

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 86/2

8910 SENATE JUDICIARY

SJR

14

FISCAL NOTE

No. 1

BILL N

Bill Version: SJR 14

(S) Publish Date: 2-22-95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Office of the Governor

Title: Amdment to the Constitution RE:

BRU: Division of Elections

Qualification of members of public corporations

Component: General and Primary Elections

Sponsor: Senator Halford

Requestor: _____

COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

| OPERATING | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|---------------|-------|-------|-------|-------|-------|-------|
| PERSONAL | 0 | 0 | 0 | 0 | 0 | 0 |
| TRAVEL | 0 | 0 | 0 | 0 | 0 | 0 |
| CONTRACTUAL | 0 | 2.2* | 0 | 0 | 0 | 0 |
| SUPPLIES | 0 | 0 | 0 | 0 | 0 | 0 |
| EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| LAND & | 0 | 0 | 0 | 0 | 0 | 0 |
| GRANTS, | 0 | 0 | 0 | 0 | 0 | 0 |
| MISCELLANEOUS | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 0 | 2.2* | 0 | 0 | 0 | 0 |

| | | | | | | |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING:

| | | | | | | |
|-----------------|---|------|---|---|---|---|
| 1002 Federal | 0 | 0 | 0 | 0 | 0 | 0 |
| 1003 CF Match | 0 | 0 | 0 | 0 | 0 | 0 |
| 1004 GF | 0 | 0 | 0 | 0 | 0 | 0 |
| 1005 GF/Program | 0 | 0 | 0 | 0 | 0 | 0 |
| 1006 GF/MHTIA | 0 | 0 | 0 | 0 | 0 | 0 |
| OTHER | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 0 | 2.2* | 0 | 0 | 0 | 0 |

POSITIONS:

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

Estimate of current year (FY95) impact: 0

ANALYSIS: (Attach a separate page if necessary.) *This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be 53.4.

Prepared by: David Kolvunleml, Acting Director Phone: 465-4611
Division: Division of Elections Date: 2-17-95

Approved by Commissioner: Lt. Governor Frank Upton
Agency: Office of the Lt. Governor Date: _____

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SJR 14

Revision Date: _____
Title: Amondment to the Constitution RE:
Confirmation of memobors of public corporations

Department Affected: Office of the Governor

BRU: Division of Elections
Component: General and Primary Elections

Sponsor: Senator Halford
Requestor: _____

COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

| OPERATING | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|---------------|-------|-------|-------|-------|-------|-------|
| PERSONAL | 0 | 0 | 0 | 0 | 0 | 0 |
| TRAVEL | 0 | 0 | 0 | 0 | 0 | 0 |
| CONTRACTUAL | 0 | 2.2* | 0 | 0 | 0 | 0 |
| SUPPLIES | 0 | 0 | 0 | 0 | 0 | 0 |
| EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| LAND & | 0 | 0 | 0 | 0 | 0 | 0 |
| GRANTS, | 0 | 0 | 0 | 0 | 0 | 0 |
| MISCELLANEOUS | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 0 | 2.2* | 0 | 0 | 0 | 0 |

| | | | | | | |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

| | | | | | | |
|---------|--|--|--|--|--|--|
| REVENUE | | | | | | |
|---------|--|--|--|--|--|--|

FUNDING:

| | | | | | | |
|-----------------|---|------|---|---|---|---|
| 1002 Federal | 0 | 0 | 0 | 0 | 0 | 0 |
| 1003 GF Match | 0 | 0 | 0 | 0 | 0 | 0 |
| 1004 GF | 0 | 0 | 0 | 0 | 0 | 0 |
| 1005 GF/Program | 0 | 0 | 0 | 0 | 0 | 0 |
| 1006 GF/MHTIA | 0 | 0 | 0 | 0 | 0 | 0 |
| OTHER | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 0 | 2.2* | 0 | 0 | 0 | 0 |

POSITIONS:

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

Estimate of current year (FY95) Impact: 0

ANALYSIS: (Attach a separate page if necessary.) *This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be 53.4.

Prepared by: David Koivunemi, Acting Director Phone: 465-4611
Division: Division of Elections Date: 2-17-95

Approved by Commissioner: Lt. Governor Frank Ulmer
Agency: Office of the Lt. Governor Date: _____

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Alaska State Senate

Senate Finance Committee

Official Business

MEMORANDUM

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

TO: Senate Judiciary Committee Members
Senator Robin Taylor, Chairman
Senator Lyda Green
Senator Mike Miller
Senator Al Adams
Senator Johnny Ellis

FROM: Senator Rick Halford

DATE: March 13, 1995

SUBJECT: SJR 14 Sponsor Statement

=====
Currently, the Alaska Constitution provides for legislative confirmation of any board or commission which is the head of a principal department or a regulatory or quasi-judicial agency; such as the Department of Education, the Department of Fish and Game or all the professional and regulatory boards. Public corporations such as the Permanent Fund Corporation, Alaska Railroad, and Alaska Housing Finance Corporation, which are far more significant and important than regulatory boards, are not included in this provision.

Board members of these public corporations manage and control billions of dollars of state assets which have a tremendous impact on all Alaskans as well as our state's economy.

To date, the Permanent Fund Corporation manages over 15 billion dollars in state assets. The Railroad Corporation, an agency virtually independent of any state control, manages over 100 million dollars in state assets. Alaska Housing Finance Corporation's 1994 annual report, indicates that AHFC is currently managing assets in excess of 2 billion dollars.

I believe the amendment proposed in SJR 14 is a necessary addition to our state's constitution. It is clear the drafters of the constitution intended that the boards controlling principal state functions and Alaska's largest assets be subject to formal appointment and confirmation.

Please give SJR 14 your full consideration. Thank you.

SPONSOR STATEMENT

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

907) 463-3867 or 463-2450
FAX (907) 463-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2103

MEMORANDUM

January 20, 1995

SUBJECT: Confirmation of Members of the Boards of Public Corporations (Work Order No. 9-LS0480A)

TO: Senator Rick Halford
Attn: Kelly

FROM: Terri Lauterbach *TL*
Legislative Counsel

Enclosed is a work draft of a constitutional amendment relating to public corporations and legislative confirmation of the members of their governing bodies.

In my review of the statutes I have found the following agencies that are designated by the legislature as "public corporations":

Manages more than \$50 million

Adams

- (1) Alaska Aerospace Development Corporation (AS 14 40 821)
- (2) Alaska Energy Authority (AS 44 33 020);
- ~~(3) Alaska Housing Finance Corporation (AS 18 56 020);~~
- ~~(4) Alaska Industrial Development and Export Authority (AS 44 38 020);~~
- (5) Alaska Medical Facility Authority (AS 18 26 010);
- (6) Alaska Mental Health Trust Authority (AS 47 30 011);
- (7) Alaska Municipal Bond Bank Authority (AS 44 35 020);
- ~~(8) Alaska Permanent Fund Corporation (AS 37 13 040);~~
- ~~(9) Alaska Railroad Corporation (AS 42 40 010);~~
- (10) Alaska Science and Technology Foundation (AS 37 17 010);
- (11) Alaska Seafood Marketing Institute (AS 16 51 010);
- (12) Alaska Student Loan Corporation (AS 14 42 100);
- (13) Alaska Tourism Marketing Council (AS 44 33 700);

Adams

(Only #32 will be)

The Commercial Fishing and Agriculture Bank (AS 44 31 010) appears to have some of the attributes of a public corporation in that the exercise of its powers "is considered to be for a public purpose," but it is not specifically designated as a "public corporation" in its enabling statute, AS 44 31 010(a). Therefore, I am not certain how CFAB would be treated under this constitutional amendment, and you might need other legislation to clarify its status.

I hope you find this information helpful. Please let me know if I can be of further assistance.

TML pl glc
95-007 plm
Enclosure

JUDICIARY COMMITTEE
DELIVERY ACCEPTANCE LOG

MEETING DATE 1/24/96

BILL NUMBERS SK 14

LEGISLATOR ACCEPTED BY TIME DATE.....

SEN. GREEN. Laura Chase 1:35 p 1/23/96

SEN. MILLER. Michelle

SEN. ADAMS.....

SEN. ELLIS H. Budic



Official Business

Alaska State Legislature

Senate

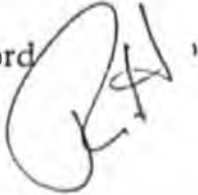
Office of The Majority Leader

Rick Halford
State Capitol
Juneau, Alaska 99801 1182
Phone (907) 465-4958

P.O. Box 670190
Chugiak, Alaska 99567
Phone (907) 694-4958

MEMORANDUM

TO: Senate Judiciary Committee Members

FROM: Senator Rick Halford 

DATE: January 22, 1995

SUBJECT: Senate Joint Resolution 14 Sponsor Statement

=====
Currently, the Alaska Constitution provides for legislative confirmation of any board or commission which is the head of a principal department or a regulatory or quasi-judicial agency; such as the Department of Education, the Department of Fish and Game or all the professional and regulatory boards. Public corporations such as the Permanent Fund Corporation, which is far more significant and important than regulatory boards, is not included in this provision.

Board members of the Permanent Fund Corporation manage and control over 15 billion of dollars of state assets which have a tremendous impact on all Alaskans as well as our State's economy.

I believe the amendment proposed in SS SJR 14, requiring the members of the Permanent Fund Corporation be subject to legislative confirmation, is a necessary addition to our state's constitution. It is clear the drafters of the constitution intended that the boards controlling principal state functions and Alaska's largest assets be subject to formal appointment and confirmation.

Please give SS SJR 14 your full consideration. Thank you.

SPONSOR STATEMENT

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 29, 1995

The Honorable Robin Taylor
Chairman, Senate Judiciary Committee
Alaska State Senate
Room 30 State Capitol
Juneau, Alaska 99801-1182

Re: SJR 14

Dear Senator Taylor:

Thank you for inviting me to the Judiciary Committee's work session on SJR 14 concerning confirmation of board members of certain public corporations. However, I will be unable to attend your meeting on March 29 because of a previous commitment. I will be attending the Board of Inquiry involving the Alaska National Guard.

I appeared and offered testimony on SJR 14 when it was heard in the Senate Finance Committee and informed the finance committee that the administration does not support the resolution in its current form. There are two reasons for our position.

First, it is unwise to depart from the original plan established by the Framers of the Alaska Constitution. The power of appointment is executive in nature. Any sharing of this power by another branch of government should be kept to a minimum to ensure the proper mix of checks and balances between the coordinate branches of government.

Second, the wording of the resolution is ambiguous. The legislature's confirmation power would extend to a corporation that "manages state assets." A memo provided to the finance committee by legislative counsel listed the corporations that would be reached by the resolution. It is arguable whether the assets these corporations "manage" are state or corporate assets. The public corporations that issue debt are separate political subdivisions with separate property. See, e.g., AS 18.56.020. (AHFC has "a legal existence independent of and separate from the state.") This separation is enforced to

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE (907) 269-5100
FAX (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE (907) 451-2811
FAX (907) 451-7846

P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE (907) 465-3600
FAX (907) 465-6735

The Honorable Robin Taylor
Chairman, Senate Judiciary Committee
Alaska State Senate
Re: SJR 14

Page 2

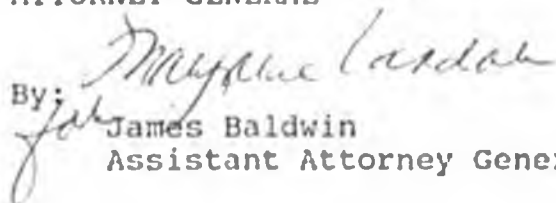
protect the state treasury from a default on bonds issued by a corporation. Literally applied, the wording of the amendment may not cover board members of the corporations listed by legislative counsel. If I am wrong, and corporations like AHFC are in fact managing state assets, then the resolution may have the unintended effect of applying to other public corporations not listed by legislative counsel. An example would be the regional housing authorities established in AS 18.55.996(b). In summary, the resolution should be reworded in some material respects to achieve the intended meaning.

Thank you for the opportunity to comment on this resolution.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:


James Baldwin
Assistant Attorney General

BJB:clh



Alaska State Senate

Senate Finance Committee

Official Business

MEMORANDUM


Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

TO: Senate Judiciary Committee Members
Senator Robin Taylor, Chairman
Senator Lyda Green
Senator Mike Miller
Senator Al Adams
Senator Johnny Ellis

FROM: Senator Rick Halford

DATE: March 13, 1995

SUBJECT: SJR 14 Sponsor Statement



=====
Currently, the Alaska Constitution provides for legislative confirmation of any board or commission which is the head of a principal department or a regulatory or quasi-judicial agency; such as the Department of Education, the Department of Fish and Game or all the professional and regulatory boards. Public corporations such as the Permanent Fund Corporation, Alaska Railroad, and Alaska Housing Finance Corporation, which are far more significant and important than regulatory boards, are not included in this provision.

Board members of these public corporations manage and control billions of dollars of state assets which have a tremendous impact on all Alaskans as well as our state's economy.

To date, the Permanent Fund Corporation manages over 15 billion dollars in state assets. The Railroad Corporation, an agency virtually independent of any state control, manages over 100 million dollars in state assets. Alaska Housing Finance Corporation's 1994 annual report, indicates that AHFC is currently managing assets in excess of 2 billion dollars.

I believe the amendment proposed in SJR 14 is a necessary addition to our state's constitution. It is clear the drafters of the constitution intended that the boards controlling principal state functions and Alaska's largest assets be subject to formal appointment and confirmation.

Please give SJR 14 your full consideration. Thank you.

SPONSOR STATEMENT

SJR

31

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SJR 31

Revision Date: _____ Dept. Affected: Office of the Governor
 Title: "Proposing an amendment to the Constitution ... BRU: Executive Operations
voter ratification of legislative amendments of the AK. Statehood Act... Component: Executive Office
 Sponsor: Senator Pearce
 Requester: _____ COMPONENT SERIAL NO. 6

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 97 | FY 98 | FY 99 | FY 100 | FY 01 | FY 02 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Michael A. Nizich, Director Phone: 465-3876
 Division: Administrative Services Date: 1/26/96
 Approved by Commissioner: Jim Ayers, Chief of Staff Date: _____
 Agency: Office of the Governor

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SJR31

Revision Date: 1/29/96 Dept. Affected: Office of the Governor
 Title: Constitutional Amendment RE: Alaska BRU: Elective Operations
 Statehood Act: _____ Component: General and Primary Elections
 Sponsor: Senator Pearce
 Requester: Senator Taylor COMPONENT SERIAL NO. 22

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 97 | FY 98 | FY 99 | FY 100 | FY 01 | FY 02 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | 2.2 | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 2.2 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 2.2 | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other | | | | | | |
| TOTAL | 2.2 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY98) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet as required by AS 15.58, and the programming costs for counting votes cast on the measure. However, only four measures can be printed on a single ballot card. If this measure requires printing an additional ballot card, the costs will increase by \$53.4.

Prepared by: Dana LaTour Phone: 465-5347
 Division: Division of Elections Date: 1/29/96
 Approved by: _____ Date: 1/29/96
 Commissioner: Lt. Governor Fran Ulmer
 Agency: Office of the Lt. Governor

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JUDICIARY COMMITTEE
DELIVERY ACCEPTANCE LOG

MEETING DATE 2/5/96

BILL NUMBERS SSR 31

LEGISLATOR ACCEPTED BY TIME DATE

SEN. GREEN. RM 423 Laura Chase 9³²_A 2/5/96

SEN. MILLER. RM 125 Dwight Knoff

SEN. ADAMS RM 417 Martha Berg

SEN. ELLIS RM 9 Lynne R. Kennedy

22. Alaska v. United States ([compact case], United States Court of Federal Claims 93-454-L Civ.; our file no. 221-94-0115; state's counsel: Joanne Grace and Heller, Erhman, White & McAullife; U.S.' attorney: Margaret Sweeney). On July 22, 1993, the state filed suit against the United States in the Court of Federal Claims for violating the statehood compact. Congress included in the statehood act a grant to Alaska of 90% of the revenues from oil and gas development on federal lands, to assure that Alaska would be able to finance state government. The state alleges that the act constitutes a contract because it required approval of the voters of Alaska to become effective, and because Alaskans relied on the terms of the act in agreeing to accept the social, political, and financial responsibilities of statehood. The state argues that the United States cannot unilaterally amend an essential provision of this agreement.

Specifically, the state alleges that Congress breached its promise to give the state 90% of revenues from oil and gas development on federal lands by withdrawing land from mineral leasing, selling land to third parties, and paying Alaska less than 90% of the revenue it receives. The state also alleges a breach of the covenant of good faith and fair dealing, fraudulent inducement, and a taking without compensation in violation of the fifth amendment, for which it requests compensation of \$29 billion.

On November 30, 1994, the state moved for partial summary judgment to resolve the issue of whether the United States can deduct administrative expenses from Alaska's 90% share of the revenues. The United States has opposed the motion and filed a motion to dismiss all the claims. The state filed its responsive briefing on July 13, 1995, and the United States filed its final briefs on November 1, 1995. The court has not yet scheduled oral argument.

Alaska to U.S.: You Owe Us \$29 Billion

The State of Alaska filed suit on July 22 against the United States in the Court of Federal Claims, alleging breach of the Alaska statehood compact. We argue that the United States has broken the compact by failing to give Alaska 90% of revenues from mineral leasing on federal land. We seek damages of \$29 billion.

The litigation is rooted in the history of Alaska statehood. In 1958, when statehood was being considered, the vast Territory of Alaska was a wealth of natural resources, yet some members of Congress and many Alaskans believed that Alaska would be unable to generate sufficient revenues

Rule of Law

By Charles E. Cole

from traditional sources to meet the expenses of statehood.

As a state, Alaska's taxing power could not be expected to produce much income: 99.9% of its land was federally owned and therefore untaxable, its industrial base was extremely limited, and its population was too small to produce much more than a trickle of income tax revenue. Further, Congress recognized that a republican form of government would be proportionally much more expensive in Alaska, where the territory's population of 211,000 was spread over a land mass one-fifth the size of the contiguous 48 states, far from the rest of the Union.

To ensure that Alaska could meet the economic demands of statehood, Congress included three extraordinary grants of natural resource interests in the Statehood Act. Congress granted the state 103.35 million acres of land, inalienable mineral rights to this land, and a 90% share of the

revenues from mineral leases on the lands in Alaska that were retained by the federal government.

The House Committee on Interior and Insular Affairs characterized the 90% revenue grant as one of the "major provisions" of the Alaska Statehood Act. The Senate Committee on Interior and Insular Affairs "deem[ed] it only fair that when the State relieves the United States of most of its expense burden, the State should receive a realistic portion of the proceeds from resources within its borders."

The 90% revenue grant is unique to Alaska. Sixteen other states, by comparison, directly received only 50% of mineral revenues from federal lands within their borders, with 40% more dedicated to the Reclamation Fund, a federal fund used for water and conservation projects in those states. To ensure Alaska's viability, however, Congress increased Alaska's share to 90% and offered it as an inducement to Alaskans to accept the financial burdens of statehood. The 10% retained by the United States was to compensate the federal government for the cost of administering the mineral leases.

The 90% revenue provision was included in the Alaska Statehood Act passed by Congress and signed into law by President Eisenhower on July 7, 1958. The act also required, however, that Alaska's electorate approve statehood and consent to "the terms or conditions of the grants of lands or other property therein made to the State of Alaska."

Alaskans studied and considered the Statehood Act provisions before voting in the statewide referendum. Local newspapers published the text of the act in August 1958, and Interior Secretary Fred Seaton visited Alaska and delivered speeches outlining the act's terms. In a speech to the Anchorage Chamber of Commerce on Aug.

25, Secretary Seaton discussed the land and mineral rights grant and the 90% revenue provision. He assured his listeners that according to an analysis prepared by the Department of the Interior, the additional costs of statehood would be more than offset by these additional revenues to be provided to the state.

On Aug. 26, 1958, Alaskans voted 40,452 to 8,010 for the admission of Alaska to the Union on the terms provided in the Statehood Act. Upon acceptance, the Statehood Act became a compact.

Since Alaska became a state in 1958 the federal government has violated its promise to provide the state with 90% of the mineral revenues from federal lands.

A statehood compact is essentially a contract. It constitutes Congress's agreement to admit a state into the Union with all the sovereign attributes of the existing states, and the citizens' agreement to accept the social, political and financial responsibilities of self-governance.

Having agreed to a compact's terms, the federal government cannot unilaterally alter them; any alteration requires the state's consent. As the Supreme Court has stated (*Asarco Inc. v. Kadish*, 1989) in discussing a statehood compact: "Congress could not . . . grant lands to a state on certain specific conditions and then later, after the conditions had been met and the lands vested, succeed in upsetting settled expectations through a belated effort to render those conditions more onerous."

Since Alaska's statehood, however, the federal government has violated its

promise to provide the state with 90% of the mineral revenues from federal lands. When the Statehood Act was ratified, nearly all the federal land in Alaska was open to leasing under the Mineral Leasing Act. Congress, in passing the Statehood Act, and Alaskans, in ratifying it, understood that the revenue provision applied to all of these lands.

In the 35 years since statehood, however, Congress has systematically withdrawn federal lands from potential mineral leasing, thereby keeping the state from realizing revenues from mineral development on these lands. Currently, more than 100 million acres of the 218 million acres of federal land in Alaska are closed to mineral leasing. In addition, Congress recently has begun to deduct administrative costs from the state's 90% share of revenues.

Congress's breach of the revenue provision is blatant. If Congress, on the day following admittance of Alaska into the Union, had withdrawn the same amount of federal lands within the state from mineral leasing, no one would doubt that Congress had broken its word to Alaska. Yet over the years, Congress's cumulative withdrawals have had the same effect. Alaskans believe that the federal government has not acted in good faith.

In bringing suit against the United States, Alaska seeks to enforce Congress's promise, upon which its citizens relied in accepting statehood, and to which Congress is bound. If Congress did not intend to honor its promise to pay Alaska 90% of mineral lease revenues on federal lands, it should not have made the provisions part of the statehood bargain.

The Department of the Interior has stated that it does not take Alaska's lawsuit seriously. It should.

Mr. Cole is attorney general of Alaska.

SJR

32

Alaska State Legislature

Chairman,
Judiciary Committee

Vice Chairman,
Transportation Committee

Member,
Resources Committee
Western Legislative Forestry Task Force



State Capitol
Juneau, Alaska 99901-1162
Phone: (907) 465-3873
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352 Front Street
Ketchikan, Alaska 99901
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Senator Robin L. Taylor

Sponsor Statement

Senate Joint Resolution No. 32

SJR 32 would establish a Constitutional Defense Council in the legislative branch of state government. This nine member panel would have the authority to bring actions or to intervene in actions involving questions of State or federal constitutional law.

The CDC that would be established if the voters of Alaska approve this amendment to our Constitution would similar to Constitutional Defense Councils already in existence in Utah and Arizona. The major difference is that while the Utah and Arizona councils are advisory in nature, the Alaska CDC would have the power to litigate.

Arizona established its CDC to "restore, maintain and advance state sovereignty and authority over issues that affect Arizona and the well being of its citizens by taking any legal action it deems appropriate against the federal government".

Alaska's CDC would be composed of the presiding officers of each legislative body, the governor, the attorney general and five public members. One public member is appointed by the governor and two each are appointed by the presiding officers.

SPONSOR STATEMENT

Sponsor Statement
SJR 32

Under our present system, the legislative branch cannot bring or intervene in litigation. Passage of SJR 32 and its approval by the voters would provide for a "second opinion" on controversial issues currently decided only by the governor in consultation with his or her attorney general.

SJR 32 would add a check and balance provision to our Constitution that would enable the council to act if the council and the administration disagree on the best course of action on a constitutional issue. Reasonable people can disagree. SJR 32 would enable us to see those disagreements to final resolution instead of empowering one individual with the authority to decide how to proceed.

Arizona's
Constitutional Defense Council

*It's one
very interesting
idea!*

Purpose

The purpose of the Constitutional Defense Council (CDC) is to restore, maintain, and advance state sovereignty and authority over issues that affect Arizona and the well-being of its citizens by taking any legal action it deems appropriate against the federal government.

Background

In the summer of 1993, the Clean Air Act Amendments of 1990 required the State of Arizona to implement measures to reduce air pollution. Failure to implement these measures would have resulted in the elimination of federal transportation monies and/or two for one offsets on large and small businesses. State government officials considered these federally imposed sanctions unconstitutional.

While this controversy was the impetus behind creating the CDC, several other issues also contributed to its inception. Proponents of the CDC felt the constitution gave explicit powers to the federal government and those powers not specifically granted to the federal government are delegated to the state; nationwide regulations were overly broad and did not address inherent differences between states and localities; the state was required to fund and enforce federal laws and mandates; federal judges had become too powerful and have eroded the decision making authority of elected officials.

In response to these concerns, officials created the CDC to recover state power through litigation and challenge the federal government by reaffirming state sovereignty. The legislation:

- created a council composed of the Governor or his designee, a person appointed by the president of the senate, and a person appointed by the speaker of the house,
- required the council to hold meetings regarding federal mandates, laws, regulations, or practices, court rulings, and any other activity related to the council's purpose,
- required the state Attorney General to provide services and assistance to the council,
- required state agencies and departments to provide reasonable personnel and resources to assist the council,
- allows the council to select and employ attorneys to implement the council's purpose,
- established a revolving fund for the council and appropriated \$1 million for fiscal year 1994-1995;
- required the Department of Administration to file monthly accounting reports on all expenditures;
- required the council shall to submit an annual report which summarizes all activities

Establishment of Litigation Issues

In August of 1994, members were appointed to the CDC and began their task of finding a suitable issue to challenge the federal government. To supplement their search, the council contracted with outside attorneys to conduct a comprehensive investigation of three issues; the Clean Air Act, the Clean Water Act, the constitutionality of funding special masters ordered by the courts and federal prescriptions for operations of state prisons. Each survey will examine all elements of the issues and include recommendations for appropriate action. Upon completion of the reports, the CDC must acquire consensus on an issue that two of the three members agree is of greatest importance to the state. Once that decision is made, the CDC can move forward with a more comprehensive legal strategy.

FILED

ARIZONA
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-first Legislature
Second Regular Session
1994

CHAPTER 222

HOUSE BILL 2371

AN ACT

AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 2.1; MAKING AN APPROPRIATION; RELATING TO STATE CONSTITUTIONAL DEFENSE.

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, Arizona Revised Statutes, is amended by adding
3 chapter 2.1, to read:

4 CHAPTER 2.1

5 CONSTITUTIONAL DEFENSE

6 ARTICLE 1. GENERAL PROVISIONS

7 41-401. Constitutional defense council: members; powers;
8 staff; definition

9 A. THE CONSTITUTIONAL DEFENSE COUNCIL IS ESTABLISHED CONSISTING OF
10 THE GOVERNOR OR HIS DESIGNEE, A PERSON APPOINTED BY THE PRESIDENT OF THE
11 SENATE AND A PERSON APPOINTED BY THE SPEAKER OF THE HOUSE OF
12 REPRESENTATIVES.

13 B. THE PURPOSE OF THE COUNCIL IS RESTORING, MAINTAINING, AND
14 ADVANCING THE STATE'S SOVEREIGNTY AND AUTHORITY OVER ISSUES THAT AFFECT
15 THIS STATE AND THE WELL-BEING OF ITS CITIZENS BY TAKING ANY ACTION IT
16 DEEMS APPROPRIATE.

17 C. MEETINGS OF THE COUNCIL MAY BE CALLED BY ANY MEMBER, AND
18 DECISIONS OF THE COUNCIL SHALL BE MADE BY A MAJORITY VOTE OF THE MEMBERS.

19 D. THE COUNCIL MAY HOLD MEETINGS OR HEARINGS REGARDING ANY OF THE
20 FOLLOWING:

21 1. FEDERAL MANDATES.

22 2. COURT RULINGS.

23 3. THE AUTHORITY GRANTED TO, OR ASSUMED BY, THE FEDERAL GOVERNMENT.

24 4. LAWS, REGULATIONS AND PRACTICES OF THE FEDERAL GOVERNMENT.

25 5. ANY OTHER ACTIVITY DEEMED APPROPRIATE GIVEN THE PURPOSES OF THE
26 COUNCIL.

1 M. THE COUNCIL SHALL SUBMIT A REPORT ON DECEMBER 1 OF EACH YEAR TO
2 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE
3 SENATE THAT SUMMARIZES THE COUNCIL'S ACTIVITIES.

4 N. IN THIS SECTION "COUNCIL" MEANS THE CONSTITUTIONAL DEFENSE
5 COUNCIL.

6 Sec. 2. Appropriation; purposes

7 The sum of \$1,000,000 is appropriated from the state general fund in
8 fiscal year 1994-1995 to the constitutional defense council revolving fund
9 for the purposes provided in this act.

APPROVED BY THE GOVERNOR APRIL 21, 1994

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 22, 1994

(CONSTITUTIONAL DEFENSE COUNCIL)

1994

GENERAL SESSION

H. B. No. 276

By Rob W. Bishop

AN ACT RELATING TO STATE COMMISSIONS AND COUNCILS; CREATING THE CONSTITUTIONAL DEFENSE COUNCIL; AND EXPANDING THE DUTIES OF THE ATTORNEY GENERAL UNDER THE DIRECTION OF THE GOVERNOR.

THIS ACT AFFECTS SECTIONS OF UTAH CODE ANNOTATED 1953 AS FOLLOWS:

AMENDS:

67-5-1, AS LAST AMENDED BY CHAPTER 38, LAWS OF UTAH 1991

ENACTS:

63C-1-101, UTAH CODE ANNOTATED 1953

63C-5-101, UTAH CODE ANNOTATED 1953

63C-5-102, UTAH CODE ANNOTATED 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63C-1-101, Utah Code Annotated 1953, is enacted to read:

TITLE 63C. STATE COMMISSIONS AND COUNCILS

CHAPTER 1. GENERAL PROVISIONS

63C-1-101. Title.

This title is known as the "State Commissions and Councils Code."

Section 2. Section 63C-5-101, Utah Code Annotated 1953, is enacted to read:

666 H. B. No. 276

02-02-94 11:22 AM 666

CHAPTER 5. CONSTITUTIONAL DEFENSE COUNCIL

63C-5-101. Creation of Constitutional Defense Council.(1) There is created the Constitutional Defense Council.(2) The defense council shall consist of the following seven members:(a) the governor who shall serve as chair of the council;(b) the attorney general;(c) the president of the Senate;(d) the speaker of the House; and(e) three citizen members appointed by the governor.(3) The three citizen members shall serve a four-year term beginning July 1, 1994. A citizen member is eligible for reappointment. If a vacancy occurs in the citizen membership, it shall be filled for the unexpired term in the same manner as the original appointment.(4) (a) The defense council shall meet at times at the call of the chair.(b) A majority of the membership on the defense council is required for a quorum to conduct council business. A majority vote of the quorum is required for any action taken by the defense council.(5) The governor may designate staff from executive state agencies to serve as staff to the defense council.(6) Except for legislative members, each defense council member shall receive per diem and travel expenses as established by the Division of Finance. Each legislative member shall receive reimbursement as provided for attendance at legislative interim committee meetings.

1 Section 3. Section 63C-5-102, Utah Code Annotated 1953, is enacted
2 to read:

3 63C-5-102. Duties.

4 The Constitutional Defense Council shall provide advice to the
5 governor and to the Legislature on the following types of issues:

6 (1) the constitutionality of unfunded federal mandates;

7 (2) the advisability, feasibility, estimated cost, and likelihood of
8 success of challenging:

9 (a) federal court rulings that hinder the management of the state's
10 prison system and place undue financial hardship on the state's
11 taxpayers;

12 (b) federal laws or regulations that reduce or negate water rights
13 or the rights of owners of private property;

14 (c) conflicting federal regulations or policies in land management
15 on federal land;

16 (d) federal intervention that would damage the state's mining,
17 timber, and ranching industries; and

18 (e) the authority of the Environmental Protection Agency and
19 Congress to mandate local air quality standards and penalties; and

20 (4) other activities that are consistent with the purpose of the
21 council.

22 Section 4. Section 67-5-1, Utah Code Annotated 1953, as last amended
23 by Chapter 38, Laws of Utah 1993, is amended to read:

24 67-5-1. General duties.

25 The attorney general shall:

1 (1) except as provided in Sections 10-3-928, 17-18-1, and 78-4-11,
2 attend the Supreme Court and the Court of Appeals of this state, and all
3 courts of the United States, and prosecute or defend all causes to which
4 the state, or any officer, board, or commission of the state in an
5 official capacity is a party; and take charge, as attorney, of all civil
6 legal matters in which the state is interested;

7 (2) when required by the governor:

8 (a) initiate legal proceedings in a court of competent jurisdiction
9 on behalf of the state, or any officer, board, commission, agency, or
10 instrumentality of the state for the purpose of opposing or challenging
11 federal laws, regulations, or court orders and their impact on or
12 applicability to the state; and

13 (b) as the budget permits, retain outside legal counsel with
14 appropriate expertise to represent the state in the legal proceedings;

15 ~~{2}~~ (3) after judgment on any cause referred to in Subsection (1),
16 direct the issuance of process as necessary to execute the judgment;

17 ~~{3}~~ (4) account for, and pay over to the proper officer, all
18 moneys which come into his possession, that belong to the state;

19 ~~{4}~~ (5) keep a file of all cases in which he is required to
20 appear, including any documents and papers showing the court in which the
21 cases have been instituted and tried, and whether they are civil or
22 criminal, and:

23 (a) if civil, the nature of the demand, the stage of proceedings,
24 and when prosecuted to judgment, a memorandum of the judgment and of any

1 process issued whether satisfied, and if not satisfied, the return of the
2 sheriff;

3 (b) if criminal, the nature of the crime, the mode of prosecution,
4 the stage of proceedings, and when prosecuted to sentence, a memorandum
5 of the sentence and of the execution, if the sentence has been executed,
6 if not executed, of the reason of the delay or prevention; and

7 (c) deliver this information to his successor in office;

8 ~~(5)~~ (6) exercise supervisory powers over the district and county
9 attorneys of the state in all matters pertaining to the duties of their
10 offices, and from time to time require of them reports of the condition
11 of public business entrusted to their charge;

12 ~~(6)~~ (7) give his opinion in writing and without fee to the
13 Legislature or either house, and to any state officer, board, or
14 commission, and to any county attorney or district attorney, when
15 required, upon any question of law relating to their respective offices:

16 ~~(7)~~ (8) when required by the public service or directed by the
17 governor, assist any district or county attorney in the discharge of his
18 duties;

19 ~~(8)~~ (9) purchase in the name of the state, under the direction of
20 the state Board of Examiners, any property offered for sale under
21 execution issued upon judgments in favor of or for the use of the state,
22 and enter satisfaction in whole or in part of the judgments as the
23 consideration of the purchases;

24 ~~(9)~~ (10) when the property of a judgment debtor in any judgment
25 mentioned in Subsection ~~(9)~~ (9) has been sold under a prior judgment.

1 or is subject to any judgment, lien, or encumbrance taking precedence of
 2 the judgment in favor of the state, redeem the property, under the
 3 direction of the state Board of Examiners, from the prior judgment, lien,
 4 or encumbrance, and pay all money necessary for the redemption, upon the
 5 order of the state Board of Examiners, out of any money appropriated for
 6 these purposes;

7 ~~[(10)]~~ (11) when in his opinion it is necessary for the collection
 8 or enforcement of any judgment, institute and prosecute on behalf of the
 9 state any action or proceeding necessary to set aside and annul all
 10 conveyances fraudulently made by the judgment debtors, and pay the cost
 11 necessary to the prosecution, when allowed by the state Board of
 12 Examiners, out of any money not otherwise appropriated;

13 ~~[(11)]~~ (12) discharge the duties of a member of all official boards
 14 of which he is or may be made a member by the Utah Constitution or by the
 15 laws of the state, and other duties prescribed by law;

16 ~~[(12)]~~ (13) institute and prosecute proper proceedings in any court
 17 of the state or of the United States, to restrain and enjoin corporations
 18 organized under the laws of this or any other state or territory from
 19 acting illegally or in excess of their corporate powers or contrary to
 20 public policy, and in proper cases forfeit their corporate franchises,
 21 dissolve the corporations, and wind up their affairs; and

22 ~~[(13)]~~ (14) institute investigations for the recovery of all real or
 23 personal property that may have escheated or should escheat to the state,
 24 and for that purpose he may cite any persons before any of the district
 25 courts to answer inquiries and render accounts concerning any property.

1 may examine all books and papers of any corporations, and when any real
2 or personal property is discovered that should escheat to the state, the
3 attorney general shall institute suit in the district court of the county
4 where the property is situated for its recovery, and escheat that
5 property to the state.

December 1, 1995

The Honorable John Greene, President
Arizona State Senate, Room 204
1700 West Washington
Phoenix, Arizona 85007

The Honorable Mark Killian, Speaker
Arizona State House, Room 223
1700 West Washington
Phoenix, Arizona 85007

Dear Messrs. Greene and Killian:

Pursuant to A.R.S. 41-401(M), the Constitutional Defense Council (CDC) shall submit an annual report by December 1 on its activities. The Council has held 15 meetings since the last annual report submission, and it has authorized intervention in several federalism issues. The following is a description of each Council meeting since the last one described in the 1994 report (the meeting of October 24, 1994).

On December 20, 1994, the CDC met and discussed their relationship with the Attorney General's Office and the concern that the two entities might be litigating the same issues. Discussion ensued concerning the Attorney General's unwillingness to rank issues by possibility of success which had been presented to the CDC members for potential litigation. They authorized Roger Ferland, attorney with the firm Streich Lang to analyze the Clean Air Act, and Mr. Charles Cooper, attorney with the firm Shaw, Pittman, Potts and Trowbridge to provide counsel on prison issues.

On February 3, 1995, the CDC met and heard a presentation by counsel Philip J. MacDonnell and Gary Stuart both with the firm of Jennings, Strouss and Salmon on potentially challenging the Violent Crime Control and Enforcement Act of 1994.

Ms. H. Leslie Hall reported that a contract for legal services had been sent to Roger Ferland and that contract information, but not the actual contract, had been sent to Mr. Charles Cooper.

On February 8, 1995, the CDC met and discussed the status of the contractual agreements with attorneys Roger Ferland and Chuck Cooper. The members specifically noted their objection to the way in which the Attorney General was asserting its control over the policy making efforts of the Council.

On February 27, 1995, the CDC met and discussed again the assertion by the Attorney General's Office that certain provisions be inserted into the contracts with private attorneys, despite CDC members' objections. The members also discussed public perception and media coverage of the CDC's work to date.

On May 1, 1995 the CDC met and heard a presentation from Roger Ferland in consultation

with Larry De Respino both from the Streich Lang law firm on the case law on unconstitutional intrusions of the federal government into state issues, and specifically EPA action to reclassify air quality over tribal land which would affect tribal and non-tribal individuals/residents differently. The members discussed a strategic memo prepared by Mr. Roger Ferland on ways to proceed against the Clean Air Act.

The members discussed in executive session with Mr. Ferland strategies to litigate clean air issues. In addition, the members received legal advice in executive session from Mr. Charles Cooper (via telephone) on prisoner litigation.

The members authorized the extension of legal services to Mr. Cooper to complete a strategic analysis and authorized a total expenditure payment of \$35,000 to include bills incurred to date. The members also authorized that CDC member Mr. Pew work with the Attorney General's office to oversee the legal services contracts.

On May 26, 1995, the CDC met and discussed payment delays to attorneys retained by the CDC. The members approved a payment policy where member W. Ralph Pew would be notified of when attorneys had submitted claims for payment, and the Attorney General's Office would apprise him of when payment is officially made.

The CDC members received a briefing from Mr. Roger Ferland on the Arizona Center for Law in the Public Interest's lawsuit against EPA which is attempting to approve the Maricopa County Nonattainment Area Plan for PM-10. The CDC authorized Streich Lang to conduct factual research on the Clean Water Act as it relates to the commerce clause issues of the Lopez case.

On June 21, 1995, the CDC met and received a briefing from Roger Ferland and Joseph Drazek with the firm of Streich Lang on federal water and waste laws and an update on air quality issues. House staff provided an update on the state law (HB 2523) recently enacted by the Legislature which prohibited payment to special masters without legislative appropriation. The members discussed with Mr. Charles Cooper the progress on challenging the federal prescription of state prison operations, especially with respect to the judicial consent decrees. The members specifically discussed the time frame for litigation and appeal.

The members authorized Streich Lang to prepare a strategic memorandum on the viability of the State's defense of its surface water quality standards against both the federal government and private interest groups.

The members also authorized that the CDC intervene in prison issues dealing with the Hook case regarding prison mail, and with the Harris case regarding housing, double bunking, and inmate programs. The members specified that their involvement in these prison issues should take care to preserve the State's interest in pending litigation and the relationship between the Attorney General's Office and the CDC as determined in the state legislation establishing the CDC.

The CDC met on July 11, 1995 and received a verbal analysis of a strategic analysis memorandum by Mr. Joe Drazek on EPA's disapproval of certain Arizona surface water quality

standards.

Mr. Ferland reported that the Yavapai Tribe's petition for redesignation of Verde Valley as a Class I area had not yet been acted on by the EPA. He also reported on the status of the States of Virginia and Missouri in challenging EPA's statutory and regulatory authority under the Clean Air Act on constitutional grounds. Mr. Ferland also described the EPA's proposed decision to change the classification of Maricopa County from a "moderate" to a "serious" PM-10 Nonattainment Area. Mr. Ferland reported that both the Arizona Department of Environmental Quality and Maricopa County had submitted written comments on the proposed redesignation. He reported that at this time, there was no basis for the CDC to take any legal action against the EPA since a final decision has not yet been made.

Mr. Bob Beckett, District Attorney for Nye County, Nevada described a federal lands lawsuit against the County of Nye served on March 8, 1995. He reported that the outcome of the lawsuit will determine one-third of the surface of the U.S. because of the large amount of federal land ownership in the states. Mr. Beckett described the time line for filing motions for summary judgement, replies and responses as well as for oral arguments.

Mr. Edward L. Presley, attorney representing the Nye County District Attorney's Office and the Individual Rights Foundation distributed written information on the Individual Rights Foundation. Mr. Presley described the historical importance of the pending lawsuit for state sovereignty and also described the specific account of the federal government's decision to sue the County of Nye. Mr. Presley and Mr. Beckett each described the manner in which the State of Arizona, through the CDC, could participate in the Nye County lawsuit and the significance of doing so because of the large amount of federal land located in Arizona.

Ms. H. Leslie Hall formally requested the CDC's assistance in fighting federal intervention in the States' electoral process regarding judicial elections in Navajo and Coconino counties in Arizona. She states that the issue in question was whether the State has a discriminatory purpose in allowing at-large county judicial elections, rather than the U.S. Department of Justice's suggestion that Arizona "carve out" a Native American district, on the basis of the Voting Rights Act. She also reported that she had had various communications with Native Americans who are elected office holders, all of whom have been in support of the State's position.

Mr. Carter Phillips, with the firm of Sidley and Austin, reported the estimated cost of determining the jurisdictional issue on the judicial election case as well as preclearance would amount to approximately \$265,000. Mr. Phillips described the break-down of this cost estimate for each legal service. Mr. Phillips also reported on the time frame involved in the case.

The members discussed the Clean Water Act, the Clean Air Act and the Navajo and Coconino counties election issue in executive session.

On August 14, 1995, the CDC met and discussed the cooperation between Arizona Department of Corrections Director Sam Lewis, the Governor, the CDC members and the Attorney General on the litigation on prison issues. Mr. Cooper reported to the members on the special

masters statute and the appointment of Judge Ezra who replaced Judge Muecke to rule on the issue in U.S. District Court. Mr. Cooper reported on the deadline of payment for the special masters' fees is August 15, 1995, despite the state law requiring legislative appropriation. Mr. Cooper predicted that the special master will file a motion to compel payment or a motion to show cause why the relevant State official should not be held in contempt for failure to pay the fees. The members continued to discuss litigation strategy including the need to inform other state officials of the status of this issue.

Mr. Drazek reported on the supplement to the strategic analysis of challenging the EPA. He further discussed his conversations with EPA staff and other parties affected by a challenge of the Clean Water Act. Mr. Drazek discussed a number of aspects relating to the State's specification of surface water quality standards, especially a "mercury standard", numeric criteria and the process for establishing such standards. Mr. Drazek further discussed the case law on challenging environmental law and regulations based on the Commerce Clause, 10th Amendment and 5th Amendment bases.

The members received a copy of the jurisdictional statement prepared by Mr. Phillips on the issue of the county judicial election issue.

The members discussed the prison issues and the Clean Water Act in executive session.

The members authorized Streich Lang to survey the field of air and water issues including the Endangered Species Act to determine if there is a way to raise a Commerce Clause challenge. The members authorized the CDC to pay Streich Lang up to \$20,000 for work performed with respect to water issues, subject to obtaining a detailed accounting of those fees. The members authorized the expenditure of an additional \$10,000 to perform the survey relative to the issues of the Commerce Clause of the first authorized motion (see above) to determine if there is a broad issue the CDC can bring against those federal regulatory efforts. The members authorized that total attorney fees regarding the federal Clean Water Act, Clean Air Act, Endangered Species Act and Commerce Clause issues be capped at \$65,000.

The members authorized Shaw Pittman, Potts and Trowbridge's attorney Mr. Chuck Cooper to proceed with the strategic plan outlined to the members on the several consent decrees and authorized \$15,000 for outstanding attorney fees incurred to date and \$50,000 to begin the litigation process in the areas specifically mentioned in the strategic plan, and to continue these efforts in coordination with the Governor's Office, the Attorney General's Office and the CDC's counsel.

At the conclusion of the meeting, Council member Mr. Kurt Davis resigned due to his involvement in a number of other professional and public policy efforts. He expressed appreciation at having served with the other members of the Council as well as his support for their efforts.

On September 18, 1995, the CDC met and it was announced that CDC member Mr. Kurt Davis had been replaced by the appointment of Mr. Jay Heiler by the Governor.

The members heard a report by Mr. Roger Ferland on his examination of the environmental

regulations and laws as specified at the previous meeting. He stated that the issue of the EPA's designation of the Verde Valley area was close to being "ripe" for legal action. Mr. Ferland also reported on his further analysis of the Lopez decision and the viability of asserting a "taking" case against the Endangered Species Act. He expressed a need to survey potential parties to determine if there is an appropriate factual scenario. Mr. Ferland also reported on the potential Clean Water Act challenge and stated that it was not a constitutional issue by nature, however it does raise significant state sovereignty issues. He stated the two particular areas under consideration by the EPA regarding this issue are the permits to be granted to an industry in Picacho, Arizona, and the City of Tucson's activities in recharging groundwater. Significant discussion ensued regarding Mr. Ferland's research and analysis on these issues, especially with regard to the constitutional implications of each. Ms. Nancy Wrona, Air Quality Division of DEQ provided technical analysis of the air quality proposed redesignation of the Verde Valley area and the impact on citizens.

Mr. Cooper participated in a discussion with Mr. Ferland and the members on the EPA regulations and potential interstate consequences

Mr. Cooper gave a short narrative report on the special master issue and reported that oral argument is scheduled for September 28, 1995 for the State of Arizona as Defendant in the case. Mr. Cooper also explained the distinctions in the Casey 1 (mental health care provided to inmates) and Casey 2 (legal access to law libraries) cases as well as the Hook case (inmate mail/Christmas packages). He stated that the special masters have billed the State over \$290,000 in fees and over \$79,000 in expenses. Mr. Cooper identified the State's concern that there was no fiscal accountability for the taxpayer funds which have been required to pay for the special masters' bills. Mr. Cooper discussed various constitutional arguments including the Eighth Amendment and the Supremacy Clause. Mr. Cooper discussed the State's legal argument in detail which is reflected in his written brief submitted to the Court.

Mr. Pat Cunningham, Environmental Enforcement Section, of the Attorney General's Office reported on the county judicial election issue. He reported on the legal filings to date and the State's argument to the U.S. Department of Justice that the election process does not violate the Voting Rights Act.

The members heard from Mr. Jeff Flake of the Goldwater Institute on the school desegregation orders, especially as they relate to charter schools and recent court orders. Mr. Flake described the impact to the taxpayer when desegregation programs are required to be funded.

Mr. Cooper also reported on court activity on school desegregation orders.

Mr. Cooper reported on the federal Child Support Recovery Act and the District Court finding that it is unconstitutional under the Commerce Clause.

The members authorized Roger Ferland to survey interested groups dealing with the same type of environmental issues to determine what factual issues and fact patterns exist which may provide a productive case on which to proceed against the Endangered Species Act. The members also authorized Shaw, Pittman, Potts and Trowbridge's intervention into the Phoenix Union High

School District desegregation litigation.

On October 6, 1995, the CDC met and received a report from Mr. Cooper on the September 28, 1995 hearing before federal Judge Ezra. He explained the constitutional arguments made by the State and the CDC, and he also reported his less-than-optimistic view of Judge Ezra's pending decision.

The members re-considered their action whereby they authorized the CDC to intervene in school desegregation orders. Because of concerns that the spirit of the law creating the CDC was to not intervene in reasonable civil rights issues, the members suspended CDC action on the issue.

The members authorized Shaw, Pittman, Potts and Trowbridgeto prepare the appellate brief with fees and expenses not to exceed \$75,000. They also authorized a maximum of \$25,000 for the August and September billings

The members believe that their efforts are consistent with public policies established by the Legislature, and that they have laid the groundwork for significant advances to reclaim Arizona's sovereignty. As of October 31, 1995, the three firms have been authorized by the CDC to spend a maximum of \$267,000 for these specific legal challenges, but \$100,362 has actually been spent to date. The members of the CDC believe that these legal challenges will be quite active in the next year and that the State stands to regain considerable authority over these specific policy areas and at the same time advancing Arizona's sovereign authority overall

SJR

40

**Testimony of John Sisk on Senate Joint Resolution Relating to the Extension of
the United States Forest Service timber sale contract with the Ketchikan Pulp Company
April 1st, 1996**

My name is John Sisk, and I would like to thank this Committee for allowing me to present testimony today on this resolution. I am a fourteen year resident of southeast Alaska with a degree in Environmental Biology and a Masters Degree in Forestry. I have worked in the lumber business, in building construction, as a wildlife biologist and as a professional wilderness guide. I am a hunter, sport fisherman and a kayaker who lives in a wooden house with a wood burning stove. I am a past Executive Director of the Southeast Alaska Conservation Council, a co-owner and past manager of a local tourism business, and a long-time shareholder in Louisiana-Pacific, the parent company that owns Ketchikan Pulp Company (KPC).

I am here today to endorse the positions of the Southeast Alaska Conservation Council and the Alaska Environmental Lobby with regard to the proposed resolution to support a fifteen year extension of the Ketchikan Pulp Company's long term timber contract; both organizations stand in strong opposition to the resolution. Beyond that, I am speaking today on my own behalf and appreciate very much the opportunity to share some of my personal concerns and recommendations with regard to the KPC contract, the economy and the Tongass National Forest. While I don't claim to have all the answers I can testify that Alaskan conservationists care deeply about our people, our communities and our forests. That is the spirit in which I speak today.

I want to state, right up front, that there are practical, long-term alternatives to dependence on dissolving pulp mills in the southeast Alaska timber industry. A market-oriented approach to value-added manufacturing and re-manufacturing of solid wood products, sawing as much as possible of as many logs as possible, considering an integrated timber supply that includes all timberland owners without subsidizing public timber, and new approaches to utilization of wood waste and lowest quality logs and log pieces are some of the components of long-term alternatives that might work for southeast Alaska.

I believe strongly that this resolution to extend the KPC contract is the wrong move for the legislature. This is also the wrong time for the legislature to make this type of endorsement to any interest. We have more time to look at the KPC situation; their 50-year contract doesn't expire for eight more years. We need more information--certain specific information--before committing the Tongass to KPC or anyone else through the year 2019. We need to devote more legislative and public attention to what our economy might look like, and what we will need here in southeast Alaska, in the first several decades of the 21st Century.

Big changes at Louisiana-Pacific

KPC's parent company, Louisiana-Pacific (LP), is in the midst of a major change in management. Last year the Board of Directors fired notorious CEO Harry Merlo after a series of fundamental problems threatened the company. Huge pollution fines and expensive settlements with the EPA affected many of LP's operations. In Ketchikan the company admitted to felony violations of Clean Water Act regulations. The quality of certain LP products was challenged by a number of very large buyers and may lead to very expensive with purchasers of LP's oriented strand board. CEO Merlo already had a stormy history with organized labor and some of his own employees. The Board decided Merlo's entrepreneurship had run its course and a complete management change was necessary.

Today LP is engaged in appropriate management reviews, including a look at the future of their Ketchikan operation. Rather than simply pass this resolution to write the company a blank check to continue business as usual, I think Alaska should follow LP's lead and do our part of the job: evaluate KPC and assess what kind of timber industry is most desirable--in Ketchikan and in Southeastern-- in the first part of the 21st century. 2

Some credits and concerns with KPC's historic operations

Clearly, KPC has brought year round employment and prosperity to many since its inception in the 1950s. While there was a thriving, small scale timber industry before KPC, the pulp operation triggered development of additional infrastructure and business activity in Ketchikan and on Prince of Wales Island. KPC has many supporters who will present these attributes forcefully and with eloquence.

There are also many Alaskan environmentalists, subsistence resource users and small community residents who eloquently present the down side of KPC. Chronic pollution, including discharge of toxic and carcinogenic polychlorinated biphenyls (PCBs) and dioxins. Expanding clearcutting of forests people depend on for hunting, fishing and tourism endeavors. Conflicts with employees and unions. Monopoly control of Tongass timber supply to the extent that other loggers and wood manufacturers cannot start new businesses or stay in business. A federal court ruled that in the 1970s KPC and Alaska Pulp conspired to control timber supply and log prices to such an extent that over 100 Alaskan timber businesses were either taken over or forced under. Many believe that the KPC long-term timber contract gives the pulp company so much leverage over the Tongass timber supply that it is exceedingly difficult for competitive new wood manufacturing businesses to get started, and very little incentive for KPC to respond to changes in international markets for wood products. In other words, the innovation that could keep our timber industry competitive in a dynamic market environment is limited by supply guarantees, de facto price subsidies and commitment to a single product, dissolving pulp, as top priority.

I am concerned that dissolving pulp (DP) is not a strong product for the future. It has an inconsistent financial track record and we should not anchor our timber industry to dissolving pulp. Ideally, we should find ways to get top dollar out of every log first, and then match a fiber-plant to the remainder of the wood supply. There is also serious question that the Tongass National Forest cannot supply KPC with 154 mmbf/year for the long haul while still taking care of other industries and forest users, and while providing a timber supply for independent and small community operators.

Alaskan leaders should take a hard look toward the future.

Before considering whether or not to endorse extension of the KPC contract or any other big commitments, southeast Alaskans need to take a hard look toward the future. Here are some key steps we need to take.

1. Complete the Revision of the Tongass Land Management Plan (TLMP). The TLMP process is nearing completion after more than five years, with community roundtable meetings and public review slated in May of this year. Based on the best available Forest Service information, community priorities and general public comment we will have a better idea how well the Tongass can provide opportunities for all the users of the forest, and what timber supply levels are feasible. For example, it might be helpful to identify a modest but significant timber supply level that most interests can either live with or support. That would become the base timber supply an investor could "bank on." Greater annual timber supply would admittedly lack consensus and would be acknowledged as less predictable and

- more speculative for timber purchasers. This two-tiered approach could be more advantageous for timber investment than demands by timber advocates for 350, 400 or 450 mmbf of timber from the Tongass. "Shooting for the moon" tends to engender opposition to the whole timber program and thereby make every sale uncertain even when there might be some supply levels folks could agree to. 3
2. Clarify the "landless Natives" issue and get a ballpark idea how much Tongass timberland, if any, is likely to be transferred to private, Native corporation ownership. This could become a significant component of the regional timber supply and would affect the sustainable cut from the Tongass National Forest.
 3. Clarify the economic, social and environmental criteria for a future timber industry that are important to southeast Alaskans and, in the case of the Tongass National Forest, concerned Americans outside Alaska. See what companies are interested in meeting these criteria and cooperating with Alaskan communities in a sustainable, diversified economic partnership. For example, this might or might not include KPC (LP), Sealaska Corporation, Viking Lumber in Klawock, Seley in Ketchikan, and others.

Some Important Criteria for a Future Timber Industry Using Tongass Timber

In the course of assessing our longer term options many good ideas and criteria would be suggested for a strong, sustainable timber industry. I offer these recommendations for your consideration at this time.

- Avoid sudden changes that could displace workers and hurt communities. Where significant changes are desirable or unavoidable, develop sound transition plans that support our communities and the prosperity of our neighbors.
- Excellent air and water quality should be fundamental requirements. A clean and healthy environment is imperative, and is an important economic development attraction when recruiting new businesses to locate in Alaskan communities.
- Full compliance with all federal laws should be demanded. No waivers; no exceptions.
- Cedar export should end, with red and yellow cedar logs either manufactured in Alaska or sold directly to an Alaskan manufacturer, thereby adding value and creating new jobs in the Panhandle.
- Provide special, small scale federal timber contracts for high value added operations in local communities.
- Support a chipping facility in Wrangell and a demonstration high value added facility that approaches total wood utilization.
- Manufacture and re-manufacture of sawn wood products that add value and employ Alaskans should be a criteria for access to Tongass timber. The Province of British Columbia recently announced that access to Crown timber will be contingent on job creation and value-added manufacture in B.C. Alaska must pay attention to this trend.
- Base the future industry on an integrated approach to regional timber supply that includes lands under different ownership. The Tongass should not be called on to supply all of the timber industry's needs. Proven sources of log supply, in varying quantities, include: ANCSA Native corporation lands throughout coastal Alaska, the Tongass National Forest, State Forests and general State Land, University of Alaska timberland, Mental Health Trust Land, other private land and log imports from British Columbia and south central Alaska. We need policies that provide incentives to timberland owners to put their logs to work creating jobs and high-value-added products for Alaska, rather than exporting those jobs and opportunities.
- Future timber businesses should be market driven rather than contract driven or subsidy driven.
 - Products manufactured should be matched to viable markets that maximize the value of the raw material, log by log if possible. This would promote the careful sorting of logs and the allocation of particular log grades and types to their highest value product through market transactions.

- No stumpage price breaks would be offered. Tongass stumpage would be sold at prices commensurate with current markets and the price of wood supply from private Alaskan timberlands. This would have several benefits. Private timber would be more likely to be sold to Alaskan manufacturers, thereby easing the pressure on the Tongass supply. In addition the Forest Service would generate more revenue from a given timber sale volume, and local Alaskan governments' 25% share of that revenue would increase
- Support investments in intensive management of federal, state and Native corporation second growth lands to maximize future timber yields as part of an integrated, multi-ownership timberland base for the future.
- Seek federal investments on the Tongass in restoration forestry and other programs that provide jobs in the woods for Alaskans.
- Tongass National Forest timber supply levels must be compatible with, and constrained by:
 - the Tongass Land Management Plan;
 - balanced compatibility with other industries such as tourism and commercial fishing, and other uses such as subsistence, recreation, sport fishing and hunting;
 - a sound, scientific strategy for maintaining viable populations of animal species and protecting important fish and game habitat areas such as Honker Divide on Prince of Wales Island and the Cleveland Peninsula;
 - continued protection of the National Monuments, Wilderness Areas, minimum 100 foot salmon stream buffers and Legislative "LUD II" Areas established by the Alaska National Interest Lands Conservation Act (ANILCA) and the Tongass Timber Reform Act (TTRA);
 - basic forest stewardship including conservation of soils and watersheds;
 - long term sustainability of the timber cut level and the basic ability of the forest to keep on providing clean water, wood, wildlife, fish, and opportunities for recreation and subsistence.

Does this add up to an extended presence in southeast Alaska for Louisiana-Pacific and Ketchikan Pulp Company? It is way too early to tell whether a long term KPC presence would be in the best interest of southeast Alaska, or L-P and KPC, or the many people who have a stake in the Tongass National Forest. But in any event, just as KPC is letting Alaskans know what commitments they want from our public forest--the Tongass--we have a right and a duty to let KPC know what expectations we have for companies considering long term investment in Alaska timber. This will result in a stronger end result than rushing to extend KPC's contract now. We should not commit our long term economic future or the future of our forest to perpetual support of a given set of machinery installed in the 1950s, simply because it is there and we are unable to cope even with beneficial change.

But Won't We Still Need a Pulp Mill?

Not necessarily. We can saw a significantly greater portion of Tongass wood than we are today. Forest Service data tell us we are now pulping 68% of the #3 spruce sawlogs, almost all of which could be sawn with available technology, and are pulping 75% of the #3 hemlock logs, which existing businesses in British Columbia and the Pacific Northwest are sawing into good lumber and re-manufacturing into finger jointed and laminated boards and trim. Doing more of this in Alaska means more jobs per tree cut down and more value added to the wood. In the 1950s the rule of thumb was "saw 40% of the logs into cants or lumber and pulp the other 60%." Today we could potentially saw 70% to 85% of the logs from a given Tongass sale. This is due to new manufacturing technology, changing labor cost differentials between Alaska and other Pacific rim locales, and the fact that Alaska has some of the best old growth softwood in the world.

Altogether this means that potential reliance on a wood fiber plant like a pulp mill could be reduced substantially.

5

Another big change is the emergence of wood chips as a viable manufactured product made from low grade logs and some sawmill waste. Although the chip market, like the dissolving pulp market, is volatile, during strong market cycles and on the spot market chips are a market-based alternative to dissolving pulp.

For years we have known that wood waste could be burned to generate power and also dispose of a potential headache to sawmill operators. We need to examine the obstacles to co-generation using wood waste and help get a pilot project started so that value added sawmills are not stymied by waste disposal problems.

If a fiber plant is needed over the long haul we should still re-think our approach. The region might be better off if such a plant were smaller than the current mill, and we should take a hard look at a variety of fiber products, including oriented strand board, wafer-wood, MDF, particle board and the like in addition to pulp. If we are successful in capturing top value from logs we will not need such a large facility or be able to feed it, and some experts are convinced dissolving pulp will be less competitive over time.

A sudden, unplanned pulp mill shut-down would clearly be undesirable and would create big employment and community problems in Ketchikan. But would it result, as some claim, in the closure of all of southeast Alaska's sawmills because there would be no place to sell their pulp logs? Not necessarily. Un-saw-able logs and cull could be chipped in Wrangell or Ketchikan and exported. The Forest Service could consider limited, temporary, emergency relaxation of the primary manufacturing requirement and timber sale utilization standards, thereby allowing truly un-saw-able logs to be exported and cull material to be left in the woods until a better alternative is developed. With these short-term procedures in place, sawmills might pick up the timber sales KPC would have operated and carry on nicely. At the same time, of course, community and business leadership would have to hustle to address the effects on Ketchikan and the options for new investments in timber and other industries to compensate for the closure. Although I do not think this is a desirable situation, I present it to show that we should not let our worst fears frighten us into giving away too much, too soon, before we really know what kind of timber industry will suit southeast Alaska and the Tongass National Forest best in the 21st Century.

Thank you for the opportunity to testify here today, and thank you for considering these views and suggestions. Please do not endorse the Resolution to extend the KPC contract with the Forest Service at this time.

Support extension

In New York state 18 million acres of privately owned forested land support 34 pulp mills and 231 sawmills with an annual harvest of 1.1 billion board feet and a workforce of 62,295, according to 1994 figures — the latest available — from the American Forest and Paper Association. The industry represented \$1.87 billion that year. Reduce New York's harvestable land by 90 percent and it still supports three pulp mills and 23 sawmills.

By contrast, Tongass National Forest consists of 16.8 million acres. Southeast Alaskans and their timber industry seek to harvest just 10 percent of it or 450 million board feet annually to support one pulp mill and 30 sawmills, 1,250 jobs representing a \$500 million payroll.

The timber industry is just one aspect of a multiple-use Tongass. Even extreme environmentalists — at least publicly — support multiple use of the forest. But without timber harvest, without KPC and independently owned mills, multiple use does not exist.

Southeast Alaska mills are reducing shifts; they are shutting down. Wrangell's mill closed in 1994, and now Wrangell's heavy equipment operators seek work in Ketchikan. Other large companies from the Pacific Northwest also turn to Ketchikan for work because of the drastic decline in their timber industry. The competition puts the pinch on Ketchikan businesses, especially in cases that out-of-town companies provide lower bids and take the dollars out of Ketchikan.

Ketchikan and its timber industry is in crisis.

It's going to take timber and a reliable supply of it to head off that crisis.

KPC's 50-year contract with the federal government for Tongass timber ends in 2004.

Rep. Bill Williams of Saxman and Sen. Robin Taylor of Wrangell scheduled hearings on timber contract resolutions they introduced this week. The resolutions ask Alaska's Congressional delegation to pursue a 15-year contract extension in Congress.

KPC seeks the extension for assurance of timber in advance of spending \$155 million in environmental and \$50 in capital improvements at its pulp and saw mills. KPC already has spent millions to improve its effect on the environment.

The state Senate contract hearing is at 1:30 p.m. Monday, while the House hearing is scheduled for 4 p.m. Tuesday. Those hearings are by invitation only. Others who wish to testify will have the opportunity from 4 to 6 p.m. Wednesday at the Legislative Information Office.

Ketchikan worked too hard to bring the pulp mill here; let's not let it slip away now. Let's testify for the extended contract for KPC.

Ketchikan Daily
News
Saturday - Sunday
March 30 - 31,
1996

KP Ketchikan Pulp Company

KPC FACTS FAX

"Timber Harvest Outlook for 1996"

As the Forest Service fails to meet their contractual timber offering to both the Ketchikan Pulp Company and the independent sector of the industry, the amount available for timber harvest continues to fall. As timber offerings fall, timber harvest falls and mills close. This is the reality in Southeast Alaska today.

Known as the "timber pipeline", the amount of timber available for harvest and creation of jobs also falls. The last five years have been a history of declining pipeline timber volume and timber sales which have advance roading.

| Fiscal Year | Pipeline Volume | Volume Harvested | Beginning Roaded | Forest Service Release (MMBF) |
|-------------|-----------------|------------------|------------------|-------------------------------|
| 1996 (est.) | 143 | 45 | 25 | 2 |
| 1995 | 130 | 151 | 62 | 164 |
| 1994 | 106 | 111 | 56 | 135 |

| | | | | |
|------|-----|-----|-----|-----|
| 1993 | 216 | 155 | 49 | 45 |
| 1992 | 128 | 168 | 116 | 256 |
| 1991 | 76 | 171 | 76 | 223 |
| 1990 | 70 | 158 | 70 | 164 |

The low levels of timber in the pipeline will most likely lead to the lowest levels of timber harvest under the KPC long term contract since its beginning in the 1954. KPC expects to harvest only 45 to 50 million board feet in 1996. That level is down from a harvest level of 165 million board feet in 1996. This will lead to a continued reduction in logging jobs in Southeast Alaska. "KPC is forced, by the inability to build a timber pipeling as required by law, to build its own pipeline by deeply curtailing our harvest levels in 1996," says Troy Reinhart, KPC spokesperson. "This is not a step we take lightly, but one that we must take to help secure our long term survival."

Because of purchases of Canadian logs in late 1995, KPC's wood supply should be sufficient to sustain pulp operations through 1996. However, log supplies which are low will probably allow only one shift at each of our sawmills, KPC hopes to avoid any complete shutdown such as we were forced to undergo in 1995. "Only through the grace of God were we able to find enough timber to maintain pulp mill operations in 1995 and 1996," continued Reinhart. "The Forest Service needs to take advantage of this opportunity to build the pipeline by making complete to KPC and by preparing new sales."

#####

For more information contact Troy Reinhart at 907-225-2151 (office), 907-723-1060 (cellular phone) or treinhar@ptialaska.net (e-mail).

3-28-86

Dear Governor Knowles and Senator Murkowski:

Ketchikan and the timber dependent communities of Southeast Alaska depend on the Forest Service long-term timber contract with Ketchikan Pulp Company. That is why I support a fifteen year extension of the KPC long-term bilateral contract.

I believe that KPC is the cornerstone of the of the forest products industry in Southeast Alaska. Without KPC there is not the critical mass to insure a significant and stable industry.

KPC can only get a timely contract extension through congressional action. An extension must be secured this year to insure the community and KPC have a future.

Please support the KPC contract extension efforts!

Sincerely,



Peter W. Amundson

918 JACKSON ST.

KTN AK 99901

3-28-96

Dear Governor Knowles and Senator Murkowski:

A fifteen year extension of the long-term contract held by the Ketchikan Pulp Company is the same to Southeast Alaska as ANWR is to the rest of the State of Alaska. The families and jobs of Southeast Alaska depend on the same bipartisan efforts you both showed on the ANWR issue.

KPC needs an immediate fifteen year extension of its bilateral contract. This can only be done through immediate congressional action this year. As Alaska's Governor and Chairman of the Senate Energy Committee, you are the two men for the job.

I strongly encourage your prompt and aggressive action on this issue. It is important to all the people of Southeast Alaska that the KPC contract be extended and sufficient timber be provided.

Sincerely,

Diana Amundson

Diana Amundson

918 Jackson St

Ketchikan AK 99901

Alaska State Legislature

Sen. Robin Taylor, Chairman
Sen. Lyda Green, Vice Chairman
Sen. Mike Miller
Sen. Al Adams
Sen. Johnny Ellis



State Capitol
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(907) 465-3717
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Senate Judiciary Committee

Proposed Witness List for the April 1, 1996 Senate Judiciary Hearing SJR 40 - Extension of the KPC Contract

| | |
|-------------------------------------|-----------------------------------|
| Ketchikan Pulp Company | Ralph Lewis, President |
| Governor's Office | Diane Mayer (DGC) |
| Former Regional Forester | John Sandor |
| National Bank of Alaska | ? |
| 1st National Bank | Bill Moran, Jr. |
| Alaska Forest Association | Jack Phelps |
| Small Mill Operator | Steve Seley |
| McDowell Group | Bill Brock |
| SERRC | John Antonin |
| Wrangell | Mayor Roberts |
| Metlakatla | Sol Atkinson |
| Ketchikan Borough | Mayor Carlton |
| City of Ketchikan | Mayor Stanton |
| SEACC | Wayne Weihsing |
| Alaska Rainforest Campaign | Steve Kallick |
| Alaska Environmental Lobby | John Sisk |
| United Southeast Alaska Gillnetters | Geoff Bullock |
| Alaska Visitors Association | Tina Lungren |
| Ketchikan Chamber of Commerce | Dick Koose |

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET
DIVISION OF GOVERNMENTAL COORDINATION

☐ SOUTHCENTRAL REGIONAL OFFICE
3601 'C' STREET, SUITE 370
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PH: (907) 269-7470/FAX: (907) 561-6134

☐ CENTRAL OFFICE
P.O. BOX 110030
JUNEAU, ALASKA 99811-0030
PH: (907) 465-3582/FAX: (907) 465-3075

☐ PIPELINE COORDINATOR'S OFFICE
411 WEST 4TH AVENUE, SUITE 2C
ANCHORAGE, ALASKA 99501-2343
PH: (907) 271-4317/FAX: (907) 272-0690

April 1, 1996

The Honorable Robin Taylor
Alaska State Senator
Chair, Senate Judiciary Committee
State Capitol, Room 30
Juneau, AK 99801

SUBJECT: State of Alaska Position on SJR 40

Dear Senator Taylor:

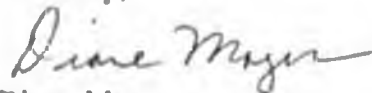
The Knowles Administration recognizes the important role Ketchikan Pulp Company (KPC) has played in the timber industry, including employment in Ketchikan and Southeast Alaska. The responsibility and statutory authority to extend the KPC contract lies with the U.S. Department of Agriculture and Congress.

Our Administration is promoting sustainable, responsible economic development of Alaska's natural resources. In Alaska we can do it right. As KPC develops its business plan to present to the U.S. Department of Agriculture for a contract extension, Alaskans will be interested in KPC's commitment to fully address: 1) long term jobs for Alaskans; 2) the use of Alaska businesses, both in harvesting and value-added processing; 3) provision of a solid tax base for Ketchikan and other Southeast communities; 4) responsible environmental management; 5) participation in and support of the Tongass Land Management Planning process that ensures sustainable uses of our forest; and 6) consideration of other forest users, including those dependent on timber production, tourism, commercial and sport fishing, seafood processing, mining, subsistence and personal use.

We hope the legislature will address these important matters in its deliberations.

We look forward to the Department of Agriculture providing Alaskans the opportunity to review proposals regarding the contract extension. We stand ready to work with Alaskans and Ketchikan Pulp Company to achieve these goals.

Sincerely,



Diane Mayer
Director

CITY OF WRANGELL SNAPSHOT OF THE ECONOMIC PICTURE

Population: 2,758 (Alaska Department of Community and Regional Affairs, 1995)

UNEMPLOYMENT RATES

The following table of unemployment rates for the City of Wrangell compares the months of December (APC mill closure in Wrangell) through May of 1992, 1993, 1994 and 1995. Wrangell always has higher unemployment in the winter months due to the seasonality of many jobs. The City estimates that current unemployment is close to 30% based on historical information and additional business closures.

| <u>Year</u> | <u>Dec.</u> | <u>Jan.</u> | <u>Feb.</u> | <u>March</u> | <u>April</u> | <u>May</u> |
|-------------|-------------|-------------|-------------|--------------|--------------|------------|
| 1991-1992 | — | 14.8% | 14.2% | 13.0% | 12.3% | 9.9% |
| 1992-1993 | 8.8% | 11.4% | 13.4% | 9.4% | 7.2% | 6.7% |
| 1993-1994 | 9.1% | 13.4% | 15.3% | 14.1% | 9.6% | 7.5% |
| 1994-1995 | 18.3% | 21.6% | 20.7% | 19.6% | 16.2% | **** |

**** The State has ceased collecting unemployment figures for communities outside borough areas.

CITY COLLECTED SALES TAX

The City Finance Director recently did a comparison of the sales tax collected for the quarters of 1994 and the quarters of 1995. There has been a -13.54% drop in collected sales tax revenues from the merchants. This has serious implications not only for the local businesses, but also for the City's budget. Current sales tax levied on all goods and services is 7%.

Drop in sales tax collected between 1994 and 1995:

| 1st qtr | 2nd qtr | 3rd qtr | 4th qtr |
|---------|---------|---------|---------|
| -12.52% | -8.32% | -6.68% | -10.43% |

ANNUAL EMPLOYMENT AND PAYROLL

The following table shows the growth in *annual* employment figures and payroll (sum of number employed each month, and sum of payroll figures each month) for Wrangell since 1990. The Wrangell sawmill closed mid December 1994. The Alaska Department of Labor does not include commercial fishermen in its employment count. The reports regarding employment from Alaska Department of Labor are delayed at least 6 months.

ANNUAL EMPLOYMENT AND PAYROLL: 1990 - 1994

| <u>YEAR</u> | <u>TOTAL EMPLOYED</u> | <u>TOTAL PAYROLL</u> |
|---------------------|-----------------------|----------------------|
| 1990 | 10,690 | \$23,409,618 |
| 1991 | 11,004 | \$24,814,297 |
| 1992 | 11,603 | \$27,766,923 |
| 1993 | 12,528 | \$31,621,059 |
| 1994 | 12,972 | \$31,176,659 |
| 1995 (thru 3rd qtr) | 7460 * | \$16,760,120 * |

Source: Alaska Dept. of Labor

Note: The APC mill officially closed December 15, 1994. Layoffs started occurring in the two months prior to the closure.

* Through third quarter (January - September 1995) only. Based on these figures so far, Wrangell is back to 1990 earning levels.

Most noticeably in the mix of industries is the dramatic change in the manufacturing and government sectors of the economic base. In 1994, manufacturing jobs comprised 29% of the available jobs, today it has dropped to 11.4%. Likewise, government jobs comprise 47.4% of the economic base compared to 32% two years ago.

UTILITIES

The electrical utility in Wrangell is owned by the City. The mill received a low cost interruptible power contract from the Tyee Hydroelectric project. With the mill in operation, typically they would use approximately 1 million Kwh per month. They are currently down to 100,000 kwh per month. From their utility payments, the City keeps 45% of the payment. At the time of operation of the mill, the City netted approximately \$240,000. The net for 1994-5 is estimated to be only \$135,000 (half the year APC was in operation).

HOUSING MARKET

During the summer of 1994, Wrangell had a 0% vacancy rate in rental units. A recent survey (Jan 96) of primary landlords revealed that out of 316 units, 54 or 23% were vacant. House sales have continued to take place, but they have remained on the market for several months, unlike the summer of 1994 when it was a "who you know" and 24 hour sale.

SCHOOL ENROLLMENT

School district had enrolled in October of 1995 655 students for the formula funding count. Currently there are 532 students and the school is anticipating a drop to 520 students for next year.

PROPERTY TAX ASSESSMENTS

Alaska Pulp Corporation's real and personal property tax collected was approximately 20% of Wrangell's tax revenue. The City just completed a citywide reassessment of real and personal property. The mill's property valuation has dropped by \$2 million.

News from the Senate Majority

Alaska State Legislature

Contact: Senator Robin Taylor
907/465-3873

For Immediate Release: April 4, 1996

Timber Resolution Passes Senate Contract Extension Ensures Economic Stability In Southeast

Juneau -- The Senate Thursday passed Senate Joint Resolution 40 supporting the extension of Ketchikan Pulp Company's (KPC) timber contract for an additional fifteen years.

"We filed Joint Resolutions in the Senate and House to encourage our Congressional Delegation and our Governor to support and extend the Ketchikan Pulp Company long-term contract," said Wrangell Senator Robin Taylor.

In a recent press conference, Senator Taylor and Saxman Representative Bill Williams explained that KPC is the sole remaining pulp mill in Alaska and a major employer in the Southeast region. Without the extension, KPC may go out of business after the year 2004 when its current contract expires and an entire Alaska industry will cease to exist. This will have devastating social and economic impacts to families and communities throughout Southeast Alaska.

"The future availability of a wood supply is not the only hurdle that KPC faces. More than \$155 million in capital expenditures is required for KPC to stay current with ever changing federal environmental standards and operating needs. As a matter of economic common sense, a minimum fifteen year extension is needed to amortize the debt over time," Representative Williams said.

"A large percentage of the trees that are harvested on the Tongass National Forest are of low quality and can only be used for pulp," Taylor said.

"Over thirty percent of the wood standing in the forests of Southeast Alaska is dead and dying. It's essential that this forest resource not be wasted. As a consequence, it's crucial that a large pulping operation such as the Ketchikan Pulp Company be available for the marketing and the value added processing of timber," said Taylor.

Broadcast Note: Please call 800/478-6540 for the April 4th Update.

Box 1: Press one to hear Senator Lyda Green comment on SB 181 to establish better signage on Alaska roadways. It passed the Senate Wednesday.

Box 2: Press two to hear Senator Robin Taylor comment on SJR 40 that passed the Senate Thursday.

Box 3: Press three to hear Senator John Torgerson comment on SB 280, The Mandatory Borough Act, that was amended and reported out of Senate Finance Thursday.



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3/29/96

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March 25, 1996

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Ans'd.....

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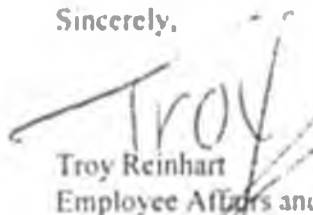
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VIA FAX

Please accept the attached op-ed as a submission to your publication. This is a timely issue and of great interest to your readers.

If you have any questions please let me know.

Sincerely,


Troy Reinhart
Employee Affairs and Public Relations

- cc: Ralph Lewis
- Owen Graham
- Bill King
- Phil Nacke
- Will Woodell
- Senator Robin Taylor
- Representative Bill Williams
- Representative Jerry Mackie

OPERATING DIVISIONS

WARD COVE PULP MILL
THORNE BAY LOG

KETCHIKAN SAWMILL
TURKIN LOG
NAUKATI LOG

ANNETTE HEYLOCK SAWMILL
ELI CARPENTER LOG

THE FOREST SERVICE SHOULD HONOR ITS COMMITMENT

By Owen Graham

Senator Murkowski's recent letter to Secretary Glickman, expressing concern about the low volumes associated with the alternative Allowable Sale Quantities (ASQs) which the Forest Service will seriously consider in the Tongass Land Management Plan (TLMP) revision process, was right on. The Senator pointed out that whereas, in his confirmation hearing, Secretary Glickman had promised to provide an ASQ large enough to sustain Ketchikan Pulp Company (KPC), and to provide 100 million board feet (mmbf) for the independent operators, the volumes associated with the new TLMP alternative which the Forest Service has under serious consideration are simply too low to sustain even KPC's mills alone.

Reneging on its commitments - including its contractual commitments - has become increasingly common with the Forest Service following passage of the Tongass Timber Reform Act (TTRA) in which the Forest Service was to "seek to meet market demand." For several years now, the industry has suffered from a chronically short supply as seen by the closures of the Sitka pulp mill, the Wrangell sawmill and the Seaborne Lumber mill. Now the Forest Service is attempting to reinvent history regarding the volume which it is obligated to provide KPC under its long term contract.

Until December 1994, the Forest Service had agreed that the volume to which KPC would be entitled each year was determined by dividing the then remaining contract volume by the number of years remaining on the contract. The Forest Service recognized that the contract volume to which the company was entitled by this formula is 205 million board feet in its 1993 Central Prince of Wales (CPOW), North Revilla and Polk Inlet Final Environmental Impact Statements (FEISs). As an example of the Forest Service position in each of those documents, the Forest Service said in the CPOW Final EIS (1993):

"The total timber harvest called for under the long term contract is 8.25 billion board feet. Analysis indicates that KPC needs to harvest an average of 205 mmbf per year to complete the contract. Four timber projects, North Revilla, CPOW, Lab Bay and Polk Inlet, were initiated for the KPC long term contract within the primary sale area (PSA) as directed

by the contract to seek to find timber supplies within the PSA before seeking volume within the contingency areas. These four projects are needed to provide sufficient volume to provide KPC with 205 million board feet for the 1993 logging season, as well as to provide a three year timber supply of 615 million board feet. The desired timber supply is therefore \$20 mmbf."

Likewise, in the Regional Forester's decision on the Tongass Conservation Council's appeal of the North Revilla EIS (1994), the Forest Service said:

"The Forest Service is obligated to provide a supply of timber to KPC. KPC has obligations on how much they can harvest. . . . using the total supply requirement of the contract (8.25 billion board feet), the FEIS, Chapter 1, page 22, estimates the amount remaining to be supplied to KPC as 'approximately 205 mmbf based on the amount harvested by KPC so far . . ."

Only after contracting officer Fred Walk's December 1994 decision with respect to KPC's claim for damages due to shortfall in the timber volume supply during the 1989-94 operating period did the Forest Service adopt a new position that it is only obligated to supply Ketchikan Pulp an average of 154 million board feet per year - 51 million board feet less than it had previously acknowledged was owed.

Incredibly, the Forest Service evidently can't even keep track of how much KPC has logged. They claim KPC harvested 926.9 mmbf in the last 5-year period. We actually harvested only 854.5 mmbf. That was nearly 100 mmbf less than the minimum 5-year period volume that KPC is due. That shortfall resulted in mill downtime and employee layoffs.

The current Forest Service administration should consider the words of the first regional forester for Alaska, Charles Flory. In 1920 Flory stated, "It is a shameful thing that American businessmen are so distrustful that they hesitate or actually refuse to enter into contracts with our government." Flory's goal in preparing long term contracts for Tongass National Forest timber was to, ". . . be able to show American industry that the Forest Service at least can safeguard its contracts so that there be no fear that the whims and fancies of changing administrations can jeopardize them." It appears Flory's goal has not been realized.

#####

Owen Graham is a professional forester and Timber Manager at Ketchikan Pulp Co.

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7 Of Attorneys for Alaska Forest Association

8 UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ALASKA

10 ALASKA WILDERNESS RECREATION AND)
11 TOURISM ASSOCIATION, et al.,)
12)
13 Plaintiffs,)
14 v.)
15) No. J94-033-CV (JWS)
16 GARY A. MORRISON, Forest Supervisor,)
17 et al.,)
18) DECLARATION OF
19) JAMES M. HASENOHRL
20 Defendants.) (POLICE CHIEF,
21) CITY OF WRANGELL)
22)
23)
24)
25)
26)

17 I, James M. Hasenohrl, pursuant to 28 U.S.C. § 1746,
18 hereby declare as follows:

19 1. I am the Chief of Police of the City of Wrangell,
20 Alaska and have served in that position since March 1995. Prior to
21 my appointment as Chief, I had served on the Wrangell police force
22 continuously since January 1991.
23

Plaf. T. Fyffe CC

| | | | |
|----|-----------------------------------|------|-----|
| 1 | Disturbances Other than Domestic | 1994 | 254 |
| 2 | | 1995 | 257 |
| 3 | Misdemeanor Thefts | 1994 | 60 |
| 4 | | 1995 | 52 |
| 5 | Criminal Mischief/Vandalism | 1994 | 64 |
| 6 | | 1995 | 101 |
| 7 | Family Issues | 1994 | 1 |
| 8 | Child Welfare/Endangerment | 1995 | 5 |
| 9 | Criminal Non-Support/Contributing | | |
| 10 | Harassment | 1994 | 51 |
| 11 | | 1995 | 66 |
| 12 | Weapons Offenses | 1994 | 4 |
| 13 | | 1995 | 6 |

14 4. The largest increases from 1994 to 1995 appear to
 15 have been in the areas of family disturbances (which usually
 16 involve adults under stress) and criminal mischief/vandalism (which
 17 usually involves juveniles). Many of the increasing problems with
 18 juveniles have shown up in the schools.

19 5. Attached, for the Court's reference, is a report
 20 prepared by Carol Rushmore, Economic Development Director for the
 21 City of Wrangell, in the Summer of 1994, entitled "City of
 22 Wrangell: Snapshot of the Economic Picture." That report deals
 23 with trends in unemployment rates, declines in sales tax revenues.

pc3 of 7 EXTRA CC

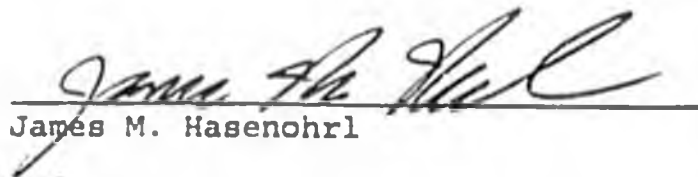
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declines in City revenue from the electrical utility which the City owns, potential effects on school enrollment, and potential effects on property tax mil rates.

I declare under penalty of perjury that the foregoing is true and correct.

DATED THIS 19TH day of December, 1995.


James M. Hasenohrl

4 of 7 copies CC

SUBMITTED BY CAROL RUSHMORE
CITY OF WRANGELL ECONOMIC DEVELOPMENT DIRECTOR.

SR

CITY OF WRANGELL SNAPSHOT OF THE ECONOMIC PICTURE

Population: 2,589 (Alaska Department of Community and Regional Affairs, 1994)

UNEMPLOYMENT RATES

The following table of unemployment rates for the City of Wrangell compares the months of December (APC mill closure in Wrangell) through May of 1992, 1993, 1994 and 1995. Wrangell always has higher unemployment in the winter months due to the seasonality of many jobs, but this winter's figures speak for themselves. Next fall and winter may be bleaker.

| <u>Year</u> | <u>Dec.</u> | <u>JAN.</u> | <u>Feb.</u> | <u>March</u> | <u>April</u> | <u>May</u> |
|-------------|-------------|-------------|-------------|--------------|--------------|------------|
| 1991-1992 | - | 14.8% | 14.2% | 13.0% | 12.3% | 9.8% |
| 1992-1993 | 8.8% | 11.4% | 13.4% | 9.4% | 7.2% | 6.7% |
| 1993-1994 | 9.1% | 13.4% | 15.3% | 14.1% | 9.6% | 7.5% |
| 1994-1995 | 18.3% | 21.6% | 20.7% | 19.6% | 16.2% | - |

ANNUAL EMPLOYMENT AND PAYROLL

The following table shows the growth in annual employment figures and payroll (sum of number employed each month, and sum of payroll figures each month) for Wrangell since 1990. The Wrangell saw mill closed mid December 1994. When you eliminate the employees of the single largest employer (225) plus the number of other direct and indirect employment affected from the closure (i.e., tug boat operators, longshoremen, independent loggers, truckers, construction, transportation, machine shop, merchants, restaurants) it is obvious the economic impact will be severe. The Alaska Department of Labor does not include commercial fishermen in its employment count. The reports regarding employment from Alaska Department of Labor are delayed at least 6 months. It will not be until next fall and winter when the City and its citizens are hurting severely that we will have available the official statistics for the City for the current period. The City is attempting to compile on-going estimates of the number of people being laid off, leaving town or otherwise affected from the closure so as to report on a timely basis our economic situation.

The following table shows the growth in total annual employment and payroll for Wrangell since 1990. Unfortunately the figures for the fourth quarter 1994 will not be compiled and available until early June (Ak Dept. of Labor). However, when you eliminate the employees of the single largest employer (225) plus the number of other direct and indirect employment affected from the closure (i.e., tug boat operators, longshoremen, independent loggers, truckers, construction, transportation, machine shop, merchants, restaurants) it is obvious the economic impact will be severe.

As of 7/7/94 Exhibit CC

ANNUAL EMPLOYMENT AND PAYROLL: 1990 - 1994

| <u>YEAR</u> | <u>TOTAL EMPLOYED</u> | <u>TOTAL PAYROLL</u> |
|-------------|-----------------------|----------------------|
| 1990 | 10,890 | \$23,409,618 |
| 1991 | 11,004 | \$24,814,297 |
| 1992 | 11,603 | \$27,766,923 |
| 1993 | 12,528 | \$31,621,059 |
| 1994 | 12,672 | \$31,178,659 |

Source: Alaska Dept. of Labor

Note: The APC mill officially closed December 15, 1994. Layoffs started occurring in the two months prior to the closure.

CITY COLLECTED SALES TAX

The City Finance Director recently did a comparison of the sales tax collected for the first quarter of 1994 and the first quarter of 1995. There has been a -13.54% drop in collected sales tax revenues from the merchants. This has serious implications not only for the local businesses, but also for the City's budget. Current sales tax levied on all goods and services is 7%.

2nd QTR -8.5% 3rd -6.5%

UTILITIES

The electrical utility in Wrangell is owned by the City. The mill received a low cost interruptible power contract from the Tye Hydroelectric project. With the mill in operation, typically they would use approximately 1 million Kwh per month. They are currently down to 100,000 kwh per month. From their utility payments, the City keeps 45% of the payment. At the time of operation of the mill, the City netted approximately \$240,000. The net for 1994-5 is estimated to be only \$135,000 (half the year APC was in operation). Next year the drop is estimated to be over \$200,000.

HOUSING MARKET

Last summer, we had a 0% vacancy rate in rental units. At this time, based on a survey of the largest landlords (with 3 units or more), Wrangell's rental market has around 35% vacancy (out of 90 units). House sales last summer were very quick turn arounds. It was often a "who you know" and the house was sold before word got around. Currently, there are approximately 25 houses on the market, that are staying on the market. No new property assessments were done this year. The City assessor is monitoring the sales and will do a City wide reassessment January 1996.

Alfred T. Edmon C.C.

SCHOOL ENROLLMENT

Another effect is the potential loss in school enrollment, currently at 544. The school district has done several surveys of mill employees to determine potential loss of students. The school district is currently anticipating a 17% loss in enrollment for next year. This should invoke the State Board of Education hold harmless clause which will mean only approximately a \$120,000 state revenue loss. If less than a 10% drop should occur, which is a possibility, the school district could lose up to \$240,000 in State education funding.

PROPERTY TAX ASSESSMENTS

Alaska Pulp Corporation's real and personal property tax collected is approximately 20% of Wrangell's tax revenue. The mill's closure raises some questions as to APC's future intended use of two critical properties. The current mill site which is located at approximately 6.5 miles from City center on Zimovia Highway with a deep water dock and extensive upland land area and the old mill site which is an approximate 15 acre site next to downtown, also with a deepwater dock. The town site dock is considered underutilized. It is used for storage but also the loading and unloading site for one local barge company.

The current tax rate in Wrangell is 10 mil, however there are four zones, each with a differential rate. The City Council is still in the budget review process and facing a serious shortfall. It is unknown yet if the mil rate will have to be raised to maintain services at even a somewhat lesser level than present.

| <u>City Tax Assessment</u> | <u>City Tax Collected</u> | <u>APC Assessment</u> | <u>APC Tax Paid</u> |
|----------------------------------|---------------------------|-----------------------|---------------------|
| 1992 Personal and Real Property: | | | |
| 87 million | \$891,000 | 20.5 million | — |
| 1993 Personal and Real Property: | | | |
| 87.5 million | \$769,200 | — | \$164,000 |
| 1994 Personal and Real Property: | | | |
| 92.7 million | \$829,068 | 21.6 million | \$169,000 |
| 1995 Personal and Real Property: | | | |
| 92.9 million | — | 20.3 million | — |

P. J. J. Estlin C.C.

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16 GARY A. MORRISON, Forest Supervisor,)
17 et al.,) No. J94-033-CV (JWS)
18)
19 Defendants.)
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26)
DECLARATION OF
VAL REVAR

18 I, Val Revard, pursuant to 28 U.S.C. § 1746, hereby
19 declare as follows:

20 1. I am the Executive Director of the Women's Shelter,
21 operated by Sitkans against Family Violence (SAFV), in Sitka,
22 Alaska, and have been for 3.5 years. I have worked at SAFV since
23 1983.
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143 Exhibit AA

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2. I have been asked to report, based on my experience with SAFV here in Sitka, as to what effect there may be (if any) upon the amount of violence within families, when a major employer in a community ceases its operations and its employees are laid off.

3. Alaska Pulp Corporation (APC) announced on June 30, 1993 that its pulp mill in Sitka would be closing, effective September 30, 1993.

4. I can provide comparative figures for the use of SAFV Shelter in Sitka, comparing the period July through December of 1992, with the same period of time in 1993 (following the pulp mill's announcement it would be closing and including three months following its actual closure). In 1992, 71 individuals used our shelter during the six month period July through December; 114 individuals spent at least one night at the SAFV Shelter during those months in 1993.

5. Another way to look at the picture is to compare "bed nights," or the number of overnight stays. From July through December 1992, the figure for number of bed nights was 480. During

p. 2 of 3 Exhibit AA

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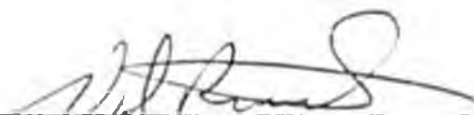
the same period during 1993, the figure had more than doubled to 1,123.

6. I know, based on interviews with individuals who came to the shelter, that the pulp mill closing was a factor in the family dysfunction that caused many of them to flee their homes. Of the increase (643) in bed nights for the last half of 1993 over that period in 1992, 220 (or 34%) were directly related to the closing of the pulp mill.

7. Based on this experience, it is my belief that whenever families are severely impacted economically, family problems including domestic violence increase significantly as a result.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 30 day of November, 1995.



Val Revard

KDN 4/3/96

From other editors

Endorse resolutions

Resolutions introduced in the Alaska House and Senate recently call on the governor and the Alaska congressional delegation "to take all steps necessary" to add 15 years to the long-term timber contract between the federal contract and the Ketchikan Pulp Co.

That contract, designed to assure KPC a source of pulp material from the Tongass National Forest, now is scheduled to expire in the year 2004.

Similar to the ways in which the state is attempting to support commercial fishing, tourism, mining and the oil industries, this initiative could give an important boost to Alaska's timber industry. It amounts to a clear statement of legislative support for Southeast's economic mainstay — an action that is both timely and vital.

The Ketchikan pulp mill is facing a decision regarding an additional investment of \$155 million to meet the latest federal environmental standards. The additional 15 years on KPC's timber contract are needed to give the company sufficient time to amortize the large investment.

The situation is urgent. For there to be a viable timber industry in Southeast, there must be a major pulp operation like KPC to make use of the low-grade trees and byproducts of timber harvesting for lumber production. The pulp mill operation is essential to protect forest health and assure full utilization of a timber harvest.

Hundreds of families in Southeast Alaska, as well as the communities themselves, rely on a viable timber industry. The Legislature can demonstrate the state's support for that industry by unanimously approving the resolutions.

We applaud the sponsors for their initiative and encourage all 60 lawmakers to endorse the call to action.

— Voice of The (Anchorage) Times, March 28

2

**LEGISLATIVE HISTORY RE:
PROMISES REGARDING JOBS
MADE IN THE TTRA**

FROM: Senator Robin Taylor

The 420 million board feet (mmbf) referenced in the Committee Substitute is based upon the promises of environmental groups and their supporters in Congress that no jobs would be lost if the Tongass Timber Reform Act of 1990 (TTRA) were passed. At the time of passage of the TTRA, the Tongass Land Management Plan (TLMP) provided 450 mmbf. Afterwards, Regional Forester, Mike Barton, proposed 420 mmbf as the new TLMP revision amount based upon changes made by the TTRA. (See February 1993 final draft TLMP Revision Record of Decision.) In fact, the timber industry has lost 42% of its jobs since 1990. Here are the jobs promises that were made at the time the TTRA was moving through Congress:

- 136 Cong. Rec. H12, 832-840 (daily ed. Oct. 26, 1990).

"I am very proud of the fact that the gentleman from California [Mr. Miller] and others in the House and Senate worked together to do some things that are going to allow the timber industry to coexist with the fishing industry and tourism . . ." H12, 839 (statement of Rep. Mrazek).

H.R. 987 is a "compromise that I think recognizes the diverse constituency around the Tongass and the multiple uses necessary in the Tongass so that all Alaskans may benefit from this legislation, from those who enjoy it to those who must make their living within the Tongass." H12, 833 (statement of Rep. Miller).

- 136 Cong. Rec. S17, 995-999 (daily ed. June 12, 1990).

The conference agreement on H.R. 987 "protects key fisheries and wildlife habitat. And, importantly, the conference agreement retains a viable, healthy timber industry." S17,996 (statement of Sen. Johnston).

- 136 Cong. Rec. S7729-S7819 (daily ed. June 12, 1990).

"On March 7, Mr. President, the Committee on Energy and Natural Resources came to a compromise solution for this, which I believe is fair to all interests, and serves well both the environment and the jobs left in Alaska." S7730 (statement of Sen. Johnston).

"This proposal sought to provide for a better balance between the commodity and noncommodity resources of the forest while protecting the local economy from economic disruption." S7730 (statement of Sen. Johnston).

"I think we reached a very reasonable compromise on this piece of legislation. . . . One would not want it to appear that somehow this legislation runs counter to the economic needs or desires of southeast Alaska." S7735 (statement of Sen. Wirth).

"I believe this is a balanced bill that will adequately protect this majestic national forest in Alaska while assuring a sustainable supply of timber for current and future needs." S7754 (statement of Sen. Bingaman).

This legislation "recognizes that some areas should be protected while others should be managed for a sustainable supply of timber." S7754 (statement of Sen. Bingaman).

- *Act to Amend the Alaska National Interest Land Conservation Act, to Designate Certain Lands in the Tongass National Forest as Wilderness, and for Other Purposes: Hearings on H.R. 987 Before the Subcomm. on Public Lands, National Parks and Forests of the Senate Comm. on Energy and Natural Resources (pt. 3), 101st Cong., 2d Sess. (1990).*

"I think it is important to state that H.R. 987 does not mean loss of Tongass timber jobs." *Id.* at 119 (statement of K.J. Metcalf, SEACC).

"[N]o existing Tongass-dependent timber jobs would be lost by comprehensive legislation." *Id.* at 123 (statement of K.J. Metcalf, SEACC).

"We do not feel that our position is anti-logging, that logging is bad. What we are trying to get is the prudent management." *Id.* at 162 (statement of K. Troll, Southeast Alaska Seiners Association).

"It has never been our intention to close the pulp mills through H.R. 987, and I do not think that they would be closed." *Id.* at 309 (statement of K.J. Metcalf, SEACC).

Based on Forest Service figures, "SEACC believes H.R. 987 would have no impact on existing Tongass-dependent timber jobs." *Id.* at 348 (statement of Bart Koehler, SEACC).

- 135 Cong. Rec. H3689-H3705 (daily ed. July 13, 1989).

"The new wilderness areas will not affect the ability to meet industry demand in the Tongass." H3684 (statement of Rep. Miller).

"... certainly it is not the intention, my intention as the original sponsor of the Tongass Timber Reform Act, to drive the timber industry out of southeast Alaska." H3684 (statement of Rep. Mrazek).

- House Rules Committee Transcript (undated excerpt)

"The timber will still be available." *Id.* at 42 (statement of Rep. Miller).

"I am very much aware it is very easy to roll over the Representative from Alaska, because it is a throwaway vote for everybody else in the lower 48. This isn't about closing the mills. This isn't about locking up the timber so they can't have it. This is simply saying we ought to engage in modern practices." *Id.* at 50 (statement of Rep. Miller).

"The timber will be there. It will be there in almost double the amounts they have ever cut. They will have to compete for it on the open market like everybody else and take into consideration other economic things." *Id.* at 50 (statement of Rep. Miller).

- Senate Comm. on Energy and Natural Resources, Tongass Timber Reform Act, S. Rep. No. 261, 101st Cong., 2d Sess. (1990), *reprinted in* 1990 U.S.C.C.A.N. 6232.

"... the Committee has adopted an amendment in the nature of a substitute to H.R. 987, which seeks to improve management of the Tongass by balancing the commodity and noncommodity resources of the forest in a manner which will not harm nor destabilize the local economy." S. Rep. No. 261, at 9.

"The designation of 23 additional areas would have a minimal impact on the local timber industry." S. Rep. No. 261, at 31 (additional views of Senators Metzbaum and Bradley).

- *Acts to Reform the Tongass Timber Supply Fund, and to Amend the Alaska National Interest Lands Conservation Act and for Other Purposes: Hearings on S 237 and S 346 Before the Subcomm. on Public Lands, National Parks and Forests of the Senate Comm. on Energy and Natural Resources* (pt. 2), 101st Cong. 1st Sess. (1989).

"It is not my intent to stop timber harvest on the Tongass National Forest, or to close the mills in Ketchikan and Sitka, nor do I think that will happen." *Id.* at 3 (statement of Sen. Wirth).

"I was struck by a number of panelists saying that if the Wirth bill passes the mills are going to close down. Is there a position in the legislation that says that the mills are going to be closed down? The answer to that is no." *Id.* at 66 (statement of Sen. Wirth).

"I think also it is unfortunate that some people in the timber industry said they were going to have 30 percent unemployment or 40 or 50 percent unemployment if this legislation passes." Id. at 66 (statement of Sen. Wirth).

"I just wanted for the record to point that out so everybody understands it, that there is no provision in the legislation that says that mills are going to be closed down. They will compete like other mills but there is nothing that says that they will be closed down." Id. at 66 (statement of Sen. Wirth).

"The timber industry is also an important source of renewable resource income in southeast Alaska and always will be. Our interest is not to put our friends and neighbors out of work but rather we want the Forest Service to provide adequate protection of fish rearing and spawning habitat which is critical to the survival of the fishing industry." Id. at 112 (statement of Kate Graham, UFA).

"We are not asking that the timber industry be done away with as we feel it is also important and vital to the economy of southeast Alaska but we want multiple-use protection." Id. at 115 (statement of Kay Andrew, United Southeast Alaska Gillnetters Association).

"Senate Bill 346 would not weaken the timber industry, but rather provides the best for all. The legislation provides protection for areas valuable to the wilderness recreation and visitor industry but it still provides latitude for increased timber harvest." Id. at 131 (statement of Dale Pihlman, ADFG).

"I can say that the Tongass Timber Reform Act will not effect Tongass timber dependent employment." Id. at 208 (statement of Joseph R. Mehrkens, Southeast Alaska Natural Resources Center).

"Under the Tongass Timber Reform Act there will be a sufficient timber supply to meet timber demands into the foreseeable future." Id. at 213 (statement of Joseph R. Mehrkens, Southeast Alaska Natural Resources Center).

"Senator Wirth's bill would remove fifty million board feet a year from the Tongass timber base for the protection of other forest values such as tourism, commercial fishing, and subsistence. The bill would also leave the forest products industry with 400 million board feet a year to harvest -- enough to preserve all current logging-related jobs based on past cutting levels." Id. at 410 (statement of Mark Kirchhoff, Port Alexander).

"Let me set the record straight. Yesterday, we had a number of comments saying that people's livelihood was going to be destroyed, jobs were going to be taken away, the whole economic fabric of Southeast Alaska was going to fall apart. If the mills were forced to close down, all this would turn into wilderness, and the timber industry would stop. There is no provision in the bill that says we are going to shut down the timber industry." Id. at 423 (statement of Sen. Wirth).

- *Act to Amend the Alaska National Interest Lands Conservation Act, to Designate Certain Lands in the Tongass National Forest as Wilderness, and for Other Purposes: Hearings on H.R. 987 Before the Subcomm. on Water, Power, and Offshore Energy Resources of the House Comm. on Interior and Insular Affairs, 101st Cong., 1st Sess. (1989).*

"One of the questions that has been raised relates to whether the cancellation of the long-term contracts with Alaska Pulp and Louisiana Pacific would put the pulp mills out of business. I think it is important to understand that that is certainly not my intent as primary sponsor of the legislation. Certainly there would be plenty of available timber, regardless of whether this legislation passes -- if this legislation were to pass -- available timber for use by the pulp mills." *Id.* at 12 (statement of Rep. Mrazek).

"Finally, I want to suggest that the questions that have been raised by the Alaska delegation, as to whether this legislation is intended to drive the timber industry out of business inside Alaska, I would like to state for the record and for the people who live in southeast Alaska that I think there can be a harmonious relationship between commercial fishing, tourism and the timber industry." *Id.* at 12 (statement of Rep. Mrazek).

"First let me say that we're as concerned as anyone in this room with the need to maintain a healthy economy and a stable timber industry in southeast Alaska." *Id.* at 22 (statement of Larry Edwards, SEACC).

"If all 22 areas in H.R. 987 are permanently protected, the legislation would reduce the scheduled timber harvest by only 11 percent. That still provides enough timber for the Tongass-dependent timber industry to continue at current levels and even to expand." *Id.* at 23 (statement of Larry Edwards, SEACC).

"H.R. 987 IS JOB NEUTRAL. Passage of H.R. 987 will have no effect on the number of jobs in the Tongass-dependent timber industry of southeast Alaska." *Id.* at 56 (statement of Larry Edwards, SEACC).

Rep. Young: "What happens if [the Sitka] mill shuts down?"

Larry Edwards: "It's not going to. I mean, we're not going to affect the timber base." *Id.* at 77.

"The timber industry is also an important source of renewable resource income in southeast Alaska. Many of our friends and even commercial fishermen are involved in the forest products industry and we want them to be provided the opportunity to make a living." *Id.* at 607 (statement of Earl E. Krygler, Alaska Trollers Association).

- *Acts to Reform the Tongass Timber Supply Fund, and to Amend the Alaska National Interest Lands Conservation Act and for Other Purposes: Hearings on S. 237 and S. 346 Before the Subcomm. On Public Lands, National Parks and Forests of the Senate Comm. on Energy and Natural Resources*(pt.1), 101st Cong., 1st Sess. (1989).

Adoption of S. 346 "would not limit the ability of timber operators to purchase ample volumes of timber, to operate wood processing facilities, or to employ Alaskans." *Id.* at 128 (statement of Larry Edwards, SEACC).

"S. 346 IS JOB NEUTRAL. Passage of S. 346 will have no effect on the number of jobs in the Tongass-dependent timber industry in southeast Alaska." *Id.* at 150 (statement of Larry Edwards, SEACC).

- *Act to Require Annual Appropriations of Funds Necessary to Support Timber Management and Resource Conservation on the Tongass National Forest: Hearings on H.R. 1516 Before the Subcomm. on Energy and the Environment of the House Comm. on Interior and Insular Affairs*, 100th Cong., 1st Sess. (1987).

"I think it is fair to say that all of us are concerned about southeast Alaska and we are concerned about jobs. I certainly don't have any antitimber feelings or attitudes." *Id.* at 10 (statement of Rep. Mrazek).

"Personally, I am not opposed to logging. I can agree with meeting on the marketplace." *Id.* at 75 (statement of Ms. Kaden, Alaska Discovery Tours).

The TTRA (H.R. 1516) "would not limit the ability of timber operators to purchase ample volumes of timber, to operate wood processing facilities, or to employ Alaskans." *Id.* at 235 (statement of K.J. Metcalf, SEACC).

"I want to clearly emphasize that the Territorial Sportsmen are not opposed to logging and that we support sound development which enhances the economy of Alaska." *Id.* at 365 (statement of Jack Lentfer, Territorial Sportsmen).

"UFA believes that it is important to Southeast Alaska to have a vital timber industry there. Not only does it support the general economy of the region, but it also helps provide necessary jobs and support services." *Id.* at 614 (statement of Kate Graham, UFA).

"We believe that a reasonable timber harvest program on the Tongass, coupled with adequate investments in fish, wildlife and scenic resources, will build and support business ventures in Southeast Alaska that can maintain regional employment at current levels." *Id.* at 675 (statement of Lonnie L. Williamson, Wildlife Management Institute).

Sunau Empire
12/17/95

Setting right misunderstandings about Tongass Alternative 'P'

By MIKE BARTON

Recent newspaper stories regarding the Tongass Land Management Plan and Alternative "P" indicate that there is a great deal of misunderstanding about the process used to formulate Alternative "P" as well as precisely what it is.

A number of lines have been devoted to the notion that Alternative "P" has been developed without consideration of public input. That simply is not correct. Such assertion fails to recognize the long hours devoted by many members of the public to studying and understanding the complex issues associated with the Tongass. In the very early stages of the planning process 600 members of the public provided written responses which identified the issues to be addressed in the planning process. Later, 3,700 members of the public provided written responses to the Draft Environmental Impact Statement (DEIS). When a supplement to the DEIS was issued to incorporate the Tongass Timber Reform Act into the plan 7,300 members of the public provided written responses. Further, such reports do not recognize the many hours that numerous members of the public spent at the many dozens of public meetings held in Anchorage, Washington, D.C., and Seattle and throughout Southeast Alaska. To say that Alternative "P" was formulated without public participation is unfair to the many people who took the time to participate in the process. The record is replete with responses from the public and public meeting notes.

Some reports have stated that Alternative "P" ignores recreation and wildlife. A brief examination of Alternative "P" shows some of what it does offer in these areas as well as some other areas. Approximately 70 percent of the Tongass is to be managed in an unaltered condition. Two-thirds of the acreage in over 1,500 recreation places identified by the public was included in natural settings. Another 21 percent was included in areas allocated for moderate development. Over 90 percent of the old growth that existed in 1954 will remain even if Alternative "P"

were implemented for 50 years; usually the life of a forest plan is 10-15 years though there is a public process to amend the plan whenever needed. Seventy-three percent of all subsistence resources would be completely unaffected. 25 Wild or Scenic Rivers are recommended to Congress. Six new Research Natural Areas are added to the existing six. Sixteen Special Interest Areas are established. Timber harvest would be permissible on approximately 10 percent of the total land area of the Tongass during the 100-year timber management rotation periods or approximately one tenth of one percent per year. The Tongass is about the size of West Virginia. Approximately 420 million board feet could be harvested annually on a sustained yield basis. The actual amount harvested would be dependent upon Congressional appropriations and markets. Under Alternative "P" the Tongass could provide an economic contribution to Southeast Alaska of approximately \$400 million annually through some 14,000 private sector jobs. Local communities could also benefit from up to \$10 million annually as a result of the 25 percent fund which returns that percentage of National Forest receipts to local communities. Alternative "P" includes capital investment programs for recreation, fish habitat improvements, wildlife habitat improvements, and transportation.

Some reports have said that Alternative "P" is a timber industry alternative. If that is so, it certainly wasn't apparent during the formulation of Alternative "P." The timber industry argued strenuously for other alternatives. In fact, the timber industry asked that additional alternatives be formulated with higher allowable sale quantities that were contained in the range of alternatives being considered.

There has been much rhetoric in some stories about having the planning process "science based." That's certainly necessary and has always been the case for the Tongass Plan Revision. But this platitude is being bandied about by some as if science will produce the "right" answer. Rather, science should provide credible information that people need to evaluate the policy choices. Once people choose from among the wide range of choices available then applied science provides the tools to implement what is chosen.

It is critical though that science be distinguished from informed speculation. When the well-being of families and economic livelihood

hood of communities is at risk and if the public is to be well served, it's important that the rigor, peer scrutiny, scientific discipline, and reproducibility long associated with scientific endeavor be attributes of a "science based" planning process for the Tongass.

Jim Clark

SIERRA CLUB LEGAL DEFENSE FUND

RECEIVE

Victor M. Sher
President

AUG 15 1994

Robertson Monagle & Easton
Juneau, Alaska

Dear Supporter,

Imagine you had a chance to go back and "do it right." To take what you know now, return to the past, and start over -- avoiding the mistakes you made the first time around.

Well, you and I have precisely that opportunity...in Alaska.

There, a 22-million acre wilderness -- still mostly unspoiled despite incursions by greedy timber companies -- exists in all its primeval splendor.

Anchored by the Tongass and Chugach National Forests -- America's largest and second largest forests respectively -- this 1,000 mile arc of Alaskan coast and archipelago is the last largely intact temperate rainforest ecosystem on earth.

It is here that we -- you and I -- still have a chance to "do it right" -- in a way NEVER done anywhere in America before.

And that's why I'm writing to you today:

Thanks to a unique decision just handed down by the U.S. Forest Service, the decks are now cleared for us to push our Alaska Rainforest Campaign -- a multi-year effort to save this magnificent wilderness -- to final success.

But to give this drive to "final victory" its best shot, WE NEED YOUR HELP NOW!

You see, we're not the only ones who realize that the Tongass and Chugach Forests could soon win permanent and sweeping protection:

The profit-driven timber interests arrayed against us know it, too. They know that if we prevail, their days of plundering the Tongass and other forested lands will be over.

But such easy profits are not something they're willing to give up without a fight. So they've pulled out all the stops -- calling in political favors and unleashing legions of high-priced attorneys -- in a last-ditch campaign to defeat us.

So unless we respond quickly and powerfully, they COULD still snatch victory away from us! Which is why I'm asking you to help us today with immediate and generous financial support -- as much as you can afford.

Here's the situation:

The Tongass and Chugach Forests have so far largely escaped

(over, please)

the fate of border-to-border, "cut and run" timber harvests. In fact, they remain today what the Pacific Northwest used to be, 10 to 20 years ago, before the timber industry had devoured 90% of the irreplaceable old growth forest there.

But Alaska's forests have not escaped all damage. Decades of gross mismanagement have taken their toll:

Although still rich with some of the world's thickest remaining stands of ancient forest, key areas have been cut. And key species, such as the endangered Queen Charlotte goshawk and, possibly, the marbled murrelet -- are in decline or threatened by growing habitat loss.

At the base of all this have been two tremendously ill-conceived, 50-year pulp contracts on the Tongass dating back to the 1950s. These contracts virtually GIVE AWAY over 100 million board feet of old growth timber a year!

These contracts practically require the Forest Service to butcher the forest -- and the effect has been devastating! Under..... the contract terms, proper protection and management of the Tongass has simply been impossible.

So our strategy has been simple: first, convince the government to cancel these outrageous contracts; then, demand a truly scientific forest management plan, with heavy emphasis on conservation and sustainable use.

That's where the unique decision I mentioned above comes in: April 14, the U.S. Forest Service -- citing "breach of contract" -- actually canceled one of the two 50-year contracts.

Although this is a wonderful, long-sought victory...there is no time for us to sit back and savor it -- not when there's still another unacceptable contract out there demanding more of the forest than it can possibly give!

So we must seize this opening NOW -- we must renew our demand that the Forest Service adopt a truly sustainable management plan for the Tongass.

If they won't -- which I fear is likely -- we MUST go to court right away to FORCE THEM to develop an acceptable plan!

Understand, we're not the only ones who've demanded such a plan -- Congress ordered it, too. But there's a whole contingent within the Forest Service fighting tooth and nail against it.

They've tried to foist off half-baked plans full of bogus estimates of forest reserves...they've frittered away precious time...they've done everything on earth EXCEPT obey the law.

(next page, please)

They've even tried to suppress a startling interagency commission report that called for protection of large areas within the Tongass for wildlife habitat, thereby putting those areas off limits to logging.

And that wasn't the end of it. When suppression failed, the old "status quo" bureaucrats tried to discredit the report. Fortunately, they failed there, too, when peer reviewers -- some of the most highly qualified experts in the world -- gave the report glowing praise, and even went so far as to recommend more protective measures.

While we may see changes in how our forests are managed in the future with the new leadership in place at the Forest Service, I'm sure some of the old-time bureaucrats -- so comfortable being industry lapdogs -- were hopping mad when that report came out. And don't think for a minute they've given up.

That's why we MUST react on all fronts, using every environmental law on the books, if we want to be sure that these two magnificent forests finally get the kind of conservation-oriented management they deserve.

Toward that end, we are already working on legal challenges that will:

- *** Stop "high-grading" -- the practice of using admittedly bogus information to cover up the illegal cutting of the largest, oldest trees. The practice was banned by Congress because of the importance of these timber stands for wildlife habitat... but old-line foresters continue to allow it! We've already won one recent suit challenging this illegal and destructive practice and we intend to use that foothold in other suits, as well.
- *** Enforce the Endangered Species Act and other laws that protect wildlife -- not only to protect the Queen Charlotte goshawk, but also to preserve a whole range of species of fish, plants, birds and animals that depend on the Tongass and Chugach Forests. Too often, their needs have come second -- AFTER those of the timber industry -- in spite of the fact that both the law and the experts say otherwise.
- *** Demand reconsideration of ill-conceived timber sales to the Ketchikan Pulp Co. as part of the remaining 50-year timber contract on the Tongass. On one of these sales there is a whistleblower complaint from the leader of the team planning the sale that the logging is not sustainable and that the Forest Service is ignoring or glossing over a myriad of problems. Despite this, they're still moving forward with this disastrous sale -- the largest ever in any national forest. So we're investigating legal action which, if successful, could be a giant step in demanding that the Forest Service finally plan -- honestly and effectively -- for truly sustainable logging in the Tongass National Forest.

(over, please)

Above all, using the National Forest Management Act and other powerful laws already on the books, we are ready to go to court to FORCE the Forest Service to craft and implement a truly first-rate, long-term management plan for the Tongass -- a plan that will make preserving the forest for all time a higher priority than keeping the timber companies fat and happy!

So our plans are clear...but achieving them is going to take every ounce of strength and every resource we can muster:

On all of these fronts, we'll need to marshal enormous amounts of supporting evidence. We'll have to assemble (indeed, we're already assembling) teams of scientific experts and analysts to testify in our lawsuits to save animal populations and preserve species diversity and forest ecosystems.

Our costs for doing all of this intense preparation and research are mounting daily. But they are costs we must meet in order to win!

We can never afford to lose sight of what we're up against. The opponents we're facing are formidable. Backed by fat company treasuries, the corporate polluters and exploiters we're going up against can easily out-spend our meager budgets.

Nonetheless, I am confident that we can prevail. Because we have two assets that they can only dream of: the law, and the stalwart backing of tens of thousands of citizens who care profoundly about the future of the Tongass, the Chugach, and all our imperiled national forests.

While these assets mean we don't need to match our opponents dollar for dollar, we can't cover the last miles to victory on thin air, either.

We must have immediate and generous financial support... and so I turn to you now to ask, "Can you help us today?"

Alaska is America's only chance to go back and do it right:

We've lost 90% of the original ancient forests of the Pacific Northwest...over 95% of the ancient forests that once covered the continent!

But in Alaska, we can still preserve our wilderness heritage for all time.

Please respond as quickly and as generously as you can. Believe me, your gift will be put to immediate and effective use in this battle.

Sincerely,

Vic Sher
Victor M. Sher
President



RECEIVED
APR 17 1996
Ans'd.....

KETCHIKAN GATEWAY BOROUGH
SCHOOL DISTRICT

April 12, 1996

The Honorable Robin Taylor
Alaska State Legislature
State Capitol (MS3100)
Juneau, AK 99801-1182
FAX: 907-225-0713

Dear Senator Taylor:

The Ketchikan Gateway Borough School District Board of Education passed the attached resolution at its board meeting, on April 10, 1996. The motion was adopted unanimously.

As a result, I am sharing the resolution with you per the directions of the Board of Directors. If there are any questions regarding the resolution, please feel free to contact my office.

Respectfully,

A handwritten signature in cursive script that reads "Keith W. Tolzin".

KEITH W. TOLZIN
Superintendent

April 12, 1996

A RESOLUTION

*Relating to the extension
of the United States Forest Service timber sale contract
with Ketchikan Pulp Company*

BE IT RESOLVED BY THE
KETCHIKAN GATEWAY BOROUGH SCHOOL DISTRICT BOARD OF EDUCATION:

- WHEREAS, for the last 40 years, the forest products industry in general and Ketchikan Pulp Company specifically have been the economic and social cornerstone in Southeast Alaska; and
- WHEREAS, the harvesting of timber from the Tongass National Forest provides significant revenues for the educational system in Southeast Alaska; and
- WHEREAS, the forest products industry plays a significant role in our educational system through taxes, direct contributions, volunteers, scholarships, and summer employment of students; and
- WHEREAS, the jobs created by the forest products industry provide our children the opportunity to stay in our community or return after further education; and
- WHEREAS, a fourth generation of Ketchikan High School graduates is now employed by Ketchikan Pulp Company; and
- WHEREAS, Ketchikan Pulp Company is committed to being a continuing long-term contributor and employer in Southeast Alaska through the planned investment of over \$155 million in environmental and operational upgrades of its facilities over the next few years; and
- WHEREAS, a minimum fifteen-year extension of Ketchikan Pulp Company's contract is necessary to amortize these expenditures;

BE IT RESOLVED that the Ketchikan Gateway Borough School District Board of Education supports a fifteen-year extension of Ketchikan Pulp Company's long-term contract.

COPIES of this resolution shall be sent to:

The Honorable Ted Stevens
United States Senate

The Honorable Tony Knowles
Governor of Alaska

The Honorable Frank Murkowski
United States Senate

The Honorable Robin Taylor
State Senate

The Honorable Don Young
House of Representatives

The Honorable Bill Williams
State House of Representatives

Forest Supervisor Brad Powell

KDN 4/17/96

House supports extending pulp mill contract

JUNEAU (AP) — Ketchikan Pulp Co.'s request to Congress for a 15-year extension of its Tongass National Forest timber contract won House support Tuesday.

Rep. Bill Williams, D-Saxman, said the company needs the extension to help win financing for about \$155 million of improvements to its pulp and saw mills.

"The investors need to be convinced that there will be sufficient timber available," Williams said.

The resolution asks the governor and Alaska's congressional delegation to help the company win the extension to its long-term contract for timber from the Tongass National Forest.

The House made some changes to the Senate version of the resolution. A provision that said the Forest Service had to supply a specific amount of timber required by the Tongass Timber Reform Act was taken out by the House.

And lawmakers added more language that said the Tongass should be managed for all users of the forest, including tourists, fishermen and outdoor enthu-

siahs. Those changes will have to go back for Senate approval.

Rep. Jerry Mackie, D-Craig and House minority leader, proposed the amendments with Williams and Rep. Ben Gruesendorf, D-Sitka. Mackie said the issue means jobs in his district.

"We're talking about at least 1,000 jobs," Mackie said.

Jim Clark, a timber industry lobbyist, said the company had agreed to those amendments.

Opponents say the company's past record of environmental problems shows that it does not deserve the extension. Rep. David Finkelstein, D-Anchorage, said the resolution is asking for special treatment for the company.

"This resolution denies the scandalous record of this company," Finkelstein said. "Why can't we give companies with better environmental records a chance to bid?"

The resolution passed on a vote of 94-4. Democratic Reps. Finkelstein, John Davies of Fairbanks, Kim Elton of Juneau and Mike Navarre of Kenai voted against the measure.



Southeast Alaska Conservation Council

SEACC 419 Sixth Street, Suite 328 Juneau, AK 99801
(907) 586-0942 phone (907) 463-3312 fax

4/2/96

Mr. Chairman:

It's absolutely amazing how easily some Alaskan legislators can be bamboozled into believing something that is clearly not true. It's sad to witness that when big timber and our Senators and Congressman in Washington, D.C. chant the same untruth the same way long enough, the untruth takes on its own reality and amazingly starts to get swallowed -- hook, line and sinker.

In a display of shameful decision-making on April Fool's Day, the Alaska Senate Judiciary Committee approved a proposed substitute to SJR 40 which was faxed over at the last minute by Alaska Forest Association's attorney, Jim Clark. It was full of untruths, and it wasn't a joke.

At the heart of the new resolution was the baldfaced falsehood that claimed that the Forest Service had failed to provide "420 million board feet of timber a year needed to meet the jobs protection promises made by those who sought passage of the Tongass Timber Reform Act". Almost daily we hear the wrongheaded claim that this 420 figure was promised by Congress, and by people who sought passage of the TTRA -- like me. Big timber & their allies are not telling Alaskans the truth.

After Congress protected key watersheds and salmon stream buffer zones with the Tongass Timber Reform Act, the Forest Service had a scheduled timber base that had the potential of providing up to 395 million board feet a year (not 420). 395 was more than 100 million board feet above the annual average cut in the 1980s. This figure was not "promised, no matter what". The authority to offer Tongass timber for sale was only allowed "to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources," ...and all other laws which govern the management of our National Forests. That's the truth.

USFS Alt. P

Congress recognized that the Forest Service would be revising the Tongass Land Management Plan, and would establish a sustainable timber cutting level in this new plan. Furthermore, the Congressman who spearheaded passage of the law noted that, "it is important to note that the areas which have not been protected by Congress remain subject to the Tongass Plan revision and may be placed off-limits to commercial timber cutting." That's the truth.

Pursuant Alt. P -> TTRA

Big timber and its allies in Juneau and in Washington, D.C. never want to see a real revision of the Tongass Management Plan see the light of day. They want to lock in an *unsustainable level of logging (420)* just like Ted Stevens has tried to do with his Alternative P Riders in D.C. They want to give KPC a contract extension worth a billion dollars in spite of the facts that KPC is a chronic lawbreaker, and its parent company (Louisiana Pacific) had the highest return on assets of any forest products company in the world, in 1994. They want to re-instate Alaska Pulp's operations in Wrangell and Sitka even though APC breached its contract by shutting down its mills and throwing people out of work, even while they had plenty of timber. They want to give the Tongass to the State of Alaska and then sell it off to corporate interests. It is clear that these timber barons and their allies want dominion over the Tongass. And even worse, they want the Alaskan people to believe the outrageous untruth that somehow -- all this was promised to them.

Barb Koehler / Executive Director

It is always amusing when I get letters from environmental groups testifying that everybody but them is lying and that the legislature is being "bamboozled". These are always the same groups who testified under oath, before congress that the Tongass Timber Reform Act would have no affect on timber jobs or the operation of the mills. Since that testimony we have seen the closure of one pulp mill, several saw mills, a 42% loss of jobs in my district.

Today we hear testimony that these same folks feel the current conditions will not cause the loss of our remaining pulp mill and the balance of our timber industry.

The CS to SJR 40 came about from concerns voiced by some communities and small operators. This concern is that the Forest Service has not been able to deliver enough wood to accommodate both a contract and SBA sales. This lack of certainty in timber supply is real and the reason Ketchikan Pulp needs a contract. The timber volume (Alternative P) that was arrived at in the last Tongass Land Management Plan to be developed was 420 million board feet. The 420 number was the result of years of testimony and research by the Forest Service and represents a sustainable level of timber harvest that reflects the multiple use of the Tongass National Forest. It was politics and not science that kept this plan from being implemented.

Environmental groups have taken credit for the closure of the Alaska Pulp Companies mills and are now targeting the Ketchikan mills. It is obvious that nothing short of the elimination of the entire industry will satisfy these people.

Don 7862250

April 3, 1996

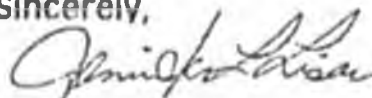
Written Testimony
Alaska State House Resources Committee
Resolution To Support a 15 Year Extension
To The KPC Long Term Timber Sale

I was born and raised in Northwest Montana, where the timber industry has played as much a part in life as it does in Southeast Alaska. In the year in which I've lived in Southeast, I have come to see that there are many of the same concerns with the timber industry as there were in Montana. I have been supported by the timber industry for the majority of my life and I support it whole-heartedly.

I would like to take this time to thank you for hearing my opinion on this issue. I support this contract extension and the timber industry which it supports. Without this extension, many of the jobs in Ketchikan will be jeopardized in the very near future, including my own and my husband's. Without this extension, the KPC Mill cannot continue with the improvements it is making to be a viable competitor in the global market. Without the KPC Mill, there will be no need for the KPC Timber division to bring in the logs needed for the pulp. This not only affects Ketchikan, but also Thorne Bay, Klawak, Coffman Cove, and the whole of the Prince of Wales Island. Ultimately, the jobs of thousands of families in Southeast Alaska depend on the extension of the KPC Long Term Timber Sale Contract.

I urge you, as our representatives, to support the families and businesses of Southeast Alaska by supporting the 15 Year Extension to the KPC Long Term Timber Sale.

Sincerely,



Jennifer Lisac
710 Carlanna #2
Ketchikan, AK 99901

2

TO GOVERNOR TONY KNOWLES,

April 4, 1996

I strongly urge you to support Ketchikan Pulp Co. 15 year extension to the timber contract. To not support the timber industry in South East Alaska is to not support the families and businesses of South East Alaska. We put the people in government back to work, now lets make sure that the people of South East Alaska are able to maintain their jobs in the Timber Industry.

Again I urge you to support the 15 year extension to the timber contract, and to work with the U.S.F.S. in living up to the terms of the original long term contract.

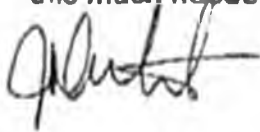
KEITH MCGINNESS
WARD COVE AK.



Page 2
David Martin
Written and Oral Testimony

It is time that the people whose livelihoods depend on the Tongass be heard. We are the first people who will be adversely impacted without an extension. We are the people who are left out of every equation.

We need the support of the Alaska State legislature and the Governor to secure this much needed extension and right the wrong that has been committed.



CC: Governor Tony Knowles
Bill Williams
Robin Taylor