

HB

87

<TARGET><BILL>HB 87</BILL><SUBJECT>HB
87</SUBJECT><COMM>HRES29</COMM></TARGET>

STATE CAPITOL
P.O. Box 110001
Juneau, AK 99811-0001
907-465-3500
fax: 907-465-3532



550 West Seventh Avenue, Suite 1700
Anchorage, AK 99501
907-269-7450
fax 907-269-7461
www.Gov.Alaska.Gov
Governor@Alaska.Gov

Governor Bill Walker
STATE OF ALASKA

January 28, 2015

The Honorable Mike Chenault
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Chenault:

Under the authority of Article III, Section 18 of the Alaska Constitution, I am transmitting a bill relating to the sale of timber on State land. The bill would amend AS 38.05.110 and 38.05.118 to expand the authority of the Commissioner of Natural Resources to negotiate the sale of timber at appraised value.

The Department of Natural Resources (DNR) may offer timber sales either through competitive bid or through negotiation. Currently under AS 38.05.118, the Commissioner of Natural Resources may negotiate the sale of timber to a local manufacturer at appraised value. However, negotiated sales larger than 500,000 board feet may only be offered in areas of high unemployment, excess manufacturing capacity, and an underutilized allowable cut of timber. These criteria prohibit larger negotiated timber sales in many areas of the state that are actively managed for forestry, and where there is high demand for wood for timber products and biomass energy. The proposed bill would provide that, in addition to sales to local manufacturers of wood products, sales may also be negotiated with users of wood fiber. This change clarifies that negotiated sales may be used to support wood energy production as well as traditional products. In addition, the bill would eliminate the current limitations that negotiated timber sales be based on a finding that in the area of the sale there is a high level of unemployment, an underutilized manufacturing capacity, and an underutilized supply of timber that will lose value if not cut. The requirement that all three conditions be met substantially limits the Commissioner of Natural Resources' authority and flexibility to approve negotiated sales that would be in the best interest of the State.

Competitively bid timber sales are the preferred sale method under most conditions. However, negotiated sales provide the ability to tailor some sales to the needs of local processors in areas that lack competitive interest or where there is competition from round log export markets in a region with a constrained timber supply. The latter situation exists in Southern Southeast Alaska where the State of Alaska is a small landowner compared to the Tongass National Forest, and the State of Alaska's full allowable cut is a critical source of logs for the remaining sawmills.

The Honorable Mike Chenault
Bill Transmittal
January 28, 2015
Page 2

The provisions in the bill would enable the Commissioner of Natural Resources to better respond to the economic and geographic realities of the forest products sector in our state's economy. All timber sales, including negotiated sales, must comply with the constitutional requirement to manage State timber for sustained yield.

I urge prompt and favorable action on this measure.

Sincerely,

A handwritten signature in blue ink that reads "Bill Walker". The signature is written in a cursive style with a large initial "B".

Bill Walker
Governor

Enclosure



Sectional Analysis

HB 87

“An Act relating to the sale of timber on state land; and providing for an effective date.”

Sectional Analysis: Prepared by Chris Maisch, Director of Forestry

Section 1 amends: AS 38.05.110 to clarify that the commissioner determines which of the applicable sale methods is in the best interest of the state for each timber sale.

Section 2 amends: AS 38.05.118 to clarify that negotiated timber sales under this section do not have to comply with the restrictions on negotiated sales in AS 38.05.115 and the timber sale procedures for competitive sales in AS 38.05.120, but they do have to comply with the requirements for Forest Land Use Plans (AS 38.05.112) and Five-year Schedules of Timber Sales (AS 38.05.113). This exempts sales under .118 from limits on size and duration up to 25 years, but ensures that large negotiated sales are developed with adequate notice to the industry and general public, and necessary site-specific design. This section also clarifies that DNR may negotiate sales to wood fiber users, including biomass energy producers, in addition to wood product manufacturers.

Section 3 repeals: AS 38.05.118(c) which restricted negotiated timber sales under .118 to areas with high unemployment, underutilized manufacturing capacity, and either an underutilized allowable cut, damaged trees, or land to be converted to nonforest use. This change enables DNR to negotiate timber sales in all areas of the state. All timber sales are still subject to the constitutional requirement for sustained yield management.

Section 4 adds: a new section to the uncodified state law clarifying that the negotiated timber sale provisions (Sections 1, 2, and 3) apply to sales that occur after the effective date of the bill. Section 5 establishes an immediate effective date for the negotiated timber sale provisions (Sections 1, 2, and 3).

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version:	HB 87
Fiscal Note Number:	1
(H) Publish Date:	1/30/2015

Identifier: LL 0022-DNR-DOF-1-15-15
 Title: TIMBER SALES
 Sponsor: RLS BY REQUEST OF THE GOVERNOR
 Requester: Governor

Department: Department of Natural Resources
 Appropriation: Land & Water Resources
 Allocation: Forest Management & Development
 OMB Component Number: 435

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
OPERATING EXPENDITURES	FY 2016	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
 If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: John 'Chris' Maisch, Director
 Division: Division of Forestry
 Approved By: Mark Myers, Commissioner
 Agency: Department of Natural Resources

Phone: (907)451-2660
 Date: 01/15/2015 12:00 AM
 Date: 01/16/15

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION**Analysis**

This bill would expand the conditions under which the state could offer negotiated timber sales under AS 38.05.110 and .118. Under the existing statutes, the Department of Natural Resources (DNR) may not offer negotiated timber greater than 500,000 board feet unless the sale area has high unemployment, underutilized manufacturing capacity, and an underutilized timber supply that will lose value due to insects, disease, fire, or conversion to nonforest uses. These criteria prohibit larger negotiated timber sales in many areas of the state that are actively managed for forestry, and where there is high demand for wood for timber products and biomass energy. This bill would allow DNR to offer negotiated sales statewide within the limits of the sustained yield supply, and subject to a best interest finding under AS 38.05.035.

While it is anticipated that for most timber sales, a competitive bid process will continue to be in the best interest of the state, this bill would enable DNR to better respond to the economic realities and geographic variability in the forest products sector in Alaska.

There are no short-term impacts on revenue, but over time, revenues should increase as the industry diversifies to address energy needs and demand for locally sourced wood products for communities. This legislation will not place any additional demands on the current operating budget and thus the zero fiscal note.

Briefing Paper: HB 87

Negotiated Timber Sales

February 3, 2015



DEPARTMENT OF NATURAL RESOURCES - DIVISION OF FORESTRY

OVERVIEW: This bill would expand Department of Natural Resources (DNR) authority to offer negotiated timber sales statewide.

Background: The Department of Natural Resources (DNR) may offer timber sales either competitively or through negotiation. However, negotiated sales larger than 500 thousand board feet may only be offered in areas with high unemployment, excess manufacturing capacity, and an underutilized allowable cut of timber. These criteria prohibit larger negotiated timber sales in many areas of the state that are actively managed for forestry, and where there is high demand for wood for timber products and biomass energy. This bill authorizes DNR to offer negotiated timber sales statewide within the limits of the sustained yield supply, and subject to a best interest finding.

Competitive bid timber sales are the preferred sale method under most conditions. However, negotiated sales provide the ability to tailor some sales to the needs of local processors in areas that lack competitive interest, or where there is competition from round log export markets in a region with a constrained timber supply. The latter situation exists in Southern Southeast Alaska where the state is a small landowner compared to the Tongass National Forest and the state's full allowable cut is a critical source of logs for the remaining sawmills. The state has long had a policy of balancing local jobs and manufacturing against the higher monetary returns of export timber sales. Local milling jobs and round log export businesses are both important to the region, but most state timber is currently sold for domestic use. All timber sales, including negotiated sales, must comply with the Constitutional requirement to manage state timber for sustained yield.

Proposed changes to Title 38 timber sale provisions: This bill would...

- Clarify that the DNR commissioner may determine which applicable sale method is in the best interest of the state for each timber sale (AS 38.05.110).
- Allow DNR to offer negotiated timber sales for up to 25 years statewide. Currently, such sales are restricted to areas of high unemployment, excess manufacturing capacity, and excess allowable cut, which limit them to remote areas.
- Specify that negotiated sales must comply with the requirements for Forest Land Use Plans (AS 38.05.112) and Five-year Schedules of Timber Sales (AS 38.05.113). This ensures that large negotiated sales are developed with adequate notice to the industry and general public, and necessary site-specific design.
- Clarify that DNR may negotiate sales to wood fiber users, including biomass energy producers, in addition to wood product manufacturers.

Review to date: The proposed changes implement recommendations from the final report of the Alaska Timber Jobs Task Force. The Board of Forestry unanimously endorsed the Task Force report with the caveat that any changes in forest management must continue to provide adequate protection for fish habitat and water quality, ensure reforestation of harvested land, and fully comply with the Alaska Forest Resources and Practices Act. The proposed bill complies with the Board's caveat.

REVIEW OF STATE TIMBER SALE TYPES

- **Competitive sales (AS 38.05.120)**
 - No volume limit within allowable cut
 - No duration limit
 - Requires best interest finding, advertisement, and public notice
 - Price determined by auction, but not less than base price
 - This is the standard sale type. Use of negotiated sales is limited to the specific conditions listed below.

- **Small negotiated sales (AS 38.05.115)**
 - Less than or 500 thousand board feet (This is roughly equivalent to 20 acres in SE, 125 acres in SC and 80 acres in the Interior)
 - Less than or 1 year in duration.
 - No more than one per purchaser each year.
 - No best interest finding, advertisement, or public notice required.
 - Price determined by fair market value appraisal and base price (11 AAC 71.092).

- **Negotiated sales for value added products (AS 38.05.123)**
 - Up to 10 million board feet per year (100 million board feet total over 10 years).
 - Up to 10 years.
 - Requires best interest finding and public notice.
 - Restricted to use for local manufacture that includes “high value-added” wood products. By statute, wood chips are defined as a “value-added” product rather than a “high value-added” product. Therefore, sales to supply a chip operation would not qualify for this type of sale.
 - Operators must submit a business plan/operating plan for their processing facilities prior to negotiating a .123 sale. Processing facilities must be operational prior to harvesting timber sold under this authority.
 - Requires best interest finding and public notice.
 - State typically uses RFP process to select winning proposal, especially where there is competitive interest in state resources.

- **Negotiated sales for areas with high unemployment (AS 38.05.118)**
 - No volume limit.
 - Up to 25 years with reappraisal every five years.
 - Limited to areas with unemployment $\geq 135\%$ of statewide average.
 - ❖ This sale type does not apply in the Mat-Su Borough or Fairbanks North Star Borough because their unemployment rates are close to the statewide average).
 - Area must have underutilized manufacturing capacity.
 - Must have underutilized allowable cut or salvage timber.
 - Requires best interest finding and public notice.
 - Price determined by fair market value appraisal and base price (11 AAC 71.092).

- **Personal use sales (AS 38.05.850)**
 - Not for commercial use.
 - No best interest finding, advertisement, or public notice required.
 - Up to 10 thousand board feet per purchaser per year.
 - Price determined by fair market value appraisal and base price (11 AAC 71.092).



RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

Founded 1975

Executive Director

Rick Rogers

2014-2015 Executive Committee

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Doug Smith

Phil Steyer

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Jan Trigg

Doug Ward

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Ex-Officio Members

Senator Lisa Murkowski

Senator Dan Sullivan

Congressman Don Young

Governor Bill Walker

February 6, 2015

Representative Benjamin Nageak co-chair

Representative David Talerico co-chair

House Resources Committee

State Capitol

Juneau, AK 99801

RE: HB 87, Timber Sales

Dear Co-chairs,

I am writing on behalf of the Resource Development Council of Alaska (RDC) to support passage of HB 87 "An Act relating to the sale of timber on state land; and providing for an effective date."

RDC is a statewide business association representing forestry, oil and gas, mining, tourism, and fishing industries. Our mission is to grow Alaska through responsible resource development. RDC supports policies aimed at ensuring a reliable and economical long-term State and federal timber supply.

In the decades since the State's timber sale authorizing statutes were last amended, the demand for wood fiber from State lands for energy purposes has increased significantly in response to escalating fuel oil costs and State capital investment through the renewable energy capital grant program. As a result wood fiber for biomass energy has grown into an important component of forest products from State timber sales.

What has also changed over the past decades is the dependence of our remaining Southeast Alaska mills on timber sales from State lands. In some circumstances negotiated State timber sales are essential in keeping what is left of our remaining manufacturing capacity operating.

RDC agrees with the administration, as articulated in Governor Walker's transmittal letter, that competitive timber sales are the preferred means of selling timber under most conditions. However some circumstances warrant the flexibility of offering negotiated sales at appraised fair market value in order to ensure a reliable supply of raw material to mills. The Department of Natural Resources (DNR) has a good track record of limiting its negotiated sales to those circumstances where it is clearly in the State's best interest, and the added flexibility afforded to the DNR Commissioner

by this surgical statutory revision will provide needed flexibility required by today's realities of timber supply and markets.

By giving the DNR Commissioner added flexibility in offering negotiated sales and clarifying that users of wood fiber are also eligible for negotiated sales, the State will have tools appropriate to conditions that frankly were not part of the timber supply landscape when State's timber sale statutes were last revised.

These amendments support recommendations of the 2012 Alaska Timber Jobs Task Force. The task force recommendations were developed with input from leaders in the timber industry and have been endorsed by the Alaska Board of Forestry.

RDC encourages the passage of HB 87 from committee.

Respectfully,

A handwritten signature in black ink, appearing to read "Rick Rogers", with a long horizontal flourish extending to the right.

Rick Rogers
Executive Director



VIKING LUMBER COMPANY, INC

Mile 6 Craig-Klawock Hwy, P.O. Box 670

Craig, Alaska 99921

P (907) 755-8880 - F (907) 755-8888

vikinglumber@aptalaska.net

February 9, 2015

Dear Members of the House Resources Committee,

I am writing in support of HB87. I have read the DNR briefing paper and the bill and I believe the proposed changes could be very important to the remaining timber industry in Alaska. Viking Lumber Company has been continuously operating on Prince of Wales Island for twenty years.

With the failure of the United States Forest Service to provide an adequate supply of timber, the state DNR has been extremely important in providing timber in critical times, some of which has been through negotiated sales. The passing of HB87 would help ensure that Viking Lumber Company would have a continuous supply of timber to keep the sawmill operating well into the future.

Sincerely,

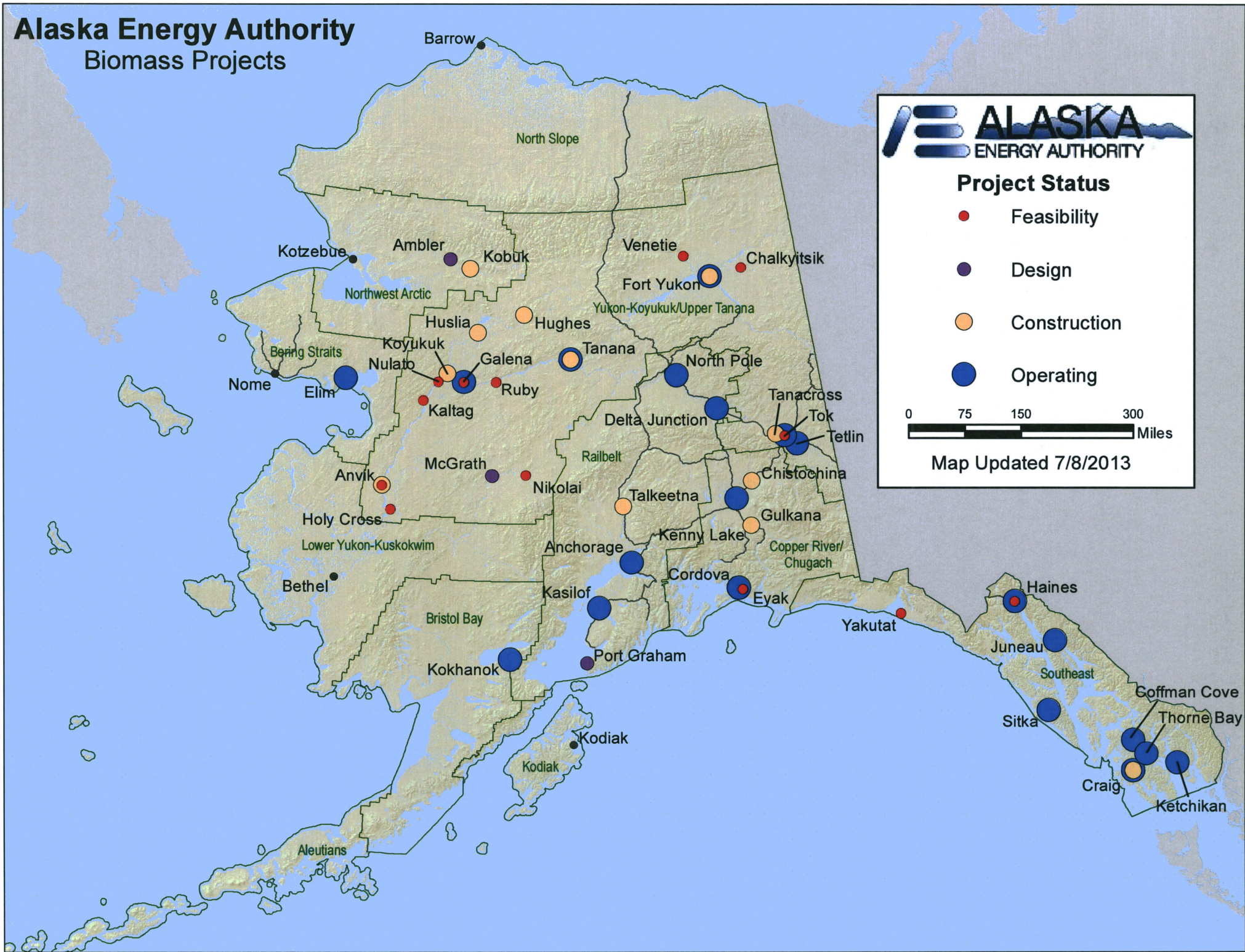
Kirk Dahlstrom

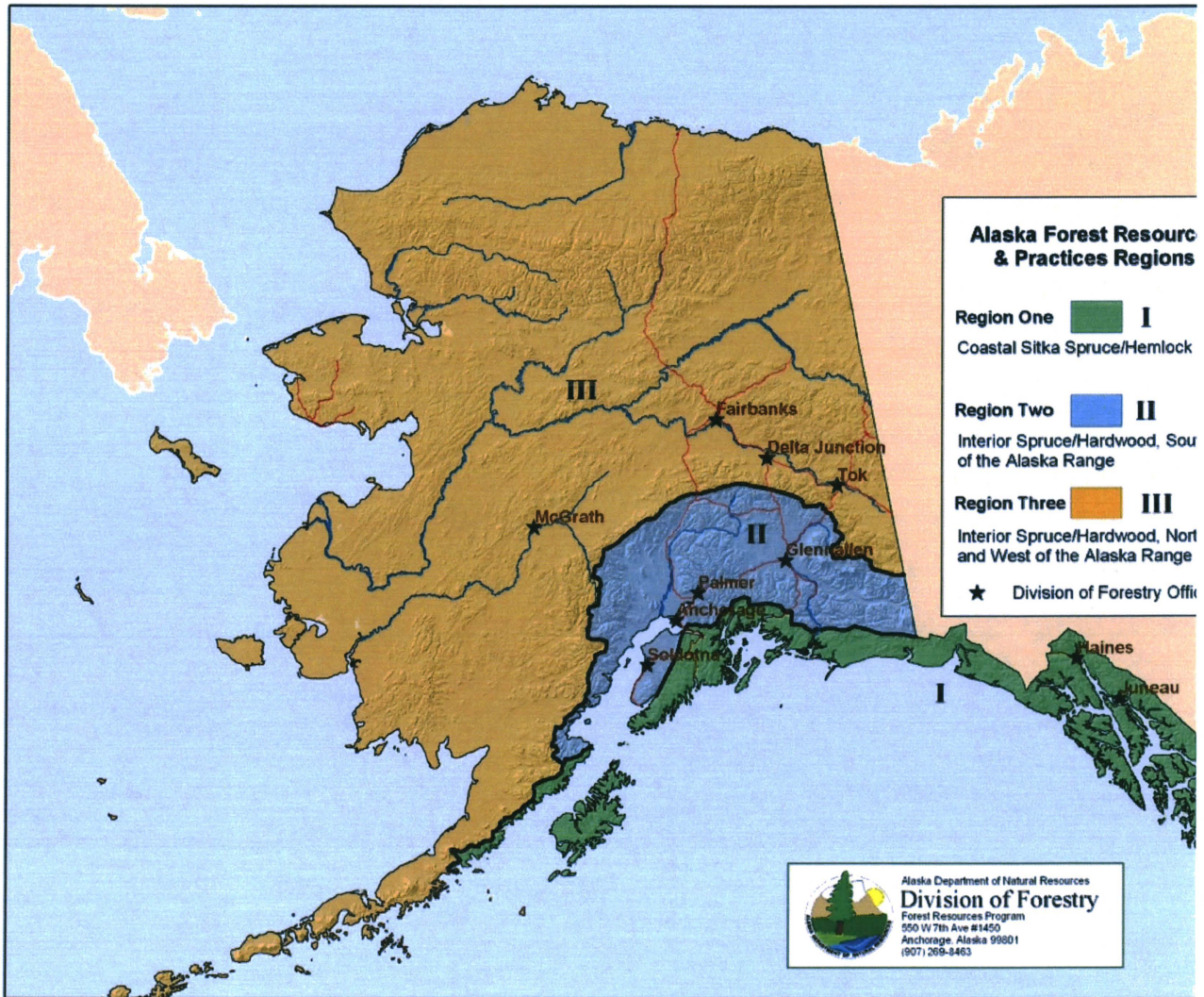
Kirk Dahlstrom
Secretary
Viking Lumber Company

Alaska Wood Energy Development Task Force Pre-Feasibility Reports



Alaska Energy Authority Biomass Projects







Sectional Analysis

HB 87

“An Act relating to the sale of timber on state land; and providing for an effective date.”

Sectional Analysis: Prepared by Chris Maisch, Director of Forestry

Section 1 amends: AS 38.05.110 to clarify that the commissioner determines which of the applicable sale methods is in the best interest of the state for each timber sale.

Section 2 amends: AS 38.05.118 to clarify that negotiated timber sales under this section do not have to comply with the restrictions on negotiated sales in AS 38.05.115 and the timber sale procedures for competitive sales in AS 38.05.120, but they do have to comply with the requirements for Forest Land Use Plans (AS 38.05.112) and Five-year Schedules of Timber Sales (AS 38.05.113). This exempts sales under .118 from limits on size and duration up to 25 years, but ensures that large negotiated sales are developed with adequate notice to the industry and general public, and necessary site-specific design. This section also clarifies that DNR may negotiate sales to wood fiber users, including biomass energy producers, in addition to wood product manufacturers.

Section 3 repeals: AS 38.05.118(c) which restricted negotiated timber sales under .118 to areas with high unemployment, underutilized manufacturing capacity, and either an underutilized allowable cut, damaged trees, or land to be converted to nonforest use. This change enables DNR to negotiate timber sales in all areas of the state. All timber sales are still subject to the constitutional requirement for sustained yield management.

Section 4 adds: a new section to the uncodified state law clarifying that the negotiated timber sale provisions (Sections 1, 2, and 3) apply to sales that occur after the effective date of the bill. Section 5 establishes an immediate effective date for the negotiated timber sale provisions (Sections 1, 2, and 3).



February 24, 2015

The Honorable Mike Chenault
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Chenault:

Southeast Conference supports HB87 and SB32, "An Act relating to the sale of timber on state land". These bills would amend AS 38.05.110 and 38.05.118 to expand the authority of the Commissioner of Natural Resources to negotiate the sale of timber at appraised value.

Southeast Conference is a regional, membership based nonprofit corporation that advances the collective interest of the people, communities and businesses in Southeast Alaska. Members include municipalities, native corporations and village councils, regional and local businesses, civic organizations and individuals throughout the region. Our goal is to support policies that promote strong economies, healthy communities, and a quality environment for Southeast Alaska. We are the State-designated Alaska Regional Development Organization (ARDOR) and the federally-designated Economic Development District (EDD) for Southeast Alaska. Each of these designations requires Southeast Conference to take an active role in regional resource management and economic development planning.

The proposed bill would provide larger negotiated timber sales for more areas of the state, in addition to sales to local manufacturers of wood products, sales may also be negotiated with users of wood fiber. This change clarifies that negotiated sales may be used to support wood energy production as well as traditional products. In addition, the bill would eliminate the current limitations that negotiated timber sales be based on a finding that in the area of the sale there is a high level of unemployment, an underutilized manufacturing capacity, and an underutilized supply of timber that will lose value if not cut. The requirement that all three conditions be met substantially limits the Commissioner of Natural Resources' authority and flexibility to approve negotiated sales that would be in the best interest of the State.

Competitively bid timber sales are the preferred sale method under most conditions. However, negotiated sales provide the ability to tailor some sales to the needs of local processors in areas that lack competitive interest or where there is competition from round log export markets in a region with a constrained timber supply. The latter situation exists in Southern Southeast

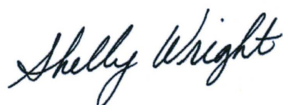


Alaska where the State of Alaska is a small landowner compared to the Tongass National Forest, and the State of Alaska's full allowable cut is a critical source of logs for the remaining sawmills.

The provisions in the bill would enable the Commissioner of Natural Resources to better respond to the economic and geographic realities of the forest products sector in our state's economy. All timber sales, including negotiated sales, must comply with the constitutional requirement to manage State timber for sustained yield.

We urge prompt and favorable action on this measure.

Sincerely,



Shelly Wright
Executive Director

Cc:

Co-Chair	Representative Benjamin Nageak
Co-Chair	Representative David Talerico
Vice Chair	Representative Mike Hawker
Member	Representative Bob Herron
Member	Representative Craig Johnson
Member	Representative Kurt Olson
Member	Representative Paul Seaton
Member	Representative Andy Josephson
Member	Representative Geran Tarr

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Member	Senator Bert Stedman
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Member	Senator Bill Wielechowski

29-GH1022\W
Bullard
2/26/15

CS FOR HOUSE BILL NO. 87()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the sale of timber on state land; and providing for an effective date."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1. AS 38.05.110 is amended by adding a new subsection to read:**

4 (c) If a sale of timber may be offered under multiple provisions of
5 AS 38.05.110 - 38.05.123, the commissioner shall determine the applicable provisions
6 under which to offer the timber.

7 *** Sec. 2. AS 38.05.118(a) is amended to read:**

8 (a) Notwithstanding AS 38.05.115 and 38.05.120, and upon a finding that
9 the sale is in the best interest of the state [ANY OTHER PROVISION OF
10 AS 38.05.110 - 38.05.120], the commissioner may negotiate a sale of timber to a local
11 manufacturer of wood products or a user of wood fiber at appraised value. The
12 period of a contract for a sale of timber negotiated under this section may not exceed
13 25 years. The contract shall provide that the appraised value of timber remaining to be
14 harvested under the provisions of the contract shall be redetermined at least once every
15 five years.

1 * **Sec. 3.** AS 38.05.118(c) is repealed.

2 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 **APPLICABILITY.** Sections 1 - 3 of this Act apply to sales of timber on state land
5 made on or after the effective date of this Act.

6 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).

**Statement of
Rebecca Knight
PO Box 1331
Petersburg, AK 99833
March 4, 2015**

On HB 87 (and it's companion bill SB 32) - Timber Sales on State Forests

Good Afternoon Committee Members,

We just received the CS here in Petersburg but have had little opportunity to review it, so submit my full prepared testimony.

HB 87 (and it's companion bill SB 32) should be rejected in its/their entirety for a variety of reasons:

- HB 87 would suspend sustained yield requirements for large timber sales on State Forests. At a minimum, this is an exceptionally poor business practice that private sector companies like Weyerhaeuser and Georgia Pacific and their professional foresters would never give a second thought. It is also a poster child for squandering public resources to the detriment of future generations.
- HB 87 will allow long-term 25 year contracts for timber to be negotiated, and without advertisement or competitive bid - another questionable business practice. Given proposed huge State government budget cuts, recently approved by House Finance, it would not be prudent to support such contracts when there is no assurance that the funds to administer the contracts would be available down the road and could leave the State at risk of contract cancellation and associated compensation costs.
- HB 87 gives primacy of our State public lands to logging, above all other resources - above fish and wildlife, subsistence needs, recreation and scenic quality. My commercial fishing family depends on quality fish habitat however this habitat will not even receive the minimal protections as on federal lands. 100 ft. no cut buffers are the norm on most federal fish streams, yet streams on State land will only receive 66 ft. buffers, and these buffers are routinely granted exemptions, particularly when there is large timber in the stream side area. This is exactly the habitat that provides shade and stream stability to our valuable fish streams. I am unconvinced that essential fish habitat is adequately protected under these circumstances.
- The State of Alaska is already selling large quantities of timber Statewide. In southeast 245 MMBF are slated to be cut on the State's five year operating plan. Additionally 4.5

MMBF are proposed to be logged on Mitkof Island where I live and a number of other sales are proposed or underway on Prince of Wales, Kosciusko and other SE Islands. Most, if not all, of these landscapes have already lost vast quantities of valuable habitat due to timber extraction. Non-timber uses have been dramatically impacted.

- The bills also repeals the Alaska Statute that presently restricts negotiated sales to places where there is high local unemployment, under-utilized milling capacity, and an underutilized allowable cut for state timber. Timber would be sold at appraised value instead of to the highest bidder (however in many places it may be difficult to get an appraisal that gives the state fair value for the timber).
- The bills would require a finding that a sale is in the best interest of the state; however, since these findings are made by DNR - the timber extraction arm of State government and because the Alaska Forest Practices Act is weak (and I might add in serious need of overhaul), these findings are **heavily biased** toward logging. The types of forest resources that are most important to most people - fish, wildlife, the opportunity for subsistence most often get only cursory consideration from DNR.
- I believe State timber in SE Alaska will be exported in the round providing few jobs - to the very industry that this bill is supposedly intended to prop up. It is yet another subsidy with no real payback. Although State Forester Maisch claimed when questioned by Rep. Josephson that this is an incorrect assumption, please remember that saying so does not make it so, and I believe his a claim intended to insure passage of the bill rather than a depiction of reality.
- Finally, your committee should consult with expert ADFG fish and wildlife biologists regarding the potential impacts of HB 87, free of the restrictions of the DNR's "One Voice" timber promotion policy.

HB-87 & SB-32 are not in the best interest of the State of Alaska or its people.

Sincerely,



Rebecca Knight

**Additional Comments
Rebecca Knight.
PO Box 1331
Petersburg, AK 99833
March 8, 2015**

On HB 87 (and it's companion bill SB 32) - Timber Sales on State Forests

Hello Chairperson and Committee Members,

First, I perceive this bill as largely intended to benefit two timber companies, Viking Lumber and Alcan which both operate in Southeast. Viking operates out of Klawock on Prince of Wales Island. Alcan does not have a mill in Southeast and is mostly an "in the round" timber exporter. Alcan has offices in Ketchikan, Terrace BC, and Aberdeen WA and their parent company is TransPac.:

<http://www.grouptranspac.com/web2/page/forestry.htm>

Viking Lumber Employment Figures

Last week Kirk Dahlstrom of Viking Lumber asserted during the Alaska State House Resources Committee hearing that, *"We employ about 140 people year 'round."* I doubt, on the basis of his 2010 declaration in the Tongass NF Logjam timber sale litigation¹, that he employs nearly that many on the full-time year 'round basis he implied. Of 130 workers he cited then, Viking had only 35 year 'round jobs at the sawmill. The other jobs in logging, trucking and barging are, it would seem, ^{at best} season or occasional. For example, logging usually stops during winter; the 30 longshoremen who load Viking product work only for 3-4 day periods several times per year; and the Boyer Towing barge crew likely was not continually working for Viking.

Long Term Contracts and Small Operators

The two fellows from Tok who testified that the bill would hurt their businesses have valid concerns. This includes the fast track nature of the bill which they and their peers just recently became aware of. They also questioned why, in Governor Walker's new era of transparency, the rush to push through what they termed "monumental" legislation, when the potential impacts are substantial and have not been thoroughly vetted.

Smaller operators' concerns about competition with bigger companies are also a valid concern. In Southeast, it is likely that much of the volume will get scooped-up in large 25-year contracts, and when the cut interferes with sustained yield requirements, either through volume limitations

¹ Available on request

or impacts to other multiple uses, the small operators will get the short shrift. This was exactly the situation during the former long-term contracts heyday of yesteryear in Southeast and prompted the now infamous 1983 Reid Brothers lawsuit that resulted in a district court's award of \$1,489,881 to the Reids:

<http://openjurist.org/699/f2d/1292/reid-brothers-logging-company-v-ketchikan-pulp-company>

The 25-year contracts the bills would authorize would repeat the horrible mistake of the similar long-term pulp mill contracts in Southeast. The problems these 50-year contracts created could not be foretold at the time they were put in place, and the environmental damage and social strife they caused still resound through the region decades later. HB87/SB32 would repeat the mistake of making a monumental decision that can't be reversed.

Allowable Cut

State Forester Chris Maisch testified during the Alaska State House Resources Committee hearing that, *"Just to remind you, the problem in Southeast Alaska is the section that currently requires us to have an excess allowable cut and in Southeast after the next two years we will no longer have that excess allowable cut..."*

His wording was obtuse, but I think the "section" he refers to is the sustained yield mandate:

"Sec. 41.17.220. Management of state forests. Land within a state forest or within a unit of a state forest shall be managed under (1) the sustained yield principle;"

The prohibition on exceeding the allowable cut (sustained yield principle) is managed on a 10-year period. If some years are less than the allowable average, other years can exceed (the "excess") the allowable average so it balances out for the period. If I recall correctly, Governor Parnell allowed DNR to borrow timber from the future from within the 10-year period, and now they are in a bind.

Also, according to,

AS 38.04.910: (12) "sustained yield" means the achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of the state land consistent with multiple use;"

Timber Export

Finally, I could find no export prohibition under the "118 authority" (Sec. 38.05.118.) for negotiated sales. Perhaps that exists elsewhere, but I could not locate it. In the absence of a prohibition, when the smaller operators are unable to handle larger volumes (an inevitable

situation), the "negotiated" purchaser will export as much as possible. In reality, it will essentially be "business as usual" with the added benefit to the negotiated purchaser of having a guaranteed 25 year, corner on the market.

I respectfully request that your Committee to not allow this flawed bill to advance for all the reasons I cited in my previous testimony as well as the above.

Thank you,

Rebecca Knight

Rebecca Knight

VIKING LUMBER COMPANY, INC



Mile 6 Craig-Klawock Hwy, P.O. Box 670

Craig, Alaska 99921

P (907) 755-8880 - F (907) 755-8888

vikinglumber@aptalaska.net

February 9, 2015

Dear Members of the House Resources Committee,

I am writing in support of HB87. I have read the DNR briefing paper and the bill and I believe the proposed changes could be very important to the remaining timber industry in Alaska. Viking Lumber Company has been continuously operating on Prince of Wales Island for twenty years.

With the failure of the United States Forest Service to provide an adequate supply of timber, the state DNR has been extremely important in providing timber in critical times, some of which has been through negotiated sales. The passing of HB87 would help ensure that Viking Lumber Company would have a continuous supply of timber to keep the sawmill operating well into the future.

Sincerely,

A handwritten signature in cursive script that reads 'Kirk Dahlstrom'.

Kirk Dahlstrom
Secretary
Viking Lumber Company

467 U.S. 82

104 S.Ct. 2237

81 L.Ed.2d 71

SOUTH-CENTRAL TIMBER DEVELOPMENT,
INC., Petitioner

v.

Esther WUNNICKE, Commissioner, Department of
Natural Resources of Alaska, et al.

No. 82-1608.

Supreme Court of the United States

Argued Feb. 29, 1984.

Decided May 22, 1984.

Syllabus

Pursuant to an Alaska statute, the Alaska Department of Natural Resources published a notice that it would sell certain timber from state lands under a contract requiring "primary manufacture" (partial processing) of the timber within Alaska before the successful bidder could ship it outside of the State. Petitioner, an Alaska corporation engaged in the business of purchasing timber and shipping the logs into foreign commerce, does not operate a mill in Alaska and customarily sells unprocessed logs. When it learned that the primary-manufacture requirement was to be imposed on the sale of state-owned timber involved here, petitioner filed an action in Federal District Court seeking an injunction on the ground that the requirement violated the negative implications of the Commerce Clause under which States may not enact laws imposing substantial burdens on interstate and foreign commerce unless authorized by Congress. The District Court agreed and issued an injunction, but the Court of Appeals reversed. That court found it unnecessary to reach the question whether, standing alone, the requirement would violate the Commerce Clause, because it found implicit congressional authorization in the federal policy of imposing a primary-manufacture requirement on timber taken from federal land in Alaska.

Held: The judgment is reversed, and the case is remanded.

693 F.2d 890 (CA 9 1982), reversed and remanded.

Justice WHITE delivered the opinion of the Court with respect to Parts I and II, concluding that the Court of Appeals erred in holding that Congress has authorized Alaska's primary-manufacture requirement. Although there is a clearly delineated federal policy, endorsed by Congress, imposing primary-manufacture requirements as to timber taken from federal lands in Alaska for export from the United States or for shipment to other States, in order for a state regulation to be removed from the reach of the dormant Commerce Clause as being authorized by Congress, congressional intent must be unmistakably clear. The requirement that Congress affirmatively contemplate otherwise invalid state legislation is mandated by the policies underlying dormant Commerce Clause doctrine. The fact that Alaska's policy appears to be consistent with federal policy—or even that state policy furthers the goals that Congress had in mind—is an insufficient indicium of congressional intent. Congress acted only with respect to federal lands; it cannot be inferred from that fact that it intended to authorize a similar policy with respect to state lands. Pp. 87–93.

LeRoy Eugene DeVeaux, Anchorage, Alaska, for petitioner.

Kathryn A. Oberly, Washington, D.C., for U.S. as amicus curiae, by special leave of Court.

Ronald W. Lorensen, Juneau, Alaska, for respondents.

Justice WHITE announced the judgment of the Court and delivered the opinion of the Court with respect to Parts I and II, and an opinion with respect to Parts III and IV, in which Justice BRENNAN, Justice BLACKMUN, and Justice STEVENS joined.

1

We granted certiorari in this case to review a decision of the Court of Appeals for the Ninth Circuit that held that Alaska's requirement that timber taken from state lands be processed within the State prior to export was "implicitly authorized" by Congress and therefore does not violate the Commerce Clause. 464 U.S. 890, 104 S.Ct. 231, 78 L.Ed.2d 224 (1983). We hold that it was not authorized and reverse the judgment of the Court of Appeals.

2

* In September 1980, the Alaska Department of Natural Resources published a notice that it would sell approximately 49 million board-feet of timber in the area of Icy Cape, Alaska, on October 23, 1980. The notice of sale, the prospectus, and the proposed contract for the sale all provided, pursuant to 11 Alaska Admin.Code § 76.130 (1974), that "[p]rimary manufacture within the State of Alaska will be required as a special provision of the contract." 1 App. 35a. Under the primary-manufacture requirement, the successful bidder must partially process the timber prior to shipping it outside of the State.² The requirement is imposed by contract and does not limit the export of unprocessed timber not owned by the State. The stated purpose of the requirement is to "protect existing industries, provide for the establishment of new industries, derive revenue from all timber resources, and manage the State's forests on a sustained yield basis." Governor's Policy Statement, App. 28a. When it imposes the requirement, the State charges a significantly lower price for the timber than it otherwise would. Brief for Respondents 6-7.

3

The major method of complying with the primary-manufacture requirement is to convert the logs into cants, which are logs slabbed on at least one side. In order to satisfy the Alaska requirement, cants must be either sawed to a maximum thickness of 12 inches or squared on four sides along their entire length.³

4

Petitioner, South-Central Timber Development, Inc., is an Alaska corporation engaged in the business of purchasing standing timber, logging the timber, and shipping the logs into foreign commerce, almost exclusively to Japan.⁴ It does not operate a mill in Alaska and customarily sells unprocessed logs. When it learned that the primary-manufacture requirement was to be imposed on the Icy Cape sale, it brought an action in Federal District Court seeking an injunction, arguing that the requirement violated the negative implications of the Commerce Clause.⁵ The District Court agreed and issued an injunction. *South-Central Timber Development, Inc. v. LeResche*, 511 F.Supp. 139 (Alaska 1981). The Court of Appeals for the Ninth Circuit reversed, finding it unnecessary to reach the question whether, standing alone, the requirement would violate the Commerce Clause, because it found implicit congressional authorization in the federal policy of imposing a primary-manufacture requirement on timber

taken from federal land in Alaska. *South-Central Timber Development, Inc. v. LeResche*, 693 F.2d 890 (CA 9 1982).

5

We must first decide whether the court was correct in concluding that Congress has authorized the challenged requirement. If Congress has not, we must respond to respondents' submission that we should affirm the judgment on two grounds not reached by the Court of Appeals: (1) whether in the absence of congressional approval Alaska's requirement is permissible because Alaska is acting as a market participant, rather than as a market regulator; and (2), if not, whether the local-processing requirement is forbidden by the Commerce Clause.

II

6

Although the Commerce Clause is by its text an affirmative grant of power to Congress to regulate interstate and foreign commerce, the Clause has long been recognized as a self-executing limitation on the power of the States to enact laws imposing substantial burdens on such commerce. See *Lewis v. BT Investment Managers, Inc.*, 447 U.S. 27, 35, 100 S.Ct. 2009, 2015, 64 L.Ed.2d 702 (1980); *Hughes v. Oklahoma*, 441 U.S. 322, 326, 99 S.Ct. 1727, 1731, 60 L.Ed.2d 250 (1979); *H.P. Hood & Sons, Inc. v. Du Mond*, 336 U.S. 525, 534-538, 69 S.Ct. 657, 663-665, 93 L.Ed. 865 (1949); *Cooley v. Board of Wardens*, 12 How. 299, 13 L.Ed. 996 (1852). It is equally clear that Congress may "redefine the distribution of power over interstate commerce" by "permit[ting] the states to regulate the commerce in a manner which would otherwise not be permissible." *Southern Pacific Co. v. Arizona*, 325 U.S. 761, 769, 65 S.Ct. 1515, 1520, 89 L.Ed. 1915 (1945). See also *Sporhase v. Nebraska ex rel. Douglas*, 458 U.S. 941, 958-960, 102 S.Ct. 3456, 3465-3466, 73 L.Ed.2d 1254 (1982); *New England Power Co. v. New Hampshire*, 455 U.S. 331, 102 S.Ct. 1096, 71 L.Ed.2d 188 (1982); *Western & Southern Life Insurance Co. v. State Board of Equalization*, 451 U.S. 648, 652-655, 101 S.Ct. 2070, 2074-2076, 68 L.Ed.2d 514 (1981); *Prudential Insurance Co. v. Benjamin*, 328 U.S. 408, 66 S.Ct. 1142, 90 L.Ed. 1342 (1946). The Court of Appeals held that Congress had done just that by consistently endorsing primary-manufacture requirements on timber taken from federal land. 693 F.2d, at 893. Although the court recognized that cases of this Court have spoken in terms of express approval by Congress, it stated:

7

"But such express authorization is not always necessary. There will be instances, like the case before us, where federal policy is so clearly delineated that a state may enact a parallel policy without explicit congressional approval, even if the purpose and effect of the state law is to favor local interests." *Ibid.*

8

We agree that federal policy with respect to federal land is "clearly delineated," but the Court of Appeals was incorrect in concluding either that there is a clearly delineated federal policy approving Alaska's local-processing requirement or that Alaska's policy with respect to its timber lands is authorized by the existence of a "parallel" federal policy with respect to federal lands.

9

Since 1928, the Secretary of Agriculture has restricted the export of unprocessed timber cut from National Forest lands in Alaska. The current regulation, upon which the State places heavy reliance, provides:

10

"Unprocessed timber from National Forest System lands in Alaska may not be exported from the United States or shipped to other States without prior approval of the Regional Forester. This requirement is necessary to ensure the development and continued existence of adequate wood processing capacity in that State for the sustained utilization of timber from the National Forests which are geographically isolated from other processing facilities." 36 CFR § 223.10(c) (1983).

11

From 1969 to 1973, Congress imposed a maximum export limitation of 350 million board-feet of unprocessed timber from federal lands lying west of the 100th meridian (a line running from central North Dakota through central Texas). 16 U.S.C. § 617(a). Beginning in 1973, Congress imposed, by way of a series of annual riders to appropriation Acts, a complete ban on foreign exports of unprocessed logs from western lands except those within Alaska. See, e.g., Pub.L. 96-126, Tit. III, § 301, 93 Stat. 979. These riders limit only foreign exports and do not require in-state processing before the timber may be sold in domestic interstate commerce. The export limitation with respect to federal land in Alaska, rather than being imposed by statute, was imposed by the above-quoted regulation, and applies to exports to other States, as well as to foreign exports.

12

Alaska argues that federal statutes and regulations demonstrate an affirmative expression of approval of its primary-manufacture requirement for three reasons: (1) federal timber export policy has, since 1928, treated federal timber land in Alaska differently from that in other States; (2) the Federal Government has specifically tailored its policies to ensure development of wood-processing capacity for utilization of timber from the National Forests; and (3) the regulation forbidding without prior approval the export from Alaska of unprocessed timber or its shipment to other States demonstrates that it is the Alaska wood-processing industry in particular, not the domestic wood-processing industry generally, that has been the object of federal concern.

13

Acceptance of Alaska's three factual propositions does not mandate acceptance of its conclusion. Neither SouthCentral nor the United States⁶ challenges the existence of a federal policy to restrict the out-of-state shipment of unprocessed Alaska timber from federal lands. They challenge only the derivation from that policy of an affirmative expression of federal approval of a parallel policy with respect to state timber. They argue that our cases dealing with congressional authorization of otherwise impermissible state interference with interstate commerce have required an "express" statement of such authorization, and that no such authorization may be implied.

14

It is true that most of our cases have looked for an express statement of congressional policy prior to finding that state regulation is permissible. For example, in *Sporhase v. Nebraska ex rel. Douglas*, *supra*, the Court declined to find congressional authorization for state-imposed

burdens on interstate commerce in ground water despite 37 federal statutes and a number of interstate compacts that demonstrated Congress' deference to state water law. We noted that on those occasions in which consent has been found, congressional intent and policy to insulate state legislation from Commerce Clause attack have been "expressly stated." 458 U.S., at 960, 102 S.Ct., at 3466. Similarly, in *New England Power Co. v. New Hampshire*, 455 U.S. 331, 102 S.Ct. 1096, 71 L.Ed.2d 188 (1982), we rejected a claim by the State of New Hampshire that its restriction on the interstate flow of privately owned and produced electricity was authorized by § 201(b) of the Federal Power Act. That section provides that the Act "shall not . . . deprive a State or State commission of its lawful authority now exercised over the exportation of hydroelectric energy which is transmitted across a State line." 16 U.S.C. § 824(b). We found nothing in the statute or legislative history "evinc[ing] a congressional intent 'to alter the limits of state power otherwise imposed by the Commerce Clause.'" 455 U.S., at 341, 102 S.Ct., at 1101 (quoting *United States v. Public Utilities Comm'n of California*, 345 U.S. 295, 304, 73 S.Ct. 706, 712, 97 L.Ed. 1020 (1953)).

15

Alaska relies in large part on this Court's recent opinion in *White v. Massachusetts Council of Construction Employers, Inc.*, 460 U.S. 204, 103 S.Ct. 1042, 75 L.Ed.2d 1 (1983), for its "implicit approval" theory. At issue in *White* was an executive order issued by the Mayor of Boston requiring all construction projects funded by the city or by funds that the city had authority to administer, to be performed by a work force consisting of at least 50% residents of the city. A number of the projects were funded in part with federal Urban Development Action Grants. The Court held that insofar as the city expended its own funds on the projects, it was a market participant unconstrained by the dormant Commerce Clause; insofar as the city expended federal funds, "the order was affirmatively sanctioned by the pertinent regulations of those programs." *Id.*, at 215, 103 S.Ct., at 1048. Alaska relies on the Court's statements in *White* that the federal regulations "affirmatively permit" and "affirmatively sanctio[n]" the executive order and that the order "sounds a harmonious note" with the federal regulations, and it finds significance in the fact that the Court did not use the words "expressly stated."

16

Rather than supporting the position of the State, we believe that *White* undermines it. If approval of state burdens on commerce could be implied from parallel federal policy, the Court would have had no reason to rely upon the market-participant doctrine to uphold the executive order. Instead, the order could have been upheld as being in harmony with federal policy as expressed in regulations governing the expenditure of federal funds.

17

There is no talismanic significance to the phrase "expressly stated," however; it merely states one way of meeting the requirement that for a state regulation to be removed from the reach of the dormant Commerce Clause, congressional intent must be unmistakably clear. The requirement that Congress affirmatively contemplate otherwise invalid state legislation is mandated by the policies underlying dormant Commerce Clause doctrine. It is not, as Alaska asserts, merely a wooden formalism. The Commerce Clause was designed "to avoid the tendencies toward economic Balkanization that had plagued relations among the Colonies and later among the States under the Articles of Confederation." *Hughes v. Oklahoma*, 441 U.S. 322, 325, 99 S.Ct. 1727, 1730, 60 L.Ed.2d 250 (1979). Unrepresented interests will often bear the brunt of regulations imposed by one State having a significant effect on persons or operations in other States. Thus, "when the regulation is of such a character that its burden falls principally

upon those without the state, legislative action is not likely to be subjected to those political restraints which are normally exerted on legislation where it affects adversely some interests within the state." *South Carolina State Highway Dept. v. Barnwell Brothers, Inc.*, 303 U.S. 177, 185, n. 2, 58 S.Ct. 510, 514, n. 2, 82 L.Ed. 734 (1938); see also *Southern Pacific Co. v. Arizona*, 325 U.S., at 767-768, n. 2, 65 S.Ct., at 1519-1520, n. 2. On the other hand, when Congress acts, all segments of the country are represented, and there is significantly less danger that one State will be in a position to exploit others. Furthermore, if a State is in such a position, the decision to allow it is a collective one. A rule requiring a clear expression of approval by Congress ensures that there is, in fact, such a collective decision and reduces significantly the risk that unrepresented interests will be adversely affected by restraints on commerce.⁷

18

The fact that the state policy in this case appears to be consistent with federal policy—or even that state policy furthers the goals we might believe that Congress had in mind—is an insufficient indicium of congressional intent. Congress acted only with respect to federal lands; we cannot infer from that fact that it intended to authorize a similar policy with respect to state lands.⁸ Accordingly, we reverse the contrary judgment of the Court of Appeals.

III

19

We now turn to the issues left unresolved by the Court of Appeals. The first of these issues is whether Alaska's restrictions on export of unprocessed timber from state-owned lands are exempt from Commerce Clause scrutiny under the "market-participant doctrine."

20

Our cases make clear that if a State is acting as a market participant, rather than as a market regulator, the dormant Commerce Clause places no limitation on its activities. See *White v. Massachusetts Council of Construction Employers, Inc.*, 460 U.S., at 206-208, 103 S.Ct., at 1043-1044; *Reeves, Inc. v. Stake*, 447 U.S. 429, 436-437, 100 S.Ct. 2271-2277, 65 L.Ed.2d 244 (1980); *Hughes v. Alexandria Scrap Corp.*, 426 U.S. 794, 810, 96 S.Ct. 2488, 2498, 49 L.Ed.2d 220 (1976). The precise contours of the market-participant doctrine have yet to be established, however, the doctrine having been applied in only three cases of this Court to date.

21

The first of the cases, *Hughes v. Alexandria Scrap Corp.*, *supra*, involved a Maryland program designed to reduce the number of junked automobiles in the State. A "bounty" was established on Maryland-licensed junk cars, and the State imposed more stringent documentation requirements on out-of-state scrap processors than on in-state ones. The Court rejected a Commerce Clause attack on the program, although it noted that under traditional Commerce Clause analysis the program might well be invalid because it had the effect of reducing the flow of goods in interstate commerce. *Id.*, at 805, 96 S.Ct., at 2495. The Court concluded that Maryland's action was not "the kind of action with which the Commerce Clause is concerned," *ibid.*, because "[n]othing in the purposes animating the Commerce Clause prohibits a State, in the absence of congressional action, from participating in the market and exercising the right to favor its own citizens over others." *Id.*, at 810, 96 S.Ct., at 2498 (footnote omitted).

22

In *Reeves, Inc. v. Stake*, *supra*, the Court upheld a South Dakota policy of restricting the sale of cement from a state-owned plant to state residents, declaring that "[t]he basic distinction drawn in *Alexandria Scrap* between States as market participants and States as market regulators makes good sense and sound law." *Id.*, at 436, 100 S.Ct., at 2277. The Court relied upon "the long recognized right of trader or manufacturer, engaged in an entirely private business, freely to exercise his own independent discretion as to parties with whom he will deal." *Id.*, at 438-439, 100 S.Ct., at 2278-2279 (quoting *United States v. Colgate & Co.*, 250 U.S. 300, 307, 39 S.Ct. 465, 468, 63 L.Ed. 992 (1919)). In essence, the Court recognized the principle that the Commerce Clause places no limitations on a State's refusal to deal with particular parties when it is participating in the interstate market in goods.

23

The most recent of this Court's cases developing the market-participant doctrine is *White v. Massachusetts Council of Construction Employers, Inc.*, *supra*, in which the Court sustained against a Commerce Clause challenge an executive order of the Mayor of Boston that required all construction projects funded in whole or in part by city funds or city-administered funds to be performed by a work force of at least 50% city residents. The Court rejected the argument that the city was not entitled to the protection of the doctrine because the order had the effect of regulating employment contracts between public contractors and their employees. *Id.*, at 211, n. 7, 103 S.Ct., at 1046, n. 7. Recognizing that "there are some limits on a state or local government's ability to impose restrictions that reach beyond the immediate parties with which the government transacts business," the Court found it unnecessary to define those limits because "[e]veryone affected by the order [was], in a substantial if informal sense, 'working for the city.'" *Ibid.* The fact that the employees were "working for the city" was "crucial" to the market-participant analysis in *White*. *United Building and Construction Trades Council v. Mayor of Camden*, 465 U.S. 208, 219, 104 S.Ct. 1020, 1028, 79 L.Ed.2d 249 (1984).

24

The State of Alaska contends that its primary-manufacture requirement fits squarely within the market-participant doctrine, arguing that "Alaska's entry into the market may be viewed as precisely the same type of subsidy to local interests that the Court found unobjectionable in *Alexandria Scrap*." Brief for Respondents 24. However, when Maryland became involved in the scrap market it was as a purchaser of scrap; Alaska, on the other hand, participates in the timber market, but imposes conditions downstream in the timber-processing market. Alaska is not merely subsidizing local timber processing in an amount "roughly equal to the difference between the price the timber would fetch in the absence of such a requirement and the amount the state actually receives." *Ibid.* If the State directly subsidized the timber-processing industry by such an amount, the purchaser would retain the option of taking advantage of the subsidy by processing timber in the State or forgoing the benefits of the subsidy and exporting unprocessed timber. Under the Alaska requirement, however, the choice is made for him: if he buys timber from the State he is not free to take the timber out of state prior to processing.

25

The State also would have us find *Reeves* controlling. It states that "*Reeves* made it clear that the Commerce Clause imposes no limitation on Alaska's power to choose the terms on which it will sell its timber." Brief for Respondents 25. Such an unrestrained reading of *Reeves* is unwarranted. Although the Court in *Reeves* did strongly endorse the right of a State to deal with whomever it chooses when it participates in the market, it did not—and did not purport to—

sanction the imposition of any terms that the State might desire. For example, the Court expressly noted in *Reeves* that "Commerce Clause scrutiny may well be more rigorous when a restraint on foreign commerce is alleged," 447 U.S., at 438, n. 9, 100 S.Ct., at 2278, n. 9; that a natural resource "like coal, timber, wild game, or minerals," was not involved, but instead the cement was "the end product of a complex process whereby a costly physical plant and human labor act on raw materials," *id.*, at 443-444, 100 S.Ct., at 2281; and that South Dakota did not bar resale of South Dakota cement to out-of-state purchasers, *id.*, at 444, n. 17, 100 S.Ct., at 2281, n. 17. In this case, all three of the elements that were not present in *Reeves*—foreign commerce, a natural resource, and restrictions on resale—are present.

26

Finally, Alaska argues that since the Court in *White* upheld a requirement that reached beyond "the boundary of formal privity of contract," 460 U.S., at 211, n. 7, 103 S.Ct., at 1046, n. 7, then, a fortiori, the primary-manufacture requirement is permissible, because the State is not regulating contracts for resale of timber or regulating the buying and selling of timber, but is instead "a seller of timber, pure and simple." Brief for Respondents 28. Yet it is clear that the State is more than merely a seller of timber. In the commercial context, the seller usually has no say over, and no interest in, how the product is to be used after sale; in this case, however, payment for the timber does not end the obligations of the purchaser, for, despite the fact that the purchaser has taken delivery of the timber and has paid for it, he cannot do with it as he pleases. Instead, he is obligated to deal with a stranger to the contract after completion of the sale.⁹

27

That privity of contract is not always the outer boundary of permissible state activity does not necessarily mean that the Commerce Clause has no application within the boundary of formal privity. The market-participant doctrine permits a State to influence "a discrete, identifiable class of economic activity in which [it] is a major participant." *White v. Massachusetts Council of Construction Workers, Inc.*, 460 U.S., at 211, n. 7, 103 S.Ct., at 1046, n. 7. Contrary to the State's contention, the doctrine is not *carte blanche* to impose any conditions that the State has the economic power to dictate, and does not validate any requirement merely because the State imposes it upon someone with whom it is in contractual privity. See Tr. of Oral Arg. 35.

28

The limit of the market-participant doctrine must be that it allows a State to impose burdens on commerce within the market in which it is a participant, but allows it to go no further. The State may not impose conditions, whether by statute, regulation, or contract, that have a substantial regulatory effect outside of that particular market.¹⁰ Unless the "market" is relatively narrowly defined, the doctrine has the potential of swallowing up the rule that States may not impose substantial burdens on interstate commerce even if they act with the permissible state purpose of fostering local industry.

29

At the heart of the dispute in this case is disagreement over the definition of the market. Alaska contends that it is participating in the processed timber market, although it acknowledges that it participates in no way in the actual processing. *Id.*, at Oral Arg. 34. South-Central argues, on the other hand, that although the State may be a participant in the timber market, it is using its leverage in that market to exert a regulatory effect in the processing market, in which it is not a participant. We agree with the latter position.

There are sound reasons for distinguishing between a State's preferring its own residents in the initial disposition of goods when it is a market participant and a State's attachment of restrictions on dispositions subsequent to the goods coming to rest in private hands. First, simply as a matter of intuition a state market participant has a greater interest as a "private trader" in the immediate transaction than it has in what its purchaser does with the goods after the State no longer has an interest in them. The common law recognized such a notion in the doctrine of restraints on alienation. See *Dr. Miles Medical Co. v. John D. Park & Sons Co.*, 220 U.S. 373, 404, 31 S.Ct. 376, 383, 55 L.Ed. 502 (1911); but cf. *Continental T.V., Inc. v. GTE Sylvania Inc.*, 433 U.S. 36, 53, n. 21, 97 S.Ct. 2549, 2559, n. 21, 53 L.Ed.2d 568 (1977). Similarly, the antitrust laws place limits on vertical restraints. It is no defense in an action charging vertical trade restraints that the same end could be achieved through vertical integration; if it were, there would be virtually no antitrust scrutiny of vertical arrangements. We reject the contention that a State's action as a market regulator may be upheld against Commerce Clause challenge on the ground that the State could achieve the same end as a market participant. We therefore find it unimportant for present purposes that the State could support its processing industry by selling only to Alaska processors, by vertical integration, or by direct subsidy. See *Tr. of Oral Arg.* 34, 37, 45.

Second, downstream restrictions have a greater regulatory effect than do limitations on the immediate transaction. Instead of merely choosing its own trading partners, the State is attempting to govern the private, separate economic relationships of its trading partners; that is, it restricts the post-purchase activity of the purchaser, rather than merely the purchasing activity. In contrast to the situation in *White*, this restriction on private economic activity takes place after the completion of the parties' direct commercial obligations, rather than during the course of an ongoing commercial relationship in which the city retained a continuing proprietary interest in the subject of the contract.¹¹ In sum, the State may not avail itself of the market-participant doctrine to immunize its downstream regulation of the timber-processing market in which it is not a participant.

IV

Finally, the State argues that even if we find that Congress did not authorize the processing restriction, and even if we conclude that its actions do not qualify for the market-participant exception, the restriction does not substantially burden interstate or foreign commerce under ordinary Commerce Clause principles. We need not labor long over that contention.

Viewed as a naked restraint on export of unprocessed logs, there is little question that the processing requirement cannot survive scrutiny under the precedents of the Court. For example, in *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 90 S.Ct. 844, 25 L.Ed.2d 174 (1970), we invalidated a requirement of the State of Arizona that all Arizona cantaloupes be packed within the State. The Court noted that the State's purpose was "to protect and enhance the reputation of growers within the State," a purpose we described as "surely legitimate." *Id.*, at 143, 90 S.Ct., at 848. We observed:

34

"[T]he Court has viewed with particular suspicion state statutes requiring business operations to be performed in the home State that could more efficiently be performed elsewhere. Even where the State is pursuing a clearly legitimate local interest, this particular burden on commerce has been declared to be virtually per se illegal. *Foster-Fountain Packing Co. v. Haydel*, 278 U.S. 1 [49 S.Ct. 1, 73 L.Ed. 147]; *Johnson v. Haydel*, 278 U.S. 16 [49 S.Ct. 6, 73 L.Ed. 155]; *Toomer v. Witsell*, 334 U.S. 385 [68 S.Ct. 1156, 92 L.Ed. 1460]." *Id.*, at 145, 90 S.Ct., at 849.

35

We held that if the Commerce Clause forbids a State to require work to be done within the State for the purpose of promoting employment, then, a fortiori, it forbids a State to impose such a requirement to enhance the reputation of its producers. Because of the protectionist nature of Alaska's local-processing requirement and the burden on commerce resulting therefrom, we conclude that it falls within the rule of virtual per se invalidity of laws that "bloc[k] the flow of interstate commerce at a State's borders." *City of Philadelphia v. New Jersey*, 437 U.S. 617, 624, 98 S.Ct. 2531, 2535, 57 L.Ed.2d 475 (1978).

36

We are buttressed in our conclusion that the restriction is invalid by the fact that foreign commerce is burdened by the restriction. It is a well-accepted rule that state restrictions burdening foreign commerce are subjected to a more rigorous and searching scrutiny. It is crucial to the efficient execution of the Nation's foreign policy that "the Federal Government . . . speak with one voice when regulating commercial relations with foreign governments." *Michelin Tire Corp. v. Wages*, 423 U.S. 276, 285, 96 S.Ct. 535, 540, 46 L.Ed.2d 495 (1976); see also *Japan Line, Ltd. v. County of Los Angeles*, 441 U.S. 434, 99 S.Ct. 1813, 60 L.Ed.2d 336 (1979). In light of the substantial attention given by Congress to the subject of export restrictions on unprocessed timber, it would be peculiarly inappropriate to permit state regulation of the subject. See *Prohibit Export of Unprocessed Timber: Hearing on H.R.639 before the Subcommittee on Forests, Family Farms, and Energy of the House Committee on Agriculture*, 97th Cong., 1st Sess. (1981).

37

The judgment of the Court of Appeals is reversed, and the case is remanded for proceedings consistent with the opinion of this Court.

38

It is so ordered.

39

Justice MARSHALL took no part in the decision of this case.

40

Justice BRENNAN, concurring.

41

I join Justice WHITE's opinion in full because I believe Alaska's in-state processing requirement constitutes market regulation that is not authorized by Congress. In my view, Justice WHITE's treatment of the market-participant doctrine and the response of Justice REHNQUIST point up the inherent weakness of the doctrine. See *Hughes v. Alexandria Scrap Corp.*, 426 U.S. 794, 817, 96 S.Ct. 2488, 2501, 49 L.Ed.2d 220 (1976) (BRENNAN, J., dissenting).

42

Justice POWELL, with whom THE CHIEF JUSTICE joins, concurring in part and concurring in the judgment.

43

I join Parts I and II of Justice WHITE's opinion. I would remand the case to the Court of Appeals to allow that court to consider whether Alaska was acting as a "market participant" and whether Alaska's primary-manufacture requirement substantially burdened interstate commerce under the holding of *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 90 S.Ct. 844, 25 L.Ed.2d 174 (1970).

44

Justice REHNQUIST, with whom Justice O'CONNOR joins, dissenting.

45

In my view, the line of distinction drawn in the plurality opinion between the State as market participant and the State as market regulator is both artificial and unconvincing. The plurality draws this line "simply as a matter of intuition," ante, at 98, but then seeks to bolster its intuition through a series of remarks more appropriate to antitrust law than to the Commerce Clause.* For example, the plurality complains that the State is using its "leverage" in the timber market to distort consumer choice in the timber-processing market, *ibid.*, a classic example of a tying arrangement. See, e.g., *United States Steel Corp. v. Fortner Enterprises, Inc.*, 429 U.S. 610, 619-621, 97 S.Ct. 861, 867-868, 51 L.Ed.2d 80 (1977). And the plurality cites the common-law doctrine of restraints on alienation and the antitrust limits on vertical restraints in dismissing the State's claim that it could accomplish exactly the same result in other ways. Ante, at 98-99.

46

Perhaps the State's actions do raise antitrust problems. But what the plurality overlooks is that the antitrust laws apply to a State only when it is acting as a market participant. See, e.g., *Jefferson County Pharmaceutical Assn., Inc. v. Abbott Laboratories*, 460 U.S. 150, 154, 103 S.Ct. 1011, 1015, 74 L.Ed.2d 882 (1983) (state action immunity "does not apply where a State has chosen to compete in the private retail market"). When the State acts as a market regulator, it is immune from antitrust scrutiny. See *Parker v. Brown*, 317 U.S. 341, 350-352, 63 S.Ct. 307, 313-314, 87 L.Ed. 315 (1943). Of course, the line of distinction in cases under the Commerce Clause need not necessarily parallel the line drawn in antitrust law. But the plurality can hardly justify placing Alaska in the market-regulator category, in this Commerce Clause case, by relying on antitrust cases that are relevant only if the State is a market participant.

The contractual term at issue here no more transforms Alaska's sale of timber into "regulation" of the processing industry than the resident-hiring preference imposed by the city of Boston in *White v. Massachusetts Council of Construction Employers, Inc.*, 460 U.S. 204, 103 S.Ct. 1042, 75 L.Ed.2d 1 (1983), constituted regulation of the construction industry. Alaska is merely paying the buyer of the timber indirectly, by means of a reduced price, to hire Alaska residents to process the timber. Under existing precedent, the State could accomplish that same result in any number of ways. For example, the State could choose to sell its timber only to those companies that maintain active primary-processing plants in Alaska. *Reeves, Inc. v. Stake*, 447 U.S. 429, 100 S.Ct. 2271, 65 L.Ed.2d 244 (1980). Or the State could directly subsidize the primary-processing industry within the State. *Hughes v. Alexandria Scrap Corp.*, 426 U.S. 794, 96 S.Ct. 2488, 49 L.Ed.2d 220 (1976). The State could even pay to have the logs processed and then enter the market only to sell processed logs. See ante, at 99. It seems to me unduly formalistic to conclude that the one path chosen by the State as best suited to promote its concerns is the path forbidden it by the Commerce Clause.

For these reasons, I would affirm the judgment of the Court of Appeals.

1

The proposed contract, which the successful bidder on the timber sale would have been required to sign, provided:

"Section 68. Primary Manufacture. Timber cut under this contract shall not be transported for primary manufacture outside the State of Alaska without written approval of the State.

"Primary Manufacture is defined under 11 AAC 76.130 and the Governor's policy statement of May 1974."

2

11 Alaska Admin.Code § 76.130 (1974) (repealed 1982), which authorized the contractual provision in question, provided:

"PRIMARY MANUFACTURE

"(a) The director may require that primary manufacture of logs, cordwood, bolts or other similar products be accomplished within the State of Alaska.

"(b) The term primary manufacture means manufacture which is first in order of time or development. When used in relation to sawmilling, it means

"(1) the breakdown process wherein logs have been reduced in size by a headsaw or gang saw to the extent that the residual cants, slabs, or planks can be processed by resaw equipment of the type customarily used in log processing plants; or

"(2) manufacture of a product for use without further processing, such as structural timbers (subject to a firm showing of an order or orders for this form of product).

"(c) Primary manufacture, when used in reference to pulp ventures, means the breakdown process to a point where the wood fibers have been separated. Chips made from timber processing wastes shall be considered to have received primary manufacture. With respect to veneer or plywood production, it means the production of green veneer. Poles and piling, whether treated or untreated, when manufactured to American National Institute Standards specifications are considered to have received primary manufacture."

The local-processing requirement is now authorized by Alaska Admin.Code §§ 71.230, 71.910 (1982).

3

Current regulations require that the cants be no thicker than 83/4 inches unless slabs are taken from all four sides. 11 Alaska Admin.Code § 71.910 (1982).

4

Apparently, there is virtually no interstate market in Alaska timber because of the high shipping costs associated with shipment between American ports. Consequently, over 90% of Alaska timber is exported to Japan. Brief for Petitioner 14, n. 14.

5

Although it would appear at first blush that it would be economically more efficient to have the primary processing take place within Alaska, that is apparently not the case. Material appearing in the record suggests that the slabs removed from the log in the process of making cants are often quite valuable, but apparently cannot be used and are burned. Record, Exh. 11, p. 63. It appears that because of the wasted wood, cants are actually worth less than the unprocessed logs. An affidavit of a vice president of South-Central states in part:

"5. It is also my observation that within Alaska there is absolutely no market for domestic resawing of 'cant' or 'square' manufactured to State of Alaska specifications. In other words, a cant or square manufactured in Alaska would be virtually unsaleable within local Alaska sawmill markets. The reasons are:

"A. Any sawmill would prefer round logs for its sawmill operations and the small volume of round logs required would be readily available locally.

"B. Round logs are preferable because they can be stored in the water and moved in the water, whereas cants must be transported on land.

"C. Once a log is placed on the sawmill carriage and the costs of getting it there have been incurred, it produces more lumber for the costs involved than does a cant.

"D. Also the round log is much less subject to deterioration from weather and outside conditions.

"6. South-Central had experience with attempting to make a sale of cants inside the State of Alaska. We had some cants at Jakalof Bay which were manufactured to State specifications, but which were not loaded aboard ships during that season. We attempted to market those cants to a sawmill in Anchorage, but found that just costs of transporting the cants from Jakalof Bay to Anchorage exceeded the highest possible sales price of the cants. Accordingly no sale was made.

"7. Based on the above statements and my observations of the Alaska timber industry, it is my firm conclusion that a cant or a square manufactured to State of Alaska primary manufacture specifications is marketable only in foreign commerce and cannot be sold for use within Alaska. It is also my firm conclusion that no sawmill in Alaska will manufacture a cant or square for any domestic Alaska market." App. 121a-122a.

6

The United States appears as amicus curiae in support of the position of South-Central.

7

The need for affirmative approval is heightened by the fact that Alaska's policy has substantial ramifications beyond the Nation's borders. The need for a consistent and coherent foreign policy, which is the exclusive responsibility of the Federal Government, enhances the necessity that congressional authorization not be lightly implied.

8

It is for that reason that we need not resolve the dispute between the parties about whether Congress' purpose in applying the primary-manufacture requirement to federal lands was for the purpose of encouraging the Alaska wood-processing industry or whether it was merely to ensure adequate processing capacity to deal with federal timber. In either event, no congressional intent to permit a primary-manufacture requirement by the State appears.

It is worthy of note, although we do not rely upon it, that Congress has been requested to authorize the imposition by States of in-state processing requirements but has declined to do so. *Prohibit Export of Unprocessed Timber: Hearing on H.R.639 before the Subcommittee on Forests, Family Farms, and Energy of the House Committee on Agriculture, 97th Cong., 1st Sess., 18-19 (1981).*

9

The facts of the present case resemble closely the facts of *Foster-Fountain Packing Co. v. Haydel*, 278 U.S. 1, 49 S.Ct. 1, 73 L.Ed. 147 (1928), in which the Court struck down a Louisiana law prohibiting export from the State of any shrimp from which the heads and hulls had not been removed. The Court rejected the claim that the fact that the shrimp were owned by the State authorized the State to impose such limitations. Although not directly controlling here, because of the Court's recognition that "the State owns, or has power to control, the game and fish within its borders not absolutely or as proprietor or for its own use or benefit but in its sovereign capacity as representative of the people," *id.*, at 11, 49 S.Ct., at 4, the Court's reasoning is relevant. The Court noted that the State might have retained the shrimp for consumption and use within its borders, but "by permitting its shrimp to be taken and all the products thereof to be shipped and sold in interstate commerce, the State necessarily releases its hold and, as to the shrimp so taken, definitely terminates its control." *Id.*, at 13, 49 S.Ct., at 4.

10

The view of the market-participant doctrine expressed by Justice REHNQUIST, *post*, at 102-103, would validate under the Commerce Clause any contractual condition that the State had the economic power to impose, without regard to the relationship of the subject matter of the contract and the condition imposed. If that were the law, it would have been irrelevant that the employees in *White v. Massachusetts Council of Construction Workers, Inc.*, 460 U.S. 204, 103 S.Ct. 1042, 75 L.Ed.2d 1 (1983), were in effect "working for the city." *Id.*, at 211, n. 7, 103 S.Ct., at 1046, n. 7. If the only question were whether the condition is imposed by contract, a residency requirement could have been imposed with respect to the work force on all projects of any employer doing business with the city.

11

This is not to say that the State could evade the reasoning of this opinion by merely including a provision in its contract that title does not pass until the processing is complete. It is the substance of the transaction, rather than the label attached to it, that governs Commerce Clause analysis.

*

The plurality does offer one other reason for its demarcation of the boundary between these two concepts.

"[D]ownstream restrictions have a greater regulatory effect than do limitations on the immediate transaction. Instead of merely choosing its own trading partners, the State is attempting to govern the private, separate economic relationships of its trading partners; that in it restricts the post-purchase activity of the purchaser, rather than merely the purchasing activity." *Ante*, at 99.

But, of course, this is not a "reason" at all, but merely a restatement of the conclusion. The line between participation and regulation is what we are trying to determine. To invoke that very distinction in support of the line drawn is merely to fall back again on intuition.

**Statement of
Rebecca Knight
PO Box 1331
Petersburg, AK 99833
March 4, 2015**

On HB 87 (and it's companion bill SB 32) - Timber Sales on State Forests

Good Afternoon Committee Members,

We just received the CS here in Petersburg but have had little opportunity to review it, so submit my full prepared testimony.

HB 87 (and it's companion bill SB 32) should be rejected in its/their entirety for a variety of reasons:

- HB 87 would suspend sustained yield requirements for large timber sales on State Forests. At a minimum, this is an exceptionally poor business practice that private sector companies like Weyerhaeuser and Georgia Pacific and their professional foresters would never give a second thought. It is also a poster child for squandering public resources to the detriment of future generations.
- HB 87 will allow long-term 25 year contracts for timber to be negotiated, and without advertisement or competitive bid - another questionable business practice. Given proposed huge State government budget cuts, recently approved by House Finance, it would not be prudent to support such contracts when there is no assurance that the funds to administer the contracts would be available down the road and could leave the State at risk of contract cancellation and associated compensation costs.
- HB 87 gives primacy of our State public lands to logging, above all other resources - above fish and wildlife, subsistence needs, recreation and scenic quality. My commercial fishing family depends on quality fish habitat however this habitat will not even receive the minimal protections as on federal lands. 100 ft. no cut buffers are the norm on most federal fish streams, yet streams on State land will only receive 66 ft. buffers, and these buffers are routinely granted exemptions, particularly when there is large timber in the stream side area. This is exactly the habitat that provides shade and stream stability to our valuable fish streams. I am unconvinced that essential fish habitat is adequately protected under these circumstances.
- The State of Alaska is already selling large quantities of timber Statewide. In southeast 245 MMBF are slated to be cut on the State's five year operating plan. Additionally 4.5

MMBF are proposed to be logged on Mitkof Island where I live and a number of other sales are proposed or underway on Prince of Wales, Kosciusko and other SE Islands. Most, if not all, of these landscapes have already lost vast quantities of valuable habitat due to timber extraction. Non-timber uses have been dramatically impacted.

- The bills also repeals the Alaska Statute that presently restricts negotiated sales to places where there is high local unemployment, under-utilized milling capacity, and an underutilized allowable cut for state timber. Timber would be sold at appraised value instead of to the highest bidder (however in many places it may be difficult to get an appraisal that gives the state fair value for the timber).
- The bills would require a finding that a sale is in the best interest of the state; however, since these findings are made by DNR - the timber extraction arm of State government and because the Alaska Forest Practices Act is weak (and I might add in serious need of overhaul), these findings are **heavily biased** toward logging. The types of forest resources that are most important to most people - fish, wildlife, the opportunity for subsistence most often get only cursory consideration from DNR.
- I believe State timber in SE Alaska will be exported in the round providing few jobs - to the very industry that this bill is supposedly intended to prop up. It is yet another subsidy with no real payback. Although State Forester Maisch claimed when questioned by Rep. Josephson that this is an incorrect assumption, please remember that saying so does not make it so, and I believe his a claim intended to insure passage of the bill rather than a depiction of reality.
- Finally, your committee should consult with expert ADFG fish and wildlife biologists regarding the potential impacts of HB 87, free of the restrictions of the DNR's "One Voice" timber promotion policy.

HB-87 & SB-32 are not in the best interest of the State of Alaska or its people.

Sincerely,



Rebecca Knight

An aerial photograph showing a large industrial facility, likely a timber mill, situated in a vast, forested landscape. The facility includes several buildings, parking lots, and a large area of cleared land. In the background, there are rolling hills and mountains under a cloudy sky. The text "Young's Timber, Inc." is overlaid in large, bold, black letters across the center of the image.

Young's Timber, Inc.

Milepost 1308 Alaska Highway

P.O. Box 42

Tok, Alaska 99780

joeyoung@aptalaska.net

(907) 883-5060



TOK AREA – HISTORY DOF/TIMBER SALE TIMELINE

- 1997** Senator Georgiana Lincoln Letter
Dick Malchow, Tok Area Forester
Les Fortune, Northern Regional Forester
- 1998** Field Data Summary Tok River 180 timber Sale Completed
- 1999** Chris Maisch becomes Northern Regional Forester
Dick Malchow Retires
Ray Kramer is placed as Acting Tok Area Forester
- 2001** Tok Area Acting Forester changed to Steve Clautice/Paul Makie
- 2001** Mark Elliot hired as Tok Area Forester
- 2005** Chris Maisch appointed Alaska State Forester
Mark Elliot is hired as Northern Regional Forester
- 2006** Jeff Hermans hired as Tok Area Forester
- 2008** The First Tok River 180 Timber Sale is Offered

IT TOOK DOF 10+ YEARS AFTER SENATOR LINCOLN \$230,000.00 FUNDING BEFORE THE TOK RIVER SALE IS FINALLY OFFERED FOR SALE.

- 2009** YTI/DOF Tok signed the 1st AS.38.05.118 Negotiated Timber Sale Contract for 10 years, Tok River Moose Habitat Timber Sale, Block A.
- 2010** YTI acquired funding of \$515,000.00 for a New Value-Added sawmill.
- 2014** YTI/DOF Tok signed the 2th AS.38.05.118 Negotiated Timber Sale Contract for 10 years,
Tok River Moose Habitat Timber Sale, Block C.
- 2014** YTI acquired funding of \$400,000.00 for Equipment & Value-Added Machinery
- 2015** YTI/DOF Tok signed a Timber Salvage Sale Contract for 5 Years.
- 2015** YTI acquired \$4,000,000.00 in Funding & Equipment for a Pellet and Fuel Log Plant.

Value-Added Sawmill Equipment

Hele Sawmill



Value-Added Sawmill Equipment

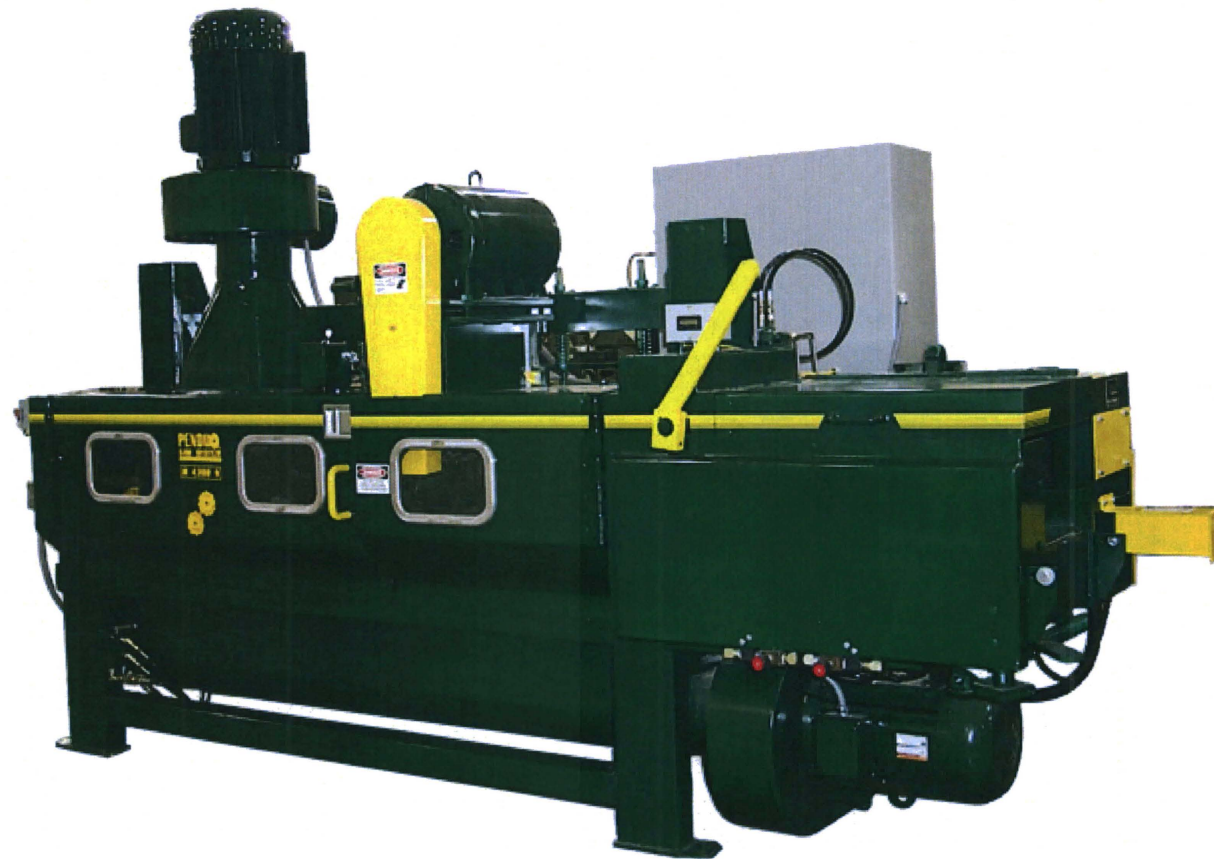
**Electric Mobile
Dimension Circular Sawmill**



Woodmizer Bandsaw Mill



Pendu M4300 Gang Resaw

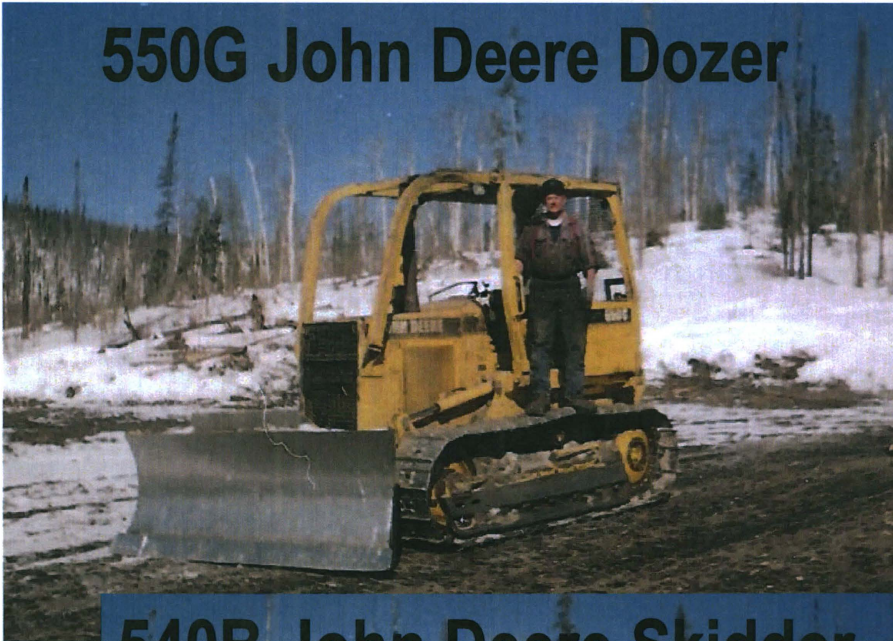


Harvesting Equipment Mechanical Side

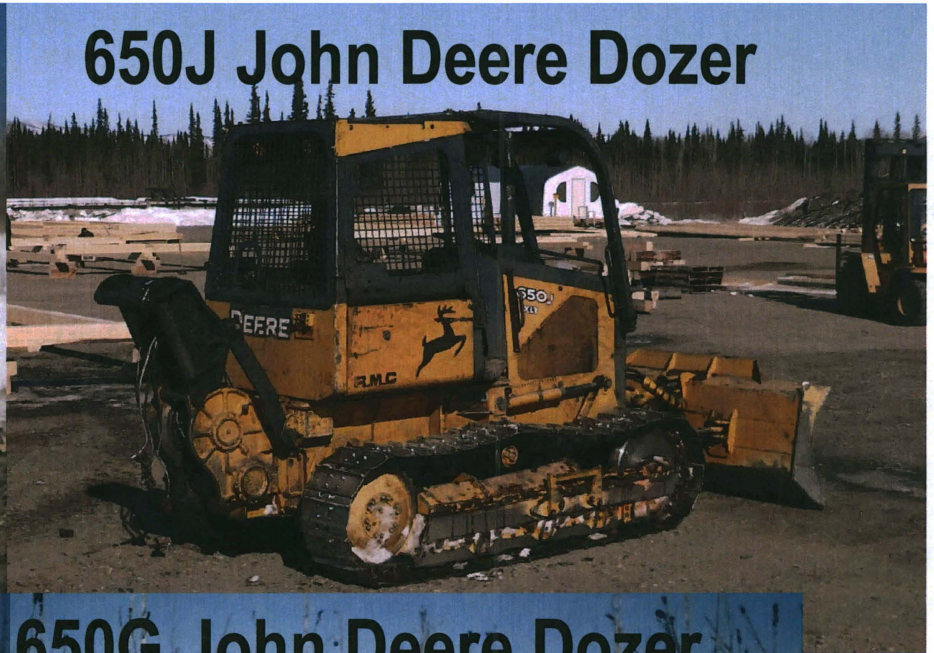


Harvesting – Dozer Side

550G John Deere Dozer



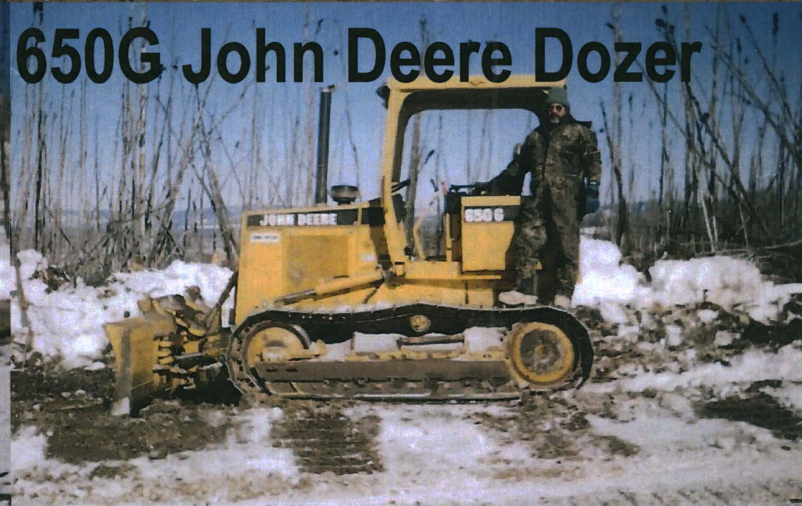
650J John Deere Dozer



540B John Deere Skidder



650G John Deere Dozer



Sorting & Processing Equipment

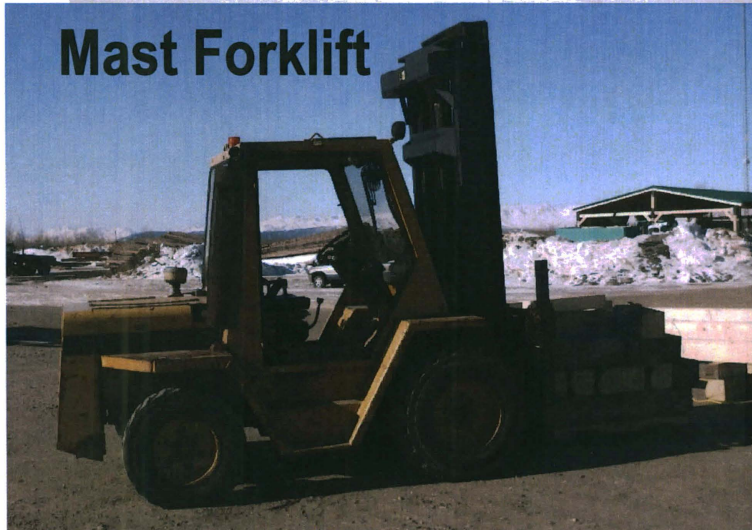
621B Case Loader



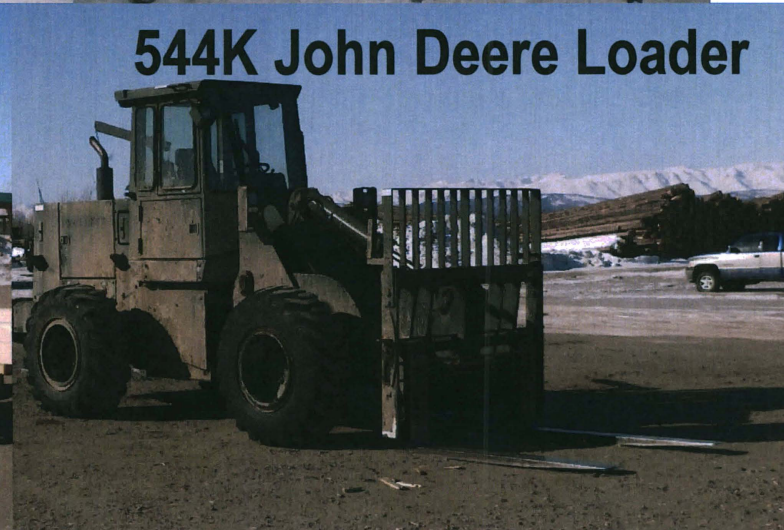
HL740 Hyundai Loader



Mast Forklift



544K John Deere Loader



YTI's Tractor & LowBoy



Transportation

YTI's Self Loading Log Truck



Log Decks



20' x 30' Log Home
8" 3-sided logs
8' Porch
Built in Tok, Alaska





**Eagle Village – 2009 Flood
Replacement Housing – 20' x 28'**

**32' x 36' Log Home with Half Loft
1728 sq. ft.**



Fast Eddy's Cabin



YTI Foundation

1. Long Term Wood Fibre Contracts In Place
2. Large Site For Facility. Ready To Go.
3. Harvesting Equipment In Place.
4. Experienced / Versatile Crew
5. Value-Added Facility Is Operating
6. Assemble Log Homes Throughout The State of Alaska

YTI's issue that developed was...

**How to utilize the sawdust, slabs,
pole timber, & small ends of
sawlogs into a value-added product
for TOTAL utilization.**

The solution is...

Young's Fuel Logs & Pellets, LLC

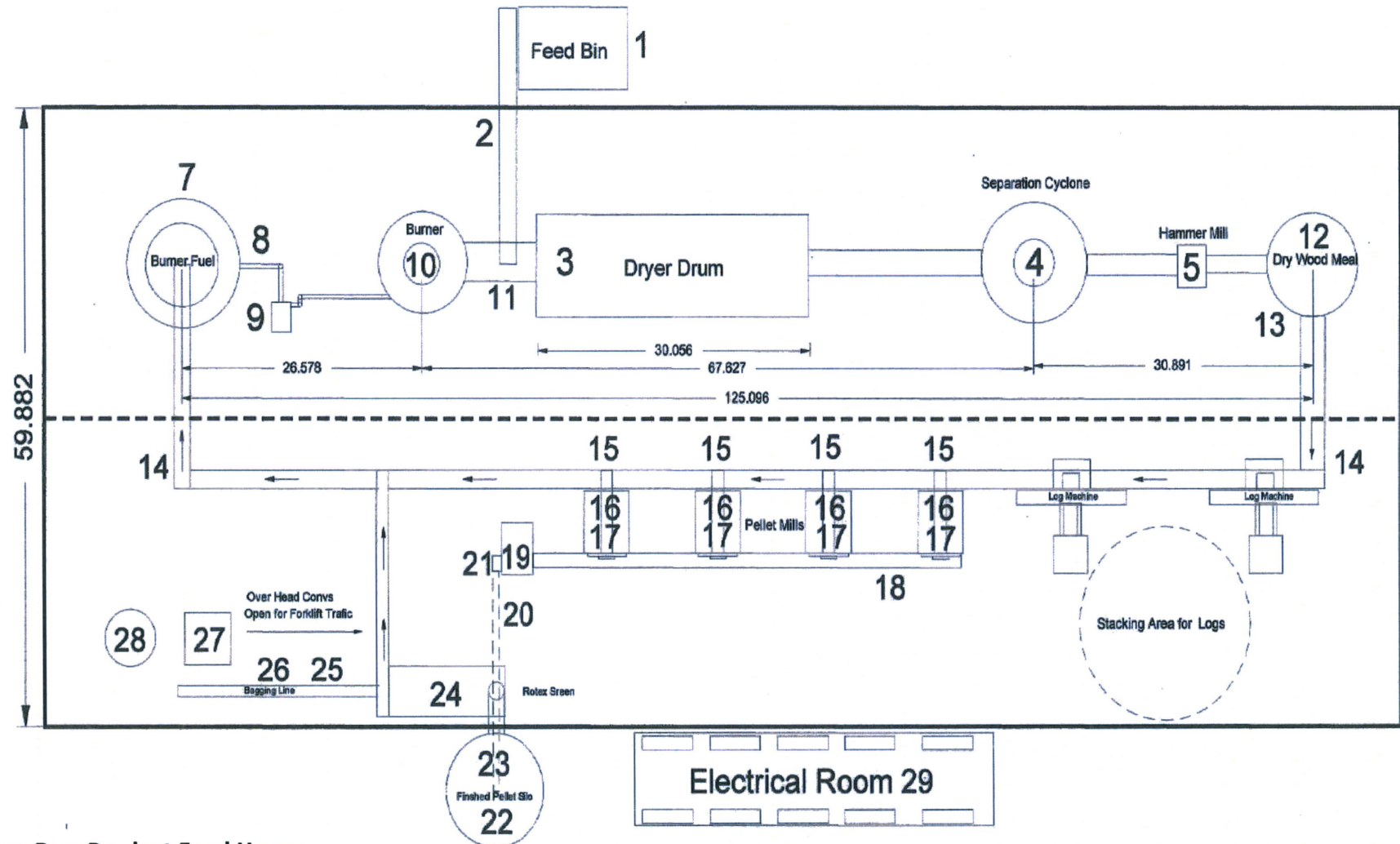
**PO Box 50
Tok, Alaska, 99780**

youngsfuellogsandpellets@gmail.com

Phone: 907-883-5061

Energy Solution

- 1) Biomass burner burns the dirty chips to dry the clean chips for the pellets and fuel logs.
- 2) AP&T Interrupted Power Agreement that has been approved by Regulatory Commission of Alaska



- 1. 2 ea. Raw Product Feed Hopper
- 2. Dryer Feed Conveyor
- 3. 10x30 Single Pass Rotary Dryer
- 4. Pneumatic Cyclone System
- 5. Wood Meal Hammer Mill
- 6. Negative Air System with Cyclone
- 7. Fuel Storage Bin
- 8. Fuel Feed System
- 9. Fuel Feed Hammer Mill
- 10. 30M BTU Burner

- 11. Hot Gas Duct Work
- 12. Wood Meal Storage Bin
- 13. Laidig Reclaimer
- 14. Dry Fiber Feed Augers
- 15. 4 ea. Surge Bin Feed Hoppers
- 16. 4 ea. Conditioning Tube Augers
- 17. 4 ea. 501 Sprout Pellet Mills
- 18. 1 Discharge Hot Pellet Drag Conveyor
- 19. 1 Hot Pellet Cooler (new)

- 20. 1 Discharge Cool Pellet Drag Conveyor (new)
- 21. 2 ea. Bucket Elevator
- 22. Finished Pellet Storage Silo
- 23. Bagging Line Drag Conveyor
- 24. Rotex Screen
- 25. Simplex Scale
- 26. Bag Sealer & Conveyor
- 27. Stacking Hoist
- 28. Stretch Wrapper



#1 Raw Product Feed Hopper



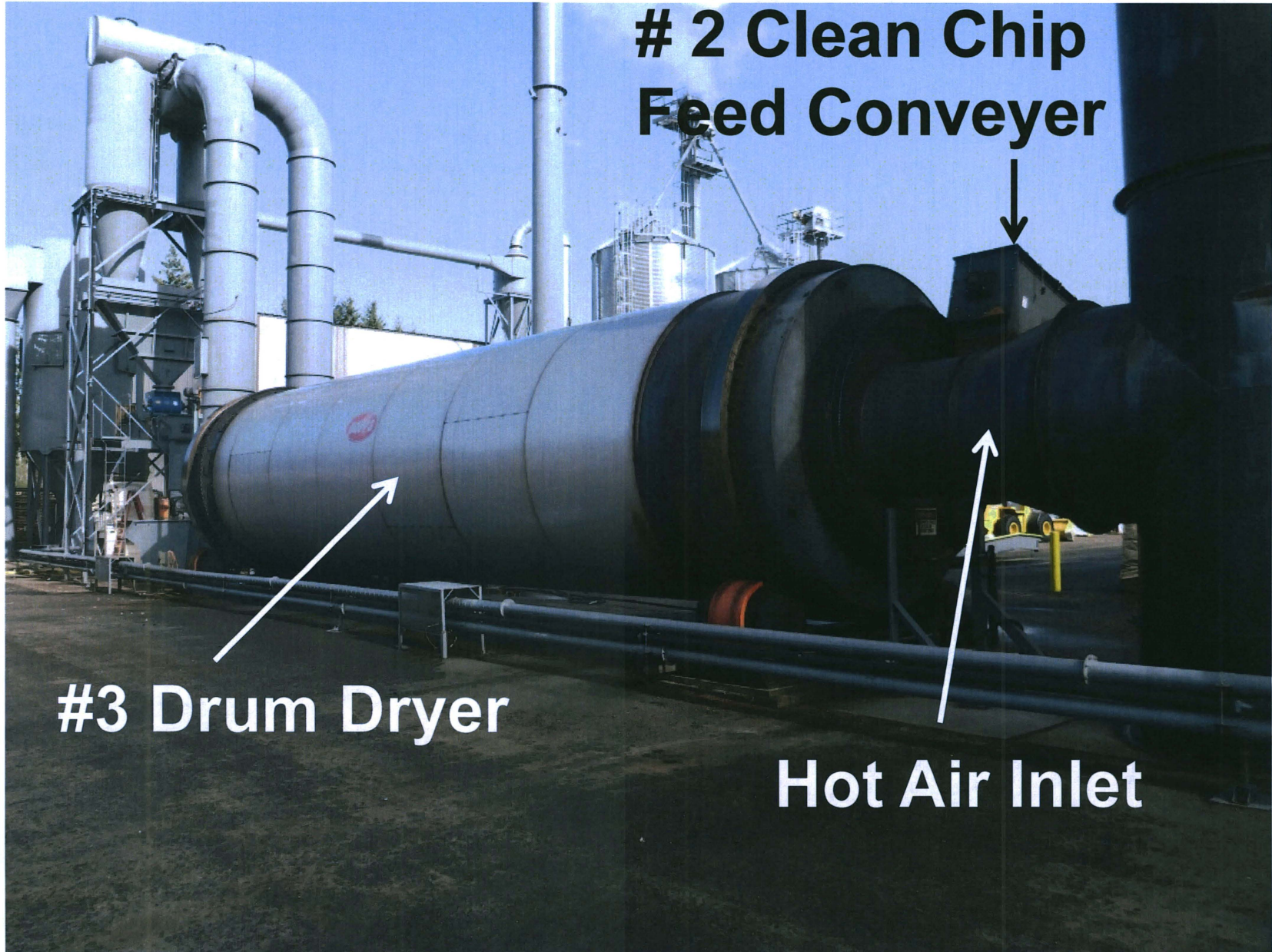
**# 2 Clean Chip
Feed Conveyer**



#3 Drum Dryer



Hot Air Inlet



#10 Biomass Burner Dirty Chip Burner





**#5 Hammer Mill, Breaks Chips to 1/4"
Minus For Pellet & Fuel Log Machines**

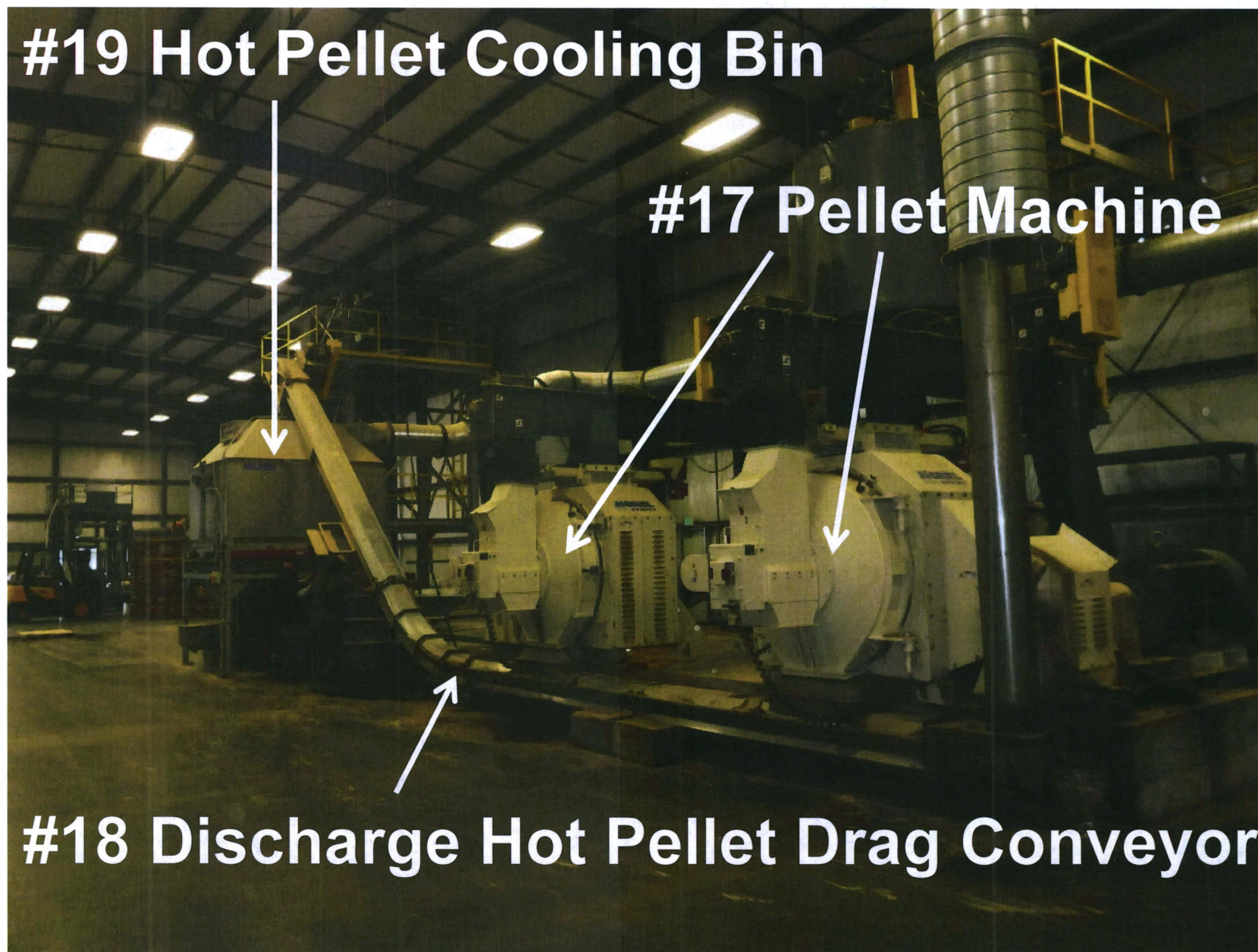
Dried, Reduced Tok White Spruce Chips



#19 Hot Pellet Cooling Bin

#17 Pellet Machine

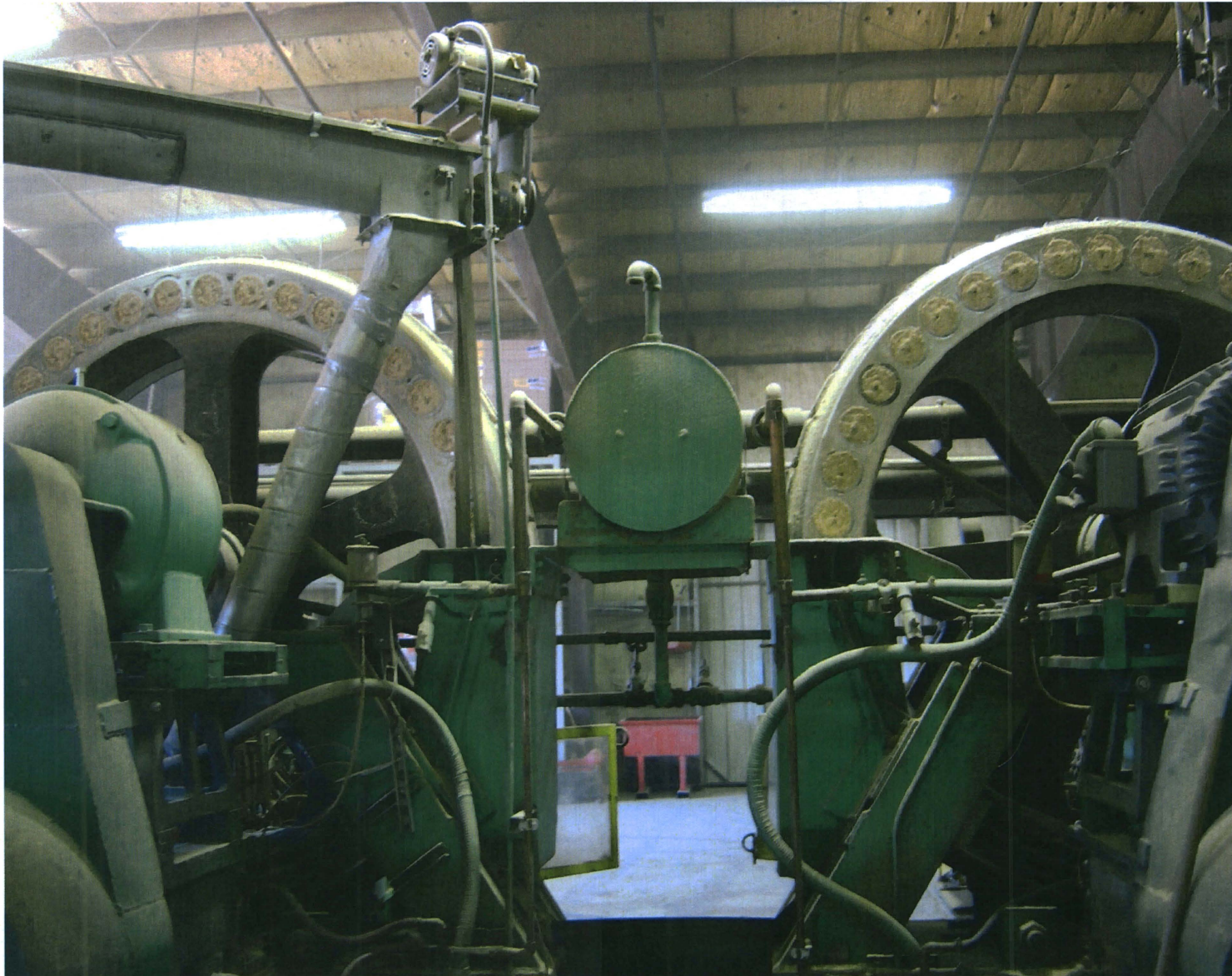
#18 Discharge Hot Pellet Drag Conveyor





#26 Auto Bagging Machine & Conveyor

Fuel Log Machine



First Alaskan White Spruce Fuel Log Produced





**1 Ton Pallet of Alaska White Spruce Fuel Logs
Ready for Transport to Alaska**

1990 Tok River Fire Killed White Spruce



Fuel Log

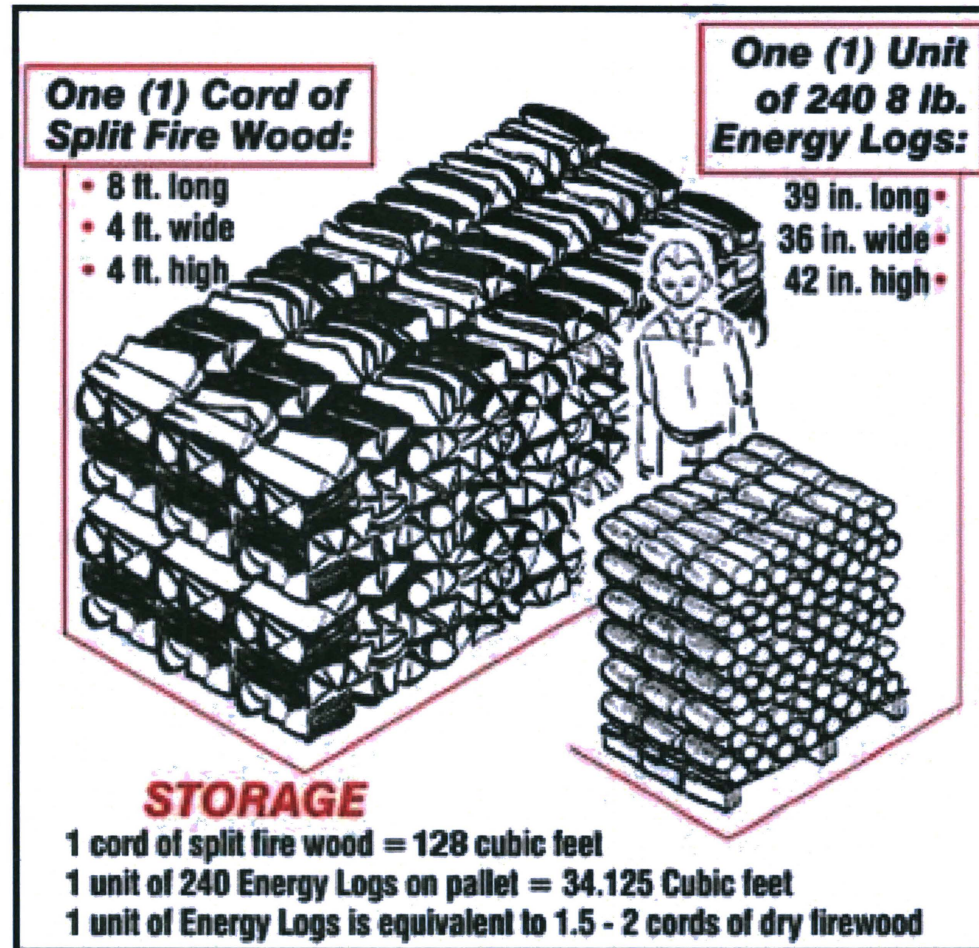
Chips

Pellets

Hammered Chips

Dry Firewood

Cordwood vs. Fuel Logs



1 Ton of Energy Logs has the BTU equivalent to 2 cords of Firewood at 25% MC.

**Twin Ports Testing, Inc. – Wisconsin
Fuel Log Test on 5-28-2013
1990 Tok River Fire White Spruce**

Weight	8 lbs
Ash Content	0.35%
BTU's	68,000 per log
M/C	8.01%

New Green Pellet Plant Jobs Projections

1 ea.	Plant Manager	(yearly)
1 ea.	Salesperson	(yearly)
1 ea.	Administration	(yearly)
20 ea.	Manufacturing	(seasonal)
1 ea.	Equip. Operator	(seasonal)
1 ea.	Log Truck Operator	(seasonal)
1 ea.	Debarker Operator	(seasonal)
1 ea.	Chipper Operator	(seasonal)

Upper Tanana River Basin Ecosystem

- Tanana River eastward from and including the Johnson Rover watershed to Canadian Border
- Unique bedrock and surficial geology, topography, soils, vegetation
- Opportunity to practice ecosystem management:
 - Legacy: fire (prescribed), woody debris, old stands.
 - Resiliency: non-catastrophic events, functions.
 - Adaptive management: using what is learned to change policy and practice
 - Science: literature, sample plots, monitored trials.
- Local Knowledge and Science working together.

From Menace to Meals

How Legislative support has turned Fire



into Food



Natural density of old growth forest surrounding Tok



Brief History / including series of fire threats and community evacuations

- 100 year old climactic forest.
- 1000 strikes per day.
- 5 major fires / million acres plus/ 3 major community exits.
- Over 100 million spent on fighting fires.

Proper Forest management showing selective thinning



Summary of the Forestry standards applied through selective thinning and harvesting

- 25 year contract / 33,000 acres of hazardous fuel.
- Planned checker board cuts / islands/ wildlife corridors.
- Fire breaks for safe deployment / escape for residents.

Decks of harvested material



Summary of steps from fuel harvest to decking

- Mechanical harvests / when ground is solid.
- Decks placed out of beetle range.
- Placed for easy access.

Wood chips



The first step is to reduce hazardous fuel to a controllable fuel for incineration.

Summary of conversion of logs to biofuel

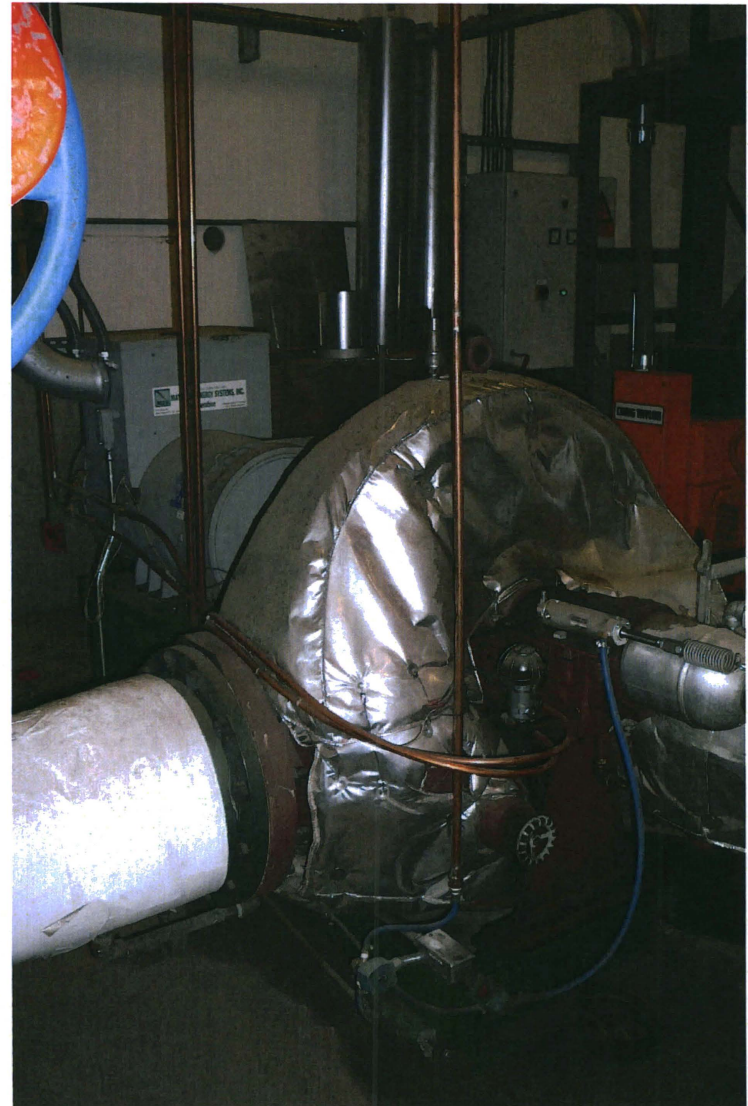
- Decks transported to fuel yard.
- Bunches of trees into grinder / 35 tons per hour.
- Chips to storage and into heated floor bin.
- Cork screw feeders/ on to conveyer / metered pre-fire bin/ into fire pit.

Biomass boiler at work.



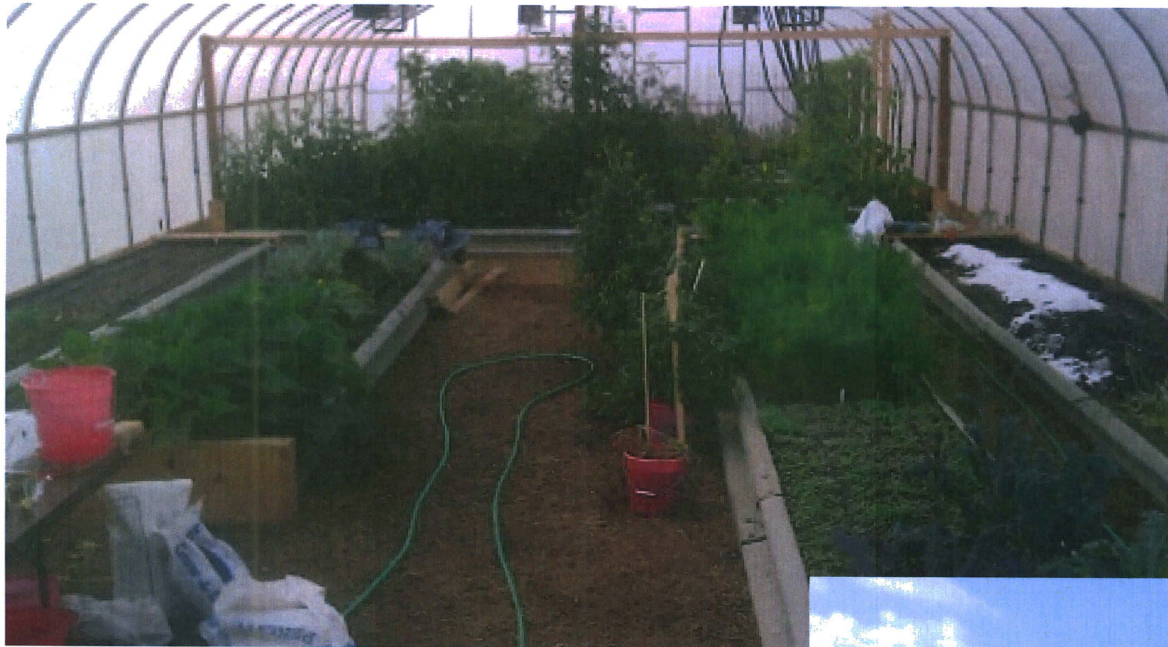
Biomass boiler at work continued...

- Chips incinerated at 1600 degrees.
- Water heated and sent to buildings.
- Steam to low speed turbine / to generator (75 KW capacity)



Benefits and savings to Tok School.

- Fossil fuel off / bio fuel on / savings in excess of \$200,000.00 per yr.
- Electricity balanced load with AP&T / sent to school / in excess of 40 kw.



Greenhouse

100 ft by 40 ft





- Warmed beds
- Early Planting
- Harvest

Processing - to other schools



Forest Energy for heat, electricity, and food



Kids follow every part of the process in their learning.

Forest Energy for heat, electricity, and food



School campus is striving to be net zero.

Forest Energy for heat, electricity, and food



When hazardous spruce fuel helps grow fresh food.

Forest Energy for heat, electricity, and food



When heavy carbon fuel is replaced by carbon neutral fuel.

Forest Energy for heat, electricity, and food



When air quality is significantly improved.

**The people of Tok and our
School District thank the
Legislature for their support of
our vision**

***Where adults and their children
understand how to use our
natural forest energy to convert a
menace into a meal***

