

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
5492 SRES SR 7 - SR 14

It does this by removing a forest that the absence of forest fires has allowed to develop over a period of hundreds of years. Such a forest is composed of trees of all ages and sizes. In this environment, deer can move about freely in tough winters beneath the canopy of large trees which intercept deep snowfalls and next to openings where sunlight encourages the seasonal growth of essential food plants.

Research is currently underway to determine the ability of second-growth stands, with special silvicultural treatment, to duplicate many of the habitat characteristics naturally found in old growth stands. The effectiveness of this treatment, however, has not yet been demonstrated. The long-term success of maintaining deer winter habitat in conjunction with the timber harvesting contemplated in TLMP is, therefore, only speculative.

Forest practices associated with commercial timber harvesting and road construction rely on the application of best management practices to accomplish needed resource protection. Best management practices apply the best current knowledge to avoiding or mitigating unacceptable impacts. The TLMP and associated Forest Service Alaska Regional Guide are replete with such practices designed to provide some measure of habitat protection for deer, Alaska brown bear, and other highly valued wildlife species - including the largest concentration of American bald eagles in the United States. Unfortunately, as the Forest Service readily concedes, these practices have not been

implemented sufficiently enough for us to know how well ANILCA provides fish and wildlife protection on the Tongass Forest.

It is essential that these practices be improved through additional research, and that the results of that research also be applied by the Forest Service in reaching its land management decisions.

And finally, it is also essential that mitigating measures and best management practices be monitored for their effectiveness. We believe that the Forest Service must engage in an expanded effort to implement, improve, and monitor the effectiveness of measures which it adopts to protect fish and wildlife, and water quality in the Tongass National Forest. To the extent that the State can assist the Forest Service in these efforts, it will do so. Recent dialogue with the Forest Service, for example, indicates a willingness to discuss development of an initial study of selected Tongass streams. Such a study would yield the baseline data necessary to establish an on-going Forest Service monitoring program for water quality in streams subject to the influence of logging, road construction and other development activities.

In conclusion, the State of Alaska believes that additional time, and the willingness of the Forest Service to adopt our recommendations, are needed to see if the legislative solution for the Tongass Forest will work as Congress envisioned it. We believe

that a much fuller evaluation of ANILCA's success will be possible by 1989 when TLMP is scheduled for revision. In the interim, Congress will have another opportunity in 1987 to review management of the Tongass Forest. It is the state's hope that significant progress can be reported at that time. Thank you.

TESTIMONY OF CRAIG J. LINDH, DIVISION OF GOVERNMENTAL COORDINATION, OFFICE OF THE GOVERNOR, SENATE RESOLUTION NO. 7, FIFTEENTH LEGISLATURE, FIRST SESSION, BEFORE THE SENATE RESOURCES COMMITTEE.

February 23, 1987

Mr. Chairman, members of the committee, ladies and gentlemen. My name is Craig Lindh. I am employed in the Division of Governmental Coordination, Office of the Governor. I am here today on behalf of the Administration and concerned state agencies including the Departments of Commerce and Economic Development, Natural Resources, Fish and Game, and Environmental Conservation.

Senate Resolution No. 7 addresses a matter which has been of long-standing interest to the State of Alaska. In 1985, the state participated with other entities named in Section 706(c) of the Alaska National Interest Lands Conservation Act (ANILCA) in a review of Tongass Forest management. This review was part of a reporting requirement placed on the Secretary of Agriculture by Congress in Section 706(b) of ANILCA. The timber industry which depends on national forest timber supplies in southeast Alaska was another participant in the review process, as were the Sealaska Corporation, the Southeast Alaska Conservation Council, the Alaska Land Use Council, and representatives of the commercial fishing industry in southeast Alaska. I expect that most, if not all, of these participants are represented here today.

In May of last year, contributors to the ANILCA Sec. 706(b) report, as well as people from a number of communities in

southeast Alaska, testified at Congressional oversight hearings in Washington, D.C. For the record, I am submitting the state's testimony which was presented at those hearings. As many of you are aware, there is a high degree of interest in Tongass Forest issues, both here in Alaska and in the lower 48 states.

Congress will be asked this year to amend or repeal Section 705 of ANILCA. This is the section which directs the Forest Service to provide a timber supply to the dependent timber industry and guarantees a minimum funding level outside of the normal appropriations process to enable the Forest Service to accomplish it. The Congressional objective of this provision was to maintain employment in the dependent timber industry at pre-ANILCA levels by providing a timber supply while ensuring that other resources of the forest were managed in accordance with the Tongass Land Management Plan (TLMP) and applicable federal law.

The Administration does not support substantive changes in Section 705 at this time because it believes that provisions of TLMP need to be more fully implemented before it can be determined how well ANILCA can solve existing problems. The state has urged full ANILCA funding and that the funds be used more effectively. For example, road construction funds could be better targeted to access timber which is scheduled for harvest in the near future rather than on administrative tie roads which will provide access at some more distant time in the future.

Inadequate implementation of TLMP may also jeopardize the wildlife and fisheries values in the Tongass Forest as well as water quality as it relates to fisheries and human consumption. An adequate monitoring program for water quality impacts associated with logging and road construction will permit the refinement of existing management practices or the identification of new, more effective, practices. Legislation is premature while administrative remedies are available.

Congress has directed the U.S. General Accounting Office to investigate Forest Service implementation of Section 705. It is our understanding that this investigation will be completed sometime next winter. Until this investigation is completed, Congress will not have the benefit of the independent and objective analysis that it has requested. We informed Congress last May that the state would continue to monitor ANILCA's implementation by the Forest Service.

Attempts to amend Section 705 could lead to renewed debate on other provisions of ANILCA. The Administration does not want to encourage a reopening of the act. If Congress considers amendments to Section 705, the Administration will request that Congressional hearings be conducted in Alaska, particularly in southeast Alaska communities.

TESTIMONY OF ALASKA LOGGERS ASSOCIATION
CONCERNING SR 7

My name is James F. Clark. I represent the Alaska Loggers Association (ALA). The ALA would like to commend sponsors of this resolution and the Committee for proposing this resolution. The Alaska National Interest Lands Conservation Act (ANILCA) was debated from January of 1977 until December of 1980. During that time, there was more hearings held on it than any bill since the Civil Rights Act of 1965. Through the Citizens for the Management of Alaska Lands (CMAL), the Alaska Loggers Association lobbied anyone in Congress who would listen to us on this issue as well as various groups both in Washington, D.C. and around the country. The Alaska Coalition (of which such groups as the Wilderness Society and the Sierra Club were constituent members) lobbied equally hard for their version of the bill.

The Tongass National Forest was one of the key issues debated. From our side, we made it clear that jobs was the main issue. We wanted to maintain the then existing level of jobs on the Tongass National Forest. At that time the Forest Service estimated that there were approximately 6,000 and indirect jobs associated with timber harvest. (The timber harvest was approximately 450 million board feet on the average for the ten years preceding passage of the Act in 1980.)

We pointed out that were Congress to designate as wilderness all of the areas proposed by the Alaska Coalition there would be insufficient timber to maintain jobs. Under the

Tongass Land Management Plan (TLMP), the Forest Service agreed with us showing that only 36 million board feet of timber could be produced.

The Forest Service presented a solution called "intensive management." That is that the amount of wilderness desired could be created without a job loss if Congress spent additional monies to make the reduced timber base produce more timber.

Thus, a grand compromise was reached on the Southeast Alaska issue, with Senator Stevens representing Alaska's interest and Senator Tsongas of Massachusetts representing the interest of the Alaska Coalition. The amount of wilderness desired by the environmentalists would be designated and this was done in Section 703 of the Act. In return, Section 705 would provide the intensive management monies needed to produce more timber from the reduced timber base.

Attached to this letter is a "dear colleague" letter from Senator Bob Mrazek of Long Island, New York, which calls one side of the deal as subsidy and thus would strike down one-half of the compromise, namely Section 705. Although it is not stated in the "dear colleague" letter, Congressman Mrazek's bill would also require the Forest Service to buy out the long term sales in Sitka and Ketchikan, establish 120 more deferral (i.e., non-harvest) areas on the Tongass National Forest and prohibit timber

sales unless what amounts to a 60% sur-tax based on Forest Service cost of timber production is added to the stumpage rates.

In short, this resolution is needed because the Alaska Legislature needs to tell Congress that a deal is a deal and that even though six years have passed, we have not forgotten what the agreement was.

The other key reason why this resolution would be helpful is to show the importance of maintaining Alaskan jobs in Alaska. Representative Mrazek's bill is couched in economic terms. He calls Section 705 a "boondoggle" and treats it as if it is some massive subsidy to the timber companies.

In point of fact, purchasers of Tongass National Forest must operate on the primary manufacture principle. This means that we must add value to round logs before we are allowed to export product from the Tongass National Forest. In 1976, the Alaska Department of Commerce and Economic Development determined that there were 10.2 jobs associated with primary manufacture and only 2.2 jobs associated with the timber harvest. While I am sure these numbers are no longer the same, they give you an idea of the scale of jobs associated with primary manufacture on the one hand and simple round log export on the other.

There is no question that we could provide a positive dollar return to the federal government in the form of stumpage fees if the industry were relieved of the primary manufacture

requirement. The money, in short, is for Alaskan workers, not for the companies and not for the federal government.

Congress has had a 40 year history of maintaining primary manufacture. The policy was initially established by the Forest Service prior to World War II and made a requirement of the long term sales which were negotiated during the 1950's.

When Congress cleared the way for the long term sales in the Tongass Timber Act of 1947, it specifically referred to the long term, year round employment which would be created as a key reason for its action. When Congress passed the Alaska Native Claims Settlement Act (ANCSA) in 1971, Section 15 specifically set up a mechanism to prevent any impact upon the long term sales and hence primary manufacture as a result of the settlement. In 1976 when Congress passed the National Forest Management Act, which added many environmental restrictions to timber harvest operations nationwide, it ordered the Secretary of Agriculture to compensate the holders of the long term sales in Alaska. (The holders of the then short term sales were not impacted by the 1976 requirements.)

This was the policy reiterated in Section 705 of ANILCA as can be plainly seen from the committee reports and floor debate accompanying the bill's passage. Congress wanted both the wilderness and the jobs and was prepared to spend the money to retain each. Congress knew that it could immediately increase the sales value of the standing timber on the Tongass by allowing



P.O. BOX 189
ANGOON
ALASKA
99820

PHONE:
(907) 788-3653

Resolution No. 87-04

RESOLUTION OF ANGOON CITY COUNCIL
IN OPPOSITION TO SR7

- WHEREAS; the management practices and policies of the dependent timber industry in Alaska demonstrate little concern or responsibility in the exploitation of SE Alaska timberlands and employees, as has been shown by its' treatment of Sitka millworkers, and;
- WHEREAS; the dependent timber industry has long been the recipient of a preferential, federally-subsidized monopoly which is detrimental to the tourism, fishing and private timber industries in Alaska and;
- WHEREAS; in excess of 1,000 jobs have been lost due to industry/management policies in spite of the intentions and efforts of Congress to maintain the foreign-owned "dependent" industry, and,
- WHEREAS; it is not in the best interests of the State of Alaska, its' Legislature or its' citizens to take actions which are supportive of foreign-owned competition and, therefore, detrimental to our own State's long-range economic development;

BE IT RESOLVED that the Angoon City Council is opposed to the passage of Senate Resolution 7.

Passed at a City Council Meeting held on FEBRUARY 17, 1987 by a vote of 6 yeas, 0 nays, 0 absent, 0 abstain.

FOR THE CITY OF ANGOON

[Signature]
Mayor 2-17-87
Date

ATTEST: Cynthia L. Paul
City Clerk

SEAL



GREGORY FRANK COOK

ATTORNEY AT LAW

P.O. Box 618, Douglas, Alaska 99824

Residence (907) 586-9719

Admitted to Practice in Alaska and Oregon

TESTIMONY ON SENATE RESOLUTION NO. 7

(Relating to the timber industry in Southeast Alaska)

Before the Senate Resources Committee:
February 23, 1987

I urge you to vote NO on S. R. No. 7.

There are a wealth of reasons why S. R. No. 7 should not be passed. Many of those reasons revolve around the harmful effects logging has had on the fisheries and wildlife resources of Southeast Alaska.

The harmful effects of the logging industry on fisheries and wildlife have been well documented by the Territorial Sportsmen, Inc. in a report entitled: "Logging in Southeast Alaska and its Relationship to Wildlife, Fisheries, and Economics (Territorial Sportsmen, 1985)." That report should be carefully studied by this committee before action on Resolution No. 7 is taken.

My testimony concentrates instead on a different reason why you should vote NO on S. R. No. 7: the deceptive nature of the economic benefits attributed to the logging industry.

According to State of Alaska, Department of Labor statistics:

--in 1984, the timber industry was the fourth biggest employer of nonresidents in Alaska (out of 76 industries). (There were 715 non-residents employed, and 1,204 residents employed.)

--logging was #8 in the per cent of total wages paid to non-residents with \$7,928,467 going to non-residents. (Residents were paid \$25,441,354.)

--in 1985, the timber industry increased the number of non-residents in the work force by over 20% to 864, earning \$10,898,000. (The number of residents employed in the logging industry held relatively stable at 1,296, earning \$28,916,000.)

--in 1985, logging remained the fourth largest employer of non-residents in Alaska, and became the seventh biggest source of non-resident wages.

SEE: Nonresidents Working in Alaska in 1985, January, 1987, Alaska Department of Labor; Nonresidents Working in Alaska, January, 1986, Alaska Department of Labor; and Statistical Quarterly, 1st Quarter, 1986, Alaska Dept. Labor.

Assuming the goal of the Alaska Legislature is to provide for the maximum economic development of the State, continued subsidization of the timber industry is a bad investment. State and federal money spent to provide additional subsidies to the economically inefficient, large, foreign-owned, timber corporations is NOT money that is well-spent from the standpoint of Alaskan economic development.

The timber industry has been, and continues to be, one of the biggest sources in the State of Alaska of non-resident hiring. Too much of the money the timber industry generates leaves Alaska.

Not only does the timber industry contribute to the flight of capital from Alaska, but the short-term and long-term impacts of current logging practices on other natural resources are extremely harmful.

The logging industry has produced numerous harmful effects on commercial, recreational, and subsistence fishing in Southeast Alaska. The widespread practice of "high-grading" Alaska's forest lands promises even more serious and more harmful effects on various species of wildlife. SEE, for example: ADF&G Technical Paper #138, Division of Subsistence, 1987.

The Legislature should obtain expert scientific testimony from biologists within the Department of Fish and Game to provide a detailed explanation of how wildlife and fisheries resources have been damaged by past timbering practices, and why they remain threatened.

The Legislature should also request comprehensive information from the Department of Labor to clarify the impacts on Alaska's economy of the timber industry's non-resident work force.

There is definitely a place for the timber industry in the economic picture of Southeast Alaska. The proper role, however, requires a delicate balancing of many factors, including economic concerns, biological impacts, and social factors.

S.R. No. 7 fails to consider various critical aspects of the problem of properly developing Alaska's timber resources. This is an issue the Legislature should confront carefully and with due consideration for the synergistic impacts that logging has on the rest of Alaska's economy and way of life.

For these reasons, I urge you to vote NO on S. R. No 7, and seek the information outlined above to develop a better approach to this complex issue.

Thank you for the opportunity to present these remarks.



FEB 13 1987

KL

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

ROBERT J. MRAZEK
3RD DISTRICT, NEW YORK

COMMITTEE ON
APPROPRIATIONS
WHIP AT LARGE

February 12, 1987

Dear Colleague,

Next week, I will reintroduce the Tongass Timber Reform Act in an effort to save the American taxpayers millions of dollars in the coming years. This legislation will provide a long-overdue remedy to the waste of taxpayer money and natural resources taking place each year in the Tongass National Forest in Alaska. The situation in the Tongass truly gives new meaning to the word BOONDOGGLE.

For 75 years, the U.S. Forest Service (USFS) has attempted to foster economic development in southeast Alaska by force-feeding taxpayer dollars to a timber industry on our nation's largest national forest. Despite sizable taxpayer losses and severe environmental destruction to a rare ecosystem of incalculable value, the agency has shown no intention of reforming its unprofitable policy.

Under Section 705 of the 1980 Alaska Lands Act, the USFS receives an open-ended permanent appropriation of "at least \$40 million annually or as much as the Secretary of Agriculture finds necessary" to enable it to achieve its goal of 4.5 billion board feet (bbf) of timber from the Tongass each decade. Unlike virtually all other federal expenditures, including expenditures for national defense, these funds are not subject to deferral or rescission by the administration, nor are they subject to the annual appropriations process in Congress.

As a member of the Appropriations Committee, I believe the committee should have an opportunity to review the management policy in the Tongass each year to determine the appropriate level of funding.

The Tongass is an unusually expensive place to harvest timber and the region cannot efficiently compete in declining world markets, even with massive subsidies. Consider this: In the past five years, the USFS has sold less than 44 percent of the timber offered for sale. In fact, during the last ten years (1977-1986), the Tongass' direct cost to the taxpayer has been a staggering \$365 million.

My bill will repeal Section 705, restricting timber sales to that amount that reasonably can be expected to be sold. It will rein in a reckless and wasteful practice of spending money to prepare timber for sale, timber that cannot possibly attract buyers in the marketplace.

These changes would save the American taxpayers an estimated \$20 million in FY 1988. As much as \$1 billion can be saved over the next 20 years. You may find it hard to believe that in 1986, there was a 99-cent loss on every dollar spent in the Tongass.

Originally, the Tongass timber program was proposed to maintain jobs and promote economic development in the remote southeast Alaska panhandle. Another rationale was to promote other industries, such as tourism and fishing, in order to diversify the local economy. Subsidizing timber companies and clearcutting the last largely intact rain forest in the earth's temperate zone is not the only answer to southeast Alaska's economic needs. In addition, it does little to save the home of the largest populations of grizzly bears and bald eagles in the United States.

Instead, timber sales have declined and there is little hope of the industry recovering. Where there were 3,055 jobs in 1980, there are only 1,800 now. In other words, making the taxpayer obligation to the timber industry a permanent appropriation has not saved a single job.


Despite the declining industry, the USFS continues to build roads into roadless areas at a rate that far exceeds legitimate harvest needs. Instead of conserving taxpayer dollars by reducing the timber prepared for sale to an amount likely to sell, and by eliminating all roadbuilding expenditures into roadless areas (at a cost of over \$150,000 per mile), the USFS continues in the "business as usual" manner.

This practice should and can be stopped.

The Tongass National Forest is one of the last significant stands of temperate rain forest left in the Northern hemisphere. That the American taxpayer should be asked to subsidize the destruction of this magnificent national treasure is ridiculous.

I ask that you join me in limiting the funds available to subsidize the Alaska timber industry. We should agree to bring the USFS in Alaska under the same budget scrutiny as the departments of Defense or Education. Let's work toward reducing the deficit by eliminating this ~~BOONDOGGLE~~. Please contact Ann Bennett (x5-5956) of my staff to join me as an original cosponsor.

Sincerely,


Robert S. Mrazek
Member of Congress

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER:

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

DATE TURNED INTO OFFICE 2-27-87

Mr. President:

RESOURCES Committee considered SR 7

Relating to the timber industry in Southeast Alaska.

and recommended:

replace with CS SR 7 (Res) same title
 attached amendment(s) and new title

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]
[Signature]
Paul A. Thiel

John Duncan - No Rec.

[Signature]
Chairman signature and recommendation

Committee Backup Attached

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: SR 7
Publish Date: 2-2-87

Revision Date: _____
Title: Relating to the Timber Industry
in Southeast Alaska
Sponsor: Jones, Faiks, Venling
Requestor: Resources

Agency Affected: Office of the Governor
BRU: Office of Management & Budget
Components: Division of Governmental
Coordination

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Michael A. Nizich, Director *M. Nizich* Phone: 465-3616
Division: Administrative Services Date: 2-20-87

Approved by Commissioner: Carol P. Kastelic *CPK* Date: 2-20-87
Agency: Office of the Governor

Distribution (by preparer):

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

SR

||

SENATE COMMITTEE REPORT

FURTHER:

3/6/87

DATE TURNED INTO OFFICE _____

Mr. President:

RESOURCES _____ Committee considered _____ SR 11

Requesting the Governor to direct the filing of an amicus brief in Sierra Club v. Bureau of Land Management to advise the court of the state's position.

and recommended:

[] replace with _____ CS FOR _____) [] same title
[] or adopt _____ CS FOR _____) [] new title

[] attached amendment(s) and

[x] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [x] adopted fiscal note(s)

[] new [] updated or [] previous
[x] zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
Curtis Surprenant amendment
Paul A. Frede

[Signature] No Rec
[Signature] No Rec

[Signature]
Chairman signature and recommendation

[] Committee Backup Attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 2/19/87 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER RESOURCES

**FISCAL NOTE(S) ATTACHED ✓ **
IN ACCORDANCE WITH AS 24.08.035
(see below)

DATE TURNED INTO OFFICE 3/5/87

Mr. President:

JUDICIARY Committee considered SR 11

Requesting the Governor to direct the filing of an amicus brief in Sierra Club v. Bureau of Land Management to advise the court of the state's position.

and recommended:

[] replace with CS _____ [] same title
[] new title

[] attached amendment(s) and

[] do pass

[] do not pass

[x] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted and attached

** Committee [x] attached or [] adopted fiscal note(s)
[x] zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Rich Halford NO REC
Joe Groshen - NO REC
Curtis Stangorochi NO REC
Walter Bodery NO REC

J. Kuttala No Rec
Chairman signature and recommendation

[] Committee Backup Attached

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version: SR 11
Publish Date: _____

Revision Date: _____
Title: "Requesting the Governor to direct the filing of an amicus brief..."
Sponsor: Sen. Coghill
Requestor: Senate Judiciary Committee

Agency Affected: Department of Law
BRU: Legal Services

Components: Legal Services Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director
Division: Administrative Services

Phone: 65-3672
Date: Feb. 23, 1987

Approved by Commissioner: Richard I. Pegues / FOR /
Grace Berg Schable, Atty. Gen.
Agency: Department of Law

Date: Feb. 23, 1987

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SR 11

This resolution requests the Governor to direct the attorney general to file an amicus curiae brief on behalf of the state, in Sierra Club v. Bureau of Land Management, which is now before the United States Court of Appeals for the Ninth Circuit. Preparation and filing of the brief can be handled using existing staff and resources within one to two weeks time, once work begins.

Senator John B. (Jack) Coghill
Alaska State Legislature

Pouch V
Juneau, Alaska 99811
(907) 465-4921

Box 55028
North Pole, Alaska 99705
(907) 488-0862

*Comments before Senate Judiciary
February 24, 1987*



GOOD AFTERNOON MR. CHAIRMAN AND FELLOW SENATORS THANK YOU FOR SCHEDULING MY RESOLUTION IN SUCH A TIMELY MANNER.

SENATE RESOLUTION 11, IS GOOD POLICY, I HOPE THE MEMORANDUMS WHICH HAVE BEEN SUPPLIED THIS COMMITTEE FROM MY OFFICE HAVE BEEN HELPFUL IN YOUR COMING TO THE SAME CONCLUSION.

AS YOU WILL NOTE IN MY MEMO, THE INTENT OF THIS RESOLUTION IS TO REMIND THE GOVERNOR THAT 80 PERCENT OF THE STATES MINING INDUSTRY IS STILL IN JEOPARDY OF BEING ELIMINATED FROM OUR ECONOMY.

THE RESOLUTION ITSELF HAS A LOT OF ROOM TO BE MADE STRONGER, BUT I HOPE THIS GENTLE PROD WILL ENCOURAGE THE GOVERNOR TO TAKE THE INITIATIVE AND ADDRESS THE ISSUE RAISED HERE AGGRESSIVELY.

THE PROBLEM THIS RESOLUTION ADDRESSES IS WHAT OUR PEOPLE IN THE RESOURCE AGENCIES CALL ENVIRONMENTAL BANKS SHOT LITIGATION. THIS TYPE OF COURT ACTION IS NOT AIMED AT ANY ONE DEVELOPMENT OPERATION, IT TARGETS AN ENTIRE INDUSTRY INDIRECTLY BY TAKING A GOVERNMENT AGENCY TO TASK.

ALL TOO OFTEN OVER THE PAST 10 OR 15 YEARS, THE ENVIRONMENTAL COMMUNITY HAS FILED SUIT AGAINST STATE OR FEDERAL AGENCIES, FOR FAILURE TO PROPERLY IMPLEMENT REGULATIONS OR OVER THE REGULATIONS THEMSELVES. IN MANY CASES THEIR CONCERNS WHERE

NOBLE AND SUPPORTABLE PUBLIC INTEREST ACTIONS. IN THIS CASE HOWEVER, THEY ARE SHOT GUNNING EVERY MINER ON BUREAU OF LAND MANAGEMENT LANDS, REGARDLESS OF GUILT.

THERE IS NO DOUBT THAT THERE ARE A FEW BAD APPLES IN THE MINING COMMUNITY, WHO PERHAPS DON'T FOLLOW OUR ENVIRONMENTAL LAWS OR PROPER ENGINEERING TECHNIQUES IN THEIR MINING OPERATIONS, BUT THIS IS NO REASON TO PENALIZE THOSE MINERS THAT DO FOLLOW THE RULES AND HAVE ENVIRONMENTALLY SOUND OPERATIONS. BUT SIERRA CLUB IS ATTEMPTING TO ~~TO~~ STOP ALL MINING UNTIL THE NINTH CIRCUIT COURT RULES ON THEIR APPEAL. THIS IS DIRTY POOL. IF THEY TRUELY HAVE A PROBLEM WITH A SPECIFIC MINING OPERATION WHY DON'T THEY ADDRESS THAT PARTICULAR MINE, RATHER THAN SHOOTING A BANK SHOT THAT WILL IMPACT ALL MINING?

YOU MAY ASK, AS I DID, IF THERE IS ACTUALLY A POSSIBILITY THE COURT MIGHT GRANT SIERRA CLUB THEIR REQUESTED INJUNCTION? THE ANSWER TO THAT RESULTED IN THIS RESOLUTION. COURT HISTORY IN MATTERS OF THIS NATURE INDICATES THAT THE POSSIBILITY IS VERY REAL, UNLESS, THE STATE, AS A REPRESENTATIVE PUBLIC ENTITY, NOTIFIES THE COURT OF THE STATES INTEREST IN THE MATTER, AS OUTLINES IN THE RESOLUTION.

LET'S FACE IT, MINING CREATES NEW WEALTH FOR THE STATE, THROUGH THE HARVEST OF MINERAL RESOURCES. MINING CREATES

JOB, AND THESE PEOPLE PAY TAXES, PROPERTY TAXES, SALES TAXES, FUEL TAXES, INCOME TAXES, BUSINESS TAXES AND THE LIKE. MINERS HAVE CREATED ACCESS ROUTES TO MANY REGIONS OF OUR STATE, THERE BY IMPROVING THE VALUE OF STATE RESOURCES ALONG THESE ROUTES. SOME EVEN ARGUE THAT MINING ENHANCES WILDLIFE HABITAT AND IMPROVES SOME AGRICULTURAL OPPORTUNITIES, LIKE CREATING SUITABLE GRAZING TOPOGRAPHIES FOR LIVESTOCK BY REMOVING MUSKEG AND PERMAFROST.

MINING IS NOT INCOMPATIBLE WITH ALASKAN'S OR ALASKA'S ENVIRONMENT. MINERS ARE IMPROVING THEIR OPERATIONS AND THERE BY LESSENING ANY IMPACTS WHICH MAY OR MAY NOT DISAPPOINT US. IF ALLOWED TO CONTINUE TO IMPROVE THEIR OPERATING TECHNIQUES, I'M CONFIDENT THEY WILL SOLVE ALL THE ENVIRONMENTAL PROBLEMS TO THE SATISFACTION OF ALASKA'S ENVIRONMENTAL COMMUNITY.

I DON'T THINK IT IS NECESSARY FOR ME TO REMIND YOU OF OUR NEED TO DIVERSIFY OUR STATE WIDE ECONOMY, OR OF THE BLOW SIERRA CLUB'S EFFORTS WOULD INFLICT ON THIS ECONOMY IF MINING IS STOPPED. BUT I WOULD LIKE TO RETURN TO A COMMENT I MADE AT THE OUTSET OF MY REMARKS. NAMELY, THIS RESOLUTION COULD BE STRONGER.

WE COULD BE ASKING THE GOVERNOR TO INTERVENE ON BEHALF OF THE MINERS IN THIS CASE, OR TO FILE AN AMICUS BRIEF ON THE MERITS OF SIERRA CLUBS APPEAL, BOTH WOULD REQUIRE

SUBSTANTIALLY MORE TIME TO BE INVESTED BY THE DEPARTMENT OF LAW. BUT, I WOULD RATHER SEE THE GOVERNOR BE ALLOWED TO MAKE THAT DECISION. I THINK THE STATE'S INVESTMENT HOWEVER LARGE OR SMALL WILL BE INSIGNIFICANT IN COMPARISON TO WHAT THE STATE'S ECONOMY WILL LOSE IF SIERRA CLUB ULTIMATELY WINS THEIR APPEAL. BUT THIS RESOLUTION IS ONLY A REMINDER, THE ISSUE OF COURT ORDERED MINE CLOSURES IS STILL OUT THERE.

I HOPE MY INTENTIONS ARE CLEAR ON THIS RESOLUTION, AND THAT YOU WILL TAKE TIMELY ACTION TODAY. THE WINDOW OF OPPORTUNITY TO FILE A REPUTABLE BRIEF IS CLOSING RAPIDLY, AND THIS MEASURE HAS ONE MORE COMMITTEE TO GO THROUGH.

THANK YOU AGAIN FOR QUICKLY ADDRESSING THIS RESOLUTION MR. CHAIRMAN.

ANY QUESTIONS?

Comments made in Judiciary Feb. 24, 1987

Senator John B. (Jack) Coghill
Alaska State Legislature

Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862

COMMENTS BEFORE SENATE JUDICIARY
MARCH 3, 1987



GOOD AFTERNOON MR. CHAIRMAN, SENATORS,

THANK YOU FOR BRINGING SR 11 BACK BEFORE THE COMMITTEE FOR ACTION IN A TIMELY MANNER.

AS I HAVE ALREADY PRESENTED THE COMMITTEE WITH MY TESTIMONY ON THIS RESOLUTION AT THE PREVIOUS HEARING, I APPEAR TODAY ONLY TO ADD A LETTER FROM THE GOVERNORS OFFICE WHICH I WAS COPIED WITH RECENTLY.

THE LETTER IS DATED FEBRUARY 25, 1987 AND CONCERNS THE SIERRA CLUB VS. BLM LAWSUIT. THE LETTER IS ADDRESSED TO THE U.S. NINTH CURCUIT COURT OF APPEALS.

THE LETTER ADDRESSE THE COURT'S CONSIDERATION OF A "MOTION FOR INJUNCTION PENDING APPEAL," AND IT RAISES CONCERNS ABOUT THE POSSIBLE EFFECTS OF AN INJUNCTION AND MAKES THE FOLLOWING POINTS:

° EXPRESSES THE STATE'S DESIRE TO ENSURE ADEQUATE PROTECTION OF ALASKA'S UNIQUE LAND AND WATER RESOURCES;

° RECOGNIZES THAT POTENTIAL ENVIRONMENTAL HARMS MUST BE UNDERSTOOD BEFORE THEY CAN BE BALANCED AGAINST THE NEED FOR ECONOMIC DEVELOPMENT ACTIVITIES;

° DESCRIBES THE SIGNIFICANT ROLE OF PLACER MINING IN ALASKA'S ECONOMY AND THE STATE'S INTEREST IN THE CONTINUATION OF PLACER MINING OPERATIONS IN AN ENVIRONMENTALLY RESPONSIBLE MANNER;

° ARGUES THAT A BLANKET INJUNCTION AGAINST MINING OPERATIONS WOULD NOT SERVE THE INTERESTS OF ALASKA AND ITS CITIZENS, BECAUSE IT WOULD PENALIZE INDIVIDUAL MINERS FOR BLM'S ALLEDGED LEGAL ERRORS;

° NOTES THAT IN 1986, WHILE THE DISTRICT COURT ACTION WAS PENDING, THE STATE HELPED THE PARTIES NEGOTIATE AN INTERIM SETTLEMENT AGREEMENT THAT ALLOWED MINING TO PROCEED DURING THE 1986 MINING SEASON WHILE REQUIRING BLM TO INSTITUTE COMPREHENSIVE MEASURES TO ASSESS AND RESPOND TO ENVIRONMENTAL PROBLEMS;

° SUGGESTS THAT IF THE COURT DECIDES TO ISSUE AN INJUNCTION PENDING ITS CONSIDERATION OF THE APPEAL, THE COURT SHOULD FASHION THE INJUNCTIVE RELIEF CONSISTENT WITH THE 1986 INTERIM SETTLEMENT AGREEMENT OR, ALTERNATIVELY, TO REQUEST THAT THE PARTIES NEGOTIATE A REVISED INTERIM AGREEMENT;

AND LASTLY,

° OFFERS THE STATE'S ASSISTANCE IN HELPING THE PARTIES TO NEGOTIATE AN AGREEMENT ACCEPTABLE TO THE COURT.

THE APPROACH PROVIDED IN THE LETTER WOULD ENSURE THAT THE BURDEN FOR BLM'S ALLEGED ERRORS DOES NOT FALL SOLELY ON INDIVIDUAL PLACER MINERS, BUT IT DOES NOT MAKE THE STATE'S POSITION A MATTER OF COURT RECORD, THE FILING OF AN AMICUS BRIEF ON THE OTHER HAND WOULD.

WHILE I APPLAUD THE OFFICE OF THE GOVERNOR FOR CALLING TO THE COURT'S ATTENTION THE VALUABLE ROLE THE STATE CAN PLAY IN BRINGING THE PARTIES TOGETHER TO ENSURE THAT ENVIRONMENTALLY RESPONSIBLE PLACER MINING CAN PROCEED IN 1987, I WOULD HOPE THAT PASSAGE OF THIS RESOLUTION WOULD ENCOURAGE THEM TO TAKE THE STATE'S POSITION ONE STEP FURTHER, AND MAKE IT A MATTER OF COURT RECORD.

I ENCOURAGE YOU TO PASS THE RESOLUTION OUT OF COMMITTEE TODAY, WITH INDIVIDUAL DO PASS RECOMMENDATIONS.

THANK YOU MR. CHAIRMAN.

STATE OF ALASKA



SENATE JUDICIARY COMMITTEE

SEN. JAY KERTTULA
SEN. ARLISS STURGULEWSKI
SEN. RICK HALFORD
SEN. JOE JOSEPHSON
SEN. PAT RODEY

P.O. BOX V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3717
(907) 465-3771

2-23-87

MEMO

TO: SENATE JUDICIARY MEMBERS

FROM: Beth Kerttula, Staff Co-counsel

For your information: Richard I. Pegues, Director of Administrative Services, says that the cost for one hour of an attorney's time and over-head for the Department of Law to do Legal work is \$90.00.

For a seven and one-half hour work day the amount would equal \$675.00. For one week's worth of work the amount would equal \$3,375.00. For two week's worth of work the amount would equal \$6,750.00.

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 25, 1987

United States Court of Appeals for
the Ninth Circuit
United States Court of Appeals &
Post Office Building
P.O. Box 547
Seventh & Mission Street
San Francisco, CA 94101

RE: Sierra Club, et al v. Penfold, et al,
No. A86-083 (D. Alaska Jan. 29, 1987)
(Order granting partial summary judgment),
appeal docketed, No. 87-3597 (9th Cir. February
12, 1987).

Gentlemen:

On February 12, 1987, the plaintiffs in the above-entitled litigation filed an appeal from the United States District Court's January 29, 1987 order which denied plaintiffs' motion for partial summary judgment. On February 17, 1987, plaintiffs also filed with this court a motion for injunctive relief pending appeal. The State of Alaska has not participated in this litigation. However, the state may wish to submit an amicus curiae brief pursuant to Fed. R. App. P. 29 at an appropriate time during appellate briefing.

Although the state is not a current participant in the litigation, the state wishes to share with the court and the parties the state's concern over the pending motion for injunctive relief. The state shares plaintiffs' legitimate desire to ensure adequate protection of Alaska's unique land and water resources. The state also recognizes that one must understand potential environmental harms before one can properly balance such harms against the need for economic development. Environmental assessments and environmental impact statements may provide one method to assess and understand such harms. However, the mining activities

February 25, 1987

plaintiffs seek to enjoin play a significant role in Alaska's economy. Alaska's current economic plight, caused by sharply reduced world oil prices, increases the importance of a viable placer mining mineral industry. In short, the state has a substantial interest in the continuance of placer mining operations in an environmentally responsible manner.

A blanket injunction against mining operations on Bureau of Land Management ("BLM") land would not serve the interest of Alaska and its citizens. The injunction would also penalize the individual miners for BLM's alleged legal errors. If BLM has misapplied federal law, the burden for BLM's mistakes should not fall solely on the individual miners.

During the 1986 mining season, while the district court action was pending, the state helped the various parties negotiate a compromise interim settlement agreement. The interim settlement agreement allowed mining to proceed during 1986, but also required BLM to institute comprehensive measures to assess and respond to environmental problems caused by placer mining.

If plaintiffs' position warrants injunctive relief, the state urges the court to fashion relief in a manner consistent with the 1986 interim settlement agreement. In the alternative, the court might request the parties to negotiate a revised interim agreement and to submit the revised agreement to the court for approval. As in 1986, the state stands ready to assist the parties in any such negotiations.

The State of Alaska appreciates the court's consideration of the views expressed in this letter. Copies of this letter have been mailed to all parties of record.

Sincerely,



Pete Jeans
Chief of Staff

The letter to the Ninth Circuit Court of Appeals addresses the court's consideration of a "motion for injunction pending appeal" in the Sierra Club's lawsuit against the Bureau of Land Management (BLM). The Sierra Club alleged that BLM had failed to assess adequately the environmental impacts associated with placer mining on BLM lands. The appeal is from a ruling by the U.S. District Court. At this stage, however, the merits of the appeal are not yet before the Court of Appeals. The state is not a participant in this litigation.

The letter raises concerns about the possible effects of an injunction and makes the following points:

- Expresses the state's desire to ensure adequate protection of Alaska's unique land and water resources;
- Recognizes that potential environmental harms must be understood before they can be balanced against the need for economic development activities;
- Describes the significant role of placer mining in Alaska's economy and the state's interest in the continuation of placer mining operations in an environmentally responsible manner;
- Argues that a blanket injunction against mining operations would not serve the interests of Alaska and its citizens

because it would penalize individual miners for BLM's alleged legal errors;

Notes that in 1986, while the district court action was pending, the state helped the parties negotiate an interim settlement agreement that allowed mining to proceed during the 1986 mining season while requiring BLM to institute comprehensive measures to assess and respond to environmental problems;

Suggests that if the court decides to issue an injunction pending its consideration of the appeal, the court should fashion the injunctive relief consistent with the 1986 interim settlement agreement or, alternatively, to request that the parties negotiate a revised interim agreement;

Offers the state's assistance in helping the parties to negotiate an agreement acceptable to the court.

The approach provided by the letter would ensure that the burden for BLM's alleged errors does not fall solely on individual placer miners. Through the letter, the Office of the Governor has also called the court's attention to the valuable role the state can play in bringing the parties together to ensure that environmentally responsible placer mining can proceed in the 1987 mining season.

Senator John B. (Jack) Coghill
Alaska State Legislature

Pouch V
Juneau, Alaska 99811
(907) 465-4921

Box 55028
North Pole, Alaska 99705
(907) 488-0862

MEMORANDUM

TO: Senator Jay Kerttula
Chairman, Senate Judiciary Committee

FROM: Senator Coghill

RE: SR 11; Requesting the Governor to direct the filing of an amicus brief in Sierra Club v. Bureau of Land Management to advise the court of the state's position.

DATE: February 19, 1987

SR 11 is a clear, concise request of the Governor to follow through on some of the statements he made along the campaign trail. I realize the governor is a very busy man right now, so this resolution is primarily intended to be a reminder.

Although the resolution does not go as far as the mining community would like, namely full intervention in the lawsuit, it does address their primary concern - that the state support their legitimate position as a segment of our economy.

The state must take this opportunity to support, at no liability, an industry which has such deep roots in the history of the development of Alaska.

I have included with this memorandum, two others which were prepared by my staff before we filed this resolution. Also included is a letter from the Miners Advocacy Council, and two articles from the Fairbanks Daily News-Miner.

I strongly urge do pass recommendations.

Alaska State Legislature

Senate Resources Committee



Sen. John B. (Jack) Coghill, Chairman
Sen. Paul Fischer, Vice-Chairman
Sen. Lloyd Jones
Sen. Arliss Sturgulevski
Sen. Jim Duncan
Sen. Fred Zharoff
Sen. Dick Ellason

Box V
Juneau, Alaska 99811
(907) 465-4907

MEMORANDUM

TO: Senate Resource Committee Members

FROM: Resource Committee Staff *BJG*

RE: SR 11; Requesting the Governor to direct the filing of an amicus brief in Sierra Club v. Bureau of Land Management to advise the court of the state's position.

DATE: March 11, 1987

The following is a list of the contents of information included in your packets:

- 1) Sierra Clubs original complaint without the Memorandum in Support of the Motion for Preliminary Injunction.
- 2) A letter from the Governors Office signed by Mr. Pete Jeans to the Ninth Circuit Court of Appeals
- 3) Senator Coghill's comments before Senate Judiciary March 3, 1987
- 4) Senator Coghill's sponsor memo to Senate Judiciary
- 5) Memorandum to Senate Judiciary from committee staff
- 6) Zero (0) fiscal note
- 7) Senator Coghills comments before Senate Judiciary February 24, 1987
- 8) An example of further cases from the environmental organizations the state can expect.

Page two (2) of this memo highlights documentable impacts to the mining industry of the type of lawsuit addressed in SR 11.

March 11, 1987

- 2 - Senate Resource Staff Memo

1. Environmental litigation has three (3) major effects on industry:
 - a. it completely stops some operators from conducting their activity;
 - b. it causes tremendous additional costs through court ordered stipulations that forces additional operators out of business;
 - c. and it destabilizes the business environment through continually changing the conditions of operation, which impact long-term operating plans and financial commitments.
2. Although the mining industry experienced some economic advantages in 1986, gold production fell 16% over 1985.
Advantages include: a 25% rise in the price of Gold
Fuel costs dropped 50%
Labor was plentiful and eager for work
The decline in gold production would have been greater had it not been for the BIMA dredge operation in Nome.
3. Even with favorable economic conditions, mine permit applications dropped 29%.
4. Exploration expenditures fell to a twelve year low of only \$10 million. Down from \$76 million in 1981.
5. Jobs were lost as a result of fewer mines and fewer exploration dollars. It is estimated that in the Interior alone, 340 jobs were lost.
6. In the Interior, Fairbanks specifically, the decline in mining activity also showed up in expenditures for mining equipment in local business. In one years time, 1985 to 1986, expenditures in this one city fell from \$27 million to \$12.6 million, that's a 56% decline.
7. One of the primary reasons industry representatives cite as being responsible for the decline in mining activity, are the several lawsuits, including the Sierra Club action, which indirectly affects the willingness of miners to invest further sums of capital to continue mining.

Alaska State Legislature

Senate Resources Committee



Sen. John B. (Jack) Coghill, Chairman
Sen. Paul Fischer, Vice-Chairman
Sen. Lloyd Jones
Sen. Arliss Sturgulevski
Sen. Jim Duncan
Sen. Fred Zharoff
Sen. Dick Eliason

Box V
Juneau, Alaska 99811
(907) 465-4907

March 11, 1987

Honorable Grace Schaible
Attorney General
P.O. Box K
Juneau, AK 99811

Dear Madame Attorney General:

Presently the Senate Resources committee is considering a senate resolution (SR 11), which requests "the Governor to direct the filing of an amicus brief in Sierra Club v. Bureau of Land Management to advise the court of the States position." Several concerns were expressed by committee members during the initial hearing on this matter.

In order to clarify these concerns I would like to request the Department of Law to express it's opinion on the following point:

1. Please define amicus curiae actions, with particular regard to;
 - a. their purpose;
 - b. their usefulness;
 - c. their general content from a state's perspective.
2. Does the filing of an amicus brief constitute "taking sides," with regard to the litigants, in a matter before the court?
3. If "side taking" is a result of filing an amicus brief, can the brief be written in a manner that is consistent with the state's policy regarding the matter before the court?
4. Would the request presented in SR 11 place the state in a position that is inconsistent with it's mining and environmental policies?
5. Can inconsistencies with policies be avoided if the amicus is filed strictly as a toll to present evidence to the court?

The Honorable Grace Schiabe - 2 -

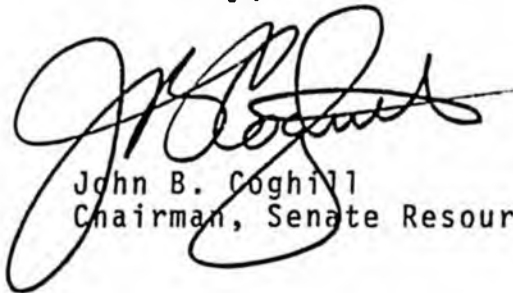
March 12, 1987

Finally, I would further respectfully request, that primary responsibility for the drafting of the Opinion on this issue not be assigned to any of the Assistant Attorneys General, assigned to either mining or environmental matters. In that way the Opinion can not be questioned based on any alleged bias of the author.

The resolution, SR 11, is rescheduled before Senate Resources, Monday, March 16, at 1:30 pm. I would greatly appreciate a reply by that time.

Thank you for your assistance.

Sincerely,



John B. Coghill
Chairman, Senate Resource

Enclosure

JC/brg

Hand Delivered
3/16/87 2:30pm

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

March 13, 1987

Honorable Jack Coghill, Chairman
Senate Resources Committee
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Re: SR 11 (amicus brief in
Sierra Club v. Bureau
of Land Management)

Dear Senator Coghill:

Your March 11, 1987 to the attorney general regarding SR 11 has been forwarded to me for reply.

I note that the text of the resolution does not simply seek an amicus curiae brief that will "advise the court of the state's position," as the heading says. The text "requests the Governor to direct the attorney general to file an amicus curiae brief with the Court of Appeals in this matter," and further requests the brief to "address the state's opposition to any injunction that stops mining activity..." and to address four specified points. The four points state policy or value judgments, and the word "address" in this context implies that the four points are to be urged or supported.

You asked five questions regarding amicus curiae briefs.

In your first question, you seek information regarding an amicus curiae brief's purpose, usefulness, and "general content from a state's perspective." As you no doubt know, "amicus curiae" is Latin for "a friend of the court." The purpose of an amicus curiae brief is, essentially, to aid the court in analyzing the issues in a case presented to it. Such a brief can be very useful if the issues are well researched and well analyzed and the brief is well written. The brief can present a viewpoint different from that of either of the primary litigants. An amicus brief is not very helpful if it merely repeats arguments already well-presented by the parties.

You asked whether filing such a brief constitutes "taking sides." It can, but it need not.

You asked whether, if "side taking" is a result of

Hon. Jack Coghill, Chairman
Senate Resources Committee

March 13, 1987
Page 2

filing an amicus brief, can the brief be written in a manner that is consistent with the state's policy regarding the matter before the court. The answer is yes. However, SR 11 is written in a way that requires the brief to take a particular position. That is not appropriate since the attorney general's office would have to analyze the law, apply it to the facts, and write the brief so that the issues are addressed in the way that appears to us legally appropriate.

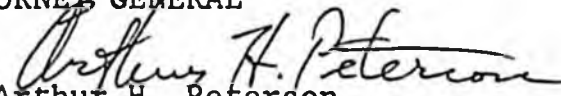
You asked whether SR 11's request would place the state in a position that is inconsistent with its mining and environmental policies. I have not discussed this with the governor and do not know the answer to that.

Finally, you asked whether inconsistencies with policies can be avoided if the amicus brief is filed simply to present evidence to the court. The brief would most likely provide analysis and argument rather than evidence, but I think that the answer to your question is yes. Whatever the State of Alaska's policy might be with regard to the issues being litigated, the brief could probably be written in such a way that those issues are brought into sharper focus and the court is indeed aided by the amicus's additional research and analysis.

If I may be of further assistance on this matter, please let me know.

Very truly yours,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 
Arthur H. Peterson
Assistant Attorney General

AHP:md

*File
Fairbank
Plan*

RECEIVED
OFFICE OF
U.S. ATTORNEY

FEB 18 2 52 PM '86
~~ANCHORAGE~~
FAIRBANKS, ALASKA

Lauri J. Adams
Philip S. Barnett
Sierra Club Legal Defense Fund, Inc.
419 Sixth Street, Suite 321
Juneau, AK 99801
(907) 586-2751

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

SIERRA CLUB, NORTHERN ALASKA)
ENVIRONMENTAL CENTER, WILDERNESS)
SOCIETY, BIRCH CREEK VILLAGE)
COUNCIL, MINTO VILLAGE COUNCIL,)
GOLOVIN TRADITIONAL COUNCIL,)
NUNAM KITLUTSISTI, and CENALIULRIIT)
COASTAL MANAGEMENT DISTRICT,)

Plaintiffs,)

vs.)

MICHAEL PENFOLD, Director of the)
Alaska State Office of the Bureau)
of Land Management; DONALD P.)
HODEL, Secretary of the Interior,)
ROBERT F. BURFORD, Director of the)
Bureau of Land Management; DONALD)
E. RUNBERG, Acting District Manager)
of the Fairbanks District Office of)
the Alaska State Office of the)
Bureau of Land Management; WAYNE)
A. BODEN, District Manager of the)
Anchorage District of the Alaska)
State Office of the Bureau of Land)
Management; DEPARTMENT OF THE)
INTERIOR; and BUREAU OF LAND)
MANAGEMENT,)

Defendants.)

No. A86-083

MOTION FOR PRELIMINARY
INJUNCTION

Plaintiffs move for a preliminary injunction in order
to protect themselves from the adverse effects of

unlawfully approved mining operations. The accompanying Memorandum sets forth in detail the reasons why plaintiffs are entitled to a preliminary injunction.

Plaintiffs request that the preliminary injunction prohibit the federal defendants from taking the following actions:

- (1) approving notices or plans of operations for mines on the public lands in Alaska without preparing environmental assessments;
- (2) issuing long-term camping permits to mines in the Fortymile National Wild and Scenic River corridor without preparing environmental assessments;
- (3) approving notices or plans of operations for mines within the Birch Creek National Wild River corridor, the Fortymile National Wild and Scenic River corridor, or the Beaver Creek National Wild River corridor, or upon any tributary to any of these rivers, without preparing a comprehensive environmental impact statement analyzing cumulative impacts;

- (4) approving notices or plans of operations for mines on the public lands in Alaska without preparing subsistence evaluations under title VIII of the Alaska National Interest Lands Conservation Act (ANILCA); and
- (5) approving notices or plans of operations for mines within the Birch Creek National Wild River corridor or upon any of its tributaries or any of the streams or rivers flowing into Minto Flats without complying with the notice and hearing requirements of title VIII of ANILCA.

Plaintiffs further request that the preliminary injunction order the federal defendants to stay every mine on the public lands in Alaska, whether previously approved or not, until such time as the federal defendants complete the following reviews:

- (1) an environmental assessment of the mine;
- (2) if the mine is within the Birch Creek National Wild River corridor, the Fortymile National Wild

and Scenic River corridor, or the Beaver Creek National Wild river corridor, or upon any tributary to any of these rivers, a comprehensive environmental impact statement analyzing cumulative impacts;

(3) a subsistence evaluation of the mine under title VIII of ANILCA; and

(4) if the mine is within the Birch Creek National Wild River corridor or upon any of its tributaries or any of the streams or rivers flowing into Minto Flats, a subsistence review under the notice and hearing provisions of title VIII of ANILCA.

Respectfully submitted,

SIERRA CUB LEGAL DEFENSE FUND, INC.

DATE: 2/14/86

BY: Philip S. Barnett
Philip S. Barnett

ATTORNEYS FOR PLAINTIFFS

ROBERT W. ADLER
PATTI J. SAUNDERS
Trustees for Alaska
735 Christensen Drive, Suite 4
Anchorage, AK 99501
(907) 276-6244

RECEIVED
REGIONAL SCIENCE, LTD.

FILED

FEB 1 1987

FEB 09 1987

ANCHORAGE, ALASKA

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

By _____ Deputy

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

TRUSTEES FOR ALASKA, ALASKA CENTER FOR)
THE ENVIRONMENT, NATIONAL PARKS AND)
CONSERVATION ASSOCIATION, AMERICAN)
WILDERNESS ALLIANCE, NORTHERN ALASKA)
ENVIRONMENTAL CENTER, SOUTHEAST ALASKA)
CONSERVATION COUNCIL, and DENALI CITIZENS)
COUNCIL,)

Plaintiffs)

v.)

UNITED STATES DEPARTMENT OF THE INTERIOR)
and DONALD HOEDEL, Secretary of the United)
States Department of the Interior,)
Defendants)

AG 7-055 CIV
Civ. No.

COMPLAINT AND PETITION FOR
REVIEW OF REGULATIONS

INTRODUCTION

1. This action seeks judicial review of the final regulations promulgated by the Secretary of the Interior at 43 C.F.R. Part 36 on September 4, 1986. 51 Fed. Reg. 31619-31635. These regulations ("Access Regulations") were enacted under the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3101 et seq., and concern transportation system, utility system and vehicle access to certain federal lands.

2. Plaintiffs are requesting that the Court declare unlawful and set aside various parts of the Access Regulations as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, and in excess of statutory jurisdiction, authority or limitations, or short of statutory right, as authorized by Sections 705(2)(A) and 706(2)(C) of the Administrative Procedure Act, 5 U.S.C. 705(2)(A) and 706(2)(C) and 28 U.S.C. 2201. Plaintiffs are also requesting that the Court, pursuant to Fed. R. Civ. P. 65, enjoin the Secretary from applying the Access Regulations, or unlawful portions thereof, and enjoin the Secretary to apply the interim regulations until such time as lawful final regulations are promulgated.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this complaint pursuant to 28 U.S.C. 1331 because Plaintiffs' claims arise under the laws of the United States, specifically the Administrative Procedure Act, 5 U.S.C. 551 et seq. and the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3101 et seq.

4. Venue lies in this Court under 28 U.S.C. 1391(e)(3) and/or (e)(4) because the defendants are officials and agencies of the United States, the federal land involved in the action is situated in Alaska and some of the plaintiffs are situated in Alaska.

PARTIES

5. The plaintiffs in this action are:

sa. Trustees for Alaska, a nonprofit public interest environmental law firm with approximately 750 members, approximately half of whom live in Alaska. Members of Trustees for Alaska use

and enjoy the public lands that will be affected by the Access Regulations for recreational and other purposes.

b. Alaska Center for the Environment ("ACE"), a nonprofit environmental education and advocacy organization with approximately 650 members, approximately 500 of whom live in Alaska. Members of ACE use and enjoy the public lands that will be affected by the Access Regulations for recreational and other purposes.

c. National Parks and Conservation Association ("NPCA"), a nonprofit environmental education organization with approximately 50,000 members, approximately 300 of whom live in Alaska. Members of NPCA use and enjoy the public lands that will be affected by the Access Regulations for recreational and other purposes.

d. American Wilderness Alliance, a nonprofit environmental advocacy organization with approximately 5,000 members, approximately 50 of whom live in Alaska. Members of American Wilderness Alliance use and enjoy the public lands that will be affected by the Access Regulations for recreational and other purposes.

e. Northern Alaska Environmental Center ("NAEC"), a nonprofit environmental education and advocacy organization with approximately 700 members, approximately 450 of whom live in Alaska. NAEC's members use and enjoy the public lands that will be affected by the Access Regulations for recreational and other purposes.

f. The Southeast Alaska Conservation Council ("SEACC"), an environmental education and advocacy organization with approxi-

ately 650 members, approximately 400 of whom live in Alaska. Members of SEACC use and enjoy the public lands that will be affected by the Access Regulations for recreational and other purposes.

g. Denali Citizens Council, an environmental advocacy organization with approximately 150 members, approximately 120 of whom live in Alaska. Members of Denali Citizens Council use and enjoy the public lands that will be affected by the Access Regulations for recreational and other purposes.

6. The plaintiff organizations and their members are and will be adversely affected by the promulgation and application of the unlawful Access Regulations because those regulations will result in the elimination or reduction of the natural and wilderness values of the public lands affected by the regulations and will decrease the suitability of those areas for the recreational and other pursuits engaged in by members of plaintiff organizations. Adverse effects will include, but are not limited to: (1) Significant damage to the soil and vegetation of areas, especially to tundra and permafrost, and scarring of the landscape by tracks and trails due to the expanded access authorized by the Access Regulations (particularly for snowmachines and off-road vehicles ("ORVs")); (2) increased noise, visual and air pollution from increased levels of vehicular access; and (3) injury to the extent that the regulations allow Interior and those seeking access to evade the procedural safeguards required by ANILCA for Transportation and Utility Systems ("TUS").

7. Defendant United States Department of the Interior ("Interior") is a department of the United States government.

8. Defendant Donald Hodel ("Secretary") is sued in his capacity as Secretary of the United States Department of the Interior.

STATEMENT OF FACTS

9. On December 2, 1980 Congress enacted the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3101 et seq. ("ANILCA"), which, among other things, established or expanded national parks, wildlife refuges, wild and scenic rivers, wilderness, forest monuments, conservation areas, recreation areas and wilderness study areas. The first five of these categories are designated "conservation system units" ("CSU's"). 16 U.S.C. 3102(4). CSU's, national conservation areas, and recreation areas are defined as "areas" in 43 C.F.R. 36.2(e). The regulations on access to inholdings, special access and temporary access also include designated wilderness study areas in the definition of "areas." 43 C.F.R. 36.10(a)(2), 36.11(a)(1) and 36.12(a)(1).

10. On June 17, 1981 Interior promulgated interim regulations for implementation of Title XI of ANILCA, "Transportation and Utility Systems In and Across, and Access Into, Conservation System Units." 36 C.F.R. Part 13 (National Park System Units in Alaska) and 50 C.F.R. Part 36 (Alaska National Wildlife Refuges) ("Interim Regulations").

11. On July 15, 1983 Interior published draft final Access Regulations. 43 Fed. Reg. 32506.

12. Plaintiff organizations submitted comments to Interior concerning the draft final Access Regulations.

13. On September 4, 1986 Interior promulgated final Access Regulations, which superseded the Interim Regulations.

CAUSE OF ACTION

Transportation and Utility Systems

14. 43 C.F.R. 36.2(h), which defines "economically feasible and prudent alternate route," is arbitrary and capricious, an abuse of discretion, not in accordance with law and violates ANILCA.

15. 43 C.F.R. 36.2(i), which defines "incident to its management of the unit or area," is arbitrary and capricious, an abuse of discretion, not in accordance with law, in excess of statutory authority and violates ANILCA because it is vague and overbroad.

16. 43 C.F.R. 36.3 is arbitrary and capricious, an abuse of discretion, not in accordance with law and violates ANILCA because it does not require pre-application activities permits for areas managed the Bureau of Land Management.

Access to Inholdings

17. 43 C.F.R. 36.10 is arbitrary and capricious, an abuse of discretion, not in accordance with law and violates ANILCA because it fails to regulate multiple use of inholder rights-of-way by other inholders and the public.

18. 43 C.F.R. 36.10 is arbitrary and capricious, an abuse of discretion, not in accordance with law and violates ANILCA because it fails to regulate the use of inholder rights-of-way by fee-paying guests and invitees.

19. 43 C.F.R. 36.10(a)(1) is arbitrary and capricious, an abuse of discretion, not in accordance with law, in excess of statutory authority and violates ANILCA because:

a. it does not limit "adequate and feasible access" to pedestrian and vehicular access, and

b. it weakens the standard set forth in Section 1110(b) of ANILCA for allowing a particular route and method of access by changing "necessary" to "reasonably necessary."

Special Access

20. 43 C.F.R. 36.11 is arbitrary and capricious, an abuse of discretion, not in accordance with law, in excess of statutory authority and violates ANILCA because it does not limit access to methods traditionally employed for a particular use.

21. 43 C.F.R. 36.11 is arbitrary and capricious, an abuse of discretion, not in accordance with law, in excess of statutory authority and violates ANILCA because it does not limit access to the areas or parts of areas where particular uses have traditionally occurred.

22. 43 C.F.R. 36.11 is arbitrary and capricious, an abuse of discretion, not in accordance with law, in excess of statutory authority and violates ANILCA because it does not limit various modes of transportation to traditional activities and travel to and from villages and homesites.

23. 43 C.F.R. 36.11(f)(4) is arbitrary and capricious, an abuse of discretion, not in accordance with law, in excess of statutory authority and violates ANILCA because it authorizes the use of helicopters at designated landing areas pursuant to permit or pursuant to a memorandum of understanding, while Section 1110(a) of ANILCA allows only airplanes.

24. 43 C.F.R. 36.11(g) is arbitrary and capricious, an abuse of discretion, not in accordance with law, in excess of statutory

authority and violates ANILCA because it allows the use of ORVs on established roads and parking areas, in designated areas or pursuant to permit, while Section 1110(c) does not.

Temporary Access

25. 43 C.F.R. 13.16 is arbitrary and capricious, an abuse of discretion, not in accordance with law, in excess of statutory authority and violates ANILCA because:

- a. it does not put any absolute time limit on temporary access permits,
- b. it does not prohibit renewals, and
- c. it does not restrict temporary access to undeveloped state and private lands.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs request that the Court:

A. Issue a declaration that the Access Regulations, as described above, are unlawful because they are arbitrary and capricious, an abuse of discretion, not in accordance with law, and in excess of statutory authority.

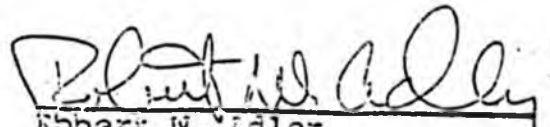
B. Enjoin Defendants from issuing any permits, processing any applications or otherwise applying the Access Regulations.

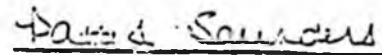
C. Enjoin Defendants to apply and to enforce the Interim Access Regulations until such time as lawful final regulations are enacted.

D. Grant Plaintiffs their costs of suit, including attorney's fees.

neys' fees.

E. Grant such other relief as is just and proper.


Robert W. Adler


Patti G. Sauncers

Date: February 9, 1987

Attorneys for Plaintiffs

United States District Court	DISTRICT Alaska
Trustees for Alaska, Alaska Center for the Environment, National Parks, and Conservation Association, American Wilderness Alliance, Northern Alaska Environmental Center, Southeast Alaska Conservation Council, Donald Citizens Council	SUITS NO. A 37-058 CIV
United States Department of the Interior, Donald Noel, Secretary of the U.S. Department of the Interior	TO: (NAME AND ADDRESS OF DEFENDANT) United States Department of the Interior Washington, D.C. 20240

YOU ARE HEREBY SUMMONED and required to serve upon

PLAINTIFF'S ATTORNEY (NAME AND ADDRESS)

Robert W. Adler
 Robert J. Saunders
 Trustees for Alaska
 725 Christensen Drive, Suite 4
 Anchorage, AK 99501

an answer to the complaint which is herewith served upon you, within ~~30~~ 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

CLERK

JoAnn Myres

DATE

FEB 09 1987

(BY) DEPUTY CLERK

Joe M. Whizard

CIVIL 10/121

SUMMONS IN A CIVIL ACTION

Handwritten notes:
10/121
10/121
10/121

<p>United States District Court</p>	<p>DISTRICT Alaska</p>
<p>Trustees for Alaska, Alaska Center for the Environment, National Parks and Conservation Association, American Wilderness Alliance, Northern Alaska Environmental Center, Southeast Alaska Conservation Council, Denali Citizens Council</p>	<p>DOCKET NO. 807-058 057</p>
<p>v. United States Department of the Interior, Donald Hodel, Secretary of the U.S. Department of the Interior</p>	<p>TO: (NAME AND ADDRESS OF DEFENDANT) Donald Hodel, Secretary United States Department of the Interior Washington, DC 20240</p>

YOU ARE HEREBY SUMMONED and required to serve upon

<p>PLAINTIFF'S ATTORNEY (NAME AND ADDRESS)</p> <p>Robert W. Adler Patti J. Saunders Trustees for Alaska 725 Christensen Drive, Suite 4 Anchorage, AK 99501</p>	<p>RECEIVED REGIONAL SCHEDULE U.S.D.C. FEB 10 1987 ANCHORAGE, ALASKA</p>
--	--

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

<p>CLERK</p> <p>JoAnn Myers</p>	<p>DATE</p>
<p>BY: DEPUTY CLERK</p> <p><i>JoAnn M. Weingard</i></p>	<p>FEB 09 1987</p>

SR

12

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of _____ 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER:

**FISCAL NOTE(S) ATTACHED _____ **
IN ACCORDANCE WITH AS 24.08.035
(see below)
2/24/87

DATE TURNED INTO OFFICE _____

Mr. President:

RESOURCES _____ Committee considered _____ SR 12

Relating to Canadian development of oil reserves in the Arctic.

and recommended:

[] replace with CS _____ [] same title
[] attached amendment(s) and [] new title

[/] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted and attached

** Committee [/] attached or [] adopted fiscal note(s)
[/] zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures: Paul G. ...]

[Handwritten signature]

Chairman signature and recommendation

[] Committee Backup Attached

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SR 12
Publish Date: _____

Revision Date: 4/13/87
Title: Relating to Canadian development of oil reserves in ANWR
Sponsor: Bennett, Falks
Requester: Senate Resources

Agency Affected: Natural Resources
BRU: Petroleum Management
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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 Department of Natural Resources anticipates no expenditures with respect to this legislation.

Prepared by: Larry Z. Ostrovsky Phone: 465-2400
Division: Commissioner's Office Date: 4/13/87
Approved by Commissioner: [Signature] Date: _____
Agency: Natural Resources

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requester
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

SR

13

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

Quest

FURTHER:

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

2/26/87

DATE TURNED INTO OFFICE 5/8

Mr. President:

RESOURCES Committee considered SR 13

Relating to Alaska interests in Arctic National Wildlife Range
regarding the Porcupine Caribou Herd,

and recommended:

- replace with CS SR 13 (Res) same title
- attached amendment(s) and new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____
- letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

[Signature]
 Chairman's signature and recommendation

Committee Backup Attached

STATE OF ALASKA 1987 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SR 13
 Title : Relating to Alaska interests in ANWR regarding the Porcupine Caribou Herd
 Sponsor : Coghill
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : _____
 BRU : _____

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
----------------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
----------------	---	---	---	---	---	---

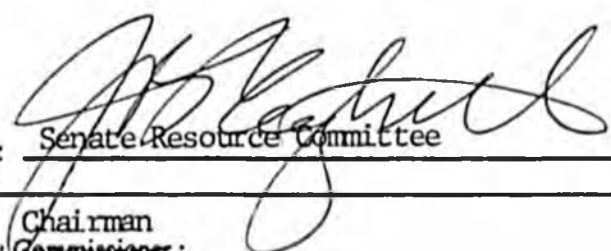
FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by :  Phone : _____
 Division : _____ Date : _____
 Approved by Chairman : _____ Date : May 4, 1987
 Agency : _____

Distribution (by Agency preparing fiscal note) :

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

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version : SR 13
Publish Date : _____

REQUEST: _____

Revision Date: _____
Title : Relating to Alaska interests in ANWR regarding the Porcupine Caribou Herd
Sponsor : _____
Requestor : _____

Agency Affected : _____
BRU : _____
Components : _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Senate Committee on Resources
Division : _____
Approved by Chairman _____
Agency : _____

Phone : 465-4797
Date : _____
Date : may 8, 1987

- Distribution (by preparer) :
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

SENATE AMENDMENT

BY: Resource Committee

TO: _____ SENATE BILL NO. SR 13

TO: _____ HOUSE BILL NO. _____

Insert, beginning at the end of line 16, page 2: "; and be it:

FURTHER RESOLVED that the enactment of a treaty, agreement, compact or provision between the government of Canada and the United States should not take place without the inclusion of a clause specifically stating that the agreement will not affect the pre-existing fish and wildlife management authorities of the State of Alaska."

(TURN IN ORIGINAL AMENDMENT TO SENATE SECRETARY'S OFFICE.
THE AMENDMENT WILL BE NUMBERED, COPIED AND DISTRIBUTED.)



ALASKA OUTDOOR COUNCIL, INC.

3780 McGINNIS DR. JUNEAU, AK 99801
(907) 789-3450

April 21, 1987

Senator Jack Coghill
P.O. Box V
Juneau, AK. 99811

Dear Senator Coghill:

This is in regard to SR 13 dealing with the Arctic National Wildlife Range and the Porcupine Caribou Herd.

The Alaska Outdoor Council wishes to go on record in strong support of SR 13.

Alaska has consistently and continually lost many of its States Rights since we became a State in 1959. International Treaties and Agreements dealing with fish and wildlife, loss of access to navigable waters, loss of land selection opportunities and Congressional dictates have all seriously eroded the rights and responsibilities which were granted to the State at statehood.

Whether we like it or not, the proposed Porcupine Caribou Herd Agreement is a continuation of that effort to remove some of the State's independent authority in dealing with the management of its fish and wildlife resources. Quite simply, when any International Agreement is consummated, the United States Government will be the signatory--not the State of Alaska. This automatically gives the Federal government additional leverage and control over the management of that resource. It also elevates the Canadian National Government in the management of this wildlife resource. If this were not the case then why does the Proposed Agreement not state that it will not diminish the State's Rights to manage the caribou herd?

There are factions in Alaska which would agree that the U.S. Government should have additional management authority over this herd. We vehemently disagree. This caribou herd is in extremely healthy condition and does not warrant Federal actions on either side of the border to protect the resource. To date, the State of Alaska and the Yukon Territory have adequately managed the resource.

In the interest of all Alaskans and our citizens uses of these resources it seems extremely important that the legislature continue to strongly advocate continued State management of its fish and wildlife resources. At least, the legislature should voice opposition to any agreement until there is built into the agreement a virtual guarantee that the State's management authority is not diminished.

Last but not least, we are amazed that the delicate negotiations concerning the future development of ANWR would be further complicated by a signed International Agreement. Some argue that it wouldn't have any effect but on the other hand, why are the environmental groups so adamant to have the Agreement signed as soon as possible? The caribou issue will be a central focal point on the ANWR development issue without having to insert our International obligations into the deliberations. Caution would dictate that needless diversions, such as the proposed Caribou Agreement, can only further confuse the issue. Why would any legislation encouraging rational development of oil and gas reserves in ANWR consider giving tacit approval to an Agreement which could hamper that development? Failing to pass SR 13 concurrent with a ANWR resolution could be considered as tacit approval of the proposed Agreement.

The Senate Resources Committee is asking that Alaskans look at the ANWR issue objectively. We are asking the same consideration of the State's Rights to manage its fish and wildlife resources. We also expect the State Senate and State House of Representatives to be our strongest allies in the continuing battle to protect those Rights.

I appreciate the opportunity to comment on SR 13 and hope we can continue to receive your support in passing this important Resolution.

Sincerely,



Ron Somerville
Executive Director



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Game	BILL NUMBER SR 13	SPONSOR Cochill, Bennett and Faiks
-----------------------------	------------------	----------------------	---------------------------------------

DEPARTMENT POSITION
Opposed

PREPARED BY Low Pamplin <i>CPM</i>	DATE 4/16/87	COMMISSIONER'S SIGNATURE <i>Steven Penney</i>	DATE 4/27/87
---------------------------------------	-----------------	--	-----------------

SUMMARY

AGENCIES AFFECTED BY BILL DNR Office of the DEC Governor	CONSTITUENT GROUP(S) AFFECTED BY BILL Subsistence hunters in northeastern Alaska Oil industry, Sportsmen, Conservationists
--	--

ORGANIZATIONAL SUPPORT FOR BILL Alaska Outdoor Council	ORGANIZATIONAL OPPOSITION TO BILL
---	-----------------------------------

FISCAL IMPACT NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT
The Administration has been attempting for approximately 5 years to develop an international agreement with Canada which will assure the continuing cooperative management of the Porcupine Caribou Herd (PCH). This agreement will insure that appropriate state, territorial, and federal government agencies in the U.S. and Canada will cooperate in such matters as harvest allocations, habitat protection, and annual management activities associated with PCH management. The agreement will not remove management authorities from the state.

ANALYSIS OF BILL/PROGRAM EFFECTS
This resolution will, at least temporarily, impede progress toward establishment of a formal agreement assuring adequate management of the international Porcupine Caribou Herd.

AMENDMENTS PROPOSED
None.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : SR 13
Publish Date : 2/26/87

Revision Date: _____
Title : Relating to Alaska interests in ANWR regarding the Porcupine Caribou
Sponsor : _____
Requestor : _____

Agency Affected: Fish and Game
BRU: Game
Components : Game

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Passage of this resolution would appear to have no fiscal impact on the Department of Fish and Game.

Prepared by: Lew Pamplin
Division: Game

Phone: 465-4190
Date: 15 April 1987

Approved by Commissioner: Steven Rasmussen
Agency: Fish and Game

Date: 4/22/87

Distribution (by preparer):

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

SR

14

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER:

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

3/3/87

DATE TURNED INTO OFFICE _____

Mr. President:

RESOURCES

Committee considered SR 14

Bureau of Land Management draft Utility Corridor Resource Management Plan

and recommended:

- replace with CS SR 14 (Res) same title
- attached amendment(s) and new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____
- letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]
Chairman signature and recommendation

Committee Backup Attached

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : SR 14
Publish Date : 3/3/87

Revision Date: _____
Title: Relating to BLM draft utility
corridor resource management plan
Sponsor: Coghill and Faiks
Requestor: Senate Resources

Agency Affected: Natural Resources
BRU: Land and Water Management

Components : _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Salli Slaughter
Division: Land and Water Management

Phone: 465-2400
Date: 4/30/87

Approved by Commissioner: *Jemi Gorsuch*
Agency: Natural Resources

Date: 4-30-87

Distribution (by preparer):

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

HW 4/30/87

5-0604B
Bradley
4/30/87

Original sponsors: Coghill and Faiks

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE RESOLUTION NO. 14 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 Relating to the Bureau of Land Manage-
6 ment draft Utility Corridor Resource
7 Management Plan.

8 BE IT RESOLVED BY THE SENATE:

9 WHEREAS in 1971, PLO 5150 withdrew land for the Trans-Alaska Pipeline
10 right-of-way; and

11 WHEREAS the land was withdrawn subject to valid existing rights from
12 all forms of appropriation under the public land laws except for the loca-
13 tion of metalliferous metals under the mining laws; and

14 WHEREAS the land affected by PLO 5150 comprises approximately
15 5,343,300 acres and is known as the Outer Corridor; and

16 WHEREAS PLO 5150 also withdrew the land in the Outer Corridor from
17 leasing under the mineral leasing laws, from selection by the State of
18 Alaska under the Alaska Statehood Act, and from selection by regional or
19 village corporations under the Alaska Native Claims Settlement Act of 1971;
20 and

21 WHEREAS the land in the Outer Corridor was reserved as a utility and
22 transportation corridor under sec. 17(c) of the Alaska Native Claims Set-
23 tlement Act in aid of programs of the U.S. Government and of the State of
24 Alaska; and

25 WHEREAS approximately 2,897,520 acres were withdrawn from prospecting,
26 location, and purchase under the mining laws of the United States and this
27 land is known as the Inner Corridor; and

28 WHEREAS PLO 5150 subjected the land in the Inner Corridor to the
29 authority of the Secretary of the Interior to make contracts and grant

1 licenses, permits, rights-of-way, easements, and leases other than mineral
2 leases unless PLO 5150 was expressly modified; and

3 WHEREAS the Trans-Alaska oil pipeline was built after PLO 5150 was
4 issued and its construction has had a substantial regional effect and
5 constitutes a major economic benefit to the State of Alaska and the United
6 States; and

7 WHEREAS in 1980, 90 percent of the 200 people living within the land
8 in the corridor were receiving their income from the Trans-Alaska pipeline
9 and the remainder were involved in mining and transportation activities;
10 and

11 WHEREAS the Dalton Highway, opened by the State of Alaska in 1980, has
12 created opportunities for mining access as well as use for recreation; and

13 WHEREAS there would be a substantial and beneficial effect on the
14 economy of the Fairbanks area if this singular transportation link were
15 available for increased precious and strategic mineral development; and

16 WHEREAS opportunities for recreational use of the corridor have re-
17 sulted from the construction of roads, trails, bridges, and similar im-
18 provements without significant long-term adverse effects on the environ-
19 ment;

20 BE IT RESOLVED that the Senate strongly recommends that the draft
21 Utility Corridor Resource Management Plan prepared by the Bureau of Land
22 Management, U.S. Department of the Interior, should

23 (1) retain as the primary purpose of the inner corridor energy
24 transmission for the existing and future pipelines;

25 (2) not discriminate among users of the corridor, whether they
26 are guides and outfitters, recreational users, miners, residents of the
27 corridor, or the State of Alaska;

28 (3) in any consideration of a limitation on trail use by re-
29 quiring a permit, acknowledge valid existing rights, including those of

1 miners and loggers;

2 (4) identify and reserve a transportation corridor to provide
3 future access from the Ambler Mining District to the Dalton Highway in each
4 draft plan alternative;

5 (5) limit each closure for the protection of wildlife lick sites
6 to mining operations of an area within the corridor to an area with a
7 quarter-mile radius and each closure should last only until alternate
8 mineral lick sites occur outside the corridor;

9 (6) not designate an area of critical environmental concern only
10 on the basis of scenic values;

11 (7) not base the closure of an area only on agency convenience,
12 particularly within the Inner Corridor, but rather on the engineering
13 requirements of the pipeline, now and in the future;

14 (8) not establish as an area of critical environmental concern
15 an area of importance for the transportation and utility needs of the
16 pipeline within the corridor;

17 (9) not contain any wilderness designations;

18 (10) grant the State of Alaska an opportunity to select land
19 within the corridor under Section 906 of the Alaska National Interest Lands
20 Conservation Act and under the Statehood Act;

21 (11) include plans to invest planning and development funds in
22 recreation enhancement such as waysides, trailheads, boat launch sites, and
23 camping areas;

24 (12) consider developing access into conservation unit systems in
25 cooperation with the state, the U.S. National Park Service, and the U.S.
26 Fish and Wildlife Service;

27 (13) consider opening the corridor to oil and gas leasing;

28 (14) provide for the effects on subsistence lifestyle of local
29 residents;

1 (15) include plans to protect threatened and endangered species
2 and to enhance fish habitat.

3 COPIES of this resolution shall be sent to the Honorable Donald P.
4 Hodel, Secretary of the U.S. Department of the Interior; to Michael J.
5 Penfold, Director of the Bureau of Land Management; and to the Honorable
6 Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the
7 Honorable Don Young, U.S. Representative, members of the Alaska delegation
8 in Congress.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

**Position Paper
Utility Corridor**

**Dinyee
P.O. Box 1372
Fairbanks, AK 99707**

We are presenting a position paper on the Utility Corridor Land Use Plan. The Utility Corridor is of critical importance to the local people. In fact it is a matter of survival. Speaking of facts, let's look at the facts in this issue.

Fact: In a paper presented at the 13 th annual conference of the Alaska Anthropological Association held in Fairbanks on March 7, 1986, Robert Wolfe, research director of the subsistence division in the state Department of Fish and Game, discussed the results of the first statewide summary of subsistence harvests in the state covering 85 communities as reported in the Fairbanks Daily News-Miner. "We found that more than 80 percent of our community sample is getting at least half or more of the US average meat consumption from wild resources," Wolfe said. "That's a substantial amount of food coming from the land." Wolfe called subsistence "Alaska's hidden economy," adding that it is not reported in most state economic development policy. "It would be a short-sighted economic development policy to develop some new land use without considering if we are doing it at the expense of decreasing ongoing high food product value," he said. "Some rural regions simply could not live without the subsistence resource." Once the state recognizes that subsistence exists, Wolfe said, "then the maintenance of high food production could be made part of state economic policy. And any new development in rural regions, for example, land disposal, settlement entry, development of hard-rock mines, needs to consider if that will reduce the already highly productive use of Alaska lands," he said. The average American in the Western United States consumes 222 pounds of meat, fish, and poultry a

year, Wolfe said, and more than 80% of rural communities sampled in Alaska are getting at least half or more of the US average from wild resources.

Fact: A number of studies showing up within the last ten years have given high marks to subsistence economies of every sort , referring to those family or tribal operations that do not involve the investment of other people's capital. Such economies include not only subsistence farming but also hunting, gathering, trade, and barter. Contradicting colonial beliefs, studies have found that subsistence economies are much more efficient - in terms of the cost/effort ratios - when compared with industrialized economies (which require a quart of fuel to bring a quart of milk to the dinner table). This was taken from an article in the Alaska Native Magazine of January/February 1986.

Fact: Poverty among Alaska Natives is still widespread in 1986. A recent report from the Institute of Social and Economic Research examines currently available information on the size and distribution of benefits under various public assistance programs in Alaska, which is just one measure of poverty. Public assistance enrollments understate the incidence of poverty since many poor people cannot meet nonfinancial eligibility criteria, and others are eligible but do not apply for benefits. Rural areas of Alaska, where only a small share of the total state population lives, have a disproportionately large share of public assistance recipients. Since most rural residents are Natives, heavy rural reliance on public assistance is a sign of heavy Native reliance on public assistance. The projected decline in public spending is certain to mean fewer jobs and other income-earning opportunities for rural Alaskans in particular - which in turn will increase poverty and increase the need for public assistance. According to a recent survey, 82% of the people in Stevens Village are below the Federal poverty level.

Fact: On July 1, 1986, the Fairbanks Daily News-Miner carried an article on suicides in Alaska. The article focused on a study of suicides here by Jack McCombs, the regional supervisor for

the state's Division of Mental Health and Developmental Disabilities. The state's new corrected figures show that an average rate of 19 out of 100,000 people committed suicide in Alaska each year from 1980 to 1984. The national average rate for those years was 12 out of 100,000. The suicide rate is particularly high among certain sections of Alaska's population. "The suicide rate for male Natives under 30 is astronomical," says Norma Forbes, co-author of a recently released report on the statewide study. Between 1978 and 1984, the average per-year rate at which Native people of all ages killed themselves was 38.4, more than twice as high as the statewide average of 18.9 for those same years.

Fact: Dot Lake, a native village qualified to receive ANCSA benefits, is surrounded by state land. In the 1980 census, Dot Lake had 67 residents. The State prepared and sold the Tower Bluffs Subdivision within one of Dot Lake's most important subsistence use areas near to the village. Based on the report, Interior Region Post ANCSA Impact Analysis, prepared by the Tanana Chiefs Conference in 1983, rural families average 3.45 persons. With 41 lots in the subdivision, the State has created a competing theoretical rural subsistence population of 141 persons; or more than 2 times Dot Lake's population. In addition the State has opened a nearby area, Cathedral Bluffs, for settlement. Since the State has provided no economic base as a prelude to the influx of new people, the competition for subsistence resources will effectively destroy the existing subsistence economy.

Fact: An article in a recent Fairbanks Daily News-Miner described the criminal illegal hunting of caribou that is threatening the Central Arctic herd from along the haul road. Ken Whitten, a biologist with ADF&G is quoted, "the statistics show we are getting close to 100% of the caribou harvest up there being illegal." Wildlife Trooper Terry Jordan is quoted, "leaving guts and trash alongside the road is also illegal but commonly done." Only one State Trooper is on hand to check to make sure hunters have road permits. That Trooper is stationed at Cold Foot, 40 miles south of the checkpoint. So far, this new

honor system doesn't seem to be working. "Each year, more and more people decide not to abide by the law," Jordan said. Trying to keep hunters from using off-road vehicles to hunt is another problem. "There is a state statute that prohibits the use of off-road vehicles north of the Yukon River, but the law contains no penalty provision," Jordan said. This is typical of the problems that the local people who live near the Utility Corridor have experienced in the way of trespass and overhunting under state management. With the fiscal crisis that the state is experiencing now, what can we expect in the way of state management in the future?

Fact: Dinyec is managing all of its lands under a critical classification whereby the subsistence industry is the highest and best use of the land. Dinyec has requested the Fish and Wildlife Service to classify the Dall Rivers watershed as wilderness as part of its management plan for the Yukon Flats Wildlife Refuge to protect the subsistence industry and land there. The Dall Rivers watershed is partly within the Utility Corridor.

Fact: Stevens Village has traditionally used, occupied, and governed lands in the Utility Corridor within the Ray and Dall Rivers watersheds for a long time. Stevens Village tried to select land or get land set aside within the Utility Corridor numerous times before and after ANCSA starting back in 1939, yet each time they were rebuffed by the BLM for various reasons. Usually BLM stated something to the effect of 'do not be concerned at this time' or 'your application is being processed and you will hear from us.' Unfortunately Stevens Village's concerns and rights were shunted aside and ignored by the BLM.

Fact: This is not the first time that Stevens Village is facing extinction by an action from outside. The proposed Rampart Dam in the 1960's would have flooded the village and all of its lands that the people have traditionally used, occupied, and governed. There was no consideration given to the people back then and nothing has apparently changed today in the attitude of the state and the BLM.

Fact: The area around Stevens Village in Game Management Unit 25d has the lowest moose population per square mile in the state according to the Alaska Department of Fish and Game. It is a permit hunt only area and the ADF&G is trying to initiate predator control in the area. Dinyee is experiencing tremendous trespass problems on its lands, particularly on the Dall River. The local subsistence industry has been negatively impacted and almost destroyed by the new access created by the Utility Corridor. Building a road through a people's hunting grounds will do this. Millions of dollars of economic development have occurred in Stevens Village's traditional use area with the haul road, pipeline, pump station, and bridge. Unfortunately the village has only seen the down side of it all.

The above mentioned facts are pertinent to what is happening now in the Utility Corridor lands near Stevens Village. Incredibly enough the State of Alaska is now trying to grab the land in the Corridor near the Yukon Crossing for, among other things, settlement purposes. To put this into perspective, picture yourself as a worker or owner of a business in a particular industry and the state comes along and subsidizes a similar industry right next door to you to compete with you where there is room for only one industry there. Not only that, but then the state brings in outside workers to work cheap at the new business. This is in effect what the state will be doing when it disposes of land and/or creates a settlement or promotes new industry in the corridor at the Yukon Crossing and thusly brings in newcomers to compete in the limited subsistence economy of the area. This could never happen to another industry other than the subsistence industry in rural Alaska. The politicians and bureaucrats would be too sensitive to the public response. Yet it has happened in the past to the villages and it will happen to Stevens Village because the State of Alaska pretends that the people of Stevens Village are not there or don't count. WHAT IS GOING ON IN ALASKA NOW??? The right to cultural diversity is seriously endangered in Alaska and the state is contributing to it. Why start a new settlement only to wipe out an existing one of long duration? It just doesn't make

any sense.

One farmer commits suicide in Delta last year and there are a flurry of public outcries, newspaper editorials, and legislative bills introduced in Juneau to protect the heavily subsidized state agricultural industry. The suicide is a real tragedy and the agriculture industry is truly hurting, however the suicide rates among villagers have been described as "astronomical" and yet there is no outcry, no bills to save the subsistence industry, no editorials. There is no public protest over the conditions that are driving Alaskan Indians to commit suicide at an appalling rate. Newspaper editorial writers do not realize that the subsistence industry is a local hire issue as much as the work at Prudhoe Bay. Just the opposite, the state is, by its actions in trying to get the land within the Utility Corridor, trying to destroy the subsistence industry and cultural diversity in Alaska. Subsistence is an industry that is "grandfathered in" in the Utility Corridor. Again, **WHAT IS GOING ON IN ALASKA NOW???** Is this insanity or don't the people care?

In the media and on the lips of the politicians in Alaska now are the words, "the death of an industry", to describe the state of the mining industry in Alaska. There have been newspaper editorial after editorial about it. There have been dirty water bills introduced in Juneau. Yes the mining industry is somewhat hurting now and the state and the politicians are doing everything that they can to revive it. Now look at the villages in rural Alaska. The poverty rate is "astronomical." The people in the villages are living in conditions that would be shocking to the average Alaskan. The villagers are hurting much more than the miners: Talk about "the death of an industry" in regards to the subsistence industry. The subsistence industry is hurting in far greater terms than the ailing mining industry, yet there is no public outcry. The state is not trying to boost the subsistence economy. Newspaper editorials propogandize for the state to take over the land in the Utility Corridor and "put it to use" totally ignoring the use that the subsistence economy has for the land. At the time of the announcement of the state selection, Esther Wunnicke, state commissioner of natural resources, said