

ALASKA LEGISLATURE COMMITTEE FILES

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HOUSE RESOURCES

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Alaska Environmental Lobby, Inc.

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SB 310: A Timber Mandate for State Lands

SB 310 significantly changes state forest policy by promoting long-term contracts called Forest Management Agreements, making timber harvest the priority on state lands, and diminishing public participation.

The Alaska Environmental Lobby opposes SB 310. This legislation:

***Authorizes the Commissioner of DNR to negotiate long-term contracts (Forest Management Agreements (FMA's)) with big timber companies.** SB 310 mandates DNR to annually solicit FMA's for up to 20-year timber-cutting contracts with possible contract renewals. This is a public resource giveaway which will lock up portions of state lands for years. These contracts are also likely to cost the state money. *(See AEL's position paper on long-term contracts for more information)*

***States that "The primary purpose in the establishment of state forests is the development of commercial forest land...".** Existing uses such as subsistence, hunting, fishing, tourism and outdoor recreation would become secondary to large-scale timber development.

***Allows two sales under 500,000 board feet to be sold yearly in a region, as well as "emergency sales," without the normally required two year scheduling by DNR.** These sales would be subject only to a 30-day public notice.

4/1/94



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Long-Term Contracts and Forest Management Agreements Would Cost Alaska Money and Lock Up Natural Resources

SB 310 mandates long-term contracts for up to 20 years, with an option to renew for another 20 years. Long-term contracts, also called Forest Management Agreements (FMA's), would make timber harvest the priority on state forested lands, elevating timber over fisheries, wildlife, subsistence, tourism, and recreation values.

Long-term timber contracts are likely to have negative impacts on Alaska's economy and natural resources. The Alaska Environmental Lobby opposes SB 310 and the long-term contracts authorized in this legislation.

Long-Term contracts are unhealthy for Alaska's pocket book

*If new markets offer higher economic gain in future years, Alaska would be locked into "yesterday's market." Long-term contracts prevent Alaska's timber industry from adapting and competing in world markets.

*The state could lose huge amounts of money on infrastructure such as terminals, transportation facilities and logging roads. For example, the state lost more than eight million dollars in road credits, facility loans, management costs and other subsidies for a Haines long-term contract. The contract was canceled in less than seven years.

Long-term contracts lock out future knowledge

*Facts change: Often there is less timber available than originally calculated. Inventories that appear scientifically correct have been found to be in error 10 or 20 years later.

*The state may have to honor original contract levels even if it is found that a company is harvesting above sustainable yield levels or harming fish and wildlife habitat or other uses.

*Public values change over time and generations. 20-year contracts prevent future Alaskans from deciding how lands should be used.

Timber supply problems to fulfill long-term contracts may occur

*Hunting, fishing, subsistence, tourism and recreational uses may be sacrificed to meet harvest targets outlined in a legal contract.

*Because of new information, specific areas may be needed for critical habitat, subsistence, or recreational uses. But this may be ignored because of timber supply obligations.

*Forest fires decrease available timber, but contract volume would still need to be met.

OVER



Long-term contracts and mills may endanger Alaskan communities economically and environmentally

- *Statistics show that about 40% of Alaska's wood industry workers are out-of-state residents. Their use of municipal services is expensive and not recovered through taxes.
- *Small timber operators who often supply local lumber very often cannot compete with holders of long term contracts.
- *Commercial hunting, fishing and tourism industries as well as subsistence and recreational pursuits may be damaged by prioritizing timber.
- *There are many serious environmental hazards associated with lumber and pulp plants including air and water pollution. Sound and smell pollution can be irritating to residents.
- *Costs to the state and municipalities can be high for monitoring, waste disposal, and pollution clean-up.
- *In the Interior, a large mill's air emissions would add to already serious air pollution caused by winter temperature inversions.

The fox should not be in charge of the hen house.

Industry should not manage state lands.

- *Forest Management Agreements (FMA's) would allow industry to manage forest areas where they are contracted to cut.
- *While private industry's bottom line goal is profit, DNR's mandated goal is to manage lands for the public interest and for multiple uses. DNR must manage our public lands.

What are the alternatives to long-term contracts?

Maintain current timber sale length of three to five years.

- *This length allows DNR to update contracts as social values, economic situations, and biological information change.
- *With accurate field data and an assessment of all multiple uses, DNR can ascertain a reliable sustained yield harvest and make timber available for competitive bid.
- *Then there can be reasonable certainty that interested purchasers will have a steady supply of timber to bid on at fair market value, without locking up resources for 20 years and without locking out other interested timber purchasers.
- *Short-term sales mean that companies must compete regularly with other operators, and may encourage them to be better "corporate neighbors." Long-term contracts insulate companies from community concerns, while short-term sales mean businesses must maintain high quality relationships with regulatory agencies and the public.

Encourage locally owned, value-added forest industries.

- *Value-added timber industries produce the most worker hours and higher wages.
- *Numerous small companies making diverse products create a stronger economy by spreading resources among locals committed to the community. Diverse products help buffer the community from changes in specific markets.
- *In our free market society, industries often must compete openly for resources and market shares. Long-term timber contracts eliminate this competition.

3/14/94

CORRECTION

**THIS DOCUMENT
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Sawmill to close; 75 to lose

By HAL BERTON

Daily News business reporter

The Seward Forest Products Co. sawmill is planning to shut down and lay off 75 workers because it can't match the prices Asian buyers are paying for logs felled in Southcentral forests.

The Seward mill has operated for the past 14 months, producing lumber for Anchorage and other markets. It is scheduled to close within the next 10 weeks as it finishes processing the last of its stockpiled timber, Bert Wright, the mill's manager, said Wednesday.

The mill is operated by a joint venture that comprises the Chugach Alaska Corp., an Alaska Native corporation; Citigreen, a Chinese timber trading company; and Morgan & Young North, a mill company.

Wright said most of the mill's logs come from timber on the Kenai

Peninsula and Prince William Sound controlled by partners in the joint venture.

But the partners have opted to sell much of that timber to Asian markets, Wright said.

"It was their (the partners') decision to send the wood to the export market because the return was greater than through the mill," Wright said.

Timber from private land can be sold to Asian mills without any U.S. processing. Alaska logs have been eagerly sought in Asia, and prices during the past year have been among the highest of the past decade.

The Seward mill partners can earn as much as 30 percent more by selling timber directly to Asia rather than making it into lumber here, said Bob Rice, a vice president of Citigreen.

Getting timber to Seward often

See Sawmill, Page 5

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ANCHORAGE DAILY NEWS FAX

APRIL 7, 1994

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Sawmill

Continued from page 1

involves expensive barge shipments. And after those costs and logging costs are deducted, the mill sometimes doesn't make a profit on the U.S. lumber sales, Rice said.

The Seward mill was first opened in 1990 by Chugach Alaska Corp. at a cost of more than \$20 million. The mill shut down in 1991 after Chugach Corp. filed in U.S. Bankruptcy Court for Chapter 11 reorganization. The mill then reopened under the joint venture's management in February 1993.

State timber officials looked to the mill as a key player in the expanding Southcentral timber industry. And state forester Tomas Boutin said Wednesday that he was "very, discouraged" to hear the mill was closing.

"It's as fine a sawmill as we'd hope to find in Alaska," Boutin said. "These were good operators."

A local lumberyard also was disappointed with the news.

"The quality of the lumber was good, and we were real excited about the operation . . . and hoping things would work

out," said Mike Morehouse, executive vice president of Spenard Builders Supply. Morehouse said Spenard bought only a small portion of its lumber from Chugach.

For mill workers, the closure pushes them into a forest products industry already crowded with unemployed workers from other mill shutdowns in Alaska and the Lower 48. "I'm through with these sawmills," said Mark Kovac, one of the workers scheduled to be laid off. "The timber industry just doesn't seem like a viable industry anymore."

But Wright said he thinks the mill might yet be able to reopen if it can obtain a long-term timber supply. Chugach Alaska hopes that timber can come from the state. And the corporation is lobbying the legislature to pass Senate Bill 310, which would help open state forestland for long-term timber sales.

In a briefing recently supplied to the legislature, Chugach explained that there is a "premium" on private logs cut for the export market, and that makes them "too expensive" to be sold to sawmills.

"Unless sawmills such as Seward Forest Products in Seward can obtain a consistent supply of state timber, they

will be forced to shut down," the briefing said.

A senate vote on the bill is possible as early as today.

The bill is opposed by conservationists who say it tilts state forestry policy toward the timber industry at the expense of hunting, fishing and other public uses.

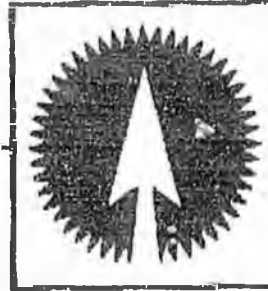
Larry Smith, a Kenai Peninsula carpenter active in forestry conservation issues, said he doesn't think the state should bail out Chugach.

"To have people who own a great deal of commercial forest land in Southcentral Alaska sell their timber high in the export market and buy timber cheap from the state doesn't seem like a good deal," Smith said.

But the mill's efforts to harvest more state land are winning support in Seward. Its city manager and mayor are scheduled to go to Juneau today to meet with state officials and seek assistance.

Large areas of the Kenai Peninsula are infested with spruce bark beetles, and perhaps some of those trees could go to the mill, said Elaine Nelson of the Seward Chamber of Commerce.

"What we're going to be looking for is long-term, affordable (timber) sources," Nelson said.

Alaska Forest Association, Inc.

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**STATEMENT OF TROY REINHART
EXECUTIVE DIRECTOR
ALASKA FOREST ASSOCIATION
ON SB310**

APRIL 15, 1994

Mr. Chairman and members of the Committee. It is my pleasure to testify in support of SB310 today. This is an important piece of legislation which will allow:

1. Public participation.
2. Organized job, industry and economic growth.
3. Full protection of the Forest Practices Act for all resources including important stream buffers.
4. Protection of forest health values from insect and disease epidemics.

SB310 is good public policy which deserves your support.

With this in mind, APA feels compelled to address the ADF&G fiscal note on SB310. We were pleased that ADF&G gave this a zero note. This was a proper, prudent and professional decision.

However, the additional three pages of dialogue associated with the fiscal note are misleading, not productive to the debate nor the proper role of the agency. The document is full of buzz words intended to invoke misconceptions in the minds of the general public.

Highly charged words such as:

- "...the promise of cheap, long term timber supplies..."
- "...very large companies..."
- "...large scale and rapidity of cutting..."

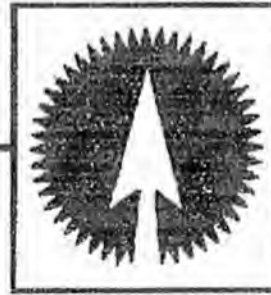
are not acceptable. No one is asking for a hand out or harvesting beyond sustainable levels. All that is needed is a reliable, stable, certain and economically feasible supply. We are very concerned about unsubstantiated accusations to the contrary.

In addition, we are concerned about the fact that the fiscal note contains unfounded assumptions. The ADF&G has no basis upon which to make assumptions on the size of agreements, the type of industry attracted or needs of interested parties. Again, we are concerned these type of comments simply raise unwarranted red flags to the public.

We urge this body to disregard the rather draconian assumptions of this fiscal note and strip them from the record. The zero fiscal note is correct as ADF&G has shown to be true even under their worst case scenario; however, their assumptions are unwarranted and overly pessimistic.

Thank you for the opportunity to testify today. AFA fully supports SB310 and respectfully requests your support.

Alaska Forest Association, Inc.



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STATEMENT OF THE ALASKA FOREST ASSOCIATION CLARIFYING PUBLIC MISCONCEPTIONS SURROUNDING PROVISIONS OF CSSB310

April 20, 1994

Background

There has been a tremendous amount of public misunderstanding expressed in testimony against SB310. Assertions that land planning processes and Forest Practices Act standards will not apply in FMA's are simply not true. Following is a brief response to some of the concerns raised.

1. CSSB310 Would Retain Existing State Forest Plans-Including The Tanana State Forest Plan.

All lands included in a Forest Management Agreement will undergo the scrutiny of the planning process required in Title 38 (AS 38.04.065). The first section of SB310 removes a redundancy in current law that requires a timber sale to go through the planning requirements of AS 38.04.065(b) twice. Only State forest lands designated for timber harvest through the public planning process would be included in an FMA. All FMA's must be consistent with land use plans already in effect.

2. CSSB310 Must Be Examined In The Context Of All Alaska Statutes Which Control Forest Management Activities.

Activities under an FMA will be fully governed by the Forest Practices Act as indicated on Page 5, lines 25-27 of the bill. The stream protection standards and other provisions of the Forest Practices Act remain in place. Penalties for violations (AS 41.17.131) include civil and criminal penalties as well as provisions to require the operator to bear the cost of repair.

3. Why We Can't Wait Another Year To Pass CSSB310.

While FMA's won't be implemented tomorrow with the passage of CSSB310, every day we wait is another day further from new

jobs. Passage of CSSB310 this year could mean the difference between the continued operation of the sawmill in Seward or the permanent loss of approximately 100 jobs.

Now is the time to pass CSSB310. A delay to the next session could mean this sound public policy proposal never becoming a reality.

4. CSSB310 Is Needed If The State Of Alaska Is Serious About Attracting Significant Investment In A Stable Long Term Forest Products Industry.

When acquiring investments for a project such as a sawmill or other forest products manufacturing facility, the promoter must prove "due diligence". This term essentially means a promoter or bank must show a reasonable chance of the investment being profitable and secure. Without a fairly certain timber supply, the "due diligence" test cannot be met.

Since the State of Alaska has been unable to achieve a consistent, stable and significant independent timber sale program, an investor would only accept some type of longer term Forest Management Agreement to meet the "due diligence" test. Without SB310, Alaska will be unable to attract any significant investment in the forest products industry not associated with private lands.

5. CSSB310 Is Not An FMA. It Is The Authorization To Enter Into Forest Management Agreements.

CSSB310 simply allows FMA's. The actual FMA's will be very long and purposely detailed to insure the best interests of the State will be protected. Actual FMA's will include:

- a. Reforestation requirements
- b. Commitments made by the purchaser and State
- c. Wildlife restrictions
- d. Bonding requirements
- e. Deactivation requirements
- f. Public access assurance
- g. Wildfire protection requirement
- h. Timber inventory
- i. Road standards



ALASKA OUTDOOR COUNCIL

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April 12, 1994

The Honorable William K. Williams, Chairman
House Natural Resources Committee
Alaska State Legislature
State Capitol MS 3100
Juneau, AK 99801-1182

Dear Representative Williams:

The Alaska Outdoor Council, at its annual meeting April 10, 1994 voted to support passage of CSSB310 (Res), "An Act relating to the management and sale of state timber and relating to administration of forest lands."


Because of its dedication to sound scientific management of fish, wildlife and habitats and public use of public resources, the Outdoor Council followed development of this bill with great interest. The original bill raised substantive concerns regarding relations of timber use to overall forest management and use, including fish, wildlife and habitat management, public access, the broad spectrum of public uses, and the opportunity for public input.

Those concerns have been addressed through extensive amendments by Senator Frank and his staff. By requiring that forest management agreements must be consistent with land use and/or forest management plans, the appropriate order of planning has been restored. Throughout the bill explicit recognition of the importance of providing for sound fish and wildlife management and for forest uses besides commercial timber production have been included. Appropriate opportunities for public input on forest management agreements have been added to existing public input provisions.

The Alaska Outdoor Council believes that CSSB310 (Res) meets the standards of providing for sound, scientific management of forests and related resources, and for appropriate public uses of forests. With appropriate public and agency cooperation in devising forest management plans, habitat quantity and quality enhancement may be improved by provisions of the amended bill.

We urge you to support and pass this bill.

Sincerely,


Richard H. Bishop, Acting President

cc: Senator Steve Frank
Commissioner Carl Rosier
Commissioner Harry Noah

ALASKA SPORTFISHING ASSOCIATION
3605 ARCTIC BLVD
ANCHORAGE, AK 99503

Representative Bill Williams
Alaska State Capitol
Juneau, Alaska
Via Fax

April 12, 1994

Re: SB310

Dear Representative Williams,

The Alaska Sportfishing Association is concerned that the passage of SB310 would lead to a severe weakening of forest management by the State. Management would most likely be controlled by the timber interests whose priorities are, of course, the maximization of income, and not the preservation of the forest and its waterway's habitat. That habitat is vitally important to the anglers of our State, be they commercial, sport, subsistence, or personal use fishers.

The bill also eliminates the authority of the Department of Natural Resources to close lands to timber sale, weakens the land use planning process, and requires reforestation with trees that would be expected to grow into merchantable timber instead of native stocks. It also rewrites the criteria for "best interest determination" that precedes all timber sales. It rewrites the criteria to eliminate recreation and subsistence and substitute "continuation and expansion of businesses".

We think the bill will place a commercial forestry priority on all state owned forested lands. The forests would be managed for business purposes over traditional public uses such as hunting, fishing, recreation, and subsistence. As such, the bill is bad news for the Alaskan public and should not be enacted. Your support on this issue would be appreciated. Thanks.

Phil Cutler, President

POLY-FENCE OF ALASKA

The SAFE Fence.

- Home & Garden
- Farm & Ranch
- Construction Sites

James Elliot
Sue Anderson
P.O. Box 81438
Fairbanks, AK 99708
(907) 457-7569

4-21-94

To: House Resources Committee

Regarding: SB 310

Dear elected public representatives,
It appears that the public
testimony get together concerning this
bill. have become charades! Therefore
I will take additional time to put
pen to paper to protest the passage
of SB 310 wholeheartedly.

I know you are busy, so am I
so this will be short. There is
nothing good in this for Fairbanks.
To fly in over a flight line of clear
cut forest is not the welcome we want
anyone to have for our town -
tourist or resident alike

This is not the view of a

radical environmentalist but that
of a 22 year resident who
is an active member of a labor
union & has seen years of 'reality'
in the construction market.

Keep our forests whole!

Small scale select logging
is much more to our benefit

& to the benefit of those
who are to live here 50 to 75
years from now.

please! Oppose SB 310 -
I'll be watching & I do vote.

V. Sue Anderson

PO box 81438
Fairbanks AK 99708

970 Cranberry Ridge

William D. Arvey
P.O. Box 81195
Fairbanks, AK 99708
April 18, 1994

Representative Bill Williams
Chairman, House Resources Committee
Room 128
State Capitol
Juneau AK 99801-1182
FAX: 465-3793

Dear Representative Williams;

SB310 is scheduled to be considered in the House Resources Committee this week and I want to provide some of the thoughts that have occurred to me regarding this issue. As you can see, I am tremendously disappointed by the passage of this measure in the Senate. Following are some of the reasons why I believe the Forest Bill, SB310, is not compatible with the public interest:

1. SB310, if enacted, will result in a State-sponsored subsidy for cutting of public timber resources, the denuding of vast tracts of woodlands, and the construction of logging roads into the forests. The 20-year contracts (forest management agreements) will be negotiated now, when stumpage prices are low, assuring that the State will not receive good value for the timber throughout the life of the contracts. Since there is apparently no renegotiation provision in the bill, we have to assume that even if timber prices rise during the contract period, successful bidders will have locked in prices favorable to themselves and detrimental to the State's interests. In addition, costs to the State for planning, monitoring, and probably even constructing forest access roads will probably negate any stumpage fees paid. It is apparent now that the whole issue of cost to the State to implement this program has been swept under the rug because only after passage of the bill in the Senate was there any mention by the agencies of potential cost. I hope that the issue of cost will be fully explored in committee proceedings.

2. No one who has experienced the present air quality of the Fairbanks area, and who has watched as that quality has deteriorated over the years would advocate the operation of a major wood processing plant in this valley.

3. As a practical matter, the effect of this bill will be to accelerate the culling of spruce sawtimber that presently grows primarily along stream margins, and of which there are very limited amounts compared to the total amounts of forest acreage claimed for the Tanana River Valley. Sawtimber quality spruce logs constitute a very small percentage of the forest, and if timber sales are based on percentage of total forest acreage available, it is conceivable that a high proportion of the existing spruce forest will be eligible for harvest. The end result will be no change in existing infrastructure, no value added

processing, and timber will continue to be shipped to port and then to foreign markets as happens now, and which SB310 is purportedly designed to change. The only difference that I see will be a change in volume of exported raw logs. It is my opinion that no particle board plant, or other major processing facility will be constructed and that highgrading for sawtimber will continue.

4. Large scale timber cutting has perhaps the greatest environmental impact of any extractive industry, including placer mining. Basically, this is because the operations are so extensive, covering large tracts of land, and so intrusive, changing the whole character of the lands and waters affected for long periods of time. Access roads created for logging simply do not go away when the timber has been harvested, and provide a starting point for serious erosion and siltation for years to come. Perhaps the most serious impact of the roads will be that they will provide ready access to adjacent, non-state owned timberlands making it that much easier to harvest timber on them as well.

On a final note, many people feel as I do that both public interest and sentiment on this issue has been trampled by the legislature in their stampede to pass this bill. It seems inconceivable that SB310 could proceed through both houses and be signed by the Governor after the huge amount of public testimony that has been presented in opposition to the bill, and the high proportion of public testimony that has run against it. Your committee is the last stand for those of us who oppose accelerated cutting of public forest in the Tanana Valley. I ask that you consider these points in your deliberations on SB310.

Sincerely,

William D. Arvey

cc: Governor Walter Hickel
Senator Steve Frank



March 2, 1994

Senator Mike Miller, Chair
Senate Resources Committee
State Capitol, Room 423
Juneau, AK 99801

Dear Senator Miller:

I am writing in support of SB 310. I urge you to expedite its journey to passage.

SB 310 will streamline the process of making State forest lands available for management and timber harvest. This is especially important to companies like Cape Fox with an interest in small timber sales. Recently the United States Forest Service has severely curtailed their small timber sale offerings.

As is the case with many other small companies, Cape Fox has developed a skilled and effective working group of logging engineers, land managers and support staff, and enjoy excellent working relationships with our customers. Our timber business produces profit for our corporation which is shared with our native shareholders, and renovated in our local economy.

Timber development takes years to accomplish in the presently charged political environment. Forest management agreements and a well organized timber sales program are essential to assure that the timber based economy in our state remains strong.

Thank you for your continued support of timber.

Sincerely,

Ernesta Ballard
Chief Executive Officer

*copy to
WKW*



Alaska State Legislature

Please enter into the record my testimony to the HOUSE RESOURCES
committee name

committee on SB 310, dated 4/20/94
bill/subject

I ~~AM WRITING~~ ^{AM WRITING} MY TESTIMONY BECAUSE I HAD TO LEAVE THE TELECONFERENCE
TO GET TO WORK:

I AM OPPOSED TO SB310, BECAUSE I AM CONCERNED THAT ITS COSTS WILL
BE GREATER THAN ANY BENEFITS IT BRINGS TO THE STATE. I AM CONCERNED
ABOUT THE COST IN TERMS OF THE BILL'S POTENTIAL EFFECT ON FISH & OTHER
WILDLIFE & THE SCENIC VALUE OF THE LAND - VALUES IMPORTANT TO COMMERCIAL
FISHERMEN, SUBSISTENCE USERS, THE TOURIST INDUSTRY, & RECREATIONAL USERS OF THE
FOREST. I AM ALSO CONCERNED ABOUT THE COSTS OF THE BILL IN TERMS OF
EXPENSES THE STATE WILL INCUR SOLICITING, & MANAGING, FMAS AND MONITORING THE
IMPACT OF LOGGING ON WILDLIFE HABITAT - WHICH FISH & GAME'S FISCAL NOTE SUGGESTS
WILL BE CONSIDERABLE. THERE WERE SEVERAL AMENDMENTS PROPOSED IN THE
SENATE WHICH ADDRESSED THESE PROBLEMS - SPECIFICALLY THOSE PROPOSED BY SENATORS
LITTLE, DUNCAN, & LINCOLN, I URGE YOU TO RECONSIDER THESE AMENDMENTS.

ADDITIONALLY, I WOULD LIKE TO POINT OUT THAT THE FORESTS OF THE
KENAI, SUSTINA, & TANANA VALLEYS DIFFER FROM THE COASTAL FOREST OF
SOUTHEAST AK. FISH & GAME LOOKS TO LOGGING IN ALBERTA CANADA ~~AS~~ AS
THE BASIS OF THEIR FISCAL NOTE & SO SHOULD WE IN ANTICIPATING
THE TYPE OF LOGGING THAT WILL RESULT FROM THESE FMAS - THE ONLY TYPE OF
LOGGING LIKELY TO BE PROFITABLE IS LARGE-SCALE, HIGHLY MECHANIZED, HIGH-FUNCTIONAL
IMPACT CLEAR CUTTING. THIS I AM OPPOSED TO THE ANNUAL SOLICITATION OF FMAS, &
SB310.

Signed: Gail Bandy

Testifier

SELF

Representing (Optional)

PO BOX 662 GARDEN CITY AK 99557

Address

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the RESOURCES (HOUSE)
 committee name
 committee on SB 310, dated 4/15/94
 bill/subject

I CAME TO TESTIFY ORALLY ABOUT MY CONCERNS REGARDING
 SB 310, I AM ANNOYED THAT YOU DID NOT ALLOW TIME
 TO TAKE PUBLIC TESTIMONY & CUT OFF PUBLIC
 PARTICIPATION IN THE LEGISLATIVE PROCESS, I DEMAND
 THAT YOU RESCHEDULE TIME FOR ORAL PUBLIC TESTIMONY
 REGARDING SB 310.

Signed: Gabriel Bandt
 Testifier

Representing (Optional)
Box 662 GREENWOOD
 Address
783 -1306
 Phone No.



NORTH STAR TERMINAL & STEVEDORE COMPANY

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TELEX: 28-471 NORTH STAR VCO ANH
CABLE ADDRESS: NORTH STAR VCO ANH
FAX: (907) 272-6755

Representative Bill Williams
Chairman, House Resources Committee
State Capitol, Room 128
Juneau, AK 99801

Dear Sir;

We would like to show our support for SB310. Alaska needs to manage their lands without the burden of the Federal Government applying unreasonable restrictions upon us. We need to continue to create jobs in the Forest Industry at the same time as we develop and manage our Forests.

We urge you to support SB310 to allow Forest Management Agreements on State Lands.

Sincerely

Wayne Bannowcliff
Superintendent
North Star Terminal and Stevedore

To: Rep. Bill Williams
House Resource Committee
State of Alaska

Dear Sir,

I moved to Alaska 10 months ago with the hope of a long term job. My wife and I love the area and would like to continue living in Alaska.

It is time for the State of Alaska to take charge of their renewable resources to insure a healthy economy and a healthy forest for the entire state.

To have any chance of saving valuable employment in Seward Senate Bill 310 should be passed immediately.

This would only be the first step as the exporting of logs from state lands should also be banned so the timber would have to be processed domestically.

Sincerely
Arlin Bates
Box 2945
Seward, Ak 99664



Alaska State Legislature

Please enter into the record my testimony to the House Resources
committee name

committee on SB 310, dated April 15 1994
bill/subject

My name is Linda Behrken - I am a commercial fisherman and am actively involved in fisheries management at the local, state, federal & international level. From this perspective, I would like to offer comments on SB 310.

As we look around nation - clear that fisheries are in trouble. They are in trouble because of:

- ⊗ "highgrading" - targeting commercially valuable species
- ⊗ ~~scarcity~~ over-harvest: sacrificing long term to short-term
- ⊗ habitat destruction.

Because of these 3 errors, fisheries are closed on the E. coast in the Pacific NW. In Alaska they are healthy, albeit threatened by errors in other areas. This Bill sets up AK State Forests - and AK Fisheries for the same disaster. The

Bill encourages ⊗ highgrading ⊗ over-harvest ⊗ habitat damage - again sacrificing long-term ^{health} for short-term profit. The lower 48 is scrambling to correct errors - while fishermen & forest workers alike face serious socioeconomic hardship. Let's learn from their mistakes - emphasize multiple-use, long-term health.

Signed: Linda Behrken

Testifier

Alaska Longline Fishermen's Assoc.

Representing (Optional)

403 Leelan St Ste 237 SITKA AK

Address

747-3400

Phone No.

April 15, 1994

Representative Bill Williams, Chairman
House Resources Committee

Dear Representative Williams:

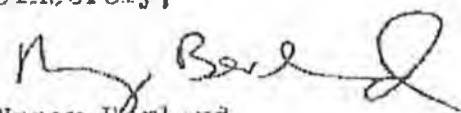
Please accept this letter in lieu of the testimony I was prepared to give at the public hearing today for SB 310. Unfortunately, many people have come to four teleconferences and, as yet, have been unable to testify.

I strongly oppose SB 310 for the following reasons:

- 1) SB 310 gives large scale logging priority over subsistence, fishing, tourism, hunting and recreation. Lands which have been logged become virtually useless for any other purpose for decades. I believe multiple use is the only sensible management policy for state lands.
- 2) SB 310 does not prohibit exporting logs in the round, a practise which removes a natural resource with minimal economic benefit to the state. Our resources are not infinite; therefore, wise use is important.

Thank you for your consideration.

Sincerely,


Nancy Berland
Box 952
Haines, Ak. 99827

From: Matthew D. Berman at ☐ (907) 783-1386
To: Rep. Williams at ☐ 465-2278

☐ 04-21-94 11:41 am
☐ 002 of 003

Matthew D. Berman
P.O. Box 662
Girdwood, AK 99587

April 20, 1994

Representative Bill Williams
Chairman, Resources Committee
Alaska House of Representatives
Room 128
State Capitol
Juneau, AK 99801-1182

Dear Rep. Williams:

I took time off work in order to attend two teleconference hearings on SB 310 during the past week. Although I arrived on time and signed up immediately, I was not given the opportunity to testify either time, because of the large number of people who wished to testify and the limited time allotted to public comment on the bill.

I am an economist who has studied renewable resource management for nearly 20 years. SB 310 makes a number of significant changes to the way state forest land is managed, and I think it is very important to consider the bill carefully. It starts with the presumption that long-term forest management agreements (FMAs) are better for the timber industry than individual 3-5 year sales. This is not necessarily the case.

Timber markets are notoriously volatile. It is easier for a company to sign a long-term agreement than it is for them to live up to it. The history of the state long-term sale to the Haines operation and the U.S. Forest Service sale to the Sitka mill should signal caution about entering into similar agreements elsewhere in Alaska.

This could be remedied substantially if SB310 were amended to require that the Department of Natural Resources (DNR) make a full accounting of all benefits and costs to Alaskans, and that the Commissioner proceeds with an FMA only after determining that the benefits exceed the costs. A number of people testifying at the hearing supported including a cost-benefit analysis with the bill, and I concur with their sentiments.

Another concern I have with SB310 is the requirement in section 3b that DNR solicit FMA proposals every year forever, even if no one is interested. This sets up a bureaucratic process that would be difficult to turn off and could waste scarce budget resources.

SB 310 contains several additional provisions not directly related to FMAs that attempt to clarify the direction of management of state forest land. Some of these provisions do not serve that purpose and in fact open up a can of worms.

Section 4c(3) states that "forest land shall be administered so as to provide for the continuation and expansion of businesses," This revised language institutionalizes a contradiction. It implies that one can continue all forest activities at an expanding rate -- a goal that no forest, or indeed any renewable resource, can support.

Section 5 restates the primary purpose of state forests as "development of commercial forest land under the principles of sustained yield and

From: Matthew D. Berman at ☎ (907) 783-1386
To: Rep. Williams at ☎ 465-2278

☎ 04-21-94 11:42 am
☐ 003 of 003

multiple use" This language sets up confusion between the notion of a primary use and multiple use. Either commercial forestry is the primary use, or else it is one of several uses. The proposed language tries to have it both ways. This will only result in confusion and conflict among resource managers, industry representatives, and members of the public, each of whom will see the language as meaning something different.

I urge you to strike section 4c(3) and section 5 from the bill. Perhaps the text can be reformulated instead in a preamble to the bill that states legislative intent without providing confusing and contradictory directions to resource managers.

Thank you for the opportunity to comment on SB 310.

Sincerely yours,

Matthew D. Berman

→

Terry T. Brady, d/b/a
Alaska Husky Wood
2900 Boniface Parkway #672
Anchorage, AK 99604

Phone (907) 333-9462

TESTIMONY
TO
HOUSE OF REPRESENTATIVES NATURAL RESOURCES COMMITTEE

RE

FOREST MANAGEMENT AGREEMENTS

April 15, 1994

delivered by Telefax

The author requests this report be circulated amongst the entire Natural Resources Committee. Please indulge this. The author, Terry T. Brady, introduced the concept of FMA's to Alaska ... based on research more than 10 years ago ... in response to the need, even then, to move the public agencies, battling over budgets and turf, off "dead-center."

My name is Terry T. Brady. I am a forester in private practice. I have been involved with forestry and forest products for more than 45 years, of which 35 years has been in Alaska. I hold a Master of Science degree from the College of Forest Resources of the Univ. of Washington. I have consulted in forest products, done basic research in forest ecology, taught natural resources at the University level and have operated logging operations in Alaska. I was also an Alaskan licensed big game guide for 25 years. My work has taken me throughout Alaska, the pacific Northwest, the Intermountain West, across Canada, to Scandinavia and the Far East.

For many years I have attempted to establish a responsible forest products industry in Interior Alaska. I emphasize the word responsible, because as a professional, and an Alaskan citizen, I do not want to witness over harvesting of timber or the ruination of other forest resources. But, I do not believe destruction and profit are synonymous. Rather, profits and positive forest management can go together, for

Testimony Concerning FMA's

the benefit of investors, government agencies, and the general public ... while fulfilling the legal mandate of the Alaska Constitution, which requires equal opportunity under the law (Article I); and settlement of the land, and utilization, development, conservation and maintenance of the replenishable resources, under the sustained yield principle. (Article VIII).

Some 10 year ago I introduced the concept of Forest Management Agreements to Alaska. I did so after personal review of timber licensing and forest management agreement system then being practiced in Canada. (Canada is the closest model for Alaska, concerning forest management agreements. The concept, for example is unknown in Scandinavia, where most of the forest lands are already privately owned).

The most attractive system I could find at the time was in the province of Ontario, where under the leadership of both public and private foresters, and an enlightened environmental community ... with help from the academics ... a new system of Forest Management Agreements (FMA's) had recently been developed.

The Ontario agreements created long term relationships between responsible private forest companies, who were charged with both harvesting and regenerating public lands ... and public forest and wildlife overseers ... who in effect were agents of the public. The program was a far-cry from most FMA's or timber licenses, where the private firms harvested, and the government conducted reforestation (sometimes) and only in rare instances did the two systems meet.

In Ontario the government provides the timber, and the seedlings. The private sector does the research, planning, implementation, including roading and mills ... and finally the government, representing the people, oversees the contracts and operations.

It is WIN - WIN for the society and the forests.

Today I heard representatives of the Alaska Dept. of Fish and Game discuss a fiscal note, indicating they will need more personnel to manage the lands affected by FMA's. This is antithesis to the concept of FMA's, where in Ontario the need of publicly employed foresters and biologists, etc. was reduced.

The result in Ontario has been outstanding. Dr. Kenneth Armson, whom I first met when he was Dean of the Forestry School at the Univ. of Toronto, shepherded the new concept through the Ontario Legislative process in the late 1970's. He later became the Provincial Forester for Ontario. In 1987 Dr. Armson was a guest speaker at a Boreal Forest conference in Anchorage ... invited to discuss FMA's from the Ontario perspective.

Testimony Concerning FMA's

He ended his talk by saying, "The development of our agreements came after long hard looks at other types of arrangements and we believe we have learned from their mistakes and benefited from their successes. We had to develop our own for our own conditions ... and I believe you can do that for your own."

I think Dr. Armson would be pleased with the bill that is now before you, and like to think he was partly responsible for it.

There are some trends that I am concerned about, however. The first is the idea that agencies will need more money or people because of the FMA's. This, as I said earlier, is patently against the concept.

Second, I am concerned that the bill, as I now understand it, gives the Dept. of natural Resources quite a bit of discretion as to when, and where, the FMA's should be ... or even if "they should be."

I'm not afraid of the general public ... but I am very concerned about the agencies being given such discretion. The history of forestry and wildlife management, as practiced by the Alaska Division of Forestry, and the Division of Habitat within ADF&G, are both professionally "sorry."

Those two agencies have failed. And the quicker they are taken out of the loop, as far as determining "when and where" are concerned, the better off the people of Alaska and their resources will be.

Particularly, I am pointing to the terrible destruction that is occurring within the boreal forest ecotone ... where the greatest die-off of trees in North American recorded history is taking place ... at the same time moose starve to death for lack of browse ... and the Board of Game cuts the brown bear season because the spruce bark beetle is raising havoc with bear habitat.

There is the old saying that "Rome burned while Nero Fiddled." Well, this is the situation in Alaska ... where elements of governments, supposedly trained foresters and wildlife managers, "Fiddle" while their charge ... the natural resources, burn or rot or starve.

This does not mean the agencies don't "have a place." I am just requesting that "they be put in their place" and be carefully instructed that neither they, nor their administrative bosses ... set the policies for natural resources. These policies were set in 1955-56 by the People of Alaska, in the forward thinking Constitution of the State of Alaska.

The following information, with graphs depicts the forest losses, both in volume and values, of the past few years, by ownerships. This information was provided by the U.S. Forest Service. The loss is scandalous.

Testimony Concerning FMA's

But, these losses can be slowed, and the trend amended ... provided that the public sector and private experts, get on the same "wavelength." I thought in 1983, when I first met Dr. Armson, that FMA's modified from the Ontario experience, would work in Alaska.

Given the events of the recent past my feelings have been intensified ... and now it is not only a good thing to do ... it is probably the only thing to do. We need the forest and its associated resources, and we need the work ... and there are Alaskans, within and without government, ready, willing and able to help.

But first the Legislature must take the lead.

FOREST HEALTH CRISIS

Spruce bark beetles are but one of the destructive agents currently decimating the forests of Alaska. Root rots, other fungus diseases, wind, and fire, are all taking a toll at more than natural levels in some areas. And the problem is growing. Each of these agents is "normal" within a natural forest. However, when the agents act at a level that precludes the forest from regenerating itself, then the forest is considered in a health crisis.

*"A land ethic, then, reflects the existence of an ecological conscience, and in turn reflects a conviction of individual responsibility for the **health of the land**. **Health** is the capacity of the land for self-renewal. **Conservation** is our effort to understand and preserve this capacity. A **science of land health** needs, first of all, a base datum of normality, a picture of how land maintains itself as an organism" (Leopold, 1949).¹*

This is the case of the spruce forests of Alaska, where many stands are reverting to grassland, because after the spruce dies there is no viable seed, or seed bed, for a new forest. In some areas spruce forests are being replaced by less economically valuable hardwoods in such profusion that the biological diversity of specific areas is being threatened.

In some areas other tree species are subject to their own "ailments" and cannot fill voids left by dying spruce. This is especially true of pioneer species such as birch and aspen.

¹ Leopold, Aldo, 1949. *A Sand County Almanac, and Sketches Here and There*, Oxford Univ. Press. Leopold, a forester, was also the founder of the science of wildlife management.

Testimony Concerning FMA's

*"The concept of **ecosystem health** is a comprehensive, multiscale, dynamic, hierarchical measure of system resilience, organization, and vigor. These concepts are embodied in the term 'sustainability,' which implies the system's ability to maintain its structure (organization) and function (vigor) over time in face of external stress (resilience). A **healthy system** must also be defined in light of both its context (the larger system of which it is a part) and its components (the smaller systems that make it up) (Constanza, 1992).²*

*Most forest ecosystems lead long, productive lives.... **Inflictions of old age, environmental stress, or unwelcome visitors produce unhealthy ecosystems.... In recognizing that forests and other ecological ecosystems provide irreplaceable services, when these systems are threatened, we must administer aid"** (Waring 1980).³*

The spread of the spruce bark beetle has been rapid and it is growing.

It took 51 years (1920 to 1970) of observation before the U.S. Forest Service documented an accumulated 608,000 acres of spruce bark beetle infestation. Then from 1971 through 1980 880,000 acres were impacted. For the period 1920 through 1989 the total impact reached 1,993,958 acres of active infestation.

The epidemic worsened in the 1980s, and has taken off in the 1990s. From 1990 through 1993 impact totaled more than 2 million acres, and experts predict that in 1994 the active area will be 1.2 million acres. Even if the bark beetle were to naturally subside, or were artificially controlled, great damage has already occurred in the Alaska spruce forest.

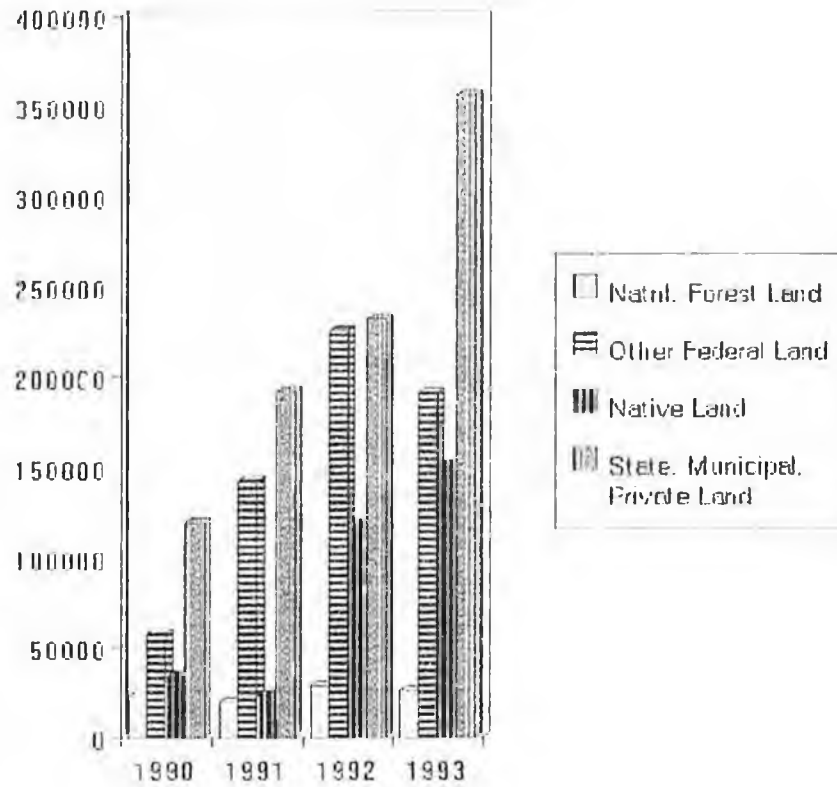
The spruce bark beetle is not the only destructive agent stressing and destroying the overmature forest. Ips beetle is attacking spruce and hemlock. Other insects are attacking old birch and cottonwoods. Fungi are active. Again, all are natural under natural conditions ... all can be epidemic when conditions are right.

² Constanza, Robert, 1992. Toward an operational definition of ecosystem health. In: *Ecosystem Health, New Goals for Environment Management*, R. Constanza, et al, editors, Island Press.

³ Waring, Richard H., 1980. Vital signs of forest ecosystems. In: *Forests: Fresh Perspectives from Ecosystem Analysis*. Proceedings of the 40th Annual Biology Colloquium, R.H. Waring, editor. Oregon State Univ. Press.

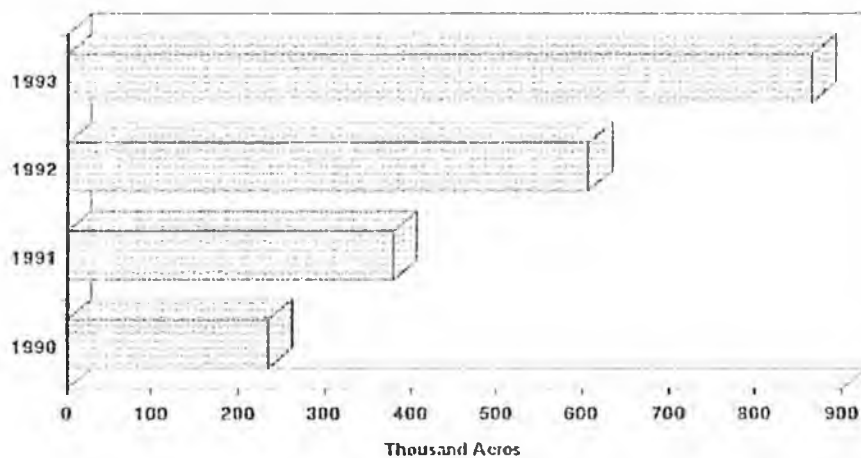
Testimony Concerning FMA's

Alaska Spruce Bark Beetle - Year, Ownership & Acreage

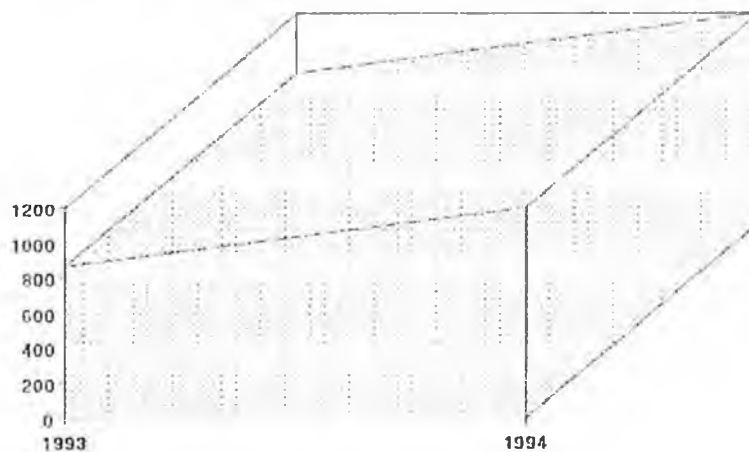


Testimony Concerning FEMA's

Growth in Bark Beetle Infestation 1990 - 1993



Growth in Bark Beetle Activity 1993 -1994 (projected)



Source U.S. Forest Service

Other stem, leaf and root diseases, some caused by insects, some by fungi, others by animal predation and human activities, are all stressing the mature forests. Collectively these destructive agents, added to fires, winds, etc., have created a classic Forest Land Emergency in much of Alaska. Even if all bark beetle activity ceased in the next few years, the question of Forest Health would not be settled.

Testimony Concerning FMA's

FOREST LAND EMERGENCY: An emergency, as it pertains to forest land conditions, is defined as

- (1) actual or imminent loss of the market value of timber that has been damaged by fire, insect infestation, other pest, disease, or an act of nature, with the biological destructive agents acting at the epidemic level;
- (2) actual or imminent loss of the market value of timber that is threatened by insect infestation, other pest, or disease;
- (3) the need to create fire breaks to protect natural resources, private and public real and personal property values, human life, or livestock life, or to avert actual or imminent economic loss;
- (4) a requirement to reduce fuel-loading of the forest to protect natural resources, private and public real or personal property values, human life, or livestock life, or to avert an actual or imminent economic loss;
- (5) a requirement to reduce the spread of insect infestation, the spread of other pests, or other destructive agents that in the expert opinion of the director has reached or is threatening to reach epidemic levels, threatening the fulfillment of multiple use and sustained yield of the multitude of forest resources, defined as fish, forests, wildlife, grasslands and all other replenishable resources.

ECONOMIC IMPACT

Not only is the physical ecological chain within the forests disrupted when the forests have reached an unhealthy state, but so is the economy. Many people, whether they be tour guides, fishermen, recreationists, loggers or support persons, or even government agents, depend on a healthy ecosystem to maximize their return on financial and emotional investments in the forest environment.

The economic loss (opportunity cost) for one year can be demonstrated by hypothetically comparing the timber loss in 1993 to the loss that would occur to the state's economy if crude oil were allowed to leak unchecked from the Alyeska Pipeline.

In 1993 approximately 865,000 acres of mature spruce forest was visibly infected.

Arguably 500,000 acres of timber died or was threatened in 1993. These areas contained a conservative 4,000 board feet per acre. The financial loss can be computed based on recent timber values. 500,000 acres times 4,000 board feet per acre results in a 1993 loss of 2 billion board feet of timber. At an average delivered to mill price of \$350 per thousand board feet this would be a direct economic loss of \$700 million dollars, not counting values that could be added in mills, if they were operating.

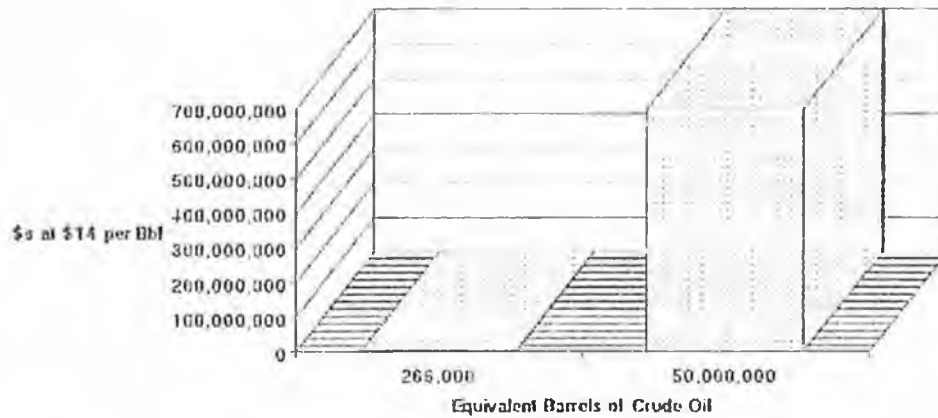
This was 1.5 times the value of all the salmon landed (delivered to canneries, or other processors) in Alaska during the same year.

It equaled, at \$14 per barrel, the direct financial loss if a hole was punched in the pipeline, and 50 million barrels of crude oil was allowed to run unchecked onto the tundra.

Testimony Concerning FEMA's

While the pipeline example is hypothetical, the 1993 timber mortality was real, and can be directly compared to the Exxon Valdez accident in 1989 where about 11.2 million gallons of crude oil (approximately 266 thousand barrels, or \$3.7 million in value at \$14 per barrel) leaked into Prince William Sound, the North Pacific Ocean and adjacent beaches. Industry, taxpayers and consumers were effectively "taxed" several billion dollars (and the bills are still coming in) to combat, under Emergency conditions, and to mitigate a large and destructive environmental disaster. While the accident created an environmental crisis, it was not much of an economic issue until mitigation measures were undertaken.

1989 Exxon Valdez (left column) – 1993 Spruce Bark Beetle (right column)
Direct Comparison of Material Lost



The current Forest Health (Forest Land) Emergency destroys and alters the land. In the case of forest mortality the issue is real, not hypothetical, and it effects millions of acres of land ... including wildlife habitats and other forest amenities.

However, to date the commitment to meet this ecological crisis is low level at best. Barely \$1 million has been spent to combat this Emergency, and most of that has been spent on public meetings, situation monitoring, campground mitigation, and funding "business as usual" while overlooking emergency conditions.

Neither the State of Alaska, nor the federal government, have undertaken any meaningful "on-ground" mitigation measures. Planning, yes! Action, no! How much would be spent if 50 million barrels were to leak? Would that be considered an emergency?

Infrastructure (ship vs, landscape), or wildlife losses, direct or over time, are not considered in the above chart. Attempts have been made to determine such losses for the Exxon Valdez accident. None has been made concerning the

Testimony Concerning FMA's

environmental amendments/degradation caused by a dying and changing forest ecosystem.

And, in these times of declining oil revenues, as the state administration and the legislature seek means to strengthen both the public and private sectors of the state's economy, it seems that more attention must be paid to the wasting timber resources ... obviously for ecological reasons ... but also logically for financial reasons.

CONCLUSION

FMA's are a tool. They allow the private sector to partake of the resources of public land ... in a full partnership with the controlling public land agencies. A good FMA is not a confrontational document. It is not from the "police state" mentality.

It is a professional document, where learned foresters, biologists, engineers, surveyors, recreation specialists, etc., can produce resources that can be converted to wealth by specialists working in value-added factories ... creating opportunities for jobs and recreation among the citizens.

For Alaska FMA's can break the cycle of deterioration that is now plaguing our State, to what should be the "shame" of Alaska.

I commend this Legislature for facing this issue. I understand the sincerity of some of those who feel the concept is a "give-away." But sincerity does not substitute for knowledge or right.

FMA's are right, and I recommend this Legislature pass this bill, in a form that will truly allow the private sector (and many of us are Alaskans) to work with our "Owner State" as true partners.

Sincerely,

Terry T. Brady, M.S. (forester)

To: Rep. Bill Williams

Company: House of Representatives, Natural Resources Committee.

Phone:

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Date: 04/16/94

Pages including this

cover page: 15

Comments: State Forester Tomas Boutin has expressed concern over the "definition" of the "principle of sustained yield" of "replenishable resources." I offer this paper, based on philosophical, historical, professional and legal definitions. Sustained yield of the replenishable resources is the fundamental obligation of the "Owner State" as established by the Constitution of Alaska (Article VIII, Section 4.). It is not a ambiguous term, and has been well-defined by the Alaska Courts. Note the word "renewable" resources is not used in the Constitution. The word is "replenishable" which requires a higher standard of care than "renewable." The "private sector professionals understand "sustained yield." If we can cooperate with state employees, under a Forest Management Agreement system, maybe some of the confusion will be alleviated. Please Circulate among committee members.

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What is Sustained Yield as it Pertains to Replenishable Natural Resources; and Forest Resources and Forest Protection (Forest Health) in Particular?

by

Terry T. Brady, M.S. (forester)
December 27, 1993

Revised April 7, 1994

Introduction:

The forests of Alaska, both coastal and boreal, are under great stress, as evidenced by massive insect epidemic and other pathogenic forces. From the Tongass National Forest of Southeastern Alaska, northward to the valley of the Yukon River, both scientists and lay persons have noted the deterioration.

Where 25 years ago stood green spruce forests many areas are now brown, or are being converted to grasslands or pioneer hardwood species.

This is occurring at time when humankind makes more use of the forests than at any time in history. Citizens expect forests to be healthy, and productive, not only for wood products, but as habitat for fish and wildlife species, and for recreation opportunities ... all of which suffer when forests are not healthy.

This is one of a continuing series of papers prepared by this forester in an attempt to bring this current disaster into focus. This paper examines the principle of sustained yield, both from its legal and philosophical backgrounds. It relates "definitions" of sustained yield, and

Sustained Yield

shows the continuity between definitions, which are always based on use (at some multiple use maximization), periodicity, and maintenance.

Finally this paper ties sustained yield into the two major areas of Alaska Law that are concerned with forests. These are Title 38 (Alaska Lands) and Title 41 (Alaska Resources), both derived under authority of the Constitution of the State of Alaska.

This paper makes the point that utilizing and maintaining Alaskan Forests and their associated resources, are not matters of discretion ... but are primary ministerial duties ... the dereliction of which is a crime.

There is no conscious sustained yield program in current effect for Alaska's forests, despite the Constitutional mandate that renewable resources must be managed under the sustained yield principle.

Sustained Yield:

A conservationist's view:

"To waste, to destroy our natural resources, to skin and exhaust the land instead of using it to increase its usefulness, will result in undermining, in the days of our children, the very prosperity which we ought by right to hand down to them amplified and developed."¹

A "new ecologist's" view:

"If you do nothing, you'll get something you didn't expect."²

The social scientist's view:

"To fulfill our obligations to our descendants and to stabilize our communities, each generation should sustain its resources at a high level and hand them along undiminished. The sustained yield of timber is an aspect of man's most fundamental need: to sustain life itself."³

Modern developer's view:

"Sustained development includes two key components."

¹ Theodore Roosevelt, former president of the United States.

² Wallace Kaufmann, in *How Nature Really Works*, American Forests March/April 1993

³ William & Jean Duerr, *The role of faith in forest resource management*, Social Sciences in Forestry, a book of readings, 1975.

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1- *The concept of needs, in particular the essential needs of the world's poor, and*

2- *The idea of limitations that are imposed by technology and society on the ability of the environment to meet those needs.*

*Sustainable development is best understood as a process in which the use of resources, the direction of investments, the orientation of technological development, and institutional change all enhance the potential to meet human needs both today and tomorrow.*⁴

The Alaska Beginning (Historical Perspective):

"Forests

The forests are the major resource of the surface of Alaska soil. This will be true after statehood, even though much of the better timber will remain reserved in national forests. The suggested Article on Lands and Resources includes this section:

Section 4: (Forest Lands) Sales, grants, deeds or leases of forest lands of the State, where such lands are to be developed and utilized primarily for their forest resources, shall contain provisions binding on the purchaser, grantee, or lessee to adhere to the principles of sustained yield management of the forest areas so sold, granted, deeded or leased.

Sustained yield management has become well established, both as a principle of sound forest practice and as a legal concept. Legitimate timber operations are today conducted on this basis, even when the compulsion of law may be absent. The phrase is broad enough to cover stripping operations where the timber has become so badly rotted and fallen that there is no other way than stripping to recover the available timber and to start a sound sustained yield program through replanting."⁵

Author's Note: Section 4 of Article VIII (Natural Resources) became the area where sustained yield appeared in the completed Constitution of the State of Alaska. The adopted Section was re-written from the consultant's proposal.

⁴ From, *Sustainable Development, a Guide to Our Common Future*, The Report on the World Commission on Environment and Development, 1988.

⁵ From, CONSTITUTIONAL STUDIES, Prepared on behalf of the Alaska Statehood Committee for the Alaska Constitutional Convention, Convened November 8, 1955, by Public Administration Service, Volume 1 of 3.

Sustained Yield

An Academician's View:

"No other state constitution (writing on the Constitution of the State of Alaska) has a separate article devoted exclusively to natural resources. The presence of this article in Alaska's constitution signifies the importance of minerals, fish, and wildlife in the history of Alaska's development, and the expectation that they would continue to be significant to the future of the state. It was evident from bills pending in Congress at the time of the constitutional convention (1955) that Alaska would acquire a sizable grant of federal land when it became a state. Also, the new state would assume responsibility for the management of fish and wildlife. In their "Report to the People," the constitutional convention delegates said: 'The future wealth of the State of Alaska will depend largely on how it administers the immense and varied resources to which it will fall heir.' Thus, they considered it imperative to give Constitutional recognition to fundamental principles that should guide the management of the state's patrimony.

While the convention delegates sought to protect basic principles of resource management in the constitution, they also sought to avoid provisions that would be unsuitably restrictive for future generations. They were content to let future legislatures, and the courts if necessary, give contemporary meaning to general terms like public interest, maximum benefit of the people, common use, and superior public purpose. However, their aim was to fix these philosophical concepts so firmly in the law and consciousness of Alaskans that they could not be subverted by stealth, ineptitude or inattention.

Apart from the symbolism and exhortation, what does the article really accomplish? It establishes, directly and indirectly, the following principles.

- "The natural resources of Alaska should be developed.
- "The natural resources of Alaska are to be managed as a public trust.
- "The public should have the broadest possible access to and use of the state's natural resources.
- "Management of the renewable resources must be on the basis of sustained yield.
- "Management of state resources will recognize multiple uses whenever possible.
- "The methods of acquiring mineral and water rights traditionally used in Alaska and other western states shall be preserved by the new state government to the extent allowed by the Congress.
- "No private property rights may be created in any fishery." ⁶

⁶ Gordon Harrison, *A Citizen's Guide to the Constitution of the State of Alaska*, ISER Univ. of Alaska Report Series 59.

Sustained Yield

A Legal Opinion:

Note: The enclosed was written primarily to describe the principle of sustained yield as it pertains to Alaska's wildlife and fisheries. The author noted there has been no legislative history of defining sustained yield as it pertains to these renewable natural resources, thus his paper relies on the Constitution of the State of Alaska and the legislative history and court findings concerning sustained yield as per forests. "Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the state" is the way the Constitution addresses the various subjects.

The author notes (Page 4 of the paper) by quoting From Vol. 7, p. 98, of the Alaska Constitutional Convention Proceedings, "Sustained yield is recognized as a principle applicable to the administration of plant and animal life subject to the immediate authority of the state."

He notes, "The Alaska Legislature has never statutorily defined 'sustained yield' as applied to wildlife or fisheries" so the author defers (page 10) to the statutes affecting forests, particularly the Alaska Forest Resources and Practices Act (AS 41.17.950) and the Alaska Public Lands Act (AS 38.04.910). He notes (page 11) "The Alaska Forest Practices Act, and AS 38.04.910 might arguably be construed in pari materia with Alaska's wildlife and fisheries statutes."⁷

Author's Comments: The paper noted above gives the opinion that fish and wildlife, for purposes of sustained yield, are to be treated as to the legislation and court cases involving sustained yield of timber. If this is so, then it is also so that timber should be given the same deference in practice (and expenditure) as fish and wildlife.

The author states (page 15), "It is not only the right, but the duty, of the State to preserve for the benefit of the general public, the fish in its waters (read timber) from destruction or undue reduction in numbers, whether caused by improvidence or greed of any interests."

This can be interpreted to mean that the State must undertake such activities as necessary to protect the forest resources from destruction or undue reduction. In the case of forests, when faced with Forestland Emergency⁸ conditions, this is best done through the authorities given in Title 41.15 Forest Protection.

⁷ *The Sustained Yield Principle of Article VIII, Section 4*, by Gregory F. Cook, Esq., May 4, 1991 (Office of the Attorney General of Alaska)

⁸ Forest Land Emergency:

An emergency, as it pertains to forest land conditions, is defined as

(1) actual or imminent loss of the market value of timber that has been damaged by fire, insect infestation, other pest, disease, or an act of nature, with the biological destructive agents acting at the epidemic level;

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A Politician's View:

"Maximum use is the reigning policy for resource development on state land. The 'sustained yield principle' in Section 4, Article VIII of the Alaska Constitution is subject to the 'maximum use' policy of Section 1. The Constitution directs us to provide citizens the opportunity to utilize and develop our resources. This utilization is to be provided up to the maximum level that the resource can sustain. ... Our maximum use policy emphasizes the 'yield' portion in 'sustained yield principles.'"⁹

The professional forestry view:

"The yield that a forest can produce continuously at a given intensity of management. Note: Sustained-yield management therefore implies continuous production so planned as to achieve at the earliest possible time a balance between increment and cutting."¹⁰

"To Fernow, the basic deficiency in handling forest resources was the failure to distinguish between interest and capital. Sustained yield, after all, was based on the notion of harvesting annual or periodic growth increments -- the interest. Overcutting occurred when the resource base (the capital) was depleted to a point where the desired growth could not be maintained. Cutting into forest capital reserves would in the long run lead to exhaustion."¹¹

(2) actual or imminent loss of the market value of timber that is threatened by insect infestation, other pest, or disease;

(3) the need to create fire breaks to protect natural resources, private and public real and personal property values, human life, or livestock life, or to avert actual or imminent economic loss;

(4) a requirement to reduce fuel-loading of the forest to protect natural resources, private and public real or personal property values, human life, or livestock life, or to avert an actual or imminent economic loss;

(5) a requirement to reduce the spread of insect infestation, the spread of other pests, or other destructive agents that in the expert opinion of the director has reached or is threatening to reach epidemic levels, threatening the fulfillment of multiple use and sustained yield of the multitude of forest resources, defined as fish, forests, wildlife, grasslands and all other replenishable resources.

⁹ Alaska's Lieutenant Governor John B. Coghill, November 1993. Coghill was a delegate to the Alaska Constitutional Convention that adopted the Natural Resource Article, quoted below, in 1955.

¹⁰ *Terminology of Forest Science, Technology, Practice and Products*, Society of American Foresters, 1971.

¹¹ Quote from *The U.S. Forest Service, A History*, by Harold K. Steen, Univ. of Washington Press, 1976, concerning statements in the USDA Annual Report 1886, by Bernhard Fernow, Chief of the Division of Forestry. Fernow, a German, was the first professional forester in the United States and in Canada.

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Legal Framework and Definitions:**The Alaska Situation:****A- from THE CONSTITUTION OF THE STATE OF ALASKA****Article VIII - Natural Resources****Section 1 - Statement of Policy.**

It is the policy¹² of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

Section 2 - General Authority.

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

Notes to Opinion

This section, stating that Alaska's natural resources shall be used and developed in ways that will benefit Alaska's people, is not inconsistent with the federal privileges and immunities clause. *Hicklin v. [Orbeck, 565 P.2d 159 (Alaska), rev'd on other grounds, 437 U.S. 518 98 S. Ct. 2482, 57 L. Ed. 2d 397 (1977)]*

The natural resources of Alaska "belong" to Alaska and to Alaskans in a way that, in the federal system, Alaska's society and economy in general do not. [*Hicklin v. Orbeck, 565 P.*

¹² Not following policy is negligence. Negligence removes the perpetrator from immunity.

1. Negligent offense. One which ensues from a defective discharge of a duty, which defect could have been avoided by the exercise of that care which is usual, under similar circumstances, with prudent persons of the same class. [*State v. Weiner, 41 N.J. 21, 104, A.2d 467, 480. Black's Law Dictionary, Sixth Edition*]
2. The basic policy of the law should be that when there is negligence the rule is liability, immunity is the exception. [*State v. Abbot, Sup.Ct. Op. No. 801 (File Nos. 1463, 1467) 418 P.2d 712 (1972)*]
3. ... whereas decisions that are merely operational in nature, thereby implementing policy decisions, will not be considered discretionary, and therefore will not be shielded from liability. [*Japan Air Lines v. State (File No. 5027), 628 P.2d 934 (1981)*]
4. Failure to exercise proper care does not rise to the level of governmental policy decisions to which the discretionary function immunity from suit applies. [*Stanley v. Stanley, Sup.Ct. Op. No. 865 (File Nos. 1598, 1601), 506 P.2d 1284 (1973)*]
5. The elements of a cause of action for negligence are: (1) a duty requiring an actor to conform to a certain standard of conduct, for the protection of others against unreasonable risks; (2) a failure on his part to conform to the standard required; (3) a reasonable close causal connection between the conduct and the resulting injury (proximate cause); (4) actual loss or damages resulting to the interests of another. [*State v. Abbott, Sup.Ct., Op. No. 801 (File Nos. 1463, 1467) 498 P.2d 712 (1972)*]

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20 159 (Alaska) rev'd on other grounds, 437 U.S. 518, 98 S. Ct., 2482, 57 L. Ed. 2d 397 (1977)]

The terms "conserving" and "developing" both embody concepts of utilization. "Conserving" implies controlled utilization of a resource to prevent its exploitation, destruction or neglect. "Developing" connotes management of a resource to make it available for use. [Kenai Peninsula Fishermen's Co-op. v. State, 628 P.2d 897, (1981)]

Section 4 - Sustained Yield.

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

(all emphases added)

Note: In common usage the term "renewable" is used for resources such as timber, grass, wildlife, etc. that are renewable, as opposed to "non-renewable" resources, such as minerals, or fossil fuels which require time to form. The term used in the Constitution is "replenishable." Replenishable and Renewable are not necessarily concurrent terms. Webster's defines the terms as:

renewable 1: *capable of being renewed.* 2: *capable of being replaced by natural ecological cycles or sound management practices.*

replenish 1 a: *to fill with persons or animals* b: *to supply fully* c: *to fill with inspiration or power* 2 a: *to build or fill up again* b: *to make good.* The adjective is **replenishable**.

The American Heritage Dictionary, 2nd College Edition, states:

renewable: *To make new, or as of new again. To restore.*

replenish: *To fill, or make complete again; add a new stock or supply; replenish the larder.*

This indicates that the Constitution of the State of Alaska contemplates and requires more than holding renewable resource levels to some status quo by simple "replacement." It implies a duty to "fill," to "fully supply," and to "build." This requires proactive management.

B- ALASKA STATUTES

AS 38.04.005. Policy. (a) In order to provide for maximum use of state land consistent with the public interest, it is the policy of the State of Alaska to plan and manage state-owned land to establish a balanced combination of land available for both public and private purposes.

AS 38.04.910. Definitions. In this chapter, unless the context otherwise requires,

(5) "multiple use" means the management of state land and its various resource values so that it is used in combination that will best meet the present and future needs of the people of Alaska, making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; it includes

(A) the use of some land for less than all of the resources; and

(B) a combination of balanced and diverse resource uses that takes into account the short-term and long-term needs of present and future generations for renewable and nonrenewable resources, including, but not

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limited to recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific, and historic values;

(11) "sustained yield" means the achievement and maintenance in perpetuity of a high level of annual or regular periodic output of the various renewable resources of the state land consistent with multiple use; (all emphasis added)

Notes to Decisions

Sustained Yield Principle. -- The "sustained yield principle" as used in Alaska Const., art. VIII, Section 4., accords with the definition set forth in paragraph (11) of this section, and the added language in the "sustained yield" definition as AS 41.17.950 that it "does not require that timber be harvested in a non declining yield basis over a rotation period" should be read as permitting timber cutting at a level that cannot be sustained over a forest rotation period only in unusual circumstances. Southeast Alaska Conservation Council, Inc. v. State, 6654 P.2d 544 (Alaska 1983).

Author's Note: Non declining yield over a rotation period, except under unusual circumstances, was made law by action of the Court, even though non declining yield over a rotation period was specifically exempted by the Legislature. Non declining yield over a period is an attempt to regulate harvest under some "even-flow" regime. It has been found to be nearly, if not totally, an unworkable effort, when both biological capacity and economics are taken into consideration ... particularly when forest manager's start with a mature or declining forest resource. This was partially recognized by the Alaska Court when it noted "only in unusual circumstances," but then did not define such circumstances. Neither did it define "usual circumstances" which has also never been defined in science. Many scientists and practitioners would argue that all circumstances relating to biological and economic conditions are unusual, in which case non declining yield is not an issue ... and manager's should merely attempt to maintain "high yields" while varying growth and output according to conditions.

AS 41.17.950. Definitions. In this chapter, unless the context otherwise requires:

(8) "multiple use" means

(A) the management of all the various resources of forest land so that they are used in the combinations that will best meet the needs of the citizens of the state, making the most judicious use of the land for some or all of these resources or related values, benefits and services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions.

(B) that some land will be used for less than all of the resources; and

(C) harmonious and coordinated management of the various resources, each with the other, without significant impairment of the productivity of the land and water, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

(17) "sustained yield" means the achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of forest land and water without significant impairment of the productivity of the land and water, but does not require that timber be harvested in a non-declining yield basis over a rotation period.

Chapter 15. Forest Protection

Sec. 41.15.010. Intent. It is the intent of AS 41.15.010 -- 41.15.170 to provide protection, commensurate with the value of the resources at risk, for the natural resources and watersheds on land that is owned privately, by the state, or by a municipality.

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Sec. 41.15.020. Regulations. The commissioner shall, by regulation, make provision for the protection of forested land in the state from fire and other destructive agents.

Sec. 41.15.030. Contracts for forest protection. (a) The commissioner may enter into necessary protection contracts.

Sec. 41.15.040. Right of entry to control and suppress fires. Upon approval by the commissioner or an authorized agent, employees of the division of lands, or any other agency authorized to prevent, control or suppress fires or destructive agents, and others assisting in the control or suppression of fires upon request of an officer or employee of the United States or the state may at any time enter upon any land, whether publicly or privately owned, for the purpose of preventing, suppressing or controlling forest fires and destructive agents.

(all emphasis added)

The federal view:

The first legislative hint of the concept of sustained yield forestry in the U.S. was contained in the 1897 Organic Act (16 U.S.C. 473, *et seq.*) where in paragraph 475 it is stated, *"improve and protect forests within the boundaries, for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for use and necessities of the citizens of the United States."* (the term sustained yield was not used.)

The term 'sustained yield' was first used in 1934 in a restrictive act concerned with some, but not all, American Indian Trust Lands. The act stated, *"to make rules and regulations for the operation and management of Indian forestry units on the principle of sustained yield management."* (25 U.S.C. 466)

In 1937, in the Oregon and California (O&C) Land Act (43 U.S.C. paragraph 1181(a)), in determining how the lands classified as timberland were to be managed it was stated, *"For the permanent forest production and the timber thereon shall be sold, cut and removed in conformity with the principal (sic) of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to stability of local communities and industries, and providing recreational facilities."* The 1937 O&C Act did not define sustained yield, but it did define the goals of sustained yield.

In 1944 Congress again addressed the goal when authorizing Cooperative Sustained Yield Units, in the Sustained-Yield Forest Management Act (16 U.S.C., 583) by stating, *"In order to promote the stability of forest industries, or employment, of communities, and of taxable forest wealth, through continuous supplies of timber; in order to provide for a continuous and ample supply of forest products; and in order to secure the benefits of forests in maintenance of water supply, prevention of soil erosion, amelioration of climate, and preservation of wildlife."*

In 1947, Congress authorized the Secretary of the Interior to sell public domain timber. The law did not mention the principle of sustained yield, but simply stated that no sales was to be *"detrimental to the public interest."* (30 U.S.C. 601)

In 1960, Congress, for the first time, defined Sustained Yield. This was the Multiple Use -- Sustained Yield Act. (16 U.S.C. 529-531).

By this act the *"Secretary of Agriculture is authorized and directed to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom. In the administration of the national forests due consideration shall be given to the relative values of the various resources in particular areas. The establishment and maintenance of areas of wilderness are consistent with the purposes and provisions of the act."*

"Multiple use" means the management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making

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the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative value of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output."

"Sustained yield" of the several products and services means the achievement of maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land."

The 1974 Forest and Renewable Resources Planning Act (88 Stat. 476; 16 U.S.C. 1601-1610) directed the Secretary of Agriculture to assess all lands and to prepare a program for the management of the national forests. In 1976 the 1974 act was amended by the National Forest Management Act of 1976 (90 Stat. 2949) which broadened and better defined the planning and management functions.

The amended act states:

Sec. 2, Findings. -- The Congress finds that --

"(1) the management of the Nation's renewable resources is highly complex and the uses, demand for, and supply of the various resources are subject to change over time;

"(2) the public interest is served by the Forest Service, Department of Agriculture, in cooperation with other agencies, assessing the Nation's renewable resources, and developing and preparing a national renewable resource program, which is periodically reviewed and updated;

"(3) to serve the national interest, the renewable resource program must be based on comprehensive assessment of present and anticipated uses, demand for, and supply of renewable resources from the Nation's public and private forests and rangelands, through analysis of environmental and economic impacts, coordination of multiple use and sustained yield opportunities, as provided in the Multiple-Use Sustained Yield Act of 1960 (74 Stat. 215; 16 U.S.C. 528-531), and public participation in the development of the program;

Sec. 4. Section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by Section 2 of this Act, is amended by adding at the end thereof new subsections (d) and (e) as follows:

"(d) (1) It is the policy of the Congress that all forested lands in the National Forest System shall be maintained in appropriate forest cover with species of trees, degree of stocking, rate of growth, and conditions of stand designed to secure the maximum benefits of multiple use sustained yield management in accordance with land management plans.

Sec. 6. Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as redesignated by section 2 of this Act, is amended by adding at the end thereof subsections (c) through (m) as follows:

"(c) in developing, maintaining, and revising plans for units of the National Forest System pursuant to this section, the Secretary shall assure such plans --

"(1) provide for multiple use and sustained yield of the products and services obtained therefrom in accordance with the Multiple-Use Sustained Yield Act of 1960, and in particular, include coordination of outdoor recreation,

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range, timber, watershed, wildlife and fish and wilderness;
and

"(2) determine forest management systems, harvesting levels, and procedures in the light of all the uses set forth in subsection (e)(1), the definition of the terms 'multiple use' and 'sustained yield' as provided in the Multiple-Use Sustained Yield Act of 1960, and the availability of lands and their suitability for resource management.

During 1976 the Congress also enacted the Federal Land Use Policy and Management Act (FLPMA), (43 U.S.C. 1700 *et seq.*) FLPMA recites the definition of Sustained Yield from the 1960 Multiple Use Sustained Yield Act. While the 1960 act was directed at the U.S. Forest Service, all the lands covered by FLPMA, except those lands dedicated to another specific use by another law, are to be managed for multiple use and sustained yield.

Another State's View:

"Management of the forest to provide harvesting on a continuous basis without major prolonged curtailment or cessation of harvest." State of Washington statutory definition of Sustained Yield.

Author's Note: The principle of sustained yield is difficult to define in the abstract. But when combined, as it must and should be, with the principle of multiple use, it is easier to define in the general sense. While the principle has been reduced to legal definitions it is very difficult to practice, as the professions (forestry, wildlife management, fisheries biology, etc.) responsible for such management are both arts and sciences, and not always exacting, and in progressive growth. This means that practicing these professions requires continuous effort in research and applications, based on goals and strategies. The goals (policies) have been set by the public, in law, but the strategies must be exercised by the professions.

Difficulty in such practice does not excuse responsible parties for "breaking laws," particularly by "overlooking laws" when doing so reduces the sustained yield, or otherwise threatens a resource. It is always possible to quantify physical volumes, and when volumes are going down, as demand is rising, there is added imperative to seek the next higher level of yield.

This is particularly so when the laws, such as Alaska Title 41.15 *et seq.* and 41.17 *et seq.* are written general as to "what to do" but specific as to "requirements to do." Recall the intent of AS 41.15 is to protect "to the value of the resource at risk."¹³

Nowhere do these, or other laws (except in dedicated wilderness areas, meeting strict legal guidelines) allow wanton-waste. This is as it should be. Nature's bounties (and Nature's

¹³ AS 41.15.010. Intent. It is the intent of AS 41.15.010 - 41.15.170 to provide protection, commensurate with the value of the resources at risk, for the natural resources and watersheds on land that is owned privately, by the state, or by a municipality. AS 41.17.010 (3) The state has a fundamental obligation to ensure that management of forest resources guarantees perpetual supplies of renewable resources ...

Sustained Yield

famines) come in many guises. It is sometimes difficult to tell when we have plenty, or when we are running short. It is even harder at times to determine our "needs" from our "wants."

Yet, in all the intellectual, visceral, legal and practitioner definitions of sustained yield we find the elements of "use," "periodicity" and "maintenance."

This means then that if there is no intention to use (to some maximum or high-end potential), or there are no repeating time frames, or no intention to maintain (or enhance), then there can be no sustainable yield, whether the yield be physical or monetary.

And if there is no sustained yield, then laws are being broken, and in the case of Alaska's forests, the perpetrator is the State, which under Alaska Statutes Title 38 and Title 41 has primary responsibilities to manage and/or protect all forested land in the state. (AS 38.05.500 - 505 even carries this responsibility as to federally claimed public lands within Alaska.)

And, "When it (government) fails to act, or when it implements rights incompetently or incompletely, government becomes a lawbreaker."¹⁴

In one way or another, sustained yield is the law of the United States, and particularly of Alaska. This means there must be use, periodicity and maintenance. To reach these goals in Alaska requires a balanced use of Alaska Statutes (Title 38 and Title 41) and the arts and sciences of forestry and related disciplines.

Not balancing these laws, or selectively utilizing a law for less than its intended purpose (such as utilizing AS 41.15 *et seq.* only for forest "fire"(s), while not concerning managers with "and other destructive agents") skews both the effectiveness of the laws and their intended purposes. And following Schuck this constitutes illegal events, particularly when damages can be shown as a result of not following legal mandates.

And this has been the case in Alaska for the entire period of Statehood (since 1959). The results of this incomplete (or incompetent) application of law is now evident throughout the state ... in dying forests, underutilized forests, and unmanaged forests. Economic, social and biological values are being wasted and lost.

Alaska has been blessed with potentially rich forests, that if competently managed can sustain high yields of forest products, water, oxygenated air, fish and wildlife, recreation opportunities, etc.

Alaska was also blessed with Pioneers (which includes the original inhabitants), with foresight, who intended that those to follow them should enjoy the benefits of the forests and other natural resources, without suffering the indignities of over harvesting, or wanton-waste through non-management.

¹⁴ Schuck, P.H., 1982, *Suing Government. Citizens Remedies for Official Wrongs*, Yale University Press.

Sustained Yield

It is up to this, and each succeeding generation, to assure that the principles envisioned by the Pioneers (sustained yield and multiple use) continue. And it is particularly important that the elected, appointed and hired agents of the government, who are required to manage the resources in trust for the people, recognize this, and act accordingly.

April 20, 1994

House Resources Committee
Alaska House of Representatives
Juneau, Alaska

Mr. Chairman and Members of the Committee,

This is the third time I have come to the legislative Information Office to testify against SB 310, but I have never gotten the opportunity to speak. Now I am submitting my testimony in writing (I am sorry it is hand written).

Some Alaskans complain that too much of our land is protected in its natural state.

In many years of living in Alaska, I have never heard a single Alaskan complain that we have too many fish, or too many deer and moose. On the contrary, our political system is consumed by people competing for rights to these limited fish and wildlife resources. Our population and tourism are growing. This means even fewer fish and animals for each Alaskan. Alaskan.

depend on fish and wildlife. Fish and wildlife depend on habitat.

SB 310 makes commercial logging the primary purpose for state forests. Why? Why is commercial logging more important than fish and game?

So called "Forest Management Agreements" are twenty-year timber cutting contracts which will lead to massive export of our wood resources, while fish and wildlife resources plummet.

SB 310 is not good for our economy. On the contrary, SB 310 will mean higher cost of living and greater dependence on welfare as Alaskans lose commercial fishing, sport fishing, subsistence and tourism.

Please oppose SB 310. Thank you

Pamela Brodie
Pamela Brodie
241 E. 5th Ave. #205
Anchorage AK 99501

Lacey Burns

April 15, 1994

Box 26

Kodiak, AK 99615

486-5091

Testimony

SB 310

My name is Lacey Burns. I am involved in commercial fishing. My family has been dependent on commercial fishing for 20 years.

I am opposed to SB 310. Forest Management Agreements are unhealthy and unbusinesslike alternatives for timber-cutting. They seem to be maneuvers by the timber industry to control state lands for their own benefit.

With the current budget scenario it is unconscionable to pass legislation which could potentially cost the state of Alaska millions of dollars in terms of spending ^{dollars necessary} to create infrastructure which supports logging.

State land is more valuable to all of us when it supports and prioritizes fisheries, wildlife, subsistence, tourism, and recreation values.

Public lands should not be made available for rampant clearcutting with NO regard to the other valuable resources located within its boundaries. Clearcutting is an archaic practice.

The state should move toward supporting smaller, selective-cutting practices such as the "Environmental Timber" operation located in Chinik, here on Kodiak, which has more public support and impacts the land & community in a positive way —

P. O. Box 230951
Anchorage, AK 99523

April 8, 1994

Representative Bill Williams
Chair, House Resources Committee
Alaska State Legislature
State Capitol (MS3100)
Juneau, AK 99801

Dear Representative Williams,

I am writing to express my opposition to S.B. 310. The Alaska Forest Practices Act (1990) appropriately emphasizes conservation and balanced use of state forest land, rather than maximizing revenue-producing uses. Long-term, large-scale timber contracts, as proposed in S.B. 310, threaten that balance.

It has not been convincingly demonstrated that large-scale timber harvesting will benefit the local economy. Experiments with Forest Management Areas in other parts of the state have without exception proved unprofitable. In fact, long-term contracts appear to benefit only the large timber corporations, while losing money for the state government.

Having lived in Fairbanks for 10 years, I know that many Interior residents use the Tanana Valley State Forest for hunting, fishing, trapping and other forms of recreation. These important parts of the Alaskan lifestyle will be threatened by large-scale logging. The tourist industry, guides, and businesses that supply equipment for outdoor recreation all stand to lose if our forests are not managed for balanced use. Local harvest of timber for firewood and house logs could also be adversely affected.

The Committee Substitute bill has addressed some of the concerns about public participation in the planning process, but the other fundamental problems remain. In particular, allowing commercial timber development to become the primary purpose of our state forests is completely unacceptable.

Sincerely,

Susan C. Bishop



FAX NUMBER 94-161

ALASKA HELICOPTERS, INC.

P.O. BOX 190283
ANCHORAGE, AK
99519-0283
FAX # (907)248-0342

FAX FORM

TO: Representative Bill Williams
Chairman House Resources

ADDRESS: State Capitol, Rm 128
Sutton, AK. 99501

TELECOPY PHONE NUMBER: 465-3793

FROM: Ray Bishop, Director

NUMBER OF PAGES 1 (including this cover page)

DATE SENT: 4/19/94

If you do not receive ALL of this Telecopy, please call (907)243-3404

SPECIAL INSTRUCTIONS: Mr. Williams

Strongly urge your support
of SB310

Properly managing our state lands
can create jobs, as well as
protecting our lands.

Sincerely, Ray Bishop

Public Testimony regarding SB 310

After having twice taken 2 hours (@ \$25/hr) off from work to wait unsuccessfully to testify at the Cordova LIO in regards to SB 310, I decided that the only way to be heard was to submit my feelings in writing.

To be brief, I think that SB 310 is a very bad piece of legislation. If the intention truly is to support small scale logging operations in Interior Alaska, then why not address this directly, rather than gut the Forest Practices Act on state land statewide? Since Senator Frank has admitted his lack of knowledge of logging operations, he should be aware that a 60,000,000 board foot harvest requires anything but a small operator.

As a citizen of Alaska, I am an owner of those same state forests, and feel that it should be managed for all uses, and not favor (subsidize) any one.

As a former commercial fisherman, I still have hard feelings from paying a resource use tax (the raw fish tax) that more than covered the costs of administration and enforcement of our fisheries, just to watch other resource users not paying their fair share. If this is the way the state does business, than it is no wonder we are broke. Should you not include a raw log tax to cover Fish and Game management to prevent habitat degradation, as well as to pay for the damage of heavily laden log trucks using highways that were never designed to handle that kind of load?

And, since when is a sale under 500,000 board feet small? In the Cordova area, Eyak Corporation logging yielded an average of 5000 b.f. per acre. This equates to 100 acres. If you look closely in Prince William Sound, you will find clearcuts dating from the 1950's, 100 acres in size, that were damaging to both fish and wildlife habitat. If you say that technology has much improved since then, you would be surprised to learn that "CAT" logging in identical fashion is still practiced today. And this, in the highly productive coastal temperate rainforest.

The idea of being locked into a long-term contract is also unwise, due to the volatility of the timber market and the almost daily changes in technology. When, in a few years, most of the private forests in Alaska have been cut and regeneration has not yet replaced the resource, a demand for wood products could drive the price sky-high.

In addition, in our area, there are many land selections that are under dispute, and would be covered by this bill if they were to fall under state ownership. This includes some selections immediately adjacent to Cordova, as well as along the coast between Cordova and Yakutat. These places have high recreational usage, as well as supporting hunting, guiding, and sports, subsistence and commercial fishing. It would be a shame to see current jobs in these industries destroyed by unwise resource management, as allowed in SB310.

I urge you to **NOT SUPPORT THIS BILL**,

Thank you for your time,



Stephen Bodnar
po box 2262
Cordova, Alaska 99574
(907) 424 5427

to: House Resources Committee, Senate Resources, House Finance,
Rep. Harley Okilberg, Sen. Georganna Lummi



Alaska State Legislature

Please enter into the record my testimony to the House Resources
 committee name
 committee on SB 310, dated 4/15/94
 bill/subject

I am very upset that we are not being allowed to testify.

I must respectfully request that you reschedule this hearing + allow the public to be heard - the public is very upset about these provisions.

We took time out from work to be heard - please allow us that !!

Signed: Ceryl Boehner
 Testifier

Representing (Optional)
519 W. 8th Ave, #201, Anch. 99501
 Address
274-3621
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Resources Committee
 committee name
 committee on SB 310, dated April 15, 1999
 bill/subject

I URGE THE HOUSE RESOURCES COMMITTEE TO
 ALLOW THE ALASKAN PUBLIC TO OFFER ORAL
 TESTIMONY ON SB310. IT IS ABSOLUTELY
 NECESSARY FOR ADEQUATE PUBLIC PROCESS
 THAT THE RESIDENTS WHO HAVE COME TO
 BE HEARD ARE GIVEN THEIR RIGHT TO
 SUBMIT TO THE COMMITTEE THEIR
 VIEWS ON THIS BILL.

AIMEE R. BOULANGER

Signed: Aimee R. Boulanger
 Testifier

SELF
 Representing (Optional)

HC 83 BOX 2334, EAGLE RIVER, 99577
 Address

607) 696-8136
 Phone No.

CORRECTION

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



Alaska State Legislature

Please enter into the record my testimony to the House Resources Committee
 committee name
 committee on SB 310, dated April 15, 1999
 bill/subject

I URGE THE HOUSE RESOURCES COMMITTEE TO ALLOW THE ALASKAN PUBLIC TO OFFER ORAL TESTIMONY ON SB310. IT IS ABSOLUTELY NECESSARY FOR ADEQUATE PUBLIC PROCESS THAT THE RESIDENTS WHO HAVE COME TO BE HEARD ARE GIVEN THEIR RIGHT TO SUBMIT TO THE COMMITTEE THEIR VIEWS ON THIS BILL.

AIMEE R. BOULANGER

Signed: Aimee R. Boulanger
 Testifier

 SELF
 Representing (Optional)
HC 83 Box 2334, Eagle River, 99577
 Address
(907) 696-8136
 Phone No.

Peter Bowers
Margaret Willett
P.O. Box 80532
Fairbanks, Alaska 99708
455-6528

Public Opinion Message

To: All members of the House of Representatives

Date: April 18, 1994

We are strongly opposed to SB 310, the Logging Bill now being considered in the House Natural Resources Committee. It is a bad piece of legislation:

- It takes control of our valuable forest resources away from the people, and instead gives control to large corporations. At a time when Alaska is fighting harder than ever for control of its own destiny, let's not give away yet another control over our land, our resources, and our natural heritage. The proposed Forestry Management Agreements are much too long term, and do not allow for continual scrutiny by the people who will be directly affected by them.

- The national timber corporations have no vested interest in Alaska, and there is no guarantee that any jobs they create will be for Alaskans. There are thousands of unemployed loggers and millworkers in the Pacific Northwest; these will be the workers who will benefit from this bill, not Alaskans. Let us continue to develop our own in-state timber industry at a scale that is commensurate with the limited, slow-growing timber resources we have here.

- At a time when other lands issues are unresolved, it is not prudent to enter into long-term agreements that will further tie up our lands. The acreage figures we have seen for harvest able timber in this area do not add up to the acreage that would be offered in the proposed Forestry Management Agreements. We do not have adequate inventory of either timber or the other affected resources to make this decision.

- The large scale clear cutting of the Tanana Valley is not what most of us settled in the area for. We have enjoyed this area for the past 20 years and do not want to see it destroyed. Under the present plan, upwards of 8 million acres would be clear-cut. IT TAKES 100 TO 120 YEARS TO GROW A TREE IN THIS AREA! This is only marginally a "renewable" resource. Are our two children expected to live in this wasteland?

- Why is logging considered a priority over other forest uses?

- Senator Steve Frank is WRONG, WRONG, WRONG to imply that Interior Alaskans are for this bill. He has no valid basis for that claim, and he knows it. The vast majority are against it. The hours of testimony that have taken place, the letters of opposition, and the sentiments of the people in the street are unified with one message: DO NOT PASS THIS BILL !



Alaska State Legislature

Please enter into the record my testimony to the House Resources
 committee name
 committee on SB 310, dated 7/15/94
 bill/subject

Dear Mr. Chairman:

I would greatly appreciate the opportunity to talk to the committee about SB 310. Please give all of those people who are listening to the hearing and want to testify the opportunity to testify by scheduling another teleconference hearing as soon as possible.

Thank you very much.

Signed: Matthew D. Benson
 Testifier

Representing (Optional)
P.O. Box 682 Girdwood 99587
 Address

783-1306
 Phone No.

April 22, 1994

The Honorable William K. Williams
Chair, House Resources Committee
Room 124 State Capital
Juneau, Ak 99801

Re: SB 310-Sale of State Timber

Dear Representative Williams:

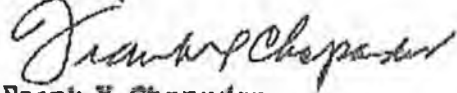
I attended the LJO conference meeting Wednesday morning April 20th on the subject bill intending to testify on behalf of the Greater Fairbanks Chamber of Commerce by reading into the record Resolution 94-0307 (copy enclosed) in support of Senate Bill 310 and to add a few personal comments while there. As you know there was a large group present and the chance of my testifying seemed not likely so I left with the intention of submitting my personal remarks via this letter along with a copy of the resolution.

As a member of the 1st and 2nd Legislature I became aware of the potential of The Tanana Valley to produce in excess of 100 million board feet of wood products annually on a sustained yield basis. I have felt for many years that a managed harvest of this resource in the Tanana Valley could provide and excellent opportunity for individuals who, as logging contractors for an organization holding a management Forest Management Agreement such as is being proposed by SB 360 could, result in a real economic benefit, and especially so, for the Tanana Valley where almost unlimited access to the resource is available during the winter months.

After listening to the testimony I was surprised at the intense concern by the opposition and, in some cases, their not too complimentary remarks regarding the process. However, one must consider the source and their apparent lack of understanding of how the legislative and administrative process works. It seems that many expect to find answers to their concerns in the bill under consideration, the facts are that their concerns will eventually be dealt with in the form of administrative rules and regulations, and not in the legislative bill which only deals with amendments to existing law and provides guidelines. However, a large percentage of the concerned ones not only do not understand the process but there is also a lack of confidence and a perception, on the their part that once laws are passed and administrative rules and regulations are in place that the gates are open and nothing will happen to prevent violations of the law under bureaucratic control.

In my judgment SB360 Sec.3 adequately provides the guidelines under which the Department must promulgate administrative rules and regulations that limit the power of Commissioner. Please place the copy of the Greater Fairbanks Chamber resolution and this letter in the record of testimony received by the Committee in support of SB360.

Sincerely,



Frank X. Chapados
P.O. Box 74825
Fairbanks, Alaska



Greater Fairbanks

Chamber

of Commerce

709 Second Avenue

(907) 452-1105

Fairbanks, Alaska 99701

FAX: (907) 456-6968

RESOLUTION 94-0307**A RESOLUTION BY THE GREATER FAIRBANKS CHAMBER OF COMMERCE
IN SUPPORT OF SENATE BILL 310**

WHEREAS, resource development has been, and will continue to be, the cornerstone of Alaska's economy, and

WHEREAS, the forest industry provides a new opportunity for the economic growth of Interior Alaska, and

WHEREAS, the State of Alaska owns 60-70% of the Interior's accessible commercial forest, and

WHEREAS, in order to attract a forest products company to the Interior, it is a prerequisite that the company have assurance that it will have a long-term supply of timber to justify its investment in plant and equipment, and

WHEREAS, SB310 establishes the authority of for the State of Alaska to enter into long-term forest management agreements, which will encourage forest industry development in the Interior.

NOW, THEREFORE, BE IT RESOLVED that the Greater Fairbanks Chamber of Commerce supports SB310 and respectfully requests the Alaska State Legislature and the Governor to enact said bill into law.

Dated this 7th Day of March, 1994.

By

Margo Goodhew
President/CEO

By

Keith D. Burke
Chairman of the Board

P.O. Box 82960
Fairbanks, AK 99708

April 15, 1994

Representative Bill Williams, Chair
Alaska State Legislature
State Capitol (MS 3100)
House Resource Committee
Juneau, AK 99801-1182

RE: SB 310

Dear Representative Williams,

I am writing in response to the House Resource Committee teleconference on SB 310 that was conducted this morning, April 15, 1994. I attended the teleconference meeting at the Fairbanks LIO office. I live in Fairbanks as well as travel and work extensively in the rural interior communities.

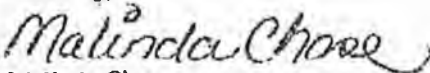
First, I would like to express that I am adamantly opposed to SB 310. I believe it is piece of legislation that was written by few to benefit few. In Alaska, the issue of local hire has not ever been substantially addressed. It is difficult to believe that any employment which would result from timber harvesting would result in long term employment for more than a few Alaskan, whether they are urban or rural based. As in the case of the pipeline, people living in Washington and Oregon who have recently lost logging related employment would very easily relocate and pursue the limited employment attached to this bill.

Far beyond the issue of employment is the LARGER picture of Alaska in the future. It's hard not to feel a devastating sense of hopelessness when looking at the actions of this legislature. Holistically you have a bill that allows a developer first priority for forestry, coupled with bills that want to develop more roads, open more mining operations and cut resource management while not giving any consideration to addressing hunting and fishing issues as well as the problem with local hire mentioned above. All of these issues are connected. Where will wild game retreat to with substantially less forest, more roads resulting in more hunters, and less available clean water due to erosion and mining? Alaska, not only as one of the states, but across the world is one of the few places left undeseccrated and manipulated by developer's desire. I urge you not to become one or help the "Extractors" in Alaska.

Secondly, I am thoroughly disappointed with the process of this morning's "public" teleconference. In your position as public servant, in addition to your colleagues, I am aware you often have difficulty obtaining public response to a large number of bills. In the case of this morning's "public" teleconference, it was deemed a committee meeting where public testimony should have taken place. I would guess, at a majority of the teleconference sites, the room was full of individuals waiting to participate. This was the situation in Fairbanks. Instead, all but 15 minutes of the 2 hour meeting was devoted to Senator Frank positioning himself and state agencies endorsement of SB 310. I think the Resource Committee as well as the rest of the legislative committees need to re-evaluate the meaning of "public" input and make constituent testimony your first priority at any meeting. I sincerely hope you do not loose perspective in this respect.

Once again, I strongly object to SB 310 and encourage you to consider the larger and long range impact of the bills you are deliberating. In addition, I look forward to a Wednesday April 20th teleconference that truly invites public testimony.

Sincerely,


Malinda Chase

cc: Senator Frank
House Resource Committee Members



Alaska State Legislature

Please enter into the record my testimony to the House resource Committee
 committee name
 committee on SB 310, dated 4/15/94

bill/subject

I am adamantly opposed to SB 310. When this bill was in the Senate, there was overwhelming opposition against it, but the Senate rammed it down our throats anyway. I am confident that the House will have more wisdom and listen to its constituency.

There are a number of reasons to oppose this bill, but the primary reason that I hear to support it is for the creation of jobs. But what about the jobs that would be destroyed if this bill were to pass? I am in the visitor industry and I will remind you that this is the second largest private industry in the state, both in terms of money generated, close to one billion dollars, and in the number of people employed. And contrary to popular belief, over 90% of this money remains in the state!! Why is the visitor industry so strong and growing 10% annually? It grows because of Alaska's beauty, wildlife and large tracts of undeveloped land. Our land is worth more money left alone.

(continued)

Signed:

Jan B. Chaff

Testifier

Representing (Optional)

426 Haines Ave, Fairbanks, 99701

Address



Alaska State Legislature

Please enter into the record my testimony to the House Resource
committee name

committee on SB 310, dated 4/15/94
bill/subject

(continuation)

Alaska is one of the few remaining places, not only in the United States, but in the entire world, where large tracts of undeveloped land exist, and people are willing to pay money to experience this country. If we start allowing large, long term timber contracts, then Alaska will no longer be able to compete as aggressively for visitor dollars, and jobs and money will be lost to Alaskans.

On a more emotional level, I grew up in the Pacific Northwest. I have lived in Alaska for more than 11 years, and one of the primary reasons I left Washington was because of the massive logging on public lands. They have logged themselves out and are coming here now. I believe most people who live in Alaska, regardless of their political affiliation, do so because it is unique. Why do we want to change it to look like the rest of the West? Alaskans are noted for saying "We don't care how they do it outside." Well let's stick to this motto and learn from the mistakes of the other states. I have faith that this legislature will be a leader, helping Alaska maintain its status as the crown jewel of the U.S. Do not pass SB 310. Thank you.

Signed: _____

Testifier

Representing (Optional)

426 Ainos Ave, Frhnts, 99701

Address



Alaska State Legislature

Please enter into the record my testimony to the Game Resources
committee name

committee on S.B. 310, dated March 30, 1994
bill/subject

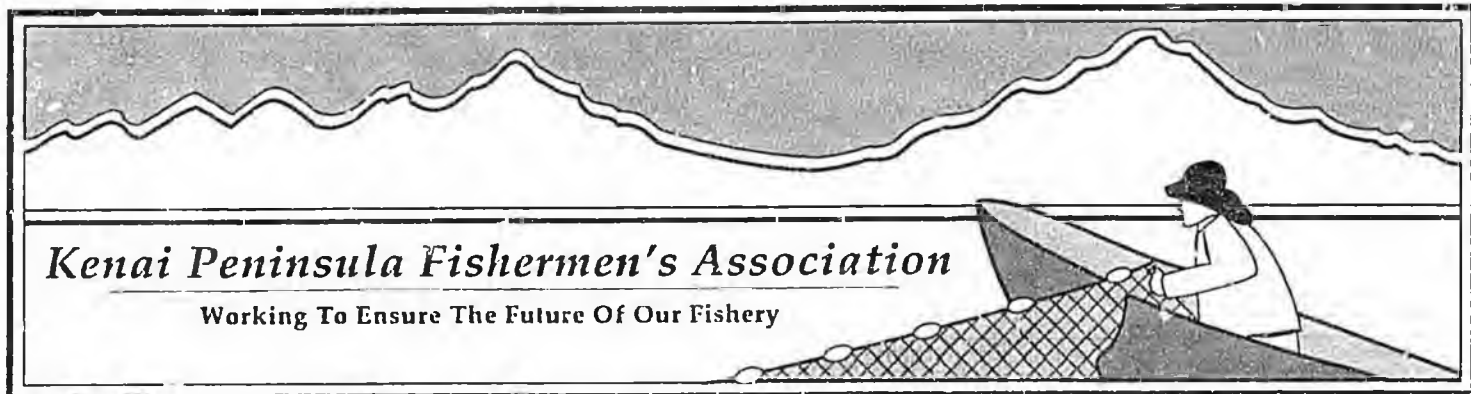
(My name is Oakley Cochran, and I reside at 2240 Railroad Drive)
Picture this: You are skiing through Tanana Valley State Forest on a beautiful spring day. Birch are beginning to ease out and stretch up from under winter's snow-load. As you head towards the spot where you and your family spent picnic in late August, you pass the bog where you shot your first moose.

Tomorrow, the scene changes. The slash of clear-cut creates a chaos of branches. But you are dreaming of summer picnics, virtually unaware of the growing patchwork of destruction because you - and the public - were left out of much of the process of deciding where and when and what and how much gets cut. The legislature has made significant revisions to SB 310 regarding public input - and I applaud these efforts! But they are NOT enough: the commissioner still retains, in the final analysis, absolute control over Tanana Valley State Forest

I support sustainable logging, just as I support hunting to put food on the table. But SB 310 - even with the new revisions - denies democracy by letting due public process. And I support democracy - don't you?

Signed: _____
Testifier - Oakley Cochran

Representing (Optional)
P.O. Box 85071, Fbxs, AK 99708
Address



34824 Kalifornsky Beach Road • Suite E • Soldotna • Alaska • 99669 • (907) 262-2492

April 19, 1994

Representative Bill Williams
State Capitol, Rm. #128
Juneau, Alaska 99801

Dear Representative Williams:

The Kenai Peninsula Fishermen's Association represents Cook Inlet commercial fishermen. We are opposed to the confirmation of Mr. Dick Bower's appointment to the Alaska Board of Fisheries. Mr. Bower's professed bias against commercial fishing and his lack of experience in fisheries issues lead us to conclude that he cannot serve the State effectively in the capacity of Board of Fisheries member.

During the House Resources Committee Hearing on Governor Hickel's appointments on Monday, April 11, Representative Nicholia asked Mr. Bower to rank the priorities of the various fishery user groups. The committee's transcript of this dialog is enclosed. Mr. Bower responded by ranking spawning escapement his first priority, subsistence as his second priority, and after those, his number one allocation would be for non-commercial uses. Mr. Bower apparently deduced that the Constitution, the mandate of the Board of Fisheries, and the Mixed Stock Fishery Policy dictate that commercial fishing is the lowest priority use for Alaska's fishery resource. He even elaborated that commercial fishing priority was lower than providing fish resources to the other people of the United States who come here as tourists.

KPFA has consistently agreed with and worked toward ensuring escapement and subsistence priorities. However, neither the Constitution, the mandate of the Board of Fisheries, nor the Mixed Stock Fishery Policy specify the priority of recreational, personal, and commercial uses of the State's fish resources. The Legislature has on the other hand passed allocation criterion for the Board to apply when deciding allocation issues. We believe that Mr. Bower's position represents a serious conflict to serving on the Board in an unbiased fashion. Mr. Bower's preconceived attitude that commercial fishing is *always* the last priority completely contradicts the allocation criterion. We question how a person who has professed an extreme bias can separate himself from that bias so that he is credible when he says that he doesn't come to the Board with an preordained agenda.

Representative Bill Williams
April 19, 1994
Page 2

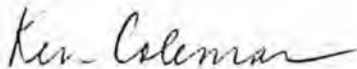
While Mr. Bower's resume is impressive, it appears that he lacks any prior experience in working on fisheries issues in any capacity. In our involvement with various agencies and organizations that deal with complex resource issues here on the Kenai Peninsula, such as Cook Inlet Aquaculture Association, Regional Planning Team, Kenai/Soldotna Fish & Game Advisory Committees, and the Kenai River Special Management Area Advisory Board we have never encountered Mr. Bower prior to his appointment. We wonder how he has acquired or if he has a demonstrated knowledge of fisheries management and the complexity of the associated issues. Mr. Bower's experience appears to be limited to a one year stint as a member of the Kenai River Sportfishing, Inc., whose primary goal has been the elimination of the Cook Inlet commercial fishery.

One of the criterion for appointment to the Board is, "The Governor shall appoint each member on the basis of interest in public affairs, good judgment, knowledge, and ability in the field of action of the Board." We hope Senate Resources Committee members will question Mr. Bower further in these areas.

Alaskans are privileged to have a regulatory process with which they can so vigorously participate such as the Board of Fisheries. Very few boards operate in the same manner and have regulatory powers. As such, it is especially important to keep the process as pure and free of political manipulation as possible. KPFA has a long record of supporting the Board process and of supporting the appointments of qualified candidates, including sport, subsistence, and commercial individuals to serve on the Board. We believe there are people more qualified, willing, and available to serve this process and that it would be in the State's best interest for the legislature to decline Mr. Bower's confirmation.

Thank you for your consideration. If you have any questions or comments please call our office, 262-2492.

Sincerely,



Ken Coleman
President

PORTION OF 4/11/94 HOUSE RESOURCES COMMITTEE MEETING

REPRESENTATIVE IRENE NICHOLIA:

"In regard to the mixed stock fishery, please give me information regarding how you see the fisheries management priorities. For example, please rank the importance of commercial fishing, subsistence, sustained yield and explain your answers in light of your actions on the Board of Fisheries in regard to the mixed stock fishery."

MR. DICK BOWER:

"I know that you said sustained yield. I would like to respond in a little different way. Sustained yield means that we are looking at a resource and we are saying that this much of the resource we will view as a yield meaning that is usable than I am assuming. I would prefer to start out and if you want my priorities, I will say that my number one priority is to see that a sufficient number of fish reach the spawning grounds and in turn spawn and produce the fish that we are going to need. Now maybe that can be viewed as sustained yield but to me it puts a little different emphasis on it because we are saying we have got to determine and know that those fish are reaching the spawning grounds and are effectively spawning and producing the fry, the smolt, etc. The second priority is on subsistence and I think this is established for us by regulation, by law, and by historical use. From that point on, we then are involved in allocating issues. I think if you look at the constitution and if you look at the mandate of the Board and indeed at the mixed stock fishery, I think then we would see that those allocation issues are the ones that we are really caught up in and are controversial. I would say the number one allocation to go to the broadest number of public use as possible and in the underlying existing circumstances I would say those are probably noncommercial uses. Based on that approach to it I would say that commercial allocation then becomes if you will the lowest priority although as it was that leaves a heavy benefit to the state. I think that commercial allocation needs to be tempered upon meeting number one, the spawning requirements, number two, the subsistence requirements and number three, the noncommercial fishery that may be utilized by the largest number of residents of the state of Alaska as well as those to whom we do have the responsibility which would be the other people of the United States who may come here to participate in our fisheries resource."

Wed 20th



Alaska State Legislature

Please enter into the record my testimony to the H Resources
 committee name
 committee on CSSB310, dated ~~3/31/94~~ 4/15/94
 bill/subject

There are scores of people with grave concerns about this bill. I join them in requesting an opportunity to testify.

I strongly oppose the bill in its current form. It makes a mockery of "multiple use" and "sustained yield" and provides no requirements that the state not give away the timber with no public control.

Signed: Steph B Colt
 Testifier

Self
 Representing (Optional)

1408 P ST #B
 Address

278-5107
 Phone No.

**TESTIMONY FROM CORDOVA DISTRICT FISHERMEN UNITED
DORNE HAWXHURST, EXECUTIVE DIRECTOR
APRIL 20, 1994**

I am writing to express strong opposition to CS SB310 on behalf of the nearly 1,000 Area B permit holders represented by Cordova District Fishermen United. CS SB310 is an example of exceedingly irresponsible resource management. The legislation, in effect, locks up long-term access to timber resources for short-term gain at the expense of all other uses and users of Alaska's renewable resources. For example:

- Section 2** Exempts sales under \$500,000 board feet from the current public review process which requires that a sale be on the Timber Sale Schedule for 2 years. This is yet another example of legislation intended to thwart meaningful public input.
- Section 3** Authorizes Forest Management Agreements (FMA). This gives the Commissioner authority to circumvent the public process and unilaterally determine that timber harvesting is the best use of the state's forest resources. Other uses will be sacrificed to short-term profits for operators. In addition:
- No legislature has adequately funded reforestation or implementation of the Forest Practices Act.
 - DNR decides where and what size FMA's will be.
 - Public comment occurs only after FMA bids are received.
 - There is no provision that the state not lose money. FMA's clearly can create a state subsidized industry not supported by the public.
 - Contrary to the claim of many sponsors, FMA's CANNOT guarantee local industry. There is no longer a primary processing law in Alaska. The holder of an FMA is free to sell timber to the highest bidder.
- Section 4** Section 4 (c)(3) requires that state and municipal forest lands be administered for the expansion of harvest activities. This can only be done at the expense of other non-extractive uses. At the very least, without definitions of "business activities; and life styles that are dependent upon or derived from forest resources" this amendment will create endless litigation and is ripe for abuse.
- Section 5** Like Section 4, Section 5 creates a *de facto* preference for harvest activities; the new language of this section clearly tries to establish a preference for "development of commercial forest land," while merely "perpetuating personal, commercial, and other beneficial uses."
- Section 6** This section allows the Commissioner to restrict the public uses of land and resources in order to carry out the resource giveaway proposed in preceding sections. Further, "forest growth at a high level of productivity" and "the interests of private landowners" are mandated to be taken into account. However, these interests may at times be inconsistent with other public uses.

In conclusion, CDFU requests that you not support this attack on the public process and uses other than timber harvests. If you have any questions, please do not hesitate to contact me anytime. I would appreciate it if a copy of our comments could be distributed to the rest of the House Resources Committee members.

Alaska Boreal Forest Council
P.O. Box 61237
Fairbanks, Alaska 99706-1237
FAX: 907-474-8343

April 22, 1994

From: Janice Dawe, public process subcommittee
To: Members of the House Resources Committee:
Re: SB 310

The following is the testimony I would have given had there been time during the 3:30-6:30 p.m. House Resource work session on Wed., April 20.

"Mr. Chairman and members of the House Resources Committee: Seven of us have come from Interior Alaska today to lobby about our deep concerns having to do with SB 310: two came from Nenana, two from Tanana Chiefs Conference, and three from Fairbanks. No matter what our individual concerns, or those of the organizations we represent, we seven agree we want to sit at the table, with all other stakeholders in this issue, and work toward consensus. A consensus-building process followed throughout this summer and fall could result in banner legislation that helps promote the type and scale of forest products industry that Alaskans would actively support.

In individual discussions with members of the House Resources Committee today, we found you sincerely open-minded. Many of you feel as strongly, if not more so, about individual issues pertaining to SB 310 than we do! These include log raw export vs. in-state processing, monopoly control of state resources, the hard numbers behind cost-benefit analyses, true accounting of state subsidies, apprenticeship programs, roading, etc. This is heartening, and again, argues convincingly for taking the interim to hammer out resolution of the remaining, troubling issues embodied in the current working draft of SB 310.

Tanana Chiefs Conference has made the case for consensus-building the best of any group or entity. It is the way of their organization, the way of issue-resolution that the native community has perfected over centuries of practice. TCC has not yet reached consensus about SB 310, but is working towards it, we understand.

Consensus-building is hard, time-consuming, demanding work. However, it is the one approach that all of us with concerns about SB 310 say we can "get behind" and work actively towards, together. Consensus-building unites us at the local, regional and statewide levels. It's the one approach that unites native and non-native Alaskans in this issue. And I wonder if sometimes it's not better to go a little slower now, in order to proceed faster later, without this issue continuing to polarize us, without it turning into a matter of litigation against the state. Wouldn't this be the most politically responsible route, even if not the most expedient one, or the one that reflects "political realities"?

ABFC letter to House Resources Committee re SB 310 - 4/22/94 - page 1

The Alaska Boreal Forest Council sent me as a representative of our group to Juneau to lobby from the Golden Heart of Alaska. I came to speak from my heart about the heart of this legislation: FMAs and changing the enabling legislation for the state forests. I go home, taking heart from individual discussions with members of the committee, which have shown that you also are deeply concerned about this legislation. The debate in Fairbanks is lively, intense, and it won't go away. We gather in Community Forest Forums to discuss the issue. We have learned much from the foresters, silviculturalists, and forest ecologists who have visited us, even in the last two-plus months, since SB 310 was put forward. In that time, Drs. Chad Oliver and Jerry Franklin, from the University of Washington, and Grey Jones from the Western Canada Wilderness Committee in Edmonton, Alberta, have all come to town and discussed our boreal forest issues with us. All agree that a "bottoms-up" approach is essential, with the citizenry and state agencies working in partnership to achieve the forest management practices that reflect the objectives of the citizenry, within the biological and economical constraints of sustainable forestry, as determined by the agencies. Each of those visiting scientists has told us, without prompting, that we must unite our hearts and minds, work with both, to achieve issue resolution and sustainable forestry. This is also one of the messages that Herb Hammond, a forester from British Columbia, will be bringing when he visits the state next week, beginning with a public Community Forest Forum lecture in Fairbanks on Friday night, April 29. His schedule takes him to Juneau for a couple of hour airport the following Monday, May 1. We hope the legislature can meet with him and take advantage of his wealth of experience and wisdom. Indeed, we can all us take heart from what these experts have said, that our goals are achievable with good will and persistence, data and the flexibility to change whenever we swerve off-track. Let's take the "heat" this bill, SB 310 has generated, and turn it into light. Please hold SB 310 in committee over the interim and, if you will, put us all to work to help turn SB 310 into the model of resource development legislation that will lead Alaska into a stable 21st and 22nd century. Thank you."

Janice Dawe
Ph: 479-8343
FAX: 474-8343

April 21, 1994

From: Alaska Boreal Forest Council, Fairbanks

To: Rep. Williams, Juneau, Fax 465-3793

Fax Cover:

Re: SB 310

Enclosed please see today's wire service newspaper article featuring the comments of a logger in Southeast Alaska. Dan Fanning operates a small sawmill in Hoonah that produces 500,000 board feet annually. Rather than bemoaning the closing of Alaska Pulp Corporation he sees this an opportunity for small sustainable logging. He says that he's had trouble getting enough timber for years because he had to compete with the huge Japanese multinational owners.

This small businessman has a real feel for the dynamics of small scale logging vs the corporate scale that the Alaska Boreal Forest Council has been bringing to your attention. We feel this is extremely important information.

Thank you for working on the SB 310 issue with us.

Sincerely,

Jan Dawe
479-8343
474-8343 FAX

State/Local

CITY DESK: 456-6664 (Ext. 1275)

Fairbanks Daily News-Miner, Thursday, April 21, 1994

Sawmill owner rejoices at end to 50-year monopoly

By DAVID WHITNEY

McClatchy News Service

WASHINGTON—Dan Fanning operates a small sawmill in Hoonah that cuts about 500,000 board-feet of timber annually from the Tongass National Forest into lumber and finely-grained wood for musical instruments.

Fanning is not an environmentalist.

"I am pro industry because everyone has to work," he said in a telephone interview. "If they don't have jobs, then they are on welfare and that don't benefit America."

But, last week, when the U.S. Forest Service canceled Alaska Pulp Corp.'s long-term contract, costing the Japanese-owned company 2.1 billion board-feet of cheap Tongass timber remaining under the contract and threatening more than 700 jobs, Fanning joined environmentalists in celebration.

Fanning has had trouble getting enough wood for his sawmill because the forest service has told him the timber supply in his part of the huge forest has been dedicated to Alaska Pulp.

According to Fanning, the

contract cancellation will usher in an era of enlightenment for the timber industry and he may be one of the beneficiaries.

"Starting off, it will be economic disaster," said Fanning, expressing deep concern for workers who may lose their jobs with Alaska Pulp.

"But after people relocate and find other jobs, I think there will be new opportunities for independent loggers and the wood products business," he said. "It won't be on the same scale. But it will support the economy for the people who live here."

For Fanning, it may mean a steadier timber supply that would allow him to double the size of his operation and hire a few employees.

While many see the forest service decision as a disastrous blow to the economy of Southeast Alaska, other small mill operators join Fanning in his optimism.

They say that the long-term contracts held by Alaska Pulp and Louisiana Pacific Corp.'s Ketchikan division, which is unaffected by last week's decision, have monopolized the timber industry for so long that smaller

businesses with the potential for employing nearly as many people have been stifled.

Written in the 1950s to attract year-round business to the region, the 50-year contracts have created a virtual monopoly for the two companies. Huge volumes of timber, approaching 350 million board-feet a year, are dedicated to the companies.

With Alaska Pulp's contract now terminated, small mill operators say, less timber will probably be cut from the forest overall and total employment may fall.

But they also say that they expect small mills to sprout and prosper, fostering a more diverse wood products industry that could cushion the Southeast from doomsday predictions and sustain the region's economy indefinitely.

Bob Looscher, vice president for natural resources at Native-owned Sealaska Corp., said Native-owned enterprises are ready and willing to do business with the forest service.

"We have the capital to invest and we'll be able to employ many in the small logging operations," he said.

The forest service canceled Alaska Pulp's contract because the company closed its Sitka, Alaska pulp mill, laying off about 400 workers, on Sept. 30.

The company is thinking about replacing the pulp mill with a more efficient and less polluting fiberboard plant, but the forest service said it can't continue providing timber under the long-term contract without a firm commitment to build the new plant.

If the company wants more timber, the forest service said, it will have to compete with other bidders under the timber-sales program the agency uses in every other national forest.

Alaska Pulp had 17 years left on its contract. During that period, the forest service would have been obligated to provide it with 2.1 billion board-feet of timber at rates that independent purchasers say are running about half of what they pay — when they can get the trees.

"I don't mind paying a fair price," said Jerry Jones, a small operator on Prince of Wales Island in the heart of Louisiana Pacific's cutting area.

"Right when they give it away to

the contract holders and they won't sell it to me, it really hurts," Jones said.

Without a steady supply of cheap timber, Alaska Pulp is weighing what to do with its Wrangell sawmill that employs about 240. Hanging in the balance of that decision is the fate of about 500 loggers who cut Alaska Pulp's trees.

Alaska's all-Republican congressional delegation blasted the forest service action last week as an economy-killer for Southeast Alaska and a betrayal of President Clinton's commitment to jobs.

Sen. Ted Stevens said in an interview Monday that while small logging operations may prosper in the void left by Alaska Pulp's contract cancellation, they won't make up for the potential job losses.

"Ultimately, there will be no cutting in the Tongass," he said.

But Ronald E. Jones, a natural resources professor at Sheldon Jackson College in Sitka, said he expects the forest service decision to be a boon to Southeast Alaska.

"Small business creates more jobs than big business and small

business has been run out of the forest," Jones said.

"The long-term contract created all the reasons for market failure," Jones said. "It created a monopoly and eliminated competition. What I see is a more robust and diverse forest economy — and that's the best thing that could happen."

Matt Berman, associate economics professor at the University of Alaska in Anchorage, said the contract cancellation doesn't necessarily mean ruin for Alaska Pulp, either.

"If APC can put together a fiberboard plant that doesn't use as much timber, it probably will be more profitable than a lot of small mills," he said. "I don't think it needs the long-term contract. APC could actually emerge much stronger."

From Berman's perspective, the consequence of Alaska Pulp's loss of its long-term contract will be neither boom nor bust for the Southeast economy.

"The truth is in between," he said. "There will be more opportunity for independent loggers but Alaska Pulp still could end up being the major player, but with less logging overall."



Alaska State Legislature

Please enter into the record my testimony to the House Resource
committee name

committee on SB-310, dated 4/15/94
bill/subject

The questions and controversy concerning SB-310 require my opposition. The costs, the impacts are too great to leave to some future contract negotiations between state bureaucracy (DNR) and Timber corporations.

The costs pointed out by Fisher Game should be considered.

Don't sell our forests off cheap on the hopes of jobs in industry. If the resource has value, we won't need to make sweat heart deals to attract buyers.

Signed: David DeLong
Testifier

Representing (Optional)
P.O. Box 3531, Fairbanks, AK 99708
Address