

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 00/2

3562 HRES HB 288 (FILE 2) - HB 306 438

7. The Alaska Outdoor Council annual meeting is scheduled for Juneau from April 11-14, 1985 where subsistence and other critical issues are scheduled for deliberation. We request that no immediate action be taken until after the Council's annual meeting.

8. We agree that some resource management problems could exist this year if the administration chooses to direct the Fisheries and Game Boards to adopt sweeping regulatory changes. It is our opinion that this type of action isn't necessary nor equitable to the general public.

9. If however, it is determined, after full deliberations by the legislature, that immediate temporary corrective measures are essential, we propose that the legislature consider passing a law creating a one year moratorium or "freeze" on the subsistence law which will give them, the public and the Subsistence Task Force one full year to appropriately tackle the entire issue.

SUBSISTENCE

With the recent Supreme Court decision, the State now has the direction and opportunity to assure to All Alaskans the equal consideration to take fish and game for their own personal consumptive use. This decision supports the Constitution's provision that "Wherever occurring in their natural state fish, wildlife and waters are reserved to the people for common use." The court stressed that common 'use' and not priority 'users' was the main intent and should be the effect of the subsistence regulations. They found that all consumptive users, and not just rural residents, are eligible priority subsistence users.

Government and its laws should apply even handedly to All Alaskans and make sure that whatever criteria is used is not unjustly discriminatory in intent or effect. The Constitution does not on a whole and should not have severe restrictive provisions. This same need should be observed by any legislation and should be used to make sure that its clear intent is to protect and insure the equal and just consideration of All Alaskans.

But the same politics that supported the illegal discriminatory subsistence regulations are at work to speedily fix their court failure. Their main weapon, now as in the past, is their threats aimed at the majority of Alaskans. One such threat is that the over 200,000 sportfishermen will be severely impacted by the Supreme Court decision. The court, in fact, said that all personal consumptive users were to be given equal consideration. As most so-called sport fishermen eat the fish that they catch, any priority subsistence use must include them. And those 'pure sport fishermen' who catch and release are not harvesters of the resource, therefore have a negligible impact. With an annual harvest of well over 100,000,000 salmon, All Alaskan should be entitled to the equal opportunity to take fish for their own dinner table.

Another political threat used is that the federal government will deny our State the right to manage our fish and game unless the subsistence priority is based on rural residency. When the Feds mandate that the resource must be managed as they say, the State has in fact already lost the right of management authority. This restriction resulted from State politics that requested and supports such residency discrimination. When Ron Sommerville, Alaska's representative during early 4-2 / ANILCA, opposed this federal mandated discrimination he was removed from his Washington D.C. post. Governor Hammond admitted in a public meeting of the Boards of Fish and Game that Sommerville was removed because of Native pressure. His replacement, John Katz, has compromised the Alaskan public's constitutional rights on this and many other issues. For the State not to politically and judicially oppose this discriminatory action, which specifically denies equality to all residents of Anchorage, Fairbanks, Juneau and Ketchikan, shows a planned sell out of our rights. This plan includes the continued lobbying action of Larry Spengler, Attorney General office, supporting a priority subsistence use of Alaska's fish and game to be as discriminatory and restrictive as has been politically motivated. Alaska would be better served if our Attorney General would be motivated by a responsibility to assure that all residents are not discriminatorily restricted in their rights.

The history of Governor Sheffield's stern actions has been a well known threat to any state employee who would question these unconstitutional subsistence regulations. He fired Fish and Game Commissioner Ron Skoog and Game Division Chief Ron Sommerville because of their private personal stands against these regulations. And he then requested the resignations of all Board of Fish and Game members when they began questioning the blatant directions ordered by Larry Spengler. It is time that All Alaskans are again equal under the law, no matter where they reside, and that such equality is promoted by our State and is not necessitated by continued court challenges by its residents.

Dale Bondurant

Dale Bondurant
SR 1 Box 2516
Chugiak, Alaska 99567



Alaska Sportfishing Association

3505 Arctic Blvd., Suite 800 • Anchorage, Alaska 99503

March 21, 1985

Representative Richard Shultz
Pouch V
Juneau, Ak 99811

Dear Dick,

The recent Alaska Supreme Court decision (Madison Case) has resulted in a potentially chaotic and explosive situation. It leaves nearly all of Alaska's people as "priority subsistence users" under the subsistence law and it precludes restricting these subsistence users until sport and commercial fishing is closed down. Although on the outside this may appear to be fair, it creates an unmanageable mess of the Dept of Fish and Game and renders the Board of Fisheries nearly useless. This could be disastrous to the sportfishing, commercial and hunting industries. Additionally, some rivers cannot stand an efficient harvesting method without a threat to the fish resource. The current legislation proposed by the Administration will not resolve these issues and, as a permanent bill, will harm sport and commercial fisheries.

The citizens of Alaska did not vote or participate in the designation of "rural" Alaska as the only ones qualified for priority subsistence, nor is the definition of "rural" or "subsistence priority" clearly understood. These are issues that need full public discussion prior to considering a permanent change to the subsistence law. Therefore, as an interim measure, the Alaska Sportfishing Association calls for immediate action to:

1. Enact legislation this session with a termination or sunset clause expiration date of December 31, 1985, that will enable the Dept of Fish and Game and particularly the Boards of Fish and Game to limit subsistence fishing in the same manner as they were before the Madison decision.

2. Immediately take action that will insure that prior to the 1986 legislative session the priority subsistence issue is fully aired at public hearings with this input assembled and given to the 1986 legislature.

3. During the 1986 legislative session, thoroughly debate the subsistence priority statute and bring about a long term, fair solution for resource users in all areas of the state.

One possible means of identifying the Boards authority in a temporary law for this year would be to include the eight points utilized by the Board.

We believe that a true subsistence priority need does exist for a very few long time residents in very remote areas. Putting any individual in a position where he has priority of a resource, if even legal, over all other people in Alaska, and the world for that matter, is a law and priority that must be severely restricted.

Robert L. Hunter
Robert L. Hunter

Alaska Sportfishing Association

March 21, 1985

The Honorable Richard Shultz, Co-Chariman
Alaska State Legislature
Fouch V
Juneau, Alaska 99811
Dear Representative Shultz,

We urge your support of HB #288 which will
help save our Copper River fishery.

This request is not from a casual concern,
but we are dependent on the salmon fisheries
for our livelihood.

Sincerely yours,
Chris D. Billings
Chris D. Billings
P.O. Box 219
Cordova Ak. 99574

ok

Kenai Peninsula Fishermen's Cooperative Assn.

Political and Legal Action Committee

Box 546, Soldotna, Alaska 99669

Phone: 262-2492



March 18, 1985

Representative Richard Shultz
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Shultz:

We are writing to you to ask your support on Senate Bill 37 and its corresponding House Bill 235. It is an act relating to management plans and regulations adopted by the Board of Fisheries. We have enclosed a Request for Support for this piece and legislation and hope that you will take time to read it.

We are especially concerned that we make it clear to you that we do not support United Fishermen Of Alaska in their position on the Governor's piece of subsistence legislation. In a March 8 letter to past UFA members, support was sought for the this legislation. It was stated that "efforts will require a rigorous and expensive lobbying effort, and even then the outcome will be uncertain because of the powerful seats held in the Legislature by the Fairbanks delegation." These are NOT our sentiments as commercial fishermen who fish the waters of Cook Inlet. In years past, we played a very active role as members of UFA with Cook Inlet commercial fishermen comprising a large number of their membership. When we called upon UFA to assist us with problems that we faced in Cook Inlet, they did not want to become involved. When we needed their help, they were not there to help. As a result of these types of things, we withdrew our support from the organization, but, unfortunately, UFA stills thinks that they have the authority to speak for every commercial fisherman in our state. There have been many issues that UFA has supported in recent years that we cannot support. Please do not think that they speak our minds when they speak on commercial fishing issues.

Representative Richard Shultz
Page 2
March 18, 1985

Our legislation is not a special interest bill. It is designed to benefit all user groups of our very valuable resource of fish. We believe that it would allow the Alaska Board of Fisheries to operate apart from the political pressures and whims of special interest groups that they are at present so susceptible to. It is designed to have our resource managed on a biological basis which will insure its future for generations to come. It is not an "exclusive right" bill and we are not endeavouring to remove anyone from their opportunity to have a part in the harvest of this resource.

We appreciate your time and consideration and hope that you will support us on our bill.

Sincerely,



Cheryl Sutton (Mrs.)
Committee Coordinator
Political and Legal Action Committee

CS:cp

Enclosures

KENAITZE INDIAN TRIBE
Resolution 85-6

RESOLUTION IN OPPOSITION TO HOUSE BILL 288 AND SENATE BILL 231

WHEREAS, the Kenaitze Indian Tribe is a federally recognized Indian Tribe which was reorganized in August of 1971 under the statutes of the Indian Reorganization Act of 1934 as amended for Alaska in 1936; and,

WHEREAS, the Kenaitze Indian Tribe represents and promotes the security, social welfare as well as the interests and common bond of association of its 500 Tribal members; and,

WHEREAS, it is the conviction of the Kenaitze Indian Tribe that the preservation and fostering of a customary and traditional subsistence lifestyle for its members is the primary means of promoting the interests of its members; and,

WHEREAS, the State of Alaska's Subsistence Law (Chapter 151 SLA 1978) recognizes that the fish and game resources of the state "... are not inexhaustible and that preferences must be established among beneficial users of the resources..."; likewise that: "... it is in the public interest to clearly establish subsistence use as a priority use of Alaska's fish and game resources, and to recognize the needs, customs, and traditions of Alaska residents" (Sec. 1, Chapter 151); and,

WHEREAS, it is the Supreme Court of Alaska's opinion that the Board of Fisheries interpretation of "customary and traditional" uses (§ 703 HR 39) in the 1978 Subsistence Law is inconsistent with the legislative intent to provide guidelines for the protection of subsistence fishing (5 AAC 01.597); and,

WHEREAS, 5 AAC 01.597 was designed to protect subsistence uses; and,

WHEREAS, the Board of Fisheries has devised a regulation to disenfranchise many subsistence users whose interests the statute was designed to protect; and,

WHEREAS, House Bill 288 and Senate Bill 231 - an Act entitled: "An Act relating to the taking of fish and game for subsistence and personal use; and providing for an effective date" - was introduced at the request of Governor Sheffield; and,

WHEREAS, House Bill 288 and Senate Bill 231 intends to amend Section 3 AS 16.05.940(23) to read: (23) "'subsistence uses' means the customary and traditional uses by rural [In] Alaska residents of wild, renewable resources for direct personal or family consumption..."; and,

WHEREAS, Section 4 AS 16.05.940 is amended by adding a new paragraph to read: "(28) 'personal use fishing' means the taking, fishing for, or possession of finfish, shellfish, or other fishery resources, by Alaska residents for personal use and not for sale or barter..."; and,

KENAITZE INDIAN TRIBE
RESOLUTION 85-6
PAGE TWO (2)

WHEREAS, amending Section 3 (AS 16.05.940(23) to regulate "subsistence uses" to rural Alaska residents only and creating "personal use" fishery for urban residents is viewed as an attempt to divide Alaskans and to legalize something that has been illegal in the past;

NOW THEREFORE BE IT RESOLVED BY THE EXECUTIVE COMMITTEE/TRIBAL COUNCIL OF THE KENAITZE INDIAN TRIBE at a meeting held on March 18, 1985 that the Tribe goes on record as being opposed to House Bill 288 and Senate Bill 231 introduced at the request of the Governor;

BE IT FURTHER RESOLVED that the Tribe urges all Senators and Representatives to carefully review the legality of House Bill 288 and Senate Bill 231 before making this important decision;

BE IT FINALLY RESOLVED that the Tribe will request federal intervention if further attempts to circumvent Supreme Court rulings are taken.

CERTIFICATION

This Resolution 85-6 was duly adopted by the Executive Committee/Tribal Council of the Kenaitze Indian Tribe at a meeting held on March 18, 1985 by a vote of 6 for and 0 against with 1 absent and 0 abstaining.

Ms. Clare Swan

Chairperson, Kenaitze Indian Tribe

ING Swolff

Secretary, Kenaitze Indian Tribe

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 3-2000
 JUNEAU, ALASKA 99802
 PHONE: 907 / 465-4100

March 22, 1985

The Honorable Peter Goll
 Alaska State House
 Pouch V
 Juneau, AK 99811

Dear Representative Goll:

We appreciated the opportunity to have our department, the Department of Law, and the Boards representatives meet with your committee and believe it went well. In response to the inquiry of Representatives Furnace and Phillips concerning Federal Funding available under ANILCA, Dingell/Johnson (D-J), and Pittman/Robertson (P-R), following is an outline of the Federal Funding that was available for the past three years:

	<u>ANILCA</u>	<u>D-J</u>	<u>P-R</u>
FY 85	\$1,000.0	\$1,639.0	\$4,600.2
FY 84	\$1,000.0	\$1,569.0	\$3,804.5
FY 82/83	\$ 960.0	\$1,753.0	\$3,387.4

The ANILCA funding, which is available specifically for the implementation of subsistence provisions, required 100 percent matching funds from the State of Alaska, and the D-J and P-R funds require a 25 percent match.

It is our understanding that the solicitor of the Department of Interior is reviewing possible compliance questions, including funding ramifications, related to the Madison decision. The ANILCA funds are directly related to subsistence provisions as mentioned. However, the D-J and P-R funds are only indirectly potentially affected.

I hope this provides the information requested. If you have additional questions, please call me.

Sincerely,



Don W. Collinsworth
 Commissioner

House Special Committee on Fisheries
Governor's Conference Room
March 21, 1985
8:30 a.m.

Members Present: Representative Peter Goll, Chair
Representative Mike Navarre
Representative Kate Hurley
Representative Roger Jenkins
Representative John Binkley
Representative David Thompson

Members Absent: Representative Andre Marrou

Legislators Present: Representative Walt Furnace
Representative Jack Fuller
Representative Randy Phillips
Representative Steve Frank

Legislative Staff Present: Offices of Senators: Zharoff, Sturgulewski, and Senate Advisory Committee. Representatives: M. M. Miller, Sund, Binkley, Jenkins, Thompson, Wallis, Boucher, Navarre, Larson, Reiger, Grussendorf Hermann, Szymanski, and Fuller.

COMMITTEE CALENDAR: Briefing on Subsistence and HB 288 by the Department of Law, the Department of Fish and Game and Alaska Board of Fisheries. Some members of the departments and Alaska Board of Fisheries participated via teleconference.

WITNESS REGISTER:

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ACTION NARRATIVE:

TAPE 12, SIDE A

Recording

Number 003

Chairman Goll called the special meeting on subsistence to order at 8:39 a.m. and listed those present: We have a number of distinguished guests representing a variety of organizations and interest groups. We are here today to receive a briefing by the Department of Fish

and Game, its various divisions, the Department of Law and to receive an announcement and some information from the joint boards of fisheries and game regarding their position on the subsistence bill and their guidance on the issue in general. So with that I would invite Mr. Ayers representing the Commissioner's office of the Department of Fish and Game to open our meeting.

Number 015 Jim Ayers, Alaska Department of Fish and Game: Thank you Mr. Chairman, members of the committee and other Representatives. I appreciate this opportunity. My name is Jim Ayers, I'm Deputy Commissioner of the Department of Fish and Game. What we would like to do this morning is provide a framework from which we think that you will be able to construct and a reasonable discussion and action regarding the Governor's bill and most particularly as it relates to the Madison decision. We're here in the spirit of cooperation. We're here to assist in any way we can and to hopefully, help us all understand that the Madison Decision has removed the board's ability to achieve balance. It has removed the board's ability to obviate the potential deviousness that was throughout our state for a while. We would like to discuss in this presentation three major aspects: One, a review of the Madison decision and the legal holdings; two, the implications that we think are there with some definition and some implications that are potentially there with regard to federal law; and the third aspect is of course, the potential impact on users as a result of the Madison decision. God willing there are participants in Anchorage at the board meetings who are going to make the majority of this presentation. And so I will become a pretty face and a listener as you all are. The participants in Anchorage are Bix Bonney, a member of the fish board, Beth Stewart, who is the director of our boards' division; Steve Behnke who is the director of the subsistence division; Larry Spengler who is assistant attorney general from the Department of Law; Ron Jolin, who is the chairman of the joint boards and chairperson of the fish board; Ken Florey who is a regional supervisor with the Department of Fish and Game; John Garner, who is a board member of the fish board; if there are others there that I have not mentioned, I'm sure they will identify themselves as the need arises. What we thought would be most helpful is if we began with a presentation from Ron Jolin who is the chairman of the joint boards. Ron, hopefully, is awaiting my silence and will then discuss with you what he believes the current situation is and give you the boards' perspective. I will mention one other thing and that is that we have distributed a copy of the resolution that was passed by the joint boards yesterday. And so Ron will know you have in front of you a copy of their resolution. With that said, Mr. Chairman, and with a gentle reminder that we are here in a spirit of cooperation and to work with you in any way we can to resolve this potential conflict. And with that I would hope, Mr. Chairman, that we can then move to Anchorage to hear from Ron Jolin.

Number 115 Chairman Goll: Thank you very much Mr. Ayers. Yes, we will move to Anchorage. I'd like to request of you and all the other participants today to the extent possible that you send us your comments in writing. What we'd like to do is make sure that other members of the House and Senate who are not present today are thoroughly briefed and by getting either your written comments or transcripts of your comments telecopied down to us here in Juneau, we would take it upon ourselves to get that distributed. Secondly, I'd like to say we were hoping to go until 11

o'clock this morning, but there's a majority caucus at 10:00 and things may wrap up earlier, so that gives us about an hour and a half, a little less to get our business done and I just wanted all participants to be aware of the schedules. Thank you very much and once again back to you and back to Anchorage.

Ayers: Ron Jolin are you in Anchorage?

Number 118 Ron Jolin: Yes, good morning Mr. Chairman and ladies and gentlemen of the House Committee on Fisheries. I'll give a little overview on what the boards' perspective is of the Madison decision. As you know under Title 16, the boards' responsibilities are the preservation and enhancement of the resource for the people of Alaska. And the allocation of those resources to the different user groups in the state of Alaska. I think the board feels that prior to Madison, we were following a process that was working fairly well. Maybe I can give you some of our perspectives of what the Madison decision means to the board or what we feel are some of the problems we would be facing under the decision. We would have some problems in trying to accommodate our commercial and sport users in the state of Alaska. I think that under the decision we are put in a position of having to allocate fish to one user group in preference over all user groups in the state, especially the commercial and sport fishermen. It's taken away a lot of flexibility of the board to regulate our fisheries. I think that as we move into this we will be getting a more indepth report on that from our legal staff, from the AG's office and from some of the people in the department. HB 288 would return the flexibility that we need to regulate and manage our fisheries resources. It's not an easy job in a state as large as Alaska to try and allocate all of the resources in an equitable manner to all of our user groups. But we really feel that we're doing the best job that could be done under the circumstances. I think that anything that we can do to return our regulatory authority to the balance that we had prior to Madison, would be in the best interests of all people and all user groups in the state. I suppose as we move into this we'll be getting into some of the worst-case scenarios and what might happen - what might not happen this year and the following years if we do indeed not get back to our previous position before Madison and if we do return to our position. If we can find the support that we need to pass both bills. With that maybe I'll turn it over to Larri and she can run through some of the AG's perspectives.

Number 167 Larri I. Spengler: Thank you. This is Larri Spengler with the Department of Law. What I'm going to do is give a very brief overview of Madison, the decision which put us all in this position and also of the series of events that led up to the Madison case and the holdings of Madison, generally how they impact the board's authority and also briefly how that has implications with regard to the federal subsistence law. After that, the different people from the Department of Fish and Game, and to whatever extent I can be of assistance in that, along with board members will talk about the various specific situations that we know we'll need to address under Madison if the Governor's bill does not pass. We thought it might be most useful for questions to be asked after each section, rather than waiting to the end of the whole presentation. So when I'm done with the legal overview, if there are any questions on that maybe we could take them then and then after we talk about each resource

situation, if the committee has questions on that we could take those questions at that time before getting into the next one.

The Madison case is the first time that the State Supreme Court has had an opportunity to evaluate the state's subsistence statutes and what it means. In doing that the court basically turned on its head the authority the board had thought it was exercising up to that point and made it very difficult for the board to continue the balance and the ability to accommodate all of the different uses that had been thought to rest in the board earlier.

Madison is a case that came out of Cook Inlet. It's a case that was filed by people living in Kenai and Homer. The board's approach to subsistence in Cook Inlet is perhaps a useful microcosm to how it has been approaching subsistence throughout the state as well. And therefore the chronology that led up to this case, to this lawsuit, provides a good background against which to look at Cook Inlet in more detail and also to look at the other situations.

The state subsistence statute was passed in 1978. Before 1978, the board of Fisheries had been delegated from the Legislature the authority to authorize commercial fishing, sport fishing and subsistence fishing in the board's discretion. Subsistence fishing at that time, before 1978, was simply described as fishing by net for personal use. Sport fishing was defined as fishing by rod and reel for personal use and commercial fishing was defined as fishing for profit. What the Legislature did in 1978 was take away some of the board's discretion with regards to subsistence fishing. The Legislature said that if there were subsistence uses on a fish stock or a game population, for the game board, then the board no longer had the discretion to authorize or not authorize that. It had to authorize fishing unless it would hurt the resource. So it removed some of the board's discretion and it also said that if there was a resource situation that required restriction, subsistence would have the priority. So, the law was passed in '78 and several years went by. No real effort was made or no real examination was made of the law and what it required by the board of fisheries. In 1980, there were three lawsuits filed by different individuals around Cook Inlet and communities.

And that brought the board's attention and the state's attention generally sharply into focus on the subsistence law and what it required. The state lost all three cases simply because the board had not really been looking up to that point at the subsistence law and what it required.

Those cases came from the Homer, Kenai and Tyonek areas. As a result of that summer, the board in a winter meeting of 1980 and the spring of 1981 examined the uses around Cook Inlet and examined which of those uses were subsistence uses of salmon under the state law and in order to do that they had developed criteria against which they would examine a use of salmon to determine if it was a customary and traditional use of salmon. That was, customary and traditional being some of the catch words in the definition of subsistence uses. Under those criteria, the board determined that in Cook Inlet only three communities qualified for subsistence uses: Tyonek, English Bay and Port Graham. The board

authorized subsistence uses for those communities and then looked at the rest of the Inlet. Elsewhere in the Inlet, there had been subsistence fishing authorized since statehood and before, under the definition of net fishing for personal use. Now, the board had determined that that fishing was not subsistence fishing because it did not meet the criteria that they had developed and in the spring of 1981 before the 1981 summer the board did not authorize any net fishing for any one else in Cook Inlet for their own personal use except for the subsistence fishing which was to occur in Tyonek, English Bay and Port Graham. That summer, the summer of 1981, individuals from Homer and Kenai filed two different lawsuits. In both cases, the people claimed that they were subsistence fishermen and always had been, and should be able to continue to subsistence fish, But, also claimed that in any event, they ought to be able to have some kind of access to the fishery with nets because they had historically done so. The court in Madison at the lower level refused to overturn the board's assessment, that there were no longer subsistence uses existent in the Kenai area, but also said that the board had to treat those people fairly and could not eliminate that historic use without some good reason. And that basically that in treating them fairly they might have to set up some kind of personal use fishery that would allow those people, Mr. Madison, the plaintiff in that case, and others in the area, access to the fish. So, the board then established, after the summer of 1981, established the personal use fishing category in regulation. Personal use fishing was defined, basically the way subsistence fishing had been defined before the subsistence law was passed: fishing by net for personal use. Subsistence fishing was now defined as fishing for subsistence uses, customary and traditional uses for certain purposes. So subsistence fishing was a subset after 1978 of what subsistence fishing had been before 1978. It was, under the board's interpretation, narrowed. The definition of subsistence fishing had been narrowed in 1978 to protect the uses and harvests in rural communities and areas. Ok, so the board set up a personal use fishery and authorized personal use fisheries opportunities for Mr. Madison and everyone else in the Anchorage area, Kenai area Homer area on sockeye in the summer in Cook Inlet and some coho in the fall. What the lawsuit was filed over was a more extensive coho fishery in the fall, that's what the people had been seeking. The court, as I said in Madison, said these criteria that you've been applying are the right approach to identifying rural communities in the areas that are reliant on fishing for personal uses and a significant component of the economy of the community or area. And that's exactly what the Legislature meant in 1978. You're doing it right, board go ahead. So the board went ahead and in combination with the joint board adopted 8 criteria which eventually replaced the 10 criteria from Cook Inlet which both boards would use on a statewide basis to identify subsistence uses of fish stocks and game populations.

The board of fisheries applied those criteria in various situations, including the Copper River and we'll get into that a little bit more later. At the end of February the Supreme Court issued its ruling in Madison. All along since 1981, the case had been slowly winding its way through the court system and finally reached the State Supreme Court. The court said that the board's implementation of the statute was inconsistent with the statute. The court did not rule on any constitutional issues, but rather looked at what the court thought the Legislature in 1978 meant. And the court determined that the Legislature

in 1978 had not meant nor had authorized the board to identify subsistence uses as rural uses in rural communities and areas. That the Legislature had not authorized the board to look at the uses of communities or areas. And conversely that the Legislature had not authorized the board to look at individuals to see at first instance who gets in to be able to subsistence fish.

Mr. Jones can because he's lived here for 20 years, Mr. Smith can't because he's been here for two years is not a system that the board had ever tried, but the court said by the way, don't try it because that wasn't meant either. What this left us with is a situation where, under the court's ruling, if there has been a subsistence fishery at any time on a particular fish stock, the board has to authorize subsistence fishing on that stock unless any fishing would be dangerous to the stock. The board cannot say who can go and fish in that fishery. All Alaskans can go and fish until or unless all sport and commercial fishing on that relevant stock has been eliminated. So an example which we'll talk about more in the Cook Inlet section is the village of Tyonek across the inlet from Cook Inlet. The board established a subsistence fishery for which only residents of Tyonek could qualify on king salmon in the spring. They took approximately 2000 king salmon in a year in that fishery. Now, there is no question in that fishery is a customary and traditional fishery, the board will have to authorize it and cannot exclude anyone from participating in it. So anyone from Anchorage or from anywhere else can go over there and fish and the board cannot restrict that until and unless the sport fishery in the Susitna drainage afterwards and any relevant commercial fishery have been closed down.

The Madison case then left us with two different sets of problems. One is the potential disruption to the balance that the boards have achieved among the different use groups. And the other is a probably inconsistency with federal law. If it's acceptable, I'll go straight on into the federal law problem and then pause for questions, unless someone would like some now. (no questions)

The federal subsistence law, ANILCA Title 8, allows the state to continue its traditional management on all of the federal land in the state, which makes up 60% of the land, it's not just the parks and monuments, it's all federal land. If the state by a law of general applicability provides for three things which are specified in ANILCA: one is the advisory committee and regional council system, which the state already has; another is the subsistence priority which the state has; and the third is the definition of subsistence uses that is found in ANILCA. ANILCA defines subsistence uses identically to the state with the exception that it is specifically stated in the statute that subsistence are customary and traditional uses by rural Alaska residents. Up until the Madison decision, we were in compliance with ANILCA because the boards had been interpreting our subsistence law as the intention of the law was to protect the harvests of fish and game in rural communities and areas which were dependent on the resource. So, we were in compliance. Now the court has said that the boards are not authorized to identify subsistence uses as rural uses. If the boards cannot protect rural uses as subsistence uses, separately from other uses then we will not be in compliance with ANILCA and the federal government may be required to take some action to impinge upon the board's

regulatory authority over fish and game. There are several questions with regard to this. One aspect of this, as I mentioned, is taking over the management of the federal land in the state. Land is defined in the statute as water and there is an argument to be made, although the state has not and would not concede this, that navigable waters are included under the definition. So, if that were the case, then the federal government would have to exercise some management over all of the navigable water.

The other thing to keep in mind is that even if the federal government doesn't particularly want to take over management there is a section in the federal law that allows another private party to go into court and sue the federal government to make them do their duty as such under the law. So, a private party or group could go into court and sue the federal government and say: 'federal government, the state is not now authorized to protect rural uses as opposed to other uses and that means that you have to go in and do something.' And the court might well order them to do something.

Another consequence of this is financial. Because the statute says that if the state is in compliance we will receive and we have been receiving matching money in the amount of about \$1 million dollars a year from the federal government to support the advisory committee and regional council system. And maybe Jim Ayers could summarize the financial consequences before we take any questions.

Number 376 Ayers: Thank you Mr. Chairman. I will do two things actually, I will mention Larri and to Beth Stewart who, hopefully, is waiting to discuss some other aspect of the impacts subsequent to this. We are under a time line here and maybe, Mr. Chairman, you could give us some direction.

Chairman Goll: Yes, Jim, thank you. Rep. Fuller has just come back and advised us that we will be able to continue until 10:30 a.m. So that's a little bit better, but we will still have to move rapidly if we are going to get through all of the facets of your presentation.

Ayers: Those of us who are inclined to enjoy the sound of our own voice will try to restrain ourselves. Thank you Mr. Chairman. The financial implications with regard to the federal funds are most specifically those ANILCA funds that we receive from the federal government to ensure that we carry out the intent of the federal language with regard to rural Alaskans and subsistence use. The subsistence way of life has given cause to the federal government to provide funds to the state of Alaska to ensure that the advisory committees and the regional councils have sufficient funds to address their own issues in the names of solving their own problems and bring those forward to the board. Those funds also assist the department through the division of Subsistence in providing support staff to address questions such as resource uses in rural areas, and those funds total a million dollars. Those are on a reimbursable basis, so what we have is a reimbursement from the federal government each subsequent year to the expenditure.

There's a million dollars of the ANILCA. A question that would arise is other federal funds - for example we have as some members who might have attended the finance discussions what is referred to as Dingell/Johnson or now Dingell/Johnson/Wallop/Breaux funds. Those funds come as support funds for the sport fishing industry from the federal government to us. It is not clear what the status of those funds would be and I won't belabor that point unless there are specific questions. There also Pittman/Robertson funds, those funds come from the federal government as a result of hunting activities. Both of those funds are based on a formula that have to do with hunting license and area and those kinds of things. So it's not clear what the status of those funds would be, although as the Department of Law has mentioned, there is some question about whether guiding, outside activity, sport fishing, hunting, what the results would be and therefore those funds could be called into question by the federal government. But we have no information at this time which direction the federal would go with regard to those funds.

Those funds total a little over \$5 million. So you have a direct question on a little over a million dollars. There is a subsequent question of probably another \$5 million. With that said, Mr. Chairman, perhaps the best thing to do is to answer any questions at this point and of Mr. Jolin, the board chair, Larri Spengler of the department of Law and her overview or of myself and then we'll go immediately to some specific concerns and potential impact on users.

Number 436

Representative Furnace: Mr. Chairman, a question.

Goll: Rep. Furnace.

Representative Furnace: Mr. Chairman, a request to Mr. Ayers. I'd like to have a more detailed breakdown on these federal funding sources. Perhaps you could track that over several years as to what those funds have been and the specific sources and conditions.

Ayers: Mr. Chairman, Rep. Furnace, we'll have that by tomorrow for you.

Goll: Mr. Jolin, do you have any other comments in behalf of the board that you're planning to make during this presentation. Are other board members going to be making further presentations?

Jolin: No, we're just going to talk about them in the context of each situation as we discuss them.

Goll: Then maybe it would be helpful to the people present if maybe you or I were to briefly read the resolution of the board of fisheries and game. Is that now the position of the board? Has that been officially voted on and are we to take this as the joint boards' stand on this issue?

Jolin: That was voted on yesterday by the joint boards and that is our joint resolution and our stand on the issue.

Goll: Then with the permission of the members I'll just quickly read this statement so that all the people with us today will be aware of where the boards stand and then go on as Mr. Ayers suggested. The statement reads:

WHEREAS the Alaska Board of Fisheries and Alaska Board of Game have been delegated responsibility and authority by the Alaska Legislature to regulate the taking of fish stocks and game populations for the maximum benefit of all of the people of Alaska; and

WHEREAS, prior to the decision of the Alaska Supreme Court in "Madison v. Alaska Department of Fish and Game" the boards developed procedures which provided adequate regulatory flexibility, both to protect opportunities for subsistence hunting and fishing in rural communities and areas, and to provide hunting and fishing opportunities for recreational, commercial, and other uses; and

WHEREAS, it is unclear to what extent the boards may restrict subsistence harvest after the "Madison" ruling and as a result, substantial and significantly disruptive reallocations of opportunities to harvest fish stocks and game populations may be necessary. For example:

1. The commercial gill net fishery which is an important component of the Prince William Sound economy may need to be significantly restricted in 1985 or, eventually, even closed. Prior to the "Madison" decision the Board of Fisheries had adequate regulatory flexibility to accommodate both the historic commercial fishery and other users.

2. Sport fishing for king and other species of salmon on the Kenai and Naknek rivers and in the Susitna drainage may need to be significantly restricted in 1985 or, eventually, even closed. Prior to the "Madison" decision the Board of Fisheries had adequate regulatory flexibility to prevent that result.

3. Non-subsistence hunting, including commercial guiding activities may be significantly restricted and, in many cases, eliminated. Prior to the "madison" decision the Board of Game had adequate regulatory flexibility to accommodate these users reasonably.

WHEREAS, prior to the "madison" decision the State of Alaska was in compliance with Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). As a result of the "Madison" decision the federal government may now take control over game populations on public lands and fish stocks on public lands and within navigable waters; and

WHEREAS, if the State of Alaska is no longer in compliance with ANILCA, the state will lose the ongoing million dollar per year federal appropriation for the state's public participation system which is essential to the success of the state's regulatory and management activities; and

WHEREAS, the Alaska Board of Fisheries and Board of Game strongly believe that the potential restrictions, closures,

reallocations and loss of funding described above are not in the best interest of the fish and wildlife resources and the people of Alaska;

NOW THEREFORE BE IT RESOLVED, that the Alaska Board of Fisheries and Board of Game meeting in joint session respectfully, but strongly urge the Alaska Legislature to enact legislation during the current legislative session which returns to the boards the regulatory authority and flexibility which they exercised before the "Madison" decision; and

THEREFORE BE IT FURTHER RESOLVED, that the Alaska Board of Fisheries and Alaska Board of Game have reviewed SB 231 and HB 288, the legislation introduced by the Governor to accomplish this purpose, and urge that this legislation be enacted into law as expeditiously as possible.

Thank you very much. Mr. Jolin and Mr. Ayers please proceed.

Ayers: Mr. Chairman, the next brief presentation that we have designed is from Beth Stewart, who is director of our board's division. We're going to ask Beth to talk a little bit about the boards approach in current potential problems from the perspective of proposals or petitions. Perhaps Beth could lead that off. Mr. Chairman, members of the committee - Beth Stewart, if you're in Anchorage.

Number 534 Beth Stewart: The boards have two situations facing them at this meeting. Some of the proposed changes to the regulations which are before them will have to be considered in light of Madison and the changes that it has imposed on the board. Also, the boards have situations that are not before them at this meeting, that were not regularly scheduled that they may have to contemplate changes in the regulations to for next summer. In both of those situations, the uncertainty about the status of the subsistence law, whether it remains as it currently is written and under the Supreme Court's interpretation or whether it changed makes the boards task extremely difficult. At this meeting, both boards are probably going to spend a great deal of time discussing alternative approaches to the proposals before them. Also, preparing alternative approaches to the situations that may occur this summer. For the fisheries board in terms of the situations that may occur this summer, there has been little or no opportunity for people to come before the board to request changes in the current regulations under Madison. We don't have the kind of regulatory time frame available to us that would allow a full-scale board of fisheries hearing and regulatory cycle. So if changes in the regulations must be made, to conduct fisheries this summer, the board most probably will not be meeting at the time those changes would need to be made. And under the delegation of authority to the commissioner of fish and game, the boards would ask Commissioner Collinsworth to adopt emergency regulations to conduct fisheries this summer.

Both boards plan to meet again in joint session, on March 25, which is the last day of the board meetings to discuss directions to the Commissioner for emergency regulations for this summer. Those

directions may not end up being very specific since neither one of the boards will have had the kind of public input that would guide them in making specific recommendations. I'll just stop here in a second. The way that people may have access to the regulatory system now that no call for proposals is out or no proposals are being solicited is through petition. The Administrative Procedures Act allows anyone to petition any regulatory agency in the state for a regulatory change.

That's the sort of unpredictable portion of what the board and the department may be facing this summer. We have no way of knowing whether people will petition us for changes in the regulations to authorize additional subsistence fisheries and no way to really predict how those can be handled come summer. And with that I'll just close.

Ayer: Thank you Beth. Are there any questions of Beth or Mr. Jolin about the issues confronting the board at this point? At least those that we can see?

Number 594 Representative Furnace: I'd like to pose a question to Ms. Stewart and perhaps Mr. Jolin of their specific intent of perhaps holding hearings, realizing that there is somewhat a shortage of time. It appears that this is an important issue which the public does deserve its ability to participate in.

Number 643 Stewart: Mr. Chairman, the board doesn't have a special hearing scheduled at this time, the decision came out well after the board's regular announcements for public hearings and proposals had already been well underway. The board is going to provide an opportunity on the 25th, as I said, for people to come in and speak to the board about the Madison decision and what they think its implications will be. But at this point we have no plans to conduct hearings under any other circumstances. We don't have, for instance, the time to call for proposed changes to the regulations. The board of fisheries has a very complex and lengthy process that it undergoes for soliciting proposed changes to its regulations. About 120 days before the board meets, we issue a call for proposals. We have about a month and a half available for people to mail proposed changes in. Then we must compile those proposals and send them to the printer, then have them distributed to over, I think we have over 3,000 people on our mailing list now. We provide about another 2 months for people to comment on those proposed changes and hold advisory committee and regional council meetings. Then we actually conduct the board meeting and allow people to comment on specific proposals. At that point then, if the board adopts changes, the changes are reviewed by the Department of Law and then sent to the Lt. Governor and then become effective 30 days after the Lt. Gov. signs them. That time alone from when a change is adopted to the time it becomes effective is about 90 days, so as I said earlier, about the only way to change the regulations this summer would be through the emergency regulation process.

Goll: Thank you very much Ms. Stewart, would the next person now like to come forward and speak to the issues affecting their division?

Ayers: Mr. Chairman, there are division directors and as well as perhaps a board member in Anchorage and its my understanding that we would first like to speak about the Cook Inlet area. So, let's go directly to Anchorage, Mr. Chairman, and if people are prepared there why don't you introduce yourself and step right off.

Number 675 Mr. Chairman, this is Ron Jolin again, maybe we'll let everyone introduce themselves so you'll have an idea of who's here.
(Anchorage participants introduce themselves, see witness register)

Jolin: I'd like to pose a question to Larri. Larri, under the Madison decision, do we now have to open all fisheries restricted to local to all residents of Alaska?

Spengler: Yes, Mr. Chairman, at least at the first instance. And in the Cook Inlet situation the management people can talk about this more specifically, I believe there are three fisheries currently which are open to residents of particular communities; Tyonek, English Bay and Port Graham. The Madison decision would require that those fisheries be opened to everyone until or unless any sport or commercial fisheries on the same stock had been closed. The Madison decision also requires that if there has been a subsistence use of fish that the board authorize that use and now that the court has said the board does not have the authority to speak in terms of rural uses. This would apply to any area of Cook Inlet, whether it was rural or not. Maybe what would be useful is for Ken Florey who is directly involved with Cook Inlet to talk about where those uses might be in Cook Inlet and what affects that might have.

Number 724 Ken Florey: Yes, thank you Larri. Well under your definitions you just gave we do have the three local area fisheries that were defined by the board after a 1981 board meeting as being subsistence fishing. Those being the early spring fishery in Tyonek for chinook salmon, king salmon; and then the two fisheries in Port Graham and English Bay which go on throughout the year, through the summer months - the spring through the fall months for local residents. Under my understanding or how it's been presented, those no longer would be open only to local residents or those domiciled in those areas, but anyone who's a resident of the state of Alaska can participate. As far as other fisheries in Cook Inlet, it's my understanding that those that we have called personal use would now be under a subsistence name and that those could also be opened and would be opened to any participants who wanted to get involved in that fishery. There are depending upon how far back you want to go with the old subsistence laws those would be primarily all the beach areas in Cook Inlet and taking to an extreme even some fresh water areas in Cook Inlet, primarily the Susitna drainage and Knik Arm, parts of Turnagin Arm that have been closed upwards to 25 years. And then all of the eastside beaches and the current setnet commercial areas in upper sub district and northern district of Cook Inlet.

Spengler: It might helpful for the committee if some of the board members could talk about what impact they would see that those fisheries being open would have on different use groups depending of course on the level of participation in those subsistence fisheries.

Number 752 Bix Bonney: Mr. Chairman this is Bix Bonney, board member and more or less representing the sport fishery groups in the Anchorage area. I was contacted by the two major groups the Kenai Sport Fishing Association and the Alaska Sport Fishing Association to attend steering committee and board meetings to get their thoughts out. Essentially their thoughts will be enclosed in a letter...

CHANGE TAPE # TO SIDE TWO

Number 003 ... public hearings throughout this time information can be gathered to more definitively approach the subsistence problem. They essentially are worried that, in their words, "chaos and confusion" that result with no regulation going on and the short circuiting or the cutting off of the fish that would get into the traditional sport areas, particularly the Kenai River. Whether they are right or wrong they can foresee where there could be subsistence nets out on the eastside beaches cutting off the run of the king salmon as it approaches the Kenai River. They don't want that at all. They said they are not subsistence fishermen, never thought of themselves that way. They're sport fishermen and they want to continue that way. That's essentially what's happened. These two groups represent an aggregate made up membership of about approximately 2,000 sport fishermen and there will be letters from both groups going out, one went out yesterday and the other will be going out this afternoon. If there's any questions, I'll be happy to answer them.

Ayers: Bix, with your approval, I have a telecopy version of the letter of which you speak of the Kenai River Sport Fishing Association. If you would like I would distribute that if you think that there have been modifications, I'll hold it. It's at your pleasure.

Bonney: Jim, the first one that went out, that's complete. The second one is essentially the same as the first one, only the second one comes from the Alaska Sportfishing Association and the trend of their reasoning is just about exactly the same, they're just now getting the words put down they hope in a littler cleaner manner than the first letter. But that's definitely there and it's coming.

Goll: Well, thank you very much. We are having that copied at this time and it will be distributed out to the folks present today.

John Garner: This is John Garner, a board member. I think that it might be useful, Larri, if you could explain to us what the Madison decision says about keeping the harvest limits on the subsistence fisheries, both as to the overall harvest and in terms of individual bag limits so that we can get some feel of the impact.

Number 103 Spengler: Yes, this is Larri Spengler with the Dept. of Law, The Madison decision basically requires that customary and traditional uses must be authorized and the people must be given a reasonable opportunity to participate in those uses unless sport and commercial have been eliminated first. Customary and traditional uses are spoken of by the court in terms of individual Alaskans reliance and dependence on resources and that is their reading of what the Legislature in 1978 was concerned

about. There are two different concepts of levels of tasks that I suppose would be considered. The first thing to understand is that the Madison decision does not mean that subsistence fishing would be unregulated. Regulation must reflect however, customary and traditional levels. So, for example, in Tyonek, the customary and traditional levels of the King salmon harvest has been 70 fish per household. So that is what is authorized under the current regulations. Because before the Madison decision came out only the people in Tyonek were fishing, as I mentioned before that fishery only took about 2,000 fish a year. If that fishery had to be opened to everyone as it does under Madison, then those 70 fish per family per household, bag limits must be retained, because that is the customary and traditional use level that is supposed to be perpetuated. The question of whether an overall allocation could be made to the subsistence fishery in Tyonek, say, so that, for example, perhaps the board might want to say well, this will open and everyone can go fish at 70 fish per household until the whole fishery has taken - I'll just make something up - 8,000 fish and then it will close. That question of whether a harvest cap can be put on a fishery was not addressed directly in the Madison decision. The strong implication in the decision is that that cannot be done. That is partly because the fishery then could conceivably be diluted in the sense that if there were a lot of people going to fish people would not get anywhere near the 70 fish per household that was customary/traditional or that if the first group of people all got 70 fish per household, then it would close and nobody else would get to go. So they'd be cut off from the opportunity entirely. It might be useful to ask Ken Florey or Ken Parker or maybe Bob Clasby what might help in Cook Inlet if the Governor's bill doesn't pass and the Tyonek Fisheries has to be opened to everyone at the normal limit and, assuming the board can't put a cap on it, which seems to be the implication of the case, what that might mean and what other fisheries might be affected by that.

Ken Parker: This is Ken Parker, director of commercial fisheries. It's difficult to anticipate exactly all the impacts of such an action. But, if you took the worst case scenario where we did have a large immigration of effort into that fishery, the first thing the department would have to do of course is very accurately monitor the harvests that are occurring in that area and then evaluate that in terms of our reproductive needs of the stocks that are contributing to the fishery. If we got to the point where we were pushing against our escapement needs then we would have to take regulatory actions on the fisheries that also impact that stock and of course under the Madison decision, it seems that the first fisheries that would have to be impacted would be commercial or recreational uses. So, I think in that we don't have any commercial activity on those Chinook stocks, of course we would have to direct our attention to the recreational fisheries and I would suspect that if we got to a point where we were concerned about our escapements, we would be obliged to close those recreational fisheries, until we were at least felt confident about our escapement levels in the various contributing stocks. Essentially that would be our action as a department: we would have to closely monitor the fishery, and then take appropriate regulatory action to ensure that our escapement needs are met. If we sense that the subsistence harvest was progressing at a rate that they were threatening escapement then we would also have to implement restrictions in that subsistence

fishery according to the law and restrict to the most dependent users as you mentioned earlier.

Spengler: Ken, where does the recreational fishery take place, on the same stocks at Tyonek fishing ground?

Florey: Yes, Larri, We don't have a sport fish division representative here, but maybe I can answer that. There's several tributaries within the Susitna System both on the east side and the west side; there'sfisheries primarily in the Doshka River, Lake Creek, up several other systems on the other side being Willow Creek, Montana Creek,, some of those are open seven days a week and there's other smaller stocks primarily on the east side that are week end only fisheries. Depending on what the harvest level were those would be the fisheries we would have to watch quite closely. A question that we have is trying to determine how we would try to manage this if this were to be confined to the area we now have open for the Tyonek subsistence fishery is one thing, but if it were to be open to a large portion of the beach, I know we could not monitor it closely enough to have an accurate catch harvest. When we're faced with those situations, fisheries managers are normally more conservative, not knowing what's going on unless we could have accurate catch figures. I just know from the area we were talking about if it were extended beyond the current boundaries, that we could not accurately monitor that fishery.

Spengler: Before we move onto Copper River, maybe it would be useful to talk a little bit about what the effect would be on the east side of Cook Inlet and if the the eastside beaches were opened at various times during the summer, true subsistence fishing, depending on the level of participation in that fishery, which fisheries might be affected and what measures the department might want to consider.

Number 116 Representative Thompson: My question is addressed to Mr. Parker, I want to make sure I understood what you just said and I don't want to put words in your mouth, but I thought I understood you to say that Fish and Game would be obliged to close sport fisheries if there was an imbalance as a result of this decision. Is that correct?

Parker: If we sense exploitation at Tyonek, and that subsistence fishery was occurring at such a level and it was confined to a certain limited period of time that essentially would perhaps focus that exploitation on a few of the contributing stocks, we would be obliged to implement closures in the recreational fishery to ensure that our escapement objectives are achieved. Of course, this is our mandate under Title 16 to provide for the proper conservation and protection of the resource so that they can continue to support fisheries in future years. So we would have to react to those exploitations and take whatever appropriate actions we felt necessary given the data at hand. As Ken Florey points out, if the fishery was expanded beyond the confines of Tyonek, it would be essentially impossible for the department to accurately monitor that fishery. Then, I think in that situation we would also be compelled to take a very restrictive action in any other fisheries that may impact the stock.

Thompson: Could you give me some sense of your time... how long would it take Fish and Game to study an issue like that before it could lift such a ban?

Number 128 Florey: That is a very difficult question to answer, not knowing how expansive the fishery would be. If it were quite restrictive in an area we could easily monitor, we could get the information just based on interviews with the fishermen. If the area was very large, and we were really unable to monitor the amount of use say other than aerial surveys to get a generalized number, it would be extremely difficult within a timely manner where those fish are going to be available to those different sport fisheries to monitor in a fast enough manner where we could say close and reopen and have an effective fishery because within a very short period of time those fish move out of those areas that sport fishermen are allowed to participate in up into the closed waters. So it's almost impossible to answer your question any clearer than that. It's just a difficult situation to try to assess until we get into it. If we had lots of stocks of fish and very few participants, there probably wouldn't be any impact. If we had returns of chinook on that earlier run that were very weak, which we have not had, in the number of years we've had very good returns and we had a fair number of people over there trying to harvest them, then we'd have to be more conservative. But I just can't be more specific than that.

Goll: Thank you very much, if you care now Larri to proceed with the presentation on the issues that you were leading up to.

Larri Spengler: Thank you. Yes, I had just asked Ken Florey if he could please talk a little bit about what the effects might be if the board were required by Madison to open subsistence fishing on various stocks on the eastside beaches at various times during the summer.

Number 159 Florey: Currently within Cook Inlet we manage the summer salmon runs under a plan that was adopted by the board of fisheries, the Cook Inlet Salmon Management Plan, which specifically states periods of time when certain users will be given preference or primary use of the resource. During the times of July 1 through August 15, it's primarily for commercial uses and the stocks migrating through Cook Inlet at that time, especially on the eastside beaches are now primarily taken by commercial users with secondary uses on certain stocks by sport fishermen. I don't feel that we would have many problems managing those stocks during that time period just based on the fact that we now have a very intensive commercial fishery and were able to monitor them quite well and do very well at it. The problem that you would have would be the social problems between the subsistence net users trying to compete for or establish beach areas with the commercial users and that could be quite dramatic and traumatic for those that try to monitor it. Because it would be very, very difficult to do and I'm afraid you could have some real problems that way. From a biological standpoint I don't foresee any major problems during that time period. After August 15 and say prior to July 1, we're looking at a totally different situation. We have one sockeye stock moving in Cook Inlet at that time primarily destined for the Russian River on the Kenai Peninsula which is a heavily used Sport fishery. It's not a large returning number of fish. We haven't had a commercial fishery on it for a good

number of years. A net fishery on that stock could be very, very dramatic, on those beaches and would probably mean having to close the Russian River to sport fishing determining what the escapement levels are. The other stocks during that early time, would be the early Chinook return, a king return to the Kenai River, and some to the Crooked Creek which is a hatchery return on the Kasilof River. A large net fishery if it were effective and that is yet to be determined, by subsistence users early, could have an impact on the early returning Chinook or king salmon return to the Kenai River, probably not much of an impact on the hatchery supported return to Crooked Creek. In the late fall, the late coho return which is one that the original petitioners or subsistence users wanted to target on that would totally depend on run strength. Last year we had a very large return of coho to the Kenai River, over probably in the neighborhood of 70,000 harvest by sport fishermen. In a year like last year, I don't think it would be that big of a concern. But on years when we'd go back to an historic level if you had a large net catch or subsistence catch on that late run it would probably mean having to curtail the sport fishery within the Kenai River or close it.

Number 205 Bonney: One of the real worries that has come up is there's an extremely heavy fishery on the early run king, particularly on the Anchor River and the Ninilchik and Deep Creek. It's probably as big as the second largest city in the state during those particular weekends. It's worried that if the beaches are open to subsistence fishing could and would cut off the early kings in June going into these streams and effectively have those streams shut off to sport fishing. It would be rightly so because the run would be jeopardized. That's a real worry as well as having an early run into the Kenai River which is heavily fished also jeopardized by the possibility of subsistence nets along the beach. The subsistence nets could be mesh size that are equipped to specifically catch king salmon whereas now the commercial nets are set for sockeyes and its an incidental catch in the commercial nets. But if they were to get a specific mesh size that would select the king salmon it would be extremely detrimental to the runs in the recreational fishery that go on during June.

Number 213 Goll: One of the questions that has been posed to me as chairman and I think to some of the committee members as well has been whether or not the threat to sport fishing is as serious as it is described. But your comments suggest to me, and you are probably the most experienced in the sport fish industry present at this meeting today. We don't have the representative from the department, division of sport fish, so from your comments I gather that the threat to sport fishing is very real and significant and one way or another something that really should be dealt with before this summer season commences. Is that a correct understanding of your position?

Bonney: Yes, it certainly is. The potential is one that we can't really live with. We don't know what will happen, but the potential is there for the very worst scenario that you could think of. And one of the worst ones I can think of is when you have the large urban area of Anchorage sitting here is to have the subsistence fishery..right in so that it would have to have the recreational fishery shut off. That's the worst possible thing that could happen and the potential is very definitely there. Whether it would happen or not, is another story.

That's why we have to buy some time to start finding out where we are in this situation.

Goll: Thank you very much.

Number 241 Garner: I think that comment sort of summarizes the position that the board took in our resolution. Our concern is that it's unclear what kind of regulatory restrictions we can impose on customary and traditional subsistence users. If the worst case situation is correct, if Madison requires us to allow bag limits that are customary and traditional, if Madison does not allow us an overall quota on these fisheries then these kinds of impacts are very likely. It has the potential to remove the ability of the board to balance the interests of each of these groups.

Spengler: If there are any more questions about Cook Inlet, maybe this is the time to take them before we move on to the Copper River situation.

Number 259 Stewart: Mr. Chairman, maybe to make one thing a little more clear before we go into the Copper River, I spoke to you about petitions earlier. The question that board is having to deal with at this meeting and that the department will have to deal with throughout the summer is if someone walks in this summer with a petition to open a subsistence fishery in Knik, for instance, the department is struggling with whether or not that would have to be done instantly. During the time that the boards were dealing with applying the subsistence law in Cook Inlet, we received a great deal of testimony from people who had fished in various parts of Cook Inlet in the past with subsistence gill nets. One of those areas was Knik, another area was Eklutna. Virtually the records the board has behind it includes almost every place in Cook Inlet that was accessible. Perhaps Larri could speak to whether or not we would be in the position of having to authorize fisheries all summer long on demand.

Spengler: It is fairly clear from Madison that if a customary and traditional use has occurred it doesn't matter whether it's in a rural area or not and the board is mandated by the law to authorize that unless there's a biological problem and the sport and commercial fishery have been closed. So, given the record that the board has in Cook Inlet, a very thorough record, that indeed subsistence fishing has existed everywhere, basically. There would be practically no legal excuse not to grant those petitions as they came in and open fisheries throughout the summer and make any necessary adjustments in sport and commercial fisheries. Are there any further comments on Cook Inlet or questions from Juneau?

Number 289 Florey: As I earlier stated, depending upon the extent in Cook Inlet, we would have to open fisheries those limited number stocks both earlier in the summer and late in the summer now under the management plan are primarily recreational uses we feel would probably be the ones most impacted. That is not the case in the Copper River. It's a total reversal of that situation. In the Copper River we have an extensive gill net fishery that operates in salt water at the mouth of the river then almost two to three weeks delay time until we get to Chitina where we have a large dip net fishery which we last year defined as a personal use

fishery. And also a subsistence fishwheel fishery. Under our interpretation, or my understanding or as it's been told to me, now we have a subsistence fishery as it used to be in the Upper Copper River open to any resident who wants to. Under the current bag limits, which have been established by the board, if we did not have a lid on that, it could be a major impact trying to ensure that we could get enough fish through the commercial fishery, well, we could do it easily enough, close the commercial fishery, not knowing how many people we were going to have show up at Chitina two weeks later. We struggled with this and have struggled with it for years. We come up with a plan the last two years that has worked quite well. Now we have a quota for the old personal use fishery in the neighborhood of 60,000 sockeye salmon. The highest number that that fishery took prior to the new plan was about double that in the neighborhood of 120,000. We do not know how many people would show up, but given we had to give them an opportunity at current bag limits it would be very difficult to manage the Copper River commercial fishery to ensure those numbers would escape. First of all, our biological goals, by stock, second of all the subsistence fishery in the Chitina area from Chitina all the way up to Salana and thirdly then to provide for the Copper River fishery on the flats. One of the major problems we have is that although the Upper Copper River is a large component of that system it only contributes, or it has in the last few years, about 50% of the returning sockeye to the Copper River, the other being the Delta stock which do not have and have not had any fishery other than a commercial fishery on them to any extent. So we would have to forego a rather large portion of the harvest for the commercial fishermen on the Delta stocks to ensure we would have enough fish upriver for the subsistence users. It would be extremely difficult management situation, not impossible.

Number 333 Garner: Just to make it clear it's my impression that there's no other opportunity to harvest those Delta stocks. The only opportunity that we have is as they come in mixed with the upriver stock.

Florey: Yes, John that is correct. Only with the net fishery at the mouth of the river there is no other opportunity to harvest Delta stock,

Beth Stewart: Ken, at the time the board was dealing with the Copper River and the Chitina personal use or subsistence fishery there were a lot of questions about being able to know how many fish were coming out of that upper river harvest. Knowing exactly what the subsistence take is during the summer, maybe you could speak to that a little bit.

Florey: Yes, Beth, are you saying what's the upriver component in the commercial fishery is? I don't quite understand your question.

Stewart: I'm sorry Mr. Chairman. No, what the actual take is by subsistence fishermen, monitoring that catch.

Florey: Well, under the plan that we implemented this last year we set the days of the week that they could fish depending upon what our predetermined quota for that week would be and the fact that they

king salmon fishing. It's not a large stock, we're only talking anywhere from 10-15,000 king salmon. We could have an impact there and we would have to probably have to curtail the sport fishing in the Naknek River, but for sockeye, I don't anticipate any problem.

Spengler: Any questions on the Naknek fishery or any comments by anyone else here before we move on to Angoon?

Number 428 Bob Clasby: For southeastern Alaska, there are only two subsistence coho fisheries. That's one at Klukwan and the other one is in Angoon. The one in Angoon was opened by the board at its December 1980 meeting was restricted only to residents of Angoon. With Madison decision that fishery would now have to be open to all, I assume 12-month, Alaska residents. Certainly if my memory serves me right, the harvest level in the last year for Angoon has been around 1,000 or 2,000 coho salmon. The fishery takes place in Salt Lake and Mitchell Lake. Apparently that's a so a very popular coho sportfishing area. I'd like to go back and say there's no way for us to even guess at what level of participation or harvest might come out of that fishery with it being opened to all Alaska residents. Because I think I mentioned before, except for Klukwan, there have been no subsistence coho fisheries allowed in Southeast. So, you don't have any past harvest data to even guess at. If one does get an increase in that harvest above probably the 2-4,000 level, it's probably going to result in closures to the sports fishery in that Salt Lake-Mitchell Bay area. The other harvesters on those stocks, of course, are primarily the hand troll fish fishery. Primarily the troll fishery on the inside that fishery occurs before the subsistence fishery ... there'd be no time to react and make closures on that troll fishery ... probably to substantially increase the amount of coho moving in to Mitchell Bay. One would make the assumption if you carry the scenario that the fishery has to be open to all Alaska residents into the future and the harvest levels increase, it's going to mean reductions to the troll harvest. And of course that's probably going to have a very significant impact on the residents of Angoon also, because I think as far as cash income to that community, they are very heavily dependent on that hand/troll catch. I think that's about all I have to say on it if there's any questions from the committee members.

Number 478 Spengler: We will not go into detail about the Illiama-Lake Clark fishery which has a similar restriction as the Naknek fishery did, which is that currently only residents of Illiama-Lake Clark drainages can fish in those drainages and under Madison those would have to be opened to everyone. Also, in trying to give you a sense of the impact, it has been impossible to predict where as Beth Stewart mentioned in Cook Inlet, but in other places throughout the state people may petition to open areas which formerly had been closed and now the board will not be able to refuse to open them based on any criteria of ruralness or other concepts. For example, most of the road systems in the larger Southeast communities are closed currently to subsistence fishing and if petitions are received, those would probably have to be opened. I believe we're basically concluded with the Anchorage portion of the presentation. Ron Jolin, chairman of the joint board has a few concluding remarks and then we'll turn it back to Jim Ayers.

Number 493 Jolin: Thank you Larri. I really don't have an awful lot to put in at the conclusion of this meeting. I think I brought most of it up when we started. The crux is that the boards feel that we need the flexibility that we had prior to the Madison decision in order to regulate. In order to regulate our fisheries and game issues. We feel now that our hands are somewhat tied and we're really unsure what might happen in the following year. So, if we can get back to that position, it would certainly help the boards to do their job.

Number 509 Ayers: Do you have any further comments in Anchorage, Larri, or Ron or anyone else there? (none)

Number 511 Rep. Fuller: I think most people are aware, but on the 25th and 26th the Resources Committee will be having an informational hearing on HB 288. At that time we're going to ask to have nets open throughout the state so that people can be informed of what's going on. This is an informational hearing. Then after these hearings we're going to open it up throughout the state for people to participate in it. I just want to make everybody aware of that. I don't know whether Ron Jolin will be available on the 25th or not, because I know we're getting ready to adjourn, but I wanted everyone to know about it. Thank you, Mr. Chairman.

Goll: Thank you very much Rep. Fuller. I'd like also to assure people that this would be a good opportunity to Resources hearing to follow this issue as we move it through the House. Mr. Ayers?

Number 553 Ayers: Thank you Mr. Chairman. I will be brief in my concluding remarks. There have been a variety of rumors and comments regarding the effects of Madison and what we are trying to do, as I mentioned earlier, is work with you in a cooperative spirit to provide you the information and the framework that will allow you to take immediate action to return regulatory jurisdiction to the boards. Our effort and the governor's bill, HB 288, is focused on restoring harmony in the use of our fish and wildlife resources. Let me also say that that bill is basic and thorough in renewing a system that has been working. You've heard today from a variety of people talking about the Madison decision and the potential impacts and a plea for your assistance to restore that harmony. They have respectfully, but strongly, requested your assistance and guidance in restoring sufficient regulatory flexibility to the boards that will ensure all Alaskans that they are provided fair and reasonable access to our fish and game populations. Anything we can do Mr. Chairman, to assist you in moving this bill and restoring that harmony, we are at your pleasure. Thank you very much for this opportunity as well as the members in coming forward. We are available. Thank you.

Number 569 Goll: Thank you very much Mr. Ayers, and all of you in Anchorage. It's really a favor to us that you come forward and provided us with this information and we're very grateful and hope the people gathered here today have benefited from your presentation.

I'd like at this time to read a letter which I'd like to send to the House Resources Committee. The letter basically restates some of the comments made today and asks for expedient action in looking for a solution to these problems. It does not recommend specific action,

but simply asks that the Resources Committee move as rapidly as they can to get the issue solved. I'd like to read the letter for the record at this time and seek unanimous consent from the members of the committee. Also other members of the Legislature who wish to sign on the letter are certainly invited to do so.

"The Madison decision by the Alaska Supreme Court on subsistence has the potential of seriously disrupting the management of Alaska's fish and wildlife resources. According to testimony before the Special Committee on Fisheries, the Madison decision could force radical shifts in established patterns of resource allocation, upsetting the carefully balanced approach to fish and game management achieved in recent years.

The Fisheries Committee received testimony on the Madison decision from the Department of Law, Department of Fish and Game and chairman of the Joint Boards of Fisheries and Game. Although the state's fish and wildlife managers are still in the process of developing specific management strategies responsive to Madison, this much is clear:

- 1) Sport and commercial fishing in Cook Inlet may have to be cut back to accommodate anticipated increases in non-commercial net fishing.
- 2) The commercial drift net fishery in Prince William Sound may have to be sharply restricted to provide increased dip-netting opportunities in the Copper River.
- 3) Many of Alaska's big game guides may be forced out of business because of major decreases in non-resident hunting activities.

The members of the Special Committee on Fisheries believe that the subsistence issue must be addressed by the Legislature in a prompt but thorough manner. The committee respectfully requests the Resources Committee to take all possible steps to address this critical issue in a manner providing for action by the Legislature in the remaining weeks of the Legislative session."

I would ask unanimous consent from the members that I submit this letter to House Resources. Rep. Hurley...

Number 614 Rep. Hurley has moved the letter and asked unanimous consent. Are there any objections. Hearing none, then we will send this letter to House Resources today and distribute it to members of the Legislature and members of the public. I thank you.

I have a couple of brief announcements before we adjourn. Number one, I'd like to state that the next meeting of the House Fisheries Committee will be held at 4:30 p.m. on Friday a week from tomorrow. If any member has a problem with that. We will be getting in touch with you to firm up those arrangements.

(discussion of HESS committee schedule and the calendar for the next meeting)

Number 621 I'd also like to just take a moment to express in behalf of the committee our grave sadness at the passing of Mr. John Clark who was the director of the habitat division and one of the most dedicated and competent public servants I've ever met. And I'd like to just say in behalf of the committee, we would like to extend our sympathies to Mrs. Clark and recognize his contribution to the state.

Rep. Hurley: In that regard, I believe that I'd like the minutes to reflect the contribution of the late Senator Al Owen who appeared before this committee just one month ago. And who died last week in Kodiak.

Number 670 Goll: Let the record show that we recognize the passing of this Alaskan and his great contribution to the state. It's certainly been a tragic week and I hope that with this meeting will go on the upward track. Once again thank you all for attending today. This meeting of the Special Committee on Fisheries is adjourned, the time is 10:11 a.m.

Introduced: 3/13/85
Referred: Resources and
Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 288

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taking of fish and game
7 for subsistence and personal use; and providing
8 for an effective date."

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

10 * Section 1. FINDINGS. The legislature finds that

11 (1) the taking of fish stocks and game populations for
12 personal and family consumption and related uses is essential to the
13 health, safety, and general welfare of Alaskans domiciled in rural
14 communities or rural areas in which the taking of fish and game for
15 such uses is a significant part of the economy of the community or
16 area; and

17 (2) the taking of fish stocks and game populations for
18 personal, sport, and commercial uses is also of economic and recre-
19 ational importance to Alaskans who reside anywhere in the state.

20 * Sec. 2. AS 16.05.251(a) is amended to read:

21 (a) The Board of Fisheries may adopt regulations it considers
22 advisable in accordance with the Administrative Procedure Act (AS 44.-
23 62) for

24 (1) setting apart fish reserve areas, refuges and sanctu-
25 aries in the waters of the state over which it has jurisdiction,
26 subject to the approval of the legislature;

27 (2) establishing open and closed seasons and areas for the
28 taking of fish;

29 (3) setting quotas, bag limits, harvest levels, and sex and

1 size limitations on the taking of fish;

2 (4) establishing the means and methods employed in the
3 pursuit, capture and transport of fish;

4 (5) establishing marking and identification requirements
5 for means used in pursuit, capture and transport of fish;

6 (6) classifying as commercial fish, sport fish, personal
7 use fish, or predators or other categories essential for regulatory
8 purposes;

9 (7) watershed and habitat improvement, and management,
10 conservation, protection, use, disposal, propagation and stocking of
11 fish;

12 (8) investigating and determining the extent and effect of
13 disease, predation, and competition among fish in the state, exercis-
14 ing control measures considered necessary to the resources of the
15 state;

16 (9) prohibiting and regulating the live capture, posses-
17 sion, transport, or release of native or exotic fish or their eggs;

18 (10) establishing seasons, areas, quotas and methods of
19 harvest for aquatic plants;

20 (11) establishing the times and dates during which the
21 issuance of fishing licenses, permits and registrations and the
22 transfer of permits and registrations between registration areas is
23 allowed; however, this paragraph does not apply to permits issued or
24 transferred under AS 16.43;

25 (12) personal use fishing.

26 * Sec. 3. AS 16.05.940(23) is amended to read:

27 (23) "subsistence uses" means the customary and traditional
28 uses by rural [IN] Alaska residents of wild, renewable resources for
29 direct personal or family consumption as food, shelter, fuel,

1 clothing, tools, or transportation, for the making and selling of
2 handicraft articles out of nonedible by-products of fish and wildlife
3 resources taken for personal or family consumption, and for the
4 customary trade, barter, or sharing for personal or family consump-
5 tion; for the purposes of this paragraph, "family" means all persons
6 related by blood, marriage, or adoption, and any person living within
7 the household on a permanent basis;

8 * Sec. 4. AS 16.05.940 is amended by adding a new paragraph to read:

9 (28) "personal use fishing" means the taking, fishing for,
10 or possession of finfish, shellfish, or other fishery resources, by
11 Alaska residents for personal use and not for sale or barter, with
12 gill or dip net, seine, fish wheel, long line, or other similar means
13 defined by the Board of Fisheries.

14 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
15 10.070(c).

16



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 13, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill regarding the taking of fish and game for subsistence and personal uses. The purpose of this bill is to amend AS 16 to delegate to the Alaska Board of Fisheries and Alaska Board of Game the same authority to regulate the taking of fish stocks and game populations that the boards exercised before the recent decision of the Alaska Supreme Court in Madison v. Alaska Department of Fish and Game, Supreme Court Opin. No. 2911 (February 22, 1985).

The bill does so in two ways. First, the bill would amend AS 16.05.940(23) to limit the identification of "subsistence uses" of fish stocks and game populations to hunting and fishing for personal and family consumption and related uses by residents of rural communities or rural areas, where the taking of fish and game for such uses is a significant part of the economy of the community or area. This change recognizes that in rural Alaska the taking of fish and wildlife is essential to the health, safety, and general welfare of Alaskans domiciled in many of the rural communities and rural areas of our state and to the economy of the community or area in which they reside. As the Alaska Department of Fish and Game has determined from its research on this subject:

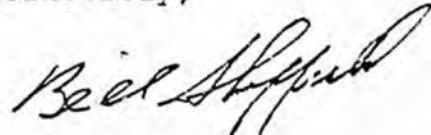
Alaska is characterized by a diversity of socioeconomic systems and patterns of resource use. ... It seems clear that the economic and social stability of many communities depend upon access to and utilization of renewable fish and wildlife resources. Disruptions of the relationships between the community and the resource base may affect the viability of these ways of life.

Alaska Department of Fish and Game, Division of Subsistence, Resource Use and Socioeconomic Systems: Case Studies of Fishing and Hunting in Alaskan Communities, technical paper No. 61, 274 (1983).

Second, the bill would establish a statutory definition of the term "personal use fishing" (proposed AS 16.05.940(28)). The Alaska Board of Fisheries has already established this category by regulation. This category of harvest, though not subsistence fishing, is important to Alaska residents. After the board has identified the "subsistence uses," if any, of particular fish stocks, AS 16.05.940(28) and the amendment to AS 16.05.251(a)(6) and addition of AS 16.05.251(a)(12), in sec. 2 of the bill, would authorize the board to adopt regulations allocating access to those stocks for the purposes of personal use, sport, and commercial fishing in a fair and reasonable manner consistent with its constitutional responsibility to adopt regulations to use, develop, and conserve fish stocks for the maximum benefit of all Alaskans.

As previously mentioned, this legislation is intended only to provide the boards the same regulatory authority which they exercised before Madison v. Alaska Department of Fish and Game. Consequently, I urge your expeditious consideration of this bill, since its enactment is essential to provide the boards sufficient regulatory flexibility to ensure that Alaskans are provided fair and reasonable access to our fish stocks and game populations. Enactment will also ensure that the State of Alaska remains in compliance with the provisions of Title VIII of the Alaska National Interest Lands Conservation Act and, consequently, retains full authority to regulate the taking of fish and game on all land and in all water of the state.

Sincerely,



Bill Sheffield
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 288
 Title: An Act relating to the taking of fish & game for subsistence & personal use
 Sponsor: Rules Comm. at Gov. request
 Requestor: Rules Comm. at Gov. req.
 Date of Request: March 13, 1985

FISCAL DETAIL

Agency Affected: Department of Fish and Game
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: All ADF&G BRU's

of fish & game for subsistence & personal use

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING	0	0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

Passage of bill will reduce management costs substantially. Failure to adopt will require a major increase in funds for monitoring growing subsistence fisheries.

If state is found to not comply with federal requirements, then state may lose federal matching grants and revenues

Prepared By: Steven R. Behnke *Steven Behnke*
 Division: Subsistence

Phone: 465-4147
 Date: 3/12/85

Approved by Commissioner: *James A. Olson*
 Agency: Department of Fish and Game

Date: 3-12-85

Distribution (by Agency preparing fiscal note):

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

7/1/84



Official Business

Alaska State Legislature

House of Representatives

Pouch V
Juneau, Alaska 99811

Phone:
(907) 465-4924

Special Committee on Fisheries

DATE: March 21, 1985

TO: House Resources Committee

SUBJECT: Special Committee on Fisheries
Comments on Subsistence

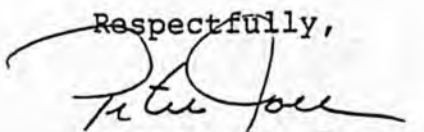
The Madison decision by the Alaska Supreme Court on subsistence has the potential of seriously disrupting the management of Alaska's fish and wildlife resources. According to testimony before the Special Committee on Fisheries, the Madison decision could force radical shifts in established patterns of resource allocation, upsetting the carefully balanced approach to fish and game management achieved in recent years.

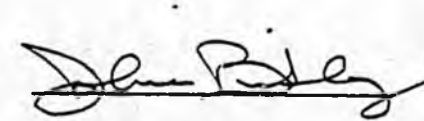
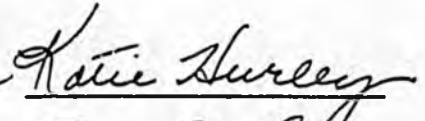
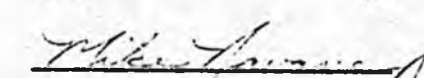

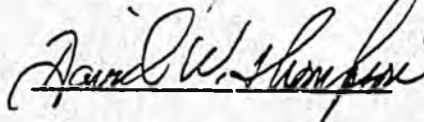
The Fisheries Committee received testimony on the Madison decision from the Department of Law, Department of Fish and Game, and chairman of the Joint Boards of Fisheries and Game. Although the state's fish and wildlife managers are still in the process of developing specific management strategies responsive to Madison, this much is clear:

- 1) Sport and commercial fishing in Cook Inlet may have to be cut back to accommodate anticipated increases in non-commercial net fishing.
- 2) The commercial drift net fishery in Prince William Sound may have to be sharply restricted to provide increased dip-netting opportunities in the Copper River.
- 3) Many of Alaska's big game guides may be forced out of business because of major decreases in non-resident hunting activities.

The members of the Special Committee on Fisheries believe that the subsistence issue must be addressed by the Legislature in a prompt but thorough manner. The committee respectfully requests the Resources Committee to take all possible steps to address this critical issue in a manner providing for action by the Legislature in the remaining weeks of the Legislative session.

Respectfully,


Peter Goll, Chair

WHEREAS, the Alaska Board of Fisheries and Alaska Board of Game have been delegated responsibility and authority by the Alaska Legislature to regulate the taking of fish stocks and game populations for the maximum benefit of all of the people of Alaska; and

WHEREAS, prior to the decision of the Alaska Supreme Court in Madison v. Alaska Department of Fish and Game the boards developed procedures which provided adequate regulatory flexibility, both to protect opportunities for subsistence hunting and fishing in rural communities and areas, and to provide hunting and fishing opportunities for recreational, commercial, and other uses; and

WHEREAS, it is unclear to what extent the boards may restrict subsistence harvest after the Madison ruling and as a result, substantial and significantly disruptive reallocations of opportunities to harvest fish stocks and game populations may be necessary. For example:

1. The commercial gill net fishery which is an important component of the Prince William Sound economy may need to be significantly restricted in 1985 or, eventually, even closed. Prior to the Madison decision the Board of Fisheries had adequate regulatory flexibility to accommodate both the historic commercial fishery and other users.

DRAFT

2. Sport fishing for king and other species of salmon on the Kenai and Naknek rivers and in the Susitna drainage may need to be significantly restricted in 1985 or, eventually, even closed. Prior to the Madison decision the Board of Fisheries had adequate regulatory flexibility to prevent that result.

3. Non-subsistence hunting, including commercial guiding activities may be significantly restricted and, in many cases, eliminated. Prior to the Madison decision the Board of Game had adequate regulatory flexibility to accommodate these users reasonably.

WHEREAS, prior to the Madison decision the State of Alaska was in compliance with Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). As a result of the Madison decision the federal government may now take control over game populations on public lands and fish stocks on public lands and within navigable waters; and

WHEREAS, if the State of Alaska is no longer in compliance with ANILCA, the state will lose the ongoing million dollar per year federal appropriation for the state's public participation system which is essential to the success of the state's regulatory and management activities; and

WHEREAS, the Alaska Board of Fisheries and Board of Game strongly believe that the potential restrictions, closures, reallocations

and loss of funding described above are not in the best interest of the fish and wildlife resources and the people of Alaska;

NOW THEREFORE BE IT RESOLVED, that the Alaska Board of Fisheries and Board of Game meeting in joint session respectfully, but strongly urge the Alaska Legislature to enact legislation during the current legislative session which returns to the boards the regulatory authority and flexibility which they exercised before the Madison decision; and

THEREFORE BE IT FURTHER RESOLVED, that the Alaska Board of Fisheries and Alaska Board of Game have reviewed SB 231 and HB 288, the legislation introduced by the Governor to accomplish this purpose, and urge that this legislation be enacted into law as expeditiously as possible.



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

HB

500

Suggested Amendment to

HB300

p. 1, line 18; Add after combined:

and the approved development plan or ~~plans~~ must be amended to accommodate the combination,

Suggested Amendment to

HR 300

p. 1, line 18; Add after combined:

and the approved development plan or plans must be amended to accommodate the combination,



Alaska State Legislature

HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3715

MEMORANDUM

April 12, 1985

TO: HOUSE RESOURCES COMMITTEE

FROM: Committee Staff

SUBJ: HB 300 "An Act relating to the splitting and combining of agricultural parcels."

House Bill 300 would allow the Commissioner of the Department of Natural Resources to approve splitting and combining of agricultural project parcels if certain conditions are met. This legislation would affect 37 Delta barley project parcels and 31 Point MacKenzie project parcels.

If a parcel is split, no more than one farmstead (house, barns, outbuildings) of 20 acres may be maintained. If a parcel is combined, there is no limit to the size but only one farmstead may be maintained.

The commissioner must evaluate each request for splitting or combining and must find that it is in the public interest, has an approved development plan and has designated an operator for each parcel. In addition, the Commissioner must provide for public notice and hearings on the proposed action.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 300
 Title: Splitting and Combining of Agricultural Parcels
 Sponsor: Shultz and Marrou
 Requestor: House Resources Committee
 Date of Request: 4/9/85

FISCAL DETAIL

Agency Affected: Natural Resources
 Program Category Affected: NRMEC
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

The legislation would likely affect only the 37 Delta barley project parcels and the 31 Point MacKenzie project parcels. Applications for combining or splitting of ag parcels would be processed, as received, by existing staff.

Prepared By: Carol Wilson Phone: 465-2100
 Division: Commissioner's Office Date: 4/9/85
 Approved by Commissioner: Walter Arnold, Deputy Date: 4/16/85
 Agency: Department of Natural Resources

Distribution (by Agency preparing fiscal note):

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

7/1/84

Analysis of House Bill No. 300

This legislation will allow the Commissioner of Natural Resources to approve requested splitting or combining of agricultural project parcels, and sets out the following conditions under which these changes may occur:

- only one farmstead per 320 acre parcel that results from a split;
- only one farmstead on a parcel resulting from combining other parcels;
- farmsteads may not exceed 20 acres in size;
- splitting or combining of parcels must promote the public interest or the development of agriculture;
- new development plans must be approved by the commissioner;
- one operator will be designated for each resulting parcel;
- public notice and a written explanation of the proposed split or combination is provided.



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

H B

5 0 6



Alaska State Legislature

HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3715

March 26, 1986

Representative Al Adams
Chairman, House Finance Committee
P.O. Box V
Juneau, AK 99811

Dear Mr. Chairman:

Please accept this letter as it accompanies CSHB 306 (Res) to the Finance Committee and include it in your members files.

In addressing HB 306 in subcommittee it became evident that the present administration has both the ability and the willingness to assist in building a stronger Alaska forest products industry.

To that end, what started out as a bill establishing a forest marketing institute was reduced to an appropriation bill to allow the existing Office of Forest Products to take more aggressive action in helping to expand Alaska's timber industry and associated economies.

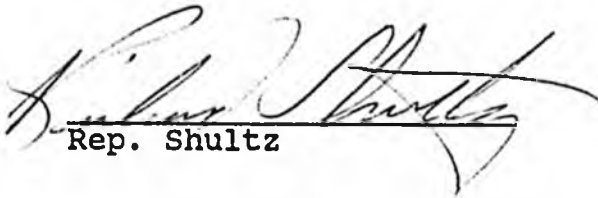
Last year the railbelt area of our state alone used an estimated 120 million board feet of dimensional wood, and 55 million square feet construction grade plywood and composition board. Unfortunately 95% of these products were brought in to our state from other areas.

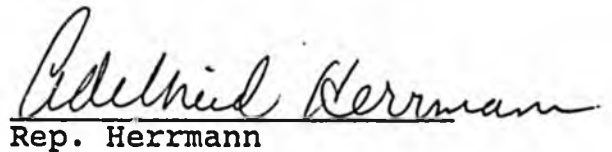
The funding provided in this bill will permit the current process of state and private sector marketing efforts to move more rapidly and more efficiently. This effort will be coordinated by the Office Of Forest Products (Department of Commerce) in concert with the already established Advisory Forest Products Market Committee comprised of industry members.

As a pledge of good faith private industry has agreed in principle to the raising of at least \$50,000.00 to be used in addition to the dollars appropriated through this legislation.

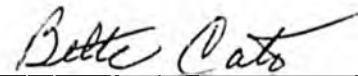
The Resources Committee supports the administration and the private sector in their efforts to expand the forest products industry in Alaska and as a result would encourage a favorable consideration of this legislation.

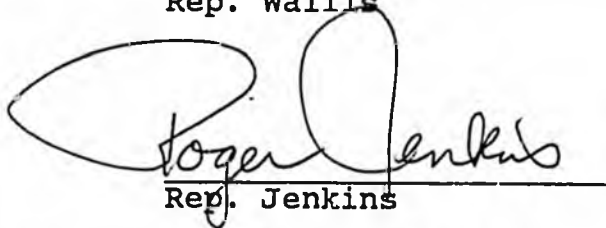
Respectfully submitted,



Rep. Shultz

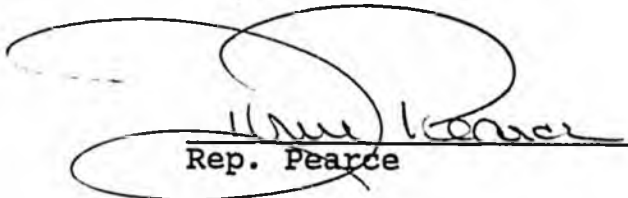

Rep. Herrmann

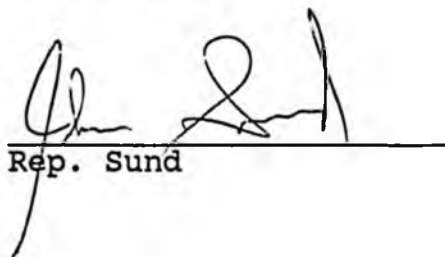
Rep. Wallis


Rep. Cato


Rep. Jenkins


Rep. Miller


Rep. Pearce


Rep. Sund


Rep. Thompson

CS for House Bill No. 306 (Resources):

"An Act making a special appropriation to the Department of Commerce and Economic Development for the promotion of forest products and providing for an effective date."

Department Position Statement: The Department of Commerce and Economic Development supports the Committee substitute for House Bill 306, making a special appropriation to the Office of Forest Products for the promotion of Alaskan forest products. This bill responds to the broadly recognized need for a statewide forest products market development program. During this time of declining oil revenues, it is more important than ever to promote the economic development of our timber resources.

Background: The Office of Forest Products was formed in September 1984 as an advocacy office for the forest products industry within the economic development arm of the department. The office operates with a staff of two and budget of under \$200,000. Objectives of the office include:

- * To act as a facilitator in market development for Alaska's wood products.
- * To promote a business climate which affords an economically viable industry with a competitive market position.
- * To aid industry in forming a statewide forest products association and market development strategy.
- * To promote better knowledge and understanding of Alaska's forest industry and the products produced.

Last Spring, the office formed a Market Advisory Committee consisting of private operators statewide. The committee has functioned to determine areas of marketing activity that can be pursued for the common good of the industry and plan how industry can better organize in order to deal with market development, communications, and government relations. The committee has also defined specific market development activities in which they would like the Office of Forest Products to participate.

Program: The Market Advisory Committee would serve as an important advisory ingredient in the planning and implementation of the market development and promotion program.

The program would include activities such as:

- Initiation of a program to establish a certified lumber grading system.
- Generic advertising.
- Publication and translation of technical species and product brochures.
- Sample shipments of wood products to new potential markets.
- Trade Show participation.
- Communication and contact with architects, contractors, municipalities, State agencies, and other users.
- Facilitate and participate in trade missions.
- Economic research of the markets.

Benefits: The State has two major reasons for being involved in supporting the timber industry through these kinds of activities. The first relates to the State's interest in the social and economic well-being of the State as enhanced by economic diversification. The chart below shows the direct employment benefit per million board feet.

The second reason relates to the State's role as a major timberland owner. The revenue generated in the form of stumpage fees from State timber sales can be significant.

Conclusion: The State has an important role to play as an active participant and facilitator in the development of Alaska's timber resources. A dedicated resource base for timber production and a market development program provide the organized process needed to move us toward our goal to strengthen and expand a statewide forest products industry. The department fully supports the appropriation provided in HB 306 to help attain this goal.

Jobs Created Per Million Board Feet

	<u>Workers per MMBF</u>
Logging	2.4
Sawmilling green lumber	1.2 to 1.7
Sawmilling cants	1.0
Sawmilling dried lumber	2.0 to 2.3
Remanufacturing lumber	7.9 to 8.3
Pulp	2.4
Plywood	5.2

The figures are from U.S. Forest Service employment studies.

Loren H. Lounsbury

Loren H. Lounsbury, Commissioner
Department of Commerce & Economic
Development

Date: 3/28/86

Thyes Shaub

Thyes Shaub, Director
Office of Forest Products

Date: 3/28/86

COMMITTEE REPORT
HOUSE

(9)

FURTHER: FINANCE

4/26/85

Date: March 26, 1986

The Committee on RESOURCES has had HB 306

"An Act relating to the promotion of the marketing of forest products"

under consideration and recommends:

do pass do not pass

do pass with attached amendments(s)

replace with CS for HB 306 (Resources) same title new title

and recommends do pass

AND attaches a "Letter of Intent" New Fiscal Note

reports it back without recommendation Zero Fiscal Note Attached

referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Shultz

Dick Shultz

Cato

Bette Cato

Jenkins

Roger Jenkins

Pearce

John Pearce

Sund

John Sund

Thompson

David W. Thompson

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Walter Herrmann No Rec

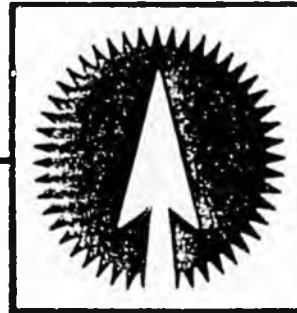
Kay Wallis No Rec

Herrmann
Wallis

Dick Shultz

Co-CHAIRMAN Shultz

Alaska Loggers Association, Inc.



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

PRESENTED AND SUBMITTED
BY
ALASKA LOGGERS ASSOCIATION

DRAFT

March 12, 1986

Letter of Intent:

Regarding the Appropriation of \$500,000.00 to the Office of Forest Products in the Department of Commerce and Economic Development for the 1987 Fiscal Year.

The Alaska forest products industry in Southeast Alaska has been experiencing difficult times in their participation in the international markets for an extended period and the results have been highly detrimental to employment and the general economy of that portion of the State also the new land ownership patterns now unfolding in Southcentral and Interior Alaska clearly indicate the new owners are interested in bringing the commercial forest they now or soon will own to the market as soon as markets, economic access, and owner needs dictate, and that about half of that forest is owned by the State of Alaska.

The International Pacific Rim off shore market is currently strong and rising for hardwood and it is projected and reasonable to expect that the softwood demand will increase over the next ten years.

The railbelt of Alaska is currently consuming an estimated 120 million board feet of dimensional wood, and 55 million square feet of construction grade ply or composition board per year and this imported wood represents 95% of the total consumed and these facts clearly indicates that Alaskans need to be developing and using our natural resources to generate employment and economic activity in and for Alaska.

With the international forest products markets for the next decade projected at a slow steady growth in wood demand with a real price improvement during the next few years, and a reasonable assumption that in existing and future wood markets Alaskan forest products can be competitive in domestic and overseas markets if we proceed now to renew and develop our timber industry in an orderly and prudent manner. We must move ahead with our government/industry effort to assure a healthy economic benefit from our timber resource.

SERVING ALASKA'S TIMBER INDUSTRY

Alaska Loggers Association, Inc.

Letter of Intent - March 12, 1986 - Page 2.

The State of Alaska for the reasons mentioned above has several good and valid reasons for proceeding to embark upon a program to initiate the first coordinated market development activity for our current and future forest products industry.

The funds being appropriated in (Bill #) will permit this process of state and private industry to begin to deal with a cooperating effort on a relatively small scale and build on this effort from year to year to help with current industry problem areas but most importantly prepare ourselves for the timely and prompt entrance into the future markets. This effort will be directed by the Office of Forest Products with Assistance and input from an Advisory Forest Products Market Development Committee composed of up to ten appropriately qualified industry persons. This committee will be structured and operated under the direction of the Office of Forest Products with periodic review by the Commissioner of Commerce and Economic Development.

The main functions and uses for these funds will be:

1. For the good and general purposes of "Market Development of our Alaskan Forest Products".
2. That said market development activity shall include any reasonable and prudent function that will aid and assist in relating and bringing the potential and existing Alaska timber resource to the markets including, but not limited to, market research, new product development, generic advertising of Alaskan wood products, quality control and grading of wood products, technical publications and translations, sales aids, trade mission participation, customer identification and education, and similar related pursuit of new and expanding markets.

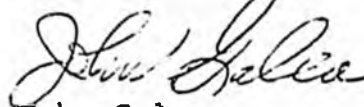
Alaska Loggers Association, Inc.

Letter of Intent - March 12, 1986 - Page 3.

The private industry as represented in part by the members of the committee has agreed in principal that they shall make a special effort to raise a minimum of \$50,000 in cash and in-kind services as their participation in this 1987 FY market development activity and they expect to participate on a larger percentage in future years, and that it is clearly understood and as stated herein that a coordinated market development effort is necessary if Alaskans are to be a beneficial participant in and profit substantially from the forest products industry in the next decade and that this effort will take several years and the combined leadership and resources of industry and government.

END OF DRAFT

Respectfully submitted,



John Galea
General Manager

JG/jmg

Original sponsors: Taylor and Sund

Funding Information

General Fund	\$500,000
Other Funds	- 0 -
	<u>\$500,000</u>

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR FOR HOUSE BILL NO. 306 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Depart-
7 ment of Commerce and Economic Development for the
8 promotion of forest products; and providing for an
9 effective date."

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

11 * Section 1. The sum of \$500,000 is appropriated from the general fund
12 to the Department of Commerce and Economic Development, office of forest
13 products, for the marketing and promotion of forest products from the
14 state.

15 * Sec. 2. The unexpended and unobligated portion of the appropriation
16 made by this Act lapses into the general fund June 30, 1987.

17 * Sec. 3. This Act takes effect July 1, 1986.

House Bill No. 306: An Act relating to the promotion of the marketing of forest products.

Department position statement: The Department of Commerce and Economic Development supports the concept of the bill which addresses the serious need for generic marketing of Alaska timber products. However, the department is not in favor of HB 306 in its present form. The department feels this function could more effectively be served within the existing Office of Forest Products rather than creating a new and separate institution for this purpose. A pilot program within the Department of Commerce and Economic Development with advisory direction from a market development advisory committee would perhaps be a more appropriate way to start.

Bill Summary: HB 306 proposes a forest marketing institute not unlike ASMI (fisheries). It establishes a public corporation with an industry board appointed by the Governor and a mechanism for a small staff. The board would plan and implement a statewide generic marketing effort. Funding would come from a self-imposed assessment (tax) of from .001 to .004 of the value of forest products purchased by forest producers which would be voted on by processors. Revenue would be deposited in the State's general fund. The Legislature could then make appropriation to the department to support the institute including "appropriate" additional money beyond the assessment collected.

Analysis:

1. HB 306 responds to the broadly recognized need for a statewide forest industry marketing program. It has opted for a public corporation rather than a direct agency marketing effort or State support to a predominantly private effort.
2. HB 306 proposes a self-imposed tax or assessment on the purchase of timber products by processors. Unfortunately, pulp mills bear the brunt of this tax and benefit the least as their markets are very few in number and highly institutionalized and, hence, don't lend themselves to generic marketing. Conversely, round log exporters benefit from generic marketing, yet bear little tax. There is no simple solution to this inequity.
3. Given the financial distress of the timber industry the timing is poor for a new assessment.
4. Limiting the assessment to businesses purchasing forest products in the State valued at \$50,000 or more would eliminate many of the small portable sawmill operators in the Interior, leaving much of the Interior industry outside the assessment system.

In general the bill is a first and important step toward a coordinated State/private market development effort for forest products. However, there are several approaches which could be used to address this problem. For instance, the current Market Development Advisory Committee within the Office of Forest Products has proposed a market development fund be set up within the Office of Forest Products. Proposed activities include in part, generic marketing, market research, trade mission participation, publication of technical brochures on Alaska tree species and wood products, and general public education activities.

Department Proposal: The department believes the bill could be overhauled and made more equitable and responsive to industry needs. The department would work with the sponsors and members of the industry to accomplish this restructuring.



Loren H. Lounsbury, Commissioner

Date: 1/30/86

MEMORANDUM

State of Alaska

TO: Loren H. Lounsbury, Commissioner
Department of Commerce & Economic
Development

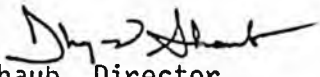
DATE: January 16, 1986

FILE NO.:

THRU:

TELEPHONE NO.:

SUBJECT:

FROM: 
Thyes Shaub, Director
Office of Forest Products
Department of Commerce & Economic
Development

The Alaska Loggers Association Legislative Committee asked the Office of Forest Products Market Development Advisory Committee to establish a plan for an increased advocacy and market development program.

The committee met late in November. The basic plan agreed upon was to build up the advocacy and market development activities within the Office of Forest Products and, at some point in the future, pass over a majority of that function to a nonprofit private organization concerned with a statewide forest products industry. This would occur in a stairstep fashion over a period of 3-5 years.

The committee voted to draft a resolution regarding the establishment of a special market development fund in the Office of Forest Products. If appropriated, this fund would be administered by the Office of Forest Products with direction of an advisory committee of statewide representation such as currently exists.

It is anticipated that by the end of five years the private sector would be providing 30-40% of the funds and the State 40-50% with the balance coming from federal sources to assist with the overseas market development.

The resolution is attached.

TS/cw0154A
11686a
Attachment
cc: Greg Baker

Committee Resolution
Market Development Advisory Committee
Office of Forest Products
November 22, 1985

ESTABLISHING A MARKET DEVELOPMENT
FUND IN THE OFFICE OF FOREST PRODUCTS

WHEREAS the Alaska forest products industry in Southeast Alaska has been experiencing difficult times in their participation in the international markets for an extended period and the results have been highly detrimental to employment and the general economy of that portion of the State;

WHEREAS the new land ownership patterns now unfolding in Southcentral and Interior Alaska clearly indicate the new owners will and are interested in bringing the commercial forest they now or soon will own to the market as soon as markets, economic access, and owner needs dictate, and that about half of that forest is owned by the State of Alaska;

WHEREAS the railbelt of Alaska is currently consuming an estimated 120 million board feet of dimensional wood, and 55 million square feet of construction grade ply or composition board per year and this imported wood represents 95% of the total consumed and does clearly indicate that Alaskans need to be developing and using our natural resources to generate employment and economic activity in and for Alaska;

WHEREAS the international forest products markets for the next decade are projected at a slow steady growth in wood demand with a real price improvement during the next few years, and that in existing and future wood markets Alaskan forest products can be competitive in domestic and overseas markets if we proceed now to renew and develop our timber industry in an orderly and prudent manner; and,

WHEREAS the State of Alaska has several good and valid reasons for proceeding to embark upon a program to initiate the first coordinated market development activity for our current and future forest products industry, said reasons include, but are not limited to, those listed above.

NOW, THEREFORE BE IT RESOLVED BY THIS ADVISORY COMMITTEE:

The appropriate State governmental bodies and agencies, including the State Legislature, Governor's Office, Commissioners of Commerce and Economic Development, Natural Resources and such others as may be involved to take steps to accomplish and acknowledge the following:

1. Appropriate and authorize the expenditure of \$250,000 for the 1987 fiscal year by the Office of Forest Products for the good and general purposes of "Market Development of our Alaskan Forest Products." These funds to be spent generally in the following manner:

- 50% For International Market Development Activity
- 30% For Market Development in Alaska
- 20% For Participation Assistance to Industry Associations

2. That said market development activity shall include in these formative years any reasonable and prudent function that will aid and assist in relating and bringing the potential and existing Alaska timber resource to the markets including, but not limited to, market research, new product development, generic advertising of Alaskan wood products, quality control and grading of wood products, technical publications and translations, sales aids, trade mission participation, customer identification and education, and similar related pursuit of new and expanding markets.

AND BE IT FURTHER RESOLVED:

The private industry as represented in part by the members of this committee does agree and concur that they shall make a special effort to raise a minimum of \$50,000 in cash and in-kind services as their participation in this 1987 FY market development activity and they would expect to participate on a larger percentage in future years, and that it is clearly understood and as stated herein that a coordinated market development effort is necessary if Alaskans are to be a beneficial participant in and profit substantially from the forest products industry in the next decade and that this effort will take several years and the combined leadership and resources of industry and government.

RESOLVED THIS 22ND DAY OF NOVEMBER, 1985
by the MARKET DEVELOPMENT ADVISORY COMMITTEE
Members Present -
Steve Seley, Greg Bell, Gerry Engel, Terry Brady

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

Section 1 is the findings of the legislature for a marketing institute for forest products in the state.

Section 2 lists seven purposes for establishing an institute.

Section 3 adds a new chapter to AS 41 setting up the framework of the Alaska Forest Products Marketing Institute as an independent public corporation in the executive branch as follows:

(a) An 18 member board of directors is appointed by the governor of which 12 are member affiliated with processors, five are persons engaged in harvesting and one is a member not involved in the industry. Members serve three year staggered terms at the pleasure of the governor, and may be reappointed. Ten members are required for a quorum for meetings of which there must be at least one a year. Meetings are at the call of the chair or when requested in writing by two members. Members receive per diem but no compensation. Employment and compensation is provided for institute staff.

(b) Eleven powers and four duties are listed.

(c) An assessment is provided for not less than .001 or more than .004 of the value of forest products in the state if the assessment is approved by at least 51 percent of the eligible processors. The director of elections approves the election procedures used by the institute and certifies the results. The commissioner

Representative Jack McBride
Page 2
February 29, 1984

of revenue may terminate an assessment if a petition signed by at least 25 percent of processors who voted in an election approving the assessment, is approved by at least 51 percent of the eligible processors. As in the approval election, the institute must follow certain procedures in termination. The section provides for collection of the assessment by the Department of Commerce and Economic Development and deposit in the general fund, as well as appropriations of additional money by the legislature to finance the institute. There is a provision for the enforcement, determination of forest product value and processor eligibility and a definition portion that defines critical words in the bill.

Section 4 adds a new paragraph to AS 39.25.110 providing for the executive director and employees of the institute to be in exempted service classification.

Section 5 adds the institute to entities in AS 39.50.200 who must comply with conflict of interest laws.

Section 6 makes provision for temporary appointments to the board of the institute to accomplish the staggered terms of members.

RCF:ojb
J4/025

Sponsors
for back-up

DNR
FISCAL NOTE
POSITION PAPER
TESTIFY

Resolving not testifying

Introduced: 3/20/85
Referred: Labor & Commerce,
Resources and Finance

1 IN THE HOUSE

BY TAYLOR AND SUND

2

HOUSE BILL NO. 306

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the promotion of the marketing of
7 forest products."

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

9 * Section 1. FINDINGS AND PURPOSES. (a) The legislature finds that a
10 cooperative effort by the state and private industry to stabilize and
11 develop the forest products industry of Alaska, promote quality control
12 within the industry, and foster expansion of the market for Alaska forest
13 products throughout the state, nation, and world is in the public interest
14 and is a valid public purpose. The legislature further finds that a co-
15 operative effort would benefit the forest products industry in Alaska and
16 that, therefore, some of the cost of maintaining the effort should be borne
17 by the industry. The legislature further finds that the assessments that
18 forest product processors may levy upon themselves under this Act are
19 intended to reimburse the state for the industry's rightful share of the
20 forest products marketing effort, while reserving the legislature's right
21 under the state constitution to spend the money so collected for any pur-
22 pose. The legislature further finds that public financing of this program
23 in excess of the amounts realized from the assessment during the develop-
24 ment phases of the program is appropriate.

25 (b) The purpose of this Act is to

26 (1) encourage the forest products industry in the state to make
27 greater use of the forest products resources in the state;

28 (2) expand the range of forest products harvested by the forest
29 products industry in the state;

1 (3) enable the forest products industry to maintain and enhance
2 the quality of forest products harvested and processed by loggers and
3 processors in the state;

4 (4) enable the forest products industry in the state to stimu-
5 late consumer identification of Alaska forest products to increase the use
6 and consumption of forest products harvested and processed in the state;

7 (5) stabilize and diversify the distribution of forest products
8 processed and harvested in the state by encouraging consumers to purchase
9 Alaska forest products;

10 (6) provide for the reimbursement to the state, through assess-
11 ments made on forest products processors, of a part of the financial assis-
12 tance provided by the state to maintain the forest products marketing
13 effort provided for under this Act; and

14 (7) create an effort that will be financed jointly by the state
15 and by forest product processors.

16 * Sec. 2. AS 41 is amended by adding a new chapter to read:

17 CHAPTER 47. ALASKA FOREST PRODUCTS MARKETING INSTITUTE.

18 Sec. 41.47.010. ALASKA FOREST PRODUCTS MARKETING INSTITUTE
19 ESTABLISHED. There is established the Alaska Forest Products Market-
20 ing Institute. The institute is a public corporation of the state in
21 the Department of Commerce and Economic Development with separate and
22 independent legal existence.

23 Sec. 41.47.020. BOARD OF DIRECTORS. (a) The governing body of
24 the institute is a board of directors consisting of 18 members ap-
25 pointed by the governor. In making appointments to the board the
26 governor may consider nominees presented by persons engaged in forest
27 product processing, the financing of forest product processing, or the
28 harvesting of forest products.

29 (b) Twelve members of the board shall be affiliated with forest

1 products processors; eight of these members shall be affiliated with a
2 forest products processor that has an annual payroll in the state of
3 \$1,000,000 or more; four of these members shall be affiliated with a
4 forest products processor that has an annual payroll in the state of
5 at least \$50,000 but less than \$1,000,000. Five members of the board
6 shall be individuals engaged in harvesting forest products. One
7 member of the board shall be an individual not involved with the
8 forest products industry.

9 (c) The board shall annually elect a presiding officer and other
10 necessary officers from among its members.

11 Sec. 41.47.030. TERM OF OFFICE. Members of the board serve
12 three-year staggered terms and may be reappointed. A member appointed
13 to fill a vacancy holds office for the balance of the term.

14 Sec. 41.47.040. REMOVAL AND VACANCIES. A member of the board
15 serves at the pleasure of the governor. A vacancy on the board occur-
16 ring other than by expiration of a term shall be filled in the same
17 manner as the original appointment.

18 Sec. 41.47.050. QUORUM. Ten members of the board constitute a
19 quorum for the transaction of business and the exercise of the powers
20 and duties of the board.

21 Sec. 41.47.060. COMPENSATION OF BOARD MEMBERS. A board member
22 serves without compensation but shall receive the per diem and travel
23 pay authorized under AS 39.20.180 for board members.

24 Sec. 41.47.070. MEETINGS. The board shall meet at least once a
25 year. Meetings are held at the call of the presiding officer or when
26 requested in writing by two members of the board.

27 Sec. 41.47.080. EMPLOYMENT OF PERSONNEL. The board may employ
28 and shall establish the compensation of an executive director. The
29 executive director may, with the approval of the board, employ and

1 establish the compensation of additional staff as necessary.

2 Sec. 41.47.090. POWERS. The board may

3 (1) have a corporate seal;

4 (2) adopt and change bylaws;

5 (3) sue and be sued;

6 (4) adopt regulations governing the exercise of its powers;

7 (5) cooperate with a public or private board, organization,
8 or agency engaged in work or activities similar to the work or activi-
9 ties of the institute, including entering into contracts for joint
10 programs of consumer education, sales promotion, quality control,
11 advertising, or research relating to the production, processing, or
12 distribution of forest products;

13 (6) conduct, or contract for, scientific research to de-
14 velop and discover uses for forest products harvested and processed in
15 the state;

16 (7) receive contributions of money from persons;

17 (8) establish offices in the state and otherwise incur
18 expenses incidental to the performance of its duties;

19 (9) appear on behalf of the institute before boards, com-
20 missions, departments, or other agencies of municipal, state, or
21 federal government;

22 (10) acquire, lease, sell, or dispose of property necessary
23 to carry out its purposes and powers;

24 (11) establish bank accounts for the transaction of the
25 institute's business.

26 Sec. 41.47.100. EXECUTIVE BUDGET ACT. The operating budget of
27 the institute shall be prepared and submitted under AS 37.07.

28 Sec. 41.47.110. DUTIES. The board shall

29 (1) conduct education, research, advertising, or sales

1 promotion programs designed to accomplish the purposes of this chap-
2 ter;

3 (2) prepare market research and product development plans
4 to promote forest products and their by-products that are harvested in
5 the state and processed for sale;

6 (3) develop market-oriented quality specifications for
7 Alaska forest products for developing a high quality image for Alaska
8 forest products in world markets, and adopt and distribute recommenda-
9 tions for harvesting and marketing forest products; and

10 (4) submit an annual report to the governor and the legis-
11 lature describing the activities of the institute.

12 Sec. 41.47.120. PROHIBITED PROMOTIONS. The board may not pro-
13 mote or enter into a contract that promotes forest products by

14 (1) geographic origin other than from the state generally;

15 (2) geographic region of the state; or

16 (3) specific brand name.

17 Sec. 41.47.130. FOREST PRODUCTS MARKETING ASSESSMENT. (a) A
18 processor who buys forest products in the state valued at \$50,000 or
19 more during each calendar year shall pay an assessment of not less
20 than .001 or more than .004 of the value paid by the processor.

21 (b) An assessment may be levied or collected under (a) of this
22 section only if the assessment is approved by eligible processors
23 under AS 41.47.140.

24 Sec. 41.47.140. ELECTION TO APPROVE OR TERMINATE ASSESSMENT.

25 (a) The institute shall conduct an election under this section after
26 the director of the division of elections approves

27 (1) the notice to be published by the institute;

28 (2) the ballot to be used in the election; and

29 (3) the registration and voting procedure for the approval

1 or termination of the assessment.

2 (b) The assessment is levied under AS 41.47.130 on the effective
3 date stated on the ballot if

4 (1) it is approved by at least the number of eligible
5 processors who together purchased at least 51 percent of the total
6 value of forest products purchased in the state during the 12 months
7 immediately preceding the month of the election under this section;
8 and

9 (2) the election results are certified by the director of
10 the division of elections.

11 (c) The institute shall adopt the following procedures for an
12 election under this section:

13 (1) The institute shall hold at least one public meeting
14 not less than 30 days before the date that ballots must be postmarked
15 to be counted in the election to explain the reason for the proposed
16 assessment and to explain the registration and voting procedure to be
17 used in the election. The institute shall provide notice of the
18 meeting by

19 (A) mailing the notice to each eligible processor;

20 (B) publishing the notice in at least one newspaper of
21 general circulation in each judicial district in the state at
22 least once a week for two consecutive weeks before the meeting.

23 (2) The institute shall mail a ballot to each eligible
24 processor not later than 45 days before the date ballots must be
25 postmarked to be counted in the election.

26 (3) The ballot shall

27 (A) ask the question whether an assessment shall be
28 levied under one of the following assessments:

29 (i) .001;

1 (ii) .002;

2 (iii) .003; or

3 (iv) .004;

4 (B) provide an effective date for the levy of the
5 assessment; and

6 (C) indicate the date returned ballots must be post-
7 marked in order to be counted.

8 (4) The ballots shall be returned by mail and shall be
9 counted by the director of elections.

10 (d) The director of elections shall certify the results of an
11 election under this section if the director determines that (a) and
12 (c) of this section have been complied with.

13 (e) A ballot of a corporation is presumed valid under this
14 section and AS 41.47.150 if the ballot is signed by an officer of the
15 corporation and imprinted with the corporate seal.

16 (f) Except as provided in AS 41.47.150(b)(2), an election to
17 terminate an assessment shall be conducted under (a), (c), and (d) of
18 this section.

19 Sec. 41.47.150. TERMINATION OF FOREST PRODUCTS MARKETING ASSESS-
20 MENT. (a) An assessment levied under AS 41.47.130 may be terminated
21 by the commissioner of revenue if an election is held under AS 41.47.-
22 140 and termination of the assessment is approved by at least the
23 number of eligible processors who together purchased at least 51
24 percent of the total value of forest products purchased in the state
25 during the 12 months immediately preceding the month of the election
26 under this section.

27 (b) An assessment shall be terminated by the commissioner of
28 revenue under (a) of this section following an election if

29 (1) a petition is presented to the director of the division

1 of elections requesting termination of the assessment that is signed
2 by at least 25 percent of processors who voted under AS 41.47.140 in
3 the election approving the assessment;

4 (2) eligible processors who together purchased at least 51
5 percent of the total value of forest products purchased in the state
6 during the 12 months immediately preceding the month of the election
7 under this section cast ballots for terminating the assessment; and

8 (3) the institute provides notice of the election under
9 this section within two months after receiving notice from the direc-
10 tor of the division of elections that a valid petition under (1) of
11 this subsection has been received.

12 Sec. 41.47.160. COLLECTION OF ASSESSMENTS AND DISPOSITION OF
13 PROCEEDS. (a) A processor shall collect and remit to the Department
14 of Revenue by April 1 of each year the total amount of an assessment
15 owed on the value paid for forest products by the processor in the
16 previous calendar year.

17 (b) The forest products marketing assessment collected under
18 AS 41.47.130 - 41.47.170 shall be deposited in the general fund. The
19 legislature may make an appropriation based on collections of assess-
20 ments remitted to the Department of Commerce and Economic Development
21 for the purpose of providing financing to the institute and may appro-
22 priate additional money beyond the assessment collected under this
23 section as need is demonstrated by the institute.

24 Sec. 41.47.170. ENFORCEMENT OF ASSESSMENTS. AS 43.05 and
25 AS 43.10 apply to the enforcement and collection of the forest prod-
26 ucts marketing assessment.

27 Sec. 41.47.180. DETERMINATION OF VALUE AND ELIGIBILITY. When
28 requested by the director of elections or the institute's board of
29 directors, the commissioner of revenue shall determine

1 (1) the total value of forest products purchased in Alaska
2 during any calendar year;

3 (2) whether the eligible processors approving the levy or
4 termination of an assessment together purchased at least 51 percent of
5 the total value of forest products purchased in Alaska during the 12
6 months immediately preceding the month of election under AS 41.47.140;
7 or

8 (3) whether the eligible processors petitioning for an
9 election under AS 41.47.150(a)(1) are at least 25 percent of proces-
10 sors who voted in the election approving the assessment; or

11 (4) the eligibility of a processor under this chapter.

12 Sec. 41.47.200. DEFINITIONS. In this chapter,

13 (1) "assessment" means the forest products marketing as-
14 sessment;

15 (2) "board" means the Board of Directors of the Alaska
16 Forest Products Marketing Institute;

17 (3) "forest products" means timber and timber by-products
18 resulting after harvesting of timber;

19 (4) "harvesting" means removal of timber for sale;

20 (5) "institute" means the Alaska Forest Products Marketing
21 Institute;

22 (6) "processor" includes a person or firm who engages in
23 milling and chipping;

24 (7) "value" means the actual price paid for the forest
25 product resource by the forest product business, including indirect
26 consideration such as fuel, supplies, or machinery, whether paid at
27 the time of purchase of the forest product resource or tendered as a
28 deferred or delayed payment, except that "value" means the market
29 value of the forest product resource if the harvesting of the forest

1 product resource is done by company-owned or company-subsidized log-
2 ging firms operated by employees of the forest product business or by
3 logging firms that are operated under lease or other arrangement.

4 * Sec. 3. AS 39.25.110 is amended by adding a new paragraph to read:

5 (23) executive director and employees of the Alaska Forest
6 Products Marketing Institute.

7 * Sec. 4. AS 39.50.200(b) is amended by adding a new paragraph to read:

8 (48) Alaska Forest Products Marketing Institute (AS 41.47.-
9 010).

10 * Sec. 5. Initial appointments to the Board of Directors of the Alaska
11 Forest Products Marketing Institute under AS 41.47.020 enacted in sec. 2 of
12 this Act shall be made for the following terms:

13 (1) six members shall serve for one year;

14 (2) six members shall serve for two years;

15 (3) six members shall serve for three years.



Logger Letter

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December 1985

Promoting Alaska Timber in the Pacific Rim

The new State of Alaska representative in Taiwan is attorney Chen-nan Wang who is located in the city of Taipei. He has been in contact with Frank Seymour, State of Alaska Office of Forest Products' marketing specialist, regarding Alaska timber resources and their potential uses.

Alaska's Korean representative in Seoul, K. S. Yang, has met with Mr. Kim Nak Dong, Managing Director of Korea Lumber Industrial Cooperative, and presented him with copies of "Alaska Commercial Forest Resource", a booklet which was prepared by the Alaska Department of Commerce and Economic Development and translated into Korean. Mr. Yang reported that information from this booklet will be used in the February edition of the "Timber Bulletin", published monthly by the Cooperative. Mr. Yang will also be traveling with Mr. Kim Nak Dong to

Inchon Nest to promote the Alaska Timber Import of Ssangyong Company. Mr Yang reports that the Korean government has lowered the timber import quota for 1986. He says, "Therefore, we need more intensive marketing activities in the future".

Kaz Hayashi, Alaska's representative in Japan, is seeking memberships in foreign associations such as the Japanese Rayon Association to be able to better promote Alaska wood products and to establish a network of information coming back to Alaska for industry's use.

Meanwhile the market development efforts by the industry and the State are progressing here on the home front. A sample shipment of wood from the Interior of Alaska is being prepared and Frank Seymour will be traveling overseas in January to prepare the way for an ALA delegation to visit China in March.

Worker's Comp

This one went right down to the wire. All members of Alaska Timber Insurance Exchange were pleased to learn their company has obtained reinsurance and will be writing 1986 workmen's compensation policies. The ability to write the coverage was in question for awhile but Corroon & Black notified the Alaska Timber Insurance Management Committee on December 30 that the reinsurance had been placed.

ATIE is in business and will be serving its members in 1986.

Associate Member Project

Once again, ALA Associate Members held a hospitality room for Alaska delegates at the Pacific Logging Congress. Here officers Dale Sanregret of Mack Trucks and Tom Winter of Six Robbles man the refreshment center.



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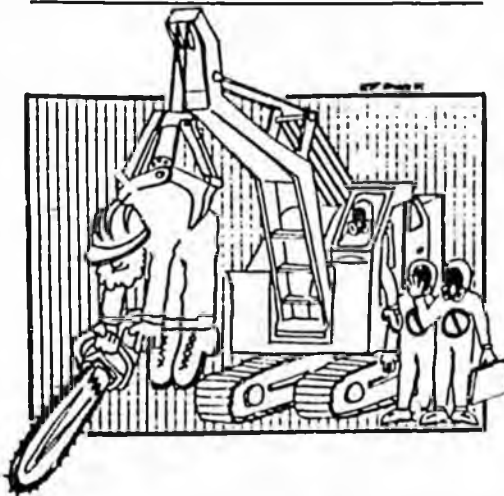
January 9, 1985

Alaska's Ailing Timber Industry: What Next?

Southeast Alaska's timber industry has been ravaged by a slump in the world market and rising production costs. Sitka and Ketchikan, Southeast Alaska's mill towns, have suffered the greatest economic loss, with intermittent closure of Louisiana-Pacific Ketchikan (LPK) and Alaska Lumber & Pulp (ALP) mills. Environmental Protection Agency (EPA) standards for water quality have to be taken seriously by the industry, argue the environmentalists, and Louisiana-Pacific Ketchikan has recently decided to compromise with the EPA over those standards, rather than continue on in a long and expensive court battle. The people of the small logging towns who are losing jobs and being dislocated find it hard to accept water quality and fish and game habitats as the reason they are unemployed.

Alaskan environmental groups do not find the timber industry's plight such a terrible thing. They simply advocate cutting less timber, and they have come out against the practices employed by the Forest Service, Alaska Lumber and Pulp and LPK. They would like to see long-term contracts let by the Forest Service in the 1950's terminated, or at least scaled down. They want the logging industry returned to the small operators, out of the hands of LPK and ALP, the two large companies that hold the contracts.

Bart Koehler, Executive Director of the Southeast Alaska Conservation Council (SEACC), said that SEACC, the environmental group who most closely watches the timber industry, is



putting together a management proposal for Southeast Alaska that "will balance as fast as we can the various economic uses, to make sure that there is a viable timber industry, that it is not dominating other resources, and that the other existing economies survive and prosper..."

SEACC came out with a study of cutting practices in the Tongass National Forest in mid-December, at the same time the Governor's Timber Task Force handed down its final report. The SEACC study condemns the level of timber available for harvest (the 450-cut), the Forest Service's management policies, and accuses the Forest Service of giving special treatment to industry at the expense of small companies and the residents of Alaska.

Jim Clark, Chairman of the Governor's Timber Task Force and a lobbyist for Alaska Lumber and Pulp,

rebutted some of the environmentalists charges in a December radio interview with Juneau reporter Laury Roberts.

"I view that report and some of the things in there as unreasonable and unfair ... for two reasons. The notion of doing away with the 450 million board feet and the ANILCA funding provisions is one-half of an agreement that was reached at the time the D-2 lands bill was put together. There were two objectives that Congress was trying to meet. It wanted to maximize the wilderness in the Tongass National Forest and it wanted to preserve the industry. So to say that we're just going to unilaterally cancel one half of the deal now that the land has been put into wilderness really is not a realistic alternative ... it's not even a ballpark proposal." Clark said he hoped the environmentalists would be given a seat on the Task Force in the future.

Industry/Government Solutions

On December 13, the Governor's "Alaska Timber Task Force" presented its hefty package of suggested remedies for the ailing timber industry. Sheffield created the 14-member industry/government group in October and directed it to come up with recommendations in four areas: marketing, rules and regulations, infrastructure, and finance.

According to Jim Clark there are several reasons for the decline of the timber industry including a soft market for pulp, the strong U.S. dollar, and competition from cheaper foreign competitors.

(Continued on page 7)