

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
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Briefing:
AK. Natural
Heritage
Trust Program

2-8-91

Alaska Natural Heritage Program

University of Alaska Anchorage • The Nature Conservancy of Alaska



A REPORT

to the

ALASKA STATE LEGISLATURE

January 1991

January 1991

Introduction

The purpose of this paper is to inform the Alaska State Legislature of a biodiversity database which the U.S. Office of Technology Assessment considers "the most comprehensive of its kind": The Nature Conservancy's Natural Heritage Program biological database. We herein describe the Alaska Natural Heritage Program and provide a context for comparison with other biological information systems in Alaska.

History and Purpose

The Nature Conservancy (TNC) is a non-profit organization dedicated to the protection of biological diversity and areas of special ecological significance. In 1974, the Conservancy created its first Natural Heritage Program to compile important resource information for making related land management and protection decisions. Subsequent programs have been developed in 78 states, provinces, and nations, including one in every state in the union; most are housed within public resource agencies.

In 1989, the State of Alaska matched a \$216,000 challenge grant from BP Exploration to launch the Alaska Natural Heritage Program at the University of Alaska Anchorage. Our purpose is to identify and inventory plant and animal populations, plant communities, and habitats. The methodological focus is on species and communities that are rare or endangered and habitats that are of critical ecological importance. The information is then used to guide protection of resources which represent the biological and ecological diversity of the state: Alaska's natural heritage.

Natural Diversity

There are many reasons we place a high value on natural diversity. Maintenance of genetic diversity is vitally important for rare and endangered plants and animals, and in many ecosystems provides structural and functional stability. Species diversity plays significant roles in agriculture by providing hearty food plant varieties and pest control agents. In medicine, nearly one half of U.S. prescriptions contain a wide variety of natural chemical ingredients. The natural diversity of ecosystems also provides baseline information for future lands and resource comparisons offering unlimited opportunities for education and research on environmental topics. Unaltered ecosystems are highly evolved over tens of thousands and millions of years and are not able to be synthesized. For these reasons, our quality of life, aesthetically, culturally, and economically, is dependent on maintenance of biological and ecological diversity.

The identification, protection, and management of outstanding ecological features in Alaska requires an extensive informational framework. Public agencies have developed a number of information systems that directly or indirectly lend a hand in targeting ecologically valuable lands.

Existing Information Systems

Efforts have been made by public agencies to improve the efficiency of natural resource data acquisition and management. From these efforts there has emerged a broad spectrum of information systems which includes regional profiles, habitat management guides, geographic information systems, and multi-resource inventories. They vary in purpose, degree of use, and depth of coverage; some are written compilations while others are computerized. The following list summarizes some of the more recognized biological information systems and reference sources.

Agency	Info System	Product
B.L.M.	-M.O.S.S. database -Resource Library -reference text -inventory -mgmt plans -resource databases	land/water/fire fuels mapping primary/secondary literature wildlife inventory/monitoring A.C.E.C. listing mgmt/special area plans/EIS habitat/fire fuels mapping
M.M.S.	-O.C.S.E.A.P. -library	continental shelf resources marine research/references
N.P.S.	-Common database -inventory -N.N.L.P. files -Grass/SAGIS/ELAS -mgmt plans	park features/T & E species plant collection database natural landmark records/maps veg class/resource mapping mgmt/protection plans
S.C.S.	-soil survey -inventory	soil mapping/agri. analysis river basin/multi-resource info
U.S.F.S.	-T.I.M.S. -inventories -Arc/Info database -reference text -mgmt plans	forest/timber info RNA/sensitive species/timber natural resource info vegetation classification forest/wilderness plans

	-LANDSAT	timber/landcover inventory
U.S.F.W.S.	-ARC/INFO database -inventories -Env. Library -mgmt plans -LANDSAT database	resource info/refuge mapping seabird/waterfowl/wetland info fish & wildlife literature refuge plans/EIS habitat mapping
U.S.G.S.	-LANDSAT/SPOT/AVHRR -ARC/INFO database	landcover/veg classification wildlife/habitat GIS analysis
A.D.F.&G.	-Arc/Info database -A.H.M.G. -Habitat Library -B.G.D.I.F./W.I.D.B. -inventories -A.W.C./ARC/INFO -mgmt plans	resource info/mapping fish & wildlife info/maps primary/secondary literature survey/harvest/research info fish & wildlife info/maps anadromous fisheries database special area plans
C.Z.M.	-mgmt plans	coastal district plans
D.N.R.	-Arc/Info database -inventories -mgmt plans	resource analysis/mapping multi-resource/forest info area/forest/recreation plans
Library	-Alaska State	eco/biological literature
University	-Museum -A.E.I.D.C. -Libraries -Exp. Sta.	plant/animal documentation multidisciplinary info center polar studies/Ak collection ecological reserve files
Borough	-Arc/Info database	N. Slope multi-resource info
Municipal	-A.M.S. database -mgmt plans	resource info/mapping borough/mgmt plans
Native Corp	-mgmt plans	village/regional plans
Private Org	-inventories	species accounts/field records

A review of these sources of biological information is impressive. Independent systems that organize information on research, management, and inventory efforts are on line, being developed, or projected for the future. However, none of these systems methodically identify the finest examples of Alaska's natural areas nor objectively set management and protection priorities. In review of the above information

sources, we asked the following questions:

- Is information presented in an objective manner without regard to singular management needs?
- Is information easily accessible by all that can benefit by it: public and private?
- Are independent systems compatible between areas, regions, divisions, and agencies?
- Does data acquisition and management promote open information exchange?
- Is the information consolidated from a wide spectrum of inventories and references, including nontraditional sources?
- Does the method of information storage accommodate continual data turnover and changes to budgets?
- Is information fine-grained enough to detect localized patches of habitat: caves, hot springs, staging areas?
- How responsive is each biological information system to urgent management and protection needs?
- Does biological criteria for resource evaluation vary statewide?
- Is there a systematic method to identify, document, and set management priorities for significant habitats?

Information specialists and data managers share the concern for access to information resources. Work groups, such as URISA, CONRIM, and the Arc/Info Users Group, have been formed to facilitate the acquisition and/or management of information. However, the enormity of the task and speed of data turnover demands continuous effort and documentation. Data specialists, as well as resource managers, scientists, land planners, and librarians agree that there remains an immense body of information that is incomplete, missing, disjunct, or continuously becoming obsolete. Could a Natural Heritage Program provide a useful role in further improving access to critical biological information in Alaska?

Alaska Natural Heritage Program

The Alaska Natural Heritage Program's goal is to create a continuing process for identifying outstanding biodiversity features and setting priorities for their management and protection. It is a systematic method of information management that links biology, ecology, and management with specific locations on a map. The Heritage database is a permanent tool that is designed for continuous revision and update as new information on plants, animals, and community types is received.

The basic component of the Heritage Program is the natural "element". Elements are species (e.g. peregrine falcon), communities (e.g. patterned convex wetland), or habitats (e.g. salmon spawning bed). The element approach focuses on these biological and ecological entities rather than on sites or tracts of land. One great benefit of this system is that an element's significance does not become diluted by other considerations that are more conspicuous, such as scenic or recreational values. As a result, the status of elements can be objectively ranked according to the scientific understanding of their rarity and significance.

Based upon biology and distribution of elements, the value of different and variable sites are compared so that management priorities are well established. Since the element information is compiled without regard to jurisdictional boundaries, the approach establishes a context within which site-specific data is applied to statewide resource management and protection in a biologically meaningful way.

Heritage Data Inventory and Management

The data collection process begins with a comprehensive document search that centralizes a wide variety of information resources. This data survey brings together otherwise disconnected, and sometimes obscure, public and private records on Alaska's natural resources. In turn, the organized database offers the fullest range of information possible to all interest groups. The following list includes information tracking sources that would be utilized in developing a Heritage database.

- government in-house reports
- inventories
- museum and herbarium specimens
- environmental impact statements
- technical papers
- popular literature
- personal communications
- historical archives

Management of the data includes the use of computerized and manual files that are readily accessible by element type, geographic location, endangerment status, and land ownership. The database forms a standard network within and between states that also provides information on population numbers, distribution, geography, ecology, global ranking, and protection status. An extensive and up-to-date bibliography is maintained and topographic maps document all element locations in the state.

The four components of the Heritage database are interdependent and summarized below.

Map File - contains the element locations; recorded on U.S. Geologic Survey topographic quadrangles covering an entire state.

Computerized File - contains abstracts on each element and cross-references it to pertinent element manual files.

Element File - contains life history data, references, illustrations, element location records, and other nonlocation information.

Geographic and Managed Area File - contains detailed information on each mapped element location and data on areas that have some degree of protection.

The information is compiled, reviewed, interpreted, and quality controlled. Entered within the database, it is ready to be distributed to a wide variety of public and private users and provide a broad stable framework with a statewide and global perspective.

Heritage Application

The Nature Conservancy's experience in other states indicates a steady increase in the number and variety of information requests from the Heritage information system. Appendix 1 provides a list of Oregon Heritage users as an example. The majority of inquiries come from federal, state, and local government sources for environmental assessment and land management. Private consultants, The Nature Conservancy, universities, individuals, conservation groups, and independent researchers also use the heritage information network for land planning, as well as scientific and educational study. The following summary reflects general categories of the program's application.

- environmental impact assessment
- resource management
- land and resource protection
- endangered species review
- land development planning
- education
- scientific research
- permit review

Heritage Qualities

A unique collection of qualities sets the Alaska Natural Heritage Program apart from all other programs. The program methodology has evolved over years of refinement to complement and enhance existing systems. It is growing as an intricate network that can speak across arbitrary local, state, and regional boundaries. It is characterized by standards consistent with the needs of public agencies, private interest groups, and industry.

- o Database is a permanent repository.
- o Information is continually revised and ongoing.
- o Scattered sources of information are centralized.
- o Breadth of information search is exhaustive.
- o Facts are presented objectively.
- o Method is efficient and cost effective.
- o Program cost is low; product output is high.
- o Information system is accessible and utilitarian.
- o Information is map-referenced.
- o Ranking criteria set management & protection priorities.
- o Quality control is an integral process.
- o Standard information network between and within states.

In summary, it is anticipated that our Alaska Natural Heritage program will give Alaskans the best possible information with which to make wise land and resource management decisions while at the same time protecting Alaska's natural diversity and our unique natural heritage.

Appendix I

NATURAL HERITAGE DATABASE USERS
(Oregon example)

Federal Agencies

U.S. Fish & Wildlife Service
U.S. Forest Service
U.S. Bureau of Land Management
U.S. Army Corp of Engineers
U.S. Department of Agriculture
U.S. National Park Service
Bonneville Power Administration
U.S. Department of Defense
Environmental Protection Agency
Bureau of Indian Affairs
Federal Maritime Commission
Soil Conservation Service
Bureau of Outdoor Recreation
National Oceanographic & Atmospheric Administration

State Agencies

Department of Fish & Wildlife
Division of State Lands
Department of Energy
Department of Land Conservation & Development
Department of Environmental Quality
Department of Transportation
Department of Forestry
Department of Agriculture
Department of Economic Development
Water Resources Department

Miscellaneous Public/Private

61 environmental and other groups
16 public agencies outside Oregon
29 counties governments
14 city governments
38 colleges and universities
30 private consultants

Briefing:

Cape

Yakataaga

Negotiations

2-20-91

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FACSIMILE COVER SHEET

The following document, including this cover sheet contains 7 pages.

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Name: Rep. Cliff Davidson Date: 2-19-91
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Telephone No. Sending To: 463-51661
From: James T Brennan

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LTR TO DNR

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February 19, 1991

BETHEL:

CHRISTOPHER R. COOKE

Gary Gustafson, Director
Division of Land and Water Management
Department of Natural Resources
PO Box 107006
Anchorage, AK 99510

RE: Remand Procedure, ADL 223456

Dear Gary:

As you know, I represent the City of Yakutat in the Superior Court action which resulted in reversal and remand of the decision to convey timber rights at Cape Suckling, Yakataga, and White River to the University of Alaska. In the City's view, Commissioner Heinze's January 14 letter set forth the only reasonable way for the agency to proceed regarding the two issues (sustained yield analysis and Yakataga classification) on remand. The Commissioner's letter to counsel for the parties on appeal set forth several good reasons for handling these two issues "in parallel", one of which was that all matters concerning this unified timber disposal would return to the Court simultaneously, instead of in pieces. Particularly in view of the fact that a sustained yield analysis should encompass all, rather than separate parts, of the timber disposed under ADL 223456, I am certain that the Superior Court would not be enthusiastic about agency action which retains part of the timber on remand, returning the other part to the Court for piecemeal adjudication.

The best reasons for simultaneous resolution of the two issues on remand, however, were left unstated in Commissioner Heinze's letter. By enacting HB 346 prior to the Court's decision on this disposal, the Legislature set forth two clear State purposes: (1) State buy back of the Cape Suckling and Yakataga timber rights, under Section 5 of the Act; and (2) undertaking and completion of a Yakataga Area

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Plan by July 1, 1993, prior to any further agency authorization for timber sales, timber activities, or timber-related construction activities, under Section 4 of the Act. Given such clear legislative mandates, DNR would plainly be ignoring Legislative intent if it chose to short circuit the process by affirmatively acting to authorize the University to commence harvest on the Cape Suckling tract. Such action would be so contrary to both the letter and spirit of HB 346 that, in my opinion, it would be illegal and subject to a separate administrative appeal to Superior Court and/or an action for injunctive relief. In short, Commissioner Heinze's accurate assessment of administrative convenience in simultaneously resolving two interrelated issues on remand coincides with the letter and spirit of HB 346, which anticipated sufficient delay in timber activities so as to provide ample time for a negotiated buy back and for preparation of an Area Plan.

The University of Alaska now appears bent upon thwarting both legislative purposes of HB 346. University Vice President Brian Rogers, in his letter to yourself dated February 4, 1991, offers faulty logic, mistaken references to "vested" University timber rights, and a threat of litigation in an effort to convince the agency to ignore the legislative mandates of HB 346 as well as the obvious requirements of Judge Craske's Decision, as it relates to the sustained yield issue. A decision by the Commissioner to adopt Mr. Rogers' suggestions will result in far greater legal jeopardy than a decision to retain the present course. HB 346 has substantially strengthened the appellants' hands insofar as legal challenges to State-authorized timber activities on the University tracts.

Fulfillment of the legislative intent for a timber buy back would, of course, moot all legal issues, allowing both DNR and the University of Alaska to reallocate staff and legal assistance to more important missions. Given the fact that both the Department of Natural Resources and the University of Alaska regard themselves as agencies of the State, my client is, to say the least, disappointed when it beholds the spectacle of the two agencies frustrating the clear legislative intent for a buy back by failing to come to agreement on a fair market value of the timber. As I understand it, the two agencies have agreed that the Yakataga parcel alone is worth \$6.4 million, which is far in excess

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of the \$2.9 million (plus three years' interest) in replacement land pool value which all three of these timber parcels was intended to fulfill. Evidently, the University nevertheless seeks a total windfall of many, many multiples of the \$2.9 million which the University had previously agreed would fairly compensate it for the Anchorage trust lands wrongfully taken by the municipality during the 70's. Yet, it is my understanding that this same University seeks approximately \$100 million in capital funding from the State of Alaska, and is presently funded to receive nearly \$150 million in general fund receipts from the State under HB 75, the Governor's proposed operating budget for the fiscal year beginning July 1, 1991. Given the massive, on-going funding of the University by the State, is the amount which is designated as timber buy back really anything more than an accounting function? Should the legislative intention that the timber be returned by the University to the State be frustrated because the University and DNR cannot agree upon the dollar amount shown as compensation for timber? Could not a \$20 million overpayment for timber rights be offset by a \$20 million reduction in general fund receipts? The "impasse" in FMV negotiations between the University and DNR conjures up Alice in Wonderland.

In any case, HB 346 did not require, nor assume, that the FMV agreement and legislative appropriation for the buy back would occur during the 1991 legislative session.¹ The Legislature did not intend that its long term goal of repurchasing the timber rights be frustrated by interim agency authorization for University logging.

If, by holding out for a tremendous windfall profit in timber compensation, the University were to cause further delay, it will be in no position to complain to the agency

¹Section (5)(d) of the statute provides that revenues from the Icy Cape II Timber Sale would be placed into trust, for use in funding the buy back, until January 21, 1991. However, this was neither stated nor intended as a deadline for the buy back, which could easily be negotiated and funded through legislative appropriation during the 1992 or 1993 sessions.

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or the Court regarding its delayed realization of compensation for the University trust lands. The University has already been offered multiples of the \$2.9 million, plus interest, in replacement value to which it was originally entitled and from which its legal rights spring, and has refused to accept it.

Mr. Rogers' proposal of "bifurcation" would frustrate the Legislature's intention that a Yakataga Area Plan be completed prior to further timber-related activity. Section 4(b) of the Act requires the Commissioner to ". . . consider the full range of management options for the timber rights in each tract of land of the University of Alaska (ADL 223456) under litigation, including and excluding timber harvest . . .", in undertaking and completing the area plan by July 1, 1993. The logic of the Alaska Survival decision of the Alaska Supreme Court, along with the statutory language, mandates that the Area Plan be completed prior to decisions regarding timber harvest, including sustained yield analysis. Bifurcation to facilitate a quick, partial sustained yield analysis, which guesses in advance as to what the Area Plan ~~will~~ provide, is putting the cart before the horse in a manner clearly struck down in Alaska Survival v. State, Dept. of Natural Resources, 723 P.2d 1281, 1288-91 (Alaska 1986).

With respect to the specific, alternative sustained yield analyses suggested by Mr. Rogers at paragraph 4 of his

²By contorted logic, Mr. Rogers argues, at paragraph 2, that the Yakataga parcel is on a "settlement track" and may well be bought back by the State, thereby justifying a sustained yield analysis in advance of such development. If, in fact, such a bifurcated buy back were agreed to by both DNR and the Legislature, it would make more sense to delay any sustained yield analysis until such buy back occurred, so that the total amount of timber base from which a sustained yield analysis would be computed would then be definite. In any case, however, any sustained yield analysis should await conclusion of an attempted buy back of all tracts by the State as well as completion of the Yakataga Area Plan.

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letter, it will suffice to say that both proposals supply ripe targets for litigation; I am quite sure that you do not need my assistance to recognize these.

The University has no "vested" rights in the subject timber. The University has a "vested" right to be compensated for the \$2.9 million in replacement lands to which it is entitled. The Quitclaim Deed to the University dated October 6, 1989 is expressly subject to the Superior Court appeal and any agency actions in compliance with Court orders issued in the appeal. The Deed therefore is a conditional conveyance, which may or may not ever result in actual timber rights being received by the University. Therefore, where Section 4(d) of HB 346 stops all timber related activity, subject to "valid existing rights", the only "valid existing right" of the University is its conditional right to timber conveyance when and if such conveyance is authorized by a sustained yield analysis and Yakataga Area Plan conducted in accordance with Section 4 of the statute.

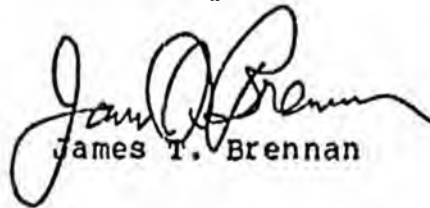
In summary, the City of Yakutat strongly urges the agency to stay the course adopted by Commissioner Heinze and to take necessary actions to facilitate the buy back and the Area Plan mandated by the Legislature.

With reference to Mr. Rogers' request to participate in a meeting of key DNR personnel regarding the schedule for the sustained yield remand, the City of Yakutat, or its representative, clearly has a right to attend any meeting to which the University is permitted to attend. Please notify me of the schedule for any such meeting, and whether or not the various parties to the remand will be permitted to be present or participate.

Gary Gustafson
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Thank you for your attention to this matter.

Sincerely,



James T. Brennan

JTB/bjf

cc: Harold Heinze, Commissioner DNR
Brian Rogers
via fax to:
Russ Winner, Esq.
James N. Wanamaker, Esq.
Robert Lindekugal, Esq.
Rep. Cliff Davidson, House Resources Committee

07/664/91-1

STEVE KALLICK
Attorney for case

CITY OF YAKUTAT, et al. v. DNR and UNIVERSITY OF ALASKA, et al.
Consolidated Case No. 1-JU-88-271 CI

SUMMARY OF LITIGATION

On December 4, 1987, DNR Commissioner Judy Brady issued an administrative decision, designated "ADL 223456," which transferred over 100 parcels of DNR-managed property to the University of Alaska in order to satisfy a \$24 million debt. Like the Mental Health Lands Trust controversy, this debt was incurred when the University Trust was raided, pursuant to the same 1978 law making state trust lands available to municipalities for selection.

As part of the entire settlement lands package, DNR also gave the University timber rights to approximately 38,000 acres of state land, in three parcels, located in the Yakataga area. These parcels were the White River tract (3500 acres), the Yakataga tract (2500 acres) and the Cape Suckling tract (32,000 acres).

In January and February of 1988, the City of Yakutat and a coalition of fishing and environmental groups sued DNR and the University over the transfer of timber rights, but not the other lands. Among many alleged violations of state law, Yakutat and the fishermen claimed that DNR could not show that logging in the three parcels would meet sustained yield requirements and that the Yakataga parcel had been improperly transferred prior to classification as timber land.

On June 18, 1990, Superior Court Judge Duane Craske ruled in favor of Yakutat and the fishermen on these two points, sending ADL 223456 back to DNR for further consideration of the sustained yield issue and for classification of the Yakataga parcel. DNR was ordered to set forth in detail its plans for sustained yield management of the three timber parcels. In a follow-up decision, the Judge also awarded full attorney's fees to Yakutat and the fishermen.

DNR, currently engaged in area-wide planning for Yakataga (including a sustained yield analysis for the entire area), recently announced it would address the court's concerns as part of that planning process. The University has objected to this procedure, but Yakutat and the fishermen support DNR's approach.

Since these limited issues are the only ones now before DNR, none of the buyback negotiations are or could possibly be raised in the litigation. The litigation provides no excuse for DNR and the University to continue to shield their negotiations from public scrutiny.

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

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JUNEAU, ALASKA 99801-1796
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January 17, 1991

RECEIVED JAN 21 1991

The Honorable Cliff Davidson
Chair, House Resources Committee
P.O. Box V
Juneau, AK 99811

RE: University Land Settlement, Timber Settlement Negotiations

Dear Representative Davidson:

As you may be aware, the Department of Natural Resources and the University of Alaska are involved in litigation with the Southeast Alaska Conservation Council (SEACC) and several fishing groups, and the City of Yakutat (City of Yakutat v. the Department of Natural Resources; Civil No. 1JU-88-271). The litigation is the result of the state's 1987 decision to transfer three limited timber rights parcels in the Yakataga area to the University (see attached fact sheet). While the case progressed in court, several attempts at settlement were made. The latest settlement endeavor was part of legislation last year establishing the Yakataga State Game Refuge (SCS CSHB 346 (Res) am S), now Ch. 143 SLA 1990.

Under Section 5(b) of that bill, the commissioner of Natural Resources is to "engage in every reasonable effort to reach agreement (with the University) on the fair market value for the timber rights to Tract A-148 at Cape Suckling and Tract 20 at Yakataga." The bill then directs the commissioner to report that value to the chairs of the resources committees of the Legislature in order for the Legislature to consider the purchase of these timber tracts from the University. If the timber at Cape Suckling is purchased, that tract will be added to the Yakataga State Game Refuge.

Following passage of the bill, the Department of Natural Resources and the University entered into a Memorandum of Understanding (MOU) regarding the valuation and reporting process to be followed. Under that MOU, you were to be notified should these negotiations result in an impasse. Unfortunately, despite the best efforts of both parties, we have reached an impasse with regard to the value of the Cape Suckling Tract.

In order to establish a value for these tracts, the University contracted for cruise, engineering and appraisal reports of the timber tracts.

January 17, 1991

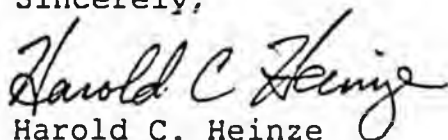
Per the MOU, the University's contractor's reports were then reviewed by an independent timber appraiser retained by the Department of Natural Resources. That appraiser disagreed with the University's contractors on a number of issues, and assigned different values to the parcels.

The two appraisers then met to discuss their differences, but could not come to agreement on value. Negotiators from the University and the Department subsequently met to attempt to negotiate a value, but, due to the wide valuation difference, could not agree on a value for the Cape Suckling parcel. Because the case is in active litigation, the reports must remain confidential. However, members of the Legislature or the administration may view the report through the Department of Law (contact Jim Wanamaker, 276-3550).


The parties were able to agree on the value of the Yakataga parcel. The value is \$6,400,000, independent of the effect of the uncertainty caused by the pending litigation. In addition, although the parties agree that it is likely that this litigation would have an effect on the value of the parcels, we could not agree on the result. It is possible that the litigation would have very little effect if the Legislature intends to reacquire the timber rights "regardless of the disposition of City of Yakutat v. the Department of Natural Resources." However, it is also possible that the Alaska Superior Court's recent reversal of the parcel's conveyance, and a remand back to the department, could significantly reduce the value.

We regret that we have been unable to reach agreement on value of all parcels. However, we have exerted "every reasonable effort" as required by law. We also continue to consider other options.

Sincerely,



Harold C. Heinze
Commissioner
Department of Natural Resources



Jerome Komisar
President
University of Alaska

Enclosure

Original letters sent to the following:

The Honorable Walter J. Hickel, Governor
The Honorable Dick Eliason, President of the Senate
The Honorable Ben Grussendorf, Speaker of the House
The Honorable Lloyd Jones, Chair, Senate Resources

cc: Brian Rogers, University of Alaska
Gary Gustafson, Director
Division of Land & Water Management
Jim Wanamaker, Assistant Attorney General
Department of Law
Russ Winner, Attorney

Fact Sheet
University Settlement II Timber Litigation
January, 1991

BACKGROUND: The Territory of Alaska was granted land to be used by or in support of a university (agricultural college and school of mines) by congressional acts in 1915 and 1929. In 1960, the Legislature gave the Commissioner of Natural Resources the authority to sell, lease or dispose of university land, with the approval of the Board of Regents, under Title 38. These lands were managed by the Department of Natural Resources in trust for the University under a Memorandum of Agreement entered into that same year.

In 1978, the Legislature attempted to redesignate school, university and mental health trust lands as general grant lands. In return, funds established for each of the trusts were to be financed by a percentage of revenues from all state lands. The University Board of Regents, however, rejected the redesignation of university land.

That same year, the Legislature passed a law (AS 29.18) allowing municipalities with a per capita entitlement of less than one and one-half acre, to select vacant trust land, including university land, for its entitlement. The university land conveyed to a municipality was to be replaced with land, acceptable to the Board of Regents, of approximately equal value.

Seven parcels of university land were selected by the Municipality of Anchorage in 1979. The parcels were approved for conveyance in 1980 and reconfirmed in 1986. Because land from the two other trusts was redesignated as general grant land by the 1978 legislation, and only the Municipality of Anchorage qualified, this is the only instance in which this provision of the Municipal Entitlement Act has been used.

LITIGATION: In 1979, the same year that Anchorage selected the parcels, the University sued the state for breach of trust. A settlement agreement was entered into in 1982 and was ratified and approved by the Legislature in 1983. That settlement answered all of the University's claims except the conveyance of the seven parcels to Anchorage under the Municipal Entitlement Act. Under that settlement, all university land was returned to the University for management, university land that had been conveyed to third parties (except the Anchorage parcels) was replaced with other state land or paid for in cash, and the provision allowing for municipal selection of university land was repealed.

The University again sued the state (and the municipality) in 1985. The Superior Court found in favor of the state, but held that the land must be replaced under the Municipal Entitlement Act. The University appealed the case to the Alaska Supreme Court.

In December, 1986, the parties entered into a memorandum of understanding (MOU) that provided a mechanism for the suit to be settled. Under that MOU, the University selected other state land and interests in land for possible redesignation and transfer to replace the Anchorage land, which had been valued at \$24,752,000. The parties worked for approximately one year to assemble acceptable replacement land and put it through the public process. In December, 1987 the Commissioner of Natural Resources, Judith M. Brady, found that the conveyance of 71 priority areas of approximately equal value to the Anchorage land were suitable for conveyance to the University. The priority areas included 20,460 acres of land scattered throughout the state and three parcels of Gulf Coast timber. The Board of Regents accepted the commissioner's finding as a basis for settlement of the litigation.

In January, 1988 several parties asked the commissioner to reconsider her decision with regard to the timber tracts. That request was denied and the appellants (City of Yakutat, SEACC, ACE, Yakutat Fisherman's Association, et al.) sued. Over the next year, parties to the timber litigation tried, without success, to settle the case. Finally, an agreement settling the University's municipal entitlement litigation was entered into in May, 1988.

In February 1989, the court remanded the timber litigation to the Department of Natural Resources in order to allow the appellants to supplement the record and make any arguments that had not previously been heard. The department had a change of commissioners since the first decision, and new department personnel were assigned to review the case. On June 1, 1989 Commissioner Gorsuch issued her decision essentially upholding Commissioner Brady's original decision, but adding a few new stipulations. Again, the commissioner's decision on remand was accepted by the Board of Regents.

The limited timber rights were then conveyed to the University in October, 1989. The conveyance was conditioned to preclude any on-the-ground activity, such as timber cutting or harvest until after the lawsuit is resolved. The court may also void the conveyance.

The 1990 Legislature then passed HB 346, which established the Yakataga State Game Refuge and Special Management Area, provided for area wide planning, provided certainty for the Icy Cape II Timber Sale Extension, and created a mechanism to help settle the University timber litigation. Under that legislation, the University and the department were to try to come to agreement over the value of two of the three timber rights parcels. The bill stated that the Legislature intended to repurchase the timber rights at current market value, in which case the largest timber tract (at Cape Suckling) would be added to the Yakataga

State Game Refuge and the disposition of the smallest (at Cape Yakataga) would be decided through the area plan.

The Superior Court ruled on the case in July 1990. That ruling remanded the case back to the department for clarification of its sustained yield findings with regard to all three timber rights parcels, and reversed and remanded the decision to convey the parcel at Yakataga.

CURRENT SITUATION: The University and the department have come to agreement with regard to the current fair market value of the Yakataga timber parcel, but reached an impasse regarding the current fair market value of the Cape Suckling timber parcel. A letter explaining the agreement and impasse has been sent to Governor Hickel, the President of the Senate, Speaker of the House, and the Chairpersons of the Senate and House Resources Committees. The underlying cruise, engineering, appraisal, and review appraisal reports are confidential because of the ongoing litigation.

Department personnel are also working to provide the additional sustained yield information and findings requested by the court. The remand of the Yakataga parcel requires planning and classification work prior to any reconsideration. Therefore, no action on this remand is expected until after the legislatively mandated Yakataga Area Plan is completed on or before July, 1993.

For more information contact: Salli Slaughter, Special Projects Coordinator, Division of Land and Water, Department of Natural Resources, (907) 762-2692; PROFS NRSCSSL; 3601 C Street, Suite 814, P.O. Box 107005, Anchorage, Alaska 99510.



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366

YAKATAGA STATE GAME REFUGE
REPURCHASE OF CAPE SUCKLING TIMBER RIGHTS

2/19/91

Passed last year, CSHB 346 established the Yakataga State Game Refuge and directed the Department of Natural Resources to repurchase University of Alaska timber rights on adjacent lands at Cape Suckling and Yakataga. The bill, designed to allow logging but protect critical habitat, represents a carefully crafted compromise between DNR, the University, local communities, and fishermen. Buyback of the Cape Suckling parcel is a critical part of the Yakataga compromise.

Located just to the west of the refuge, the 32,000 acre Cape Suckling parcel includes some of the best wildlife habitat in the state of Alaska, supporting important herds of moose and mountain goat. Brown bear hunting in this area is considered world class. Recreation and tourism development potential in the Yakataga area centers on Cape Suckling. Because of these values, the Legislature directed that Cape Suckling be automatically included in the Yakataga refuge when repurchased. Without Cape Suckling the refuge is incomplete.

The Yakataga legislation directs DNR and the University to negotiate a fair market value for repurchase of Cape Suckling, but these two state entities have been unable to agree. This impasse should be easily resolved: buyback simply requires transferring state money from one account to another. Buyback is just another appropriation from the general fund, to the University, which benefits the public interest.

(OVER)

Numerous organizations supported last year's legislation, which includes **the buyback of Cape Suckling timber rights:**

Alaska Center for the Environment
Alaska Department of Fish and Game
Alaska Department of Natural Resources
Alaska Discovery
Chugach Timber Corporation
City of Yakutat
Cordova District Fishermen United
Fairbanksians for Responsible University Land Management
Northern Alaska Environmental Center
Sealaska Corporation
Southeast Alaska Conservation Council
Southeast Regional Fish and Game Advisory Council
Tongass Tourism and Recreation Business Association
United Fishermen of Alaska
Yakutat Fish and Game Advisory Committee
Yakutat Resource Council



Southeast Alaska Conservation Council

419 SIXTH ST. #328 JUNEAU, ALASKA 99801 • (907-586-6942)

February 19, 1991

Gary Gustafson, Director
Division of Land and Water Management
Department of Natural Resources
PO Box 107006
Anchorage, AK 99510

Dear Gary:

This letter is in response to the February 4th letter you received from Brian Rogers, Vice President for Finance of the University of Alaska. That letter concerned Commissioner Heinze's January 14th letter to the parties regarding how the agency intended to handle the remand from the Superior Court in Yakutat Fishermen's Association v. Brady (1JU-88-271).

In its June 18, 1990 decision, the Superior Court reversed DNR's decision to convey the Yakataga timber parcel to the University and found that DNR had failed to articulate a reasonable basis for its conclusion that ADL 223456 did not violate the principle of sustained yield. The court remanded ADL 223456 to DNR with directions to make additional findings with regard to sustained yield on all three timber parcels.

In his January 14th letter, Commissioner Heinze concluded that it was appropriate to await completion of the Yakataga Area Plan before deciding whether or not to reconvey the Yakataga parcel to the University. Additionally, the Commissioner chose to postpone making a proper sustained yield analysis for all three parcels until completion of the Yakataga Area Plan. The Southeast Alaska Conservation Council (SEACC) supports Commissioner Heinze's decision.

Contrary to statements in Mr. Roger's letter, the completion of the Yakataga Area Plan is a necessary condition for a satisfactory sustained yield analysis. DNR will use the area planning process to determine the compatibility or incompatibility of permitted uses, including timber harvest, on all lands in the Yakataga area. These findings form the basis for identifying the timber base to be included in any sustained yield analysis. Thus, it is illogical to bifurcate the classification and sustained yield analysis as suggested by Mr. Rogers.

We believe that the Commissioner's decision is also supported by Section 4 of the Yakataga State Game Refuge bill, HB 346. In subsection 4(b), the Alaska Legislature pronounced a clear policy

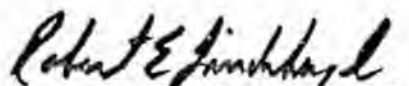
directive by mandating that the Area Plan "shall consider the full range of management options for the timber rights in each tract of land of the University of Alaska (ADL 223456) under litigation, including and excluding timber harvest." Thus, DNR would be unable to prepare a sustained yield analysis of the Cape Suckling and Yakataga parcels before deciding what, if any, acreage in these parcels will be excluded from the timber base. Moreover, even if the Superior Court is satisfied with DNR's sustained yield analysis for the three parcels at issue in Yakutat Fishermen's Assoc. v. Brady, the Legislature stated its clear intention for the State to reacquire the University's interests in Tract A-148 at Cape Suckling and Tract 20 at Yakataga. See Section 5(c), HB 346.

SEACC also objects to Mr. Rogers' characterization of the University's rights to timber in the White River, Cape Suckling, and Yakataga tracts as "vested." According to Quitclaim Deed # 1148, executed on October 6, 1989, the University's interests are "subject to the Final Finding and Decision for ADL 223456." Until the Superior Court is satisfied that ADL 223456 complies with all applicable legal requirements, the University's rights under the Quitclaim Deed can not vest.

Finally, the Mr. Rogers requested that the University be given the opportunity to address key DNR personnel at the meeting "to plan the schedule for the sustained yield remand." If the University is going to be invited to appear at that meeting, we respectfully request notice as to the time and place of that meeting, as well as the opportunity to explain our position on this important issue.

Thank you for considering our position on this question. Please keep us informed as to when the meeting regarding the schedule for the sustained yield remand will be held.

Sincerely,


Robert E. Lindekugel
Staff Attorney

Yakataga

The Land Between

by Debra Clausen

Looking toward Cape Yakataga
from Sunshine Point.



Photos by David Hardy

Most people who have seen the land between Cape Suckling and Cape Yakataga have seen it from the air. Flying between Anchorage and Juneau or Cordova and Yakutat reveals an impressive geography. With the storm-beaten North Gulf Coast pounding on its southern shore and the mountains of the Chugach Coast Range rising precipitously to the north, isolated to the west by the Bering Glacier and to the east by the Yaktse/Guyot glaciers, the Yakataga forelands are truly a land between. Essentially uninhabited, wild and remote, the area is, however, not empty.

Lying along the main Pacific migration route of birds flying north to breed, the high coastal mountain range funnels millions of birds along the narrow coastal corridor. A majority of waterfowl stop to rest and feed in these coastal lowlands on their way to summer nesting grounds. Nearly 100 trumpeter swans nest in the area. Hundreds of bald eagles winter in high densities along the lower stream reaches.

Several hundred moose are known to use the coastal lowlands, concentrating in the winter along the lower reaches of the major river floodplains. Extreme

weather conditions and heavy snowfall often drive mountain goats to lower elevations during winter. One to two hundred brown bear are found in the area, feeding in sedge flats during spring, in strawberry patches during July, and along fish streams during summer and fall. Several dozen wolves are estimated to range throughout the area. Wolverine, coyote, lynx, marten, mink, land otter and beaver can also be found. The Tsiu/Tsivat river system supports one of the richest commercial salmon fisheries for its size, and other productive salmon streams flow through the area. Accessi-

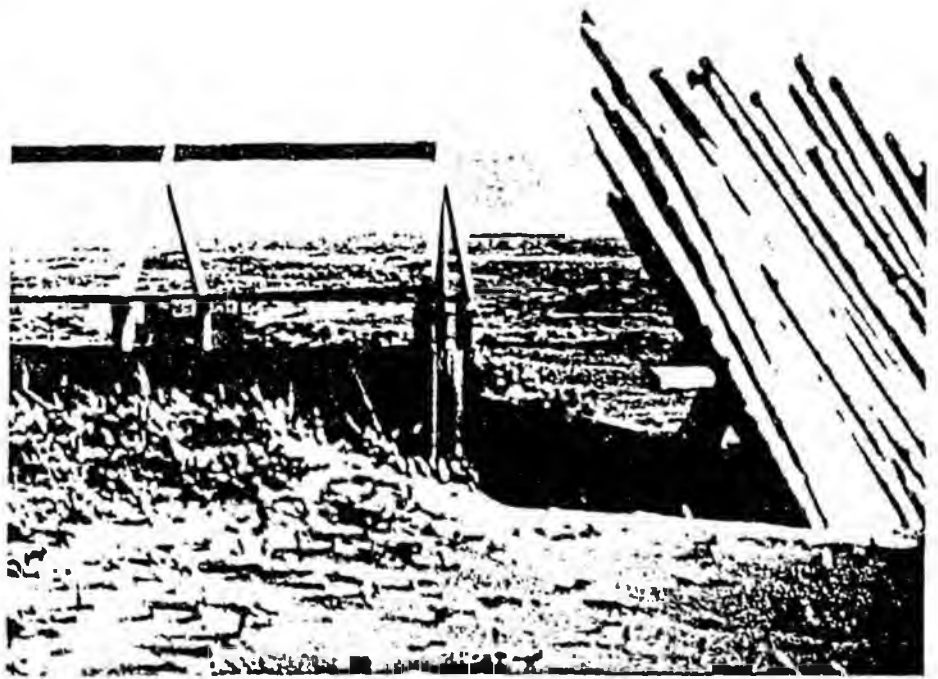
ble primarily by plane but also by boat, the area has long been important hunting and fishing grounds for Yakutat residents. Commercial set net sites are concentrated at the mouths of every major river. Sport fishing opportunities are also abundant, with the Tsiu River a popular coho fishing stream. Waterfowl, moose, black and brown bear, and mountain goat are hunted by residents and guided non-residents.

Rich in wildlife, the area also possesses extensive forests and mineral laden beaches. Gold was discovered on the area's beaches in 1897 or 1898 and mining activity continued until World War II.

Recently, commercially valuable stands of spruce and hemlock have attracted the attention of state and private logging interests. Controversy has arisen over the sale and harvest of the area's forests. One outcome of this controversy was the establishment in 1990 of a new state game refuge, the Yakataga State Game Refuge, encompassing the state-owned lowlands between the Seal River and Kaliakh River. Legislation establishing the refuge also provides for inclusion of lands to the east of Kaliakh River into the refuge on the recommendation of the Commissioner of the Alaska Department of Natural Resources (DNR) following an area planning study and directs the Commissioner of DNR to purchase timber rights now held by the University of Alaska west of the Seal River. Once the timber rights are re-acquired by the state, those lands would also become part of the new refuge.

Passage of this recent legislation ensures that these newly established refuge lands will be managed for the protection of fish and wildlife habitat and popula-

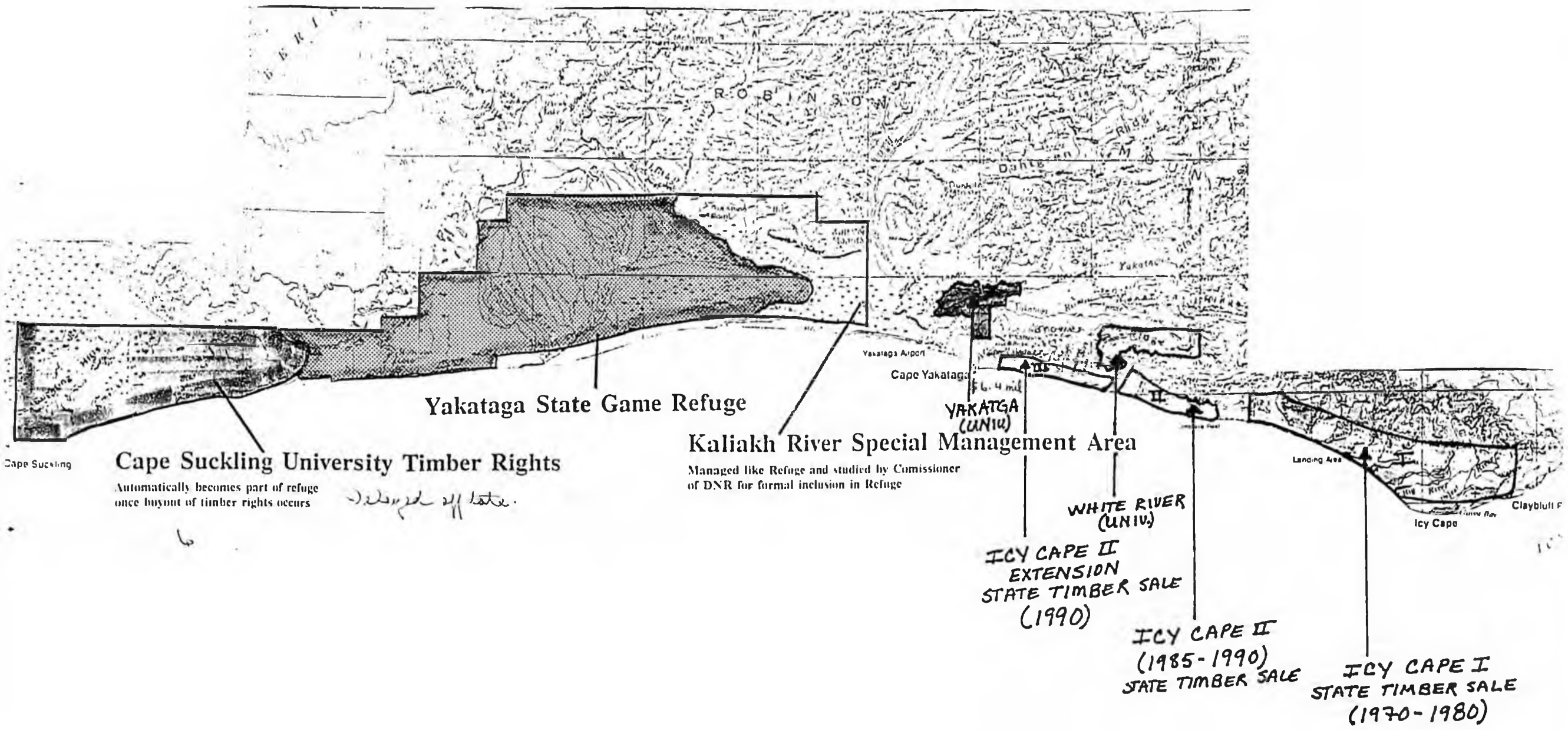
Set net tent frame on the Tsiu River.



tions, including salmon spawning and rearing habitat and critical goat and moose winter habitat; public uses of fish and wildlife and their habitat, particularly commercial, sport, and subsistence fishing, hunting, viewing, photography, and general public recreation in a high quality environment; and the use and disposition of other resources when the activities are not inconsistent with protection of fish and wildlife and public use

of the area. Although important timber harvest issues still await resolution, the future of this wild, remote and productive "land between" is now a lot more secure. Recent legislation ensures that although uninhabited, it won't be forgotten.

Debra Clausen is a Habitat Biologist, Division of Habitat, ADF&G, Anchorage.



Cape Suckling University Timber Rights

Automatically becomes part of refuge once buyout of timber rights occurs

Delayed off later.

Yakataga State Game Refuge

Kaliakh River Special Management Area

Managed like Refuge and studied by Commissioner of DNR for formal inclusion in Refuge

**ICY CAPE II
EXTENSION
STATE TIMBER SALE
(1990)**

**ICY CAPE II
(1985-1990)
STATE TIMBER SALE**

**ICY CAPE I
STATE TIMBER SALE
(1970-1980)**

Cape Suckling

Yakataga Airport

Cape Yakataga

6.4 mil
**YAKATGA
(UNIV)**

**WHITE RIVER
(UNIV)**

Landing Area

Icy Cape

Claybluff F

Agreement on Confidentiality

I have read paragraph 1 (one) of the attached MOU between University and DNR.

Certain information which is covered by that paragraph is to be discussed in an executive session of the House Natural Resources Committee

on 2/20/91.

I agree to abide by the requirements of that paragraph 1, of the M. O. U. to keep that information confidential.

Gustafson

Rego

I affirm that I am an Alaska Legislator or Legislative Staff person.

MEMORANDUM OF UNDERSTANDING
REGARDING THE TIMBER VALUATION PROCESS
FOR SETTLEMENT OF LITIGATION (IJU-88-271 CIVIL)
BETWEEN THE
UNIVERSITY OF ALASKA
AND THE
ALASKA DEPARTMENT OF NATURAL RESOURCES

The University of Alaska (the University) and the Alaska Department of Natural Resources (the Department) enter into this Memorandum of Understanding (MOU) regarding the process used for valuation of limited timber rights (timber) conveyed to the University in the Gulf of Alaska area.

PURPOSE The purpose of this MOU is to set out the responsibilities and understandings of the respective parties with regard to the process to be followed to determine the value of two tracts of timber (Parcel A-148, Cane Suckling; and Parcel 20, Yakataga) conveyed to the University by the Department on October 6, 1989. The value of the timber determined under the procedures set forth in this MOU is to be used in the negotiation of settlement of pending litigation Yakutat Fisherman's Association v. State, IJU-88-271 (the litigation) as directed by the legislature under SCS CSHB 346 (RES) AM S, Ch. 143 SLA 1990, attached hereto as Attachment "A."

BACKGROUND The litigation stems from the settlement of a prior lawsuit between the University and the Department over the conveyance of University trust land to the Municipality of Anchorage (the Municipality) under the Municipal Entitlements Act (University of Alaska v. Municipality of Anchorage, et al., S-1815 and S-1826), filed in 1985.

Under the settlement of University of Alaska v. Municipality of Anchorage, et al., the value of the University land conveyed to the Municipality was established. As a result of a MOU entered into in December 1986, the University and the Department assembled a pool of potential replacement lands, and interests in land. This pool was reviewed by other governmental agencies and the public during the spring and summer of 1987.

A final finding and decision setting out the land and interests to be conveyed to the University to replace the lands conveyed to the Municipality was issued by the Department on December 4, 1987, and accepted by the University as the basis for settlement of the litigation on December 16, 1987. Included in the final replacement pool was timber at three limited timber rights tracts in the Gulf

of Alaska area (#20, Yakataga, 53,823.2 MBF; #A-148 Cape Suckling, 294,630; A-154 White River, 94,715.72 MBF.)

Two requests for reconsideration were filed in January, 1988. The Commissioner of Natural Resources (the Commissioner), Judith M. Brady, refused to reconsider her decision, and the decision was appealed in the litigation to the Alaska Superior Court. On motion of the Department of Natural Resources and the University, the case was remanded for reconsideration in February 1989. Newly appointed Commissioner Lennie Gorsuch upheld her predecessor's decision, with slight modifications, in June 1989. On June 18, 1990, the court again remanded the matter back to the Department for further action. See Attachment "B" hereto.

By a quitclaim deed, dated October 6, 1989, the State of Alaska conveyed to the University the timber on the Cape Suckling, Yakataga and White River tracts. See Attachment "C" hereto. However, the Department continues to hold the remainder of the fee title and will continue to engage in practices necessary to perform its duties concerning management of state land with respect to these tracts.

HB 346 was introduced in the first session of the sixteenth Alaska State Legislature to establish a Yakataga State Game Refuge. Prior to the bill's passage during the second session, it was amended to include provisions intended to lead to settlement of the litigation. One of those provisions of HB 346, as amended and enacted as Ch. 143 SLA 1990, requires that:

The commissioner of natural resources shall engage in every reasonable effort to reach agreement on the fair market value for the timber rights to Tract 1-148 at Cape Suckling and Tract 20 at Yakataga.

This MOU is intended to facilitate that effort.

1. CONFIDENTIALITY: Contractors hired under the process described in this MOU are considered professional witnesses who are to provide professional services or testimony relating to the litigation. Because the evidentiary phase of this proceeding is completed, it is expected that these contractors will not be called as witnesses. Instead, their main function will be to provide professional services to the parties and their attorneys, based upon their expertise in the requisite field.

The parties agree that, except as expressly provided elsewhere in this MOU, any correspondence to or from any contractors, review contractor or subcontractors (the contractors) and any reports or writings prepared by them under the instructions contained in this MOU (see Attachments "E," "G," "H" and subparagraph 7(a), below),

or pursuant to employment with reference to the litigation, (collectively, the contractors' documents) are for the purposes of settlement of the litigation and will be deemed confidential and protected, without limitation, by the provisions of AS 09.25.120(4); 6 AAC 95.010(b), 95.090(a)(4), and 95.150; Alaska Evidence Rule 408; the attorney work product privilege; and the attorney-client communication privilege. All reports shall be transmitted by the contractors only to the parties or their representatives and shall contain the following notation:

Prepared for settlement purposes and subject to AS 09.25.120(4); 6 AAC 95.010(b); 95.090(a)(4), and 95.150; Alaska Evidence Rule 408; the attorney work product privilege; and the attorney-client communication privilege.

Under Ch. 143 SLA 1990, the Commissioner is required to report any fair-market-value agreed to by the parties regarding the Cape Suckling and the Yakataga tracts to the Chairs of the Resource Committees of the Alaska Senate and House of Representatives. While any figure reported to the legislature will be made public as soon as it is reported, the correspondence, reports and resulting figures produced under this MOU are to remain confidential.

None of the contractor's documents will be used in the litigation, either before the courts or on remand, without agreement of the parties, unless otherwise ordered by the court. The Department agrees that it will not seek a court order for the use of the contractor's documents. If the University does not agree to the use in the litigation or on remand of the cruise report, engineering report and appraiser's conclusions about the operational plan, the University will not insist that the Department expend its own funds to do cruise studies and engineering studies requires for such new appraisal. If in the litigation a court order or decision shall fairly be construed to require the Department to reappraise any of the timber on remand, and if money for such appraisal is not appropriated by the legislature or otherwise provided to the Department to do so by the end of the first complete legislative session following the Department's written request for such money, the parties agree that, at the University's election they will do one of the following:

- a. Use the contract documents for such reappraisal;
- b. Seek a stay of the remand to last until the end of the second complete legislative session following the Department's above written request;
- c. The University may pay for another appraisal performed to Department standards; or

d. The University shall take, in lieu of the timber required to be appraised, that replacement land identified at paragraph three of that Memorandum of Agreement between the parties, dated April 22, 1988, and the attachment thereto, as amended October 6, 1989.

2. CONTRACTING: All initial contracting for experts in litigation (see Sections 4 through 6 below) will be done by the law firm of Winner & Associates, counsel for the University of Alaska. Winner & Associates will be responsible for contracting and paying for the initial contracts; the Department of Law will be responsible for contracting and paying for the review contracts under paragraph 7, below. Because these contracts are for professional witnesses for an existing lawsuit, these contracts are exempted from the state procurement regulations under AS 36.30.850(b)(2).

The University will provide funding for all initial contracting; the Department will provide funding for its subsequent review contracts. The University's initial contractors are as follows:

- a.) Sanders and Kerr, a J.V., Anchorage, Alaska - cruiser;
- b.) David Gardiner of Reid, Collins, Vancouver, B.C. (employed through Sanders & Kerr, a J.V.) - logging engineer; and
- c.) Ray Granvall and Larry Ismert of Cascade Appraisal, Inc., Wilsonville, Oregon - appraisers.

The Department's review contractor is Carl Newport, Ph.D., of Mason, Bruce and Girard, Inc., Portland, Oregon. He will be utilizing Logging Engineer Jim Rynearson for the purpose of analyzing transportation aspects of the appraisal.

2.a. COMMUNICATION WITH CONTRACTORS: The following rule shall govern communication with the contractors:

Any communication between a party and a contractor which could affect the value of the property shall be copied to the other party if in writing, or reported in writing if oral. This requirement of written reporting shall not be necessary if the other party is present at a meeting where those communications are made. All such communications will be made by and through the attorneys for the parties.

3. TERM: This MOU will take effect when signed by both parties, and will remain in effect until the valuation and negotiation process set forth is complete, or until terminated in writing by mutual consent of the parties. The schedule for completion of the

various reports and events to be completed under this MOU are outlined in Attachment "D."

4. ENGINEERING STUDY: The parties agree that an engineering study must be done to determine the location, design, cost and feasibility of timber harvest infrastructure for the Cape Suckling and the Yakataga tracts prior to the performance of a timber appraisal. Instructions for this study, along with an addendum thereto, are set forth in Attachment "E."

5. TIMBER CRUISE: The parties agree that a cruise of the commercially operable forest land within the Cape Suckling and Yakataga tracts to determine the volume, grade, and the quality of the timber shall be performed. Instructions for the cruise, along with an addendum thereto, are set out in Attachment "F."

The conduct of a proper timber cruise will require the cutting of up to 40 trees within the Cape Suckling tract in order to accurately estimate quality of the timber involved. The Department has proposed to cut up to 40 trees on the Cape Suckling tract for the purpose of such cruise, and the University is in agreement therewith.

Accordingly, the University has disclaimed and quitclaimed the interest it may have, if any, in 40 trees on the Cape Suckling tract which it will be necessary to cut in order to obtain a timber cruise and timber appraisal for that parcel. The disclaimer and quitclaim is found at Attachment "G" hereto. The parties agree that this disclaimer and quitclaim deed, and the cutting of up to 40 trees for purposes of this cruise, do not impair or void the quitclaim deed of limited timber rights to the University, Attachment "C" hereto.

6. APPRAISAL: The parties agree that an appraisal of the fair market value of the University's timber on commercially operable forest land within the Cape Suckling and Yakataga parcels is to be performed by a qualified timber appraiser agreed upon by the parties. The appraisal is to be conducted under the instructions set forth in Attachment "H"

7. REVIEW AND NEGOTIATION: All documents required under this valuation process will be provided by the contractor to the attorney employing him. That attorney will send a copy of the document to the attorney for the other party the same day that it is received.

a. The reports and conclusions of value of the University's contractor(s) will be reviewed by the Department's review

contractor, Carl Newport, pursuant to this subparagraph. The review contractor will review the reports of the University's contractors and make recommendations regarding appropriate adjustments, if any. These recommendations will be in the form of a letter of opinion, setting forth in sufficient detail the factual background, basis and analysis supporting the recommendation and shall include an opinion of overall value. This letter of opinion will be transmitted by the review contractor within thirty days after his receipt of the reports of the University's contractor(s). The review contractor will make reasonable effort to transmit this letter earlier.

b. If the University's contractor(s) disagree with any of the recommendations made by the review contractor, the University's contractor(s) and the review contractor shall immediately, or as soon thereafter as possible, meet to review those recommendations and resolve the differences. They shall report to the attorneys for both parties, in writing, the results of their efforts within three days after they initially meet. If they agree on changes, they shall be implemented by the University's contractor. The contractors shall report individual values for Cape Suckling and Yakataga.

c. If there are situations that cannot be corrected within the time-frame of this process, such as a data gap, the parties will negotiate a value under subparagraph e. below.

d. If, following the process of subparagraph a-c above, there remains a difference of valuation between the University's contractor(s) and the Department's review contractor of less than ten percent, the parties will split the difference to arrive at the fair-market-value of the parcels.

e. If, following the process of subparagraphs a-c above, there remains a difference of valuation between the University's contractors and the Department's review contractor of greater than ten percent, the University and the Department shall expeditiously exert every reasonable effort to arrive at a negotiated valuation, provided such negotiated value is within the range of difference of valuation between the two contractors. The negotiated valuation shall report individual values for Cape Suckling and Yakataga.

f. If the contractors agree on a value, or if the parties agree upon a negotiated valuation pursuant to subparagraph e. above, within three days following the beginning of negotiations, the Commissioner of the Department shall expeditiously report this valuation to the Chairs of the Resource Committees of the Alaska Senate and the House of Representatives.

g. If, within three days following the beginning of negotiations the parties are unable to arrive at a negotiated valuation pursuant to subparagraph e. above, then the parties will

declare an impasse in the negotiations. The President of the University and the commissioner of the Department will send a joint letter, summarizing the position on valuation of each party, and reporting the value which they each recommend, to the Governor, the President of the Alaska Senate, the Speaker of the Alaska House of Representatives, and the Chairs of the Resource Committees of the Alaska Senate and the House of Representatives.

8. AMENDMENTS: This MOU, including Attachments hereto, may be amended only by mutual written agreement of the parties.

9. This MOU and all attachments shall be given to all contractors.

University of Alaska

by: _____
Brian Rogers
Vice President, Finance

Date

State of Alaska, Department of
Natural Resources

by: Gary Gustafson
Gary Gustafson, Director
Director, Division of Land
and Water Management

10-11-90
Date

Citizen's
Oversight
Council on
Oil . . .

4-18-91



Citizens' Oversight Council

on Oil and Other Hazardous Substances

3111 C Street, Suite 150 • Anchorage, Alaska 99503
(907)561-2101 • 562-4376(FAX)

April 17, 1991

Representative Cliff Davidson
House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representative Davidson:

The Citizens' Oversight Council on Oil and Other Hazardous Substances was created by the passage of HB 578 during the last legislative session. The purpose of the Council is to involve citizens in the review of environmental safety in the production, transport, and storage of oil and other hazardous substances. As you know, in establishing the Council the Legislature found that one of the contributing factors to the Exxon Valdez disaster was the complacency of the oil industry, as well as the state and federal agencies charged with regulating the industry. The Legislature decided that an involved citizenry was essential to help ensure compliance with environmental laws and regulations.

Since the Council was appointed in late November, we have been hearing the concerns of citizens through a series of public meetings and gathering information on a wide variety of topics and educating ourselves on the issues related to the transportation, storage, and production of oil and hazardous substances. As a consequence, we have now developed the Council's 1991 workplan to identify the projects we will tackle this year.

We are pleased to present you with the Council's 1991 workplan. As the Chair of the House Resources Committee and Vice-Chair of the Legislative Council, we knew you would be especially interested in the Council's plan for its first year in operation. We would appreciate any suggestions or comments you have that would help us accomplish the 1991 workplan and make our recommendations as useful as possible.

Council Members

Harry R. Bader, Fairbanks • Leo J. Hannan, Anchorage • Kathryn L. Kinnear, Kodiak
Gary P. Kompkoff, Tatitlek • John H. Lucking, Jr., Unalaska

Two of two

Thank you for your interest. We look forward to hearing from you. Please feel free to contact me anytime at 561-2101 to discuss the workplan or the Council.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michele Brown", with a horizontal line extending to the right.

MICHELE BROWN
Executive Director

enc.

**CITIZENS' OVERSIGHT COUNCIL ON OIL
AND OTHER HAZARDOUS SUBSTANCES**



1991 Workplan

CITIZENS' OVERSIGHT COUNCIL ON OIL AND OTHER HAZARDOUS SUBSTANCES

The Citizens' Oversight Council on Oil and Other Hazardous Substances was created by the Sixteenth Legislature in 1990. The creation of the Council was a recommendation of the Alaska Oil Spill Commission, an appointed task force to examine the causes of the *Exxon Valdez* oil spill and to suggest improvements to prevent future catastrophes.

Both the legislature and the Oil Spill Commission found that one of the contributing factors to the *Exxon Valdez* disaster was the complacency of the oil industry as well as the state and federal agencies charged with regulating the industry. The legislature, in establishing the Citizens' Oversight Council, believed that an involved citizenry was essential to help ensure compliance with environmental laws and regulations.

The Council's role is to:

- Assess the performance of state and federal agencies in preventing and responding to releases of oil and hazardous substances.
- Identify major areas of risk of an oil or hazardous substance release.
- Recommend improvements for environmental safety to the legislature, the governor, federal agencies and private entities.
- Request the attorney general to bring legal actions to ensure compliance with state laws regarding the release of oil and hazardous substances. AS24.20.610.

C.O.C.O.

1991 WORK PLAN

I. ISSUE AND PROJECT FORMULATION

II. GOAL OF ISSUES AND PROJECTS IDENTIFICATION

III. PROJECTS IDENTIFIED

A. DIRECT ACTION PROJECTS -

Is The Process Working To Protect Us?

- Environmental Permitting Process
- Cleanup of Contaminated Federal Facilities Sites

B. LONG-TERM PROJECTS -

Are We Better Prepared Now ?

- Oil Spill Response Preparedness
- Hazardous and Toxic Substances

C. LEGISLATIVE RESPONSE PROJECT

CITIZENS' OVERSIGHT COUNCIL ON OIL AND OTHER HAZARDOUS SUBSTANCES

1991 WORK PLAN

I. ISSUE AND PROJECT FORMULATION

The Council has had informational meetings to hear the concerns of citizens in Juneau, Dillingham, Bethel, Anchorage, and Sitka. Each meeting was teleconferenced to include participation from surrounding areas. The Council has also, through outreach and through correspondence sent in from all areas of the state, discerned a commonality of interest among Alaskans identifying the issues of greatest concern related to the production, transport, storage and disposal of oil and other hazardous substances. These issues form the basis of the Council's 1991 workplan.

II. GOAL OF ISSUES AND PROJECTS IDENTIFICATION

The Council has identified issues and projects in order to systematically audit, investigate, and analyze the subjects and then issue findings and recommendations to the Legislature and the Governor. The Council will establish advisory groups, comprised of members from government, industry, and other interests, to assist the Council's investigation and analyses. The Council will specifically avoid duplicating work performed by other groups or government agencies, except as to generally review and oversee agencies' adherence to law and public process.

III. PROJECTS IDENTIFIED

A. DIRECT ACTION PROJECTS

Is The Process Working to Protect Us ?

- Environmental Permitting Process
- Cleanup of Contaminated Federal Facilities Sites

These projects are designed to ensure that resolution of a particular permit issue or contaminated sites cleanup takes place effectively and appropriately. The focus of the inquiry is whether the process set up by law is adequate and is followed consistently, efficiently, and with full citizen participation. The particulars of the actual permit or cleanup resolution are secondary to ascertaining that the "system" works to involve and protect the public.

The intent of the direct action projects is not, therefore, to resolve a permit or cleanup question in a specific fashion, but rather to ensure that the process works to enable the state and federal agencies to best respond to the issues raised by the permit or cleanup.

The Council's inquiry will generally focus on the following items:

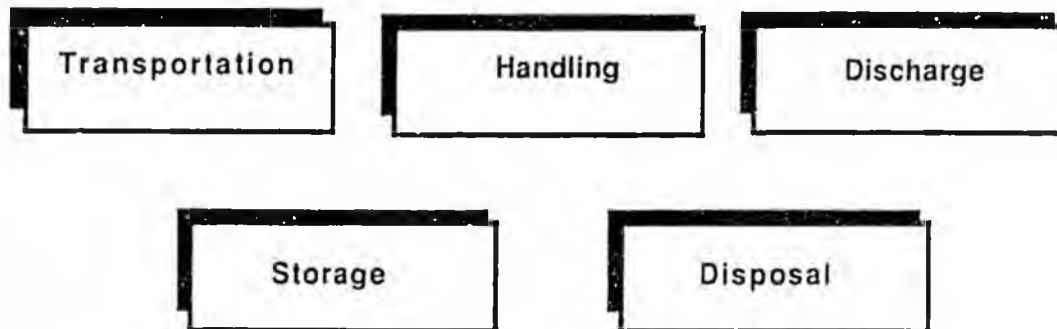
- Identify how state or federal agencies are currently responding to a particular permit or chronic environmental problem.
- Determine if the current regulatory conduct is sufficient to deal with the issue.
- If it appears that the agencies are not responding adequately, the Council will investigate the reasons for the institutional failure.
- Make recommendations for improvements within the agency response process.

The Council will select certain examples to identify if there are systemic failures in how permits are issued or monitored in order to implement this project.

The Council will also investigate the status of federal and state agreements to remediate contaminated federal facilities sites in Alaska.

B. LONG-TERM PROJECTS

- Oil Spill Response Preparedness
- Hazardous and Toxic Substances



The Council has identified these broad subject areas because they are in the forefront of the public's mind. The citizens of Alaska fear oil and hazardous substance releases because of the potentially disastrous impact on Alaska's water resources:

- **Marine waters**, a significant source of food and economic well-being for Alaskans, and
- **Groundwater**, the state's primary source of drinking water.

The Council, in consultation with its advisory groups, will research, investigate, and monitor selected topics in these subject areas. The Council will then prepare findings and recommendations to the legislature and the governor to highlight areas of potential risks. The Council will suggest changes to enable Alaskans to feel more assured that environmental crises can be averted or, if not completely prevented, to have less tragic consequences.

ARE WE BETTER PREPARED ?

OIL DISCHARGES

Two years after the *Exxon Valdez* spill, we have:

- Extensive new federal and state legislation;
- Proposed new regulatory standards for contingency planning;
- Response equipment depots mandated by law but not yet implemented;
- Volunteer response corps mandated by law but not yet implemented;
- Proposed new oil transport vessel standards;
- State and local emergency response commissions;
- Regional Citizens' Advisory groups in Prince William Sound and Cook Inlet;
- Proposals to reduce liability laws to protect oil spill responders



The Council will ascertain what each of these changes accomplished for both prevention and response capability and then make recommendations on how these puzzle pieces may better fit together to create a unified, strengthened statewide spill response capability.



HAZARDOUS SUBSTANCE RELEASES

The Council will study the myriad of state and federal laws regulating the transport, handling, storage, discharge, and disposal of hazardous and toxic substances to develop a comprehensive overview of how regulatory agencies are managing toxics.



The Council will investigate the status of hazardous and toxic substances management in Alaska and assess how state and federal agencies are performing their regulatory functions.



The Council will then identify areas of law or toxics management where there may be gaps that endanger the public health and well-being and make recommendations to correct the key problems noted.



The Council will also address areas where technological developments or research are being overlooked.

C. LEGISLATIVE RESPONSE PROJECT

During the 1991 legislative session the Council has been responding to requests from legislative committees to provide background, analysis, or a position statement on pending bills.

Priority is assigned on the basis of immediacy and relevancy to direct action and long-term projects.

**CITIZENS' OVERSIGHT COUNCIL ON OIL
AND OTHER HAZARDOUS SUBSTANCES**

3111 C St., Suite #150
Anchorage, AK 99503
907-561-2101 (fax) 907-562-4376

Michele D. Brown
Executive Director

Council Members

Harry R. Bader
3832 Ridge View
Fairbanks, AK 99709
479-8017 (H)
474-6521 (W)
474-7439 (Fax)

Leo J. Hannan
2413 Chilligan Drive
Anchorage, AK 99517
243-1781 (H)

Kathryn L. Kinnear
211 Hillcrest
Kodiak, AK 99615
486-3638 (H)
486-2260 (Fax)

Gary P. Kompkoff
P.O. Box 171
Tatitlek, AK 99677
325-2336 (H)
325-2311 (W)
325-2298 (Fax)

John H. Lucking, Jr.
P.O. Box 42
Unalaska, AK 99685
581-1647 (H)
581-1233 (W)
581-2516 (Fax)

Legislative Council appointed five members to the Citizens' Oversight Council on Oil and Other Hazardous Substances after considering 69 applicants who expressed an interest in and commitment to preventing oil and hazardous substance releases. Council members are completely independent of regulatory agencies or industry in the oil and hazardous substance field. Council members serve without compensation.

COUNCIL MEMBERS

HARRY R. BADER Fairbanks, Alaska. Harry Bader is an assistant professor of natural resources management at the University of Alaska Fairbanks, teaching classes in environmental law and natural resources policy. He served on the Sea Grant Team of the Alaska Oil Spill Commission, a group of environmental scholars appointed to help develop policies for oil spill prevention. He also served as the chief negotiator for the State in developing the Pacific Ocean Resources Compact designed to regulate the marine shipment of oil and other hazardous substances. **Chairman.**

LEO J. HANNAN Anchorage, Alaska. Leo Hannan has lived in Alaska since 1962. He retired last year from the United States Air Force where he was a civilian supervisory equipment specialist and engineering technician. He has served on several boards and commissions, including: Anchorage Borough Parks and Recreation Open Space Advisory Board • Chugach State Park Citizens Advisory Board • National Hiking and Ski Touring Association • Mountaineering Club of Alaska • Kenai River Special Management Area Advisory Board. **Vice-Chairman**

KATHRYN L. KINNEAR Kodiak, Alaska. Kathryn Kinneer is a national board member of the Women's Fisheries Network. She also serves on the Kodiak Outer Continental Shelf Oil and Gas Advisory Committee. During the Exxon Valdez oil spill, she ran a radio room coordinating 230 boats involved with the cleanup activities and providing daily information to the Kodiak Command Center, the state and federal agencies involved in spill response.

GARY P. KOMPKOFF Tatitlek, Alaska. Gary Kompkoff is a commercial fisherman, was a response boat operator during the *Exxon Valdez* oil spill and has been the Tatitlek Village Council President since 1979. He serves on the Board of Directors for: Chugach Alaska Corporation • The North Pacific Rim Non-Profit Corp. • Tatitlek Corporation.

JOHN H. LUCKING Unalaska, Alaska. John Lucking is a Lieutenant with the Unalaska Police Force, and also serves as the public safety division administrator. He is a member of the state Fish & Game Advisory Committee and the Alaska Peace Officers Association.

STAFF

MICHELE D. BROWN Executive Director. Michele Brown was the Regional Administrator for the Alaska Dept. of Environmental Conservation before coming to the Council. She previously served for six years as an Assistant Attorney General practicing natural resources law.

BETTY COOK-POESCHEL Administrative Assistant. Betty Cook-Poeschel has worked as an administrative assistant for the Harbor Masters of Unalaska and Whittier, as well as performed contract administrative work during the Exxon Valdez oil spill response.

Confirmation

R. Douglas

AK. O & G

Commission

3-8-91

BOARDS & COMMISSIONS

Russell A. Douglass
 6750 Teshlar Drive
 Anchorage, Alaska 99507
 Hm. (907) 349-5696
 Bus. (907) 279-1433

FEB 14 1991

EDUCATION: B.S. in Petroleum Engineering, May 1973
 Colorado School of Mines - Golden, Colorado

Graduate Courses, University of Alaska Anchorage
 Spring 1981: Well Testing Analysis
 Fall 1981: Waterflood/Secondary Recovery Technology
 Fall 1978: Arctic Engineering

EXPERIENCE:

August 1984 - Present: Senior Petroleum Reservoir Engineer, Alaska Oil & Gas Conservation Commission. In addition to responsibilities of the Reservoir Engineering position, prepare reports for the Commission concerning oil and gas reservoir performance in the State. Prepare draft conservation orders and administrative decisions relating to oil and gas operations in the state. Supervise two statistical technicians on the Commission staff.

July 1982 - August 1984: Petroleum Reservoir Engineer, Alaska Oil & Gas Conservation Commission. Same responsibilities as Acting Reservoir Engineer.

December 1980 - July 1982: Acting Reservoir Engineer, Alaska Oil & Gas Conservation Commission. Responsible for updating 3-D reservoir model of the Prudhoe Bay Sadlerochit Reservoir. Gather and analyze well logs, well tests, fluid data and core data for ultimate input into 3-D simulator and overall reservoir surveillance. Preparation of reports and recommendations to Commission concerning model and reservoir performance (GOC movement, well test analysis, log analysis and well performance). Initiate studies of new fields and discoveries in Alaska.

August 1976 - November 1980: Petroleum Engineer for the Oil & Gas Conservation Commission. Responsible for reviewing oil and gas exploration and production operations taking place in the State of Alaska with particular attention to safety aspects, prevention of physical waste and protection of correlative rights. Make recommendations to Commission on problems and situations arising as a result of oil and gas operations in Alaska. Witness well tests and crude oil measurements to insure proper production accounting in the State's interest. Estimate reserves of oil and gas, reservoir potential and evaluate recovery methods and their efficiency. Furnish technical advice on problems associated with but not limited to well spacing, equipment, safety, pollution, unitization and secondary recovery methods.

May 1973 - June 1976: Petroleum Engineer with H.K. van Poolen and Associates Inc. Responsible for general petroleum engineering such as log interpretation, reservoir fluid analysis, well test design and analysis, well stimulation design and application, report writing and coordination of education course reviews and updates. Included field work in well testing, safety equipment inspection and workover operations.

EDUCATION & PROFESSIONAL ACTIVITIES:

Licensed Petroleum Engineer--State of Alaska since August 16, 1979 EP4772.

Member, Society of Petroleum Engineers (SPE)
1988 - Present: Continuing Education Chairman
June 1990: Elected Treasurer for one year term

Member, Chugach Electric Association, Member Advisory Council (MAC)
Served one year as Vice-Chairman and one year as Chairman

REFERENCES: See attached

Confirmation

R. Butley

3-12-91

Resume

Richard Burley

Address: 1165 Coppet St.
Fairbanks, Alaska 99709

Phone: 907-474-0188 (H)
907-456-6668 (W)

Employer: Commercial Printing Co.
200 N. Cushman St.
Fairbanks, Alaska 99701

Born in San Diego, California, June 10, 1941

Moved to Alaska in August 1957

Graduated from Lathrop High School in May of 1959

Attended the University of Alaska 1959-1964, Major in Business

Married September 1963 to Margaret Crabb born in Cordova, Alaska

Two Children, Mark, age 26, currently serving Alaska Air National Guard
James, age 25, attending U of A, working ARA services

Job History:

1958-1963	Part-time during high school & universities for Taxidermist
1959-1960	Summers during University for Civil Service
1963-1965	Completed Apprenticeship in printing
1965-1967	Bush Pilot for Wien Alaska Airlines Flight instructor
1969	Manager of Commercial Printing

Interest: Hunting, Fishing, Flying, enjoying the Outdoors.

Community Service: Served two terms on the Fairbanks Advisory Council
to the Boards of Fish and Game
Past president of the Fairbanks Kiwanis Club
27 year service Civil Air Patrol
Member Alaska Committee Employer Support
Member Fairbanks Resource Association
Church Treasurer
Board Member Interior Wildlife Association ?

I would like the opportunity to serve on the Board of Game because of my long time interest in seeing proper management of our fish and game resources. I feel these are very important renewable resources and should be managed for the overall benefit of Alaskans. Unfortunately, fish and game management has become a political issue and has suffered. I firmly believe that the resources need to be managed to provide the maximum sustained yield.

F A X *****
T R A N S M I T T A L *****
M E M O *****

TO: DEBBIE GRANSTADT
FROM: DPT BURLEY PHONE: 456-6668
CO: FAX #: 452-5054
Post-Net Standard Fax Transmittal memo 7071

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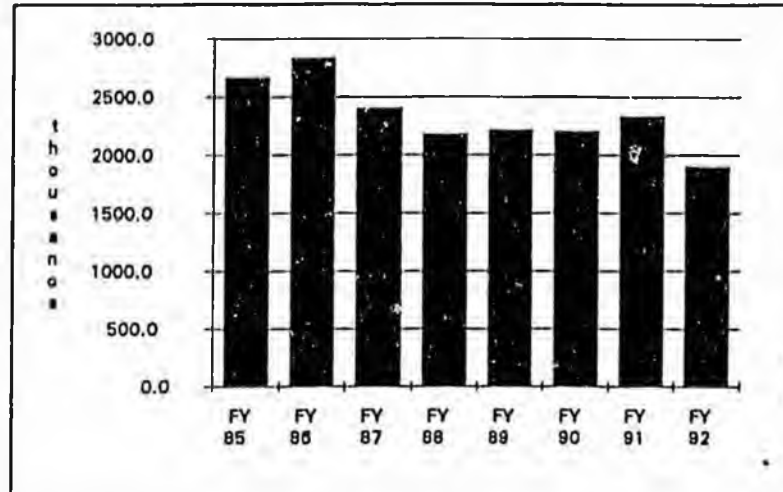


Division of Subsistence, Alaska Department of Fish and Game FY 92 Budget Summary Update: February, 1991

Budget History

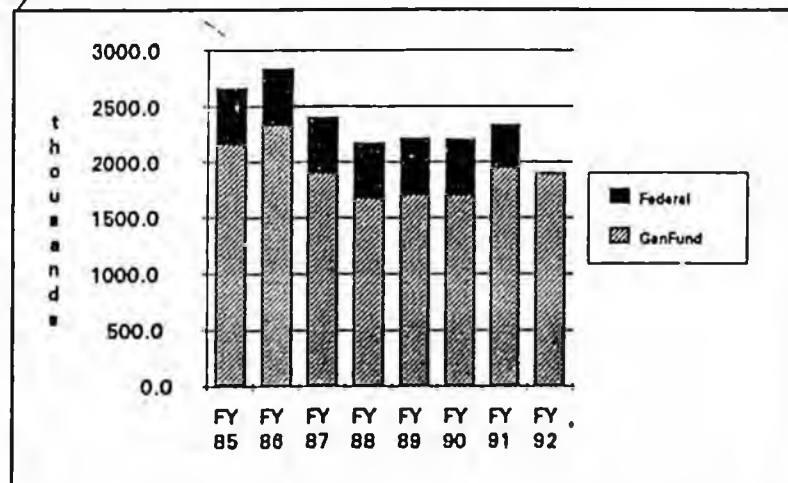
The Division's budget has remained relatively constant over the past five years (FY 87-91). Significant cuts in FY 87 were taken in overhead, travel, and by conversion of several full time positions to seasonal.

Since 1986, Division staff have been reduced in number from 59 to 43. These reductions have led to layoffs in clerical, technical, research, and administrative staff. Field offices have been closed in Nome, King Salmon, Nikolai, and Galena.



A projected 16% decrease in funding for FY 92 results from the possible loss of federal ANILCA funding for subsistence programs. Federal funding since 1985 is reflected on the next graph. An additional 6% reduction is due to state funding cuts, described below.

Federal Funds have amounted to slightly less than \$500,000 annually. With the state presently out of compliance with subsistence priority provisions of ANILCA, the federal government has not yet articulated a policy for continued funding for state programs. Some federal funds may be available to the Department on a year-to-year contract basis, but at present no specific level of funding has been committed for FY 92.



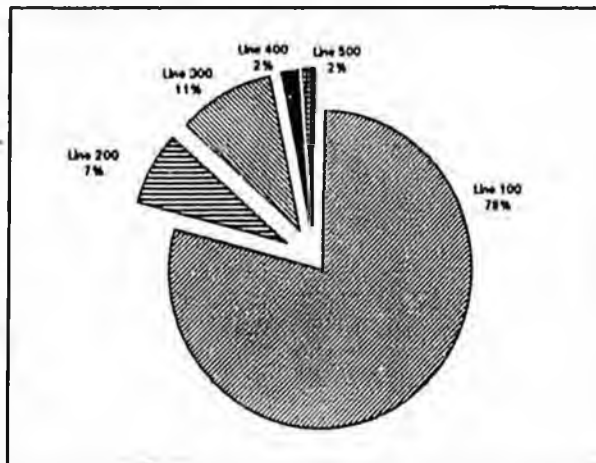
FY 92 Budget Request

For FY 92 the Division has submitted a budget request that provides funding for 29 permanent and 14 seasonal positions. The position of the deputy director was deleted from the FY 92 budget request, consistent with the governor's request to reduce upper management staff. Salary, travel and equipment costs also are reduced from FY 91 levels, resulting in an approximate 6% reduction in the FY 92 general fund budget request. The governor's office is requesting a general fund increment of \$110,000 needed to fund new division responsibilities for assessing and implementing "tier II" subsistence hunts. These hunts were created by the boards of fisheries and game in 1990, in response to the McDowell supreme court decision.

Other new division responsibilities for FY 92 include responding to public confusion regarding the current "dual" state/federal subsistence management systems. Hunting on public lands in Alaska

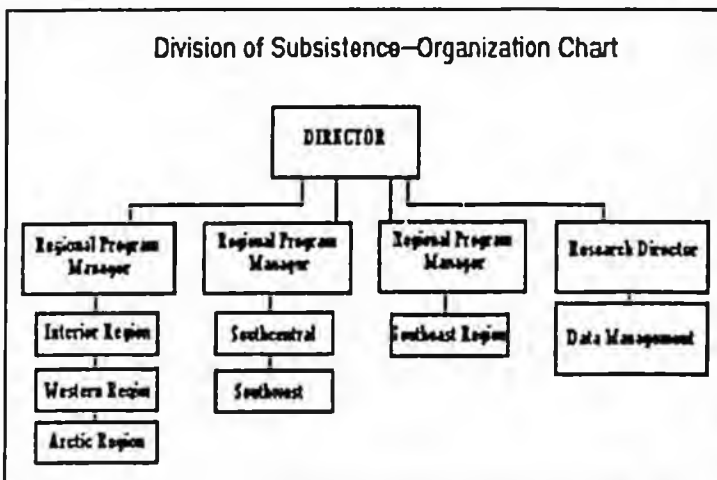
currently requires an understanding of two sets of regulations, and a detailed knowledge of land boundaries and jurisdictions. Division of Subsistence staff have been spending more time providing assistance on these issues. The division also will shift research to assessing the impacts of the dual management system on subsistence uses and wild resource populations.

A large proportion of the division's budget is dedicated to salaries (Line 100 costs). Relative to other divisions in the Department of Fish and Game, the division's program is labor intensive. Researchers spend extended periods of time in communities throughout the state in the course of subsistence research projects. Also, the division is committed to local hire and frequently supplements permanent staff with local assistants. Other significant program costs include travel (Line 200) and the publication and distribution of research reports (Line 300).



Division Organization

The Division's programs are organized by regions of the state. Regional program managers direct research projects from offices in Fairbanks, Juneau and Anchorage.



Other offices are located in Dillingham, Bethel, Kotzebue, Fort Yukon and Angoon. Statewide staff include a research director, located in Juneau, and a data management staff located in Anchorage and Fairbanks. In all, the Division employed 43 people in FY 1991. Most of these are research positions.

FY 92 Research Projects

Division research projects in the coming year are designed to provide subsistence harvest and use

information and other community socioeconomic information to the boards of fisheries and game and other land and resource management agencies. Specific research projects planned for FY 92 include the following:

Arctic Region: *Anaktuvuk Pass caribou use, Cape Krusenstern area caribou use, Use of sheep in Northwest Arctic communities.*

Interior Region: *Upper Tanana harvest survey, Lower Middle Yukon salmon harvest monitoring, Yukon Flats harvest monitoring*

Western Region: *Central Kuskokwim subsistence use, Bethel subsistence baseline.*

Southcentral Region: *Copper River Basin harvest monitoring, Cordova marine resource use update, Kodiak Island Borough communities' subsistence harvest monitoring, Alaska Peninsula/Aleutian Islands communities subsistence update.*

Southwest Region: *Harvest monitoring at Togiak, Twin Hills and Manokotak, Iliamna Lake/Lake Clark area harvest update.*

Southeast Region: *Chichagof Island deer use, Haines area subsistence update, marine resource use by Prince of Wales Island residents.*

Statewide: *Subsistence harvest data and map database.*

*Baseline community studies
 Subsistence impact - Juneau area page 2*

GAME

MEMBER		APPT	REAPPT	REAPPT	TERM
Richard A Burley 1165 Coppet Street Fairbanks Public	99709	91/02/19	0/00/00	0/00/00	94/01/31
Sidney P.O. Box 27 Galena Public	Huntington 99741	81/02/02	87/02/24	90/01/31	93/01/31
Jack Box 2617 Homer Public	W Lentfer 99603	89/02/17	0/00/00	0/00/00	92/01/31
Rosemarie P.O. Box 474 Northway Public	Maher 99764	90/01/31	0/00/00	0/00/00	93/01/31
Benjamin Dept. Wildlife Mngmnt., Box 69 Barrow Public Vice-Chair	Hageak 99723	89/02/17	0/00/00	0/00/00	92/01/31
Doug 912 West Sixth Avenue Anchorage Public	Pope 99501	90/03/05	0/00/00	0/00/00	92/01/31
Carl Comm., F & G, Box 3-2000 Juneau Comm./Mandated	W Rosier 99802	0/00/91	0/00/00	0/00/00	0/00/00
R.T. "Skip" P.O. Box 21063 Juneau Public	Wallen 99802	90/01/31	0/00/00	0/00/00	93/01/31

Fairbanksan named to state Game Board

Fairbanks businessman and pilot Dick Burley is Gov. Walter Hickel's first appointment to the Alaska Board of Game.

Hickel announced two board appointments Tuesday—Burley to the state Board of Game and Ken Wardwell, of Anchorage, to the state Board of Fisheries. Wardwell replaces Bud Hodson, who recently resigned, citing personal reasons.

Both appointees have little time to do their homework. The Joint Board of Fisheries and Game has meetings in Juneau this weekend. Then the Board of Game meets in



BURLEY

Fairbanks on March 4.

Burley replaces Fairbanksan Samantha Castle, chairwoman of both the joint boards and the game board.

Burley is general manager of Commercial Printing Co. He has served two terms on the Fairbanks Advisory Council to the Boards of Fisheries and Game.

Burley was a founding member of the Interior Wildlife Association nearly 15 years ago and has been a member of its board of directors since then. He is a life member of the Tanana Valley Sportsmen's Association. Burley also breeds and raises golden retrievers and is involved with trap and skeet.

Burley, who said he has no political affiliation with Gov. Hickel, (See BOARD, Page 8)

BOARD

(Continued from page 1)

has been nominated in the past to serve on the board.

"One of my primary concerns is that it seems that the Legislature is trying to manage fish and game,"

Burley said. "I believe that the system set up—with its advisory boards, taking input from the public, the public offering proposals to the boards of fish and game, input from the department, and then the boards establishing regulations—is a good system."

Burley listed the ongoing issue of subsistence, resource allocation and federal intervention into states' rights as immediate problems.

"I firmly believe that the fish and game that are indigenous to the state of Alaska should be managed by the state," he said. "If the governor can appoint a subsistence committee, and solve this mess, it will enable the boards to effectively manage our valuable, renewable resources to the benefit of all Alaskans."

Castle, contacted at her home Tuesday night, said she was not surprised that she was replaced after her term expired Jan. 31.

"The governor had expressed his displeasure with the boards to the media," she said. "You don't hear that without getting some hint."

Castle said board members in general felt that Hickel probably wanted his own board. "I'm very pleased about Dick Burley. He's an excellent choice," she said.

Castle plans to remain active in wildlife issues. "I've been interested and concerned about wildlife issues in this state for 25 years.

Burley can expect plenty to do, she said. She said she spent an average of four hours a day on board-related business and 60 to 70 days of travel away from home.

"I spent a lot of time in education, time in meetings, and spent a lot of time finding compromises and thing that would make sense to those people affected by the regulations," she said. "It would be easy to show up at a meeting once or twice a year and write regulations, but that's not the way to make good regulations."

Board members are paid \$150 a day for their service time. Castle said that although that may sound like a lot, it's a losing proposition. "I think each board member figures it's about \$5,000 a year out of their own pocket to serve," she said.

I, Education and Welfare

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II

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Article VIII

Natural Resources

public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

Section 2 - State University.

The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

Section 3 - Board of Regents of University.

The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.

Section 4 - Public Health.

The legislature shall provide for the promotion and protection of public health.

Section 5 - Public Welfare.

The legislature shall provide for public welfare.

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 con-
servation 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.

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giving the exclusive right of prospecting by geophysical, geochemical, and similar methods for all minerals may also be authorized by law.

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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.

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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.

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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
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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.

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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 5
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Confirmation

G. Alsworth

3-12-91

Dig Game

GLEN R. ALSWORTH, SR.
LICENSE #2170443
THE FARM
PORT ALSWORTH, AK. 99653
(907) 781-2211

BOARDS & COMMISSIONS

JUL 5 1989

PERSONAL HISTORY & EDUCATION

Born Anchorage	February 26, 1954
1959 - 1963	Grades 1 - 4 at Port Alsworth via Correspondence
1967 - 1969	Grades 6 - 8 at Newhalen School in Ilamno
1969 - 1973	Grades 9 - 12 at Victory High School - Graduated
May 1973	Private Single Engine Land and Sea Rating
1973 - 1974	Grand Rapids School of the Bible and Music
April 1974	Commercial Airplane Single Engine Land and Sea Rating
May 1974	Instrument Single Engine Land Rating
1974 - 1977	Arctic Bible Institute - Graduated May 1977
1967 - 1974	Commercial Fisherman
1982 - to Present	Lake Clark National Park and Preserve Subsistence Commission
February 1984	Rotorcraft - Helicopter Rating
February 1984	Airplane Multi-Engine Land Rating
May 13, 1988	Air Transport Pilot Rating
Member	Alaska Air Carrier's Association
Member	Alaska Air Safety Foundation
Life-Member	National Rifle Association
1987 - 1989(Member)	InterAct Ministries
Member	Bristol Bay Native Corporation
Vice President	Tenallon, Inc.
1989 - Mayor	Lake and Peninsula Borough

WORK EXPERIENCE

May 1974 - August 1974	PENINSULA AIRWAYS, INC. PILOT POINT, ALASKA PILOT IN COMMAND
June 1977 - To Present	LAKE CLARK AIR SERVICE THE FARM PORT ALSWORTH, AK. 99653 OWNER/OPERATOR---- CHIEF PILOT DIRECTOR OF OPERATIONS

Confirm.

C. Rosier

ADF & G

... 3-26-91

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Personal ResumeCarl L. RosierPERSONAL DATA

Address: Home: 8298 Garnet Street
Juneau, Alaska 99801

Work: National Marine Fisheries Service
P.O. Box 2-1668
Juneau, Alaska 99802-1668

Telephone: Home: 789-9117
Work: 586-7224

Age: 54
Birthdate: Sept. 23, 1936
Birthplace: Corvallis, OR
Marital Status: Married
Wife's Name: Gladys J. Rosier
Children: 4
Military: Honorable Discharge
U. S. Army 1966

EDUCATION

Bachelor of Science - Wildlife Management.
1959 Oregon State University.

PROFESSIONAL EMPLOYMENT

1980 - Present: Chief of Industry Services and Trade,
National Marine Fisheries Service, Alaska
Region. Program provides federal support
services in the areas of development
grants, for Americanization of Exclusive
Economic Zone fishery resources, Federal
loan programs supporting the fishing and
processing industries, and trade activities
supporting U. S. trade agreements and
increasing U. S. exports.

1979-1980: Deputy commissioner for Program Management,
Alaska Department of Fish and Game. Deputy
position to the Commissioner of Fish and
Game with responsibilities for agency
budget preparation, agency legislative
program, and operational supervision of
Division of Administration, Information-
Education Section, and Division of Habitat
Protection.

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- 1973-1978: Director of Commercial Fisheries, Alaska Department of Fish and Game. Under direction of the Commissioner. Statewide policy direction of all commercial fisheries research and management program. Program budget level of 7.2 million dollars, permanent staff of 132, and approximately 250 temporary personnel.
- 1970-1972: Fish and Game Regional Supervisor, Division of Commercial Fisheries, Alaska Department of Fish and Game. Coordination, planning, administration, and supervision of all fisheries management and research programs within the Southeastern Alaska Region. Budgetary responsibilities of approximately 1.0 million dollars with supervision of 22 permanent and 25 temporary personnel.
- 1963-1969: Area Management Biologist, Division of Commercial Fisheries, Alaska Department of Fish and Game. Design, plan, budget, and implement fisheries management program in the Ketchikan management area. Budgetary responsibilities of \$300,000. Supervision of 4 permanent and 9 temporary positions.
- 1961-1962: Assistant Area Management Biologist, Division of Commercial Fisheries, Alaska Department of Fish and Game, Petersburg-Wrangell area. Implementation of finfish and shellfish management program in Wrangell half of management area. Administrative responsibility for Wrangell field office. Assist area biologist in watershed management involving logging, highway construction. Supervision of 4-6 temporary positions.
- 1960: Assistant Area Management Biologist, Division of Commercial Fisheries, Alaska Department of Fish and Game. Implementation of the commercial fisheries management program on the west coast of Prince of Wales under direction of the Ketchikan area management biologist. Direct involvement in habitat management associated with developing logging activities throughout the Ketchikan management area. Supervision of 4 temporaries.

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1955-1959:

Fishery Aid, U. S. Fish and Wildlife Service. Worked on various Alaska fisheries research and management projects. Responsibilities included serving as stream guard, management assistant to agents in Ketchikan and Craig, herring population studies, juvenile salmon studies, and king crab research. Total service during this period of approximately 19 months while attending college.

INTERNATIONAL FISHERIES EXPERIENCE

1. United States-Canada Salmon Interception Negotiations - 1963/1980 advisor and scientific working committees.
2. International North Pacific Fisheries Commission. Scientific advisor 1973 and 1979. Alaska Department of Fish and Game staff direction - 1973/1977.
3. Foreign High Seas Observer Program. Administration of Department of Fish and Game participation.
4. Informal Chinook-Coho Committee member, United States-Canada. 1966/1972.
5. International Trawl Committee, United States-Canada advisor. 1970-1973.
6. Scientific and Statistical Committee member, North Pacific Fishery Management Council. 1976/1977.

INTERSTATE FISHERIES EXPERIENCE

1. Salmon-Steelhead Committee member, Pacific Marine Fisheries Commission Standing Committee. 1970/1973.
2. Groundfish Committee Member, Pacific Marine Fisheries Commission Standing Committee. 1970/1974.

Community Activities

1. President of Territorial Sportsmen Association, 1989 and 1990. Board of Directors, 1987-present.
2. Vice President, City and Borough of Juneau Fisheries Development Committee. 1990.
3. Board member and treasurer: Douglas Island Pink and Chum Salmon Corporation. 1990.



STATE OF ALASKA
POSITION DESCRIPTION QUESTIONNAIRE

POSITION CONTROL NUMBER	
0196	
Personnel Office	
Check One	
Permanent Full-time	<input checked="" type="checkbox"/>
Permanent Part-time	<input type="checkbox"/>
Seasonal	<input type="checkbox"/>

To the Employee:

This form is to obtain information on work being performed and will be used to place this job with others doing similar work. Your job will be evaluated primarily on the information provided in this form. It is very important to give a complete and accurate description of your work. Extra sheets of paper may be attached for any item where there is not enough room — be sure to show the Item Number on any attachments.

Complete Items #1 through #25 as well as Employee Comments and Employee Certification, Items #28 and #29. If you supervise others, also complete Items #26 and #27. Your Position Control Number will be filled in by the Personnel Office.

USE BLACK INK OR TYPE

1. Name (last, first, middle) Shanks, Roland E.	6. Department Fish and Game
2. Class Title Special Assistant to the Comm II	7. Division -----
3. Working Title if Different	8. Section/Unit/Other Office of the Commissioner
4. Work Location: (Street Address and City) Juneau	9. Name and Title of Immediate Supervisor Don W. Collinsworth, Commissioner
5. Work Phone 465-4100	10. Name and Title of Next Higher Supervisor
11. Name and Title of Other Persons to Whom You Report or Who Give You Assignments	

FOR CLASSIFICATION USE ONLY

Category	Group	Job Series	Loc Code
Classification Title		Class Code	Range
	II	III	IV V VI
VII	VIII	IX	X XI Total Points
Analyst		Review Date	Effective Date

Special Assistant to the Commissioner II
PCN 11-0196

Develops management systems and control mechanisms for departmental activities. Develops and monitors key management and administrative plans and insures coordination with the budgetary process. Conducts program overviews and analyses and lays out basic planning schematics, conferring with operations personnel, experts in the private sector and other key staff including the Commissioner. Integrates the strategic planning system and reporting mechanism into a data processing program. Oversees the system's phases. Recommends necessary program revisions as needed.

Is responsible for carrying out in-depth management studies on organizational structures and operations for effectiveness in carrying out the agency mission. Makes specific recommendations to the Commissioner, including transfer of operations between organizational units and restructuring units. Serves as a member of the Departmental program review committee; is assigned task force responsibility to coordinate teams made up of scientific, professional and technical program staff and managers assigned to conduct special studies to evaluate problem areas affecting departmental operations; provides in-depth analyses of team findings, and makes final recommendations to the Commissioner.

Receives and responds to a wide variety of correspondence, telephone and personal inquiries concerning departmental policies, procedures and actions, i.e. departmental positions and intentions on present and future programs.

Performs other duties as assigned.

DUTIES/RESPONSIBILITIES

12. Give the main purpose of your job.

Under the general direction of the Commissioner and Deputy Commissioner, performs a variety of tasks to provide staff assistance to the Commissioner and directly participates in the functioning of the Department by performing and/or overseeing special and on-going assignments of major significance to the management of the Department and accomplishment of agency goals and objectives.

13. Regular Duties

Percent of Time

Is designated Special Assistant to the Commissioner of the Department of Fish and Game, with special emphasis on Departmental strategic planning. Serves as Departmental primary contact on strategic planning, including other involved State departments, local governments and special interest groups, "outside" state counterparts and the Federal government. Works closely with the State Legislature. Develops plans, programs, systems and complex controls and balances. Develops, maintains and revises strategic program goals and objectives, involving all divisions and activities in the department. Conducts special studies and analyses for the Commissioner concerning Departmental operations. Interprets study findings for Department management, recommends corrective actions as necessary.

Develops and designs strategic plans for the Department. Confers with top level State, Federal and local officials as needed to improve the basic planning system. Serves as contact point for the Department, fielding questions and resolving problems regarding evolving planning programs. Is the Department representative in strategic planning as it impacts local governments and groups, as well as Departmental policies and programs. Develops, maintains and revises the Departmental strategic planning manual, which includes detailed Departmental goals and objectives.

(Continued)

(Attach extra sheets as needed)

14. Occasional Duties

Percent of Time

(Attach extra sheets as needed)

NOTE: Be sure the percentages of regular and occasional duties together total 100%.

15. List any machines, tools, or equipment used in your work and show time spent using each. Vehicles, hand or power tools, office equipment, Visual Display Terminals, laboratory instruments and similar things should be listed. See instructions on page 2 to figure percentages. Total of percentages generally equals less than 100%.

Percent of Time	Machine, Tool, Equipment	Percent of Time	Machine, Tool, Equipment
15%	Personal Computer		

If your work requires typing or shorthand, show the percent of time spent on the following:

Typing from machine dictation: _____% Using a word processor: _____%

Taking shorthand dictation and transcribing notes: _____%

16. List the procedures, laws, rules, standards, codes or other guides you use in performing your work. Examples are: procedure manuals, trade practices, building codes, state laws, and engineering standards.

State and federal statutes and laws; rules and regulations established by the Boards of Fish and Game; State and federal policy; Personnel Rules; Union Contracts; Department policy and procedure; federal regulations; international treaties and agreements.

17. Do you have any responsibility for developing procedures, laws, rules, etc. to be followed in your work or the work of others? Little or none Some A great deal Please explain.

Most work being accomplished is strategic planning, policy and procedure development or methods of action to be adopted by the Department.

18. Give examples of recommendations you make related to your work.

Policy, procedures, courses of action or strategic plans related to short and long range goals of the department.

19. What work actions or decisions do you make without prior approval?

Any decisions that do not have a major impact upon established programs or procedure... Major decisions must go through the Commissioner for final approval.

20. Give examples of when you ask your supervisor for advice or guidance.

I confer with the Commissioner and Deputy Commissioner on a regular basis to seek guidance on specific issues or general department policy regarding state or federal legislation, management issues, treaties or negotiations, and related topics.

21. List the contacts you have with people and organizations as a regular part of your work and show the purpose of the contact and how often (several times a day, weekly, occasionally, and so on). Do not list supervisors, co-workers or subordinates.

INSIDE STATE GOVERNMENT

Title of Persons or Organizations	Purpose	How Often
Division Directors	Advise, Inform, Provide Assistance	Daily
Regional Supervisors	" " " "	Weekly
OMB	Obtain Information/Provide Infor	Weekly
Boards of Fish and Game	Provide Information	In session
Office of the Governor	Obtain/Provide information	Weekly
Other Departments- Commissioners, etc	Provide Information	Weekly

OUTSIDE STATE GOVERNMENT

Title of Persons or Organizations	Purpose	How Often
Legislators/Legislative Staff	Provide/seek information	Daily/in session
Federal Resource Agency Personnel	Give/seek inform/Coordinate	Monthly
Special Interest Groups	activities; set up meetings	

22. Are the contacts difficult? Explain.

Yes. May involve negotiating, conflict resolution, decision making which involves statewide natural resources.

23. Indicate the physical effort required in your job by checking as many of the following that apply. Show how often, such as 4 times daily, 2 to 3 times a week, 1 to 2 times a month, etc.

	How Often		How Often
X			
- Mostly sitting, with some walking, standing, bending or stooping, or carrying of light objects.	_____	- Climbing ropes or poles.	_____
- Standing or walking for long periods.	_____	- Lifting objects up to 20 pounds.	_____
- Repeated bending, crouching, stooping, stretching or crawling.	_____	50 pounds.	_____
- Fine or rapid movement of fingers, hands, arms or legs.	_____	100 pounds.	_____
- Running, chasing or jumping.	_____	Over 100 pounds	_____
- Other Describe _____		- Grappling or fighting with others.	_____
		- Climbing ladders or scaffolding	_____

24. Indicate the type of working conditions encountered in your job by completing as many of the following that apply.

	How Often		How Often
X			
- Typical office or similar setting which is adequately lighted, heated and ventilated.	100%	- Conditions where very disagreeable odors are present	_____
- Conditions which are moderately dirty, noisy or dusty	_____	- Conditions which involve exposure to cold, heat, dampness, rain or snow	_____
- Conditions which are very dirty, noisy or dusty and require use of protective clothing or equipment	_____	- Conditions which involve exposure to extremes of cold or heat for long periods	_____
- Other Describe _____		- Operation of a vehicle, machine or piece of equipment for long periods	_____

25. Indicate below the kinds of hazards encountered in your job and how often.

	How Often		How Often
X			
- No significant hazards	_____	- Work with dangerous machinery or equipment, or operate tools which could easily maim or injure, or handle hazardous materials	_____
- Wear hard hats, safety shoes, goggles or similar protective clothing	_____	- Work with explosives or radioactive substances, or at great heights, fighting fires, or subject to physical attack	_____
- Other Describe _____			

28. EMPLOYEE'S COMMENTS

Indicate any other factors or aspects of your job not covered above that should be considered in evaluating your position.

This position is critical to the Department in that it provides contact with constituency groups, the legislature, and special interest groups.

29. EMPLOYEE CERTIFICATION

I certify that the above statements and responses are accurate and complete to the best of my knowledge.

Signed: _____

Date: 08/1/87**TO BE COMPLETED BY THE SUPERVISOR ** ATTACH ORGANIZATIONAL CHART.**

Instructions: Review Items #1 through #29 to make certain that they are accurate and complete. Items #26 and #27 will be used for bargaining unit determinations.

Fill out Items #30 through #35. Do not change employee's statements but be sure to note any additions or exceptions in Supervisor's Comments, Item #34. Add extra sheets of paper if you need more room to write — note Item Number on any attachments.

30. What is the most important service or product you expect of the position described in this questionnaire? Explain.

To perform as a strategic planner, to work closely with our constituency, special interest groups and the legislature.

31. Does the position described in this questionnaire have authority to commit the organization, or any parts thereof, to a course of action? No Yes Explain if "Yes."

Provided it conforms to preestablished guidelines and policies of the department.

32. List the titles, names and Position Control Numbers of other employees under your direct supervision that have the same duties and responsibilities as this position:

<u>Title</u>	<u>Position Control Number</u>	<u>Name</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

33. List what you consider to be the MINIMUM education, experience and/or specialized training required to be hired for this job:

A. Education (cite major area of study): Bachelors degree in Natural Resource Management

B. Length and type of experience: 4 years applied experience dealing with major issues (Resource related); 3 years supervisory experience

C. Special licenses, registration or certification:

D. Machine skills (include typewriter and typing speed, adding machine, work processor, key punch, etc.):

CORRECTION

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