

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10145 SENATE RESOURCES

3/1/99

OUTLINE OF ACTION UNDER EXISTING AUTHORITY

Assumptions:

- Use of the Restoration Reserve funds will commence with FY 2003 (October 2002)
- The Trustee Council will allocate an additional \$36M to the Restoration Reserve (annual \$12M payments in FY 2000, 2001 and 2002)
- Additional restoration program authorizations from March 1999 to October 2002, exclusive of contractual land payments and other habitat commitments, will amount to not more than \$35M
- Remaining unobligated balance of restoration funds in October 2002 will be \$170M including funds that may be needed for a possible Koniag Karluk-Sturgeon acquisition
- Trustee Council receives no new investment authority and continues to invest settlement funds in treasury instruments that yield approximately 5%

Elements of a Long-Term Restoration Program:

- Consistent with the *Restoration Plan*, the core elements of a long-term restoration effort would focus on research, monitoring, and general restoration including community-based restoration, and habitat protection
- Starting in FY 2003, and except as otherwise approved by the Council for habitat protection, restoration efforts would be funded from the earnings of remaining funds
- Earnings estimated at approximately 5% per year from treasury investments (nominal yield)
- The approximately \$170M in restoration funds remaining on October 1, 2002 will be allocated into two parts:
 - ✓ \$55M for habitat protection, including a possible Koniag Karluk-Sturgeon acquisition and any other additional acquisitions approved by the Council prior to that date
 - ✓ remainder (estimated at \$115M plus, under the current assumptions) for research-monitoring, general restoration and community-based projects (e.g., subsistence, TEK, stewardship)
- Absent changes in the investment authority and consequent increased yield on investments, there would be no inflation-proofing with the consequent loss of purchase power over time in proportion to prevailing inflation rates (in order to support an annual restoration program of effective size)
- Cost of program management apportioned according to relative expense (public involvement, agency participation, peer review, habitat acquisition support, administration, etc.) to either the habitat or research, monitoring and general restoration funds as appropriate

Habitat Protection:

- \$55M of remaining funds on October 1, 2002 (FY 2003) for Habitat Protection would include any amounts needed to complete the Koniag Karluk-Sturgeon acquisition or other potential habitat protection purchases

- \$55M of the estimated funds remaining on October 1, 2002 and the associated earnings thereafter will be managed as a long-term funding source with a significant proportion of these funds to be used for small parcel habitat protection and it is recognized that any funding that may be authorized for purchase of lands along or adjacent to the Karluk or Sturgeon rivers or other potential habitat acquisitions would be made from within this allocation
- After December 2001 (the end of the current easement), the \$16.5M previously allocated for the Koniag Karluk-Sturgeon acquisition, if not obligated at that point, would be available for other habitat protection efforts
- Issues that require further consideration:
 - ✓ priority, criteria and decision-making process for specific parcel selection
 - ✓ possible role of non-governmental organization to implement program after October 2002
 - ✓ extent of public involvement in future program

Research, Monitoring and General Restoration:

- Remaining balance of funds (estimated at \$115M plus under the current assumptions) for Restoration Research, Monitoring, and General Restoration would be managed so that earnings-only would be used to support annual work plans starting with FY 2003
- Annual earnings currently estimated at 5% per year if within the U.S. Treasury (nominal yield, no inflation proofing)
- Annual work plan would support continuing restoration and enhancement of oil spill injured resources including long-term research-monitoring, development of improved management tools, synthesis of results, general restoration activities, and community-based restoration projects such as subsistence restoration, Traditional Ecological Knowledge, Youth Area Watch, cooperative management, and local stewardship efforts as well as local community participation in on-going research efforts
- Issues that require further consideration:
 - ✓ whether changes in the annual work plan process are appropriate in light of reduced scale
 - ✓ means and extent of scientific peer review
 - ✓ means and extent of public involvement in process
 - ✓ how and to what extent communities and tribes of the spill area would be involved in long-term research, monitoring, stewardship and cooperative management efforts
 - ✓ whether a new organization or governance structure is needed

3/1/99

Executive Director WORKING DRAFT Recommendation

SUMMARY OF PAST AND ESTIMATED FUTURE USES OF SETTLEMENT
(In \$millions)

<u>REIMBURSEMENTS FOR SPILL RESPONSE</u>					
	213.1				
<u>RESTORATION MANAGEMENT</u>					
	FFY 92-99	FFY 00-02	FFY 03+		
Science Management, Public Involvement & Administration	24.7	5.1	TBD	(a)	
<u>RESTORATION IMPLEMENTATION</u>					
	FFY 92-99	FFY 00-02	Remaining Funds	TOTAL	
Research, Monitoring, General Restoration	145.0	25.4	115.0	285.4	39.8%
Habitat Protection	372.1	4.5	55.0	431.6	60.2%
	<u>517.1</u>	<u>29.9</u>	<u>170.0</u>	<u>717.0</u>	<u>100.0%</u>

(a) To date, Restoration Office science management, public involvement and administration has cost approximately 5% of restoration program expenditures overall. Beyond FFY 02, science management, public involvement and administration costs will be allocated in proportion to program area costs.

(b) Estimate of remaining funds includes Restoration Reserve (with \$12 million per year to be placed into the reserve FFY 00 - FFY 02), interest accrued, the \$16.5 million committed to a Koniag purchase through 2001 plus additional funds currently unallocated.

03/30/99

10:30

9907 276 7178

EV Restoration

007/007

Wildlife still hurt by spill

2/10/99
Recovery slow
for many species

By MAUREEN CLARK
The Associated Press

Ten years after the tanker Exxon Valdez spilled 11 million gallons of crude oil into Prince William Sound, only two of the nearly two dozen species hurt by the disastrous spill are fully recovered, according to the state-federal panel overseeing restoration of the spill area.

The Exxon Valdez Oil Spill Trustee Council on Tuesday updated the official status of the birds, fish and marine mammals hurt by the spill.

The council added river otters to its list of species considered recovered. They join bald eagles, which were declared recovered 2½ years ago.

The March 24, 1989, spill fouled 1,300 miles of shoreline and killed hundreds of thousands of seabirds and thousands of otters, seals and other animals. It also disrupted salmon and herring fisheries for several years.

Environmentalists used the trustees' update as an opportunity to call for Washington lawmakers to oppose Exxon Corp.'s \$77.2 billion takeover of Mobil Corp.

"We're having trouble holding Exxon accountable," said Rikki Ott, a biologist and activist from Cordova.

Exxon should be required to pay a \$5.2 billion jury verdict resulting from the spill before the company gets any bigger, Ott said. Exxon's appeal of the 1994 award is before the 9th U.S. Circuit Court of Appeals.

Exxon officials in Irving, Texas, had no comment Tuesday on the trustees' findings or on calls to halt the takeover, spokesman Ed Burwell said.

The trustee council had been considering adding pink salmon to the list of recovered species, but decided against that, said Stan Senner, science coordinator for the council.

"There is a great deal of concern about lingering effects of oil in subtidal areas," Senner said. Scientists study-

SPILL: Species still recovering

Continued from Page B-1

ing the effects of the spill have found that even small quantities of oil can damage salmon eggs.

Along with pink salmon in the "recovering" category are mussels, red salmon, and the common murre, a small seabird. About 20,000 oiled murre were found dead in the months after the spill — three-fourths of all the dead birds recovered in the period.

The trustees voted Tuesday to boost the status of several species from "not recovering" to "recovering." They include clams, Pacific herring, sea otters, black oyster catchers, and marbled murrelets. The marbled murrelet is listed as a threatened species in Washington, Oregon, California and British Columbia.

Several species continue to show little or no clear improvement since the spill, the council said. They include the common loon, cormorants, harbor seals, harlequin ducks, killer whales and pigeon guillemots.

Very little is known about some species hurt by the spill, so the status of their recovery is unknown, Senner said. Those include cutthroat trout, Dolly Varden, Kittlitz's murrelet and rockfish.

SENATE COMMITTEE REPORT

DATE: 3/18/99

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 3/31/99

Resources Committee considered

CS FOR HOUSE JOINT RESOLUTION NO. 13(FIN)

Relating to using oil spill settlement funds to create a long-term research and monitoring endowment.

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR# _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Mark Farrell</i>	<input checked="" type="checkbox"/>	<i>Edmondson</i>	<input checked="" type="checkbox"/>		
<i>Pete Kelly</i>	<input checked="" type="checkbox"/>				
<i>Lyle Green</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>Rich Halford</i>	<input checked="" type="checkbox"/>	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
<i>H 1488</i>	<i>3/8</i>	<i>X</i>	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

No: 1

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Bill Version: CSHJR 13 (HES)

(H) Publish Date: 3/8/99

Revision Date: 3/2/99
Title: UNIVERSITY ENDOWMENT FOR RESEARCH

Dept. Affected None
BRU _____
Component _____

Sponsor: Rep. THERRIAULT
Requester: _____

Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)


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

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Rep. Fred Dyson  _____ Phone _____
Co-Chair _____ Phone _____
House HESS _____ Date _____

COMMITTEE COPY

HJR

15

SENATE COMMITTEE REPORT

DATE: 4/1/99

FURTHER:

DATE TURNED
IN TO OFFICE: 4/26/99

Resources Committee considered

CS FOR HOUSE JOINT RESOLUTION NO. 15(RES)

Relating to support for the "American Land Sovereignty Protection Act" in the United States Congress.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR# _____

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

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

<i>WTR</i>	<i>8/2</i>	<i>X</i>	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

No: 1

Bill Version: CSHJR 15 (WTR)

(H) Publish Date: 3/5/99

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Revision Date: March 2, 1999

Dept. Affected All State Agencies

Title: A Resolution Relating to support for an
"American Land Sovereignty Protection Act"

BRU _____

Component _____

Sponsor: Re. James

Requester: House World Trade & State/
Federal Relations Comm.

Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

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


Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This resolution would not have a significant fiscal impact on any state agency.

Prepared by Donald M. Riehle, staff /WTR 

Phone 907-465-3438

Phone _____

Date March 2, 1999

COMMITTEE COPY

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES

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House of Representatives House District 34

HJR 15 - RELATING TO SUPPORT FOR AN AMERICAN SOVEREIGNTY PROTECTION ACT IN THE UNITED STATES CONGRESS.

It is happening again, Mr. Chairman, and it isn't going to stop here if we ignore it. We cannot afford to ignore what is happening to our sovereignty, or avoid examining the potential and practical impacts of World Heritage sites or Biosphere Reserve listings in Alaska. We are feeling the impact of World Heritage Sites and Biosphere Reserves in Glacier Bay and in Denali National Park. When we begin to see attempts to block traditional uses of land and resources in an area you can bet it has some association to World Heritage Sites, or the United Nations Educational Scientific and Cultural Organization (UNESCO), Man and the Biosphere (MAB), or some International Entity. The fact is these designations are being used continually by ideologues to impose their obsessions on us – whatever the cost, and for whatever it takes.

We are just seeing the first efforts of special interest groups to block the use of land and resource in Glacier Bay and Denali National Park. We just learned also that the United Nations Committee is actively working to stop mining in Jabiluka, Australia. They put a six-month moratorium in February 1999 on uranium mining there, and the intent of the UN Delegation is to scrap the mine. Even the environmental minister, Senator Robert Hill was not in agreement with their findings. Reports from dozens of scientists who studied or have worked for almost 20 years on the Ranger uranium mine near Kakadu claim it is causing no harm. Senator Hill has continued his attack against the delegation's findings, because he claimed the findings were "fundamentally flawed." (Report from Herald Sun).

There is currently a great urgency about subsistence issues in Alaska and it not unrealistic to think that the United Nations Committee could eliminate subsistence uses within our existing National Parks. These are concerns we cannot afford to ignore, and for this reason, I urge you to support HJR 15, to send our message of support to Washington DC for the swift passage of H.R. 883.

FISCAL NOTE

No: 1

Bill Version: CSHJR 15 (WTR)
 (H) Publish Date: 3/5/99

STATE OF ALASKA
 1999 LEGISLATIVE SESSION

Revision Date: March 2, 1999
 Title: A Resolution Relating to support for an
"American Land Sovereignty Protection Act"
 Sponsor: Re. James
 Requester: House World Trade & State/
Federal Relations Comm.

Dept. Affected: All State Agencies
 BRU: _____
 Component: _____
 Component Serial No. _____

Expenditures/Revenues		(Thousands of Dollars)				
OPERATING EXPENDITURES	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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						
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CHANGE IN REVENUES []						
------------------------	--	--	--	--	--	--


FUND SOURCE		(Thousands of Dollars)				
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS						
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This resolution would not have a significant fiscal impact on any state agency.

Prepared by Donald M. Riehle, staff WTR 

Phone 907-465-3438

Phone _____

Date March 2, 1999

COMMITTEE COPY

HR 883 IH

106th CONGRESS

1st Session

H. R. 883

To preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands.

IN THE HOUSE OF REPRESENTATIVES

March 1, 1999

Mr. YOUNG of Alaska (for himself, Ms. DANNER, Mr. DELAY, Mr. PICKETT, Mrs. EMERSON, Mr. TRAFICANT, Mr. COBURN, Mr. GOODE, Mr. POMBO, Mr. BARCIA, Mrs. CHENOWETH, Mr. HALL of Texas, Mrs. CUBIN, Mr. SHOWS, Mr. HASTINGS of Washington, Mr. BISHOP, Ms. DUNN, Mr. SISISKY, Mr. HERGER, Mr. CRAMER, Mrs. BONO, Mr. MCINTYRE, Mr. TAYLOR of North Carolina, Mr. GREEN of Texas, Mr. HILLEARY, Mr. DUNCAN, Mr. NORWOOD, Mr. KASICH, Mr. MCINTOSH, Mr. CUNNINGHAM, Mr. THOMAS, Mr. SKEEN, Mr. WELDON of Florida, Mr. NETHERCUTT, Mr. COMBEST, Mr. SENSENBRENNER, Mr. BACHUS, Mr. LEWIS of California, Mr. MCKEON, Mr. HOSTETTLER, Mr. STUMP, Mr. DOOLITTLE, Mr. STEARNS, Mr. LARGENT, Mr. GARY MILLER of California, Mr. HUTCHINSON, Mr. WELDON of Pennsylvania, Mr. CALVERT, Mr. KNOLLENBERG, Mr. GILLMOR, Mr. METCALF, Mr. LOBIONDO, Mr. WALDEN of Oregon, Mr. CRANE, Mr. BRYANT, Mr. ARCHER, Mr. TANCREDO, Mr. BLILEY, Mr. HILL of Montana, Mr. EVERETT, Mr. RADANOVICH, Mr. GOODLATTE, Mr. GIBBONS, Mr. MANZULLO, Mr. SPENCE, Mr. BARTLETT of Maryland, Mr. ISTOOK, Mr. HUNTER, Mr. BONILLA, Mr. BURTON of Indiana, Mr. ROHRABACHER, Mr. PAUL, Mr. BILBRAY, Mr. PETERSON of Pennsylvania, Mr. FOLEY, Mr. LATHAM, Mr. BLUNT, Mr. LINDER, Mrs. MYRICK, Mr. SHADEGG, Mr. HOEKSTRA, Mr. PICKERING, Mr. NEY, Mr. MCINNIS, Mr. ROYCE, Mr. BAKER, Mr. CALLAHAN, Mr. WATKINS, Mr. DEAL of Georgia, Mr. PACKARD, Mr. ROGERS, Mr. BRADY of Texas, Mr. SMITH of Texas, Mr. SCHAFFER, Mr. LEWIS of Kentucky, Mr. WICKER, Mr. BURR of North Carolina, Mr. TIAHRT, Mr. COOKSEY, Mr. DICKEY, Mr. JONES of North Carolina, Mr. SOUDER, Mr. GRAHAM, Mr. DEMINT, Mr. HAYWORTH, Mr. ROGAN, Mr. OXLEY, Mr. PITTS, Mr. WELLER, Mr. BARR of Georgia, Mr. GOSS, Ms. GRANGER, Mr. CANNON, Mr. SAM JOHNSON of Texas, Mr. THORNBERRY, Mr. LUCAS of Oklahoma, Mr. BASS, Mr. MORAN of Kansas, Mr. WAMP, Mrs. FOWLER, Mr. SMITH of Michigan, Mr. SWEENEY, Mr. ADERHOLT, Mr. RILEY, Mr. GOODLING, Mr. SIMPSON, Mr. BARTON of Texas, and Mr. FLETCHER) introduced the following bill; which was referred to the Committee on Resources

A BILL

To preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'American Land Sovereignty Protection Act'.

SEC. 2. FINDINGS AND PURPOSE.

(a) **FINDINGS-** Congress finds the following:

- (1) The power to dispose of and make all needful rules and regulations governing lands belonging to the United States is vested in the Congress under article IV, section 3, of the Constitution.
- (2) Some Federal land designations made pursuant to international agreements concern land use policies and regulations for lands belonging to the United States which under article IV, section 3, of the Constitution can only be implemented through laws enacted by the Congress.
- (3) Some international land designations, such as those under the United States Biosphere Reserve Program and the Man and Biosphere Program of the United Nations Scientific, Educational, and Cultural Organization, operate under independent national committees, such as the United States National Man and Biosphere Committee, which have no legislative directives or authorization from the Congress.
- (4) Actions by the United States in making such designations may affect the use and value of nearby or intermixed non-Federal lands.
- (5) The sovereignty of the States is a critical component of our Federal system of government and a bulwark against the unwise concentration of power.
- (6) Private property rights are essential for the protection of freedom.
- (7) Actions by the United States to designate lands belonging to the United States pursuant to international agreements in some cases conflict with congressional constitutional responsibilities and State sovereign capabilities.
- (8) Actions by the President in applying certain international agreements to lands owned by the United States diminishes the authority of the Congress to make rules and regulations respecting these lands.

(b) **PURPOSE-** The purposes of this Act are the following:

- (1) To reaffirm the power of the Congress under article IV, section 3, of the Constitution over international agreements which concern disposal, management, and use of lands belonging to the United States.
- (2) To protect State powers not reserved to the Federal Government under the Constitution from Federal actions designating lands pursuant to international agreements.
- (3) To ensure that no United States citizen suffers any diminishment or loss of individual rights as a result of Federal actions designating lands pursuant to international agreements for purposes of imposing restrictions on use of those lands.
- (4) To protect private interests in real property from diminishment as a result of Federal actions designating lands pursuant to international agreements.
- (5) To provide a process under which the United States may, when desirable, designate lands pursuant to international agreements.

SEC. 3. CLARIFICATION OF CONGRESSIONAL ROLE IN WORLD HERITAGE SITE LISTING.

Section 401 of the National Historic Preservation Act Amendments of 1980 (Public Law 96-515; 94 Stat. 2987) is amended--

(1) in subsection (a) in the first sentence, by--

(A) striking 'The Secretary' and inserting 'Subject to subsections (b), (c), (d), and (e), the Secretary'; and

(B) inserting '(in this section referred to as the 'Convention')' after '1973'; and

(2) by adding at the end the following new subsections:

(d)(1) The Secretary of the Interior may not nominate any lands owned by the United States for inclusion on the World Heritage List pursuant to the Convention, unless--

(A) the Secretary finds with reasonable basis that commercially viable uses of the nominated lands, and commercially viable uses of other lands located within 10 miles of the nominated lands, in existence on the date of the nomination will not be adversely affected by inclusion of the lands on the World Heritage List, and publishes that finding;

(B) the Secretary has submitted to the Congress a report describing--

(i) natural resources associated with the lands referred to in subparagraph (A); and

(ii) the impacts that inclusion of the nominated lands on the World Heritage List would have on existing and future uses of the nominated lands or other lands located within 10 miles of the nominated lands; and

(C) the nomination is specifically authorized by a law enacted after the date of enactment of the American Land Sovereignty Protection Act and after the date of publication of a finding under subparagraph (A) for the nomination.

(2) The President may submit to the Speaker of the House of Representatives and the President of the Senate a proposal for legislation authorizing such a nomination after publication of a finding under paragraph (1)(A) for the nomination.

(e) The Secretary of the Interior shall object to the inclusion of any property in the United States on the list of World Heritage in Danger established under Article 11.4 of the Convention, unless--

(1) the Secretary has submitted to the Speaker of the House of Representatives and the President of the Senate a report describing--

(A) the necessity for including that property on the list;

(B) the natural resources associated with the property; and

(C) the impacts that inclusion of the property on the list would have on existing and future uses of the property and other property located within 10 miles of the property proposed for inclusion; and

(2) the Secretary is specifically authorized to assent to the inclusion of the property on the list, by a joint resolution of the Congress after the date of submittal of the report required by paragraph (1).

(f) The Secretary of the Interior shall submit an annual report on each World Heritage Site within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and of the Committee on Energy and Natural Resources of the

Senate, that contains for the year covered by the report the following information for the site:

- '(1) An accounting of all money expended to manage the site.
- '(2) A summary of Federal full time equivalent hours related to management of the site.
- '(3) A list and explanation of all nongovernmental organizations that contributed to the management of the site.
- '(4) A summary and account of the disposition of complaints received by the Secretary related to management of the site.'

SEC. 4. PROHIBITION AND TERMINATION OF UNAUTHORIZED UNITED NATIONS BIOSPHERE RESERVES.

Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a-1 et seq.) is amended by adding at the end the following new section:

'SEC. 403. (a) No Federal official may nominate any lands in the United States for designation as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization.

'(b) Any designation on or before the date of enactment of the American Land Sovereignty Protection Act of an area in the United States as a Biosphere Reserve under the Man and Biosphere Program of the United Nations Educational, Scientific, and Cultural Organization shall not have, and shall not be given, any force or effect, unless the Biosphere Reserve--

'(1) is specifically authorized by a law enacted after that date of enactment and before December 31, 2000;

'(2) consists solely of lands that on that date of enactment are owned by the United States; and

'(3) is subject to a management plan that specifically ensures that the use of intermixed or adjacent non-Federal property is not limited or restricted as a result of that designation.

'(c) The Secretary of State shall submit an annual report on each Biosphere Reserve within the United States to the Chairman and Ranking Minority member of the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, that contains for the year covered by the report the following information for the reserve:

'(1) An accounting of all money expended to manage the reserve.

'(2) A summary of Federal full time equivalent hours related to management of the reserve.

'(3) A list and explanation of all nongovernmental organizations that contributed to the management of the reserve.

'(4) A summary and account of the disposition of the complaints received by the Secretary related to management of the reserve.'

SEC. 5. INTERNATIONAL AGREEMENTS IN GENERAL.

Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a-1 et seq.) is further amended by adding at the end the following new section:

'SEC. 404. (a) No Federal official may nominate, classify, or designate any lands owned by the United States and located within the United States for a special or restricted use under any international agreement unless such nomination, classification, or designation is specifically authorized by law. The President may from time to time submit to the Speaker of the House of Representatives and the President of the Senate proposals for legislation authorizing such a nomination, classification, or designation.

'(b) A nomination, classification, or designation, under any international agreement, of lands owned by a State or local government shall have no force or effect unless the nomination, classification, or designation is specifically authorized by a law enacted by the State or local government, respectively.

'(c) A nomination, classification, or designation, under any international agreement, of privately owned lands shall have no force or effect without the written consent of the owner of the lands.

'(d) This section shall not apply to--

'(1) agreements established under section 16(a) of the North American Wetlands Conservation Act (16 U.S.C. 4413); and

'(2) conventions referred to in section 3(h)(3) of the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712(2)).

'(e) In this section, the term 'international agreement' means any treaty, compact, executive agreement, convention, bilateral agreement, or multilateral agreement between the United States or any agency of the United States and any foreign entity or agency of any foreign entity, having a primary purpose of conserving, preserving, or protecting the terrestrial or marine environment, flora, or fauna.'

SEC. 6. CLERICAL AMENDMENT.

Section 401(b) of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a-1(b)) is amended by striking 'Committee on Natural Resources' and inserting 'Committee on Resources'.

END

Potential U.S. Nominations from the Tentative List (Complete Text)



Note: Complete text downloaded from US/ICOMOS [gopher](#) site.

INDICATIVE LIST, UNITED STATES (by state)

ALABAMA

Moundville Site

ALASKA

Aleutian Islands Unit of the Alaska Maritime National
Wildlife Refuge (Fur Seal Rookeries) C (vi); N (ii)

Arctic National Wildlife Refuge

Cape Krusenstern Archaeological District

Denali National Park

Gates of the Arctic National Park

Glacier Bay National Park and Preserve **INSCRIBED 1992**

Katmai National Park

Wrangell-St. Elias National Park and Preserve **INSCRIBED 1979**

ARIZONA

Casa Grande National Monument

Grand Canyon National Park **INSCRIBED 1979**

Hohokam Pima National Monument

Lowell Observatory

Organ Pipe Cactus National Monument

Saguaro National Monument

San Xavier Del Bac

Taliesin West [added 17 Aug 90]

Ventana Cave

CALIFORNIA

Joshua Tree National Monument

Point Reyes National Seashore/Farallon Islands National
Wildlife Refuge

Redwood National Park **INSCRIBED 1980**

Sequoia/Kings Canyon National Parks

Yosemite National Park **INSCRIBED 1984**

CALIFORNIA/NEVADA

Death Valley National Mounment

COLORADO

Colorado National Monument

Mesa Verde National Park **INSCRIBED 1978**

Lindenmeir Site

Rocky Mountain National Park

DISTRICT OF COLUMBIA

Chapel Hall, Gallaudet College

Washington Monument

FLORIDA/GEORGIA

Everglades National Park **INSCRIBED 1979**

Okefenokee National Wildlife Refuge

GEORGIA

Ocmulgee National Monument

Savannah Historic District

Warm Springs Historic District

HAWAII

Haleakala National Park [added 22 Aug 83]

Hawaii Volcanoes National Park **INSCRIBED 1987**

Pu'uhonua O Honaunau National Historical Park



U.S. List of Biosphere Reserves

Below is a list of U.S. Biosphere Reserves and their administrative unit(s), if applicable. The (****) indicates the ownership or administering entity for each site. For contact information please go to the [U.S. Biosphere Reserves Directory](#). The following acronyms are used:

NPS - National Park Service, Department of Interior
 NOAA - National Oceanic and Atmospheric Administration, Department of Commerce
 FWS - U.S. Fish & Wildlife Service, Department of Interior
 FS - Forest Service, Department of Agriculture
 ARS - Agricultural Research Service, Department of Agriculture
 DOE - Department of Energy
 BLM - Bureau of Land Management, Department of Interior
 Private - Denotes Some Form of Private Ownership
 Complex - Denotes Multiple Ownership

- Aleutian Islands National Wildlife Refuge (FWS)
- Beaver Creek Experimental Watershed[Alternate Site] (FS)
- Big Bend National Park (NPS)
- Big Thicket National Preserve [Alternate Site] (NPS)
- California Coast Ranges Biosphere Reserve (8 Units)
- Elder Creek Area of Critical Environmental Concern (BLM)
- Heath and Marjorie Angelo Coast Range Preserve (University of California)
- Jackson Demonstration State Forest (California Department of Forestry)
- Landels-Hill Big Creek Reserve (University of California)
- Redwood Experimental Forest (FS)
- Redwood National Park (NPS)
- North Coast Redwoods District State Parks (3 Units)
- --Del Norte Coast Redwoods State Park (California Department of Parks and Recreation)
- --Jebediah Smith Redwoods State Park (California Department of Parks and Recreation)
- --Prairie Creek Redwoods State Park (California Department of Parks and Recreation)
- Western Slopes of Cone Peak, Los Padres National Forest (FS)
- Carolinian-South Atlantic Biosphere Reserve (11 Units)
- Blackbeard Island and Wolf Island National Wildlife Refuges (FWS)
- Cape Lookout National Seashore (NPS)
- Cape Romain National Wildlife Refuge (FWS)
- Capers Island Heritage Preserve (South Carolina Department of Natural Resources, Marine Resources Division)
- Cumberland Island National Seashore (NPS)
- Gray's Reef National Marine Sanctuary (NOAA)
- Hobcaw Barony (North Inlet) (Complex Private)
- Little St. Simons Island (Private)
- Santee Coastal Reserve (South Carolina Department of Natural Resources) and Washo Reserve (The Nature Conservancy)
- Ten Fathom Ledge and Big Rock (NOAA)
- Tom Yawkey Wildlife Center (South Carolina Department of Natural Resources)
- Cascade Head Experimental Forest & Scenic Research Area (FS)
- Central California Coast Biosphere Reserve (See Golden Gate Biosphere Reserve)
- Central Gulf Coastal Plain Biosphere Reserve
- Apalachicola National Estuarine Research Reserve [Alternate Site] (NOAA)
- Central Plains Experimental Range (ARS)

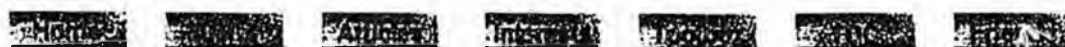
- Champlain-Adirondack Biosphere Reserve (3 Units)
 - Adirondack Park Agency (Private)
 - Green Mountain National Forest (FS)
 - Mount Mansfield State Natural Area (Vermont Agency of Natural Resources)
- Channel Islands Biosphere Reserve (2 Units)
 - Channel Islands National Park (NPS)
 - Channel Islands National Marine Sanctuary (NOAA)
- Coram Experimental Forest (FS)
- Denali National Park and Biosphere Reserve (NPS)
- Desert Experimental Range (ARS)
- Everglades National Park (with Fort Jefferson NM) (NPS)
- Fraser Experimental Forest (FS)
- Glacier Bay-Admiralty Island Biosphere Reserve (2 Units)
 - Admiralty Island National Monument (FS)
 - Glacier Bay National Park and Preserve (NPS)
- Glacier National Park (NPS)
- Golden Gate Biosphere Reserve (13 Units)
 - Jasper Ridge Biological Preserve (Coordinator) (Stanford University)
 - Audubon Canyon Ranch (Private)
 - Bodega Marine Reserve (University of California)
 - Cordell Bank National Marine Sanctuary (NOAA)
 - Farallon National Wildlife Refuge (FWS)
 - Golden Gate National Recreation Area (NPS)
 - Gulf of the Farallones National Marine Sanctuary (NOAA)
 - Marin Municipal Water District (Marin County, California)
 - Mount Tamalpais State Park (California Department of Parks and Recreation)
 - Point Reyes National Seashore (NPS)
 - San Francisco Peninsular Watershed (City of San Francisco, California)
 - Tomales Bay State Park (California Department of Parks and Recreation)
 - Samuel P. Taylor State Park (California Department of Parks and Recreation)
- Guánica Commonwealth Forest Reserve (Puerto Rico Department of Natural Resources)
- Hawaiian Islands Biosphere Reserve (2 Units)
 - Hawaiian Volcanoes National Park (NPS)
 - Haleakala National Park (NPS)
- H.J. Andrews Experimental Forest (FS)
- Hubbard Brook Experimental Forest (FS)
- Isle Royale National Park (NPS)
- Jornada Experimental Range (ARS)
- Konza Prairie Research Natural Area (The Nature Conservancy)
- Land Between the Lakes (Tennessee Valley Authority)
- Luquillo Experimental Forest [Alternate Site] (FS)
- Mammoth Cave Area (2 Units)
 - Barren River Area Development District, BRADD (Complex)
 - Mammoth Cave National Park (NPS)
- Mojave and Colorado Deserts Biosphere Reserve (5 Units)
 - Anza-Borrego Desert State Park (California Department of Parks and Recreation)
 - Death Valley National Monument (NPS)
 - Joshua Tree National Monument (NPS)
 - Philip L. Boyd Deep Canyon Desert Center (University of California)
 - Santa Rosa Wildlife Management Area, San Bernadino National Forest (FS)
- New Jersey Pinelands Biosphere Reserve (Pinelands Commission, Complex)
- Niwot Ridge Biosphere Reserve (University of Colorado)
- Noatak National Preserve (2 Units)
 - Gates of the Arctic National Park (NPS)
 - Noatak National Preserve (NPS)
- Olympic National Park (NPS)
- Organ Pipe Cactus National Monument (NPS)
- Rocky Mountain National Park (NPS)

- San Dimas Experimental Forest (FS)
 - San Joaquin Experimental Range (ARS)
 - Sequoia-Kings Canyon National Parks (2 Units)
Sequoia National Park (NPS)
Kings Canyon National Park (NPS)
 - South Atlantic Coastal Plain Biosphere Reserve
Congaree Swamp National Monument (NPS)
 - Southern Appalachian Biosphere Reserve (5 Units)
Coweeta Hydrologic Laboratory (FS)
Grandfather Mountain (Private)
Great Smoky Mountains National Park (NPS)
Mt. Mitchell State Park (North Carolina Department of Environmental Health and Natural Resources)
Oak Ridge National Environmental Research Park (DOE)
 - Stanislaus-Tuolumne Experimental Forest (FS)
 - Three Sisters Wilderness, Deschutes National Forest (FS)
 - University of Michigan Biological Station (University of Michigan)
 - Virgin Islands National Park and Biosphere Reserve (NPS)
 - Virginia Coast Reserve (The Nature Conservancy)
 - Yellowstone National Park (NPS)
-

Number of Sites/Administrative Units:

NPS - 29
NOAA - 6
FWS - 4
FS - 16
ARS - 4
DOE - 1
BLM - 1
Private - 7
State/Local - 15
University - 7

American Land Rights Association



Biosphere Reserves-World Heritage Programs Threaten You

Since the mid 1980's, ALRA has been warning its members about UNESCO's (United Nations Environmental, Scientific and Cultural Organization) Biosphere Reserve and World Heritage programs, now 25 years old.

To date, 20 World Heritage sites and 47 Biosphere Reserves have been designated in the US. Despite the fact that almost 43 million acres have been designated as Biosphere Reserves in the US, the Interior Department operates this program without any legislative direction and no authorization from Congress.

The 1995 designations of Glacier National Park in Montana and the Carlsbad Caverns in New Mexico as World Heritage Areas, preceded by the 1989 designation of the Greater Yellowstone Ecosystem as a Biosphere Reserve, were made with no public or Congressional input.

Federal agencies and non-governmental organizations, such as the Sierra Club, the Greater Yellowstone Coalition, the National Parks and Conservation Association are using these designations to support their efforts to get rid of inholders, buy up private land, limit mining (they stopped the New World Mine in Montana and hundreds of new jobs by calling in the United Nations), oil and gas, tourism, grazing, logging, farming, and development. Example, ALRA helped lead the fight to defeat the 1990 Greater Yellowstone Vision Document.

The Interior Department and the National Park Service, which actually runs the programs, say they get their authority from treaties. In the case of World Heritage Sites, it is the Convention on World Heritage and was ratified by the Senate in 1972. As we said before, there is no treaty and no authorizing legislative authority for Biosphere Reserves.

A treaty can override acts of Congress. This means that despite legislation that is made with public input and many compromises, the Park Service feels it may ignore that legislation and any guarantees of property rights included in it by relying on the authority in a treaty which was completed with no public input.

By definition, Biosphere Reserves are to have a legally constituted core protected area of sufficient size and minimal human activity plus a buffer zone around the core where non-compatible uses are limited. In the case of the New World Mine, the UN recommended a 50 mile buffer zone after their inspection.

Congressman Don Young (R-AK) introduced the American Lands Sovereignty Protection Act late in 1996 and expects to reintroduce it in January. This bill would require Congressional oversight of federal agency actions involving World Heritage Sites and Biosphere Reserves. Any "buffer zones" would have to be approved by Congress. The Young bill would preserve the sovereignty of the US over its own lands as well as state sovereignty and private property rights on surrounding non-federal lands before designations are made.

**Readers should call their Congressmen at
(202) 225-3121**

**to urge them to co-sponsor the American Land Sovereignty Protection Act when Rep.
Young reintroduces it in January.**

For More Information Contact:

American Land Rights Association
Tel: 360-687-3087
FAX: 360-687-2973



Send mail to alra@pacifier.com with questions or comments about this web site.

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Last modified: November 02, 1998



Biosphere Reserves: Fact Sheet

Susan R. Fletcher
Senior Analyst in International Environmental Policy
Environment and Natural Resources Policy Division
June 6, 1996
96-517 ENR

"Biosphere Reserve" is a term denoting an area that has been nominated by the locality and the country in which it is located for participation in the worldwide Biosphere Reserve Program under the U.S. Man and the Biosphere Program (MAB), and accepted for such recognition by the United Nations Educational, Scientific and Cultural Organization (UNESCO). Areas are nominated and recognized on the basis of their significance for research and study of representative biological regions of the world. The United States has 47 biosphere reserves, part of a worldwide network of 324 biosphere reserves in 82 countries.

Biosphere Reserve recognition does not convey any control or jurisdiction over such sites to the United Nations or to any other entity. The United States and/or state and local communities where biosphere reserves are located continue to exercise the same jurisdiction as that in place before designation. Areas are listed only at the request of the country in which they are located, and can be removed from the biosphere reserve list at any time by a request from that country.

The Biosphere Reserve System. The Biosphere Reserve network was established in 1968 as one program area of the Man and the Biosphere program of UNESCO, which operates through independent national committees in each of the 114 participating countries. The U.S. MAB program operates under the U.S. National MAB Committee, which coordinates six "directorates" studying various kinds of environmental and biological regions and issues. One of these six directorates is the Biosphere Reserve Directorate. The U.S. MAB Committee is composed of scientists from universities, government agencies, and other members from entities such as private conservation organizations.

The purpose of the Biosphere Reserve program is to promote cooperation and communication among a worldwide network of areas that would include all the major ecosystem types globally, with sites identified as areas where research on ecological concerns -- especially the impacts of human activity on ecological systems -- could be performed. A major goal of the network is to allow comparative work in various countries in similar, or dissimilar, areas to assess how the systems work and how they can be used productively without destroying their essential ecological properties and life-support potential.

The goals and functions of biosphere reserves are to enable research, study, and exchange of information among scientists and policymakers to facilitate these goals:

- conservation of important biological resources;
- development of environmentally sound economic growth;
- support of environmental research, monitoring, education, and training;
- creation of a framework to bring people together around these goals.

Criteria for Biosphere Reserves. In order to facilitate research on ecosystems in various stages of protection as well as development, biosphere reserves meet these criteria: (1) they have a legally protected core area relatively free from outside or human activity-in the United States, usually an already designated park, wilderness or wildlife refuge area; (2) there is a "buffer zone" or zones, surrounding or contiguous to the core area, where human activity is carried out, but generally at low/rural intensity and types of activity that are compatible with conservation objectives; and (3) transitional areas outside the buffer zone where human activity is more intensified, but presumably with some cooperative effort underway in these adjacent communities to achieve sustainable development in which conservation and economic development are jointly pursued according to the values and guidance of the local community.

When a local community, state or national MAB committee begins to pursue recognition of the area as a biosphere reserve, these criteria are usually already being met. It is not expected that steps will have to be taken to create core areas or change activity patterns after recognition. However, local communities are encouraged to develop cooperative mechanisms to maximize opportunities for the research and information focus of the Biosphere Reserve program.

Designation Process for Biosphere Reserves. An area to be considered for recognition as a Biosphere Reserve is nominated locally-always with the support of the local community, and the nomination is considered by the U.S. National Committee. Documentation on the recommended area and how it meets the criteria of the Biosphere Reserve system is assembled by the local proponents and forwarded by the U.S. MAB program to the International Coordinating Council (ICC) of the MAB Programme in Paris, which considers the recommendation and makes a decision, which is conveyed to the U.S. MAB Program.

Policy Implications of Designation/Recognition. There are no legally binding requirements on countries or communities regarding the management of biosphere reserves. Full sovereignty and control over the area continues as it was before recognition. The main effect of recognition is to publicize the inclusion of an area in the Biosphere Reserve Network, thus making it known that research on the area's ecosystem type and impacts of adjacent human development on the area is appropriate as part of an international network of such research. It is expected that research in such areas-conducted mainly by private and/or government scientists -- will be shared through the Biosphere Reserve program in order to maximize benefits of information exchange. Funding for the U.S. Biosphere Reserve program is provided by pooled resources from several participating Federal agencies; totaling some \$225,000 in FY 1996, funding goes almost entirely to U.S. programs and local organizations, with some relatively small amounts supporting research by U.S. scientists in other countries, or assisting developing country scientists to attend MAB meetings.

State: Alaska**Biosphere Reserve: Aleutian Islands Biosphere Reserve**

Administered by: Alaska Maritime National Wildlife Refuge, Aleutian Islands Unit; U.S. Fish and Wildlife Service, Department of the Interior

Role as Biosphere Reserve:

Nearly all the islands in the Aleutian Island chain are part of the national wildlife refuge, a conservation unit in the Bering Sea Ecosystem. These islands exhibit extensive biological diversity closely tied with the surrounding marine environment. The refuge protects these islands for seabirds, marine mammals and other wildlife, Aleut archaeological resources and World War II historic sites. Presently, several Aleut villages are within the Aleutian Island chain, as well as private holdings belonging to The Aleut Corporation. Other stakeholders in the Aleutians include the U.S. Department of Defense, which has military bases in several locations. The U.S. Fish and Wildlife Service currently works closely with these partners in the Aleutians. Information centers are located in Adak and Homer offering distribution of refuge brochures. Naturalists are available on board the state ferry and commercial cruise ships.

Major Issues:

- Seabird populations and productivity.
- Eradication of introduced species, especially arctic foxes, Norway rats, and caribou.
- Aleutian Canada goose restoration.
- Marine mammals, especially Steller's sea lions and sea otters.
- Winter waterfowl populations monitoring.
- Removal of contaminants remaining from military activities.
- Prevention of rat introduction to rat-free islands.

Accomplishments and Benefits:

Several significant resource accomplishments and resource concerns have occurred in the Aleutian Islands region since its designation as a Biosphere Reserve in 1976. The Aleutian Canada Goose, formerly listed as an endangered species, is currently listed as a threatened species, due to restoration of its breeding habitat in the Aleutians as well as protection on its wintering grounds. The refuge continues

to focus on eradication of introduced foxes as the primary means for restoration of goose and seabird populations. Annual seabird monitoring sites have been established in the eastern, central, and western Aleutians to document populations and productivity.

Several issues of concern in recent years are the focus of attention in the Aleutian Islands. As of June 1997, the Aleutian population of Steller's sea lions is being listed as an endangered species. In the central Aleutians, an unexplained decline in sea otter numbers has occurred. Findings of contaminants left over from WW II military activities, and later nuclear test explosions, are necessitating further sampling to determine effects on the tundra environment and wildlife.

To accomplish refuge goals, and to expound on our understanding of the Bering Sea Ecosystem, the U.S. Fish and Wildlife Service has formed partnerships with other organizations resulting in mutual benefits. These include the National Marine Fisheries Service, the University of Alaska Institute of Marine Science, the U.S. Geological Service Biological Resources Division, numerous academic researchers, and other cooperators conducting biological and archaeological research.

Designation of the Aleutian Islands as a Biosphere Reserve in no way infringes on nor influences how these public lands are managed by the U.S. Fish and Wildlife Service. Management mandates are determined by statutes and agency policies. In the Aleutian Islands Unit of this refuge, no Man and the Biosphere funds were used to achieve the accomplishments noted above.

Contact:

Laura Greffenius, Unit Manager
or Jeff Williams, AIU Wildlife Biologist,
Aleutian Islands Unit,
Alaska Maritime National Wildlife Refuge,
PSC 486, Box 5251,
Adak, Alaska FPO-AP 96506
Tel. (907) 592-2406,
Fax. (907) 592-3473,
E-mail: R7AIUWR@mail.fws.gov

John Manager, Refuge Manager
or Dan Boone, Deputy Refuge Manager,
Alaska Maritime National Wildlife Refuge,
2355 Kachemak Bay Dr., Suite 101,
Homer, Alaska 99603-8021
Tel. (907) 235-6546,
Fax. (907) 235-7783,
E-mail: R7AMNWR@mail.fws.gov

Model Biosphere Reserve

A biosphere reserve is a unique category of protected area dedicated to solving problems associated with human impacts on natural ecosystems.

A model biosphere reserve consists of a protected (core) area, a managed use area (buffer zone), and a zone of cooperation (transition area.)

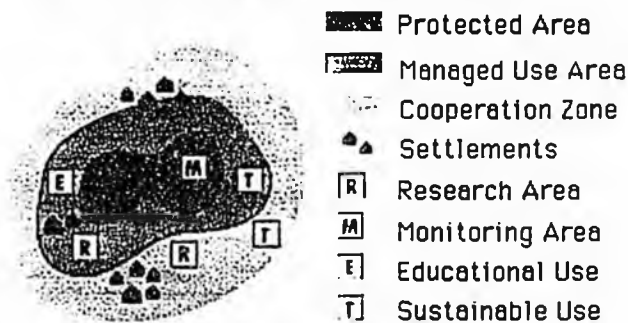
Biosphere reserve status is awarded by the United Nations Educational Scientific and Cultural Organizations (UNESCO) to those protected areas that combine scientific research and monitoring, conservation, education, and training. Each site is nominated by its country MAB Program. The Biosphere reserve designation does not provide any additional international protection to the site nominated. Together, the 352 biosphere reserves in 87 countries form an international network that represents the world's major ecoregions.

A protected area consists of examples of minimally disturbed ecosystems and has secure domestic legal protection. Only activities that do not adversely affect the natural habitat are allowed. The managed use area is adjacent to the protected area. Here, activities such as fishing, hunting, camping and other activities are encouraged.

The zone of cooperation is a regional size area which contains settlements, croplands, managed forests, recreation areas, and other economic uses characteristic of the region. The UNESCO Biosphere Reserve designation does not recognize the zone of cooperation. It is a suggested concept to promote the establishment of cooperative programs and partnerships between the protected area managers and the surrounding community.

Since 1984 the management agencies of a site have been asked to serve as focal points for regional environmental cooperation. Biosphere reserves thus help to bring together the diverse regional stakeholders so as to find practical strategies to deal with the complex and interrelated environmental, land use, and socioeconomic concerns affecting a particular region. The MAB Biosphere Reserve concept serves as a means of exchanging information and ideas regarding the conservation, sustainable use and management of natural resources in harmony with the needs of local populations.

BIOSPHERE RESERVE ZONATION



HOW ARE BIOSPHERE RESERVES ORGANIZED?

To carry out the complementary activities of nature conservation and use of natural resources, Biosphere Reserves are organized into three interrelated zones, known as the core area, the buffer zone and the transition area.

The protected area:

needs to be legally established and give long-term protection to the landscape, ecosystem and species it contains. It should be sufficiently large to meet these conservation objectives. As nature is rarely uniform and as historical land-use constraints exist in many parts of the world, there may be several protected areas in a single Biosphere Reserve to ensure a representative coverage of the mosaic of ecological systems. Normally, the protected area is not subject to human activity, except research and monitoring and, as the case may be, to traditional extractive uses by local communities.

Zones of managed use

which is clearly delineated and which surrounds or is contiguous to the protected area. Activities are organized here so that they do not hinder the conservation objectives of the protected area but rather help to protect it, hence the idea of "buffering". It can be an area for experimental research, for example to discover ways to manage natural vegetation, croplands, forests, fisheries, to enhance high quality production while conserving natural processes and biodiversity, including soil resources, to the maximum extent possible. In a similar manner, experiments can be carried out in the area of managed use to explore how to rehabilitate degraded areas.

An outer transition area:

or area of co-operation extending outwards, which may contain a variety of agricultural activities, human settlements and other uses. It is here that the local communities, conservation agencies, scientists, civil associations, cultural groups, private enterprises and other stakeholders must agree to work together to manage and sustainably develop the area's resources for the benefit of the people who live there. Given the role that Biosphere Reserves should play in promoting the sustainable management of the natural resources of the region in which they lie, the transition area is of great economic and social significance for regional development.

Although presented schematically as a series of concentric rings, the three zones are usually implemented in many different ways to accommodate local geographic conditions and constraints. This flexibility allows for creativity and adaptability, and is one of the greatest strengths of the concept.

###

HJR

54

Alaska State Legislature

Member:
House Finance
Subcommittee Chair:
Transportation
Environmental Conservation
Subcommittee Member:
Fish and Game



Representative William K. Williams

During Session:
State Capitol
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Sponsor Statement House Joint Resolution 54

House Joint Resolution 54 was introduced to protest yet another politically motivated attack on the working people of Alaska. The President of the United States has proposed policy that would end any further road building in the National Forest system. As Alaska is home to the two largest National Forests in the country and the health and diversity of our economy is directly related to our resource industries, I vehemently object to the inclusion of the Tongass and Chugach National Forests in the proposed plan.

There are several specific reasons for my objections and I will summarize a few in the following paragraphs. First, the policy is illegal. The Alaska National Interest Lands Conservation Act (ANILCA) specifically prohibits such withdrawals without the express direction of Congress. The clear intent of Congress in ANILCA is that the Congress will oversee any further land withdrawal proposals regarding Alaska.

Second, we spent over 10 years and \$13,000,000 to create the Tongass Land Management Plan (TLMP). This dedication of time, money and public process to create a plan that would bring "peace in the valley" will be thrown out the window if the roadless policy is adopted in Alaska. This attack is yet another attempt at circumventing proper forest management for the sake of political science and posturing.

Third, we are currently spending time and money creating a plan for the Chugach National Forest. Once again the public process is being followed to produce a plan for the different uses of the forest. Of great concern to many that live and work in the Chugach is the spruce bark beetle infestation. This infestation will continue, against the sound forest management opinion of many forestry professionals, if the roadless policy is implemented. The proper place for any 'roadless' issue to be brought up and debated is in each forest's planning process, not a nationwide edict.

Enough is enough. I, like many Alaskans, am frustrated with the level of Federal intervention in our lives. The timber industry has been at the forefront of this intervention during the last decade. Application of the roadless policy in Alaska will not only negatively impact our timber industry, but also restrict access for our mining and tourism industries as well as residents. We must continue to strongly oppose such Federal actions. I urge your support in sending our message back to Washington, D.C.

Hyder • Ketchikan • Meyers Chuck • Saxman

Representative_Bill_Williams@legis.state.ak.us

FISCAL NOTE

No: 1

Bill version: HJR 54

(H) Publish Date: 2/23/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Revision Date: 2-21-2000
 Title: Exclusion of AK NATIONAL FORESTS
From Roadless Initiative
 Sponsor: Rep. Williams
 Requester: _____

Dept. Affected NONE
 BRU _____
 Component _____
 Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

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

FUND SOURCE

(Thousands of Dollars)

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

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by Elizabeth Cabrera
House Resources Committee

Phone 465-6890

Phone _____

Date 2-21-2000

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the enactment of this Act, (2) on the timber, fishing, and measures instituted by the and wildlife in the forest; and (4) the business set aside program in the Tongass Forest. The study required by this section shall be conducted in cooperation and consultation with the State, affected Native Corporations, the southeast Alaska timber industry, the Southeast Alaska Conservation Council, and the Alaska Land Use Council.

ADMINISTRATION

SEC. 707. Except as otherwise expressly provided for in this Act wilderness designated by this Act shall be administered in accordance with applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture for areas designated in sections 701 and 702 shall, as applicable, be deemed to be a reference to the Secretary of the Interior.

Whereas *

#3

RARE II RELEASE

SEC. 708. (a) The Congress finds that—

- (1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and
- (2) the Congress has made its own review and examination of national forest system roadless areas in Alaska and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to national forest lands in States other than Alaska, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Alaska;

(2) with respect to the National Forest lands in the State of Alaska which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), except those lands remaining in further planning upon enactment of this Act or the area listed in section 704 of this Act, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas reviewed in such Final Environmental Statement and not designated as wilderness or for study by this Act or remaining in further planning upon enactment of this Act need not be

managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Alaska for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

16 USC 1600 note.
16 USC 1600 note.

scientific purposes designated, or this Act, the rural roadside (2) nonwas renewable resource such resource to restrict to fish or wildlife of such population

YUKON FLATS NATIONAL WILDLIFE REFUGE

16 USC 3211.

SEC. 1324. Nothing in this Act or other existing law shall be construed as necessarily prohibiting or mandating the development of agricultural potential within the Yukon Flats National Wildlife Refuge pursuant to existing law. The permissibility of such development shall be determined by the Secretary on a case-by-case basis under existing law. Any such development permitted within the Yukon Flats National Wildlife Refuge shall be designed and conducted in such a manner as to minimize to the maximum extent possible any adverse effects of the natural values of the unit.

TERROR LAKE HYDROELECTRIC PROJECT IN KODIAK NATIONAL WILDLIFE REFUGE

16 USC 3212.

SEC. 1325. Nothing in this Act or the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) shall be construed as necessarily prohibiting or mandating the construction of the Terror Lake Hydroelectric Project within the Kodiak National Wildlife Refuge. The permissibility of such development shall be determined by the Secretary on a case-by-case basis under existing law.

FUTURE EXECUTIVE ACTIONS

16 USC 3213.

* 4

SEC. 1326. (a) No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.

Publication in Federal Register, notification of Congress.

(b) No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress.



Whereas #5

ANILCA



TONY KNOWLES
GOVERNOR
governor@gov.state.ak.us

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
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October 12, 1999

Mr. George Frampton, Chair
Council on Environmental Quality
722 Jackson Place
NW Washington, DC 20503

Dear Mr. Frampton:

It is our understanding the White House may be considering a directive to the U.S. Forest Service to include the Tongass National Forest in the services' national roadless area review. If so, I would consider this to be an outrage and a doublecross.

It would be an outrage because we were assured previously that the Tongass would not be included in this review because of the finalization of the Tongass Land Management Plan (TLMP). In fact, Undersecretary Jim Lyons recently visited Southeast Alaska and, to our knowledge, said nothing about the Tongass' inclusion in national roadless planning.

TLMP took 15 years and millions of dollars to complete, and was one of the most elongated and thorough resource planning processes in the history of the nation. The public was involved on numerous occasions. The roadless area review, together with harvest cycles and other relevant matters, was very much a part of this process.

A purpose of TLMP was to bring stability and certainty to the economy of Southeast Alaska. Many jobs and families, not only in the timber industry, are dependent on such stability.

When I brought all the mayors of Southeast Alaska to speak with White House Chief of Staff Leon Panetta on this subject, we were assured that TMLP would be concluded with finality to provide that needed stability to the families of Southeast Alaska. A change now in that course and direction would constitute a doublecross of the citizens of the State of Alaska.

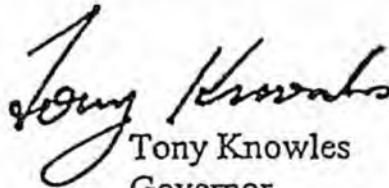
Mr. George Frampton
-- October 12, 1999
Page 2

Application of a new roadless area policy in the Tongass would constitute a major modification of the current management plan. If modifications are deemed necessary for this or any other reason, they should be accomplished through the structured and well-established process for amending a forest plan.

My Administration has long advocated the "doing it right" principle of resource planning and management. This approach involves sound science, prudent management, and an open and fair public process. A unilateral decision by the White House to include the Tongass in the Forest Service's roadless area review would be a complete repudiation of this policy.

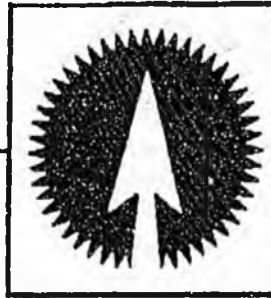
Accordingly, as Governor, I would be compelled to do everything within my power to protect the families of Southeast Alaska.

Sincerely,


Tony Knowles
Governor

cc: John D. Podesta
Chief of Staff to the President

Alaska Forest Association, Inc.



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

Effect on the Tongass National Forest If it is Included in President Clinton's Proposed Roadless "No-Entry" Policy October 29, 1999

Tongass Land Management Plan, 1999 Record of Decision:

938,000 acres	Suitable and Available Commercial Forest Land
576,000 acres	After Management Implementation Reduction Factor (MIRF) is applied
187 mmbf	ASQ asserted by ROD based on 576,000 acres [No one knows if this is accurate. FORPLAN was never run.]

Under Proposed No-entry Policy:

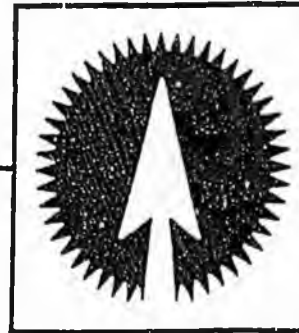
938,000 acres	Suitable and Available Commercial Forest Land
403,000 acres	Currently unroaded - would be withdrawn from available acres

535,000 acres	Suitable and Available <u>before</u> MIRF applied
230,000 acres	Currently in second growth

305,000 acres	CFL available for harvest <u>before</u> MIRF is applied
183,000 acres	Assuming a 40% reduction after MIRF is applied
ASQ unknown	No FORPLAN model has been run Probable result would be an ASQ of less than 50 mmbf*

* Furthermore, the NEPA analysis for nearly every timber sale project currently under development on the Tongass would have to be scrapped, since most of the NIC I timber lands still available under the 1999 Record of Decision are in areas which qualify under the applicable "roadless" definition. Prior to the 1999 ROD, the NEPA "pipeline" stood at approximately 1 bbf; it now encompasses less than 500 mmbf.

Alaska Forest Association, Inc.



111 STEDMAN SUITE 200
KETCHIKAN, ALASKA 99901-6595
Phone 907-225-6114
FAX 907-225-5920

December 20, 1999

USDA Forest Service-CAET
Attn: Roadless Area NOI
P.O. Box 221090
Salt Lake City, UT 84122

Via email, facsimile and Certified U.S. Mail

Dear Project Team Leader:

The letter constitutes the comments of the Alaska Forest Association in response to the Notice of Intent (NOI) to prepare an environmental impact statement (EIS), published at Federal Register Volume 64, pages 56306-56307, on October 19, 1999. The NOI seeks comments on "1) the effects of eliminating road construction activities in the remaining unroaded portions of inventoried roadless areas on the National Forest System; and 2) the effects of establishing criteria and procedures to ensure that the social and ecological values, that make both inventoried roadless areas and other un-inventoried roadless lands important, are considered and protected through the forest planning process."

The Alaska Forest Association is the trade association for the forest products industry in Alaska. A statewide organization, the AFA represents approximately 90 regular and 180 associate member companies doing business in the forest products sector throughout Alaska. Regular member companies are loggers, roadbuilding firms, sawmills and other primary manufacturing facilities, secondary wood products manufacturers, forest landowners and others directly engaged in the forest products industry. Associate member companies are businesses having some interest in or association with AFA regular member firms, such as vendors, lending institutions, and other related businesses. Nearly all AFA members (regular and associate) are small business firms.

The AFA, its members, their employees and the timber dependent communities of Alaska depend on the Forest Service to provide economic timber sales of sufficient volume to meet the needs of that portion of the Alaska timber industry that relies, either directly or indirectly, on purchases of timber from the Tongass and Chugach National Forests. Under the recently adopted Tongass Land Management Plan, a significant portion of the projected timber offerings must come from currently unroaded areas, some of which are RARE II inventoried areas.

In addition, some AFA members own private timberlands that are surrounded by, or are adjacent to, national forest lands. Roads across "remaining unroaded portions of inventoried roadless areas" may be necessary to provide access to these private lands. These private landowners are entitled to the reasonable economic uses of their lands which could be precluded by the proposed rulemaking.

AFA members also have a direct interest, both aesthetic and economic, in the health of the national forest lands in Alaska. In the Chugach National Forest particularly, this interest also includes public safety because of the increased fire hazard associated with heavy fuel loading. The proposed roadless action, particularly Part 1, would have a detrimental effect on forest health by limiting the agency's access to NFS lands for management purposes.

☞ For these reasons and others, AFA and its members are directly affected by, and have an interest in, the roadless area rulemaking proposed by the subject NOI.

The Public Scoping Process is Flawed

1. Violation of NEPA and NFMA regulations

The public scoping process implemented by the Forest Service under the NOI is inadequate and is contrary to provisions of the National Environmental Policy Act (NEPA) and its implementing regulations. It is also contrary to provisions of the National Forest Management Act (NFMA) and its implementing regulations. NEPA regulations require "an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action." (40 C.F.R. 1501.7). NFMA regulations, developed under 16 U.S.C. § 1604(d), require the agency to provide for meaningful public participation in the development, review or revision of a forest plan. (36 C.F.R. 219.6).

Contrary to both these regulations, the Forest Service has failed to provide adequate information to the public for the public to meaningfully participate in the scoping process and to have any ability to help define the alternatives to be considered in the draft environmental impact statement (DEIS).

The Forest Service did not, in the NOI nor in any subsequent forum of which the AFA is aware, provide information on the location of lands within the NFS that will be affected by Part 1 of the proposed roadless rule. While some maps may be available for some forests, there apparently are no comprehensive maps available which would allow the public to get a clear indication of the extent and location of the areas which would be affected by the proposed rule. In fact, at a Senate Subcommittee on Forests and Public Land Management hearing, held on November 2, 1999, Forest Service Chief Mike Dombeck said he was not sure how many acres would be directly affected by the rule. He indicated it could be anywhere from 40 million to 60 million acres, but said he did not know the actual number. Yet, without more accurate information than this, the public is expected to meaningfully participate in a scoping process that will set the direction for management of huge areas of public land. The public cannot meaningfully suggest an appropriate range of alternatives when it does not even know where the affected lands lie.

Additionally, the Forest Service has not made available to the public information that would help it understand the relationship between the proposed entry restrictions on roadless areas and those parts of the National Forest System that are at high risk of catastrophic fire. According to Forest Service figures, there are approximately 39 million such acres. As of November 3, 1999, the Forest Service did not have maps showing the overlap between those acres and the inventoried and un-

inventoried roadless areas that would be subject to Part 1 of the NOI, according to testimony provided before the Senate and House hearings on November 2 & 3, 1999. AFA has still not seen such maps and, so far as we can determine, they were not made available at any public meetings held during this scoping period.

The Forest Service has also failed to provide other information important to the public's ability to comment on the proposed policy. This includes the status of lands on which existing roads have been or will be decommissioned. The Forest Service has been actively abandoning, obliterating, decommissioning and otherwise removing roads on several national forests, including those in Alaska. Given the definitions contained in the handouts provided at public meetings during this scoping process, the public is left with legitimate unanswered questions as to the status of such lands. Without knowing that these lands might be included in the un-inventoried roadless areas discussed in the NOI, the public may be unlikely to consider this issue in its scoping comments.

Finally, the Forest Service has left an important term undefined. While a list of definitions was distributed to the public at the "listening sessions" and other public meetings, the term "protection" remains undefined. This is an important omission, since to some people the active management techniques generally associated with commercial timber production are "protective" activities with respect to insect and disease control and fire management. The point could also be made that all areas within the National Forest System are "protected" by virtue of their inclusion in the NFS (i.e., they are protected for multiple use forest purposes and cannot be converted to non-forest land use). Thus, in the absence of a definition of "protection," the Forest Service cannot know with any degree of certainty what a particular commentor might mean by saying he or she wants roadless areas "protected." Without a definition of the term "protection" many of the public comments received by the agency have been rendered meaningless or at least are open to various subjective determinations as to their meaning.

2. Unexplained relationship to other rulemaking

So far as the AFA can determine, the Forest Service has yet to clarify the intended relationship between the roadless proposal (both parts) and the proposed changes to the rules governing the National Forest transportation system (36 C.F.R., Part 212). Nor has the Forest Service clarified the relationship between the proposed roadless policy and the proposed amendments to the NFMA regulations which were announced in Federal Register Volume 64, page 54074, on October 5, 1999. To ask the public to set forth scoping issues on the roadless proposal without clarifying for the public the interrelationship between these clearly connected actions frustrates the purpose of scoping as envisioned by both NEPA and NFMA.

☞ The public scoping process set forth in the NOI is, for all the reasons stated above, fatally flawed and should be withdrawn. Comments resulting from this process can be expected to be skewed by the lack of information (or possibly in some cases the provision of misinformation) made available to the general public during the scoping period. Efforts to get the Forest Service to extend the comment period to correct these flaws have fallen on deaf ears, so the AFA has no choice but to insist that the NOI be withdrawn.

National venue improper for dealing with roadless issues

In 1982, the Forest Service demonstrated that it had learned something from the frustrating experience of RARE I and RARE II (both of which failed NEPA tests). Because issues relating to roadless areas are complex and are interrelated with other decisions affecting the use and management of national forests, decisions on roadless area management are properly made in the context of individual forest plans. Thus, 36 C.F.R. 219.17 sets forth the proper venue for roadless area planning. The action contemplated under this NOI is inappropriate on a nationwide basis.

Decisions about the status of inventoried and un-inventoried roadless areas should be made through the forest planning process at the national forest level as envisioned in NFMA and its implementing regulations. A rulemaking process that will affect all roadless areas on all national forests through a single nationwide decision cannot address the unique forest conditions of individual roadless areas. The AFA therefore strongly opposes the unilateral decision to "protect" all roadless areas of the NFS, as set forth in the NOI. If the Forest Service persists in the present action under the NOI, it will frustrate the public's expenditure of countless man-hours in developing individual forest plans on forests where plans have been recently adopted or are in the process of being revised.

For all the above-stated reasons, the AFA urges the Forest Service to withdraw the NOI and reconsider the decision to deal with unroaded areas in the National Forest System on a nationwide, rather than a forest-by-forest basis. If the agency is determined to go forward, it should take steps to make the public scoping process meaningful by providing needed information to the public prior to seeking the public's comments on the proposed action. This likewise will necessitate canceling the NOI and beginning a new public scoping period.

The proposed roadless policy should not be applied in Alaska

Notwithstanding the AFA's position that the proposed roadless policy (especially Part 1) is inappropriate on a national basis, the Association asserts that the policy will be particularly egregious if it is applied in Alaska. This is true for the following reasons:

1. The terms of the NOI make the proposed policy illegal to apply in Alaska

The NOI calls for a review of non-roaded areas in national forests with the purpose of determining the appropriateness of limiting or prohibiting road access and other development activities. The NOI specifically states that one possible alternative for the DEIS would be an alternative "prohibiting the implementation of all activities, subject to valid existing rights, that do not contribute to maintaining or enhancing the ecological values of roadless areas in remaining unroaded portions of inventoried roadless areas." If applied in Alaska, this would constitute a statewide review of roadless areas under Forest Service control. The roadless policy is therefore illegal in Alaska because it involves a statewide analysis of roadless areas in Alaska intended to create new set-asides, an action which is specifically and expressly prohibited by the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). ANILCA states that the need for set-asides for conservation system units and other

special restricted areas is met by ANILCA and that there shall be **no more withdrawals in Alaska, except by act of Congress.**

This was stated in Section 101(d) as an over-arching guideline for the entire Act:

(d) This act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for the satisfaction of the economic and social needs of the State of Alaska's people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition and thus Congress believes that the need for future legislation designating new conservation system units, new national conservation areas or new national recreation areas has been obviated thereby. (Emphasis added.)

ANILCA also specifically and individually addressed administrative closures and studies by federal agencies. Section 1326(a) states specifically that administrative closures of more than 5,000 acres can no longer be used in Alaska and that if a larger area is administratively withdrawn,

(s)uch withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.

Moreover, and especially applicable to the current roadless initiative, ANILCA Section 1326(b) states that **federal agencies are not even allowed to study lands for consideration for CSUs or other similar restrictive designations unless Congress specifically authorizes the study:**

(b) No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress. (Emphasis added.)

2. The Tongass National Forest merits exemption because of its peculiar circumstances

With respect to the Tongass, the NOI specifically solicits comments as to whether the Tongass National Forest should be included in the proposed Part 1 of the policy. Alaska's elected representatives have spoken with unanimity on this issue. The Governor, the Alaska Congressional delegation, members of the state legislature and many city councils and community leaders have spoken out against the application of the roadless policy to the Tongass. Governor Tony Knowles went so far as to distribute a press release and a letter addressed to CEQ Chairman George Frampton saying that it would be "a double cross" and "an outrage" were the proposed policy to be applied to the Tongass.

There is good reason for this. The Tongass has just gone through an extensive, 11 year plan revision process which cost the American taxpayers more than \$13 million. The 1997/99 Plan withdrew more than half of the land previously available for development in the Tongass, leaving such a small amount of acreage available for timber harvest that a further decline in industrial timber jobs in the

region is a virtual certainty. At a gathering of Southeast Alaska mayors and other community leaders in Sitka in late September, Under Secretary Jim Lyons stated that the 1999 Record of Decision (ROD) for the Tongass Land Management Plan (TLMP) was the final action of this Administration with respect to Tongass management. According to Mr. Lyons' statement, every effort from this time forward was to be made toward implementation of the new plan. Yet, a mere four weeks later the President announced the initiative which is reflected in the subject NOI. That initiative, if applied to the Tongass, would obviate the land allocations arrived at in the development of TLMP, and directly contradict Mr. Lyons' statement to the Southeast Conference.

AFA points out that it is currently in litigation with the Forest Service over the legality of the revised TLMP as adopted in the 1997 ROD, and as amended by Mr. Lyons' 1999 ROD. We believe that the revised TLMP (pursuant to either the 1997 or 1999 ROD) will ultimately be enjoined and remanded to the agency by the Courts. Those facts notwithstanding, given implementation of the revised TLMP presently governing the management of the Tongass, it is completely inappropriate for the government to further reduce the available land base and force an additional reduction in the Allowable Sale Quantity by application of a national roadless policy to the Tongass National Forest.

We therefore agree with Governor Knowles that application of the proposed roadless policy to the Tongass would amount to a double-cross, and urge the Forest Service to specifically exempt the Tongass from any further consideration of roadless "protections" under any nationwide action. As stated previously in these comments, the only appropriate venue for considering land allocations on any national forest is through the NFMA-mandated individual forest plans in which all multiple use considerations and social and economic impacts must be considered.

Most of the non-roaded areas of the Tongass are already under some form of protection (even prior to the 1999 TLMP ROD). These include Wilderness, Congressionally designated LUD II areas, administrative land use designations for non-development such as "remote recreation," and Wild and Scenic River designations. The only roadless acreages actually under consideration for protection in this proposed policy are those few areas currently left open for resource (primarily timber) extraction. Forest Service data indicate that approximately 403,000 acres of the 938,000 presently listed as "suitable and available" under the Forest Plan would fall under the terms of the NOI. After application of the Management Implementation Reduction Factor (MIRF), this would likely force the agency to reduce the area open to timber harvest down to a mere 183,000 acres. It is impossible to believe that this small land base could produce more than a third of the current NIC I ASQ of 153 MMBF. It is further impossible to justify a reduction in the suitable land base because it will only further frustrate the Tongass Timber Reform Act's § 101 directive to the Forest Service to seek to provide a supply of timber to meet market demand.

Finally, it should be noted that Mr. Dombeck told Congress that the Forest Service will not request a reprogramming of funds to do the roadless analysis required under the NOI. He said the agency would use existing funds to pay for the initiative. Mr. Dombeck stated the initiative is estimated to cost \$6 million and the agency will pay for it **out of land management planning funds**. Given the promises made to Southeast Alaska at the time TTRA was passed by Congress, statements made by former Region 10 Regional Forester Phil Janik to the Senate Energy Committee during the TLMP revision process, and the recent declarations by Mr. Lyons in Sitka, the Forest Service simply cannot

reasonably take money from timber planning allocations in the Tongass and use them to perform a roadless review which has as its purpose (or at least its result) the further reduction of available timber from the Tongass. This is all the more true in light of the fact that the action is illegal under ANILCA, as detailed previously in these comments.

☞ The AFA, while again noting its objection to the intent of the NCI as a whole, urges the exclusion of the Tongass from any and all alternatives which may be developed under the proposed DEIS. The provisions of ANILCA and the unique circumstances of the Tongass and its recent plan revision demand this exclusion. Such an exclusion would also be in line with the expressed position of the Western Governor's Conference (including Alaska's Governor Knowles) which recently passed a resolution urging the Forest Service to exclude from the proposed roadless initiative any forest with a recently completed forest plan or a forest plan which is projected to be completed by the end of 2000.

3. The Chugach National Forest merits exclusion

The Chugach National Forest is afforded the same protection as the Tongass under ANILCA and therefore the establishment or study for establishment of roadless area withdrawals under the present NOI should not be considered for the Chugach.

Additionally, the Chugach is presently suffering from a pandemic of spruce bark beetles which has devastated more than 30,000 acres of Forest Service land on the Kenai Peninsula. An arbitrary ban on road construction in areas along the Seward Highway which qualify as "roadless" (whether inventoried or un-inventoried) would preclude some management options presently available to the Forest Service to deal with the extremely high forest mortality that has resulted from this insect problem. At this time, ecological and silvicultural considerations argue strongly against foreclosing options until the extent of appropriate management techniques can be fully assessed.

Furthermore, as is often the case throughout Alaska, there are private land access issues which must be considered with respect to the Chugach National Forest. The CNF has a long history of frustrating the attempts by private landowners with holdings adjacent to the forest to establish permanent access to their lands. Any permanent "protections" afforded to roadless areas in the Chugach will only exacerbate this problem.

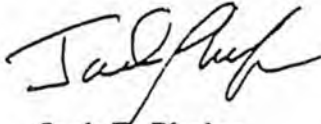
Finally, the Chugach Land Management Plan Revision has been in process for more than two years and is now at the stage of finalizing alternatives for the draft EIS. The Alaska Forest Association and several other user groups and individuals have spent countless hours working with the IDT on the Plan revision process. As with the Tongass, including the Chugach National Forest in national roadless policy would make a sham of the Forest Service planning process established under NFMA.

☞ The AFA therefore urges you to exclude the Chugach National Forest from all alternatives developed for the DEIS under the NOI. The provisions of ANILCA and the unique management challenges and access issues indicate that it should not fall under the aegis of the proposed policy. As with the Tongass, such an exclusion would also be in line with the expressed position of the Western Governor's Conference which recently passed a resolution urging the Forest Service to

exclude from the proposed roadless initiative any forest with a recently completed forest plan or a forest plan which is projected to be completed by the end of 2000.

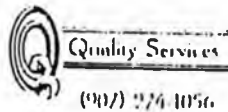
Thank you for the opportunity to comment on the roadless NOI. Should you have any questions concerning any of these comments, please contact me at (907) 225-6114.

Sincerely,



Jack E. Phelps
Executive Director

cc: The Honorable Tony Knowles
The Honorable Ted Stevens
The Honorable Frank Murkowski
The Honorable Don Young



Date DEC 11 9 1999

PETERSBURG PILOT

Client No. 386

Council firm against USFS roadless initiative

PH 167 346

By **BRIAN F. JOHNSON**
Pilot writer

The Petersburg City Council voted unanimously Monday night to support a resolution which opposes the inclusion of the Tongass National Forest in the Department of Agriculture's National Roadless Area Review.

The nationwide initiative grew out of a moratorium passed in January 1998 on building new roads in a roadless area. Since that moratorium came into being the USFS has received some 80,000 comments requesting that the moratorium be made permanent. The initiative is the next step in that process.

So far the Tongass is the only National Forest not included in the plan.

Right now about 70 percent of the Petersburg District is roadless and about 65 percent of the land use areas open to timber harvests on the Petersburg District are roadless, according to District Ranger Patty Grantham.

Some are concerned that the initiative, if put into effect on the Tongass, could effectively choke the few remaining timber companies out of business, while others feel that timber sales should be designed around existing road systems.

Councilor Dave Carlson, in a heated tone Monday night, said that "whole issue is a travesty...a travesty to this community."

"Take a look at what's happening with our schools, the school enrollment, fund, the population of this town," he yelled.

Referring to comments made earlier in the meeting Carlson continued, "Jim Whitethorn was talking about getting fish to market. I don't know how you're going to do it without roads." Commenting on those opposed to roads because they reason that they negatively affect fish habitat, he said, "We have one record run of fish after another and I guess these roads have really killed the fish populations."

Continued on page 8

Roadless

341 367 396

Continued from page 1

Councilor Sheila McFadden concurred, saying that she thought the measure was "another clueless resolution from the Lower 48." "I can see some forests down south going roadless...but here it doesn't hold any water for me," she said.

Councilor Barry Bracken also said that he disagreed with the measure because among other things, it undermines the public process of the Tongass Land Management Plan and the recent Record of Decision. "It almost conveys the message that any part of the Record of Decision on the TLMP planning process is open for revision or discussion, before the ink is barely dry," he said.

Several area residents turned out to voice the opinions on the issue as well.

George Rice, said that as an employee in the timber industry "It's a bad feeling to know that your livelihood is being taken away from you."

Bob Zorich and Pete Litsheim both supported the council's resolution.

Zorich, who cited the history of the TLMP process said, "I don't think this is in the best interest of people living in the Tongass."

Zorich said that he was very nervous that pressure from organizations down south could force the initiative to go through. Holding up a card from an environmental group he explained

that pre-printed cards supporting the plan are being distributed. He explained that people can simply sign their name and send it off to the Forest Service. He said those cards will be counted as public comments too. "I'm afraid that people who have never even heard of the Tongass may have greater input than those who live and work here," he said.

Zorich also commented that if put into place the Roadless ini-

"We have one record run of fish after another and I guess these roads have really killed the fish population."

— COUNCILOR DAVE CARLSON

tiative would have negative effects on the Southeast Alaska Area Transportation Plan and the Southeast Intertie.

Litsheim said that the initiative to him looks like "a last ditch effort to lock up our National Forests to the point

where we're helpless."

Only one resident spoke in support of the Roadless initiative. Resident Becky Knight said that she couldn't see the justification of more roads when there are already 380,000 miles of roads in National Forests across the country and that there is only 20 percent of the needed funds budgeted to maintain them.

Knight said that fish habitat issues are the major concern to her. "Culvert failures that can impede fish passage are a growing concern," she said.

She added too that being included in the Roadless initiative would not negatively affect the timber industry in Southeast. "Including the Tongass in the roadless policy will not 'shut down' the timber industry. Billions of board feet of Tongass timber are accessible from the existing road network and helicopter logging may be an option in some areas," she argued.

She added too, "Although some claim that TLMP solved all the problems on the Tongass, certainly there were many ignored or left unsolved."

The council passed its resolution 7-0.

The USFS will be accepting comments until Dec. 20. All comments will become part of the public record. Comments will be accepted until Dec. 20 and can be mailed to USDA Forest Service CAET, ATTN: Roadless Area NOI, P.O. Box 221090, Salt Lake City, UT

84122. Email submissions will also be included and can be sent to roadless/wo_caet-slc@fs.fed.us

District Ranger Patty Grantham said that the USFS

would be happy to make presentations to groups in town and that those who wish such a presentation can call the District office at 772-3871.

The Alaska Delegation urges a state suit to stop the roadless initiative in the State of Alaska

The Alaska Congressional Delegation recently urged Alaska Governor Tony Knowles to file a state suit to stop the federal government from proceeding with a plan to ban road construction in the Chugach National Forest.

Alaska's Senators Stevens & Murkowski, & Congressman Young said the Alaska National Interest Lands Conservation Act [specifically Section 1326 (b)] bars the federal government from conducting studies for the single purpose of adding to conservation system units unless authorized by Congress. In a letter to Alaska's Governor Tony Knowles they argued that Alaska thus should be exempted from the Clinton Administration's current 60-day public comment period that eventually will lead to crafting an Environmental Impact Statement for possible designations of new roadless areas in our national forests.

"If any part of Alaska is reviewed for the purpose of considering conservation measures, it's a violation of the *no more* clause (of ANILCA). The state has standing to challenge restrictive federal land use policies affecting Alaska. We urge you to initiate a court action to enforce the *no more* clause & enjoin the Forest Service from conducting in Alaska (a) review process," wrote the Delegation to Governor Knowles.

The Delegation noted that putting whole blocks of the national forest off limits to road construction in the State of Alaska would affect not just the timber industry, but also other extraction industries and the tourism industry. A study of roadless areas, "Promises another divisive, national debate over the State's control over its own future. But we simply don't need to go there," wrote the Delegation.

"If it quacks like a duck, & walks like a duck, it is a duck, it is an attempt to create an additional conservation area, and ANILCA prevents that without specific congressional authorization in Alaska," said Murkowski, chairman of the Senate Energy & Natural Resources Committee.

Congressman Don Young, chairman of the House Committee on Resources, said, "The Administration's review is explicitly prohibited in Alaska. Legislation should not be necessary because the state already has a law [ANILCA 1326(b)] that bars the President's action. If the government breaks the *no more* compromise, it's the Governor's duty to stop this in the courts."

The Delegation quoted ANILCA:

"No further studies of federal lands in Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further act of Congress."

Last month, the Clinton Administration proposed to proceed with a proposal to stop the road construction on at least 40 million acres of the national forest.

Alaska Forest Association, Inc.



111 STEDMAN STREET, SUITE 200
KETCHIKAN, ALASKA 99901-6599
Phone 907-225-6114
FAX 907-225-5920
Web Site www.akforest.org

March 20, 2000

The Honorable Rick Halford
Alaska State Senate
State Capitol
Juneau, AK 99801

MAR 22 2000

Re: House Joint Resolution 54

Dear Senator Halford:

Thank you for scheduling HJR 54, relating to the President's roadless policy, for a hearing in Senate Resources. The Alaska Forest Association fully supports HJR 54 because Alaska will be disproportionately harmed if the federal government imposes the President's proposed roadless withdrawal on the Tongass and Chugach National Forests.

As you are well aware, the Tongass Land Management Plan was revised in 1997 after the Forest Service spent 11 years and \$13 million on the revision. In 1999, Under Secretary of Agriculture Jim Lyons unilaterally amended the plan under the guise of granting appeal points to some radical environmental groups. Whether his action was legal under federal laws and regulations is presently the subject of a complaint filed in federal district court by the AFA, the Metlakatla Indian Community, Coffman Cove, Wrangell, Ketchikan Gateway Borough, the City of Craig, Southeast Conference, Concerned Alaskans for Resources and Environment (C.A.R.E.) and some individuals. The result of Mr. Lyons' decision was a plan that is able to produce a maximum annual offering level of only 153 million board feet of timber, and is likely to produce much less, based on historic Forest Service performance. As a point of reference, existing sawmills in Southeast Alaska (including some that are currently closed) have a normal annual operating capacity of 355.5 million board feet.

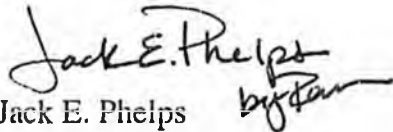
If the roadless policy is applied to the Tongass, the land available for scheduled timber sales will likely be reduced to approximately 183,000 acres, from the 576,000 acres presently available. If this occurs there will certainly be more mill closures and loss of employment in the region. Given the dramatic decline in timber-related economic activity in Southeast Alaska over the past decade, it is time Alaska said "enough is enough" to these unnecessary and unacceptable federal preservation actions.

Aside from the immediate harm that will accrue to the industry and communities of Alaska's coastal region, the roadless policy should also be opposed by the State of Alaska because of the promises embodied in ANILCA. As HJR 54 clearly spells out, ANILCA contains provisions which were intended to prohibit the very kinds of actions that are at issue here. Whether the Clinton Administration chooses to call these roadless withdrawals "wilderness" or not, it amounts to the same thing. As HJR 54 states, these new areas will be *de facto* wilderness, the designation of which,

or *even the study* of which, is prohibited by ANILCA.

With respect to the Chugach National Forest, 98 percent of that forest is presently inventoried roadless. Application of the President's proposal would prohibit all new transportation infrastructure in that forest without the benefit of a public planning process specific to the Chugach. The Chugach Land and Resource Management Plan is presently undergoing revision under terms set forth in the National Forest Management Act of 1976. AFA and several other user groups have been very actively involved in the Chugach planning process. That is the proper venue for land use allocation decisions to be made in the Chugach, as it is with all the other national forests in this country. Such decisions should not be made through a national super-EIS initiated for the purposes of establishing an "environmental legacy" for the President and furthering his political aims.

Sincerely,

A handwritten signature in cursive script that reads "Jack E. Phelps". To the right of the signature, there is a smaller, less legible handwritten mark that appears to be "by [unclear]".

Jack E. Phelps
Executive Director

cc: The Honorable Tony Knowles, Governor of Alaska
Representative Bill Williams



ALASKA + WOMEN IN TIMBER

111 STEDMAN ST.
KETCHIKAN, ALASKA 99901
PHONE/FAX: (907) 247-2946

STATEMENT OF SUPPORT

The Board of Directors of Alaska Women In Timber would like to go on record in support of House Joint Resolution No. 54.

Our national forests should be managed in accordance with existing federal laws. The proposed roadless withdrawal is bad public policy, which is being pursued for purely political reasons. It is not appropriate on all national forests and it is particularly unacceptable in the case of the Tongass National Forest. After an extensive plan revision period that lasted more than eleven years and cost the public more than \$13 million dollars, more than half of the land previously available for development in the Tongass was withdrawn. Additional roadless withdrawals would be economically devastating to the communities of the region.

The elected representatives of Alaska have spoken with rare unanimity on this issue – this is a blatant double cross by the federal government. The years of planning and millions of dollars spent to craft the Tongass Land Management Plan and the planning currently taking place for the Chugach National Forest will all have been for nothing.

Inclusion of Alaska's Tongass and Chugach National Forests in this roadless proposal denies the rights of those most affected by policy changes to play any sort of significant role in the decision making process.

Alaska Women In Timber urges the full support of the Alaska State Legislature for HJR 54.



United Southeast Alaska Gillnetters
PO Box 22427
Juneau, Alaska 99802
(907) 586-5860 Fax (907) 586-5648
E-mail: usag@gillnetters.org

February 18, 2000

House Resources Committee,
Representative Bill Hudson, Co-Chair
Representative Beverly Masek, Co-Chair
State Capitol, Room 124
Juneau, AK 99801-1182

RE: HJR 54

The United Southeast Alaska Gillnetters Association supports HJR 54 sponsored by Representative Williams and Phillips. We have enclosed the letter we submitted to the Forest Service on the roadless initiative.

Sincerely,

Kathy Hansen
Executive Director



United Southeast Alaska Gillnetters
PO Box 22427
Juneau, Alaska 99802
(907) 586-5860 Fax (907) 780-6621
E-mail: usag@gillnetters.org

December 14, 1999

USDA Forest Service CAET
Attn: Roadless Area NOI
Box 221090
Salt Lake City, UT 84122

Dear U.S. Forest Service:

RE: Roadless Proposal
Position: Oppose

The United Southeast Alaska Gillnetters Association (USAG) would like to state that we oppose the roadless initiative suggested by President Clinton. In particular, we oppose the inclusion of the Tongass National Forest in Alaska as part of the policy.

This initiative is bad public policy based on the desire of the President to leave a legacy and has no basis in sound science. The current planning process mandated by the National Forest Management Act (NFMA) and NEPA takes in the needs of the fish, wildlife, habitat and the public while allowing reasonable access to the land by all. We question the appropriateness of performing a nationwide "super-EIS" that will overturn decisions made through the land management plan process which involves local decisions based on public and agency review. Let the decisions be made at the local level involving the people involved in the area and not by Washington DC politics and nationwide environmental groups.

The Tongass National Forest should not be included for the following reasons:

- The Tongass had just gone through an extensive, 11 year plan revision, which cost the public more than 13 million. The 1997/99 TLMP withdrew more than half of the land previously available for development in the Tongass.
- Most of the non-roaded areas of the Tongass are already protected in some fashion. This includes wilderness area; Congressionally designated LUD II areas, administrative land use designations for non-development such as "remote recreation," and Wild and Scenic River designations. The only roadless acreage under consideration for protection in this proposed policy are those few areas currently left open for resource (primarily timber) extraction. The available timberlands have already been reduced to the point that mills have closed and more may yet be forced to close.
- The 1999 Record of Decision placed many thousands of acres of unroaded areas off-limits to development, reducing the land available for timber production to approximately 10 % of the Commercial Forest Land in the Tongass. This has already put serious restraints on the economy of Southeast Alaska. Additional roadless withdrawals would be economically devastating to the communities of the region.
- The State of Alaska Governor, Congressional Delegation, members of the State Legislature and many community leaders have all spoken out against the

application of the roadless policy to the Tongass. Governor Knowles has classified this decision as a "double cross and an outrage" were the policy be applied to the Tongass. We agree, and urge the Forest Service to specifically exempt the Tongass from any further consideration of roadless "protections".

- Any application of the roadless policy to the national forests of Alaska would violate the Alaska National Interest Lands Conservation Act (ANILCA). This act was passed in Congress in 1980 and includes in law the agreement between Congress and the Carter White House Administration that any further conservation unit decisions in Alaska would be under the sole purview of Congress.

President Clinton's original announcement of the withdrawal of roadless areas was to encompass some 40 million acres. His inclusion, of the Tongass and of additional smaller non-inventoried unroaded areas may push that number to higher than 60 million acres. How much land is actually being considered in this policy decision and how much of that area is in Alaska? If the public is to evaluate the effect of this policy proposal, it needs to know with some precision where the areas in question are located. To make the scoping period meaningful and effective, the Forest Service should produce maps showing where the roadless areas are located, and should extend the public scoping comment period to allow sufficient time for the mapped information to be reviewed by the public. At a minimum, the extension should last for 120 days (until late April 2000).

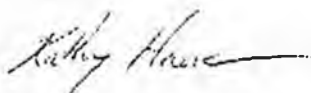
At a recent Senate hearing the Forest Service will not request a reprogramming of funds to do this roadless analysis. The Forest Service has said they will use existing funding to pay for the initiative. In the House hearing they stated that the initiative is estimated to cost \$8 million and the agency will pay for it out of land management planning funds. What planning activities in Region 10 will go unattended to offset the money and time devoted to the roadless initiative?

In summary, we would like re-state our opposition to this roadless policy and in particular the inclusion of the Tongass National Forest in the policy. Our national forests should be managed in accordance with existing federal laws. The comment period should be extended - the sixty day comment period which affects 37 states and 40-60 million acres of forest land does not allow sufficient time for the public to comment. To date, the forest service has not identified the specific parcels of land to be included which essentially asks the public to make uninformed comments on this proposal. That situation tends to make a person feel that this is a pre-determined decision and that you are pretending to solicit public comments. We hope that we are wrong.

United Southeast Alaska Gillnetters Association is a non-profit group representing Southeast Alaska drift gillnet fishermen since 1978.

Please count this testimony as our formal comments on the Roadless Proposal.

Sincerely,



Kathy Hansen

CC: Congressional Delegation, Governor Knowles, Lt. Governor Ulmer
Alaska Forest Association, United Fishermen of Alaska, Alaska Trollers Assoc.,
Southeast Alaska Seiners, Petersburg Vessel Owners Assoc.



750 W. 2nd Ave. #109, Anchorage AK 99501 / Ph. 907-258-6171 / Fax 907-258-6177

P.O. Box 22151, Juneau AK 99802 / Ph. 907-463-3366 / Fax 907-463-3312 / unite@akvoice.org

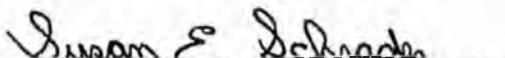
HJR 54 ~ Excluding Alaska's National Forests from the Roadless Policy

TO: Senate Resource Committee
DATE: March 22, 2000

Alaska Conservation Alliance and Alaska Conservation Voters are sister nonprofit organizations dedicated to protecting Alaska's environment through public education and advocacy. Our 40 member organizations and businesses represent over 21,000 registered Alaskan voters, most of whom are frequent users of the Tongass and Chugach National Forests for subsistence, recreational, and commercial activities. We support efforts by the Clinton administration and the U.S. Forest Service to protect areas within our national forests that currently are roadless. Discussion surrounding HJR 54 has included some misconceptions and misinformation we would like to address:

- The roadless proposal does not create wilderness; it is not a wilderness proposal. It is, rather, another tool in the Forest Service's tool box of management options for protecting currently roadless areas to maintain water quality for fish, protect wildlife habitat, and ensure opportunities for remote recreation. Only Congress can create wilderness which is a far more protective classification than what is being proposed here. Because the roadless policy is not creating new parks, refuges, or wilderness areas, de facto or otherwise, it does not violate the "No More" clause of ANILCA.
- The roadless proposal does not affect existing roads – no roads currently in existence will be closed under this proposal. In fact, money saved from building new roads into roadless areas will be available for use by the Forest Service to help maintain existing roads and keep them open and safe for use by Alaskans.
- The roadless proposal would not mean the end of the timber industry in Alaska. In the Tongass, billions of board feet of timber outside of roadless areas would still be available for logging. This timber, that can be accessed by the 4,650 miles of existing road, is enough to support a moderately – sized timber industry. And while there are no timber-dependent communities on the Chugach, the current small-scale operations for house logs, firewood, and safety reasons can continue in the existing roaded areas.
- The roadless proposal will not compromise existing rights guaranteed under ANILCA and other relevant laws. Existing rights, including RS 2477, will be maintained.

We only need to look south to the national forests in Washington state to see the "collateral damage" that comes with extensive road building, including landslides, damage to salmon streams, problems with game poaching and increased risk of human-caused fires. We can do it differently here in Alaska – we can give the Forest Service the tools it needs to manage the Tongass and the Chugach for the benefit of all users – subsistence, recreational and commercial. The roadless policy is simply another one of the tools. ACA/ACV urges you not to support HJR 54.


Susan Schrader, Conservation Advocate

Conserve Alaska. It's Only Natural.

TO: Senate Resource Committee Members
FROM: Rion Schmidt (phone: 274-3674)
DATE: March 22, 2000
RE: HJR 54: Position Statement of the Alaska Center for the Environment on HJR 54

Alaska Center for the Environment believes it is appropriate for Alaskan forests to be included in the roadless initiative, particularly the Chugach, as it is our area of primary focus. For years, citizens have cited their concerns about the damaging effects of road building, and the use of taxpayer dollars to subsidize corporate development interests on our national forests. Clearly, public sentiment has moved towards the protection of our public resources, rather than the exploitation of them.

In HJR 54, the issue of timber dependant economies is brought forth as reasoning for exclusion of Alaskan forests in the President's policy. On the Chugach the reality is quite different from the position put forth in this resolution. There are no timber dependant communities on the Chugach, logging has never provided a substantial economic base for any of the areas in question, and the small amount of logging that does occur could still continue in un-inventoried areas. In fact, by maintaining the Chugach's roadless areas, rural economies are likely to enjoy greater economic benefits through a continued diversification of their economies. Tourism, recreation, Watchable Wildlife programs, outdoor guiding and sightseeing, cabin industries, local businesses, and enhancement of property values, are some of the ways in which local communities would benefit from this policy.

The next argument that HJR 54 makes on behalf of exclusion is the assertion that the Roadless Policy would be a violation of ANILCA. We strongly disagree. Section 1326(b) of the Alaska Lands Act provides: "No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress."

This section does not prohibit the continuing Forest Service review and planning for roadless area management. This process is not being conducted to consider the establishment of a conservation system unit or any other new congressionally designated "defacto wilderness area". The Forest Service review is only a process for the Forest Service to decide how to manage the lands under its jurisdiction. The process is not a study for the single purpose of establishing new protected areas by Congress.

In recent surveys conducted by Alaska Pacific University, Alaskans have indicated that they want the Chugach National Forest managed as it has been traditionally: for the protection of fish and wildlife and for low impact recreation/tourism uses. In these surveys, Alaskans have clearly stated that their prosperity and quality of life are closely linked to scenic values, habitat integrity, roadless areas and biological diversity on the Chugach. Local economies are directly tied to these values through: subsistence hunting, fishing and gathering of resources, as well as commercial and sport fisheries.

ACE's 9,700 members, including a thousand members who reside in Southeast, also support inclusion of the Tongass in the policy. Please reconsider your opposition of the National Forest Roadless Policy. The Chugach and Tongass National Forest should be considered for management under the roadless policy, and our public land is a treasure that should not be diminished by outside corporate dominated exploitation interests.

ALASKA STATE CHAMBER OF COMMERCE

Position 2000 - 33

United States Forest Service proposed "Roadless Policy"

The Alaska State Chamber of Commerce urges the Governor and Legislature to support all efforts to stop the United States Forest Service (USFS) proposed "Roadless Policy" by requesting the State of Alaska to sue the USFS and the U.S. Government to block application of the "Roadless Initiative".

RATIONALE:

The Clinton Administration is awaiting results of a public comment period on whether roadless areas of the Tongass National Forest should be included for review under its roadless initiative. The roadless issue for the Tongass was already completed in the 13 year, 10 million dollar Tongass Land Management Plan (TLMP). If any part of Alaska is reviewed for the purpose of considering conservation measures, it is a violation of the "No More" clause in ANILCA. The Chugach is currently under that review.

ADOPTED

December 3, 1999

BY Pamela La Bolle
Pamela La Bolle
President

BY Dennis Brandon
Dennis Brandon
Chairman

SENATE COMMITTEE REPORT

DATE: 3/6/00

FURTHER:

DATE TURNED
IN TO OFFICE: 3/22/00

Resources Committee considered

HOUSE JOINT RESOLUTION NO. 54

Relating to urging the exclusion of national forests in Alaska from President Clinton's proposal for withdrawal of roadless areas in the national forest system.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Handwritten signatures]</i>	<input checked="" type="checkbox"/>	<i>[Handwritten signature]</i>			
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CHAIR: <i>[Handwritten signature]</i>	<input checked="" type="checkbox"/>	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

House Resources	3/21/00	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

HJR

60

Alaska State Legislature

House Resources Committee

Co-Chair Beverly Masek
(907) 465-3715
FAX (907) 465-4822

Capitol Building, Room 124
Juneau, Alaska 99801



Co-Chair Bill Hudson
(907) 465-6890
FAX (907) 465-2273

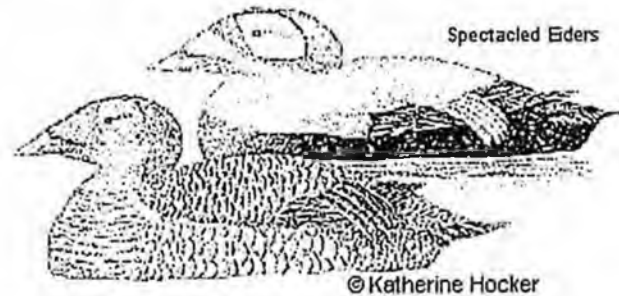
Committee Meetings:
M/W/F 1 - 3 p.m.

Members: Vice Chair John Cowdery, Representatives: Ramona Barnes,
John Harris, Carl Morgan, Jim Whitaker, Reggie Joule, and Mary Kapsner

Sponsor Statement for HJR 60, Critical Habitat for Eiders

The US Fish and Wildlife (USFWS) has listed both the Spectacled Eider and the Steller's Eider as threatened species under the Endangered Species Act. At the time of listing, the USFWS determined that it was not prudent to designate critical habitat because there was no demonstrable benefit that could be shown at that time. In other words, access to suitable habitat could not be shown as a contributing factor to the decline of these species.

On March 10, 1999, two environmental organizations filed a lawsuit in Federal District Court in California against the Dept. of Interior for failure to designate critical habitat for five California species and Alaska's Spectacled and Steller's eiders.



In September of 1999, the Department of Interior entered into an agreement to re-evaluate its critical habitat determinations. The Department took this action because over the last few years a series of court decisions have overturned previous USFWS determinations that critical habitat was not prudent. The decision whether to designate critical habitat for the Eider's was reversed.

On February 8, 2000, the FWS published a proposed rule to designate large marine and land areas of Alaska as critical habitat for the Spectacled Eider and has announced it will be proposing a similar designation for Steller's Eider. The total acreage is something in the order of 74,000 square miles, including approximately 22,558 square miles on the North Slope.

HJR 60 contends that the designation of critical habitat

- was determined by a decision from the Department of Interior that the lawsuit was not winnable rather than any new information pointing to habitat concerns;
- fails to identify areas that are truly necessary for recovery and long-term survival of these species;
- may have unnecessary negative effects on resource development, subsistence, and commercial fishing; and
- may mislead the public into believing that Alaska has done an inadequate job of protecting the environment while developing its resources.

FISCAL NOTE

No: 1
 E. Version: HJR 60
 (H) Publish Date: 4/6/00

STATE OF ALASKA
 2000 LEGISLATIVE SESSION

Revision Date: _____
 Title: Opposing the designation of millions of acres of Alaska as
 critical habitat for the Spectacled Eider and the Steller's Eider
 Sponsor: House Resources Committee
 Requester: _____

Dept. Affected NA
 BRU NA
 Component NA
 Component Serial No. NA

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06
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 []	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						
1091 Designated Program Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY00) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by *Liz Cabrera*
 Liz Cabrera
 House Resources Committee

Phone 465-6890
 Phone 465-6890
 Date 4/3/00

COMMITTEE COPY

**THE FOLLOWING PAGES MAY
NOT FILM LEGIBLY BECAUSE OF
THE POOR QUALITY OF THE ORIGINAL**

PEPARED TESTIMONY OF OLIVER LEAVITT

GOOD AFTERNOON. MY NAME IS OLIVER LEAVITT. I AM THE VICE PRESIDENT OF LANDS FOR THE ARCTIC SLOPE REGIONAL CORPORATION.

I AM HERE THIS AFTERNOON TO URGE THE STATE OF ALASKA TO JOIN WITH US IN OPPOSING THE DESIGNATION OF MUCH OF THE NORTH SLOPE AS CRITICAL HABITAT FOR SPECTACLED AND STELLER'S EIDERS. THE STAKES ARE HIGH. UNLESS WE RESPOND QUICKLY AND WITH ALL THE MEANS AT OUR DISPOSAL, THE EIDERS WILL DO FOR THE NORTH SLOPE WHAT THE SPOTTED OWL DID FOR THE ECONOMY OF THE PACIFIC NORTHWEST.

I BELIEVE ASRC AND THE STATE HAVE A COMMON INTEREST IN OPPOSING THIS LATEST EXAMPLE OF REGULATORY OVERREACHING. ASRC OWNS 5 MILLION ACRES OF LAND ON THE NORTH SLOPE. LESS THAN TEN YEARS AGO, ASRC ENTERED INTO AN HISTORIC AGREEMENT WITH THE STATE OF ALASKA IN WHICH WE MERGED OUR TITLES IN THE COLVILLE DELTA TO FACILITATE OIL AND GAS DEVELOPMENT.

THE WISDOM OF THAT POLICY IS APPARENT TODAY. THIS SUMMER, THE ALPINE FIELD WILL GO INTO PRODUCTION. THIS WILL BE THE FIRST COMMERCIAL DEVELOPMENT OF OIL ON ASRC'S LANDS. THE

ALPINE FIELD AND OTHER SMALL TO MEDIUM FIELDS IN THE PROCESS OF DEVELOPMENT WILL HELP THE STATE OF ALASKA TO OFFSET THE REVENUE DECLINE FROM PRUDHOE BAY.

YOU ARE WELL AWARE THAT EVERY ATTEMPT TO DEVELOP OIL AND GAS ON THE NORTH SLOPE IS MET WITH LITIGATION BY THE SELF APPOINTED ENVIRONMENTAL OMBUDSMEN. RECENTLY, FOR EXAMPLE, ASRC JOINED WITH THE STATE AND ARCO TO DEFEAT A COURT CHALLENGE THAT THREATENED TO STOP THE ALPINE PROJECT IN ITS TRACKS.

I BELIEVE THAT THE DESIGNATION OF MUCH OF THE NORTH SLOPE AS EIDER CRITICAL HABITAT WILL ONLY SPAWN MORE SUCH LITIGATION AND GIVE ENORMOUS LEVERAGE TO THOSE GROUPS WHOSE SOLE AIM IS TO STOP ALL FURTHER DEVELOPMENT OF OIL AND GAS IN THE ARCTIC.

LET ME SAY AT THIS POINT THAT I AM NOT OPPOSED IN PRINCIPLE TO DESIGNATING CRITICAL HABITAT WHERE THERE IS A DEMONSTRATED NEED TO INSURE THE SURVIVAL OF A SPECIES. THE LIVES OF THE INUPIAT ARE TOO DEPENDANT ON THE HEALTH OF OUR ENVIRONMENT AND THE ANIMALS THAT HAVE ALWAYS SUSTAINED US TO IGNORE SUCH THREATS.

HAVING SAID THIS, WE HAVE SEEN MORE THAN OUR SHARE OF POLITICALLY MOTIVATED SCIENCE. IN MY LIFETIME I HAVE WITNESSED AN ATTEMPT TO END THE WHALE HUNT BECAUSE SOME SCIENTISTS PREDICTED THAT THE BOWHEAD WERE NEARING EXTINCTION. IT TURNED OUT THAT THE INUPIAT HUNTERS KNEW A GOOD DEAL MORE ABOUT THE STATUS OF THE BOWHEAD STOCKS THAN BIOLOGISTS WHO HAVE NEVER LIVED IN THE ARCTIC.

I BELIEVE THAT THE PROPOSAL TO DESIGNATE MOST OF THE COASTAL PLAIN OF THE NORTH SLOPE AS CRITICAL HABITAT FOR TWO SPECIES OF EIDERS IS ANOTHER EXAMPLE OF POLITICALLY MOTIVATED SCIENCE. THE FISH AND WILDLIFE SERVICE ADMITS THAT DESIGNATING CRITICAL HABITAT WILL DO NOTHING TO HASTEN THE RECOVERY OF THE EIDERS. IT WILL, HOWEVER, PROVIDE A POWERFUL NEW LITIGATION TOOL FOR THOSE WHO WANT TO STOP DEVELOPMENT IN THE ARCTIC.

THE SPECTACLED EIDER WAS LISTED AS ENDANGERED LESS THAN TEN YEARS AGO. THE STELLER'S EIDER WAS ADDED TO THE THREATENED LIST ONLY THREE YEARS AGO. IN BOTH CASES, THE FISH AND WILDLIFE SERVICE CONCLUDED THAT IT WOULD NOT BE PRUDENT TO DESIGNATE CRITICAL HABITAT FOR A VERY SIMPLE REASON: THERE IS NO EVIDENCE WHATSOEVER THAT HABITAT DESTRUCTION OR SCARCITY HAS CONTRIBUTED TO DECLINE OF THE SPECIES.

SINCE THAT TIME, THE FISH AND WILDLIFE SERVICE HAS BEEN WORKING ON RECOVERY PLANS FOR BOTH SPECIES IN COOPERATION WITH THE STATE AND THE NORTH SLOPE BOROUGH. TO MY KNOWLEDGE, NEITHER PLAN HAS SUGGESTED THAT DESIGNATION OF CRITICAL HABITAT IS NECESSARY FOR THE SPECIES TO RECOVER. STUDIES DONE IN THE PAST FEW YEARS SHOW THAT THE NORTH SLOPE POPULATION OF BOTH SPECIES HAS NOT DECLINED AND MAY EVEN BE INCREASING.

THE FISH AND WILDLIFE SERVICE SAYS IT WAS FORCED TO TAKE THIS ACTION BY ADVERSE COURT DECISIONS. IT IS TRUE THAT THE FISH AND WILDLIFE SERVICE WAS SUED IN CALIFORNIA. INSTEAD OF DEFENDING THAT SUIT, HOWEVER, THE FISH AND WILDLIFE SERVICE QUICKLY CAVED IN TO THE ENVIRONMENTAL PLAINTIFFS WITHOUT EVEN FILING AN ANSWER. THE HASTE WITH WHICH THE CASE WAS SETTLED SUGGESTS THAT NEITHER THE FISH AND WILDLIFE SERVICE NOR THEIR ADVERSARIES WANTED TO PROVIDE A FORUM FOR AFFECTED LANDOWNERS - INCLUDING ASRC AND THE STATE OF ALASKA - TO INTERVENE AND STATE THEIR VIEWS.

OUR ATTORNEYS TELL US THAT THE ONLY CASES THE FISH AND WILDLIFE SERVICE HAS EVER LOST INVOLVED FAILURE TO

DESIGNATE CRITICAL HABITAT WHEN LOSS OF CRITICAL HABITAT WAS A SIGNIFICANT FACTOR IN THE DECLINE OF THE SPECIES. NONE HAS SUGGESTED THAT IS THE CASE WITH EIDERS ON THE NORTH SLOPE.

ATTACHED TO MY TESTIMONY IS AN OPINION LETTER FROM THE FISH AND WILDLIFE SERVICE'S OWN ATTORNEYS QUESTIONING THE LEGALITY OF DESIGNATING CRITICAL HABITAT WHEN LOSS OF HABITAT HAS NOT BEEN IDENTIFIED AS A FACTOR IN THE DECLINE OF THE SPECIES. (THIS LETTER WAS PRODUCED TO ASRC BY THE FISH AND WILDLIFE SERVICE PURSUANT TO A FREEDOM OF INFORMATION ACT REQUEST.)

THE FISH AND WILDLIFE SERVICE IS TELLING EVERYONE NOT TO WORRY, THAT DESIGNATING CRITICAL HABITAT WILL NOT CHANGE THE ENDANGERED SPECIES ACT CONSULTATION REQUIREMENTS THAT ARE ALREADY IN EFFECT. THE ENVIRONMENTAL ORGANIZATIONS KNOW BETTER THAN THAT. WHY ELSE WOULD THEY GO TO THE TROUBLE AND EXPENSE OF SUING THE SERVICE? SETTling THE LITIGATION WAS JUST A CONVENIENT EXCUSE FOR FURTHERING A COMMON AGENDA AND GIVING BOTH THE FISH AND WILDLIFE SERVICE AND THE ENVIRONMENTAL ORGANIZATIONS MORE CONTROL OVER OIL AND GAS DEVELOPMENT ON THE NORTH SLOPE.

SINCE MOST ACTIVE DEVELOPMENT IN THE ARCTIC TAKES PLACE IN THE WINTER WHEN EIDERS ARE NOT PRESENT, THE NON-JEOPARDY REQUIREMENT OF THE ENDANGERED SPECIES ACT CAN USUALLY BE SATISFIED WITH A SIMPLE EXCHANGE OF LETTERS. THAT IS HOW IT WAS DONE AT ALPINE. ONCE CRITICAL HABITAT IS DESIGNATED, HOWEVER, ANY PERMIT THAT DISTURBS THAT HABITAT - EVEN IF THERE IS NO EVIDENCE THAT THE HABITAT HAS EVER BEEN USED BY THE SPECIES -- WILL PROBABLY REQUIRE FORMAL CONSULTATION WITH THE SERVICE. FORMAL CONSULTATIONS REQUIRE BIOLOGICAL ASSESSMENTS AND BIOLOGICAL OPINIONS. THEY CAN ADD A YEAR OR MORE TO PERMITTING TIME LINES. THE STUDY COSTS ARE CHARGED TO THE DEVELOPER. THE SLIGHTEST IMPERFECTION IN THE PROCESS OR THE RESULT PROVIDES A HOST OF NEW PROCEDURAL AND SUBSTANTIVE ARGUMENTS IN THE INEVITABLE LITIGATION TO FOLLOW.

PERHAPS MORE IMPORTANTLY, DESIGNATION OF CRITICAL HABITAT ON ASRC'S LANDS OPENS ABSOLUTELY EVERY LAND USE DECISION ON THOSE LANDS - EVEN IF NO FEDERAL PERMIT IS REQUIRED - TO CITIZEN SUITS BY THE ENVIRONMENTAL LOBBY. THE SAME WILL BE TRUE, OF COURSE, FOR STATE OWNED LANDS. ANYONE WHO THINKS THAT THIS TREMENDOUS POWER WILL BE

EXERCISED IN MODERATION BY GROUPS LIKE THE TRUSTEES FOR ALASKA HAS NEVER TRIED TO DEVELOP LAND IN THE ARCTIC.

RECENTLY THE DEPARTMENT OF THE INTERIOR DECLARED APPROXIMATELY 700,000 ACRES OF PROSPECTIVE OIL AND GAS LANDS IN NPRA OFF LIMITS TO DEVELOPMENT AS SPECTACLED EIDER BREEDING RANGE. IF A CRITICAL HABITAT DESIGNATION IS TO BE MADE, IT SHOULD BE LIMITED TO THE AREA ALREADY IDENTIFIED AND SET ASIDE BY THE DEPARTMENT OF THE INTERIOR.

THANK YOU FOR PROVIDING THE OPPORTUNITY TO PRESENT MY VIEWS ON AN ISSUE OF CRITICAL IMPORTANCE TO BOTH ASRC AND THE STATE OF ALASKA.

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Memorandum

TO: Ron Somerville
 FROM: Bill Horn *BlH*
 DATE: March 24, 2000
 RE: Critical Habitat/ESA "Horror Stories"

VIA TELEFAX**Stephens' Kangaroo Rat**

The Stephens' kangaroo rat was added to the list of threatened and endangered species under the Endangered Species Act in 1988. Since then, citizens who own land within the range of this animal have faced significant adverse effects of the listing. A telling example is the story of a family who, in 1990, had 1,600 acres of their ranch in California in a reserve "study area" as part of a Habitat Conservation Plan for the Stephens' kangaroo rat. This family has faced nothing but personal and professional frustration and hardship since the U.S. Fish and Wildlife Service invaded their private property under the guise of protecting this "endangered" animal.

As a result of their property being included in this Habitat Conservation Plan, this hard-working family was forced to quit farming their property, with significant economic impacts. The family lost over \$75,000 in income for each of the three years they were unable to grow grain on their land. They also spent over \$175,000 on legal fees, biological surveys, and other related costs. Their total costs in lost income and direct costs as a result of the Endangered Species Act were over \$400,000. This outrageous sum does not include the thousands of dollars in damages to their property and equipment that occurred during a disastrous fire in 1993 that was blamed by many on the ESA.

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Ron Somerville
March 24, 2000
Page 2

Ferruginous Pygmy Owl

The Ferruginous pygmy owl is a 2-ounce, 7-inch tall bird that is so rare that fewer than 12 were spotted in the state of Arizona in 1998. However, this tiny animal caused developers in the area huge headaches. Northwest of Tuscon, developers wanted to build a new high school on a 73-acre piece of land. However, development of the high school was halted and adjacent property values were driven down because environmentalists sued the U.S. Fish and Wildlife Service to designate as critical habitat for the owl, the school site and adjacent land.

As a result of the controversy, one landowner in the area said he was offered \$32,000 an acre for his property a few years before the issue erupted, but later learned that he could only get between \$8,000 and \$10,000 an acre because of pending critical habitat designation. Further, in order to avoid the lengthy and costly process it would require to develop on the land deemed critical habitat, the school developers were forced to acquire 17 acres of land elsewhere and move their new school away from the owl habitat.

Golden-Cheeked Warbler

The golden-cheeked warbler was listed under the ESA in 1990, but the real problems did not start until 1994, at least for the State of Texas. In early 1994, the Department of the Interior and the FWS announced plans to examine a critical habitat designation for the songbird in 33 Central Texas counties. The plans caused an uproar among lawmakers and landowners in the area. The State of Texas went as far as to file a lawsuit against FWS accusing it of overstepping its authority in enforcing the ESA. The suit contended that the agency was usurping the power of the state to govern itself. As a result of the public and political outcry, the agency called off study for designation, citing public concerns.

Unfortunately, the mere threat of a critical habitat designation was enough to cause significant problems for landowners in the study area. One landowner has attested that, in 1990, her land valued at \$300,000. After announcement of the golden-cheeked warbler designation, she claimed that the value of her property plunged over 25 percent.

Tipton Kangaroo Rat

A bamboo farmer in California was accused of plowing under critical habitat belonging to three endangered species and of killing five Tipton kangaroo rats. The federal government sued the farmer, but agreed to drop the case after spending over a

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Page 3

year in court. In the settlement, the farmer was allowed to continue to farm his land if he waited six months and got state and federal permits allowing him to do so. He also had to promise to donate \$5,000 in the name of endangered species protection in the local county.

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MEMORANDUM

TO: Ted Popely
Ron Somerville

FROM: Bill Horn *BH*
Beth Quevli

DATE: February 14, 2000

RE: Proposed Designation of Critical Habitat for the Spectacled Elder

VIA TELEFAX

On Thursday, February 8, 2000, the U.S. Fish and Wildlife Service (FWS) published in the Federal Register (65 FR 6114-6131) a proposed rule to designate critical habitat for the spectacled eider, which is presently listed as endangered under ESA. The proposed designation of critical habitat includes a total of 74,539 square miles. The areas include the North Slope and adjacent marine waters; the Yukon-Kuskokwim Delta and adjacent marine waters, Norton Sound, Ledyard Bay, and the Bering Sea between St. Lawrence and St. Matthew Islands. FWS believes that all of these areas meet the definition of critical habitat because they contain physical or biological elements essential for the conservation of the species and may require special management considerations or protection.

If this designation is approved, it could require federal "consultation" under the ESA regarding a broad range of activities on the designated lands. Senator Murkowski and Rep. Young have already come out against the proposal and are urging public participation in the process.

FWS is accepting comments on all aspects of the proposal, including data on the economic and other impacts of the designation, until May 8, 2000. The public may also request public hearings by March 24, 2000, and notice of any such hearings will be published in the Federal Register and local newspapers. Comments should be sent to Ann G. Pannoport, Field Supervisor, Anchorage Field Office, U.S. Fish and Wildlife Service, 605 West 4th Avenue, Room G-61, Anchorage, AK 99501.

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Documents detailing the proposed areas are attached. Further information on the project can be found on the FWS web site at: <http://www.r7.fws.gov>.

Attachments



U.S. FISH AND WILDLIFE SERVICE
Region 7 - Alaska
1011 East Tudor Road
Anchorage, Alaska 99503

News

For Immediate Release
February 1, 2000

17,704,960 M acres

Contact LaVerne Smith
(907)786-3411 or
Greg Balogh (907)271-2778

Service Proposes Critical Habitat for the Spectacled Eider

The U.S. Fish and Wildlife Service will publish a proposal in the next few days to designate critical habitat for the spectacled eider, a threatened sea duck that nests only in Alaska and Russia. Critical habitat is a term used in the Endangered Species Act that refers to a specific geographic area that is important for the conservation of a threatened or endangered species and may require special management considerations.

Although critical habitat does not set up a preserve or refuge, nor does it affect private activities, federal agencies must consult with the Service before taking actions, issuing permits or providing funding for activities that may affect critical habitat. Where consultation is deemed necessary, a site-specific evaluation of the proposed project and its potential impact on critical habitat will occur.

Today's proposal covers about 74,539 square miles of nesting habitat on the Yukon Delta and the North Slope, molting areas in eastern Norton Sound and Ledyard Bay, and the species' only known wintering area in the central Bering Sea between St. Lawrence and St. Matthew Islands. The spectacled eider is dependent on those habitats within this area that have the specific characteristics that it requires to support its biological needs for nesting, brood rearing, feeding, molting and wintering.

Biologists estimate that there are about 8,000 breeding spectacled eiders left on the Yukon Delta, and about 10,000 birds left on the North Slope. They believe that the main threats to this sea duck on its breeding grounds include: lead poisoning from eating spent lead shot; predation by foxes, gulls and jaegers, and hunting and other human disturbances. They are not certain what threats the eider faces at sea, but believe threats could possibly be linked to factors that are causing the decline of other Bering Sea species such as the Steller sea lion.

"Since the spectacled eider is currently listed for protection as a threatened species, this species is protected no matter where it is," said David B. Allen, Regional Director for Alaska. "Designated critical habitat only affects federal lands and activities funded, permitted or carried out by the federal government. A designation would have no effect on a private landowner engaged in private activities that don't require federal permits or funding."

According to Allen, the vast majority of human activities that require a consultation with the U.S. Fish and Wildlife Service proceed with little or no modification. — *maybe 20 years later.*

More

"This proposal to designate critical habitat in Alaska highlights the biological fact that all species require healthy habitat to survive, but this is not expected to affect the lives or livelihoods of rural and Native Alaskans," he added.

The proposal comes in response to an out-of-court settlement stemming from a lawsuit filed by the Southwest Center for Biological Diversity and the Christians Caring for Creation. The Service did not designate critical habitat for the species when it was originally listed as threatened in 1993 because at that time, loss of habitat was not considered to be the cause of its decline, and it was believed that designation of critical habitat would not benefit the species. In addition, biologists have learned a lot more about the species since it was listed, and they feel more confident in their ability to delineate important eider habitat.

The Service expects to publish its proposal soon in the *Federal Register*. The public may provide written comments on the proposal throughout the 90-day comment period. Comments should be submitted to Greg Balogh at the U.S. Fish and Wildlife Service, Ecological Services, 605 West 4th Avenue, Room G-62, Anchorage, Alaska 99501.

The U.S. Fish and Wildlife Service is the principal federal agency responsible for conserving, protecting, and enhancing fish, wildlife and plants and their habitats for the continuing benefit of the American people. The Service manages the 93-million-acre National Wildlife Refuge System comprised of more than 500 national wildlife refuges, thousands of small wetlands, and other special management areas. It also operates 66 national fish hatcheries, 64 fish and wildlife management assistance offices and 78 ecological services field stations. The agency enforces federal wildlife laws, administers the Endangered Species Act, manages migratory bird populations, restores nationally significant fisheries, conserves and restores wildlife habitat such as wetlands, and helps foreign governments with their conservation efforts. It also oversees the Federal Aid program that distributes hundreds of millions of dollars in excise taxes on fishing and hunting equipment to state fish and wildlife agencies.

You can subscribe to the U.S. Fish and Wildlife Service, Alaska region listserver, to have our press releases sent to your e-mail address automatically by sending an e-mail message to: listserv@www.fws.gov. Please indicate that you would like to subscribe to FWS-Alaska news and give your name in the body of the message.

FWS

BRIEFING PAPER

CRITICAL HABITAT FOR SPECTACLED EIDERS

February 1, 2000

ISSUE

The Fish and Wildlife Service is proposing to designate critical habitat for the spectacled eider. Proposed designation of critical habitat for the spectacled eider includes nesting areas on Alaska's North Slope and the Yukon-Kuskokwim Delta (YKD) and adjacent marine waters; molting areas on Norton Sound and Ledyard Bay; and the only known wintering area in the Bering Sea between St. Lawrence and St. Matthew Islands. These areas total 74,539 square miles or 47,704,500 acres.

BACKGROUND

Spectacled eiders are diving ducks that spend most of the year in marine waters where they primarily feed on bottom-dwelling molluscs and crustaceans. In the United States, spectacled eiders historically nested from the Nushagak Peninsula of southwestern Alaska north to Barrow and east nearly to the Canadian border. Today two breeding populations remain in Alaska. The remainder of the species breeds in Arctic Russia.

Between the 1970s and 1990s, spectacled eiders on the YKD declined by 96 percent, from 48,000 pairs to fewer than 2,500 pairs in 1992. Based upon surveys conducted during the past few years, the YKD breeding population is estimated to be about 4,000 pairs. The most recent population estimate on the North Slope is currently 9,488 (+/- 1,814 birds). North Slope eiders have no clear population trend.

LISTING AND LITIGATION HISTORY

On December 10, 1990, the Service received a petition from James G. King to list the spectacled eider as an endangered species and to designate critical habitat on the Yukon Delta National Wildlife Refuge and the National Petroleum Reserve-Alaska. On April 25, 1991, the Service published a 90-day finding, that the petition had presented substantial information indicating that listing may be warranted (56 FR 19073). On February 12, 1992, a 12-month finding was signed, determining that listing was warranted. On May 8, 1992, a proposed rule to list the spectacled eider as a threatened species throughout its range was published (57 FR 19852). The Service determined that it was not prudent to designate critical habitat for the spectacled eider because there was no demonstrable benefit that could be shown at that time. Comments were solicited from all interested parties during an extended comment period (160 days). After a review of all comments received in response to the proposed rule, the final rule listing the spectacled eider as threatened without critical habitat was published on May 10, 1993 (58 FR 27474).

On March 10, 1999, the Southwest Center for Biological Diversity and the Christians Caring for Creation filed a lawsuit in Federal District Court in the Northern District of California against the Secretary of the Department of the Interior for failure to designate critical habitat for five California species and Alaska's spectacled and Steller's eiders.

In September 1999, the plaintiffs and the Departments of Justice and Interior entered into an agreement in which Interior agreed to re-evaluate its critical habitat determinations for spectacled and Steller's eiders. The government took this action because over the last few years, a series of court decisions have overturned previous Service determinations regarding a variety of species that designation of critical habitat was not prudent (e.g., Natural Resources Defense Council v. U.S. Department of the Interior 113 F. 3d 1121 (9th Cir. 1997); Conservation Council for Hawaii v. Babbitt, 2 F. Supp. 2d 1280 (D. Hawaii 1998)).

The agreement stipulates that if a "prudent" determination is made, proposals for critical habitat for spectacled eiders and Steller's eiders would be finalized by February 1, 2000, and March 1, 2000, respectively. Final rules designating critical habitat would subsequently be finalized by December 1, 2000, for spectacled eiders and January 5, 2001, for Steller's eiders. Final "not prudent" determinations would be finalized by August 1, 2000, for spectacled eider and September 1, 2000, for Steller's eider.

PROPOSED CRITICAL HABITAT: NESTING AREAS

- Nesting areas on the YKD and North Slope are proposed as critical habitat. Identification of critical habitat for nesting is based on the known distribution of spectacled eiders from aerial survey information and presence of nesting habitat with primary constituent elements.
- Proposed critical habitat on the YKD and North Slope is delineated by township.

North Slope Nesting Unit (~22,558 mi²)

- Primary constituent elements of spectacled eider nesting habitat on the North Slope are described as follows: all deep water bodies; all water bodies that are part of basin wetland complexes; all permanently flooded wetlands and waterbodies containing either *Carex aquatilis*, *Arctophila fulva*, or both; all habitat immediately adjacent to these habitat types; and all marine waters out to 25 miles from shore, its associated aquatic flora and fauna in the water column, and the underlying benthic community. Area: ~22,558 mi² or 14,436,800 acres.

Yukon-Kuskokwim Delta (YKD) Nesting Unit (~8302 mi²)

- Primary constituent elements of spectacled eider nesting habitat on the YKD are described as follows: spectacled eiders occupy YKD coastal fringe habitat, and a swath along the YKD coast. Within the coastal fringe, spectacled eiders use open water, low wet sedge, grass marsh, dwarf shrub/graminoid meadow, high and intermediate graminoid meadow, mixed high graminoid meadow/dwarf shrub uplands, and areas adjacent to open water, low wet sedge and grass marsh. The habitat also includes all marine waters out to 25 miles from shore, its associated aquatic flora and fauna in the water column, and the underlying benthic community. Area: ~8302 mi² or 5,313,500 acres.

PROPOSED CRITICAL HABITAT: MOLTING AND WINTERING AREAS

- Proposed critical habitat for molting and wintering is based on known distribution of spectacled eiders and adequate marine habitat around these documented spectacled eider distributions to allow for seasonal shifts in bird distribution resulting from factors such as weather and changing prey abundance.
- Proposed critical habitat at sea is described by geographic coordinates, shoreline, and the international boundary with Russia.

Norton Sound (~6758 mi²)

- Norton Sound is located along the western coast of Alaska between the YKD and the Seward Peninsula. It is the principal molting and staging area for females nesting on the YKD, probably the most imperiled of the three breeding populations. As many as 4,030 spectacled eiders have been observed in one portion of eastern Norton Sound at one time. Spectacled eiders arrive in eastern Norton Sound at the end of July and depart in mid-October. Primary constituent elements of this habitat include the marine waters, associated marine aquatic flora and fauna in the water column, and the underlying marine benthic community. Area: ~6758 mi² or 4,324,800 acres.

Ledyard Bay (~8374 mi²)

- Ledyard Bay is located along the western coast of Alaska between Cape Lisburne and Point Lay. It is one of the primary molting grounds for female spectacled eiders breeding on the North Slope. Aerial surveys in September 1995 found 33,192 spectacled eiders using Ledyard Bay. Most were concentrated in a 37-km (23-mi) diameter circle with their distribution centered 67 km (42 mi) southwest of Point Lay and 41 km (25 mi) offshore. Primary constituent elements of this habitat include the marine waters, associated marine aquatic flora and fauna in the water column, and the underlying marine benthic community. Area: ~8374 mi² or 5,359,200 acres.

Wintering Area (~28,547 mi²)

- During winter, spectacled eiders congregate in exceedingly large and dense flocks in openings in the pack ice in the central Bering Sea between St. Lawrence and St. Matthew Islands. Spectacled eiders from all three known breeding populations use this wintering area; no other wintering areas are currently known. Scientists have estimated the entire wintering population, and perhaps the worldwide population, of spectacled eiders at 374,792 birds. Because nearly all individuals of this species may spend each winter occupying an area of ocean less than 50 km (31 mi) in diameter, they may be particularly vulnerable to chance events during this time. Primary constituent elements of this habitat include the marine waters, associated marine aquatic flora and fauna in the water column, and the underlying marine benthic community. Area: ~28,547 mi² or 18,270,200 acres.

NEXT STEPS

- The proposed rule was finalized by the February 1, 2000, Settlement Agreement date. A 90-day public comment period will open when proposed rule is published. Public comments will be accepted during this period and scientific peer review will be sought on the proposal. Requests for public hearings will be accepted.

The Service will initiate and publish for public comment an analysis of the potential economic effects of the proposal to designate critical habitat for the spectacled eider.

After considering all comments on the proposal and any economic effects, the Service must complete a final rule designating critical habitat by December 1, 2000.

CONTACT

David B. Allen, Regional Director, (907) 786-3542, or LaVerne Smith, Assistant Regional Director for Fisheries, Ecological Services, and Marine Mammals (907) 786-3411.

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Alaska Biological Science Center

Modeling Populations of Spectacled Eiders

[RESEARCH](#)[STUDY AREAS](#)[THE MODEL](#)[DOWNLOAD](#)[BIBLIOGRAPHY](#)[CONTACTS](#)

BACKGROUND

The spectacled eider population on the Yukon-Kuskokwim Delta (Y-K Delta) in western Alaska declined rapidly through the 1980's (Stehn et al. 1993), and was listed as threatened worldwide by the U. S. Fish and Wildlife Service (USFWS) in 1993 (Federal Register 1993). There is a total of between 200,000 and 300,000 spectacled eiders in the world population, but less than 10% of them breed in North America. In North America, about 5000 pairs nest on the North Slope of Alaska and about 2000 breeding pairs nest on the Y-K Delta. The remainder of the world population breeds in Arctic Russia. The entire world population, males and females, appears to winter in a relatively small region of the north central Bering Sea.

The population on the Y-K Delta, about which we have the most information, has been declining for at least 20 years at a rate of approximately 9% per year. The population on the North Slope may also be declining at a slower rate. We do not know the status of spectacled eider populations in Arctic Russia.

The Spectacled Eider Recovery Plan developed by the Recovery Team and published by the USFWS in 1996 describes the status of the population, identifies important information needs, suggests causes for the decline in the Y-K Delta population, and recommends possible management actions. Recent studies have focused on the Y-K Delta population of spectacled eiders because it appears to be declining so rapidly.

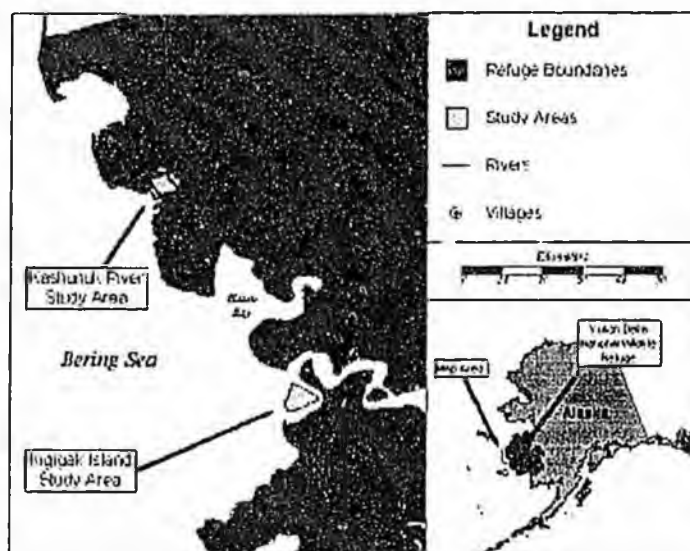
RESEARCH PROGRAM

Scientists from the Alaska Biological Science Center (ABSC) and the USFWS have been studying key demographic parameters of spectacled eider populations since 1991. The Recovery Team identified low adult female survival as the likely cause of the population decline. However, estimates of adult female survival and many other demographic parameters were unavailable at the time the plan was developed. Recent research has focused on post breeding movements, nesting ecology, brood rearing ecology, and the survival of ducklings and adult females.



- Studies of postbreeding movements using transmitters tracked via satellites have for the first time revealed the areas in the north central Bering Sea used in winter by spectacled eiders from the U.S. and Russia.
- Studies of nest success have demonstrated large annual variation, and the relative importance of avian nest predators.
- Studies of duckling survival, in radio-marked broods like the one pictured above demonstrate little variation in annual survival rates, but relatively good production.
- Studies of lead exposure indicates that in some areas over 30% of the breeding population experience lead poisoning caused by ingesting spent lead shot. The x-ray image at the left reveals a lead shot in the gizzard of a female eider captured from a nest on the lower Kashunuk River study area.
- Studies of adult female survival using females wearing colored nasal disks, like the female in the brood photo indicate that over 78% survive breeding and the harsh, Bering Sea winters each year. However, only 44% of females that ingest lead shot survive to return and nest the following year. Thus, in areas where lead exposure rates are high average survival rates are relatively low.

STUDY AREAS



On the Y-K Delta, nesting spectacled eiders are patchily distributed across the central coast within 15 km of the Bering Sea. This area is without doubt one of the most important in the world for waterfowl production. Two relatively large concentrations of spectacled eiders (>100 nesting females) occur at Kigigak Island and the lower Kashunuk River (Hock Slough). Since 1991, research by ABSC and USFWS focused on these key breeding areas. The programs of intensive research on marked populations provided a vast amount of information on spectacled eiders and several other species of waterfowl breeding in the Y-K Delta.

In recent years, the research program has expanded to include other parts of the Y-K Delta, the North Slope of Alaska, wintering areas in the Bering Sea, and the Indigirka River Delta in Siberia.

THE MODEL AND THE PROGRAM

In a collaborative effort with the American Museum of Natural History and U. S. Fish and Wildlife Service, ABSC biologists synthesized the results of these studies using a population model. The model, in its most basic form, has been developed into a stand-alone program, SPEI Model, for use by researchers, educators, and managers interested in the factors that influence the growth rate of spectacled eiders populations.