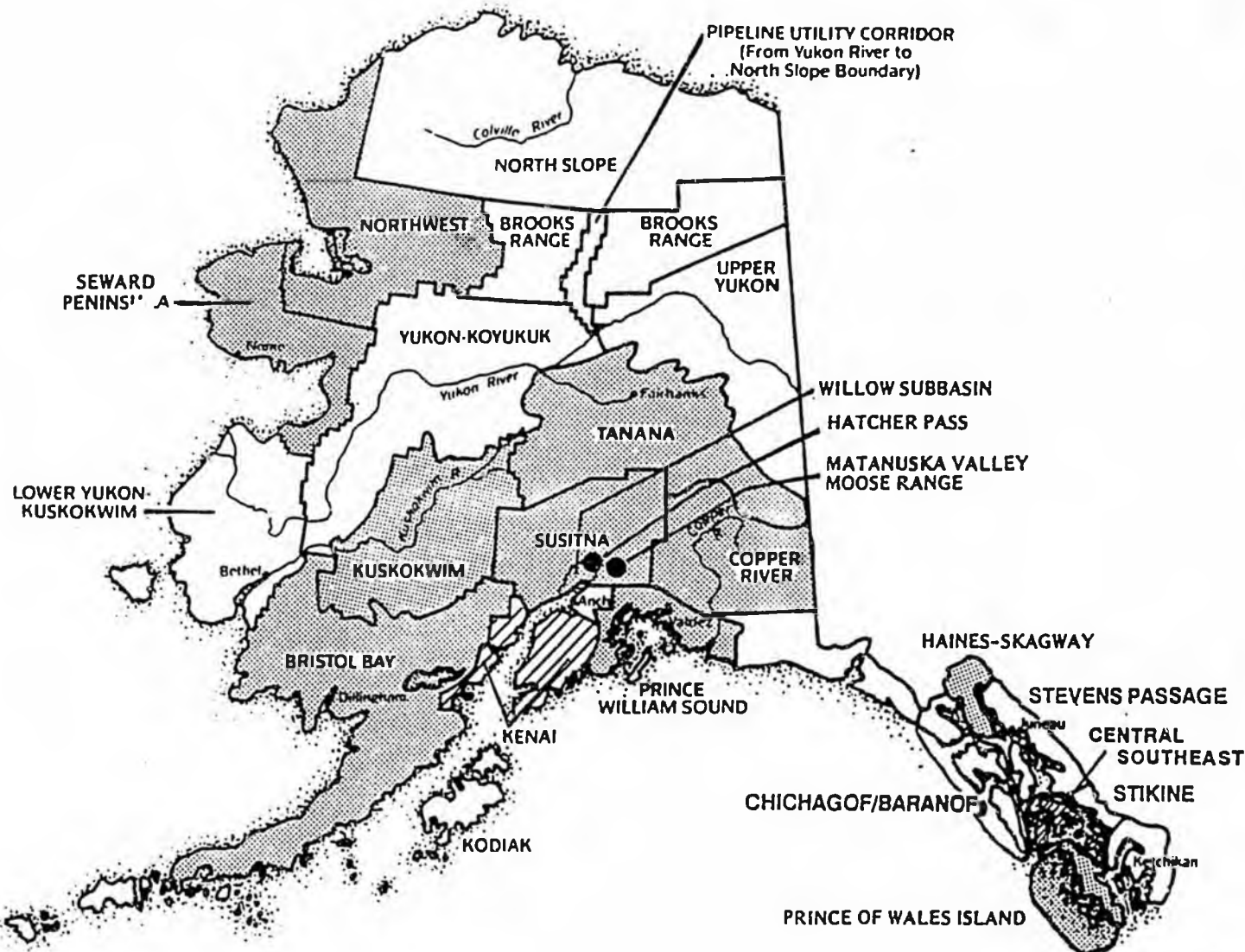
Objective 4: To educate the public and sister agencies on applied research and technological advancements.

Objective 5: To improve the image of the Division of Forestry.

Objective 6: To provide information to the public on forest protection programs.

Alaska Department of Natural Resources

AREA PLANS



MARCH 1989



Alaska Department of
**NATURAL
RESOURCES**

AREA PLANNING STATUS

-  Completed area plans
-  Area plans in progress
-  Not scheduled for area plans at this time

WHY DO AREA PLANS?

The planning process is a way of settling differences, it is a way of deciding how to manage and use state lands. There are many different ideas on how state lands should be used, and sometimes these proposed uses have the potential to conflict with each other. However, with advance planning, many potentially conflicting uses can occur in the same area. Through the planning process, the people of the state can help choose the ways the land should be managed. The plans also make it clear to the public what choices have been made and the reasons for these choices.

THE PLANNING PROCESS

Public Identifies Issues - Public meetings are held to learn of local problems, interests, and concerns about state lands.

General information - Information about natural resources (oil and gas, minerals, fish, forests, soils, etc.), existing land uses and ownership, and economic and social characteristics is gathered, mapped, and analyzed.

Prepare Plan Alternatives - Different land use options are developed using public comments, resource information, and state policy.

Public Reviews Alternatives - Public meetings are held to review alternatives.

Prepare Draft Plan for State Lands - Public comments are reviewed, conflicts are resolved, a preferred alternative is selected, and a draft plan is written.

Public Reviews Draft Plan - Public hearings are held on the draft plan.

Prepare Final Plan - Changes to the draft plan are made based on public comments. Final plan recommendations are developed.

Adopt and Implement the Plan - The Commissioner of the Department of Natural Resources adopts the final plan. The plan guides the state's land management decisions.

STATUS OF AREA PLANS

Bristol Bay. Adopted in September, 1984. Covers 13 million acres of state-owned and state-selected land. Copies are available for review at DNR Information Offices and state depository libraries.

Copper River Basin. Adopted in November, 1986. Covers 3.3 million acres of state-owned and state-selected land. Copies are available for review at DNR Information Offices and state depository libraries. Additional copies are available for \$5.00 through the Resource Allocation Section of DNR.

Haines/Skagway. Adopted in June, 1979. Covers 400,000 acres of state-owned or state-selected land. Superseded by the Alaska Chilkat Bald Eagle Preserve Management Plan (September, 1985) and the Haines State Forest Management Plan (February, 1986). Copies of all three plans are available for review at DNR Information Offices and state depository libraries.

Kuskokwim Basin. Adopted in March, 1988. Covers 16 million acres of state-owned or state-selected land. Copies are available for review at DNR Information Offices and state depository libraries. Additional copies may be purchased for \$5.00 through the Resource Allocation Section of DNR.

Northwest. Adopted in February 1989, this plan is for 10 million acres of state-owned or state-selected lands in the Bering Straits region, the Northwest Arctic Borough, and the far western segment of the North Slope Borough. Copies are available for review at DNR Information Offices and state depository libraries. Additional copies may be purchased for \$5.00 through the Resource Allocation Section of DNR.

Prince of Wales Island. An area plan covering the southwestern part of the island was adopted in June, 1985. A plan for the remainder of the island was adopted in December 1988. This plan is for 30,000 acres of state-owned or state selected uplands and

about one million acres of adjacent tidelands and submerged lands. The plan addresses such issues as land offerings, log transfer and storage facilities, floating camps, floathomes, sea-farming, and state selections from the Tongass National Forest. Copies are available for review at DNR Information Offices and state depository libraries. Additional copies may be purchased for \$5.00 through the Resource Allocation Section of DNR.

Prince William Sound. Adopted in June, 1988. This plan is for 850,000 acres of state-owned or state-selected uplands and most of the tidelands and submerged lands in Prince William Sound. Copies are available for review at DNR Information Offices and state depository libraries. Additional copies may be purchased for \$5.00 through the Resource Allocation Section of DNR.

Susitna. Adopted in April, 1985. Covers 9.5 million acres of state-owned and state-selected land. Copies are available for review at DNR Information Offices and state depository libraries. Additional copies may be purchased for \$5.00 through the Resource Allocation Section of DNR.

Tanana Basin. Adopted in April, 1985. Covers 12.5 million acres of state-owned and state-selected land. Copies are available for review at DNR Information Offices and state depository libraries. An update of the Tanana Basin Area Plan will begin in the Spring of 1989.

Kenai. This plan will cover state land within the Kenai Peninsula Borough with the exception of lands that have been legislatively designated and for refuges, critical habitat, and other special use areas. Planning for the Kenai area is scheduled to begin in the Spring of 1989. Alternatives will be prepared in 1990, a draft plan will be reviewed by the public in the fall of 1990, and the final plan adopted in 1991.

Central Southeast. This plan will cover the area from the Cleveland Peninsula north to Frederick Sound. The Communities of Meyers Chuck, Wrangell, Kake and Petersburg and the major islands of Etolin, Zarembo, Kupreanof and Kuiu will be in the planning area. The Stikine - Leconte Wilderness within the planning area will be used to develop policy for state tide and submerged lands adjacent to federal wilderness areas. The plan also includes the Stikine River so there will also be a Shorelands River Management Component. Work on the plan will begin in the spring of 1989 with the first public meetings proposed for early fall of 1989. Alternatives will be prepared in 1990, a draft plan reviewed by the public in the fall of 1990, and the final plan adopted in 1991.

For more information on area plans, contact:

State of Alaska
Department of Natural Resources
Land and Resources Section
P.O. Box 107005
Anchorage, Alaska 99510-7005
(907) 762-2660

November 28, 1989

Mr. Ron Ricketts
Fairbanks Industrial Development Corp.
520 5th Ave., Suite 410
Fairbanks, Alaska 99701

Dear Ron;

As you requested I have reviewed both the material related to the Forest Practices Act and the preview summary. I will start first with some overall observations.

First, I am not sure if I agree with your observation that Bob Dick's plan should proceed attempts at revising the Forest Practices Act. Bob has to know what the playing field will be before he can develop a plan. The changes proposed in the revision are quite significant and will have far reaching impacts on any forest management plan. I know I would be hard pressed to put together a plan with this revision waiting in the wings. I would think that Bob's efforts should be directed towards adding to or modifying various aspects of it in such a manner as to allow him to develop a reasonable management plan. Hopefully, that is exactly what he is doing and should be an ally in helping to produce a Forest Practices Act that is both practical and workable. And, applicable to the interior.

Second, I was surprised at the lack of mention of the Department of Forestry in the documents that you sent me. They appeared to have no direct representation on the steering committee and little input into the revision. To me, that is unfortunate.

There is a tendency in the forest industry to over react (I won't say exaggerate.) to the impact of legislative decisions on forest operations. So, as I comment on these documents I will attempt to avoid that kind of response. What I will do is to go through the documents, referencing page numbers and making comments.

Let's tackle the Alaska Forest Practices Act Review of June 1989 first.

One thing that is apparent throughout this document is the desire of the various agencies to not give up any of their authority over resource activities. Everywhere you turn you will see statements like "The DNR is the lead agency here but will give due deference to DF&G in this area and due deference to DEC in that area and consult with this group and discuss this with that group". It goes on and on. It is my opinion that to have an effective Forest Practices Act you must have one agency that is responsible for the administration of the act. Other agencies can set their standards for their areas of responsibility but only one agency should speak to landowners and operators on behalf of the state government. This revision appears to have most everyone involved. This is wrong and it will not work. In many states, the administrator of the act is an interface between the landowner/operator and other agencies. Their job is to keep everyone in compliance with the act. This includes overzealous agency representatives. Forest landowners are not the only ones that violate Forest Practices Acts.

It would certainly be my preference for this interface agency to be the Department of Forestry as their expertise should cover the broad range of resource concerns. The other agencies should act as a pool of specific expertise for the interface agency to draw upon. When I try to picture how this act will be administered I get a vision of all kinds of agency people crawling all over a forest operation. There is a fisheries guy down in the creek. Over there is a big game specialist looking for moose tracks. There is a DEC man looking for non point source pollution. There's a DNR representative doing a field review. And, they are all telling the operator what he can and cannot do. That's a scary picture and, if true, would sure keep me and my company out of the woods!

Page 9-Stream Channel Types: Alaska is a diverse environment that maybe needs nine channel types but I rather doubt that.

Page 10-Buffers: One of things you learn after working in the woods for some time is that the forest is a unique place with as much variation as you can imagine. I believe buffers and riparian zones are necessary in a number of circumstances (heresy in some circles). But, each stream is unique. To apply buffers and/or zones of specific widths over a huge area like Alaska is a shotgun approach to management. It is the easy way out. Guidelines need to exist, no question. But, the important thing is to apply the appropriate buffer or zone in the appropriate place. The Forest Practices Foresters in the field are the people that should be making these calls with the cooperation of the landowner and help from the appropriate agencies.

Page 12-Riparian Working Group Conclusions: I applaud the working groups stand regarding the area of adequate compensation to the landowner or timber owner for timber retention requirements in excess of 5% (I'll talk about this 5% thing shortly.). I have just two questions. Who pays the compensation and where does the money come from?

Page 16-Determining the Operating Area and 5% Cap: This is an interesting approach. I would have never come up with it. First off, if I owned a large tract of land I would designate every bit of my planning area as my operating area. Because if I didn't I would have areas that I could not harvest until the next rotation. Suppose markets change and an area that I thought was unmerchantable all of sudden became something I could sell. I certainly wouldn't want to wait till the next rotation to harvest it. Who knows what the market standards might be at that time?

I have a real problem with this 5% approach to retaining vegetation in riparian areas. Just to get some idea as to how this approach might work in the interior I put together a hypothetical forest ownership. This is a pretty simplified example. I would think a real life situation would be much more complicated. Let's call our hypothetical forest the Ricketts Native Corporation forest holdings.

RICKETTS NATIVE CORPORATION
FOREST HOLDINGS

Total Acreage: 10,000 acres
This acreage is broken down as follows:

Aspen Stands

High Stocking	1500 acres
Med. Stocking	2500 acres

Birch Stands

High Stocking	1500 acres
Med. Stocking	2500 acres

Cottonwood Stands

High Stocking	500 acres
Med. Stocking	500 acres

White Spruce Stands

High Stocking	400 acres
Med. Stocking	400 acres

Black Spruce Stands	35 acres

Lake	20 acres

River (channel 6)	145 acres

Looking over the above, forester Ricketts observes that he has nine different vegetation types when he looks at them by species and stocking levels. Forester Ricketts has designated all of his holdings as his "operating area" except the lake and river. This is due to the fact that all of his forest holdings are merchantable to one degree or another. Also, it's all the same age, fortunately for Ricketts. Otherwise, he would have a lot more vegetation types to deal with.

It's pretty obvious to forester Ricketts, from the aerial photography of his property, that his stands of trees have basal areas that range all over the place. But, to comply with the law he has to figure out what 5% of his total forest basal area amounts to. Besides, he doesn't want to have to set aside any more than the required basal area.

Unfortunately, Ricketts is like a lot of other managers of forest holdings in the interior. He just doesn't have much real good inventory information, especially for his hardwood stands. Forester Ricketts thinks over his options and comes to the conclusion that there is only one way to adequately meet the Forest Practices Act standards and still be sure he sets aside only what he is required to set aside. He grabs his trusty Relaskop from the shelf and heads for the field to determine, to the best of his ability, what the basal area is on his forest holdings.

Also, unfortunately, forester Ricketts' property is like a lot of forest land in Alaska. It just doesn't have a decent road system yet. So, four weeks later Ricketts, a little worse for wear, crawls out of the brush. He has collected all the field data he needs to calculate his 5%. What he found follows:

	Basal Area	Total Basal Area
<u>Aspen Stands</u>	<u>Per Acre</u>	<u>for Veg. Type</u>
High Stocking	135 sq. ft.	202,500 sq. ft.
Med. Stocking	80 "	200,000 "
<u>Birch Stands</u>		
High Stocking	130 "	195,000 "
Med. Stocking	85 "	212,500 "
<u>Cottonwood Stands</u>		
High Stocking	137 "	68,500 "
Med. Stocking	60 "	30,000 "
<u>White Spruce Stands</u>		
High Stocking	160 "	64,000 "
Med. Stocking	100 "	40,000 "
<u>Black Spruce Stands</u>		
High Stocking	10 "	350 "
Total Basal for Property		1,012,850 sq. ft.

Ricketts calculates that 5% of his forest basal area is equal to 50,642 sq. ft. This is the amount of stocking that forester Ricketts has to retain for his riparian management zones (RMZ) and, he assumes, his conditional harvest zones (CHZ).

Well, Ricketts feels pretty good about all his effort and the accuracy of his data. Checking his copy of the Forest Practices Act, he finds that the DNR has to evaluate his proposal and check to see if his basal area calculation is correct. He notes, with some alarm, that this check has to be plus or minus 10%. The first thing that pops into his mind is what if the DNR says his figures are all wet? What happens then? To get some answers, he heads for the office of the local DNR representative with his plan and figures.

The meeting with the DNR goes pretty well. They inform Ricketts that his figures look pretty darn good but they will have to check it out. Of course, they can only use his figures for reference. They know forester Ricketts is a pretty good guy and wouldn't give them any bad numbers but they have to protect themselves. It is possible that this guy, Ricketts, did this work in the comfort of his pickup truck.

So, the DNR representative grabs his trusty Relaskop from the shelf and heads for the brush. He's a little quicker than Ricketts. He has Ricketts' field notes and Ricketts has told him how to get to all the stands. Also, forester Ricketts was good enough to break a considerable amount of trail for him in the previous four weeks. Three weeks later the DNR representative crawls out of the brush with his basal area information. After several days in the office, it becomes apparent that Ricketts was right on the money. The DNR buys his figures.

Now, forester Ricketts can get down to the business of managing his forest. Of course, seven plus weeks have gone by and there is an early nip in the air. Ricketts knows he has to get on with this. He's got an anxious chip buyer from the lower 48 trailing him around like a lost puppy wondering what the heck is going on. This chip buyer keeps mumbling something about a contract deadline and the future of his position with his employer.

Anyway, the channel 6 river flows through Ricketts property for ten miles. There really aren't any tributary streams to the river that harbor any anadromous fish population. Ricketts is darn glad about this situation. Looking at the Forest Practices Act, he finds that channel 6 rivers have to have a 15 meter CHZ on each side of the river and a 15 meter RMZ in addition to the CHZ. He sees that

there is a 50% retention per size distribution. Ricketts isn't too sure what "per size distribution" means. But, further reading reveals that this problem gets worked out by a committee in the field. (Forester Ricketts is pleased that he gets to be on the committee. He has always enjoyed serving on committees.) The river that flows through Ricketts' forest has some excellent fish runs in it. As a result, he's pretty sure that DF&G won't want much, if any, harvesting taking place in the CH2 or RM2. Being a realist, he looks at the worst that could happen to him.

Thus, he has a 100 foot or so strip on each side of the river where he can't harvest any timber. Some of his best birch and aspen stands are located right along the river. Ricketts gets his calculator out and figures out just what this means. There are about 242 acres of his holdings that are unavailable for harvest. This acreage contains 33,154 sq. ft. of basal area. That's 65% of his 5% retention level. Ricketts observes that this is a pretty good size piece of ground to protect fish habitat. Especially since the river is a huge thing that is chewing away at its banks constantly. He's not too sure how a 100 foot leave strip will protect fish under these circumstances but he's no fisheries expert.

Dog gone it, forgot about the lake. The lake has a perimeter of 3960 feet and it too will require the 15 meter CH2 and 15 meter RM2. They are not going to let him harvest anything here either, he figures. So, there goes another nine acres out of his land base. And, along with it goes another 1233 sq. ft. of basal area. Now he is left with 16,255 sq. ft. of basal area in his 5% retention level. Using his average basal area per acre of all his productive forest lands, he finds that this amounts to another 146 acres that he will have to set aside somewhere. He has no idea where or why or even if he really has to set it aside. The law just isn't clear. Forester Ricketts does notice that if his 5% cap has not been reached he can harvest timber outside his operating area. Unfortunately, he doesn't have another operating area. Further reading reveals that if he has not exceeded the 5% cap, which he will not, then the DF&G can recommend a different configuration of the riparian zone. Well, that's what he assumed would happen. But, he also notices that it's up to him to decide whether to follow DF&G's recommendation. If he doesn't he can fall back and apply the riparian standard in the Forest Practices Act.

Ricketts has got it figured out that it is in his best interest to go along with the DF&G recommendations. He reads that if he agrees to leave more than the riparian

standard the state may offer compensation to him at fair market value for the trees he leaves. He's still not sure why he needs to leave so many trees but as long as he is compensated then.....? Wait a minute. What do they mean by "may"?

Well, you get my drift. I am sure that a better example could be put together. The point is that this is not going to be easy to do for anyone involved. This approach hasn't been applied to the interior yet and I sincerely hope it isn't. It appears that the committee tried to apply a broad brush approach to the entire state. I think a more practical approach would be to look at each harvest unit as an individual and retain the basal area in the riparian zones (if they are truly necessary) that is adequate to protect the stream. The landowner should be compensated for the volume he leaves in the riparian areas. It looks to me that the 5% approach will increase costs for everyone. As an operator in Alaska, I would have a real problem with this approach.

Page 23-Riparian Standards for State Land: In paragraph two it says that there will be a 30 meter no cut zone on all anadromous and high value resident fish waters south of the Alaska Range. It also states that between 30 and 90 meters that harvest must be consistent with maintenance of important Fish and wildlife habitat. I'm not sure what this means. The next paragraph says requirements in addition to those listed may be required. This is a pretty broad statement and needs definition of what it means and where it applies. Thankfully, these standards were changed from the April 10th draft (bottom of page). 300 feet is pretty extreme.

Page 25-Public Information: I do not understand why on private land there would be a public comment period if the operation meets the requirements of the Forest Practices Act. Notifying some list of individuals of legal, regulated operations seems costly and extreme to me. Why not make these approved plans available for public review at offices of the State Forestry Department? How long is the comment period and what purpose would the comments serve? I cannot see how this would serve the best interests of the public or the landowner.

Page 26-Standard of Review: To operate in Alaska I would need to know what these standards would be. It would seem to me that they should be part of the Forest Practices Act. Not some nebulous statute that will be put together later. Looks like some work needs to be done here. I can't imagine a legislative body passing some act that leaves these important "standards" so open. Putting together these

standards later leaves the act wide open to be manipulated by special interests. In fact, the development of these standards could easily change the act to something entirely different. I think you should be very concerned about this. In my view, this may be the biggest flaw in the whole thing.

Page 26-Agency Review, Paragraph 1,c,4: Appeal to whom?

Page 27-Review Schedule: This is the way I interpret the review schedule. After the plan is submitted for review the DNR has 30 days to respond. If a field review is required the landowner would have to give the DNR another 21 days to conduct the field review. Then over on page 29, item 4 it appears that if there is a disagreement between agencies there would be another 10 day delay. This totals up to 61 days. Two months! Believe me, in that period of time markets can change substantially.

Page 28-Variations from Standards: Who would the landowner appeal the denial of the variation to? I would hope not to whatever agency was involved but to one appeal process in one agency.

Page 29-Due Deference: If DNR does not agree with DF&G then it prepares a written finding. So, then what? It's hard for me to believe that DF&G will lay down and die. It looks like, in item 4, that this will be elevated to a "higher level authority". Who would that be?

Page 29-Confidential Data: Why would financial data be submitted to DNR? I'm not sure under what circumstances this would occur.

As you get further into this document it appears more and more to be some attempt to put together an administrative process to handle the Forest Practices Act. I don't believe the act is where this kind of stuff belongs. A Forest Practices Act has to lay down some important, easy to understand rules, regulations, and guidelines. The key to making an act work for everyone is the Forest Practices Officer in the field. This guy has to look at each operation as an individual and, with the cooperation of the operator and/or landowner and other responsible agencies, make practical, intelligent decisions in the field that produce compromises that everyone can live with. These people are the most important cog in the wheel. They need to be experienced and respected. And, above all, Know What They Are Doing!!!!

Page 35-Board of Forestry: The State Forester is a non voting member of the board. This means that a tie cannot be broken.

Just a few comments on Bob Dick's "preview summary".

Page 1, Goal B, Objective 5: I do not believe that it would be possible to provide a genetically superior tree for regeneration by 1995 unless the State of Alaska has a genetic improvement program that has been on going for years.

Page 2, Goal C, Objective 4: Developing five year plans is fine. You have to keep in mind that they are pretty much worthless the day after they are written as things change so much. But, they are a necessary evil to get things in focus. Agency and public review every year would seem a little burdensome to me.

Page 2, Goal D: Who is going to do the research? The University of Alaska? Where will it be based?

Page 3, Goal E, Objective 5: Running a forest nursery can be a difficult and expensive operation. The state might want to look at making some arrangement with some private operators. This might be difficult in Alaska.

Overall, it looks like a good and ambitious plan. It's obvious that the department has put a lot of thought into it. I would hope they would prioritize all of this and tackle the most important ones that will make a visible difference first. If Bob tries to do them all at once he will be a basket case in short order. I am sure he is aware of that.

Well, I hope the above helps. In my opinion, there is a heck of a lot of work to be done on the Forest Practices Act. My sympathies go out to the committee members that had to try to throw something together in a mere five months. That is probably why this revision is not a good one. Development of a balanced and fair act will take a lot of time. I think you should make this clear to your legislators and put the committee back to work.

For the interior, you folks need to develop regulations that address your area. As you know, Alaska is about as diverse as a state can get. I would think that it would be impossible to write an act that addressed all of the state without breaking it into regions. You also need to be darn

sure that you get a voting representative on any committee that starts messing around with the Forest Practices Act. I see they excluded you folks completely last time around. The bottom line for my company is that I would be very reluctant to establish an operation in Alaska with this kind of poorly thought out legislation pending.

Sincerely,

Chief Forester



ALASKA MINERS ASSOCIATION, INC.

501 W. Northern Lights Blvd., Suite 203, Anchorage, AK 99503 (907) 276-0347

14 December 1989

Senator Bette M. Fahrenkamp
119 N. Cushman Street, Suite 201
Fairbanks, Alaska 99701

Dear Senator Fahrenkamp:

Governor Cowper has requested the Alaska Legislature to revise the Forest Practices Act enacted in 1978. His proposal eliminates representation of the Alaska Miners Association on the Board of Forestry.

At the annual meeting and convention of the Miners, held in Anchorage in November, the Board of Directors unanimously objected to the governor's proposal to delete the Miners' representative from the Board of Forestry. The Association does not favor revision of the Forest Practices Act; if, however, the legislature shall insist on changing the law, then we strongly urge that our representation be retained.

The proposed revisions to the forestry act are portrayed by their proponents as a "consensus" result, arrived at by compromise among all concerned parties. Please be advised that the Alaska Miners Association was never invited to the "consensus" meetings. Furthermore, when our former representative on the forestry board resigned, it took around five months to have our successor nominee appointed, leaving the Association unrepresented during what turned out to be the critical time when a "consensus" was being formed.

Mining interests should definitely be represented on the Board of Forestry; the interplay between mining and logging, between minerals and forests, is dynamic and important. Under the proposed revisions, the six voting members of the forestry board will consist of a professional forester and a member representing a forest industry trade association; the other four voting members will be a fish or wildlife biologist, and representatives of an environmental organization, a commercial fishermen's organization, and a Native corporation. So at least two members aligned with fish interests will have membership, but mining is given no assured representation.

We oppose the revision, and ask that the proposed law changes be rejected. Thank you for your continued interest in Alaska mining and its necessities.

Sincerely yours,

Steven E. Borell, Acting
Executive Director



hb331
sb317

MAY 4 1990

May 3, 1990

Senator Bettye Fahrenkamp
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

I am writing with regard to the recent amendment made to the Forest Practices Act (HB 331) by the House, changing the word "variation" to "variance". While from a semantic point of view this makes sense, the word "variation" was chosen specifically to stay away from the legal connotations which the word "variance" carries with it.

Specifically, a variance is normally thought of in terms of a zoning variance, and this concept does not fit the intent of the steering committee. Variations are to be granted on a much more regular and systematic basis than variances normally are and we don't want to be stuck with the more narrow interpretation.

I have attached a brief memo from Jon Tillinghast outlining the problem in greater detail.

We have asked the Senate Finance Committee to reverse this amendment, changing the word "variance" back to "variation", and we ask for your concurrence with this change.

Thank you for considering our concern.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bob Loiselle".

Robert G. Loiselle
Executive Director

10624 Starlight Court • Juneau, Alaska 99801 • (907) 463-2581 • FAX (907) 463-2584

Alognak Native Corporation
Ahtna, Inc.
Alaska Loggers Association
Alaska Pulp Corporation
Atitken Forest Products

Chilkoot Lumber Company
Chugach Forest Products, Inc.
Citikou
Cook Inlet Region, Inc.
Doyon, Ltd.

The Eyak Corporation
Goldbelt, Inc.
ITT Rayonier, Inc.
Kavilco, Inc.
Ketchikan Pulp Company

Klawock Heenya Corporation
Klukwan Forest Products
Klukwan, Inc.
Koncor Forest Products
Sealaska Corporation

Shea Atika, Incorporated
Tanana Chiefs Conference
Tatitlek Native Corporation
Timber Trading Company
West Coast Stevedoring

RATIONALE FOR PROPOSED CHANGE TO CSHB 331 am H

The revised Forest Practices Act would create a 66 foot buffer zone around anadromous streams on private land. The Steering Committee participants recognized, however, that this buffer zone would not always be needed to adequately protect fish habitat. As a result, a system where the buffer zone requirements could be tailored to site specific conditions became critical to the functioning of the legislation.

The legislation, as drafted by the Steering Committee, created a flexible system for varying the buffer zone requirements both on a case-by-case basis, and for types or categories of streams. In doing so, the Steering Committee purposefully avoided the word "variance." A "variance" is normally thought of in terms of a zoning variance, and that concept did not fit the Steering Committee's intent for three reasons:

1. A zoning "variance" usually carries with it a high standard of proof. The Steering Committee, however, did not envision that any extraordinary standard of proof would apply in this situation.

2. A zoning "variance" is usually granted only when the applicant's property is unique -- that is, that there is something physically different about the property that sets it apart from other properties of its type. The Steering Committee, on the other hand, envisioned that variations would be granted under conditions that are typical of forest properties generally. For example, the

committee envisioned, and the Department of Fish and Game has acknowledged, that variations would be granted in the typical situation of small low-gradient streams that do not need adjacent large trees for adequate habitat protection.

3. Similarly, "variances" are normally granted on a case-by-case basis only. On the other hand, the legislation itself envisions that variations would be allowed for classes or categories of activities, like operations along the small low-gradient streams described above.

As a result, "variance" is the wrong word to describe the flexible system created by the Steering Committee, and upon which both the effectiveness of and support for the revised forest practices legislation depends. This requires a return to the original language.



UNITED FISHERMEN OF ALASKA

APR 24 1990

April 19, 1990

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MEMBER ASSOCIATIONS

Alaska Crab Coalition
Alaska Independent Fishermen's
Marketing Association
Alaska Longline Fisherman's
Association
Alaska Trollers Association
Bering Sea Fishermen's Association
Bristol Bay Driftnetters Association
Concerned Area 'M' Fishermen
Cook Inlet Aquaculture Association
Copper River Fishermen's Cooperative
Cordova District Fishermen United
Kenai Peninsula Fishermen's Association
North Pacific Fisheries Association
Northern Southeast Regional
Aquaculture Association
Peninsula Marketing Association
Petersburg Vessel Owners Association
Prince William Sound
Aquaculture Association
Prince William Sound Seiners Association
Seafood Producers Cooperative
Southeast Alaska Seiners
Southern Southeast Regional
Aquaculture Association
United Cook Inlet Drift Association
United Southeast Alaska Gillnetters
Western Alaska Cooperative
Marketing Association

Commissioner Lennie Gorsuch
Department of Natural Resources
400 Willoughby Avenue
Juneau, AK 99801

Dear Commissioner Gorsuch:

It has come to our attention that there are 15 operations in the Ketchikan area specifically targeting on reparation timber that had been left behind during the initial forest harvest. There will be more in other areas. The owner/operator is clearly submitting these plans in anticipation of the new Forest Practices Act that is now before the legislature. We are very concerned that valuable fish habitat is being damaged.

The steering committee groups, including the Alaska Loggers Association, and several native corporations, agreed last year, to voluntarily comply with the reparation requirements of the Forest Practices Act. UFA, and many other steering committee groups, spent a lot of time and effort negotiating improved forest practices. A major objective of the act is the protection of reparation zones. Clearly, the act is not intended to hasten the harvest of reparation zones. Logging along salmon streams before implementation of the act is unacceptable and is unfair to those who dealt in good faith. I assume the state would share the same sentiment.

Though we recognize that compliance is voluntary, we wonder if there is any pressure within your authority that can be applied to these operations until the new Forest Practices Act becomes law?

Sincerely yours,

Theo Matthews
Theo Matthews
President

cc: Governor Cowper
Resources Committee
FPA Steering Committee Members