

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11297 SENATE RESOURCES

- Is it a problem that third party lawsuits, administrative actions and petitions arising out of multiple interpretations of the Alaska Coastal Management Program have steadily increased?
- Is it a problem that every oil and gas company investing in Alaska, all with experienced permitting staffs, consider Alaska's coastal management program the single most confusing and uncertain regulatory program in the State, or in any other oil and gas development state they have experienced?

I don't know how each of you would answer these questions. I can tell you how the management of our 17 member companies answered.

Are there problems with the ACMP process?

Yes.

Are these problems serious enough to warrant the time, effort, and risk of uncertainty to address?

Yes.

And now the question at hand today:

Does the CS for SB 143 solve these serious problems?

Yes and No.

Let me address our concerns first:

- AOGA's members prefer a completely "self-implementing" coastal management program as originally envisioned. That is, once a project or activity has met all the requirements of local ordinances, state laws and federal laws, and applicable state permits have been granted, the project is deemed "consistent" with the state coastal management program. Under this approach there would be no need for an additional "consistency review" of those permits, which can add as much as a year to the process. We believe this approach is a choice the state can make under the federal coastal management program. We further believe this approach does maintain a role for municipalities and, consequently, keeps coastal zone grant funding available for coastal resource activities and planning. ACMP was never intended to be a permitting system. In fact, the consistency reviews in the initial years worked exactly as outlined above. Once a project or activity received its state permits, it was deemed consistent.
- We believe this self-implementing approach is viable for Alaska because the state has environmental and land management laws that are among the most comprehensive in the country. Alaska's environmental laws are intended to *fully* protect all of our air, land, water, fish, bird, and animal resources *everywhere* in the state, inland or coastal.
- Under the CS, coastal districts are to be given direct legislative authority to propose "enforceable policies" that will have the full effect of state law for matters of local concern. There will continue to be "consistency" reviews to ascertain whether the project or activity meets the requirements of the enforceable policies. For the permitted community this means that in addition to meeting local ordinances, state laws and federal laws - which can take over a year, and involve multiple opportunities for public comment and public hearings - projects and activities will still have to spend at least three months or more in a consistency review.

- The CS marks the first time an Alaska statute directly uses the term “enforceable policy” and gives these enforceable policies the same standing as state and federal law - without benefit of legislative process. This is a significant grant of authority to local coastal districts.
- The oil and gas industry, already subject to a mind-boggling array of local, state and federal laws - each with its own review, public comment and stipulation requirements - is necessarily wary of the state formally adopting yet another layer of requirements. It is puzzling to hear that some coastal districts believe the administration’s proposal is a “taking” of local authority. In sharp contrast to that view, it is clear to us that it is instead a significant grant of power to coastal districts.

This summarizes our primary concern and disappointment with the CS.

However, while continuing to be wary of the authority associated with enforceable policies and the concerns over delays associated with consistency reviews, we do recognize the state’s interest in the role coastal districts have within ACMP.

We also recognize that this CS contains solutions to some of the most serious problems plaguing Alaska’s coastal management program.

- It establishes a timeline to complete the required consistency reviews. While the consistency review deadline (90 days) and the possible subsequent review (45 days) adds as much as an additional 5 months to the permitting process, it is better than an open-ended loop. We do note that the current ACMP consistency review process is, on paper anyway, a 50 day review.
- It eliminates inconsistent and duplicative application of state *and* federal laws by local districts. Last year the legislature passed SB 308, stating the legislature’s decision that coastal district enforceable policies could not duplicate state laws and regulations. Local districts were put on notice that they had one year to re-write their policies to avoid this duplication. The CS reiterates that decision and further directs that local enforceable policies cannot duplicate either state *or* federal laws and regulations.
- It establishes a clear line as to when the ACMP applies and when it does not. If the project is inside the coastal zone, ACMP applies. If the project is outside the coastal zone, ACMP does not apply. We will no longer be told by state coastal zone managers: “we don’t know if you need a consistency review or not, why don’t you go through a review just to be safe?”
- It recognizes that DEC air, land, and water permits are inherently consistent. This was the intent of the original ACMP statute and is included in the original ACMP regulations, but never implemented. The DEC air, land and water permits are comprehensive and technically complex permits with statutory timelines and public comment periods. ACMP was supposed to be a “networked” program, that is, all agencies were supposed to coordinate their own permitting timelines and public processes to fit within the ACMP review schedule. This never happened. Consequently, all permits “wait” for the last permits - which typically are DEC permits. The administration’s current proposal recognizes that DEC statutes and regulations are, on their

face, sufficiently comprehensive to protect Alaska's coastal resources and does not need an additional consistency review.

- It requires state and local enforceable standards to be clear, precise, and understandable and not subject to subjective interpretation.
- It replaces the Coastal Policy Council with the Department of Natural Resources (DNR), a line agency that is directly accountable to the legislature and to the administration and is charged with balancing local and statewide interests.
- Finally, this proposed legislation lays out a work plan that will involve public participation by all stakeholders over the next two years. After reviewing the proposed timeline in the administration's proposal, we conclude that the year provided DNR to develop new state standards and regulations for the development of new coastal district plans and enforceable policies, and the year provided the coastal districts for the same exercise, provides adequate time and public comment periods. This extensive effort means that legislation is just the first step in the goal of streamlining ACMP.

Because the significant improvements outweigh our concerns, the Alaska Oil and Gas Association supports, in general, the administration's proposal.

- It is worth reflecting on the concept of coastal district enforceable policies. As Alaskans we pride ourselves on the comprehensiveness of our state environmental laws and regulations. The real expectation should be that there will be no need for many, *if any*, local enforceable standards. The perfect environmental report card for Alaska, and a compliment to all past legislators representing Alaska's coastal districts, would be if each coastal district concludes that their local concerns are protected under existing state and federal laws. Every new enforceable standard should be viewed as a "heads up" to the legislature that an important environmental concern is not now protected under state statutes.

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Thank you for your time on this legislation.

We urge that this legislation be passed this session so the work on the state standards and local district plans can begin and be concluded in the next two years. I cannot overemphasize how important this legislation is to the oil and gas industry companies operating in Alaska now. I cannot overemphasize how important this legislation is for the State of Alaska as we continue to try to encourage new companies to invest in this state.

# Cenaliulriit CRSA

Serving the Yukon-Kuskokwim Area

PO Box 69

Mekoryuk, AK 99630

(907) 827-8748

April 23, 2003

Honorable Chairman Scott Ogan and Committee Members  
Senate Resources Committee  
State Capitol, Room 128  
Juneau, AK 99801-1182

Regarding Senate Bill 143 and Companion House Bill 191

Cenaliulriit Coastal Resource Service Area serves 35,168 square miles of the Yukon-Kuskokwim Delta, the largest refuge in Alaska, comprising 8,993 miles of shoreline, with 44 communities. Of the listed 44 villages, 15 are traditional primary governments, 28 Second Class Cities, and 1 First Class.

The traditional governments are nonexistent under Title 29. We question the State of Alaska's constitution under these bills, where the federal government requires equal treatment in the coastal zone communities. Only the municipalities in these bills can be represented in the make up of the Alaska Coastal Evaluation Council. If the traditional primary governments are to be included in these bills, does this also provide the state's recognition in the existence of these traditional governments?

Cenaliulriit policies are established to provide that ability of these communities to participate in the permitting process from a local level. These bills threaten the process it took to meet with every community the last 18 years. There is no fiscal note attached to these bills, it will cost the State hundreds of thousands of dollars to provide for the rewrite of all 33 coastal districts in Alaska in one year's time.

Cenaliulriit numbers the largest dependents, on a daily basis, to fish and wildlife, than any other part of the State of Alaska. Cenaliulriit has worked hard over the last 18 years to provide program improvement and opportunity for village participation and successful permitting. And to help the permitting process, the program is in its final year of mapping Customary Use Areas to fish and wildlife resources. The preliminary data indicate wide-ranging areas of overlap between villages, in all areas of coastal waters, inland rivers, fresh water areas, headwaters and land mass. There is no overlap to respect traditional subsistence and fishing areas in these bills.

The Habitat Standard is not found anywhere in the revised bill, that has served to protect important subsistence and traditional fish and wildlife resources.

Thank you for the opportunity to comment.

Respectfully,

John Oscar  
Program Director

## Alaska Support Industry

**ALLIANCE**

4220 'B' Street, Suite 200  
Anchorage, AK 99503  
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Larry J. Houle

**THE ALLIANCE**

... for responsible development of Alaska's Oil, Gas & Mineral Resources

April 23, 2003

The Honorable Scott Ogan  
Chairman, Senate Resources  
State Capital, Room 103  
Juneau, AK 99801

*Re: Testimony in support of CSSB 143.*

Dear Senator Ogan:

Mr. Chairman and members of the Committee my name is Larry Houle and I am the General Manager of the Alaska Support Industry Alliance more widely known as The Alliance. The Alliance is a non-profit state-wide trade association with chapters in Anchorage, Fairbanks and Kenai. The Alliance is comprised of over 420 member companies who derive their livelihood from Alaska's Oil and Gas industry. The employment base represented by Alliance membership exceeds is over 25,000 Alaska residents.

The Alaska Coastal Management Program (ACMP) includes the Coastal Consistency Review Process, which requires all projects located in the coastal zone to obtain a Consistency Determination before state or federal permits can be issued. Nearly all oil and gas exploration, development, expansion and routine operations and maintenance activates undergo the Consistency Review Process. The purpose of the Consistency Review Process is to assure that projects within the coastal zone are consistent with State of Alaska and local coastal district enforceable policies.

Funding for exploration and development in Alaska faces increasing competition on a world-wide scale – many competing projects are closer to markets and are less capital intensive than equivalent production from Alaska. Before making investment decisions, operators need reliable predictions of permitting schedules and requirements. Delays and the lack of permit timeline certainty are significant factors which can adversely affect the economic viability of a project. Because ACMP is integral to the permitting system for oil and gas operations in the coastal zone, ACMP is critical to the efficiency of oil and gas operations.

Re: Testimony  
Page 2

The contracting community in Alaska is concerned with the lack of schedule certainty, lack of scope certainty and the unpredictability and subjective nature of the overall review process of the current ACMP. The delays in the issuance of permits, the unpredictable timelines and lack of standards eliminate the certainty needed for developers to make capital commitments on future projects.

Without going into the key components the substitute bill, CSSB 143 represents significant and long over due regulatory changes that are needed to streamline and improve the predictability of the current ACMP review process. These regulatory changes would benefit all users of the coastal zone both private and public.

Speaking on behalf of the 420 company members that make up the Alaska Support Industry Alliance we encourage the Senate Resources Committee to move the bill out for action by the full Senate.

Sincerely,



Larry Houle  
General Manager  
Alaska Support Industry Alliance

**Subject:** [Fwd: [Fwd: house bill 191]]

**Date:** Mon, 28 Apr 2003 10:12:37 -0800

**From:** Mark Stopha <Mark\_Stopha@Legis.state.ak.us>

**Organization:** Alaska State Legislature

**To:** Senator Scott Ogan <Senator\_Scott\_Ogan@legis.state.ak.us>,  
Senator Fred Dyson <Senator\_Fred\_Dyson@legis.state.ak.us>,  
Senator Tom Wagoner <Senator\_Tom\_Wagoner@legis.state.ak.us>,  
Senator Ben Stevens <Senator\_Ben\_Stevens@legis.state.ak.us>,  
Senator Ralph Seekins <Senator\_Ralph\_Seekins@legis.state.ak.us>,  
Senator Kim Elton <Senator\_Kim\_Elton@legis.state.ak.us>

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**Subject:** [Fwd: house bill 191]

**Date:** Sat, 26 Apr 2003 17:05:18 -0800

**From:** Senator Georgianna Lincoln <Senator\_Georgianna\_Lincoln@legis.state.ak.us>

**To:** Mark Stopha <Mark\_Stopha@legis.state.ak.us>

please see that all members of the Resources Committee receives a copy of this e-mail. Have we received other correspondence on this subject that should be also submitted for the record?

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**Subject:** house bill 191

**Date:** Thu, 24 Apr 2003 17:03:22 -0800

**From:** "Patrick Norman" <pnorman@starband.net>

**To:** <Senator\_Georgianna\_Lincoln@legis.state.ak.us>

hi my name is patrick norman ,i am chief of the port graham village council. i want to let you know of a concern we have with language in the bill. on page 19 lines 1thru 3 there is a limit placed on villages that we could only express our concerns only within two miles from our village. currently our village is within a area meriting special attention under the kenai penninsuias coastal management plan. the area incompasses all of our subsistence use areas ,and this language will restrict usway to much please consider haveing this language removed and leave it to the villages impacted to determine what we will have a say in.

My name is Ken Donajkowski. I am here today representing the Alaska Oil and Gas Association testifying in regard to HB 191. I am a manager for ConocoPhillips responsible for permitting.

AOGA remains firm in its commitment to reform of the Alaska Coastal Management Program, and we applaud the Administration's interest in reforming ACMP.

AOGA has reviewed drafts of the Committee Substitute and we understand the administration is going to present a draft committee substitute to the committee today. AOGO has not seen the exact version they will present.

Based on the Administration's April 14 draft version, AOGA remained concerned over several areas. Consequently, specific language changes were developed by AOGA and provided to the administration. AOGA does not know whether any of those changes have been incorporated. A copy of AOGA's recommended changes is being provided to this Committee.

I will now briefly highlight the critical considerations that AOGA applied in its development of the modifications to the Committee Substitute we were provided.

1. There must be recognition that State and Federal laws already in place are comprehensive and protective of coastal resources. Consequently local enforceable policies should only address unique local concerns not addressed by state and federal laws.
2. "Uses of State concern" must be the priority with regard to enforceable policies. Local enforceable polices should not arbitrarily or unduly restrict or exclude uses of state concern.
3. Department of Environmental Conservation land, air and water statutes and regulations are inherently consistent the statute should clearly articulate that fact.
4. In keeping with point number 3 above, DEC permits, authorizations, etc. should not delay other associated agency permits or consistency reviews.
5. The scope of a consistency review is to be limited to activities with in the geographically defined coastal zone subject to federal or state permits, authorizations, etc.
6. There must be effective flexibility for large, complex projects.
7. Consistency reviews must be held to a definitive timeframe so that the process is not subject to arbitrary delays.
8. ACMP was not intended to nor should it emulate the so-called NEPA process as outlined in the National Environmental Policy Act.

In closing, AOGA is committed to working with the Administration and interested legislators as this bill moves in the committee process.



# Alaska State Legislature

Please enter into the record my testimony to the SENATE RESOURCE  
Committee name

Committee on SB 143, dated 4-25-03  
Bill/Subject

465-3265

3 PAGES

Signed: \_\_\_\_\_

Testifier

\_\_\_\_\_

Representing (Optional)

\_\_\_\_\_

Address

\_\_\_\_\_

Phone number

DANA L. OLSON  
 HC-30 BOX 5438  
 WASILLA, AK  
 APRIL 24, 2003

Senate Resources  
 AND State of AK  
I OPT OUT! SB143

There is A process to change the  
 Administration of the State of ALASKA AND  
 Its called CONSTITUTIONAL convention.  
 Implementation of Simultaneous <sup>or revolving</sup> LAWS AND policies  
 not in <sup>the</sup> Format Allowed under the  
 AK Constitution is called tyranny, AND UNCONSTITUTIONAL

Separate but ~~distinct~~ <sup>distinct</sup> branches of  
 government CAN NOT be rationalized  
 under A Party Form of government.

Attorney General Appointed by the Governor  
 Who is not even legally entitled to  
 AK Permanent Dividend is suspect.  
 (2 yrs) residing, <sup>if requires no</sup> UN APPROVED Absences.  
 It was disclosed he was living in Washington D.C. when appointed  
 I give notice to OPT OUT OF your process.

I give notice <sup>of intent</sup> to Petition Attorney General <sup>AK</sup>  
 For a constitutionality review. AND <sup>to file</sup> FEDERAL  
 petitions

I claim Failure to provide  
 who beneficiaries are, other than  
 presumptions is invalid.

Significant impacts to federal  
interagency agreements and contractual  
agreements can not be changed with  
out Federal comment period. I allege  
Federal preclusion.

Standing is inferred under 14th amendment  
US Constitution. I own property, reside in  
AK; AND have property interests impacted  
without sufficiency of notice AND due  
process. A taking is likely to occur <sup>AK constitution</sup>  
without compensation, citing VIII sec 16; 17.  
AND 5th Amendment. <sup>U.S. Constitution</sup> I also use  
public land AND resources; AND  
argue NO uniform application of law.  
I cite public trust has been eliminated  
AND IS UNCONSTITUTIONAL.

Sincerely  
Debra L. Olson

April 23, 2003

The Honorable Scott Ogan  
Chairman, Senate Resources  
State Capital, Room 103  
Juneau, AK 99801

*Re: Testimony: CSSB 143 An Act relating to the Alaska coastal management program and to policies and procedures fore consistency reviews and rendering of consistency determinations under that program; eliminating the Alaska Coastal Policy Council; annulling certain regulations relating to the Alaska coastal management program;*

**Dear Senator Ogan:**

Mr. Chairman and members of the Committee my name is Bob Stinson. I am President of CONAM Construction Company in Anchorage. Over the past 18 years my company has performed a variety of construction and maintenance projects throughout the State for an equa'ly varied number of industries and clients; from building oil and gas facilities in Prudhoe Bay to remodeling homes in rural Alaska.

I would just like to say that I am in support of CSSP 143 or any other form of the bill that changes the current process for procuring permits for development projects in Alaska. The current Alaska Coastal Management Program (ACMP) is unclear in its process and rules and needs to be fixed so that an applicant with a beneficial project knows what to expect when submitting an application to the State.

I was on the Governor's DNR Transition Team and listened to large corporations and local small companies who expressed frustration with the confusing and unpredictable ACMP review process. Our Transition Team recommended streamlining Alaska's complex permitting process, of which the ACMP is a major component. I also have had first hand experience with the current process and would like to describe a few problems I encountered.

My company was hired by Anchorage Fueling and Service Company, a consortium of 22 major airlines to replace a small, aging pipeline routed through the Anchorage's residential streets that delivered most of the jet fuel to the Ted Stevens Anchorage Int'l Airport. We were hired to design, build and acquire the

permits for a new, larger diameter pipeline that would reliably meet the increasing demand.

We submitted our permit application to the State, the Corps of Engineers and the Municipality of Anchorage after preliminary discussion with each entity revealed the soundness of our project and in particular the routing of the new pipeline. The project quickly became a target for environmental concerns as the routing took the new pipeline through portions of the Anchorage coastal mudflats.

Throughout the next year and a half we spent an extra \$1.5 million securing the permit due to delays in the ACMP process. The project was originally estimated to cost \$6MM. One of the most frustrating aspects was in fact there was no process. The Division of Governmental Coordination did not know how to handle our application, how to coordinate with other agencies and the public; in short I had to hire many consultants to help invent our own process for permit review and coordination all at the expense of my client. Specifically, there was no clear timetable or time limitations for review, no clear elevation process, phasing of the project was not allowed, all individual agency permits had to be complete before a consistency determination could be issued, and there was no scope of review to which any one could work to.

Without going into further detail, for which I would be glad to answer questions, I would like to summarize by saying that this project was not a resource extraction project like mining or oil and gas. It was an infrastructure improvement project for the airport. If the State of Alaska had owned the old pipeline that needed replacing, the permit would have been issued in a totally different and expeditious way, allowing the airport to meet its growing demand for jet fuel. Needless to say, in the end the airlines who experienced this permitting nightmare couldn't understand why our state was not supportive of a clearly beneficial project and talked about taking their business elsewhere.

I encourage the Senate Resources Committee to move the bill out for action by the full Senate.

Sincerely,

Bob Stinson, President  
CONAM Construction Company

**SB**

**147**

## SENATE COMMITTEE REPORT First Committee of Referral

DATE: 3/17/03

FURTHER: Finance

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4/17/03

Resources Committee considered      SENATE BILL NO. 147

### SB 147 CONTROL OF NUISANCE WILD ANIMALS

"An Act relating to control of nuisance wild animals; and providing for an effective date."

and recommends:

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

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

attached amendment(s)

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

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

Senate Bill:

same title

new title

House Bill:

same title

technical title

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

#### NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
F+G	4/14/03	✓		

#### PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Keppa Jackson</i>	✓			
<i>Ken Stump</i>	✓			
<i>Thomas M. Wagner</i>	✓			
<i>Paul Ryan</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
CHAIR: <i>Sarah Orr</i>	✓			

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 147  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title Control of Nuisance Wild Animals BRU Wildlife Conservation  
 Component Wildlife Conservation  
 Sponsor Senator Green  
 Requester Senate Resources Component No. 473

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( 1024 )</b>	<b>0.0</b>	<b>0.2</b>	<b>0.4</b>	<b>0.4</b>	<b>0.4</b>	<b>0.4</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The cost of modifying license forms, the increased burden of administration, and anticipated revenue generated by this legislation are all expected to be insignificant. Depending on how this legislation is implemented by the Board of Game, some staff time is likely to be required to review and/or monitor activities of licensees, but this is expected to be minor.

It is difficult to project the number of persons who would annually obtain the \$100 nuisance wild animal control license.

Prepared by: Ryan Scott, Wildlife Biologist Phone 465-6197  
 Division: Wildlife Conservation Date/Time 4/14/03 3:39 PM  
 Approved by: Kevin C. Duffy, Commissioner Date 4/14/2003  
 Agency: Alaska Department of Fish and Game

# ALASKA STATE LEGISLATURE




*Interim:*  
600 East Railroad Avenue  
Wasilla, Alaska 99654  
(907) 376-3370  
(907) 376-3157 Fax

*Session:*  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-6600  
(907) 465-3805 Fax

## SENATOR LYDA GREEN SENATE DISTRICT G

March 31, 2003

To: Senator Scott Ogan, Chairman, Senate Resources

From: Senator Lyda Green/Janey Wineinger 

Re: SB 147 "An Act relating to control of nuisance wild animals; and providing for an effective date."

Please schedule a hearing for the above referenced bill as soon as possible. Thank you in advance.

# ALASKA STATE LEGISLATURE



*Interim:*

600 East Railroad Avenue  
Wasilla, Alaska 99654  
(907) 376-3370  
(907) 376-3157 Fax

*Session:*

State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-6600  
(907) 465-3805 Fax

**SENATOR LYDA GREEN**  
SENATE DISTRICT G

## **Sponsor Statement** **Senate Bill 147**

"An Act relating to control of nuisance wild animals; and providing for an effective date."

This legislation will provide authority to the Alaska Board of Game to adopt regulations to allow issuance of permits and licenses to sanctioned designees to control nuisance wild birds and nuisance wild small mammals. Currently, there is no statutory authority for nuisance wildlife control and the means by which ADF&G can sell a license or issue a permit.

This legislation would allow licenses for commercial exterminators and permits for homeowners, corporations, agricultural enterprises, state agencies and other entities who are beleaguered by nuisance wildlife.

Species that could be taken by live or by lethal means: beaver, porcupine, marmot, weasel, mink, muskrat, coyote, fox, marten, squirrel, woodchuck, otter, lynx and pigeon. Those controlled, captured live and not by lethal means are: swallows, woodpeckers, gray jay, ravens, crows, bats, magpie, sea gulls, Canadian geese and snow geese.

## DEPARTMENT OF FISH AND GAME

**Bill No:** Work Draft (22-LS0906\A)

**Sponsor:** Senator Green

**Bill Title:** Control of Nuisance Wildlife

**Background:** This proposed legislation would provide for a "nuisance wild bird and small mammal control license," which is designed to enable licensees to control nuisance wild birds and mammals for compensation. Currently, there is no statutory authority that provides for the department to sell a license or to issue a permit that would allow a person to "take" game that presents a nuisance. Because this bill only provides for taking of nuisance wildlife by licensees, it leaves an unmet demand for nuisance wildlife control by private individuals and public agencies and corporations.

**Analysis of Bill/Program Effects:** Although this bill would fill a gap by authorizing the taking of nuisance wildlife, it allows the taking only by individuals who purchase a license for \$100/annum. Homeowners, for example, who are plagued with hares in the garden or porcupines gnawing on outbuildings, would not be able to personally address their own problems; they would have no recourse but to hire a licensed control agent. Thus, this bill will do little to aid Alaskans in much of the state where local populations may be too small to support licensed control agents. Similarly, corporations such as veska, which has requested permits to haze nuisance gulls in tanker berthing areas would remain unable to conduct their own control efforts under the bill as written.

**Amendments Suggested:** The department recommends that, in addition to providing for "nuisance wild bird and small mammal control licenses," this bill be amended to allow the department to issue permits to control nuisance wildlife. This suggested amendment will provide more flexibility and ensure the Board of Game and department can develop regulations that encourage people to avoid creating situations that lead to nuisance animals, and that enable people to solve nuisance wildlife problems through a system beginning with nonlethal action and progressing, where appropriate, to lethal control.

AS 16.05.340 (b) is amended to read:

(b) The commissioner may issue without cost a permit to collect fish and game, including fur animals, subject to limitations and provisions that are appropriate, for a scientific, propagative, or educational purpose or to control nuisance wild birds or small mammals. The commissioner also may issue a permit for the collection of bivalve spat for use in connection with an aquatic farm. In addition, the commissioner shall issue a permit for the collecting of wild fur animals for improving the genetic stock of fur farm animals. Permits issued under this subsection shall be in accordance with current

NOV 03 2000

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

October 30, 2000

**SUBJECT:** Permits to take nuisance game animals (Work Order No. 22-LS0137)

**TO:** Senator Lyda Green  
Attn: Hans Neidig

**FROM:** George Utermohle *GU*  
Legislative Counsel

You have asked whether the Board of Game or the Department of Fish and Game has authority to issue permits authorizing the taking of game animals that are considered to be a nuisance.

In Alaska, a person may not take game unless the taking is authorized by law. AS 16.05.920(a). Game is any species of bird, reptile, or mammal, other than a domesticated bird or mammal. AS 16.05.940(18). The taking of game is regulated by the Board of Game. AS 16.05.255.

Neither the board nor the department has specific authority to issue permits for the taking of nuisance game animals. However, the powers of the Board of Game to regulate the taking of game are rather broad and could provide a basis for addressing problems created by nuisance game animals in certain situations.

The general authority of the Board of Game is set out in AS 16.05.255(a). Of particular relevance to your query are paragraphs: (a)(2) power to establish open and closed seasons and areas for the taking of game; (a)(3) power to establish means and methods for employed in the pursuit, capture, taking and transport of game; (a)(4) power to set quotas, bag limits, harvest levels, and sex age, and size limitations on the taking of game; (a)(6) power to establish methods, means, and harvest levels necessary to control predation and competition among game in the state; (a)(10) power to regulate sport and subsistence hunting of game; and (a)(11) power to regulate the taking of game to ensure public safety<sup>1</sup>.

<sup>1</sup> Public safety is one of the bases under the common law for which the state may exercise its police powers. The police power is a fundamental power of government to make all laws necessary and proper to preserve the public health, safety, and welfare. See, "police power" Black's Law Dictionary, 7th Ed. West Group, St. Paul MN, page

Through the use of open and closed areas, seasons, bag limits, and means the board could provide that any person with a hunting or trapping license could take a nuisance animal under general hunting and trapping regulations.

Under its authority to authorize the taking of game for public safety purposes, the board may authorize a person to take game outside of the general hunting and trapping regulations.<sup>2</sup> To the extent that a nuisance game animal constitutes a public safety risk, the board does have authority to permit the taking of nuisance game animals. The most common example of nuisance animals that pose a public safety risk is bears. But other less imposing game animals could pose a risk to public safety under the appropriate circumstances: rabid foxes, beavers in public water supply reservoirs, rodents carrying infectious diseases (such as the Hanta virus), birds at airports, etc.

The board does not have authority to specifically authorize a person to take nuisance animals in the absence of a direct threat to the physical well-being of individuals. To address nuisance animals that merely generate inconvenience such as porcupines, birds, and deer that eat fruit from household gardens, bats that invade attics, geese in public parks, or mice, rats, and shrews that invade homes in winter, the board would have to be given additional authority. A general grant of authority to provide for the taking of game to promote or protect public welfare would allow the board to adopt regulations to provide for permits to take nuisance animals. However, such a grant of such authority may be much more than is necessary to authorize permits to take nuisance game animals.

---

1178. The term "public health" usually refers to the healthful or sanitary condition of the general body of people or the community en masse. See, "public health" Black's Law Dictionary, 7th Ed. West Group, St. Paul MN, page 724. The term "public welfare" usually refers to a society's well-being in matters of health, safety, order, morality, economics, and politics. See, "public welfare" Black's Law Dictionary, 7th Ed. West Group, St. Paul MN, page 1588. The term "public safety" relates, in part, to the physical well-being of individuals in society. The term can also refer to safety in other contexts such as economic safety.

<sup>2</sup> The authority for the Board of Game to provide for the taking of game to ensure public safety was granted to the board in 1966. Prior to that time, the board's authority did not allow it to address all of the situations in which animals (particularly bears) posed a public safety threat to individuals. To respond to this issue, the legislature granted specific authority to the board to provide for the taking of game for public safety purposes. Ch. 54, SLA 1996 (SB 257 am). Chapter 54 was an expansion, not a reduction, of the current authority of the board. Chapter 54 is not the reason why the board does not have authority to provide for the taking of game to ensure the public welfare. The board has never had authority to provide for the taking of wildlife to ensure the public welfare as a separate and distinct goal. The fact that the legislature chose to provide for the taking of game to ensure public safety rather than the general public welfare is most likely a reflection of the legislature's intent to address the specific issue at hand rather than to grant additional broad powers to the board.

Senator Lyda Green  
October 30, 2000  
Page 3

The authority granted to the board to provide for the management of the game resources of the state is already construed very broadly in order to achieve the goal of conserving, developing, and utilizing those resources in a beneficial manner. See, Kenai Peninsula Fisherman's Coop. Ass'n v. State, 628 P.2d 897 (Alaska 1981). The authority to provide for the taking of game in order to provide for the public welfare would be a significant expansion of the power of the board. The grant of such authority may have significant unforeseen consequences because what constitutes the public welfare is difficult to define and relatively subjective. It is not possible to predict how and under what circumstances such authority might be used in the future.

In order to provide for the control of nuisance animals by private individuals, it is possible to address that issue directly through legislation that authorizes the board to adopt regulations regarding control of nuisance animals (rather than a giving broad authority to the board to provide for the taking of game to promote the public welfare). Another issue that may be worthy of consideration is whether to limit the game species that would be covered under such legislation or to give the board the discretion to determine what game species may be taken to control nuisance animals. Authorizing private persons to control nuisance big game animals, fur-bearers, and game birds may generate concern from existing user groups that take those animals for recreational, subsistence, or commercial purposes.

If I may be of further assistance, please advise.

GU:glc  
00-265.glc

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**FAIRBANKS**



# Daily News-Miner

The Voice of Interior Alaska

VOL. XCVII, No. 274

FAIRBANKS, ALASKA, SATURDAY, OCTOBER 9, 1999

75 cents per copy

## Busy crew battles beavers

By TIM MOWRY  
Staff Writer

A rank smell flowed out of the large culvert at 3 Mile Chena Hot Springs Road as Jimmy Lyle watched a trickle of muddy, gray water ooze out of the pipe.

"I smell beaver," said Lyle, peering into the culvert.

All Lyle could see was a sliver of daylight at the other end of the culvert. An assortment of chewed-off sticks, branches and logs that Lyle and his two co-workers, Marty Branville and Chuck Nichols, had pulled out of the culvert were piled at one side.

All three men are heavy equipment operators for the Department of Transportation. They spend most of their time driving snowplows, graders, backhoes and hydro-axes.

But this time of the year, they are members of DOT's beaver patrol, a crew of wader-wearing workers whose job it is to undo what Alaska's largest rodents do every fall—plug up culverts and build dams that jeopardize the Interior's road system.

It's a dirty job but somebody has to do it.

"Kind of like working in a sewer," is how Nichols phrased it as he ducked into the culvert to shorten a chain.

Each year, DOT spends thousands of dollars and hundreds of manhours ripping out beaver dams and unplugging culverts. Left unattended, the plugged culverts and dams threaten to wash out roads and flood basements and septic systems in residential areas—a common dilemma along beaver-infested Badger Slough.

While the trio of Branville, Lyle, Nichols were busy with the culvert on Chena Hot Springs Road, two more DOT workers were up the Steese Highway tearing dams out at Kukono Creek near Chatanika. DOT crews had already paid a few visits this fall to Hurst and Laurance roads, two other problem spots along Badger Slough in North Pole.

"It's a spendy job with the manpower and equipment we put toward it," said DOT supervisor Steve Clarkson.

Both Nichols and Branville were wearing insulated neoprene chest waders and insulated rubber elbow gloves to ward off the chilly 30 degree temperature, a biting breeze and spitting snow.

See BEAVER, Page A-7



Tim Mowry/News-Miner

**CLEARING CULVERT**—Chuck Nichols, a worker for the Alaska Department of Transportation, prepares to insert a grapple hook into a culvert at 3 Mile Chena Hot Springs Road on Tuesday to clear out the dam built by beavers.

## Pinochet extradited, approves

The New York Times

**LONDON**—A London court Gen. Augusto Pinochet of Chile's Spain to stand trial on torture charges.

The deputy chief magistrate Magistrates Court, Ronald Bartsch conditions are in place" for the former Chilean dictator from La face one charge of conspiracy charges of the torture of individuals.

While there have been a number of court decisions since Pinochet's Friday's was the first to be based on accusations of rather than simply his arrest.

Pinochet was excused from a packed chamber because of his lack of a defiant statement read by his lawyer, he protested his innocence the victim of a political conspiracy.

In Chile, rights advocates and Pinochet-era victims celebrated when expressed bitter disappointment: reaction to the ruling was generally were small competing marches but they were peaceful.

His lawyers have 15 days to appeal to the High Court and

## IRHA rule overturned

By SEAN COCKERHAM  
Staff Writer

The Alaska Supreme Court on retrial in the case of a woman who the Interior Regional Housing Authority, a 2-year-old child died in a Fort Yukon.

Two years ago a jury found the responsible for the February 1997 Carlo. The jury awarded a \$480,000 to the mother, Denise James, North Pole.

The IRHA's subsequent appeal to trial judge, Fairbanks Superior Court Steinkruger, erred in deciding housing authority should be held to tenance standards as landlords.

That is because the IRHA's agreement that gives the buyer ownership in the home, partly in care of all the home maintenance.

Steinkruger had ruled that it covered under the Alaska Landlord and therefore the maintenance cannot legally be transferred to the IRHA.

But the state Supreme Court IRHA, ruling that the housing authority under a federal law that is law.

"In enacting the Indian Housing explicitly required that the

## Higher gold prices bolster Alaska projects

• Associate Press

**ANCHORAGE**—A recent spike in gold prices could stimulate mine development in Alaska, state officials predict. The price of gold has shot up by nearly \$70 an ounce since mid-September, with the London price fixed at \$323 Friday afternoon.

It's a dramatic turnaround for the precious metal, which languished in the doldrums for more than three years, quelling several Alaska projects.

Rick Van Nieuwenhuysen, president of NovaGold Resources Inc. and Etruscan Inc., two junior mining companies that operate in Alaska, the Yukon and West Africa.

Nieuwenhuysen predicts that gold will creep up to \$350 an ounce over the next two to three months. "Basically, analysts are seeing demand outstripping supply," he said.

Earlier this year, gold prices took a hit when the British government an-

nounced they would cap their sale of gold over the next five years at 400 metric tons—about 10.6 million troy ounces.

"That's a minuscule amount," said Steve Borell, executive director of the Alaska Miners Association. And with less gold on the market, prices tend to rise.

The price recovery has also been fueled in part by the International Monetary Fund's decision not to fund

prices for the mining companies, some analysts are being cautious about gold's long-term future.

No mining company will change what it's doing right away, said Dick Swinbank, a mining specialist with the Alaska Department of Community and Economic Development. "They're going to take a wait-and-see approach for two or three months."

"Of course we welcome the higher prices, but I don't think we'll be

...not only to... into our... on an island.

"While not survival on the edge of death, it's a very forbidding island," Burnett said. "I'm sure there's going to be major conflicts, but I don't expect them to be hunting each other with spears."

In fact, there will be rules to

next summer.

Neal Gabler, author of "Life The Movie," said the program may seem outrageous but reflects the evolution of popular culture. People want to see real human behavior, not fictional entertainment, he said.

"Life has thrown up to us so many interesting narratives that

fiction can't compete," Gabler said. "How can anything in conventional entertainment compete with an O.J. Simpson or a Monica Lewinsky? We now want the real thing."

Burnett had a much simpler explanation: "People like to watch other people in uncomfortable situations."

again next year, said Van Nieuwenhuysse, whose company has three exploration projects near Nome.

## HOUSING BEAVER: Rodents

Continued from Page A-1

for the maintenance of the dwelling on the family," the Supreme Court ruling states.

But the high court also stated that James is entitled to a new trial because the IRHA may have—by engaging in ongoing maintenance and repair—in fact accepted responsibility for the furnace in her home.

"Thus, IRHA may have voluntarily assumed a duty to inspect for hazardous problems with the furnace and may be liable for negligent failure to discover and remedy such conditions," the Supreme Court ruled.

The housing authority's lawyer, Tracey Knutson, countered that the furnace had nothing to do with the fire. "Honestly I don't think the plaintiffs can prevail on that theory," she said.

The Anchorage-based Knutson said expert testimony shows that the fire began in James' bedroom, possibly from smoking.

The jury only found IRHA liable, she said, after competing testimony over whether one of the smoke detectors was working. Under the state landlord act, IRHA was considered responsible for the smoke detectors, Knutson said. But the Supreme Court ruled that the state law does not apply.

"Under federal law ... (James) is specifically responsible for maintaining the smoke detector," she said.

Fairbanks attorney Mike Stepovich, who represents James, disagreed with Knutson's assertion that the jury brought her argument about where the fire started.

"The jury found that the fire started, as far as I was concerned, in the furnace room," he said.

The IRHA bears responsibility for the fire, said Stepovich, who is confident regarding his chances in the new trial.

"The housing authority signed off on these houses with the problems that were in place and never did rectify any of the furnace problems," Stepovich asserted.

Continued from Page A-1

A family of four beavers had plugged the culvert with a collection of rocks, mud and sticks about halfway into the 30-foot culvert. The culvert was almost filled with water on the north side of the road but only a small stream flowed out on the south side.

Lyle, Branville and Nichols had already shoved a 2-inch pipe through the length of culvert, attached a chain to one end and pulled the chain back through the culvert, allowing them to attach a series of three grappling hooks to one end of the chain while connecting the other end to a winch on a hydro-ax.

The plan was simple: Yank the dam out of the culvert.

"Take her on out," Nichols yelled to Lyle when the hooks were set.

The winch cable began moving and the chain tightened.

"We've got something," Nichols speculated.

But the hook popped off whatever it was anchored to and the chain slackened. It caught again only to pull loose again. After 20 minutes of winching, the beaver patrol had only a few sticks to show for their efforts.

"We need the big hook," Branville suggested to Lyle who came back to survey the situation.

The "big hook," an iron claw about three feet wide, would arrive later in the day but it would still take the beaver patrol another 24 days of work and the help of a backhoe to clear the culvert. Fortunately, the pipes running along the bottom of the culvert that DOT uses to steam thaw frozen culverts didn't get ripped out so they wouldn't have to be replaced.

Biologists and trappers kill between one and two dozen nuisance beavers a year, said area management biologist Don Young with the Alaska Department of Fish and Game. The number has been going up the

past few years with the beaver population thriving, he noted.

Young himself took care of the four beaver responsible for plugging the Chena Hot Springs Road culvert. He trapped two and shot two. The hides will be salvaged and used for educational purposes, he said.

Without water to live in, the beavers wouldn't have survived the winter, said Young.

"Our philosophy is instead of having them freeze out during the winter and go to waste, we might as well try to salvage the beaver and get some use out of them," he said.

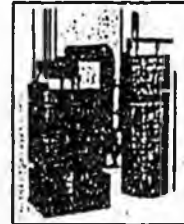
Young said the majority of beaver calls Fish and Game gets come from landowners upset that beavers are chewing down trees in their yard.

"If they only have a couple trees we recommend they fence them off," said Young. "If it's an area where there are always beaver and it's a chronic problem, like Badger Slough, we're more likely to (kill) them."

In the past, Fish and Game has issued a handful of special permits to trappers for beaver problems in the lower Chena River. This year, Young said the permits will be issued to the Alaska Trappers Association, which will use the permits to teach kids the art of beaver trapping.

"The big picture is that we're trying to manage the lower Chena River and lower Badger Slough for consumptive and non-consumptive use," said Young. "We're trying to manipulate the population so we don't have too many nuisance calls and we still have beavers around for the public to view."

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Robert E. Doran III  
 HC31 Box 5213 B  
 Wasilla AK 99654  
 (907) 373-3986

May 17, 2000

Dear Mr. Robus:

I spoke with Phil Koehl some time ago regarding my pursuit of a career in nuisance wildlife management. This letter represents my request for the permit(s) I will need to legally offer this service to the general public. I greatly appreciate you taking the time to review this inquiry and I look forward to hearing from you.

I wish to offer a service in which nuisance wildlife will either be taken (alive or by lethal means) or safely driven away from the premises.

As you know, South Central Alaska is rapidly becoming more densely populated. I believe the potential exists, and is increasing, for confrontations between people and wildlife. It is for this reason that I desire to offer my services and focus my efforts in this region.

Another aspect of this business would be informational and educational. Many incidents between wildlife and human beings can be avoided. Part of my service would include providing information and education to the land owners regarding how they can avoid a recurring problem.

The following is a list of species I wish to legally take from January 1 through December 31:

Beaver	<del>Red fox</del> (all color phases)
Porcupine	Marten
Marmot	Squirrel (including red, ground, and flying)
Weasel	Woodchuck
Mink	Otter
Muskrat	Lynx
Coyote	Pigeon

~~Feral Dogs~~

As indicated above, I intend to take these species alive or by lethal means. All animal control will be conducted in response to a written work order requesting disposition of a nuisance animal. The methods and means I use on these animals will be based upon each

individual situation. Influential factors will be, but are not limited to, the presence of young children, household pets, livestock, location, etc.

The following is a list of species I wish to be permitted to capture alive and not by lethal means from January 1 through December 31:

Swallows	Bats	
Woodpeckers	Magpie	
Gray jay/camp robber	Sea gulls	
Ravens	Canadian geese	
Crows	Snow geese	Rock Pidgeon (Dove)

I wish to surrender the decision to relocate any wildlife up to a designated representative of the ADFG.

I anticipate unique situations may arise and I am committed to stay in contact with the local ADFG office in order to ensure such situations are responded to and taken care of properly. It is obviously difficult to foresee all situations. Therefore I wish to discuss these cases with you.

Furthermore, I desire to work in cooperation with and be accountable to ADFG. I am willing to report to the Department on a regular basis and provide data regarding the animals taken and any other information that would benefit the Department.

Thank you for considering my request for this permit. I look forward to exploring the possibilities with you.

Sincerely,

Robert E. Doran III

**SB**

**149**

## SENATE COMMITTEE REPORT First Committee of Referral

DATE: 3/17/03

FURTHER: Finance

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 5-6-03

Resources Committee considered      SENATE BILL NO. 149

### SB 149 REPEAL CERTAIN TIMBER SALE REQUIREMENTS

"An Act relating to timber and to the sale of timber by the state."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 149 (RES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

same title

new title

**House Bill:**

same title

technical title

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

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DNR	4/29/03		✓	

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Ralph DeBruin</i>	✓			
<i>Ben Starnes</i>	✓			
<i>John Simpson</i>	✓			
<i>Debra J. Lewis</i>				✓
<i>Tom J. Starnes</i>	✓	✓		
<i>Tom J. Starnes</i>	✓			
CHAIR: <i>Scott Owen</i>	✓			

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB149  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
 Title Repeal certain timber sale requirements. BRU Resource Development  
 Component Forestry Mgt & Development  
 Sponsor Sen. Taylor  
 Requester (S) RES Component No. 435

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

There is no anticipated fiscal impact associated with implementation of this legislation.

Prepared by: Jeff Jahnke, Director Phone 269-8474  
 Division Forestry Date/Time 4/29/2003  
 Approved by: Tom Irwin, Commissioner Date 4/29/2003  
 Agency Natural Resources



SENATOR SCOTT OGAN Alaska State Legislature

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Senator\_Scott\_Ogan@legis.state.ak.us

Http://www.akrepublicans.org/ogan

FACSIMILE TRANSMITTAL SHEET

TO: <i>Gerry Luckhaupt</i>	FROM: <i>Linda Hay - Sen Resource</i>
COMPANY: <i>Leg Legal</i>	DATE: <i>5-5-03</i>
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER: <i>7</i>
PHONE NUMBER:	RE: <i>Final SB 149</i>

URGENT     FOR REVIEW     PLEASE COMMENT     PLEASE REPLY     PLEASE RECYCLE

NOTES/COMMENTS:

*Please prepare a final for CSSB 149 (Res)  
with the following amendment*

*Thank you  
Linda Hay  
Room 103*

moved  
+ adopted  
U.C. 5-5-03

AMENDMENT #1

OFFERED IN THE SENATE \_\_\_\_\_  
COMMITTEE  
TO: CSSB 149(RES)

BY Sen Lincoln

- 1 Page 5, line 17:
- 2 Delete "41.17.230(c),"

23-LS0151VH  
Luckhaupt  
5/1/03

CS FOR SENATE BILL NO. 149(RES)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATORS TAYLOR, Ben Stevens

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to timber, to the sale of timber by the state, and to the management of  
2 state forests."

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

4 \* Section 1. AS 38.05.112(a) is amended to read:

5 (a) The department may not authorize the harvest of timber, except for  
6 harvests of 10 acres or less or timber salvaged from land cleared for a nonforest use,  
7 until a site-specific forest land use plan has been adopted. A forest land use plan is  
8 required whether or not a regional or area land use plan under AS 38.04.065(a) or a  
9 forest management plan under AS 41.17.230 has been adopted. The requirements of  
10 AS 38.04.065(b) shall apply to a land use plan adopted under this section only if a  
11 regional or area land use plan under AS 38.04.065(a) or a forest management  
12 plan under AS 41.17.230 has not been adopted.

13 \* Sec. 2. AS 38.05.112(b) is amended to read:

14 (b) In adopting a forest land use plan, the commissioner shall consider the best

1 available data, including information provided by other agencies [DESCRIBING THE  
2 IMMEDIATE AND LONG-TERM EFFECTS OF INDIVIDUAL AND  
3 COLLECTIVE FOREST ACTIVITIES ON THE TIMBER BASE AND ON OTHER  
4 RESOURCES AND USES].

5 \* Sec. 3. AS 38.05.112(c) is repealed and reenacted to read:

6 (c) In adopting a forest land use plan on lands not covered by a forest  
7 management plan under AS 41.17.230, the commissioner shall consider non-timber  
8 uses and resources within the sale area.

9 \* Sec. 4. AS 38.05.113(a) is amended to read:

10 (a) Every two years, the [THE] department shall [ANNUALLY] prepare a  
11 five-year schedule of timber sales planned on all land managed by the department.  
12 The timber sale schedule must provide a time line that identifies timber sales, their  
13 volumes [AMOUNTS], and their locations and must contain [BE] sufficient  
14 information to provide the public and the forest products industry with a basis to  
15 comment on proposed [FUTURE] sale offerings.

16 \* Sec. 5. AS 38.05.113(b) is amended to read:

17 (b) Except as provided in (c) of this section, a proposed sale may not be held  
18 unless it has been included in one of the two five-year schedules immediately  
19 preceding the sale.

20 \* Sec. 6. AS 38.05.123(d) is amended to read:

21 (d) Before a sale may be negotiated under this section,

22 (1) the area of the sale must be designated for forestry purposes or  
23 other purposes that permit forestry uses by a valid existing area plan adopted under  
24 AS 38.04; and

25 (2) the requirements of AS 38.05.112 and 38.05.113 must be met.

26 \* Sec. 7. AS 38.05.123(j) is amended to read:

27 (j) In this section,

28 (1) "high value-added wood product" means [KILN-DRIED OR  
29 COMMERCIALY DRIED LUMBER,] interior finish paneling, [AND] trim  
30 molding, flooring, doors, [AND] windows, cabinet stock, furniture, musical  
31 instruments or parts of instruments, toys, tools and implements, ready-to-assemble

1 building kits, veneer, plywood, finger-jointed lumber, faced house logs, dissolving  
2 pulp, engineered wood products, paneled wood products, kiln-dried lumber, and  
3 other similar finished wood products as determined [SPECIFIED] by the  
4 commissioner to have received processing beyond sawing and planing that adds  
5 high value to the wood product [BY REGULATION AND, FOR DECIDUOUS  
6 ASPEN, POPLAR, AND HIGH DEFECT BIRCH, INCLUDES ENGINEERED  
7 WOOD PRODUCTS AND PANELED WOOD PRODUCTS]; .

8 (2) "other value-added wood product" means round house logs  
9 [PULP], chips, [WAFERBOARD, CHIPBOARD, FIBERBOARD,] green lumber,  
10 flitches, cants, rough [SLABS, OR] planks [INTENDED FOR  
11 REMANUFACTURE], and other similar wood products as determined  
12 [SPECIFIED] by the commissioner [BY REGULATION].

13 \* **Sec. 8.** AS 41.15.315(a) is amended to read:

14 (a) The Haines State Forest Resource Management Area shall be managed  
15 under the principles of multiple use and sustained yield and [,] under AS 41.17[, AND  
16 UNDER A MANAGEMENT PLAN PREPARED BY THE DEPARTMENT. THE  
17 PLAN MAY NOT BE ADOPTED OR REVISED WITHOUT PRIOR REVIEW BY  
18 THE BOARD OF FORESTRY OR WITHOUT A PUBLIC HEARING HELD IN  
19 HAINES AND KLUKWAN].

20 \* **Sec. 9.** AS 41.15.320 is repealed and reenacted to read:

21 **Sec. 41.15.320. Management plan and regulations.** In adopting a forest  
22 management plan for the Haines State Forest Resource Management Area under  
23 AS 41.17.230, the department shall consult with the Department of Fish and Game  
24 and the governing bodies of each municipality in the general area. The Department of  
25 Fish and Game shall consult with the department and local fish and game advisory  
26 committees, if any, before adopting regulations governing fish and wildlife  
27 management in the Haines State Forest Resource Management Area. Regulations may  
28 not be adopted by either department without prior review at a public hearing in Haines  
29 and Klukwan.

30 \* **Sec. 10.** AS 41.17.118(b) is amended to read:

31 (b) The commissioner may impose additional riparian protection standards for

1 timber harvest operations through the adoption of land use plans under AS 38.04.065.  
2 Within a state forest established under AS 41.17.200 - 41.17.230, riparian  
3 standards adopted by the commissioner under this subsection may not exceed the  
4 standards established under (a) of this section unless the commissioner makes a  
5 finding of compelling state interest [AND UNDER FOREST MANAGEMENT  
6 PLANS AND REPORTS UNDER AS 38.05.112 AND AS 41.17.230].

7 \* Sec. 11. AS 41.17.200(a) is amended to read:

8 (a) The purpose of AS 41.17.200 - 41.17.230 is to permit the establishment of  
9 designated state-owned or acquired land and water areas as state forests. The primary  
10 purpose in the establishment of state forests is timber [MULTIPLE USE]  
11 management that provides for the production, utilization, and replenishment of timber  
12 resources while allowing [PERPETUATING PERSONAL, COMMERCIAL, AND]  
13 other beneficial uses of public land and resources.

14 \* Sec. 12. AS 41.17.220 is amended to read:

15 Sec. 41.17.220. Management of state forests. Land within a state forest or  
16 within a unit of a state forest shall be managed under

- 17 (1) the [PRINCIPLES OF MULTIPLE-USE AND] sustained yield  
18 principle;  
19 (2) this chapter; and  
20 (3) a forest management plan prepared by the department.

21 \* Sec. 13. AS 41.17.230(a) is amended to read:

22 (a) The commissioner shall prepare a forest management plan consistent with  
23 AS 38.04.005 and this chapter for each state forest and for each unit of a state forest to  
24 assist in meeting the requirements of this chapter. An operational level forest  
25 inventory shall be completed before a forest management plan for the state forest or  
26 the unit of a state forest is adopted. The forest management plan shall be adopted,  
27 implemented, and maintained within three years of the establishment of a state forest  
28 by the legislature. To the extent they are found to be compatible with the primary  
29 purpose of state forests under AS 41.17.200, the forest [THE] management plan  
30 must consider and permit [THE] uses of forest land for nontimber purposes,  
31 including recreation, tourism, mining, mineral exploration, mineral leasing,

1        material extraction, consumptive and nonconsumptive uses of wildlife and fish,  
2        grazing and other agricultural activities, and other traditional uses [DESCRIBED  
3        IN AS 38.05.112(c)]. If the commissioner finds that a permitted use is incompatible  
4        with one or more other uses in a portion of a state forest, the commissioner shall  
5        affirmatively state in the management plan that finding of incompatibility for the  
6        specific area where the incompatibility is anticipated to exist and the time period when  
7        the incompatibility is anticipated to exist together with the reasons and benefits for  
8        each finding.

9        \* Sec. 14. AS 41.17.230(b) is amended to read:

10                (b) The commissioner shall review and revise a forest management plan [AT  
11        LEAST ONCE EVERY FIVE YEARS AND MAY REVISE THE PLAN] when  
12        necessary.

13        \* Sec. 15. AS 41.17.400(c) is amended to read:

14                (c) The [IN ADDITION TO THE USES DESCRIBED IN AS 38.05.112(c),  
15        THE] commissioner may establish transportation corridors within the Tanana Valley  
16        State Forest.

17        \* Sec. 16. AS 38.05.113(d); AS 41.17.210(a)(3), 41.17.210(a)(4), 41.17.230(c), and  
18        41.17.230(d) are repealed.

23-LS0151\D  
Luckhaupt  
4/30/03

CS FOR SENATE BILL NO. 149(RES)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATORS TAYLOR, Ben Stevens

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to timber, to the sale of timber by the state, and to the management of  
2 state forests."

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

4 \* Section 1. AS 38.05.112(a) is amended to read:

5 (a) The department may not authorize the harvest of timber, except for  
6 harvests of 10 acres or less or timber salvaged from land cleared for a nonforest use,  
7 until a site-specific forest land use plan has been adopted. A forest land use plan is  
8 required whether or not a regional or area land use plan under AS 38.04.065(a) or a  
9 forest management plan under AS 41.17.230 has been adopted. The requirements of  
10 AS 38.04.065(b) shall apply to a land use plan adopted under this section only if a  
11 regional or area land use plan under AS 38.04.065(a) or a forest management  
12 plan under AS 41.17.230 has not been adopted.

13 \* Sec. 2. AS 38.05.112(b) is amended to read:

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1 available data, including information provided by other agencies [DESCRIBING THE  
2 IMMEDIATE AND LONG-TERM EFFECTS OF INDIVIDUAL AND  
3 COLLECTIVE FOREST ACTIVITIES ON THE TIMBER BASE AND ON OTHER  
4 RESOURCES AND USES].

5 \* Sec. 3. AS 38.05.113(a) is amended to read:

6 (a) Every two years, the [THE] department shall [ANNUALLY] prepare a  
7 five-year schedule of timber sales planned on all land managed by the department.  
8 The timber sale schedule must provide a time line that identifies timber sales, their  
9 volumes [AMOUNTS], and their locations and must contain [BE] sufficient  
10 information to provide the public and the forest products industry with a basis to  
11 comment on proposed [FUTURE] sale offerings.

12 \* Sec. 4. AS 38.05.113(b) is amended to read:

13 (b) Except as provided in (c) of this section, a proposed sale may not be held  
14 unless it has been included in a [THE TWO] five-year schedule [SCHEDULES]  
15 preceding the sale.

16 \* Sec. 5. AS 38.05.123(d) is amended to read:

17 (d) Before a sale may be negotiated under this section,

18 (1) the area of the sale must be designated for forestry purposes or  
19 other purposes that permit forestry uses by a valid existing area plan adopted under  
20 AS 38.04; and

21 (2) the requirements of AS 38.05.112 and 38.05.113 must be met.

22 \* Sec. 6. AS 38.05.123(j) is amended to read:

23 (j) In this section,

24 (1) "high value-added wood product" means [KILN-DRIED OR  
25 COMMERCIALY DRIED LUMBER,] interior finish paneling, [AND] trim  
26 molding, flooring, doors, [AND] windows, cabinet stock, furniture, musical  
27 instruments or parts of instruments, toys, tools and implements, ready-to-assemble  
28 building kits, veneer, plywood, finger-jointed lumber, house logs, kiln-dried lumber,  
29 and other similar finished wood products as determined [SPECIFIED] by the  
30 commissioner to have received processing beyond sawing and planing that adds  
31 high value to the wood product; for [BY REGULATION AND, FOR] deciduous

1 aspen, poplar, and [HIGH DEFECT] birch, high value-added wood products  
2 include [INCLUDES] engineered wood products and paneled wood products;

3 (2) "other value-added wood product" means pulp, chips, waferboard,  
4 chipboard, fiberboard, green lumber, cants, slabs, or planks intended for  
5 remanufacture, and other similar wood products as determined [SPECIFIED] by the  
6 commissioner [BY REGULATION].

7 \* Sec. 7. AS 41.15.315(a) is amended to read:

8 (a) The Haines State Forest Resource Management Area shall be managed  
9 under the principles of multiple use and sustained yield and [,] under AS 41.17[, AND  
10 UNDER A MANAGEMENT PLAN PREPARED BY THE DEPARTMENT. THE  
11 PLAN MAY NOT BE ADOPTED OR REVISED WITHOUT PRIOR REVIEW BY  
12 THE BOARD OF FORESTRY OR WITHOUT A PUBLIC HEARING HELD IN  
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15 Sec. 41.15.320. Management plan and regulations. In adopting a forest  
16 management plan for the Haines State Forest Resource Management Area under  
17 AS 41.17.230, the department shall consult with the Department of Fish and Game  
18 and the governing bodies of each municipality in the general area. The Department of  
19 Fish and Game shall consult with the department and local fish and game advisory  
20 committees, if any, before adopting regulations governing fish and wildlife  
21 management in the Haines State Forest Resource Management Area. Regulations may  
22 not be adopted by either department without prior review at a public hearing in Haines  
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25 (b) The commissioner may impose additional riparian protection standards for  
26 timber harvest operations through the adoption of land use plans under AS 38.04.065,  
27 Within a state forest established under AS 41.17.200 - 41.17.230, riparian  
28 standards adopted by the commissioner under this subsection may not exceed the  
29 standards established under (a) of this section unless the commissioner makes a  
30 finding of compelling state interest [AND UNDER FOREST MANAGEMENT  
31 PLANS AND REPORTS UNDER AS 38.05.112 AND AS 41.17.230].

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5 management that provides for the production, utilization, and replenishment of timber  
6 resources while allowing [PERPETUATING PERSONAL, COMMERCIAL, AND]  
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- 11 (1) the [PRINCIPLES OF MULTIPLE-USE AND] sustained yield  
12 principle;  
13 (2) this chapter; and  
14 (3) a forest management plan prepared by the department.

15 \* Sec. 12. AS 41.17.230(a) is amended to read:

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17 AS 38.04.005 and this chapter for each state forest and for each unit of a state forest to  
18 assist in meeting the requirements of this chapter. An operational level forest  
19 inventory shall be completed before a forest management plan for the state forest or  
20 the unit of a state forest is adopted. The forest management plan shall be adopted,  
21 implemented, and maintained within three years of the establishment of a state forest  
22 by the legislature. To the extent they are found to be compatible with the primary  
23 purpose of state forests under AS 41.17.200, the forest [THE] management plan  
24 must consider and permit [THE] uses of forest land for nontimber purposes,  
25 including recreation, tourism, mining, mineral exploration, mineral leasing,  
26 material extraction, consumptive and nonconsumptive uses of wildlife and fish,  
27 grazing and other agricultural activities, and other traditional uses [DESCRIBED  
28 IN AS 38.05.112(c)]. If the commissioner finds that a permitted use is incompatible  
29 with one or more other uses in a portion of a state forest, the commissioner shall  
30 affirmatively state in the management plan that finding of incompatibility for the  
31 specific area where the incompatibility is anticipated to exist and the time period when

1 the incompatibility is anticipated to exist together with the reasons and benefits for  
2 each finding.

3 \* Sec. 13. AS 41.17.230(b) is amended to read:

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5 LEAST ONCE EVERY FIVE YEARS AND MAY REVISE THE PLAN] when  
6 necessary.

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9 THE] commissioner may establish transportation corridors within the Tanana Valley  
10 State Forest.

11 \* Sec. 15. AS 38.05.112(c), 38.05.113(d); AS 41.17.210(a)(3), 41.17.210(a)(4),  
12 41.17.230(c), and 41.17.230(d) are repealed.

## **SB 149 – Timber sales and planning**

### **Sectional Analysis**

Senate Bill 149 addresses the planning requirements for forest management, including forest management plans for legislatively designated state forests, Five-Year Schedules of Timber Sales (FYSTSs), and Forest Land Use Plans (FLUPs) for individual timber sales. Currently there are two legislatively designated State Forests, the Tanana Valley State Forest and the Haines State Forest Resource Management Area.

#### Forest Land Use Plans

**Section 1** moves the guidance on when general planning requirements under AS 38.04.065 apply to Forest Land Use Plans from AS 38.05.112(c) to .112(a). It does not change the requirements.

**Section 2** deletes the reference to consideration of information on collective effects of forest activities. Consideration of collective effects cannot be done on a sale by sale basis and is better addressed through regional planning under AS 38.04.065 and AS 41.17.230.

**Section 3** deletes the list of specific uses that must be considered in Forest Land Use Plans. It replaces it with a requirement that FLUPs on land outside the State Forests consider non-timber forest resources and uses. This change will make preparation of FLUPs more efficient by deleting the requirement to consider uses and resources that may not be pertinent to individual sales.

#### Five-Year Schedules of Timber Sales

**Section 4** changes the Five-Year Schedule from an annual to a biennial requirement. This reduces the work required in preparing and reviewing the schedules, while keeping the industry and the public informed about proposed sales.

**Section 5** changes the requirement that a sale be on the two Schedules preceding the sale to a requirement that the sale have been on one of the two Schedules preceding the sale. In combination, Sections 4 and 5 provide flexibility for the department to adjust sale offering dates to respond to market conditions and funding levels, while ensuring that the initial sale proposal has been on a schedule within no more than four years prior to the sale date. Individual sales will still be reviewed through the FLUP process.

**Section 16** deletes the authority to reoffer sales for two years after their initial offering without relisting them on the Five-year Schedule. This provision is not needed due to the changes in Sections 4 and 5.

#### State Forest purposes and forest management plans

**Sections 8 and 9** address management plans for the Haines State Forest. They replace the specific planning requirements for the Haines State Forest management area in AS 41.15.315(a) with the requirements for State Forest management plans in AS 41.17.230. With this change, the two State Forests would be subject to the same guidance for

management plans. Specific requirements for consultation between the DNR and ADF&G, and between ADF&G and local fish and game advisory committees are retained in AS 41.15.320. These amendments delete the requirement for a public hearing in Haines and Klukwan prior to plan adoption or revision. They delete the requirements for the plan to be based on an inventory completed within the last 10 years and to revise the plan when a new inventory is done.

**Sections 11, 12, and 15** change the management emphasis in legislatively designated State Forests from a mix of multiple use that provides for timber management to timber management that allows other beneficial uses that are compatible with timber. These sections change the primary purpose of State Forests from "multiple use ... that provides for production, utilization, and replenishment of timber resources" to "timber management...while allowing other beneficial uses", and delete multiple use as a principle for managing a State Forest. These changes apply to the Tanana Valley State Forest. The Haines State Forest purpose is established in AS 41.15.300-.315 and is not changed by this bill.

**Section 14** make the timing requirement for review of forest management plans more flexible. Rather than requiring review every five years, review will be required "as necessary". This will preclude time-consuming reviews when they are not needed. This section will apply to both the Tanana Valley and Haines State Forest.

**Section 13** requires that forest management plans consider nontimber uses to the extent that such uses are compatible with timber management. In conjunction with Section 3, this moves the consideration of nontimber uses in State Forests from the individual Forest Land Use Plans to the management plan for the State Forest. This section would apply to both the Tanana Valley State Forest and the Haines State Forest.

**Section 16 (AS 41.17.210(a)(3) and (4))** deletes the requirement for proposals of new state forests to include findings of incompatibility for the timber and nontimber uses previously listed in AS 38.05.112(c) and agency comments on such findings.

**Section 16 (AS 41.17.230(c))** deletes the requirement for forest management plans to be reviewed by the Board of Forestry and other state agencies prior to adoption. It also deletes the requirement for local public hearings prior to adoption.

**Section 16 (AS 41.17.230(d))** deletes the requirement for forest management plans to be provided to the legislature after adoption.

The amendments on State Forests and forest management plans will not require revisions to the existing management plan for the Tanana Valley State Forests.

#### Riparian management standards

**Section 10** revises the conditions for imposing riparian protection standards on state land that are more stringent than those established in the Forest Resources and Practices Act. This amendment deletes the reference to FLUPs as a basis for requiring more stringent

standards on timber sales outside the State Forests. Within State Forests, additional standards could only be imposed if the DNR Commissioner makes a finding of compelling state interest.

Negotiated timber sales for local manufacture of wood products

**Section 6** broadens the area where sales under this section may be offered. Currently offerings are limited to areas "designated for forestry uses" by an area plan, to areas where forestry is an allowed use. This would allow this sale type in areas that have more general designations such as "Resource Management" or "General Use". Review of proposed sales through the FYSTS and FLUP processes would continue to ensure that proposed sales are compatible with the management intent for the particular location.

**Section 7** makes the definition of "high-value added wood product" more flexible. The current definition is a list of specific products that qualify. Other products can only be added by regulation. New products are developed every year, and the regulatory process is an inefficient means to determine whether these products qualify as "high-value added". This amendment makes the statute more responsive to market and processing changes by allowing the DNR Commissioner to determine whether a product not on the existing list has received sufficient processing to qualify as a "high value-added wood product". At a minimum, a product must be processed beyond sawing and planing to qualify.

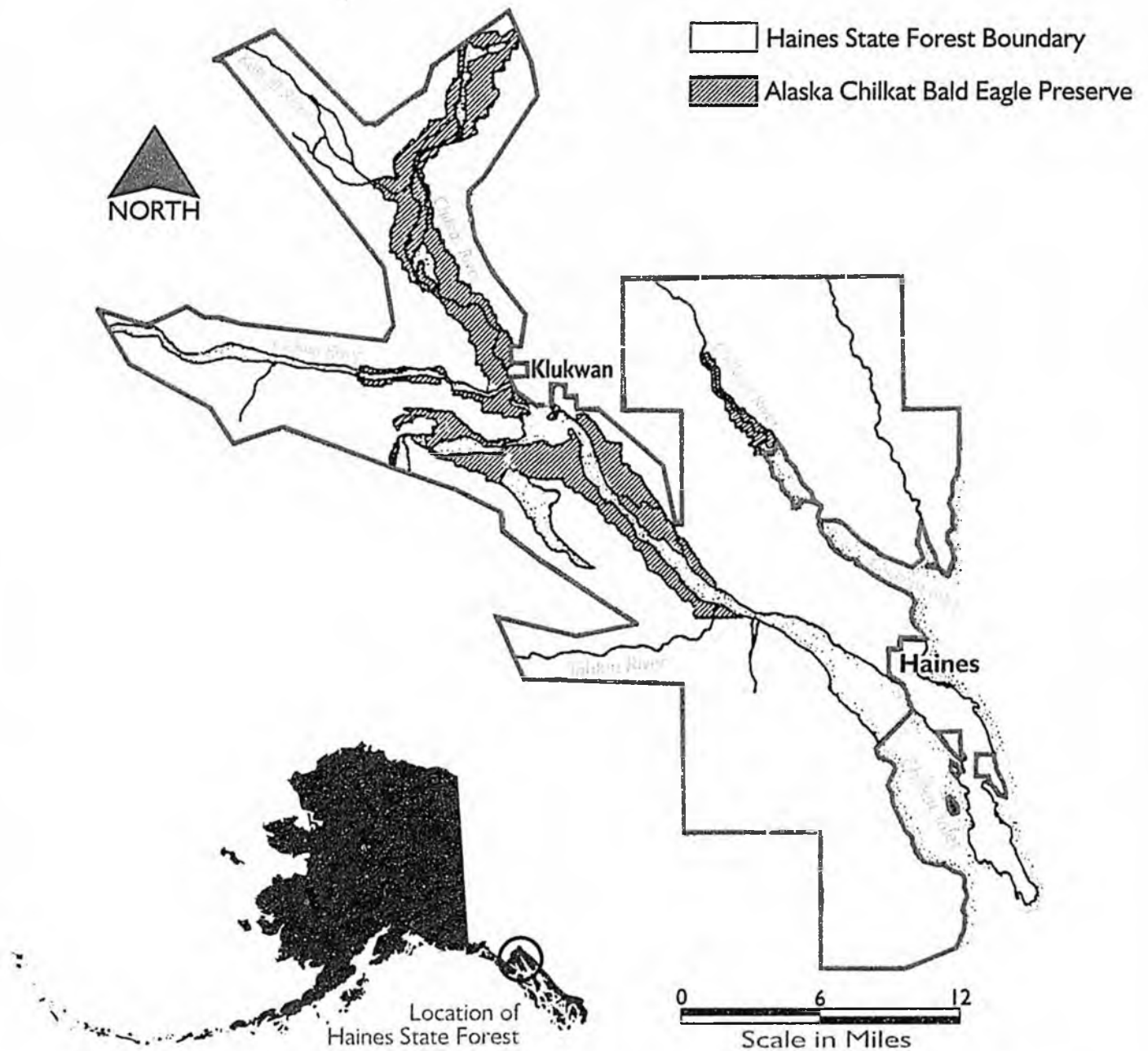
This amendment also

- adds dissolving pulp to the list of high value-added products,
- allows the use of any species in engineered products and paneled wood products, rather than only allowing hardwoods, and
- clarifies that drying must be kiln-drying to qualify as a high value-added process.

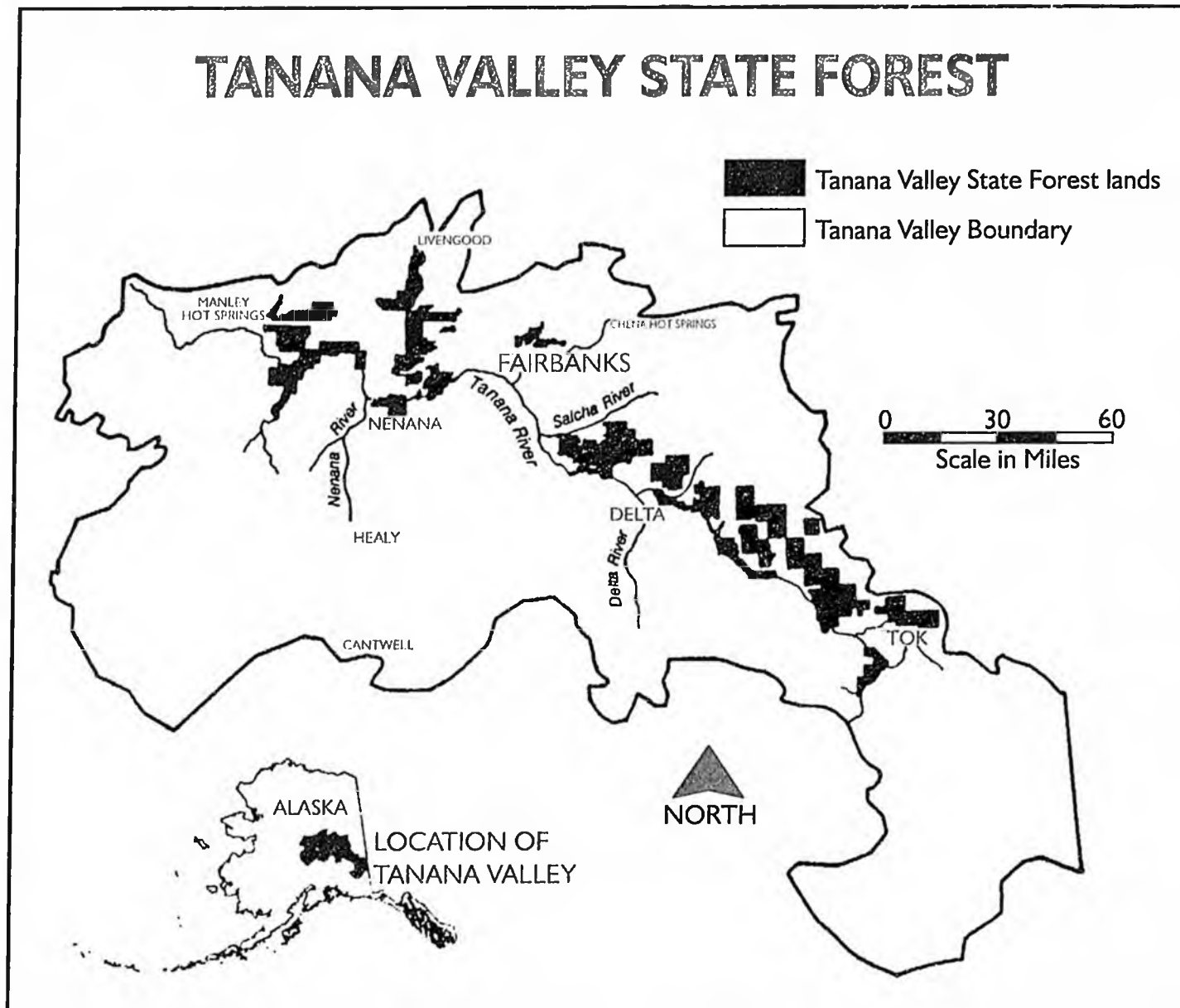
For "value-added wood products", this section

- deletes pulp and paneled wood products because they are moved to the high value-added category,
- adds "flitches" (cants milled on four sides), and
- allows the Commissioner to determine what additional products qualify as "value-added wood products".

# Haines State Forest



# TANANA VALLEY STATE FOREST





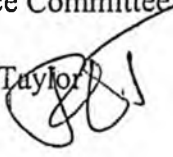
# Alaska State Senate



Senator Robin Taylor  
District A

## MEMORANDUM

TO: Senator Scott Ogan, Chairman  
Senate Resource Committee

FROM: Senator Robin Taylor 

DATE: April 4, 2003

SUBJECT: Hearing Request

---

I respectfully request Senate Bill 149, relating to timber sales, and Senate Bill 150, relating to the use and disposal of state land, be scheduled for a Senate Resource Committee hearing the week of April 14<sup>th</sup>.

Sponsor statements and supporting documentation are being prepared and will be delivered to your office as soon as possible.

Thank you for your consideration. If you have any questions, please let me know.

**Subject: SB149**

**Date: Fri, 02 May 2003 11:30:20 +0000**

**From: Larry + Miriam Paquin <elmp4@mosquitonet.com>**

**To: Fairbanks\_LIO@legis.state.ak.us**

Please distribute this testimony to the Senate Resource Committee

To: Senate Resource Committee

Subject: Senate Bill 149

May 2, 2003

Dear Senate Resources Committee Members,

SB 149 seeks to eliminate the Haines and Tanana State Forest Management Plans, and remove the requirement that create five year management plans to alert the public of future possible timber sales. It would also do away with the FLUPS that map and describe each sale. In effect on these Public forests, most public notices and opportunities for public comment and feedback would be lost.

When the scientific planning it takes to prepare a management plan for a Public forest is thrown out, the multiplue use concept upon which the forests were established is in real danger of chaos. The data base of scientific forest facts built since the TVSF was established will be diminished if SB 149 passes.

Thus I urge you to oppose SB149 for the very sake of the multiple-use concepts, for the sake of the stake holders who depend on these forests for a livelihood, for the sake of the very values of scientific forest planning which can determine the health and sustainability of these public forests for us as well as future generations.

Larry Paquin  
966 Goldmine Trail  
Fairbanks, Alaska 99712

Re: High value added

**Subject: Re: High value added**

**Date:** Wed, 07 May 2003 14:34:29 -0800

**From:** Scott Ogan <Senator\_Scott\_Ogan@Legis.state.ak.us>

**Organization:** Alaska State Legislature

**To:** Louie Flora <louieflora@hotmail.com>

Thank you Louie - Even though the bill has moved out of our committee, I will make your comments a part of the packet that will be made public record and maintained at the library.

Linda Hay

Aide to Sen. Scott Ogan

Louie Flora wrote:

> 1049 Dogwood#8 Fairbanks Ak. 99709 (907)456-2502  
>  
> I am representing myself, and unofficially a few thousand fisherman, small  
> scale loggers, craftsman and whoever else might want to label their product  
> "value added" in the future.  
>  
> >From: Scott Ogan <Senator\_Scott\_Ogan@Legis.state.ak.us>  
> >To: Louie Flora <louieflora@hotmail.com>  
> >Subject: Re: High value added  
> >Date: Mon, 05 May 2003 13:50:53 -0800  
> >  
> >Louie - can you please provide us with an address and let us know who you  
> >are  
> >representing is it is someone other than yourself.  
> > Thank You  
> > Linda Hay - Committee Aide  
> >  
> >Louie Flora wrote:  
> >  
> > > Dear whatever aide is reading this,  
> > > please tell Senator Ogan that the SB149 language allowing "High Value  
> > >Added"  
> > > on pulped trees is a misrepresentation hence a weakening of a concept  
> > >that  
> > > could very well be important to this state in the near future. Besides  
> > >that,  
> > > it just isn't true to many people's understanding of the concept, which  
> > >is  
> > > vague enough already. Remember, what you are doing now is important in  
> > >that  
> > > it is helping to set the definition and precedent for all "value added"  
> > > things to come.  
> > >  
> > > Thanks for your time,  
> > > Louie Flora  
> > >  
> > >  
> > > 

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> > > The new MSN 8: advanced junk mail protection and 2 months FREE\*  
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COOZ L - AWW

KARL FRANKE  
P.O. BOX 84052  
COLLEGE, AK, 99708

SEN, SCOTT OGAN  
AK STATE LEGISLATURE  
STATE CAPITOL  
JUNEAU, AK 99801

S.B. 149 is a bad idea. The management plans for the State Forests took years to hammer out, with intensive study and compromise. To ignore that work would be wrong.

Those wishing to log within our State Forests should do so under the existing restraints.

Please vote No on S.B. 149

Thank you,

Karl Franke

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reflected in rental value would be able to determine the appropriate corresponding rent for the other. *Sirianni v. Bowles*, Em.App., 148 F.2d 343, 344.

**Comparables.** Properties used as comparisons to determine value of a specific property.

**Comparable sales.** As evidence of market value of condemned property, sales from a willing seller to a willing buyer of similar property in the vicinity or at about the same time as the taking. *U.S. v. 33.90 Acres of Land, Situated in Bexar County, C.A.Tex.*, 709 F.2d 1012, 1013.

**Comparable worth.** Term used to describe a class of wage discrimination claims based on the employer's use of different criteria in establishing the wage rates for male- and female-dominated jobs. Several states have enacted laws establishing comparable worth policies and processes for implementing pay adjustments for state employees.

**Comparatio literarum** /kɔmpərəyʃ(i)əw lidərərəm/. In the civil law, comparison of writings, or handwritings. A mode of proof allowed in certain cases.

**Comparative.** Proceeding by the method of comparison; founded on comparison; estimated by comparison.

**Comparative interpretation.** That method of interpretation which seeks to arrive at the meaning of a statute or other writing by comparing its several parts and also by comparing it as a whole with other like documents proceeding from the same source and referring to the same general subject.

**Comparative jurisprudence.** The study of the principles of legal science by the comparison of various systems of law.

**Comparative negligence.** Under comparative negligence statutes or doctrines, negligence is measured in terms of percentage, and any damages allowed shall be diminished in proportion to amount of negligence attributable to the person for whose injury, damage or death recovery is sought. Many states have replaced contributory negligence acts or doctrines with comparative negligence. Where negligence by both parties is concurrent and contributes to injury, recovery is not barred under such doctrine, but plaintiff's damages are diminished proportionately, provided his fault is less than defendant's, and that, by exercise of ordinary care, he could not have avoided consequences of defendant's negligence after it was or should have been apparent.

**Comparative rectitude.** Doctrine wherein relief by divorce is granted to the party least in fault when both have shown grounds for divorce. *Weber v. Weber*, 256 Ark. 549, 508 S.W.2d 725, 729.

**Comparative stylistics.** An evidential technique focusing on nonidentity of typist of questioned writings. Matter-of-fact solutions are premised on comparisons of the numerous stylistic alternatives in grammar and format, and the individualized habits and routine practices inherent in the repetitive reduction of like writings to paper, with emphasis on typewritings. In re *Ciaffo-*

*ni's Estate*, 498 Pa. 267, 446 A.2d 225, cert.den. *Cowden v. Ciaffoni*, 103 S.Ct. 447. See Fed. and Uniform Rules of Evid. 406 and 901. See also Comparative interpretation; Comparison of handwriting; Forensic linguistics.

**Comparison of handwriting.** A comparison by the juxtaposition of two writings, in order, by such comparison, to ascertain whether both were written by the same person.

A method of proof resorted to where the genuineness of a written document is disputed; it consists in comparing the handwriting of the disputed paper with that of another instrument which is proved or admitted to be in the writing of the party sought to be charged, in order to infer, from their identity or similarity in this respect, that they are the work of the same hand. Expert testimony with respect to such proof is permitted by Fed.Evid. Rule 702, and non-expert testimony is governed by Rule 901.

See also Comparative stylistics.

**Compascuum** /kɔmpəskyuwəm/. Belonging to commonage *Jus compascuum*, the right of common pasture.

**Compassing.** Imagining or contriving, or plotting. In English law, "compassing the king's death" is treason. 4 Bl.Comm. 76.

**Compaternitas** /kɔmpətərnatəs/. In the canon law, a kind of spiritual relationship contracted by baptism.

**Compaternity.** Spiritual affinity, contracted by sponsorship in baptism.

**Compatibility.** As applied to offices, such relation and consistency between the duties of two offices that they may be held and filled by one person. Harmonious relationship as between husband and wife.

**Compel.** To urge forcefully; under extreme pressure. Word "compel" as used in constitutional right to be free from being compelled in a criminal case to be a witness against one's self means to be subjected to some coercion, fear, terror, inducement, trickery or threat—either physically or psychologically, blatantly or subtly; the hallmark of compulsion is the presence of some operative force producing an involuntary response. *U. S. v. Escandar*, C.A.Fla., 465 F.2d 438, 442.

**Compellativus** /kɔmpələtáyvəs/. An adversary or accuser.

**Compelling state interest.** One which the state is forced or obliged to protect. *Coleman v. Coleman*, 32 Ohio St.2d 155, 291 N.E.2d 530, 534. Term used to uphold state action in the face of attack grounded on Equal Protection or First Amendment rights because of serious need for such state action. Also employed to justify state action under police power of state. *Printing Industries of Gulf Coast v. Hill*, 382 F.Supp. 801 (D.C.Tex.).

**Compensable.** Entitled to compensation. See, e.g., *Compensable injury*.

**Compensable death.** Within worker's compensation acts is one which results to employee from injury by accident arising out of and in course of employment.

(b) The commissioner shall review a management plan at least once every five years and may revise the plan when necessary.

(c) A management plan may not be adopted or revised after the establishment of the state forest without prior review by the Board of Forestry and by other appropriate state agencies or without prior public hearings held in a community proximately located to the state forest or to a unit of a state forest.

(d) A copy of a management plan or a revision to a management plan adopted or prepared by the commissioner shall be provided to the legislature within 30 days of its adoption or revision or within the first 10 days of the first regular session of the legislature to convene after its adoption or revision.

(e) [Repealed, § 34 ch 34 SLA 1990.]

(f) [Repealed, § 34 ch 34 SLA 1990.](§ 1 ch 91 SLA 1983; am § 34 ch 34 SLA 1990; am § 10 ch 122 SLA 1996)

**Cross references.** — For current law on forest land use plans and on permissible uses formerly set out in this section, see AS 38.05.112.

**Effect of amendments.** — The 1990 amendment, effective May 12, 1990, repealed subsections (e) and

(f), which specified uses to be permitted under a management plan subject to a determination of incompatibility.

The 1996 amendment, effective September 27, 1996, added the last two sentences of subsection (a).

### Article 5. State Land Reforestation.

**Section**

300. State land reforestation fund

310. Appropriations to state land reforestation fund

320. Report

**Administrative Code.** — For reforestation, see 11 AAC 95, art. 5.

**Sec. 41.17.300. State land reforestation fund.** A state land reforestation fund is established in the department. The money in the state land reforestation fund may be used only for the reforestation of state land, including site preparation, seed and seedling acquisition and cultivation, planting, and other reforestation measures, timber stand improvement, and the development of materials and techniques for the reforestation of state land. (§ 2 ch 91 SLA 1983)

**Sec. 41.17.310. Appropriations to state land reforestation fund.** (a) The state land reforestation fund consists of money appropriated by the legislature and contributions from private donors. It is the intent of the legislature that the appropriations made to the fund equal no less than 25 percent of the revenues from the sale of timber and other forest products from state land as well as the total revenues from

- (1) compensation for loss or damage to land within a state forest; and
- (2) the federal government and other governmental units for reforestation.

(b) Money appropriated to or paid into the state land reforestation fund does not lapse. (§ 2 ch 91 SLA 1983)

**Sec. 41.17.320. Report.** The commissioner shall prepare an annual report on the uses of the money in the state land reforestation fund, the proposed uses of the fund in the following fiscal year, and the balance in the fund. The commissioner shall notify the legislature within the first 10 days of each session of the legislature that the report is available. (§ 2 ch 91 SLA 1983; am § 76 ch 21 SLA 1995)

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**Subject:** SB 149

**Date:** Thu, 01 May 2003 23:13:52 -0800

**From:** Thomas Ely <thom@cyclealaska.com>

**To:** linda.hay@legis.state.ak.us

Dear Senate Resource Committee,

I am concerned that state forest planning may be compromised by SB 149.

Planning benefits all users of the forest resource by insuring that public lands are managed for everyone. I am involved in tourism and planning insures that I will have lands to operate my business on for years to come.

Planning is a fact of life all over America and proper management and foresight will insure that our public lands are still multi-use for years to come. It would be a mistake to throw away our ability to have a say in how our public lands are managed. This is America where the democratic process is supposed to be upheld.

Sincerely,

Thomas Ely  
PO Box 1014  
Haines, AK 99827

**Subject: SB 149**

**Date:** Fri, 2 May 2003 13:51:12 -0900

**From:** figdor <figdor@aptalaska.net>

**To:** senator\_scott\_ogan@legis.state.ak.us

**CC:** senator\_thomas\_wagoner@legis.state.ak.us, senator\_fred\_dyson@legis.state.ak.us,  
senator\_ralph\_seekins@legis.state.ak.us, senator\_ben\_stevens@legis.state.ak.us,  
senator\_kim\_elton@legis.state.ak.us, senator\_georgianna\_lincoln@legis.state.ak.us

Re: SB 149

Dear Senator Ogan:

I am very much opposed to SB 149 and the attempt to dismantle planning in the Haines State Forest. I am a thirty-year resident of Haines and have been here through over twenty years of community involvement in the forest planning process. This process has always involved a sizeable percentage of local residents and been a very important effort on the part of the community to establish a vision for its residents as well as its businesses for the future of the area in which we live.

To dismantle this in any part would be an offense to the community as well as to the many state agencies who have played a vital role in the planning process. It would certainly weaken the effectiveness of the state government as well as undermine the efforts of the community to create long term stability.

George Figdor  
Box 612  
Haines, Alaska

**ARTICLES VII & VIII**

Upon a final judicial decision that a plan is invalid, the matter shall be returned to the board for correction and development of a new plan. If that new plan is declared invalid, the matter may be referred again to the board. [Amendment approved November 3, 1998 - Effective January 3, 1999]

**ARTICLE VII  
Health, Education and Welfare**

Sec.

1. Public Education.
2. State University.
3. Board of Regents of University.
4. Public Health.
5. Public Welfare.

§ 1. Public Education. The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

§ 2. State University. The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

§ 3. Board of Regents of University. The University of Alaska shall be governed by a board of regents. The regents shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The board shall, in accordance with law, formulate policy and appoint the president of the university. He shall be the executive officer of the board.

§ 4. Public Health. The legislature shall provide for the promotion and protection of public health.

§ 5. Public Welfare. The legislature shall provide for public welfare.

**ARTICLE VIII  
Natural Resources**

Sec.

1. Statement of Policy.
2. General Authority.
3. Common Use.
4. Sustained Yield.
5. Facilities and Improvements.
6. State Public Domain.
7. Special Purpose Sites.
8. Leases.
9. Sales and Grants.
10. Public Notice.
11. Mineral Rights.
12. Mineral Leases and Permits.
13. Water Rights.

**ARTICLE VIII**

14. Access to Navigable Waters.
15. No Exclusive Right of Fishery.
16. Protection of Rights.
17. Uniform Application.
18. Private Ways of Necessity.

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

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

§ 3. Common Use. Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.

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

§ 5. Facilities and Improvements. The legislature may provide for facilities, improvements, and services to assure greater utilization, development, reclamation, and settlement of lands, and to assure fuller utilization and development of the fisheries, wildlife, and waters.

§ 6. State Public Domain. Lands and interests therein, including submerged and tidal lands, possessed or acquired by the

State, and not used or intended exclusively for governmental purposes, constitute the state public domain. The legislature shall provide for the selection of lands granted to the State by the United States, and for the administration of the state public domain.

§ 7. Special Purpose Sites. The legislature may provide for the acquisition of sites, objects, and areas of natural beauty or of historic, cultural, recreational, or scientific value. It may reserve them from the public domain and provide for their administration and preservation for the use, enjoyment, and welfare of the people.

§ 8. Leases. The legislature may provide for the leasing of, and the issuance of permits for exploration of, any part of the public domain or interest therein, subject to reasonable concurrent uses. Leases and permits shall provide, among other conditions, for payment by the party at fault for damage or injury arising from noncompliance with terms governing concurrent use, and for forfeiture in the event of breach of conditions.

§ 9. Sales and Grants. Subject to the provisions of this section, the legislature may provide for the sale or grant of state lands, or interests therein, and establish sales procedures. All sales or grants shall contain such reservations to the State of all resources as may be required by Congress or the State and shall provide for access to these resources. Reservation of access shall not unnecessarily impair the owners' use, prevent the control of trespass, or preclude compensation for damages.

§ 10. Public Notice. No disposals or leases of state lands, or interests therein, shall be

**Subject: SB149**

**Date: Fri, 02 May 2003 11:30:20 +0000**

**From: Larry + Miriam Paquin <clmp4@mosquitonet.com>**

**To: Fairbanks\_LIO@legis.state.ak.us**

Please distribute this testimony to the Senate Resource Committee

To: Senate Resource Committee

Subject: Senate Bill 149

May 2, 2003

Dear Senate Resources Committee Members,

SB 149 seeks to eliminate the Haines and Tanana State Forest Management Plans, and remove the requirement that create five year management plans to alert the public of future possible timber sales. It would also do away with the FLUPS that map and describe each sale. In effect on these Public forests, most public notices and opportunities for public comment and feedback would be lost.

When the scientific planning it takes to prepare a management plan for a Public forest is thrown out, the multiple use concept upon which the forests were established is in real danger of chaos. The data base of scientific forest facts built since the TVSP was established will be diminished if SB 149 passes.

Thus I urge you to oppose SB149 for the very sake of the multiple-use concepts, for the sake of the stake holders who depend on these forests for a livelihood, for the sake of the very values of scientific forest planning which can determine the health and sustainability of these public forests for us as well as future generations.

Larry Paquin  
966 Goldmine Trail  
Fairbanks, Alaska 99712

**Subject: SB 149**

**Date:** Sat, 3 May 2003 12:08:39 -0800

**From:** "Daniel W. Swift" <dswift@acsalaska.net>

**To:** <Senator\_Scott\_Ogan@legis.state.ak.us>, <Senator\_Thomas\_Wagoner@legis.state.ak.us>, <Senator\_Fred\_Dyson@legis.state.ak.us>, <Senator\_Ralph\_Seekins@legis.state.ak.us>, <Senator\_Ben\_Stevens@legis.state.ak.us>, <Senator\_Kim\_Elton@legis.state.ak.us>, <Senator\_Georgianna\_Lincoln@legis.state.ak.us>

Dear Members of the Senate Resources Committee,

I strongly oppose Senate Bill 149. The more I looked at this bill, the worse it seemed. The sections of statute repealed under this bill would repeal all management plans for the Tanana Valley State Forest, as well as the Haines State Forest.

I recognize that this is a very development-minded legislature, but do you realize that logging interests have been considered in these management plans? Each plan is the result of compromises made between development and conservation interests. Logging is still allowed, but it is allowed in such a way that it doesn't prohibit all other uses of the forest.

Studies have been made that indicate many people use the forest in many different ways--fishing and hunting, for example. To completely negate all these other uses, and all the work of the many people who have contributed to these plans, is unconscionable.

Please vote against Senate Bill 149.

Ann Swift  
3181 Anella Ave.  
Fairbanks, AK 99709



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Alaska Boreal Forest Council  
PO Box 84530, Fairbanks  
AK 99708 USA

tel: (907) 457-8453  
fax: (907) 457-5185  
e-mail: [jan@akborealforest.org](mailto:jan@akborealforest.org)

<http://www.akborealforest.org>

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FAX NO.

P. 02

**Alaska Forest Association, Inc.**



111 STEDMAN STREET, SUITE 200  
KETCHIKAN, ALASKA 99901-6599  
Phone 907-225-8114  
FAX 907-225-5820  
Web Site [www.akforest.org](http://www.akforest.org)

May 2, 2003

Comments for the 5-1-03 draft of SB 149

Senator Robin Taylor  
State Capitol, Room 30  
Juneau, AK 99801-1182

Dear Robin,

Thank you for the opportunity to comment on the revised SB 149. We offer the following comments:

1. The proposed changes to the Forest Land Use Plans requirements (sections 1, 2 and 3) should make the planning process more efficient.
2. The Five-Year Schedule changes (sections 4, 5 and 16) will reduce the cost and the time required to prepare these plans and will give the DNR more flexibility in preparing those schedules. Having these schedules is help to the timber industry as well as to the State and the public.
3. The Haines State Forest changes (sections 8 and 9) will allow the DNR to manage that area in a more logical manner.
4. The change in the primary purpose of some State Forests (sections 13 and 14) will allow more active management of these lands.
5. The change to eliminate the reference to FI,UPs as a basis for imposing more stringent riparian standards than is required by the Forest Practices Act (section 10) is a common sense change.
6. The changes in sections 6 and 7 will help encourage more manufacturing and thus benefit employment and the economy of many local communities.

All these changes will be beneficial and the changes should not have adverse impact upon the environment.

Sincerely,

  
Owen J. Graham  
Executive Director

**Subject: SB 149 testimony**

**Date: Mon, 5 May 2003 14:33:07 -0700**

**From: "Mark Sogge" <marksogge@aptalaska.net>**

**To: <Linda\_Hay@legis.state.ak.us>**

Please include the following testimony in todays hearing for SB 149

I am a fisheries biologist and 35 year resident of Haines. I do not think it will benefit the development of a diverse economy in Haines if the purpose of the Haines State Forest is changed from the current multiple use to a more singular focus on timber management. We need to assure that all potential uses of the forest are realized, and that a single use does not displace other uses that may give this community long term stability.

It is essential that the state continue to develop forest plans that consider both the site specific impacts and cumulative impacts timber activities may have on fisheries and wildlife.

It is short-sighted to deny the Board of Forestry, state agencies and the public the right to review forest plans before they are adopted by DNR. The state should continue to utilize the all the local knowledge and expertise available in the development of the plans.

If other state forests are to be created I believe it is essential that full consideration be given to other uses of the forest lands. Please do not make the errors that have led to devastation of the fisheries resources in so much of the Pacific northwest. State forest lands are important also for recreational, subsistence and tourism uses. The land should be planned to take into account all the potential uses within the watersheds.

We need to maintain the state's ability to easily increase the riparian buffers along salmon streams without necessarily finding that there is "significant state interest" in such an action. This determination should be science driven. If wider buffers are required to protect the streams and keep them highly productive then this should be done without some sort of arbitrary weighing of significance. It is always in the state's best interest to protect the streams to assure that timber activities do not negatively impact the the streams. Our fisheries provide our communities with sustainable economic health and should not be jeopardized by the development of other resources.

Finally, I do not consider that the pulping of timber is creating a high value added product. Our forests are more valuable standing than turned into paper products. The special category of "high value added" products should be reserved for the processing of our forest into products that provide the residents of Alaska with sustainable jobs, products that utilize the high quality of our wood.

Thank you for the opportunity to provide this testimony.

Mark Sogge  
Box 696  
Haines, Alaska  
99827

**SB**

**151**

# SENATE COMMITTEE REPORT

DATE: 4/2/03

FURTHER:

DATE TURNED  
IN TO OFFICE: 4-17-03

Resources Committee considered      SENATE BILL NO. 151

## SB 151 GAS PIPELINE TRANSPORTATION TARIFFS

"An Act relating to the regulation of natural gas pipelines under the Pipeline Act."

and recommends:

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

adopt previous \_\_\_\_\_ CS SB151 (h+c)

attached amendment(s)

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

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

**Senate Bill:**

same title

new title

**House Bill:**

same title

technical title

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

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DCED	4/1/03		✓	2
DOR	4/1/03	✓		1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Joseph Secbin</i>	✓			
<i>Ben Stevens</i>	✓			
<i>Thomas H. Johnson</i>	✓			
<i>Frank ...</i>	✓			
<i>...</i>				
<i>...</i>				
CHAIR: <i>...</i>				

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1 CORRECTED  
 Bill Version: SB 151  
 (S) Publish Date: 4/4/03

Revision Date/Time (Note if correction): 4/1/2003 Dept. Affected: Natural Resources  
 Title: Gas Pipeline Transportation Tariffs BRU: Resource Development  
 Component: Oil and Gas Development  
 Sponsor: Wagoner  
 Requester: Senate Labor and Commerce Component No. 439

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 SB 151 would modify the Alaska Pipeline Act (AS 42.06.055-.640) to allow for contract carriage on all natural gas pipelines over which the State has jurisdiction. At present, only a pipeline bringing North Slope gas to outside markets can clearly offer contract carriage service. All other gas pipelines under the Pipeline Act must provide service as common carriers.  
  
 \*\* It is difficult to predict the effects that this bill might have on revenues, because it is difficult to predict the effects of contract carriage pipelines on gas exploration and development.  
  
 Continued on next page.

Prepared by: Mark D. Myers Phone 269-8800  
 Division: Oil and Gas Date/Time 4/1/2003  
 Approved by: Tom Irwin, Commissioner Date 4/1/2003  
 Agency: Natural Resources

FISCAL NOTE #1 CORRECTED

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

BILL NO. SB 151

ANALYSIS CONTINUATION

For pipelines that are owned by non-affiliated pipeline companies, contract carriage could reduce uncertainty of future throughput. This would reduce capital costs, which in turn could encourage pipeline construction and facilitate gas exploration and development. However, for pipelines that are owned by affiliated producers, contract carriage may not provide greater assurance of throughput; the pipeline company may know the volumes that its affiliated producer wants to ship. Meanwhile, contract carriage on a pipeline owned by an affiliated producer could potentially be used to impede pipeline access for non-affiliated producers. This could hinder natural gas exploration and development and ultimately result in a negative fiscal impact for the State. For the Kenai-Kachemak pipeline, however, these dynamics are unlikely as only 63% of the line's total capacity has been contracted for.

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: SB 151  
 (S) Publish Date: 4/2/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Gas Pipeline Transportation Tariffs BRU Regulatory Commission of Alaska (399)  
 Component Regulatory Commission of Alaska  
 Sponsor Senator Wagoner  
 Requester Senate Labor & Commerce Component No. 2417

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Please see analysis continuation.

Prepared by: Dave Harbour, Chair Phone 907-276-6222  
 Division Regulatory Commission of Alaska Date/Time 4/1/03 10:17 AM  
 Approved by: Edgar Blatchford, Commissioner Date 4/1/2003  
 Agency Department of Community & Economic Development

FISCAL NOTE #2

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

BILL NO. SB 151  
Gas Pipeline  
Transportation Tariffs

ANALYSIS CONTINUATION

While not explicitly stated, the services allowed by this bill are typically regarded as contract carriage. The 2000 Legislature allowed it for transportation of natural gas from the North Slope, partially to bring State statutes into accord with FERC rules for interstate gas transport. This language expands the statutory recognition of contract carriage to all parts of the State. Because common carrier language is retained in AS 42.06, RCA retains the ability to provide any and all shippers access to transport service on intrastate pipelines through its regulatory processes.

There are no fiscal impacts on RCA for this bill, however it is expected that where producers elect to own and operate a pipeline, which is allowed under state statute, contract carriage with service under these statutory terms will be proposed to RCA in pipeline tariff filings. RCA will consider this under the statutory public interest standard.

RCA's budget is funded through the Regulatory Cost Charge (RCC) mechanism and direct charge mechanisms. No general funds are allocated for support of the agency. The RCC is recalculated each year and allows the agency to recover its operating costs through an assessment on the revenues of the utilities and pipeline carriers it regulates. The RCC is capped at 0.8 % of regulated utilities annual gross revenues.



# ALASKA STATE LEGISLATURE

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SENATOR THOMAS H. WAGONER

CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

VICE-CHAIR, SENATE RESOURCES COMMITTEE

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DATE: April 2, 2003

TO: Senator Scott Ogan, chair  
Senate Resources Committee

FROM: Senator Tom Wagoner

A handwritten signature in black ink, appearing to read "Tom", written over the printed name "Senator Tom Wagoner".

RE: SB 151 Hearing Request

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I respectfully request that you schedule this bill for hearing at your earliest convenience. This is an issue of importance to my district and it needs to pass this legislative session.

I am attaching information for your bill packet.

Thank you for your time and consideration.



# ALASKA STATE LEGISLATURE

SENATOR THOMAS H. WAGONER

CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

VICE-CHAIR, SENATE RESOURCES COMMITTEE

## SPONSOR STATEMENT

### CSSB – 151: Gas Pipeline Transportation Tariffs

In 2000, the Alaska Legislature amended the Alaska Pipeline Act to make provisions for operation of a North Slope Gas Pipeline. One provision allowed for two classes of transportation service, "firm" and "interruptible."

Basically, some shippers require "firm" availability of pipeline capacity and thus are willing to pay a guaranteed "reservation charge" to reserve the capacity. This charge is paid whether or not the space is actually used. The pipeline in turn guarantees this capacity will be constructed and made available. Others, who do not require firm service, can opt for "interruptible" service, which does not require payment of a reservation charge. The cost of this service is instead based on shipments actually made. However, these gas shipments are subject to interruption if space becomes unavailable.

When the 2000 amendments were enacted, the North Slope Gas Pipeline was the only gas transportation pipeline in the state proposing to provide such service. There is now a pipeline project in the Cook Inlet, the Kenai Kachemak Pipeline (KKPL), which proposes to provide "firm" and "interruptible" transportation service.

KKPL recently requested the Regulatory Commission of Alaska (RCA) to authorize it to provide these "firm" and "interruptible" services. The RCA declined and posed the question of whether or not a contract carriage for gas pipelines elsewhere in the State was permissible, given the recent amendment that dealt exclusively with transportation of gas from the North Slope.

This legislation is necessary to clarify that the RCA has the authority to authorize "firm" and "interruptible" services for other Alaskan gas transmission pipelines.

The bill achieves this purpose by amending the provisions regarding "firm" and "interruptible" service to make them available to any natural gas pipeline carrier operating in the State. It also adds definitions of a "natural gas pipeline" and "natural gas pipeline carrier".

SS CSSB 151 S(RES) 4-02-03 mj



# ALASKA STATE LEGISLATURE

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SENATOR THOMAS H. WAGONER  
CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE  
VICE-CHAIR, SENATE RESOURCES COMMITTEE

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## **Sectional Analysis** **SB – 151: Gas Pipeline Transportation Tariffs**

**Section 1:** Amends 42.06.350(c) by deleting all reference to “north slope” as it refers to gas lines; the purpose is to broaden the legislation to include other pipelines.

**Section 2:** Amends 42.06.630(6) by deleting all reference to “north slope” as it refers to gas lines; the purpose is to broaden the legislation to include other pipelines.

**Section 3:** Amends 42.06.630(8) by deleting all reference to “north slope” as it refers to gas lines; the purpose is to broaden the legislation to include other pipelines.

**Section 4:** Amends 42.06.630 by adding new paragraphs that define “natural gas pipeline”, “natural gas pipeline facility” and “natural gas carrier”.

**Section 5:** Immediate effective date of the bill.

**Subject:** [Fwd: SB 151 and HB 204]  
**Date:** Wed, 16 Apr 2003 14:52:29 -0800  
**From:** Mary Jackson <Mary\_Jackson@Legis.state.ak.us>  
**Organization:** Alaska State Legislature  
**To:** Linda Hay <Linda\_Hay@legis.state.ak.us>

fyi

mary j

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**Subject:** SB 151 and HB 204

**Date:** Wed, 16 Apr 2003 16:19:10 -0600

**From:** Jack Ekstrom <JackE@EvergreenGas.com>

**To:** "Mary\_Jackson@legis.state.ak.us" <Mary\_Jackson@legis.state.ak.us>,  
"Representative\_Mike\_Chenault@legis.state.ak.us" <Representative\_Mike\_Chenault@legis.sta

**CC:** "mdm@dnr.state.ak.us" <mdm@dnr.state.ak.us>,  
John Tanigawa <JohnT@EvergreenGas.com>

Evergreen Resources supports provisions of the two above named bills now under consideration in the Alaska Legislature. These bills provide for both firm and interruptible service on natural gas pipelines in the state as well as facilitating investment in such projects in Alaska. The bills provide flexibility in service options while maintaining open access. We believe enactment of this legislation would be a positive for the natural gas transportation industry, producers, consumers and will ultimately increase revenues to the state treasury.

Jack R. Ekstrom  
Director, Government Affairs  
Evergreen Resources, Inc.



KENAI-KACHEMAK  
PIPELINE PROJECT

**Kenai Kachemak Pipeline LLC**

**HB 204 / SB 151**  
**“An Act Relating  
to the Regulation of  
Natural Gas Pipelines  
under the Pipeline Act.”**

A. Ben Schoffmann  
Vice-President, KKPL

April, 2003

*Testimony of A Ben Schoffmann to Alaska State  
Senate and House Resource Committees*

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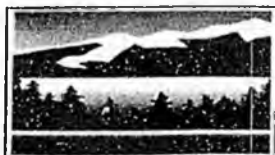
KENAI-KACHEMAK  
PIPELINE PROJECT

## Kenai Kachemak Pipeline LLC

### HB 204 / SB 151

### What Does It Do?

- Permits all natural gas transportation pipelines within the State to file a tariff with the RCA offering both “firm” and “interruptible” service (“contract carriage”) under the Alaska Pipeline Act, AS 42.06.
  - Amendments on this concept were made for a North Slope Gas Line in the 2000 Session.
  - This bill clarifies that other regulated gas pipelines elsewhere in the State also may offer these two classes of service.



KENAI-KACHEMAK  
PIPELINE PROJECT

# Kenai Kachemak Pipeline LLC

## HB 204 / SB 151

### What is Firm and Interruptible Service?

- Firm Service:
  - The Shipper commits to pay a monthly “reservation charge” for a set level of capacity, whether or not it is actually used.
  - The Pipeline guarantees the reserved capacity will be made available as and when needed.
- Interruptible Service:
  - The Shipper only pays for the capacity it actually uses at any given time.
  - The Pipeline makes best efforts to provide capacity, but if the desired capacity is not available for whatever reason (mechanical, over-supply, etc.), these shipments are subject to curtailment or interruption.



KENAI-KACHEMAK  
PIPELINE PROJECT

# Kenai Kachemak Pipeline LLC

## HB 204 / SB 151

### Why is This Important?

- It is important to both Pipeline Investors and Potential Shippers.
- **Pipeline Investors:** Provides them with the ability to obtain firm contracts from potential shippers, which help to:
  - economically justify construction and operation of new gas pipelines
  - reduce risk

April, 2003

*Testimony of A Ben Schoffmann to Alaska State  
Senate and House Resource Committees*



KENAI-KACHEMAK  
PIPELINE PROJECT

## Kenai Kachemak Pipeline LLC

### Why is This Important? – Cont.

- **Prospective Shippers:** Enables them to choose the type of gas transportation service which best aligns with their customer contracts and gas supplies.
  - Firm Transportation (FT)
    - Firm sales contracts need the accompanying assurance of firm transportation (interruptible transportation and potential curtailment is not compatible with firm sales commitments).
  - Interruptible Transportation (IT)
    - Compatible with interruptible sales contracts and/or uncertain supplies
    - Potential Shippers with undiscovered/poorly defined potential gas supplies need not make financial commitments in advance of proving up gas supplies.