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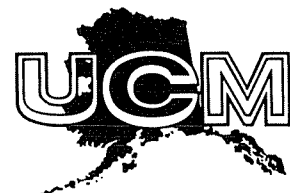
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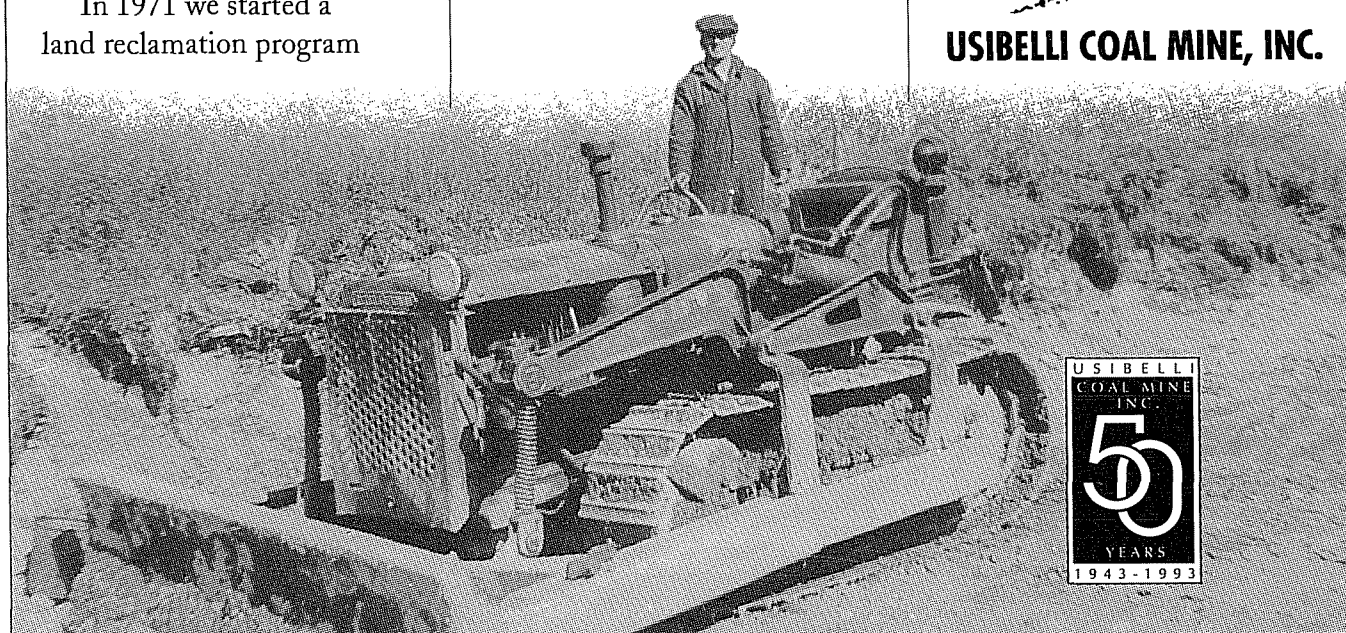
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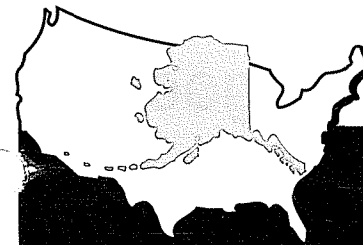


Usibelli Coal Mine, Inc. • P.O. Box 1000 Healy, Alaska 99743 (907) 683-2226 • 122 1st Ave. Fairbanks, Alaska 99701 (907) 452-2625

Resource Development Council  
121 W. Fireweed, Suite 250  
Anchorage, AK 99503

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## Resource Review

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# Proposed liability bond requirement shocks Alaskans

Regulations would require \$150 million in liability insurance for any company or individual transporting or storing oil or oil products in any quantity

Alaska's business community and rural electric cooperatives are reacting with shock and disbelief over the development of new federal regulations that could require individuals, corporations and schools districts alike to post \$150 million worth of liability insurance before they can legally move or store oil or oil products across navigable waters in Alaska and elsewhere.

At issue are new regulations the U.S. Minerals Management Service is developing to implement provisions of the Oil Pollution Act of 1990 (OPA). The 1990 law increased the financial responsibility requirements for companies handling oil on the Outer Continental Shelf from \$35 million to \$150 million and expanded the requirement for financial responsibility to all operating in navigable waters.

"The financial responsibility requirement of OPA can be read to literally include any person or persons transporting or storing any oil or oil products on or over navigable waters," said Paul Glavinovich, a mining geologist and Executive Committee member of the Resource Development Council. In Alaska, Glavinovich noted that navigable waters would include not only coastal waters, but many rivers, streams, lakes and wetlands — a dominant portion of the state.

"The law makes no exceptions for quantity," Glavinovich noted. "If one moves as little as five gallons on a sled behind a snowmachine across navigable waters, they are responsible to the OPA requirements, as well as anyone operating a tank farm, fuel transfer business, refueling station or utility."

The OPA also increases the civil penalties for failure to comply from \$10,000 per incident to \$25,000 per incident per day.

"The impact of the rules if promulgated as proposed will merely create a nation of scofflaws."

- Tom Hawkins, Bristol Bay Native Corporation

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- Paul Glavinovich, Mining Geologist

"Combined with the ludicrous definition of navigable waters, the liability requirement sets up a situation that is going to be impossible for most businesses in Alaska to comply with."

- Frank Dillon, Alaska Trucking Association

"As a practical matter, rural electric cooperatives cannot afford \$150 million in liability insurance even if it were available. Requiring \$150 million in insurance for these facilities is ridiculous."

- Dave Hutchens, Alaska Rural Electric Cooperative

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# Water quality standards must reflect good science, not perceptions and hysteria



## Message from the Executive Director

by  
Becky L. Gay

The Resource Development Council supports the State of Alaska's efforts to regulate water quality standards in a manner consistent with the realities of Alaska. RDC believes the State has carefully considered standards which are based on good science, not perceptions and hysteria.

In a state facing real human and social needs which require competing public dollars, RDC supports water quality standards which are scientifically and environmentally sound, but also technically AND economically feasible.

Specifically, Alaska's water quality standards should provide adequate environmental protection without unreasonably impairing domestic, municipal, recreational, commercial or industrial uses of the water. Water quality standards should not force clean-up to exceed natural water conditions. In other words, no single industry or person should be forced out of business by paying to clean up return water to a stream far cleaner than it was to begin with!

Alaska's industries, from shore-based fish processing to

mining, ought not be strapped with a unreal disadvantage, nor should any community be forced to manage a sewage lagoon or treatment plant under standards which are unachievable, sometimes at any cost.

Regarding risk levels, it should be noted that the national average of the real risk of getting cancer from all sources — from smoking to dietary habits — is one in four! Like other states, including Arkansas where our President hails from, Alaska has chosen a risk level of 1 in 100,000. That is a realistic and supportable risk level. A person would have to be drinking for years from the mixing zone under question to even encounter that 1 in 100,000 risk — and who does that? No one.

It takes a strong economy to afford the financial resources devoted to state programs which address vital issues such as water quality and other health needs. If water quality standards are set to satisfy hysterical perceptions rather than driven by reality, Alaska will lose ground in its ability to provide for its citizens and maintain an economy which can afford environmental protection. Economics must play a part in our decision-making, since there is not enough money in the world to protect individuals completely, even if it was feasible.

Remember, risk assessment is a political decision and your voice is needed to balance the equation.

**RDC urges all Alaskans to send their comments to support the Department of Environmental Conservation's efforts to tailor water standards to Alaska. The deadline is the end of October.**

## RDC board reaches out to Kenai, Seward

In an effort to discuss issues of significant importance to the Kenai Peninsula and to further define common ground, the RDC board of directors met with community leaders in Kenai and Seward last month and toured major industrial sites in both communities.

At least twice a year, RDC schedules community outreach trips for its board and staff to meet with its membership, listen to local concerns, see the resource strengths of the communities it serves and to brief others on what RDC is doing in education and on issues of mutual interest.

"The meetings strengthen our understanding of local communities and resource sectors, while helping develop a common agenda for our state's future," said Jim Cloud, President of RDC. "It's always a pleasure to meet with Alaskans in their home towns."

The September 23-24 community outreach trip to Kenai, Soldotna, Cooper Landing and Seward featured live radio and newspaper interviews and luncheon meetings with local officials.

(Continued to page 3)

The Resource Development Council (RDC) is Alaska's largest privately funded nonprofit economic development organization working to develop Alaska's natural resources in an orderly manner and to create a broad-based, diversified economy while protecting and enhancing the environment.

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Writer & Editor  
Carl Portman

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Arriving from a tour of Unocal's Grayling platform in Cook Inlet are board members Roger Herrera, Dave Parish, Lorna Herrera, RDC Staff Assistant Penny Booher, Elizabeth Rensch, Don Follows and RDC Projects Coordinator Ken Freeman.



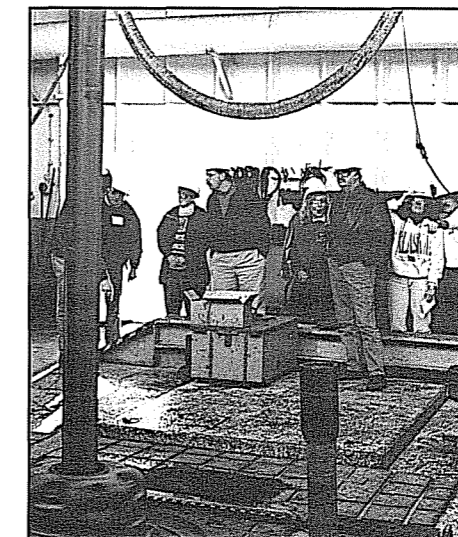
Departing for a tour of ARCO's exploratory drilling rig, the Adriatic XIII, are RDC Communications Director Carl Portman, Lorna Herrera, and RDC board members Paul Glavinovich, Allen Bingham, Kelly Campbell, Jackqui Glavinovich, Scott Thorson and Elizabeth Rensch. Kneeling is President Jim Cloud.

## RDC board visits Kenai and Seward

Photos by Carl Portman



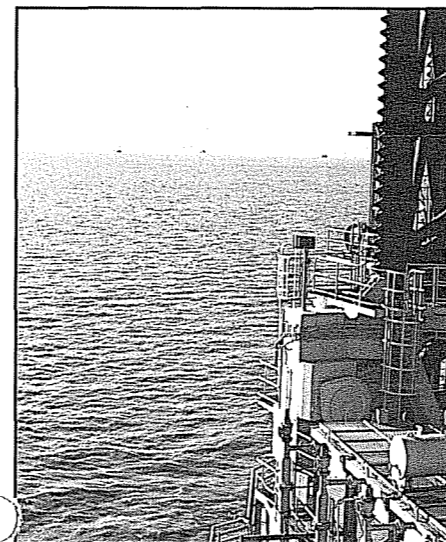
RDC Executive Committee member Kelly Campbell, Secretary Scott Thorson and Vice President Elizabeth Rensch descend from the helicopter pad on ARCO's Adriatic.



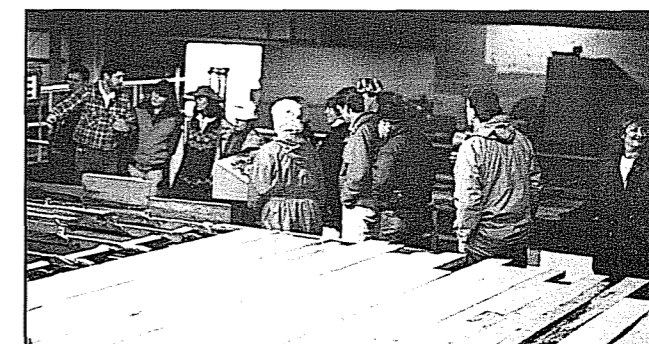
RDC board members observe drilling operations on the Adriatic. The exploratory rig is working ARCO's sunfish prospect west of Anchorage in Cook Inlet. The field may contain as much as 750 million barrels of oil, making it the third largest field in Alaska.



Kenai board member Barry Thomson addresses a gathering of Kenai business and government leaders with the RDC board in Kenai September 23. Many vital issues were addressed among those at the meeting.



ARCO's Adriatic drilling rig looks out over other oil and gas producing platforms in Cook Inlet.



At left, RDC board and staff tour the Chugach Forest Products sawmill in Seward. Above, Vice President Elizabeth Rensch descends a ladder to board a vessel to tour Seward harbor and industrial sites. While in Seward, the board visited Exit Glacier and met with the National Park Service.

# Jeopardy

## Alaskans at risk should MMS regulations move forward

(Continued from page 6)

"Utilizing expansive definitions of navigable waters and overreaching interpretations of fuel containers, the Minerals Management Service has proposed a system which would require kids with lawn mowing jobs to secure \$150 million liability policies from an unwilling insurance industry," said Tom Hawkins of the Bristol Bay Native Corporation.

Hawkins said it appears that the proposal was crafted as a new mission for an agency that has lost its will to accomplish the orderly leasing of minerals in the OCS.

"The impact of the rules if promulgated as proposed will merely create a nation of scofflaws," Hawkins said. "School districts, electrical cooperatives and other bulk fuel tank owners will have to run the risk that there will never be enforcement," Hawkins added. "It seems like an extremely inept way to address a problem which had a clear mandate from the public."

In a news release issued earlier this month, MMS confirmed that state, federal, and municipal facilities, including schools, airports, boat harbors and utilities, as well as privately-owned fuel storage facilities or caches, could be subject to the financial responsibility requirements resulting from the rule-making effort. The agency claims the \$150 million liability requirement is a statutory demand and that it is outside the scope of the regulations to provide relief from the higher liability level.

"The \$150 million liability requirement, combined with the ludicrous definition of navigable waters, sets up a situation that is going to be impossible for most businesses in Alaska to comply with," warned Frank Dillon, Executive Director of the Alaska Trucking Association. "The regulations are so

outrageous they don't warrant any real serious consideration."

There are no trucking companies operating in Alaska that will be able to acquire the mandated coverage, Dillon said. "Literally hundreds of people and businesses in Alaska would be in jeopardy should the regulation move forward," Dillon warned.

The Alaska Rural Electric Cooperative Association (ARECA), a non-profit corporation whose members consist of the numerous electrical cooperatives located throughout Alaska, has also voiced strong opposition to OPA's financial responsibility requirements.

"As a practical matter, rural electric cooperatives cannot afford \$150 million worth of insurance even if it were available," said David Hutchens, Executive Director of ARECA. "I can only hope that the Minerals Management Service uses some common sense in promulgating these regulations," Hutchens said. "Requiring \$150 million in insurance for these facilities is ridiculous. I firmly believe that when OPA '90 was enacted, Congress was thinking of oil platforms when drafting the financial responsibility requirements."

Under OPA, Alaska's rural tank farms are in the "unique position of being both offshore facilities and onshore facilities," Hutchens noted.

Electric cooperatives in rural Alaska for the most part rely upon diesel generation for power production. In turn, bulk fuel storage facilities are located in the villages to provide a ready supply of fuel for the diesel generators. These facilities in numerous instances are located on or near wetlands, and, in any event, most are supplied by a pipeline terminating on a lake, river or bay. Diesel fuel is delivered to these facilities by barge.

OPA '90 already has significantly

impacted these small electric cooperatives. Regulations promulgated by the Environmental Protection Agency and the U.S. Coast Guard require the cooperatives to prepare a response plan to deal with a worst-case scenario fuel spill. EPA regulations require such a plan if the fuel storage capacity is 42,000 gallons or greater and such facility is filled with fuel by a transfer over water. The Coast Guard regulations require a response plan if the storage capacity is 10,500 gallons. In addition, depending upon the volume of the facility, an Oil Discharge Prevention and Contingency Plan is required by the State Department of Environmental Conservation.

The most onerous of all requirements, however, will be MMS's financial responsibility regulations, Hutchens claims. He hopes MMS will bring reason to the process.

MMS initiated the process of developing the new regulations when it published an "Advance Notice of Proposed Rulemaking" in the Federal Register on August 25. The agency has since met with Alaska industry, native and community leaders to solicit information that will help regulators prepare "workable regulations."

"The law contains provisions aimed at strengthening oil spill prevention, response capability and cleanup efforts, as well as ensuring payment of damages resulting from oil spills should they occur," said MMS director Tom Fry. "Since MMS has the responsibility to implement and enforce this law, I want to make sure that those most affected have an opportunity to help us write rules that are as fair and equitable as possible under this statute."

RDC has requested that the MMS hold public meetings in Barrow, Nome, Fairbanks, Anchorage and Ketchikan on the proposed regulations. Comments should be mailed to the Department of the Interior, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, Virginia 22070-4817; Attention: Chief, Engineering and Standards Branch. All comments must be received by December 24, 1993.

Call RDC at 276-0700 or the Minerals Management Service at 271-6070 for a packet outlining the rulemaking process.



## Thoughts from the President

by  
James L. Cloud

## Will Atlas Shrug?

### "Who is John Galt?"

Those are the first three words of Ayn Rand's timeless novel, ATLAS SHRUGGED, written 36 years ago. While the source of frustrations to the creation of wealth through industry and business may have changed, the frustrations nevertheless have increased exponentially. Has this country learned anything?

Recent reports claim "baby boomers" are much better off than their parents. Yet other reports claim that the difference between the wealthy and the poor has widened to record levels. Frankly, I'm not surprised at either. The second hypothesis, however, is more the result of a higher reliance on imported raw materials and "near finished" goods or parts. Where our factories used to use raw materials mined or harvested in America by Americans, we now rely increasingly on imported parts assembled in America.

When our leaders decide to rely on imported natural resources, they are making a decision to export jobs. Understandably, exporting countries would much rather sell us the parts to an automobile, for example, rather than sell us the raw materials to make the parts. So while an automobile is assembled in the United States, the raw materials are mined, refined, molded and made into automobile parts in other countries. The wealth has been created elsewhere and America has lost control of its raw materials, effectively exporting jobs!

With each new Wilderness bill, land use restriction, and move to close roads or improve access into remote areas, our leaders in state and federal government reduce the wealth-producing capacity of our taxpayers and the ability of the country to generate new tax revenues. Yet while economists

warn of this disturbing trend, the burden of new restrictions and costly regulations keeps coming from our nation's capital.

While RDC has been fighting for fair treatment of Alaska in the wetlands arena:

- The Department of the Interior has been pushing for the National Biological Survey without regard to private property rights and citizens' rights to privacy.

- The DOI's Minerals Management Service has just issued proposed regulations calling for oil spill liability requirements of \$150 million for anyone (without limitation) that transports or stores oil or oil products across or adjacent to water, including lakes, streams and wetlands.

- New Wilderness proposals are being advanced behind closed doors in government agencies that are not traditionally involved in land management, like the State Department and the National Security Council.

- Congressional delegations from other states are seeking to say "Adios!" to our mining industry, a quote from Senator Dale Bumpers, D-Arkansas.

- Despite the loss of 280 jobs from the closure of the Sitka Pulp mill, the Administration is seeking further timber harvest restrictions on the Tongass National Forest which could likely lead to further job losses in Southeast Alaska.

With so much threatening our ability to conduct responsible natural resource development in Alaska, it is a blessing that our state government has been working to resolve issues and help our residents get back to work.

The Alaska Department of Environmental Conservation is trying to bring some reason to the water and air quality regulations, the state forester is working on a plan to harvest some beetle-killed timber, the Department of Fish and Game is tackling the fisheries problems of population and resource allocation, and the Department of Natural Resources and the Department of Law are trying to settle the Mental Health Lands mess.

Thirty-six years ago, Ayn Rand's "ATLAS SHRUGGED" showed how frustrated industrialists brought the world to a standstill by quitting the struggle against unreasonable regulation. The names have changed, the source of frustrations have changed, but the effect has remained the same.

"Who is John Galt?" He (she) is each of us.

Get involved, we need your help. Call RDC and lend a hand to comment on many resource issues we're chasing.

We're doing it for you.

## RDC board visits Kenai Peninsula ... (Continued from page 2)

While in Kenai, board members toured the Phillips LNG plant, the Tesoro refinery and the Unocal Grayling platform in Cook Inlet. A second team of board members received a briefing from ARCO officials aboard the Adriatic XIII exploratory rig drilling the Sunfish prospect in Cook Inlet.

In Cooper Landing, board members held a business meeting at the beautiful Princes Lodge. In Seward, the board met with community officials, local business leaders and the

National Park Service. The board received a briefing on the proposed Alaska Sealife Center, visited nearby Exit Glacier and toured the Chugach Forest Products sawmill, the Seward ship yard repair facility and the boat harbor.

Special thanks to local hosts Barry and Eleanor Thomson and Sharon Anderson for assisting in coordinating the local functions.

Final decision on PACFISH due next spring

## Tongass loggers get reprieve from Pacific Northwest fisheries protection plan

The Tongass National Forest will be exempt from a Forest Service plan that would have tripled the size of no-logging buffer zones along fish streams, lakes and wetlands.

The exemption came through a provision from Senator Ted Stevens in a House-Senate conference committee working on a compromise 1994 spending bill for the Forest Service.

The Forest Service plan, called PACFISH, would have extended no-tree-cutting buffer zones around salmon streams from 100 feet to 300 feet. It also would have established new buffers around lakes and wetlands.

PACFISH is a fisheries protection plan developed for the Pacific Northwest fisheries problem, which has been caused in part by hydroelectric facilities. Stevens and Alaska state government officials say the plan's buffer proposals are not needed in Southeast Alaska where fish runs are strong and stringent forest practices measures are in place. The Tongass is the only national forest in the nation with buffers mandated by law.

Troy Reinhart, Executive Director of the Alaska Forest Association, opposes the application of PACFISH in Alaska, insisting there is no problem that needs fixing here.

"Imposing a solution on Alaska designed for the Pacific Northwest is like subjecting a healthy person to chemotherapy," Reinhart said.

The buffers envisioned by the Forest Service would have cut the annual timber harvest from the Tongass by as much as 60 percent, resulting in as many as 1,700 lost jobs and damaging the economies of Southeast communities. Over two-thirds

of the commercial forest lands in the Tongass already are closed to logging through Wilderness withdrawals and other restrictions arising from the Alaska Lands Act of 1980 and the Tongass Timber Reform Act of 1990.

Because of Stevens' provision, the Tongass is the only forest on the West Coast with a congressional exemption from PACFISH. Environmentalists and fishing groups are disappointed, arguing that while Alaska fish appear to be healthy, the PACFISH initiative would ensure that remains true along fish streams in the Tongass. They argue the 100-foot buffers in the Tongass are not enough.

Reinhart notes that ongoing monitoring and research indicate that the current buffers are more than adequate.

The existing buffer strips required by the Tongass Timber Reform Act grew out of an effort to achieve a statewide consensus to pass the Alaska Forest Practices Act. The state law mandated 100-foot buffers on public lands and 66 foot strips on private lands. The consensus arose after nearly two years of meetings between federal and state fisheries agencies, Alaska fishing groups, the Alaska Forest Association, environmental groups and other interested parties.

The consensus determined that mandatory buffer zones were needed to protect fish streams from erosion and temperature problems while allowing for large woody debris to fall naturally in the streams. Scientific studies showed that 94 percent of the wood came from the first 66 feet and 98 percent from 100 feet. Thus, almost all of the large woody debris capable of moving into streams could be recruited with 100 foot buffer strips.

## Kenai infestation presents opportunity to prove silvicultural techniques can restore habitat

Environmentalists claim the State of Alaska's plan for logging beetle-killed timber on the Kenai Peninsula will result in vast clear-cuts that will threaten fish, wildlife and wilderness resources. Alaska's state forester, however, warns that by leaving the dying forest alone, timber, wildlife, water and fishery resources will be at greater risk from the beetle infestation.

In a late September speech before the RDC breakfast forum in Anchorage, State Forester Tom Boutin said a lack of action and continued forest health decline will result in:

- Increased loss of wildlife habitat for mature forest species.
- Continued riparian area degradation.
- Substantial long-term conversion of forest to grass from lack of spruce regeneration.
- Increased community fire hazard and associated increased fire suppression costs.
- Degradation of aesthetic quality of forested landscapes.
- Degradation of developed recreation areas and increased maintenance costs for removal of hazard and downed trees.

In defending a state plan to log beetle-killed timber, Boutin stressed that logging operations would not occur in a regulatory vacuum, but under strict forest practices regulations to protect river drainages and other sensitive areas. Moreover, less than 5% of the beetle-infested

timber will be cut under the state plan, Boutin said, hardly making an impression on the Peninsula as a whole.

Boutin noted that tree planting is part of the equation, required by law following logging. He said reforested areas would result in a mosaic of tree cover and age classes, providing natural protection from future infestations. Today, however, there are primarily only over-mature, single stands of spruce that are much more susceptible to fire and endless rounds of bug epidemics.

While the beetles have and always will be in the forest, Boutin said the notion that this infestation is or should be managed as a totally "natural" event is erroneous.

"Past, present and future human intervention, such as fire suppression, clearing activities and related human habitation, has removed this situation from a natural setting," Boutin said. "Consideration of human needs and influences to establish an appropriate desired future condition for these impacted forest types is ecological sound," he continued.

"Without some sort of artificial intervention to mitigate this non-natural wholesale change in the eco-system, significant habitat loss may result. There is a paucity of regeneration. The seed source is being destroyed and the site disturbance required for regeneration isn't present, even where there is a remaining seed source."

Boutin noted that the Kenai infesta-

Moreover, environmental impact statements are completed for every timber harvest in the forest and if a larger buffer is needed, they can be expanded beyond the 100 foot minimum on a site-specific basis.

The Forest Service, however, claims it has identified 26 declining salmon stocks in Southeast Alaska and argues that rivers should have enhanced protection. The effects of logging are studied.

To put those stocks in perspective, John Sturgeon, President of Koncor For-

est Products, explained that the region contains more than 2,500 anadromous streams. In addition, he notes that almost half of these declining stocks are located in Wilderness areas where logging is not permitted.

"PACFISH buffers would obviously not be needed in a Wilderness area, but they raise the question as to how these stocks can be declining without any development to affect them," Sturgeon said. "Could it be something else besides tim-



Popular recreation areas on the Kenai Peninsula have been hit hard by the spruce bark beetle. Most trees are dead and the fire hazard is high. The U.S. Forest Service has been cutting beetle-killed timber at some popular campgrounds.

tion presents an opportunity to prove silvicultural techniques can restore habitat. He said the state's plan would allow some economic value to be salvaged from the trees before they are no longer usable.

"The Division of Forestry response to the infestation has been to cooperate with other land owners, develop public awareness of the situation and work toward putting infested and soon-to-be infested timber up for sale," Boutin said.

Boutin noted that the lack of a forest products industry on the Kenai, along with the sole emphasis on recreational values in forestry decisions, may have allowed the Kenai problem to be dis-

cussed for years without any action taken.

"I think I see the industry we now have as a potential source of subsidy for the solution," Boutin said. "Any payment for remaining value in some of the timber, and especially any site preparation and access construction which can be absorbed by logging contracts, is a subsidy to resolving this forest eco-system problem."

Mayor Don Gillman of the Kenai Peninsula Borough says many residents want beetle-killed timber harvested, but do not support backcountry roads necessary to get to the timber. He said residents want a guarantee that whatever is done protects the drainages and the river systems.

Mike Barton is accepting comments on whether PACFISH should apply to the Tongass. To send comments on this important issue, write:

Mike Barton  
Regional Forester  
U.S. Forest Service  
Box 21268  
Juneau, AK 99802

ber development?"

As for most of the other stocks the Forest Service cited, the State pointed out that they were in areas logged years ago under less stringent environmental protection measures.

The Forest Service is now studying whether Alaska needs PACFISH and will report back to the Senate Appropriations Committee with a recommendation by April 1.

Forest Service Regional Director