

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7987 HOUSE LABOR & COMMERCE - HOUSE RESOURCES

S B

186

# HOUSE COMMITTEE REPORT

(7)

Date Referred: May 6, 1993

FURTHER REFERRALS:

State Affairs  
Judiciary  
Finance

Date of Committee Action: 2/17

The LABOR AND COMMERCE Committee considered:

SB 186 am

SENATE BILL NO. 186 am

STATE AGENCY PUBLICATIONS

"An Act relating to state agency publications."

RECOMMENDATIONS:  the same title  
 be replaced with \_\_\_\_\_  a new title  
 have attached amendments(s)  
 do pass  
 do not pass  
 no recommendations  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note Adm.

zero fiscal note(s) Adm.

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Bruce Porter</i>	✓				
<i>Joe Sitten</i>	✓				
<i>John A. ...</i>	✓				
<i>Chris ...</i>	✓				
<i>Bill ...</i>	✓				

*Bill ...*  
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 1

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill Version: SB 186

(S) Publish Date: 4-14-93

Revision Date: \_\_\_\_\_

Title: "An Act relating to State agency publications."

Department Affected: Administration

BRU: General Services

Component: General Services

Sponsor: Senator Frank

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 62

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

This bill will have minimal fiscal impact to the operation of the division.

Prepared by: Dugan Petty, Director

Division: General Services

Phone: 465-2250

Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usura

Agency: Administration

Date: \_\_\_\_\_

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# FISCAL NOTE

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO. SB 186 am**

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to State agency publications. . ." BRU: General Services  
 Component: General Services  
 Sponsor: Sen. Frank  
 Requestor: (H) L&C COMPONENT SERIAL NO. 62

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of current year (FY94) cost: none

**POSITIONS:**

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

**ANALYSIS:** (Attach a separate page if necessary)

This bill will have minimal fiscal impact to the operation of the division.

Prepared by: Dugan Petty, Director Phone: 465-2250  
 Division: General Services Date: \_\_\_\_\_  
 Approved by Commissioner: Nancy Bear Usera Date: 1/31/94  
 Agency: Administration

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# Alaska State Legislature

STEVE FRANK

119 N. Cushman, Rm. 213  
Fairbanks, Alaska 99701  
(907) 452-3421

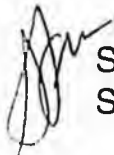


White in Juneau  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-3709  
Capitol Rm. 417

## Senate

### MEMORANDUM

TO: Representative Bill Hudson, Chairman  
Labor & Commerce Committee

FROM:  Senator Steve Frank, Co-Chairman  
Senate Finance Committee

RE: Hearing request - Senate Bill No. 186  
"An act relating to state agency publications"

DATE: January 21, 1994

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I am writing to request a hearing for SB186 at your earliest convenience.

The legislation would repeal the section of AS 44.99.200 which mandates a preference for state-operated printing facilities and replace it with language which would instead give high priority to private sector printers in Alaska in awarding these contracts.

State print shops (e.g., those at the University of Alaska, Fairbanks and at Central Duplicating Services in Juneau) presently receive contracts from state agencies for jobs which may be more efficiently performed by the private sector. It is necessary to shift this preference from State facilities to privately-owned businesses in order to limit the size of government and foster economic growth in the private sector.

Thank you for your consideration.

# Alaska State Legislature

STEVE FRANK


119 N. Cushman, Rm. 213  
Fairbanks, Alaska 99701  
(907) 452-3421



Senate

While in Juneau  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-3709  
Capitol Rm. 417

TO: Representative Bill Hudson, Chairman  
Labor & Commerce Committee

FROM: Senator Steve Frank, Co-Chair  
Senate Finance Committee 

RE: SPONSOR STATEMENT for SB 186: State Agency Publications

DATE: January 31, 1994

AS 44.99.200 currently provides that "the publications of a state agency shall be produced at a state-operated facility" whenever possible. This statutory preference often excludes private-sector printing businesses from consideration for state agency printing jobs.

SB 186 would repeal the section of the statute which mandates state-operated printing facility preference and replace it with language which would instead give high priority to private sector printers in Alaska in securing these contracts.

State print shops (e.g., those at the University of Alaska Fairbanks and at Central Duplicating Services in Juneau) presently receive contracts from state agencies for jobs which may be more efficiently performed by the private sector. It is necessary to shift this preference from state facilities to privately-owned businesses in order to limit the size of government and foster economic growth in the private sector.

This bill is an important step in the promotion of private business enterprise over that of state government. I encourage you to support SB 186 and its passage in the full Senate. Thank you.

## DIVISION OF LEGAL SERVICES

### LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

#### MEMORANDUM

February 3, 1994

**SUBJECT:** Sectional summary of SB 186 (Work Order No. 8-LS0973\A)

**TO:** Senator Steve Frank  
Attn: Allie  
*TLB*

**FROM:** Theresa L. Bannister  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

**Section 1.** Requires state agency publications to be produced in the state when practicable. Directs the Department of Administration to establish standards for state agency production publication, except that the University of Alaska Board of Regents is directed to establish the standards for the university. Establishes criteria for the standards.

**Section 2.** Requires a state agency publication to contain certain disclosures if the actual annual costs of the publication that are paid from the general fund exceed \$1,500. Allows the publication to include in the disclosure statement a declaration of the revenue raised from the sale of the publication and the advertising in the publication. Establishes certain printing criteria for the disclosures. States that this section does not apply to a publication that is intended primarily for out-of-state use.

**Section 3.** Repeals the current statute relating to the standards for the production of state agency publications.

If I may be of further assistance, please advise.

TLB:gc  
94-081.glc

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. SB 186 am

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: \*An Act relating to State agency publications. . . \* BRU: General Services  
 Component: General Services  
 Sponsor: Sen. Frank  
 Requestor: (H) L&C COMPONENT SERIAL NO. 62

(Thousands of Dollars)

Expenditures/Revenues	FY95	FY96	FY97	FY98	FY99	FY00
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

(Thousands of Dollars)

FUND SOURCE	FY95	FY96	FY97	FY98	FY99	FY00
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of current year (FY94) cost: none

**POSITIONS:**

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

**ANALYSIS:** (Attach a separate page if necessary)

This bill will have minimal fiscal impact to the operation of the division.

Prepared by: Dugan Petty, Director Phone: 465-2250  
 Division: General Services Date: \_\_\_\_\_  
 Approved by Commissioner: Nancy Bear Usura Date: 1/31/94  
 Agency: Administration

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January 31, 1994

Senator Steve Frank  
State Capitol  
Mail Stop 3100  
Juneau, Alaska 99811

Dear Senator Frank:

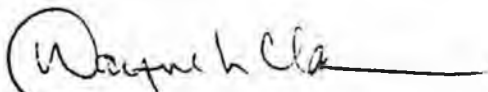
This letter is a follow up letter in support of Senate Bill 186 that changes the wording of the law so that private sector print shops are utilized first in printing state jobs. There has been a lot of public comment on this subject and I have yet to hear anyone in support of state operated print shops being more efficient or cost effective.

The operation of a print shop today is one of utilizing new technology and highly trained operators. In-plant shops across America are constantly being replaced because they are not cost efficient, so I certainly support the changing of the wording AS44.99.200 to "the publications of a state agency shall be produced at a private sector facility."

It is also my understanding that the original writers of the bill have stated that they support this change.

Thank you for your interest and support on this subject and if I can do anything else in support of this, please let me know.

Sincerely,

  
Wayne L. Clark



1-31-94

Dear Senator Frank,

This note is to inform you of our support of SB 186 with the following suggested change. Please delete line eleven (11) on page one (1) which reads, "When the use of Private sector printing facilities is the least expensive alternative." This portion of the bill allows publications to be overdesigned to the point that it is no longer economically feasible to print them in state. This bill would be much more effective if design standards were kept within the abilities of the printers in the state whenever possible.

Thank you for your support of this bill and your consideration of the private sector printing business.

Rob Nuss  
General Manager  
Northern Printing



Senator Steve Frank, Co-Chair  
Senate Finance Committee  
Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

2-1-94

Dear Senator Frank,

As a company doing business in the printing/graphic arts industry in Alaska, we are in general support of Senate Bill #186.

We do have concerns about the wording in some areas. The concept of line 11 suggests that we in the Alaskan private sector be awarded jobs only when it is "the least expensive alternative". This idea is a slap in the face of crafts people doing quality work in this state. As I'm sure you are aware, there should always be several factors involved in any buying decision. Price is only one.

The only reason our company purchases anything outside is if it is not available here. Anything that can be purchased locally is, because we understand the importance of "Buy Alaska" and we encourage the State to embrace this simple pro business theme.

Sincerely,

A handwritten signature in cursive script that reads "Michael D. Gifford".

Michael D. Gifford  
President/Owner Norstar Color

*Advance Printing Company*

2780 Elvira Avenue

North Pole, Alaska 99705

Phone: 488-2515 • Fax: 488-7245

January 31, 1994

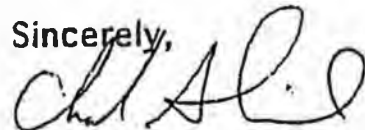
Senator Steve Frank  
State Capitol  
Mail Stop 3100  
Juneau, Alaska 99811

Re: SB 186

Dear Senator Frank,

I congratulate you on your efforts to amend AS 44.99.200 repealing the section which mandates "State-operated printing facility preference" and replacing it with the language which gives high priority to private sector Alaskan printers. As you well know, free enterprise fuels this economy and small businesses create jobs. Competition and the open bidding system keeps pricing down and allows work to go to the low Alaskan bidder. Lets keep the government out of (the printing) business and let the private-sector free market system work (because it does work) the way it is intended. Keep up the good work and continue to fight the good fight.

Sincerely,



Charles A. Lincoln

*the Print Shop*

1025 Blair Road  
Fairbanks, Alaska 99701  
(907) 452-6540

1/31/94

SENATOR Frank:

With the passage of HB75 Alaskan businesses suffered. I am not a large printing company, but I noticed the drop from a small amount printing for the University to NO printing. I used to at least get to bid on projects that needed to be printed, and that has now completely stopped.

I am friends with some of the people who work at the University Print Shop and they tell be the politics in the plant are just about unreal. I have even had two of the individuals ask me if I had any job openings, even though I could not match the hourly salary and benefits they were ready to leave.

It is my feeling that SB186 will stabilize an already shaky printing economy. I sincerely hope you give all your support to get this bill through committee and then through the Senate.

Thank You,

*Rich Jones*  
Rich Jones

CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS REBA JERREL, AND I AM THE STATE DIRECTOR FOR THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS - NFIB/ALASKA. I AM HAPPY TO BE HERE TODAY IN SUPPORT OF SB 186.

NFIB/ALASKA IS COMPRISED OF 4,400 SMALL AND INDEPENDENT BUSINESS OWNERS. THE LEGISLATIVE AGENDA OF NFIB/ALASKA IS DETERMINED BY OUR BALLOT. THE BALLOT IS OUR ANNUAL POLL OF OUR MEMBERS ON A SERIES OF ISSUES DEEMED CRITICAL TO SMALL BUSINESS. A MAJORITY VOTE, OF THE MEMBERS IN RESPONSE TO THE POLL, SETS OUR POLICY AND POSITION ON LEGISLATIVE ISSUES.

FOR THE RECORD THE FOLLOWING IS THE RESULT OF THE 1990 NFIB/ALASKA BALLOT QUESTION REGARDING GOVERNMENT COMPETITION:

Should legislation be passed that would restrict government agencies from competing with private business in Alaska?

Yes 83%      No 6%      Undecided 11%

CURRENT LAW REQUIRES PUBLICATIONS OF STATE AGENCIES TO BE PRODUCED AT A STATE OPERATED FACILITY WHENEVER POSSIBLE. THIS PUTS THE STATE IN DIRECT COMPETITION WITH SMALL BUSINESSES. IT ALSO, PUTS SMALL BUSINESSES AT A DISTINCT DISADVANTAGE IF THEY WANT TO DO BUSINESS WITH THE STATE.

SB 186 REPEALS THAT LAW AND SHIFTS THE PREFERENCE FROM STATE OPERATED PRINTING FACILITIES TO PRIVATELY OWNED BUSINESSES. NFIB/ALASKA BELIEVES THAT SB 186 WILL HELP LIMIT THE SIZE AND COST OF STATE GOVERNMENT AND FOSTER ECONOMIC GROWTH IN THE PRIVATE SECTOR.

ALTHOUGH IT DOES NOT ELIMINATE COMPETITION FROM OTHER STATE OR LOCAL AGENCIES WHOSE COMMERCIAL ACTIVITIES RANGE FROM GIFT SHOPS TO

DAY CARE AND VIDEO OUTLETS - IT IS CERTAINLY A BIG STEP IN THE RIGHT DIRECTION.

THANK YOU FOR THE OPPORTUNITY TO BE HERE TODAY AND TO SUPPORT THIS WORTHY LEGISLATION. I WOULD URGE YOU TO MOVE THE BILL OUT OF COMMITTEE SO WE CAN, HOPEFULLY, SEE IT BECOME LAW THIS YEAR. IF YOU HAVE ANY QUESTION, I WOULD BE HAPPY TO TRY AND ANSWER THEM.

S B

2 1 2

(7)

Date Referred: March 4, 1994

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/22

The LABOR AND COMMERCE Committee considered:

CSSE 212(FIN) am

CS FOR SENATE BILL NO. 212(FIN) am

STATE PROCUREMENTS AND PUBLICATIONS

"An Act relating to the giving of procurement notices; changing the content of the required procurement reports to the legislature by the commissioner of administration; relating to publications produced by state agencies; establishing an innovative construction procurement methods pilot program; and establishing legislative findings, a legislative purpose, and legislative intent for state procurement; and providing for an effective date."

RECOMMENDATIONS:

the same title

be replaced with HCS SB 212(L+C) am

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) DOT Adm

zero fiscal note \_\_\_\_\_

zero fiscal note(s) (2/02) Adm.

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>W.K. Williams</i>	<input checked="" type="checkbox"/>				
<i>Don Wade</i>	<input checked="" type="checkbox"/>				
<i>Joe Setton</i>	<input checked="" type="checkbox"/>				
<i>Brian Horter</i>	<input checked="" type="checkbox"/>				
<i>Bill Hudson</i>	<input checked="" type="checkbox"/>				

*Bill Hudson*  
CHAIRMAN'S SIGNATURE

# Alaska State Legislature

Senator Tim Kelly, Chair  
Senator Steve Rieger, Vice Chair  
Senator Bert Sharp  
Senator Judy Salo  
Senator Georgianna Lincoln



STATE CAPITOL, SUITE 101  
JUNEAU, ALASKA 99801-1182  
PHONE: (907) 465-3822  
FAX: (907) 465-3756

SENATE LABOR AND COMMERCE  
COMMITTEE

716 W. 4TH. SUITE 400  
ANCHORAGE, AK 99501-2133  
PHONE: (907) 258-8180  
FAX: (907) 258-4524

## SPONSOR STATEMENT

### CS SB 212(FIN): "BUY ALASKA" LEGISLATION

State government is one of the largest purchasers of goods and services in the Alaskan economy, purchasing everything from road design and construction services to copy machines and paper and pencils. The use of services and products provided by Alaskan businesses stabilizes and diversifies Alaska's economy.

SB 212 aims to help strengthen Alaska's economy by increasing the share of State government's contracts for goods and services going to Alaskan businesses.

Specifically, this legislation would establish an Innovative Construction Procurement Methods Pilot Program within the DOT/PF for a period of two years to implement an Alaska Bonus Program to replace the current preferences.

Current incentives include the Alaskan Bidders Preference, Alaska Subcontracting, Disadvantage Business Enterprises/Equal Employment Opportunity programs, and Alaska Products Preference, and the Alaska Hire Program. The latter two are largely unworkable and consequently underutilized or not utilized at all. Allowing the DOT/PF to test on a trial basis a bonus system which provides bonuses at project completion and encourages the same policy goals would be more economically beneficial for vendors, reduce administrative costs and bid protests, and could likely be used in joint federal/state projects where State preferences are currently not allowed.

The commissioner would establish this program through regulation and report to the legislature on the program's progress 15 and 27 months after implementation. If successful, the legislature could expand and extend this program indefinitely, replacing the current preferences.

*Included*

Lastly, this bill incorporates a number of provisions from the "Make-It-Alaskan" legislation from the 17th Legislature, House Bill 245, which would also increase the amount of State work going to Alaskans. This bill would:

- 1) Encourage procurement officers to restrict notice of contract solicitation to Alaskan suppliers and providers of services desiring to compete for state contract work. (This practice is already standard in DOT/PF);
- 2) Require the commissioner to include in his report to the legislature on State procurements the number of bidders located in-state and out-of-state that bid or made proposals on procurements;
- 3) Replace the statutory requirement that State publications be produced at State-operated facilities with a requirement that State publications be produced at a private sector facility located in the State when practicable. In addition, standards for the production of publications would be established by the Department of Administration, and a cost box would be required for all publication's exceeding \$1,500 in cost.

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSSB 212(L&C)

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: An Act relating to the giving of procurement BRU: General Services  
notices; changing the content of the requirement procurement. Component: Purchasing  
 Sponsor: Senate Labor & Commerce  
 Requestor: Senate Labor & Commerce COMPONENT SERIAL NO. 60

Expenditures / Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	1	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
100 GF	0	0	0	0	0	0
1005 GF / Program Receipts	0	0	0	0	0	0
1006 GF / MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

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

Estimate of current year (FY94) impact: \$ -0-

ANALYSIS: (attach a separate page if necessary.)

This bill will require one-time notices of the revised statute to all bidders on the contractors list maintained under AS 36.30.050. Thereafter notices will be mailed only to bidders with Alaska zip codes unless a bidder specifically requests a bid solicitation for a specific Invitation to Bid.

Fiscal impact to the Division will be minimal.

Prepared By: Dugan Petty, Director *Dugan Petty* Phone: 465-2250  
 Division: General Services Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usura *Nancy Bear Usura* Date: 2/2/94  
 Agency: Department of Administration

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FISCAL NOTE

Revision Date: 1/27/94  
Title: State Procurements and Publications

Department Affected: DOT&PF  
BRU: E&OS  
Component: D&C

Sponsor: Senate L&C Committee

Component Serial Number: 547

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	5.0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	5.0	0	0	0	0	0

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

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	5.0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	5.0	0	0	0	0	0

POSITIONS

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

Estimate of current year (FY94) impact: \$ 0

**ANALYSIS:** (Attach a separate page if necessary) The \$5,000 will be used to develop regulations for the pilot program. Since this is a pilot program, it will not be applied to all state funded projects but on selected ones with the most opportunity for success. In FY94 about \$30 million in state funded projects were awarded. We anticipate it being used on approximately 10% of the projects. Although any bonuses should be off set by lower bids, it may be necessary to set aside project specific funds to pay for the bonuses.

Prepared by: Mal Linthwaite, Director

Phone: 465-2951

Division: E&OS

Date: February 1, 1994

Approved by Commissioner: *B.A. Campbell*

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: February 2, 1994

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*OUTSIDE COPY POSITIVE*



*Department of Transportation  
and Public Facilities*

# POSITION PAPER

BILL NO: CS SB 212

APPROVED: *J. Hall*

TITLE: State Procurements and  
Publications

DATE: February 2, 1994

The Department of Transportation and Public Facilities is generally supportive of innovative ways of contracting which will reduce the bureaucratic process. Even with an innovative program of bonuses, it may be difficult to alternate the basic process of awarding, furnishing materials, etc. Nearly all successful contractors are Alaska based and only a very small percentage of material originates from out of state.

*For Further Information contact J.K. Ginger Johnson at 465-3904.*

# NFIB Alaska

National Federation of  
Independent Business

POSITION PAPER

OF

NATIONAL FEDERATION OF INDEPENDENT BUSINESS  
NFIB/ALASKA

IN  
SUPPORT  
OF

SB 212 - STATE AGENCY PUBLICATIONS

9159 Skywood Lane  
Juneau, AK 99801



The Guardian of  
Small Business

N.F.I.B. Position Paper

CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS RESA JERREL, AND I AM THE STATE DIRECTOR FOR THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS - NFIB/ALASKA. I AM HAPPY TO BE HERE TODAY IN SUPPORT OF SB 212.

NFIB/ALASKA IS COMPRISED OF 4,400 SMALL AND INDEPENDENT BUSINESS OWNERS. THE LEGISLATIVE AGENDA OF NFIB/ALASKA IS DETERMINED BY OUR BALLOT. THE BALLOT IS OUR ANNUAL POLL OF OUR MEMBERS ON A SERIES OF ISSUES DEEMED CRITICAL TO SMALL BUSINESS. A MAJORITY VOTE, OF THE MEMBERS IN RESPONSE TO THE POLL, SETS OUR POLICY AND POSITION ON LEGISLATIVE ISSUES.

FOR THE RECORD THE FOLLOWING IS THE RESULT OF THE 1990 NFIB/ALASKA BALLOT QUESTION REGARDING GOVERNMENT COMPETITION:

Should legislation be passed that would restrict government agencies from competing with private business in Alaska?

Yes 83%      No 6%      Undecided 11%

CURRENT LAW REQUIRES PUBLICATIONS OF STATE AGENCIES TO BE PRODUCED AT A STATE OPERATED FACILITY WHENEVER POSSIBLE. THIS PUTS THE STATE IN DIRECT COMPETITION WITH SMALL BUSINESSES. IT ALSO, PUTS SMALL BUSINESSES AT A DISTINCT DISADVANTAGE IF THEY WANT TO DO BUSINESS WITH THE STATE.

SECTION 10 ON PAGE 5, LINE 12 SB 212 REPEALS THAT LAW AND SHIFTS THE PREFERENCE FROM STATE OPERATED PRINTING FACILITIES TO PRIVATELY OWNED BUSINESSES. NFIB/ALASKA BELIEVES THAT SB 212 WILL HELP LIMIT THE SIZE AND COST OF STATE GOVERNMENT AND FOSTER ECONOMIC GROWTH IN THE PRIVATE SECTOR.

ALTHOUGH IT DOES NOT ELIMINATE COMPETITION FROM OTHER STATE OR

LOCAL AGENCIES WHOSE COMMERCIAL ACTIVITIES RANGE FROM GIFT SHOPS TO DAY CARE AND VIDEO OUTLETS - IT IS CERTAINLY A BIG STEP IN THE RIGHT DIRECTION.

THANK YOU FOR THE OPPORTUNITY TO BE HERE TODAY AND TO SUPPORT THIS WORTHY LEGISLATION. I WOULD URGE YOU TO MOVE THE BILL OUT OF COMMITTEE SO WE CAN, HOPEFULLY, SEE IT BECOME LAW THIS YEAR. IF YOU HAVE ANY QUESTION, I WOULD BE HAPPY TO TRY AND ANSWER THEM.



# University of Alaska Small Business Development Center

## MEMORANDUM

TO: Senate Economic Task Force

FR: Larry Cash, Chair, Small Business Development Center Task Force on State Procurement

DATE: February 18, 1994

SUBJ: Support for SB 212(FIN) relating to State Procurement (BUY ALASKA)

---

Members of the UAA Small Business Development Center Advisory Board convened a special Procurement Task Force to discuss state procurement initiatives and specifically SB 212 which was reintroduced this session. The task force met on February 10 and focused their discussions on this important legislation and how it will affect small businesses in Alaska and their ability to compete with out-of-state bidders.

We support the passage of SB 212 and believe it will have a positive impact on small business in Alaska. The fiscal note of \$5000 from Department of Transportation to formulate and administer the Pilot Bonus Program is reasonable and should be passed. We believe the fiscal note of \$256,000 from the Department of Administration should not be construed as an actual budget appropriation as it is an estimate only of potential increased costs resulting from curtailing out-of-state bid solicitations. Because these potential costs will revert to Alaska's private sector, this fiscal note should not be a deterrent to passage of this bill.

A concern was addressed as to the deletion of Section 9 of the original legislation which created a state policy for Procurement of Investment Services. The task force considers this legislation important to the potential development of the financial services industry in Alaska and to support the Permanent Fund investment requirements and should be reconsidered. Furthermore, service fees generated by Permanent Fund investments should be spent in Alaska to the maximum extent possible.

This task force will continue to follow this and other legislation that effects small business and state procurement policy and law. We urge you to support SB 212 and consider our recommendations.

Thank you.

UAA Small Business Development Center  
Procurement Task Force

Larry Cash, Chair  
Ph: 258-7777  
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Cash, Barner, Usher Architects, Partner

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Victor Gould  
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Neeser Construction, President

Charlie Deer  
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Alaska State Chamber of Commerce

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FAX: 349-8389

Beedle and Associates, Owner

Cindy Matson  
PH: 786-6511  
FAX: 786-6519

UAA Purchasing, Acting Director

Discussion Bullets for:

## Procurement Code Modifications to Implement a State Bonus Program

### Background:

For several years those agencies conducting public works contracts have been concerned over the effectiveness of incentive programs such as "Disadvantaged Business Enterprises/ Equal Employment Opportunity", "Alaskan Hire", and Alaska "preferences" within the State Procurement. And while a considerable effort in both manpower and money have gone into these areas, it remains their belief that the fullest, most positive results possible from these incentive programs have not been attained. Therefore it is suggested that the current preferences be replaced with a bonus program.

### Benefits:

The following benefits will be achieved by incorporating a bonus program:

- The program will be more "economically" beneficial to vendors and hence more readily used.
- Administrative enforcement costs associated with bid protests, record keeping requirements and inspections will be reduced.
- "Game playing" on the part of vendors, for the sole purpose of obtaining the contract, would be decreased or eliminated.
- Federal and state mandated incentives could still be implemented, but at a time more conducive to the overall project and with reduced administration costs to all parties.
- Federal regulations which prohibit "localized bidding preferences" do not prohibit performance incentives – and in fact the federal agencies may even provide funding.
- Reciprocal trade statutes based on "preferences" would become inconsequential.
- Over time effectiveness of the incentive programs would improve, administrative costs would decrease, and bid prices would return to the competitive levels that were encountered prior to the bonus program.

### Suggested Overview of the Bonus Program:

It is envisioned that the bonus program could pay up to 5% of the contract award amount in additional bonus money. By basing the value of the bonus on the contract award amount, contingency funds could be set aside at the time of award for payment of the bonus at a later date. Upon satisfactory performance, bonus payments in the following areas and in the suggested amounts, could be paid. The various levels of a bonus would be set in the specifications or regulations so they could be adjusted to the changing procurement needs.

(see table on following page)

**- DISCUSSION BULLETS -**  
**FOR "BONUS" SYSTEM**

Incentive Under Consideration	Suggested Bonus Value (maximum percent of contract)
<ul style="list-style-type: none"> <li>• <i>Disadvantaged Business Enterprises/ Equal Employment Opportunity</i>, both state and federal mandates are address by the current program. (5% of the value of the qualifying DBE/EEO contracted services, up to the allowable maximum dollar amount, would be paid.)</li> </ul>	Recommended bonus . . . 2%
<ul style="list-style-type: none"> <li>• <i>Alaska Hire Program</i>, currently a state program which mandates the use of the local work force on state funded construction projects. (5% of the salaries – as documented in the certified payroll - for all alaskan workers, up to the allowable maximum dollar amount, would be eligible for a bonus.)</li> </ul>	Recommended bonus . . . 2%
<ul style="list-style-type: none"> <li>• <i>Alaska Bidder's Preference</i>, currently a state preference program within AS 36.30 which gives bidders residing in Alaska a bidding advantage over non-resident bidders. In its present form this is not an allowable incentive on federal aid contracts.</li> </ul>	Recommended bonus . . . 2%
<ul style="list-style-type: none"> <li>• <i>Alaska Products Preference</i>, currently a state preference program within AS 36.30 which gives bidders a bidding advantage when using products made in Alaska. In its present form this is not an allowable incentive on federal aid contracts. (3, 5 or 7% of the invoice amount – as documented by the manufacturer - for all alaskan products, up to the allowable maximum dollar amount, would be eligible for a bonus.)</li> </ul>	Recommended bonus . . . 2%
<ul style="list-style-type: none"> <li>• <i>Subcontracting</i>, currently the state requirements within AS 36.30 make it difficult, though not impossible, for non-resident subcontractors to work on state funded construction projects. An alternative to this approach is to reward prime contractors for using local subcontractors. (5% of the value of the qualifying alaskan subcontracted services, up to the allowable maximum dollar amount, would be paid.)</li> </ul>	Recommended bonus . . . 2%

**Bonus Program Details:**

The department has developed conceptual guidelines and parameters in each of the above incentive areas. We would be happy to share this information with lawmakers or assist them in whatever way possible.

**Example:**

A bridge project with an award amount of \$1,000,000 to resident bidder; locally manufactured materials valued at \$300,000; a local workforce payroll for the prime contractor of \$400,000; local subcontractor services valued at \$100,000; and DBE contracts valued at \$50,000 would produce the following bonus.

- Bidder's Preference for the prime yields a bonus of  $\$1,000,000 \text{ times } .02 = \$20,000.00$
- Alaska Product preference for locally manufactured concrete components with a manufactured value of \$300,000 and a DCED Class III certification yields  $\$300,000 \text{ times } .07 = \$21,000.00$ , but by specification this amount is capped at  $\$20,000.00$
- Alaska Hire based upon a certified payroll of \$400,000 yields  $\$400,000 \text{ times } .05 = \$20,000.00$
- Subcontracting Bonus based on subcontracts valued at \$100,000 yields  $\$100,000 \text{ times } .05 = \$5,000.00$
- DBE Subcontracting Bonus based on subcontracts valued at \$50,000 yields  $\$100,000 \text{ times } .05 = \underline{\$2,500.00}$   
Yields a subtotal Project bonus of  $= \$67,500.00$

But, the OVERALL PROJECT bonus is capped at 5%. Thus the maximum amount payable to the contractor on a \$1 million award is \$50,000.00

# Alaska State Legislature

Senator Tim Kelly, Chair  
Senator Steve Rieger, Vice Chair  
Senator Bert Sharp  
Senator Judy Salo  
Senator Georgianna Lincoln



STATE CAPITOL, SUITE 101  
JUNEAU, ALASKA 99801-1182  
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## SENATE LABOR AND COMMERCE COMMITTEE

716 W 4TH, SUITE 400  
ANCHORAGE, AK 99501-2133  
PHONE: (907) 258-8180  
FAX: (907) 258-4524

### SECTIONAL ANALYSIS FOR CS SB 212 (FIN): THE "BUY ALASKA" BILL

Section 1: Findings, Purpose, and Intent.

Section 2: Amends AS 36.30.130, Public Notice of Invitation to Bid, to encourage procurement officers to restrict notice of contract solicitation when practicable to Alaskan suppliers when and providers of services desiring to compete for state contract work, unless specifically requested by an out-of-state contractor. (This practice already in DOT/PF.)

Section 3 & 10: Provide a 4 year sunset to Section 2 so that its effectiveness may be evaluated. This sunset was put in at the request of the Department of Administration.

Section 4: Amends AS 36.30.540, Procurements Report to the Legislature, to require that the commissioner's report on procurement to the legislature include the number of bidders located in the State and out-of-state that bid or made proposals on procurements. This will allow the legislature to track the success of the procurement reforms.

Section 5: Repeals and re-enacts AS 44.99.200, Production of Publications, to replace the requirement that State publications be produced at State-operated facilities with a requirement that State publications be produced at a private sector facility located in the State when practicable. In addition, it mandates that standards for the production of publications be established by the Department of Administration.

Section 6: Amends AS 44.99.210, Disclosures on Publication, to conform to Section 5.

Section 7: Repeals AS 44.99.230, Standards for State Publications. This provision was amended into 44.99.200 (Section 5).

**Section 8:** Establishes an Innovative Construction Procurement Methods Pilot Program within the DOT/PF for a period of two years. This program will allow the department, through regulation, to use bonuses to replace the current preferences required under AS 36.30.

The commissioner must first determine in writing that using the innovative methods is in the best interests of the state, not contrary to the intent and purposes of the current preference system, and describe how the innovative methods modify the procurement procedures of 36.30. The commissioner shall make two reports to the legislature on the construction contracts awarded under the pilot program 15 and 27 months after it begins.

**Section 9:** Establishes that report requirements under Section 4 of this act apply to reports due after the effective date of this act.

**Section 10:** With Section 3, provides a 4 year sunset to Section 2 so that the effectiveness of limiting contract solicitation to Alaskan businesses and publications may be evaluated. This sunset was put in at the request of the Department of Administration. Establishes that the first report under Section 4 of this act is due January 15, 1995.

## FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSSB 212(L&C)

Revision Date: \_\_\_\_\_ Dept. Affected: Statewide\*  
 Title: An Act relating to the giving of procurement BRU: \_\_\_\_\_  
notices: changing the content of the required procurement... Component: \_\_\_\_\_  
 Sponsor: Senate Labor & Commerce  
 Requestor: Senate Labor & Commerce COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	256.1*	256.1*	256.1*	256.1*	256.1*	256.1*
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	256.1*	256.1*	256.1*	256.1*	256.1*	256.1*

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	*	*	*	*	*	*
1003 GF Match	*	*	*	*	*	*
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts	*	*	*	*	*	*
1006 GF/MHTIA	*	*	*	*	*	*
Other	*	*	*	*	*	*
TOTAL	256.1*	256.1*	256.1*	256.1*	256.1*	256.1*

POSITIONS

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

Estimate of current year (FY94) impact: \$ -0-

ANALYSIS: (attach a separate page if necessary.)

See attached.

\*Bids are awarded by the Division on behalf of customer agencies that have a variety of funding sources. This analysis reflects potential cost impacts to all agencies as a result of potentially higher bid awards. These are not cost impacts the Division of General Services.

Prepared By: Duzan Petty, Director *Duzan Petty*  
 Division: General Services

Phone: 465-2250  
 Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usura *Nancy Bear Usura*  
 Agency: Department of Administration

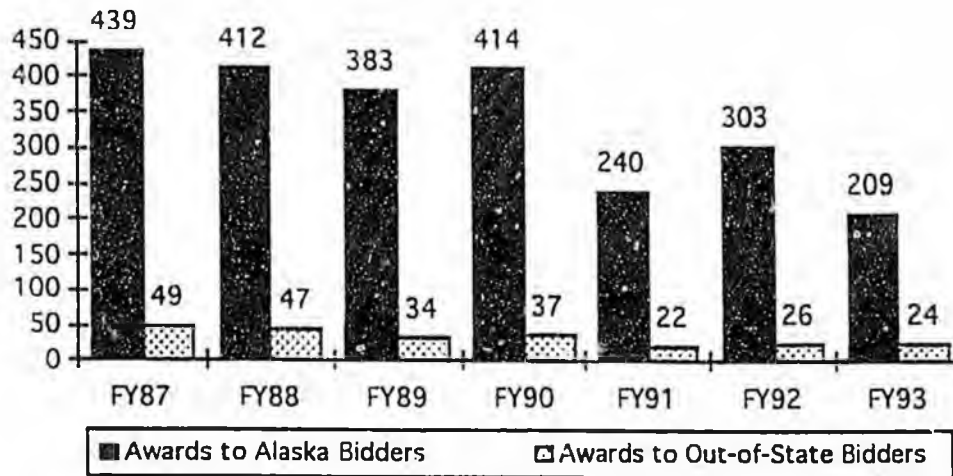
Date: 2/2/94

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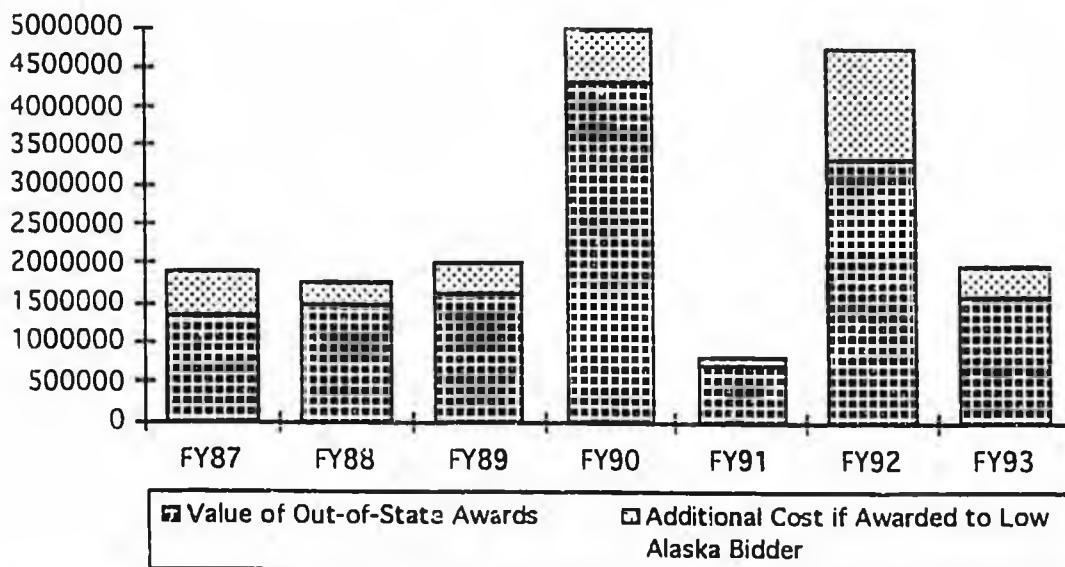
Section 2 of the bill requires notices of bids and proposals to be mailed only to in-state bidders on the contractors list when practicable. We estimate this bill will result in Alaska bidders receiving 65% more of the awards that currently go out-of-state. On average, over the past seven years 34 bids a year are awarded to out-of-state bidders. The graph below demonstrates the number of out-of-state awards in relationship to in-state bid awards over the past seven years.

**Invitations to Bid Issued by Department of Administration**



An analysis of out-of-state bids issued from FY87 through FY93 indicate that prior implementation of this bill, if 66% effective, would have kept an average of \$1.3 million per year worth of contracts issued by the Department of Administration in-state. The average annual addition costs to State agencies of not purchasing from the otherwise low bidder would be approximately \$356.0. (See graph and table below.)

**Difference in Cost Between Alaska Bidders and Low Bidder When Award was Made to Out-of-State Bidder**



## FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSSB 212(L&C)  
Page 3 of 3

	FY87	FY88	FY89	FY90	FY91	FY92	FY93
Value Out-of-State Awards	\$1,335.1	\$1,499.5	\$1,618.7	\$4,324.0	\$730.0	\$3,340.0	\$1,605.0
Value of Low AK Bidders	\$1,922.0	\$1,754.0	\$2,010.1	\$4,992.1	\$835.1	\$4,730.1	\$1,993.0
Cost if Awarded to Low AK Bidders	\$586.8	\$254.5	\$391.4	\$668.1	\$105.2	\$1,390.0	\$388.0

The bill permits bids to be issued to out-of-state bidders when specifically requested or when the notice limitation to only in-state bidders is not practicable. We estimate the number of bids that will go to out-of-state vendors and the number of out-of-state bid awards to be reduced by 66%. Therefore we project, based on the most recent FY93 data, the potential fiscal impacts associated with 66% of the out-of-state awards going to the low Alaska bidder to be:

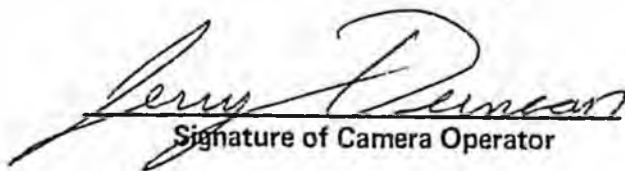
- Projected Awards Captured for In-State Business       $24 \times 66\% =$       16 awards
- Projected Value of Low Alaska Bidder  
  Captured for In-State Business       $\$1,993.0 \times 66\% =$       \$1,315.40
- Projected Value of Out-of-State Awards       $\$1,605.0 \times 66\% =$       \$1,059.30
  
- Projected Fiscal Impact (Difference)      \$256.1

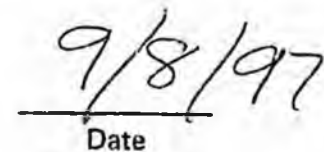


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Signature of Camera Operator

  
Date

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# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

No. 1  
Bill Version: SJR 27  
(S) Publish Date: 3-8-93

Revision Date: \_\_\_\_\_ Dept. Affected: None  
 Title: U.S. Coast Guard commercial BRU: n/a  
fishing vessel safety reg. Component: n/a  
 Sponsor: Senator Jacko  
 Requestor: Senate Rules Committee COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	-0-					
TRAVEL	-0-					
CONTRACTUAL	-0-					
SUPPLIES	-0-					
EQUIPMENT	-0-					
LAND & STRUCTURES	-0-					
GRANTS, CLAIMS	-0-					
MISCELLANEOUS	-0-					
<b>TOTAL OPERATING</b>	<b>-0-</b>					

<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
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<b>REVENUE FUND SOURCE:</b>	-0-	-0-	-0-	-0-	-0-	-0-
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**FUNDING:** (Thousands of Dollars)

FUNDING	FY94	FY95	FY96	FY97	FY98	FY99
1002 Federal Receipts	-0-					
1003 GF Match	-0-					
1004 GF	-0-					
1005 GF/Program Receipts	-0-					
1006 GF/MHTIA	-0-					
Other	-0-					
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

POSITIONS	FY94	FY95	FY96	FY97	FY98	FY99
FULL-TIME	-0-					
PART-TIME	-0-					
TEMPORARY	-0-					

Estimate of current year (FY93) impact \$ -0-

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by: Sen. George Jacko Phone: 4942  
 Division: Senate Rules Committee Date: 3/5/93  
 Approved by Commissioner: Sen. George Jacko by [Signature] Date: 3/5/93  
 Agency: Chair, Senate Rules

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# HOUSE COMMITTEE REPORT

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Date Referred: March 10, 1993

FURTHER REFERRALS:

Date of Committee Action: 3/11/93

The LABOR AND COMMERCE Committee considered:

SJR 27

SENATE JOINT RESOLUTION NO. 27

FEDERAL FISHING VESSEL SAFETY RULES

Relating to United States Coast Guard commercial fishing vessel safety regulations.

**RECOMMENDATIONS:**

be replaced with \_\_\_\_\_ [ ] the same title  
[ ] a new title

[ ] have attached amendments(s)

do pass

[ ] do not pass

[ ] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal impact \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note \_\_\_\_\_

zero fiscal note(s) Senate Rules

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian P. Porter</i>	✓				
<i>J. Sutton</i>	✓				
<i>W. Williams</i>	✓				
<i>Man. Huber</i>	✓				
<i>Chris. Huber</i>	✓				
<i>Bill Huber</i>	✓				

*Bill Huber*  
\_\_\_\_\_  
CHAIRMAN'S SIGNATURE

SJR

51

# HOUSE COMMITTEE REPORT

(7)

Date Referred: April 8, 1994

FURTHER REFERRALS.

Date of Committee Action: 4/12/94

The LABOR AND COMMERCE Committee considered:

SJR 51

SENATE JOINT RESOLUTION NO. 51

SUPPORT FOR SITKA FIBERBOARD PLANT

Expressing support for the development of a fiberboard plant in Sitka; encouraging the Alaska Industrial Development and Export Authority to continue its efforts to assist with that development; and requesting the United States Forest Service to continue a long-term timber purchase contract necessary to supply material to the plant.

RECOMMENDATIONS: | ] the same title  
 be replaced with \_\_\_\_\_ | ] a new title

[ ] have attached amendments(s)

[ ] do pass

[ ] do not pass

[ ] no recommendations

individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

[ ] fiscal impact \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) Senate L+C

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Bruce Hartley</i>	✓	<i>Joe Sether</i>		✓	
<i>W.R. Williams</i>	✓				
<i>Bill Hudson</i>	✓				

*Bill Hudson*  
 \_\_\_\_\_  
 CHAIRMAN'S SIGNATURE

# Alaska State Legislature

Sen. Robin Taylor, *Chair*  
Sen. Rick Halford, *Vice Chair*  
Sen. George Jacko, *Member*  
Sen. Dave Dunley, *Member*  
Sen. Suzanne Little, *Member*



State Capitol  
Juneau, AK 99801-1182  
.....  
907 465-3717  
Fax: 907 465-3922

## Senate Judiciary Committee

### SPONSOR STATEMENT SJR 51

Sitka has recently experienced the loss of a major employer with the closure of the pulp mill owned by Alaska Lumber & Pulp. The community is seeking to recover from the loss of the mill and have it replaced by an economically viable timber processing facility.

Alaska Lumber and Pulp Corporation is proposing to develop a medium density fiberboard(MDF) plant in lieu of the original facility. Preliminary studies have shown that a MDF facility is feasible, however a further more exhaustive examination is necessary. This investigation will take time.

The Alaska Industrial Development and Export Authority is working with Alaska Lumber and Pulp to fully examine this project. A portion of the economics of the project involves the 50 year contract to harvest timber in the Tongass National Forest; if this contract is canceled unilaterally by the Forest Service there is a concern that the fiberboard plant will be uneconomic.

The Chief of the Forest Service has set a date of April 15 for a decision as to whether to allow the contract to continue or to cancel it. Support of Alaska Lumber and Pulp's efforts is the basis of this resolution.

The resolution would ask that the contract be continued to allow for the completion of this study and if proven feasible permit a MDF pulping facility to operate in Sitka. I urge a prompt consideration of this resolution so that it reaches the chief prior to the April 15 deadline.

# Response to F.S. in Dispute on Contract

2/10/94

SITKA  
Sentinel

By **STEVE WILL**  
Sentinel Staff Writer

The Alaska Pulp Corp. today issued its formal and legal response to the U.S. Forest Service's letter of intent to terminate APC's 50-year contract.

The 12-page document, addressed to Alaska Regional Forester Michael Barton in Juneau and signed by attorney William F. Martson Jr. of Portland, Ore., disputes on many points the Forest Service contention that APC's shutdown of the Sitka mill was a breach of the mill's timber contract.

Martson said there is precedent in the history of the current contract for processing facilities to be completely dismantled and rebuilt for different uses and for production shutdowns lasting "several months" during which the Forest Service made no indication that the contract was in any way jeopardized.

It was the U.S. Government, Martson said, that has repeatedly unilaterally breached the terms of the contract with APC. On other points, he said:

— unexpected and disruptive conditions (*force majeure*) caused APC to suspend mill operations, which is an allowable cause under Section 5a2 of the contract.

— the original contract specifically required APC to install a mill by 1961, but had no requirement that a particular one be continuously operated for 50 years.

— the contract allows flexibility in how APC meets its obligation to primary manufacture of harvested timber. APC's proposed modification of the pulp mill to a medium-density fiberboard plant is in accord with terms of contract, as is selling pulp wood to the Ketchikan Pulp Company and milling sawlogs in Wrangell as APC is now doing.

— the Jan. 13 Forest Service demand that the mill reopen as a dissolving pulp facility within 30 days is commercially unreasonable, even impossible.

### Force Majeure

Barton stated in his Jan. 13 letter that the 50-year contract required continued year-round operation of the pulp mill, and that ceasing operation was a material breach of the contract.

APC counters that the contract includes a clause which gives APC the

right to suspend certain operations because of abnormal causes beyond APC's control, including acts of the government.

Those causes are the *forces majeure* cited by the company. APC contends changes made by the government to its contract following passage of the 1990 Tongass Timber Reform Act (TTRA) — and which were "far more economically onerous than ... were required by the TTRA" — were a primary reason that APC could no longer produce pulp at a competitive price, and thus closed the mill.

Martson wrote in today's letter that "It was 'the Government' which struck out the economic heart of the contract — the mid-market test. It was 'the Government' which unilaterally reduced the volume of the contract. And it was 'the Government' which imposed a material price surcharge. These 'acts of the Government' aimed at this and only one other contract were abnormal ... and permit APC the ability to operate 'a pulp mill ... only at a loss.'"

### Flexibility

Martson states "the contract does not require APC to operate any particular mill facility." He quotes the contract as stating that "the Purchaser ... shall install ... a mill or mills for the manufacture of pulp" noting that it does not say "install and operate." He further maintains that the intent of the contract is to provide for primary manufacture within Alaska and full utilization of pulp quality wood. How those goals are to be achieved is not defined and immaterial. Martson wrote that APC's current practice of selling the pulp wood it harvests to KPC and processing sawlogs in Wrangell, is in full compliance with the contract.

Martson further states harvesting wood to supply an MDF plant, which APC says it is committed to installing pending completion of a financial feasibility study, would also comply with the terms of the contract.

The timing of Barton's Jan. 13 letter "may well interfere with or even prevent APC from moving forward on or finalizing plans" for the alternative pulp facility, Martson wrote. "This will have a materially adverse effect

Continued on Page 8

Continued from Page 1  
upon APC, its employees and timber dependent communities in Southeast Alaska."

#### Unreasonable

APC argues that the timeline promulgated by the Forest Service in its demand that APC reopen the Sidska Mill by next week is unreasonable and even impossible.

The only remedy Barton left open for APC to avoid termination of the contract was to reopen the pulp mill within 30 days. But Martson noted that APC has sold its winter supply of pulp logs to KPC, with Forest Service approval, and thus has nothing to manufacture into pulp. It laid off its work force and mothballed the mill, all with full knowledge of and no objection from the Forest Service.

"Then, in the dead of winter in Alaska, APC receives a demand by the Forest Service to restart the plant — not within a reasonable time, allowing it to secure inventory and a work force, but within 30 days," Martson wrote.

He alleged that "certain groups who were never satisfied with the TTRA had been working during the three month period after APC's June 30, 1993, announcement of the impending mill closure, "urging the

government to use the shutdown as an excuse to terminate the contract."

"Only through a response to" a Freedom of Information Act request has APC learned that the interference with its long-term contract by certain groups intensified after Sept. 24, 1993. The positions adopted by the Forest Service in its Jan. 13, 1994, letter simply reflect its capitulation to the arguments made by these groups. The positions taken to justify termination are inconsistent with the plain words of the contract, with the government's prior practice in response to APC's shutdowns, and with the government's good faith and fair dealing."

APC's formal response to Barton's Jan. 13 termination notice concludes that "APC's conversion of its dissolving pulp mill to an MDF plant is just another in a series of facility modifications authorized by the contract. As such, your letter of Jan. 13, 1994, should be withdrawn. At a minimum, it should be modified so as to allow APC a commercially reasonable time (six months) to pursue the next step in converting to an MDF facility."

Barton wrote in his Jan. 13 letter that he will make a final contract termination decision "as soon as possible" after his 30-day show-cause or mill reopening deadline expires.

Judge Suspended Says Do

## TONKON, TORP, CALEN, MARMADUKE &amp; BOOTH

ATTORNEYS AT LAW

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 TELEX 340025-NQ-PTL

WILLIAM F. MARTSON, JR.

February 10, 1994

VIA TELETYPE AND CERTIFIED  
RETURN RECEIPT REQUESTED

Mr. Michael Barton  
 Regional Forester  
 United States Forest Service  
 P.O. Box 21628  
 Juneau, Alaska 99802-1628

Dear Mr. Barton:

I have been asked to respond on behalf of Alaska Pulp Corporation to your letter of January 13, 1994.

Alaska Pulp Corporation ("APC") is concerned about both the content and timing of the government's January 13, 1994 letter. APC is not repudiating its contract, either in fact or by operation of law. On the contrary, it is the Forest Service, at the urging of certain groups, which is threatening to ignore its obligations under the contract, the plain words of the contract, and the past dealings of the parties under the force majeure and other clauses of the contract, in order to "terminate" it.1/

The government's interpretation of the contract is inconsistent with the parties' course of conduct since the contract's inception. APC's invocation of the force majeure clause in this case is consistent with the language of Section 5(a)(2) of the contract, and with how the parties have consistently treated mill closures on other occasions.

The contract provides for flexibility in how APC meets its obligation to primarily manufacture the harvested timber

1/ APC does not intend by this letter to make a claim against the United States, or any agency, official or employee thereof.

Mr. Michael Barti  
February 10, 1994  
Page 2

within Alaska so as to effectively deal with economic changes over the 50-year term of the contract. It does not require that the dissolving pulp mill, nor any other specific facility, be operated continuously for 50 years. The proposed modification of the dissolving pulp mill to an MDF facility is fully in accord with the express terms of the contract and with the parties' conduct over time.

The demands made on APC in the January 13, 1994 letter are also commercially unreasonable and substantively improper. As you knew when you signed the letter, the time within which the government requires "cure" and what the government requires APC to do by way of "cure" are impossible.

Finally, the timing of your letter may well interfere with or even prevent APC from moving forward on or finalizing plans for "an alternate pulp facility." This will have a materially adverse effect upon APC, its employees and timber dependent communities in southeast Alaska.

1. Which is the Contract Between the Parties?

In September 1989, APC and the United States executed a bilaterally negotiated contract ("Settlement Contract") that became effective June 30, 1990. After enactment of the Tongass Timber Reform Act ("TTRA"), the United States purported unilaterally to impose new and different contract terms ("Unilateral Terms") on APC. In Alaska Pulp Corporation v. United States, et al., USDC District of Alaska, Case No. J93-010 (JKS), APC is challenging the validity and applicability of the Unilateral Terms. In that action, the United States admitted that APC "has never signed nor agreed in a binding manner" to the Unilateral Terms. APC continues to object to the United States' efforts improperly to impose the Unilateral Terms. It is the Settlement Contract which controls the relationship between the parties.<sup>2/</sup>

The contract changes the Government has sought to impose unilaterally on APC cannot be ignored. Even assuming (which APC does not) that the TTRA was constitutional, in drafting the Unilateral Terms, the Forest Service imposed far more economically onerous terms than were required by the TTRA. There is nothing improper in APC seeking corrective revisions to the Unilateral Terms, first through negotiations and then by

<sup>2/</sup> The language found in Section 5e2 and General Term 4 of the Settlement Contract are the same in the Unilateral Terms.

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judicial intervention.

## 2. Background

On June 30, 1993, APC notified the Forest Service of its intention "to indefinitely suspend pulp mill operations at the Sitka mill effective September 30, 1993." APC's notice referenced Section 5a2 of the contract and cited the serious adverse impacts of the Unilateral Terms as a principal reason for its action. The next day, July 1, the contracting officer wrote APC acknowledging receipt of the June 30 letter, expressing surprise at APC's decision, and stating that APC's concerns about the adverse economic impacts of the Unilateral Terms were "well known to [him]." He then invited APC to discuss ways to minimize the impact of the decision on southeast Alaska's economy and "projections of future market demands for dissolving pulp and other products." (Emphasis added.)

For almost three months thereafter, the contracting officer and APC worked on a preliminary study of the feasibility of converting the pulping operations in Sitka from the production of dissolving pulp to the manufacture of medium density fiberboard (MDF). With the contracting officer's help, the Forest Products Lab rendered substantial assistance. At each turn, the preliminary assessment of MDF was encouraging.

During this three-month period, APC took the steps necessary to shut down the Sitka mill on September 30. It laid off a substantial number of employees. It enhanced their retirement plan. It sold its winter inventory of pulp logs to KPC so that this material would receive primary manufacture in Alaska as required by the contract. It also made plans to winterize the plant. This latter activity was necessary because a pulp mill must either be run for the entire winter season, or the machinery must be protected from the cold weather. In short, throughout the summer logging season, APC built saw log inventory, sold pulp logs to KPC and made other preparations for the shutdown of the dissolving pulp mill for at least the winter. By September 24, 1993, the plan to shut down the mill for at least the winter of 1993-94 was irreversible. All of this activity was consistent with the language of the force majeure clause, General Term No. 4, and the parties' course of conduct pursuant to those and other contract provisions on other occasions. (See Exhibit A.)

Yet, three days later, on September 27, 1993, APC received its first notice that the Forest Service was considering taking the position that APC's announced actions constituted a

TONGKON, TORP, GALEN, MARMADUCE & BOOTH

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repudiation of the long-term contract. Throughout this three-month period, APC knew that certain groups who were never satisfied with the results of the TTRA, were urging the government to use the shut down as an excuse to terminate the contract -- a goal held by some of these groups for a long time. However, before September 27, 1993, APC never received any official or even private indication from the Forest Service or its contracting officer that the United States would accede to this clamoring.<sup>3/</sup> Only through a response to a Freedom of Information Act request has APC learned that the interferences with its long-term contract by certain groups intensified after September 24, 1993. The positions adopted by the Forest Service in its January 13, 1994 letter simply reflect its capitulation to the arguments made by these groups. The positions taken to justify termination are inconsistent with the plain words of the contract, with the government's prior practice in response to APC's shutdowns, and with the government's duty of good faith and fair dealing.

3. Section 5a2 was Properly Invoked and Does Not Provide a Basis for Termination by the Forest Service

Section 5a2 of the contract was properly invoked by APC. This section is a force majeure clause which gives APC the right to suspend certain operations because of abnormal causes beyond APC's control (including acts of the government). Such force majeure clauses are commonplace and routinely upheld by courts.<sup>4/</sup> More importantly, once a force majeure clause has

<sup>3/</sup> Indeed, one of these groups, in connection with an appeal of the North and East Kuiu Final Environmental Impact Statement, asserted that mill shutdown constituted a material breach. The contracting officer refused to accede to this argument.

<sup>4/</sup> The courts have consistently held that the government can, by the use of force majeure or other contract clauses, assume the risk and costs of its own actions. Hughes Communications Galaxy, Inc. v. U.S., 998 F2d 953, 958-59 (Fed Cir 1993); Amino Brothers Co. v. U.S., 372 F2d 485, 491 (Ct Cl 1967); see Winstar Corp. v. U.S., 994 F2d 797, 812-13, withdrawn pending en banc review (Fed Cir 1993) (parties who failed to negotiate force majeure provision could not complain about Sovereign Act changing regulations that were the subject of the contract); see also Northern Indiana Public Service Commission v. Carbon County Coal Co., 799 F2d 265, 274-75 (7th Cir 1986) (discussing force majeure provisions generally);

TONKON, TORP, GALEN, MARMADUKE & BOOTH

Mr. Michael Bart...  
February 10, 1994  
Page 5

been invoked properly, the noninvoking party (here the Forest Service) cannot hold APC in breach because of the consequences of proper invocation.

This is not the first time the dissolving pulp mill or sawmill facilities have been shut down for reasons beyond the control of APC (i.e., under circumstances to which Section 5a2 applies). The dissolving pulp mill has been shut down for some period of time during 13 of the 30 years since 1962 for reasons covered by Section 5a2. (See Exhibit A.) Some of these shutdowns lasted several months. The Forest Service never asserted or even hinted at breach. Yet, now, after only 3 1/2 months of down time, the Forest Service asserts that APC is in breach of its contract. In addition, during the past 34 years, APC's sawmills (included in the definition of "pulp mill" under the contract) have been shut down and even dismantled. The shutdowns lasted for months. There were no claims of breach by the Forest Service. The Forest Service's January 13, 1994 notice is, at a minimum, premature and is inconsistent with its past actions under the contract.

The interpretation of Section 5a2 which the Forest Service has now adopted is incorrect. You assert that this section applies only when the pulp mill shuts down "in conjunction with shutdown of logging." It is certainly true that both a pulp mill shutdown and logging shutdown are discussed in Section 5a2. However, the disjunctive word "or" separates these separate possibilities, not the conjunctive word "and." The section provides in pertinent part:

"If the operation of the pulp mill<sup>5/</sup> ... or timber harvesting operations is shut down ...  
." (emphasis added)

This certainly means that the events are independent, not dependent as asserted in the January 13, 1994 letter.

Having attempted to transmute the word "or" into "and," the January 13 letter next seeks to excise the words "acts of the Government" altogether. Section 5a2 may be invoked for:

"... abnormal causes beyond the control ... of Purchaser which would permit operation of a pulp mill ... only at a loss, including but

5/ Under General Term 4, the defined term "pulp mill" includes sawmills.

TORONTO, TORP, DALEN, MARMADUKES & BOOTH

Mr. Michael Barton  
 February 10, 1994  
 Page 6

not limited to ... acts of the Government  
 ... ." (emphasis added)

It was the United States ("the Government") which unilaterally and so fundamentally changed the long-term contract between it and APC. It was "the Government" which struck out the economic heart of the contract -- the mid-market test. It was "the Government" which unilaterally reduced the volume of the contract. And it was "the Government" which imposed a material price surcharge. These "acts of the Government" aimed at this and only one other contract were abnormal -- such governmental conduct is almost unprecedented -- and permit APC the ability to operate "a pulp mill ... only at a loss." 6/ Section 5a2 could not be more clearly applicable.

Another problem with your interpretation and attempted use of Section 5a2 is that it does not provide a basis for the United States to terminate the contract. It is a section which establishes the preconditions which must be met before the contract term can be extended. That is, if APC does not meet the preconditions of Section 5a2, it simply does not qualify for an extension of the contract. Section 5a2 is utterly silent as to what happens if APC does not meet its preconditions, but does not ask for a contract extension. APC has met Section 5a2's preconditions. You dispute that. However, APC has not as yet asked for a contract extension.

4. The Nature of the Activity Constituting "Primary Manufacture" Can and Has Changed with Time.

Contrary to the statements in your letter, the contract does not require APC to operate any particular mill facility -- whether it be a dissolving pulp mill, an MDP plant, or a sawmill -- continuously over the 50-year term of the contract. Again, the express terms of the contract are quite clear. General Term 4 provides, "Prior to December 31, 1981, the Purchaser ... shall install ... a mill or mills for the manufacture of pulp ... ." (emphasis added) The contract does not say "install and operate" as stated in the January 13, 1993 letter. It only says "install." Therefore, once APC met its construction obligation by installing a mill for the manufacture of pulp by the specified date, the United States became obligated to make the timber purchased by APC available over the following 50 years.

6/ In some cases, such as the inclusion of utility volume in the contract volume, only APC's contract was modified by the TTRA.

TONGKON, TORF, GALE, ARMADUKE & BOOTH

THE  
FOLLOWING  
DOCUMENTS  
ARE  
POOR  
ORIGINAL  
COPIES

Mr. Michael Barlow  
 February 10, 1994  
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The contract is quite clear on this point because neither party could predict how economic forces would change over the 50-year term of the contract. After all, there had been revolutionary economic and political changes in the preceding 50 years. All the parties knew was that it was highly likely that there would be major economic and political changes in the next 50 years as well. Hence, they carefully crafted a contract which allowed for flexibility in how APC's primary manufacturing obligation could be satisfied over time as major economic changes occurred. This was only reasonable. No one in any manufacturing sector would ever agree to operate a manufacturing facility continuously for 50 years without any changes -- small or large.

To the extent that the contract is considered at all ambiguous on this issue, the historical record concerning the formation and evolution of the contract over time makes it clear that the United States' prime concerns were full utilization of the minimum cut and primary manufacture, not the form of either. The Tongass contained large volumes of timber that were not merchantable as sawlogs at the time the original contract was executed. Because of the species and quality of timber available, it was essential that there be a manufacturing facility capable of utilizing the non-sawlog timber so as to avoid leaving those trees in the forest.

In the 1950s, the Forest Service believed that a pulping facility was necessary to utilize all the timber in the Tongass. The Forest Service did not care what type of facility was installed -- and there were many different ways to fully utilize the timber at that time -- so long as the facility, in conjunction with any other facilities built by the purchaser, was able to utilize all of the timber in the sale area and meet minimum cut requirements. By requiring APC to build a "mill for the manufacture of pulp," the United States achieved its goal of establishing a year-round industrial enterprise at the same time that it ensured that lesser quality trees would not be left in the forest. The contract's utilization, minimum cut, and primary manufacture requirements, along with APC's initial \$60 million investment in the construction of the pulp mill, set into motion economic forces which have resulted in virtually continuous operations of the mill until now.

But the creation of economic forces which result in the

The Forest Service believed that it was important that trees not be left in the forest because this would promote better regeneration and better prevent damage from blown down trees.

TONGASS, TORO, CALIXIN, ARMADUIE & NORTH

Mr. Michael Bart  
 February 10, 1994  
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operation of a particular facility (e.g., a dissolving pulp mill) is far different from an express contract term mandating operation of a dissolving pulp mill or any other particular facility. The contract between the United States and APC did not expressly require operation of any particular mill continuously over the 50-year term of the contract. If that had been the parties' intention, all they had to do was insert the words "and operate" after "install." They did not.

The parties' performance under the contract makes it clear that how APC can meet its obligations of primary manufacture and full utilization has in fact changed in response to changes in economic forces. After 1961, as markets developed for hemlock and spruce cants, APC diverted more of the timber away from its dissolving pulp mill to its Wrangell saw mill. To avoid putting what had become marketable saw timber through the dissolving pulp mill, APC harvested even more of the lower quality pulp timber, which it previously had not been required to harvest because it was considered unmerchantable. Having become merchantable, this pulp timber came to be defined as utility logs under the contract, and APC became obligated to harvest them and to pay stumpage for them. APC has spent over \$100 million altering the dissolving pulp mill.

It has also dramatically changed its sawmill operations. In 1960, APC operated an older sawmill in Wrangell which only produced waney cants. Another mill was purchased several years later which produced baby squares (4" x 4"). Starting in 1979, both mills were shut down and then demolished. A totally new mill was then constructed in Wrangell to take advantage of new manufacturing technology and to produce additional products to meet changed economic demand. This new mill produces baby squares, flitches and finished lumber.

In short, both the dissolving pulp mill and the sawmill which exist today are very different from what existed in 1961.<sup>8/</sup> All of these changes were obviously accomplished with full knowledge of the Forest Sale. They were also accomplished without any change in the language of General Term No. 4.

The nature of the timber the Forest Service offers APC has been changing too. This is having an increasingly dramatic

<sup>8/</sup> This improved (and different) utilization also has been reflected in the appraisal process integral to pricing the timber APC harvests under the contract.

TONKON, TORP, GALEX, MARMADUK & BOOTH

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Mr. Michael Barto.  
February 10, 1994  
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effect on how APC can and will be able to meet its primary manufacture requirement. In stark contrast to the 1960s when 90% of the volume of timber offerings was pulp wood, today only about 35% of the volume is pulp wood. In 1960, neither APC nor any other timber operator could meet the primary manufacturing and full utilization requirements without operating some form of mill that could use chips as raw material. However, the situation has changed substantially. As only 35% of the volume now offered is pulp wood, the facilities which were built -- premised on a much higher percentage of pulp wood -- must be changed. In fact, the reduced total supply of pulp wood material has made it impossible to operate two dissolving pulp mills. APC can fully comply with all of its contract obligations (primary manufacture and full utilization) by running the sawmill at Wrangell, selling the chips that mill produces, and selling pulp logs to KPC for primary manufacture in Ketchikan. This is precisely what APC has been doing since September 30, 1993. Your January 13, 1994 letter fails to recognize this point, and any "termination" of the contract for the reasons stated in that letter is improper because of it. 2/

There is another reason the Forest Service's newly adopted contract interpretation is incorrect: The contract defines "pulp mill" so as to include what is now the Wrangell sawmill. Indeed, in your September 24, 1993 letter, you acknowledge that "the Wrangell sawmill is an associated facility as described by" the contract. The Wrangell mill has been in continuous operation since June 30, 1993. If APC does have a duty to operate the "pulp mill" (even though the contract does not say so), it has complied with that duty through the operation of the mill at Wrangell.

5. An MDF Plant would Give APC A More Competitive Position than Selling Pulp Logs and Chips.

Once APC installed a mill for the manufacture of pulp by year-end in 1961, its only remaining obligations were the minimum cut and primary manufacture. An MDF plant which pulps chips in its initial process is a primary manufacturing plant. Those pulped chips are then manufactured not into dissolving

2/ Your letter also states that APC has demanded more timber. That is absolutely incorrect. In our letter of October 21, 1993, we set forth our understanding of the timber supply and demand on the Tongass with two dissolving pulp mills operating. We merely asked that you confirm that our understanding was correct.

FOR INFORMATION OF THE BOARD OF DIRECTORS AND STOCKHOLDERS





**EXHIBIT A**

**ALASKA PULP CORPORATION  
SITKA DISSOLVING PULP MILL  
OPERATING DAYS AND SHUTDOWN DAYS**

<b>FISCAL YEAR</b>	<b>CALENDAR DAYS</b>	<b>SCHEDULED SHUTDOWNS</b>	<b>SHUTDOWNS FOR REASONS BEYOND AFC'S CONTROL</b>	<b>OPERATING DAYS</b>
1960	365	17	-0-	348
1961	365	17	-0-	348
1962	365	24	17	324
1963	366	16	-0-	350
1964	365	10	-0-	355
1965	365	12	26	327
1966	365	11	-0-	354
1967	366	11	-0-	355
1968	365	18	-0-	347
1969	365	15	-0-	350
1970	365	15	-0-	350
1971	365	22	-0-	344
1972	365	17	-0-	348
1973	365	18	70	277
1974	365	18	10	337
1975	366	37	26	303
1976	365	35	-0-	330
1977	365	25	-0-	340
1978	365	23	-0-	342
1979	366	19	-0-	347
1980	365	12	-0-	353
1981	365	10	-0-	355
1982	365	14	76	275
1983	366	14	57	295
1984	365	14	56	295
1985	365	14	107	244
1986	365	10	27	328
1987	366	10	-0-	356
1988	365	13	-0-	352
1989	366	14	-0-	352
1990	365	21	46	298
1991	365	21	18	327
1992	365	21	19	325

1011

ALASKA PULP CORPORATION

02/10/94 10:24

## ACKNOWLEDGEMENT

On February 10, 1994, I received a 12-page letter dated February 10, 1994 from William F. Martson, Jr. on behalf of Alaska Pulp Corporation.

---

Michael Barton  
Regional Forester Contracting  
Officer



ALASKA ASSOCIATION OF REALTORS, INC.  
741 Sesame Street, Suite 100 • Anchorage, Alaska 99503  
Telephone 907-563-7133

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SENATOR ROBIN L. TAYLOR  
JUDICIARY ROOM 30, CAPITAL  
JUNEAU, AK 99801

ROBIN,

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ALASKA ASSOCIATION OF REALTORS, INC.<sup>®</sup>  
741 Sesame Street, Suite 100 • Anchorage, Alaska 98503  
Telephone 907-563-7133

APRIL 5, 1994

HONORABLE JAMES LYONS  
ASSISTANT SECRETARY,  
NATURAL RESOURCES & ENVIRONMENT  
14TH ST. & INDEPENDENCE AVE., S.W.  
ROOM 217-E  
WASHINGTON, DC 20250

DEAR ASSISTANT SECRETARY LYONS:

THIS LETTER IS WRITTEN TO URGE YOU TO CONTINUE THE LONG TERM CONTRACT OF ALASKA PULP CORPORATION (APC). THAT CONTRACT HAS SERVED AS THE BASIS FOR THE ECONOMY OF SITKA AND WRANGELL, ALASKA FOR THE PAST THIRTY YEARS. WE UNDERSTAND THAT RECENTLY APC HAS BEEN FORCED TO SHUT ITS EXISTING DISSOLVING SULPHITE PULP FACILITY, BUT THAT IT IS WORKING TO REOPEN THE FACILITY AS A MEDIUM DENSITY FIBERBOARD (MDF) MANUFACTURING PLANT. THE SAWMILL IN WRANGELL HAS CONTINUED TO OPERATE AND WOULD BE FORCED TO CLOSE IF APC'S CONTRACT IS CANCELLED. THIS WOULD ECONOMICALLY DEVASTATE WRANGELL.

WE ALSO UNDERSTAND THAT YOU ARE BEING URGED BY ENVIRONMENTAL GROUPS TO CANCEL THE LONG TERM CONTRACT HELD BY APC. THIS WOULD BE A TERRIBLE MISTAKE ON THE PART OF THE CLINTON ADMINISTRATION. THE SANCTITY OF CONTRACTS IS IMPORTANT TO OUR MEMBERS; THUS THE GOVERNMENT SHOULD NOT ABRUPTLY TERMINATE ITS OBLIGATIONS WHERE VIABLE ALTERNATIVES CONSISTENT WITH THE CONTRACT EXIST AS IN THIS CASE. ACCORDINGLY, WE URGE YOU TO WORK WITH APC IN EVERY REASONABLE MANNER TO BRING THE MDF PLANT TO ACTUAL FRUITION.

OUR NATIONAL AND INTERNATIONAL ECONOMIC FORCE IS DEPENDENT UPON ENCOURAGING HEALTHY ECONOMIC ACTIVITY AT THE GRASSROOTS LEVEL. THE SITKA AND WRANGELL MILLS ARE SUCH FACILITIES. THE APC CONTRACT HAS BEEN A SOURCE OF LONG TERM EMPLOYMENT FOR OVER A THOUSAND DIRECT FULL-TIME AND A THOUSAND DIRECT INDIRECT JOBS. THE POPULATIONS OF SITKA AND WRANGELL TOTALS 11,000.

THE PROPOSED MDF PLANT AND THE EXISTING APC WRANGELL SAWMILL WILL PROVIDE A UNIQUE OPPORTUNITY TO UTILIZE A HIGH PERCENTAGE OF THE WOOD FIBER HARVESTED IN THE REGION. THESE ARE HIGH QUALITY LOGS FOR USE AT THE SAWMILL AND PULP QUALITY LOGS AND SAWMILL WOODWASTER FOR USE AT THE FIBERBOARD PLANT. THERE IS NO WASTEWATER DISCHARGE FROM THE MDF PULPING PROCESS, THEREBY ELIMINATING THE CONCERN OVER THE USE OF CHLORINE IN THE PRODUCTION OF DISSOLVING SULPHITE PULP.

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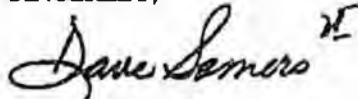


THE APC PROPOSAL IS THE TYPE OF ADVANCE MANUFACTURING PLANT TECHNOLOGY THE CLINTON ADMINISTRATION SHOULD ENCOURAGE. POLLUTION WILL BE ELIMINATED WHILE PRODUCING A HIGHER VALUE PRODUCT FOR DOMESTIC AND EXPORT MARKETS. THE MDF PLANT PERMITS CONTINUED UTILIZATION OF THE 50% OF THE TIMBER IN THE TONGASS THAT IS DEAD AND DYING AND NOT SUITABLE FOR A SAWMILL. EVEN WHAT ARE NORMALLY WASTE MATERIALS, LIKE PLANER SHAVINGS AND SAWDUST FROM THE SAWMILL, CAN BE USED IN THE MANUFACTURE OF MDF. THE HIGH VALUE OF MDF COULD ALSO INCREASE THE PRICE APC WILL PAY FOR STUMPAGE.

PRESIDENT CLINTON HAS STRESSED THE IMPORTANCE OF LOCAL JOBS AND THE COMMITMENT OF HIS ADMINISTRATION TO PROTECTING ALASKA'S EXISTING JOB BASE. THE PRESIDENT HAS ALSO STRESSED HIS COMMITMENT TO EVIL DAY CITIZENS WHO "PLAY BY THE RULES" AND WORK HARD. THIS DESCRIBES THE RESIDENTS OF SOUTHEAST ALASKA WHO ARE INVOLVED IN THE TIMBER INDUSTRY. THEY HAVE DONE NOTHING TO WARRANT THE ECONOMIC CATASTROPHE WHICH THE CLOSING OF THE SIIKA AND WRANGELL PLANTS WOULD CAUSE. THERE IS NO PRACTICAL ALTERNATIVE EMPLOYMENT ELSEWHERE IN THE REGION.

YOUR ASSISTANCE IN WORKING WITH APC TO ACCOMPLISH THE REOPENING OF THE APC MANUFACTURING FACILITY AS AN MDF PLANT IS ABSOLUTELY CRITICAL. WE BELIEVE THIS TO BE A VERY IMPORTANT ISSUE, AND WE URGE YOU TO WORK TO INSURE THE CONTINUATION OF THE LONG TERM CONTRACT USING AN MDF FACILITY.

SINCERELY,



DAVE SOMERS,  
PRESIDENT  
ALASKA ASSOCIATION OF REALTORS®

# Mill's closure would make pulp of 1,000 timber jobs

P.2

The continuing war over timber, environment and jobs is being fought now over Alaska Pulp Corp. Based in Seattle, it is owned out of Japan and operates in Sitka and Wrangell, Alaska. This company has for years been a target of environmentalists. It and Ketchikan Pulp Corp. hold 50-year contracts to cut federal timber in the Tongass National Forest — a process environmentalists describe as "laying waste to the nation's last great temperate rain forest."



**Bruce Ramsey**

For years, these companies have paid the government little for the timber they cut. While loggers in Washington and Oregon were paying hundreds of dollars per thousand board feet of timber, in 1992 Alaska Pulp paid \$2.49.

The world market has given environmental groups a chance to shut down Alaska Pulp, and they have jumped for it. But before this company is shut down, hear its case, and its proposal for the future.

In 1957 Alaska Pulp was given a 50-year contract for federal timber on the following terms: It had to process its logs in Alaska, so that it would create jobs more stable than gold mining and salmon

canneries. These jobs were recently paying an average of \$45,000 each.

Part of the deal was that the company build and run a pulp mill where high costs made it difficult. The trade-off was that the government would sell the timber cheap.

At the time, Japan was big in textiles. Alaska Pulp decided to produce the feedstock for rayon. Called dissolving pulp, it is used in hospital gowns, hardhats, toothpaste, burritos and ice cream.

In the early years, the company sent top-quality old-growth sawlogs to the pulper — an outrageous waste by today's standards. It now sends them to its sawmill in Wrangell, which supplies lumber to Asia and tight-grain blocks to door-and-window makers in the Puget Sound area. The poor-grade logs — and there are many so far north — are pulped at Sitka.

Or were, until last year. The market for dissolving pulp had been undercut by new mills in Brazil, China and South Africa. The Sitka mill needed to spend \$108 million to clean up water pollution. Congress had unilaterally amended its 50-year contract, tightening the terms.

As a result of all these things, Alaska

Pulp closed its Sitka mill in September, laying off 360 workers. For now, it runs the sawmill at Wrangell, but only as long as it has the 50-year logging contract. And that requires a pulp mill.

The company now proposes to keep the 50-year contract alive by producing medium-density fiberboard — the stuff in schoolroom furniture. MDF is a pulp-based substitute for plywood, and has a

**Employment at all Alaska Pulp operations, which was 1,100 at its peak and 750 now, would rise back to 980. If the Forest Service terminates the 50-year contract, it goes to zero. That's a big deal for Sitka, pop. 8,500, and Wrangell, pop. 3,000.**

market expanding by about 15 percent a year.

Converting the Sitka site to MDF would cost about \$80 million. That's a fraction of the cost of a new plant, and an investment that could be amortized over the 17 years remaining in the logging contract. If approved, the plant could be in production by early 1998, the company says.

Because none of the West Coast MDF producers are near tidewater, and because the Jones Act penalizes shipping to the United States, the mill would mainly export to Asia.

MDF solves several problems. MDF pulp is not bleached, and creates no water pollution. That saves \$104 million on clean-up costs. And because MDF requires a long-fiber wood species, the mill does not need to worry about southern-hemisphere competitors who use short-fiber eucalyptus.

MDF also offers more money to the Forest Service. Franklin Roppel, executive vice president, estimates that under the formula in Alaska Pulp's 50-year contract (which is based on product prices), it would be paying about \$75 a thousand board feet for its logs. That's still

the price of federal timber in Western Washington (what there is of it), but it's worlds away from \$2.49.

Employment at all Alaska Pulp operations, which was 1,100 at its peak and 750 now, would rise back to 980. If the Forest Service terminates the 50-year contract, it goes to zero. That's a big deal for Sitka, pop. 8,500, and Wrangell, pop. 3,000 — both of which naturally support the MDF proposal.

Environmentalists assert that the level of logging, which would not change, is unsustainable. The company says 88 per-

cent of the Tongass is already off-limits to logging, and that it needs to log 4-to-5 percent of the total Tongass to keep busy during the remaining 17 years of its contract. Unlike logging in Washington state, it is still cutting virgin timber, on a 100-year rotation.

Of course \$75 per thousand is still cheap for old growth. Alaska native corporations received much more for their Tongass timber. But they were under no obligation to mill the logs in Alaska — and didn't. Alaska Pulp is economically viable only because of a federal policy to use public timber to create jobs rather than revenue to the Forest Service.

The company's environmental opponents aim at neither. They say they want "sustainable" logging and "value added manufacturing." But by pushing to have the 50-year contract canceled, and to sharply curtail logging in the Tongass, they would wipe out the area's best industrial jobs. Southeastern Alaska is at a huge disadvantage in attracting others.

Much of the area would revert to seasonal fishermen and subsistence homesteaders, with occasional visits by cruise ships. Folks who wanted year-round work would have to leave — or apply to the government.

■ Bruce Ramsey is an editorial writer and member of the Post-Intelligencer Editorial Board.

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Section 11, 1994

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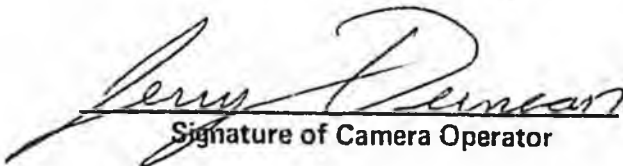


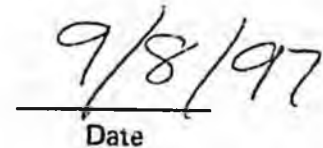
# RECORDS



# CERTIFICATION

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

  
Signature of Camera Operator

  
Date

Briefing

AK Water

Resources Bd.

3-26-93

**MEMORANDUM**  
Department of Natural Resources

**State of Alaska**  
Division of Water

TO: Mary McDowl  
House Resources Staff

DATE: March 10, 1993

TELEPHONE NO: 762-2575

THRU:

SUBJECT: Ak Water Resources  
Board

FROM: Danny R Allison   
Natural Resource Manager

Enclosed is the information on the Alaska Water Resources Board that you requested prior to their meeting on March 26 with the House Resources Committee. The Board will probably want to discuss some of the following issues:

- 1) Elimination or consolidation of the Ak Water Resources Board. The Division of Water would need \$28,700 to continue to support the Board with staff support and travel expenses.
- 2) Water Quality issues and the proposed CIP for Village Safe Water Programs.
- 3) The lack of funding to carry out essential Division of Water functions and to support the Water Resources Board.
- 4) Resource development.
- 5) Water sales and the development of an export market.

cc: Ric Davidge  
Mike Neimeyer

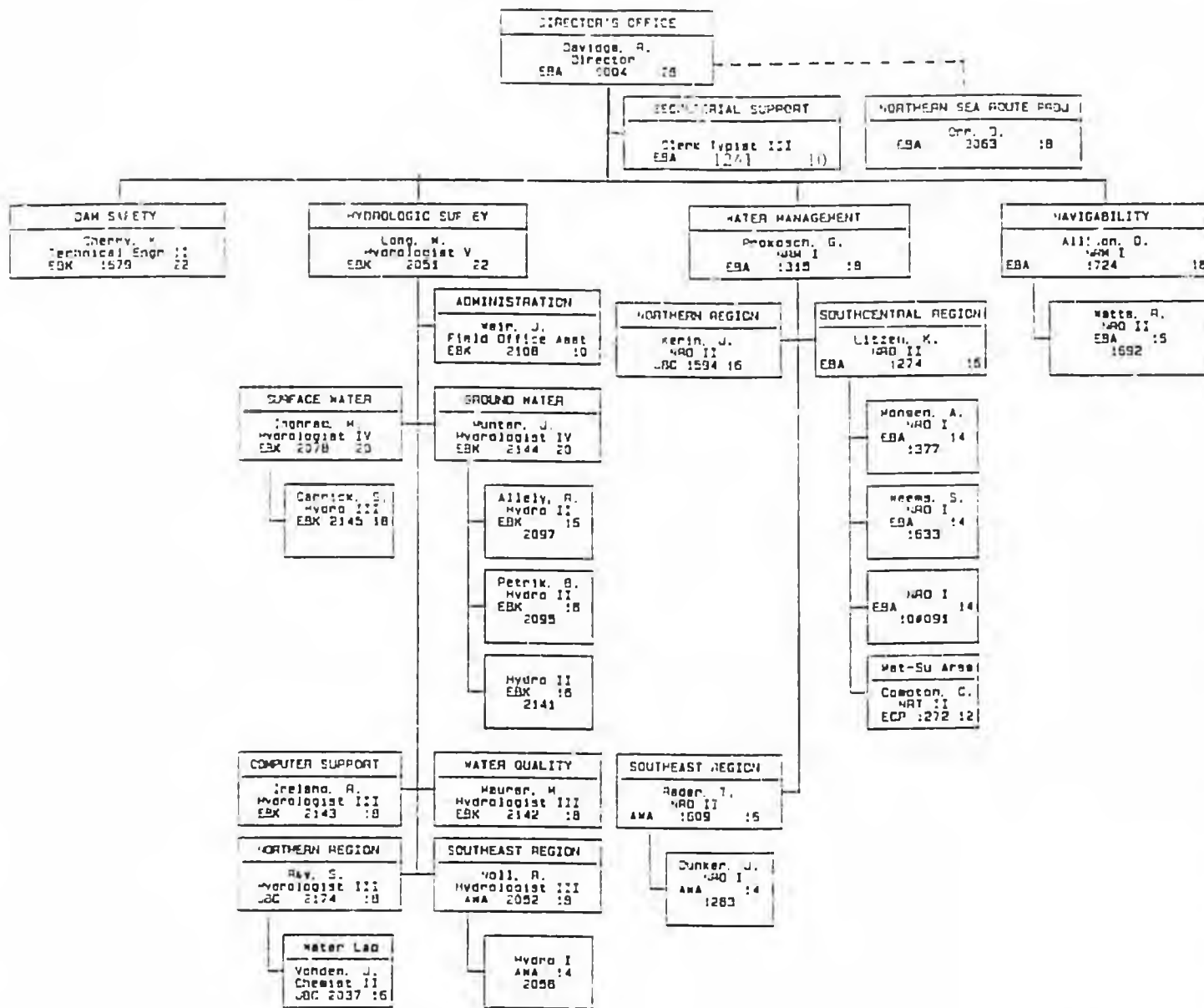


## THE DIVISION OF WATER

The Alaska Division of Water manages an estimated 40% of our Nation's free (not frozen) fresh water resources including over 3 million lakes larger than 50 acres and an estimated 30,000 streams. These responsibilities include the State Water Policy and Water Management Strategy; issuing water rights; administering the dam safety program; rendering and reviewing administrative navigability determinations, asserting ownership and management of submerged lands; surveying, collecting and distributing water resource data related to the quantity and quality of surface, ground and coastal waters of Alaska; coordinating water related data collection and management activities with other agencies; providing support to the State Water Board; advocating responsible water development including water exports. The Director of the Division represents the Governor at the Western States Water Council consisting of 17 western states.

In addition to the Office of the Director, the Division of Water is comprised of four sections: The Alaska Hydrologic Survey which includes the State Water Lab, Water Management and Development, Dam Safety and Construction, and Navigability. The Division has offices in Anchorage, Fairbanks, Juneau, Eagle River, and Palmer.

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER



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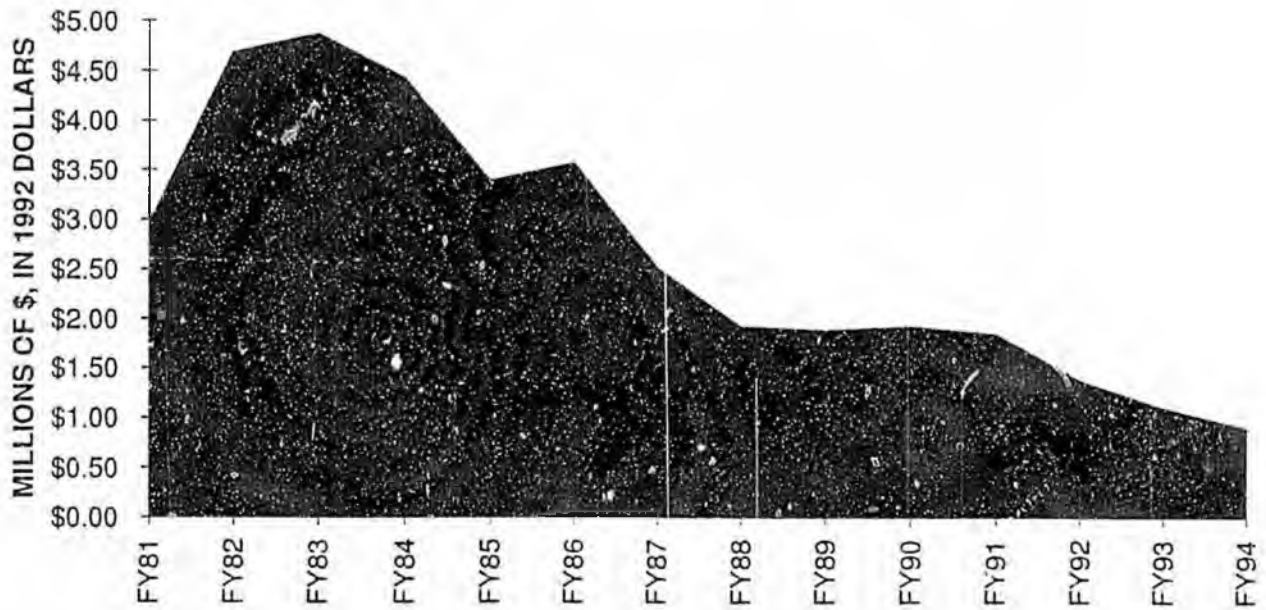
**Fairbanks**  
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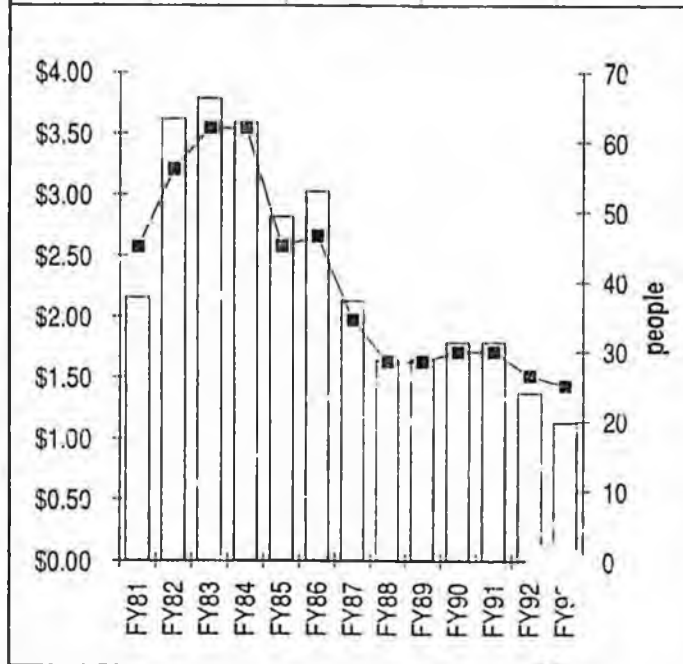
# DIVISION OF WATER

## BUDGET TRENDS

### *GENERAL FUND TRENDS*



year	millions	people
FY81	\$2.16	45
FY82	\$3.62	56
FY83	\$3.79	62
FY84	\$3.59	62
FY85	\$2.82	45.2
FY86	\$3.03	46.5
FY87	\$2.13	34.5
FY88	\$1.64	28.5
FY89	\$1.65	28.5
FY90	\$1.79	30
FY91	\$1.79	30
FY92	\$1.37	26.5
FY93	\$1.13	25



# TESTIMONY

Senate Finance Committee  
Ric Davidge, Director of Water  
March 4, 1993

Although specifically authorized in 1966 with the passage of the Alaska Water Use Act, the Division of Water was not created until June of 1991. In response to a number of studies and recommendations from former DNR commissioners and long standing recommendations by the State Water Resources Board, Commissioner Heinze and Governor Hickel created the new Division of Water. Sensitive to the concern that new agencies not increase to cost of government, the new division was created out of a consolidation of various water related programs within the Department of Natural Resources. Even with the appointment of a Director using a PCN from the Commissioner's office, the new division began with less (less 1 PFT Senior Adjudicator, 2 PPT clerks) state employees then were involved in water management before it was created.

The key reasons for the creation of the Division of Water had nothing to do with my availability or press discussion of a possible sub-sea water pipeline to California. It was made clear by the Governor that the Division would not be actively involved in the water pipeline issue. The key reason for the creation of the Division of Water was to bring higher public and political profile to water management issues. As a step-child in the former Division of Land and Water, the water programs never seemed to raise above land issues even though there were growing and pressing needs.

This Division is organized into five functioning units, with 26 employees, as expressed in the attached organizational chart.

**Navigability Section:** The highest priority of the division is formal acquisition (title transfer) of all submerged lands from federal to state title. When Alaska became a state, title to all submerged lands (up to ordinary high water) transferred to the State under the Equal Footing Doctrine in the US Constitution and other federal laws. Potentially 14,000,000 acres will transfer to the state after the state asserts that each waterbody is "navigable" consistent with a variety of court decisions. With about 30,000 streams and over 3 million lakes that are potentially navigable this is a formidable task, with only two staff and part of the time of the director. The Navigability Section is augmented by the Division of Lands, Title Section; the Attorney General's Office; and the Alaska Hydrologic Survey depending on need. Once a water body is determined navigable by the Division of Water, a batch of such determinations are organized and the Ags office files a 180 day notice to all applicable federal agencies. Once that notice is completed all adjacent land owners are Noticed and a court action is filed in federal court for Quiet Title. The work of the Navigability Section sets the basis for all Quiet Title actions on submerged lands. Once the title is secured through a federal court order, our case files are passed to the Division of Lands for management. Potential state owned submerged lands exist in the 1002 Area of ANWR, National Petroleum Reserve, and other federal management areas not only allowing important resource development such as oil and gas, minerals, gravel, subsistence resources, but also ensuring critical access through federal areas under state control. Often the only

source of gravel to support economic development in rural areas is found on state owned submerged lands.

Given the importance and complexities of this program, the fact that costs increase over time including the fast growing cost of legal Notice and necessary field verification, even with the use of volunteers, we have had to request a supplemental for FY93. We have also requested a CIP of \$330.0 for FY94 allowing an acceleration of one time field work to take advantage of sympathetic federal courts. We anticipate the attitude of the federal court to change over the next two years as the new Clinton Administration appoints federal judges. The longer it takes to assert navigability the more difficult it will be as historical information is less likely readily available.

**Water Management and Development Section:** The heart of the Division of Water is water management and development which has seen a reduction in staff of 65% over the past ten years. With 8 full time and one part time adjudicators for the entire state, two positions are currently vacant due to budget constraints. This section had 23 PFT adjudicators in 1984. Although this section processes about 650 water right files a year, as a result of this reduction in staff the backlog of applications and necessary administrative actions on case files continues to grow and is now at 1661. This growing backlog directly impacts citizens and businesses who need water rights in compliance with law and is causing delays in a number of important projects. The Division has addressed this problem by streamlining water permitting in both process and permit consolidation, and regular review of permitting priorities. A detailed analysis of the backlog and related costs is attached.

The Alaska Water Use Act is considered one of the best state water laws in the western states. Currently the State of Nevada is considering modifying their state water laws after those of Alaska, an action similar to those taken by a number of other western states over the past few years. Alaska has one of the best "public interest" and instream flow statutes in the west.

Under the Alaska Water Use Act, any significant use of water must be permitted by the State. This is to ensure the protection of prior water rights, consideration of public interest issues such as fish and wildlife, water quality, recreation, etc. If an individual or business does not secure water rights through the state they have no legal standing to assert a right to water being taken by an upstream or associated groundwater user.

The Division is now reviewing the possibility of segregating single family domestic use applications (necessary to protect their water rights although not required by law due to the low volume of water use) in areas with no anticipated water use conflicts, to allow these water rights to be expedited.

One of the key tools needed by the Water Management and Development Section is completion of the STOrage and RETrieval (STORET) system as requested under our CIP budget. Although 50% of this essential system is finished, and \$239.4 is necessary for completion, we will leverage the \$125.0 requested by the Governor against funds from EPA, USGS, BLM and other federal agencies. The completion of this critical water management system will allow greater accuracy and significant efficiencies in our water adjudication process when dealing with surface water resources. With STORET and modification of our

adjudication of single family domestic applications in areas of no known water conflict, we should be able to keep up with annual demands, although make only modest inroads on our case file backlog.

**The Office of the Director:** The Director of Water is not only responsible for overall management of the division, the director is the staff person responsible for water export development, our second highest priority - development of new revenue. A copy of our discussion paper on water exports has been provided to the committee. We have found this the most cost effective means of helping our market area and Alaskans understand the feasibility of bulk water transfers from Alaska to markets in the southwestern states and northern Mexico. Bulk water exports have the potential of developing \$20,000,000 in new annual revenue to the state in fees alone.

The Director represents the Governor and the State of Alaska on the Western State's Water Council which consists of 17 states. This council, a sub group of the Western Governor's Association, is the mechanism through which western state's interact with Congress and Federal agencies on a wide spectrum of water issues. In his participation at WSWC meetings the Director has also been able to promote Alaskan water exports and take advantage of a wide range of water experts in our market area reducing the cost of travel and contractual services needed for this program. The next quarterly meeting of the WSWC will be in Anchorage in July of this year.

Since creation of the Division of Water, the Director has successfully promulgated Alaska's first water management policy, stimulated the scheduling of our first State Water Summit, coordinated and lead the creation of the Alaska Water Management Council, successfully worked with the Legislature to pass the Water Fees bill in the first special session last year, and developed national and international attention to the potential for water exports. The profile of our water resources has been raised in both the political and public mind.

The **State Water Resources Board**, established by law, is also funded out of the Office of the Director at a cost of \$28.7 a year. This includes Board travel, per diem, staff support, materials, space rental when necessary, etc. Although the board was not funded by the Legislature in FY93 the Division has still been asked to provide staff support and other costs. The members of the Board are now traveling at their own expense and do not receive any per diem. The Governor has suggested to consolidation of this Board with the Soil and Water Conservation Board.

**The Alaska Hydrologic Survey:** With 40% of our nation's free flowing fresh water, in order to responsibly manage these water resources, accurate resource inventory and use data are essential. No significant economic activity can take place in Alaska without some water interaction. The construction of public transportation, public water supplies, mining, forestry, hydro-power generation, sport and commercial fishing, tourism, water quality, flood and erosion mitigation efforts - all are dependent on high quality water information.

The Survey consists of 11 scientists and one administrative field assistant, requiring an annual budget of about \$1,000.0. The General Fund budgeted amount of \$613.7 represents about half of the necessary budget for this program. In past years this difference has been off set by CIPs, Interagency transfers, Federal funds, and program receipts. During FY93,