

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990
6008 HOUSE RESOURCES

8672

4/17

Fish Kill listing

Wanayama Inlet Kills

new	old	Stream name	stream no.	est mort	peak enc	rep. yrs	notes
1	13	Vu Inlet Cr	101-23-19	2000	24000	1977	.
2	14	W. Inlet Cove	101-30-09	<500	6000	1977	.
3	15	Keta River	101-30-30	<500	24000	1977	.
4	16	Cabin/Bartholomew Cr	101-55-09	<500	20000	1977	.
5	12	Traitors River	101-90-29	15000	108100-'77	1963.77	.
6	17	Naha River	101-90-50	20000	90000	1977	.
7	18	Port Stewart Cr	101-90-92	7000	17000	1977	.
8	19	Sunny Cr	102-40-87	1500	50000	1977	.
9	57	Harris River	102-60-82	.	.	1986	12,000 pinks
10	11	Lower Karta River	102-60-97	.	.	1982	.
11	20	Nutkwa Cr	103-21-08	500-1000	17600	1977	.
12	03	Shinaku Cr	103-60-13	.	.	1987	.
13	04	Steelhead Cr	103-60-29	.	.	1987	.
14	05	Black Bear Cr	103-60-31	.	.	1987	.
66	06	Port St Nicholas	103-60-59	.	.	1987	.
70	56	Trocadero Bay	103-60-75/77	.	.	1986	n. and s. streams 8% of run
15	21	Sarheen Cr	103-90-04	1000	35000	1977	.
16	22	Naukati Cr	103-90-26	500	5000	1977	.
17	01	Staney Cr	103-90-30	2000-1977	60200-'77	1977.79.87	.
18	02	Sheheen Cr	103-90-42	500-1000	50000-'77	1977.87	.
19	23	Kell Bay Cr	105-10-32	2400	13800	1977.87	87:506
20	24	Tunehean Cr	105-32-04	500-1000	6600	1977.79	.
21	51	Irish Cr	105-32-12	.	.	1979	.
22	25	Big John Cr	105-32-16	400	1000	1977.79	.
23	26	Calder Cr	105-42-05	1500	31520	1977	87:600
24	27	El Capitan Cr	105-42-09	5000	45000	1977	87:200
25	28	Shipley Bay	105-43	500-1000	9000	1977.87	87:400
26	50	Long Cr	105-43-06	25 coho	.	1974	reported by John Edgington
27	29	Falle Cr	106-21-04	3000	29500	1977.79	.
28	30	Trout Cr	106-21-04	105	6925	1977	.
29	31	Mosman Cr	106-22-08	1500-200	37500	1977	.
30	32	Burnett Inlet	106-22-14	unknown	3000	1977	.
31	33	Navy Cr	106-22-16	8000	29000	1977.79	.
32	08	Porcupine Cr	106-30-10	300	22000	1981.79	79:500 out of 50000
33	34	Big (108) Cr	106-30-80	500	34800	1977	.
34	35	Exchange Cove	106-30-85	57	9275	1977	.
35	07	Anan Cr	107-20-01	10000	146000-77	1951.77.79	more yrs? FS fish ladder 1979
36	36	Canoe Pass	107-20-20	200	13150	1977	.
37	37	Menafae Cr	107-20-30	1500	42000	1977	.
38	38	Fool's Inlet	107-20-70	1000	16400	1977	.
39	39	Thoms Cr	107-30-30	2500	27000	1977.79	.
40	09	Snake Cr(Olive Cove)	107-30-70	30000	63000-1977	1949.77	.
69	55	Blind Slough	108-30-45	.	.	1987	fr. Don Cornelius-juv-dried up
41	10	Sashin Cr	109-10-09	.	.	1981	.
42	59	Tyee Cr east	109-30-16	1140	.	1987	.
43	52	Kadake Cr	109-42-30	3400	.	1987	obs Lonnie Anderson. fisherman
44	60	Saginaw Bay S Rd	109-44-37	3300	.	1987	.
45	61	Saginaw Cr	109-44-39	2400	.	1987	.
67	53	Band Cove	109-45-43	5-600	.	1987	.
68	54	Washington Bay	109-51-07	2-300	.	1987	.
46	40	Rowan Bay 1	109-52-07	400	11600	1977	.
47	41	Rowan Bay 2	109-52-08	2450	8733	1977	.
48	42	Alacks Cr	109-62-13	1870	27500	1977.87	87:13500.100 chum
49	43	Sample Cr	109-62-14	360	22400	1977	.
50	44	Petrof Bay East Arm	109-62-20	1385	4000	1977	.
51	45	Petrof Bay head	109-62-22	unknown	4200	1977	.

EXHIBIT 2
logged.

MEMORANDUM

State of Alaska

TO Jack Gustafson
Area Habitat Biologist
Habitat Division
Department of Fish and Game
Ketchikan

DATE November 9, 1988

FILE NO

TELEPHONE NO 755-2331

FROM Glenn Freeman *G. Freeman*
Fisheries Biologist
Department of Fish and Game
Habitat Division
Klawock

SUBJECT Field Inspection of
Forest Service Rooding/
Logging Activities at
Rush Peak

On November 3, 1988 an interagency field inspection was conducted by U. S. Forest Service and Alaska Department of Fish and Game staff in the upper Thorne River drainage, near Rush Peak. The following individuals were present during the inspection: Debbie Norton, Acting Thorne Bay District Ranger; Vince Harke, Biological Technician; Bill Sills and Ken Methvin, Engineers from the Ketchikan F. S. Supervisor's Office; and myself. The purpose of this inspection was to document existing and potential impacts adjacent to and within Rush Creek, cataloged anadromous stream #102-70-10580-2017-3010-4018, as caused by approved Forest Service rooding and logging activities.

Perhaps a letter dated March 6, 1987 from John Erickson, Fish and Wildlife Staff Officer and Biologist for Thorne Bay Ranger District (at that time), to the District Ranger best summarizes the district's fisheries staff feelings regarding the Rush Creek work. In the second and third paragraphs of this letter Mr. Erickson stated, "Because of the quality of this habitat and the high potential impacts associated with this proposed road construction I recommend that another location be found for the road or delete the road totally from the area. Possible impacts are channel construction, siltation of spawning and rearing habitat and mass wasting into the creek."


Road 3013-200 was constructed during September 1988 parallel to upper Rush Creek, above Rush Lake, in sections of steep terrain. Of particular concern is road construction in a steep section approximately 0.5 miles north of the new bridge crossing over Rush Creek. The road was constructed to within approximately 30 feet of Rush Creek in this steep area where a natural slide had already been documented by fisheries staff at Thorne Bay Ranger District. Material from the natural slide appeared to extend just to the edge of the stream channel. Additional overburden approximately 40 feet in width slid downslope from an origin immediately adjacent to the new road, atop and slightly upstream of portions of the natural slide and into Rush Creek. Forest Service personnel would not or could not comment on the date(s) of the roadside slide. Large materials introduced into the stream channel by the

Exhibit 3

slides prior to this inspection did not appear to significantly alter the normal stream flow at this site. However, the upper slide appears active and there appears to be a high probability that additional overburden will continue to impact the stream channel. Road stability in this area is also a major concern. Subsurface runoff was observed atop bedrock on the upslope of the road, at the site of the recent slide. Road ditching improvements appeared to be necessary to reduce erosion potential in this stretch. Excavated materials from roading activity were endhauled to the vicinity of a rock pit located approximately one mile north of the slides, along the 3013-200 Road. Vegetative slash covered the area exposed by the latest slide. Grass seed was apparently not spread atop soils exposed in conjunction with this roading project.

A 70-foot Hamilton metal bridge was installed on about October 1, 1988 across Rush Creek near the end of the 3013-200 Road, approximately 0.5 miles south of the slides. Prior to the bridge, the stream had a main channel approximately 33 feet wide along the east bank and two smaller side channels. Seemingly every fisheries consideration was ignored at this stream crossing. Heavy equipment crossings, instream work, and bridge installation all occurred well outside the requested timing window of May 15-August 15 set by Forest Service fisheries staff. The high water stream channel at the bridge crossing was effectively narrowed from a pre-project (i.e., natural) width of 117 feet to approximately 35 feet. The new 35 foot "stream width" includes a 72 inch CMP culvert which was installed to accommodate the middle side channel, the latter not discernible during this inspection. Road fill displaced the remaining 82+ feet of original stream width at the stream crossing. Thus, the side channel along the west stream bank was completely blocked by road fill. The blocked side channel flowed during normal conditions prior to bridge installation, according to Vince Harke. This side channel appears to have provided high quality coho rearing habitat prior to the road crossing. Two juvenile salmonids, apparently coho, were observed near the head end of the blocked side channel. Installation of a CMP should be considered during the window period to restore flows in this side channel if the bridge may not be removed for several years. The immediate vicinity of Rush Creek at the crossing site was characterized by potentially high quality coho spawning gravels. On an October 13 fisheries survey, Vince said he observed active coho spawning immediately upstream and downstream of the bridge. Specifically, he observed 14 live, spawning adult coho and 40 completed redds along the portion of Rush Creek upstream of Rush Lake. Fisheries staff (FS) were present but were not notified of the bridge work outside the identified timing window. The decision to do this work was reportedly that of the District Ranger.

X XXX



November 9, 1988

Ken Methvin and Bill Sills stated that an attempt was made by the contractor to bridge heavy equipment on logs above the stream but that the logs were actually ground on the streambed upon crossing. Ken said that he recommended the use of a 15 to 20 foot diameter CMP culvert at the stream crossing rather than the "maximum width" Hamilton bridge which was installed. Debbie Norton inquired what was to be done with the road fill in the channel when the bridge is pulled. I suggested this decision should be made by fisheries staff at a later date and that such work be done during the window period.

Road construction was completed along the 3013-225 Road up to the first stream, a resident fish tributary some 600 feet above the confluence at Rush Creek. The contractor was on hand at this site to express his interest in completing the stream crossing and the remainder of the road. Upon discussion of fisheries concerns to protect downstream water quality and limit cumulative impacts to Rush Creek, Debbie denied the contractor's request. Road 3013-220 parallels Rush Creek north from the 3013-200 Road intersection along the east stream bank. Road construction was completed to a rock pit above and adjacent to Rush Creek, opposite from the slides approximately 0.5 miles from the 3013-200 Road intersection. An additional 0.5 miles of the 3013-220 Road is proposed to access proposed Unit 597-32. The completed portion of this road crossed about five small water quality tributaries of Rush Creek. Small CMP culverts were installed at each road crossing. Timber within portions of Unit 597-18 on both sides of the road were felled prior to this inspection. The rock pit appears to be located only 200-300 feet upslope from Rush Creek. Water quality problems associated with the rock pit have resulted in impacts to Rush Creek as noted in a Forest Service memo dated October 27, 1988.

In summary, road design and construction timing of the 3013-200 Road system was a disaster from a fisheries and water quality standpoint. Future monitoring should be conducted to address existing and potential problems associated with the slides, stream channel changes, LOD and debris transport at the constricted bridge crossing, and cumulative water quality impacts to Rush Creek.

Copies of available Forest Service memos and correspondence regarding the Rush Creek area are attached for additional information.

cc: Steve Hoffman, Area Management Biologist, Sport Fish Division, Ketchikan

Frank Rue
Director
Habitat Division

February 10, 1989

465-4290

Weekly Report
2/6 - 2/10

Richard D. Reed
Regional Supervisor
Habitat Division

Items for the Governor's Report: none

Items for the Bulletin: none

Items for the Commissioner: none

Items for the Director:

1. Forest Service: With the occurrence of several recent events it is becoming more evident that several FS policies regarding streams may be inadequate for the protection of fisheries habitat. These are chronic-type problems which need to be resolved so that suitable habitat protection standards are automatic and large amounts of staff field time are not consumed having to attempt to address each new impact that arises. These problems include, but are not limited to, inadequate stream crossing designs, the placement of culverts in spawning habitat, the replacement of bridges with CMPAs, ignoring construction timing windows, not following the correct construction timing window for the species present, blasting streambanks in haphazard attempts to create rearing habitat, not following the recommendations of FS biologists, restraining the limits as to the recommendations which can be made by FS biologists, the claim of loggers that they can fell into cataloged anadromous habitats, provided the trees and limbs are removed within 48 hours, and the perception of District Rangers that they need to consider ADF&G input on these concerns as advisory only and that adherence to stream protection standards are not within the state's authority or responsibility.

Within the last several months, in the Ketchikan area, examples of these problems include a misguided habitat "enhancement" (blasting) project on Ward Creek, road crossing designs which would block fish passage on the Control Lake-Coffman Cove road, an undesirable roading alignment resulting in massive soil failures entering Rush Creek spawning habitat building the Rush Creek

Exhibit 4

stream crossings in spawning habitat without timing (no ADF&G contact), improper timing standards on newly issued contracts, and bridge removals followed by the installations of inadequate permanent culverts. The latest example includes numerous crossing structures in the Lancaster Cove area where the design and construction timing are inadequate for the protection of fisheries resources. It seems that once again the time has arrived to attempt to resolve these concerns collectively, rather than individually.

cc: Region I Staff
A. Ott, Habitat
L. Trasky, Habitat
D. Anderson, Game
R. Bosworth, Subsistence
B. Sele, FRED
F. Gaffney, Sport Fish
S. Marshall, Comm. Fish.



United States
Department of
Agriculture

Forest
Service

Region 10

P.O. Box 21628
Juneau, AK 99802-1628

Reply to: 2600

Date: April 20, 1987

COMMISSIONER'S OFFICE
RECEIVED
APR 21 1987

Mr. Don Collinsworth, Commissioner
Alaska Department of Fish and Game
P.O. Box 3-2000
Juneau, AK 99802

DEPARTMENT OF FISH AND GAME

Don
Dear Mr. Collinsworth:

We have reviewed with interest the long-term cooperative monitoring study proposal by Gary Gunstrom of your Region 1 Commercial Fish Division Staff. It is a very timely suggestion since we are presently examining our monitoring activities in relation to the effectiveness of our aquatic habitat management prescriptions associated with all land management activities, including the expected benefits from our fish habitat improvement structures and treatments. We plan to continue focusing our monitoring efforts in these areas and improve our ability to measure the effectiveness of these practices in achieving our goal of maintaining and improving fish habitat production.

After our analysis of information and funding needs is complete, we will be contacting the Department to discuss the opportunities for solidifying these monitoring efforts into an effective cooperative venture. We expect to have our analysis completed in the near future.

We appreciated receiving Gary's letter.

Sincerely,

PHILIP J. JANIK
Director of Wildlife
and Fisheries Management

040987 1420 WLF 2600 DG



Exhibit 5

MEMORANDUM (Brief Communications)

State of Alaska

TO:	Name <i>Alan Stein</i>	Dept./Div./Sect.
FROM:	Name <i>Gary Gunstrom</i>	Dept./Div./Sect.
SUBJ.:	<i>Phil Davik's reply</i>	Date <i>2/16</i>

Found it! There was never any follow to this.

G.

FPA and Federal Lands

Senate Bill 317 sets specific standards for timber harvest activities on state, municipal and private lands. The bill also states that its specific resource protection provisions, such as riparian management zones defined for private, state and municipal lands, do not apply to timber harvest activities on federal lands. However, the bill proposes that the federal government achieve a level of resource protection commensurate with that provided for on state lands. This would occur as the federal agency, primarily the Forest Service, proceeds with its normal environmental planning process for timber harvest activities. While this measure does create a broad performance test for operations on federal land, the real effect on Forest Service actions is not considered to be significant, given the generally higher federal requirements for environmental protection.

The bill assures that federal lands will not be subject to the specific FPA standards "either directly or for purposes of compliance with the [federal] Coastal Zone Management Act." This statement effectively severs the applicability of the Act's specific standards to National Forests and other federal lands. However, some participants in the FPA discussions wanted to take the point one step further to resolve a long-standing discussion of what specific environmental protection the state can ask the federal government to provide on National Forest lands through the coastal management consistency process.

The FPA discussions did not address federal timber harvest activities in any detail. Therefore, the parties to the consensus decided that the bill was not the appropriate vehicle to include specific environmental protection standards for federal lands, nor address the application of coastal management standards to federal timber harvest activities. Instead, this will be accomplished through a change to the Alaska Coastal Management Program regulation established for timber harvest and processing by the Alaska Coastal Policy Council (CPC). Following enactment of the FPA, the CPC will amend this timber harvest standard as necessary to address lands not covered by the FPA, including federal lands. The CPC will provide for the full involvement of the federal government, industry and public in drafting the new timber harvest standard.

Options for relating to management of federal lands under Forest Practices Act.

Option 1 (Current SB 317/HB 331):

OBJECTIVE: Creates a broad performance test for operation on federal lands, but severs the applicability of specific FPA standards to federal lands.

LANGUAGE AS 41.17.900(b):

The degree of resource protection on federal land shall be no less than that provided for by this chapter for state land. However, the specific provisions of this chapter and its implementing regulations are not applicable to federal land either directly or for purposes of compliance with the Coastal Zone Management Act.

Option 2:

OBJECTIVE: Keep FPA neutral with respect to federal land management.

LANGUAGE AS 41.17.900(b):

The legislature finds that it is in the public interest that the state standards under 16 U.S.C. Sec. 1456(c) (Section 307(c) of the Coastal Zone Management Act of 1972, P.L. 92-583) may be different from the standards for the protection of forest resources under this Act, and the provisions of this chapter and its implementing regulations are not applicable to federal land either directly or for purposes of compliance with the Coastal Zone Management Act.

Option 3:

OBJECTIVE: Establish in statute specific standards for review of federal activities which are distinct from FPA standards and which are based on the prior Coastal Policy Council regulatory standard.

LANGUAGE AS 4.17.900(b):

(1) The legislature finds that it is in the public interest that the standards set forth in subsection (2) be the state standards under 16 U.S.C. Sec. 1456(c) (Section 307(c) of the Coastal Zone Management Act of 1972, P.L. 92-583) even though those standards may be different from the standards for the protection of forest resources under this Act.

City of Tenakee Springs

RESOLUTION 90-12

In the Council
March 22, 1990

Introduced by
Robert Pegues

A RESOLUTION FOR THE CITY OF TENAKEE SPRINGS, ALASKA
SUPPORTING CHANGES IN ALASKA STATUTES TO PROVIDE
MINIMUM 100 FT BUFFERS ALONG ANADROMOUS STREAMS

WHEREAS, the fisheries resource of Southeast Alaska is dependent largely upon the quality of our streams and lakes; and

WHEREAS, these waters constitute the habitat of the resource which is the life-blood of the commercial fisheries industry, and produce also the stock for the sports and subsistence fisheries; and

WHEREAS, numerous studies have demonstrated that timber harvest and roading operations affect, often negatively, fisheries habitat; and

WHEREAS, factors associated with logging practices which can affect the habitat of anadromous and resident fish populations include large organic debris, channel stability, stream temperature, nutrient content, stream flow and sediment; interrelated factors whose total accumulated effects often have the greatest impact; and

WHEREAS, the 1979 Forest Practices Act does not provide minimum enforceable standards to safeguard the integrity of this critical environment during both planning for logging activities and operation of road building; then

THEREFORE BE IT RESOLVED by the common council of the City of Tenakee Springs, Alaska to urge the Alaska State Legislature to adopt changes in the statute to provide minimum 100 foot buffer zones on each side of all anadromous streams and their tributaries, and that buffers should consist of the existing, natural undisturbed forest.

ADOPTED 4 YES, 3 ABSENT THIS 22ND DAY OF MARCH 1990

Robert P. Wagner

Robert P. Wagner
City Council President
ex officio MAYOR

ATTEST:

Janice J. Eagle
Janice J. Eagle
City Clerk

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Options for relating to management of federal lands under Forest Practices Act.

Option 1 (Current SB 317/HB 331):

OBJECTIVE: Creates a broad performance test for operation on federal lands, but severs the applicability of specific FPA standards to federal lands.

LANGUAGE AS 41.17.900(b):

The degree of resource protection on federal land shall be no less than that provided for by this chapter for state land. However, the specific provisions of this chapter and its implementing regulations are not applicable to federal land either directly or for purposes of compliance with the Coastal Zone Management Act.

Option 2:

OBJECTIVE: Keep FPA neutral with respect to federal land management.

LANGUAGE AS 41.17.900(b):

The legislature finds that it is in the public interest that the state standards under 16 U.S.C. Sec. 1456(c) (Section 307(c) of the Coastal Zone Management Act of 1972, P.L. 92-583) may be different from the standards for the protection of forest resources under this Act, and the provisions of this chapter and its implementing regulations are not applicable to federal land either directly or for purposes of compliance with the Coastal Zone Management Act.

Option 3:

OBJECTIVE: Establish in statute specific standards for review of federal activities which are distinct from FPA standards and which are based on the prior Coastal Policy Council regulatory standard.

LANGUAGE AS 4.17.900(b):

(1) The legislature finds that it is in the public interest that the standards set forth in subsection (2) be the state standards under 16 U.S.C. Sec. 1456(c) (Section 307(c) of the Coastal Zone Management Act of 1972, P.L. 92-583) even though those standards may be different from the standards for the protection of forest resources under this Act.

(2) For purposes of 16 U.S.C. Sec. 1456(c) (Section 307(c) of the Coastal Zone Management Act of 1972, P.L. 92-583) standards incorporated in applicable federal land and resource management plans promulgated pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, (16 U.S.C. 1601 et. seq.) shall serve as the Alaska Coastal Management Act (Sec. 1 Ch. 108 SLA 1978) timber harvest and processing standard on National Forest Lands so long as those standards and policies meet or exceed the following standards:

(i) the location of facilities and the layout of logging systems must be sited so as to minimize adverse environmental impacts;

(ii) free passage and movement of fish in coastal water must be assured; and

(iii) timber harvest and timber management activities must be planned so as to protect streambanks and shorelines, prevent adverse impacts on fish resources and habitats, and minimize adverse impacts on wildlife resources and habitats;

(iv) onshore storage of logs must be encouraged;

(v) sites for in-water dumping and storage of logs must be selected and these activities conducted so as to minimize adverse effects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;

(vi) roads for log transport and harvest area access must be planned, designed, and constructed so as to minimize mass wasting, erosion, sedimentation, and interference with drainage, and must be adequately maintained until they are returned to their pre-road natural drainage patterns (put-to-bed); and

(vii) stream crossings, including bridges and culverts, must be kept a minimum and designed to withstand seasonal high water and flooding, and must provide for free passage and movement of fish.

City of Tenakee Springs

RESOLUTION 90-12

In the Council
March 22, 1990

Introduced by
Robert Pegues

A RESOLUTION FOR THE CITY OF TENAKEE SPRINGS, ALASKA
SUPPORTING CHANGES IN ALASKA STATUTES TO PROVIDE
MINIMUM 100 FT BUFFERS ALONG ANADROMOUS STREAMS

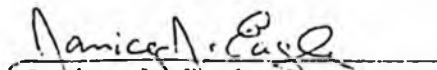
- WHEREAS, the fisheries resource of Southeast Alaska is dependent largely upon the quality of our streams and lakes; and
- WHEREAS, these waters constitute the habitat of the resource which is the life-blood of the commercial fisheries industry, and produce also the stock for the sports and subsistence fisheries; and
- WHEREAS, numerous studies have demonstrated that timber harvest and roading operations affect, often negatively, fisheries habitat; and
- WHEREAS, factors associated with logging practices which can affect the habitat of anadromous and resident fish populations include large organic debris, channel stability, stream temperature, nutrient content, stream flow and sediment; interrelated factors whose total accumulated effects often have the greatest impact; and
- WHEREAS, the 1979 Forest Practices Act does not provide minimum enforceable standards to safeguard the integrity of this critical environment during both planning for logging activities and operation of road building; then
- THEREFORE BE IT RESOLVED by the common council of the City of Tenakee Springs, Alaska to urge the Alaska State Legislature to adopt changes in the statute to provide minimum 100 foot buffer zones on each side of all anadromous streams and their tributaries, and that buffers should consist of the existing, natural undisturbed forest.

ADOPTED 4 YES, 3 ABSENT THIS 22ND DAY OF MARCH 1990



Robert P. Wagner
City Council President
ex officio MAYOR

ATTEST:



Janice J. Eagle
City Clerk

Testimony of Robert G. Loiselle
For The Forest Alliance
House Resources Committee Hearing

HB 331

March 15, 1990

Juneau, Alaska

The Forest Alliance is a broadly constituted organization of forest land owners, manufacturers, loggers and others having commercial and professional interests in the proper management and development of forest lands. The members of the Alliance include all of the major private timber owners in the state of Alaska. The Alliance was formed in late 1989, and has undertaken the special mission of bringing the broad support of the timber industry to the Forest Practices Act, Senate Bill 317 and House Bill 331.

At the beginning of the legislative session, the Forest Practices Act had the general support of the Forest Alliance and its members. We believed that there were only a few points of disagreement between the timber industry and the other interested groups, and that these differences were not insurmountable. As we testified on February 27, a proposal from the United Fishermen of Alaska had been made that very day, and we believed that the proposal could form the basis for agreement on the terms of the Forest Practices Act.

As a result of hard work on the part of the members of the Alliance, the other interested groups, the state agencies, and particularly our moderator, Diane Mayer, we believe that agreement

has been reached upon the terms of a bill that enjoys the support of the Forest Alliance, as well as all of the other interested parties.

This bill incorporates a number of carefully drawn provisions reflecting compromise on a number of issues of great importance to the interested parties. In our view, it can establish a new framework for environmentally sound development of Alaska's forested lands. We urge you to adopt this bill, and the amendments agreed by the interested parties, without significant change.

As a result of the management prescriptions embodied in the act, the members of the Alliance will contribute valuable resources, in the form of merchantable timber left standing and in the form of increased operating costs, to the protection of public resources. The Alliance has agreed to a provision of the act that makes the new riparian standards or their substantial equivalent, effective upon passage of the act, in order that these new protective measures be implemented as soon as possible. In fact, many Alliance members are already voluntarily providing buffer zones and a number of major land owners have put strict buffer provisions in their timber sale agreements.

Wise development and protection of forested lands will require the commitment of significant state resources to develop final regulations implementing the Forest Practices Act and to make available the expertise of the state's foresters, biologists, soil scientists and water quality specialists. In that regard, the members of the Forest Alliance believe that adequate funding of the act, as proposed by the state agencies, is essential. We ask that

you give special consideration to these fiscal requirements and that you provide the funding necessary to carry out the purposes of the act.

Having stated the support of the Alliance for the act, I want to turn to three of the provisions of the bill for special comment.

Proposed AS 41.17.116(1), as set out in the proposed amendment, would impose a 66-foot no-harvest zone along virtually all anadromous fish streams that flow through private lands. The members of the Alliance have accepted this requirement on the understanding that appropriate relief from this strict prescription will be afforded under the variations provision, proposed AS 41.17.087. The proposed new subsection (B), we believe, will require the commissioner to adopt regulations providing for the more or less routine agreement to variations in the riparian no-harvest requirement in certain cases. These cases are those where measures other than the full 66-foot no-harvest zone would provide for effective protection of fish habitat. We also expect that variances will be granted to permit such things as hanging logging rigging in the buffer zones or the cutting of a few trees for narrow yarding corridors to permit logs to be brought through the zone, as long as they are suspended and do no damage to the zone. This technique permits road building to be minimized, a result that all parties find desirable. And clearly, the road construction across the buffer zones will be permitted as long as the disruption to the zone is minimized, particularly by making the crossings as perpendicular to the zone as possible.

Proposed AS 41.17.119 changes the riparian standard for other public land from essentially a 100 foot conditional harvest zone to a 100 foot no-cut zone. This is the one issue that the working group was not able to reach agreement on. The representative of the Mat-Su Borough, an Alliance member, will be asking for support for more local control on this issue than is provided for in the bill. We are confident that you will be able to find an equitable solution to this one remaining issue.

We note that Section 27 of the bill continues in effect a provision that dictates the degree of resource protection on federal lands. We question the effectiveness under the federal constitution of any state law that attempts to regulate federal lands, except in a manner allowed by federal law, such as the Coastal Zone Management Act. The provisions of proposed AS 41.17.900(b) (1), as currently written, would not, we believe, pass constitutional scrutiny. Alliance members whose activities may be affected by this provision will likely challenge its constitutionality if it is ever applied to regulate directly timber harvest on federal lands.

In conclusion, let me again state that the Forest Alliance supports SB 317/HB 331 with the amendments being proposed. We ask that you adopt the bill without significant further amendment.

I would be happy at this time to respond to any questions you may have.



UNITED FISHERMEN OF ALASKA

211 4th Street, Suite 106
Juneau, AK 99801
907-586-2820

March 28, 1990

MEMBER ASSOCIATIONS

Alaska Crab Coalition
Alaska Independent Fishermen's
Marketing Association
Alaska Longline Fisherman's
Association
Alaska Trollers Association
Bering Sea Fishermen's Association
Bristol Bay Driftnetters Association
Concerned Area "M" Fishermen
Cook Inlet Aquaculture Association
Copper River Fishermen's Cooperative
Cordova District Fishermen United
Kona Peninsula Fishermen's Association
North Pacific Fisheries Association
Northern Southeast Regional
Aquaculture Association
Peninsula Marketing Association
Petersburg Vessel Owners Association
Prince William Sound
Aquaculture Association
Prince William Sound Selnere Association
Seafood Producers Cooperative
Southeast Alaska Selnere
Southern Southeast Regional
Aquaculture Association
United Cook Inlet Drift Association
United Southeast Alaska Gillnetters
Western Alaska Cooperative
Marketing Association

The Honorable Dorothy Jones, Mayor
Matanuska/Susitna Borough
PO Box 1603
Palmer, AK 99645

Dear Mayor Jones:

The United Fishermen of Alaska and the Southeast Alaska Conservation Council have been very involved in a new Forest Practices Act for the State of Alaska.

Your representative, Ted Smith, has been not only diligent, but fair and forth right in his presentation of your municipal concerns. We would like to take this opportunity to address and clarify the two points that were not resolved to your apparent satisfaction.

State Buffer Requirement

The buffer requirements for state lands include a 200 foot zone that is maintained for important fish and wildlife habitat protection. It was not our intent, nor is it our wish, to blindly preclude timber harvest in this zone. At the request of Mr. Smith, we recently inserted the phrase "timber harvest may occur . . ." in that zone. This is the only place in this act that addresses the important habitat needs for wildlife. But, as you are well aware, some of the best habitat is created by logging.

Mayor Dorothy Jones

March 28, 1990

Page 2

Municipal Land Buffers

We feel that the difference between the "green book" standard and the new standard of 100 foot no-cut buffers is simply this: through the use of the variance section of the act, and good field work, there will be no net difference. The change occurs when enforcement of regulation efforts are poor. It is very important to fishing groups that the minimum zones exist, so that if field management activity is decreased, there will always be a minimum level of riparian protection.

While we are aware that your borough feels that this is intrusive into the self-determination of borough affairs, we think that the Forest Practices Act provides the framework that fosters cooperation between owners, agencies and users.

Yours sincerely,

Ken Castner
Executive Director, UFA

Steven Kallick
Staff Attorney, SEACC

FOREST PRACTICES ACT TASK FORCE STEERING COMMITTEE

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Deputy Commissioner
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P.O. Box 3-2000
Juneau, Alaska 99802-2000

Tom Hawkins
Assistant Commissioner
Dept. of Natural Resources
P.O. Box 107005
Anchorage, AK 99510-7005

Amy Kyle
Deputy Commissioner
Dept. of Environmental Conservation
P.O. Box 0
Juneau, Alaska 99811-1800

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Div. of Governmental Coordination
P.O. Box AW
Juneau, AK 99811

Gerry Engle, Program Mgr.
Minerals and Forest Products
Division of Business Development
Dept. of Commerce and Economic Development
P.O. Box D
Juneau, AK 99811

Public Members

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Planning Director
Matanuska-Susitna Borough
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Palmer, AK 99645

Ted Smith, Assemblyman
Matanuska-Susitna Borough
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Cordova District Fishermen United
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Alan Phipps/Cliff Eames
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Alaska Center for the Environment
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Larry Smith
Southcentral Council of Fish & Game Advisory Committees
Fritz Creek, AK 99603

John Sturgeon
Koncor Forest Products
3501 Denali, Suite 202
Anchorage, AK 99503

George Woodbury, Chairman
Timber Issues Committee
Alaska Loggers Assoc.
111 Stedman, Suite 200
Ketchikan, AK 99901

Others individuals who should get info.

Bob Dick, Director
Division of Forestry
Dept. of Natural Resources
P.O. Box 107005
Anchorage, AK 99510-7005

All members of Senate/House Resources Committees



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, Maryland 20910

JUL 28 1989

Honorable George Miller
Chairman, Subcommittee on Water,
Power and Offshore Energy Resources
Committee on Interior and Insular Affairs
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter regarding the amount of commercial timber that would be typically included within a 100-foot or 30-meter streamside buffer zone within the Tongass National Forest.

We believe application of 100-foot or 30-meter buffers protect Alaska's salmon and trout habitat. The timber retained in a buffer for fish habitat should not be viewed as the amount "lost" to the timber industry, but viewed as what is required for fish habitat in the true sense of multiple-use. Salmonid fisheries and timber industries share the forest as a common base for their existence. Retaining a small but critical portion of the forest for the Nation's fisheries seems to us to be an example of wise use and management in its finest sense. We believe these buffers must be maintained for optimum production of fish. A detailed explanation is enclosed.

We look forward to working with the Subcommittee in the future on this or other issues relating to anadromous resources.

Sincerely,

/s/ James W. Brennan

James W. Brennan
Assistant Administrator
for Fisheries

Enclosure

cc: F; GCF; LA5-F(2); F/MB(Everett); F/CU(2); LA; F/AKR(Faris);
F/PR; F/PR3(Risenhoover)
CONTROL NMFS #11549
F/PR3:ARisenhoover:427-2325:07/11/89:WPDISK2-MILLER



**NATIONAL MARINE FISHERIES SERVICE
BUFFER STRIP USE AND ESTIMATED TIMBER SUPPLY IMPACTS**

The National Marine Fisheries Service (NMFS), Alaska Region issued a policy recommendation in 1988 for the protection of riparian vegetation stating that 30 m is the minimum width required to provide shade and future sources of large woody debris (LWD) necessary for instream habitat. NMFS' policy recommendation is based on extensive research which indicates that salmonid (trout and salmon) abundance is dependent on habitat derived from and influenced by the old-growth forest adjacent to streams, particularly the canopy for shade and temperature regulation and LWD. The quantity of LWD in these productive streams is high (60-80 pieces per 100 m length of channel) and is directly correlated with the abundance of salmonid habitat. Because the natural depletion rate of LWD resulting from decay, fragmentation, stream export, etc. is relatively high (1-3 percent per year), a continuous supply of wood from the riparian zone is needed to offset the natural loss and maintain salmonid habitat. If these streams are logged without leaving a buffer of at least 30 m to replenish the natural loss of LWD, it is estimated that the level of LWD will be reduced by 70 percent in 100 years. Recovery of LWD to the original pre-harvest amounts from the regeneration of second-growth trees next to the stream is estimated to take about 250 years. Riparian habitat, therefore, is the principal source of salmonid habitat and must be protected in order to maintain Alaska's salmon and trout at optimum production.

The amount of timber "retained for fish habitat protection" (i.e., loss of potential timber for industry) is dependent on the interpretation or definition of anadromous streams and tributaries. NMFS Alaska Region uses the U.S. Forest Service, Alaska Region (FS), Aquatic Habitat Management Unit (AHMU) definition of stream classes which are based on fish use. The FS Stream Classification System (Channel Typing) is also used by NMFS to identify and characterize stream channels from standard 1:1000 aerial photographs and to determine stream class designations. Under the AHMU system, streams are classed according to fish use:

- Class I- Streams with anadromous or high value resident sport fish or with habitat having reasonable enhancement opportunities for anadromous fish;
- Class II- Streams with resident fish populations of limited sport fish value generally occurring in steep gradients or upstream of migration barriers; and

July 3, 1989

The Honorable George Miller
Chairman, Subcommittee on Water, Power
and Offshore Energy Resources
United States House of Representatives
Washington, DC 20515

Dear Congressman Miller:

This is in response to your June 14, 1989 letter requesting an analysis of the protected timber supply impacts of Section 104 of the Tongass Timber Reform Act (H.R. 987, House Report 101-84). I am writing you on my own behalf as a professional fisheries research biologist with about 25 years experience studying the effects of logging on salmonids. An official National Marine Fisheries Service response will follow shortly.

Abundance of salmon and trout in southeast Alaska is directly related to the abundance of pristine habitat. Though southeast Alaska streams are relatively small in size, collectively they contribute to major commercial and recreational fisheries worth over \$100 million annually. Their abundance (2500-3000 cataloged streams), size, and low productivity coupled with the topography of southeast Alaska make them vulnerable to logging impacts. Because of the continued degradation of salmon habitat by logging, the National Marine Fisheries Service (NMFS), Alaska Region issued a Policy in 1988 for Riparian Habitat Protection in order to maintain optimum production of anadromous salmonids.

NMFS's Policy is based on extensive research which shows that salmon and trout abundance is dependent on habitat derived from or influenced by the old-growth forest adjacent to streams, particularly canopy cover and large woody debris (LWD). It is well documented that buffers provide cover and shade and that the canopy density from a 30-meter wide buffer is sufficient to emulate the natural shade and stream temperature characteristics found in a stream in an old-growth forest. LWD is the principal structural feature of forested streams in Alaska and the Pacific Northwest and is responsible for forming the majority of habitat (e.g., pools, undercut banks, instream cover, stable spawning beds, etc.) critical to the production of salmonids. Nearly all of the LWD in streams comes from trees growing within 30 meters (100 feet) of the streambank. The quantity of LWD in these pristine streams is high (60-80 pieces per 100 meters length of channel) and is directly correlated with the abundance of salmonid habitat. Because the natural depletion rate of LWD resulting from decay, fragmentation, stream export, etc. is relatively high (1-3 percent per year), a continuous supply of wood from the riparian zone is needed to offset the natural loss and maintain salmonid habitat. If these streams are logged without leaving a buffer of at least 30 meters

in width to replenish the natural loss of LWD, then we estimate that the level of LWD will be reduced by 70 percent in 100 years. Recovery of LWD to the original pre-logging level from the regeneration of second-growth trees next to the stream would take about 250 years. As a consequence, habitat and salmonid abundance would be significantly and irrevocably damaged over this period of logging and recovery. Because riparian habitat is the source of LWD for salmonid habitat, it must be protected in order to maintain Alaska's salmon and trout at optimum production.

NMFS Policy of advocating the protection of riparian habitat through the retention of buffer zones along both sides of all anadromous fish streams and their tributaries is intended to provide forestry and fisheries managers with a management prescription and tool to protect and maintain salmon and trout habitat during and after timber harvesting. The amount of timber "retained for fish habitat protection" (i.e., impact on timber supply) by applying the Policy is dependent on the correct interpretation of NMFS intention in the statement "... all anadromous fish streams and their tributaries ..." Anadromous fish refers to all five species of Pacific salmon and to all anadromous trout and char. Any natural freshwater body of water (including lakes and ponds) containing anadromous fish or eggs is considered an anadromous stream. Any stream or tributary to an anadromous stream containing resident salmonids (nonanadromous) is considered a tributary. Streams without anadromous or resident salmonids, but which can influence anadromous or resident salmonid habitat downstream is considered a tributary. NMFS uses the United States Forest Service (USFS), Alaska Region, Aquatic Habitat Management Unit (AHMU) definition of Stream Classes based on fish use. The designation of Stream Class to a specific stream, tributary, or reach of stream is determined from the USFS Stream Classification System (Channel Typing) which uses aerial photographs to identify and characterize streams from geomorphological features. Thus, under the AHMU and Stream Classification Systems, streams and tributaries are Classed according to fish use and Channel Typed according to physical features of the stream and location in the watershed:

STREAM CLASSES (USFS AHMU Handbook)

- Class I- Streams and tributaries with anadromous or high value resident sport fish or with habitat having reasonable enhancement opportunities for anadromous fish;

- Class II- Streams and tributaries with resident fish populations of limited sport fish value generally occurring in steep gradients or upstream of

migration barriers;

Class III- Tributaries with no fish populations but have potential water quality influence on downstream habitat.

CHANNEL TYPES and STREAM CLASS DESIGNATION (from Table I, USFS AHMU Handbook, FSH 6/86 R-10 Trans)

<u>Stream Class</u>	<u>Channel Type</u>
I	E1, E3, E4, C1, C2, C3, C7, B1, B2, B3
I/II	E2, D4, D5, C4, C5, B5, B6
II	D3, B4
III	D1, D2, B7, A1, A2, A3, A4, A5

NMFS met with USFS personnel in Juneau on June 9, 1989 to explain that the Policy was not intended to be interpreted literally and that unimportant tributaries in a watershed were not subject to buffers. A reasonable and appropriate definition of "tributaries" was discussed and the following criteria for the the application of the 30-meter buffer policy to streams on the Tongass were agreed upon:

1) The minimum buffer zone width of 30 meters (100 feet) applies to all anadromous fish streams and their perennial tributaries which can be identified by the USFS stream classification system (i.e., Channel Typing) and includes Classes I, II, and III.

2) BMP's for maintenance of water quality standards will apply to all streams and tributaries.

3) Roads are permitted to intersect buffer zones for stream crossings as provided for by existing standards and guidelines (e.g., Alaska Dept. Fish and Game Title 16)

4) Roads parallel to streams are not permitted in buffer zones.

5) Yarding of logs through buffer zones is not permitted; however, if feasible, full suspension of logs over the top of trees within a buffer is permitted.

Most streams and tributaries in a watershed are a mixture of Class I, II, and III with Class I generally being the lower gradient valley bottom streams and tributaries, Class II being the mid-slope streams and tributaries, and Class III being the upper slope, high gradient tributaries. The 30-meter buffer policy of NMFS applies to all Class I and II streams and tributaries and in some cases to Class III tributaries which flow year-around (perennial) and have flow large enough to directly influence down-stream habitat. The policy does not apply to Class III tributaries which are either ephemeral (seasonal) or intermittent or have a gradient generally greater than 8 percent; these can be very numerous and usually occur as small storm channels at higher elevations. Thus, generally speaking, the policy applies to all low to moderate gradient salmon and trout streams and tributaries which are perennial and does not apply to high gradient tributaries or storm drainages which do not have salmonids or do not have continuous flow. Most all of the streams and tributaries which can be classified by the USFS Channel Type system using aerial photographs should have a 30-meter buffer on each side of the stream. The numerous intermittent tributaries and storm channels which generally cannot be seen from aerial photographs or which are visible only following clear-cutting do not require buffers. These Class III tributaries and storm channels constitute the most acreage of productive forest land and are the source of the discrepancy or controversy between the USFS, timber industry, and fisheries biologists on the amount of productive forest land excluded from timber harvest. While recent USFS estimates of the "timber supply impacts" have been as high as 31 percent of the productive forest land, a more realistic estimate of the impact resulting from the NMFS Policy would be 9 percent. The difference in estimates of 22 percent is attributable to the inclusion of Class III tributaries not identified in the GIS in the USFS total. Nonidentified Class III tributaries are not subject to NMFS buffer policy, but are protected through application of Best Management Practices (BMP's) to meet Environmental Protection Agency (EPA) approved State water quality standards.

The amount of timber retained for fish habitat protection (i.e. protected timber supply) is estimated for a given stream by classifying it into stream Channel Types from aerial photographs, designating Classes according to fish use, and then calculating the amount of timber by acreage and volume class in a 30-meter buffer on both sides of the stream channel. The USFS has made these calculations using their Geographical Information System (GIS) and has presented their findings at meetings including a presentation at the Alaska Forest Practices Act Review in March, 1989 and a meeting on June 9, 1989 between USFS and NMFS personnel. One example the USFS presented was their calculations from a quadrangle of North Kuiu Island on the Tongass National Forest (Port Alexander C-1) with a total land area of 140,000 acres. The GIS calculated that 9 percent of the productive forest land (acres

and total volume mmbf) would be removed with a 30-meter riparian buffer. This calculation, in agreement with NMFS's Policy, was based on timber retention along all Class I and II streams and tributaries and some of the important Class III tributaries, all of which were classified according to Channel Types from aerial photos. Based on the GIS calculations, biologists from NMFS and Alaska Dept. of Fish and Game in consultation with USFS biologists, believe that Class I (anadromous) streams only would amount to less than half (4 percent) of the 9 percent of the timber retained for habitat protection. The high gradient and intermittent tributaries, and storm channels which are not identified by Channel Typing or aerial photos (i.e., not identified in the GIS) would amount to an additional 22 percent if buffer were required. However, these noninventoried tributaries are usually insignificant and do not require buffers under the NMFS Policy; therefore, the additional 22 percent should not be included in the estimate of area of productive forest reduced by buffers. These small tributaries without salmonids can account for the highest proportion of streams or acreage in a watershed, but only require BMP's for maintenance of Alaska State Water Quality Standards.

Mr. Scott Russell, Biologist, USFS, Ketchikan Area, Tongass National Forest estimated the effects of a 30-meter buffer on the amount of operable timber that would be excluded in the 1989-94 Operating Period KPC Long-term Sale Draft EIS (395,966 operable acres). He applied a buffer to all fish and non-fish streams that were Channel Typed and found 10.7 percent of the operable timber would be excluded.

His estimates did not include the streams that could not be inventoried from aerial photos. Scott also thought that the anadromous streams would amount to less than about 4 percent of the operable timber. A study supporting the previous examples was conducted by a Fisheries Task Force (Fisheries Task Force Working Report, Tongass Land Management Plan, USFS, Juneau, AK, April 1978, 36pp) to determine the extent of fisheries habitat protection by the application of a 100 foot buffer on salmon streams and their tributaries on 14 watersheds in the Tongass National Forest. The total retained for fisheries habitat protection as extrapolated to the entire Tongass National Forest was 11 percent of the timber volume. A report prepared by the Sealaska Corporation on Jan. 16, 1989 shows that a total of 49 percent of their study area acreage and timber volume on Prince of Wales Island would be contained in fish stream protection using a 100 foot buffer. However their data also shows that only 8 percent of this retention would apply to the important Class I and II streams, the remainder was for Class III tributaries (37 percent) most of which did not require buffers and for areas made inoperable because of buffer zones (4 percent).

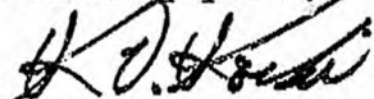
NMFS policy is intended to protect Alaska's salmon and trout abundance through the application of proven management techniques

6

and sound biological data. Because the fisheries and timber industries share the forest as a common base for their existence, a specific level of old-growth forest must be maintained for optimum production of fish. The timber retained in a buffer for fish should not be viewed as the amount "lost" to the timber industry but viewed as what is required for fish habitat in the true sense of multiple-use. Certainly, NMFS intent is not to create a severe impact on the timber industry, but through its Policy it is defining what is the minimum riparian vegetation necessary for salmon and trout habitat in order that the two industries can coexist.

Thank you for the opportunity to express my views on the NMFS's Policy and its relationship to the Tongass timber supply. Please let me know if I can be of further assistance.

Sincerely yours,



K V. Koski, Ph.D
Fisheries Research Biologist

P.O. Box 210154
Auke Bay, AK 99821
(907) 789-0429

May 5, 1989

KFP

Koncor Forest Products Company

3501 Denali, Suite 202
Anchorage, Alaska 99503
(907) 562-3335 FAX (907) 562-0599

Senator Bettye Fahrenkamp
P.O. Box V
Juneau, AK 99811

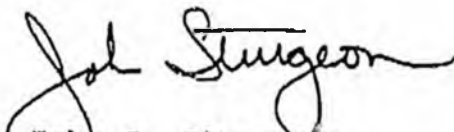
Dear Senator Fahrenkamp:

It is Koncor's understanding that a hearing has been scheduled for Senate Bill 317 which will revise the current forest practices law. Koncor would like to go on record supporting this proposed legislation.

Koncor has spent a tremendous amount of time and money working to develop the language in this proposal. All parties that worked on the development of this compromise can readily point out concerns. However, that is to be expected of any product developed by a compromise process. Since this is a product of compromise we can support it only if no changes are made. A change could tip the balance that we all worked so hard to secure.

The private land owners of Alaska are making some tremendous sacrifices in this revised forest practices legislation. The legislature should assure that State agencies do not exceed the intent of these statute changes through unreasonable regulations. If unreasonable regulations are promulgated the sacrifices of private landowners could quickly be converted into a death sentence for Alaska's forest products industry.

Sincerely,



John L. Sturgeon
President

JLS/mlm

South-Central Timber Development, Inc.

6 March 1990

Senator Bettye M. Fahrenkamp &
Members of the Senate Resources Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp & Members of the Committee:

Re: S.B. 317 or H.B. 331
Forest Practices Act Revisions

This bill is an astounding attack on private property rights. It is destructive of freedom, an Alaskan's most precious right, after life itself. It materially advances state control over production and the means of production. As the long-tormented countries of Eastern Europe try to shake off socialism and restore capitalism and liberty, the state government of Alaska, imitating the U.S. federal government, is bent on an ever-expanding take over of private property rights. The state is pursuing, in Friederick Hayek's phrase, a "fatal conceit": "The government knows best." "Only the government can competently manage the resources." We have very little private land of any kind in Alaska, compared to the total acres of uplands and tidelands. The privately owned forest lands of Alaska constitute no more than perhaps five percent of the total acreage within Alaska's boundaries; this private land has been extracted from the public domain over a painstakingly long period of time, and by a very arduous course; but apparently the state government cannot bear to part with significant and thorough-going control over the small percentage of Alaska not owned by a government.

This legislation is not destined to expand Alaska's forestry economy, or even to retain the level now realized. It is regressive and punishing and tinged in totalitarianism. It creates an omnipotent state apparatus over the privately owned forest lands of our state.

The cost to the state treasury of this newest intrusion of state government into private rights and property is conservatively estimated at \$1.2 million per year. Much more could be spent on these questionable and reprehensible activities; no doubt, in future years, the agencies will require a greatly expanded budget for these good socialist works. Thus, at a time when all the political talk is about reducing state expenditures, along comes this act to spend more money; hire more government inspectors, naysayers and gumshoes; and put state spending further out of control. Is anyone serious about reducing the budget?

I was in the audience in the Capitol when the House and Senate Resources Committees held a joint hearing on the Forest Practices Amendments on 31 January 1990. Regrettably, I did not realize I had to sign up as a witness, and so missed the opportunity to give these views.

Though Mr. Sturgeon, Chairman of the Forestry Board, did not give you my name, I am the representative of the Alaska Miners Association on the Alaska Board of Forestry. The proposed legislation eliminates the Miner's slot on the Board. Mr. Steve Borell, Executive Director of the Alaska Miners, has already written to you protesting the deletion.

1. The Board: Poorly Constituted and Non-Functioning.

The Forestry Board, under the new legislation, would likely end up with a majority of anti-development forces. Only two of the six voting members would have to be connected with forestry. The peculiar consensus required for the Board to act [AS 41.17.041(c) requires near unanimity] is a special hamstringing device. Your own intimate experience with obtaining eleven votes, or twenty-one votes, is proof enough that government by consensus will not be a government of accomplishment.

2. Alaska Will Plan Forever, but Probably Never Achieve A Big Forest Products Industry.

AS 38.05.112(a) requires a site-specific forest land use plan in spite of the fact that regional or area plans have already been accomplished. The intent is for "plans, plans, plans"! Wood markets may crash before Alaska is ever ready to enter seriously into the world of timber production and manufacturing. This reluctance to act--this same propensity to plan endlessly--is also evident in the statute under which state forests are to be created [AS 41.17.200 et seq.]: Notwithstanding that land has already been classified for "forestry" under the Alaska Lands Act, upon the creation of a state forest, entirely new plans are required, no doubt in the hope that some or most of the forest land will be dedicated to other purposes. State forests are "multi-purpose." if at least two purposes must be stipulated for a particular forest area, they may be "scenic quality," and "recreation," even though the land is a "state forest."

3. A Bureaucratic Straitjacket.

Alaska forestry on state lands is put into a strait jacket in AS 38.05.113(b). The provision that a proposed sale must have been on the schedule for two full years before an actual sale can take place destroys flexibility and dynamism. In truth, the last thing either sought by the authors or to be realized from this legislation would be a dynamic forest industry in Alaska.

4. "Scenic Quality" Is a Concept Peculiar To the Eye Of the Beholder.

AS 41.17.060(c)(6) compels the state to harvest its lands or not harvest at all, in deference to "scenic quality" in "areas of substantial importance to the tourism and recreation industry." This is an entirely subjective and maundering "standard" that will result in endless debate and delay. Is "scenic quality" the "forest primeval" or a carefully kept and supervised forest? What is an "area of substantial importance?" What is the "tourism and recreation industry?" Who is to say that tourists would not want to see some human progress and the intelligent activity of homo sapiens occurring on the forest lands of Alaska? Tourists get bored with endless miles of untouched woods.

5. Industry Will Be Suffocated By Regulations.

AS 41.17.080(d) expresses the pietistic hope that the commissioner will avoid making regulations which increase costs, but yield no benefits to public resources. The whole tenor and spirit of the legislation proposed is that timber cutting is detrimental to "public resources." Under the aura of this act the commissioner will be able to find no regulation which does not somehow benefit the public resource.

6. Statute Declares Timber Harvesting A Deleterious Activity.

As a matter of fact, under AS 41.17.115, the bill would have the State of Alaska declare by statute that timber harvest activities do, in fact, have significant adverse effects on fish habitat and water quality. This is nothing less than an outrage. In truth, timber harvest activities may benefit fish habitat and water quality.

7. The State Commands: Thou Shalt Be Naked To Thine Enemies.

If a private land owner decides to timber his land he must submit to the state government, in advance of logging, and each year thereafter, detailed plans of his proposed operations so that both the state and "members of the public who have asked to receive copies of notifications for the affected areas" can be fully informed about the private owner's business plans. Both the preservationists as well as business competitors and people bearing malice towards the applicant will have a powerful weapon to wield against this poor private land owner. Why should the State of Alaska force such public disclosure? The State bears no risk in such compulsion for disclosure, but the State certainly increases the risk of the private land owner. The total business intentions of the logger as to the entire drainage must be disclosed, for the current year and for all future years. This is communism at its best. No matter how many years contemplated operations may take, the operator must renew this plan every year. This fantastic onus should assure that a large cadre of bureaucrats will be fully employed while there are trees to cut in Alaska. "Private property" is a noun without much content at

the rate the State proposes to take away rights historically associated with private property. [AS 41.17.090(a)]

8. The Confusion of Multiple Regulators All From The State of Alaska.

The proposed statute builds in conflict and practically assures conflict, controversy and turf battles by having two departments--two commissioners--both in charge of regulating nonpoint source pollution. Must we, with malice aforethought, make life so complicated, difficult and impossible to live? [AS 41.17.098(c)]

9. The Act Will Drive Away New Forest Industry and Fetter What We Already Have; We Could Have a Massive Forest Products Economy.

I am told that only six or seven states in the nation have adopted a forest practices act of any sort, governing all forestry operations on private lands. Alaska was in the "vanguard" in adopting such legislation in 1978, under the sponsorship of then Representative Mike Miller of Juneau. Now, this new proposal would gild the lily and drive industry away, and it will prevent the expansion of existing industry. With energy, imagination and dedication, Alaska could attain a wood products industry with an annual value in the billions of dollars. That will take certain statutory assistance; it will take a commitment and resolve on the part of the state government and its bureaucracy. Senate Bill 317 and House Bill 331 go in the opposite direction; it's "killer legislation," and constitutes a vast harassment of the present and future industry, and an impenetrable discouragement to economic expansion.

10. This Legislation May Destroy Any Economic Activity In the Buffer Zone.

Before commencing "operations" on forest land, the operator or owner must provide the state forester with a comprehensive plan of operations. I take this legislation to mean that before someone can clear a riverside or lakeside woods for a non-timberlands use, such as a lodge or camp, the would-be developer or entrepreneur will have to first seek the permission of this state, which may never be given because of the buffer rules in this legislation.

11. Laws and Regulations Amount to Strangulation.

The additional regulations hurled upon Alaska citizens under this proposed act are heaped upon the already vast array of federal and state permits, interactions and jurisdictional overlaps already on the statute books. Even before this proposal is enacted, or if it is never enacted, the mass of permitting and regulatory interference in the natural resource industries is bewildering, appalling and in opposition to economic development and expansion. Indeed, economic activity in the resource

development field has already contracted in Alaska; we have become a highly undesirable place in which to do business.

12. Why Prefer Fish Over Timber? Timber Will Be More Valuable.

In the sections on riparian management, the rights of fish over timber are baldly enunciated. The state is making a clear and unequivocal preference for fish, though, in time, the economic value of timber can be expected to substantially exceed that of the fish affected by the riparian regime.

13. The Pillage of Private Property.

The application of these stringent water body buffer area standards to private land amounts to the pillage of Alaskans owning forests bordering on water bodies. People owning a few acres of land containing timber, if they happen to be in a riparian area, could stand to lose their right to harvest any timber whatsoever, depending on how any of the state agencies may interpret AS 41.17.117(a). It is said that some of the Alaska Native Corporations owning substantial volumes of timber under grants from the United States through ANILCA have received legal advice to the effect that the Forest Practices Act amendments affecting private property would not constitute a "taking" under the federal or state constitutions. What amounts to an illegal "taking" is being constantly litigated. Legal rulings change with changing attitudes towards socialism and capitalism. Judge Robert Bork's book, The Tempting of America, will act as a catalyst to restore devotion to private property. The U.S. Supreme Court has arrested its flirtation with totalitarian government by its pro-private property decisions in Nollan and First Evangelical Lutheran Church. Furthermore, there is no compulsion on the Alaska legislature to enact this huge attack on the rights of private property. If Alaska stands for anything, it ought to stand for individual freedom and the right to be left alone. Why must we seek to create an anti-property, socialist state in the far north?

13. Buffers Around Wetlands and Estuaries, Too.

I may be that your land is not along a river or a lake; it may border a wetland or an estuary. Nevertheless, a large buffer or ring of trees is commanded to be left standing, under penalty of \$10,000 per day fines or jail, or both.

14. The Regulations Not Yet Written May Do the Most Mischief of All.

AS 41.17.116 leaves much mischief to be done at the hands of the commissioner who will write and adjust regulations regarding private property timber. I would think if the state has decided to take away private property and private rights, it could at least do so by passing legislation. However, the regulation method can be blamed upon the work of a faceless bureaucrat, instead of an elected official. The full extent of the

devastation this bill will foist upon Alaska is as yet undisclosed.

15. The Bias Against Tree Harvesting.

In AS 41.17.116(a)(1)(D) the commissioner has the discretion to let the operator harvest timber in the buffer zone, provided that the operator leaves timber standing somewhere else; this other place does not have to be a riparian area. Why must such timber be left standing? This is one of many places reflecting the bias against timber harvesting.

16. The Dead Hand of a Rule Running for a Hundred Years.

The operating plan put upon the land prevents harvesting of timber outside an "operating area" until the "next rotation period." This latter phrase is never defined, but it could easily exceed a time span of over 100 years; apparently, the operating plan would constitute some sort of covenant running with the land. It may be that the spruce bark beetle would devour the trees the state forester would not allow to be cut, but no human being shall be so allowed under penalty of fine and imprisonment. Already, spruce under state management and control for many years has been killed by the beetle in volumes of hundreds of millions of board feet, but clearly there is more joy to the bureaucrat in lording it over human beings than over beetles. [AS 41.17.117(b)]

17. Compensation Provisions Arbitrary and Capricious.

The state forester is authorized to prevent an owner from cutting his timber even if that prevention will result in more than 5% of the basal area being left standing. The forester may do this by paying (whom?) for this timber at the "current market value"; this means "current" as of the time the operating plan is submitted and approved, but the harvest may not have occurred under the plan for another several years, which makes this cash payment provision utterly arbitrary and unfair. No one knows what the timber will be worth several years hence. [AS 41.17.117(c)(3)]

18. AS 41.17.117, the Heart of the Compromise, Is Fuzzy Obfuscatory, and the Poorest Kind of Law.

If a law drafter had deliberately attempted to make a statute's meaning fuzzy or obfuscated, he could not have done much better than Section 117. The strains of the so called "consensus" which generated this extremely critical section caused a lack of clear understanding of what the collectivity compromised upon. Is it a true compromise or is it a white washing of irreconcilable differences? And, of course, this section of the law, as a clear guide to the bureaucrats in charge of its administration, fails absolutely.

19. In State Lands, Vast Swaths of Trees Are Forbidden To Be Cut.

The state land standards differ from the private land standards; in fact, state timber north of the Alaska Range is treated differently than that south of the Range. Apparently, the environmentalists are less concerned about Interior Alaska. That is at least lucky for the Interior. In state timber the new law contemplates an absolute preference for fish and wildlife habitat over timber interests in a 600' wide riparian swath, extending the length or circumference of the water body.

20. Endless Harrassment By Multiple State Agencies.

AS 41.17.125 contains the noble invitation to all state agencies concerned to avoid duplication and inconsistency in their enforcement. Contrarily, however, all agencies keep their own rights to determine and exact remedies. Therefore, there will be little uniformity, but a great multiplicity of harassment or worse.

21. Big Penalties For All Concerned.

In the sections devising civil and criminal penalties it seems that a land owner or a timber owner can be fined or jailed if he "permits" a violation, even if the violator is a different person called an "operator." If one allows an operator to harvest trees perhaps that is "permitting a violation." This statute, obviously, would much prefer that the land owner and timber owner protect themselves by not allowing anyone to harvest timber. [AS 41.17.131]

22. An Arbitrary Hearing Procedure Lacking in Fundamental Justice.

The new hearing procedures have deleted the requirement that the hearing officer be trained in the law and admitted to its practice. [AS 41.17.139] People in the Division of Forestry will now appoint the judges in these grave judicial proceedings, but they shall not be people of the law, but rather employees of the Department of Natural Resources.

The Administrative Procedures Act of Alaska is not applicable to these kangaroo court proceedings. There is no requirement that any witness be required to give evidence under oath. The former rule that hearings be recorded has now been deleted, presumably so that the arbitrariness in these proceedings taking away one's property and one's right to operate one's business and one's right to work is hidden from view--a sort of Star Chamber approach.

23. The Delusion of No Third Party Suits.

The people in the so-called "consensus group" who believe they have obtained a great benison in AS 41.17.143(d), whereby

third parties are not allowed to file suits under the statute, are probably deluding themselves. I would think in a short time this provision will either be deleted or else found to be unconstitutional in Alaska.

24. Eliminating the Constitutional Provision of Preferences Among Beneficial Uses.

Under the definitions, the "significant impairment of productivity" rule apparently compels that Alaska land and water keep producing renewable resources at their natural or historic levels, making no provision for what Article VIII of our state constitution calls "preferences among beneficial uses." [AS 41.17.950(6)(C) and (12)]

25. A State Forest Without Timber.

The definition of a state forest never mentions trees, silviculture or forestry; it simply talks about "renewable resources" and "a variety of beneficial uses." What an utter farce! [AS 41.17.950(14)]

26. No Stability, Peace or Consensus.

At the late January hearing in the capitol, a number of pro-passage witnesses testified that this new legislation would bring "stability" and "predictability." The implication is that the environmentalists and the developers will achieve a long term armistice, and enjoy years of mutual cordiality and deference. The history of the Tongass Forest legislation over the past 15 years, and the governmental activity in the Chugach National Forest utterly belie this naive contention. The legislature meets every year, and the opposing parties can be expected to seek changes favorable to themselves when the occasion arises. A new legislature is not bound by this so-called "consensus." In fact, the last section of this proposed legislation classifies the law as "interim" because it is "based on many untested assumptions." The silliest untested assumption of all is that this zombie will bring "stability" to the parties.

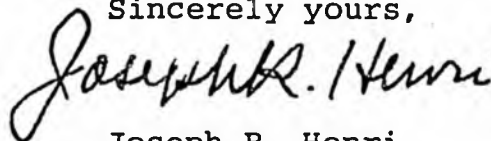
It has often been said that Alaska is a land full of rugged individualists, yet over the last 15 years we have witnessed an almost pathological quest to have government run or regulate everything. The clear implication of so much regulation is that those who own land and timber are not to be trusted with the running of their own affairs. Under the new laws and regulations, the Alaskan government will act as trustee and guardian. But it will be a bad trustee and a faithless guardian because its efforts are not to benefit the owners of the land, but rather to serve the new religion of environmentalism at the expense of the beneficiary of the trust. Alaskans are becoming wards of the state, in the worst connotation of that phrase.

In an article entitled "Profits Are For Rape and Pillage," Forbes Magazine of 5 March 1990, makes an astute observation:

At the very time when government regulation is discredited and out of favor nearly everywhere, it is making a comeback in the environmental field. Although political and economic arguments for socialism are derided around the world--and the power of the market to allocate resources intelligently is widely acclaimed--environmentalism is being used as an excuse for the government to move back into managing the minutiae of our lives.

No matter that private property rights are pushed aside or despised, no matter that the cost to the state treasury is in seven figures annually to perpetrate the violation of private property, no matter that hirelings, agents, inspectors, and gumshoes will be added to the ever-swelling ranks of the state bureaucracy, this cause of so controlling the five percent of Alaska having privately owned forests is a holy calling, a crusade, a zealot's hegira. As Robert Crandall of the Brookings Institute says, "When you're carrying out a crusade, you don't ask what's the cost of the religion."

Sincerely yours,



Joseph R. Henri
President

JRH/df

cc: Members of the House Resources Committee
Phil Haldsworth, Alaska Miners Association
Kent Dawson, Alaska Miners Association
Steve Borell, Alaska Miners Association
Becky Gay, Resource Development Council
Thyes Schaub, Alaska Loggers Assn., Juneau

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 485-2400

May 5, 1989

The Honorable Bettye Fahrenkamp
Chairman, Resources Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

The bill before you represents substantial changes to the Alaska Forest Practices Act. It is the result of almost six months of work by representatives of the timber industry, the state resource agencies, and fishing and environmental groups. I believe that this bill, as a result of hard work and compromises by all interest groups, will allow Alaska's forest practices program to both meet the needs of Alaska's growing timber industry and achieve appropriate protection for public resources such as fish habitat and water quality. I would like to take this opportunity explain the consensus mediation process used to arrive at this bill -- the Alaska Forest Practices Act Review, and explain the provisions of the bill.

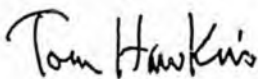
Last year, the Governor directed the state resource agencies to conduct a public review of the Forest Practices Act and to make recommendations for any improvements in the Act, its regulations, and implementation. In order to facilitate an objective and balanced review, a steering committee was formed, including representatives of timber land owners and operators, state agencies, and users of public resources that are affected by forest practices. Because the agencies felt it would be possible to review the state's forest practices program and meet both the needs of the timber industry and resource protection needs for fish habitat and water quality, the committee attempted to operate by unanimous consent. This approach ensured that the committee's decisions respected all interests.

The bill before you achieves near total consensus; it has the support of representatives of Native Corporations, boroughs, fishing groups, and environmental groups. There have been question raised to a provision of the bill that might affect harvest on federal land through the Alaska Coastal Management Program. (For information on that section, please see the attached bill analysis, Section 27.) Agency staff will be available during the committee hearing to discuss any questions raised on this issue.

The committee's long and difficult work was not completed until early this week, and so the bill could not be introduced earlier. However, because of the importance of the bill and the extraordinary and fragile achievement of achieving near-total consensus on these controversial issues, I urge your prompt and favorable consideration.

Attached is an analysis of the bill.

Sincerely,



Lennie Gorsuch
Lennie Gorsuch
Commissioner

**Bill Analysis
Senate Bill 317**

**An Act relating to forest resources and practices and to the management of forest lands;
and providing for an effective date**

Section 1: State Timber Planning Process. Title 38 is amended to require additional planning before state timber sales. The division of forestry must prepare a site-specific plan before all state timber sales that fully integrates appropriate resource protection measures into the sale design. This site-specific design would also improve public review of individual timber sales.

The department would also be required to annually prepare a five-year timber schedule of proposed state timber sales. Except for small sales and emergencies such as salvage, a proposed sale would be required to appear on the two five-year schedules preceding the sale. The five-year schedule will inform the public and the timber industry of the state's long-term plans.

Section 2, 3 and 4: Coordinating Overlapping Agency Jurisdiction. These sections coordinate overlapping agency jurisdiction regulating timber harvest activities.

Section 2: DEC. Regulations of the amended forest practices act will serve as timber harvest standards for non-point source pollution under the leadership of DEC.

Section 3: ACMP. The amended forest practices act will serve as the Coastal Management Program for harvest activities on private land.

Section 4: DF&G. Regulations of the amended forest practices act provide the fish habitat protection standards except for those activities subject to AS 16.06.840 and AS 16.05.870.

Section 5: Board of Forestry Membership. The current 13-member board of forestry is restructured to a smaller, more balanced, 7-member board. (See section 7 for duties of the board.) It also details qualifications for board members, staffing requirements, and voting procedures.

Section 6: Board of Forestry Terms of Office. The section amends existing terms of office to provide staggered terms of office for the Board of Forestry.

Section 7: Powers and Duties of the Board of Forestry. This section amends the duties of the Board of Forestry. Existing duties include only commenting on regulations. New duties are added: providing a forum for discussion for representatives of affected interests to discuss and resolve forestry issues before they become divisive; coordinating an annual survey of research needs; coordinating the monitoring of the implementation and effectiveness of the forest practices program and making recommendations for change; and holding annual hearings in southeast, southcentral, and interior Alaska to take public testimony on the state's forest practices program.

Section 8: Technical Change, Coordination with DEC. References to DEC's program for non-point source water pollution are amended to be consistent with the coordination provisions in Section 3.

Section 9: Technical Change, Non-point Source Pollution Control. Wording is changed to make clear the meaning of the existing law concerning recognition of environmentally sensitive areas in non-point source pollution control measures.

Section 10: Standard for Soil Erosion and Mass Wasting. The section provides a standard of minimizing or preventing significant adverse affects of soil erosion and mass wasting.

Section 11: Standard for Scenic Quality. The existing standard for scenic quality near tourism and recreation areas is amended. The standard applies to state and municipal land only. The standard would be implemented by regulations of the act, and by state and municipal planning for timber harvest.

Section 12: Standard for Important Fish and Wildlife Habitat. A new standard is added that requires planning for harvest allowance be made for important fish and wildlife habitat. The standard applies to state and municipal land only. The standard would be implemented by regulations of the act, and by state and municipal planning for timber harvest.

Section 13: Records for Public and Agency Review. The division is required to maintain a records of decisions made under the act for use by the public and state agencies in assessing the effectiveness of implementation of the act.

Section 14: Regulations. This section provides a list of forestry activities subject to regulation under the act; allows the commissioner to establish regions and make appropriate distinctions between public and private land; and directs the commissioner to only adopt those regulations that yield significant benefits.

Section 15: Control of Infestation and Disease. A new section of the act is added that allows the commissioner to take action to control forest infestation and disease outbreaks that threaten forest resources.

Section 16: Variation from Requirements of the Act. The state forester is directed to allow variations from forest practice requirements established under this act. The state forester may allow variations to requirements he determines that the harm such as degradation of fish habitat or water quality not likely to occur because of site-specific circumstances of the particular activity. It allows private landowners to appeal an adverse decision by the state forester, but they must conform to the requirement during the period of the appeal.

Section 17: Review of Private and Municipal Timber Harvest Operations. The section provides an improved process for efficient and detailed review of timber harvest plans. This efficient review allows the timber industry to respond to changing timber markets but ensures that harvest operations conform to forest practices standards and regulations. The section also requires public review of private harvest plans. Review by state agencies may occur in the office or, if necessary, in the field prior to the start of the operations.

Section 18: Interagency Coordination. Because of overlapping agency expertise for issues concerning timber harvest, this section provides coordination mechanisms for DNR, DF&G, DEC, and where appropriate, coastal districts. The coordination system retains DNR as the lead agency for forest practices but ensures that the appropriate agency expertise from DF&G and DEC is included for forest practice issues that involve their expertise. The section requires that the agencies recognize fish habitat as the primary value within the riparian areas established under the bill.

Section 19: Riparian Management. This section of the bill provides for a streamside management program that strikes a fair balance between the needs of the timber industry and those of fish habitat and water quality protection. It provides for significant timber harvest while providing appropriate protection for public resources. Riparian standards for timber harvest differ depending on land ownership, stream, type, and region. The section also provides the intent of riparian management standards: a list of fish habitat

components that the riparian standards are designed to protect.

On private land in southeast Alaska, streamside areas of up to 30 meters will be managed for the protection of fish habitat and water quality, although timber operators will not be required to leave more than five percent of their timber volume for this purposes. In this way, strong resource protection exists without requiring any one private owner to shoulder an undue portion of the resource protection costs.

On private land outside southeast Alaska, it directs the commissioner to establish riparian protection standards and provides interim standards until regulations are drafted.

On state land north of the Alaska Range, timber harvest within 30-meters of an anadromous or high value resident fish waterbody will be allowed where adequate protection remains for fish habitat.

On state land south of the Alaska Range, no timber harvest is allowed within 30-meters of an anadromous or high value resident fish waterbody. Within the adjacent 60-meters, timber harvest must be consistent with the maintenance of important fish and wildlife habitat.

For municipal and trust lands, timber harvest within 30-meters of an anadromous or high-value resident fish waterbody must be sited and designed primarily to protect fish habitat and water quality.

Section 20: Enforcement Coordination. Because existing overlapping jurisdiction by DEC, DF&G, and the department of law, and because of additional authorities provided DNR by this bill, this section directs the agencies to establish "uniform enforcement strategy." The strategy requires a method of coordinating enforcement that avoids duplicating and inconsistent enforcement by the agencies. All agencies retain existing enforcement authorities.

Section 21: Penalties for Violations. This section amends the act by streamlining existing procedures for levying civil penalties of up to \$10,000 per violation, and adds additional enforcement authorities. Under these additional authorities, the state may issue a citation for a class A misdemeanor for violations of the act, its regulations, agency directives or stop orders; also, DNR may issue remedial orders requiring operators to repair or correct damage resulting from a violation.

Section 22: Directives. This new section provides that DNR may issue enforceable, written orders directing that timber operations that violate or would violate this act or its regulations be changed. These directives may be written as part of the DNR office or field review of private timber operations as provided under Section 17 of the act. Directives may be appealed and operations may continue pending the outcome of the appeal.

Section 23: Stop-work Orders. If the forester determines that a violation of the act or its regulation is occurring or is likely to occur and that significant harm to public resources is likely to occur if work is not halted before a hearing, the state forester may issue a stop-work order. A stop-work order may be written as part of the DNR office or field review of private timber operations as provided under Section 17 of the act. Stop-work orders may be appealed, but the operation must stop pending the outcome of the appeal.

Section 24: Hearing Procedures. This section amends the cumbersome hearing process existing law by deleting the requirement that hearings be held before lawyer appointed by the attorney general. The new process allows the hearing officer to be an employee of the department. The new process will be quicker, and more efficient for both the landowners and the department. It will also be significantly less costly for the department.

Section 25: Appeals and Judicial Review. This section provides appeal procedures from department decisions. It provides for appeal of DNR decisions by landowners or timber operators to the state forester, in some cases to the commissioner, and gives the option of going to court. Also it provides that parties other than an aggrieved forest landowner, timber owner, or operator may not receive judicial review of individual timber harvest decisions. Third parties may, however, seek judicial review of regulations, or of a systematic error in DNR decisions.

Section 26: State Forest Plans, technical change. This section changes existing law by deleting a list of uses to consider in completing plans; and instead referencing a similar list in Title 38 (section 1 of this bill). It eliminates confusion from two close but not identical lists with similar purposes.

Section 27: Affect on Federal Timber Harvest. Other sections of this bill set specific standards for activities on state, municipal, and private land. This section states that the bill's specific resource protection provisions, such as riparian management zones defined for private, state, and municipal lands, do not apply to timber harvest activities on federal land. However, the bill proposes that the federal government achieve a level of resource protection commensurate with that provided for on state lands. This would occur as the federal agency, primarily the Forest Service, proceeds with its normal environmental planning process for timber harvest activities. While this measure does create a broad performance test for operations on federal land, the real effect on Forest Service actions is not considered to be significant, given the generally higher federal requirements for environmental protection.

The bill assures that federal lands will not be subject to the specific forest practice act standards "either directly or for purposes of compliance with the (federal) Coastal Zone Management Act." This statement effectively severs the applicability of the Act's specific standards to National Forests and other federal lands. However, some participants in the forest practices discussions wanted to take the point one step further to resolve a long-standing discussion of what specific environmental protection the state can ask the federal government to provide on National Forest lands through the coastal management consistency process.

The forest practices act discussions did not address federal timber harvest activities in any detail. Therefore, the parties to the consensus decided that the bill was not the appropriate vehicle to include specific environmental protection standards for federal lands, nor address the application of coastal management standards to federal timber harvest activities. Instead, the vehicle to address this question will be through a change to the Alaska Coastal Management Program regulation established for timber harvest and processing by the Alaska Coastal Policy Council (CPC). Following enactment of the forest practices act, the CPC will amend this timber harvest standard as necessary to address lands not covered by the forest practices act, including federal lands. The CPC will provide for the full involvement of the federal government, industry, and the public in drafting the new timber harvest standards.

Section 28: The Act Does Not Alter Other Rights and Jurisdictions. This new section of the act confirms that it does not alter or diminish the authorities of DF&G under title 16, DEC under title 46, or any state agency under other laws. It also confirms that the act does not diminish the rights of Alaska Native or of Alaska Native corporations with respect to the Alaska Native Claims Settlement Act.

Section 29: Wildlife on Private Land. This new section provides that state agencies and private landowners will establish cooperative, voluntary processes for protection of wildlife habitat on private land.

Section 30: Definitions, technical changes. This section provides definitions necessary for the act. Few changes are made.

Section 31: Legislative Review. This section provides legislative acknowledgement that this act should be reviewed by the legislature within three years after further research and experience is gained in implementing the act.

Section 32: Repeal of Superseded Sections.

Section 33: Effective Date. An effective Date is provided: January 1, 1990.



TESTIMONY BY ROBERT W. LOESCHER,
SENIOR VICE PRESIDENT, RESOURCE MANAGEMENT
SEALASKA CORPORATION,
BEFORE THE HOUSE RESOURCES COMMITTEE

My name is Robert W. Loescher. I am the Senior Vice President, Resource Management for Sealaska Corporation. Sealaska is in business throughout the State and the Pacific Northwest in fish processing and marketing, timber harvesting, export marketing of round logs, mineral development, and has investments in Alaska oil businesses. Our company headquarters are here in Juneau. Sealaska is the largest single private landowner in Southeastern Alaska. Our 16,500 shareholders reside primarily within the boundaries of the Tongass National Forest and in the Pacific Northwest.

The purpose of Sealaska's testimony is to praise the efforts of the forest practices steering committee. Sealaska fully supports the committee's consensus legislation and encourages the Resources Committee to also endorse the consensus legislation. I might add that KONCOR, a joint venture of one regional and 18 village corporations is unable to attend but supports Sealaska's testimony.

Achieving consensus among so diverse a group of people, and on so complex and controversial a matter, is a remarkable achievement. The bill that the steering committee has given you satisfies the major concerns of interests ranging from state agencies, to fishermen, to environmentalists, to the timber industry itself. By definition, then, it is legislation that is in the public interest.

The legislation, of course, comes to you late in the session. Everyone on the steering committee regrets that, but everyone also recognizes it was inevitable. The State of Washington took over one year to complete the same consensus-building process; Alaskans, who are at least as enthusiastic at protecting their own interests, achieved a virtually final compromise in six months.

Sealaska knows that you will consider the legislation as quickly as your responsibilities as legislators allow. If you are able to enact the consensus bill this session, everyone on the steering committee will be grateful.

There is, apparently, one issue outstanding among some steering committee participants. That issue involves the extent to which this legislation will affect forestry activities on federal lands within the coastal zone. From the outset, the

steering committee decided that tackling the issue of federal lands would be impossible, given our time constraints. As a result, the committee agreed that, whatever its product, it would not affect the status quo on federal lands. Accordingly, key people involved in federal timber land management were not seated on the steering committee. Sealaska believes that this issue can be solved in a way that is neutral in its effect on federal lands, and that the way can be cleared for progress on the bill.

If, because of that remaining problem, or the simple press of time, the legislature cannot act this year, Sealaska Corporation is encouraging both you and the administration use your influence, and your authority, to assure that between now and next January, the consensus spirit of the steering committee does not collapse.

Our fear is that if a bill does not pass, the 15 participants on the steering committee will scatter to the winds. Individual interest groups will prepare their own special interest legislation, and the resource agencies will develop unilateral administrative regulations without considering the interagency coordination required to effectively regulate the forest industry. If that occurs, the spirit of cooperation, common sense of mission, and recognition of interests of all concerned groups that has prevailed at steering committee meetings would be lost. As a

result, the legislature would be faced next session with 15 very different views on how forest practices ought to be regulated in this state. The resultant legislative battle will be bitter, and we think unproductive. Strong leadership is needed to hold the committee's product together, and at this stage we believe that this leadership can only be provided by the administration and the legislature.

Sealaska has a special stake in ensuring the ultimate success of the steering committee's effort because we played a role in initiating this process. In March, 1988, Sealaska proposed to Governor Cowper that a task force of representative interest groups be established to attempt to develop consensus streamside -- or riparian -- management standards. Governor Cowper, in turn, concluded that there were a number of additional issues involving the regulation of forest practices that might benefit from negotiated resolution by the parties involved. Earlier, the State of Washington had established the so-called Timber, Fish and Wildlife -- or TFW -- process, which brought to the bargaining table virtually every interest group affected by forestry activities. Through intensive mediation, the TFW process was able to develop, by consensus, a new state Forest Practices Act, and new ground rules for timber operations in that state. Governor Cowper established a parallel process in Alaska last fall, using the same mediators who had been so successful in Washington. Thus began a

negotiating effort that has kept many of us, both within and outside government, occupied on a virtual full-time basis over the past six months.

Under the steering committee's bill, industry has agreed to leave up to 5% of its timber to satisfy new, stringent stream-side protection standards. The requirement will force Sealaska to leave substantial volumes of extremely high quality timber. Industry also agreed to provide the Department of Natural Resources with sweeping new powers to change or halt logging operations on private land. It agreed to new, stricter standards on disease and insect control, and to a new system of objective, enforceable rules on a range of forest practices.

On the other hand, under the bill private timber operators would not require a state forestry permit; rather, the existing notification system would be retained. And, environmental groups have agreed to something they have never agreed to before: a specific statutory prohibition on lawsuits aimed at stopping private timber operations. State agencies would be required to coordinate any enforcement action. Other state programs that might have resulted in inconsistent or duplicative forest practices rules would be rolled into the Forest Practices Act itself.

Through the negotiating process, each side made major concessions -- concessions that would not have been made outside the special atmosphere of the steering committee process. And if the momentum stops here, Sealaska believes that those concessions will be taken back. And frankly, Sealaska also believes that if legislation is not enacted to guide agency rulemaking, some agencies may, during the interim, attempt to use inappropriate and ambiguous statutory authorities to create their own versions of acceptable forest practices rules. Two proposed agency initiatives pose a particular threat to rational resolution of forest practices issues:

(1) The Department of Fish and Game has indicated its desire to use its limited authority over activities in anadromous streams as a basis for writing new regulations that would establish wide streamside buffer zones and other upland land use controls; and

(2) Fish and Game has also recommended that the Department of Environmental Conservation use a new and untested federal planning law as a basis for creating a new, comprehensive land use control scheme by regulation. Under §319 of the Clean Water Act, DEC may prepare plans for controlling so-called non-point source pollution in limited cases. ADF&G has asked DEC to

establish a land use permit program for forestry activities on the basis of that federal statute.

Should either the DEC or Fish and Game initiatives be pursued, our consensus would collapse. The legislature has a major stake in the steering committee's product -- both because of the significant public resources expended to create it, and because it is a fundamentally good bill. Of course, the best way to preserve the committee's product is to pass the legislation this session. But, if that proves impossible, the legislature needs to ensure that no state agency, in the interim, promulgates regulations that would jeopardize the ultimate enactment of the committee product.

THE
CONSTITUTION
OF THE
STATE OF
ALASKA

LEGISLATIVE INFORMATION OFFICE
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Stephen McAlpine
Lieutenant Governor

Article VIII

Natural Resources

Section 1 - Statement of Policy.

It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

Section 2 - General Authority.

The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

Section 3 - Common Use.

Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.

Section 4 - Sustained Yield.

Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

Section 5 - Facilities and Improvements.

The legislature may provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands, and to assure fuller utilization and development of the fisheries, wildlife, and waters.

Section 6 - State Public Domain.

Lands and interests therein, including submerged and tidal lands, possessed or acquired by the State, and not used or intended exclusively for governmental purposes, constitute the state public domain. The legislature shall provide for the selection of lands granted to the State by the United States, and for the administration of the state public domain.

Section 7 - Special Purpose Sites.

The legislature may provide for the acquisition of sites, objects, and areas of natural beauty or of historic, cultural, recreational, or scientific value. It may reserve them from the public domain and provide for their administration and preservation for the use, enjoyment, and welfare of the people.

Section 8 - Leases.

The legislature may provide for the leasing of, and the issuance of permits for exploration of, any part of the public domain or interest therein, subject to reasonable concurrent uses. Leases and permits shall provide, among other conditions, for payment by the party at fault for damage or injury arising from noncompliance with terms governing concurrent use, and for forfeiture in the event of breach of conditions.

Section 9 - Sales and Grants.

Subject to the provisions of this section, the legislature may provide for the sale or grant of state lands, or interests therein, and establish sales procedures. All sales or grants shall contain such reservations to the State of all resources as may be required by Congress or the State and shall provide for access to these resources. Reservation of access shall not unnecessarily impair the owners' use, prevent the control of trespass, or preclude compensation for damages.

Section 10 - Public Notice.

No disposals or leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

Section 11 - Mineral Rights.

Discovery and appropriation shall be the basis for establishing a right in those minerals reserved to the State which, upon the date of ratification of this constitution by the people of Alaska, were subject to location under the federal mining laws. Prior discovery, location, and filing, as prescribed by law, shall establish a prior right to these minerals and also a prior right to permits, leases, and transferable licenses for their extraction. Continuation of these rights shall depend upon the performance of annual labor, or the payment of fees, rents, or royalties, or upon other requirements as may be prescribed by law. Surface uses of land by a mineral claimant shall be limited to those necessary for the extraction or basic processing of the mineral deposits, or for both. Discovery and appropriation shall initiate a right, subject to further requirements of law, to patent of mineral lands if authorized by the State and not prohibited by Congress. The provisions of this section shall apply to all other minerals reserved to the State which by law are declared subject to appropriation.

Section 12 - Mineral Leases and Permits.

The legislature shall provide for the issuance, types and terms of leases for coal, oil, gas, oil shale, sodium, phosphate, potash, sulfur, pumice, and other minerals as may be prescribed by law. Leases and permits giving the exclusive right of exploration for these minerals for specific periods and areas, subject to reasonable concurrent exploration as to different classes of minerals, may be authorized by law. Like leases and permits giving the exclusive right of prospecting by geophysical, geochemical, and similar methods for all minerals may also be authorized by law.

Section 13 - Water Rights.

All surface and subsurface waters reserved to the people for common use, except mineral and medicinal waters, are subject to appropriation. Priority of appropriation shall give prior right. Except for public water supply, an appropriation of water shall be limited to stated purposes and subject to preferences among beneficial uses, concurrent or otherwise, as prescribed by law, and to the general reservation of fish and wildlife.

Section 14 - Access to Navigable Waters.

Free access to the navigable or public waters of the State, as defined by the legislature, shall not be denied any citizen of the United States or resident of the State, except that the legislature may by general law regulate and limit such access for other beneficial uses or public purposes.

Section 15 - No Exclusive Right of Fishery.

No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State. This section does not restrict the power of the State to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the State. [Amendment approved August 22, 1972 - Effective October 14, 1972.]

Section 16 - Protection of Rights.

No person shall be involuntarily divested of his right to the use of waters, his interests in lands, or improvements affecting either, except for a superior beneficial use or public purpose and then only with just compensation and by operation of law.

Section 17 - Uniform Application.

Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation.

Section 18 - Private Ways of Necessity.

Proceedings in eminent domain may be undertaken for private ways of necessity to permit essential access for extraction or utilization of resources. Just compensation shall be made for property taken or for resultant damages to other property rights.

SALMON BAY PROTECTIVE ASSOCIATION
BOX 422 Petersburg, Alaska 99833

Press Release

Dateline January 24, 1989 Juneau Alaska

Alan Stein President of SBPA stated that " Today after consulting with eight seafood processors in Southeastern Alaska, who have contributed to the Salmon Bay Protective Association, I am authorized by them to announce the Southeast Conference revised position does not represent their interests and that their interests are 100 foot no cut buffer strips on class I, II, and important class III streams and complete protection of million dollar a year watersheds,"

Terry Gardiner of Silver Lining Seafoods, a member of the Ketchikan Chamber of Commerce and former speaker of the Alaska House of Representatives, stated that "nobody from the Southeast Conference consulted with me before the release of the revised position." He stated, "I'm not sure the SE Conference now represents the fishing sector of the community."

Stein stated that "the SBPA wants the Southeast Conference to truly reflect all the users of the Tongass. To be more than a single user position, the SE Conference would have to endorse mandatory buffers on class I, II and important III streams and restore full protection to the important fishery watersheds, including the million dollar fishery at Salmon Bay on Prince of Wales Island."

H B

332

HOUSE COMMITTEE REPORT

2/14

(9)
Date Referred: January 24, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 2/13/90

The RESOURCES Committee considered:

SSHB 332

SS HOUSE BILL NO. 332

GOODNEWS BAY CRITICAL HABITAT AREA

"An Act establishing the Goodnews Bay Critical Habitat Area; and providing for an effective date."

- RECOMMENDATIONS:
- be replaced with _____ the same title
 - have attached amendment(s) a new title
 - do pass
 - do not pass
 - no recommendation
 - individual recommendations
 - additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Date/Dept)

- fiscal impact _____
- zero fiscal note. ADFG ONR
- zero with analysis _____
- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING: (Check approp column)

Cliff Davidson DAVIDSON

Mike Davis M. DAVIS

	Do Not Pass	No Rec	Amend
_____ <i>Cliff Davidson</i> MEVARE	<input checked="" type="checkbox"/>		
_____ <i>Richard</i>	<input checked="" type="checkbox"/>		
_____ <i>Bill Hudson</i> HUDSON	<input checked="" type="checkbox"/>		
_____ <i>Mike Navarre</i> NAVARRE	<input checked="" type="checkbox"/>		

Cliff Davidson
 C.O- Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: 6-Feb-90
 Title: An Act establishing the Goodnews Bay Critical Habitat Area.
 Sponsor: Hoffman and Davidson
 Requestor: House Resources

Agency Affected: Natural Resources
 BRU: Mining Management
Land & Water Management
 Components: Mining Management
Land & Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Larry Ostrovsky Phone: 465-2400
 Division: Commissioner's Office Date: 6-Feb-90

Approved by Commissioner: Lennie Gorsuch Date: 6-Feb-90
 Agency: Department of Natural Resources

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

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Fish and Game
 Title: Goodnews Bay Critical BRU: Habitat
Habitat Area
 Sponsor: Hoffman Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0					
TRAVEL	0					
CONTRACTUAL	0					
SUPPLIES	0					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
TOTAL OPERATING	0					

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

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

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)

No FY 90 impact.

Prepared by: Frank Rue, Director Phone: 465-4105
 Division: Habitat Date: 2/6/90

Approved by Commissioner: Lawrence J. Miller Date: 2/6/90
 Agency: Department of Fish and Game

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



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER CSHB332	SPONSOR Resources Committee
SHORT TITLE OF BILL Goodnews Bay Critical Habitat Area and Goodnews Bay Management Plan			
DEPARTMENT POSITION Recommend amendments			
PREPARED BY <i>Frank Rye</i>	DATE 4.18.90	COMMISSIONER'S SIGNATURE <i>W. W. ...</i>	DATE 4/18/90

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Natural Resources	CONSTITUENT GROUP(S) AFFECTED BY BILL Goodnews Bay Residents, Commercial Fishermen, Platinum Miners
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The purpose of the bill is to establish the Goodnews Bay Critical Habitat Area, direct the preparation of a Goodnews Bay Management Plan and provide for the issuance of offshore prospecting permits and leases.

ANALYSIS OF BILL/PROGRAM EFFECTS

1. The bill establishes Goodnews Bay Critical Habitat Area and provides for management of the area under the State Critical Habitat Area Program. It establishes the purpose for which the area is to be managed and closes the area to mineral entry and mineral leasing.
2. The bill directs the Commissioner of the Department of Natural Resources to establish and revise a Goodnews Bay Management Plan for tide and submerged lands and waters south of Goodnews Bay to Salmon River.
3. The bill directs the Commissioner of the Department of Natural Resources to issue offshore prospecting permits and finds no further administrative action is required.
4. The bill establishes the March 9, 1989 Preliminary Best Interest Finding of the Department of Natural Resources as the interim management plan for the area covered by the Goodnews Bay Management Plan.

AMENDMENTS PROPOSED

(see attached sheet)

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Amendments

Amend Section 1 to read as follows:

* Section 1. [LEGISLATIVE FINDINGS]. This Act establishes the Goodnews Bay Critical Habitat Area and directs the preparation of a Goodnews Bay management plan and the issuance of offshore prospecting permits and leases. In providing for the management of the Goodnews Bay ESTABLISHING THIS area, the legislature finds that

(1) Goodnews Bay is an area of high biological productivity that supports valuable commercial and sport fisheries and a rich and varied subsistence economy;

(2) [IMPORTANT] platinum prospects have been identified near Goodnews Bay; platinum is a strategic mineral that the United States now imports from other countries; [THE UNITED STATES BUREAU OF MINES HAS IDENTIFIED THESE COASTAL AREAS AS HAVING FAVORABLE POTENTIAL FOR THE DEVELOPMENT OF IMPORTANT ADDITIONAL PLATINUM RESERVES];

(3) in 1982, applications for offshore prospecting permits were properly filed under applicable state laws and regulations for land in the Goodnews Bay area;

(4) the Department of Natural Resources has properly processed these applications under applicable laws and has issued its Preliminary Best Interest Finding, dated March 9, 1989;

(5) the processing of the applications has resulted in the responsible agencies identifying the various opportunities, interests, and risks involved in the exploration and development of the platinum prospects in the Goodnews Bay area;

(6) in preparing the Preliminary Best Interest Finding dated March 9, 1989, the commissioner of natural resources has held hearings, solicited testimony, considered the applicable issues, and taken all steps required by applicable law to allow the offshore prospecting permits to be issued and exploration to take place;

(7) preservation of the fish and wildlife habitat in and around Goodnews Bay is crucial to perpetuation of the existing commercial and sport fisheries and the local subsistence economy; [MINERAL EXPLORATION AND DEVELOPMENT CAN BE CONDUCTED IN THE OFFSHORE COASTAL AREA OUTSIDE THE GOODNEWS BAY CRITICAL HABITAT AREA IN A MANNER CONSISTENT WITH STATE LAW AND RESOURCE MANAGEMENT POLICIES AND WITHOUT ENDANGERING THE HABITAT AND RESOURCES IN AND AROUND GOODNEWS BAY];

(8) certain areas within Goodnews Bay and the territorial water should be designated as critical habitat areas and other areas are more appropriately administered under general law;

(9) [RESPONSIBLE DEVELOPMENT OF THE PLATINUM PROSPECTS IN THE OFFSHORE AREA SOUTH OF TOWNSHIP 13 SOUTH, SEWARD MERIDIAN IS IN THE STATE'S BEST INTEREST UNDER AS 38.05.035(e) AND CAN BE CONDUCTED IN A MANNER CONSISTENT WITH APPLICABLE COASTAL ZONE MANAGEMENT PROGRAMS].

These amendments are recommended for accuracy and to omit findings of fact and findings of law not supported by any information provided in the bill or known to be available at this time.

Amend AS 16.20.630(a) to read as follows:

Sec. 16.20.630. [GOODNEWS BAY CRITICAL HABITAT AREA ESTABLISHED]. (a) The following described areas are established as the Goodnews Bay Critical Habitat Area: the state tideland below the mean high tide line, submerged land, and water of the state [ALONG KUSKOKWIM BAY FROM THE NORTHWESTERLY POINT OF SECTION 33, TOWNSHIP 12 SOUTH, RANGE 75 WEST, SEWARD MERIDIAN ALONG KUSKOKWIM BAY TO THE SOUTHEASTERLY POINT OF SECTION 32], TOWNSHIP 13 SOUTH, RANGE 75 WEST, SEWARD MERIDIAN, AND WITHIN GOODNEWS BAY] within:

Township 12 South, Range 73 West, Seward Meridian
Sections 17 - 36

Township 12 South, Range 74 West, Seward Meridian
Section 19 - 20

Sections 23 - 36

Township 12 South, Range 75 West, Seward Meridian
Sections 24 - 26

Sections 33 - 36

Township 13 South, Range 74 West, Seward Meridian
Sections 1 - 10

Sections 16 - 19

Township 13 South, Range 75 West, Seward Meridian
Sections 1 - 24

Sections 26 - 32

Township 13 South, Range 76 West, Seward Meridian

Sections 1 - 3

Sections 9 - 16

Sections 21 - 27

Sections 34 - 36

This amendment will make the legal description less confusing and eliminate redundant language.

Amend AS 16.20.630(d) to read as follows:

(d) The commissioner shall permit the reasonable construction, maintenance, and [THE REASONABLE] use of docking facilities within the Goodnews Bay Critical Habitat Area in a manner consistent with (b) of this section.

This amendment is necessary to clarify that land uses and activities in the critical habitat area will be managed in a manner compatible with the purpose for which the critical habitat area was established.

Amend AS 41.23.700(b) to read as follows:

(b) The commissioner may allow [SHALL PERMIT] mining under AS 38.05.185 - 38.05.275 within the area described in (c) of this section under terms established in the management plan that prevent the material interference from mining with fish migration and spawning within the area described in (c) of this section.

This amendment is necessary to allow the management plan process to determine under what conditions, if any, offshore exploration and development can occur in the Goodnews Bay Management Plan area so as to be compatible with protection of fish populations and their habitats. The Department of Fish and Game has objected to opening this area to offshore prospecting in the past.

Amend Section 4 Subsection (a) as follows:

* Sec. 4. [GOODNEWS BAY AREA OFFSHORE PROSPECTING PERMITS]. (a) The commissioner of natural resources shall, within 90 days [FROM THE EFFECTIVE DATE OF THIS ACT], after implementation of the Goodnews Bay Management Plan issue offshore prospecting permits in accordance with direction provided in the Goodnews Bay Management Plan [THE PRELIMINARY BEST INTERESTS FINDING OF THE DEPARTMENT OF NATURAL RESOURCES DATED MARCH 9, 1989, RELATING TO THE GOODNEWS BAY AREA, FOR ALL LAND LOCATED OUTSIDE THE GOODNEWS BAY CRITICAL HABITAT AREA AS

ESTABLISHED IN AS 16.20.630, ENACTED BY SEC. 2 OF THIS ACT.]

This amendment is necessary to establish the appropriate and logical decision making sequence. Because the primary issue in development of the Goodnews Bay Management Plan will be offshore mining activity, the issuance of offshore prospecting permits and leases needs to occur after, not before, the management plan is developed so that the management plan can provide guidance on this issue.

Amend Section 4 subsection (b) as follows:

(b) A person holding a mineral lease, offshore prospecting permit, or offshore prospecting permit application within the Goodnews Bay Critical Habitat Area on the effective date of this Act shall be allowed, within 90 days after the effective date of the Goodnews Bay Management Plan [THIS ACT,] to exchange the lease, permit, or permit application for equivalent acreage outside the Goodnews Bay Critical Habitat Area on acreage not already subject to a lease, permit, or permit application. The land to be exchanged under this section is limited to acreage that is described in the March 9, 1989 Preliminary Best Interests Finding of the Department of Natural Resources and available for offshore prospecting as provided in the Goodnews Bay Management Plan and that is not already subject to a lease, permit, or permit application.

Exchange of applications should occur after decisions regarding where offshore prospecting activity will be, allowed have been made in the Goodnews Bay Management Plan. This will ensure that applicants choose from appropriate acreage.

Omit Subsection (c) of Section 4. Subsection (c) would require that offshore prospecting exploration and development occur before development of the Goodnews Bay Management Plan. This does not make logical sense since the primary decisions to be addressed in the Goodnews Bay Management Plan focus on offshore prospecting activity.

Omit Subsection (d) of Section 4. Subsection (d) makes findings regarding compliance with other statutes and regulations and the need for further administrative action. Assuming the issuance of offshore prospecting permits occurs as a result of decisions made in the Goodnews Bay Management Plan as recommended, compliance with other statutes and regulations will be assured. Furthermore, management of offshore prospecting permits and leases will require additional administrative actions on the part of the Division of Mining.

Omit Section 5. Section 5 states that the Preliminary Best Interest Finding of the Department of Natural Resources dated March 9, 1989 constitutes the interim Goodnews Bay Management Plan. A Preliminary Best Interest Finding is not a management plan and cannot effectively be used as one. Furthermore, the Department of Fish and Game has objections to portions of the Preliminary Best Interest Finding. The objections need to be worked out with the Division of Mining before the Best Interest Finding becomes final and can be implemented.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Goodnews Bay Critical
Habitat Area _____
Sponsor: Hoffman
Requestor: _____

Agency Affected: Dept. of Fish and Game
BRU: Habitat
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	13.4					
TRAVEL	2.0					
CONTRACTUAL	1.0					
SUPPLIES	0.2					
EQUIPMENT	0					
LAND & STRUCTURES	0					
GRANTS, CLAIMS	0					
MISCELLANEOUS	0					
TOTAL OPERATING	16.6	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	16.6					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	16.6	0	0	0	0	0

POSITIONS:

FULL-TIME	1.0					
PART-TIME	0					
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: Frank Rue, Director *Frank Rue* Phone: 465-4105
Division: Habitat Date: 4/9/90

Approved by Commissioner: *Donald H. Wiley* Date: 4/9/90
Agency: Department of Fish and Game

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

Attachment to CSHB 332 Fiscal Note

ANALYSIS

Requirements in the bill that call for DNR's development of a management plan for the area beyond the Critical Habitat Area and the expedited issuance of offshore prospecting permits within 90 days would require ADF&G participation to ensure the protection of fish and wildlife habitats and the human use of fish and wildlife populations that utilize these habitats. The participation is presently unscheduled and unfunded and would require an FY 1991 fiscal note of 16.6 to cover the costs of 3 months of a Range 18 Habitat Biologist (Step 2), 2.0 of travel, and 0.5 in contractual expenses.

No fiscal impact is anticipated for FY 90, assuming the bill is signed into law at the end of the fiscal year.

PHIL R. HOLDSWORTH, P.E.
CONSULTING ENGINEER & LEGISLATIVE COUNSEL
MINING — GEOLOGY — LANDS

PHONE 907-586-1383

326 FOURTH STREET, No. 1009
JUNEAU, ALASKA 99801

January 30, 1990

Comments on SSHB 332 and SB 318
"An Act establishing the Goodnews Bay Critical Habitat Area;
and providing for an effective date."

The following comments are presented on behalf of the Alaska Miners Association. The Goodnews Bay Mining District has provided the only platinum produced in the United States, beginning in 1916 with the annual production increasing to 37,000 ounces in a six-month's operation in 1938 - from a single operator. Production continued until 1975, and all production was from uplands.

Platinum is a critical/strategic metal and 93% of the nation's requirements are imported - from South Africa, the United Kingdom, and Russia. Renewed production from Alaska would certainly reduce the present imbalance of payments in international trade. The U.S. Bureau of Mines and the U.S. Geological Survey have conducted extensive surveys in this mining district in recent years indicating potential reserves, and have published their findings. These reserves are indicated both on-shore and off-shore lands. Renewed interest has been shown by the mining industry in this mining district.

An example of present-day mining technology practiced by the industry is best described by the Bima dredging operation of Westgold off-shore of Nome. Production has been on-going for the past three seasons and has had no adverse effects on the fishery. Environmental consequences of Westgold's Nome Offshore Placer Project after four years of study include:

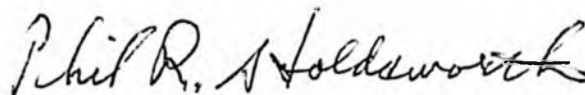
1. After two to three years, substrate type occur in the same proportion as surrounding areas.
2. No change in oxygen concentration in water column.
3. No change in trace metal concentrations of eight priority metals.
4. Within three years recolonization community structure is similar to control areas; community appears to be moving through successional maturation process.
5. No avoidance of mined areas by King Crab.
6. No trace metals being concentrated in king crab, fish or king crab food items.
7. Community recovery based on existing database is estimated at less than five years for sand substrate and seven years for cobble substrates.

January 30, 1990

It should be pointed out that platinum metal does not amalgamate with mercury. Its recovery is simply a gravity concentration process with the concentrates shipped to a refinery.

The Alaska Miners Association is opposed to this type of legislation which, by creating a "Critical Habitat Area" and "closed to mineral entry and mineral leasing", would prevent the production of a critical/strategic metal such as platinum. This is not in the best interest of the state and nation.

Respectfully submitted,

A handwritten signature in cursive script that reads "Phil R. Holdsworth". The signature is written in dark ink and is positioned below the typed name.

Phil R. Holdsworth

The Honorable Cliff Davidson, Chairman,
House Resources Committee,
Alaska Legislature,
P.O. Box V,
Juneau, Alaska. 99811.
(907) 465-2418 [FAX]

2/11/1990

Chairman Davidson:

INTRODUCTION

I write this letter to you for purposes of explaining my thoughts on HB 332, "An act establishing the Goodnews Bay Critical Habitat Area; and providing for an effective date."

I am a former fisheries biologist who worked with various state and federal agencies in the State of Alaska between 1964 and 1984. One of those positions was as a forage fish biologist for Outer Continental Shelf studies in the Bristol Bay southern Bering Sea area including Goodnews Bay between 1976 and 1979. For one of those years, we were partially funded by the North Pacific Fisheries Council. At that time, like now, I resided in Kodiak and worked for the Alaska Department of Fish and Game.

My activities with the project terminated because my PCN was transferred to Anchorage, and I voluntarily moved to another general fund project with the ADF&G to remain resident in Kodiak. Subsequent to my fisheries career, I changed professions and I'm now a College Instructor at Kodiak College.

During my studies of forage fish, I co-directed activities on the ground; these were basically limited to AWL studies completed by field crews and myself. The aerial survey portion of the study was conducted by myself, and during the year of NPFC funding, other state biologists.

Please be advised that I'm making the testimony on short notice, and since I'm temporarily on creative leave in the State of Washington, I'm separated from all of my annual and quarterly reports and charts; hence, I'm forced to work by memory.

PERSONAL OBSERVATIONS

During my activities I flew aerial surveys into Goodnews Bay between six to ten occasions. In 1978 I had a field crew posted at Security Cove, which is comfortably within the migratory range of all the forage fish I shall discuss.

During two surveys in Goodnews Bay I observed spawning herring, and on two occasions I observed stranded male capelin (spawned out) on the outside of the spit where the store is located. On the first occasion that I observed herring in Goodnews Bay, I estimated the school to be approximately 15-20 tons; on the second occasion, I observed herring actively spawning, and the school(s) were larger than my first sighting by a factor of two or three. Sighting capelin schools on the outside of Goodnews Bay was a frequent experience, as was large schools of herring and/or forage fish between Security Cove and Namvak Bay.

The common resident forage fish of this area that were sampled consists of five species: 1) Pacific herring, 2) capelin, 3) boreal smelt, 4) eulachon, 5) sand lance. There are other forage fish species present, but I cannot state if they are resident in large numbers.

From my own observations, I conclude that the dominant

species of forage fish inside Goodnews Bay and immediately outside it are herring and capelin. Though I suspect that boreal smelt and sand lance are vital, I cannot state that with any certainty.

I have witnessed marine mammals and birds feeding on forage fish resources inside Goodnews Bay and between Cape Newenham and Goodnews Bay on hundreds of occasions, (e.g. gulls, kittiwakes, murre, cormorants, grey whales, and various pinnipeds and cetaceans which I could not identify.) Additionally, numerous marine crustaceans feed upon forage fish carcasses, (e.g. isopods [marine sow bugs], amphipods [sand fleas], copepods [fish lice], decapods [crabs & shrimp], etc.).

COMMENTARY

I believe it is poor policy to legislate resource and habitat management on a regional level; also, I think it is poor policy to alter state statutes for each user group conflict that occurs. Clearly, domestic platinum resources are rare and the industrial need for platinum is established. Mr. Smith's testimony indicates that all the platinum production in the Goodnews Bay area since 1935 has roughly equaled a single year's production of that metal from the U.S.S.R. and the United Kingdom, not including the Republic of South Africa which greatly exceeds all the former. I wonder if these figures adequately support the significance of this area as a platinum producer?

Forage fish are a clear and established contributor to the food chain in the Bristol Bay area, as well as north of Cape Newenham. They are primary forage for many species of finfish, including several species of salmon which are critical commercial species in this area. My surveys between 1976 and 1979 clearly indicate that Alaska Natives utilized herring and capelin resources for subsistence purposes. Other studies, both before and after my activities, have established this. Pacific herring is an important commercial species in its own right, and capelin's commercial importance is now in the developmental stage.

Early in this century estuaries became recognized by many biologists and oceanographers as irreplaceable contributors to the primary productivity of continental shelf areas. The steady decline of total estuarine acreage and/or their pollution in the United States and abroad has become a high-profile environmental problem for all policy makers in coastal governments.

Goodnews Bay is one of the many valuable estuaries that contribute to the Bristol Bay area. In fact, it is the sheer number of these estuaries that powers the ecological mechanisms supplying the large amounts of feed needed to support the massive population of juvenile sockeye salmon that have become such an irreplaceable contributor to our state's economy. The loss or compromise of one of those estuaries, I feel, is something your committee should approach with the utmost caution.

CONCLUSION

I think there should be a state estuarine advisory group mandated; this might avoid some of the problems that have immediately preceded the introduction of this bill. Such a

other coastal areas. Experience with such advisory groups, I feel, is positive.

Is there presently a State estuarine policy statement and/or guidelines in existence? If there is, how does it apply in the present situation? If there is not, one should definitely be developed ASAP.

In view of the evident immediacy of dredge activities in Goodnews Bay, I support the passage of HB 332. I do this despite my stated reservations because of the environmental reasons stated in the discussion section of this testimony. I would advise--if possible--that a sunset provision be inserted in the bill by amendment, especially if workable mechanisms come into existence that will address user group conflicts in respects to environmental concerns.

Thank you for your time, Mr. Chairman. If there are any further questions, I would be happy to be of service.

IRVING M. WARNER



[Permanent]
BOX 3073,
Kodiak, Alaska.
99615

[Temporary]
381 Farnsworth Place,
Sequim, WA. 98382

Thank you, Mr. Chairman.

For the record, my name is Bob Herron, staff assistant to Rep. Lyman Hoffman. The Finance Co-chairman is holding a DOT/PF subcommittee hearing at this time and apologizes for not being available. He has asked that I make a brief statement to this committee on his behalf.

The area outlined in the bill is home to a multitude of marine life that the Yu'pik people of the YK Delta have relied on for centuries. Abundant herring, salmon and smelt, the endangered Gray whale, the rare Stellar sea lion, beluga whales, and thousands of ducks, geese, and swans all frequent the Goodnews area.

Rep. Hoffman introduced this legislation before you today in response to DNR's proposal to issue offshore prospecting permits in and around Goodnews Bay. A proposal that is based on a questionable and flawed Resources Assessment Report.

It is Rep. Hoffman's understanding that there is no empirical knowledge of offshore platinum deposits in the Goodnews Bay area. Also, technology to harvest the **micron sized** placer platinum deposits of the Goodnews Bay area by conventional gravity sediment filtration systems does not currently exist.

The proposal by DNR is highly speculative and would gamble that a unique environment would be exposed to sediment and toxic heavy metals in the hopes that a suitable technology may be developed.

This critical habitat designation does not forever close mineral exploration. This legislation insures that suitable offshore dredging technology is developed and proven first in a less environmentally sensitive location prior to its being possibly employed in Goodnews Bay.

Rep. Hoffman requests your favorable consideration of the teleconference participants' testimony.

Thank you.



Cenaliulriit

Coastal
Management
District

For the Yukon-Kuskokwim Coastal Resource Service Area
P.O. Box 1169 • Bethel, Alaska 99559 • 907/543-2243

February 7, 1990

Cliff Davidson, Co-Chairman
House Resources Committee
P.O. Box V
Juneau, Alaska 99811

Re: House Bill 332 "An Act establishing the Goodnews Bay Critical Habitat Area, and providing for an effective date".

Representative Davidson:

First of all I would like to remind the respected members of the House Resources Committee, Cenaliulriit Coastal Management Program was Federally approved in 1985 and has authority under Alaska Statutes 46.40.110. We represent over 40 villages and 48,000 square miles of the Yukon-Kuskokwim delta.

1) The 56 villages of the Association of Village Council Presidents (AVCP) fully support the opposition of the Offshore Prospecting Permit, and passed a resolution during the AVCP Annual Convention at the village of Kalskag in October 1989.

2) House Bill 332 reaffirms Cenaliulriit Coastal Management District's (CCMD) position to establish the Goodnews Bay Critical Habitat Area. The area is "essential" for fish and wildlife habitats sensitive to major development. The area is also important for subsistence and commercial harvests. Recreational activities also occur within the vicinity of Goodnews Bay.

3) There may be a significant public need for the proposed use or activity in the Offshore Prospecting Permit, but I remind the members that there are other sources available onshore.

4) The meteorological and oceanographic conditions of Bering Sea is adversely unpredictable, and there is no current technology available to ensure long term protection of the fragile ecosystem and impacts to all our concerns versus a short term project which will benefit a few.

OFFICIAL CONSISTENCY REVIEW

Representative Co-Chairman Davidson Page Two February 7, 1990

5) CCMD has determined the project or activity to a proposed Offshore Prospecting Permit and the Department of Natural Resource's leasing intent inconsistent with CCMD's policies and the requirements under the Alaska Coastal Management Program. Because land and water resources are so interdependent, protection of the entire ecosystem is essential.

SPECIES OF CONCERN

The species of concern are herring fish, presently threatened by domestic and foreign interference. Sea lions which have been declining over the years is also threatened. Elders of that area also stress tideflats and wetlands are used as staging areas and as feeding grounds at low tides by the migratory waterfowl. Three species of waterfowl are already threatened, and one is endangered.

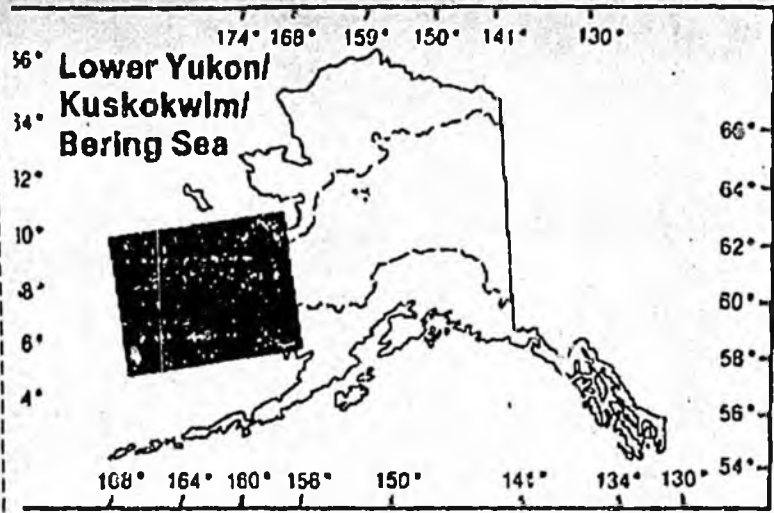
The western two-thirds of the of the Bay were designated critical habitat for capelin and herring spawning. (See illustration, dark lines, Cape Newenham to Goodnews Bay.) Food sources and natural habitats and spawning areas are threatened.

The area of interest for prospecting directly block and interfere with the migratory route of the anadromous fish species of salmon, which return to spawn in the watershed areas of Goodnews Bay. This interference will undoubtedly disrupt and impact the already threatened species.

All species mentioned above depend heavily on the areas natural balance.

ENDANGERED SPECIES

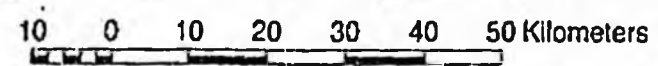
An endangered species of concern is the gray whale already known to feed on herring during their spring migration through the affected area.



Directions for map categories can be found in the Alaska Habitat Management Guide, Western and Interior Regions Maps.

For more detailed information, such as cases where data are too small to portray at this scale, see the Alaska Habitat Management Guide Reference Maps, Western and Interior Regions.

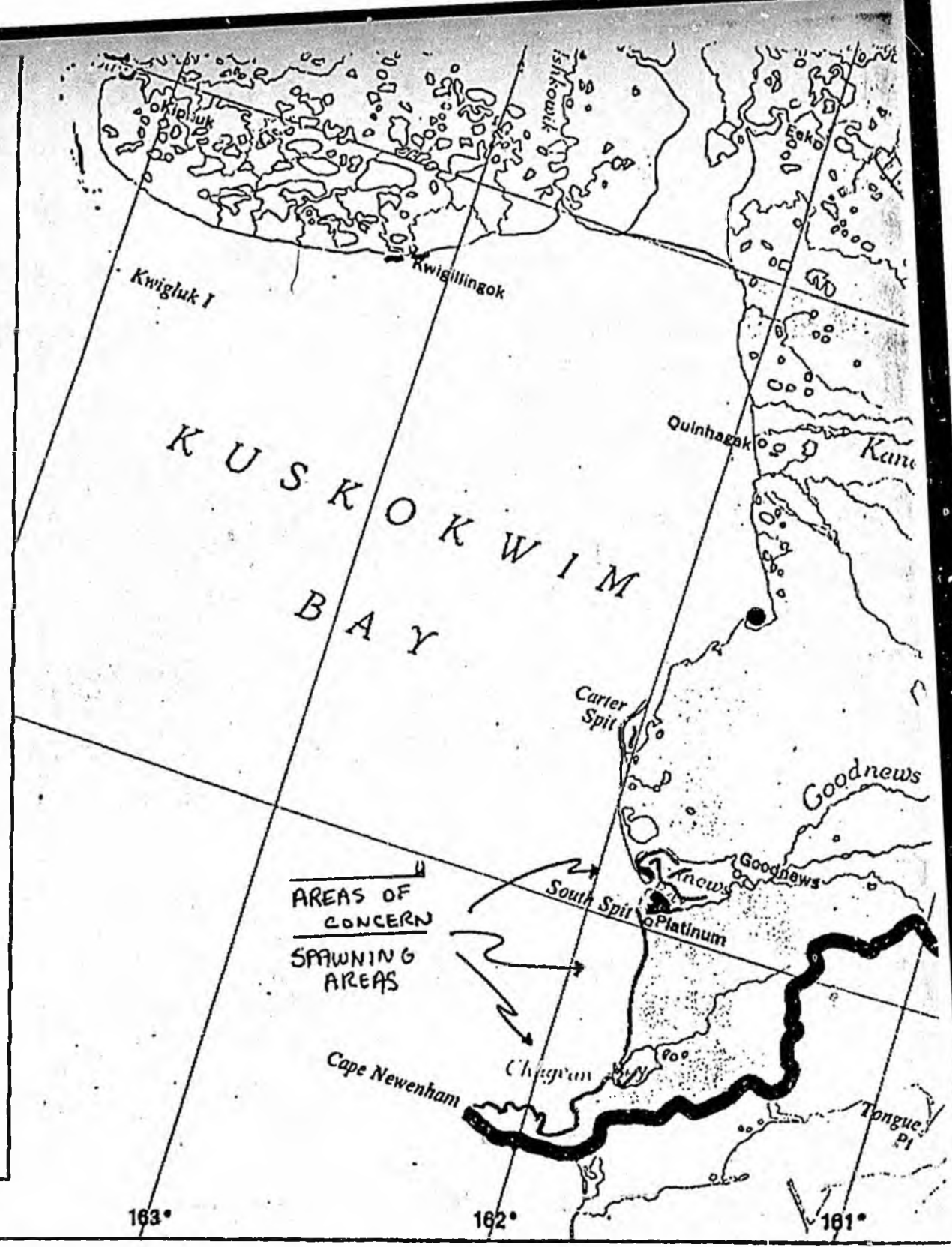
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ALBERS EQUAL AREA PROJECTION



STATE OF ALASKA
DEPARTMENT OF FISH AND GAME
HABITAT DIVISION
1986



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SUBSISTENCE, COMMERCIAL AND SPORT FISHING

Goodnews Bay River, its middle fork and south forks, small creeks, sloughs and rivers, including ponds, lakes and the bay itself are all interdependent; just as subsistence, commercial and sport fishing in those areas are all threatened.

RESOURCE ASSESSMENT REPORT

We must note the Resource Assessment Report (RAR) is to be rewritten due to the "conflict of interest" on the part of a chief consultant who prepared the report also having financial interest in the Offshore Prospecting Permit, creating questions to the integrity of the report. The Alaska Coastal Policy Council met on January 30, 1990 and recommended that the Resource Assessment Report be rewritten.

DISTURBANCE OF OCEAN FLOOR

The RAR acknowledges that "...inside the Bay, turbidity would increase and depending where the spoils were deposited part of the Bay may be covered with a layer of sediments. If this were to cause destruction of eelgrass beds, a decline in the commercial herring fishery would probably result." The RAR also recognizes that Goodnews Bay is naturally turbid and that some areas may be at the limit of acceptable turbidity for survival of eelgrass, which is essential habitat for herring spawning.

INTERFERENCE WITH CURRENTS AND CIRCULATION

According to the RAR, "...dredging... will cause sediments to swell, thereby creating islands or areas of shallower water and somewhat restrict local navigation."

Such heavily silted process water will undoubtedly affect the environment into which it is discharged. The effects of depth and



channel changes will be caused by removal of material from the floor of the ocean, including changes in fish migration and changes in circulation and flow that will affect habitat quality.

NATURAL CURRENTS

Kuitsar, Inc. provided an illustration identifying natural currents inside and outside Goodnews Bay. ^{CHARLIE KAVELELA} ~~WILSON BRYANT~~, 75, a long time resident of Goodnews Bay was a valuable source. He travelled extensively between the Kuskokwim Bay, Bristol Bay and Goodnews Bay as a fisherman and has extensive knowledge from on-site observations over the years.

Currents flow into the Goodnews Bay estuary from the area of the Proposed Offshore Mining. The inflow and outflow of increased turbidity flowing in from the proposed area will create a double dosage of constant destruction. (See illustration).

ENTRAINMENT

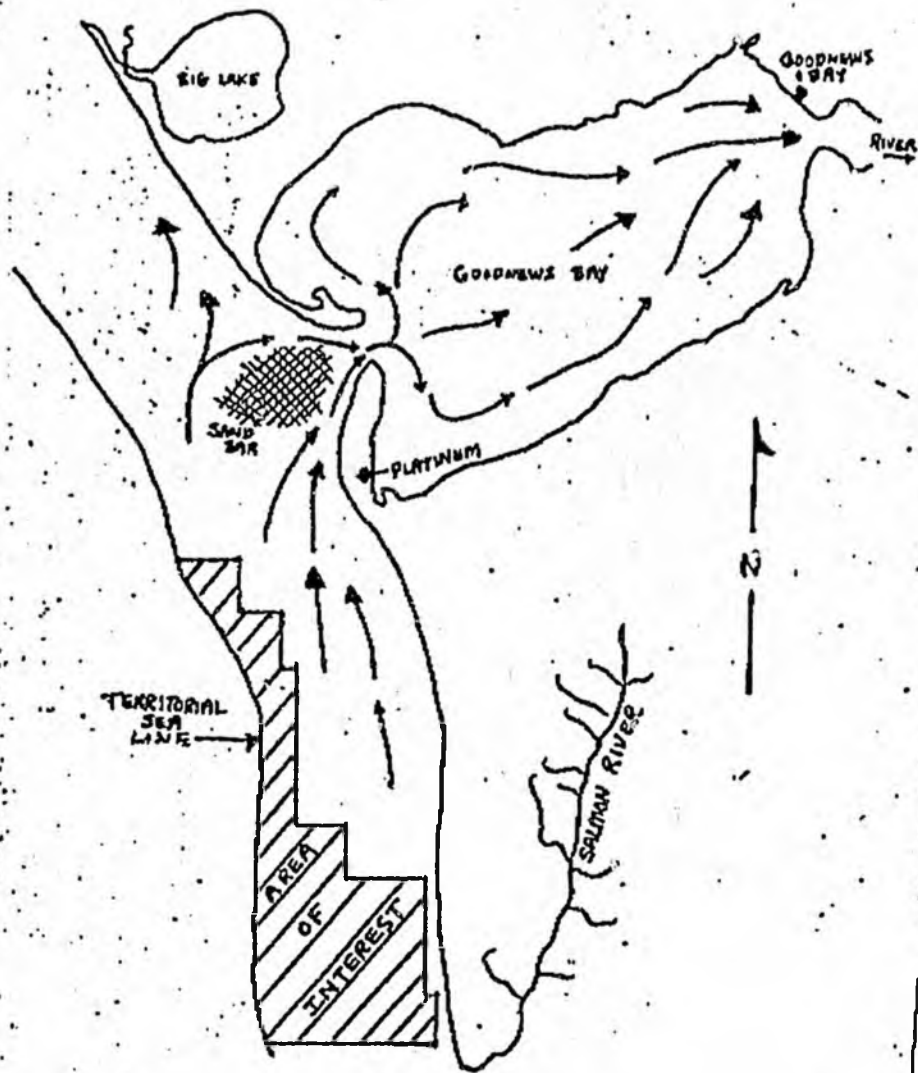
Even if entrainment of larger fish can be prevented, there will be a problem with destruction of smaller fish and pelagic organisms, with predictably adverse effects on subsistence and commercial fishing.

NOISE AND OTHER DISTURBANCE

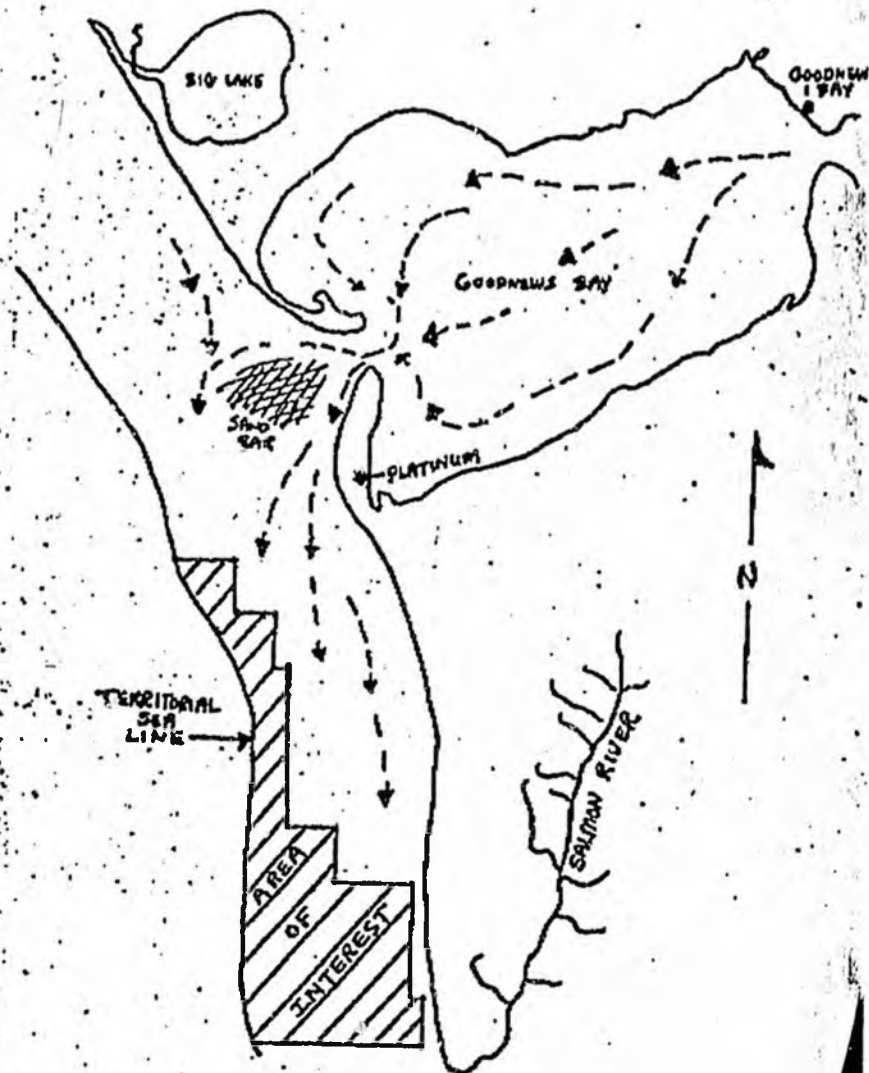
Noise, dredging, human presence, boat and aircraft activity will dramatically increase impacts to fish and wildlife in the migration routes and habitat areas.

HAULOUTS

The RAR indicates that sea mammals are present and haul out year round, near the North and South spits.



INCURSION
(RIP TIDE)



EXCURSION
(EBB TIDE)

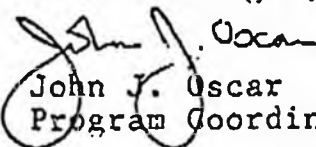
MERCURY LEVELS

According to the federal Environmental Impact Statement on Norton Sound, "...mercury exists naturally in the Bering Sea." I may cite literature found by Kim Sundberg, Habitat Biologist of ADF&G, "It should be noted that persons who consume large amounts of seafood, including residents of Western Alaska have been found to contain high levels of mercury...Marine mammals in the Bering Sea such as seals have also been found to contain significant amounts of mercury." Such findings do show the seriousness of our concern for human health.

In conclusion, we strongly urge the House Resources Committee to support House Bill 332, to prevent a very destructive chain reaction. Our program requests to situate the proposed new development where it will not harm the resources or further frustrate the management efforts of fish and wildlife agencies. Productivity could be damaged by poorly conceived development. The ability of fish and wildlife suddenly to adjust to environmental changes is limited. The pollutants common to modern industrial society are not compatible with fragile arctic habitats. Nearly a quarter of a million gallons of intermediate fuel oil and diesel fuel oil was spilled recently at St. Matthew Island, even the normal wastes from the villages, as they presently exist, are harmful. Support House Bill 332.

Qu'yana, for your time.

CENALIULRIIT COASTAL MANAGEMENT DISTRICT
Paul Chimiugak, Chairman


John J. Oscar
Program Coordinator

cc: Distribution
