

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9771 SENATE TRANSPORTATION

Sec. 29.45.060. Farm or agricultural land. (a) Farm land included in a farm unit and not dedicated or being used for nonfarm purposes shall be assessed on the basis of full and true value for farm use and may not be assessed as if subdivided or used for some other nonfarm purpose. The assessor shall maintain records valuing the land for both full and true value and farm use value. If the land is sold, leased, or otherwise disposed of for uses incompatible with farm use or converted to a use incompatible with farm use by the owner, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight percent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (d) of this section for the preceding seven years. The balance of the payment shall be made to the municipality.

(b) An owner of farm use land shall, to secure the assessment under this section, apply to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor, and shall include information that may reasonably be required to determine the entitlement of the applicant. If the land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the exemption is requested.

(c) In the event of a crop failure by an act of God the previous year, the owner or lessee may submit an affidavit affirming that 10 percent of gross income for the past three years was from farming.

(d) Subject to legislative appropriations for the purpose, the state shall reimburse a borough or city, as appropriate, for the property tax revenues lost to it by the operation of this section.

(e) In this section "farm use" means the use of land for profit for raising and harvesting crops, for the feeding, breeding, and management of livestock, for dairying, or another agricultural use, or any combination of these. To be farm use land, the owner or lessee must be actively engaged in farming the land, and derive at least 10 percent of yearly

gross income from the land. This section does not apply to land for which the owner has granted, and has outstanding, a lease or option to buy the surface rights. A property owner wishing to file for farm use classification having no history of farm-related income may submit a declaration of intent at the time of filing the application with the assessor setting out the intended use of the land and the anticipated percentage of income. An applicant using this procedure shall file with the assessor before February 1 of the following year a notarized statement of the percentage of gross income attributable to the land. Failure to make the filing required in this subsection forfeits the exemption. (§ 12 ch 74 SLA 1985)

Revisor's notes. — Subsection (e) was formerly (c). Relettered in 1992, at which time (d) and (e) were relettered as (c) and (d) respectively.

Opinions of attorney general. — This section applies only to commercial greenhouses. April 2, 1992 Op. Att'y Gen.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

Ronald L. Otto, Commissioner

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF MOTOR VEHICLES

2150 East Dowling Road
Anchorage, Alaska 99507-1997
PHONE: (907) 269-5551

January 7, 1997

Mosesian Farms of Alaska Inc
13700 Specking Rd
Anchorage AK 99515

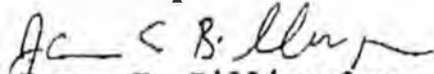
Plate #: 3828FA
SERIAL #: 1GCGG39Y9SF226686
RE: PLATE ERROR

Our records show that you were issued Farm Plates in error. Vehicle(s) titled in a business or company name are considered commercial vehicle(s) and are to be register commercially.

You will need to return your plates to one of the DMV offices or mail them to the above address and the correct plates will be issued. The correct fee for renewal is \$86 registration and \$88 MVRT for a total of \$174, since you have paid \$35 the amount due came to \$139. If returning plates my mail please enclosed a check for \$139, if you come into one of the DMV offices the additional fee will be collected at that time.

I'm enclosing a 30 day temporary permit to allow you use the vehicle will this matter is being taken care of.

Sincerely



James E. Billingsley, MVR IV/AFO

HB

343

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO: CSHB 343 (TRA)

Revision Date: 02/02/98 Dept. Affected: Administration
 Title: "An Act relating to the definition of
Commercial Motor vehicle..." BRU: Motor Vehicles
 Sponsor: Representative Davis Component: Driver Services
 Requestor: (H) TRANS COMPONENT SERIAL NO. 2150

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
Revenue Code						

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 98) impact: \$ 0.0

POSITIONS:

FULL-TIME						
PART TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)
 This bill will not fiscally impact the Division of Motor Vehicles

Prepared By: Juanita M. Hensley Phone: 465-5648
 Division: Motor Vehicles Date: 02/02/98
 Approved by Commissioner: *Alison M. Elace* Date: 2/3/98
 Agency: Mark Boyer, Dept. of Administration

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HB 343

Revision Date _____	Dept. Affected <u>DOT&PF</u>
Title <u>An Act excluding certain motor vehicles from the</u>	BRU <u>Office of the Commissioner</u>
<u>definition of commercial motor vehicle</u>	Component <u>Commissioner's Office</u>
Sponsor <u>Representative Davis</u>	
Requester <u>House Transportation</u>	Component Serial No. <u>530</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: 0.0

POSITIONS

POSITIONS	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

Prepared by <u>Dennis Poshard</u>	Phone <u>465-3904</u>
Division <u>Office of the Commissioner</u>	Date <u>1/30/98</u>
Approved by: <u><i>Dennis L. Poshard</i></u> , Commissioner	Date <u>1/30/98</u>
Agency <u>Department of Transportation and Public Facilities</u>	

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Fax (907) 283-3075

MEMORANDUM

DATE: April 30, 1998

TO: Legislative Legal

FROM: Lydia A. Jones *[Signature]*
Senate Transportation Committee

RE: SCS for CSHB 343

Please prepare a Senate Transportation Committee Substitute for CSHB 343 in final form as follows:

On Page 2, line 19:

After "business" insert "or project office."



Alaska State Legislature

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Fax (907) 283-0075

MEMORANDUM

DATE: April 26, 1998

TO: Legislative Legal -

FROM: Lydia A. Jones *[Signature]*
Senate Transportation Committee

RE: Transportation Committee Substitute for CSHB 343

Please prepare amendment draft 0-LS1528/E.2 as a Transportation Committee Substitute for CSHB 343.

Thanks.

0-LS1528/E.2
Ford
4/14/98
Preferred

A M E N D M E N T

OFFERED IN THE SENATE

~~BY SENATOR TORGERSON~~

TO: ~~CSHB 404(TRA)~~

HB 343

Change title

1 Page 1, line 3:

2 Delete "for commercial"

3 Insert "and municipal taxes for"

4 Page 8, following line 9:

5 Insert a new bill section to read:

6 **** Sec. 18.** AS 28.10.421(b) is amended to read:

7 (b) The biennial registration fees under this subsection are imposed within the
8 following classifications for [:]

9 (1) a passenger vehicle or motor home not used or maintained for the
10 transportation of persons or property for hire or for other commercial use . . . \$68;

11 (2) a pick-up truck or a van not exceeding 10,000 [6,000] pounds
12 unladen weight and not registered in the name of a company or business [USED
13 OR MAINTAINED FOR THE TRANSPORTATION OF PERSONS OR PROPERTY
14 FOR HIRE OR FOR OTHER COMMERCIAL USE] \$78;

15 (3) a taxicab \$138;

16 (4) a motor bus with a seating capacity for 20 or more persons and
17 used exclusively for commercial purposes in the transporting of visitors or
18 tourists \$168;

19 (5) a motorcycle or a motor-driven cycle \$38;

20 (6) a trailer not used or maintained for the transportation of persons
21 or property for hire or for other commercial use, including, but not limited to, a boat
22 trailer, baggage trailer, box trailer, utility trailer, house trailer, travel trailer, or a trailer
23 rented or offered for rent \$10."

Alaska State Legislature

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145 Main St. Lp., 223
Kenai, Alaska 99611
907/283-7095
907/283-3075 fx
907/262-7574 hm

Session:

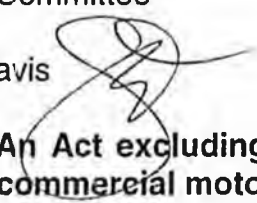
State Capitol
Juneau, AK 99801
907/465-2693
fx 907/465-3835
800/463-2693

Representative Gary Davis

MEMORANDUM

DATE: February 20, 1998

TO: Senator Jerry Ward, Chair
Senate Transportation Committee

FROM: Representative Gary Davis 

RE: **Hearing on HB 343 "An Act excluding certain motor vehicles from the definition of commercial motor vehicle"**

Please schedule a hearing on House Bill 343 "An Act excluding certain motor vehicles from the definition of commercial motor vehicle." Attached are the following items for inclusion in the committee files.

- Sponsor Statement;
- Sectional Analysis;
- Fiscal Notes from Departments of Administration and Transportation and Public Facilities
- Current Alaska statutes modified by HB 343;
- Correspondence from the Commissioner of Administration indicating that the legislation is consistent with FHWA interpretations (including a copy of those interpretations)

Please contact Deb Davidson of my staff if you have any questions or would like additional information or assistance.

GLD/dld

Attachments

*Representing House District 8
Cooper Landing, Tunny River, Hope, Moose Pass, Seward, Sterling, Soldotna*

Representative_Gary_Davis@legis.state.ak.us

Alaska State Legislature

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(907) 283-3075 (fax)
(907) 262-7574 (h)



Session:

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Juneau, Alaska 99801
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(fax) (907) 465-3835

Representative Gary L. Davis

SPONSOR STATEMENT

Committee Substitute for House Bill 343(TRA)

“An Act excluding certain motor vehicles from the definition of commercial motor vehicle”

There is apparent confusion among law enforcement officials as to under what circumstances an individual is required to possess a commercial driver's license (CDL). Some Alaska statutes and regulations reference federal requirements, which exempt the need for a CDL in cases of moving construction equipment from one site to another—this is considered by them to be an incidental move. However other Alaska statutes require drivers of any equipment weighing over 26,000 pounds “used upon a land highway or vehicular way” to possess a commercial driver's licenses.

Committee Substitute to House Bill 343(Tra) amends the definition of “commercial motor vehicle” in AS 28.40.100(a)(2) by expanding the exceptions to include “special mobile equipment”—construction vehicles—that are driven on roads in order to relocate the vehicle to a job site from the definition.

Including this exception clears up the confusion. The intent of the legislation is to allow individuals to move their construction equipment from one site to another without being required to have a commercial driver's license. If an individual is involved in work on the road, a commercial driver's license is still required.

HB343/SS/2/4/98

Representing House District 8

Soldotna, Sterling, Funny River, Cooper Landing, Hope, Moose Pass, Seward

Alaska State Legislature

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Representative Gary L. Davis

SECTIONAL ANALYSIS

Committee Substitute to House Bill 343(TRA)

"An Act excluding certain motor vehicles from the definition of commercial motor vehicle"

Section 1: Amends AS 28.40.100(a)(2) by expanding the exceptions listed under subsection (D) to include special mobile equipment that is driven on roads in order to relocate the vehicle to a job site from the definition of a commercial motor vehicle.

Title 13 of the Alaska Administrative Code, Chapter 10, Section 010 defines special mobile equipment as follows:

13 AAC 10.010. Definitions

In Chapters 02, 04, 06, and 08 of this title, and in AS 28, unless otherwise provided . . .

(52) "special mobile equipment" means a vehicle which is not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to ditch digging apparatus, well boring apparatus, construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earthmoving carryalls and scrapers, power shovels and drag lines, and self-propelled cranes and earthmoving equipment; it does not include house trailers, mobile homes, off-highway vehicles, dump trucks, truck-mounted transit mixers, cranes, or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached; . . .

CSHB343/SA/1/28/98

Representing House District 8

Soldotna, Sterling, Funny River, Cooper Landing, Hope, Moose Pass, Seward

1996 except that to the extent that the amendments made by §§ 6, 7, 10, 11, and 18-21 of this Act involve prior convictions, those prior convictions may have occurred before, on, or after November 8, 1996."

Sec. 28.40.100. Definitions for title. (a) Unless otherwise specifically defined or unless the context otherwise requires, in this title and in regulations adopted under this title

(1) "cancel" means to annul or terminate, by formal action of the department, a certification, registration, license, permit or privilege issued or allowed under this title or regulations adopted under this title, because of an error or defect in the document issued or the application for issuance or because the person holding the document is no longer entitled to it;

(2) "commercial motor vehicle" means a motor vehicle or a combination of a motor vehicle and one or more other vehicles

(A) used to transport passengers or property;

(B) used upon a land highway or vehicular way; and

(C) that

(i) has a gross vehicle weight rating or gross combination weight rating greater than 26,000 pounds;

(ii) is designed to transport more than 15 passengers, including the driver; or

(iii) is used in the transportation of materials found by the United States Secretary of Transportation to be hazardous for purposes of 49 U.S.C. 1801 — 1813 (Hazardous Materials Transportation Act);

(D) except that the following vehicles meeting the criteria in (A) — (C) of this paragraph are not commercial vehicles:

(i) emergency or fire equipment that is necessary to the preservation of life or property;

(ii) farm vehicles that are controlled and operated by a farmer; used to transport agricultural products, farm machinery, or farm supplies to or from that farmer's farm; not used in the operations of a common or contract motor carrier; and used within 150 miles of the farmer's farm; and

(iii) recreational vehicles used exclusively for purposes other than commercial purposes;

(3) "commercial purposes" means activities for which a person receives direct monetary compensation or activities for which a person receives no direct monetary compensation but that are incidental to and done in furtherance of the person's business;

(4) "commissioner" means the commissioner of public safety;

(5) "custom collector vehicle" means a vehicle whose body and frame were manufactured before 1949 or a replica of a vehicle whose body and frame were manufactured before 1949 and that has been modified for safe road use; in this paragraph, "modified" includes a material alteration of the drive-train, suspension, brake system, or dimensions of the body;

(6) "department" means the Department of Public Safety;

(7) "driver" means a person who drives or is in actual physical control of a vehicle;

(8) "driver's license" or "license," when used in relation to driver licensing, means a license or permit to drive a motor vehicle, or the privilege to drive or to obtain a license to drive a motor vehicle, under the laws of this state, whether or not a person holds a valid license issued in this or another jurisdiction;

(9) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination vehicle, except that if a value has not been specified by the manufacturer, the gross combination weight rating is determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and the load on the towed unit;

(10) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle;

criminal punishment intended did not intend to make criminal offenses, it does not intend to make offenses punishable by labeling infractions as civil in nature and offenses are not available for the State v. Clayton, 584 P.2d

relative labeling of a traffic offense by this section, it means, such as "convicted," "punishable by a fine." State v. Alaska 1978).
an offense for double State v. State, 676 P.2d 603

05(a) (now repealed) and offenses in pari materia do not registration statutes as an this section, such a violation punishable by up to 90 days' imprisonment of a defendant to a jury trial constitutes prejudicial error. Epperly v. State, 648 P.2d

criminal process not affected by express contrary declaration of intent by the enactment of the traditional use of the element of traffic infractions. State v. Alaska 1978).

changes in the traditional criminal matters with the intent of a person cited with an right to trial by jury or to action is brought in the proceedings by the filing of a motion for judgment of acquittal. The exceptions appear constitutional law. State v. Alaska 1978).
State v. State, 655 P.2d 1320

jurisdiction of Anchorage, 641 P.2d 182).
655 P.2d 780 (Alaska Ct.

offense under AS
chemical test of a
administered by a
Public Safety, the result
variance. (§ 17 ch 143

§ 22, ch. 143, SLA 1996
§ 3 and 17-21 of this Act
on or after November 8,

(A) suspend execution of sentence or grant probation except on condition that the person serve a minimum term of imprisonment and perform required community work service as provided in (1) of this subsection;

(B) suspend imposition of sentence; and

(4) shall revoke the person's license, privilege to drive, or privilege to obtain a license, and the person may not be issued a new license nor may the privilege to drive or obtain a license be restored for an additional period of not less than 90 days after the date that the person would have been entitled to restoration of driving privileges.

(c) In this section, "previously convicted" means having been convicted in this or another jurisdiction, within 10 years preceding the date of the present offense, of a violation of this section, AS 28.15.291, or another law or ordinance with substantially similar elements. (§ 19 ch 3 SLA 1992)

Editor's notes. — Section 30, ch. 3, SLA 1992 provides that for the purposes of this section, enacted by § 19, ch. 3, SLA 1992, convictions for offenses committed before April 1, 1992 are considered previous convictions.

Sec. 28.33.190. Definitions. In this chapter,

(1) "alcoholic beverage" has the meaning given in AS 04.21.080(b);

(2) "commercial motor vehicle" has the meaning given in AS 28.40.100;

(3) "controlled substance" means any substance listed as being controlled under AS 11.71 or 21 U.S.C. 812 — 813, or determined under federal regulations to be controlled for purposes of 21 U.S.C. 801 — 813 (Controlled Substances Act);

(4) "disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle;

(5) "disqualified" means that a person's privilege to drive a commercial motor vehicle has been withdrawn;

(6) "drive a commercial motor vehicle" means to affect the movement, attempt to affect the movement, or to be in actual physical control, of a commercial motor vehicle in motion, excluding slight motion incidental to loading, unloading, servicing, or inspecting the vehicle;

(7) "employer" means a person who

(A) provides compensation to a person who operates a commercial motor vehicle, including wages or other remuneration, whether through an employment relationship or by contract; or

(B) acts as an agent of someone who provides compensation to a person who operates a commercial motor vehicle, with authority to allow, require, permit, assign, or authorize the person being compensated to operate a commercial motor vehicle;

(8) "hazardous substance" means a substance found by the United States Secretary of Transportation to be hazardous for purposes of 49 U.S.C. 1801 — 1813 (Hazardous Materials Transportation Act);

(9) "operating a commercial motor vehicle" means

(A) to drive a commercial motor vehicle; or

(B) whether or not the vehicle is in motion, or is capable of being moved, to be in actual physical control, or to attempt to affect the movement, of a commercial motor vehicle; and

(10) "out-of-service order" means an order issued under regulations adopted under AS 28.05.011 that prohibits an owner or operator of a commercial motor vehicle from operating a commercial motor vehicle.

(11) "serious traffic violation" means

(A) speeding 15 miles per hour or more above the posted limit;

(B) reckless or negligent driving, in violation of AS 28.35.040 or 28.35.045 or an ordinance with substantially similar elements;

(C) violation of a provision of this title, or a regulation adopted under this title, relating to improper lane changes or following too closely, or an ordinance with substantially similar elements; or

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STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

P.O. BOX 110200
JUNEAU, ALASKA 99811-0200
PHONE: (907) 465-2200
FAX: (907) 465-2135

February 3, 1998

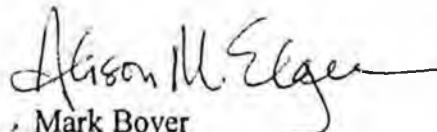
The Honorable Gary L. Davis
House of Representatives
Alaska State Legislature
State Capitol Bldg. - Room 513
Juneau, AK 99801

Dear Representative Davis:

Your amendment to the definition of a commercial motor vehicle in AS 28.40.100(a)(2) by House Bill 343 poses no problem for the department. The exemption of operators of construction equipment from the commercial driver's license requirements is consistent with the FHWA interpretations of related sections of Federal Motor Carrier Safety Regulations. Copies of sections 95.50 and 96.21 of the FHWA Interpretations manual are attached for your convenience.

Juanita Hensley will be available to address any additional questions you or the Committee may have on this issue.

Sincerely,


for Mark Boyer
Commissioner

MB/nn
Enclosures
cc: David Koivuniemi
Juanita Hensley

- 96.20 Must a motor vehicle that meets the definition of a "commercial motor vehicle in Section 390.5 because it transports hazardous materials in a quantity requiring placarding under the Hazardous Materials Regulations (49 CFR 171-180) comply with the fuel system requirements of Subpart E of Part 393, even though it has a gross weight rating (GVWR) of 10,000 pounds or less?

No. Federal Motor Vehicle Safety Standard No. 301 (FMVSS No. 301) contains fuel system integrity requirements for passenger cars and multipurpose passenger vehicles, trucks, and buses that have a GVWR of 10,001 or more pounds. The fuel systems of placarded motor vehicles with a GVWR of less than 10,001 pounds are adequately addressed by FMVSS No. 301 and compliance with Subpart E of Part 393 would be redundant. However, commercial motor vehicles that are not covered by FMVSS No. 301 must continue to comply with Subpart E of Part 393.

- 96.21 What types of equipment are included in the category of off-road motorized construction equipment?

The definition of off-road motorized construction equipment is to be narrowly construed and limited to equipment which, by its design and function is obviously not intended for use, nor is it used on a public road in furtherance of a transportation purpose. Examples of such equipment include motor scrapers, backhoes, motor graders, compactors, tractors, trenchers, bulldozers and railroad track maintenance cranes.

- 96.21 Does off-road motorized construction equipment meet the definitions of motor vehicle and commercial motor vehicle as used in 49 CFR 383.5 and 390.5?

No. Off-road motorized construction equipment is outside the scope of these definitions: (1) when operated at construction sites; and (2) when operated on a public road open to unrestricted public travel, provided the equipment is not used in furtherance of a transportation purpose. Since construction equipment is not designed to operate in traffic, it should be accompanied by escort vehicles or in some other way separated from the public traffic. This equipment may also be subject to State or local permit requirements with regard to escort vehicles, special markings, time of day, day of the week, and/or the specific route.

- 96.22 Are the reasonable suspicion testing and training requirements of Sections 382.307 and 382.603 applicable to an owner-operator who is both an employer and the only employee?

No. The requirements of Sections 382.307 and 382.603 are not applicable to owner-operators in non-supervisory positions. Section 382.307 requires employers to have a driver submit to an alcohol and/or controlled substances test when the employer has reasonable suspicion to believe that the driver has

95.49 When the driver's duty status changes, do Sections 395.8(c) or 395.8(h)(5) require a description of on-duty not driving activities ("fueling", "pre-trip", "loading", "unloading", etc.) in the remarks section in addition to the name of the nearest city, town or village followed by the state abbreviation?

No. Many motor carriers require drivers to identify work performed during a change of duty status. Part 395 neither requires nor prohibits this practice.

***95.50** Do the CDL Regulations (49 CFR 383) apply to operators of motor graders and front-end loaders while removing snow or leaves on a public road?

Yes. The operators would be required to have CDLs if the GVWR of the vehicle is 26,001 pounds or greater. The exemption for operators of off-road construction equipment does not apply in this case because the vehicles are being used on public roads and in the furtherance of a transportation purpose, the removal of snow or leaves from the road. The equipment performs a service on the public road in a manner similar to street sweepers. By previous interpretation, operators of street sweepers, with a GVWR of 26,001 pounds or more, are required to obtain a CDL.

95.50 What is considered a "public road"?

A public road is any road under the jurisdiction of a public agency and open to public travel or any road on private property that is open to public travel.

95.50 Since most operators of construction equipment are not classified by their job description or title as drivers, why do they need to obtain a CDL?

Operators of construction equipment are just like mechanics, shop help, and vehicle salespersons, who operate CMVs on public roads. The CDL regulations address the issue of job function rather than job title. The term "operator" is used in the CDL regulations (49 CFR Part 383) because they cover more persons than the traditional "driver". Operators of construction equipment with a GVWR of 26,001 pounds or more, who operate on the public road, would therefore be required to obtain a CDL regardless of the job description or title.

95.50 Is an operator automatically exempt from the CDL requirements (49 CFR Part 383) if the construction equipment is exempt from state vehicle registration requirements?

No. State vehicle registration has no bearing on who is required to obtain a CDL. The CDL regulations apply to any operator, not otherwise exempted or waived, who operates a CMV.

HB

361

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HB 361

Revision Date _____	Dept. Affected <u>DOT&PF</u>
Title <u>Private Maintenance of State Highway</u>	BRU <u>Commissioners Office</u>
Sponsor <u>Representative Masek</u>	Component <u>Office of the Commissioner</u>
Requester <u>(H) TRA</u>	Component Serial No. <u>530</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	-----	-----	-----	-----	-----	-----

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

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

Prepared by <u>Dennis Poshard, Special Assistant</u>	Phone <u>465-3900</u>
Division <u>Commissioners Office</u>	Date <u>1/17/98</u>
Approved by <u><i>Joseph L. Rubens</i></u> Commissioner	Date <u>1/17/98</u>
Agency <u>Department of Transportation and Public Facilities</u>	

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SENATE CS FOR CS FOR HOUSE BILL NO. 361(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE TRANSPORTATION COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE MASEK

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to private maintenance of state highways."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 19.10 is amended by adding a new section to read:

4 Sec. 19.10.095. Private maintenance of state highways. A person who
5 undertakes to maintain a state highway that the department normally maintains but has
6 determined not to maintain during the winter shall, to the extent feasible, provide for
7 two lanes of travel or, if two lanes are not feasible, pull-outs at regular intervals to aid
8 the flow of two-way traffic and for parking areas at regular intervals to allow public
9 access to public lands adjacent to the state highway. A person who undertakes to
10 maintain a state highway that is not maintained by the department may not recover
11 compensation from the state or the public for the costs that the person incurs in
12 maintaining a state highway. A person may not recover civil damages from the state
13 for personal injury, death, or property damage resulting from the private maintenance
14 of a state highway that the department has determined not to maintain during the
15 winter and has posted that persons travel at their own risk.



Alaska State Legislature

Senate

JERRY WARD

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Fax (907) 258-0670

145 Main Street Loop
Kenai, AK 99641
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Fax (907) 283-3075

MEMORANDUM

DATE: April 30, 1998
TO: Legislative Legal
FROM: Lydia A. Jones *L.A. Jones*
Senate Transportation Committee
RE: SCS for CSHB 361

Please prepare a Senate Transportation Committee Substitute for CSHB 361 (version B) in final form as follows:

On page 1, delete lines 7 and 8

On line 6, after "...provide for" insert "multiple type vehicle access to allow public...."



Alaska State Legislature

Representative Beverly Masek

Chair, Military & Veterans Affairs

Vice Chair, Transportation

Vice Chair, Resources

Legislative Council

During Interim:
600 East Railroad Avenue
Wasilla, AK 99654
907-376-2679
907-376-6180 (fax)

During Session:
State Capitol
Juneau, Ak. 99801-1182
(907) 465-2679
(907) 465-4822 FAX
(800) 505-2678

MEMORANDUM

Gerry
TO: Senator ~~Jerry Ward~~

Beverly
FROM: Rep. ~~Beverly Masek~~

RE: HB 361

DATE: Apr. 21, 1998

Please consider this my formal request for hearing on House Bill 361.

CSHB 361(TRA) deals with the private maintenance of state highways. This legislation is intended to give the Department of Transportation and Public Facilities the ability to regulate private parties who undertake the maintenance of state-owned highways. HB 361 makes it clear that those persons maintaining a state highway, that is not normally maintained in the winter months, do so in a reasonable manner so that other members of the public may continue to access private properties.

Should you have any questions, please contact my staff, Eddie Grasser, at extension 3306.

Alaska State Legislature

Senate

JERRY WARD

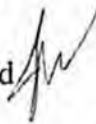
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Fax (907) 258-0820

145 Main Street Loop
Kenai, AK 99611
Phone (907) 283-7996
Fax (907) 283-3075



MEMORANDUM

DATE: April 25, 1998
TO: Legislative Legal
FROM: Senator Jerry Ward 
RE: Amendment to CSHB 361

Please prepare a Senate Transportation Committee Substitute to CSHB 361 as follows:

Page 1, line 9:

“...access to public lands adjacent to the state highway. A person who undertakes to maintain a state highway that is not maintained by the department [SHALL OBTAIN WRITTEN APPROVAL FROM THE DEPARTMENT AND] may not recover compensation from the state or the public for the costs that the person incurs in maintaining a state highway.



Alaska State Legislature

Representative Beverly Masek
Chair, Military & Veterans Affairs
Vice Chair, Transportation
Vice Chair, Resources
Legislative Council

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During Session:
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(907) 465-4822 FAX
(800) 505-2678

SPONSOR STATEMENT – 361

Setting Conditions for Private Maintenance of State Highways

This legislation is intended to give the Department of Transportation and Public Facilities the ability to regulate private contractors who undertake the maintenance of state owned roads.

The impetus for this legislation arose out of a situation in my district where a private company began maintaining a state owned road that was posted by the Department as being closed for the winter. The problem we encountered was there were no requirements in law or regulation that would hold them to any kind of standards. This resulted in numerous complaints from the general public who were having problems accessing recreational lands and private property.

After some discussion with the Department it was concluded that some statutory authority needed to be put into place so they could have some enforcement capabilities in regulating private contractors who undertook maintenance of those roads the Department chose not to in the winter.

HB 361 also makes it clear the state would not be liable if a private contractor began maintaining a state road. It also states that such maintenance shall not be eligible for cost recovery from the state.

Although this bill addresses a specific circumstance, I believe it is a good idea for the legislature to head off future problems by giving DOT/PF the statutory ability to regulate these types of operations. Any time a private contractor begins maintaining a state road, they should have to follow guidelines set out by the Department so that public access and public safety are protected. Furthermore, the state needs to be able to make sure the maintenance is performed in a manner that is not damaging to the road surface and roadbed.



ALASKA MINERS ASSOCIATION, INC.

3305 Arctic #202, Anchorage, Alaska 99503 FAX: (907) 563-9225 Telephone: (907) 563-9220

April 24, 1998

Honorable Jerry Ward
Chair, Senate Transportation
Capitol Building
Juneau, AK 99801

RE: House Bill 361, Private Maintenance of State Roads

Dear Senator Ward,

Thank you for the opportunity to comment on House Bill 361 which deals with instances where private parties maintain state owned roads and at no cost to the state.

We have identified one additional point in the current version of CSHB-361(TRA) am (Version E.a) that we would suggest changing. We would suggest a change beginning on page one line 9 as follows:

"...access to public lands adjacent to the state highway. A person who undertakes to maintain a state highway that is not maintained by the department [SHALL OBTAIN WRITTEN APPROVAL FROM THE DEPARTMENT AND] may not recover compensation from the state or the public for the costs that the person incurs in maintaining a state highway. A person..."

We feel it should not be necessary to require someone providing a benefit to the state to also be required to obtain permission beforehand. In many areas of the state it would take an extreme effort to - determine who to contact, make the contact to get the correct address, get a letter written, receive the approval in a reasonable amount of time, etc. Rather, it should be left as simple as possible for the general public to do this kind of maintenance at no cost to the State. If someone does not leave turn-outs when removing snow or other such items, this bill gives DOT the authority to require it. Giving DOT this authority is the primary thrust of this bill. Another benefit of removing this requirement is that there will be no need for added regulations, special forms, an office to be responsible, etc. I.E. it will be less costly for DOT.

If we can be of further assistance in this matter please contact me.

Sincerely,

Steven C. Borell, P.E.
Executive Director

cc: Representative Beverly Masek

HEB

373

FISCAL NOT

STATE OF ALASKA 1998 LEGISLATIVE SESSION

No. 2
 Bill Version: SCS CS HB373 (RES)
 (S) Publish Date: 4/8/98

Revision Date: _____ Dept Affected: Natural Resources
 Title: An Act relating to forests and forestry practices BRU: Resource Development
 Component: Forest Management & Development
 Sponsor: Rep. Phillips
 Requestor: (S) RES Component Serial No. 435

Expenditures/Revenues		(Thousands of Dollars)					
OPERATING EXPENDITURES	FY99	FY00	FY01	FY02	FY03	FY04	
PERSONAL SERVICES							
TRAVEL							
CONTRACTUAL							
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	
CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0	

FUND SOURCE		(Thousands of Dollars)					
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other (Specify Type)							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	

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

POSITIONS		FY99	FY00	FY01	FY02	FY03	FY04
FULL-TIME		0	0	0	0	0	0
PART-TIME		0	0	0	0	0	0
TEMPORARY		0	0	0	0	0	0

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

This bill changes the Forest Resources and Practices Act requirements on private land along anadromous waters and tributaries to anadromous waters. Notably, it adds buffers on Type B anadromous streams. DNR is the lead agency for enforcing the Act. In the first year (FY 99), training will be needed for landowners, operators, and staff on proper implementation of the new standards. This training will be accomplished within existing resources.

Prepared by: Jeff Jankke, Director Phone: 465-3379
 Division: Forestry Date: 7-Apr-98
 Approved by Commissioner: [Signature] Date: 4/7/98
 Agency: Natural Resources

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FISCAL NOTE

No: 1

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL Bill Version: CSHB 373 (RES)
(H) Publish Date: 2/23/98

Revision Date: _____ Dept Affected: Natural Resources
 Title: An Act relating to forests and forestry practices BRU: Resource Development
 Component: Forest Management & Development
 Sponsor: Rep. Phillips
 Requestor: House Resources Component Serial No. 435

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS	FY99	FY00	FY01	FY02	FY03	FY04
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill changes the Forest Resources and Practices Act requirements on private land along anadromous waters and tributaries to anadromous waters. Notably, it adds buffers on Type B anadromous streams. Based on the distribution of stream types, there will be an estimated 21% increase in the number of buffered stream miles. DNR is the lead agency for enforcing the Act. Additional buffers will require additional staff time for office review of notifications (3 mo. each annually for 2 existing seasonal Forester II positions in Southeast Alaska), and field review of variation requests and violations (19 days/year). In the first year (FY 99), training will be needed for landowners, operators, and staff on proper implementation of the new standards. This will require two training sessions, one each in southeast and southcentral Alaska.

Prepared by: Jeff Jahnke, Director Phone: 465-3379
 Division: Forestry Date: 10-Feb-98
 Approved by Commissioner: *Alvin Burt for John Shively* Date: 2-11-98
 Agency: Natural Resources

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We have two options available to us in terms of estimating the fiscal impact of this bill:

1. Guess at it and ask for an increase in funding.

OR

2. Experience the impact of this legislation and once we know what it means in terms of staff and resources request the funding at that time.

We choose not to ask for additional funds for implementation of this bill at this time because of the uncertainty of the impact. However, passage of this legislation will impact DNR's forest practices program. The existing program currently is not fully funded, and field presence has already declined from the level expected by the Forest Practices Act. In 1991, DNR conducted 160 field inspections for each 100 notifications of operations received. In 1996-97, this ratio declined to 90 inspections per 100 notifications. The adequacy of funding for the FPA is not the issue this legislation is trying to address - this issue will need to be discussed in a different forum.

With the passage of this bill, review of notifications will take longer, further reducing available field time. Existing staff time for field visits will be spread over more buffers and requests for variation. Less staff time will be available to train operators and landowners, and to prevent violations. More time will be needed for enforcement actions following violations, rather than on cooperative work to prevent problems.



Alaska State Legislature

Senate

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Fax (907) 465-4766


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Fax (907) 258-0820

145 Main Street Loop
Kenai, AK 99611
Phone (907) 283-7996
Fax (907) 283-3075

MEMORANDUM

DATE: April 28, 1998

TO: Legislative Legal

FROM: Lydia A. Jones 
Senate Transportation Committee

RE: Senate Transportation Committee Substitute to SCS CSHB 373 (RES)

Please prepare a Senate Transportation Committee Substitute to SCS CSHB 373 (RES) in final form as follows:

Amendment 0-LS1461/B.1

Page 3, following line 31:

Insert a new bill section to read:

“*Sec. 6. AS 41.17 is amended by adding a new section to read:

Sec. 41.17.990. Short title. This chapter may be cited as the

Forest Resources and Practices Act.”

A M E N D M E N T

OFFERED IN THE SENATE
TO: SCS CSHB 373(RES)

BY

adopted

- 1 Page 3, following line 31:
- 2 Insert a new bill section to read:
- 3 "* Sec. 6. AS 41.17 is amended by adding a new section to read:
- 4 **Sec. 41.17.990. Short title.** This chapter may be cited as the Forest
- 5 Resources and Practices Act."

Testimony of United Fishermen of Alaska
before the
Senate Transportation Committee
on HB 373, relating to forestry and forest practices

April 23, 1998

Mr. Chairman and members of the committee, my name is Liz Cabrera. I am the executive director of United Fishermen of Alaska and will be speaking on their behalf.

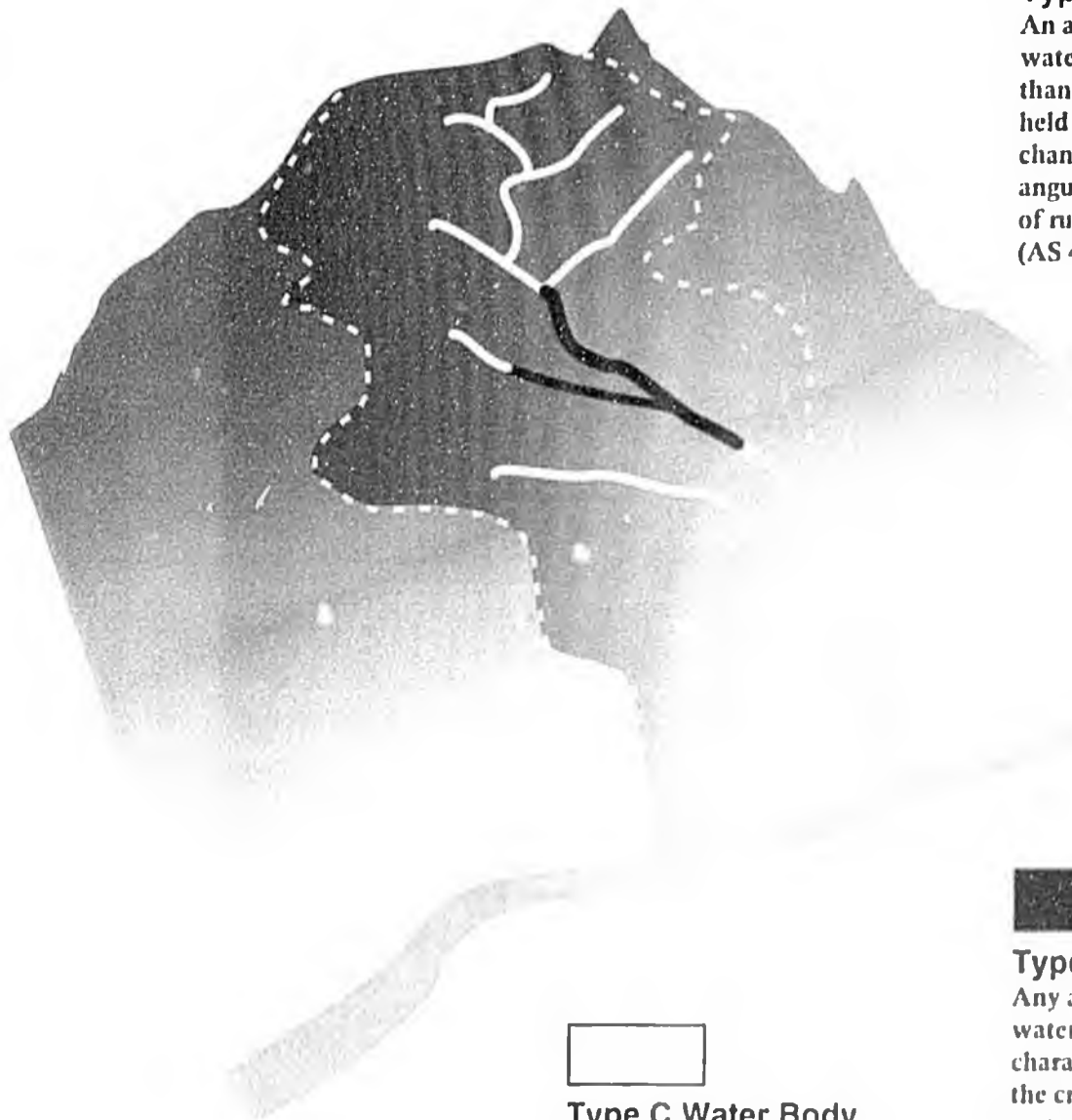
UFA has adopted a position in support of HB 373 as introduced. This legislation is the result of both the commercial fishing and forest products industries working together, with the assistance of the Board of Forestry and state agency staff, to find common ground. We support this legislation because it represents an improvement in the laws governing forest practices, and in particular, it affords greater protection for sensitive fish habitat.

We realize that increased protection for riparian areas does not come without its own costs. We recognize that private land owners are paying out of pocket to do what is right for habitat protection, and we appreciate their willingness to do so.

We'd like to thank Speaker Phillips for introducing this important piece of legislation. We urge the committee to pass of HB 373 as introduced.

Thank you for the opportunity to comment.

Alaska Forest Resources and Practices Act
Stream Classification System



Type A Water Body

An anadromous (salmon) water body that is any size, less than 8% gradient, with banks held in place by vegetation, channels not incised or sharply angular, and having substrate of rubble, gravel, sand or silt. (AS 41.17.950 (19)).



Type B Water Body

Any anadromous (salmon) water body whose physical characteristics do not meet the criteria for a Type A water body.



Type C Water Body

A water body that is not anadromous, is a tributary to a Type A or Type B water body, and has a gradient of 12% or less.

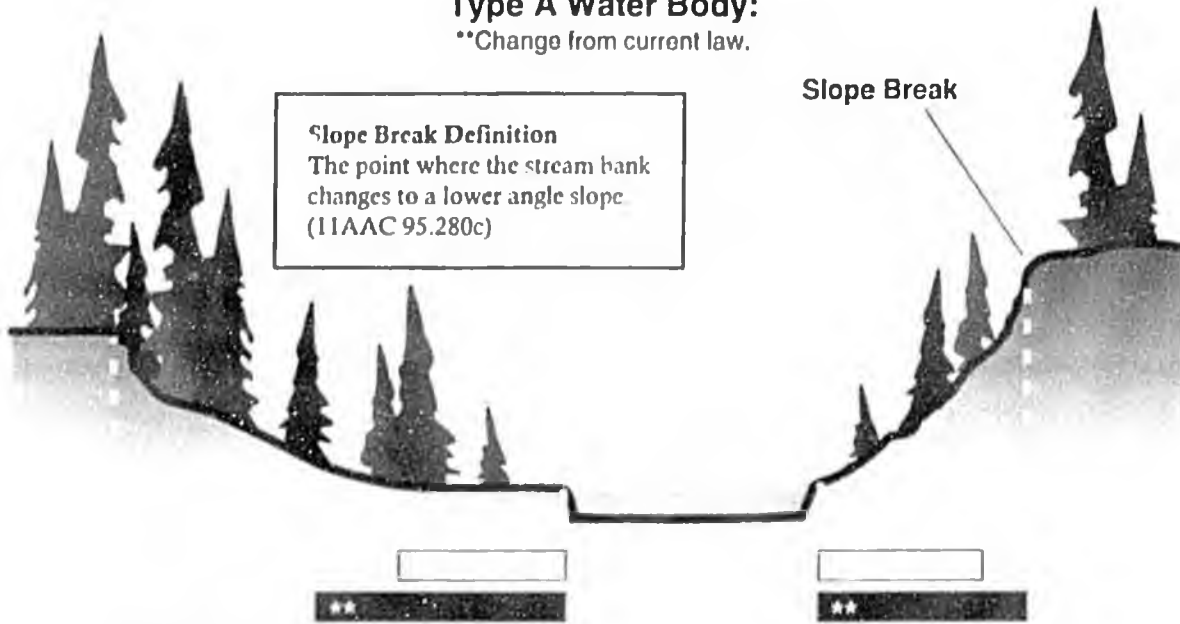


Type D Water Body

A water body that is not anadromous, is a tributary to a Type A or Type B water body, and has a gradient greater than 12%.

Alaska Forest Resources and Practices Act
 Revised Riparian Protection Standards
 Region I

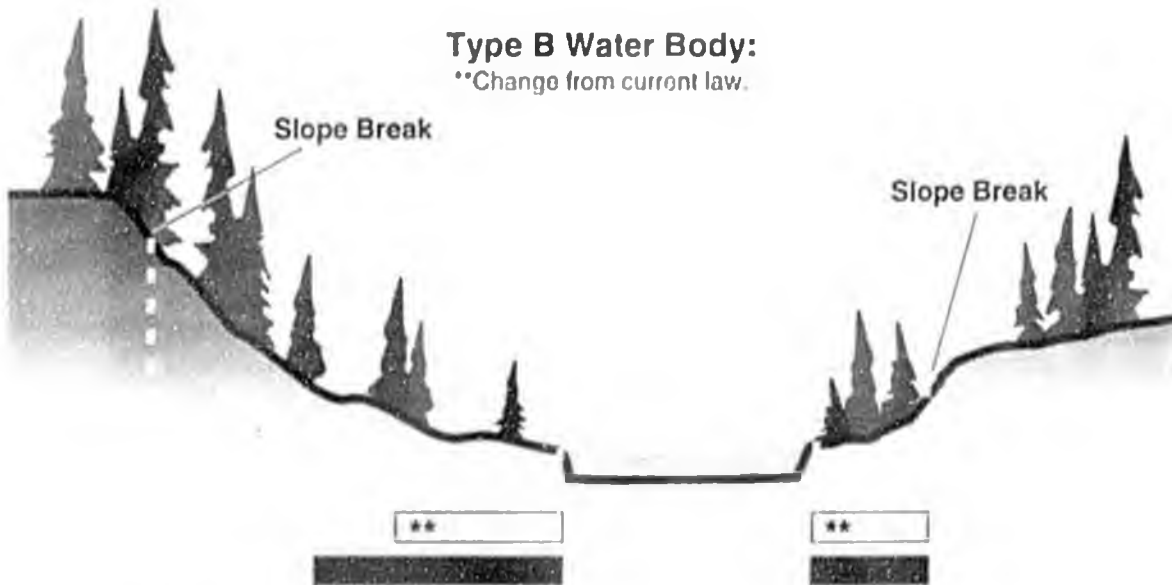
Type A Water Body:
 **Change from current law.



Type A Water Body:

- 66' mandatory retention buffer.
- **Slope stability BMP's apply, 100' or to slope break, whichever is less.

Type B Water Body:
 **Change from current law.



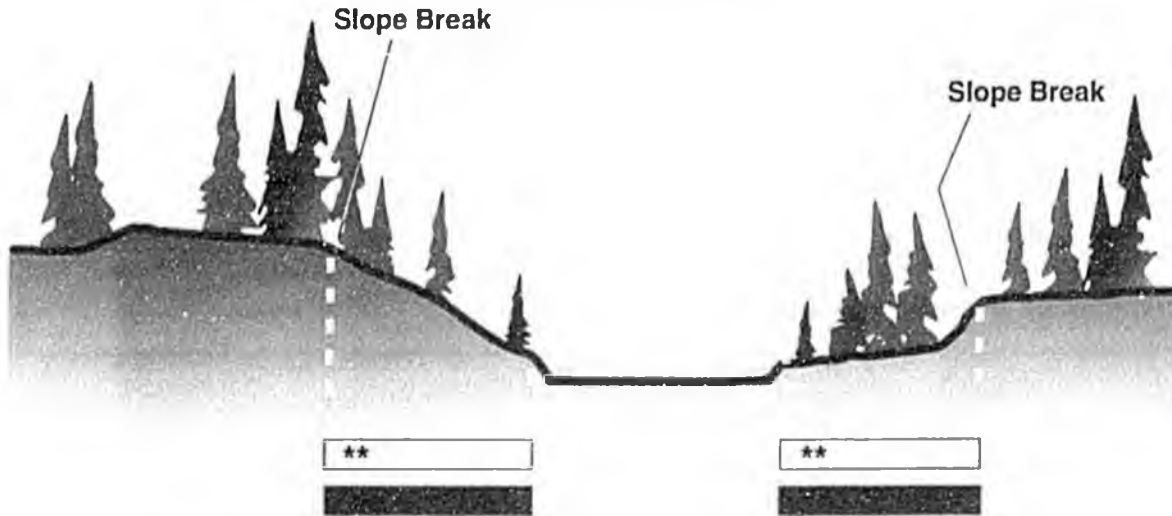
Type B Water Body:

- **Mandatory retention buffer--66' or to slope break, whichever is less
- Slope stability BMP's apply, 100' or to slope break, whichever is less

Alaska Forest Resources and Practices Act
 Revised Riparian Protection Standards
 Region I

Type C Water Body:

**Change from current law.



Type C Water Body:



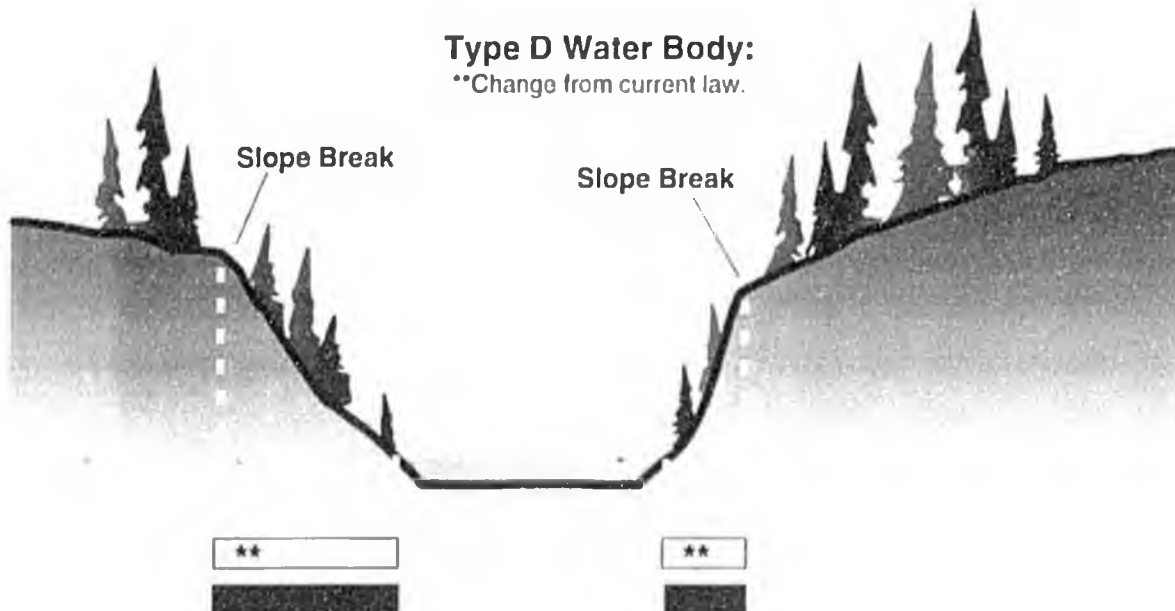
** For streams greater than 8' or 13' (based on channel characteristics), retain low economic value timber 25' up to 100' from the stream depending upon location of slope break.



Slope stability BMP's apply -- 100' or to slope break, whichever is less.

Type D Water Body:

**Change from current law.



Type D Water Body:



** For streams greater than 8' or 13' (based on channel characteristics), retain low economic value timber 25' up to 50' from the stream depending upon location of slope break.



Slope stability BMP's apply -- 50' or to slope break, whichever is less.

Alaska State Legislature

Senate



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Phone (907) 283-7996
Fax (907) 283-1078

MEMORANDUM

DATE: March 30, 1998
TO: Legislative Legal
FROM: Senator Jerry Ward *JW*
RE: Amendment to HB 373 – Forest Resources

Please draft an amendment to the above referenced legislation that would provide for construction of a logging road or similar road system to enable better public access and usage of the lands under the purview of the Forest Resources and Practices Act.

Thank you.

Alaska State Legislature

Mailing Address:
P.O. Box 55094
North Pole, Alaska 99705
Ph: (907) 488-0862
Fax: (907) 488-4271

While in Juneau
State Capitol
Juneau, Alaska
99801-1182
Ph: (907) 465-4976
Fax: (907) 465-3883

MIKE MILLER
President of the Senate

Senate District Q

MEMORANDUM

TO: Senator Jerry Ward, Chairman
Senate Transportation Committee

FROM: Senator Mike Miller
President of the Senate



DATE: March 27, 1998

RE: HB373

I respectfully request that HB373 be scheduled for a hearing at your earliest possible convenience. I would greatly appreciate it if you would consider scheduling HB373 for next Thursday, April 2, 1998 (pending referral).

Thank you. If you have questions regarding this request, please contact me directly or call Portia in my office at 4711.



Alaska State Legislature

Senate

JERRY WARD

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Fax (907) 283-3075

MEMORANDUM

TO: Senator Mike Miller
President of the Senate

FROM: Senator Jerry Ward *JW*
Senate Transportation Committee

DATE: March 28, 1998

RE: HB 373

I have already noticed that we will not be having a Transportation Committee meeting on Thursday, April 2 as I will be in preparation for my presentation on sobriety at the NCSI Conference to be held in Seattle, WA to Native American Legislators to be followed by a workshop.

I will notice and schedule a meeting of the Transportation Committee for Tuesday, April 7, 1998 to hear HB 373. I hope this schedule will be acceptable to you. If you have any questions regarding this, please contact me directly at 4940. Thank you.

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Mar-28-98 03:03 PM

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Alaska State Legislature



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Speaker of the House of Representatives

Rep. Gail Phillips

Sponsor Statement

February 19, 1998

House Bill 373

"An Act relating to forests and forestry practices."

A cooperative agreement between timber, fishing and environmental stakeholders has resulted in proposed changes to the Forest Practices Act (FPA) that will strengthen the stream and water quality protections currently found in state law.

In an effort to continually reappraise the FPA's effectiveness, a committee comprised of timber, fishing and state agency representatives evaluated scientific findings over a two-year period. In January, the Board of Forestry endorsed the findings at its January 1998 meeting. The Board subsequently requested legislative approval of the proposed protective measures.

Under current regulations, all anadromous* streams are protected, but exceptions are allowed for marginal streams. The new law will eliminate that exception, while adding additional stream protections.

The changes affect only the "coastal forest of spruce or hemlock" in the Department of Natural Resources' Region I (coastal area covering roughly Ketchikan to Kodiak). The proposed language accomplishes several goals:

- assigns a "type" designation to all streams, putting to rest concerns that some segments of anadromous streams were not classified
- extends the no-harvest riparian** buffer zone to ALL anadromous fish streams, relative to "type"
- requires the retention of low-value timber along certain tributaries where prudent, so that the large woody debris (LWD) may eventually fall into streams, forming natural pools downstream, which are important for the rearing of juvenile fish.

I am pleased to sponsor this legislation which represents solid teamwork between various members of timber, fishing, environmental groups and state agencies. The resulting legislation is a big step toward protecting our valuable fish resources, while the collaborative process all the stakeholders went through to define the changes has paved the way for future cooperation.

*anadromous – bodies of water in which salmon travel upstream to spawn

**riparian – located on a river or stream bank, as in riparian vegetation

*Summary of Legislation Implementing the Recommendations of
the Forest Practices' Science and Technical Committee*

Alaska's Forest Practices Act (the "FPA") was comprehensively amended in 1990 as a result of a two-year cooperative effort by government agencies, fishing and environmental groups, and the timber industry. An integral part of this consensus-based process was a commitment to periodically reappraise the FPA's effectiveness in protecting Alaska's streams.

As a result of that continuing review, legislation has now been prepared to implement two changes to the FPA that would:

- 1. extend the FPA's mandatory no-harvest riparian zones to additional streams;*
- and*
- 2. extend the width of scope stability standards on some streams.*
- 3. provide additional sources of large woody debris (or "LWD") for fish habitat.*

Both changes affect only the "coastal forest of spruce or hemlock" in DNR's "Region I." Forest practices in Regions II and III--basically, anything north of Mt. St. Elias--will continue to be governed by their own rules under the FPA, which, on private, restrict but do not prohibit timber harvest adjacent to streams.

Like the 1990 FPA itself, these changes reflect a broad-based consensus among forest stakeholders. The agreement arose out of an intensive study of the FPA conducted by a group of public and private sector scientists called the Science and Technical Committee (the "S/TC"). The S/TC found much to commend in the FPA, but also recommended two changes, both of which are mirrored in the proposed statutory language:

1. *Extending no-cut buffers to all anadromous streams.* The public and private scientists who collaborated on the 1990 FPA agreed that the need for no-cut buffer zones varied dramatically according to the characteristics of the stream. Even so, the 1990 legislation required 66-foot no-cut zones along most anadromous streams on private lands. These were so-called "Type A" waterbodies.

Another class of anadromous streams--those with rocky banks and bottoms--were subject to special bank stability requirements, though riparian timber harvest was allowed. These were the so-called "Type B" streams, and because their banks were held in place by rock, rather than vegetation, the scientists who worked on the 1990 legislation could not justify the considerable cost of requiring the retention of all timber adjacent to them.

The proposed legislation would reverse that decision, and require 66-foot no-cut buffers along all anadromous streams, irrespective of stream characteristics. This protection would extend both to all "Type B" streams, as well as a small subclass of anadromous streams that were originally not given a formal "type" designation.

In so doing, the proposed legislation assigns a "type" to all segments of an anadromous stream system. Anadromous streams themselves are labeled "A" or "B," while tributaries to anadromous streams are labeled "C" or "D" streams, depending on their steepness. All Types B and C streams would be subject to special stream bank stability rules.

This puts to rest the concern that some segments of an anadromous system were "unclassified" under the FPA.

2. *Requiring timber to be left along other streams in order to provide LWD.*

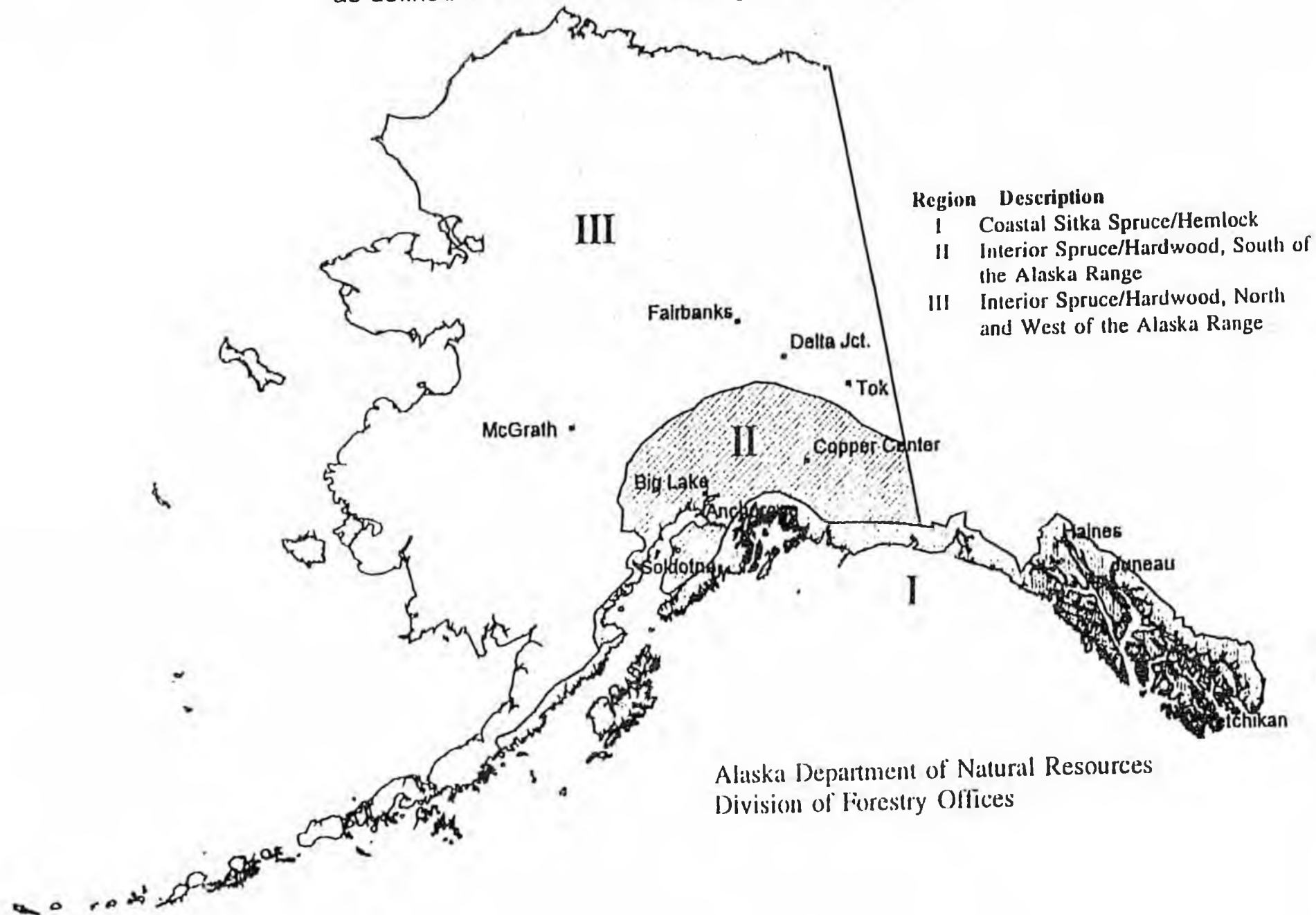
LWD can be an important source of habitat for juvenile fish, and the 1990 FPA encouraged the retention of low-value trees as potential LWD sources even along streams where no formal buffer zone was required.

The proposed legislation goes much further in this respect. It *requires* the retention of low-value timber along certain tributaries to anadromous streams, when it is "prudent" to do so. LWD, of course, is of no direct value to these tributaries, because there are no anadromous fish in them. But, research has shown that certain tributaries--*i.e.*, those of sufficient width and steepness--can transport LWD downstream to the anadromous waterbody itself, and it is for these streams that retention is required.

The "prudence" limitation exists because it is sometimes dangerous to leave wood adjacent to steep tributaries, because the trees can become part of debris torrents. And also, some low-value trees can be damaged as part of the harvest of the more valuable timber that can still be taken along these tributaries. It was never the S/TC's intent to restrict the harvest of valuable, merchantable timber along these tributaries, and the "prudence" limitation assures that operators will still be able to harvest this timber.

Alaska Forest Resources & Practices Regions

as defined in 11 AAC 95.800 Designation of Regions



DESIGNATION OF REGION I

ARTICLE 07 GENERAL PROVISIONS

11 AAC 95.800

DESIGNATION OF REGIONS.

For the purposes of this chapter; the forest land of the state is divided into three regions as follows:

(1) Region I (Coastal Sitka Spruce/Hemlock Region). Region I, the coastal forest, is comprised primarily of Sitka spruce, western hemlock, mountain hemlock, Alaska cedar, red alder, black cottonwood, western red cedar, and lodgepole pine. Region I consists of the land within the following area: beginning at Tongass, Alaska and then in a northwesterly direction along the United States-Canada border to Mt. St. Elias; then westerly along the crest of the Chugach Mountains to Portage; then continuing southwestward through Moose Pass, to the north end of the Harding Ice Field; then to the mouth of Fox River; then southwestward out of Kachemak Bay to Mt. Douglas; then along the divide of the Aleutian Range to Aniakchak Crater; then to Cape Kumliun; then easterly to Cape Sitkinak; then in a northeasterly direction to Cape Suckling; then along the coastline in a southeasterly direction to Cape Spencer; then along the coastline in a southeasterly direction along the outer coasts of southeastern Alaska including all the islands of the Alexander Archipelago to Cape Muzon; then in an easterly direction through Dixon Entrance to Tongass, the point of beginning;

PUBLIC LANDS PROTECTION PROVIDED IN STATUTE:

Sec. 41.17.118. Riparian standards for state land.

(a) The riparian standards for state land are as follows:

(1) on state forest land managed by the department that is located north of the Alaska Range, harvest of timber may not be undertaken within 100 feet immediately adjacent to an anadromous or high value resident fish water body unless the division determines that adequate protection remains for the fish habitat;

(2) on state forest land managed by the department that is located south of the Alaska Range,

(A) harvest of timber may not be undertaken within 100 feet immediately adjacent to an anadromous or high value resident fish water body;

(B) between 100 and 300 feet from the water body, timber harvest may occur but shall be consistent with the maintenance of important fish and wildlife habitat.

(b) The commissioner may impose additional riparian protection standards for timber harvest operations through the adoption of land use plans under AS 38.04.065 and under forest management plans and reports under AS 38.05.112 and AS 41.17.230.

(c) In the absence of a site-specific determination by the Department of Fish and Game, the commissioner shall presume for planning purposes that a stream is anadromous if it is connected to anadromous waters that are without Department of Fish and Game documentation of a physical blockage and has a stream gradient of 8 percent or less.

Sec. 41.17.119. Minimum riparian standards for other public land.

On other public land, harvest of timber may not occur

(1) within 100 feet from the shore or bank of an anadromous or high value resident fish water body that is located south of the Alaska Range;

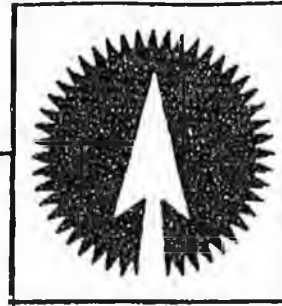
(2) within 100 feet immediately adjacent to an anadromous or high value resident fish water body north of the Alaska Range unless the commissioner determines that adequate protection remains for the fish habitat.

Sec. 41.17.950. Definitions.

In this chapter, unless the context otherwise requires

(11) "other public land" means state land managed by state agencies other than the department, land owned by a municipality, and land owned by the University of Alaska;

Alaska Forest Association, Inc.



111 STEDMAN SUITE 200
KETCHIKAN, ALASKA 99901-6599
Phone 907-225-6114
FAX 907-225-5920

March 31, 1998

The Honorable Jerry Ward, Chairman
Senate Transportation Committee
Alaska State Senate
State Capitol
Juneau, AK 99801

Dear Senator Ward:

Jerry

The Alaska Forest Association strongly supports Committee Substitute for House Bill 373(RES). CSHB 373(RES) is AFA's top legislative priority for 1998, and the Association urges your full support for this bill in its current form. CSHB 373(RES) is the direct result of a proposal AFA set before the Alaska Board of Forestry after a collaborative process involving the timber industry, the fishing industry and the resource agencies of the state. Both the process and the substance of this effort were based upon sound science and a balancing of interests.

Alaska already has a very effective, science-based forest practices law which ensures protection of important fisheries habitat while recognizing the unique relationship between private land rights and related public resources. The current law, which was developed through a cooperative process in 1989 and 1990, involves the Division of Forestry, the Division of Habitat and Restoration, and the Division of Air and Water Quality in monitoring and enforcing the provisions of the law. It enables timber operators in Alaska who conduct their harvest activities according to best management practices to have the assurance that they are operating in compliance with a variety of laws under which they would otherwise be individually scrutinized. That alternative would cost both the industry and the state more time and money than is necessary under the current system.

Current law also provides for ongoing examination of the effectiveness of Alaska's forest practices standards, so that the law and regulations can be adjusted to reflect new scientific knowledge as it is developed. Over the past two years, the timber industry has participated in a thorough review of the science relating to logging along anadromous fish streams in the coastal forests of Alaska. This review was conducted under the rubric of the Science and Technical Committee appointed by the Board of Forestry with the support of Governor Knowles. The Committee's report and the subsequent stakeholders' meeting led to the introduction of House Bill 373.

It is important to note that the Science & Technical Committee did not specifically recommend 66 foot buffers on type B streams as provided in Section 1 of the bill. The committee recommended that these streams be given some means of obtaining large woody debris. AFA member companies looked at the operational issues and concluded that buffers of 66 feet or to the slope break would satisfy the goals of the recommendation in a way that field personnel believe can

be implemented without severe adverse affects on harvest economics. It does mean surrendering trees of value by leaving them in riparian buffers, but the standard can be applied in the field and can be readily monitored by the regulators. AFA believes this is a good solution, the effects of which can be evaluated over time.

A matter of great importance to AFA is the fact that CSHB 373(RES) is the result of a collaborative process. The agreement that makes these changes in the Act possible depends upon the substance of the bill remaining as it is now. AFA urges the Alaska Legislature not to entertain any further amendments so that the underlying agreement between affected parties can remain intact.

In summary, CSHB 373(RES) addresses a real need, and represents a balanced approach to resolving an important issue affecting Alaska's forest products sector. When this bill becomes law, it will be a model for broad-based cooperation between affected industries, the agencies, the Governor's office and the legislature. This is a bill that can and should enjoy full, bi-partisan support. I urge its speedy passage.

Sincerely,



Jack Phelps
Executive Director

cc: Senator Wilken
Thyes Shaub

717 K Street
Anchorage, AK 99501
February 17, 1998

VIA FACSIMILE 466-3472

The Honorable Gail Phillips
Speaker of House of Representatives
Alaska State Legislature
Juneau, AK 99801

RE: House Bill 373
(Revisions to Alaska Forest Resources
and Practices Act)

Dear Speaker Phillips:

I appreciate you introducing House Bill 373, providing for needed amendments to the Alaska Forest Resources and Practices Act. I sit as the recreation interest representative on the Alaska Board of Forestry, and have seen the care and thought that has gone into crafting the proposed amendments.

The proposed amendments are based on science. The Board of Forestry convened a science and technical committee, consisting of government and industry experts, to make recommendations to the board. The committee reached consensus on nearly all of the concerns they were asked to examine. The board took these recommendations and worked hard to reach an agreement on the final package of proposed amendments which has been incorporated into HB 373.

HB 373 will provide additional and needed protection of productive streams in Southeast Alaska, without imposing any unreasonable or unnecessary burden on the landowners or operators.

Thank you again for your support of these amendments and the passage of HB 373.

Sincerely,



Lawrence L. Hartig

F:\00CS\05790\LLH\PHILLIPS.LTR

cc: Rep. Bill Hudson, co-chair
Rep. Scott Ogan, co-chair
House Resources Committee



Statement of the Southeast Alaska Conservation Council (SEACC)
on HB 373
before the House Resources Committee
Alaska State Legislature
February 19, 1998

Mr. Chairman, members of the House Finance Committee, my name is Marc Wheeler and I represent the Southeast Alaska Conservation Council (SEACC). Thank you for the opportunity to testify before you today. I respectfully request that my written statement be entered into the official record for this Committee Hearing.

Founded in 1970, SEACC is a coalition of fifteen local community, volunteer conservation groups in twelve Southeast Alaska communities, from Ketchikan to Yakutat. SEACC's 1200 individual members include commercial fishermen, Native Alaskans, hunters and guides, tourism and recreation business owners, value-added wood product manufacturers, and Alaskans from all walks of life. SEACC is dedicated to safeguarding the integrity of Southeast Alaska's unsurpassed natural environment while providing for balanced, sustainable use of our region's resources.

While SEACC has always advocated for freshwater fish habitat protections in Southeast Alaska and we applaud any additional protections given to freshwater fish habitat, we must tell you today that this bill is too little, too late for buffer protections on private lands in our region. With most of Southeast Alaska's Class B streams on private lands already cut to the banks, the minimal additional protections afforded by this bill will not significantly improve quality of freshwater fish habitat. We urge the State Legislature to use the 1995 Report to Congress, the Anadromous Fish Habitat Assessment, as the guidebook for fish habitat protections in Southeast Alaska. The Forest Service recently adopted improved fish stream buffers with its new Tongass Plan to comply with the recommendations of this report. To protect the integrity of Alaska's public trust fisheries resources, the State Legislature should ultimately require private landowners to adopt fish habitat protections equivalent to the new Forest Service fish stream buffers. We also urge the State Legislature to begin a public process to consider freshwater fish habitat protections for lands in other parts of our state.

Respectfully submitted,

Marc Wheeler
SEACC

February 10, 1998

20th Alaska State Legislature
State Capitol
Juneau Alaska 99801-1182

Sent Via-Facsimile to (907) 465-2698

Dear Legislators:

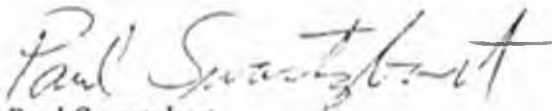
I support House Bill 373 relating to forest practices in the state of Alaska. This bill provides needed changes to the Forest Practices Act that both our state natural resource management agencies and our timber industry agree to.

This is a step forward for salmon habitat protection that will benefit sport and commercial fisherman, and the environmental community. This bill is the result of two years of consensus building and scientific inquiry by state and federal scientists meeting with members of private industry. We have come up with the most habitat protection for the least economic cost to private industry; it is a delicate balance. Any wording changes could have large consequences so I hope it will be considered "as is".

As the commercial fisherman on the Board of Forestry, I feel that salmon habitat protection is vital to the economic health of our state. Being a business person, I also understand how burdensome new regulations can be on an industry. This legislation was written by the timber industry and the resource agencies working together. It will help minimize the impact of logging operations on our salmon runs.

Thank You.

Sincerely,



Paul Swartzbart
Alaska State Board of Forestry
Commercial Fishing Seat



Statement of Support
House Bill 373
An Act relating to forests and forestry practices

Testimony before the House Resources Committee
February 19, 1998

The Alaska Forest Association desires to be on record in full support of House Bill 373. "An Act relating to forests and forestry practices." This bill is the direct result of a proposal set before the Alaska Board of Forestry after a collaborative process involving the timber industry, the fishing industry and the resource agencies of the state. Both the process and the substance of this effort were based upon sound science and a balancing of interests.

Alaska already has a very effective, science-based forest practices law which ensures protection of important fisheries habitat while recognizing the unique relationship between private land rights and related public resources. The current law, which was developed through a cooperative process in 1989 and 1990, involves the Division of Forestry, the Division of Habitat and Restoration, and the Division of Air and Water Quality in monitoring and enforcing the provisions of the law. It enables timber operators in Alaska who conduct their harvest activities according to best management practices to have the assurance that they are operating in compliance with a variety of laws under which they would otherwise be individually scrutinized. That alternative would cost both the industry and the state more time and money than is necessary under the current system.

Current law also provides for ongoing examination of the effectiveness of Alaska's forest practices standards, so that the law and regulations can be adjusted to reflect new scientific knowledge as it is developed. Over the past two years, the timber industry has participated in a thorough review of the science relating to logging along anadromous fish streams in the coastal forests of Alaska. This review was conducted under the rubric of the Science and Technical Committee appointed by the Board of Forestry with the support of Governor Knowles. The Committee's report and the subsequent stakeholders' meeting led to the introduction of House Bill 373.

It is important to note that the Science & Technical Committee did not specifically recommend 66 foot buffers on type B streams as provided in Section 1 of the bill. The

committee recommended that these streams be given some means of obtaining large woody debris. AFA member companies looked at the operational issues and concluded that buffers of 66 feet or to the slope break would satisfy the goals of the recommendation in a way that field personnel believe can be implemented without severe adverse affects on harvest economics. It does mean surrendering trees of value by leaving them in riparian buffers, but the standard can be applied in the field and can be readily monitored by the regulators. AFA believes this is a good solution, the effects of which can be evaluated over time.

A matter of great importance to AFA is the fact that House Bill 373 is the result of a collaborative process. The agreement that makes these changes in the Act possible depends upon the substance of the bill remaining as it is now. The amendments proposed by the Attorney General's office, which are before the committee today, only provide consistency and clarification and are therefore acceptable. AFA would urge the committee not to entertain any other amendments so that the underlying agreement between affected parties can remain intact.

In summary, House Bill 373 addresses a real need, and represents a balanced approach to resolving an important issue affecting Alaska's forest products sector. When this bill becomes law, it will be a model for broad-based cooperation between affected industries, the agencies, the Governor's office and the legislature. This is a bill that can and should enjoy full, bi-partisan support. I urge its speedy passage.

DEPARTMENT OF NATURAL RESOURCES

3601 C Street, Suite 1034
Anchorage, Alaska 99503-5937

DIVISION OF FORESTRY

February 12, 1998

Representative Bill Hudson, co-chair
Representative Scott Ogan, co-chair
House Resources Committee
State Capitol
Juneau, Alaska 99801-1182

Dear Sirs,

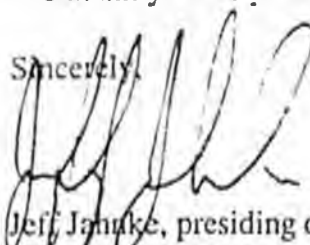
The Board of Forestry would like to register its support for H.B. 373. This bill incorporates the results of two years of work developing an agreement on appropriate changes to the Forest Resources and Practices Act. The Board unanimously endorsed the proposals in the bill after considering the results of a scientific and technical review of the Act, and the recommendations from a drafting process that included representatives of affected interests.

This bill maintains the balance intended by the Act: It ensures adequate protection of fish habitat and water quality while continuing to support the timber and fishing industries. It is important that this bill go forward as proposed without substantive changes. The widespread support this bill has received is contingent on preserving the specific package of changes in the bill.

We are aware that the drafting process has resulted in some minor and non-substantial changes to the specific wording endorsed by the Board. We do not object to these changes. We also understand that the Attorney General's review of the bill has identified some minor wording changes to improve clarity and consistency within the bill. We endorse these changes (attached).

We thank you for your support of this important legislation.

Sincerely,



Jeff Janike, presiding officer

For/cc: Board of Forestry Members Richard Carle, Lawrence Hartig, Bill Jeffress, Chris Maisch, Rick Smeriglio, John Sturgeon, Paul Swartzbart



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(Keeping the Public Informed)

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Concerning work of the Science & Technical Committee

Testimony of Jack E. Phelps, Executive Director
Offered to the Alaska Board of Forestry
January 21, 1997

The Alaska Forest Association has closely observed the work of the Science and Technical Committee formed last year to examine allegations set forth in the report from the Department of Fish and Game, Habitat Division regarding the state's Forest Resources and Practices Act. Among other claims, the report stated that ADF&G staff are uniformly of the belief that the implementation of the FPA remains seriously deficient. The Science & Technical Committee was formed to investigate those allegations and to determine the extent to which the aforementioned belief could be substantiated by facts.

In short, the question was whether substantial harm was being done to fish and wildlife habitat as a direct result of timber harvests, particularly on private land. A closely related question which was not directly raised by the report but that begged an answer in the process, was whether any reduction in theoretical carrying capacity of any habitat was disproportionate to the benefit derived by the private landowners from managing their timber resources for their shareholders. This question is raised by the fairness doctrine and the no big hit doctrine of the Alaska Forest Resources and Practices Act.

Simply put, these doctrines declare that a balance must be struck between the values at stake when private land interests come in contact with public resource interests, in this case fisheries. The fairness doctrine insists that there be shared risks and incentives for both timber owners and the public, represented by the regulatory agencies. The no big hit doctrine requires that private landowners should not carry an inordinate economic burden for minimal losses to fish habitat. The law envisions a balance of interests between forestry and fisheries when it comes to timber harvests on private land.

After a year of meetings and careful examination of the evidence, the Science & Technical Committee's work suggests that the existing law protecting fish habitat is working very well. Many of the issues discussed by the committee had to do with technical definitions and minutia, not evidence of actual harm. The deliberations tended to verify that logging is having a very minor impact on fish habitat. Timber harvest on private lands, at the rate and under the regulatory conditions that now exist, is taking place without significant harm to Alaska's important fisheries resources.

To those of us in the industry who have worked to comply with the Forest Resources and Practices Act, and have made a sizable investment in fish habitat research over the past several years, this comes as no surprise. It is compatible with the tentative findings of our own ongoing scientific studies and of the research being done by others. A recent paper published in the journal of the American Fisheries Society shows that fewer than 5 percent of the anadromous fish spawning

aggregates in Southeast Alaska are in decline and some of those are in unlogged areas. Private landowners have willingly left millions of dollars worth of trees in riparian buffers over the past half decade, and those contributions are augmenting the health of Alaska's fisheries.

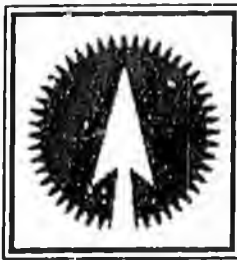
AFA commends the participants in the Science and Technical Committee for ensuring that the process of addressing the Habitat Division's report was conducted in a professional and scientific manner. On balance, the leadership of the committee was fair and diligent. Various participating parties were consistently given a fair hearing, and the committee was able to arrive at a satisfactory level of consensus. The Science and Technical Committee has done a good job of identifying and clarifying technical problems with monitoring and enforcement of the Act, and most of the recommended changes have the industry's support.

It was a good process, but it was an expensive one. It was costly for the state, and it was costly for industry. AFA member companies, one in particular, invested more than \$100,000 over the past year to enable professional and research staff to attend the meetings and study the ADF&G allegations. On the state side, the process demanded huge blocks of time from Division of Forestry and Department of Fish and Game personnel, taking staff away from field work. This is unfortunate and ironic, given the frequently stated complaint from Fish and Game that they lack the financial resources to do adequate field work.

The Alaska Forest Association is committed to supporting reasonable enforcement procedures for the Forest Resources and Practices Act. Industry has shown its willingness to work through the process, even at great expense, to ensure that other resources are not harmed by harvest activities. We hope that the exercise forced upon industry, the Board of Forestry and the other agencies last year by ADF&G's approach will not be repeated in the future. If one agency or another has questions or wishes to raise concerns about scientific or technical issues, those issues should be raised using established interagency procedures, and the discussion should take place in the context of scientific investigation before unnecessary alarm bells are rung with the press and the general public.

Thank you for the opportunity to testify on this important matter.

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Last Updated: 28 Mar 97

KFP
Koncor Forest Products Company

1501 Denali Parkway
Anchorage, Alaska 99501
Tel: 502-377-7441 Fax: 502-377-7442

February 12, 1998

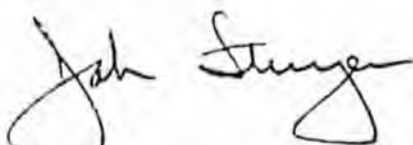
Gail Phillips
Speaker, Alaska House of Representatives
State Capital
Juneau, AK 99801-1182

Dear Gail:

Koncor participated in the development, and fully supports the passage, of HB 373 which modifies the Alaska Forest Resources & Practices Act. This bill represents a balance between economic considerations and protection of public resources such as water quality and fish habitat. The process used to draft the bill is a model for using scientific review, cost/benefit analysis, and consensus building of stakeholders. Passage of this bill is also important to ensure that our forestry laws are the best in the nation, and that these laws will constantly be reviewed and modified as new scientific information becomes available.

We urge the Legislature to pass HB 373.

Sincerely,



John Sturgeon
President



February 11, 1998

The Honorable Gail Phillips
Speaker of the House
Alaska State Legislature
M/S 3100
Juneau, Alaska 99801-1182

Dear Representative Phillips:

This letter is to inform you of Sealaska Corporation's support for HB 373 titled an "Act Relating to Forest and Forestry Practices". This bill establishes supplemental environmental protection standards on private lands in Region 1 (hemlock, spruce forests of coastal Alaska) and adds a new stream type.

This Act evolved out of a two year process in which biological, environmental and economic issues associated with timber harvest and its interaction with fisheries habitat and water quality were evaluated. This stakeholder review identified opportunities to strengthen the fish habitat and water quality protection in Alaska's Forest Resources and Practices Act. Through this collaborative process the timber industry and land owners could see that the proposed changes will yield measurable, beneficial results to fish habitat and water quality. Conversely the timber industry was able to guide development of legislative changes to achieve protection objectives without unreasonable cost or burden on the industry or private landowners.

This letter is to inform you of Sealaska's endorsement of the process and support for the results that are embodied in the legislation currently before you. The State of Alaska already has one of the most comprehensive and effective Forest Practices Acts in the Nation. The proposed amendments will serve to strengthen that Act and still ensure a healthy timber industry.

We support the current legislation but understand that there are a few clarifying amendments recommended by the Attorney General's office.

These amendments do not change the intent of the legislation as recommended by the Board of Forestry. We support those amendments to the degree they do not alter the consensus objectives established by the Board.

We request your support of this legislation and recognize the carefully crafted compromise between the industry, fisherman and environmental community to develop an effective set of amendments. This collaboration has lead to an impressive working relationship and the results of those efforts should be honored by the legislature by passing the bill before you.

Sincerely,

SEALASKA CORPORATION

Richard P. Harris/jh

Richard P. Harris
Senior Vice President
Natural Resources

cc: House Resources Committee
Senator Mike Miller
Senate Resources Committee
Sam Kito
Senator Robin Taylor
Senator Jim Duncan
Senator Jerry Mackie
Representative Bill Williams
Representative Ben Grussendorf
Representative Kim Elton
Representative Bill Hudson
Representative Albert Kookesh
S.E. Village/Urban Corporation
Jack Phelps, AFA
AFA Technical Committee
Thyes Shaub
Jerry McCune



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112
Juneau, Alaska 99801
907-586-2820
Fax: 907-463-2545
E-Mail: ufa@alaska.net

February 17, 1998

The Honorable Gail Phillips
Speaker of the House
State of Alaska
Juneau, AK 99801-1182

Dear Representative Phillips:

Today the Board of Directors of United Fishermen of Alaska (UFA) adopted a position in support of legislation you introduced, HB 373, relating to forests and forestry practices.

This bill is the achievement of industries, assisted by the Board of Forestry and state agency staff, working together to find common ground. The forest products industry and commercial fishing industry worked together to resolve their particular concerns with the proposals advanced by the Board of Forestry, and they were successful. The legislation, as introduced, is supported by United Fishermen of Alaska because it represents an improvement in the laws governing forest practices. It affords greater protection than now exists for sensitive fish habitat.

United Fishermen of Alaska's mission includes preserving fishery resources through research, development and habitat protection. We will continue to work with other industries, as we did in our work on the forest practices provisions embodied in HB 373, to pursue this important objective.

We hope that the members of the Legislature will acquaint themselves with the provisions of this legislation, the language of which was carefully crafted to meet concerns of commercial fishermen and representatives of the forest products industry, and we strongly support the passage of the legislation as introduced.

The commercial fishing industry is very appreciative of your work on this legislation. Thank you.

Sincerely

Jerry McCune
United Fishermen of Alaska

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Longline Fishermen's Association • Alaska Trollers Association • Bristol Bay Driftnetters Association • Concerned Area "M" Fishermen
Cook Inlet Aquaculture Association • Cordova District Fishermen United • Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seiners Association
North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Northwest Seiners Association • Peninsula Marketing Association
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Sealood Producers Cooperative
Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association • United Cook Inlet Drift Association • United Southeast Alaska Gillnetters

Anchorage Daily News



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Salmon streams

A measure that matters

More Alaskans, including those who work in the timber trade, are willing to protect salmon-bearing streams in Alaska's coastal rainforest from further degradation.

That's heartening.

Speaker of the House Rep. Gail Phillips has sponsored legislation that moves Alaska closer to better balancing development rights and salmon habitat in the rainforest running from roughly Ketchikan to Kodiak.

This emerging shift in philosophy, if handled properly, can benefit Alaskans who look to the forests for recreation or to sustain their livelihoods, be it fishing, ecotourism, professional guiding or the like.

The Phillips bill, HB373, requires loggers on private property in the affected coastal region to leave no-cut buffers along all streams crossing the property. Right now, only major streams that support fish spawning or rearing are protected.

HB373 also requires loggers to leave buffers of low-val-

This emerging shift in philosophy, if handled properly, can benefit Alaskans who look to the forests for recreation or to sustain their livelihoods, be it fishing, ecotourism, professional guiding or the like.

ue timber along some types of tributaries "where prudent." The idea here is let nature do its work: debris like fallen trees moves downstream and eventually creates natural pools that salmon favor.

The House measure, which was shepherded through the body by Rep. Bill Hudson of Juneau and amends a 1990 forestry act, passed unanimously earlier this month and is now in the Senate. It originated in the work of a state-backed committee of diverse interests, including the timber industry, that re-

viewed scientific research on this issue for the past two years.

While environmental groups participated in the scientific-review process and largely support the Phillips bill, they're on record with a couple of legitimate concerns. If, as they and scientists contend, the proposed streamside buffers aren't wide enough to conserve salmon stocks, then legislators must revisit the issue. Lawmakers must take care to properly balance the rights of private-property owners who log against their responsibilities — such as properly caretaking public resources like fish and deer and wolves and bear that inhabit their property.

Southeast conservationist Marc Wheeler says, "At least in Southeast Alaska, all the private lands that this would apply to, most of those streams have been cut to the bank already." The state can't go back and undo the damage but it can apply lessons learned in Southeast to other places that have been largely untouched by clearcut logging.

All this said, HB373 is a good measure that helps inch Alaskans toward looking at rainforest watersheds with both wide-angle and closeup lenses. This whole-systems approach is part of evolving science that says smaller streams feeding into larger salmon-bearing streams must be better protected.

Congratulations to the state House of Representatives and Speaker Gail Phillips for getting this bill off and running.

State of Alaska
Office of the Governor

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Governor
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NEWS RELEASE



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FOR IMMEDIATE RELEASE: January 30, 1998

98-023

**STAKEHOLDER INVOLVEMENT CRAFTS
FOREST PRACTICES ACT REVISION**

Calling it a model of stakeholder involvement, Gov. Tony Knowles hailed the work that crafted proposed amendments to the Forest Practices Act. The changes affecting logging practices on private land in Alaska strengthen fish habitat and water quality protections, and were the result of a stakeholder process initiated by Knowles in 1995.

"By bringing together Alaskans from all sides, we have crafted a bill which increases fish habitat and water quality protections and is workable for the timber industry," Knowles said. "The Forestry Board and the Science and Technical Committee have produced a solid bill that could only come about by bringing all stakeholders to the table."

Knowles created the Science and Technical Committee to work on amendments to the Forest Practices Act after concerns regarding the act were raised by the Alaska Department of Fish and Game. The committee included state agency officials, timber industry representatives and the fishing industry. The nine-member Board of Forestry, which includes representatives of the forest, mining, commercial fishing, and recreation industries, reviewed the work.

The proposal, and the process that created it, won praise from the industry. "The Alaska Forest Association (AFA) congratulates you on the very positive outcome of the process you initiated two years ago to deal with issues surrounding the state's Forest Resources and Practices Act," Jack Phelps, executive director of the AFA, said in a letter to Knowles. "The Science/Technical Committee you established encouraged industry and agency cooperation. The result was a science-based review which enabled us to cooperatively identify areas for improvement in a very sensitive section of Alaska law. The AFA thanks you for your leadership in this very important activity."

Legislation to amend the act to require buffers on ALL anadromous fish streams and strengthen protections along their tributaries was introduced in the state House and Senate this week with bipartisan support. Knowles thanked Senate President Mike Miller and House Speaker Gail Phillips for their support and pledged to work with them as the bill moves to passage.

"The principles on which I base resource decisions are sound science, prudent management and an open, public process," Knowles said. "It's a winning combination that produces solid success, but it's only possible by bringing all Alaskans to the table. It's what 'doing it right' is all about."

Voice of the Times

OPINION: THE RIGHT WAY

Habitat protection legislation introduced recently in the Alaska Legislature merits a lot more public attention than it initially received. Senate Bill 270, and an identical bill in the House, would amend the state's Forest Practices Act and provide additional protection for salmon streams. Specifically, the legislation would require streamside buffers -- areas in which no timber could be harvested -- along so-called "marginal" salmon streams that cross private property. Under existing state law, all anadromous fish streams are protected by no-cut buffer zones, but an exception is allowed for certain marginal fish streams. The new law would eliminate the exception.

Additionally, the bill would make dozens of other modifications and improvements to update the Forest Practices Act. These changes were recommended by the state Board of Forestry after its members evaluated scientific research conducted over a two-year period by biologists hired to study the effects of Alaska's regulations on timber industry operations.

The nine members of the Board of Forestry, appointed by the governor, represent the commercial fishing, mining, tourism and timber industries, the environmental sector and Native groups. The state forester is also a member.

The legislation that was introduced last Thursday is sponsored by the Republican leadership -- Sen. President Mike Miller, R-North Pole, and House Speaker Gail Phillips, R-Homer. The bill is strongly endorsed by Gov. Tony Knowles and is expected to have solid bipartisan support as it moves through the legislative process.

There is a dramatic difference between the process followed by the state to protect all fish streams and the recent decree by the U.S. Forest Service banning new roads in national forests. Both were justified as necessary to protect habitat. The state's policy decision is based on sound science and a consensus negotiated among the stakeholders. It's a win-win situation for all sides. The timber industry can still operate, the salmon stocks remain strong and streams are not

polluted. Not surprisingly, the bill now enjoys broad support.

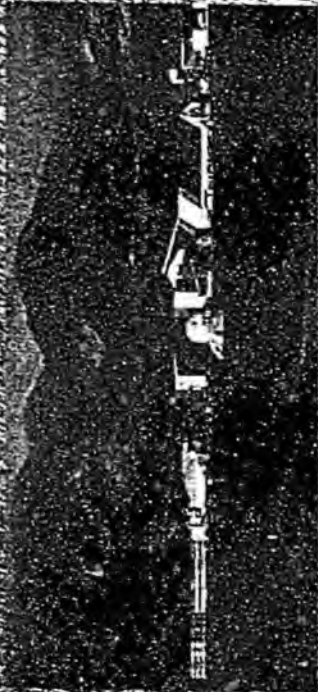
The federal action, in contrast, was based on a deal cut by the Clinton administration and the national environmental lobby behind closed doors, according to Alaska Rep. Don Young.

There is no scientific study backing the road ban. A number of local communities, states and businesses are being unnecessarily hurt by it. In Alaska, for instance, if an exception isn't made for the Chugach National Forest, there can be no way of effectively addressing the spruce bark beetle crisis. Few people are happy with the federal edict.

Uncle Sam could learn a thing or two by noting how the process works in Alaska.

REDDOG MINER

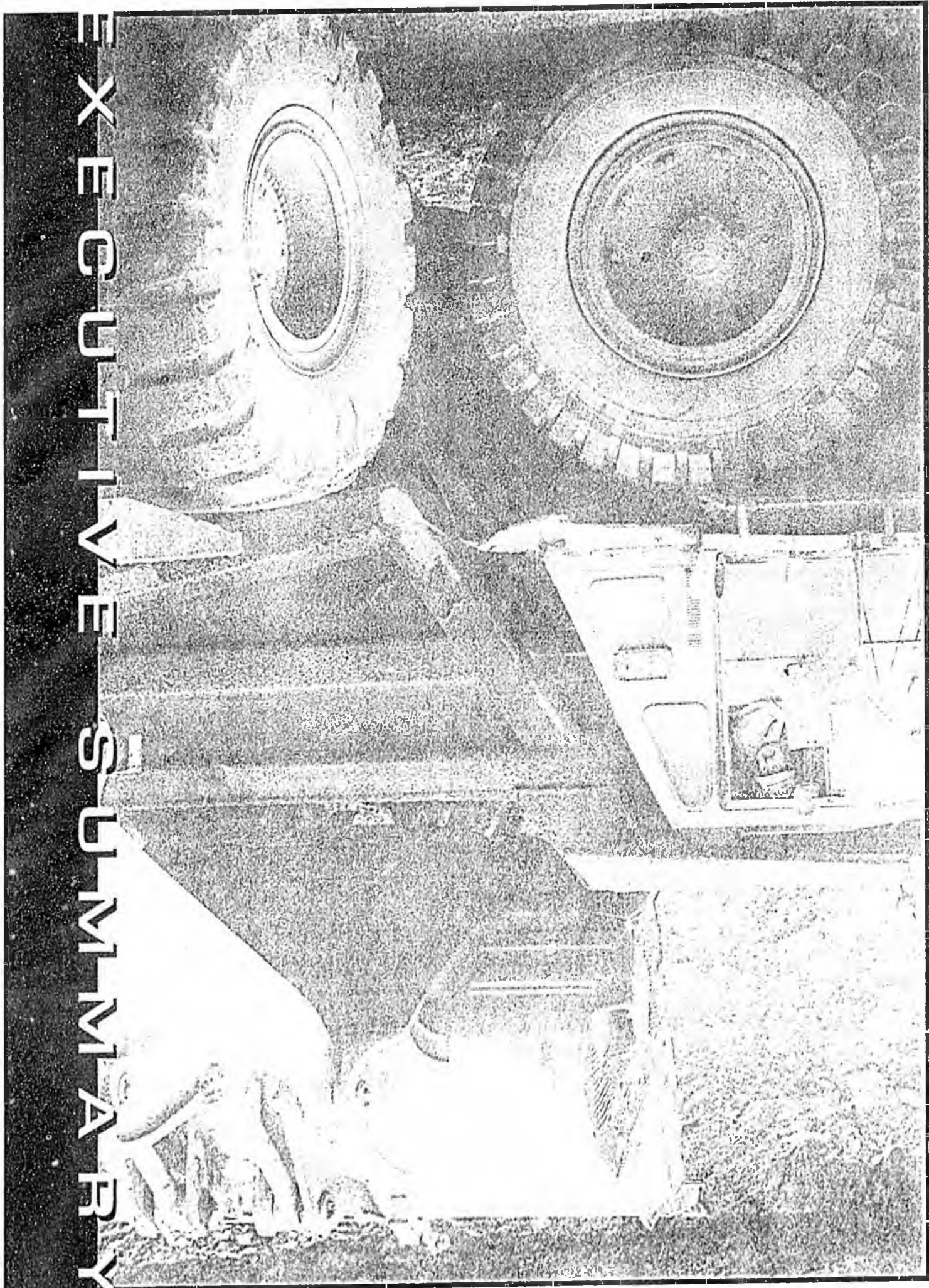
EMULSION
LEADING THE WAY
THROUGH PARTNERSHIP



The Red Dog Mine

**Cominco Alaska & NANA Partnership
Provides Role Model for Worldwide
Resource Projects**

EXECUTIVE SUMMARY



I. EXECUTIVE SUMMARY

When the ancestors of northwestern Alaska's indigenous people hunted the upper drainage of the Wulik River, they had little knowledge of a treasure beneath their feet - a vast deposit of zinc, lead and silver, now known as Red Dog. The deposit lies within the settlement lands of the Northwest Alaska Native Association (NANA) and the mine now provides a significant contribution to the people of the region.

Red Dog contains a world-class zinc deposit, producing high grade zinc, lead and silver. Despite its high grade quality, Red Dog's ore lies within a relatively small area, one mile by one half mile, and is expected to provide a sustainable economic base for the region for decades to come.

Red Dog shows by example how mining can be compatible with indigenous peoples' values and the principle of sustainable development. It shows how industry, with proper planning, can develop a local work force which allows indigenous peoples to walk forward in both their traditional and modern worlds.

To fully appreciate the Red Dog story, some unique background information must be understood. On the following pages, you will learn about the distribution of 44 million acres of land given to Alaska Natives and how one group turned a small portion of their land into the world's largest producer of zinc in zinc concentrate. This was accomplished through a uncommon partnership between government, industry and the indigenous people of Northwest Alaska.

NANA

The enactment of the Alaska Native Claims Settlement Act (ANCSA) in 1971 settled aboriginal land claims of Alaska Natives against the United States. ANCSA granted Alaska Natives the right to receive title to 44 million acres of land in Alaska and a cash settlement of \$962.5 million from the United States and state of Alaska.

Thirteen regional and over 200 village corporations were subsequently formed to receive title to the lands and manage the cash settlement. Northwest Alaska Native Association (or NANA) is one of those thirteen regional corporations.

Only eligible Alaska Natives (Indians, Eskimos and Aleuts of 25 percent or more blood quantum) were enrolled as shareholders of the respective corporations. Today, there are over 80,000 Alaska Native shareholders. From this group almost 10% (8,000) are Inupiat Eskimos who hold shares in the NANA Regional Corporation.

It is important to keep in mind that the primary purpose for pursuing the land settlement was to preserve the land base and resources of their people; it was not to own large corporations.

Bisected by the Arctic Circle, the NANA region is home to some 8,000 people in an area roughly the size of Maine (38,000 square miles).

The region has been inhabited for more than 10,000 years by the ancestors of the Inupiat Eskimos and other indigenous groups who subsequently migrated south and east into Canada and the United States from Russia. The vast majority of the people are Inupiat Eskimos.

Winters in the northwest Arctic are long and cold, with temperatures frequently plunging to 30 and 40 degrees Fahrenheit below zero, not counting windchill. The summers are short, but sunny and warm.

The NANA region is distinct from the other areas of Alaska where different groups of Indians, Aleuts and Eskimos have intermarried and intersettled. The dominance of a single aboriginal people gives the NANA region an unusually high degree of unity.

As their ancestors had for centuries, the Inupiat people of the NANA region rely heavily on subsistence hunting and fishing. For most families, the household economy is a mix of hunting, fishing and part-time, or seasonal jobs. Subsistence hunting and fishing is not only an economic necessity; it also has strong cultural and social significance. Reliance on the land is a traditional way of life for the Inupiat people. The continuation of that relationship is a vital element in their identity and values.

Today, NANA, a diverse corporation with roots in the Northwest Alaska Native Association, has successful investments in ventures ranging from tourism to petroleum technology and mining.

THE DEPOSIT

The Red Dog deposit is located in Alaska's Northwest Arctic Borough in the DeLong Mountains of the Western Brooks Range, 90 miles north of Kotzebue and 55 miles from the Chukchi Sea (see map). It consists of a number of orebodies which together total more than 12.5 million tons of reserves containing 17.1 percent zinc, 5 percent lead and 2.4 ounces/ton of silver.

The first report of mineralization in the Red Dog area was in 1963. When the late Bob Baker of Kotzebue, a bush pilot and prospector, noticed the rusty alteration in Red Dog Creek, while flying over the area. He brought it to the attention of Irving Tailleir of the U.S. Geological Survey, who was mapping the geology of the DeLong Mountain quadrangle which includes Red Dog Creek. Tailleir visited the site and immediately notices abundant barite, black chert,

siliceous sinter, and iron oxide staining. He few rock samples showed significant zinc and lead mineralization.

The name "Red Dog Creek" was coined by Tailleuri, after Bob Baker's prospecting company, the Red Dog Mining Company, named after Baker's pet dog, who frequently flew with him.

The Red Dog zinc/lead ore body contains one of North America's and perhaps the world's most significant mineral deposits. The U.S. Bureau of Mines expects the deposit to contain 29 percent of all proven U.S. zinc reserves. It is the largest zinc mine in the western world and, once it reaches full production (anticipated to be in 1999), will produce an estimated 3.2 million tons of ore annually. This is milled into 720,000 short tons of lead and zinc concentrates, which are transported year round to a seaport 52 miles from the mine. Concentrate shipments to smelters occur during the 100-day ice free shipping season. Portions of the concentrate are shipped to Canada, Europe and Asia.

Because of the grade of the deposit and the size of the ore body, the Red Dog Mine is expected to operate as an efficient ore producer for a half century, despite the remote location, high development and outshipment costs.

Process modifications in the concentrator have resulted in dramatic increases in zinc and lead recoveries since early 1996. At the Red Dog mine, zinc recovery increased to more than 82 percent in 1996 from 75 percent in the previous year, while lead recovery increased to 57 percent, up from 37 percent in 1995. As a result, approximately 157,000 fewer tons of ore milled in 1996 produced a greater amount of both concentrates than in 1995.

The Red Dog mine operations may also provide the staging base and incentive for other significant discoveries and developments in the area. The Aqqaluk deposit, adjacent to the Red Dog deposit was discovered in in 1995. Exploration drilling during the summer of 1996 partially delineated another

mineralized zone immediately north of the Aqqaluk deposit with an estimated Possible Resource of 7 million tons at 16 percent zinc. Preliminary environmental monitoring began in anticipation of the future development of Aqqaluk.

THE NANA/COMINCO AGREEMENT

In 1978, NANA made its most economically significant land selection, when it claimed the 120 square mile block of land underlying the Red Dog zinc/lead ore body.

In 1982, development of Red Dog began with the selection of Cominco Ltd. to lease the deposit and operate the mine. The Canadian-based firm, incorporated in 1906, is one of the world's largest producers of zinc and lead, accounting for about 10 percent of production in the western world. The company also produces copper concentrate, silver and gold. Cominco, an integrated natural resource company with principle activities in mineral exploration, mining, refining, and fertilizer production, has operations and interests worldwide.

Cominco Alaska is a wholly-owned subsidiary of Cominco Ltd., and operates the Red Dog Mining projects.

The NANA/Cominco development agreement gives Cominco the right to build and operate the mine and market the metals. In return, NANA receives an escalating percentage of royalties. NANA eventually will receive a 50 percent share of the mineral profits.

Cominco financed, constructed and now manages the mine and mill and markets the concentrates produced at the mine. Under the agreement, Cominco also took responsibility for employing and training NANA shareholders to staff the operations.

The mine's transportation system (access road and seaport) was financed and constructed by the state of Alaska's Industrial Development Authority. The state's \$160 million investment in the facility is being repaid with interest from Cominco's user and export fees, over the life of the mine. The publication *Mining Engineering*, as far back as 1992, reported that:

"State officials continually point to Red Dog as the example of cooperation between government, Alaskan natives and industry in development of natural resources in a responsible manner, building a strong economic base and providing jobs with high wages."

This three way partnership is testimony to what can be accomplished when the State, private sector and local communities work together. All partners benefit from this relationship.

Looking back into the months and days which led to the signing of the agreement between NANA and Cominco, both had definite financial expectations of the property and looked forward to meeting the engineering challenges of mining the remote Red Dog deposit.

Cominco Ltd. did not initially envision how the Inupiat Ilitqusiat (the Inupiat peoples preservation of values and traditions) would become a part of our Red Dog 2000 mission statement; how Cominco's values and NANA's values would meld into Red Dog's values.

The key principles behind the agreement are based on the importance of people and the environment.

Employment/Training

The agreement allows indigenous people to pursue their traditional lifestyle while providing modern training and employment. It calls for a comprehensive

shareholder hire program to ensure that NANA shareholders, the indigenous people of the area, are hired to work at the operations.

A NANA/Cominco joint management committee reviews and approves operations activities, and an employment committee helps guide the effort to hire, train and promote NANA shareholders. NANA and its subsidiaries also provide drilling, catering and other contracted services on the project.

One of the terms of the agreement was to work toward a goal of having NANA shareholders comprise 100 percent of the employees at Red Dog after 12 years of production, to the extent feasible. It is understood that the only way this can be accomplished is through a commitment to extensive education and training programs for NANA area residents. Cominco has complied with this term to the extent that today, over 55 percent of Red Dog employees are NANA shareholders, and the figure is growing every year.

Environmental Protection

The agreement also ensures that development does not interfere with subsistence activities. Residents of Kivalina and Noatak, villages closest to the mine site, serve on the Subsistence Advisory Committee which has significant authority to protect hunting, fishing and other resources.

The prime purpose of the Subsistence Advisory Committee is to ensure that all exploration, development and mining activity at the mine site is consistent with sound stewardship principles and will not harm or threaten the subsistence needs and the physical, cultural, social and economic needs of the indigenous people of the NANA region. The committee reviews many reports from extensive environmental monitoring required by Cominco and by the government permits. The quality of water, air and earth is continually tested. Any possible effects on the two nearby villages are openly discussed. Activity on the 52 mile concentrate haul road from the mine site to the port site is

monitored, and potential effects on subsistence hunting are reviewed by the committee.

During the caribou migration season, the Subsistence Advisory Committee can shut down traffic on the road. In addition to stringent regulatory and policy requirements, the local people who live in the area have authority to close the road if they legitimately feel the impact is detrimental to their subsistence.

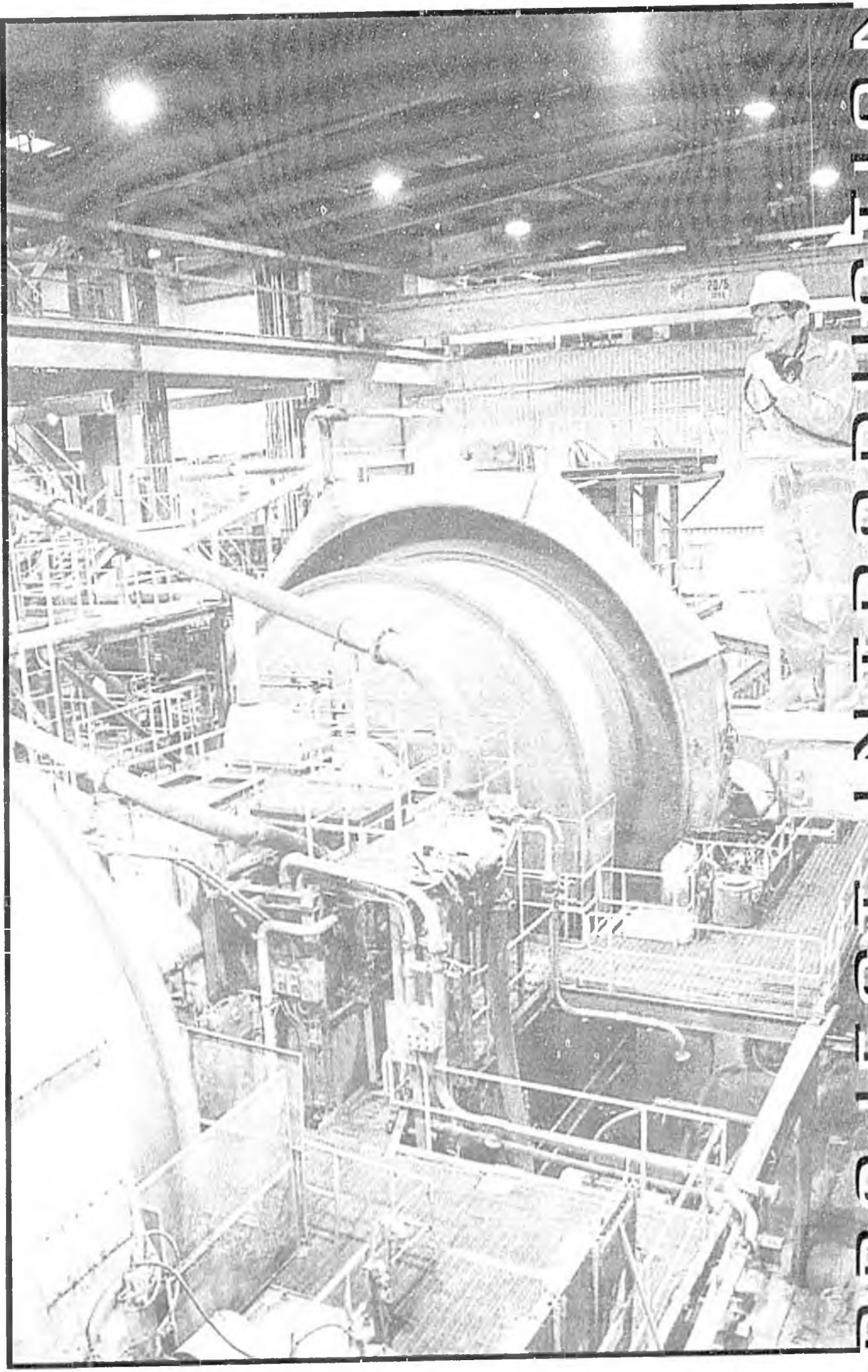
In Conclusion

Production at the mine began in late 1989 and will continue for 45 to 50 years, providing high-paying employment and excellent training opportunities for NANA shareholders. When peak production is reached, Red Dog is expected to produce about five percent of the world's zinc supply and provide approximately 360 direct jobs.

NANA is accomplishing its goal of protecting the land, as its shareholders pursue their traditional ways, aided by the modern technology afforded through jobs at the mine. The cash flow and work opportunities have created a solid base for growth in the future.

The Inupiat Eskimos of Northwest Alaska have a proud tradition as whaling captains, dog mushers, commercial pilots, artists, carvers, member of the Alaska Legislature and active participants in the Alaska National Guard. Add to that list today mill operators, geologists, pipeline engineers, supervisors and trainers in the mining industry, and corporate executive posts.

In the new millennium, a leadership tier will develop out of young NANA shareholders employed at Red Dog. Their ideas and skills will be a source of economic strength and leadership to NANA, the Region and the state. Red Dog has captured the right spirit, progress with a commitment of respect for the environment, while producing a versatile work force and world-class base metal operation.



CONSTRUCTION



II. INTRODUCTION

When the ancestors of northwestern Alaska's indigenous people hunted the upper drainage of the Wulik River, they had little knowledge of a treasure beneath their feet - a vast deposit of zinc, lead and silver, now known as Red Dog. The deposit lies within the settlement lands of the Northwest Alaska Native Association (NANA) and the mine provides a significant contribution to the people of the region.

Red Dog contains a world-class zinc deposit, producing high grade zinc, lead and silver. Despite its high grade quality, Red Dog's ore lies within a relatively small area, one mile by one half mile, and is expected to provide a sustainable economic base for the region for decades to come.

Red Dog shows by example how mining can be compatible with indigenous peoples' values and the principle of sustainable development. It shows how industry, with proper planning, can develop a local work force which allows indigenous peoples to walk forward in both their traditional and modern worlds.

Looking back into the months and days which led to the signing of the agreement between NANA and Cominco Ltd., both had definite financial expectations of the property and looked forward to meeting the engineering challenges of mining the remote Red Dog deposit.

Cominco Ltd. did not initially envision how the Inupiat Ilitqusiak (value system) would become a part of our Red Dog 2000 mission statement; how Cominco's values and NANA's values would meld into Red Dog's values. Perhaps a few farsighted individuals like Robert Aquillaak Newlin and Bob Hallbauer had those visions of the future, but for most, the thoughts were of jobs, mining challenges and financial gain.

None predicted the decline of zinc prices and the technical problems that would plague the operation throughout its early existence. The signing marked the

beginning of a relationship which grew into a partnership, a partnership that continues to evolve and strengthen.

In 1982, development of Red Dog began with the selection of Cominco Ltd. to lease the deposit and operate the mine. The Canadian-based firm is an integrated natural resource company, and one of the world's largest producers of zinc. The NANA/Cominco development agreement gives Cominco the right to build and operate the mine and market the metals. In return, NANA receives an escalating percentage of royalties. NANA eventually will receive a 50 percent share of the mineral profits.

The agreement allows indigenous people to pursue their traditional lifestyle while providing modern training and employment. It calls for a comprehensive shareholder hire program to ensure that NANA shareholders, the indigenous people of the area, are hired to work at the operations. A NANA/Cominco joint management committee reviews and approves operations activities, and an employment committee helps guide the effort to hire, train and promote NANA shareholders. NANA and its subsidiaries also provide drilling, catering and other contracted services on the project.

The agreement also ensures that development does not interfere with subsistence activities. Residents of Kivalina and Noatak, villages closest to the mine site, serve on a subsistence committee which has significant authority to protect hunting, fishing and other resources.

Production at the mine began in late 1989 and will continue for 45 to 50 years, providing high-paying employment and excellent training opportunities for NANA shareholders. When peak production is reached, Red Dog is expected to produce about five percent of the world's zinc supply and provide approximately 360 direct jobs.

This paper outlines the NANA/Cominco agreement and the status of the royalty, employment, training and environmental provisions. Regional benefits derived from the agreement and current challenges are also discussed. The key principles behind the agreement are based on the importance of people and the environment. The first section provides a background to the Alaska Native Claims Settlement Act, the formation, the people, and land of the Northwest Alaska Native Association; and the Red Dog deposit. The second section outlines the provisions of the NANA/Cominco agreement, including important operating, environmental and employment policies. The third section discusses the status of the agreement in terms of achievements and challenges.

Section 1. BACKGROUND

a. The Alaska Native Claims Settlement Act (ANCSA): Settlement Lands

The enactment of ANCSA in 1971 settled aboriginal land claims of Alaska Natives against the United States. ANCSA granted Alaska Natives the right to receive title to 44 million acres of land in Alaska and a cash settlement of \$962.5 million from the United States and state of Alaska.

Thirteen regional and over 200 village corporations were subsequently formed to receive title to the lands and manage the cash settlement. Northwest Alaska Native Association (or NANA) is one of those thirteen regional corporations.

Only eligible Alaska Natives (Indians, Eskimos and Aleuts of 25 percent or more blood quantum) were enrolled as shareholders of the respective corporations. Today, there are over 80,000 Alaska Native shareholders. From this group 10% (8,000) are Inupiat Eskimos shareholders in the NANA Regional Corporation.

Within NANA's boundaries, ANCSA allowed for one profit-making regional corporation and eleven profit-making village corporations — one for each indigenous community within the NANA region. Each person enrolled in the NANA region received 100 shares of NANA Regional Corporation stock, and 100 shares of stock from their respective village corporations. Five years later, in 1976, 10 of the 11 NANA village corporations merged with NANA Regional Corporation, thereby exchanging the shareholders' village corporation stock for NANA Regional Corporation stock.

NANA has not only preserved its \$43.5 million in original capital funds under ANCSA, but has increased its shareholder's equity to nearly \$70 million, as reported at the corporation's most recent fiscal year-end, 1997. Since ANCSA was enacted, dividends to shareholders have totaled \$26.6 million.

b. Northwest Alaska Native Association (NANA)

Bisected by the Arctic Circle, the NANA region is home to some 8,000 people in an area roughly the size of Maine (38,000 square miles). The region's boundaries are identical to Alaska's Northwest Arctic Borough. The Borough was incorporated in 1986 as a first-class borough, providing it with authority over education, taxation, transportation, planning and zoning. Most of the land in the region lies within conservation withdrawals such as parks, monument lands and wildlife refuges, as defined by the Alaska National Interest Lands Conservation Act of 1980.

The village of Kotzebue ("Qiqitagrük"), on Kotzebue Sound, is the seat of the Northwest Arctic Borough. Kotzebue serves as the regional center for the borough's ten coastal, river and interior villages. It has a population of 3,700; the other 10 villages have varying populations, anywhere from 100 to 650 people. All villages, except Noatak, are incorporated as second-class cities and all villages have tribal councils.

Numerous rivers thread the region from surrounding mountain ranges. Major waterways include the Noatak, Kivalina, Wulik, Kobuk, Ambler, Salmon, Selawik, Buckland, Inmachuk, and Squirrel rivers. The terrain varies dramatically with mountains, giant sand dunes, tundra and boreal forests.

The region has been inhabited for more than 10,000 years by the ancestors of the Inupiat Eskimos and other indigenous groups who subsequently migrated south and east into Canada and the United States from Russia. The vast majority of the people are Inupiat Eskimos.

Winters in the northwest Arctic are long and cold, with temperatures frequently plunging to 30 and 40 degrees Fahrenheit below zero, not counting windchill. The summers are short, but sunny and warm. The interior villages of Ambler, Shungnak and Kobuk usually experience the coldest winters and the warmest summers; mid-summer temperatures can climb into the 80s.

The NANA region is distinct from the other areas of Alaska where different groups of Indians, Aleuts and Eskimos have intermarried and intersettled. The dominance of a single aboriginal people gives the NANA region an unusually high degree of unity.

As their ancestors had for centuries, the Inupiat people of the NANA region rely heavily on subsistence hunting and fishing. For most families, the household economy is a mix of hunting, fishing and part-time, or seasonal jobs.

Subsistence hunting and fishing is not only an economic necessity; it also has strong cultural and social significance. Reliance on the land is a traditional way of life for the Inupiat people. The continuation of that relationship is a vital element in their identity and values.

The Inupiat's reliance on fish, game and other resources for both sustenance and traditional purposes provide significant incentives to protect their natural resources. It is important to keep in mind that the primary purpose for pursuing the land settlement was to preserve the land base and resources of their people; it was not to own large corporations.

This purpose is illustrated in NANA's corporate goals, which read:

"NANA is the instrument through which our Inupiat people not only achieve economic objectives, but more importantly, protect our LAND. The Board of Directors, as elected leaders, must assume the responsibility for the Inupiat Way, as expressed in our language, traditions, history, values and culture: Our primary goal must be 'INUPIAT SURVIVAL!'"

This overriding goal to protect the land is also reflected in NANA's "Manikput" or money goals:

"The capital (money) of NANA is also a survival tool. It can be used to protect our land and our people. NANA's goal is

to use our capital to maintain a profitable corporation, for if we do not, we will ultimately lose our land."

Today, NANA, a diverse corporation with roots in the Northwest Alaska Native Association, has successful investments in ventures ranging from tourism to petroleum technology and mining.

c. Red Dog Deposit

The Discovery

The Red Dog deposit is located in Alaska's Northwest Arctic Borough in the DeLong Mountains of the Western Brooks Range, 90 miles north of Kotzebue and 55 miles from the Chukchi Sea (see map). It consists of a number of orebodies which together total more than 12.5 million tons of reserves containing 17.1 percent zinc, 5 percent lead and 2.4 ounces/ton of silver.

The first report of mineralization in the Red Dog area was in 1963. When the late Bob Baker of Kotzebue, a bush pilot and prospector, noticed the rusty alteration in Red Dog Creek, while flying over the area. He brought it to the attention of Irving Tailleir of the U.S. Geological Survey, who was mapping the geology of the DeLong Mountain quadrangle which includes Red Dog Creek. Tailleir visited the site and immediately notices abundant barite, black chert, siliceous sinter, and iron oxide staining. He few rock samples showed significant zinc and lead mineralization.

The name "Red Dog Creek" was coined by Tailleir, after Bob Baker's prospecting company, the Red Dog Mining Company, named after Baker's pet dog, who frequently flew with him.

Tailleir's findings and the apparent similarities of this occurrence to the other large zinc/lead deposits around the world were documented in a USGS open file report published in 1970.

The Red Dog zinc/lead ore body contains one of North America's and perhaps the world's most significant mineral deposits. The U.S. Bureau of Mines expects the deposit to contain 29 percent of all proven U.S. zinc reserves. It is the largest zinc mine in the western world and, once it reaches full production (anticipated to be in 1999), will produce an estimated 3.2 million tons of ore annually. This is milled into 720,000 short tons of lead and zinc concentrates, which are transported year round to a seaport 52 miles from the mine. Concentrate shipments to smelters occur during the 100-day ice free shipping season. Portions of the concentrate are shipped to Canada, Europe and Asia.

Because of the grade of the deposit and the size of the ore body, the Red Dog Mine is expected to operate as an efficient ore producer for a half century, despite the remote location, high development and outshipment costs.

Additionally, process modifications in the concentrator have resulted in dramatic increases in zinc and lead recoveries since 1996.

Future Development

The Red Dog mine operations may also provide the staging base and incentive for other significant discoveries and developments in the area. The Aqqaluk deposit, adjacent to the Red Dog deposit was discovered in 1995. Exploration drilling during the summer of 1996 partially delineated another mineralized zone immediately north of the Aqqaluk deposit.

d. NANA Selects mining rights

Public opinion polls conducted in the early and mid-1970s indicated that most NANA shareholders did not favor development of the Red Dog deposit, or mining in the region at all. The people believed there would be negative impacts on the land which would affect their traditional way of life — particularly subsistence hunting and fishing.