

HB

373

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HB373

Revision Date: _____
 Title: An Act relating to forests and forestry practices
 Sponsor: Rep. Phillips
 Requestor: House Resources

Dept Affected: Natural Resources
 BRU: Resource Development
 Component: Forest Management & Development
 Component Serial No. 435

Expenditures/Revenues

(Thousands of Dollars)

| OPERATING EXPENDITURES | FY99 | FY00 | FY01 | FY02 | FY03 | FY04 |
|---------------------------------------|------|------|------|------|------|------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CHANGE IN REVENUES (fund code) | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

FUND SOURCE

(Thousands of Dollars)

| FUND SOURCE | FY99 | FY00 | FY01 | FY02 | FY03 | FY04 |
|--------------------------|------|------|------|------|------|------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY98) cost: \$ 0.0

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| TEMPORARY | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS:

(Attach a separate page if necessary)

This bill changes the Forest Resources and Practices Act requirements on private land along anadromous waters and tributaries to anadromous waters. Notably, it adds buffers on Type B anadromous streams. Based on the distribution of stream types, there will be an estimated 21% increase in the number of buffered stream miles. DNR is the lead agency for enforcing the Act. Additional buffers will require additional staff time for office review of notifications (3 mo. each annually for 2 existing seasonal Forester II positions in Southeast Alaska), and field review of variation requests and violations (19 days/year). In the first year (FY 99), training will be needed for landowners, operators, and staff on proper implementation of the new standards. This will require two training sessions, one each in southeast and southcentral Alaska.

Prepared by: Jeff Jahnke, Director
 Division: Forestry
 Approved by Commissioner: [Signature]
 Agency: Natural Resources

Phone: 455-3379
 Date: 10-Feb-98
 Date: 2-11-98

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We have two options available to us in terms of estimating the fiscal impact of this bill:

1. Guess at it and ask for an increase in funding.

OR

2. Experience the impact of this legislation and once we know what it means in terms of staff and resources request the funding at that time.

We choose not to ask for additional funds for implementation of this bill at this time because of the uncertainty of the impact. However, passage of this legislation will impact DNR's forest practices program. The existing program currently is not fully funded, and field presence has already declined from the level expected by the Forest Practices Act. In 1991, DNR conducted 160 field inspections for each 100 notifications of operations received. In 1996-97, this ratio declined to 90 inspections per 100 notifications. The adequacy of funding for the FPA is not the issue this legislation is trying to address - this issue will need to be discussed in a different forum.

With the passage of this bill, review of notifications will take longer, further reducing available field time. Existing staff time for field visits will be spread over more buffers and requests for variation. Less staff time will be available to train operators and landowners, and to prevent violations. More time will be needed for enforcement actions following violations, rather than on cooperative work to prevent problems.

HOUSE BILL 373
“An Act relating to forests and forestry practices.”

MADAME SPEAKER, I AM PLEASED TO PRESENT TO THE
BODY TODAY THE FORESTRY BILL YOU INTRODUCED TO
ENHANCE THE PROTECTION OF ALASKA'S SALMON
RESOURCES AND WATER QUALITY.

THIS LEGISLATION RESULTS FROM A COOPERATIVE EFFORT
BETWEEN TIMBER AND FISHING INDUSTRIES,
ENVIRONMENTAL GROUPS AND STATE AGENCIES TO
IMPROVE THE EXISTING FOREST PRACTICES ACT.

IN 1996, THE BOARD OF FORESTRY ESTABLISHED THE
“FOREST RESOURCES PRACTICES ACT SCIENCE AND
TECHNICAL COMMITTEE” TO REVIEW AN IDENTIFIED
CONCERN REGARDING STREAM BUFFERS IN ALASKA. THE
GROUP INCLUDED SCIENTISTS FROM TIMBER, COMMERCIAL
FISHING AND ENVIRONMENTAL COMMUNITIES AS WELL AS
FEDERAL AND STATE AGENCIES.

THE SCIENCE AND TECHNICAL COMMITTEE MADE
RECOMMENDATIONS TO THE BOARD OF FORESTRY THAT
ADD PROTECTIVE MEASURES TO THE RIPARIAN STANDARDS
ESTABLISHED IN STATUTE FOR PRIVATE FOREST LANDS IN
THE COASTAL FORESTS FROM KETCHIKAN TO KODIAK.

IN ESSENCE, THE CHANGES WILL ACCOMPLISH THE FOLLOWING:

- ALL SEGMENTS OF ANADROMOUS STREAMS WILL NOW BE CLASSIFIED AS TO "TYPE" RANGING FROM TYPE A TO D, DEPENDING ON STREAM SIZE, STEEPNESS AND BANK STRUCTURE.
- NO-CUT BUFFER ZONES WILL BE EXTENDED TO ALL ANADROMOUS STREAMS, RELATIVE TO "TYPE".
(PREVIOUSLY BUFFERS WERE ONLY REQUIRED ONLY ON TYPE "A" STREAMS).
- LOW-VALUE TIMBER ALONG TYPE "C" AND "D" STREAMS
(TRIBUTARIES TO ANADROMOUS STREAMS) WILL BE RETAINED WHERE PRUDENT, SO THAT THE LARGE WOODY DEBRIS MAY EVENTUALLY TRAVEL DOWNSTREAM WHERE IT FORMS NATURAL POOLS, IMPORTANT HABITAT FOR JUVENILE FISH.

WHILE THE 1990 FOREST PRACTICES ACT LEGISLATION REQUIRED A 66-FOOT NO-CUT ZONE ALONG THE MOST IMPORTANT SALMON STREAMS ON PRIVATE LANDS, THIS PROPOSED LEGISLATION WILL REQUIRE THIS BUFFER ALONG ALL STREAMS, REGARDLESS OF STREAM CHARACTERISTICS. ADDITIONALLY, OPERATIONS WITHIN 100 FEET OF THE STREAM, OR AT LEAST TO THE BREAK OF THE SLOPE MUST BE CONDUCTED IN COMPLIANCE WITH ESTABLISHED SLOPE STABILITY STANDARDS FOR EACH STREAM TYPE.

THE STATE OF ALASKA HAS ONE OF THE MOST EFFECTIVE FOREST PRACTICE ACTS IN THE NATION. THIS PROPOSED LEGISLATION IS THE FIRST STEP IN THE CONTINUED PATH TOWARD MANAGING OUR MARKETABLE TIMBER RESOURCES WHILE PROTECTING OUR NATURAL RESOURCES.

MADAME SPEAKER, DURING THE HEARING FOR THIS PROPOSED LEGISLATION IN THE RESOURCES COMMITTEE, WE HEARD FROM THE CHAIRMAN OF THE BOARD OF FORESTRY, THE ENVIRONMENTAL REPRESENTATIVE ON THE BOARD OF FORESTRY, THE DIVISION OF FORESTRY, THE COMMERCIAL FISHING COMMUNITY, AND THE TIMBER INDUSTRY. ALL WERE SUPPORTIVE OF THE PROVISIONS OF THE BILL.

I URGE THE SUPPORT OF THIS BODY IN PASSING HOUSE BILL 373: RELATING TO FORESTS AND FORESTRY PRACTICES.

Q: WHAT IS THE POLICY FOR AREAS WHERE BEETLE-
INFESTATION HAS KILLED ALL THE TIMBER?

A: ACCORDING TO ADF&G A TREE KILLED BY BEETLES
FALLS INTO A STREAM AND IS NOT A PROBLEM BECAUSE IT
ADDS TO THE LARGE WOODY DEBRIS WHICH PROVIDED
FISH SPAWNING HABITAT. THE QUESTION IS WHETHER NEW
TREES WOULD GROW WITHOUT SOME DISTURBANCE TO
PROVIDE LARGE WOODY DEBRIS FOR 50-YEARS FROM THE
PRESENT. MARTY WELLBORN, DNR DIVISION OF FORESTRY,
CITED THE WESTERN KENAI PENNINSULA, WHERE THE
MOST INTENSIVE BEETLE KILLS EXISTS, AS BEING
VIRTUALLY UNAFFECTED BECAUSE MOST OF THE STREAMS
ARE IN VALLEYS WHERE THERE IS A NON-FOREST STREAM
BANK. THESE STREAMS, THEREFORE, WILL NOT
NECESSARILY BE ADVERSELY AFFECTED.

Kenai, Alaska 99611
Telephone: (907) 283-7670
POSITION STATEMENT: Provided testimony in support of HB 285.

REPRESENTATIVE GENE THERRIALT
Alaska State Legislature
Capitol Building, Room 511
Juneau, Alaska 99801
Telephone: (907) 465-4797
POSITION STATEMENT: Sponsor of HB 28.

MARGY JOHNSON, Mayor
city of Cordova
P.O. Box 1210
Cordova, Alaska 99574
Telephone: (907) 424-6200
POSITION STATEMENT: Provided testimony in opposition to HB 28.

ACTION NARRATIVE

TAPE 98-13, SIDE A
Number 0001

CO-CHAIRMAN BILL HUDSON called the House Resources Standing Committee meeting to order at 1:14 p.m. Members present at the call to order were Representatives Hudson, Ogan, Barnes, Dyson, and Green. Representative Joule arrived at 1:16 p.m.

HB 373 - FOREST RESOURCES

CO-CHAIRMAN HUDSON announced the first order of business was House Bill No. 373, "An Act relating to forests and forestry practices."

Number 0069

REPRESENTATIVE GAIL PHILLIPS, Alaska State Legislature, sponsor of HB 373, stated she is pleased today to bring a bill that would greatly enhance protection of Alaska's salmon resources and water quality, thanks to a major cooperative effort between timber and fishing industries, environmental groups, and state agencies. House Bill 373 is designed to improve the present Forest Practices Act (FPA). The cooperative effort represents a commitment from

these groups to periodically reevaluate protection for Alaska's streams and new fish protection measures.

REPRESENTATIVE PHILLIPS explained in February of 1996, the Board of Fisheries heard reports from state agencies regarding the effectiveness of the FPA. The board found that the Act was working well, in general, to protect salmon habitat and water quality, but there were some concerns resulting in the formation of the Forest Practices Act Science and Technical Committee. The committee included scientists from timber, commercial fishing, and the environmental community, as well as federal and state research agencies. After intensive review, the committee identified opportunities to strengthen habitat and wildlife protection. A stakeholder meeting then convened to incorporate the findings into recommendations to present to the Board of Forestry. At last month's meeting, the board heard the recommendations and endorsed a series of amendments to the FPA with broad consensus support from all of the participants. The cooperation shown by board members and the implementation group is laudable. As a result, the state is now looking forward to better protection for its valuable salmon resources without unreasonable cost to industry or private land owners.

REPRESENTATIVE PHILLIPS explained the changes to the FPA would add several important protective measures to the riparian protection standards for private forest lands in the coastal forests of Region I. For clarification, "riparian" means living or located near a stream or river bank. In essence, the changes would accomplish the following:

- 1) Classify all segments of anadromous streams as to type, depending on size, deepness and bank structure.

REPRESENTATIVE PHILLIPS explained the scientific definitions of the streams are contained in the bill. In addition, the changes to the FPA would accomplish the following:

- 2) Extend the no-cut buffer zones to all anadromous streams relative to type.

REPRESENTATIVE PHILLIPS explained the 1990-FPA legislation required a 66-foot no-cut-zone along the most important salmon streams on private lands. House Bill 373 would require a buffer along all streams irrespective of their characteristics. In addition, operations within 100 feet of the streams, or at least to the break of the slope, would be conducted in compliance with established slope stability standards for Types A, B, C and D streams. In addition, the changes to the FPA would accomplish the following:

- 3) Retain low-value timber along Types C and D streams, where prudent, so that large woody debris (LWD) eventually travel down stream and form natural pools, an important habitat for juvenile fish.

REPRESENTATIVE PHILLIPS stated, in conclusion, the state of Alaska has one of the most effective Forest Practices Act in the nation. The collaborative process undertaken by the stakeholders is the first step forward in a path towards managing Alaska's marketable resources while protecting them for future generations.

Number 0451

CO-CHAIRMAN HUDSON commended Representative Phillips for putting together the different user groups and coming away with something that they are willing to sign off on.

CO-CHAIRMAN HUDSON announced for the record that Representative Reggie Joule arrived some time back.

Number 0499

REPRESENTATIVE RAMONA BARNES asked Representative Phillips whether HB 373 is like the dead trees bill.

REPRESENTATIVE PHILLIPS replied, "No." It is much better than the dead trees bill. It is to prevent dead fish.

Number 0590

DOUG YATES, Representative, Alaska Boreal Forest Council, testified via teleconference in Fairbanks. The council is in favor of the changes detailed to the FPA in HB 373. The measure demonstrates that the legislature supports scientific findings as they relate to sustaining Alaska's fisheries and wildlife, and protecting continued reliance on salmon fisheries in Southeast Alaska. However, as recognition of the need for adoptive management, there are significant gaps in scientific analysis for similar issues in Southcentral and the Interior - Regions II and III. Salmon spawning protection is needed statewide. There are no mandatory buffers north of the Alaska Range that ~~needs~~ to be corrected as soon as possible. In conclusion, he favors the passage of HB 373 and suggested that the science and technical committee process be used as a model for adaptive management for streams in the Interior and Southcentral.

Number 0708

DALE BONDURANT testified via teleconference in Kenai. He is glad

there is support for a wider no-cut portion along these streams. There is, now, recognition of the need for a continued supply of LWD into anadromous streams that is vital to the sustained yield principle of the state's fishery resources. He agreed with the previous speaker that it should be expanded to cover all of Alaska. It is well known that not enough LWD is going into anadromous streams where there are narrow protection zones. In conclusion, the bill should be supported and expanded.

Number 0810

CO-CHAIRMAN HUDSON called for a motion to adopt the proposed committee substitute.

Number 0821

REPRESENTATIVE BARNES made a motion to adopt the proposed committee substitute for HB 373, version 0-LS1461\E, Luckhaupt, 2/18/98, as a work draft. There being no objection, it was so adopted.

Number 0869

JEFF JAHNKE, State Forester, Division of Forestry, Department of Natural Resources, announced the Administration supports HB 373. The process and the resulting recommendations were based on the best available scientific information. It was open to the public and a wide range of interests were involved in each of the steps. The results were supported by the Board of Forestry with representation from commercial fishing, the forest industry, Native corporations, environmental organizations, mining, fish and wildlife biology, professional forestry, and recreation. The committee substitute was the result of consensus and any change to

it would make consensus difficult to sustain. The Administration urges the passage of the bill as written.

MR. JAHNKE introduced Martha Welbourn to talk about the specifics in the bill.

Number 1005

MARTHA WELBOURN, Deputy Director - Management, Division of Forestry, Department of Natural Resources, stated she was also the co-chair of the science and technical committee that made recommendations leading to HB 373. She explained the bill is not a wholesale revision of the FPA. The changes affect only the parts that address stream protection in terms of classification and ^{riparian} ~~repairing~~ management on private lands in Region I. It would only affect private lands, and lands under the regulations of the Mental Health Trust Commission. Under current protection standards, streams are classified into three types - A, B, and C. Types A and B are anadromous, and type C includes the steeper tributaries to anadromous streams. In addition, there are some streams, including anadromous streams, that are not classified under the existing Act. And there are buffer management practices that govern road construction, maintenance, and timber harvest that apply to both classified and unclassified streams. However, requirements to maintain tree cover apply only to classified streams. Tree cover is important because it provides woody debris for fish habitat, helps stabilize stream banks, and provides nutrients to the stream. Type A streams are the only ones that have a buffer covered under the Act. There are no buffer requirements for Type B streams, except under slope stability standards for road construction, timber yarding, and tree felling, to prevent erosion. The standards also direct the land owner to leave low-value timber

7!
according to the operators' discretion and where feasible. Slope stability standards also apply to Type C streams, except to a narrower zone than anadromous streams.

MS. WELBOURN further explained when the science and technical committee reviewed the issues dealing with the FPA, it kept with the legislative intent and looked at the Act periodically. For many issues, the committee recommended no changes to the Act, except for two. Firstly, the committee said that all anadromous streams and all tributaries to anadromous streams should be classified - about 20 percent are not classified under the FPA. The committee also stressed the scientific literature on the value of stream buffers to protect fish habitat. Secondly, the committee said that more woody debris was needed in Type B streams for fish habitat and for washing down stream into Type A channels.

MS. WELBOURN further explained that HB 373 would classify all tributaries to anadromous streams and all anadromous streams. She reiterated it would not affect Type A streams. It would classify all tributaries to anadromous streams as Type C or D, based on the slope's gradient. It would also change the management standards so that all anadromous waters would have a 66-foot buffer zone, or up to the slope break, whichever is less. Previously, buffers were only on Type A streams. In addition, the slope stability standards would apply up to 100 feet from the stream bank, or up to the slope break, whichever is less. The slope stability standards would apply to both Type C and D streams with different standards depending on the slope's gradient. It would also strengthen the standards to encourage retention of low-value timber along the streams by removing the operators' discretion criterion and saying the timber "shall" be retained, where prudent. It would also apply to all trees within 25 feet of Type C and D streams, or up to 100

feet for Type C, and up to 50 feet for Type D streams.

MS. WELBOURN further stated, in conclusion, that the changes matter because they help protect the main goals of the Act. They also support Alaska's timber industry. They would strengthen stream protection in coastal Alaska in a way that would be workable for the timber operators and the private land owners. The changes would also continue to ensure that the Act satisfies the requirements for non-point source pollution prevention under the Federal Clean Water Act and the Coastal Zone Management Act.

Number 1490

REPRESENTATIVE JOE GREEN referred to beetle kill of trees and asked Ms. Welbourn what would be the policy for areas that are virtually dead.

Number 1517

MS. WELBOURN replied, according to the Department of Fish and Game, a tree that is killed by beetles and falls into a stream is not a problem because it provides large woody debris. The question is whether new trees would grow without some disturbance to provide large woody debris for 50 years from now. She cited on the western Kenai Peninsula, where there is the most intensive beetle kill, it is not an issue because most of the streams are in valleys where there is a non-forest edge so it would not affect them.

Number 1561

CO-CHAIRMAN HUDSON asked Ms. Welbourn, for clarification, whether the bill would include mental health lands, as well as private

Alaska State Legislature



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Speaker of the House of Representatives

FEBRUARY 12, 1998

TO: REP. BILL HUDSON, CO-CHAIR
REP. SCOTT OGAN, CO-CHAIR
HOUSE RESOURCES COMMITTEE

Scott & Bill

FROM: REPRESENTATIVE GAIL PHILLIPS
SPEAKER OF THE HOUSE

Gail

RE: HOUSE BILL 373

Please schedule HB 373 at your earliest convenience. This bill strengthens water quality control and stream protections currently found in the Forest Protections Act.

Recommendations in the proposed legislation are supported by various stakeholders of timber, fishing and environmental interests and state agencies appointed to review the Act.

A "0" fiscal note accompanies the bill.

HB 373 is an important step forward in continued oversight of our fish habitat and water quality protections.

GP:ps

CS FOR HOUSE BILL NO. 373(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE PHILLIPS

A BILL

FOR AN ACT ENTITLED

1 "An Act making changes to the Forest Resources and Practices Act; classifying
2 anadromous streams and tributaries; relating to the designation of riparian areas;
3 establishing buffers and slope stability standards on certain streams; and requiring
4 retention of low value timber along certain water bodies where prudent."

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

6 * Section 1. AS 41.17.116(a) is amended to read:

7 (a) Private forest land adjacent to the following types of waters and located in
8 a coastal forest of spruce or hemlock is subject to the riparian protection standards
9 established in this section:

10 (1) along a Type A water body,

11 (A) operations within 100 feet of the stream or to the break
12 of the slope, whichever area is smaller, shall be conducted in compliance
13 with slope stability standards established in regulations adopted under this
14 chapter; and

1 (B) harvest of timber may not be undertaken within 66 feet of
2 the water body;

3 (2) along a Type B water body.

4 (A) [TIMBER HARVEST] operations within 100 feet of the
5 stream or to the break of the slope, whichever area is smaller, shall be
6 conducted in compliance with slope stability standards established in
7 regulations adopted under this chapter; and

8 (B) harvest of timber may not be undertaken within 66 feet
9 of the water body or to the break of the slope, whichever area is smaller;

10 (3) along a Type C water body,

11 (A) [TIMBER HARVEST] operations within 100 feet of the
12 stream or to the break of the slope, whichever area is smaller, shall be
13 conducted in compliance with slope stability standards established in
14 regulations adopted under this chapter; and

15 (B) the operator shall, where prudent, retain low value
16 timber within 25 feet of the stream or to the limit of the area described in
17 (A) of this paragraph, whichever area is greater, where the width of the
18 water body is

19 (i) greater than 13 feet at ordinary high water; or

20 (ii) greater than eight feet at ordinary high water if

21 the channel is incised;

22 (4) along a Type D water body.

23 (A) operations [IN THE AREA] within 50 feet of the stream
24 or to the break of the slope, whichever area is smaller, shall be conducted in
25 compliance with slope stability standards established in regulations adopted
26 under this chapter; and

27 (B) the operator shall, where prudent, retain low value
28 timber within 25 feet of the stream or to the limit of the area described in
29 (A) of this paragraph, whichever area is greater, where the width of the
30 water body is

31 (i) greater than 13 feet at ordinary high water; or

1 (ii) greater than eight feet at ordinary high water if
 2 the channel is incised.

3 * Sec. 2. AS 41.17.116 is amended by adding a new subsection to read:

4 (c) In this section,

5 (1) "low value timber" means timber that the owner or operator
 6 determines, at the time of harvest, to be uneconomic to harvest and market;

7 (2) "prudent" means that the requirement can be met using reasonably
 8 available means or technology, that complying with the requirement is not likely to
 9 create significant impairment of the productivity of the land and water, and that the
 10 cost of achieving the requirement is not out of proportion to the benefits that can
 11 reasonably be expected to be achieved in the particular situation.

12 * Sec. 3. AS 41.17.950(20) is amended to read:

13 (20) "Type B water body" means an anadromous water body that does
 14 not meet the definition of a Type A water body [IS A FISH STREAM OR RIVER
 15 OF ANY SIZE HAVING AN AVERAGE GRADIENT OF EIGHT PERCENT OR
 16 LESS, A CHANNEL THAT IS INCISED AND CONTAINED BY THE
 17 GEOMORPHOLOGY AND NOT BY VEGETATION, AND A SUBSTRATE THAT
 18 RANGES FROM RUBBLE TO BEDROCK]; and

19 * Sec. 4. AS 41.17.950(21) is amended to read:

20 (21) "Type C water body" means a water body [STREAM] that is not
 21 [TRIBUTARY TO] anadromous, [WATERS AND] that is a tributary to a Type A
 22 or Type B water body, and that has a gradient of 12 percent or less [INCISED
 23 GREATER THAN 28 DEGREES, HAS AN AVERAGE GRADIENT OF GREATER
 24 THAN EIGHT PERCENT, IS NARROWER THAN 20 FEET BETWEEN
 25 ORDINARY HIGH WATER MARKS, HAS A SUBSTRATE OF RUBBLE AND
 26 BEDROCK, AND IS A MOUNTAIN SLOPE STREAM AT THE UPPER END OF
 27 THE WATERSHED].

28 * Sec. 5. AS 41.17.950 is amended by adding a new paragraph to read:

29 (22) "Type D water body" means a stream that is not anadromous, that
 30 is tributary to a Type A or Type B water body and that has a gradient greater than 12
 31 percent.

Tim Robb
mile 72 Richardson hwy
Fairbanks Ak 99701
(907)-895-4135

Tenderfoot

It is dusk back there, the road
is empty and the log house quiet.

Jessie, the Indian girl, stands

at the doorway in silence,
her thin face turned to the earth.

No more than an aching shadow,
her father bends by the sawhorse,
cutting the last dry pole.

The swallow box has fallen,
the catalogue has lost its pages.

The black mouths of the rain barrels
are telling of migrations,
the whispering rush
of a lonely people toward the past.

1962

—John Haines
Fairbanks

Most of the slopes on the south face of Tenderfoot hill are non-sleddable rocky bluffs. High points giving wide vistas of the Tanana river valley and to the south, the white glaciers and mountains of the Alaska Range. On those rocky faces cling bits of sage here and there. There is at least one Peregrine Falcon nest and even a small population of shy Dall sheep that somehow use the steepness of the slopes as defense against the many coyotes that range from hillside dens to the river-trails.

The steepness of these bluffs shield the north bank of the Tanana from the Richardson highway traffic. Down on the sloughs there is a "canyon" feeling of being cut-off and much further away than the mere couple of miles it is to the asphalt three lane road (it is three lanes due to the steepness of the highway, a truck lane exists on both climbs). Perhaps it is the shield-like quality of the ridges and hiddenness of the sloughs that gave the Delta Forestry Department the idea to dub a proposed timber sale down on the banks of the river " Surprise Side. "

My awareness of the " Surprise Side" timber sale began during the 1997 moose hunting season when I discovered hundreds of red and orange flags flapping in the breezes that blow off the Tanana and through the side sloughs and wooded islands below the Tenderfoot hill ridge line. It marked the start of a greater awareness of the country that surrounds the five acres where I make my home. It is an awareness that I'm sure will grow as I come to understand more the workings of the world of fish, rivers, and timber.

There are many issues surrounding this sale, known also as NC-993-D, that deserve to be closely regarded during this interim time agreed upon to better educate everyone concerned. The sale was recently postponed due to the amount of public comment received by forestry before the deadline of December 22, 1997.

The issue I feel strongest about is one that as I learn more about, the more grateful I am that this sale was proposed, not only because it has prodded me to learn more of the country close to my home, but also to the attention it has brought, and will continue to bring to the importance of the public comment period on the way our forests are managed.

At its best, the public comment period promotes public involvement and is a reflection of a community's values, at its worst it raises emotional hackles and causes rifts between concerned citizens, The Division of Forestry, and proponents of the timber industry as they debate the multi-use management of our State Forest that the Alaska State Constitution calls for.

The challenge of The Citizen's Advisory Committee (the forum for public comment) it seems, is to be sensitive to concern over real issues without being overburdened with combative posturing. There must be a certain amount of endurance on the part of C.A.C. members as well as meetings are greatly lengthened by public involvement. Although both are extremely appropriate, the dynamic of spoken discourse is not replaceable by silently submitted text. There is a power to a well spoken dialogue and perhaps more conviction in the sound of a voice, and the expression of a face.

Are there enough "real" issues to warrant genuine public concern over current forest management? It is my objective to call to your attention the instances specific to the stretch of river below Tenderfoot hill and proposed timber sale NC-993-D with the idea that these same issues could apply for the whole Tanana Valley drainage. These issues are extremely timely as current forestry management plans call for logging over 90 percent of publicly owned riverside tracts of white spruce along the Tanana from Tok to the Kantishna.

First, let me very briefly tell who I am. For the past eight years I have made my living on the waters of the Gulf of Alaska and the Bering Sea, in both inshore and offshore fisheries from the Kodiak archipelago to the Aleutian Islands and most recently on the Yukon River where I worked as a riverboat captain for Steven's Village, hauling passengers to a cultural resources fish camp.

That my primary concern is with the impact on Salmon habitat surrounded by the aforementioned timber sale is not a surprise. What is a surprise is that The Forest Land Use Plan for the Surprise side sale (and currently required for all timber sales), completely failed to acknowledge the area slated for clear-cutting to the water's edge, as being well documented as a vital spawning and rearing area for both Fall chum and Coho salmon. Both of these runs are fished as a commercial and as a subsistence resource by the fisherman of the lower Tanana and Yukon Rivers.

Indeed, besides documentation in Tanana River, Alaska, Fall Chum Salmon Radio Telemetry Study by ADF&G biologist Louis H. Barton in 1992, the propose sale is nearly in the middle of a fifteen mile stretch recommended by ADF&G in a 1994 memo to Delta Forestry as an area where any timber harvest was inappropriate given the risk of impact on these important State resources.

That The Delta Division of Forestry not only failed to acknowledge the habitat study in the FLUP for NC-993-D, but also failed in anyway to respond to ADF&G's concerns...not even a phone call, could lead one to sumise that perhaps these are only considered as obstacles posed by another State agency, not as valid action attempting to protect an irreplaceable wild salmon resource.

It is important to raise these questions because current legislation regarding timber harvest in interior Alaska with regards to protection of fish habitat assumes not only input from ADF&G's Habitat Division, but enough genuine concern on the part of our foresters that they take seriously these recommendations in the early stages of planning a timber harvest. To wait until a specific sale can be commented upon by the public for a habitat issue to surface, such as in the case of the Surprise Side timber sale, or worse yet, after a sale when a contractor is attempting to obtain necessary title 16 permits from ADF&G that only *sometimes* allow access across sensitive habitat areas is an unfair burden to everyone involved and leaves open the potential for destruction of irreplaceable habitat.

Escapement guidelines of 11,000 fall chum and 9,000 coho salmon bound for the area around Delta Clearwater and the Delta River were not met in the Fall of 1997 and both runs were considered by ADF&G as being weak.

As to whether clear cutting to the water's edge of a glacial-fed river, whose banks and channels naturally erode and braid would have negative impacts upon this spawning and rearing area, it is necessary to carefully consider what a river or creek really is.

Besides the obvious surface waters that flow in changing channels, there are unseen "wings" of the under bank. These seeping waters are as much a part of the river as the graveled beds and sandbars that dictate the nature of a river's currents. It is no more revolutionary or hard to picture than stating that there is more to a tree than simply trunk, branches, and leaves, or that the roots that grow hidden under the earth are just as vital to their existence.

These river-wings can extend upwards to a quarter mile under a riverbank and can seriously alter the flow of a given stretch of river. That a river and to a lesser extent a creek, cannot be defined as ending simply at its banks is extremely relevant to anything that happens in a bywater ecosystem.

Riverside timber harvest must acknowledge this to successfully protect fish and wildlife habitat.

This is extremely essential to protection of salmon spawning and rearing grounds because in the right instances, as with the stretch of river within proposed timber sale NC-993-D, these active underground waters combine with spring-fed upwellings that not only add thermal energy that keeps shallow spawning grounds from freezing solid during deep winter cold, but also add oxygen flow vital to fish eggs and growing fry. The upwelling area's simple and consistent refusal to freeze is made all the more dramatic during extreme low temperatures by clouds of hazy steam pouring from the surface of open water surrounded by jagged ice and a world covered in snow and locked in finger freezing cold.

These areas with upwelling springs are returned to year after year by migrating salmon traveling over a thousand miles from the Bering Sea. They are both unusual in their occurrence and are vital to salmon spawning success in interior Alaska.

There is a power to the fast flowing rivers of the interior and the Tanana is no exception. In spring and summer, churning waters full of silt erode and undercut banks. Muddy rivers are testament to the powers of erosion, from the relative trickle of rain soaked hills to the sweaty summer pouring of glaciers. Side creeks and streams are swollen with spring melt-off and silt.

The amount of area that drains into the Tanana River basin is massive. There are strong forces at work as lone trees cave into the river, root systems and all, to pile up with others and groan and tumble into pin-cushion snags. Banks are jumped by floodwaters and backed up ice jams. Large amounts of sediment are deposited and channels change and braid chaotically it seems.

This storm time of the river shapes the land and refuses to be ignored by any who live close to it.

To call these torrents of water and their shapings merely powers of destruction is to entirely miss the nature of the land where we dwell. Everything is slowly seeking the sea...and the entire Tanana River Valley is sustained by this.

It is no more difficult to remember that beneath the boiling muddy waters is a complex system of life than it is to sense the rich workings that occur beneath violent ocean squalls and marching rhythms of heaving salt water.

It is important to acknowledge that these rivers also experience a season of relative winter calm, where subtle occurrences nurture lives whose beginnings are as fragile as the beginnings of any living creature.

The very nature of a glacial-fed river naturally challenges the agility of a salmon run's health.

The fact that down river, the salmon stocks that spawn in the stretch of the Tanana below Tenderfoot Hill are fished on a commercial and subsistence scale, dictate ADF&G's involvement monitoring the run's health. Clear-cutting the islands and sloughs of the proposed NC-993-D timber sale could have devastating effects on these fish runs. The risk of which is clearly not in the interests of the State.

Division of Forestry must be partner to managing the interconnectedness of the riverside forest with fish stocks and the health of the entire Tanana Valley watershed.

Along with this responsibility comes an accountability that cannot be ignored as DOF seeks to provide a growing interior timber industry with harvestable timber tracks and their access roads.

As for now? It seems that as public awareness grows to the concerns of a multi-use State Forest management plan, so too will the importance of public comment periods. A lively debate is sure to ensue, the results of which will be felt by generations to come.

The House Resources Committee
Legislative Information Office
Fairbanks, Alaska

Dear Committee Members,

I'm writing to urge you to consider the long-term consequences of failing to protect Alaska's Interior rivers with the same consideration and safeguards that are proposed for the rivers of Southeast Alaska.

HB 373 continues to ignore the legitimate and pressing need to protect our Interior rivers such as the Nenana, Chena, Chatanika, Tanana, Salcha, Goodpaster, and Kantishna.

Fishing, hunting, tourism, recreation and even logging interests are best served with sane and comprehensive measures to protect the riparian habitat that now has virtually no safeguards in place.

Please stop ignoring our rivers and amend the present legislative efforts to include a 1/2 mile "no-clearcut" buffer zone on our Interior rivers.

Thank you for your efforts.

Brad Snow, President
Fairbanks Paddlers
Box 81916
Fairbanks, AK 99708



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the _____
 Committee on HB 373 Committee Name
Bill / Subject Dated 19 Feb. 98

I support the HB 373
 as a first step, but I believe the buffer
 zones should be wider and should apply to
 interior streams in Alaska, to insure the long term
 viability of timber, fishing, recreational and other
 resources.

Valuable timber has been exported to asia after being
 sold at bargain basement prices to global corporate
 interests.

We still have habitats in the interior, but
 the amount of encroachment is accelerating,
 And the need for halting this is essential now.

SIGNED: Fred Carroll
 Testifier

self
 Representing

PO Box 3162 Kotzebue, AK 99503
 Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Resources Committee
 Committee on HB 373 Committee Name
 Dated 2-19-98
Bill / Subject

My name is Sally Anderson and I am a lifelong resident of Fairbanks. I present this testimony to raise my concerns regarding HB 373. While the goal of this bill is honorable - to protect the rivers of Southeast Alaska - it is incomplete. The bill completely ignores Interior Alaska. At present there are no buffer zones mandated for Interior rivers and streams. We have an opportunity before us to prevent such disasters to our fish population as occurred in the Pacific Northwest. My question to you is, "why wait?" My request is simple: expand HB 373 to include Interior Alaska. Thank you.

SIGNED:

Sally C Anderson
 Testifier

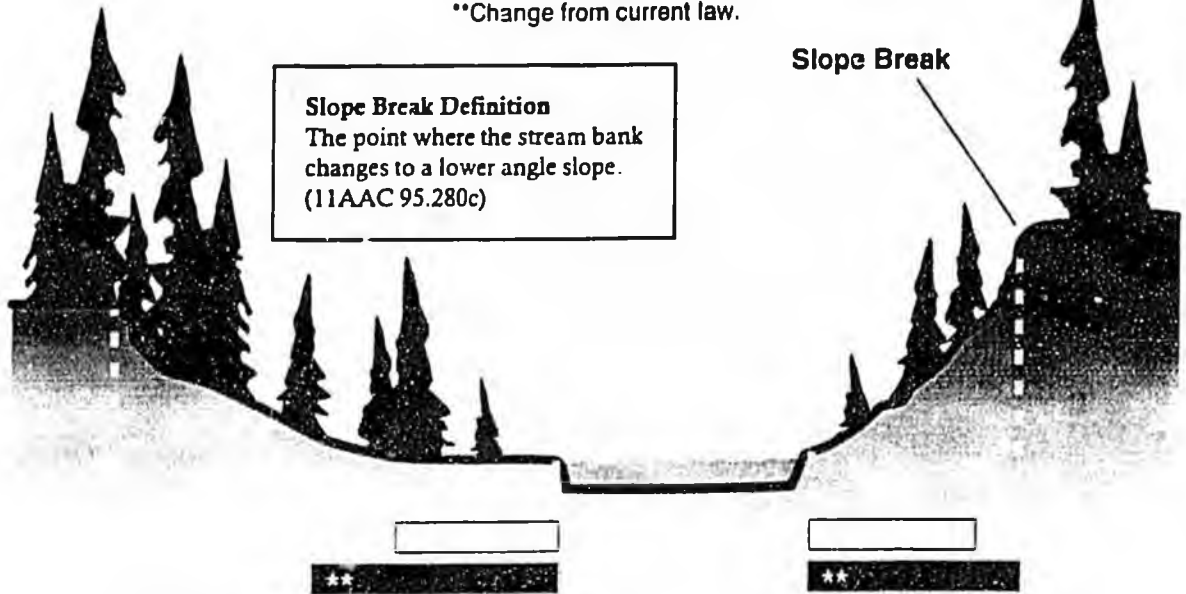
Representing

1712 Biltmore Trail, Phlox, AK 99712 458-5386
 Address / Phone Number

Alaska Forest Resources and Practices Act
 Revised Riparian Protection Standards
 Region I

Type A Water Body:

**Change from current law.



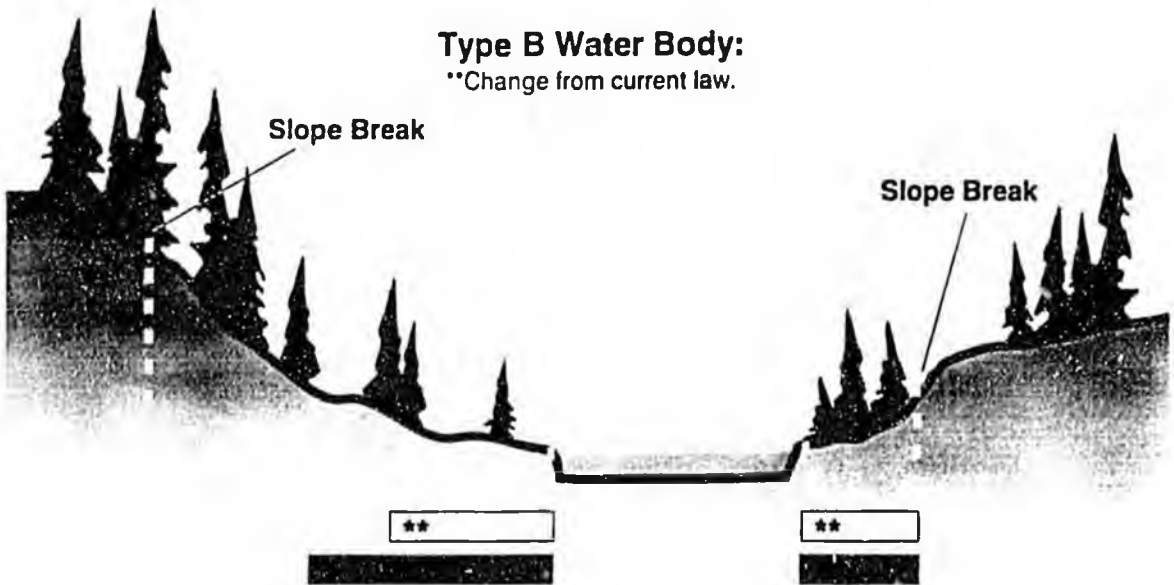
Type A Water Body:

 66' mandatory retention buffer.

 **Slope stability BMP's apply, 100' or to slope break, whichever is less.


Type B Water Body:

**Change from current law.



Type B Water Body:

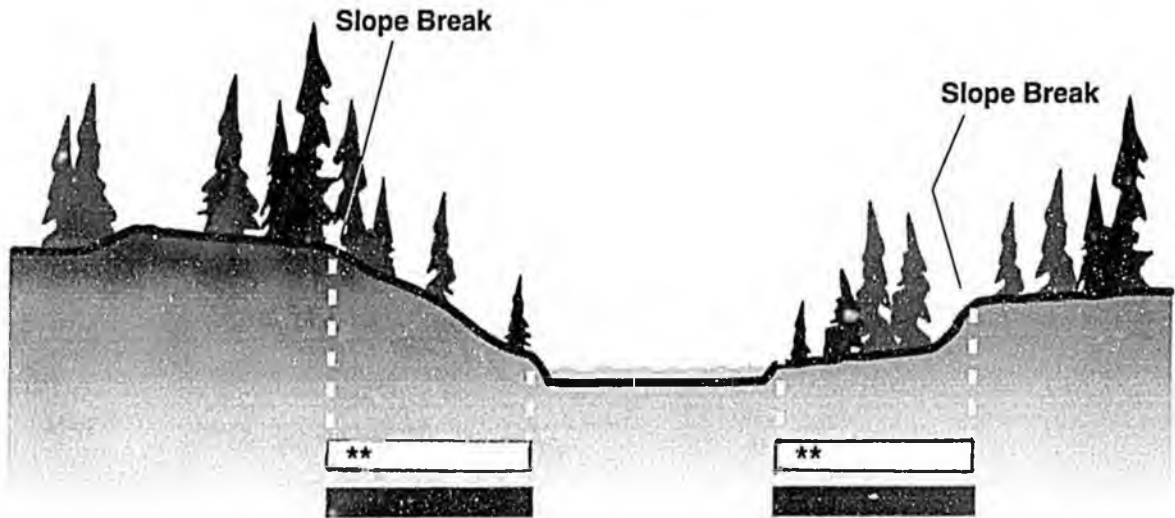
 **Mandatory retention buffer--66' or to slope break, whichever is less.

 **Slope stability BMP's apply, 100' or to slope break, whichever is less.

Alaska Forest Resources and Practices Act
 Revised Riparian Protection Standards
 Region I

Type C Water Body:

**Change from current law.



Type C Water Body:



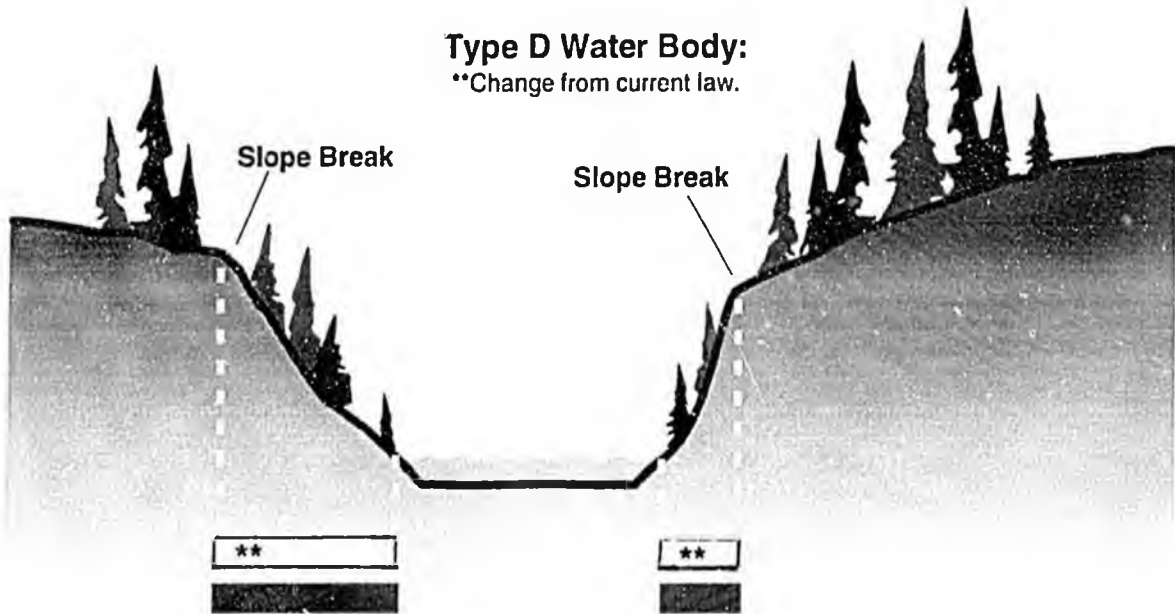
**For streams greater than 8' or 13' (based on channel characteristics), retain low economic value timber 25' up to 100' from the stream depending upon location of slope break.



Slope stability BMP's apply - 100' or to slope break, whichever is less.

Type D Water Body:

**Change from current law.



Type D Water Body:

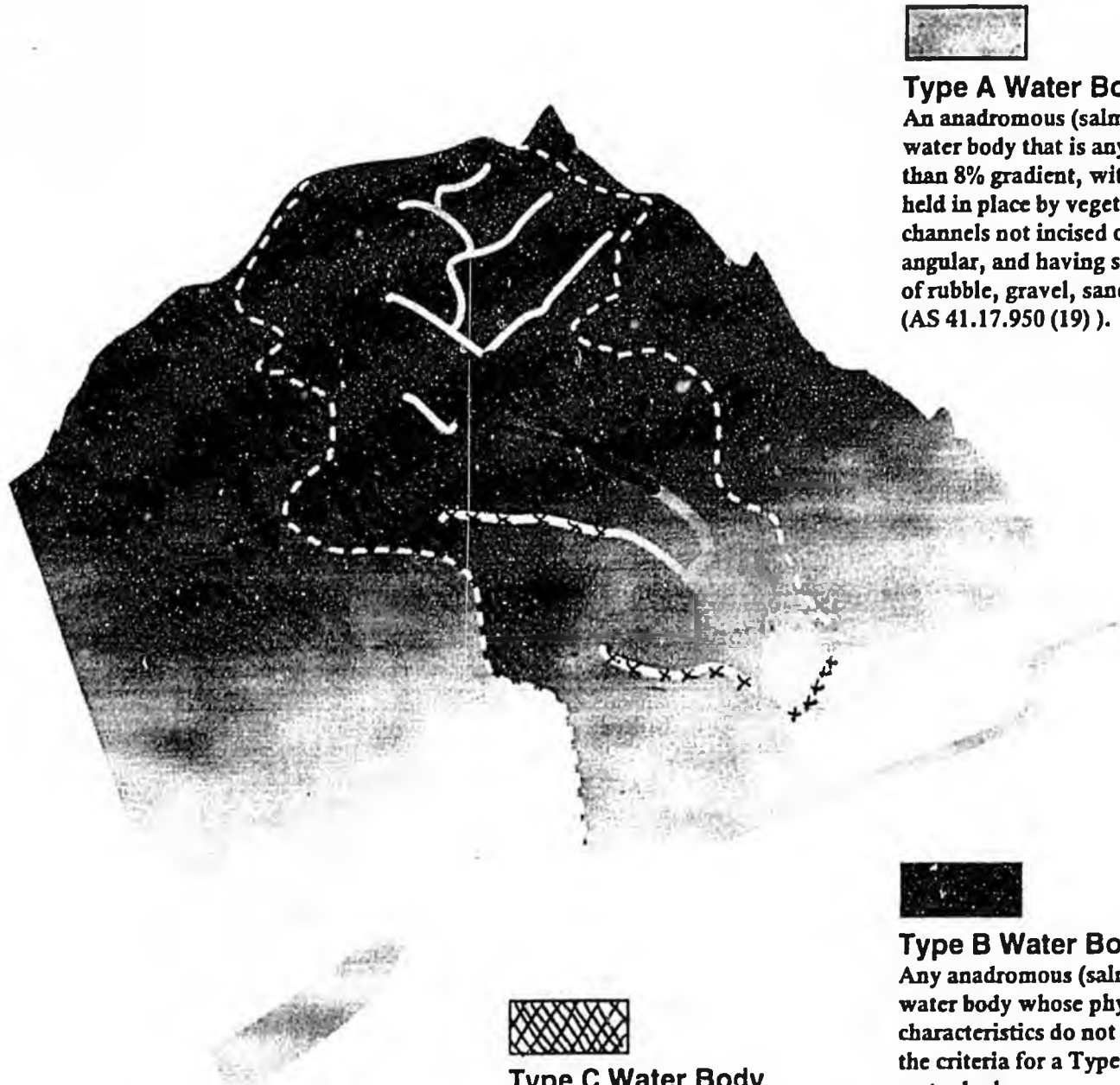


** For streams greater than 8' or 13' (based on channel characteristics), retain low economic value timber 25' up to 50' from the stream depending upon location of slope break.



Slope stability BMP's apply---50' or to slope break, whichever is less.

Stream Classification System



Type A Water Body
An anadromous (salmon) water body that is any size, less than 8% gradient, with banks held in place by vegetation, channels not incised or sharply angular, and having substrate of rubble, gravel, sand or silt. (AS 41.17.950 (19)).



Type B Water Body
Any anadromous (salmon) water body whose physical characteristics do not meet the criteria for a Type A water body.



Type C Water Body
A water body that is not anadromous, is a tributary to a Type A or Type B water body, and has a gradient of 12% or less.



Type D Water Body
A water body that is not anadromous, is a tributary to a Type A or Type B water body, and has a gradient greater than 12%.



Southeast Alaska Conservation Council

SEACC 419 6th Street, Suite 328, Juneau, AK 99801
(907) 586-6942 phone (907) 463-3312 fax
info@seacc.org

**Statement of the Southeast Alaska Conservation Council (SEACC)
on HB 373
before the House Resources Committee
Alaska State Legislature
February 19, 1998**

Mr. Chairman, members of the House ^{Resources} ~~Finance~~ Committee, my name is Marc Wheeler and I represent the Southeast Alaska Conservation Council (SEACC). Thank you for the opportunity to testify before you today. I respectfully request that my written statement be entered into the official record for this Committee Hearing.

Founded in 1970, SEACC is a coalition of fifteen local community, volunteer conservation groups in twelve Southeast Alaska communities, from Ketchikan to Yakutat. SEACC's 1200 individual members include commercial fishermen, Native Alaskans, hunters and guides, tourism and recreation business owners, value-added wood product manufacturers, and Alaskans from all walks of life. SEACC is dedicated to safeguarding the integrity of Southeast Alaska's unsurpassed natural environment while providing for balanced, sustainable use of our region's resources.

While SEACC has always advocated for freshwater fish habitat protections in Southeast Alaska and we applaud any additional protections given to freshwater fish habitat, we must tell you today that this bill is too little, too late for buffer protections on private lands in our region. With most of Southeast Alaska's Class B streams on private lands already cut to the banks, the minimal additional protections afforded by this bill will not significantly improve quality of freshwater fish habitat. We urge the State Legislature to use the 1995 Report to Congress, the Anadromous Fish Habitat Assessment, as the guidebook for fish habitat protections in Southeast Alaska. The Forest Service recently adopted improved fish stream buffers with its new Tongass Plan to comply with the recommendations of this report. To protect the integrity of Alaska's public trust fisheries resources, the State Legislature should ultimately require private landowners to adopt fish habitat protections equivalent to the new Forest Service fish stream buffers. We also urge the State Legislature to begin a public process to consider freshwater fish habitat protections for lands in other parts of our state.

Respectfully submitted,

Marc Wheeler
SEACC

LYNN CANAL CONSERVATION, Haines • FRIENDS OF GLACIER BAY, Gustavus • FRIENDS OF BERNERS BAY, Juneau
WRANGELL RESOURCE COUNCIL • ALASKA SOCIETY OF AMERICAN FOREST DWELLERS, Point Baker • PELICAN FORESTRY COUNCIL,
ALASKANS FOR JUNEAU • NARROWS CONSERVATION COALITION, Petersburg • TONGASS CONSERVATION SOCIETY, Ketchikan
CHITLAGOF CONSERVATION COUNCIL, Tenakee • JUNEAU GROUP SIERRA CLUB • SITKA CONSERVATION SOCIETY
YAKU CONSERVATION SOCIETY, Juneau • PRINCE OF WALES CONSERVATION LEAGUE, Craig • YAKUTAT RESOURCE CONSERVATION COUNCIL

**TESTIMONY OF RICHARD P. HARRIS
Senior Vice President
SEALASKA CORPORATION**

**House Resources Committee
February 19, 1998**

HOUSE BILL 373 - FOREST PRACTICES ACT AMENDMENTS

I am Richard Harris, Senior Vice President of Sealaska Corporation, a Native Regional Corporation, organized under the Alaska Native Claims Settlement Act and under the laws of the State of Alaska. Sealaska Corporation has over 16,000 shareholders. Under the Settlement Act, Sealaska will receive over 330,000 acres of land all of which is private land. Approximately 220,000 acres of Sealaska's lands is commercial forestland. Harvest of timber from this land is regulated by the Forest Practices Act and the amendments proposed in House Bill 373.

Sealaska Corporation supports for HB 373. This bill establishes supplemental environmental protection standards on private lands in Region 1 (hemlock, spruce forests of coastal Alaska) and adds a new stream type.

Since 1992, the Alaska Forest Association, Sealaska and other timber owners have been conducting forest practices effectiveness monitoring to determine if the Act and the regulations are protecting fish habitat and water quality. I am pleased to advise you that the results show that the Act and the regulations are effectively protecting these public resources.

Our monitoring, as well as the two year process, directed by the Board of Forestry, to evaluate biological, environmental and economic issues associated with timber harvest and its interaction with fisheries habitat and water quality, concluded that there were opportunities to strengthen the Act. Through this collaborative process the timber industry and land owners could see that the proposed changes will yield measurable, beneficial results to fish habitat and water quality. Conversely the timber industry was

able to guide development of legislative changes to achieve protection objectives without unreasonable cost or burden on the industry or private landowners.

Sealaska endorses the process and supports the results that are embodied in HB 373. The State of Alaska already has one of the most comprehensive and effective Forest Practices Acts in the Nation. The proposed amendments will serve to strengthen that Act and still ensure a healthy timber industry.

Sealaska understands that there are a few clarifying amendments being proposed. These amendments do not change the intent of the legislation as recommended by the Board of Forestry. We support those amendments to the degree they do not alter the consensus objectives established by the Board.

Thank you for the opportunity to address this issue and speak in support of House Bill 373. I would be pleased to answer any questions that the committee members may have.

HB 373

**“An Act Relating to Forests
and Forestry Practices.”**

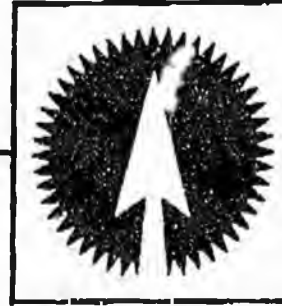
Rep. Gail Phillips

SPEAKER OF THE HOUSE

*To amend logging practices on private land in Alaska --
strengthening fish stream and water quality protections
currently found in state law.*

Introduced 1/30/98

Alaska Forest Association, Inc.



111 STEDMAN SUITE 200
KETCHIKAN, ALASKA 99901-8599
Phone 907-225-6114
FAX 907-225-5920

Statement of Support
House Bill 373
An Act relating to forests and forestry practices

Testimony before the House Resources Committee
February 19, 1998

The Alaska Forest Association desires to be on record in full support of House Bill 373, "An Act relating to forests and forestry practices." This bill is the direct result of a proposal set before the Alaska Board of Forestry after a collaborative process involving the timber industry, the fishing industry and the resource agencies of the state. Both the process and the substance of this effort were based upon sound science and a balancing of interests.

Alaska already has a very effective, science-based forest practices law which ensures protection of important fisheries habitat while recognizing the unique relationship between private land rights and related public resources. The current law, which was developed through a cooperative process in 1989 and 1990, involves the Division of Forestry, the Division of Habitat and Restoration, and the Division of Air and Water Quality in monitoring and enforcing the provisions of the law. It enables timber operators in Alaska who conduct their harvest activities according to best management practices to have the assurance that they are operating in compliance with a variety of laws under which they would otherwise be individually scrutinized. That alternative would cost both the industry and the state more time and money than is necessary under the current system.

Current law also provides for ongoing examination of the effectiveness of Alaska's forest practices standards, so that the law and regulations can be adjusted to reflect new scientific knowledge as it is developed. Over the past two years, the timber industry has participated in a thorough review of the science relating to logging along anadromous fish streams in the coastal forests of Alaska. This review was conducted under the rubric of the Science and Technical Committee appointed by the Board of Forestry with the support of Governor Knowles. The Committee's report and the subsequent stakeholders' meeting led to the introduction of House Bill 373.

It is important to note that the Science & Technical Committee did not specifically recommend 66 foot buffers on type B streams as provided in Section 1 of the bill. The

committee recommended that these streams be given some means of obtaining large woody debris. AFA member companies looked at the operational issues and concluded that buffers of 66 feet or to the slope break would satisfy the goals of the recommendation in a way that field personnel believe can be implemented without severe adverse affects on harvest economics. It does mean surrendering trees of value by leaving them in riparian buffers, but the standard can be applied in the field and can be readily monitored by the regulators. AFA believes this is a good solution, the effects of which can be evaluated over time.

A matter of great importance to AFA is the fact that House Bill 373 is the result of a collaborative process. The agreement that makes these changes in the Act possible depends upon the substance of the bill remaining as it is now. The amendments proposed by the Attorney General's office, which are before the committee today, only provide consistency and clarification and are therefore acceptable. AFA would urge the committee not to entertain any other amendments so that the underlying agreement between affected parties can remain intact.

In summary, House Bill 373 addresses a real need, and represents a balanced approach to resolving an important issue affecting Alaska's forest products sector. When this bill becomes law, it will be a model for broad-based cooperation between affected industries, the agencies, the Governor's office and the legislature. This is a bill that can and should enjoy full, bi-partisan support. I urge its speedy passage.



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112
Juneau, Alaska 99801
907/586-2820
Fax: 907/463-2545
E-Mail: ufa@alaska.net

February 17, 1998

Rep. Bill Hudson, Co-Chair
Rep. Scott Ogan, Co-Chair
House Resources Committee
State of Alaska
Juneau, AK 99801-1182

Dear Representative Hudson and Representative Ogan:

Today the Board of Directors of United Fishermen of Alaska (UFA) adopted a position in support of HB 373, relating to forests and forestry practices.

This bill, introduced by the Speaker of the House, is the achievement of industries, assisted by the Board of Forestry and state agency staff, working together to find common ground. The forest products industry and commercial fishing industry worked together to resolve their particular concerns with the proposals advanced by the Board of Forestry, and they were successful. The legislation, as introduced, is supported by United Fishermen of Alaska because it represents an improvement in the laws governing forest practices. It affords greater protection than now exists for sensitive fish habitat.

United Fishermen of Alaska's mission includes preserving fishery resources through research, development and habitat protection. We will continue to work with other industries, as we did in our work on the forest practices provisions embodied in HB 373, to pursue this important objective.

We hope that the members of the Legislature will acquaint themselves with the provisions of this legislation, the language of which was carefully crafted to meet concerns of commercial fishermen and representatives of the forest products industry, and we strongly support the passage of the legislation as introduced.

Sincerely

Theo Matthews, President
United Fishermen of Alaska

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Longline Fishermen's Association • Alaska Trollers Association • Bristol Bay Driftnetters Association • Concerned Area "M" Fishermen
Cook Inlet Aquaculture Association • Cordova District Fishermen United • Kani Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seniors Association
North Pacific Fishermen's Association • Northern Southeast Regional Aquaculture Association • Northwest Seiners Association • Peninsula Marketing Association
Pelotuburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Porsu Sound Vessel Owners Association • Seaford Producers Cooperative
Southeast Alaska Seniors Association • Southern Southeast Regional Aquaculture Association • United Cook Inlet Drift Association • United Southeast Alaska Gillnetters