

Attachment K to SEACC's June 9, 2011 Supplemental Statement on HR 1408

Statement of Robert Lindekugel, Conservation Director, accompanied by
David Katz, Forest Plan Coordinator

Regarding H.R. 3659, The Ketchikan Pulp Company Contract Extension Act

Joint Hearing Before the House Committee on Resources
Subcommittee of the Committee on Agriculture
July 11, 1996



Southeast Alaska Conservation Council

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STATEMENT OF ROBERT LINDEKUGEL, CONSERVATION DIRECTOR accompanied
by DAVID KATZ, FOREST PLAN COORDINATOR

REGARDING H.R. 3659 THE ENVIRONMENTAL IMPROVEMENT TIMBER
CONTRACT EXTENSION ACT

JOINT HEARING BEFORE THE HOUSE COMMITTEE ON RESOURCES AND
SUBCOMMITTEE OF THE COMMITTEE ON AGRICULTURE
JULY 11, 1996

Mr. Chairman, and members of this Committee:

My name is Robert Lindekugel, and I am the Conservation Director for the Southeast Alaska Conservation Council (SEACC). With me today is David Katz, our Forest Plan Coordinator, who can help answer any detailed questions you may have. Thank you for the opportunity to participate on one of the panels testifying before you today. I respectfully request that my written statement and accompanying materials be entered into the official record of this Committee hearing.

Founded in 1970, SEACC is a coalition of 15 local citizen, volunteer conservation groups in 12 Southeast Alaska communities, from Ketchikan to Yakutat. SEACC's individual members include commercial fishermen, Alaskan Natives, small timber operators and value-added wood manufacturers, tourism and recreation business owners, hunters and guides, and Alaskans from all walks of life. SEACC is dedicated to preserving the integrity of Southeast Alaska's unsurpassed natural environment while providing for balanced, sustainable use of our region's resources.

This is the first hearing conducted by this Committee on H.R. 3659, the "Environmental Improvement Timber Contract Extension Act." Senator Murkowski did conduct Energy and Natural Resources Committee field hearings in Ketchikan and Juneau, Alaska, on May 28 and May 29, 1996, on the subjects of the Tongass Land Management Plan and a "possible extension" of the Ketchikan Pulp Company (KPC) 50-year contract more generally. However, we need to point out that those testifying at the May 28 and May 29 field hearings were not testifying to the provisions of this bill, because the bill had not yet been introduced. We suspect that if these Committees held hearings in Alaska on the specific provisions of this bill, a great many Alaskans would vehemently oppose this bill.

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



Simply put, this bill is one of the most outrageous pieces of special interest, corporate welfare legislation we have ever seen and one of the most damaging pieces of legislation ever proposed for Southeast Alaska and the Tongass National Forest. SEACC strongly opposes this bill.

Even the name of this bill is an insult and double-speak at its worst. The Delegation's and L-P's proposal will damage the environment and threaten the Tongass, a national and international treasure.

We are sure we will hear time and time again today that the recent Supreme Court decision in *United States v. Winstar Corp. et al.*, No 95-865, (July 1, 1996) is relevant to the unilateral modifications made by Congress to the two Tongass 50-year pulp contracts in the 1990 Tongass Timber Reform Act. Some may take the view that this decision limits the ability of the Congress or the Administration to modify or terminate a contract. Because KPC and Alaska Pulp Company have both filed lawsuits alleging that the Tongass Timber Reform Act breached the contracts or was a "taking" of contract interests, this is not the time or place for a debate on the relevance of this recent decision on past Congressional actions.

It is SEACC's position that the relevancy of the *Winstar Corp.* decision is the wrong question to focus on here. Instead, Congress should carefully consider whether it is good public policy for Congress to take any action today that may tie its hands in the future. The proposed bill will adversely affect the public interest by constraining the Forest Service's discretion to manage and protect public resources on this nation's largest national forest, the Tongass National Forest. We believe Congress should avoid even taking the risk of giving KPC an argument that might constrain a future Congress from taking an action it finds necessary to protect the public's interest in forest resources.

Our bottom line is that KPC does not need a new long-term contract to obtain timber. KPC is pushing for this bill because it does not want to pay fair market value, like other Tongass timber operators, for Tongass timber. It wants Congress to shield it from the inherent risks that come from competing in the free market. We find it hard to believe that Americans would support such an action by this Congress.

The Alaska Delegation's frontal assault on the Tongass National Forest.

This is the latest attack in an unprecedented assault that began in the fall of 1994. Counting this hearing and the Senate hearing scheduled for July 17, 1996, **the Delegation has held 14 hearings on 11 pieces of legislation.** All of these actions have been aimed at rolling back the Tongass Timber Reform Act, increasing clearcutting, and giving over the Tongass, a national and international treasure, for exploitation by private commercial concerns. Chairman Young, your footprints are all over the bill to giveaway the Tongass, dismantle our national forest system, and the effort to hand over 200,000 acres of the Tongass to five (5) new Native for-profit corporations as an amendment to the Presidio Bill.

Background

Louisiana-Pacific Corporation (L-P) is holding the workers at its Ketchikan Pulp Company (KPC) subsidiary and the people of Ketchikan hostage. KPC still has eight years of timber remaining on its 50-year monopoly Tongass timber contract, which expires in 2004. But L-P is demanding an immediate re-write of that contract, with unheard-of new governmental concessions and taxpayer subsidies, ostensibly to help the company obtain financing for a court-ordered environmental cleanup and other "improvements" at the aging and polluted KPC pulp mill. Otherwise the company threatens to shut the pulp mill down.

KPC has used this scare tactic many times before. (See Attachment 1.) KPC has threatened closure at least seven times since 1973, most often to prevent the imposition of pollution controls. **The threat to close KPC is generated entirely from L-P.**

Developments at L-P. In the wake of scandal, major class-action and shareholder lawsuits, and market problems related to its oriented strand board siding, as well as major environmental problems resulting in civil and criminal penalties at several facilities including KPC, L-P has been replacing its top corporate management and re-focusing the company. At its last annual meeting, the company reportedly described its new strategy as focusing on its core business, doubling the size of the company by the year 2000 and reassessing the competitiveness of its mills.¹

In the last four years plus one quarter, L-P lost \$64 million on its pulp division, and lost \$22 million on pulp in the first quarter of 1996 alone. The pulp sector lost money in 1992, 1993, and 1994, and the first quarter of 1996. The pulp division lost over twice as much as it made.

Current weak pulp prices may be below KPC's production cost.² The KPC mill is the largest toxic water polluter in the entire Pacific Northwest, and last year received the largest environmental fine ever assessed against a facility in that region--over \$6 million in civil and criminal penalties, including a felony. KPC faces a costly environmental cleanup. And the largest part of its workforce is without a labor agreement and has been so for 12 years.

The bottom line appears to be an extraordinary sweetheart deal to induce L-P to remain in business in Ketchikan. So the company has asked for one. It is using its threat to shut down to see what it can leverage out of the federal government and the American taxpayer.

For its part, the Alaska Delegation is doing "whatever it takes" to get the company to stay. This bill would allow the company to operate virtually whatever operation it wanted, and force the Forest Service to sell L-P a guaranteed amount of Tongass timber, at "whatever price it takes" to keep the company competitive with mills in Washington and Oregon.

¹"Stump Talk," Pacific Rim Wood Market Report, May 1996 at 16.

²Alaska Department of Labor, Alaska Economic Trends, May 1996 at 19.

Provisions

The Delegation is touting proposed legislation as a 15-year KPC contract "extension." But in testimony before this Committee on May 28 and 29 in Ketchikan and Juneau, L-P CEO Mark Suwyn made it clear that L-P would not be satisfied with its current contract terms, and required a new contract, starting right now.

The Delegation also claims that Governor Knowles supports this bill. Is the Governor here supporting this bill? The answer is **no!** This is not his bill, it is your bill. The Governor said he could support a contract "extension" **but** only if several conditions were met. Furthermore, **this bill does not embody anything close to the conditions the Governor laid down in his letter to L-P.**

SEACC strongly opposes this bill because it:

- **Replaces the current KPC timber contract, set to expire in 2004, with a new, 23-year monopoly contract starting right now and continuing through 2019, with the intention to continue in perpetuity.**
- **States Congress' intent to keep KPC in business, at a profit, permanently.**
- **Mandates increased clearcutting, regardless of impacts to any other Tongass resource.** The bills force the Forest Service to provide an average of 192.5 million board feet (mmbf) yearly to KPC, and require KPC to cut it, regardless of impacts to commercial and sport fishing, hunting, subsistence, tourism, recreation, fish and wildlife habitat. This is 33.5 mmbf higher than KPC's 15-year average annual cut of 159 mmbf. This means a mandate for a total of nearly 160,000 acres of clearcuts--130,000 football fields of clearcuts, or 5,650 football fields of clearcuts a year--in the heart of the world's most intact remaining temperate rainforest. This totals a line of football-field-sized clearcuts from Ketchikan to Washington, D.C.--and back. This would severely damage key fish and wildlife areas important to Ketchikan residents and other Alaskans--Cleveland Peninsula, Honker Divide, East Kuiu, Port Houghton, Poison Cove, and other areas.
- **Allows L-P to shut the pulp mill down, and replace it with a different facility (if the facility uses pulp logs for any part of its process), even if the new facility provides fewer jobs.** This would undermine the federal government's basic interest in the 50-year contract, which is the provision of local jobs. **A basic premise for this bill is L-P's claim that it must have time to amortize the costs of adding pollution upgrades and improvements to the pulp mill. But in fact, the bill would allow L-P to shut the pulp mill down.**
- **Guarantee that no matter what kind of mill KPC decides to run, the Forest Service must provide KPC timber at a rate that does not place the company at a "competitive disadvantage" to a similar mill in the Pacific Northwest.**

This extraordinary concession could force the Forest Service to sell Tongass old-growth trees for the price of PNW raw materials such as recycled newspapers or sawmill waste--or even give refunds to keep KPC competitive. This open-ended government subsidy could cost American taxpayers billions of dollars.

- Extend the current contract term by 15 years and make the new contract effective 45 days after passage of the bill.
- Requires the contract to include a 23-year schedule of KPC timber sales through 2019. The Forest Service must prepare this binding 23-year schedule within 45 days, without opportunity for public involvement; and once in place, the Forest Service cannot change this plan unless L-P agrees.
- Requires the Tongass Land Management Plan (TLMP) Revision to conform with the KPC plan. The current TLMP Revision draft does not contemplate any such schedule or requirement for KPC timber sales. This provision would delay the new Tongass plan, and require yet another draft of the plan. This means the KPC contract and logging schedule will control all future Forest Service Tongass planning.
- **Eliminates the Forest Service's right to terminate the contract for serious environmental damage, or because it is significantly inconsistent with the Tongass Land Management Plan, unless L-P agrees.** This is a provision of every Forest Service timber contract and basic to responsible management of public resources. But, if the Forest Service and L-P agree, they can change (or worsen) the contract terms without Congressional approval.
- Eliminates the TTRA requirement for KPC to pay rates comparable to those paid by independent Tongass timber purchasers and gives KPC new timber quality and price advantages over independent timber purchasers.

This bill, and a new KPC contract, would tie the hands of the Forest Service and substitute the corporate needs of a single favored company for the principles of balanced multiple use management of public lands embodied in the Tongass Timber Reform Act, the National Forest Management Act, and the Multiple-use Sustained Yield Act. The bills are the most extreme example of corporate welfare of which we are aware. **This is public policy at its worst.**

The bill rolls back the Tongass Timber Reform Act.

Section 101. Section 101 of the Tongass Timber Reform Act ("Tongass Reform Law" or "TTRA") replaced Section 705(a) of the Alaska National Interest Lands Conservation Act (ANILCA), which the Forest Service interpreted as requiring the agency to offer 450 million board feet (mmbf) of timber a year, regardless market conditions or cost to the taxpayer. Throughout the 1980s, acting under this mandate the Forest Service put up millions of board feet of timber which did not sell because of weak international pulp markets; but preparation and

administration of these and other sales cost the US Treasury over \$50 million a year. At the same time, the timber program threatened many Tongass special fish, wildlife and recreation areas.

The Tongass Reform Law replaced this unwise and costly mandate with a flexible instruction authorizing the Forest Service to sell timber in response to market demand, but only to the extent consistent with the National Forest Management Act and all other applicable forest management laws, and only "to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources."³--including fish and wildlife and the commercial, sport, and subsistence uses thereof.⁴

Your bill would turn back the clock, and reinstate inflexible, unnecessary and costly logging mandates. It would also institutionalize this mandate as part of the Tongass Land Management Plan. This contractual logging requirement will require the Forest Service to emphasize satisfying KPC's long-term contract over other multiple uses of the Tongass and over the sustainable management of fish and wildlife, hunting, sport and commercial fishing, and subsistence.

Section 301. Section 301 of the Tongass Reform Law modified the KPC long-term contract. Congress unambiguously expressed its intent behind imposing these unilateral modifications to the contracts in Sec. 301(b)(1):

[I]t is in the national interest to modify the [long-term contracts]...in order to assure that valuable public resources in the Tongass National Forest are protected and wisely managed. Modification of the long-term timber sale contracts will enhance the balanced use of resources on the forest and promote fair competition within the southeast Alaska timber industry.

These unilateral modifications, which your bill seeks to roll back, were based upon recommendations from the Forest Service's own internal review team following their investigation into the 1981 antitrust scandal--in which KPC was convicted of utilizing its contractual advantages to monopolize the Tongass timber industry. **Thus, your bill rewards a monopoly for monopolizing the industry and illegally driving others out of business.**

Your bill effectively repeals (among other TTRA subsections):

TTRA Sec. 301(c)(1), in which Congress sought to modify the long-term contracts "to resemble, to the greatest possible degree, short-term, independent sales." (TTRA Conference Report at 18.) By reinstating 5-year plans and other special considerations for KPC, S. 1877 again makes two classes of citizen in the Tongass timber industry and harms the interests of independent timber operators.

TTRA Sec. 301(c)(3), in which Congress sought to end the "back-log" and "pick-and-choose" abuses under the 50-year contracts. As noted in the Conference Report (at 18), this provision

³Tongass Timber Reform Act Sec. 101.

⁴Tongass Timber Reform Act Conference Report.

was intended to "prevent the long-term contract holders from harvesting only the better quality timber while continuing to accrue large backlogs of uncut, lower quality stands."

TTRA Sec. 301(c)(8), in which Congress instituted an adjustment intended to assure that the long-term contract holders would pay stumpage prices comparable to those paid by independent purchasers, and assuring similar profitability criteria. The bill repeals this comparison and replaces it with a different "comparability" clause keeping KPC competitive with mills in the Pacific Northwest. The bill also provides for a "mid-market" test of profitability which was never in the KPC contract, and which independent operators do not enjoy.

L-P wants its timber prices lowered despite the fact that in 1995 it paid less than half what independent purchasers paid for Tongass timber.⁵ From 1991-94, independent operators on the Ketchikan area paid in cash \$97 per thousand board feet of Tongass timber, while KPC paid just \$7 in cash.⁶

The bill jeopardizes Tongass fish and wildlife, and their commercial, sport and subsistence uses.

The bill would (a) set a KPC logging mandate over 33 mmbf per year higher than KPC's 15-year average annual cut; resulting in a huge cumulative amount of logging--4.4 billion board feet; (b) set a 23-year timber sale schedule that could not be changed without KPC approval; and (c) prevent the Forest Service from ending the contract for environmental damage or inconsistency with the Tongass Land Management Plan. Taken together, or separately, these measures seriously threaten fish and wildlife populations on the Tongass.

Every credible study of Tongass fish and wildlife over the last several years indicates that more habitat must be protected, not less. These studies include:

- A Proposed Strategy for Maintaining Well-Distributed, Viable Populations of Wildlife Associated with Old-growth Forests in Southeast Alaska--Report of an Interagency Committee, May, 1993. The so-called "Viapops Report," commissioned for use in the TLMP Revision and carried out by wildlife scientists from the Forest Service, the Alaska Department of Fish and Game, and the US Fish and Wildlife Service, identified the need for a network of no-logging wildlife setasides, called Habitat Conservation Areas or HCAs, distributed across the forest, in order to provide for viable, well-distributed wildlife populations as required by the National Forest Management Act of 1976.
- Review of Wildlife Management and Conservation Biology on the Tongass National Forest: A Synthesis with Recommendations, March, 1994: US Forest Service Pacific Northwest Research Station, Corvallis, OR. This "blue-ribbon" Peer Review of the Viapops Report as

⁵US Forest Service, 1995 Tongass Timber Supply and Demand Report at iv. Counting cash payments and roadbuilding, KPC paid \$121 per thousand board feet, independents forest-wide paid \$279.

⁶SEACC calculation from Forest Service Alaska Region timber shop data. Counting total payments, including roadbuilding, KPC paid less than half the independent stumpage charge (\$84 per thousand board feet vs. \$166 for independents).

well as existing Forest Service wildlife conservation approaches was mandated by Congress in mid-1993. This review by nationally known experts endorsed the HCA approach but said it needed to go farther, including protecting more land from logging, to adequately provide for viable wildlife populations.

- Viapops Committee "Reconciliation Memo," May 1994. This response by the interagency biologist committee to the Peer Review of its work accepted many of the Peer Review's findings and embodied them in a further series of recommendations to protect additional lands from logging pending adoption of a comprehensive wildlife conservation strategy in the TLMP revision and completion of necessary scientific studies.
- Anadromous Fish Habitat Assessment--Report to Congress, January 1995, US Forest Service Pacific Northwest Research Station (AFHA Report). This extensive review of salmon and steelhead habitat condition and management practices on the Tongass concluded (with emphasis added):

"Current direction for anadromous fish habitat protection on the Tongass National Forest is less than fully effective, and additional protection is needed to make timber harvest more compatible with maintaining high-quality fish habitat and long-term conservation of anadromous fish stocks." AFHA Synthesis Report at 11.

"Current procedures for fish habitat protection are now applied primarily on a project-area basis; consequently, the much more important cumulative effects of timber harvest on fish habitat in a watershed are not fully assessed". AFHA Synthesis Report at 8.

"[For the Tongass watersheds in which logging is allowed], 72% of these watersheds were classified as healthy, and 28% had conditions with reduced condition." An Evaluation of the Effectiveness of Current Procedures for Protecting Anadromous Fish Habitat on the Tongass National Forest, September 1994, US Forest Service Fish Habitat Analysis Team at 15 (included in the AFHA Report).

"The long-term conservation of a harvestable surplus of salmon and steelhead across the Tongass is essential to the economic future of Southeast Alaska." AFHA Synthesis Report at 1.

Despite this evidence that less logging, not more, is needed to protect fish and wildlife, your bill would prevent the Forest Service from curtailing KPC logging even if it were shown to be necessary to protect these vital forest resources, which provide the basis for commercial fishing and tourism, the two largest private employers in the region.

The Forest Service presently cannot protect subsistence in the face of any timber sale, often because of obligations to provide timber under the KPC long-term contract. Subsistence is protected under Title VIII of ANILCA. A new contract with a mandated

logging level would tie the Forest Service's hands and cause the loss of traditional subsistence areas. Over 80% of rural Southeast Alaskans engage in subsistence hunting, fishing, or gathering.⁷ Under ANILCA, federal actions are to have the least adverse impact possible on subsistence. But the Forest Service has gone so far as to develop a boilerplate disclaimer describing the fact that subsistence resources may be impacted, but that the agency has no choice but to do so because of its timber commitments. Extending the contract and mandating a higher KPC cut, as the bills do, will harm subsistence uses.

The bill will prevent the development of a modern, high-value-added, secondary-processing timber industry based on the free market by keeping log prices artificially low and hindering independent operators from getting a timber supply.

The new contract will prevent competition for logs and give L-P enormous price breaks, keeping the price of logs artificially low. This both cheats American taxpayers out of a fair return on their resources and diminishes any incentive to add value through additional manufacturing.

Between 1992 and 1995, the Forest Service emptied the independent sale pipeline to give independent sales to KPC under its contract. The Forest Service transferred six sales comprising 190 mmbf of independent sales to KPC. **With a new KPC contract, independent operators will continue to be second-class citizens.**

Case in Point: the Control Lake/Honker Divide timber sale. The Control Lake/Honker Divide timber sale on Prince of Wales Island is not within KPC's "primary sale area," and as such is available for independent operators. It includes the region known as Honker Divide, one of the most important wildlife habitat watersheds in the Tongass, with critical habitat for wolves, four species of Pacific Salmon, an internationally known run of steelhead trout, and an outstanding wilderness canoe route. Conservationists, independent timber operators, Alaska Natives, biologists, and other area residents collaborated to propose a 40 mmbf timber sale that would have constituted the largest independent timber sale on the Ketchikan Administrative Area, and would also have stayed out of Honker Divide. But driven by demands of the KPC contract, the Forest Service has made clear that it will very likely give this sale to KPC, and cut a much higher amount of timber (the agency's draft preferred alternative contained 182 mmbf) from the area. This will take timber away from independents and harm Honker Divide at the same time. With its higher mandated cutting level, a new KPC contract raises the likelihood of further cutting in this sensitive area.

While this bill goes way beyond a contract "extension," a 15-year KPC contract extension by itself would be devastating for the Tongass. The leverage provided by a long-term contract makes it extremely difficult to gain fair consideration for other resources that would be harmed by logging --even when that logging would violate the law.

⁷William Alves, Residents and Resources: Findings of the Alaska Public Survey on the Importance of Natural Resources to the Quality of Life of Southeast Alaska. Anchorage, AK: Institute of Social and Economic Research, University of Alaska, 1979 at V-4.

At its average cutting rates under KPC's current contract, extended 15 years beyond 2004 to the year 2019, the 23 years of timber that would be cut would equal **3.7 billion board feet. Honker Divide, Cleveland Peninsula, Port Houghton, East Kuiu, Poison Cove, and other magnificent Tongass wildlands are all scheduled for cutting by KPC.** The Forest Service will continue to be unable to protect subsistence areas, threatening the way of life of Alaska Natives and other rural residents. The agency will be unlikely to implement critical watershed analysis and conservation measures recommended by the AFHA Report. The agency is unlikely to take additional steps to conserve huntable populations (not just "viable" ones) of Tongass wildlife recommended by the Interagency Biologist Committee or the Peer Review of their Habitat Conservation Area plan.

An extended KPC contract by itself will harm other Tongass dependent industries such as commercial and sport fishing and tourism, by clearcutting and removing the resources they rely on for their health--namely the forest. As stated in the AFHA report:

"Should freshwater habitats be degraded for long periods, salmon and steelhead stocks will eventually be confronted simultaneously with low marine productivity and degraded freshwater habitat. The likely result of such double jeopardy could be high, long-term risk of extinction....The overall risk to Southeast Alaska fisheries and the people who depend on them is determined in part by the total number of watersheds degraded."⁸

A contract "extension" would make such a result far more likely by placing contract requirements before watershed protection.

Rewarding a corporate polluter for violating the law.

One reason KPC has a high pollution cleanup bill is because it has violated, avoided and evaded environmental laws for so long. After failing ever to fully comply with the Clean Water and Clean Air Acts, after over 445 violations of pollution laws, and after pocketing the profits that came from its illegal acts, KPC is trying to force the American public to pay for its cleanup. KPC is a chronic pollution law violator. In addition to their criminal and civil pleas last year, they have been sued for another 200 violations of the Clean Water and Clean Air Acts, and have just reported exceeding pollution limits under their consent decree. (Please see our May 28, 1996 written testimony at page 8, submitted to this Committee, as well as testimony submitted by the Alaska Clean Water Alliance.)

L-P still is not coming clean with the public. (Please see our first Supplementary Statement to the official record of the May 28 ad 29, 1996 hearings.) L-P's CEO, Mark Suwyn, and its pollution consultant made what can only be characterized as inaccurate and misleading statements about KPC pollution that indicate they are still trying to cover up or hide from the public the severity of KPC's pollution problems. This is unfortunate, because public health, public resources and the future of the Tongass are at stake. This behavior should not be rewarded.

⁸AFHA Report, Synthesis Report at 4.

L-P has other serious civil and criminal pollution violations as well. As revealed in L-P's most recent Securities and Exchange Commission quarterly filing (form 10-Q, period ending March 31, 1996)(hereinafter "March 1996 L-P 10-Q"):

- **The United States Department of Justice has stated its intention to seek civil penalties from KPC for Clean Air Act violations at the Anette Island hemlock mill.**
- In March 1996, an "information" was filed in the US District Court for the Eastern District of Washington charging L-P with two misdemeanor counts related to alleged record-keeping violations in connection with the disposal by an independent contractor of transformers from a mill owned by L-P in 1991.
- In June 1995, a grand jury returned an indictment in the US District Court in Denver, CO. L-P has been charged with 23 felony counts related to environmental matters at its Montrose, CO oriented strand board mill, including alleged conspiracy tampering with opacity monitoring equipment, and making false statement under the Clean Air Act. The indictment also charges L-P with 25 felony counts of fraud relating to improper use of a trademark as a result of L-P's alleged tampering with the procedure for the independent certification of its OSB product performance.
- L-P has been named a defendant in at least 12 purported class actions filed in various jurisdictions, as well as numerous non-class action proceedings because of alleged unfair business practices, breach of warranty, misrepresentation, conspiracy to defraud, and other theories related to alleged defects, deterioration or failure of OSB siding products. In addition, four other OSB-related actions have been brought between July 1995 and February 1996.
- L-P has also been sued by its stockholders for failure to disclose or improper disclosure related to the above matters.
- International Paper (IP), former employer of L-P CEO Suwyn, sued L-P in January 1996 claiming that Suwyn's employment with L-P violated a previous employment agreement he had with IP.

The Delegation's, and L-P's arguments will not fly.

The Delegation and L-P have advanced several arguments in support of these bills:

1. Delegation/L-P Claim: L-P must have a new contract because the Forest Service hasn't given them enough timber. According to CEO Suwyn, the shortfall in timber over the last two years was 120 mmbf.⁹ The Forest Service's shortfalls are what has caused KPC to lose money

⁹Oral testimony before this Committee, June 29, 1996, Juneau, AK.

every day of 1996.¹⁰ KPC personnel commonly blame "timber shortages" for periodic mill shutdowns.

The Facts: This is not what L-P is telling its shareholders. In its most recent SEC quarterly report, the company states:

Pulp sales dropped 47 percent in the first quarter of 1996 over first quarter 1995. Prices decreased an average of approximately 11 percent while volume decreased approximately 41 percent. World-wide pulp inventories were high at the beginning of 1996 and remained high through the first quarter, creating very weak pulp markets. Production volume was 60 percent of capacity in the first quarter of 1996 compared to 90 percent in the first quarter of 1995. The decreased volume resulted from the lack of demand and from unscheduled maintenance shut-downs.¹¹

(Emphasis added.)

L-P does not cite timber shortages in this report, and given the description of weak market conditions it is dishonest and misleading for L-P to claim timber shortages as the reason for either mill shutdowns or financial losses. **L-P's problem is not its present long-term contract, timber shortages, or contract changes under the Tongass Timber Reform Act. L-P's real problem is very weak international pulp markets.**

There is no shortage of logs for L-P, and there hasn't been one. (Please see SEACC's Second Supplementary Statement to the June 28-29, 1996 hearings at page 2.) From 1989-94, KPC logged 96% of their maximum allowable amount under the contract, and actually came within 35.6 mmbf of having to stop logging. KPC began FY 95 with over a year's supply of timber--164 mmbf-- released for timber operations, and at the beginning of FY 96 that cushion had grown to 180 mmbf. As of April 1, 1996, KPC had access to 209 mmbf--including 87 mmbf that required no, or minimal, new roading. (KPC's 15-year annual average cut is 159 mmbf.)

While complaining of timber shortages, from 1993-95 **KPC exported from Alaska an average of 26 mmbf per year of cedar logs in the round.** KPC could have sawed these logs in its sawmill.

KPC complained of worse shortages prior to the Tongass Timber Reform Act. Please see Attachment 2, a letter from KPC timber manager Owen Graham to the Forest Service prior to passage of the Tongass Timber Reform Act. In it, Graham complains about a shortage of timber--before the Tongass Reform Law. He claims that KPC's pipeline of released timber had shrunk to only 54 mmbf. If that was true, then **KPC's timber pipeline improved after the Reform Act.**

L-P has plenty of timber remaining in its existing contract. L-P has eight years of timber remaining on its current contract. Subsequently, L-P can buy timber from the Forest Service on

¹⁰Id.

¹¹L-P Quarterly Report Under Section 13 or 15(d) of the Securities Exchange Act of 1934, for Quarterly Period Ended March 31, 1996.

the open market--just like every other timber purchaser in the country. They can also purchase logs from private owners.

The Delegation is spreading the myth that the Tongass is the only source of logs in Southeast Alaska. But from 1985-1995, private Alaska Native Corporations clearcut and exported 4.2 billion board feet of timber--more than half of all the timber cut in Southeast Alaska. Over that time, the Tongass timber program cut a yearly average of 339 mmbf. Native Corporations cut and exported in the round an annual average of 383 mmbf, including 72 mmbf of pulp logs a year. In 1994, Sealaska Native Corporation sold pulp logs to pulp mills in British Columbia. KPC was unwilling to bid for these logs, preferring to wait for cheap, taxpayer subsidized timber under their long-term contract.

L-P has plenty of timber available. What L-P wants is cheap, taxpayer-subsidized timber, without competition in the bidding process.

2. Delegation/L-P Claim: L-P claims it needs this new deal in order to obtain financing to clean up the pulp mill.

The Facts: In 1994, L-P was the 24th-largest forest products company in the world.¹² That year, L-P had the highest return on investment of any forest products company in the world.¹³ L-P has **eight years of timber remaining on its current contract**. That is far more than many forest products companies have. Clearly, L-P has access to credit. According to the March 1996 L-P 10-Q:

Significant capital has also been expended for environmental projects (such as pollution control equipment) and upgrades of existing production facilities. L-P is budgeting capital expenditures, including timber and logging road additions, for all of 1996 of \$275 million to \$325 million.¹⁴

L-P has invested in facility upgrades and environmental controls elsewhere. L-P's one-year capital expenditure is up to \$325 million, yet the company is unwilling to undertake a five-year¹⁵ program to improve KPC, whose purported total expense is \$200 million. The problem is not L-P's credit-worthiness, but the reluctance of its Board and management to commit capital to the KPC pulp mill. L-P and the Alaska Delegation want US citizens to commit the capital L-P is unwilling to commit.

L-P told its shareholders that its required environmental upgrades would cost no more than \$20 million--not \$200 million. In the March 1996 10-Q, L-P states, with respect to the settlement of the recent civil lawsuit against KPC:

¹²Price Waterhouse: Forest Products Survey 1994--North America at 37. Measured by sales value.

¹³Id. at 36.

¹⁴L-P March 1996 10-Q at 7.

¹⁵According to CEO Suwyn, June 29, 1996 oral testimony before this Committee.

KPC also agreed to undertake further expenditures which are primarily capital in nature, including certain remedial and pollution control related measures, **with an estimated cost of up to approximately \$20 million.**¹⁶

In testimony before this Committee, L-P said it must spend up to 10 times that amount to "improve" the KPC pulp mill.¹⁷ **But clearly they'll invest the capital only if the American taxpayer repays that investment.**

As the price of staying in Ketchikan, L-P wants the American taxpayer to buy the company a mill. In 1995, KPC paid \$121 per thousand board feet (mbf) of timber (including "payments" in the form of logging roads built). Independent timber purchasers paid over twice as much--\$279 per mbf. (These rates include the TTRA "comparability" adjustment supposedly making KPC timber charges equal to rates paid by independent purchasers.)

This new contract, and this bill, would provide KPC timber is worth at least \$1.23 billion at prevailing market rates. Over time and with free-market competition, market rates and the total value could be expected to go up.

At the current average stumpage price KPC paid in 1995 under its **current contract, KPC would pay just \$532 million--a difference of \$695 million below current market value, pocketed by the company.** **And under the new contract's outrageous pricing scheme, KPC's timber payments could go down, dramatically increasing the value of this gift from the American taxpayer to KPC. This taxpayer gift to KPC greatly exceeds L-P's purported \$200 million expense to upgrade the mill. And as discussed below, after getting the new contract L-P is not required to spend a dime on these purported improvements.**

3. **Delegation/L-P Claim:** L-P must have a new contract in order to assure that it has enough timber to amortize the investment in cleanup and improvements at the pulp mill. There is no timber other than the timber L-P can access under its contract.

The Facts: The Delegation's bill would in fact allow L-P to shut the pulp mill down. The day after this bill becomes effective, L-P could close the pulp mill, not perform the improvements to the pulp mill that are the rationale for this bill, and instead completely revamp its Ketchikan operation, investing whatever it pleased. Its only obligation would appear to be cutting 192 mmbf per year and processing pulp logs in some way--including chipping them and exporting chips. The new L-P mill would not have to maintain its current complement of jobs, and CEO Suwyn has talked of "increasing productivity"--a code word for fewer employees.

This scenario is not far-fetched. L-P's purported "improvements" are experimental. Initial testing shows that the new "elemental chlorine free" process would increase effluent toxicity in some respects. While not using "elemental" chlorine, the process would instead use chlorine dioxide or

¹⁶March 1996 L-P 10-Q at 9.

¹⁷L-P CEO Mark Suwyn oral testimony, May 29, 1996, Juneau.

other chlorine compounds, and would still produce toxic, persistent organochlorine pollutants such as dioxins and furans. And there is no guarantee that the pulp produced would sell, or at what price.

Thus this bill would allow L-P to obtain a 23-year guaranteed supply of public timber, along with a governmental guarantee to price that timber at a rate that kept L-P competitive with the Pacific Northwest no matter what L-P decided to do with the timber, and an expression of Congressional intent to supply adequate timber for permanent operation of KPC's facilities on a "permanently economical" basis--again, no matter what KPC decided to do with the timber. This timber would come to L-P regardless of the cost or impact of providing it on the taxpayer or any other Tongass resource or resource user. It would come regardless of environmental laws protecting other resources, and the deal could never be altered unless KPC agreed. All based on the rationale of improvements and investments that KPC is not required to make, and might choose not to make. Mr. Chairman, that's a hell of a deal.

4. **Delegation/L-P Claim:** Southeast Alaska's economy is dependent on KPC. Without KPC, there will be an economic disaster--4,000 jobs are at stake--there is no other major timber operator. Senator Murkowski has said, "I can't stand back and watch Ketchikan die."

The Facts: Every job is important. But giving in to corporate blackmail is not the way to safeguard Southeast Alaska's economy. It is especially troubling for the Delegation to be making this argument given KPC's history of using its contract to monopolize the Southeast Alaska timber industry, illegally driving competitors and industry participants out of business.¹⁸ The new, 23-year, taxpayer-subsidized contract L-P wants is a clear example of a huge government program stifling free enterprise.

Southeast Alaska's largest private employers and its growth industries depend on a healthy environment. Government is the largest employer in Southeast Alaska, with 12,350 jobs. In the private sector, activities associated with salmon produce the most natural resource jobs annually in Southeast Alaska.

Commercial salmon fishing and fish processing is the largest private employer, providing over 5,000 direct jobs; Commercial salmon fisheries yield 160 million pounds (average annual production from the Tongass) worth about \$250 million annually.¹⁹

Sport fishing provides another 1,200 direct jobs with over \$28 million in earnings and 250,000 angler-days, *and is growing at an average of 10% per year.*²⁰ The Ketchikan charter-boat fleet doubled in size from 1987-92, to 157 boats.²¹

¹⁸Reid Bros. Logging v. Ketchikan Pulp Co., 464 U.S. 916 (1981)

¹⁹United States Forest Service, Pacific Northwest Research Station and Alaska Region, Anadromous Fish Habitat Assessment, Report to Congress, January 1995 at 1.

²⁰Id. Note there may be some overlap between sport fishing jobs and tourism jobs.

Tourism provides approximately 2,500 direct jobs.²² From 1990-94, tourism exploded, with visitor spending more than doubling to \$160 million,²³ and total regional tourism jobs expanding by nearly 40%, to 3,674 jobs.²⁴ Over the same period, annual visitors to Ketchikan rose by 55%, annual hotel gross sales rose 33%,²⁵ and visitor spending increased by 88% to \$32 million.

These industries depend on a healthy Tongass old-growth forest--fishing for healthy watersheds and tourism for wild lands, unspoiled landscapes, and fish and wildlife. Large-scale clearcutting under the KPC contract threatens jobs in these industries, as well as the subsistence economy, community use areas, and the healthy fish and wildlife habitat that is basic to Alaska's quality of life. It also threatens long-term timber jobs and precludes the development of a sustainable timber industry based on the free market.

Timber is the fourth-largest industry. In 1995, the timber industry (including private, Native Corporation logging) provided 2,002 direct jobs, and Tongass timber accounted for 1,216 direct jobs. Region-wide, KPC provides around 1,000 jobs (counting loggers and another sawmill it leases in Metlakatla). *KPC directly provides just 3% of the region's jobs and 5% of all direct, indirect and induced employment.*

Recent Alaska Delegation claims of massive job losses have little to do with reality. The Delegation claims 4,000 jobs will be lost if KPC closes.²⁶ But in 1995, the entire Southeast Alaska timber industry, including all direct, indirect, and induced employment on Tongass National Forest, State, and private Native Corporation lands produced 3,463 jobs--how could 4,000 be lost? Independent timber sales and Native Corporation logging will continue. Using standard Forest Service multipliers, the 600 jobs at KPC's Ketchikan mills would support an additional 438 indirect and induced jobs for a total of 1,038 jobs or 13% of Ketchikan's jobs.

Please see Attachment 3, The Potential Economic Consequences of a Reduction in Timber Supply from the Tongass National Forest--1996 Revised Report, prepared by ECONorthwest, Eugene, OR. This report demonstrates that a reduced timber supply would have a minor impact on the regional economy, that timber was not the driving force behind the economy, and that "the growth industries are tourism, fishing, and trade, all of which may benefit from reduced logging."²⁷

²¹Economic Development Center, University of Alaska Southeast Ketchikan Campus, Ketchikan Gateway Borough Economic Indicators, June 1995.

²²US Forest Service, Alaska Regional Economist, Southeast Alaska Economy, February 1995 (number listed is 2,330, presumably referring to 1994).

²³Planned testimony of Alaska Commissioner of Commerce Willie Hensley before Senate Energy Committee, S. 1054, August 9, 1995 at 4. Hearing was downgraded to a workshop due to opposition to the bill.

²⁴Id.

²⁵Ketchikan Gateway Borough Economic Indicators, 1994 at v.

²⁶Letter to the Editor of the New York Times, June 25, 1996.

²⁷The Potential Economic Consequences of a Reduction in Timber Supply from the Tongass National Forest--1996 Revised Report. Eugene, OR: ECONorthwest at i. Summary of report attached.

Ketchikan's economy, and the regional economy, are robust and diverse, and are not driven by timber. Contrary to misleading KPC advertisements, KPC's mills are directly responsible for only 7.5% of Ketchikan's jobs. In 1995, Ketchikan, a town of 15,000, had 7,981 jobs producing \$255 million in wages and salaries.²⁸ There are 515 jobs at KPC's pulp mill and around 85 at an adjunct sawmill. Together, these directly account for less than 7.5% of Ketchikan's jobs and less than 10% of its total wages. Despite steep declines in timber jobs, Southeast Alaska's economy has grown every year for the past eight years, and in 1995 the region's jobs base grew more than any other area of the state.²⁹ The region is now one of the world's premier cruise ship markets.

From 1991-95, as Ketchikan's total timber jobs declined by 12%, virtually every other part of the Ketchikan's economy grew, indicating that timber does not drive the economy. Construction grew by 24%; transportation, communication and utilities also increased by 24%; retail trade grew by 23%; services grew 18%.³⁰ Tourist spending nearly doubled.³¹ From 1988-94, gross business sales increased by 52%, to \$458 million,³² driven largely by tourism. Construction is strong, with conversion of the old Ketchikan Spruce Mill dock into a major new residential and commercial development, also linked to tourism.

There are other steady, year-round employers in Ketchikan. KPC's Ketchikan mills have 600 employees and a payroll of around \$25 million. But government is the largest employer in Ketchikan, with 1,783 jobs and a payroll of \$68 million. Trade employs 1,625 with a payroll of \$36 million; Services employs 1,445 and pays \$34 million; Transportation, communication and utilities 770 with \$25 million; Construction employs 432 with a payroll of \$22 million; and Finance, insurance and real estate employs 319 at \$8 million.³³

These are all year-round employers including many family-wage jobs.³⁴ In 1993 there were also 322 commercial fish permit holders, holding 543 permits for many different fisheries, earning 18.7 million.³⁵

Ketchikan will go through a transition, just as Sitka did. When the Japanese conglomerate that owned the Sitka pulp mill closed it for business reasons in October 1993, the mill directly accounted for 10% of that city's jobs and around 16% of Sitka's total wages. **Ketchikan is considerably less dependent on KPC than Sitka was on its pulp mill when that mill closed.** Just two and a half years later, Sitka's economy is healthy. Despite the loss of mill jobs, Sitka's housing starts, single-family housing prices, and gross business sales were all up through 1994,³⁶

²⁸Alaska Department of Labor, Employment and Earnings Summary Reports, Ketchikan Gateway Borough, 1995.

²⁹Alaska Department of Labor, Alaska Economic Trends, May 1996.

³⁰Alaska Department of Labor, Employment and Earnings Summary Reports.

³¹Hensley testimony, supra.

³²Ketchikan Gateway Borough Economic Indicators, University of Alaska Ketchikan Campus, 1994.

³³Alaska Dept. of Labor, Ketchikan Gateway Borough Employment and Earnings Summary Reports.

³⁴Alaska Dept. of Labor, Ketchikan Gateway Borough Employment and Earnings Summary Reports.

³⁵Ketchikan Gateway Borough Economic Indicators, University of Alaska Ketchikan Campus, 1995. Fishing income includes crew salaries, but number of crew members is unknown.

³⁶Presentation to Moody's Investor Service by Sitka city officials, March 6, 1994.

and 1995 single-family housing starts increased by 17% over 1994.³⁷ Sitka's unemployment rate is the second-lowest in the region, below the state average.³⁸ Sales taxes remain strong, and Sitka's Finance Director recently acknowledged that predictions of disaster did not materialize.³⁹ While KPC's Ketchikan mills provide around one-third more jobs than the Sitka pulp mill, Ketchikan's total economy is around twice the size of Sitka's with its pulp mill.⁴⁰

5. **Delegation/L-P Claim:** No other timber industry is possible, because 30% of the trees are "dead or dying," and suitable only for pulp. Therefore a pulp mill is absolutely necessary. Moreover, transportation costs will make it impossible for a secondary-manufacturing industry to develop in Southeast Alaska.

The Facts: The logical conclusion of this argument is that if KPC closes, no one will ever cut another Tongass tree on a commercial basis. This conclusion is not believable, and is belied by recent developments. Transition to a high value added, secondary manufacturing timer industry based on the free market is both possible and desirable. (Please see SEACC's original written comments, May 28 and 29, 1996 at 10-12, and our Supplementary Testimony at 7, where we discuss a value-added timber industry for Southeast Alaska.)

Please see Attachment 4. Far from being impossible, an established Southeast Alaska sawmill owner and operator has just proposed a new remanufacturing plant and wood drying operation for Prince of Wales Island. This kind of an operation is an important facet of a secondary-manufacturing industry. This is the kind of operation we'd like to see in our region's future.

The Alaska Legislature passed, and Governor Knowles just signed, a bill to promote high value-added manufacturing in Alaska. The provisions of this bill were weakened by the legislature, leaving the Department of Natural Resources with increased responsibility to recognize regional differences in Alaska's forests and make sure that the bill accomplishes its stated purposes while conserving important Alaskan resources. Nonetheless, the Governor and the legislature have embraced the importance of secondary manufacturing in the future Alaska timber industry.

Studies have shown that components of a secondary manufacturing industry can work from Southeast Alaska.

- Feasibility Analysis of Alternative Wood-Based Industries for the City and Borough of Sitka, Alaska, prepared by International Resources Unlimited, Inc. for the Forest Service and the City and Borough of Sitka (draft 12-13-95) showed that a sawmill, a dry-kiln operation, and a planer mill could be built from scratch and operated profitably in Southeast Alaska, both separately and as an integrated operation. Such a mill, while not necessarily producing secondary products in and of itself, produces the raw material--kiln-dried, surfaced lumber--

³⁷Alaska Department of Labor, Alaska Economic Trends, May 1996.

³⁸Alaska Department of Labor statistics.

³⁹May 10, 1996 radio news story, KCAW, Sitka (transcript available).

⁴⁰Measured by gross business sales (other measures reveal a similar relationship).

for secondary production. Custom kiln-drying of other companies' wood is also an important service provided by such a facility to the secondary sector.

- Southeast Alaska Value-added Timber Manufacturing Study, prepared for the Southeast Conference by C.L. Cheshire, Jon Galea, and Dubal, Beck and Associates (June 1991), examined opportunities in low-grade and small-diameter logs and determined that finger-jointed moulding and edge-glued boards--both value-added products--could be produced profitably in Southeast.

The Forest Service has recognized the potential for a secondary manufacturing industry in Southeast Alaska.

In Charting a Course for Sustainable Development in Southeast Alaska,⁴¹ the authors stated, after visiting Southeast Alaska wood manufacturers:

Past efforts to develop the timber-using industry and the timber-based economy have partially relied on strategies that encouraged a few, large firms. The current situation offers an opportunity for some transition to a large number of smaller firms. Markets appear to be more economically accessible to these firms than in the past. (Page 13.)

Thirty-five of the 42 manufacturing facilities in SE Alaska are on Prince of Wales Island. There is considerable interest in new markets....Another opportunity is installing a regional dry kiln and concentration yard on Prince of Wales Island." (Page 16.)

In Economics of the Southeast Alaska Timber Industry,⁴² Forest Service Alaska Regional Economist Kathleen Morse said:

Old growth timber still commands a premium price because it is becoming increasingly scarce in wood products markets....A key to the successful future of the wood products industry in Alaska lies in recognition of this fact and developing the ability to use this wood to its maximum advantage in local manufacture. (Page 4.)

Value-added wood products could be a key element of the Southeast Alaska timber industry in the future....This would mean a reorientation from the production-oriented manufacture of industrial commodities to more market-oriented production of specific products. (Page 6.)

When you've got a high-cost producing region, like we've got here, you've [sic] simply must target higher value end-use products. Fortunately, we have a good supply of very valuable trees, that when logged, should have every penny squeezed out of them. To do otherwise, would be a true waste of resources. (Page 6.)

⁴¹Madison, WI Forest Products Lab, Pacific Northwest Research Station and Forest Service Region 10, undated (approximately January/February 1996).

⁴² A mid-1994 presentation to the "Ketchikan 2004" conference held at the University of Alaska Southeast--Ketchikan.

The high value-added sector is the dynamically growing segment of the Pacific Northwest timber industry. According to the Center for International Trade in Forest Products at the University of Washington, exports of secondary products through the Columbia-Snake river Customs Districts, which includes all of Washington and Oregon, increased 181% between 1989 and 1993.⁴³

According to the Evergreen Partnership, a Tacoma-based private non-profit membership corporation aiding the value-added sector, there are an estimated 1,400 secondary wood products producers in the states of Washington and Oregon, employing 33,000 people. Exports increased nearly 200% from 1989 through 1995, reaching \$300 million.⁴⁴ While banks are reluctant to loan money to the primary sector, the Evergreen Partnership and secondary businesses have had success with banks by showing them that they are a separate, growing, profitable building products industry.⁴⁵

Sealaska Regional Native Corporation has shown interest in a new timber industry. At a March 20-21, 1996 Wrangell conference on secondary wood product manufacture, Sealaska CEO Leo Barlow said that a timber industry based on pulp and cants is a thing of the past. Sealaska has been considering buying the old APC Wrangell sawmill and running it as a different kind of operation, based on markets rather than commodity production.

Transportation costs are not a bar to secondary manufacturing in Southeast Alaska. Barging containerized cargo by water is far less expensive per mile than hauling containerized cargo by truck, enabling Southeast Alaska manufacturers to compete with manufacturers closer to major transportation hubs.

One manufacturer of knockdown cedar furniture on Vancouver Island⁴⁶ ships a 40-foot container of finished product to Vancouver, B.C. for trans-shipment to their customers **in Europe**. The cost of trucking the container from the plant in Port Alberni to Vancouver is approximately \$700CN or \$511US. Trans-shipment to European ports such as Antwerp, Belgium or Bremerhaven costs around \$2,500US. Shipping costs are paid by the customer, and clearly the transportation costs from the Vancouver hub to the final destination dwarf shipping costs to the hub.

Barging this amount of knockdown furniture from Ketchikan to the hub of Seattle would cost approximately \$951,⁴⁷ for approximately 450 pieces. Significantly, this quote for shipping does not take into consideration better deals that might be worked out with shippers. **This difference in shipping cost to the hub would thus result in adding .98 to the cost of each piece of furniture. Clearly this is not significant--and shipping costs from Seattle to some**

⁴³Center for International Trade in forest Products (CINTRAFOR), August 1994, Fact Sheet #13.

⁴⁴The Evergreen Partnership, Prospectus at 1.

⁴⁵Greg Schellberg, Evergreen Partnership Executive Director, workshops sponsored by SEACC in Ketchikan and Wrangell, February, 1996.

⁴⁶Sarita Furniture, Port Alberni.

⁴⁷Quoted price of \$5.37/100lbs, prorated including prorated pickup and delivery of container. **This amount does not consider more favorable deals that might be worked out with shippers and as such is overly costly.**

destinations might be lower than costs from Vancouver, thus recapturing initial shipping cost differences.

A similar situation would hold true for many other Southeast Alaskan products.

A high value-added, secondary manufacturing industry is market driven--based on quality and marketing to a far greater extent than is a commodity, production based industry, like pulp. Therefore, differences in shipping costs are far less significant. The quality of the individual product and the needs of the customer are paramount.

Southeast Alaska received \$110 million from Congress last year to help with problems in the timber industry. Now is the time to use that funding to effect a transition in the timber industry.

Your bill deprives us of one of our greatest strengths--the genius of the free-enterprise system. By decreeing who will get timber, and mandating price controls that have nothing to do with fair economic competition, your bill prevents free-market entrepreneurs in timber or other industries from establishing the most valuable and efficient use of Tongass resources, and at the same time cost American taxpayers a massive subsidy. This is a clear example of environment and development being compatible until distorted by a misguided and heavy-handed government subsidized program.

Conclusion.

By placing the needs of KPC above those of all other forest users, your bill threatens all other forest users, and the environment. Although billed as a contract "extension," the new, 23-year, taxpayer-subsidized contract L-P wants (and the bill provides) would be devastating for the Tongass National Forest. It would start right now and go at least until the year 2019. It would place L-P's corporate needs above the needs of any other forest user; give L-P rights over the Tongass it has never had before; threaten jobs in other Tongass-dependent industries, and make a mockery of balanced multiple use.

Your bill would roll back vital balanced-management reforms of the 1990 Tongass Timber Reform Act, undermine the National Forest Management Act as it applies to the Tongass, and make conservation of fish and wildlife habitat and protection of the world's largest remaining temperate rainforest secondary to the commercial exploitation of that forest. The bill rewards a major corporate polluter for violating pollution laws. Because it officially establishes one company as the major commercial user of the forest, and commits the government to keeping that company profitable, the bill squelches free enterprise and will likely halt the development of a new timber industry based on the free market and secondary manufacturing of wood products within

the region. The new timber industry would cut less and employ more Alaskans, while allowing for conservation of vital forest resources that complement rather than threaten other Tongass-dependent businesses.

By contractually enshrining L-P as the dominant user of the Tongass, this bill returns Southeast Alaska to the days of the timber barons. It is destructive to the environment and future generations. It should be rejected.

SOUTHEAST ALASKA CONSERVATION COUNCIL

**TESTIMONY BEFORE THE U.S. SENATE
ENERGY AND NATURAL RESOURCES COMMITTEE
JULY 10, 1996**

LIST OF ATTACHMENTS

- | | | |
|------------|---|--|
| ATTACHMENT | 1 | KPC's Threats to Close Its Mill, 1973-Present |
| ATTACHMENT | 2 | September 21, 1990 Letter from Owen Graham, KPC
Timber Manager, Complaining of Timber Shortages <u>Prior
to the Tongass Timber Reform Act</u> |
| ATTACHMENT | 3 | The Potential Economic Consequences of a Reduction in
Timber Supply from the Tongass National Forest
1996 Revised Report--Executive Summary |
| ATTACHMENT | 4 | "Seley Looks to Re-Open Mill in Thorne Bay," article in
Ketchikan Daily News, June 8-9, 1996 |

CORPORATE OUTLAW SEEKS NEW SWEETHEART DEAL

Since 1954, Ketchikan Pulp Company (KPC), a wholly-owned subsidiary of Louisiana Pacific Corporation, has owned exclusive rights to log timber on a substantial portion of the southern Tongass National Forest. In exchange for a guaranteed 50-year pulp timber supply at noncompetitive rates, KPC agreed to build and operate a pulp mill in Ketchikan until the contract expired by its terms in 2004.

Currently, KPC is seeking Congressional support for what it calls a 15-year "extension" of its monopolistic pulp contract. KPC's proposal, however, is not for an "extension" of its existing contract but a request for Congressional approval of a new, monopoly contract. The standard provision in Forest Service timber sale contracts permits an "extension" of that contract only if "purchaser's operations to date have been in reasonable compliance with contract terms." KPC's repeated violations of its pulp mill's air and water pollution discharge permits, which endanger the health and safety of Ketchikan residents, disqualify it from obtaining a contract "extension."

KPC claims it needs an "extension" so it can afford to spend the \$150 million needed to install pollution-prevention upgrades at its antiquated pulp mill. These upgrades are required under a 1995 criminal plea agreement between EPA and KPC, in which KPC pled guilty to violating its water quality permit by intentionally dumping toxic sludge into marine waters adjacent to its pulp mill. This criminal plea agreement is the most notorious example of KPC's chronic failure to live up to its contractual promise to "conduct its operations under this contract and other related business activities in compliance with Federal, State, and local statutes, standards, orders, permits, or other regulations."

Below are several examples of KPC holding local communities hostage by threatening mill closures over the last 23 years.

- In 1973, following the first attempts to implement basic environmental impact statement requirements, C. L. Cloudy of the Alaska Loggers Association warned that the requirements would cause "complete [pulp] mill shutdowns" and "shutdowns of the remaining sawmills in Southeast Alaska." (*Ketchikan Daily News*, April 19, 1973).
- On May 4, 1976, the *Ketchikan Daily News* headline screamed "KPC says it will close July 1, 1977." But as the paper explained the next day, the announcement "wasn't news. It was part of a publicity stunt." The paper criticized the pulp mill for issuing false alarms one week before EPA pollution hearings and shortly before employee negotiations were due to start. One editorial concluded "Ketchikan Pulp Co. is crying wolf and playing with the faith of thousands of people. God help it." (*Ketchikan Daily News*, May 5, 1976).
- During 1983 EPA hearings, officials from KPC said the cost of installing water pollution control equipment would force them to shut down. KPC said it would "consider both legal recourse and mill closure if the variance requests" were denied (*Southeastern Log*, December 1983).

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- In 1984, KPC's comptroller (later president) Martin Pihl claimed that if the Forest Service didn't reduce the price of timber and allow larger clearcuts, "we're all going to pack up and leave." (*Juneau Empire*, March 29, 1984).
- In 1992, EPA proposed much tighter pollution controls for KPC's pulp mill. KPC's President, Martin Pihl, claimed that the new pollution controls "would seriously threaten the survival of the mill, or any pulp mill anywhere." (*Ketchikan Daily News*, April 17, 1992).
- In early summer of 1993, KPC announced that it would shut down its pulp mill "in August for three months because it was running out of wood for pulp." (*Ketchikan Daily News*, August 6, 1993). However, KPC "delayed the temporary shutdown of its pulp mill until the week of Sept. 15 and says it will last just 30 days ... [because of the mill's] aggressive logging plan, along with purchases of pulp logs and chips throughout Southeast Alaska and Canada." (*Sitka Sentinel*, August 5, 1993).
- On June 26, 1995, the *Ketchikan Daily News* announced that KPC "says it will close its Ward Cove sawmill for an indefinite period starting Friday because it is running out of timber sold by the U.S. Forest Service." The same day it announced the closure of the sawmill, the *Ketchikan Daily News* contained a paid add by KPC, which offered to sell "approximately 3,000 board feet of red cedar and 2,000 board feet of Alaska yellow cedar during the third quarter of 1995." In fact, the decision to close the sawmill was a business decision driven by pulp prices that had more than doubled since 1994, and were then at or near their highest price ever. While pulp prices were exploding, the average market price for sawn timber dropped by 33 percent.
- On March 12, 1996, the *Ketchikan Daily News* reported that KPC would close its sawmills in Ketchikan and Metlakatla from late March until after Memorial Day because of "a shortage of timber." KPC's problem is not timber supply, but the cyclical, and recently volatile, nature of the international pulp market. In the same article, the Ketchikan Area Forest Supervisor expressed his personal opinion "that the current shutdown has more to do with market conditions than supply of logs" These shutdowns occurred despite KPC having access to 209 million board feet of Tongass timber as of March 24, 1996 -- well over a year's supply -- including roughly 87 million board feet that required no new roading. KPC's problem is that its monopoly contract has shielded it from competition for so long that now it has trouble competing with modern, lower-cost competitors on the international pulp market.

KPC has a long history of "crying wolf" with closure threats every time their logging operations are questioned. KPC has further threatened to pack up and leave unless EPA waived pulp mill pollution requirements or relaxed enforcement of water quality regulations.

KPC does not deserve any special treatment from Congress because it has repeatedly failed to act as a responsible corporate citizen. Any "extension" of KPC's monopoly would continue the environmental and economic problems caused by this exclusive, 50-year contract, and become one of the biggest heists of public resources since the days of the railroad robber barons.

File KPC 2450 DT

LP Ketchikan Pulp Company

A subsidiary of
Louisiana-Pacific Corporation

Post Office Box 6600
Ketchikan, Alaska 99901, U.S.A.
Telephone: 907-225-2151
Telefax: 907-225-8260

September 21, 1990

Mr. J. Michael Lunn
Forest Supervisor
U. S. Forest Service
Ketchikan Area
Federal Building
Ketchikan, Alaska 99901

USDA - FOREST SERVICE KETCHIKAN AREA			
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Dear Mike:

The five-year allotment of timber the Forest Service identified in the 89-94 EIS for our LTS appears to require about 360 miles of new construction to access the 960 mmbf.

Obviously, the roads must be built early enough in the five-year period to allow time for harvest. As you know, normally we consider six months of road constructed ahead of the logging the minimum, although two or more years ahead in some cases was necessary to keep construction costs (e.g. mobilization) to a reasonable amount. Indian Point is an example of an area where we had to build road two to three years ahead of the logging in order to avoid unreasonably costly remobilization. With relatively few opportunities for alternate means of mitigation to allow crossing fish streams outside the three-month fish timing "window", we now realistically need to maintain a minimum of 12 months of timber released ahead for road construction and six months of timber roaded ahead for logging. In any case, in order for you to offer the contractually required volume during the five year period the Forest Service must release all of the timber (960 mmbf) for construction and logging in not less than the first four years of the five year period and those releases must be distributed over those four years in a manner that will allow for the orderly construction of the roads required and also allow for a reasonably efficient logging operation (e.g., summer logging at high elevation, winter logging at low elevation).



In the period from October 1, 1989 through September 17, 1990 the Forest Service released only 139 mmbf for harvest. Our pipeline of timber released ahead has fallen from 79 mmbf on

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Mr. J. Michael Lunn
September 21, 1990
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October 1, 1989 to only 54 mmbf on September 17, 1990. Likewise, the volume prepared but not yet released has fallen from 73.1 mmbf on October 1, 1989 to 26.7 mmbf on September 17, 1990 (see Attachment "A").

The amount of timber available for us to harvest has become intolerably small. We have only a couple of months of timber roaded ahead and only a month of road released ahead of our construction crews. Through no fault of KPC, we have been forced to cut back our logging operations at Naukati, Labouchere, Coffman Cove and Thorne Bay. Many workers have been laid-off, and many of our construction crews have been able to work only intermittently all year. Our harvest costs have become unreasonably high this year because of the intermittent shutdowns caused by Forest Service failure to provide necessary timber volumes in a timely fashion, the reduced level of operations and the lack of planning opportunities available to us.

All of these operational problems are a result of not having sufficient timber prepared ahead to permit proper planning and management of our business. We had planned to harvest about 205 mmbf this year, but it is obvious now that we will not come close to that level. It appears more likely that we will be able to harvest about 175 mmbf. We have made an effort to replace this fiber loss with outside purchases. We have paid a premium for the additional fiber and we are still critically short. One or both of our sawmills will likely suffer considerable down time which could occur by late 1990 or early 1991. Furthermore, if the Forest Service does not get caught up with their sale preparation work immediately there is serious risk that our pulp mill will be without fiber in the fairly near future.

The Forest Service assured us at our May 10, 1990 meeting they would be back on schedule with our Annual Operating Plan by September. Instead, as of September 1990, the volume released was 238 mmbf behind what was approved in the Annual Operating Plans for 1989 and 1990 (see Attachment "B"). We request that you immediately investigate whatever possible Forest Service activities there may be that are contributing to this continuing problem of delayed releases. We request again that you take the steps necessary to get back on schedule immediately so that our company will not suffer further damages.


Another related problem is the fall-down in acreage and volume and economics from what was approved in the Record of Decision. Through September 1, 1990, the new units that have been

Mr. J. Michael Lunn
September 21, 1990
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released to us (not including residual timber) have averaged 21.1% less acreage than the ROD (see Attachment "C"). This has exacerbated our problem with volume released ahead to operate on and it has an extreme impact on our costs (e.g., road construction cost per mbf, mobilization cost per mbf, etc.). Further, if this trend is not reversed you may be forced to prepare a supplemental EIS to replace the lost volume.

Finally, I still have not been able to locate the source of a report to Mike Barton that indicated we are harvesting timber that averages better than 40 mbf per acre. The truth is that from March 1, 1989 through June 30, 1990, our harvest averaged 31.3 mbf per acre net + net utility or 28.2 net (Attachment "D"). If you or anyone else in the Forest Service disputes this calculation I would like to hear about it now! We are being given a deaf ear in the Juneau office. Perhaps updating them with the correct information would help alleviate this situation.

Sincerely,



O. J. Graham
Timber Division Manager

:ts

cc: M. R. Pihl

The Potential Economic Consequences of a Reduction in Timber Supply from the Tongass National Forest

1996 Revised Report

Prepared for:

The Alaska Rainforest Campaign

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December 1994

Revised June 1996

Executive Summary of 1996 Revised Report

In December 1994, ECONorthwest studied the economy of Southeast Alaska and concluded that a reduced timber supply from the Tongass National Forest would have a minor impact on the region's economy, and this impact would be confined largely to the timber industry. Our report documented that the timber industry represents a relatively small fraction of the region's total economy and that, since 1990, Southeast Alaska's economy had grown steadily even as the timber industry was shrinking. We found that the growth industries in the region are tourism, fishing, and trade, all of which may benefit from reduced logging. We discussed the unique importance of subsistence in Southeast Alaska, an economic and cultural activity which is directly harmed by logging. Finally, we noted that Southeast Alaska's experience was consistent with the Pacific Northwest, which has experienced significant growth in total employment as employment in the timber industry declined.

One year later ECONorthwest reviewed the latest economic data from Southeast Alaska. This data strongly reinforces the findings and conclusions described above. The region's total employment continues to climb as employment in the timber industry continues its downward trend. Between 1988 and 1995, total employment in Southeast Alaska increased at an average-annual rate of 2.2 percent, in refreshing contrast to the average-annual decline of almost 7 percent for employment in the region's lumber, wood products, and pulp industries. In 1995, those directly employed in the timber industry accounted for less than 6 percent of the region's total employment, and many of these workers were nonresidents.

Clearly, Southeast Alaska's economy is diverse and strong enough to absorb reductions in timber harvest yet keep growing. In fact, since 1988, employment and earnings have increased steadily in every sector of the region's economy except timber—construction, transportation, trade, and services, to name a few.

Fishing, tourism, and the quality of the natural environment contribute to the regional economy's diversity and strength. Reductions in logging may have a positive effect on these driving forces of economic growth. For example, in a report to Congress in 1995, the Alaska Region of the U.S. Forest Service concluded that existing measures of habitat protection are inadequate and greater protection is needed to avoid declines in salmon and steelhead runs. As another example we note that a 1995 report concluded that while the number of boat-based tourists in Southeast Alaska is increasing dramatically, the number of suitable anchorages has declined, in part, due to logging.

This updated report, like the original, does not attempt to assess the impacts of reduced logging on every community in Southeast Alaska. The focus of our analysis is on the regional economy of Southeast Alaska. We note, though, that much of the concern regarding the economic consequences of reduced logging on the Tongass National Forest focuses on the communities that derive substantial income from logging. One cannot fully describe the consequences to these communities, however, by looking at each community, or even the entire set of communities, in isolation from the regional economy. The economic well-being of every community adjacent to the Tongass is tied to, and cannot be separated from, economic activity of the regional economy.

Saturday-Sunday, June 8-9, 1996

Seley looks to reopen mill in Thorne Bay

By CATHY ST. JOHN
Daily News Staff Writer

Seaborne Lumber owner Steve Seley is considering relocating his now shut-down Ketchikan operations to Prince of Wales Island as part of a new \$5 million secondary manufacturing facility.

Seley is scheduled to present a proposal, which is in the early stages, to the Thorne Bay City Council on June 20, he said.

Seaborne Lumber's \$5.1 million mill closed April 27 due to a declining timber supply. Seley is especially interested in locating to the Thorne Bay area, as the prospects of a Gravina Island industrial site dim and POW growth continues, he said.

The proposal is to employ 60 workers, about four from Seley's shutdown Ketchikan operations. The remainder would be local hire, he said.

The plant would be designed to split its time between Seaborne's and other business's needs. Seley is looking at a "good, sound operation" that will allow added investment in the community by offering additional manufacturing for the smaller "mom-and-pop" operations, he said.

Seley would like to begin construction in spring 1997, but there's a lot of work ahead, including finding a fiber supply, he said.

He plans on two-thirds of his timber supply coming from U.S. Forest Service sales. The remainder would come from state timber sales, he said.

The facility will manufacture shop lumber, industrial clear boards and construction-grade products, which have a market in other parts of the

POW has always "extended open arms to the (timber) industry and jobs," he said.

The island has more beachfront property than Ketchikan and will probably surpass Ketchikan's population in the next 10 years, he said.

"Thorne Bay is also a good community of primary manufacturers," he said.

Seley would relocate his log merchandising and primary manufacturing equipment and remanufacturing plant. He plans to add a dry kiln and planer to the facility. A dry kiln reduces the moisture content of wood in preparation for further manufacturing, while the planer provides the final cut before sale.

state.

"There are a lot of users up north," he said.

Seley is scheduled to meet with Gov. Tony Knowles' staff next week to discuss how the project falls under a Knowles task force recommendation for a regional facility with value-added capabilities.

He is considering a site on the east coast of POW because it is strategic to the timber supply and because Thorne Bay has shown the most enthusiasm, said Seley.

The City of Thorne Bay had previously considered constructing a biomass plant to provide power and possible dry kilning for secondary manufacturing.

Mayor Kay McMaster said the city is very excited about the proposal.

"The city will do whatever it can do to accommodate (Seley) and facilitate the project," she said.

The city and City Council are also asking the state to create two 20-acre parcels for bid in its next sale of lots at

the Goose Creek subdivision in case Seley is interested in those lands, said McMaster.