

HB

86

# ALASKA STATE LEGISLATURE

## House of Representatives

Representative Hugh (Bud) Fate

State Capitol, Room 128  
Juneau, AK 99801  
Phone: (907) 465-4976  
Fax: (907) 465-3883  
Toll Free: (866) 465-4976



Co-Chair Resources  
Member:  
*Military & Veterans Affairs*  
*Oil & Gas*  
*Transportation*

### Sponsor Statement

#### House Bill 86

**“An Act relating to permits issued by the state.”**

House Bill 86 is a very brief piece of legislation that will be a major step in getting Alaska going. The language is an addition to the Permit Coordination and Extension statute giving some finality to that established and accepted process.

Many of Alaska's projects are stopped, or don't ever start, even though all of the permits are in place or issued. These projects are on hold because our current system allows individuals or entities to stop a project without a truly legitimate reason.

Adding this section to the existing language means that projects cannot be stopped without grounds. These ground include new scientific information or newly recognized local traditional knowledge. This means that this information must be new or completely different than what was presented during the permitting process.

For Alaska to move forward we must have the ability to get projects started. Once permits are issued, the talk is over and it is time for the work to begin. HB 86 will assure that that happens.

While I remain open to other suggestions for improving the Board system, I ask that you remain open to this idea. Bear in mind that since the last time the regional board concept was discussed the salmon crisis has only grown in complexity and intensity.

**4) Balance between sustainable fisheries and environmental lock up of the resource? How will you deal with competing points of view? What about Marine Protected areas?**

Alaska has the best sustainable fisheries management in the United States, perhaps in the world, and we should be proud advocates of our strong record of protecting water quality and essential fish habitat. We should never forget that or let outside interest with extreme viewpoints misrepresent our management accomplishments. That doesn't mean we cannot improve. Indeed, it is the innovative drive of Alaskans that has constantly looked to strengthen and improve our management that has brought us to where we are today.

Sustainable fisheries and environmental protection go hand in hand. It need not be an either/or situation. As your Governor, I can credibly deliver this message to well meaning but misinformed environmental groups who may not know how responsibly we've managed our resources. The first part of delivering this message would be to ensure that Alaska gets credit for all the protective measures enacted since statehood. Many of these measures, such as stream buffers, reduced harvest levels, and no-trawl zones were initiated by fishermen. Just because we didn't call them marine protected areas does not mean that we should not get credit for being proactive and environmentally responsible. We've been doing it right all along and we will continue to do so.

There are some today who advocate setting aside certain waters as the preferred tool for protecting the marine environment, but I don't see it that way. We have many tools to protect the health of Alaska's fish and their habitat. Marine protected areas are only one tool, and often the last, that should be used. Given Alaska's strong environmental track record and sustainable fishery management techniques, it is rarely warranted here.

Anyone advocating more marine protected areas in Alaska must be able to demonstrate convincing scientific evidence that such an extreme action is necessary and not be driven by a simplistic desire to limit commercial fishing.

Paid for by Fran Ulmer for Governor

PO Box 200890, Anchorage, AK 99520-0890 • 907-569-FRAN (3726) • 907-569-1003 (fax)

Jay Hammond & Janie Leask, Co-Chairs •

**Gubernatorial Candidate Ulmer  
On Convincing Scientific Evidence**

My experience has shown that if we can foster dialogue away from issue positions and toward goals and objectives, the competing points of view begin to fade. Protecting unique ecosystems vital to the productivity of multiple species, such as the Sitka pinnacles, is a goal we share. Sound science and coordinated research can point us in the right direction toward this goal.

We have the best-run commercial fisheries in the world. In fact, our salmon management is certified as sustainable. We should listen to competing points of view, of course, but we don't need to apologize or suffer from wrongheaded lawsuits. Alaska fishermen can be proud of their record as stewards of the resource, and I will work with you to continue to build on that record for the good of the fishery.

**5) What will you do to continue the contribution of hatcheries to the Alaska economy?**

Most Alaskans probably don't realize that in the year 2000, hatcheries produced 34 percent of the statewide commercial harvest of salmon, a total of some 40 million fish.

State supported hatcheries contribute another 7 million fish to the annual sport catch. Hatcheries are particularly important to the Kodiak area, Cook Inlet, Prince William Sound and Southeast. As a Southeast sport fisher, I know about the contribution that hatcheries make to many Alaskans first hand, and I have frequently spoken in support of the hatchery program.

Alaska has learned from problems in the Northwest and elsewhere, and has in place strong scientifically tested techniques for addressing salmon disease and conserving genetic diversity and vigor. Indeed Alaska hatcheries are a model of how to do the job responsibly.

I support legislation such as SB 266 to help hatchery operators weather tight financial times. The ability to refinance loans at lower rates is a good way to free up needed cash for hatcheries and continue their viability.

## ALASKA: MORE THAN JUST A PRETTY FACE?

by Paula Easley, Senior Policy Analyst, Resource Development Council for Alaska

*Is there more to the 49<sup>th</sup> State than incomparable scenery? With much of Alaska federally controlled, non-residents greatly influence decisions affecting it. The U.S. senate will decide whether to tap petroleum resources in ANWR's coastal plain or declare it wilderness.*

Alaska's bigness is mind-boggling. Superimposed, it would cover 20% of the 48 contiguous states. Its Alaska Range boasts 23 peaks over 10,000 feet high, with Mount McKinley reaching nearly four miles high. America's largest glaciers—the Bering and Malaspina, each bigger than Delaware—are here, plus 5,000 others. Bordered by two oceans and three seas, there's plenty of water, with 3,000,000 lakes and 3,000 rivers.

America's largest national forests, the Tongass and the Chugach, are also here. The state is virtually all wilderness. However, if a new state were formed with just the 58 million acres of federal Wilderness, it would be larger than Minnesota, Idaho or Utah—with no roads, structures or development. As it is, Alaska is home to 62% of all federal Wilderness, 70% of national parks, 17% of national forests, and 85% of national refuge lands.

All told, 152 million acres of the state are federal parks, preserves, forests, scenic rivers, recreation and military lands, refuges, and national monuments. Most were withdrawn in the massive 1980 land reclassification. Millions more acres are managed as Wilderness. The legislature withdrew another 8.5 million acres, reflecting Alaskans' concerns for special places. Much remaining land is mountains, icefields or wetlands, unsuitable for development.

Roads access but 12,000 of the state's 586,412 square miles, a railroad crosses 500 miles, and state ferries link primarily Southeastern communities. It has more coastline than all the other states combined, and 80% of the people live on the coasts. Individuals own far less than one percent of the land.

Alaska's tiny population (620,000) discourages instate manufacturing. Most materials, food and equipment come from other states or countries.

Development is hard to come by. Distances from markets, limited infrastructure, high operating costs and other roadblocks daunt most ventures. To be economic, projects must generally be world-class, like Prudhoe Bay. Others are ruled out because they are in, near, or blocked by federal conservation units. Transportation routes affecting key conservation units are forbidden without an Act of Congress.

Natural resources are bountiful: 29% of the nation's proved oil reserves; 20% of natural gas reserves, (excluding ANWR and NPR-A). Possibly half the nation's coal resources, some six trillion tons, are in Alaska. There's gold, silver, zinc, copper, lead, barite, iron, platinum, nickel, uranium, antimony, titanium, chromium, etc., but only the very wealthy

can outlive the "process" of trying to extract them. Many valuable deposits are in areas closed to development.

Through the efforts of countless "Save Alaska" fundraising groups, traditional fishing, forestry and mining opportunities have radically declined. New proposals, even recreation facilities, attract national opposition and environmental lawsuits. With little success diversifying Alaska's economy, unemployment rates remain higher than national averages. High-paying resource industry jobs are replaced with low-paying service jobs, ranking Alaska second-from-last in state growth rates.

Two projects could jumpstart the national and Alaska economies—(1) a natural gas pipeline from Prudhoe Bay to the Midwest, and (2) ANWR development. Yet preliminary studies of a gas line indicate its \$15-20 billion cost is too high. That leaves ANWR.

Prohibiting ANWR development means denying huge economic benefits and jobs to every state. It means more imports, a growing trade deficit, and a major blow to national security. It means putting un-elected special interest groups in charge of Alaska's economy.

Three-fourths of Alaska residents say they live here because of its pristine environment. Three-fourths of its residents also support opening ANWR. They know that, using 21<sup>st</sup> century arctic technology and great caution, ANWR's resource treasures and a pristine environment are compatible. More than 60% of Americans have now reached the same conclusion.

Here's the situation: Unless Americans convince the U.S. Senate to open ANWR, it will become Wilderness, and the greens will have seized control over national energy policy.

If special interests can gang up to prevent development of America's single-most promising oil and gas prospect, in remote Alaska, imagine how difficult it will be to develop energy projects in any other state.

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Easley Associates, January 2002

907-274-6800, fax 907-277-2844

email [peasley@gci.net](mailto:peasley@gci.net)

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The Juneau Empire: Local News

Web posted Thursday, February 14, 2002

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## Eight timber sales focus of possible injunction

By JOANNA MARKELL  
THE JUNEAU EMPIRE

Eight Southeast Alaska timber sales are getting much of the attention in federal courtroom this week.

U.S. Forest Service officials, timber industry advocates, conservationists Southeast community leaders were in court today for the second of three testimony about a possible Tongass logging injunction.

U.S. District Judge James Singleton ruled last year that the Forest Service violated federal law when it failed to consider some areas for wilderness designation when it issued its 1997 Tongass Land Management Plan. He two-month injunction last year and is presiding over this week's hearing determine the need for and possible scope of a new logging ban.

So far, much of the discussion has focused on timber sales in southern and central Southeast Alaska. Viking Lumber and Silver Bay Logging use five of the sales to fuel sawmills in Wrangell on Prince of Wales Island this year. Conservationists argue the sale areas are better off left alone.

The Forest Service is working on a supplemental environmental impact study to evaluate areas for wilderness designation, as required by the court. The study should be complete this fall, according to Department of Justice attorney Landon, who is representing the Forest Service.

The timber industry hopes to cut wood at Upper Carroll near Ketchikan, George on Etolin Island near Wrangell, South Arm on Prince of Wales Island, South Lindy near Petersburg and Four Leaf on southern Kupreanof Island this year. Testimony also has focused on the Crystal timber sale near Petersburg, Saook Bay on north Baranof Island and Canal Hoya near Wrangell.

Sitka Conservation Society Executive Director Pat Veasart testified Wednesday that timber harvest and road building would hurt wilderness values in the areas. The isolated sites provide wildlife habitat and opportunities for private recreation, he said.

"To me, wilderness is a place where one can experience a high degree of solitude," he said. "A place where one can see the Earth as created by it."

Alaska Forest Association attorney Jim Clark said the sites don't have the attributes required to be classified as wilderness. Roads already have been built and timber harvest has already occurred, he said.

"Each is a work in progress," he said. "None of the drainages is undeveloped."

Whether the Forest Service should continue planning timber sales as the wilderness review occurs also is an issue of dispute in the case. So is the Lake-Lake Tye electric intertie. The 57-mile power line would link Ketchikan and Wrangell.

The hearing continues Friday in Juneau.

*Joanna Markell can be reached at [joannam@juneauempire.com](mailto:joannam@juneauempire.com).*

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## Forest Oil's Gary Carlson, on inlet's prospects

With pipeline to Redoubt Shoal now complete, Forest looks to begin production

**Q&A on O&G Editor's Note:** Gary Carlson, Alaska senior vice president for Forest Oil Corp., is interviewed by the Alaska Oil and Gas Reporter on the status of Forest's development of the Redoubt Shoal, the first new Cook Inlet oil field in years, and other issues.

Forest's Osprey platform was fabricated and put in place in the inlet to support exploration drilling into the Redoubt Shoal prospect. The platform is now being converted to a production facility. Pipelines to the platform from shore-based oil processing facilities have just been completed.

Forest has recently been the target of environmental lawsuits aimed at stopping drilling on Redoubt Shoal. The first suit involved the state's interpretation of Best Available Technology requirements in oil spill contingency plans. The Legislature passed a law last spring mooting the litigation.

In a second lawsuit, environmental groups challenged a state decision to rely on approval of a federal permit for discharges, instead of following a duplicate state procedure. For the second time last spring, the Legislature passed a law to moot the lawsuit.

**Q** What's the status of the lawsuits affecting the project?

**A** With the completion of the work on the remand from the Supreme Court, the ruling of the objection against our exploratory drilling is no longer in effect. We're drilling our fifth exploration well now. It's at 12,000 feet today, scheduled to go to 16,000 feet.

What is ironic is that at the time the injunction was granted to Cook Inlet Keeper (litigants), we were not disposing of the water-based cuttings overboard. We were grinding and injecting the drilling cuttings into our disposal well on the Osprey. Forest Oil had already agreed to inject all the drill cuttings during the development phase of Redoubt Shoal, and we were testing the system in the last exploratory well. This court action was not about the environment but legal process. But the injunction caused us to lay people off and send them home. It caused some real hardships.

**Q** Are they going to stop suing?

**A** We eventually reached an agreement with Cook Inlet Keeper on future

litigation on the exploration program. They asked us to inject our rainwater runoff rather than let that go overboard. Their concern, they said, was that there might be some toxins in the rainwater runoff. So, we applied for a permit and installed the necessary equipment, and we are set up to inject rainwater. However, they have already filed suit against the state for granting the permits to develop the field.

**Q** Do other Inlet operators do these things?

**A** The other operators are held to high standards by federal and state agencies' permits, which allow water-base cutting to be disposed overboard, along with produced water, once it had been conditioned. Forest decided early on, however, to design our facilities to inject our produced water. We're quite willing to spend money to deal with the real environmental issues, but we would also like to be treated like the rest of the industry. It may be because we're doing the newest development that we're attracting this attention.

**Q** What's the status of construction?

**A** We're working on final installation of the pipeline now. It was a challenge to drill the boreholes through the bluff, but the pipelines have been pulled through the boreholes and on to the platform.

**Q** How was this done?

**A** We used a large barge that was well anchored. The pipe string, which was previously welded, was pulled with winches on the barge. It took three long pulls to get the pipe to the platform. It was then jacked up to the platform itself. The contractors Conam Construction and Crowley Maritime, its subcontractor -- have done a superb job on it.

**Q** What are the dimensions of the pipe?

**A** There are three pipelines, two eight-inch diameter and one six-inch diameter. This is very heavy steel. Of the eight-inch pipelines, one has a wall thickness of 7/8 of an inch and the other is 3/4 of an inch. The pipe is intended to be heavy enough to remain stable on the inlet floor. Previous Cook Inlet pipelines, built in the 1960s and 1970s, had a concrete coating to keep them stable. We felt in this case, a concrete coating would have created a wider cross-section for the current to act against. Heavier steel is more expensive but creates a lower profile for the current to act against. We think


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## Environmental Law

### *Alaska Oil & Gas Association*

We represented Alaska Oil & Gas Association (AOGA), a consortium of national and multi-national companies involved in the exploration and development of oil and gas resources in Alaska, in the drafting and submission of comments to the National Marine Fisheries Service (NMFS) opposing designation of critical habitat in the Alaskan Beaufort Sea for the Western Arctic stock of the bowhead whale.

We represent AOGA in connection with an ongoing effort to comprehensively reform the Alaska Coastal Management Program (ACMP). The ACMP implements the provisions of the federal Coastal Zone Management Act (CZMA) and plays a direct and significant role in permitting processes throughout Alaska. We have drafted extensive comments to proposed revised regulations, facilitated related discussions with key state agencies and participated in development of legislative initiatives.

We represent AOGA and the Resource Development Council of Alaska, two consortiums of businesses active in the development of natural resources in Alaska, as intervenors in federal court litigation brought by environmental advocacy groups seeking to reverse the decision of NMFS that a listing of the Cook Inlet, Alaska population of beluga whales under the Endangered Species Act (ESA) is not warranted. Consistent with the intervenors' position, the Washington, D.C. federal court sustained NMFS' decision, and the litigation is now on appeal to the federal Court of Appeals for D.C. Circuit. This case is the first to consider the statutory exemptions in the ESA and in the Marine Mammal Protection Act that address Native Alaskan subsistence hunting. The district court's decision is also the first time NMFS' decision not to list a species has been sustained under challenge.

### *Blue Heron Paper Company*

We defended Blue Heron Paper Company against two citizen suits under the Clean Water Act and the Endangered Species Act regarding the temperature and turbidity of the mill's wastewater discharge. At the same time, we negotiated with the Oregon Department of Environmental Quality (DEQ) the terms of a new National Pollutant Discharge Elimination System permit that is the first in Oregon to use a temperature management plan and the first to comprehensively regulate turbidity. This case shaped DEQ's current policies on temperature and turbidity and was closely watched throughout the Northwest. Blue Heron Paper Company is an integrated producer of newsprint and specialty papers using more than 50% recovered fiber and is located in Oregon City, Oregon.

### *Dry Creek Rancheria Band of Pomo Indians*

We advised the Dry Creek Rancheria Band of Pomo Indians on their economic development and litigation strategies, primarily concerning their rights to use an easement for purposes of developing a casino. The Dry Creek Rancheria Band of Pomo Indians is a federally recognized tribe with tribal lands located north of San Francisco Bay in Sonoma County.

*Gate-King Properties*

We represent the owner of a proposed 500-acre industrial park development in Santa Clarita, California. The project involves the preparation of an environmental impact report, a development agreement, subdivision approval, conditional use permits, Section 404 approval and compliance with new SB 610 (water supply planning for large-scale projects).

*Greenfield Monterey Park, LLC*

We represent Greenfield Monterey Park, LLC, the master developer of a portion of the Oil Superfund site in Monterey Park, California, on which will be developed a 510,000 square-foot shopping center. The matter includes negotiations of agreements between our client and the landowner, the steering committee, the retail developer and the City of Monterey Park, as well as agreements and the negotiation of a 200-page consent decree with the Department of Justice and the Environmental Protection Agency.

*Hawaii Longline Association*

We represent the Hawaii Longline Association, a trade association representing Hawaii tuna and swordfish fisheries, in pending litigation in Washington, D.C. federal court challenging a biological opinion issued by the National Marine Fisheries Service concerning effects of these fisheries on pelagic sea turtle species. Our representation also includes nonlitigation representation in the ongoing ESA consultation processes concerning effects of the Hawaii fisheries on various species protected under the ESA.

*Keenan Land Company*

We provide litigation and land use counseling for Keenan Land Company, a high-end developer involved in residential and hotel development in Half Moon Bay, Scotts Valley and Hayward, California. The issues include compliance with the California Environmental Quality Act, the Subdivision Map Act, ESA, the California Coastal Act and the Clean Water Act (CWA).

*L.D. McFarland Company, Ltd.*

We assisted L.D. McFarland Company, Ltd. in developing and implementing a strategy to cost-effectively clean up and redevelop a former wood treating site in Milwaukie, Oregon. Through a comprehensive risk assessment and the application of an Oregon law that we helped develop, we were able to convince DEQ to accept a cost-effective remedial action. The site will be redeveloped for commercial and multifamily residential use. L.D. McFarland Company is a wood treatment and preservation company with operations throughout the Northwest.

*The Newland Group*

We represented The Newland Group in obtaining a Section 404 authorization from the U.S. Army Corps of Engineers for fill-in wetlands associated with a residential development. We also obtained approval from the Washington Department of Ecology and the local government, as well as concurrence from the federal government of compliance with ESA. The Newland Group is a developer of residential communities and is based in Vancouver, Washington.

*Oregon Water Resources Congress*

We worked with Oregon Water Resources Congress, a trade organization representing irrigation districts and water-delivery organizations throughout Oregon, to develop an agreement with DEQ that enabled irrigation districts to continue their use of aquatic herbicides while providing protection for natural waterways. The Ninth Circuit Court of

Appeals had issued an opinion requiring irrigation districts to obtain permits under CWA in order to use aquatic herbicides in irrigation ditches. Without the use of herbicides, many Northwest irrigation districts would have been unable to deliver water, thereby putting the irrigated agricultural users at serious risk. The groundbreaking agreement reached between Oregon Water Resources Congress and the DEQ has become a model for subsequent permits and similar agreements.

*Outside In*

We represented Outside In in obtaining final approvals for its youth shelter located in Portland, Oregon. The unusual architecture of the building raised many issues, including constitutional issues under the City of Portland Sign Code, that required careful discussion and negotiation with the city. The building has been identified as "one of the unique and notable buildings in Portland."

*Phillips Alaska, Inc.*

We represented Phillips Alaska, Inc., a subsidiary of Phillips Petroleum Company, in a successful defense against administrative petitions filed under ACMP regarding five North Slope oil development and exploration projects. Prevailing on these petitions in a quick manner was essential to allow the projects to proceed during the limited window of frozen ice/tundra winter conditions.

*Portland General Electric*

We represented Portland General Electric (PGE) in successfully negotiating an administrative settlement with NMFS and the Oregon Department of Fish & Wildlife arising out of the accidental killing of ESA-listed Chinook salmon at a PGE hydroelectric facility. Oregon's largest utility, PGE serves more than 730,000 customers in Portland, Salem and nearby communities.

*Port of Oakland*

We provide ongoing advice and consultation to the Port of Oakland, California in connection with public trust, land title and a variety of water-quality issues arising from Port operations and construction at marine terminals, real estate developments and the Oakland International Airport. The Port owns and operates the airport and the fourth largest container seaport facilities in the United States.

*Port of Seattle*

We successfully defended the Port of Seattle in ESA litigation brought by local organizations concerning construction of a third runway at Seattle-Tacoma International Airport. We likewise assisted the Port in obtaining federal approvals required under the ESA to permit construction of this project. The Third Runway Project is one of the largest public construction projects in the state of Washington.

*Public Water District*

We have advised a large public water district in Washington on developing an ESA compliance strategy. Our work has helped the district avoid potential liability under the ESA as a result of private lawsuits or governmental actions.

*Sabroso, Inc.*

We represented Sabroso, Inc., a Medford, Oregon fruit processor, in obtaining rights to dispose of industrial rinse water on exclusive farm use land. The process contributes to the full use of the water both for fruit processing and as irrigation for a farm crop. Approval was gained through

Jackson County and, in order to confirm the appropriateness of the process, we represented Sabroso in persuading the Oregon legislature to adopt Senate Bill 212, allowing for reuse of such water for crop irrigation.

*SBA Communications Corporation*

We represented SBA Communications Corporation, a leading developer of wireless communications structures, in successfully arguing that conditional land use permits could be issued to infrastructure providers with appropriate conditions. Deschutes County had consistently taken the position that conditional use permits for wireless communications facilities would be issued only to the providers of cellular service. We obtained a conditional land use permit for SBA's LaPine, Oregon site.

*Snohomish River Regional Water Authority*

We represent Snohomish River Regional Water Authority in a water rights appeal before the Washington Pollution Control Hearings Board. The Snohomish River Regional Water Authority is an entity consisting of the Woodinville Water District, the Northshore Utility District and the City of Everett.

*Snowbird Ski and Summer Resort*

On behalf of Snowbird Ski and Summer Resort, we successfully defended a citizen suit challenging the construction of a new ski lift connecting Snowbird with Alta Ski Resort. The suit was filed during the construction phase to block the installation of the interconnecting chairlift. We represented the client to the Tenth Circuit Court of Appeals, which subsequently denied the injunction. Snowbird installed the chairlift and implemented a joint-lift pass program with Alta, making the combined terrain the third largest ski area in North America. Snowbird owns and operates a ski and summer resort in the Wasatch mountain range outside of Salt Lake City, Utah.

*South San Francisco Scavenger Company*

We successfully represented South San Francisco Scavenger Company in zoning and environmental review matters for its development of a 100,000 square-foot solid-waste materials recycling and transfer facility to serve the communities of South San Francisco and Millbrae and the San Francisco International Airport. We were also successful in defeating a subsequent referendum raised against the project.

*Trans-Alaska Pipeline System Owners*

We represent the six direct operating companies of the Trans-Alaska Pipeline System (TAPS), regarding Alaska coastal zone consistency review, ESA consultation with NMFS and the U.S. Fish & Wildlife Service, and essential fish habitat consultation pertaining to a unique renewal process for the federal grant and state lease authorizing the existing TAPS right-of-way. TAPS transports approximately 17% of domestic U.S. crude oil production and 100% of Alaska North Slope crude oil to refineries via an 800-mile crude oil transportation system running from Prudhoe Bay on the North Slope of Alaska to the Port of Valdez. The TAPS owners are pipeline transportation subsidiaries of Amerada Hess, BP, ExxonMobil, Phillips Petroleum, Unocal and Williams.

*Walla Walla River Irrigation District, Hudson Bay District*

We assisted three irrigation districts in the Walla Walla basin in Oregon and Washington in reaching a settlement agreement with the U.S. Fish & Wildlife Service involving alleged violations of the ESA. The agreement enabled the districts to continue to deliver water to irrigators in the basin and put in place a process for ensuring long-term compliance with the

ESA.

*Washington Public Utility Districts Association*

We represented the Washington Public Utility Districts Association as amicus curiae in PUD No. 1 of Pend Oreille County v. Dept. of Ecology, a water rights appeal before the Washington Supreme Court. Washington PUD Association represents 28 nonprofit, community-owned utilities that provide electricity, water and sewer services and broadband telecommunications.

*Client Name Withheld*

We defended an undisclosed client in a federal criminal investigation involving an employee's falsification of monitoring records under a National Pollutant Discharge Elimination System permit. We conducted a comprehensive internal investigation that resulted in the U.S. Attorney declining to prosecute the company. We assisted the company in self disclosure of the matter and in settling a companion civil enforcement action. Based on the company's self disclosure and cooperation, we negotiated an 80% reduction in DEQ's penalty and convinced the agency to drop its economic benefit penalty.

*Client Name Withheld*

We advise the nation's largest luxury motor coach manufacturer on environmental issues at its five Oregon plants. One of these plants was the focus of a multimillion-dollar nuisance and trespass suit brought by its neighbors. We assisted the company in crafting a settlement that satisfied the neighbors' concerns and allowed the manufacturer to maintain its operational levels.

*Client Name Withheld*

We represented a major industrial client with manufacturing operations in Oregon that determined that a change in feedstock unexpectedly resulted in a substantial increase in sulfur dioxide emissions. This triggered the need to submit a joint Title V and new source review permit application and respond to state and federal information requests. As part of this effort, the facility was required to perform a complex best available control technology determination. DEQ initially proposed multimillion-dollar penalties related to the higher emissions. We assisted this client in preparing the application, responding to the information requests, addressing the control technology determination and ultimately negotiating a reasonable penalty.

*Client Name Withheld*

We successfully defended a petroleum refining company in two CWA citizen suits brought in the U.S. District Court for the Northern District of California. The cases presented the question of whether the sale of the facility met the test for "mootness" under recent U.S. Supreme Court precedent on the basis that there was no reasonable possibility that any CWA violations could be committed by the refining company at the sites. We prevailed on motions for summary judgment. The case is now on appeal and is a case of first impression in the Ninth Circuit.

*Client Names Withheld*

Many parts of the Northwest suffered from severe drought conditions during 2001. We assisted a number of clients, including industries, municipalities and private businesses such as golf courses and nursery operations, in obtaining water right diversion point changes, securing back-up sources of water and firming up existing water supplies. We also represented water suppliers in contract negotiations with water users to

address the many unique water supply needs created by the drought.



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# ALASKA STATE LEGISLATURE

## House of Representatives

Representative Hugh (Bud) Fate

State Capitol, Room 128  
Juneau, AK 99801  
Phone: (907) 465-4976  
Fax: (907) 465-3883  
Toll Free: (866) 465-4976



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Adding this section to the existing language means that projects cannot be stopped without grounds. These grounds include new scientific information or newly recognized local traditional knowledge. This means that this information must be new or completely different than what was presented during the permitting process.

For Alaska to move forward we must have the ability to get projects started. Once permits are issued, the talk is over and it is time for the work to begin. HB 86 will assure that that happens.

While I remain open to other suggestions for improving the Board system, I ask that you remain open to this idea. Bear in mind that since the last time the regional board concept was discussed the salmon crisis has only grown in complexity and intensity.

**4) Balance between sustainable fisheries and environmental lock up of the resource? How will you deal with competing points of view? What about Marine Protected areas?**

Alaska has the best sustainable fisheries management in the United States, perhaps in the world, and we should be proud advocates of our strong record of protecting water quality and essential fish habitat. We should never forget that or let outside interest with extreme viewpoints misrepresent our management accomplishments. That doesn't mean we cannot improve. Indeed, it is the innovative drive of Alaskans that has constantly looked to strengthen and improve our management that has brought us to where we are today.

Sustainable fisheries and environmental protection go hand in hand. It need not be an either/or situation. As your Governor, I can credibly deliver this message to well meaning but misinformed environmental groups who may not know how responsibly we've managed our resources. The first part of delivering this message would be to ensure that Alaska gets credit for all the protective measures enacted since statehood. Many of these measures, such as stream buffers, reduced harvest levels, and no-trawl zones were initiated by fishermen. Just because we didn't call them marine protected areas does not mean that we should not get credit for being proactive and environmentally responsible. We've been doing it right all along and we will continue to do so.

There are some today who advocate setting aside certain waters as the preferred tool for protecting the marine environment, but I don't see it that way. We have many tools to protect the health of Alaska's fish and their habitat. Marine protected areas are only one tool, and often the last, that should be used. Given Alaska's strong environmental track record and sustainable fishery management techniques, it is rarely warranted here.

Anyone advocating more marine protected areas in Alaska must be able to demonstrate convincing scientific evidence that such an extreme action is necessary and not be driven by a simplistic desire to limit commercial fishing.

Paid for by Fran Ulmer for Governor

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Jay Hammond & Janie Leask, Co-Chairs •

**Gubernatorial Candidate Ulmer  
On Convincing Scientific Evidence**

My experience has shown that if we can foster dialogue away from issue positions and toward goals and objectives, the competing points of view begin to fade. Protecting unique ecosystems vital to the productivity of multiple species, such as the Sitka pinnacles, is a goal we share. Sound science and coordinated research can point us in the right direction toward this goal.

We have the best-run commercial fisheries in the world. In fact, our salmon management is certified as sustainable. We should listen to competing points of view, of course, but we don't need to apologize or suffer from wrongheaded lawsuits. Alaska fishermen can be proud of their record as stewards of the resource, and I will work with you to continue to build on that record for the good of the fishery.

**5) What will you do to continue the contribution of hatcheries to the Alaska economy?**

Most Alaskans probably don't realize that in the year 2000, hatcheries produced 34 percent of the statewide commercial harvest of salmon, a total of some 40 million fish.

State supported hatcheries contribute another 7 million fish to the annual sport catch. Hatcheries are particularly important to the Kodiak area, Cook Inlet, Prince William Sound and Southeast. As a Southeast sport fisher, I know about the contribution that hatcheries make to many Alaskans first hand, and I have frequently spoken in support of the hatchery program.

Alaska has learned from problems in the Northwest and elsewhere, and has in place strong scientifically tested techniques for addressing salmon disease and conserving genetic diversity and vigor. Indeed Alaska hatcheries are a model of how to do the job responsibly.

I support legislation such as SB 266 to help hatchery operators weather tight financial times. The ability to refinance loans at lower rates is a good way to free up needed cash for hatcheries and continue their viability.

## ALASKA: MORE THAN JUST A PRETTY FACE?

by Paula Easley, Senior Policy Analyst, Resource Development Council for Alaska

*Is there more to the 49<sup>th</sup> State than incomparable scenery? With much of Alaska federally controlled, non-residents greatly influence decisions affecting it. The U.S. senate will decide whether to tap petroleum resources in ANWR's coastal plain or declare it wilderness.*

Alaska's bigness is mind-boggling. Superimposed, it would cover 20% of the 48 contiguous states. Its Alaska Range boasts 23 peaks over 10,000 feet high, with Mount McKinley reaching nearly four miles high. America's largest glaciers—the Bering and Malaspina, each bigger than Delaware—are here, plus 5,000 others. Bordered by two oceans and three seas, there's plenty of water, with 3,000,000 lakes and 3,000 rivers.

America's largest national forests, the Tongass and the Chugach, are also here. The state is virtually all wilderness. However, if a new state were formed with just the 58 million acres of federal Wilderness, it would be larger than Minnesota, Idaho or Utah—with no roads, structures or development. As it is, Alaska is home to 62% of all federal Wilderness, 70% of national parks, 17% of national forests, and 85% of national refuge lands.

All told, 152 million acres of the state are federal parks, preserves, forests, scenic rivers, recreation and military lands, refuges, and national monuments. Most were withdrawn in the massive 1980 land reclassification. Millions more acres are managed as Wilderness. The legislature withdrew another 8.5 million acres, reflecting Alaskans' concerns for special places. Much remaining land is mountains, icefields or wetlands, unsuitable for development

Roads access but 12,000 of the state's 586,412 square miles, a railroad crosses 500 miles, and state ferries link primarily Southeastern communities. It has more coastline than all the other states combined, and 80% of the people live on the coasts. Individuals own far less than one percent of the land.

Alaska's tiny population (620,000) discourages instate manufacturing. Most materials, food and equipment come from other states or countries.

Development is hard to come by. Distances from markets, limited infrastructure, high operating costs and other roadblocks daunt most ventures. To be economic, projects must generally be world-class, like Prudhoe Bay. Others are ruled out because they are in, near, or blocked by federal conservation units. Transportation routes affecting key conservation units are forbidden without an Act of Congress.

Natural resources are bountiful: 29% of the nation's proved oil reserves; 20% of natural gas reserves, (excluding ANWR and NPR-A). Possibly half the nation's coal resources, some six trillion tons, are in Alaska. There's gold, silver, zinc, copper, lead, barite, iron, platinum, nickel, uranium, antimony, titanium, chromium, etc., but only the very wealthy

can outlive the "process" of trying to extract them. Many valuable deposits are in areas closed to development.

Through the efforts of countless "Save Alaska" fundraising groups, traditional fishing, forestry and mining opportunities have radically declined. New proposals, even recreation facilities, attract national opposition and environmental lawsuits. With little success diversifying Alaska's economy, unemployment rates remain higher than national averages. High-paying resource industry jobs are replaced with low-paying service jobs, ranking Alaska second-from-last in state growth rates.

Two projects could jumpstart the national and Alaska economics—(1) a natural gas pipeline from Prudhoe Bay to the Midwest, and (2) ANWR development. Yet preliminary studies of a gas line indicate its \$15-20 billion cost is too high. That leaves ANWR.

Prohibiting ANWR development means denying huge economic benefits and jobs to every state. It means more imports, a growing trade deficit, and a major blow to national security. It means putting un-elected special interest groups in charge of Alaska's economy.

Three-fourths of Alaska residents say they live here because of its pristine environment. Three-fourths of its residents also support opening ANWR. They know that, using 21<sup>st</sup> century arctic technology and great caution, ANWR's resource treasures and a pristine environment are compatible. More than 60% of Americans have now reached the same conclusion.

Here's the situation: Unless Americans convince the U.S. Senate to open ANWR, it will become Wilderness, and the greens will have seized control over national energy policy.

If special interests can gang up to prevent development of America's single-most promising oil and gas prospect, in remote Alaska, imagine how difficult it will be to develop energy projects in any other state.

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Easley Associates, January 2002

907-274-6800, fax 907-277-2844

email [peasley@gci.net](mailto:peasley@gci.net)

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The Juneau Empire: Local News

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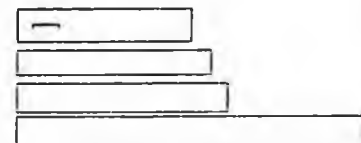
## Eight timber sales focus of possible injunction

By JOANNA MARKELL  
THE JUNEAU EMPIRE

Eight Southeast Alaska timber sales are getting much of the attention in federal courtroom this week.

U.S. Forest Service officials, timber industry advocates, conservationists Southeast community leaders were in court today for the second of three testimony about a possible Tongass logging injunction.

U.S. District Judge James Singleton ruled last year that the Forest Service violated federal law when it failed to consider some areas for wilderness designation when it issued its 1997 Tongass Land Management Plan. He two-month injunction last year and is presiding over this week's hearing determine the need for and possible scope of a new logging ban.



So far, much of the discussion has focused on timber sales in southern and central Southeast Alaska. Viking Lumber and Silver Bay Logging use five of the sales to fuel sawmills in Wrangell on Prince of Wales Island this year. Conservationists argue the sale areas are better off left alone.

The Forest Service is working on a supplemental environmental impact study to evaluate areas for wilderness designation, as required by the court. The study should be complete this fall, according to Department of Justice attorney Landon, who is representing the Forest Service.

The timber industry hopes to cut wood at Upper Carroll near Ketchikan, George on Etolin Island near Wrangell, South Arm on Prince of Wales Island, South Lindy near Petersburg and Four Leaf on southern Kupreanof Island this year. Testimony also has focused on the Crystal timber sale near Petersburg, Saook Bay on north Baranof Island and Canal Hoya near Wrangell.

Sitka Conservation Society Executive Director Pat Veasart testified Wednesday that timber harvest and road building would hurt wilderness values in the areas. The isolated sites provide wildlife habitat and opportunities for public recreation, he said.

"To me, wilderness is a place where one can experience a high degree of solitude," he said. "A place where one can see the Earth as created by it."

Alaska Forest Association attorney Jim Clark said the sites don't have the attributes required to be classified as wilderness. Roads already have been built and timber harvest has already occurred, he said.

"Each is a work in progress," he said. "None of the drainages is undeveloped."

Whether the Forest Service should continue planning timber sales as the wilderness review occurs also is an issue of dispute in the case. So is the Lake-Lake Tyee electric intertie. The 57-mile power line would link Ketchikan and Wrangell.

The hearing continues Friday in Juneau.

*Joanna Markell can be reached at [joannam@juneauempire.com](mailto:joannam@juneauempire.com).*

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## Forest Oil's Gary Carlson, on inlet's prospects

With pipeline to Redoubt Shoal now complete, Forest looks to begin production

**Q&A on O&G Editor's Note:** Gary Carlson, Alaska senior vice president for Forest Oil Corp., is interviewed by the Alaska Oil and Gas Reporter on the status of Forest's development of the Redoubt Shoal, the first new Cook Inlet oil field in years, and other issues.

Forest's Osprey platform was fabricated and put in place in the inlet to support exploration drilling into the Redoubt Shoal prospect. The platform is now being converted to a production facility. Pipelines to the platform from shore-based oil processing facilities have just been completed.

Forest has recently been the target of environmental lawsuits aimed at stopping drilling on Redoubt Shoal. The first suit involved the state's interpretation of Best Available Technology requirements in oil spill contingency plans. The Legislature passed a law last spring mooting the litigation.

In a second lawsuit, environmental groups challenged a state decision to rely on approval of a federal permit for discharges, instead of following a duplicate state procedure. For the second time last spring, the Legislature passed a law to moot the lawsuit.

**Q** What's the status of the lawsuits affecting the project?

**A** With the completion of the work on the remand from the Supreme Court, the ruling of the objection against our exploratory drilling is no longer in effect. We're drilling our fifth exploration well now. It's at 12,000 feet today, scheduled to go to 16,000 feet.

What is ironic is that at the time the injunction was granted to Cook Inlet Keeper (litigants), we were not disposing of the water-based cuttings overboard. We were grinding and injecting the drilling cuttings into our disposal well on the Osprey. Forest Oil had already agreed to inject all the drill cuttings during the development phase of Redoubt Shoal, and we were testing the system in the last exploratory well. This court action was not about the environment but legal process. But the injunction caused us to lay people off and send them home. It caused some real hardships.

**Q** Are they going to stop suing?

**A** We eventually reached an agreement with Cook Inlet Keeper on future

litigation on the exploration program. They asked us to inject our rainwater runoff rather than let that go overboard. Their concern, they said, was that there might be some toxins in the rainwater runoff. So, we applied for a permit and installed the necessary equipment, and we are set up to inject rainwater. However, they have already filed suit against the state for granting the permits to develop the field.

**Q** Do other Inlet operators do these things?

**A** The other operators are held to high standards by federal and state agencies' permits, which allow water-base cutting to be disposed overboard, along with produced water, once it had been conditioned. Forest decided early on, however, to design our facilities to inject our produced water. We're quite willing to spend money to deal with the real environmental issues, but we would also like to be treated like the rest of the industry. It may be because we're doing the newest development that we're attracting this attention.

**Q** What's the status of construction?

**A** We're working on final installation of the pipeline now. It was a challenge to drill the boreholes through the bluff, but the pipelines have been pulled through the boreholes and on to the platform.

**Q** How was this done?

**A** We used a large barge that was well anchored. The pipe string, which was previously welded, was pulled with winches on the barge. It took three long pulls to get the pipe to the platform. It was then jacked up to the platform itself. The contractors Conam Construction and Crowley Maritime, its subcontractor -- have done a superb job on it.

**Q** What are the dimensions of the pipe?

**A** There are three pipelines, two eight-inch diameter and one six-inch diameter. This is very heavy steel. Of the eight-inch pipelines, one has a wall thickness of 7/8 of an inch and the other is 3/4 of an inch. The pipe is intended to be heavy enough to remain stable on the inlet floor. Previous Cook Inlet pipelines, built in the 1960s and 1970s, had a concrete coating to keep them stable. We felt in this case, a concrete coating would have created a wider cross-section for the current to act against. Heavier steel is more expensive but creates a lower profile for the current to act against. We think

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## Environmental Law

*Alaska Oil & Gas Association*

We represented Alaska Oil & Gas Association (AOGA), a consortium of national and multi-national companies involved in the exploration and development of oil and gas resources in Alaska, in the drafting and submission of comments to the National Marine Fisheries Service (NMFS) opposing designation of critical habitat in the Alaskan Beaufort Sea for the Western Arctic stock of the bowhead whale.

We represent AOGA in connection with an ongoing effort to comprehensively reform the Alaska Coastal Management Program (ACMP). The ACMP implements the provisions of the federal Coastal Zone Management Act (CZMA) and plays a direct and significant role in permitting processes throughout Alaska. We have drafted extensive comments to proposed revised regulations, facilitated related discussions with key state agencies and participated in development of legislative initiatives.

We represent AOGA and the Resource Development Council of Alaska, two consortiums of businesses active in the development of natural resources in Alaska, as intervenors in federal court litigation brought by environmental advocacy groups seeking to reverse the decision of NMFS that a listing of the Cook Inlet, Alaska population of beluga whales under the Endangered Species Act (ESA) is not warranted. Consistent with the intervenors' position, the Washington, D.C. federal court sustained NMFS' decision, and the litigation is now on appeal to the federal Court of Appeals for D.C. Circuit. This case is the first to consider the statutory exemptions in the ESA and in the Marine Mammal Protection Act that address Native Alaskan subsistence hunting. The district court's decision is also the first time NMFS' decision not to list a species has been sustained under challenge.

*Blue Heron Paper Company*

We defended Blue Heron Paper Company against two citizen suits under the Clean Water Act and the Endangered Species Act regarding the temperature and turbidity of the mill's wastewater discharge. At the same time, we negotiated with the Oregon Department of Environmental Quality (DEQ) the terms of a new National Pollutant Discharge Elimination System permit that is the first in Oregon to use a temperature management plan and the first to comprehensively regulate turbidity. This case shaped DEQ's current policies on temperature and turbidity and was closely watched throughout the Northwest. Blue Heron Paper Company is an integrated producer of newsprint and specialty papers using more than 50% recovered fiber and is located in Oregon City, Oregon.

*Dry Creek Rancheria Band of Pomo Indians*

We advised the Dry Creek Rancheria Band of Pomo Indians on their economic development and litigation strategies, primarily concerning their rights to use an easement for purposes of developing a casino. The Dry Creek Rancheria Band of Pomo Indians is a federally recognized tribe with tribal lands located north of San Francisco Bay in Sonoma County.

*Gate-King Properties*

We represent the owner of a proposed 500-acre industrial park development in Santa Clarita, California. The project involves the preparation of an environmental impact report, a development agreement, subdivision approval, conditional use permits, Section 404 approval and compliance with new SB 610 (water supply planning for large-scale projects).

*Greenfield Monterey Park, LLC*

We represent Greenfield Monterey Park, LLC, the master developer of a portion of the OII Superfund site in Monterey Park, California, on which will be developed a 510,000 square-foot shopping center. The matter includes negotiations of agreements between our client and the landowner, the steering committee, the retail developer and the City of Monterey Park, as well as agreements and the negotiation of a 200-page consent decree with the Department of Justice and the Environmental Protection Agency.

*Hawaii Longline Association*

We represent the Hawaii Longline Association, a trade association representing Hawaii tuna and swordfish fisheries, in pending litigation in Washington, D.C. federal court challenging a biological opinion issued by the National Marine Fisheries Service concerning effects of these fisheries on pelagic sea turtle species. Our representation also includes nonlitigation representation in the ongoing ESA consultation processes concerning effects of the Hawaii fisheries on various species protected under the ESA.

*Keenan Land Company*

We provide litigation and land use counseling for Keenan Land Company, a high-end developer involved in residential and hotel development in Half Moon Bay, Scotts Valley and Hayward, California. The issues include compliance with the California Environmental Quality Act, the Subdivision Map Act, ESA, the California Coastal Act and the Clean Water Act (CWA).

*L.D. McFarland Company, Ltd.*

We assisted L.D. McFarland Company, Ltd. in developing and implementing a strategy to cost-effectively clean up and redevelop a former wood treating site in Milwaukie, Oregon. Through a comprehensive risk assessment and the application of an Oregon law that we helped develop, we were able to convince DEQ to accept a cost-effective remedial action. The site will be redeveloped for commercial and multifamily residential use. L.D. McFarland Company is a wood treatment and preservation company with operations throughout the Northwest.

*The Newland Group*

We represented The Newland Group in obtaining a Section 404 authorization from the U.S. Army Corps of Engineers for fill-in wetlands associated with a residential development. We also obtained approval from the Washington Department of Ecology and the local government, as well as concurrence from the federal government of compliance with ESA. The Newland Group is a developer of residential communities and is based in Vancouver, Washington.

*Oregon Water Resources Congress*

We worked with Oregon Water Resources Congress, a trade organization representing irrigation districts and water-delivery organizations throughout Oregon, to develop an agreement with DEQ that enabled irrigation districts to continue their use of aquatic herbicides while providing protection for natural waterways. The Ninth Circuit Court of

Appeals had issued an opinion requiring irrigation districts to obtain permits under CWA in order to use aquatic herbicides in irrigation ditches. Without the use of herbicides, many Northwest irrigation districts would have been unable to deliver water, thereby putting the irrigated agricultural users at serious risk. The groundbreaking agreement reached between Oregon Water Resources Congress and the DEQ has become a model for subsequent permits and similar agreements.

*Outside In*

We represented Outside In in obtaining final approvals for its youth shelter located in Portland, Oregon. The unusual architecture of the building raised many issues, including constitutional issues under the City of Portland Sign Code, that required careful discussion and negotiation with the city. The building has been identified as "one of the unique and notable buildings in Portland."

*Phillips Alaska, Inc.*

We represented Phillips Alaska, Inc., a subsidiary of Phillips Petroleum Company, in a successful defense against administrative petitions filed under ACMP regarding five North Slope oil development and exploration projects. Prevailing on these petitions in a quick manner was essential to allow the projects to proceed during the limited window of frozen ice/tundra winter conditions.

*Portland General Electric*

We represented Portland General Electric (PGE) in successfully negotiating an administrative settlement with NMFS and the Oregon Department of Fish & Wildlife arising out of the accidental killing of ESA-listed Chinook salmon at a PGE hydroelectric facility. Oregon's largest utility, PGE serves more than 730,000 customers in Portland, Salem and nearby communities.

*Port of Oakland*

We provide ongoing advice and consultation to the Port of Oakland, California in connection with public trust, land title and a variety of water-quality issues arising from Port operations and construction at marine terminals, real estate developments and the Oakland International Airport. The Port owns and operates the airport and the fourth largest container seaport facilities in the United States.

*Port of Seattle*

We successfully defended the Port of Seattle in ESA litigation brought by local organizations concerning construction of a third runway at Seattle-Tacoma International Airport. We likewise assisted the Port in obtaining federal approvals required under the ESA to permit construction of this project. The Third Runway Project is one of the largest public construction projects in the state of Washington.

*Public Water District*

We have advised a large public water district in Washington on developing an ESA compliance strategy. Our work has helped the district avoid potential liability under the ESA as a result of private lawsuits or governmental actions.

*Sabroso, Inc.*

We represented Sabroso, Inc., a Medford, Oregon fruit processor, in obtaining rights to dispose of industrial rinse water on exclusive farm use land. The process contributes to the full use of the water both for fruit processing and as irrigation for a farm crop. Approval was gained through

Jackson County and, in order to confirm the appropriateness of the process, we represented Sabroso in persuading the Oregon legislature to adopt Senate Bill 212, allowing for reuse of such water for crop irrigation.

*SBA Communications Corporation*

We represented SBA Communications Corporation, a leading developer of wireless communications structures, in successfully arguing that conditional land use permits could be issued to infrastructure providers with appropriate conditions. Deschutes County had consistently taken the position that conditional use permits for wireless communications facilities would be issued only to the providers of cellular service. We obtained a conditional land use permit for SBA's LaPine, Oregon site.

*Snohomish River Regional Water Authority*

We represent Snohomish River Regional Water Authority in a water rights appeal before the Washington Pollution Control Hearings Board. The Snohomish River Regional Water Authority is an entity consisting of the Woodinville Water District, the Northshore Utility District and the City of Everett.

*Snowbird Ski and Summer Resort*

On behalf of Snowbird Ski and Summer Resort, we successfully defended a citizen suit challenging the construction of a new ski lift connecting Snowbird with Alta Ski Resort. The suit was filed during the construction phase to block the installation of the interconnecting chairlift. We represented the client to the Tenth Circuit Court of Appeals, which subsequently denied the injunction. Snowbird installed the chairlift and implemented a joint-lift pass program with Alta, making the combined terrain the third largest ski area in North America. Snowbird owns and operates a ski and summer resort in the Wasatch mountain range outside of Salt Lake City, Utah.

*South San Francisco Scavenger Company*

We successfully represented South San Francisco Scavenger Company in zoning and environmental review matters for its development of a 100,000 square-foot solid-waste materials recycling and transfer facility to serve the communities of South San Francisco and Millbrae and the San Francisco International Airport. We were also successful in defeating a subsequent referendum raised against the project.

*Trans-Alaska Pipeline System Owners*

We represent the six direct operating companies of the Trans-Alaska Pipeline System (TAPS), regarding Alaska coastal zone consistency review, ESA consultation with NMFS and the U.S. Fish & Wildlife Service, and essential fish habitat consultation pertaining to a unique renewal process for the federal grant and state lease authorizing the existing TAPS right-of-way. TAPS transports approximately 17% of domestic U.S. crude oil production and 100% of Alaska North Slope crude oil to refineries via an 800-mile crude oil transportation system running from Prudhoe Bay on the North Slope of Alaska to the Port of Valdez. The TAPS owners are pipeline transportation subsidiaries of Amerada Hess, BP, ExxonMobil, Phillips Petroleum, Unocal and Williams.

*Walla Walla River Irrigation District, Hudson Bay District*

We assisted three irrigation districts in the Walla Walla basin in Oregon and Washington in reaching a settlement agreement with the U.S. Fish & Wildlife Service involving alleged violations of the ESA. The agreement enabled the districts to continue to deliver water to irrigators in the basin and put in place a process for ensuring long-term compliance with the

ESA.

*Washington Public Utility Districts Association*

We represented the Washington Public Utility Districts Association as amicus curiae in PUD No. 1 of Pend Oreille County v. Dept. of Ecology, a water rights appeal before the Washington Supreme Court. Washington PUD Association represents 28 nonprofit, community-owned utilities that provide electricity, water and sewer services and broadband telecommunications.

*Client Name Withheld*

We defended an undisclosed client in a federal criminal investigation involving an employee's falsification of monitoring records under a National Pollutant Discharge Elimination System permit. We conducted a comprehensive internal investigation that resulted in the U.S. Attorney declining to prosecute the company. We assisted the company in self disclosure of the matter and in settling a companion civil enforcement action. Based on the company's self disclosure and cooperation, we negotiated an 80% reduction in DEQ's penalty and convinced the agency to drop its economic benefit penalty.

*Client Name Withheld*

We advise the nation's largest luxury motor coach manufacturer on environmental issues at its five Oregon plants. One of these plants was the focus of a multimillion-dollar nuisance and trespass suit brought by its neighbors. We assisted the company in crafting a settlement that satisfied the neighbors' concerns and allowed the manufacturer to maintain its operational levels.

*Client Name Withheld*

We represented a major industrial client with manufacturing operations in Oregon that determined that a change in feedstock unexpectedly resulted in a substantial increase in sulfur dioxide emissions. This triggered the need to submit a joint Title V and new source review permit application and respond to state and federal information requests. As part of this effort, the facility was required to perform a complex best available control technology determination. DEQ initially proposed multimillion-dollar penalties related to the higher emissions. We assisted this client in preparing the application, responding to the information requests, addressing the control technology determination and ultimately negotiating a reasonable penalty.

*Client Name Withheld*

We successfully defended a petroleum refining company in two CWA citizen suits brought in the U.S. District Court for the Northern District of California. The cases presented the question of whether the sale of the facility met the test for "mootness" under recent U.S. Supreme Court precedent on the basis that there was no reasonable possibility that any CWA violations could be committed by the refining company at the sites. We prevailed on motions for summary judgment. The case is now on appeal and is a case of first impression in the Ninth Circuit.

*Client Names Withheld*

Many parts of the Northwest suffered from severe drought conditions during 2001. We assisted a number of clients, including industries, municipalities and private businesses such as golf courses and nursery operations, in obtaining water right diversion point changes, securing back-up sources of water and firming up existing water supplies. We also represented water suppliers in contract negotiations with water users to

address the many unique water supply needs created by the drought.

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