

549

SRES

SB

59

seedlings and thus regeneration schedules fall apart. Flexibility in forestry is not only necessary, it is the by-word. This subsection would require going through the ill-conceived permit process all over again. This is totally unacceptable !!

(m) " *The commissioner may require an operator to post security with respect to an operation, and to submit written reports.*

This is an unfair burden to place on the operator. If the state administration is doing their job properly, they should be in the field making examinations. A report is no better than the interpretation of the author and, of course, such a report would be biased.

(n) " *Operations which begin before the effective date of this Act have one year to comply with this chapter.*"

No operation should be required to comply with a forest practice not in effect at the time the operation was started! Budget planning and cash flows are predicated on the situations and standards of the day. To try and force retroactive compliance is self defeating to the principle laid out in the legislative intent of the Transmittal Letter where it states " . . . to protect the longevity and insure the stability of the forest products industry. . ." (page 4)

In summary, KONCOR FOREST RESOURCE MANAGEMENT COMPANY is opposed to the Sponser Substitute of Senate Bill No. 59.

The concept of having an innovative and competent forest practice act is indeed valid, but, this draft is not the answer to the complex task set out before the legislature.

The State should organize it's Department of Forest, Land and Water under the D.N.R., properly funded so as to generate the much needed data necessary to set realistic goals and objectives for forest practices. A state forest nursery and/or nurseries must be developed for meeting the regeneration needs of timber harvesting operations throughout the state. When these tasks are completed, it will be more opportune to consider legislation to direct forest practices.

Thank you.

Sincerely,

KONCOR FOREST RESOURCE MANAGEMENT COMPANY



Leslie M. Anderson
General Manager

LMA:eg

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

DNR 4
JAY S. HAMMOND, GOVERNOR

POUCH K - STATE CAPITOL
JUNEAU 99811

November 5, 1976

M E M O R A N D U M

TO: The Honorable Jay S. Hammond
Governor

FROM: Avrum M. Gross
Attorney General *b-1 AMG*

RE: Attached bill on forest resources
and practices
Our File No. J-77-001-77

Attached is a bill (a slightly revised version of last legislature's SB 563) which has been requested and reviewed by numerous agencies, although the lead agency is the Department of Natural Resources. A few relatively minor modifications of last year's bill have been worked out with Alaska Lumber and Pulp Company and the Alaska Loggers Association.

We have spent considerable time soliciting the comments of interested organizations on this subject, and made numerous changes to reflect their recommendations before introduction of the bill last year. We will continue to work with these organizations up to and during the upcoming session to obtain consensus on this legislation if possible.

A draft transmittal letter to the legislature, explaining the bill, is attached.

AMG:md:JH

D R A F T

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill which relates to state forest resources and practices. This bill has been extensively reviewed by various state agencies and interested organizations, including representatives of the forest products industry; it contains provisions responding to concerns expressed by them.

In addition to Alaska's incomparable mineral wealth, the forest land and water resources of Alaska are among the most valuable natural resources of the state. This land not only holds timber resources which are vital to the economic well-being of the state and the numerous businesses and activities dependent on timber, but the land is also important as the habitat for fish and wildlife, as collection areas for our water resources, and as places for people to fish, hunt, or simply find peace with themselves.

The purpose of this bill is to provide, with a minimum of new bureaucracy, the essentials necessary to foster the longevity of Alaska's forest products industries while concurrently benefiting from all other forest values along the way. This can be done only through adopting some controls over forest practices, but the controls in the bill have intentionally been kept to a minimum.

The focus of the bill throughout is to create new authority only where gaps exist in present authority, and specifically to avoid the creation of a new bureaucracy to deal with forest practices. Furthermore, the authority to be exercised over private forest land, which is treated distinctly from state forest land, emphasizes only a few basic objectives. Our intention is, above all, to keep government regulation at the basic minimum necessary to do the job.

Instead of creating a new entity to deal with forest practices, responsibility is housed in the Department of Natural Resources which, with its experience in land administration, is the most logical choice. The commissioner would administer the Act, with full powers of delegation to existing structures and personnel resources within the department. This will provide for implementation of the Act with a minimum of disruption and expense and without significant inconvenience to the affected public.

Not all timber harvest activities in the state are subject to regulation. Certain activities are exempted. For example, with regard to private and municipal forest land, only commercial forest land, as defined by the Act, is covered. In addition, unconnected small tracts of 160 acres or less under single ownership are excluded from the provisions of the bill to avoid regulation of activities which have minimal impact. The commissioner

also may exempt certain types of operations of forest land from regulation regardless of where they occur, if unnecessary to achieve the objectives of the legislation.

Fostering a continuous supply of timber is another objective, and, here, no complex or restrictive system of allowable cuts or production limits is imposed. Rather, the commissioner is simply charged with reporting to the legislature at two-year intervals on his administration of the Act; his report must demonstrate his plan for insuring a long-term sustained yield of timber.

As to utilization of timber in a manner compatible with other resource values, this bill does not copy the approach used in several other states of incorporating highly detailed forest practice restrictions and codes. Instead, the commissioner is authorized to adopt regulations governing forest practices with respect to subject matter areas that are common in forest practices legislation. He is guided by certain regulatory and administrative standards which are flexible enough to encourage practicality without sacrificing the objectives of the legislation. Most important, these guiding standards distinguish private forest land (which may not be available for general public use) from state and municipal forest land (which will normally be open to the public), and designate the objectives that are appropriate for each. For example, forest administration on public forest

land must be based on the principle of multiple use of all of the resources and values, and encourages recognition of all resources and values. On the other hand, since private forest land owners may elect to concentrate on particular uses and exclude others, their land is not subject to the multiple use directive.

Timber harvesting will be taking place across the state. Some of this harvesting will be covered by the policies of the bill and the regulations issued under it. Consequently, there must be some means of assuring that those regulations are complied with and that the objectives of the bill are reached. Two different systems have been used in other states. The notification system merely requires a timber harvester to notify the state that he intends to operate on forest land; no advance approval is necessary. The advantage of the notification system is that it is simple and administratively inexpensive (at least the process itself is). The disadvantages are that the government may be largely unaware of what is happening in particular projects and violations may escape notice. In addition, the timber harvester has little or no contact with the administrative authority, leading to the likelihood of misunderstandings and a large number of inadvertent violations. Other states use varying degrees of a prior-approval system. In some cases, highly detailed plans approaching impact-statement detail are required; in addition, they may have to be prepared by a licensed forester. The benefits of this system

include a much greater familiarity with operations taking place around the state, the opportunity to identify undesirable aspects of operations before any damage occurs, and the chance to work out differences with the operator before the project is initiated. On the negative side, the prior-approval system can be highly expensive, onerous to the operator, and may lead to extensive delays.

This bill uses neither system exclusively; rather, it incorporates the positive and eliminates the negative aspects of each. Before operating, the timber harvester must submit a brief description of the proposed project. It is to be reviewed during a relatively brief time by the commissioner (with input from affected agencies) for consistency with the applicable policies and regulations, and approved or conditioned to insure that consistency. Only if substantial problems appear would more detailed plans be required, and these would apply only to the particular problem area rather than to the entire project. To protect against bureaucratic footdragging, there is a statutory maximum time which the commissioner may use for review and approval, and there are no exceptions. There is also a statutory directive that paperwork be kept to a minimum to prevent inconvenience to the operator. This approach will require only that amount of information and participation from the operator necessary to provide the commissioner with familiarity as to the nature of forest development operations and to identify in advance serious problems.

Finally, in the event of a violation, the bill uses an administrative fine system (with full due process guarantees) rather than criminal penalties. Criteria are set out for establishing the amount of the fine. Judicial review of the administrative fine is provided.

I am convinced that this bill is well suited to Alaska and will greatly benefit the natural resources and general well-being of the state. I urge your favorable consideration.

Sincerely,

Jay S. Hammond
Governor