

Committee Reports

101st Congress

House Rept. 101-931

101 H. Rpt. 931

TONGASS TIMBER REFORM ACT

DATE: October 23, 1990. Ordered to be printed

SPONSOR: Mr. Udall, from the committee of conference, submitted the following

R E P O R T  
CONFERENCE REPORT  
(To accompany H.R. 987)

TEXT:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 987) to amend the Alaska National Interest Lands Conservation Act, to designate certain lands in the Tongass National Forest as wilderness, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND DEFINITION.

(a) Short Title. This Act may be cited as the "Tongass Timber Reform Act".

TITLE I FOREST MANAGEMENT PROVISIONS

SEC. 101. TO REQUIRE ANNUAL APPROPRIATIONS FOR TIMBER  
MANAGEMENT ON THE TONGASS NATIONAL FOREST.

The Alaska National Interest Lands Conservation Act (Public Law 96-487, hereinafter referred to as "ANILCA") is hereby amended by deleting section 705(a) (16 U.S.C. 539d(a)) in its entirety and inserting in lieu thereof the following:

"Sec. 705. (a) Subject to appropriations, other applicable law, and the requirements of the National Forest Management Act of 1976 (Public Law 94-588), except as provided in subsection (d) of this section, the Secretary shall, to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest which (1) meets the annual market demand for timber from such forest and (2) meets the market demand from such forest for each planning cycle."

#### SEC. 102. IDENTIFICATION OF LANDS UNSUITABLE FOR TIMBER PRODUCTION.

ANILCA is further amended by deleting section 705(d) (16 U.S.C. 539d(d)) in its entirety and inserting in lieu thereof:

"(d) All provisions of section 6(k) of the National Forest Management Act of 1976 (16 U.S.C. 1604(k)) shall apply to the Tongass National Forest except that the Secretary need not consider economic factors in the identification of lands not suited for timber production."

#### SEC. 103. FISHERIES PROTECTION.

(a) Section 705 (16 U.S.C. 539d) of ANILCA is amended by adding at the end thereof the following new subsection:

"(e) In order to assure protection of riparian habitat, the Secretary shall maintain a buffer zone of no less than one hundred feet in width on each side of all Class I streams in the Tongass National Forest, and on those Class II streams which flow directly into a Class I stream, within which commercial timber harvesting shall be prohibited, except where independent national forest timber sales have already been sold prior to March 1, 1990, or where volume has been released prior to March 1, 1990, to either the Alaska Pulp Corporation or the Ketchikan Pulp Company pursuant to the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 respectively. If such an independent timber sale or released volume is within the buffer zone, the Secretary shall make every effort to relocate such independent sale or released volume to an area outside of the buffer zone. The Secretary shall use best management practices, as defined in the Region 10 Soil and Water Conservation Handbook (FSH 2509.22), January 1990, to assure the protection of riparian habitat on streams or portions of streams not protected by such buffer zones. For the purposes of this subsection, the terms class I streams and class II streams mean the same as they do in the Region 10 Aquatic Habitat Management Handbook (FSH 2609.24), June 1986."

(b) No later than one year after the date of enactment of this act, the Secretary of Agriculture, in consultation with the State of Alaska, the National Marine Fisheries Service, and affected private land owners, shall prepare and transmit to the Congress a study containing recommendations on the need, if any, to standardize riparian

management practices for Federal, State, and private lands within the Tongass National Forest.

#### SEC. 104. FUTURE REPORTS ON THE TONGASS NATIONAL FOREST AND CONSULTATION.

(a) Reports. Section 706(a) of ANILCA (16 U.S.C. 539e(a)) is amended by striking the second sentence. Section 706(b) of ANILCA (16 U.S.C. 539e(b)) is amended as follows: (1) Strike "and (4)" and insert in lieu thereof "(4)".

(2) Strike the period at the end of the subsection and insert ", and (5) the impact of timber management on subsistence resources, wildlife, and fisheries habitats."

(b) Consultation. Section 706(c) of ANILCA (16 U.S.C. 539e(c)) is amended by striking "and the Alaska Land Use Council" and inserting in lieu thereof "the southeast Alaska commercial fishing industry, and the Alaska Land Use Council."

#### SEC. 105. SMALL BUSINESS SET-ASIDE PROGRAMS.

(a) Section 14 (i)(1) of the National Forest Management Act of 1976 (16 U.S.C. 472a(i)(1)), is amended by striking the following: "road: Provided, That the provisions of this subsection shall not apply to sales of timber on National Forest System lands in the State of Alaska." and inserting in lieu thereof "road."

(b) Section 705 (16 U.S.C. 539d) of ANILCA is amended by adding at the end thereof the following new subsection:

"(f) Subject to appropriations, the provisions of this Act and other applicable law (including but not limited to the requirements of the National Forest Management Act of 1976 (Public Law 94-588)) and in order to assure the continuation of the Small Business Administration timber sale program, the Secretary shall, in consultation with the Administrator of the Small Business Administration and to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest to those purchasers qualifying as small business concerns under the Small Business Act as amended (15 U.S.C. 631 et seq.)."

(c) The provisions of subsections (a) and (b) of this section shall not apply to the purchase of timber within the Tongass National Forest pursuant to the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 between the United States and the Alaska Pulp Corporation, and between the United States and the Ketchikan Pulp Company, respectively.

#### SEC. 106. TENAKEE SPRINGS ROAD.

The Secretary of Agriculture shall not construct a vehicular access road connecting the Indian River and Game Creek roads, and shall not engage in any further efforts to connect the city of Tenakee Springs with the logging road system on Chichagof Island, unless the city councils of Tenakee Springs and Hoonah both determine that the road should be constructed and so inform the Secretary.

## TITLE II TONGASS NATIONAL FOREST LANDS PROTECTION

### SEC. 201. LUD II MANAGEMENT AREAS.

Title V of ANILCA is amended by adding at the end thereof the following new section:

#### "Sec. 508. LUD II MANAGEMENT AREAS.

"The following lands are hereby allocated to Land Use Designation II (UD II) as described in the Tongass National Forest Land Management Plan, completed March, 1979, and amended Winter 1985-1986, and shall be managed by the Secretary of Agriculture in perpetuity in accordance with such designation:

"(1) Yakutat forelands. Certain lands which comprise approximately 137,947 acres, as generally depicted on a map entitled Yakutat Forelands LUD II Management Area Proposed and dated March, 1990.

"(2) Berners bay. Certain lands which comprise approximately 46,000 acres, as generally depicted on a map entitled Berners Bay LUD II Management Area Proposed and dated May, 1989.

"(3) Anan creek. Certain lands which comprise approximately 38,415 acres, as generally depicted on a map entitled Anan Creek LUD II Management Area Proposed and dated October, 1990.

"(4) Kadashan. Certain lands which comprise approximately 33,641 acres, as generally depicted on a map entitled Kadashan LUD II Management Area Proposed and dated May, 1989.

"(5) Lisianski river/upper hoonah sound. Certain lands which comprise approximately 137,538 acres as generally depicted on a map entitled Lisianski River/Upper Hoonah Sound LUD II Management Area Proposed and dated October, 1990.

"(6) Mt. calder/mt. holbrook. Certain lands which comprise approximately 64,040 acres as generally depicted on a map entitled t. Calder/Mt. Holbrook LUD II Management Area Proposed and dated May, 1989 and t. Calder/Mt. Holbrook LUD II Addition, dated October, 1990.

"(7) Nutkwa. Certain lands which comprise approximately 28,118 acres as generally depicted on a map entitled Nutkwa LUD II Management Area Proposed and dated May, 1989.

"(8) Outside islands. Certain lands which comprise approximately 75,017 acres, as generally depicted on a map entitled Outside Islands LUD II Management Area Proposed and dated May, 1989.

"(9) Trap bay. Certain lands which comprise approximately 6,646 acres as generally depicted on a map entitled rap Bay LUD II Management Area Proposed and dated May, 1989

"(10) Point adolphus/mud bay. Certain lands which comprise approximately 113,326 acres, as generally depicted on a map entitled Point Adolphus/Mud Bay LUD II Management Area Proposed and dated October, 1990.

"(11) Naha. Certain lands which comprise approximately 31,794 acres, as generally depicted on a map entitled aha LUD II Management Area Proposed and dated October, 1990.

"(12) Salmon bay. Certain lands which comprise approximately 10,000 acres as generally depicted on a map entitled Salmon Bay LUD II Management Area Proposed and dated October, 1990."

## SEC. 202. WILDERNESS DESIGNATION.

Section 703 of ANILCA is amended by adding at the end thereof the following:

"(c) Designation of Additional Wilderness on the Tongass National Forest. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands within the Tongass National Forest in the State of Alaska are hereby designated as wilderness, subject to valid existing rights, and therefore as components of the National Wilderness Preservation System:

"(1) Pleasant/Lemusurier/inian islands. Certain lands which comprise approximately 23,140 acres, as generally depicted on a map entitled ongass Timber Moratorium Area Pleasant/Lemusurier/Inian Islands and dated February, 1989, which shall be known as the Pleasant/Lemusurier/Inian Islands Wilderness.

"(2) Young lake addition. Certain lands which comprise approximately 18,173 acres as generally depicted on a map entitled Tongass Timber Moratorium Area Young Lake and dated February, 1989, which shall be incorporated into and managed as a part of the Admiralty Island National Monument and as a part of the Kootznoowoo Wilderness. The Secretary of Agriculture shall make adjustments to the boundaries of the Admiralty Island National Monument and to the Kootznoowoo Wilderness as necessary to incorporate such lands.

"(3) South etolin island. Certain lands which comprise approximately 83,642 acres as generally depicted on a map entitled Tongass Timber Moratorium Area South Etolin Island dated February, 1989, which shall be known as the South Etolin Wilderness.

"(4) Chuck river. Certain lands which comprise approximately 72,503 acres, as generally depicted on a map entitled huck River Wilderness Proposed and dated October, 1990, which shall be known as the Chuck River Wilderness.

"(5) Karta river. Certain lands which comprise approximately 38,046 acres, as generally depicted on a map entitled ongass Timber Moratorium Area Karta River and dated February, 1989, which shall be known as the Karta River Wilderness.

"(6) Kuiu. Certain lands which comprise approximately 60,576 acres, as generally depicted on a map entitled uiu Wilderness Proposed and dated October, 1990, which shall be known as the Kuiu Wilderness."

#### SEC. 203. KADASHAN STUDY.

The Secretary shall complete, as part of the Tongass Land Management Plan revision process, in consultation with the State of Alaska, the City of Tenakee Springs, and other interested parties, a comprehensive study of the Kadashan LUD II Management Area as described in section 201(4). The Secretary shall submit a separate report of such study to the Committee on Energy and Natural Resources in the Senate and the Committee on Interior and Insular Affairs in the House of Representatives, which shall include, but not be limited to:

(a) an assessment of the natural, cultural, environmental, fish and wildlife (including habitat) resources and values of such area; and

(b) an assessment of the need for, potential uses, alternatives to and environmental impacts of providing a transportation corridor route through the Kadashan river valley.

#### TITLE III MODIFICATION OF LONG-TERM TIMBER SALE CONTRACTS IN SOUTHEAST ALASKA

##### SEC. 301. CONTRACT MODIFICATIONS.

(a) Definitions. As used in this section, the term "Secretary" means the Secretary of Agriculture. The term "TLMP" means the Tongass National Forest Land Management Plan, completed March, 1979, and amended Winter 1985-1986. The term "contracts" means the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 between the United States and the Alaska Pulp Corporation, and between the United States and the Ketchikan Pulp Company, respectively.

(b) Finding. The Congress hereby finds and declares that it is in the national interest to modify the 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.

(c) Unilateral Changes. The contracts are hereby modified to:

(1) assure that all timber sale planning, management requirements and environmental assessment procedures regarding the contracts are consistent with procedures for independent national forest timber sales, pursuant to the National Forest Management Act of 1976 (Public Law 94-588), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws;

(2) eliminate the practice of harvesting a disproportionate amount of old-growth timber by limiting the volume harvested over the rotation in volume classes 6 and 7, as defined in TLMP and supporting documents, so that the proportion of volume harvested in these classes within a contiguous management area does not exceed the proportion of volume currently represented by these classes within the management area;

(3) assure that all timber offered under each contract be substantially harvested within three years or the Secretary shall withhold further offerings pursuant to such contract, unless harvesting has been delayed by third-party litigation;

(4) assure that the Secretary determines the location and size of sale units and the timing of timber harvests;

(5) allow rejection of timber offered under the contracts. Upon rejection of any timber offered, the Secretary may re-offer such timber to any qualified bidder under independent national forest timber sales. If the rejected timber is subsequently sold within 12 months, that amount of timber shall be subtracted from the volume remaining under the appropriate contract;

(6) assure that utility logs offered under the contracts shall be counted against contract volume requirements. As used in this paragraph, the term "utility log" means the same as it does in the official Log Scaling and Grading Rules, Northwest Log Rules Advisory Group, January 1, 1982;

(7) assure that purchaser road credits are provided under the contracts in a manner consistent with independent national forest timber sale procedures;

(8) assure that the price of timber offered under the contracts shall be adjusted to be comparable with that of independent national forest timber sales, with stumpage rates and profitability criteria comparable to those of independent purchasers in competitive sales; and

(9) assure that timber offered under the contracts meets economic criteria consistent with that of independent national forest timber sales.

(d) Certification to Congress. Notwithstanding any other provision of law, the Secretary is directed to make the necessary revisions to the text of the contracts to reflect the modifications to such contracts made by subsection (c) of this section. The Secretary shall promptly, and in no event later than ninety days after the date of enactment of this Act, transmit the text of the modified contracts to the Congress together with a certification that these revisions are in compliance with the modifications made by subsection (c). Until such time as the Secretary transmits the text of the modified contracts to the Congress, but no later than ninety days after the date of enactment of this Act, the Secretary is authorized to conduct timber sale operations on the Tongass National Forest in accordance with the provisions of the contracts as they existed on the day before the date of enactment of this Act. At such time as the Secretary transmits the modified contracts to Congress, or ninety days after the date of enactment of this Act, whichever is sooner, the Secretary shall conduct timber sale operations on the Tongass National Forest only in accordance with the provisions of the modified contracts.

(e) Study. Within one year after the date of enactment of this Act, the Secretary shall transmit a study to the Committee on Energy and Natural Resources in the Senate and to the Committee on Interior and Insular Affairs in the House of Representatives which includes the following:

(1) an assessment of whether the Secretary can meet the provisions of the National Forest Management Act of 1976 (Public Law 94-588), the Multiple-Use Sustained Yield Act of 1960 (16 U.S.C. 528 et seq.) and other laws applicable to the management of the national forests while providing the volume of timber required by the modified contracts. In conjunction with such assessment, the Secretary shall also provide such recommendations as the Secretary deems appropriate regarding reductions in the volume of timber required by the modified contracts.

(2) an analysis of the potential impacts of eliminating the two contract areas provided for in the modified contracts, including, but not limited to, an assessment of the following factors:

(A) the effect on supply and demand, and price of timber within Southeast Alaska;

(B) effects on the availability of timber to purchasers of independent timber sales;

(C) effects on the availability of timber to the owners of the modified contracts; and

(D) effects on fish and wildlife and other non-commodity resources within the Tongass National Forest.

(f) The Secretary shall take such other actions in management of the Tongass National Forest as may be necessary to meet the provisions of subsection (c).

(g) GAO Audit. The Comptroller General of the United States shall, on a continuing basis, audit the actions taken by the Secretary to revise the text of the contracts pursuant to the modifications made pursuant to subsection (c). Within thirty days after the Secretary's transmittal of the contracts and certification to the Energy and Natural Resources in the Senate and to the Committee on Interior and Insular Affairs in the House of Representatives, and in no event later than one hundred and twenty days after the date of enactment of this Act, the Comptroller General shall submit a report to such Committees describing the revisions made by the Secretary to the contracts and stating whether, in the opinion of the Comptroller General, the revised contracts are in compliance with the requirements of this section.

#### TITLE IV HAIDA LAND SELECTIONS

##### SEC. 401. HAIDA LAND EXCHANGE ACT AMENDMENT.

The Haida Land Exchange Act of 1986 (Public Law 99-664) is hereby amended by adding the following new section at the end thereof:

##### "SEC. 12. SULZER FRONTAGE LANDS SELECTION.

"(a) Withdrawal. The following lands are withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act (Public Law 85-508) as amended:

"Copper River Meridian

"Township 76 South, Range 85 East

"Section 16: South half south half, northwest quarter southwest quarter.

"Section 17: West half, southeast quarter, south half northeast quarter.

"Section 18: Fractional.

"Section 19: North half northeast quarter, southeast quarter northeast quarter, northeast quarter northwest quarter.

"Section 20: North half, north half southeast quarter, southeast quarter southeast quarter.

"Section 21: All.

"Section 22: South half, south half north half, fractional.

"Section 23: South half, fractional.

"Section 24: South half, fractional.

"Section 25: All, excluding islets.

"Section 26: North half, north half southeast quarter, fractional.

"Section 27: East half, east half west half, northwest quarter northwest quarter, southwest quarter southwest quarter.

"Section 28: Northeast quarter northeast quarter, southeast quarter southeast quarter.

"Section 31: Southwest quarter, west half southeast quarter.

"Township 76 South, Range 86 East

"Section 30: Southwest quarter, including all fractional lands on west shore of Big Creek Bay.

"Section 31: East half west half, southwest quarter southeast quarter, northwest quarter southeast quarter.

"Township 77 South, Range 86 East

"Section 2: North half, southeast quarter, north half southwest quarter.

"(b) Selection. (1) For a period of one year after the date of enactment of this section, Haida Corporation shall be entitled to select lands from among those lands withdrawn pursuant to subsection (a). Haida Corporation shall notify the Secretary of the Interior which lands so withdrawn Haida Corporation wishes to select and shall designate which Haida Exchange Lands and/or outstanding selection rights under section 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1615) Haida Corporation intends to exchange or relinquish in return for its selections hereunder.

"(2) The exchange of lands selected by Haida Corporation pursuant to this subsection for Haida Exchange Lands or selection rights under section 16 of the Alaska Native Claims Settlement Act shall be on an acre-for-acre basis. The conveyance of lands to Haida Corporation and Sealaska pursuant to this subsection shall be deemed a conveyance of lands pursuant to the Alaska Native Claims Settlement Act.

"(3) After the selection is made pursuant to paragraph (1), the surface estate in lands selected by Haida Corporation shall be conveyed to Haida Corporation subject to valid existing rights and the subsurface estate in such lands shall be conveyed to Sealaska Corporation subject to valid existing rights in partial fulfillment of such corporations entitlement under the Alaska Native Claims Settlement Act and pursuant to the provisions of that Act: Provided, That the United States shall reserve the recorded

existing easement, three hundred feet in total width on the Sulzer Portage trail between Cholmondley Sound and Hetta Inlet: Provided however, That timber occurring within those portions of the easement boundaries that traverse lands owned by Haida Corporation shall remain the property of Haida Corporation. The Secretary of Agriculture shall allow the State of Alaska use of such easement for a transportation corridor.

"(c) Duration. The withdrawal made pursuant to subsection (a) shall terminate ninety days after the United States has conveyed the surface and subsurface estates of all lands selected by Haida Corporation pursuant to subsection (b) to Haida Corporation and Sealaska Corporation respectively, or one year after the date of enactment of this section, whichever is later.

"(d) Prohibition. Haida Corporation shall not be entitled to select lands pursuant to this Act or section 16 of the Alaska Native Claims Settlement Act in the area referred to in section 508(7) of the Alaska National Interest Lands Conservation Act."

## TITLE V MISCELLANEOUS PROVISIONS

### SEC. 501. POTENTIAL ACQUISITION OF PREVIOUSLY HARVESTED LANDS.

(a) No later than one year after the date of enactment of this Act, the Secretary shall complete a study regarding the feasibility of acquiring private lands located within the boundary of the Tongass National Forest, which have been significantly harvested. Such study shall include, but not be limited to:

- (1) a description of such lands;
- (2) a status report regarding the ownership of such lands;
- (3) an assessment of the suitability of such lands for future timber management, including potential timber production;
- (4) an assessment of other present and future resource values associated with such lands;  
and
- (5) an estimate of the cost of acquiring such lands.

(b) Upon completion of the study, the Secretary shall transmit it to the Committee on Energy and Natural Resources of the Senate and Committee on Interior and Insular Affairs of the House of Representatives.

### SEC. 502. LAKE FLORENCE NEGOTIATIONS.

During the sixty-day period beginning on the date of enactment of this Act, the Secretary is directed to engage in expedited negotiations with Shee Atika, Inc., Atikon, Inc., and Sealeaska for independent voluntary exchange agreements through which the United

States would acquire all of the surface estate or all of the surface and subsurface estates held by these private parties in the Lake Florence, Lake Kathleen, and Wards Creek drainages of Admiralty Island. The first priority of such negotiations shall be acquisition of the Lake Florence drainage.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

And the Senate agree to the same.

Conferees from the Committee on Interior and Insular Affairs for consideration of the House bill, and the Senate amendment, and modifications committed to conference.

Morris K. Udall,

George Miller,

Phil Sharp,

Ed Markey,

Nick Rahall,

Bruce F. Vento,

Sam Gydenson,

Peter H. Kostmayer.

Additional conferee, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

Robert J. Mrazek.

Conferees from the Committee on Agriculture for consideration of titles I, II, and IV of the House bill, and titles I and III and sec. 402 of the Senate amendment, and modifications committed to conference:

E de la Garza,

Harold L. Volkmer,

Sid Morrison,  
Managers on the Part of the House.

J. Bennett Johnson,

Dale Bumpers,

Wendell Ford,

Bill Bradley,

Timothy E. Wirth,  
Managers on the Part of the Senate.

#### JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers of the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 987) to amend the Alaska National Interest Lands Conservation Act, to designate certain lands in the Tongass National Forest as wilderness, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and Senate amendment. The differences between the House bill and the Senate amendment, and the substitute agreed to in conference are noted below.

#### Section 1. Short Title and Definitions

This Act may be cited as the "Tongass Timber Reform Act".

title i forest management provisions

Section 101. To require annual appropriations for timber management on the Tongass National Forest.

Section 101 of the Senate amendment deletes section 705(a) of the Alaska National Interest Lands Conservation Act ("ANILCA") which directs that at least \$40 million annually be made available to support a timber supply from the Tongass National Forest at a rate of 4.5 billion board feet of timber per decade. The Senate amendment replaces the deleted section with a new section 705(a) which directs the Secretary of Agriculture ("Secretary") to seek to provide a supply of timber from the Tongass National Forest which meets the market demand for timber, subject to the appropriations process, the requirements of the National Forest Management Act of 1976 ("NFMA"), and all other applicable laws.

Section 101 of the House bill repeals section 705(a) of ANILCA, eliminating both the requirement that the Forest Service make available 4.5 billion board feet of timber from the Tongass per decade and the permanent appropriation of at least \$40 million to supply timber.

The Conference substitute generally adopts the format of the Senate amendment, but adds the qualification that the Secretary shall "seek to meet" market demand for timber "to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources." The phrase "renewable forest resource" includes fish and wildlife and is intended to encompass commercial, recreational and subsistence use of such resources.

#### Section 102. Identification of lands unsuitable for timber production

Section 102 of the Senate amendment amends section 705(d) of ANILCA. ANILCA section 705(d) provides the Tongass an exemption from the provisions of section 6(k) of NFMA. Section 6(k) requires the Secretary to identify lands not suitable for timber production for each national forest considering physical, economic, and other factors, and to prohibit timber harvesting on such lands for the duration of the planning period. The Senate amendment directs that all provisions of section 6(k) of NFMA shall apply to the Tongass except that economic factors need not be considered in suitability analysis.

Section 102 of the House bill repeals section 705(d) of ANILCA, thus eliminating the exemption from section 6(k) suitability requirements for the Tongass.

The Conference substitute adopts the Senate language on section 705(d). The Conferees intend for this exemption to apply only to section 6(k) and fully expect that the Forest Service will meet all other requirements of NFMA and other applicable law relating to the consideration of economic factors in land management planning for the Tongass.

#### Section 103. Fisheries protection

Section 103 of the Senate amendment requires that a minimum 100 foot "no commercial timber harvest" buffer zone be maintained on each side of anadromous streams and tributaries with resident fish populations, consistent with the definitions of Class I and Class II streams in the Region 10, Aquatic Habitat Management Handbook, (FSH 2609.24), June 1986. Best management practices will be required for other tributaries.

Section 104(a) of the House bill would require the Forest Service to maintain a non-logging buffer zone of a minimum of 100 feet on each side of all anadromous (Class I) streams, tributaries with resident fish (Class II) and other significant, tributaries which directly influence downstream fish habitat (Class III).

The Conference substitute adopts the Senate language. The clear intent of the buffer zones established by this section is to protect riparian habitat.

The Senate amendment also includes a provision (section 402) which directs the Secretary, within one year and in consultation with other interested parties, to prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House, a study on the need, if there is one, to standardize riparian management practices with regard to Federal, State and private lands on the Tongass National Forest.

The House bill contains no such provision.

The Conference substitute adopts the Senate provision (section 103(b)) with an addition of the National Marine Fisheries Service as one of the parties to be consulted with during the preparation of the study.

#### Section 104. Future reports on the Tongass National Forest and consultation

Section 104 of the Senate amendment deletes the reference to the 4.5 billion board feet mandated timber supply level from the reporting requirements of section 706(a) of ANILCA.

Section 103(a) of the House bill amends section 706(a) of ANILCA to require that gains or losses sustained by the United States Government from Tongass timber sales be reported annually using information from the Timber Sale Information Reporting System. Section 103(b) of the House bill amends section 706(b) of ANILCA to require that the Forest Services biannual review and report to Congress on the status of the Tongass be expanded to include specific attention to the impacts of timber harvest on subsistence, wildlife and fisheries habitats. Section 706(c) also amends section 706(c) of ANILCA to require that the Forest Service consult with Southeast Alaska commercial fishing organizations in preparing status reports to Congress.

The Conference substitute deletes the reference to the 4.5 billion board feet in section 706(a) of ANILCA and amends section 706(b) to incorporate House language on section 706(b) reporting requirements.

#### Section 105. Small business set-aside programs

Section 105 of the Senate amendment makes two changes which affect the small business timber sale program on the Tongass. Subsection (a) amends section 14(i) of NFMA to allow small business timber purchasers in Alaska to elect to have the Forest Service construct logging roads on awarded timber sales. Presently, small business purchasers in all States other than Alaska may refuse purchaser credits and elect to have the Forest Service construct necessary roads.

Subsection (b) of the Senate amendment adds a new subsection (f) to section 705 of ANILCA to direct the Secretary to "seek to meet" the demand for timber from the Tongass by small businesses. This provision is made subject to the appropriations process and the constraints of the NFMA and all other applicable laws.

The House bill has no similar provisions.

The Conference substitute adopts the Senate language with three modifications. First, the Secretary is directed to consult with the Administrator of the Small Business Administration. Second, the qualification is added to section 105(b) that the Secretary shall seek to supply Tongass timber to small businesses "to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources." Third, section 105(c) is added to clarify that the provisions relating to small businesses shall not apply to the long-term contracts in the Tongass.

#### Section 106. Tenakee Springs Road

The Senate amendment has no similar provision.

Section 104(b) of the House bill prohibits the Secretary of Agriculture from connecting the city of Tenakee Springs with the logging road system on Chicago Island.

The Conference substitute adopts the House language with the additional proviso that, at some future time, if both the city councils of Tenakee Springs and Hoonah decide that such a road connection is desired, the Secretary may resume efforts to connect the Indian River and Game Creek roads.

#### Title ii Tongass National Forest Lands Protection

##### Section 201. LUD II Management Areas

Title II of the Senate amendment adds a new section 508 to ANILCA to provide that 12 areas of the Tongass, comprising approximately 673,000 acres, are to be managed in perpetuity in accordance with Land Use Designation II ("LUD II"). The 12 areas were chosen for special management because of their critical importance for fish and wildlife habitat and their high value to tourism and recreation. The specific management criteria for LUD II areas, as defined in the Tongass Land Management Plan, completed March, 1979, and amended Winter 1985-1986 (pp. 8-9) are as follows:

"(1) Purpose: Areas allocated to LUD II are to be managed in a roadless State to retain wildland character, but this would permit wildlife and fish habitat improvement and primitive recreational facility development.

"(2) Management Implications: Commercial timber harvesting is not permitted. Timber can be salvaged only to prevent significant damage to other resources. Examples are removal of windfall in an important fish stream or control of an epidemic insect infestation.

"Personal use of wood is allowed for cabin logs, firewood, float logs, trolling poles, and other similar uses.

"Water and power developments are permitted if they can be designed to retain the overall primitive characteristics of the allocated area.

"Roads will not be built except to serve authorized activities such as mining, power and water developments, aquaculture developments, transportation needs determined by the State of Alaska, and vital Forest transportation system linkages.

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1 "Vital Forest transportation system linkages refer to necessary additions to the permanent road network. Such linkages may be built through LUD II areas when either no other feasible land or water routes exist to access adjacent LUD III or LUD IV areas or when it can be demonstrated that the routing through the LUD II area is clearly environmentally preferable and site-specific mitigation measures can be designed to minimize the impact of the road on the surrounding LUD II area. A clear need to build such linkages must be demonstrated through a comparative analysis of transportation alternatives through the NEPA process and must be approved by the Forest Supervisor, in consultation with other Tongass Forest Supervisors."

"Mineral Development is subject to existing laws and regulations.

"Use of snow machines, motorboats and airplanes on freshwater is permitted; however, restrictions may be imposed on a case by case basis if such use becomes excessive.

"Permanent improvements such as fishways, fish hatcheries, or aquaculture sites may be built. Appropriate landscape management techniques will be applied in the design and construction of such improvements to minimize impacts on recreational resources.

"Major concentrated recreational facilities will generally be excluded."

Title III of the House bill amends section 703 of ANILCA to designate 23 areas of the Tongass, comprising approximately 1.8 million acres, as additional components of the National Wilderness Preservation System.

The conference substitute adds a new section 508 to ANILCA which provides that 12 areas of the Tongass, comprising approximately 722,482 acres, shall be permanently protected as LUD II Management Areas. Six areas, comprising approximately 299,152 acres, are designated wilderness. In total, the conference substitute permanently protects 18 areas of the Tongass, comprising approximately 1,108,562 acres, from commercial timber harvest.

The following areas are protected by the Conference substitute pursuant to the LUD II management designation: The designation "VCU" refers to the 867 specific "Value Comparison Units" identified in the Tongass Land Management Plan.

1. Yakutat Forelands (137,947 acres) (VCUs 378 (partial), 379, 382-384, 386-389);

2. Berners Bay (46,000 acres) (partial VCU 12, 13, 16, and all of 17);
3. Anan Creek (38,415 acres) (VCU 522);
4. Kadashan (33,641 acres) (VCU 235);
5. Lisianski River/Upper Hoonah Sound (137,538 acres) (VCUs 247-249, 250-252, 262, 282, 283, 285, 286);
6. Mt. Calder/Mt. Holbrook (64,040 acres) (partial VCUs 416, 417, 528, 531, 536, 541, 542, 547, 549, and all of 548);
7. Nutkwa (28,118 acres) (VCU 685 (1/3) and 686);
8. Outside Islands (75,017 acres) (VCUs 567-569);
9. Trap Bay (6,646 acres) (VCU 237);
10. Point Adolphus/Mud Bay (113,326 acres) (VCUs 189-192, 193 (1/2), 194 (1/2), and 195 (3/4));
11. Naha (31,794 acres) (VCU 742);
12. Salmon Bay (10,000 acres) (partial VCV 534).

#### Section 202. Wilderness designation

The following areas are designated as wilderness by the Conference substitute and added to the National Wilderness Preservation System:

1. Pleasant-Lemusurier-Inian Islands (23,140 acres) (VCUs 185, 186, and 187 (1/2));
2. Young Lake Addition to Admiralty Island National Monument (18,173 acres) (VCUs 133);
3. South Etolin (83,642 acres) (VCUs 471-474);
4. Chuck River (72,503 acres) (VCUs 66, 71, and 76);
5. Karta River (38,046 acres) (VCUs 605-608);
6. Kuiu (60,576 acres) (408, 409, and 415).

#### Section 203. Kadashan study

The Senate amendment protected the Kadashan as a LUD II Management Area.

The House bill designates Kadashan as wilderness.

The Conference substitute provides for LUD II designation for Kadashan and requires the Secretary, as part of the TLMP revision process, to prepare a report for Congress on the fish and wildlife resources and the need for and alternatives to a road through the Kadashan river valley.

title iii modification of long-term timber sale contracts in alaska. Section 301. Contract modifications

Section 301(b) of the Senate amendment sets forth a Congressional finding that it is in the national interest to modify the long-term timber contracts with the Alaska Pulp Corporation and the Ketchikan Pulp Company in order to assure that valuable public resources in the Tongass National Forest are protected and wisely managed and in order to promote fair competition. Section 301(c) legislatively modifies the two long-term contracts for Tongass timber, consistent with eight specific reform directives. Section 301(d) directs the Secretary to change the literal text of the contracts to conform with the legislative modifications and to submit the revised contracts to Congress no later than 90 days after the date of enactment. After the 90-day time period, the Secretary may conduct timber operations only under the modified contracts, and has no authority to operate under the contracts as they existed prior to the date of enactment.

Title II of the House bill provides for the termination of the two long-term timber contracts and the substitution of short-term timber sales.

Title III of the Conference substitute adopts the Senate language with several amendments intended to modify the contracts to resemble, to the greatest possible degree, short-term, independent national forest timber sales.

Section 301(c)(1) ensures that all timber sale planning, management requirements and environmental assessment procedures regarding the contracts are consistent with such procedures for independent national forests timber sales.

Paragraph (2) prohibits harvesting a disproportionate amount of high-volume old-growth timber. This provision assures that the higher volume classes can be harvested only in proportion to the extent that they currently exist within the timber base of a management area.

Paragraph (3) prohibits the Secretary from offering additional timber to the long term contract holders unless they have substantially harvested all the timber previously released with a 3-year period. This is 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.

Paragraph (4) requires the Secretary to determine the location, size, and timing of timber harvests pursuant to the contracts.

Paragraph (5) allows the contract holders to reject timber offered under the contracts, but subtracts the volume remaining under the appropriate contract if the rejected timber is sold within 12 months to any qualified bidder.

Paragraph (6) provides that utility logs offered under the long term contracts be counted against the contract volume requirements.

Paragraph (7) directs that purchaser road credits will be provided to the long-term contract holders in a manner consistent with independent national forest timber sales.

Paragraph (8) assures that the price of timber offered under the contracts shall be adjusted to be comparable to the price of timber received from competitively bid, independent national forest sales.

Paragraph (9) assures that timber offered under the contracts meets any economic criteria which is consistent with the timber offered to short-term purchasers.

Section 301(e) of the Conference substitute requires that the Secretary, within 1 year, complete an assessment for Congress of (1) whether providing the volume of timber required under the contracts is inconsistent with other multiple uses of the Tongass and (2) the potential impacts of eliminating the two contract areas.

Section 301(f) of the Conference substitute requires the Secretary to take other actions necessary, beyond modifying the contracts, to bring management of the Tongass into conformance with this section.

Section 301(g) of the Conference substitute directs the Comptroller General to audit, on a continuing basis, the actions taken by the Secretary to revise the text of the contracts and to submit a report and recommendations concerning the revised contracts to the Committee on Energy and Natural Resources in the Senate and the Committee on Interior and Insular Affairs in the House.

#### TITLE IV HAIDA LAND SELECTIONS

##### Section 401. Haida land exchange amendment

Title IV of the Senate amendment amends the Haida Exchange Act of 1986 by adding a new section 12, which provides for the withdrawal of approximately 5,800 acres of national forest land in the Sultzer Portage area. This entitles Haida Corporation to select from among those lands described in the section for a period of 1 year after the date of enactment of this Act. It also directs Haida to notify the Secretary of the Interior as to which lands it selects, and which selection rights it intends to relinquish in return for such selections.

The House bill has no similar provision.

The Conference substitute adopts the Senate language with technical amendments to reserve to the U.S. a 300-foot easement and to preclude additional Haida selections in the Nutkwa LUD II Management Area.

#### TITLE V MISCELLANEOUS PROVISIONS Section 501. Potential acquisition of previously harvested lands

Section 501 of the Senate amendment includes a provision directing the Secretary to make an offer to the Goldbelt Corporation to enter into a land exchange agreement whereby the United States would acquire approximately 1,151 acres of lands and interests in land from Goldbelt in exchange for approximately 2,600 acres of federally owned lands and interests therein which would be conveyed to Goldbelt.

The House bill contains no such provision.

The Conference substitute adopts the House position and deletes the Goldbelt provision. The Conferees did adopt language (section 501) directing the Secretary to prepare and transmit a study regarding the potential acquisition by the Federal Government of previously harvested private lands in the Tongass National Forest. While this study does not provide the Secretary or any other party with any additional authority to acquire these lands, the report will give the Congress additional information regarding the availability of such lands, their cost, and their potential for future timber production as well as other values.

#### Section 502. Lake Florence Negotiations

The Senate amendment contains a Title VI regarding land exchange negotiations. Section 601(a) includes language directing the Secretary to engage in negotiations aimed at completion of a voluntary exchange agreement whereby the United States would acquire certain lands held by Sealaska Corporation in the Tongass in exchange for federally owned subsurface rights in the Greens Creek area of Admiralty Island National Monument. Within sixty days after the date of enactment of this Act, the Secretary is to make a recommendation to Congress as to whether such an exchange should or should not be made and under what terms and conditions.

Subsection (b) of the Senate amendment directs the Secretary, during the same 60-day period, to enter into expedited negotiations with Shee Atika, Inc., Atikon, Inc., and Sealaska, Inc., for voluntary exchange agreements through which the United States would acquire land or interest in lands, as appropriate, held by these parties in the Lake Florence, Lake Kathleen, and Wards Creek drainages of Admiralty Island. The first priority for such negotiations is to be the acquisition of the Lake Florence drainage.

The House bill contained no such provisions.

The Conference substitute adopts the House position with respect to the Greens Creek exchange and deletes the provision. The substitute retains the Senate provision (section 502) regarding the acquisition of Lake Florence or other Admiralty Island lands or interests in lands.

Conferees from the Committee on Interior and Insular Affairs for consideration of the House bill, and the Senate amendment, and modifications committed to conference.

Morris K. Udall,

George Miller,

Phil Sharp,

Ed Markey,

Nick Rahall,

Bruce F. Vento,

Sam Gydenson,

Peter H. Kostmayer.

Additional conferee, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

Robert J. Mrazek.

Conferees from the Committee on Agriculture for consideration of titles I, II, and IV of the House bill, and titles I and III and sec. 402 of the Senate amendment, and modifications committed to conference:

E de la Garza,

Harold L. Volkmer,

Sid Morrison,  
Managers on the Part of the House.

J. Bennett Johnston,

Dale Bumpers,

Wendell Ford,

Bill Bradley,

Timothy W. Wirth,  
Managers on the Part of the Senate.