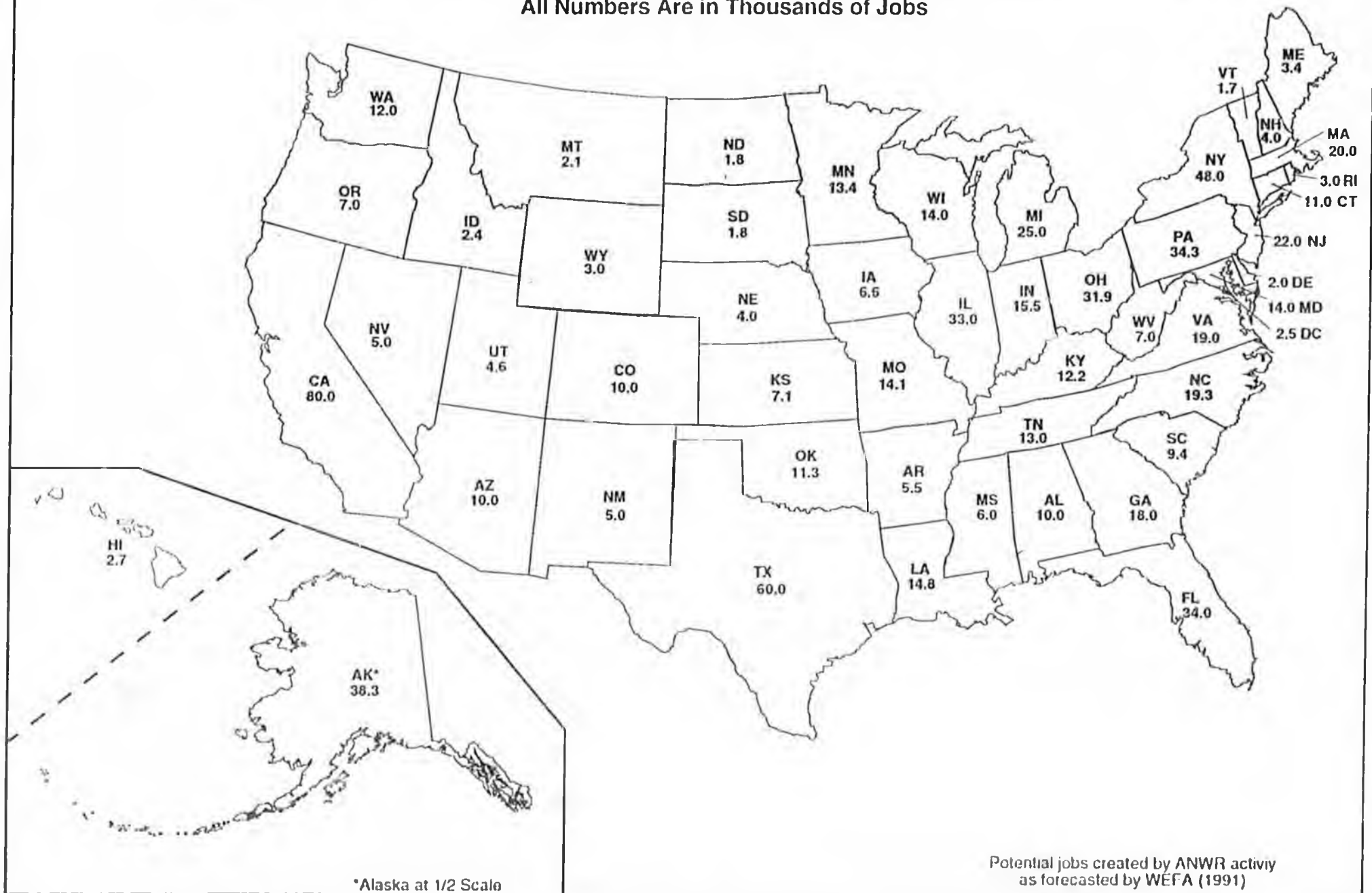


ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 86/2

9680 SENATE RESOURCES

# 735,000 Potential New Jobs if ANWR is Opened to Oil & Gas Leasing

All Numbers Are in Thousands of Jobs



\*Alaska at 1/2 Scale

Potential jobs created by ANWR activity  
as forecasted by WEFA (1991)

BRUCE P. VENTU  
17th DISTRICT, MINNESOTA

UNITED STATES RESOURCES

444 BUKIUM

40002

HOUSE COMMITTEE ON  
RESOURCES

HOUSE COMMITTEE ON  
BANKING AND  
FINANCIAL SERVICES

1304 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-7104  
(202) 226-4831

DISTRICT OFFICE:  
347 7th PLAZA  
170 FORTH ST. E.  
RM. 727, BOX 100  
ST. PAUL, MN 55101  
(612) 224-4502

# Congress of the United States

## House of Representatives

Washington, DC 20515-2704

February 3, 1997

### PROTECT AMERICA'S GREAT WILDERNESS COSPONSOR THE MORRIS K. UDALL WILDERNESS ACT

Dear Colleague:

I am writing to seek your support and cosponsorship of the Morris K. Udall Wilderness Act of 1997. This legislation will provide permanent protection of the 1.5 million acres of the Arctic National Wildlife Refuge (ANWR) coastal plain.

The Arctic Refuge coastal plain is a unique ecosystem, essential to the life of over 200 species of wildlife. As the tundra thaws each spring, the coastal plain comes alive with an extraordinary variety of flora and fauna. The wetland grasses, flowers and other plant life feed over 200 species of wildlife, including muskoxen, moose, wolves, arctic foxes, grizzly and polar bears.

The coastal plain is best known as the home of the 160,000 member Porcupine Caribou herd. The last of the free roaming herd in North America and one of the largest caribou herds in the world, the Porcupine herd migrates to the coastal plain for calving and post-calving each year. This landscape is 20th century window to the ice age, referred to as the North American Serengeti.

Currently oil and gas development in the Arctic National Wildlife Refuge is prohibited. That important prohibition inserted by Congressman Morris Udall is now under attack from a host of special interests seeking instant gratification at the expense of our children's natural legacy.

If active oil exploration and development are allowed, the special values of the fragile coastal plain will be lost forever. Any development would destroy this spectacular wilderness and jeopardize the survival of the caribou and other species.

Even if this refuge is opened to development, the amount of recoverable oil in the Arctic Refuge is questionable. A 1987 Department of Interior report optimistically forecast a one in five chance that the Arctic Refuge would yield economically recoverable amounts of oil. Other recent forecasts have significantly reduced the chances of oil recovery.

What is not questionable is the impact of opening the refuge. Active exploration and development, including gravel and ice road construction, spills and other disruptive activities, will guarantee ecological devastation.

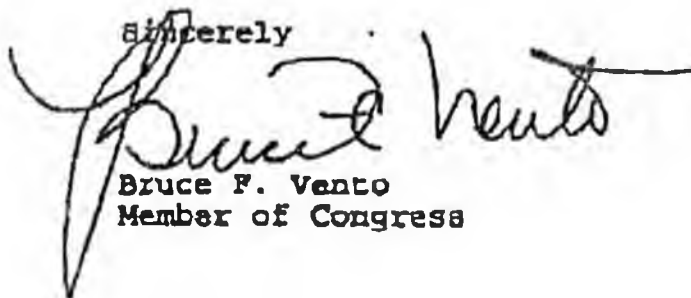
If Congress and the Federal Government turn their backs on the unique ANWR ecosystem and spoil this unique wilderness landscape, we will not be able reverse the degradation. GENERATIONS TO COME WILL HAVE NO LIVE WITH THE CONSEQUENCES OF THAT DESTRUCTIVE POLICY PATH FOREVER.

This Morris Udall Wilderness designation legislation is supported by the Alaska Coalition, an impressive environmental/conservation group dedicated to protecting Alaska's wild lands. The Coalition includes the Wildlife Society, the Sierra Club, the National Audubon Society, the Alaska Wilderness League, the Natural Resources Defense Council, the Defenders of Wildlife and the Alaska Center for the Environment.

Your cosponsorship of the Morris K. Udall Wilderness Act would be a strong action and demonstrate support for protecting this unique resource today and for future generations.

If you have any questions or would like to cosponsor this legislation, please contact me or Terry Klein of my staff at X56631.

Sincerely



Bruce F. Vento  
Member of Congress



**ARCTIC OIL RESERVE**  
**JOBS AND ENERGY**  
**FOR AMERICA**

4220 B Street, Suite 201  
Anchorage, AK 99503  
(907) 563-2697  
Fax (907) 562-6782  
<http://alaskan.com/anwr>

203 Maryland Avenue, N.E.  
Washington, D.C. 20002  
(202) 544-6355  
(202) 544-6655  
Fax (202) 544-5763

**ARCTIC POWER**

Arctic Power is a grassroots, non-profit organization of Alaska citizens organized to promote oil exploration and production within the Coastal Plain of ANWR.

Arctic Power has secured more than 10,000 members since its inception in mid-1992 and is enrolling new members daily.

Arctic Power membership spans the economic spectrum - including miners, fishermen, loggers, tourism operators, transportation businesses, labor unions, banks, teachers, the legal community, retail firms, service industries, non-profit organizations, Alaska Native corporations, local elected officials, and many others. Interest groups represented on the Arctic Power board and through its membership are The Alaska Support Industry Alliance, the Alaska State Chamber of Commerce, the Resource Development Council, the Alaska Trucking Association, the Alaska Oil & Gas Association, the Anchorage Chamber of Commerce, the Alaska Miner's Association, and the Alaska Forest Association.

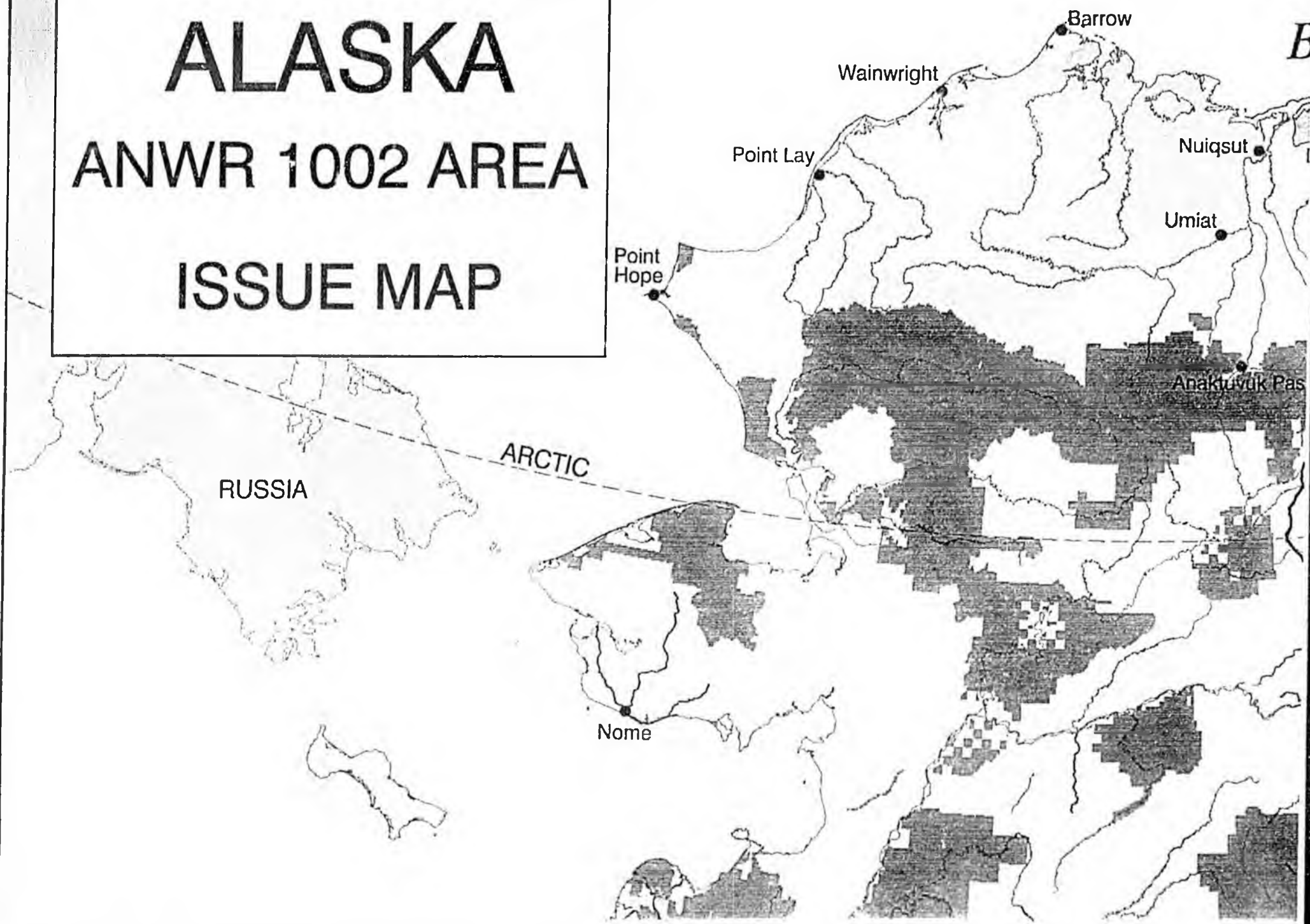
A statewide board oversees the activities of Arctic Power and includes representatives from Barrow to Ketchikan - all regions of the state are represented. The board of Arctic Power includes businesses from a variety of industry sectors, including but not limited to, law firms, trucking businesses, the visitor industry, media firms, Native corporations, oilfield service companies and public relations agencies.

The Alaska congressional delegation has endorsed Arctic Power and works closely with the board and staff of the organization. Arctic Power and the state of Alaska work together in their congressional outreach efforts in Washington, D.C.

**The organization is committed to securing congressional and presidential approval of legislation opening the Coastal Plain of ANWR to responsible oil development.**

THE FOLLOWING DOCUMENT HAS NOT  
BEEN FILMED BUT IS AVAILABLE IN THE  
ORIGINAL FILE.

# ALASKA ANWR 1002 AREA ISSUE MAP



**SJR**

**13**

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 2/5/97

FURTHER:

Date of 5-Day Notice: 2/6/97  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 2/26/97

Resources Committee considered

SENATE JOINT RESOLUTION NO. 13

Relating to RS 2477 rights-of-way.

and recommends:

be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to the \_\_\_\_\_ Committee

**Senate Bill:**

same title

new title

**House Bill:**

same title

technical title

new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>John L. Taylor</i>	✓				
<i>Krew A. Jensen</i>	✓				
<i>Bob Thomas</i>	✓				
<i>Lyle Green</i>	✓				
CHAIR: <i>Lyle Green</i>	✓	CHAIR:			
<i>Kate Stafford</i>					

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*Include fiscal notes accompanying Governor's bill

# Alaska State Legislature

## Senate

**RICK  
HALFORD**

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

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

—  
600 E. Railroad Avenue  
Wasilla, Alaska 99654  
Phone (907) 376-4958

Official Business

## Senate Joint Resolution 13 Sponsor Statement

### *" Opposing the Department of the Interior's R.S. 2477 policy "*

Revised Statute 2477 was a right granted to the states by the United States Congress with the passage of the Mining Act of 1866. The purpose of this law was to provide for, and guarantee, the public's right to establish access across federal lands. Subsequent congressional action, and more than 100 years of case law, has recognized the state's authority to determine and define R.S. 2477 rights-of-way.

Although Congress repealed R.S. 2477 in 1976 with the adoption of the Federal Land Policy and Management Act, they specifically acknowledged the legal existence of R.S. 2477 rights-of-way established prior to the repeal. Current Federal Regulation explicitly provides that any rights conferred by the R.S. 2477 grant shall not be diminished. (43 CFR § 2801.4)

Disregarding the published federal regulations of his own Department, and the clear congressional prohibition to regulatory change, on January 22, Secretary of the Interior Bruce Babbitt issued an interim departmental policy on R.S. 2477. This "new policy" contains many of the bureaucratic roadblocks and "newly created" definitions present in the Department's 1994 proposed regulations that Congress specifically prohibited.

R.S. 2477 rights-of-way are crucial to the future of our young and still largely undeveloped state. R.S. 2477 rights-of-way are essential to provide surface travel to Alaska's many untapped mineral deposits and other natural resources, recreational areas and tourism opportunities, and access to and between Alaska's rural areas.

R.S. 2477 rights-of-way are an existing state right that we cannot allow to be "regulated away" by the Secretary of the Interior. Passage of SJR 13 provides the Alaska Legislature an opportunity to express our staunch support of this important state right and our strong opposition to what appears to be a continuing "War on the West" waged by Secretary Babbitt and the Clinton Administration.

# Alaska State Legislature

## Senate

**RICK  
HALFORD**

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

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

600 E. Railroad Avenue  
Wasilla, Alaska 99654  
Phone (907) 376-4958

Official Business

### Revised Statute 2477 (RS 2477) Rights-of-Way

- Revised Statute 2477 was enacted by Congress as part of the Mining Act of 1866 to provide for public access across federal lands.
- Federal regulation and over 100 years of case law recognizes state law as controlling the basis for determining and defining RS 2477 Rights-of-Way.
- Congress repealed RS 2477 with the passage of the Federal Land Policy and Management Act in 1976, but specifically acknowledged the legal existence of RS 2477 Rights-of-Way established prior to the repeal.
- Current federal regulation explicitly provides that any rights conferred by the RS 2477 grant shall not be diminished. (43 CFR § 2801.4)
- In 1988, Department of the Interior Secretary Donald Hodel issued a carefully crafted RS 2477 policy reflecting long-established law regarding these rights-of-way, which are typically owned and managed by the state.
- Recognizing the importance of RS 2477 rights-of-way to Alaska's historic and future transportation structure, in 1993 and 1994 the Legislature appropriated nearly \$1.2 million to the Department of Natural Resources, and tasked them with researching, documenting and asserting RS 2477 rights-of-way.
- The DNR effort resulted in some 560 rights-of-way being documented and readied for assertion.
- In 1994, Secretary of the Interior Bruce Babbitt proposed RS 2477 regulations that would have added significant regulatory roadblocks to the states exercising their RS 2477 rights conferred by Congress.

- Recognizing the proposed regulations as a substantial deviation from established law, Congress attached a provision to the Department's appropriation for fiscal year 1996 prohibiting the developing, promulgating and implementing of regulations concerning RS 2477 rights-of-way.
- Congress, in the FY 97 budget, permits the Department to publish final regulations regarding RS 2477, however, stipulates that they not take effect unless expressly authorized by a subsequent Act of Congress.
- January 22 of this year, Secretary Babbitt issued an "interim departmental policy" on RS 2477 containing many of the "regulatory roadblocks" and "revised" definitions of key terms in the previously proposed regulations that Congress denied.
- RS 2477 rights-of-way are an existing state right that cannot be regulated away by the Secretary of the Interior.

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. SJR 13

Revision Date 2/5/97 Dept. Affected \_\_\_\_\_  
 Title Oppose DOI policy on RS 2477 BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Halford \_\_\_\_\_  
 Requester \_\_\_\_\_ Component Serial No. \_\_\_\_\_

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

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES [ ]</b>						
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost: 0.0

**POSITIONS**

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Full-time						
Part-time						
Temporary						

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

This resolution will have no fiscal impact on state departments.

Prepared by Senate Resources Committee Phone 465-4907  
 Division \_\_\_\_\_ Date \_\_\_\_\_  
 Approved by Senator Rick Halford, Chairman *Rick Halford* Date 2/21/97  
 Agency \_\_\_\_\_

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# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. SJR 13

Revision Date 2/5/97 Dept. Affected \_\_\_\_\_  
 Title Oppose DOI policy on RS 2477 BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Halford \_\_\_\_\_  
 Requester \_\_\_\_\_ Component Serial No. \_\_\_\_\_

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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Contractual						
Supplies						
Equipment						
Land & Structures						
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<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES [ ]</b>						
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(Thousands of Dollars)

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Estimate of any current year (FY97) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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Prepared by Senate Resources Committee

Phone 465-4907

Division \_\_\_\_\_

Date \_\_\_\_\_

Approved by Senator Rick Halford, Chairman

Date 2/21/97

Agency \_\_\_\_\_

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THE SECRETARY OF THE INTERIOR  
WASHINGTON

JAN 22 1997

Memorandum

To: Assistant Secretary, Fish and Wildlife and Parks  
Assistant Secretary, Land and Minerals Management  
Assistant Secretary, Indian Affairs  
Assistant Secretary, Water and Science

From: Secretary

Subject: Interim Departmental Policy on Revised Statute 2477 Grant of Right-of-Way for Public Highways; Revocation of December 7, 1988 Policy

Revised Statute 2477, which provided that "[t]he right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted," was repealed on October 31, 1976, by the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. § 1701 et seq. FLPMA did not terminate valid rights-of-way established under R.S. 2477 prior to its repeal. The existence and extent of valid rights-of-way previously established pursuant to R.S. 2477 remains an issue in some places.

States or local governments asserting that R.S. 2477 rights-of-way exist on federal land can in appropriate situations file a lawsuit in federal court seeking to establish the validity of that assertion. In the alternative or in advance of filing such a lawsuit, the Department of the Interior may also be asked to give its views on such assertions.

On December 7, 1988, Secretary Hodel signed a memorandum that discussed his policy for making determinations whether the Department would recognize claims for rights-of-way under R.S. 2477. That policy was not promulgated according to rulemaking procedures and is not a rule. In fact, because the Department has not been making such determinations in recent years, that policy has not been carried out for several years. The purpose of this memo is to revoke the 1988 policy and establish a revised policy for carrying out any determinations the Department might be called upon to make regarding R.S. 2477.

**Background**

At the request of Congress, the Department submitted a Report to Congress on R.S. 2477 in June 1993. In accordance with that Report's recommendations, the Department determined that regulations should be written for R.S. 2477, and a Notice of Proposed Rulemaking was published in 1994, 59 Fed. Reg. 39,216 (August 1, 1994). Thereafter, Congress attached a provision to the Department's appropriation for fiscal year 1996 that prohibited using funds appropriated by that statute for "developing, promulgating, and thereafter implementing a


determines that construction did not occur, the agency will recommend the Secretary deny the claim.

4. **Highway.** The agency shall evaluate whether the alleged right-of-way constitutes a highway. A highway is a thoroughfare used prior to October 21, 1976, by the public for the passage of vehicles carrying people or goods from place to place. If the agency determines that the alleged right-of-way does not constitute a highway, the agency will recommend the Secretary deny the claim.

5. **Role of State Law.** In making its recommendations, the agency shall apply state law in effect on October 21, 1976, to the extent that it is consistent with federal law. The agency will in no case recommend approval of claims that do not comply with the requirements of applicable state law.

6. **Secretary's Determination.** The agency will make recommendations on the above-described issues to the Secretary. The Secretary will approve or disapprove those recommendations.

The December 7, 1988 policy, including attachment 1, is hereby revoked.



Bruce Babbitt

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6 98

Central Microfilm Services  
Department of Education  
State of Alaska



THE SECRETARY OF THE INTERIOR  
WASHINGTON

JAN 22 1997

Memorandum

To: Assistant Secretary, Fish and Wildlife and Parks  
Assistant Secretary, Land and Minerals Management  
Assistant Secretary, Indian Affairs  
Assistant Secretary, Water and Science

From: Secretary

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**Background**

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rule concerning rights-of-way under section 2477 of the Revised Statutes." Pub. L. 104-134, § 110, 110 Stat. 1321-177 (1996). The Department's appropriation for fiscal year 1997 permits the publication of final regulations but says they shall not take effect unless "expressly authorized by an Act of Congress subsequent to the date of enactment of this Act." Pub. L. 104-208, § 108, 110 Stat. 3009 (1996).

I addressed the issue of whether the Department should continue to make determinations regarding R.S. 2477 claims in my May 28, 1993, letter to Congress transmitting the Department's Report: "Until final rules are effective, I have instructed the Bureau of Land Management to defer any processing of R.S. 2477 assertions except in cases where there is a demonstrated, compelling, and immediate need to make such determinations." This instruction is still in effect.

### Revised Policy on R.S. 2477 Rights-of-way Determinations

Those making claims of the existence of valid R.S. 2477 rights-of-way continue to have the option of seeking to establish the validity of their claims in court. Nevertheless, it is possible for the Department, prior to the publication of final rules taking effect, to make such determinations on the basis that such a demonstrated, compelling, and immediate need is claimed to exist. If so, until final rules are published and take effect, determinations regarding R.S. 2477 rights-of-way will be made by the Secretary of the Interior, in consultation with the appropriate Interior agency, according to the following policy:

1. **Claims.** An entity wishing the Secretary or any agencies of the Department of the Interior to make a determination whether an R.S. 2477 right-of-way exists shall file a written request with the Interior agency having jurisdiction over the lands underlying the asserted right-of-way, along with an explanation of why there is a compelling and immediate need for such a determination. The request should be accompanied by documents and maps that the entity wishes the agency to consider in making its recommendation to the Secretary. If, based on the information provided, the agency does not believe a compelling and immediate need for the determination exists, it should without further examination recommend the Secretary defer processing until final rules are effective.
2. **Withdrawals and Reservations.** The agency shall consult the public land records maintained by the Bureau of Land Management to determine the status of the lands over which the claimed right-of-way passes. If such lands were withdrawn, reserved, or otherwise unavailable pursuant to R.S. 2477 at the time that the highway giving rise to the claim of an R.S. 2477 right-of-way was allegedly constructed and remained unavailable through October 21, 1976, the agency will recommend the Secretary deny the claim.
3. **Construction.** If the lands were not withdrawn, reserved, or otherwise unavailable pursuant to R.S. 2477, the agency shall examine all available documents and maps and perform an on-site examination to determine whether construction on the alleged right-of-way had occurred prior to the repeal of R.S. 2477 on October 21, 1976. If the agency

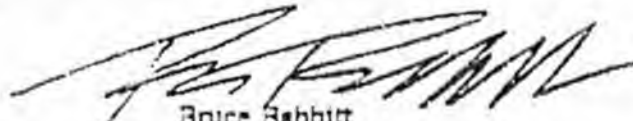
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6. **Secretary's Determination.** The agency will make recommendations on the above-described issues to the Secretary. The Secretary will approve or disapprove those recommendations.

The December 7, 1988 policy, including attachment 1, is hereby revoked.



Bruce Babbitt

*Barbara H. Helle*

**WASHINGTON COUNTY  
GARFIELD COUNTY**

**WASHINGTON COUNTY WATER CONSERVANCY DISTRICT** RECEIVED

*Office of Special Counsel for Environmental & Public Lands Issues*  
197 EAST TABERNACLE STREET ♦ ST. GEORGE, UTAH 84770

(801) 634-5752  
FAX ♦ (801) 634-5758

JAN 23 1997

Ans'd.....

**ANALYSIS OF INTERIM DEPARTMENTAL POLICY ON R.S. 2477  
ISSUED JANUARY 22, 1997**

On January 22, 1997, Secretary of the Interior Bruce Babbitt "revoked" the Department of Interior's prior policy regarding R.S. 2477 rights-of-way, which form the bulk of the rural transportation network in the western public lands states. The revoked policy (the "Hodel Policy"), set forth by Secretary Donald Hodel in December of 1988, was an attempt to reflect long-established law regarding these rights-of-way, which are typically owned and managed by state and local governmental entities. Because of its reasonable approximation to the law, the Hodel Policy encountered little opposition.

By contrast, the Babbitt memorandum attempts to set policy which is inconsistent with established law. However, the Babbitt memo cannot stand up to scrutiny, because the Secretary of Interior is not free to substitute his judgment for that of Congress by ignoring its statutes, nor can he properly set policy which contradicts established legal doctrines. The Babbitt memo is also insupportable because it attempts to set policy which is in violation of the current published regulations of the Department of Interior, which explicitly provide that if administration by the Department would diminish or reduce any rights conferred by the R.S. 2477 grant, the provisions of the grant apply. 43 C.F.R. § 2801.4. But the Babbitt memo sets forth an approach which is clearly designed to diminish or do away with rights conferred under R.S. 2477.

The Babbitt memo must be considered in light of the actions of Department of the Interior under this administration, which have been focused at undercutting the ability of states and counties to utilize and manage their transportation infrastructure, contrary to more than one-hundred years of Interior policy and court rulings. Interior has battled to revoke these rights-of-way in Congress, in the courts, and by way of attempted promulgation of departmental regulations. Due to substantial public interest in protecting these vital transportation links and in honoring established legal rights, those efforts have largely been unsuccessful. As the Babbitt memo states, Congress has prohibited Interior from giving effect to its proposed regulations regarding R.S. 2477 rights-of-way. While the memo asserts that it is not a rulemaking, in practical effect, it provides guidance to the Department which would implement the fundamental purposes of the proposed regulations and thereby constitutes a new effort to find a way to undercut established law by administrative fiat.

Some of the flaws in the position adopted in the Babbitt memo (also reflected in the Department's proposed rulemaking) are addressed briefly below.

No approval by the federal government has ever been required to exercise the rights granted under R.S. 2477. In fact, Interior regulations in place over the last half century stated, "No application should be filed under this act, as no action on the part of the Federal Government is necessary." Once a right-of-way was established, it became a property right of the holder. The treatment of these vested property rights as "claims" has no legal merit.

No federal statute has granted the Department of Interior the authority to regulate, adjudicate or otherwise interfere with the proper exercise of these rights. However, implicit in the Babbitt memo, and explicit in the Department's actions in Utah, is the

threat that any exercise of the rights without prior judicial or Departmental approval will be met with harsh opposition by the Department, including the filing of burdensome and costly lawsuits.

The "approval" scheme reflected in *de facto* Departmental policy, now stated in the Babbitt memo, and as currently being carried out in Utah, is one of the most insidious aspects of Interior's attack. Justice Department attorneys, acting on behalf of the Department, have recently asserted in court that holders of R.S. 2477 rights-of-way can do nothing on these rights-of-way without prior authorization from the federal government. But, as the Babbitt memo declares, Department personnel have been instructed to offer no recognition of any R.S. 2477 right-of-way, no matter how clearly valid, unless the right-of-way holder gives evidence of a "demonstrated, compelling, and immediate need." Thus, Babbitt is creating (and has been implementing in Utah) a scenario where Department personnel say, in effect: "You can't exercise your right unless we acknowledge that it's valid (or you go to court to prove it), and we are prohibited from taking action to acknowledge its validity. Therefore, if you exercise your right, the United States may sue you." Obviously, the Department is picking and choosing which roads to sue on, targeting rural counties in Utah which have been unwilling to submit to these illegal policies.

The memorandum states that the agency will determine whether a right-of-way meets criteria concerning "withdrawals and reservations," "construction," and "highway." Given Interior's stated hostility toward existing law defining those terms, it should be expected that the criteria will be construed according to newly-created definitions reflected in the proposed regulations. Watch for Interior to decree a narrow definition of "construction" inconsistent with clear federal case law. Watch for Interior to attempt to invalidate many R.S. 2477 rights-of-way through its new definition of the term "highway," also inconsistent with federal court rulings.

Watch for Interior to disregard the thousands of legal interpretations concerning this grant offered by state courts, many of which have been relied upon by the federal courts. The memorandum asserts that state law will be applied only "to the extent that it is consistent with federal law." The problem with this statement is that, because federal law has adopted state law as the rule of decision for R.S. 2477, no federal law exists — for now. Therefore, for the Department to determine whether state law is "consistent with federal law" it must first make up the federal law.

The Babbitt memo sets forth an illegal policy, which will be carried by Departmental employees to state and local governments across the West as the only way to deal with R.S. 2477 rights-of-way. To the extent that these actions are successful in confusing and intimidating right-of-way holders, the Department will be successful in its ongoing attempt to defeat R.S. 2477 rights-of-way across the West.



# ALASKA MINERS ASSOCIATION, INC.

501 W Northern Lights Blvd. Suite 203, Anchorage, Alaska 99503 FAX (907) 275-7897 Telephone (907) 276-0347

February 24, 1997

Honorable Rick Halford  
Chairman  
Senate Resources Committee  
Capitol Building  
Juneau, AK 99801

RE: SJR-13, Opposing DOI Policy on RS-2477

Dear Senator Halford,

The Alaska Miners Association wishes to go on record in strong support of Senate Joint Resolution 13 which relates to Revised Statute 2477 rights-of-way.

Approximately 215 million acres of Alaska's total 365 million acre area are owned and controlled by the federal government. The rest of the land is owned by the State of Alaska, private Native Corporations, or other private parties. However, it is necessary to cross federal lands in order to access much of these State and private lands.

RS-2477 rights-of-way were granted to the State by the federal government and the federal government must be held to the terms of this grant. RS-2477s are the only feasible means to cross many areas of federal land and these historic State-owned routes must be protected and kept under State ownership, management and control.

We agree that it is essential for the State of Alaska to be proactive and aggressive in asserting its ownership over RS-2477 routes. If the State of Alaska becomes lax or lowers its guard, our rights will be lost.

Thank you for this opportunity to comment on this extremely important issue.

Sincerely,

Steven C. Borell, P.E.  
Executive Director

**SJR**

**16**

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 2/18/97

FURTHER:

Date of 5-Day Notice: 2/27/97  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 3/11/97

Resource Committee considered

SENATE JOINT RESOLUTION NO. 16

Relating to reauthorization and reform of the Endangered Species Act.

and recommends:

- be replaced with \_\_\_\_\_ CS SJR 16 ( RES )
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( \_\_\_\_\_ )
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**  
 same title  
 new title  
**House Bill:**  
 same title  
 technical title  
 new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Man L. Taylor</i>	✓				
<i>Drew D. Kuman</i>	✓				
<i>Bob Mack</i>	✓				
<i>Fred R. ...</i>	✓				
<b>CHAIR:</b> <i>Rick Halford</i>	✓	<b>CHAIR:</b>			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
<i>S. Resources</i>	<i>3/4</i>	<i>X</i>	

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. SJR 16

Revision Date 2/18/97 Dept. Affected \_\_\_\_\_  
 Title Reform the Endangered Species Act BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Leman \_\_\_\_\_  
 Requester \_\_\_\_\_ Component Serial No. \_\_\_\_\_

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

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES [ ]</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost: 0.0

**POSITIONS**

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Full-time						
Part-time						
Temporary						

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

This resolution has no fiscal impact on state departments.

Prepared by Senate Resources Committee  
 Division \_\_\_\_\_  
 Approved by Senator Rick Halford, Chairman  
 Agency \_\_\_\_\_

Phone 465-4907  
 Date \_\_\_\_\_  
 Date 3/4/97

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# SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189 Session: State Capitol, Juneau, AK 99801 (907) 465-2095

## Sponsor Statement SJR 16

"Relating to Re-authorization and Reform of the Endangered Species Act."

\*\*\*\*\*

Senate Joint Resolution 16 supports the efforts of our Congressional delegation, and other states, in reforming the Endangered Species Act (ESA).

The ESA was passed by Congress in 1973 and has been amended several times. The basic premise of the ESA is to prevent the extinction of species.

It is unfortunate that examples of governmental abuse of power can be found alongside the successes of the ESA. SJR 16 recommends that the re-authorized Act assure partnership with the states and protection of private property rights.

SJR 16 requests the re-authorized Act not include: 1) any expansion of federal authority; 2) implementation of the complicated Biodiversity Treaty; or 3) any new biological diversity reserve system.

Alaska has more to lose in this debate than most states because of our resource-based economy. Examples of the ESA invoked to halt economic activity include a lawsuit filed by Greenpeace to shut down the eastern Gulf of Alaska pollock fishery, and proposals by the U.S. Forest Service to list the Alexander Archipelago Wolf and the Queen Charlotte Goshawk as threatened.

AM #1

AMENDMENT

OFFERED IN SENATE RESOURCES

By Senator Leman

TO: SJR 16

Page 2, line 21, replace paragraph (5) with new paragraphs (5) and (6) and renumber following paragraphs accordingly.

(5) timely and mandatory delisting once recovery plan population objectives have been met;

(6) clarify the definition of "species" to limit the listing of "distinct population segments" to evolutionarily significant units and major segments of a species range;



# Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

Phone: 907-463-3366

Fax: 907-463-3312

## TWENTIETH LEGISLATURE - FIRST SESSION

### SJR 16: relating to reauthorization and reform of the Endangered Species Act

The Alaska Environmental Lobby cannot support the recommended changes to the existing federal Endangered Species Act (ESA) called for in SJR 16. The Endangered Species Act was written not only to prevent species extinction, but also to allow for their recovery. SJR 16 recommends changes to the existing ESA that would severely hamper the recovery of many endangered species in the United States.

- **Abuse of Authority:** it is a sweeping generalization to suggest that the federal agencies have "often misused their authority" under the ESA; what are specific examples of this misuse by Fish and Wildlife Service or National Marine Fisheries Service that have occurred in Alaska?
- **Administrative Reforms:** to state that reforms have either not been implemented or have been wholly inadequate is inaccurate; almost every one of the reforms proposed by the Clinton administration in April, 1995, has been implemented, including policies on the role of state agencies, recreational fisheries, peer review, and recovery plan participation and implementation.
- **Listing requirements:** to call for stricter *scientific and quantitative* criteria for listing is simply a way of saying only empirical data can be used for judging a species' status. This position ignores the fact that modeling to estimate wildlife populations is an accepted scientific method, i.e. qualitative criteria is as valid as quantitative in many situations.

OVER

- **Distinct Population Segments:** to eliminate this concept from the definition of "species" ignores the reality that geographically or genetically isolated populations exist that can require protection to ensure survival despite the existence of healthy populations in distant locales. This concept is important to Alaskans dependent on salmon to ensure the continued health of genetically distinct runs.
- **Cost of Recovery Implementation:** to ensure species recovery, a scientifically based recovery plan must be completed; to politicize these plans and limit them to the least costly may be advantageous for short-term monetary gain and political popularity, but may very likely fail to protect the species in the long term.

Until Alaskans are provided specific examples of how the ESA is unduly burdensome for us to support, the Alaska Environmental Lobby cannot support the changes called for in this resolution. Short-term convenience and economic gain cannot compensate for the ultimate negative impacts on all our plant and animal species if the ESA is weakened.

Susan Schrader, Executive Director  
March 5, 1997

**SJR**

**20**

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 3/5/97

FURTHER:

Date of 5-Day Notice: 3/6/97  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 3/11/97

Resources Committee considered **SENATE JOINT RESOLUTION NO. 20**

Requesting the United States Congress to accommodate Alaska's unique wetlands circumstances by amending the Clean Water Act to modify the wetlands regulatory program and to recognize Alaska's outstanding history of wetlands conservation.

and recommends:

- be replaced with \_\_\_\_\_ CS SJR 20 (RES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Chris Taylor</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<b>CHAIR: <i>Rich Halford</i></b>	✓	<b>CHAIR:</b>			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
<i>S. Resources</i>	<i>3/10</i>	<i>X</i>	

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*Include fiscal notes accompanying Governor's bill



# SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189 Session: State Capitol, Juneau, AK 99801 (907) 465-2095

## SPONSOR STATEMENT SENATE JOINT RESOLUTION 20

SJR 20 encourages Congress to amend the federal Clean Water Act to:

- a) continue existing activities related to airport safety, logging, mining, ice pads, roads, and snow removal without being determined to add to the "cumulative" loss of wetlands nationally;
- b) provide flexibility in Alaska wetlands permitting by allowing the establishment of general permits for the discharge of dredged or fill material into disposal sites;
- c) eliminate existing requirements to mitigate unavoidable impacts or to prove alternative sites do not exist;
- d) require the U.S. Army Corps of Engineers to customize a permitting process for lands conveyed under the Alaska Statehood Act and the Alaska Native Claims Settlement Act that does not include burdensome mitigation or avoidance requirements.

SJR 20 endorses the efforts of Senators Stevens and Murkowski to amend the Clean Water Act to modify the wetlands regulatory program through S. 49.

Despite the fact that Alaska has, since the 1700s maintained 99.5% of its wetlands - environmentalists have testified before this legislature and written in the National Wetlands Newsletter that Alaska is attempting to undermine the Clean Water Act in the name of development and oil and gas exploration. They claim that tourism will suffer. The rural villages in Alaska are the ones who suffer - 98% are surrounded by or are adjacent to wetlands and have no other option but to build schools, airstrips and basic community infrastructure over marshy areas. Alaska has 170,000,000 acres of wetlands, 88% of which are publicly owned. 60,000,000 of those wetlands are under some sort of federal protection (refuge, park, wilderness). Alaskans have proven we care about our environment and can develop a sustainable economy with minimal impacts. We need not carry the guilt of the rest of the nation. I urge you to support the resolution.

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. SJR 20

Revision Date 3/5/97 Dept. Affected \_\_\_\_\_  
 Title Modify federal wetlands program for Alaska's needs BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Leman \_\_\_\_\_  
 Requester \_\_\_\_\_ Component Serial No. \_\_\_\_\_

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

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES [ ]</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

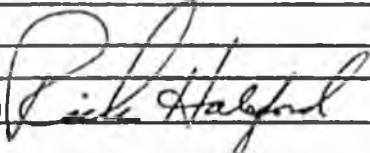
Estimate of any current year (FY97) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This resolution will have no fiscal impact on state departments.

Prepared by Senate Resources Committee  
 Division \_\_\_\_\_  
 Approved by Senator Rick Halford, Chairman   
 Agency \_\_\_\_\_

Phone 465-4907  
 Date \_\_\_\_\_  
 Date 3/10/97

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# ALASKA WETLANDS COALITION

121 W. Fireweed Lane, Suite 250 Anchorage, AK 99503

Phone: (907) 279-1783 Fax: 276-3887

## WETLANDS "LOSS" COMPARISON

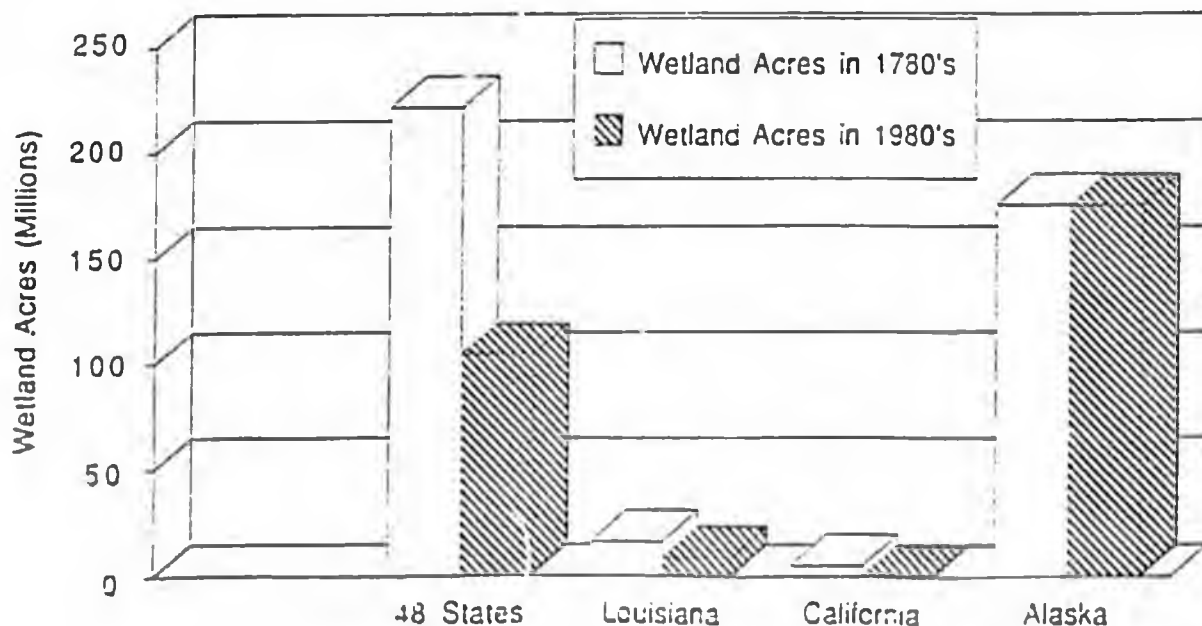
(Chart updated by the Alaska Wetlands Coalition, October 1995)

Louisiana	California	Alaska	48 States	
<b>Total Surface Acres</b>				
31,054,720	101,563,520	375,303,680	1,934,198,400	
<b>Wetland Acres</b>				
16,194,500	5,000,000	*174,883,900	221,129,638	Total Wetlands 1780's
8,784,200	454,000	174,683,900	104,374,314	Total Wetlands 1980's
7,410,300	4,546,000	200,000	116,755,324	Acres Lost Over 200 Years
<b>Percentage Wetlands</b>				
52.10%	4.90%	46.60%	11.40%	1780's Wetlands/Surface Area
28.30%	0.40%	46.50%	5.40%	1980's Wetlands/Surface Area
46%	91%	0.10%	55%	Percentage Lost Over 200 Years

According to U.S. Fish and Wildlife Service estimates, there were originally about 221 million acres of wetlands in the contiguous United States. By the 1980's, about 104 million acres (47%) remained. Therefore, wetlands reductions in the contiguous United States total about 117 million acres. (Data from Dahl, T.E. 1990. "Wetland Losses in the United States, 1780's to 1980's." U.S. Department of Interior, Fish and Wildlife Service, Washington, D.C.)

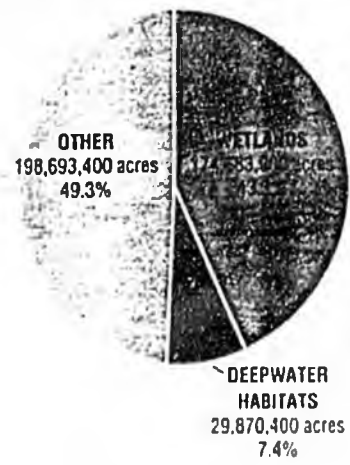
In Alaska, however, only about 200,000 (0.1%) of 174,883,900 million acres of wetlands have been affected by development. (Data from Hall, Frayer, and Wilen 1994. "Status of Alaska Wetlands." U.S. Fish and Wildlife Service, Alaska Region.)

## WETLANDS "LOSS" COMPARISON



From Studies in Alaska Wetlands  
and Deepwater Habitats  
1974

Figure 1  
Alaska Wetlands and Deepwater Habitats



Figures 2, 3  
Surface Area of Alaska and Lower 48 States

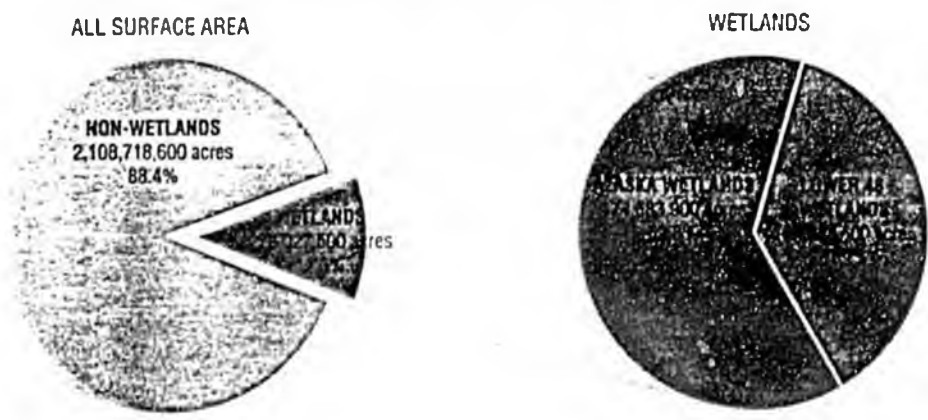
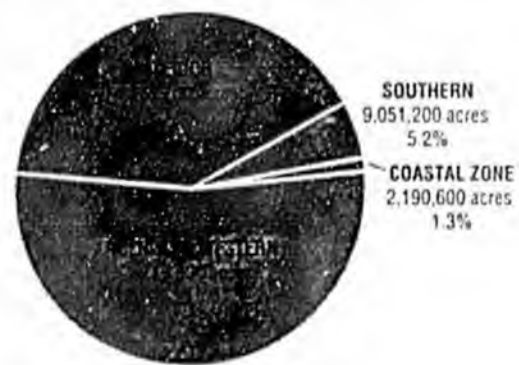


Figure 4  
Distribution of Alaska Wetlands by Region



S 49 IS  
105th CONGRESS  
1st Session

To amend the wetlands regulatory program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska, to protect Alaskan property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities, and villages.

IN THE SENATE OF THE UNITED STATES

January 21, 1997

Mr. STEVENS (for himself and Mr. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the wetlands regulatory program under the Federal Water Pollution Control Act to provide credit for the low wetlands loss rate in Alaska and recognize the significant extent of wetlands conservation in Alaska, to protect Alaskan property owners, and to ease the burden on overly regulated Alaskan cities, boroughs, municipalities, and villages.

[Italic->] Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [<-Italic]

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Alaska Wetlands Conservation Act'.

SEC. 2. FINDINGS.

The Congress finds that--

(1) according to the United States Fish and Wildlife Service, approximately 170,200,000 acres of wetlands existed in Alaska in the 1780s and approximately 170,000,000 acres of wetlands exist now, representing a loss of less than one-tenth of 1 percent through human and natural processes;

(2) according to the United States Fish and Wildlife Service more than 221,000,000 acres of wetlands existed at the time of Colonial America in the area that is now the contiguous United States and that 117,000,000 of those acres, roughly 53 percent, have been filled, drained, or otherwise removed from wetland status;

(3) Alaska contains more wetlands than all of the other States combined;

(4) 88 percent of Alaska's wetlands are publicly owned, while only 26 percent of the wetlands in the 48 contiguous States are publicly owned;

(5) approximately 98 percent of all Alaskan communities, including 200 of the 209 remote villages in Alaska, are located in or adjacent to wetlands;

(6) approximately 62 percent of all federally designated wilderness lands, 70 percent of all Federal park lands, and 90 percent of all Federal refuge lands are located in Alaska, thus providing protection against use or degradation to approximately 60,000,000 acres of wetlands in Alaska;

(7) 104,000,000 acres of land were granted to the State of Alaska at statehood for purposes of economic development;

(8) approximately 43,000,000 acres of land were granted to Alaska Natives through regional and village corporations and Native allotments for their use and between 45 percent and 100 percent of each Native corporation's land is categorized as wetlands;

(9) development of basic community infrastructure in Alaska, where approximately 75 percent of the nonmountainous areas are wetlands, is often delayed and sometimes prevented by the existing wetlands regulatory program, with minimal identifiable

environmental benefit;

(10) the 1899 Rivers and Harbors Act formerly regulated disposition of dredge spoils in navigable waters, which did not include wetlands, to keep navigable waters free of impairments;

(11) the 1972 Federal Water Pollution Control Act, more commonly known as the Clean Water Act, formed the basis for a broad expansion of Federal jurisdiction over wetlands by modifying the definition of 'navigable waters' to include all 'waters of the United States';

(12) in 1975, a United States district court ordered the Army Corps of Engineers to publish revised regulations concerning the program to implement section 404 of the Clean Water Act, which expanded the scope of the program to include the discharge of dredged and fill material into wetlands;

(13) the wetlands regulatory program was expanded yet again by regulatory action to include isolated wetlands (wetlands that are not adjacent to navigable waters), and such an expansion formed the basis for burdensome intrusions on the property rights of Alaskans, Alaskan Native Corporations, and the State of Alaska;

(14) expansion of the wetlands regulatory program in this manner is beyond what the Congress intended when it passed the Clean Water Act and has placed unnecessary economic and administrative burdens on private property owners, small businesses, city governments, State governments, farmers, ranchers, and others, while providing negligible environmental benefits;

(15) for Alaska, a State with substantial conserved wetlands and less than 1 percent private, noncorporate land ownership, the burdens of the current wetlands regulatory program unnecessarily inhibit reasonable community growth and environmentally benign resource development;

(16) Alaska villages, municipalities, boroughs, city governments, and Native organizations are increasingly frustrated with the constraints of the wetlands regulatory program because it interferes with the location of community centers, airports, sanitation systems, roads, schools, industrial areas, and other critical community infrastructure;

(17) policies intended to achieve 'no net loss' of wetlands reflect a response to the 53 percent loss of the wetlands base in the 48 contiguous States, and do not take into account the large percentage of conserved wetlands in Alaska; and

(18) individual landowners in Alaska have lost up to 97 percent of their property value and Alaskan communities have lost a significant portion of their tax base due to wetlands regulations.

### SEC. 3. AMENDMENTS TO THE FEDERAL WATER POLLUTION CONTROL ACT.

(a) NATIONAL POLICY- Section 101(a) of the Federal Water Pollution Control Act (33 U.S.C. 1251(a)) is amended by--

(1) striking 'and' at the end of paragraph (6);

(2) striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(3) adding at the end the following new paragraphs:

(8) it is the national policy to (A) achieve a balance between wetlands conservation and adverse economic impacts on local, regional, and private economic interests, and (B) eliminate the regulatory taking of private property by the regulatory program authorized under section 404;

(9) it is the national policy to encourage localized wetlands planning (without mandating such planning and by providing funds to facilitate such planning), and to allow greater flexibility for the issuance of wetlands permits in States with substantial conserved wetlands; and

(10) it is the national policy that compensatory mitigation under section 404 for the development of wetlands in a State

with substantial conserved wetlands shall not be required, requested, or otherwise utilized to offset impacts to such wetlands.'

(b) DISCHARGE PERMITS- Section 404(b) of the Federal Water Pollution Control Act (33 U.S.C. 1344(b)) is amended by inserting after the period at the end the following new sentence: 'Notwithstanding the preceding sentence, such guidelines with respect to disposal sites in any State with substantial conserved wetlands--

`(A) shall not require mitigation to compensate for wetlands loss and adverse impacts to wetlands;

`(B) may include reasonable requirements for the minimization of adverse impacts to wetlands; and

`(C) may include reasonable requirements for the avoidance of impacts, but may not require the permit applicant to establish that alternative sites do not exist.'

(c) GENERAL PERMITS- Section 404(e) of the Federal Water Pollution Control Act (33 U.S.C. 1344(e)) is amended by inserting at the end the following new paragraph:

`(3) Notwithstanding the requirements of paragraphs (1) and (2), at the request of a State with substantial conserved wetlands, the Secretary shall issue a general permit on a Statewide basis for any category of activities in such State. Any such permit shall apply to the discharge of dredged or fill material into disposal sites that are up to, at a minimum, 10 acres in size, and may not contain guidelines for disposal sites that are more stringent than the guidelines for such sites in that State under subsection (b).'

(d) NONPROHIBITED DISCHARGES- Section 404(f)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1344(f)(1)) is amended by--

(1) striking the comma at the end of subparagraph (F) and inserting in lieu thereof a semicolon; and

(2) adding at the end the following new subparagraph:

`(G) in a State with substantial conserved wetlands--

`(i) associated with airport safety (ground and air);

`(ii) for the construction and maintenance of log transfer facilities relating to log transportation activities;

`(iii) for the construction of tailings impoundments utilized for treatment facilities (as determined by the development document) for the mining subcategory for which the tailings impoundments are constructed; and

`(iv) for the construction of ice pads and ice roads and for the purposes of snow storage and removal,'.

(e) DEFINITIONS- Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), as amended, is amended further by adding at the end the following new subsections:

`(u) DEFINITIONS- For purposes of this section--

`(1) the term 'conserved wetlands' means wetlands that are located in the National Park System, National Wildlife Refuge System, National Wilderness System, the Wild and Scenic River System, and other similar Federal conservation systems, as well as wetlands located in comparable types of conservation systems established under State or local authority;

`(2) the term 'economic base lands' means lands conveyed to, selected by, or owned by Alaska Native entities pursuant to the Alaska Native Claims Settlement Act Public Law 92-203), as amended, or the Alaska Native Allotment Act of 1906 (34 Stat. 197), as amended, and lands conveyed to, selected by, or owned by, the State of Alaska pursuant to the Alaska Statehood Act (Public Law 85-508), as amended; and

`(3) the term 'State with substantial conserved wetlands' means any State which--

`(A) contains at least 15 acres of conserved wetlands for each acre of wetlands filled, drained, or otherwise

converted within such State (based upon wetlands loss statistics reported in the 1990 United States Fish and Wildlife Service Wetlands Trends report to Congress entitled 'Wetlands Losses in the United States 1780's to 1980's'); or

(B) the Secretary of the Army determines has sufficient conserved wetlands to provide adequate wetlands conservation in such State, based on the policies set forth in this Act.

(v) ALASKA NATIVE AND STATE OF ALASKA LAND EXCEPTIONS-

(1) (A) Notwithstanding subsections (a) or (b), upon application by the holder of economic base lands, the Secretary shall issue a permit for the discharge of dredged or fill material into the navigable waters at a disposal site on such lands if such discharge complies with reasonable guidelines established by the Secretary under this subsection. The guidelines established by the Secretary under this subsection may be no more stringent than the guidelines established under subsection (b) for disposal sites in a State with substantial conserved wetlands, and must take into consideration the requirements of subparagraph (B).

(B) In considering the requirements otherwise applicable under subsections (a) and (b) for use in guidelines applicable to permits issued under this paragraph, the Secretary shall--

(i) balance the standards and policies of this Act against the obligations of the United States to allow economic base lands to be beneficially used to create and sustain economic activity;

(ii) with respect to Alaska Native lands, give substantial weight to the social and economic needs of Alaska Natives; and

(iii) consider the abundance and value of conserved wetlands in the State in which such economic base lands are found.

(2) The Secretary shall issue general permits under subsection (e) (1) for categories of activities on economic base lands relating to the development of rural Alaska community infrastructure (including water and sewer systems, airports, roads, communication sites, fuel storage sites, landfills, housing, hospitals, medical clinics, and schools) without determining whether or not such activities will cause only minimal adverse environmental effects when performed separately, or whether or not such activities will have only minimal cumulative adverse effects on the environment.

(3) The Secretary shall consult with and provide assistance to Alaska Natives (including Alaska Native Corporations) and the State of Alaska regarding promulgation and administration of policies and regulations under this section.'

**SJR**

**24**

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 3/18/97

FURTHER:

Date of 5-Day Notice: 3/20/97  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 3/27/97

Resources Committee considered SENATE JOINT RESOLUTION NO. 24

Relating to the Tongass Land Management Plan and to continued Congressional oversight of that plan.

and recommends:

- be replaced with \_\_\_\_\_ CS SJR 24 ( RES )
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( \_\_\_\_\_ )
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:
- same title
  - new title
- House Bill:
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>			✓
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<b>CHAIR: <i>[Signature]</i></b>	✓	<b>CHAIR:</b>			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
<u>S. RESOURCES COMMITTEE</u>	<u>3/27</u>	<u>X</u>	

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# SENATOR JERRY MACKIE

ALASKA STATE LEGISLATURE

## SPONSOR STATEMENT

### SJR 24, Tongass Land Use Plan

The purpose of SJR 24 is two-fold. First, it encourages the U.S. Forest Service to bring the decade-long development of the Tongass Land Use Management Plan (TLUMP) to a conclusion so the people and communities of Southeast Alaska can move forward with their economic and personal lives with some degree of certainty. The resolution supports a level of timber harvest from the Tongass National Forest sufficient to sustain a forest product industry and prevent further job loss and economic disruption in Southeast Alaska.

Secondly, the resolution endorses continued oversight by Congress and the Alaska Congressional delegation of Forest Service management activities relating to the Tongass. This endorsement urges review of the analyses and procedures employed by the Forest Service to ensure that decisions affecting the social and economic well-being of Southeast communities are appropriate and scientifically credible.

After a decade of false starts, intervening federal legislation, court decisions and several public review drafts, the Forest Service appears poised to adopt a final version of the land use management plan for the Tongass. During this time period the Southeast economy has lost \$60 million in forest products payroll and half of its timber jobs. The continuing decline in available timber supply has closed

two pulp mills and one sawmill. Without a plan that ensures some level of harvesting, the existence of any forest product industry in Southeast Alaska is threatened.

On December 20, 1996 the Southeast Regional Timber Task Force passed a resolution urging the Federal government to finalize a plan for timber harvest in the Tongass. The Task Force determined that a minimum annual harvest level of 300 million board feet (MMBF) was necessary to reestablish a viable, integrated timber industry. This volume has been selected by several Forest Supervisors of the Tongass as the preferred alternative in previous drafts of TLUMP.

Any delay in the finalization of the Tongass Land Use Management Plan is detrimental to the social and economic stability of Southeast Alaska. A plan that adopts a minimum 300 MMBF timber supply will stem the current decline and the associated economic depression of Southeast communities dependent on the forest product industry. SJR 24 requests the completion of the long delayed plan and that it include a 300 MMBF timber harvest level.

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. SJR 24

Revision Date 3/27/97 Dept. Affected \_\_\_\_\_  
 Title Tongass Land Management Plan BRU \_\_\_\_\_  
 Component \_\_\_\_\_  
 Sponsor Mackie \_\_\_\_\_  
 Requester \_\_\_\_\_ Component Serial No. \_\_\_\_\_

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

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES [ ]</b>						
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost: 0.0

**POSITIONS**

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Full-time						
Part-time						
Temporary						

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

This resolution will have no fiscal impact on state departments.

Prepared by Senate Resources Committee Phone 465-4907  
 Division \_\_\_\_\_ Date \_\_\_\_\_  
 Approved by Senator Rick Halford *Rick Halford* Date 3/27/97  
 Agency \_\_\_\_\_

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# SOUTHEAST CONFERENCE

An Alaska Regional Development Organization and USDA Resource Conservation and Development Council

**STATEMENT OF  
BERNE C. MILLER  
EXECUTIVE DIRECTOR OF SOUTHEAST CONFERENCE  
BEFORE THE  
SENATE RESOURCES COMMITTEE  
March 26, 1997**

My name is Berne Miller. I am Executive Director of Southeast Conference. Southeast Conference is the regional economic development organization for Southeast Alaska. Our Mission is to help build strong economies, healthy communities, and a quality environment in the region.

For the past year and a half, Southeast Conference has been an active participant in the Tongass Land Management Plan revision process. In the interest of sustaining a strong regional economy, the Conference has repeatedly urged that the Regional Forester select a TLMP alternative that does no economic or social harm to Southeast Alaska's people and communities.

In the past, we have been critical of the Forest Service's TLMP work. In particular, we have said the Forest Service's examination of the socio-economic impacts of changing timber harvest levels on our region's people and communities is inadequate and have shown that their timber analysis overstates harvest levels by about 32 percent. For these reasons and others, last August we advocated the Forest Service delay completion of TLMP until defects in their analysis have been corrected.

But that was last August, before Ketchikan Pulp Company announced their mill would be closed. Now, the timber industry is on the brink of drastic downsizing and restructuring and the region's people and communities face economic dislocations and hardship. But, until the Forest Service establishes a predictable harvest level through TLMP, it will be impossible for anyone to project what kind of timber industry might exist in the region in the future, let alone lay out a business plan for the extensive restructuring now so obviously needed. It is not hard for anyone with any sensitivity to visualize the anxiety and distress this situation has caused, is causing, and will continue to cause for our region's families and businesses.

For that reason, Southeast Conference has changed its position. We recently urged the Regional Forester to come to a decision based on what his Forest Supervisors have already placed before him and asked that he publish a TLMP revision now.

The economy of Southeast Alaska is changing; restructuring in the timber component is only the most visible manifestation of what's taking place throughout the region's economy. For the economic and social welfare of our people, we must rebuild a strong, diversified economy. We need a final Tongass Land Management Plan before we can get started. Southeast Conference thinks the Forest Service should publish TLMP now.



# Southeast Alaska Conservation Council

SEACC 419 6th Street, Suite 328, Juneau, AK 99801  
(907) 586-6942 phone (907) 463-3312 fax  
email: seacc@alaska.net

**STATEMENT OF  
BUCK LINDEKUGEL, CONSERVATION DIRECTOR  
SOUTHEAST ALASKA CONSERVATION COUNCIL**

**HEARING ON SENATE JOINT RESOLUTION 24,**

**BEFORE THE  
ALASKA SENATE RESOURCE COMMITTEE  
MARCH 26, 1997**

Mr. Chairman:

My name is Buck Lindekugel, Conservation Director for the Southeast Alaska Conservation Council. Founded in 1970, SEACC is a coalition of 15 volunteer conservation groups in 12 Southeast Alaska communities, from Yakutat to Ketchikan.

SEACC's individual members include commercial fishermen, Native Alaskans, small timber operators and value-added wood manufacturers, tourism and recreation business owners, hunters and guides, and Alaskans from all walks of life. SEACC is dedicated to preserving the integrity of Southeast Alaska's unsurpassed natural environment while providing for balanced, sustainable use of our region's resources.

SEACC is opposed to this measure. Instead of lobbying for a certain logging level, the Alaska Legislature needs to support communities' efforts to make the transition to a high-value added timber industry that produces the most jobs for Southeast Alaskan out of every tree cut.

All of us want the Tongass Plan completed. But for this plan to provide the stability and assurance that everyone hopes for, it must ensure that logging occurs only at sustainable levels that are consistent with maintaining current and future demand for fish, wildlife, and other renewable resources over the long term. The minimum 300 million board foot logging level called for by this resolution is an unsustainable and environmentally destructive cutting level.

This resolution would, in effect, call for the adoption of the Preferred Alternative identified in the latest draft of the Tongass plan. The Preferred Alternative:

LYNN CANAL CONSERVATION, Haines • FRIENDS OF GLACIER BAY, Gustavus • FRIENDS OF BERNERS BAY, Juneau  
WRANGELL RESOURCE COUNCIL • ALASKA SOCIETY OF AMERICAN FOREST DWELLERS, Point Baker • PELICAN FORESTRY COUNCIL  
ALASKANS FOR JUNEAU • NARROWS CONSERVATION COALITION, Petersburg • TONGASS CONSERVATION SOCIETY, Ketchikan  
CHICAGO CONSERVATION COUNCIL, Tenakee • JUNEAU GROUP SIERRA CLUB • SITKA CONSERVATION SOCIETY  
TAKU CONSERVATION SOCIETY, Juneau • PRINCE OF WALES CONSERVATION LEAGUE, Craig • YAKUTAT RESOURCE CONSERVATION COUNCIL



- places areas important to Southeast communities at risk including Cleveland Peninsula, Poison Cove and Ushk Bay, Upper Tenakee Inlet, Port Houghton, Honker Divide, and East Kuiu Island.
- fails to provide short and long-term protection for fish habitat and for healthy and huntable wildlife populations.

Of the nearly 5,000 comments received on the draft Tongass Plan this summer from Alaskans, 57 percent concluded that the Preferred Alternative was too biased towards logging. These Alaskans called for substantially more protection of fish and wildlife habitat and special areas.

We will also likely hear how this resolution supports the resolution passed late last year by the Southeast Regional Timber Taskforce calling for a minimum annual harvest level of 300 mmbf. We respectfully urge the Committee to examine the Taskforce's 10-4 vote. Out of the 11 communities represented on the Governor's Taskforce, 8 voted against the resolution. The Tongass Community Alliance, which represents six Southeast communities (Gustavus, Pelican, Elfin Cove, Tenakee Springs, Port Alexander and the City of Kupreanof), and so did the mayors of Petersburg and Sitka.

HOUSE JOINT RESOLUTION 32  
&  
SENATE JOINT RESOLUTION 24

STRIKING A BALANCE ON THE  
TONGASS NATIONAL FOREST

MARCH 1997

WALT SHERIDAN & ASSOC.  
JUNEAU, ALASKA

## INTRODUCTION

The purposes of HJR 32 and SJR 24 are two-fold. First, they encourage the US Forest Service to bring the decade-long Tongass Land Management Plan to a conclusion so the people and communities of Southeast Alaska can move forward with their economic and personal lives with some degree of certainty. And second, they put the Alaska Legislature on record as supporting a level of timber harvest from the Tongass National Forest sufficient to prevent further loss of jobs in this important segment of the Southeast Alaska economy.

## WHY NOW

After over a decade of false starts, intervening Federal legislation, court decisions and several public review drafts, the US Forest Service appears to be poised to make their decision on how the Tongass National Forest will be managed for the next ten to fifteen years. That decision will have profound effects on the people and communities of Southeast Alaska and, by extension, the State's economy as a whole.

The US Forest Service decision, which is expected by May, could cause the loss of many of the remaining timber and timber support jobs in the region. More significantly, in the long term the decision may preclude the restructuring of a timber industry employment base around new technologies and value added processing opportunities.

## HOW DID WE GET HERE?

In 1979 the US Forest Service in partnership with the State of Alaska and Southeast Alaska communities adopted a plan for managing the Tongass National Forest for the next 10 to 15 years. Called the Tongass Land Management Plan, or T-LUMP, the plan allowed for a timber harvest level of up to an average annual amount of approximately 520 million board feet including low-value utility logs. The plan also instituted stringent fisheries protection measures and recommended Congressional designation of nearly a third of the forest as Wilderness.

The 1979 TLMP was intended to strike a balance between preservationist interests and the needs of the Southeast Alaska people and communities for timber related jobs. The essential compromise embodied in the 1979 TLMP was 5.4 million acres of Wilderness for timber sufficient to support a little over 3100 direct timber jobs.

The compromise didn't last very long however. Throughout the decade of the 80's, environmental lawsuits, bureaucratic inefficiencies and poor market conditions conspired to suppress actual harvest volumes to only about two-thirds of what was envisioned in the plan. Further, by the mid to late 80's environmental interests were petitioning Congress for Tongass "reform" which by their agenda meant Congressional designation of additional millions of acres of Wilderness, mandatory stream buffers and cancellation of the two long-term contracts which supplied the raw materials for the Sitka and Ketchikan pulp and sawmills.

Congress took action in 1980 with passage of the Tongass Timber Reform Act (TTRA). Among other things, TTRA carved additional Wilderness and other non-timber harvest allocations from the Tongass. The Congress, however, declined to cancel the two long-term contracts. Instead, Congress choose to unilaterally change the deal. Regrettably, the die had been cast for the loss of this segment of the industry and the jobs which it had provided to the economy of Southeast Alaska for nearly a half century.

In 1993, the Alaska Pulp Company announced the temporary closure of it's facility in Sitka citing the unavailability of an economic timber supply. The company sought Government approval to explore conversion of their Sitka facility to some other manufacturing process such as medium density fiberboard. The Government responded by canceling the contract. Over 400 high-paying, year-round jobs were lost to the Sitka community.

In 1994 a similar fate befell the community of Wrangell with the announcement of the closure of the Wrangell Sawmill due to lack of a consistent, and economic supply of timber. Over 200 jobs were lost to this community.

Finally, in 1996 the Ketchikan Pulp Company announced the planned closure of it's operations as of March 22 of this year. Thankfully, subsequent negotiations between the Government and Ketchikan Pulp Company appear to have provided a three-year reprieve for the Company's sawmilling employees in Ketchikan and Metlakatla. However, the immediate job loss to Ketchikan is still an astounding 500+ jobs.

In summary, under the 1979 TLMP direct jobs in the timber industry have declined from a high of over 3100 in 1979 to the present low of less than half the 1979 level with closure of the KPC pulp mill. Yet additional job loss can be expected if the current direction of Federal timber policy is not reversed.

Ironically, and based on a bizarre twisting of classical economic theory, the Forest Service has consistently interpreted the declines in the timber industry as a reduction in demand for Tongass timber. This, in spite of pacific rim demand projections indicating strong and increasing demand for competitively priced wood products. The Forest Service demand projections acknowledge no agency culpability for the job losses from agency actions affecting the supply of timber, costs of production, or otherwise.

### GOSHAWKS, WOLVES AND TONGASS TIMBER

In 1993 and 94, environmental interests filed petitions with the US Fish and Wildlife Service to list the so called Queen Charlotte goshawk and Alexander Archipelago Wolf as endangered under the Endangered Species Act. The basis for the petitions was the perceived long-term threat to the two species from continued harvesting of timber from the Tongass.

After months of study, the US Fish and Wildlife Service (FWS) in 1995 concluded neither species to be endangered. Their findings, however, were qualified. The qualification was the forthcoming Tongass Land Management Plan would include changes in Federal timber policy acceptable to the Fish and Wildlife Service as adequately protecting the long-term viability of the two species. Obviously, this gave the Fish and Wildlife Service a substantial lever on the Forest Service's ultimate decision in that without FWS concurrence, listing of the goshawk and wolf became much more probable. This already substantial lever was about to become even stronger however.

In October of 1996, law suits filed by the environmental petitioners seeking to overturn the FWS's earlier "not warranted" finding proved successful. The court essentially ruled FWS could not base it's findings on the assumption that future decisions of the Forest Service would change Federal timber policy sufficiently to satisfy FWS as to the long-term viability of the two species. FWS has until May of this year to issue a new finding.

Not coincidentally, the Forest Service plans to make it's TLMP decision by early May. Clearly, the Forest Service decision will be heavily influenced by what will be

acceptable to FWS. The listing of either or both species as endangered under the Endangered Species Act will simply not be considered an acceptable outcome by either agency or, probably more importantly, the Federal Administration.

Unfortunately, the agency with the legal responsibility for making the listing decision has no legal mandate to consider the effects of its decision on the lives of the people and communities of Southeast Alaska. As a result, there is considerable pressure on the Forest Service to significantly reduce harvest levels from historic levels. Some estimates are FWS is pressing for an annual harvest level of less than 100 million board feet - a level so low as to virtually eliminate the timber industry in Southeast Alaska as a significant part of Southeast Alaska's economy.

### VALUE ADDED: SAVIOR OR MYTH

Much has been heard recently about restructuring the Southeast Alaska timber industry toward heavier reliance on "value added" processing. Value added processing is not a term with a precise meaning. Arguably, any processing which adds value to a log would meet the criterion for being a value added process. Certainly, converting low-value cull material into a product from which rayon dresses can be made, as was the case with the two now extinct pulp mills, would qualify as value added. However, as used in the current debate, value added processing has come to mean processing which produces more, and often substantially more, jobs per harvested tree than in the past. Examples used include door and window frames, moldings and musical instruments.

Value added processing has become the apple pie of the Tongass debate. Everyone is for it. Carrying the apple pie analogy a bit further, some forget apple pie is but the end product of a highly complex process. Apples must be grown, harvested, processed and transported. The same with the flour, sugar, spices, etc. Remove any one of these elements and you no longer have an apple pie. Cause any one or more of these elements to become inefficient and the price of apple pie may become uncompetitive. The same rules apply to establishing a value added timber industry in Southeast Alaska.

### **THE NEED FOR AN INTEGRATED FOREST INDUSTRY IN SUPPORT OF VALUE ADDED PROCESSING**

Expansion of significant value added timber processing opportunities in Southeast Alaska will occur only as a part of an integrated forest industry. An integrated forest industry must consist of all of the direct and indirect components necessary for a

sustainable forest industry that is economically, environmentally and socially sound. Elements of such an industry must include support industries such as tug and barge lines, financial services and communications, to name just a few.

The industry must also be of sufficient size so that its individual components are self sustaining. For example, the annual timber sale program must be sufficiently large to support at least several road building and logging contractors on a sustainable basis. The number of such contractors which will have a reasonable probability of staying in business is primarily a function of the overall size and reliability of the annual timber sale program. Below a certain level of sale activity, these skills are lost at the local level and, along with them, the competitive cost advantage of the local contractor.

The size and composition of individual sale offerings are also important factors in determining whether or not a viable integrated industry can exist. The geography, weather and relative undeveloped nature of Southeast Alaska create cost inefficiencies which, if not mitigated, place Southeast Alaska operators at a severe competitive disadvantage. For example, a particular sale offering must be of sufficient size to justify the high cost of establishing a remote camp. It must also provide enough work for at least one road building and one logging crew for at least a sufficient length of time to amortize the cost of moving in and out. Anything less and the associated cost inefficiencies will drive a company out of business.

Another important element of an integrated forest industry is its ability to utilize the full range of raw materials found in the typical Tongass forest stand. Forest stands on the Tongass are not uniform. Such stands have the potential for a wide range of products from medium density fiberboard (MDF) to piano sounding boards. Utilization of these stands requires reasonable outlets be available to process the high value material as well as the lower value logs and residual material. With the closure of the pulp mills, a serious gap has been created in the ability of industry to effectively utilize the diverse range of materials - in particular, pulp logs and residual chips from sawmilling operations.

A key component of any plan to reestablish a timber industry in Southeast Alaska must include a strategy for the utilization of these pulp logs and residual chips - responsible conservation and stewardship principles demand nothing less. Currently, with the closure of the KPC pulp facility, there is no local market for this material. Furthermore, at least in the near term, there may be no economic export market for this material in either round log form or as chips due to the high cost of transporting the

material and the availability of much lower cost alternative raw material sources. Many industry analysts predict that this trend will be long-term, adding yet another impetus to the need for the processing of this material in Southeast Alaska. Any option which fails to include realistic opportunities for the utilization of pulp logs and residual chips may not be viable from either a conservation, economic or social perspective.

Higher valued products, be they finished lumber, molding or guitar faces, typically can be made only from the higher grades of wood - grades which represent only a small fraction of the average forest stand. In other words, a fairly substantial amount of volume must be harvested and processed into other than these so called value added products if the value added products are to make a significant contribution to the creation of jobs - this even if the value added products produce several times the number of jobs per tree harvested than their more mundane cousins.

The high value added product is the pinnacle of the integrated forest industry hierarchy but it probably cannot exist in any substantial form independent of the infrastructure and support provided by the industry as a whole - at least not in Southeast Alaska. High value specialty product manufacturers do not require large volumes of wood but these manufacturers also have little ability to acquire even these relatively small amounts other than as one of many outputs from an integrated forest industry. It would be totally unreasonable to expect the high value specialty product manufacturer to go into the road building, logging and sawmilling business in order to acquire the relatively small volume of high quality raw materials needed. Conversely, the integrated industry needed to supply the raw material needs of the high value added manufacturer must process enough quantity of material to realize some measure of economy of scale in order to stay in business.

#### HOW MUCH IS ENOUGH?

In December of 1996, the Governor's Timber Task Force addressed the issue of the minimum timber supply needed to reestablish a viable, integrated timber industry. Based on a paper prepared by the industry members of the Task Force titled "Four Visions of the Timber Industry on the Tongass National Forest", the Task Force passed a resolution calling for a minimum annual harvest level of 300 million board feet (MMBF).

300 MMBF is the volume selected by the Forest Supervisor's as the preferred alternative in the draft TLMP. Prior to the announcement of the closure of the Ketchikan

Pulp facility, it was also the volume supported in public statements by the Governor (i.e., sufficient volume for KPC plus 100 MMBF for small businesses).

At the 300 MMBF harvest level, there would be sufficient volume to justify the establishment of a minimum facility to process low grade logs and residual chips. Approximately 307 jobs would be provided through road construction, 578 jobs through timber harvesting and 25 jobs through exporting cedar. There would be 505 sawmilling jobs to provide primary manufacture. The sawmills would be operating at 70-75% capacity. There would be 125 jobs connected with the pulp logs and residual chip facility and 209 jobs connected with value added manufacturing facilities such as remanufacturing, planing, finger joints, molding and shakes. Opportunities for additional value added facilities would be limited only by the imagination of the entrepreneurial community to define viable business opportunities. The raw and semi-processed materials needed for such value added products would be available.

### BALANCING JOBS AND THE ENVIRONMENT

According to the Forest Service, 300 MMBF of timber can be harvested from the Tongass on an annual basis in perpetuity without significant adverse environmental effects to fish, wildlife or other important resources. This was the conclusion of the three Tongass Forest Supervisors in announcing their recommended alternative on April 5 of last year. The Forest Supervisor's alternative, with an economic allowable sale of 297 MMBF, was characterized by the Supervisors as reflecting "---a balanced judgment in how best to resolve the issues facing the Tongass because it is based on the analysis conducted by the interdisciplinary team and the scientists, with the input of these other agencies".

Again according to the Forest Service the draft Tongass plan with its recommended harvest level of 297 MMBF "---was developed with much greater involvement by Forest Service Research scientists and representatives of the Environmental Protection Agency and Fish and Wildlife Service than any previous forest planing proposal".

With respect to the effects of the Forest Supervisor's recommended alternative on wildlife, the Supervisors stated "We believe, after a through review of the panel assessments and related work in the Revised Supplement, that our preferred alternative, if implemented for 10-15 years, will maintain the viability and distribution of wildlife

species across the Tongass." There has been no "new" science since the Forest Supervisors reached this conclusion. Clearly, a 300 MMBF harvest level from the Tongass is attainable while meeting environmental constraints and our stewardship and sustainability responsibilities.

### CONCLUSION

The long awaited conclusion of the Tongass Land Management Plan appears to be near. The decision by the Forest Service will have profound effects on the people and communities of Southeast Alaska. That decision is being heavily influenced by single issue concerns of the US Fish and Wildlife Service for long-term protection of goshawks and wolves - concerns with inadequate scientific basis but with potentially dire consequences for reestablishing a viable timber industry in Southeast Alaska.

The Governor's Timber Task Force has recommended the Forest Service select a plan which allows for a harvest level from the Tongass of at least 300 MMBF annually in order to reestablish an industry capable of utilizing the full range of timber from the Tongass and of providing the raw and semi-processed material needed for new value added industries to become established. An annual harvest level of 300 MMBF is attainable while protecting fish, wildlife and the other important resources of the Tongass and Southeast Alaska.

TESTIMONY OF WALT SHERIDAN BEFORE THE ALASKA STATE SENATE  
ON SJR24: A RESOLUTION RELATING TO THE TONGASS LAND  
MANAGEMENT PLAN AND TO CONTINUED CONGRESSIONAL  
OVERSIGHT OF THAT PLAN.

MARCH 26, 1997

MR. CHAIRMAN, I CONGRATULATE SENATOR MACKIE FOR INTRODUCING SJR24 AND YOU, MR. CHAIRMAN, FOR HOLDING THIS HEARING. THE RESOLUTION AND HEARING COULDN'T BE MORE TIMELY.

SJR24 DOES A COUPLE OF THINGS. FIRST, IT ENCOURAGES THE US FOREST SERVICE TO BRING THE DECADE-LONG TONGASS LAND MANAGEMENT PROCESS TO A CLOSE. AND SECONDLY, IT PUTS THE ALASKA STATE LEGISLATURE ON RECORD SUPPORTING AN ANNUAL TIMBER HARVEST LEVEL OF AT LEAST 300 MMBF.

WHY THE RUSH AND WHY 300? I WOULD LIKE TO BRIEFLY TALK ABOUT EACH OF THESE QUESTIONS.

FIRST OF ALL, BRINGING THE TONGASS PLAN TO CONCLUSION - NOW - IS BY NO STRETCH OF THE IMAGINATION A RUSH. THE FOREST SERVICE HAS BEEN WORKING ON THE PLAN FOR OVER A DECADE - A DECADE DURING WHICH WE'VE SEEN THE LOSS OF OVER HALF OF THE DIRECT TIMBER INDUSTRY EMPLOYMENT IN SOUTHEAST ALASKA.

FURTHERMORE, THE FAILURE OF THE FOREST SERVICE TO PRODUCE A REVISED TONGASS PLAN HAS PUT THE ECONOMIC LIVES OF THE PEOPLE AND COMMUNITIES OF SOUTHEAST ALASKA ON HOLD.

THE REVISED PLAN WILL LET THE PEOPLE AND COMMUNITIES OF SOUTHEAST ALASKA KNOW WHAT RESOURCES FROM THE TONGASS NATIONAL FOREST WILL BE AVAILABLE FOR THE NEXT TEN TO FIFTEEN YEARS - RESOURCES AROUND WHICH THEY CAN RE-BUILD THEIR ECONOMIC FUTURES. THE REVISED PLAN WILL PROVIDE A DEGREE OF CERTAINTY AND PREDICTABILITY - ALL NECESSARY ELEMENTS FOR ATTRACTING INVESTMENT IN NEW PLANTS AND EQUIPMENT. WITHOUT A DEGREE OF CERTAINTY, INVESTMENT DOLLARS ARE SIMPLY NOT AVAILABLE. THIS IS THE SITUATION WE HAVE BEEN IN FOR SEVERAL YEARS.

THERE ARE ALSO INDICATIONS THE FOREST SERVICE IS UNDER INTENSE PRESSURE FROM THE US FISH AND WILDLIFE SERVICE TO DRASTICALLY REDUCE HARVEST ON THE TONGASS IN RESPONSE TO CONCERNS ABOUT GOSHAWKS AND WOLVES. THESE CONCERNS DO NOT JUSTIFY A FURTHER DELAY. THERE IS NO NEW SCIENCE ON WHICH TO BASE THESE CONCERNS OVER WHAT WAS AVAILABLE LAST YEAR WHEN THE FOREST SERVICE ISSUED THE DRAFT TONGASS PLAN ALLOWING A HARVEST LEVEL OF 297 MMBF AND FWS ISSUED ITS FINDING THAT

GOSHAWKS AND WOLVES WOULD NOT BE ENDANGERED AT THAT LEVEL OF HARVEST.

A SECOND IMPORTANT ELEMENT OF SJR24 WOULD PUT THE ALASKA LEGISLATURE ON RECORD AS SUPPORTING A MINIMUM ANNUAL HARVEST LEVEL FROM THE TONGASS OF 300 MMBF - THE SAME AMOUNT OF HARVEST RECENTLY ENDORSED BY THE GOVERNOR'S TIMBER TASK FORCE.

THE QUESTION IS, WHY 300?

NOW THAT THE MILLS WITH THEIR LONG-TERM SUPPLY CONTRACTS ARE GONE, WHY CAN'T WE RESTRUCTURE A TIMBER INDUSTRY BASED ON VALUE ADDED PROCESSING AND PRODUCE THE SAME OR MORE JOBS ON A MUCH SMALLER AMOUNT OF TIMBER?

THE ANSWER TO THESE QUESTIONS IS WE CAN AND SHOULD RESTRUCTURE A TIMBER INDUSTRY AROUND VALUE ADDED PROCESSING BUT THIS WILL BE POSSIBLE ONLY IF WE CAN FIND A WAY TO DEAL WITH LOW QUALITY PULP LOGS. IN ORDER TO ESTABLISH A VALUE ADDED INDUSTRY WE MUST ALSO SUSTAIN SUFFICIENT INFRASTRUCTURE AND PRIMARY MANUFACTURING CAPABILITY TO EFFICIENTLY LOG, TRANSPORT AND PROCESS THE RAW MATERIALS NEEDED BY THE VALUE ADDED SEGMENT OF THE INDUSTRY. ACCORDING TO INDUSTRY EXPERTS

AND THE GOVERNOR'S TIMBER TASK FORCE, AN ANNUAL HARVEST LEVEL OF 300 MMBF IS THE MINIMUM NECESSARY TO ACCOMPLISH THIS.

VALUE ADDED PROCESSING IS NOT A TERM WITH A PRECISE MEANING. ARGUABLY, ANY PROCESSING WHICH ADDS VALUE TO A LOG WOULD MEET THE CRITERION FOR BEING A VALUE ADDED PROCESS. CERTAINLY, CONVERTING LOW-VALUE CULL MATERIAL INTO A PRODUCT FROM WHICH RAYON DRESSES CAN BE MADE, AS WAS THE CASE WITH THE TWO NOW EXTINCT PULP MILLS, WOULD QUALIFY AS VALUE ADDED. HOWEVER, AS USED IN THE CURRENT DEBATE, VALUE ADDED PROCESSING HAS COME TO SIMPLY MEAN PROCESSING WHICH PRODUCES MORE JOBS PER HARVESTED TREE THAN IN THE PAST. EXAMPLES USED INCLUDE DOOR AND WINDOW FRAMES, MOLDINGS AND MUSICAL INSTRUMENTS.

VALUE ADDED PROCESSING HAS BECOME THE APPLE PIE OF THE TONGASS DEBATE. EVERYONE IS FOR IT. CARRYING THE APPLE PIE ANALOGY A BIT FURTHER, SOME FORGET APPLE PIE IS BUT THE END PRODUCT OF A HIGHLY COMPLEX PROCESS. APPLES MUST BE GROWN, HARVESTED, PROCESSED AND TRANSPORTED. THE SAME WITH THE FLOUR, SUGAR, SPICES, ETC. REMOVE ANY ONE OF THESE ELEMENTS AND YOU NO LONGER HAVE AN APPLE PIE. CAUSE ANY ONE OR MORE OF THESE ELEMENTS TO BECOME INEFFICIENT AND THE PRICE OF APPLE PIE MAY BECOME UNCOMPETITIVE. THE SAME RULES APPLY TO

ESTABLISHING A VALUE ADDED TIMBER INDUSTRY IN SOUTHEAST ALASKA.

VALUE ADDED PRODUCTS, BE THEY FINISHED LUMBER, MOLDING OR GUITAR FACES, TYPICALLY CAN BE MADE ONLY FROM THE HIGHER GRADES OF WOOD - GRADES WHICH REPRESENT ONLY A SMALL FRACTION OF THE AVERAGE FOREST STAND. IN OTHER WORDS, A FAIRLY SUBSTANTIAL AMOUNT OF VOLUME MUST BE HARVESTED AND PROCESSED INTO OTHER THAN THESE SO CALLED VALUE ADDED PRODUCTS IF THE VALUE ADDED PRODUCTS ARE TO MAKE A SIGNIFICANT CONTRIBUTION TO THE CREATION OF JOBS.

VALUE ADDED MANUFACTURERS DO NOT REQUIRE LARGE VOLUMES OF WOOD BUT THESE MANUFACTURERS ALSO HAVE LITTLE ABILITY TO ACQUIRE EVEN THESE RELATIVELY SMALL AMOUNTS OTHER THAN AS ONE OF MANY OUTPUTS FROM AN INTEGRATED FOREST INDUSTRY. IT WOULD BE TOTALLY UNREASONABLE TO EXPECT VALUE ADDED MANUFACTURER TO GO INTO THE ROAD BUILDING, LOGGING AND SAWMILLING BUSINESS. CONVERSELY, THE INTEGRATED INDUSTRY REQUIRED TO SUPPLY THE RAW MATERIAL NEEDS OF THE HIGH VALUE ADDED MANUFACTURER MUST PROCESS ENOUGH QUANTITY OF MATERIAL TO REALIZE SOME MEASURE OF ECONOMY OF SCALE IN ORDER TO STAY IN BUSINESS.

EQUALLY IMPORTANT, WE MUST HAVE SOME WAY OF DEALING WITH THE LOW QUALITY LOGS WHICH CAN ACCOUNT FOR AS MUCH AS HALF OF THE TYPICAL TONGASS FOREST STAND. WE CAN'T SIMPLY LOG AROUND THE LOW QUALITY MATERIAL, TAKING ONLY THE BEST, AS TO DO SO WOULD LEAVE A LEGACY FOR OUR CHILDREN AND GRANDCHILDREN OF DEGRADED FOREST STANDS MADE UP PRIMARILY OF LOW GRADE DEFECTIVE MATERIAL. NOT AN ACCEPTABLE OUTCOME.

UTILIZATION OF THESE FOREST STANDS, WHICH ARE A MIX OF HIGH AND LOW VALUE MATERIAL REQUIRES REASONABLE OUTLETS FOR BOTH THE HIGH VALUE MATERIAL AS WELL AS THE LOWER VALUE LOGS AND RESIDUAL MATERIAL. WITH THE CLOSE OF THE PULP MILLS, A SERIOUS GAP HAS BEEN CREATED IN THE ABILITY OF INDUSTRY TO EFFECTIVELY UTILIZE THE DIVERSE RANGE OF MATERIALS - IN PARTICULAR, PULP LOGS AND RESIDUAL CHIPS FROM SAWMILLING OPERATIONS.

A KEY COMPONENT OF ANY PLAN TO REESTABLISH A TIMBER INDUSTRY IN SOUTHEAST ALASKA MUST INCLUDE A STRATEGY FOR THE UTILIZING THESE PULP LOGS AND RESIDUAL CHIPS - RESPONSIBLE CONSERVATION AND STEWARDSHIP PRINCIPLES DEMAND NOTHING LESS. WITH YESTERDAY'S CLOSING OF THE KPC PULP FACILITY, THERE IS NO LOCAL MARKET FOR THIS MATERIAL. FURTHERMORE, AT LEAST IN THE NEAR TERM, THERE MAY BE NO ECONOMIC EXPORT MARKET EITHER. MANY INDUSTRY ANALYSTS PREDICT THAT THIS TREND WILL BE LONG-

TERM, ADDING YET FURTHER IMPETUS TO THE NEED FOR THE PROCESSING OF THIS MATERIAL IN SOUTHEAST ALASKA. ANY OPTION WHICH FAILS TO INCLUDE REALISTIC OPPORTUNITIES FOR THE UTILIZATION OF PULP LOGS AND RESIDUAL CHIPS MAY NOT BE VIABLE FROM EITHER A CONSERVATION, ECONOMIC OR SOCIAL PERSPECTIVE.

AT THE 300 MMBF HARVEST LEVEL, THERE WOULD BE SUFFICIENT VOLUME TO JUSTIFY THE ESTABLISHMENT OF A MINIMUM FACILITY TO PROCESS THE LOW GRADE LOGS AND RESIDUAL CHIPS. A HARVEST LEVEL OF 300 MMBF ALSO PROVIDES SUFFICIENT VOLUME TO SUPPORT AT LEAST MINIMALLY EFFICIENT HARVESTING OPERATIONS, SAWMILLING, PLANING AND AT LEAST ONE DRY KILN OPERATION IN SOUTHEAST ALASKA - ALL NECESSARY IF THE RAW MATERIALS FOR FURTHER VALUE ADDED PROCESSING ARE TO BE AVAILABLE. WITH THIS INFRASTRUCTURE IN PLACE, OPPORTUNITIES FOR ADDITIONAL VALUE ADDED FACILITIES WOULD BE LIMITED ONLY BY THE IMAGINATION OF THE ENTREPRENEURIAL COMMUNITY TO DEFINE VIABLE BUSINESS OPPORTUNITIES. THE RAW AND SIMI-PROCESSED MATERIALS NEEDED FOR SUCH VALUE ADDED PRODUCTS WOULD BE AVAILABLE.

THE NEXT OBVIOUS QUESTION IS CAN 300 MMBF OF TIMBER BE HARVESTED ANNUALLY FROM THE TONGASS WITHOUT INCURRING UNACCEPTABLE ENVIRONMENTAL COSTS. IN OTHER WORDS CAN WE CONTINUE TO PRODUCE RECORD NUMBERS OF FISH, MAINTAIN VIABLE

POPULATIONS OF WILDLIFE, INCLUDING GOSHAWKS AND WOLVES, AND STILL CUT 300 MMBF OF TIMBER EACH YEAR.

I BELIEVE THE ANSWER IS A RESOUNDING YES AND SO DID THE FOREST SERVICE AT LEAST THROUGH APRIL 5 OF LAST YEAR WHEN THEY ISSUED THEIR DRAFT TONGASS PLAN.

ACCORDING TO THE FOREST SERVICE, 300 MMBF OF TIMBER CAN BE HARVESTED FROM THE TONGASS ON AN ANNUAL BASIS IN PERPETUITY WITHOUT SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS TO FISH, WILDLIFE OR OTHER IMPORTANT RESOURCES. THIS WAS THE CONCLUSION OF THE THREE TONGASS FOREST SUPERVISORS IN ANNOUNCING THEIR RECOMMENDED ALTERNATIVE ON APRIL 5 OF LAST YEAR. THE FOREST SUPERVISOR'S ALTERNATIVE, WITH AN ECONOMIC ALLOWABLE SALE QUANTITY OF 297 MMBF, WAS CHARACTERIZED BY THE SUPERVISORS AS REFLECTING "---A BALANCED JUDGMENT IN HOW BEST TO RESOLVE THE ISSUES FACING THE TONGASS BECAUSE IT IS BASED ON THE ANALYSIS CONDUCTED BY THE INTERDISCIPLINARY TEAM AND THE SCIENTISTS, WITH THE INPUT OF (THESE) OTHER AGENCIES".

AGAIN ACCORDING TO THE FOREST SERVICE THE DRAFT TONGASS PLAN WITH ITS RECOMMENDED HARVEST LEVEL OF 297 MMBF "---WAS DEVELOPED WITH MUCH GREATER INVOLVEMENT BY FOREST SERVICE RESEARCH SCIENTISTS AND REPRESENTATIVES OF THE ENVIRONMENTAL

PROTECTION AGENCY AND FISH AND WILDLIFE SERVICE THAN ANY PREVIOUS FOREST PLANING PROPOSAL”.

WITH RESPECT TO THE EFFECTS OF THE FOREST SUPERVISOR'S RECOMMENDED ALTERNATIVE ON WILDLIFE, THE SUPERVISORS STATED “WE BELIEVE, AFTER A THROUGH REVIEW OF THE PANEL ASSESSMENTS AND RELATED WORK IN THE REVISED SUPPLEMENT, THAT OUR PREFERRED ALTERNATIVE, IF IMPLEMENTED FOR 10-15 YEARS, WILL MAINTAIN THE VIABILITY AND DISTRIBUTION OF WILDLIFE SPECIES ACROSS THE TONGASS.”

THERE HAS BEEN NO “NEW” SCIENCE SINCE THE FOREST SUPERVISORS REACHED THIS CONCLUSION. CLEARLY, A 300 MMBF HARVEST LEVEL FROM THE TONGASS IS ATTAINABLE WHILE MEETING ENVIRONMENTAL CONSTRAINTS AND OUR STEWARDSHIP AND SUSTAINABILITY RESPONSIBILITIES.

### CONCLUSION

THE GOVERNOR'S TIMBER TASK FORCE HAS RECOMMENDED THE FOREST SERVICE SELECT A PLAN WHICH ALLOWS FOR A HARVEST LEVEL FROM THE TONGASS OF AT LEAST 300 MMBF ANNUALLY IN ORDER TO REESTABLISH AN INDUSTRY CAPABLE OF UTILIZING THE FULL RANGE OF TIMBER FROM THE TONGASS AND OF PROVIDING THE RAW AND SIMI-PROCESSED MATERIAL NEEDED FOR NEW VALUE ADDED INDUSTRIES TO

BECOME ESTABLISHED. THE TASK FORCE'S RECOMMENDATION IS SUPPORTED BY THE TONGASS FOREST SUPERVISOR'S RECOMMENDED ALTERNATIVE. AN ANNUAL HARVEST LEVEL OF 300 MMBF IS ATTAINABLE WHILE PROTECTING FISH, WILDLIFE AND THE OTHER IMPORTANT RESOURCES OF THE TONGASS AND SOUTHEAST ALASKA.

PASSAGE OF SJR24 WILL SEND AN IMPORTANT MESSAGE TO THE FOREST SERVICE AND, MORE IMPORTANTLY, THE ADMINISTRATION, THAT ALASKANS WANT TO GET ON WITH THEIR PERSONAL AND ECONOMIC LIVES INCLUDING THE OPPORTUNITY TO ESTABLISH A VALUE ADDED TIMBER INDUSTRY THAT IS ECONOMICALLY VIABLE AND ENVIRONMENTALLY SOUND.

THANK YOU FOR THE OPPORTUNITY TO TESTIFY.



Official Business

# ALASKA STATE LEGISLATURE

## SENATE RESOURCES COMMITTEE

State Capitol  
Juneau, AK 99801

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Vice Chair: Senator Lyda Green  
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Senator Bert Sharp  
Senator Robin Taylor  
Senator John Torgerson  
Senator Georgianna Lincoln

### MEMORANDUM

TO: Senate Resource Committee Members

FROM: Senator Rick Halford, Chairman  
Senate Resources

DATE: 3 April 1997

SUBJECT: SJR 24 Follow-up Materials

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Attached are two packets of follow-up materials delivered to me by Buck Lindekugel on behalf of the Southeast Alaska Conservation Council. He requested that I distribute copies to all Senate Resource Committee members.

SJR 24 was heard and passed out of committee on March 26, 1997.



# Southeast Alaska Conservation Council

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email: seacc@alaska.net

March 27, 1997

Senator Richard Halford  
Chairman, Senate Resource Committee  
Alaska State Legislature  
State Capital Building, Room 121  
Juneau, AK 99801

Dear Chairman Halford:

Thank you for the opportunity to testify before your committee yesterday on SJR 24. At the hearing, Senator Taylor asked me to identify what scientific expertise SEACC had relied upon for concluding that the minimum logging level of 300 million board feet called for by SJR 24 was "an unsustainable and environmentally destructive cutting level." Enclosed with this letter we are providing the committee with information in response to Senator Taylor's request. We respectfully request this information be added to the committee record on this matter.

The enclosed summarizes the key expert opinion of various scientists and panels consulted by the Forest Service about wildlife and fish habitat needs in the process of preparing the current draft Tongass Plan. This summary is meant to provide rapid access to the most important scientific evidence about problems with the draft Tongass Plan. Following an introduction, it is organized into six (numbered) statements, under which the relevant science is quoted or summarized, with citations.

We believe the review by experts of all the alternatives in the draft Tongass Plan, including the Forest Supervisors' preferred alternative, definitely supports our conclusion that none of the draft planning alternatives respond to the conclusions reached by experts consulted by the Forest Service in a meaningful way. We believe the Forest Service lacks a reasonable basis for adopting the Forest Supervisors' Preferred Alternative because of its inability to articulate a rational connection between the facts found by the experts it consulted and the choices made.

We reiterate our desire for the Forest Service to complete the Tongass planning process. Nevertheless, a decision that runs counter to the advice this agency has received from the expert scientists will not provide long-term stability for Southeast Alaska communities.

Best Regards,

  
Buck Lindekugel  
Conservation Director

enclosure: Summary of expert opinion on current draft of the Tongass Plan

LYNN CANAL CONSERVATION, Haines • FRIENDS OF GLACIER BAY, Gustavus • FRIENDS OF BERNERS BAY, Juneau  
WRANGELL RESOURCE COUNCIL • ALASKA SOCIETY OF AMERICAN FOREST DWELLERS, Point Baker • PELICAN FORESTRY COUNCIL,  
ALASKANS FOR JUNEAU • NARROWS CONSERVATION COALITION, Petersburg • TONGASS CONSERVATION SOCIETY, Ketchikan  
CHILLAGOF CONSERVATION COUNCIL, Tenakee • JUNEAU GROUP SIERRA CLUB • SITKA CONSERVATION SOCIETY  
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## Introduction and Summary

Management alternatives in the Tongass Land Management Plan (TLMP) Revised Supplemental Draft Environmental Impact Statement (RSDEIS) are inconsistent with scientific opinion about the needs of fish and wildlife species found on the Forest. This failing characterizes not just the Preferred Alternative, but all other action alternatives as well. As a result, the Tongass has no scientifically credible strategy under consideration for meeting its multiple legal obligations with regard to these species.<sup>1</sup>

Most centrally, a number of expert reviews have concluded that habitat management of the Tongass must include larger (and/or more numerous) reserve areas than those the Forest Service is considering, and needs to shift to less intensive silviculture between reserves. The best reserve system considered in any alternative is a version of the 1993 "V-POP" strategy, designed by an interagency team of government scientists lead by Lowell Suring. No subsequent analysis of that original strategy has found it adequate, and the Suring/V-POP committee itself substantially modified and strengthened its reserve plan in 1994, in response to outside peer review. In addition, numerous analyses have concluded that continued reliance on short-rotation, large-scale clearcutting is inconsistent with wildlife needs (in most cases even if stronger reserves are adopted). The only alternative approach considered in the TLMP RSDEIS -- 200 year

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<sup>1</sup> These requirements most notably include the duty to ensure that sufficient habitat is maintained for viable populations of native vertebrate wildlife species. See 36 C.F.R. §§ 219 & 227. The Tongass is also at grave risk of triggering listings under the federal Endangered Species Act (ESA), because no alternative responds to conservation assessments conducted by government scientists for two candidate species or to the comments of the U.S. Fish & Wildlife Service (USF&WS). In addition, the Forest Service, like other federal agencies, has a mandate under the Alaska National Interest Lands Conservation Act (ANILCA) to "cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources" of federal lands in Alaska. See 16 U.S.C. § 3112(1); see also *id.* at subsection 2 ("nonwasteful subsistence uses of fish and wildlife and other renewable resources shall be the priority uses" if any restrictions are needed to assure the continued viability of fish and wildlife or continued subsistence practices), and § 3120(a) (Federal agencies may significantly restrict subsistence uses only when "necessary, consistent with sound management principles for the utilization of public lands"). To meet subsistence demand, populations of subsistence species must generally be huntable or fishable, and hence significantly larger and healthier than might be required just for minimum viability.

rotations<sup>2</sup> -- has been specifically identified as inadequate to provide needed habitat values.

Other major failings of the RSDEIS include: failure to include high quality riparian buffer standards on any streams, except in one alternative (not the preferred); lack of protections against continued "high-grade" logging of the best wildlife habitat; and inadequate provision for movement between habitat reserves, via wildlife corridors or other measures.

#### Key Findings from Expert<sup>3</sup> Panels and Documents

1. Larger reserve areas (significantly more than identified in the original V-POP strategy), off limits to logging and/or road-building, are needed to safeguard important habitat for fish and wildlife.

- At least pending development of a much stronger scientific analysis of Tongass ecology, "further logging in the remaining relatively undisturbed watersheds of the Tongass should be regarded as inconsistent with ensuring the continued viability of resident wildlife populations." Joint Statement of Peer Review Committee Members, p. 6.
- The original 1993 V-POP reserve strategy is not adequate to ensure viability of all species. Review of Wildlife Management and Conservation Biology on the Tongass National Forest ("Peer Review"), p. 1.
- "All of the [RSDEIS] alternatives fail to address the need, identified in the peer review and other assessments, for protection of larger and additional blocks of old growth habitat than proposed by the Suring Committee." Joint Statement of Peer Review Committee Members, p. 4.
- "Panelists generally recommended that first priority would be to retain currently unroaded watersheds in a roadless condition" [within range of brown bear]. Brown Bear Panel Summary, p. 3.

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<sup>2</sup> The RSDEIS only considers 200 year rotations in connection with a no-habitat-reserves alternative and with a highly truncated version of the original, concededly inadequate V-POP proposal.

<sup>3</sup> Included in this category are the results of a FEMAT style panel assessment of subsistence issues conducted by the Forest Service as part of its TLMP process. "Expert" and "scientific" are used here, interchangeably, to encompass the subsistence panel's work as well as that of the fisheries, wildlife, and other biologists who participated in other panels and assessments.

- Past logging impacts led a panel of mammologists to rate the likelihood of viability problems for at least some of a group of endemic species as two out of three, and for widely-distributed mammals as one in three, even without any additional logging; "likelihoods increased with higher levels of harvest proposed." Other Terrestrial Mammals Panel Summary, p. 4 and attached graph showing rating of alternatives.
- In order to keep landscape options open, "[d]o not further fragment existing large blocks of high volume old-growth." Peer Review, p. 2.
- Suring Committee agrees with Peer Review's recommendations for immediate changes in Tongass management: "it is important that the largest remaining patches not be fragmented." Response to the Peer Review of: A Proposed Strategy for Maintaining Well-Distributed, Viable Populations of Wildlife Associated with Old-growth Forests in Southeast Alaska ("Response to the Peer Review"), p. 8.
- Logging "should not result in further fragmentation of contiguous blocks of old-growth habitat." USF&WS Comments on RSDEIS, p. 3.
- All alternatives need to have a forest-wide reserve system, with "peer-review suggested modifications." USF&WS Comments on RSDEIS, p. 14.
- "Size of [the largest proposed reserves in the RSDEIS] is a concern." Goshawk Panel Notes, p. 8.
- Lower risk to viability is achieved only when V-POP based habitat conservation areas (HCAs) are combined with additional old growth reserve approaches. Viability Synthesis Panel, p. 11.
- In areas with extensive clearcutting within the range of the wolf, the Forest Service should preserve several large unfragmented, unroaded habitat blocks per ecological province [larger than those designed proposed in the 1993 V-POP strategy]. Wolf Assessment, p. 42

2. The short-rotation, large scale clearcutting that dominated Tongass management under the 50-year pulp company contracts must be replaced by much less intensive silviculture that better approximates prevailing small scale natural disturbance patterns and/or allows for re-establishment of old growth characteristics; 200-year rotations do not meet this need.

- Management of the Tongass should be based on natural disturbance regimes. Peer Review, p. 31.
- The Suring (V-POP) Committee "strongly endorses" the concept of using natural disturbance patterns to guide management, "especially in the development of management standards for the habitat matrix [outside HCA reserves]. Patterning management after natural disturbance regimes is a tenet of ecosystem management, and is gaining widespread support in the scientific community." Response to the Peer Review, p. 10.
- No action alternative in the RSDEIS would "mimic in any way the dominant natural, low intensity disturbance patterns characteristic of the Tongass." Joint Statement of Peer Review Committee Members, p. 4.
- USF&WS "believes that the 'matrix management' scheme of small area uneven-age tree management that mimics the natural disturbance regime, is the best silvicultural strategy for retaining suitable old-growth forest components." USF&WS Comments on RSDEIS, p. 3; see also id., p. 13 (need to "develop and implement a forest management strategy that is based on natural disturbance regimes").
- Throughout the goshawk panel's deliberations, the need for an alternative "that managed commensurate with the size, scale, and intensity of prevailing disturbance regimes" was emphasized. Goshawk Panel Notes, p. 8; see also id., p. 6 (entire alternative needs to be based on unevenaged management).
- 200 year rotation "will not allow substantial development of old growth characteristics in the forest." Joint Statement of Peer Review Committee Members, p. 4.
- A 200 year rotation "is unlikely to regenerate old growth stand structure selected by goshawks." Goshawk Assessment, p. 107.
- The scientific literature indicates that "old-growth characteristics do not begin to develop until approximately 250 years." USF&WS Comments on RSDEIS, p. 4.
- Unevenaged management "generally favors subsistence use." Subsistence Panel Summary, p. 6.

3. Several analyses of wildlife habitat issues on the Tongass over the past two years have stressed the need for both a forestwide reserve system (generally one enhanced over that proposed in the basic 1993 V-POP plan) and much less intensive logging in the matrix between reserves.

- "Criticisms common among panels included the failure of the Forest Service to include any alternative with a combination of forest-wide reserves and effective measures to enhance old growth habitat in the matrix." Joint Statement of Peer Review Committee Members, p. 3.
- In order to provide for wildlife populations, the Forest Service must consider alternatives that "combine an expanded reserve system throughout the Forest with a matrix management strategy that will protect important old growth habitat and provide for connectivity." Joint Statement of Peer Review Committee Members, p. 7.
- Management approaches with lower risk to viability generally combine expanded reserves with either unevenaged natural disturbance-based logging or longer rotation ages. Viability Synthesis Panel, p. 11.
- "Management of the matrix between reserves can be successful only if it emphasizes a shift toward logging methods that mimic natural disturbance regimes." Joint Statement of Peer Review Committee Members, p. 7.
- Reserves and longer rotations together is "a very good mix for subsistence." Subsistence Panel Summary, p. 5.
- Forestwide reserve system and 200 year rotation recommended for marten viability. Marten Panel Summary, p. 3.

4. Special riparian standards, much more restrictive than those proposed in the Anadromous Fish Habitat Assessment (AFHA) and TLMP Option 2, are indicated for many Tongass streams.

- Watersheds of special significance to fisheries should receive Option 1 protections. USF&NS Comments on RSDRIS, p. 8.
- All management alternatives considered by the Forest Service should get Option 1 riparian protections for the "highest valued watersheds." Riparian Panel Summary, p. 14; see also id., p. 13 (even with Option 1, the risk of detrimental impacts on fish would be "relatively high").

- "Several panelists would have preferred application of riparian option 1." Marten Panel Summary, p. 2.
- Forested leave strips for headwater areas [not required by AFHA] were considered "important." Riparian Panel Summary, p. 13.
- "Even the largest buffers of over 250 feet provided in option 1 on Moderate Gradient/Mixed Control channel types was considered insufficient to meet riparian cover objectives for brown bears. After extensive discussion, panelists strongly recommended that a minimum 500' no harvest riparian buffer be maintained along streams considered important for brown bear foraging." Brown bear Panel Summary, p. 2.
- Option 1 riparian protection was favored for subsistence purposes. Subsistence Panel Summary, p. 6.

5. Special protection is needed to preserve the remaining highest volume old growth, especially at lower elevations, because of its scarcity, critical habitat value, and past disproportionate logging.

- Specific measures are needed to conserve "rare Volume Class 7 type stands." USF&WS Comments on RSDEIS, p. 4.
- Past targeting of high volume old growth requires "compensatory lowgrading," starting immediately. Peer Review, p. 25.
- The Forest Service should "defer logging and road building in volume class 6 and 7 old-growth forest ... below 800 feet elevation" until a biological survey is completed. Care should also be taken not to highgrade existing stands of volume class 5 old-growth." Response to the Peer Review, p. 9.

6. Additional habitat protections, designed to promote connectivity among habitat reserves, need to be mandatory features of a wildlife habitat strategy.

- No-logging corridors on the order of 1600 feet wide are needed between large habitat conservation areas (HCAs), and of 1000 feet wide between medium ECAs. Response to the Peer Review, p. 8.
- The Forest Service should protect existing travel corridors and strive to maintain as much connectivity between old growth blocks as possible. USF&WS Comments on RSDEIS, p. 6.

- "Connectivity of important wildlife habitat is not at all adequately addressed by the RSDEIS alternatives." Joint Statement of Peer Review Committee Members, p. 5.
- "Even the widest proposed riparian buffers ... would not assure interaction among habitat blocks." Joint Statement of Peer Review Committee Members, p. 5.
- "20 miles may be too far to ensure demographic interchange among bears between reserves." Brown Bear Panel Summary, p. 4.



# Southeast Alaska Conservation Council

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April 2, 1997

Senator Richard Halford  
Chairman, Senate Resource Committee  
Alaska State Legislature  
State Capital Building, Room 121  
Juneau, AK 99801

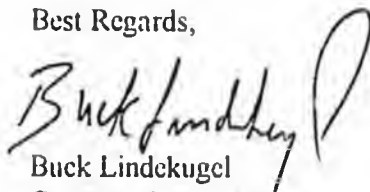
Dear Chairman Halford:

Enclosed are some follow-up materials to my letter dated March 27, 1997. Attached to that letter was a summary of key expert opinions reached by various scientists and panels whom the Forest Service consulted with during preparation of the current draft Tongass Plan regarding measures necessary to safeguard important fish and wildlife habitat for the short and long term. In order to more fully respond to Senator Taylor's question about which "experts" SEACC relied upon in concluding that the minimum 300-foot logging level called for in SJR 24 is "an unsustainable and environmentally destructive cutting level," I have enclosed several lists naming those scientists.

The first enclosure is a list of the government scientists with the relevant expertise and detailed knowledge of local conditions who made up the Interagency Committee. This Committee was formed in 1990 after the Forest Service concluded that it lacked a supportable strategy for maintaining viable wildlife populations well-distributed across the Tongass. The second enclosure lists those scientists who participated in the Congressionally mandated peer-review (1994) of the Interagency Committee's work. Eighteen highly qualified experts from the Forest Service, academia, and other governmental and non-governmental organizations participated in the review. Finally, I've included a list of the state and federal scientists who participated in the study and report to Congress on the effectiveness of Forest Service salmon and steelhead habitat protection on the Tongass National Forest, the Anadromous Fish Habitat Assessment (1995). Each of these groups of scientific experts concluded that more needed to be done to adequately assure the short and long-term protection of fish and wildlife populations on the Tongass. Unfortunately, the Forest Supervisors' ignored the recommendations of their own experts when they fabricated their preferred alternative last April.

We respectfully request this information be added to the committee record on this matter.

Best Regards,

  
Buck Lindekugel  
Conservation Director

3 enclosures

LYNN CANAL CONSERVATION, Haines • FRIENDS OF GLACIER BAY, Gustavus • FRIENDS OF BERNERS BAY, Juneau  
WRANGELL RESOURCE COUNCIL • ALASKA SOCIETY OF AMERICAN FOREST DWELLERS, Point Baker • PELICAN FORESTRY COUNCIL  
ALASKANS FOR JUNEAU • NARROWS CONSERVATION COALITION, Petersburg • TONGASS CONSERVATION SOCIETY, Ketchikan  
CHICHIAGO OF CONSERVATION COUNCIL, Tenakee • JUNEAU GROUP SIERRA CLUB • SITKA CONSERVATION SOCIETY  
TAKU CONSERVATION SOCIETY, Juneau • PRINCE OF WALES CONSERVATION LEAGUE, Craig • YAKUTAT RESOURCE CONSERVATION COUNCIL



SEACC

A PROPOSED STRATEGY FOR MAINTAINING WELL-DISTRIBUTED, VIABLE POPULATIONS  
OF WILDLIFE ASSOCIATED WITH OLD-GROWTH FORESTS  
IN SOUTHEAST ALASKA

Report of an  
Interagency Committee

Lowell H. Suring, Chairman  
D. Coleman Crocker-Bedford  
Rodney W. Flynn  
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Review Draft

Juneau, Alaska  
May 1993

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Academic Training: B.S. University of Washington, 1973, Forest Science  
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5 May 1993 - Final Review Draft

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Alaska Region Habitat Relationships Coordinator, 1987 -  
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Ketchikan Area, Tongass National Forest Habitat  
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