Chapter 42

Sold for a dollar

The aluminum plant in Columbia Falls was built by the Anaconda Company after the Harvey Machine Co. lined up key government assurances but failed to obtain the needed financing to complete the deal. By the 1970s, the Anaconda Company faced a number of serious challenges – the loss of its valuable copper mines in Chile, air pollution lawsuits and an expensive plant-wide upgrade at its Columbia Falls smelter to meet state emission standards, and metal market and power uncertainties. The Atlantic Richfield Co. bought the vulnerable mining giant but soon realized it didn't really want to be in the metals business. As ARCO sold off its Anaconda assets, two corporate insiders with the know-how to pull off a takeover came in and rescued the Columbia Falls smelter from the scrap heap. The deal depended on finding solutions to the continuing corporate concerns of raw material supply, metal sales, labor costs and taxes. The answers were tolling, profit-sharing and politics.

"The 1980s were turbulent for the domestic nonferrous metals industries," the U.S. Office of Technology Assessment reported to the Subcommittee on Mineral Resources Development and Production of the U.S. Senate Committee on Energy and Natural Resources in September 1990. "Many mines and plants were closed during the decade because of a variety of factors, including aging facilities, environmental regulations and low metals prices. The corporate structures of the industries also changed drastically as companies bought, sold and merged businesses in order to become more competitive." The last new aluminum smelter to be built in the U.S. was the Mt. Holly plant in South Carolina, which opened in 1980. Over the next 10 years, about 20% of U.S. aluminum smelting capacity closed. The four major U.S. aluminum companies expanded primary smelting overseas and emphasized their fabrication businesses in the U.S. The aluminum market in the U.S. started on a good note at the beginning of the 1980s – production was high, at 4.7 million tons per year, and prices were high compared to the late 1970s, at 76 cents per pound. But the market cycled up and down through the 1980s, fluctuating between 47 cents and 76 cents per pound during 1980-1987 before climbing to $1.10 in 1988 and 89 cents in 1989. [1]

U.S. aluminum production also fluctuated during the 1980s, the Office of Technology Assessment reported, but it never rose above the 1980 level. Production in the U.S. fell to 3.3 million tons per year in 1982 to 1983 and to 3 million tons in 1986 before increasing to 4 million tons in 1988 to 1989. The increase in the secondary production market – old and new scrap – was significant, increasing about 40% over the decade and

amounting to about one-third of total U.S. aluminum production for the decade. Aluminum consumption in the U.S. also fluctuated in the 1980s, falling from 6.1 million tons in 1980 to 5.3 million tons in 1982, and fluctuating between 6 million and 6.7 million tons during the rest of the decade. In the nonsocialist countries outside the U.S., aluminum production increased steadily following the 1982 recession. By 1988, primary production increased by 8% to 13.8 million tons, secondary production increased 40% to 5.4 million tons and consumption increased 27% to 19.8 million tons. Meanwhile, aluminum companies opened and closed plants and changed ownership – four alumina refineries and 10 aluminum smelters in the U.S. closed during the 1980s. Many U.S. aluminum plants closed temporarily during the decade. All of the U.S. refineries and smelters that closed permanently were in the southern U.S. – Texas, Louisiana, Alabama, Arkansas and Tennessee. From 1980 to 1988, U.S. alumina refinery capacity declined 29% to 5.1 million tons and aluminum smelter capacity declined 20% to 4 million tons. [2]

Reynolds Metals, for example, permanently closed its 184,000 ton-per-year smelter at Listerhill, Ala., in 1966 for high power cost reasons. In 1984, Reynolds permanently closed a 103,000 ton-per-year smelter at Corpus Christi, Texas, that had been shut down since the mid-1970s because of high prices for the natural gas used to generate power for the plant. On Nov. 26, 1985, Reynolds permanently closed its 68,000 ton-per-year smelter at Arkadelphia, Ark., and its 125,000 ton-per-year smelter at Jones Mills, Ark., for high power cost reasons. The closures in Arkansas left the company with 968,000 tons of smelting capacity. The company had been running at about 72% capacity. To replace that lost production, Reynolds turned to investments in Canada starting in 1982. [3]

The new investors

The aluminum market was not good for the ARCO-owned aluminum smelter in Columbia Falls in the early 1980s. Aluminum prices were low and electricity prices were high. The Atlantic Richfield Co. announced it might sell the plant which set off a major effort by the local community to save the plant. [4] There were no interested buyers when ARCO began to back out of the metals business, and rumors began to spread at the plant and in the community that the plant would be closed and sold for scrap. At that point, managers at the plant persuaded Brack Duker, ARCO's vice-president in charge of selling corporate assets, to take a closer look. One problem facing the plant was that it had a contract to purchase alumina from ARCO at a price that was above the prevailing market price. Duker organized the Montana Aluminum Investors Corporation, secured a commitment for operating capital from the Montana Board of Investment, and persuaded ARCO to sell him the plant for one dollar. Duker got out from under the

ARCO alumina contracts by negotiating tolling contracts with other customers. As CFAC President Tom Hodson recalled in 1995, "The tolling business did not exist in this industry prior to 1985. It was new to this industry." To increase plant efficiency, Duker asked union workers to accept wage and benefit cuts and to reduce employment at the plant by one third. In exchange, Duker pledged to split future corporate profits 50-50 with the employees. The union at first rejected the contract by a narrow margin but reversed themselves on a second vote after Duker said he wouldn't go through with the plant takeover. From 1985 through 1991, the plant's employees shared $84 million in profits as world aluminum prices climbed from an average of 81 cents per pound in 1985 to $1.10 per pound in 1988. [5]

In 1985, Brack Duker was ARCO's vice-president of special asset transactions, specifically in charge of buying and selling companies for ARCO – including disposing of former-Anaconda Company holdings in Montana. Duker had studied finance at the University of Illinois before holding finance and executive positions at Motorola. He then spent five years in the venture capital business before joining ARCO in 1976 to coordinate the company's oil activities on the North Slope of Alaska. [6] His partner in the Columbia Falls smelter was Jerome Broussard, a man with experience in bauxite mining, alumina refining and aluminum smelting. Broussard was born in St. Martinville, La., a "picturesque Cajun community" where he hunted and fished as a youth and his father worked as an attorney. In high school, he excelled in math and science and thought about becoming a physicist, but on the recommendation of an uncle, he went to the Colorado School of Mines in Golden, Colo., graduating with a degree in metallurgical engineering in 1963. Following graduation, he worked for Kennecott in Hayden, Ariz. [7]

In 1965, Broussard took a job as engineer-supervisor at the Anaconda Aluminum Co.'s smelter in Columbia Falls. Broussard took a leave of absence in 1969 to obtain an MBA from Tulane University and then went to work at AAC's new smelter in Sebree, Ky., where he oversaw the plant and its $100 million expansion. ARCO acquired the Anaconda Company in 1977, and Broussard was promoted to director of operations at ARCO's corporate offices in 1980. He went to Jamaica in 1982 to oversee the Alpart alumina refinery, a joint venture between ARCO, Kaiser and Reynolds, and found the plant to have "an ineffective, cost-heavy organizational structure in which expatriates and Jamaicans essentially mirrored each other's jobs." He restructured labor and addressed power shortages by running the plant at two-thirds capacity. The result was more overall production because there was less downtime. [8] Broussard left ARCO in 1985 after the company sold its stake in the Jamaican facility and became a consultant and assistant to Brack Duker's Montana Aluminum Investors Corporation, which was considering acquiring the aluminum smelter in Columbia Falls. In September 1985, he became general manager of the Columbia Falls plant, and in 1987 he acquired a 45%

interest in MAIC. His 45% share in MAIC was later converted to a direct interest in CFAC. [9] Robert Sneddon, who was general manager at the ARCO smelter in Columbia Falls in 1985, had worked with Broussard in Sebree. "He was my mentor," Broussard said after Sneddon died on July 29, 1996. Broussard had succeeded Sneddon as plant manager at Sebree when Sneddon returned to Columbia Falls and replaced Ed Woster as general manager of the Columbia Falls smelter. [10]

Some plant managers at Columbia Falls had been at the smelter for several decades by the time Duker and Broussard began their plans. In spring 1983, Lee Smith was promoted from technical operations to operations manager, Harold Lockhart was promoted from ingot casting superintendent to engineering manager, James Lopez was promoted from service department superintendent to materials manager, Don McMillan was promoted from planning and evaluation engineer to manager of special projects, and Tom Payne was promoted from reduction engineering superintendent to technical manager. [11] Allen Barkley began working at the aluminum plant on July 1, 1977 as a project engineer. Later he worked as a process engineer, electrode superintendent, engineering superintendent and lastly as operations superintendent. [12] Barkley was appointed manager of external affairs at CFAC in May 1994. A chemical engineer with a degree from Montana State University, Barkley had served on the North Valley Hospital board since 1988 and had been chairman for two years. [13] In May 1995, Barkley resigned and took a job as potline engineer for Northwest Aluminum at their plant at The Dalles, Ore. [14]

Duker also brought in some outside help. Tom Hodson had been assistant corporate controller for ARCO in 1979, where he worked with Duker. The two first met when Hodson worked with Price Waterhouse in Chicago and London. Hodson studied accounting at Northern Illinois University and later became chief financial officer of the Atlantic Bank Corporation in Jacksonville, Fla. In 1981, he moved on to other banking jobs in Dallas-Fort Worth, Texas, and then Little Rock, Ark., where he became vice-president in charge of banking practice for Stephens Inc., the largest privately owned investment bank in the U.S. Hodson joined Duker and Broussard's Columbia Falls Aluminum Co. in 1993 as president and chief spokesman. [15]

Credit for rescuing the Columbia Falls plant in 1985 and keeping it operating for another two decades goes to Duker, who put together the rescue package; ARCO Chairman Robert O. Anderson, who supported the idea; Gov. Ted Schwinden, who helped advocate for the rescue plan; the Montana Board of Investments, which loaned the new owners the $8 million needed to purchase existing ARCO inventories; private banks, which provided an additional $2 million needed to close the deal; and the Bonneville Power Administration, which provided lower power rates. [16] On June 24, 1985,

Anderson was preparing to recommend to his board of directors that ARCO hand over the Columbia Falls smelter to the plant employees if a buyer could not be found. The plan would be to give 90% ownership to the employees and 10% to another company other than ARCO. Anderson told the Montana's congressional delegation about the plan on June 19. Sen. John Melcher credited Duker with initiating the idea. "Duker is confident the Columbia Falls plant is competitive and there for the long haul," Melcher said. "Anderson said he has a great deal of respect and confidence in Duker's judgment." [17] Duker told the Hungry Horse News on June 25 that his plan was for the Columbia Falls plant to process alumina for other companies, which would allow the smelter to operate with lower costs and eliminate the need for long-term alumina supply contracts. The plant's success hinged on lower power rates, freight costs and labor costs, he said, and his plan provided for "majority equity participation" by both hourly and salary workers in the form of profit-sharing or common stock. He also said he would retain the same management team currently operating the plant. [18]

According to Broussard's account, the Columbia Falls smelter was in dire straits in June 1985 when he and Duker began negotiating with ARCO about acquiring the plant – costs were skyrocketing, the price of aluminum had dropped to an all-time low, and the smelter had lost $100 million in 1984. Broussard and Duker decided to try something new in the aluminum industry – tolling, or long-term contracting for smelting services. The benefits included having no inventory costs and no receivables for the sale of aluminum, and the plant's customers would provide the cash for operating the smelter under its new name, Columbia Falls Aluminum Co. With Duker handling contracts from his office in Los Angeles after the sale in September 1985, Broussard upgraded the smelter's operations, beginning by negotiating more favorable power prices with the BPA, which was as interested in keeping the plant open as he was. Broussard next turned to restructuring the workforce, including reducing manpower from 1,000 to 650. Many left without resorting to layoffs, he said. He also got the hourly workers to agree to a 15% pay cut in exchange for profit sharing. Next, he arranged for long-term contracts for raw materials. The goal, he said, was to maintain cash flow during what was believed to be a short period of bad times in the aluminum sector. CFAC finished in the black in 1986 despite aluminum prices hovering around 40 cents per pound, but then the price of aluminum began to rise steadily, doubling and then nearly tripling in the next two years. "When you make a million pounds of aluminum a day and the price goes up 50 cents, your cost structure doesn't change much but that's a half a million dollars a day more income," he said. "So the plant made a lot of money. More than I ever dreamed of." [19]

Finalizing the sale

A big part of Duker's plan was to drive down costs. By threatening to close the plant as leverage, Duker persuaded politicians and utilities to lower taxes and electrical power rates. He also drove home a contract with the hourly workers in which they took a cut in pay and benefits in exchange for a 50% share in any future profits. The cost-cutting efforts worked. By July 1986, after one full year of operation, the plant was in the black and the owners and workers evenly split $2.6 million in profits, according to court documents. [20] In July 1985, as negotiations continued with ARCO, Duker met with union leaders in Columbia Falls to talk about his plans. He assured them that employee pensions were not in jeopardy under his takeover proposal. ARCO would be responsible for funding existing pensions, he said. [21] On July 23, Duker delivered a proposal for purchasing the plant to the Montana Board of Investments in Helena. He was seeking a state loan to help meet the $10 million in working capital required by ARCO to close the deal. [22] But by the end of July, Duker and his investment group were still trying to round up the rest of the money. Duker told the Hungry Horse News that at ARCO's request, he had talked to 30 financial institutions over the past four weeks about borrowing the necessary funding "so a corporation owned primarily by local plant employees could purchase the plant for $1 and continue operating it." ARCO extended their deadline two weeks. Duker said he was confident the Columbia Falls plant could be run profitably since he knew of customers who wanted to process alumina at the plant. [23]

In August 1985, the Columbia Falls Aluminum Co. was organized as a Montana corporation for the transfer of ownership of the aluminum plant in Columbia Falls. All CFAC stock was purchased from ARCO by the Montana Aluminum Investors Corporation, a Montana corporation formed by Duker. From 1985 to 1989, Duker and Broussard were the sole directors and shareholders of MAIC. In 1989, Columbia Falls Aluminum Co. and Montana Aluminum Investors Corporation were merged together under the name CFAC, and from 1989 through 1993, Duker and Broussard were the sole directors and shareholders of CFAC. [24] The history of CFAC's corporate creation was retold 30 years later in a letter sent by ARCO Vice President Patricia Gallery to the Environmental Protection Agency on May 29, 2015. According to Gallery, ARCO completed a merger with the Anaconda Copper Mining Co., which owned and operated the Anaconda Aluminum Co. smelter in Columbia Falls, in 1981. The Columbia Falls Aluminum Co. was organized as a Montana corporation in 1985. ARCO transferred the Columbia Falls facility business to CFAC and then transferred all of the authorized capital stock of CFAC to the Montana Aluminum Investors Corp. MAIC was formed and owned by Duker and Broussard, and MAIC was merged into CFAC in 1988, she said. [25]

On Aug. 8, 1985, the seven members of the Montana Board of Investments unanimously approved a loan to MAIC for $8 million, or 80% of the working capital required by ARCO for sale of the smelter. The $8 million would come from the state's coal-tax trust fund and was to be repaid by July 1, 1988, with interest set at market rates. Whitefish banker Buster Schreiber, a member of the state board, said the loan was twice as large as any loan ever approved by the board. Duker still needed to come up with $2 million more by Aug. 20, 1985, to meet the ARCO requirement. The deadline was related to an incentive power rate contract offered by the BPA, which needed to be signed by either ARCO or Duker by Aug. 22. The state board gave Duker until Dec. 10 to come up with the additional $2 million. The board also attached several conditions to the loan: 1) the additional $2 million had to come from Montana financial institutions; 2) the plant had to produce at least 15,000 tons of finished aluminum per month for not less than 24 months; 3) the new company had to reduce wages, salaries and benefits for the plant's hourly and salary workers; 4) the new company had to agree with the BPA on a variable power rate plan tied to the price of aluminum at the London Metal Exchange, limited to $19 per megawatt-hour when aluminum sold at 53 cents per pound and $22.80 when aluminum sold at 60 cents per pound; and 5) the new company had to preserve all pension rights currently held by the plant's employees. Duker told the Hungry Horse News in mid-August that his "back was to the wall" before the board voted to back him, but now he was "considerably more optimistic" about concluding the buyout. [26]

On Aug. 20, Duker announced that the sale of the Columbia Falls smelter could be finalized by Sept. 4. Duker said he had secured the $10 million in working capital funds required by ARCO to close the deal and he was working on a contract "with the critical issue being employee benefits." Once the contract was concluded, Duker planned to come to Columbia Falls to discuss the details with the 1,000 employees at the plant. [27] Members of the Montana Board of Investments who toured the plant with Duker on Aug. 24 were impressed with what they saw. Board Chairman Joe Reber said the facility "was a heckuva big plant and well-kept. It's as clean and neat as a foundry can be." Reber said he felt the remaining $2 million needed by Duker and his investors should come from banks in Flathead Valley. Sen. Melcher told a group of employees and managers at the plant that he had seen the contract Duker had negotiated with ARCO and that it "looked good." Melcher said he expected a decision by Sept. 4. At the same time, ARCO announced it had accepted a new incentive power rate plan from the BPA that would begin in September and would reduce rates to the Columbia Falls smelter through June 1986. The BPA also announced that a variable power rate plan that would tie the price of electricity to the price of aluminum worldwide would be available in June 1986. [28]

After weeks of negotiations, ARCO signed contracts to sell the aluminum plant to the Montana Aluminum Investors Corporation on Sept. 10, 1985. Duker described his investment group as “a holding company to facilitate exchange of stock… I will be the sole stockholder, but not for long.” Earlier reports suggested that stock in the plant might be owned in part by plant employees. “Certainly the management will be given the opportunity” to participate as stockholders, Duker told the Hungry Horse News. Anderson commented on the sale for ARCO. “I’m extremely pleased that a way has been found to keep the Columbia Falls plant in operation and providing employment opportunities in the Flathead Valley,” he said. [29] Duker, Broussard and ARCO Acting Senior Vice President Claude Goldsmith signed a large stack of legal documents on Sept. 10 that established CFAC for the first time. During a press briefing afterwards, Duker told reporters he had spent the previous day in meetings with the plant’s employees and now felt “things look good” for the new business venture. Duker, 46, would continue to head MAIC, the holding company for the new aluminum company, and secure customers for the plant’s tolling business. Broussard, 44, would be CFAC’s new president and general manager. Broussard told reporters that, although his name seemed new, he had always been a part of Duker’s effort to keep the Columbia Falls plant operating. Duker credited Sens. John Melcher and Max Baucus as well as Rep. Pat Williams, Gov. Schwinden and Columbia Falls Mayor Colleen Allison for helping see the plan through. Duker also credited Joe Reber, chairman of the Montana Board of Investments, which would back 80% of the loan for operating capital for the new company. [30]

Vague commitments

No specific details were given on the financial transaction, but Duker told reporters he was committed to the concept of employee participation, where employees would own at least 50% of the new company. According to Duker, the structure of the new company would be “whatever makes the most sense for the employees” while matching “what our costs have to be in order to make us competitive.” Duker noted that the plant’s employees were put in a difficult position during negotiations between MAIC and ARCO. Duker explained that he had to leave the employees in the dark because he was an outsider conducting business negotiations with ARCO at the time. Duker also laid to rest rumors that he had taken over the plant in order to help ARCO shut it down without taking the blame. The business plan adopted by Duker and Broussard required the smelter to be operating at full capacity and to take advantage of tolling contracts. Such contracts, Duker explained, “lets the risk of the commodities market be borne by someone else” while the company merely performed a service. The smelter would toll for ARCO for its first eight months, Goldsmith explained, in an arrangement intended to give the new company “a head start… to prove themselves to other customers.” [31] ARCO

Chairman Robert Anderson said the sale would be effective Sept. 17. About 1,000 employees worked at the plant producing about 180,000 tons of aluminum per year. [32]

Among the stack of documents to be signed on Sept. 10 was a letter from Goldsmith to Duker, as the sole shareholder in MAIC, regarding conditions of the sale of the smelter. Goldsmith's letter stated in part, under the heading "Employee Profit Participation," that "MAIC will ensure that the employees of CFAC will have a claim against at least 50 percent of the profits earned in each year by Columbia Falls Aluminum Company ('CFAC') either by reason of stock ownership in CFAC or through profit sharing arrangements." [33] Facing rising power costs and plummeting aluminum prices, Duker needed to find ways to cut costs to keep the Columbia Falls plant running. He cut costs across the plant and convinced workers to take a large cut in pay and benefits. In exchange, he talked about profit sharing. "A dollar in your pocket is a dollar in mine," he was quoted saying to workers during negotiating meetings. [34] CFAC management developed a secret profit-sharing agreement for the company's employees, Dan Black reported in the Flathead Business Journal in 1992. Over the years, the closely held company did not discuss profits and, by agreement, the employees did not reveal their profit-sharing bonuses. But the secret was out once the workers' profit-sharing lawsuit was filed in the 1990s. Between 1985 and 1992, CFAC paid out $84 million in profit-sharing to the company's employees, according to documents filed in federal court in the profit-sharing case. During the same time period, CFAC paid out $231 million to Duker and Broussard, according to the workers' allegations. In one good year, 1988, the employees' share of the profits was $20 million, which averaged out to $27,000 above wages and salaries. [35]

Duker held a press conference in Columbia Falls on Sept. 17, 1985, when MAIC officially took possession of the plant. Broussard would take over as president and general manager of the new company, replacing Robert Sneddon who retired as plant manager after 35 years with Anaconda-ARCO. According to the Hungry Horse News, Duker said he "will be involved with financial dealings, particularly employee participation in the investment end." Details about the financial arrangements between employees and CFAC remained vague, however. Duker explained that it might take time for a partnership to develop between management and employees and that the area of employee compensation was "fraught with technical problems… There will be sacrifices required." The Hungry Horse News noted that "employee participation through stock purchase is a key element in the new aluminum arrangement." The new management planned to begin by processing ARCO's remaining alumina inventory, amounting to about 120,000 tons, through April 1986. After that, CFAC planned on smelting alumina for other customers. [36] "The defensive strategy that Brack has outlined means booking this plant at full capacity," Broussard said. Profitability would not come quickly,

especially in light of the high cost of ARCO alumina in the sales contract, Duker said, but compared to other aluminum plants in the U.S., the CFAC plant was in relatively good shape. He also noted there was good community and employee support. [37] CFAC continued to process alumina purchased from ARCO for the next six months. [38]

Not everyone in the Flathead was willing to accept the smelter transfer at face value. In a Sept. 22, 1985 letter to the Daily Inter Lake, state Rep. Ben Cohen questioned the terms of the sale. “The buyout of the aluminum plant has left many in our community confused,” Cohen said. “If there is to be some kind of employee participation, then why weren’t the workers or their representatives actively involved in the negotiations with ARCO? Will 50 percent of the ownership be shared by the employees or will only certain groups of employees be offered a share of the ownership? …Does employee ownership mean immediate or eventual participation in management? The citizens of this community have been led to believe that there would indeed be some form of employee ownership involved in ARCO’s sale of the plant… Will workers be asked to make wage and benefit concessions without participating in any of the decision-making?” Cohen described employee participation in a number of company models, including the more than 6,000 employee stock option plans around the country that benefited from lower taxes and increased productivity. [39] Perhaps unknown to Cohen, Duker retained the firm of Towers, Perrin, Furster & Crosby to develop a profit-sharing plan for workers at the CFAC plant on Sept. 23. The firm prepared a document titled “CFAC Profit Sharing Plan Hourly and Salary” which later became known as “Attachment B” in the profit-sharing lawsuit that went to federal court in the early 1990s. [40]

Sen. Baucus addressed the Senate on the transfer of ownership at the Columbia Falls smelter on Sept. 25. Copies of his speech were mailed to Flathead voters. “Last week an historic event took place in Columbia Falls,” he said. “It was the transfer of ownership of the Columbia Falls aluminum plant from ARCO to an employee group. This transaction was the result of vision, foresight, courage, and cooperation. It was the vision of a former ARCO executive, Brack Duker, the perseverance and courage of the plant’s 1,000 employees, the foresight of the Montana State Board of Investments and Gov. Ted Schwinden, and the cooperative efforts of the Montana congressional delegation that helped keep this plant open.” [41] In his address to the Senate, Baucus incorrectly stated that ownership of the aluminum plant had been transferred to “an employee group,” a mistake repeated over the years by members of the public and local reporters.

In his address to the Senate, Baucus described the history of the aluminum plant and ARCO’s recent decision to close most of its former Anaconda operations except for the Columbia Falls smelter. “ARCO graciously turned over ownership of the plant to Brack Duker and a new employee-owned corporation for $1,” Baucus said. “ARCO has come a

long way since the wrenching closure of Anaconda's facilities in Butte several years ago." Baucus described how local residents organized a group in 1984 called We Want The Plant and successfully waged a grassroots campaign to get the BPA to reduce electrical costs and to gain congressional support. Baucus called for tying BPA's electrical power rates for aluminum producers to the global price of aluminum and for aluminum producers to modernize plants in order to make them more efficient. Baucus also noted that details about how Duker would compensate employees had not yet been worked out. "The workers should be the last to make sacrifices and should get a fair shake in the deal," he said. [42]

When Duker ran into financial difficulties in closing his deal with ARCO, he turned to Sen. Baucus for political assistance. In a July 28, 1986, letter to Peter Prowitt, one of the senator's staff members, Duker said Marlan Boultinghouse, the former president of ARCO Aluminum Co., had told Baucus that CFAC owed ARCO between $7 million and $12 million for remaining alumina inventory, but Duker claimed the amount was less than $3 million. Duker explained that as of July 30, 1986, ARCO had received from CFAC about $49 million from tolling ARCO's alumina inventory and the sale of the plant, which was about $10 million more than had been projected by ARCO on Sept. 17, 1985, when the sale of the plant was concluded. Duker attributed half of that excess money to cost reductions at the plant and half to higher than anticipated metal prices. Duker was worried that any excess money paid to ARCO would be "paid by our employees. Consequently, the payment to ARCO will eliminate for a long time any possibility CFAC will pay profit sharing to our employees. These employees obtained an entitlement to more than 50% of the CFAC profits in exchange for wage reductions of 21% effective Jan. 1, 1986." [43]

The primary barrier to reaching a settlement between CFAC and ARCO, Duker said in his letter to Prowitt, was a lack of cooperation and an antagonistic attitude by ARCO's liaison officers, who were managers of the former ARCO aluminum business. "Their emotional reactions to dealing with former subordinates and also similar reactions of the CFAC staff preclude an objective appraisal and negotiation of the issues," Duker said. He claimed that ARCO managers would not cooperate because 1) they believed ARCO's oil-related problems were more important than its former metals business; 2) Robert Anderson, the former chairman of ARCO and the man who had championed the transfer of the smelter to CFAC, was no longer head of ARCO; 3) ARCO had left the metals business entirely; and 4) ARCO had left Montana entirely and was no longer concerned about affairs in the state. Duker asked that Baucus help settle the money problem by talking to Lod Cook, ARCO's present chairman, and by suggesting that certain transition rules in the 1986 tax bill before Congress might adversely affect ARCO's investment in Alaskan North Slope oil fields. "If, however, Max simply attempts

moral suasion or complains further to Cook, Max will be cordially received but ultimately ignored," Duker said. [44]

Employee relations

The new logo for the Columbia Falls Aluminum Co. employed three elements. A triangle was meant to represent the Greek letter delta indicating change. It also could represent Teakettle Mountain, the plant site's dramatic backdrop. A rising sun was meant to represent either the dawn of a new company or the sun rising to the east of Teakettle Mountain. A tree-shape was meant to remind employees of the company's heritage, either as a tree representing Montana's natural beauty or as the arrowhead symbol used by the Anaconda Company. [45] On Nov. 25, 1985, the Montana Board of Investments extended its $8 million loan offer through March 10, 1986, well past the Dec. 10 deadline previously given to Duker and his group of investors. Duker had requested the extension since he had not been able to comply with all the conditions set forth by the state board. One issue discussed by the board on Nov. 25, according to chairmember Fritz Tossberg, was ownership of the plant. He said he had been under the impression the employees would own the plant, but now he was no longer sure. "It wouldn't seem proper to supply $8 million and turn this over to a group of entrepreneurs," he told the Hungry Horse News. [46]

By early November 1985, one third of the salaried employees at the Columbia Falls plant had chosen early retirement or severance options offered by ARCO – 23 retired early and 63 others accepted severance benefits. When CFAC took over, 220 salaried employees remained. To help employees who stepped down, ARCO offered transitional services in the form of workshops, counseling and job contacts, but since ARCO was reducing manpower throughout its operations there was little chance any of the Columbia Falls people would find replacement work with the oil company. The severance plan offered by ARCO included three weeks base salary for every year worked at the plant, with a minimum of 12 weeks and a maximum of 72, in addition to medical insurance depending on time served. Jan Kelly, ARCO's employee relations representative at the plant, described the impact on the employees leaving early. "Some of the people are quite stressed with all of this. Some of the retirees are a little bit nervous because they've retired quicker than they thought they would. Some of the severed people are trying to make a decision about leaving the area and where they should be looking for jobs. There's quite a bit of turmoil for some of them." Of the 23 salaried employees who chose early retirement, their years of service ranged from 46 to 17, with many having 30 years of service. [47]

On Nov. 4, labor contract negotiations began between CFAC and the Aluminum Workers Trades Council. The union group's contract was set to expire in September 1986, but

Duker wanted to settle the contract earlier and with significant reductions in labor costs. The negotiating team for CFAC included Broussard, Lee Smith, superintendents from various departments within the plant and Roberta Gilmore, the accounting supervisor. Representing the hourly workers were AWTC President Marvin Torgerson, Aluminum, Brick and Glass Workers International Local 320 President Lowell Eckelberry and representatives from Operating Engineers Local 400, Ironworkers Local 598, Teamsters Local 2, Brick Masons Local 7, Pipefitters Local 459, Machinists Lodge 1760 and International Brotherhood of Electrical Workers Local 768. [48] On Nov. 13, 1985, sixteen CFAC representatives and 15 AWTC representatives signed the new labor contract. The contract came with a document labeled "Attachment B," which was the profit-sharing agreement developed by Towers, Perrin, Furster & Crosby. The first paragraph of the attachment read, "The Board of Directors of the Columbia Falls Aluminum Co. will determine each year the amount of profits available for distribution. Fifty percent of the distributable profits as determined by the parent company will be distributed to employees." The only reference to a profit-sharing plan in the entire labor contract was in the attachment. [49]

The contract called for reducing wages and benefits by a combined 31.3%, and union members narrowly voted down the contract on Nov. 19 by 325 to 310. All but 100 hourly employees voted. The results surprised both management and labor leaders. Torgerson thought the vote might turn out close, but he expected the contract to pass. When asked what would happen next, he said, "I assume the plant will be shut down from everything they (management) told us." The proposed contract included a wage cut of 15% and a 16.3% cut in benefits. Benefits that would have changed included reducing the number of paid holidays from 12 to six, cutting shift-differential pay, reducing vacation pay, eliminating cost-of-living adjustments and reducing pensions. In lieu of these benefits, the new contract provided for profit sharing by both salary and hourly workers. According to the Hungry Horse News, a consulting firm had been hired to work out the details of how profit sharing would be handled. The plant's new management had also asked the Aluminum Workers Trades Council to help reduce labor costs by eliminating 100 hourly jobs over a two to three month period through attrition, retirements, promotions into salary positions or layoffs. The management hoped to be able to run the plant with 643 hourly workers and 168 salaried personnel. [50]

Soon after the contract offer was voted down, Broussard told workers that one of the plant's five potlines would be shut down by late February 1986, and then one additional potline would be shut down per month through May. A petition drive was hastily organized by union members calling for a vote on whether to vote a second time. On Nov. 25, workers voted 519 to 19 to reconsider the contract, and the overwhelming result prompted CFAC management to allow a second contract vote. As the second

contract vote on Nov. 27 approached, there were indications that many workers had changed their minds after management threatened to shut down the plant for good. [51] The contract was approved by 505 to 98 on Nov. 27, with 131 workers not voting. "We're glad it's over and that we have jobs," Torgerson said. "We're happy the plant will continue to operate hopefully for years to come and that we'll all prosper from it… We're sorry we had to take a wage cut, but the vote does show that union members do care about the plant, their jobs and the community." The previous week's vote had resulted from a misunderstanding by workers who didn't believe the plant would close down unless the contract was accepted, Torgerson said. He praised the workers for being "responsible" and accepting the contract in the second vote. Broussard complimented the union leadership for explaining "a very complex program" to their members. Lee Smith said the second vote "demonstrates an understanding by a majority of the union membership that some concessions are necessary by all employees to help keep the Columbia Falls plant operating." [52]

The acquisition of the Columbia Falls smelter involved one more hurdle. On July 30, 1985, Duker had approached Hindin-Owne-Engelke Inc., an investment banking firm in California, for help in financing the buyout of the aluminum plant in Columbia Falls. Duker signed a contract promising Hindin a finder's fee of $200,000 if the investment firm found a source of financing for him. The contract limited the fee to only $50,000 if Duker found financing by Aug. 9, 1985, without Hindin's help. [53] On Nov. 21, 1985, Hindin sued Duker, Broussard, CFAC and Montana Aluminum Investors Corp. in a Los Angeles Superior Court for breach of contract, claiming $250,000. Hindin claimed that its representatives had traveled to Montana on two occasions and showed the smelter to prospective lenders. [54] Hindin claimed it had presented funding commitments from two prospective lenders from California, Trefoil Capital and Coast Fed, and that a contract with Hindin was signed by Duker, who was a resident of California. When the offers were rejected, Hindin filed the lawsuit in Los Angeles. [55] On Dec. 9, CFAC filed a counter-suit against Hindin in Flathead County District Court. Duker claimed he had signed the contract under duress and then found financial commitments on his own before Aug. 9, 1985. District Court Judge Bart Erickson signed a temporary order restraining Hindin from perfecting service on CFAC in the California court. [56]

Briefs in the Hindin case were filed in Flathead County on Jan. 6, as CFAC sought to maintain the temporary restraining order protecting CFAC from the out-of-state lawsuit. [57] On Feb. 5, 1986, Erickson ruled that the counter-suit filed by CFAC should be transferred to a federal court in California, and he lifted the temporary restraining order that protected CFAC from Hindin's initial lawsuit. [58] The California Superior Court refused to grant the motion to dismiss CFAC on Feb. 24. Erickson's decision on the temporary restraining order was appealed to the Montana Supreme Court, which ruled

on Dec. 9, 1986, that Hindin had engaged in sufficient activities in Montana to fall within the Flathead County District Court's jurisdiction, but that this particular case was better decided in California. [59] The Supreme Court was tasked with determining if Erickson had erred. The court noted that the collateral for the loan was the aluminum plant in Montana, Hindin's officers had made two trips to Montana and also attended business meetings in Montana, and that CFAC, a Montana company, was to benefit from the financial arrangement. The court ruled those facts were enough to constitute a transaction of business in Montana and ruled in favor of CFAC. [60] In 1992, Erickson became a U.S Magistrate Judge in Missoula and faced Duker, Broussard and CFAC again in the profit-sharing case.

On Jan. 1, 1986, the Hungry Horse News chose the aluminum plant's ups and downs as the number one local news story for 1985. The story included ARCO's announcement that it would either sell or close the plant, the grassroots campaign to save the plant, the packed BPA hearing at the high school gym in April 1985, the takeover of the plant by Duker creating the Columbia Falls Aluminum Co., and the tough labor negotiations that led to hourly workers taking significant cuts in wages and benefits in order to save the plant. BPA power rates continued to be too high, and negotiations with aluminum producers continued, the newspaper noted. [61] Conventional wisdom was that the plant needed to do something new and different to succeed. In a talk to the Kalispell Chamber of Commerce on April 7, 1986, Broussard explained that the future of the company lay in tolling for other firms. CFAC had recently signed tolling contracts with Broken Hill Proprietary and Norsk Hydro, he said. CFAC was a young company which lacked the financial assets to invest in the equipment needed to produce finished aluminum products, he said, and in any case that part of the market was "overbuilt." A good market existed for tolling alumina ore, but key to CFAC's future success was passage of variable electric rates by the BPA, which would tie power rates to the international price of aluminum. The rate policy was scheduled for review by the Federal Regulatory Commission and would be released on April 16, 1986, he said. [62]

Tolling contracts

The international bauxite and alumina business had radically changed since the smelter in Columbia Falls started operating in 1955. During the 1980s, very little bauxite mining took place in the U.S., but the U.S. was the second largest alumina producer in the nonsocialist world and the largest aluminum producer. All of the U.S. alumina refineries were on the Gulf Coast, while U.S. smelters were evenly distributed across the country in the Pacific Northwest, the Ohio Valley and the Carolinas, New York and Texas. About half of the raw materials imported for aluminum production in the U.S. was bauxite and half was alumina. Bauxite principally came from Guinea and Jamaica, while alumina

principally came from Australia. The U.S. produced about one-quarter of the aluminum in the nonsocialist world but did not make enough metal to meet its fabricating needs. During 1984 to 1988, aluminum imports accounted for about 12% of consumption of primary and secondary aluminum in the U.S. and were equal to about 17% of U.S. production. Most of the imported aluminum came from Canada. Alcoa, Reynolds and Kaiser owned about 90% of the alumina refinery capacity in the U.S., while Alcoa, Reynolds, Kaiser and Alumax owned about 60% of the smelter capacity in the U.S. The rest of the U.S. smelting capacity was owned by Ormet, Southwire, Columbia Aluminum, Vanalco, Ravenswood, Northwest Aluminum and CFAC. [63]

What CFAC hoped to do was take imported alumina and smelt it into aluminum for companies that produced alumina and wanted aluminum but lacked sufficient smelting capacity. By late January 1986, CFAC was close to signing short-term tolling contracts with Norsk-Hydro and Broken Hill Proprietary of Australia while it continued to process alumina owned by ARCO. The ARCO supply would run out by April, and the new tolling contracts would provide the plant with enough alumina to keep the smelter running through July. CFAC spokesman Jack Canavan said the Norsk-Hydro and BHP agreements showed that the tolling concept was sound, but the problem causing delays in finalizing the deals was the need for "equitable and predictable" power rates from the BPA. [64] CFAC signed its first long-term alumina tolling contract in mid-March. The three-year deal called for Broken Hill Proprietary to supply CFAC with enough alumina to run at 40% capacity. CFAC continued to negotiate a similar contract for the remaining 60% capacity with Norsk-Hydro. The tolling contracts would extend tolling arrangements with the two companies past July. Meanwhile, the price of aluminum at the New York Commodities Exchange reached 60 cents per pound for the first time in two years. [65] Broken Hill Proprietary was a San Francisco-based subsidiary of a large Australian mining company with headquarters in Melbourne. The BHP deal was contingent on CFAC obtaining favorable electrical rates. [66]

In mid-May 1986, CFAC announced it had signed a long-term alumina tolling contract with Norsk-Hydro that would utilize 60% of the plant's capacity for three years. Meanwhile CFAC was investigating a variable power rate plant offered by the BPA that would tie the price of power to the market price of aluminum and vary from $14 per megawatt-hour to $29.60. CFAC had some problems with the proposed rate structure and had until May 27 to respond. [67] Hungry Horse News publisher Brian Kennedy expressed optimism in CFAC's future in a May 14 editorial after the company successfully concluded the two tolling contracts. [68] In November 1987, CFAC signed an extension to the Norsk-Hydro contract that would take it through Dec. 31, 1995. There was no word about a similar extension for the BHP contract. [69] In March 1988, CFAC announced that it had signed a tolling contract with Shell Mining Co., a subsidiary of the

Dutch petroleum company Shell Oil Co., for 40% of the plant's capacity until 1995. Shell at the time was a major producer of alumina with an equity interest in four alumina refineries worldwide. Shell had acquired the century-old Anglo-Dutch mining company Billiton in 1970. Billiton had operated bauxite mines in Dutch Guiana since the 1940s. The Shell contract was a boost to confidence for management at CFAC, who needed a replacement for the Broken Hill Proprietary tolling contract, which would expire in 1989. The new contract stabilized CFAC's future even as aluminum prices climbed to about $1 per pound and remained there. Ingot aluminum had sold for 55 cents per pound in 1987 and 45 cents in 1985. [70]

The Broken Hill Proprietary tolling contract ended in July 1989 and was not renewed. BHP had sold its share in an alumina refinery in Worsley, Australia, which was the company's only alumina resource. [71] The Shell and Norsk-Hydro tolling contracts were slated to end in 1995. Both tolling contracts were based on a sliding cost scale set by world aluminum prices. [72] In June 1995, Lee Smith, CFAC's acting general manager, said he wasn't sure if the two contracts would be renewed, but market speculation pointed to Pechiney and Glencore as possible new tolling customers for CFAC. [73] On Aug. 25, CFAC President Tom Hodson announced that CFAC had signed tolling contracts with Pechiney World Trade (USA) and Glencore Ltd. The new tolling contracts would take effect in January 1996 after the earlier contracts expired and take up 100% of the plant's smelting capacity. Current workforce at the plant was close to 600 employees and the 1995 payroll was expected to be $20 million. [74] "This is the latest in a series of efforts to protect the plant's future, along with more than 600 jobs and the more than $10 million in annual state and local tax revenue that CFAC provides," Hodson said. [75] Norsk-Hydro's tolling contract had lasted 10 years. Both contracts were set to expire in late 2000. [76]

The second big rally

Tolling contracts solved two problems for CFAC managers when the new company formed in 1985 – the contracts provided a source of alumina and a market for finished aluminum. The profit-sharing offer addressed managers' concerns about labor costs. The plant was 30 years old and used Soderberg-type reduction pots, but they had been upgraded to Sumitomo technology by 1980, which made them more energy efficient and less polluting. The biggest remaining problem facing the new company was power prices, which had increased about 800% since the late 1970s and might continue to climb. In late November 1985, BPA District Manager George Eskridge announced that the BPA would hold a public hearing on Jan. 19, 1986, at the Columbia Falls High School to take public comment on electrical rates for Pacific Northwest aluminum plants. Eskridge said the large turnout at the high school on April 22, 1985, was one of the reasons Columbia Falls was chosen as a site for another hearing. The CFAC plant was

paying $18.50 per megawatt-hour, but that rate was set to expire in June 1986. Eskridge believed a variable rate plan might be available by July 1, 1986, that would tie electrical rates to the base price of aluminum and thereby average $16.80. CFAC spokesman Jack Canavan said the company hoped for rates between $15 and $16. [77] By early January 1986, the People For Jobs grassroots organization was organizing for the BPA hearing. The group hoped public influence could accelerate the implementation of a variable power rate for aluminum plants. The BPA wanted to offer a rate structure tying power prices to aluminum market prices by August 1986, but CFAC managers said they needed the new rate sooner, preferably by May 1986. Gov. Schwinden and the state's congressional delegation were expected to attend the hearing. [78]

On Jan. 14, 1986, the People For Jobs group spoke to the Columbia Falls Chamber of Commerce about the upcoming BPA hearing. The group urged everyone to attend the hearing to show support for the aluminum plant. Aluminum Workers Trades Council President Marv Torgerson pointed out that CFAC's success depended on three things – concessions from Burlington Northern Railroad for freight costs and from other vendors; concessions from the plant's hourly workers on wages and benefits; and lower BPA power rates. All but the last had been achieved. Tom Payne, representing CFAC management, explained that the average power rate worldwide was $14 per megawatt-hour while Pacific Northwest aluminum smelters paid more than $20. [79] People For Jobs adopted a new slogan – "Finish the Job" – in reference to progress they believed the BPA had made in helping the Pacific Northwest aluminum industry with lower power rates. The group's primary goal was to hasten the BPA's implementation of a variable power rate tied to the aluminum market price, but the BPA wanted to use market prices from the U.S.-based Metals Magazine and CFAC wanted to use market prices from the London Metal Exchange. [80]

On Jan. 22, the Hungry Horse News ran a front-page story urging the public to attend the Jan. 29 hearing. The People For Jobs group hoped to "finish the job that was started on April 22 (1985)" when a large turnout had a big impact on the BPA, the story said. [81] In an editorial, Brian Kennedy urged the public to attend. "You've heard it before," he said. "The Columbia Falls aluminum plant needs your support. That plea is no less important than when you first heard it, only more familiar." Kennedy explained that the BPA "wants to see if the public here still supports the aluminum plant as much as it did last April 22 when 3,000-plus showed up at a hearing." Although the topic of the hearing was the proposed variable power rates tied to aluminum market prices, "you can be sure the BPA scribes also want to see if we can duplicate the turnout of April 22. Was it a fluke?" [82]

The newspaper also ran a full-page advertisement for the BPA that asked in large bold type, "Does it surprise you that BPA may give the aluminum industry a break? And that it could be good for you?" The ad provided a brief history of the problems facing the Pacific Northwest aluminum industry, as reported in the BPA's recent direct-service industry options study and after holding 63 public hearings through 1985. Aluminum demand had been strong in the 1960s and 1970s, as were market prices, but demand and prices suddenly dropped in the beginning of the 1980s, the BPA said in the ad. Aluminum had sold for about $1 per pound in 1980 and only 25 cents by 1984. In the meantime, power prices increased – by 1984, aluminum plants were paying $25 per megawatt-hour, among the highest rates paid by any aluminum plant in the U.S., and U.S. prices were among the highest in the global aluminum industry. [83]

The impact of lower aluminum prices and higher power prices on the Pacific Northwest aluminum industry was significant, the BPA ad said. In 1981 the industry directly employed 12,000 workers and paid out $441 million in wages and salaries. But within a few years, the region's aluminum plants curtailed production, the Columbia Falls plant was for sale and the smelter in The Dalles closed down completely. Many regional aluminum producers were down to two-thirds capacity, and at least three plants were said to be "at risk." The regional aluminum industry accounted for about one fourth of the BPA's revenues, much of which was used to repay the U.S. Treasury for the cost of building the hydroelectric dams and transmission systems in the Pacific Northwest power system. If the regional aluminum industry disappeared, the missing revenue would have to be made up by other consumers. The BPA planned to address the problem by offering a new rate structure to the regional aluminum companies that tied the price of power to the market price of aluminum. In addition, the BPA hoped to introduce conservation and modernization measures that would make the aluminum industry operate more efficiently. The BPA administrator was scheduled to make a final recommendation to the Federal Energy Regulatory Commission about its plans by May 1986. The BPA had scheduled public hearings in Portland, Spokane, Columbia Falls, Seattle and The Dalles to assess the public's reaction to its plans. [84]

On Jan. 29, students and teachers at the high school prepared for the BPA hearing by erecting a large banner that declared, "BPA, Help Us Survive." [85] About 2,300 people attended the hearing, compared to more than 3,000 on April 22, 1985. About 600 to 700 people showed up at The Dalles, the Spokane hearing saw about 50 people, Portland had 43 people, and Seattle had 20. [86] Among the 33 speakers who testified in support of CFAC were Gov. Schwinden, Sen. Baucus, Rep. Williams, several Montana legislators, representatives from the local school districts, Flathead County's three mayors, Marvin Torgerson for the unions, two Flathead County commissioners, and Brack Duker and Lee Smith of CFAC. The unexpected speaker was Duker, who had organized CFAC's takeover

of the ARCO plant. He thanked the People For Jobs group led by Columbia Falls Mayor Colleen Allison and the CFAC employees who had sacrificed by taking wage and benefit concessions to save the plant. Gov. Schwinden pointed out that the size of the crowd showed that the Columbia Falls community had not lost interest in saving the plant. Sen. Baucus called on the BPA to implement its variable rate plan in May 1986 instead of July or August. George Eskridge noted that implementing the plan by May would be difficult because the Federal Energy Regulatory Commission had to approve the new rate. Baucus replied that FERC needed to be made aware of the emergency nature of the problem and to grant "immediate interim approval of the variable rate." Baucus also accused the BPA of "loan sharking" by offering a deferred payment plan to CFAC that would have charged the company 18% interest on power bills for April, May and June 1986. [87] Brian Kennedy praised Baucus and Schwinden for coming to the hearing in a Feb. 5 editorial. Kennedy acknowledged Baucus' busy schedule in Washington. [88] On June 16, the People For Jobs group traveled to Helena to meet with Montana state legislators and lobby for workers compensation bills. The group was using leftover money from the BPA campaign to lobby for another workers cause. [89]

The variable rate proposal

In April 1986, the BPA issued a final environmental impact statement on options for selling power to aluminum plants in the Pacific Northwest. Nearly all of the region's 10 smelters were not operating at full capacity, and many of the smelters had become "swing" plants, reducing production when aluminum prices fell and restarting pots when prices went up. The Martin Marietta plant at The Dalles was closed and the BPA felt other aluminum smelters were also at risk of closure. The BPA was concerned that the regional aluminum industry had become a "highly unstable power purchaser" since 1981, with smelters operating at 58% to 100% capacity at times – and a major factor was dramatically higher power prices. Average direct-service industry power rates charged by the BPA had increased nearly 10-fold in half a decade, from $2.90 per megawatt-hour in 1979 to $22.80 in 1985. Power costs now accounted for about one-third of the total costs of aluminum production in the Pacific Northwest. [90]

During that time, the BPA had offered temporary rate discounts when aluminum prices were low, resulting in higher aluminum production and more revenue to the BPA through power sales. The increased revenue for the BPA was considered better than what could have been achieved by selling power to California utilities over the Pacific Northwest-Pacific Southwest Interie, the Final EIS said. The BPA had sold low-cost nonfirm power to the direct-service industries from March 21, 1983 through Oct. 31, 1983. The BPA also had offered short-term incentive rates to the direct-service industries when aluminum markets were depressed in September 1984 through

February 1985, in March 1985 through June 1985, and Sept. 1, 1985 through June 30, 1986. "While incentive rates have been mutually beneficial to BPA and the Northwest aluminum smelters, they have been cumbersome to implement procedurally, and do not provide long-term assurance of rates that the aluminum companies would need to influence long-term business decisions," the Final EIS said. The 1980 Northwest Power Act had established a process to determine rates for direct-service industry customers for post-1985 power sales. In general, the post-1985 rate was based on applicable wholesale rates to public utilities, plus a margin based on typical margins above power and transmission costs that public utilities charged their industrial customers, less a credit for BPA system reserves provided by the direct-service industries through interruptibility provisions. The direct-service industries currently had power sales contracts through June 30, 2001, that were offered in accordance with the Northwest Power Act. The BPA's goal was to reduce load fluctuations and revenue uncertainty. [91]

The BPA considered environmental impacts of aluminum plants to be "predominantly localized," the Final EIS said. Environmental concerns included impacts to aluminum plant operations, impacts to air and water, and socioeconomic impacts, particularly jobs. "The socioeconomic effects of the proposals are a significant concern that has been raised by aluminum company employees, unions, representatives of communities where smelters are located, and others throughout the region concerned with electricity rates," the Final EIS said. In general, the BPA considered the possibility of increased air or water pollution as a result of increased aluminum production not to be a concern for the Final EIS because the BPA assumed all aluminum smelters operated within pollution limits set by state governments, and if a plant increased production, it would still be required to keep its emissions within approved limits. The main focus of the study was electrical power use. "Load swings have resulted from the unstable and declining world price of aluminum and the production costs of Northwest smelters relative to others," the Final EIS said. "BPA's rates to the DSIs for electric power have risen dramatically during the last six years and are now higher than for many aluminum smelters worldwide." Direct-service industry loads accounted for about 25% of the BPA's loads, and aluminum smelters accounted for about 90% of the direct-service industry loads, the Final EIS said. The BPA considered direct-service industry loads desirable from a utility perspective because of their high load factors and because they could be interrupted, which provided the BPA system with both operating and planning reserves. [92]

Four alternatives were studied in the Final EIS. The no-action alternative proposed continuing the BPA's current rate design for the direct-service industries along with short-term incentive rate offers. This alternative could be affected by variables beyond the BPA's control, including future aluminum prices, future load growth in the BPA

system, changes in the costs of resources needed to meet future load growth in the BPA system, and stream flow changes to the hydroelectric dams in the BPA system. Under the no-action alternative, the BPA projected that the DSI power rate standard would continually decrease from $21.20 per megawatt-hour in 1986 to $18 in 1995 and $17.60 in 2001 before increasing slightly to $18 by 2015. The BPA concluded that under this alternative, some aluminum plants were likely to shut down, including Reynolds' smelter at Troutdale, Alcoa's smelter at Vancouver and Kaiser's Mead smelter in Spokane. If the smelters in Columbia Falls and The Dalles operated as tolling plants, the BPA was uncertain about their future but concluded that the two plants were most in danger of shutting down under the no-action alternative – the smelter at The Dalles was already closed and for sale, and CFAC's new management might be short of funds. As a result, the Columbia Falls and The Dalles plants were assumed to be closed in some of the BPA's analysis in the Final EIS. Operation of the other eight aluminum smelters would be little affected by the closure of the CFAC and The Dalles smelters, and the socioeconomic effects would be primarily localized, the Final EIS concluded. [93]

The variable rate alternative would establish a long-term tie between DSI power rates and the market price of aluminum, the Final EIS said. The goal was to encourage higher aluminum production levels than would be economical under a fixed power rate. The variable rate would be designed to discourage aluminum plant closures in the short run, from one to three years, and to discourage "swing plant" operations when aluminum prices were low and the BPA had surplus power. To mitigate the risk for the BPA, a take-or-pay provision could be used with the variable rate. "Traditionally, the aluminum industry has accepted take-or-pay contracts for both electricity and alumina in order to secure a continuous long-term supply of both," the Final EIS said. A third alternative, the conservation-modernization program, would consist of onsite modifications and retrofits to improve the efficiency of the region's aluminum smelters. To encourage participation, BPA would pay incentives to aluminum plants to make these improvements based on how much energy was saved. Proposed improvements ranged from conversion to energy-efficient lighting and motors to more substantial changes in processing and production efficiency, especially potline improvements, such as converting World War II-era prebake plants to modern prebake equipment or upgrading Soderberg plants. Estimated total costs for the conservation-modernization program were $360 million, with retrofits saving as much as 300 megawatts. A suggested pilot program would be limited to $10 million per year for 10 to 15 years. [94]

The BPA recognized in the Final EIS that converting Soderberg plants to prebake reduction pots was cost prohibitive, but upgrading older prebake pots to modern prebake pots was possible. Other potline efficiency measures could include increasing the size of anodes, lowering current density in cells, installing computerized process

control systems, installing continuous alumina feed systems, installing more energy efficient cathodes and improving cell lining. The goal of the conservation-modernization alternative was to increase smelter efficiency and not necessarily capacity, but aluminum companies might find the efficiency improvements to be a good reason to increase production. The Final EIS concluded that aluminum smelter loads would increase on average because plant economics would tend to improve over time, but peak loads would be reduced. The fourth alternative in the Final EIS would establish a long-term link between the industrial firm power rate (IP) and the priority firm power rate (PF). This alternative had been proposed by the direct-service industries in 1985 during the BPA's general rate adjustment proceeding. The link could be established for the duration of current DSI power contracts, through June 30, 2001, or just for five years. BPA said it was "virtually impossible to quantify" the effects of this alternative, so this alternative was discussed "qualitatively rather than quantitatively." A fifth alternative in the Final EIS was to combine the variable rate, conservation-modernization program and IP-PF link rate in different ways. [95]

The BPA announced in late April 1986 that it would delay announcing its draft decision on the implementation of a variable power rate plan for the Pacific Northwest aluminum industry until May 6. The BPA said it was hiring an independent consultant to review its plans. Once the draft plan was made public, CFAC and other regional aluminum producers could respond before a final decision was made on May 30. If approved, the new rate structure would be implemented effective Aug. 1. [96] A 10-year variable power rate structure that tied the price of power to the market price of aluminum was announced by the BPA on June 16. CFAC President Jerome Broussard said the plan was "one we can live with." He expected the BPA's final version of the plan would be approved by the Federal Energy Regulatory Commission. According to the new rate structure, if the market price of aluminum was between 61 and 72 cents per pound, the price of power would be $22.80 per megawatt-hour. If the market price dropped below 61 cents during the first year and then below 59 cents the following year, then the DSI power price would drop to $15 per megawatt-hour. If the price of aluminum went above 72 cents, the price of power would gradually increase to $28.60 per megawatt-hour. [97]

Tax protests

CFAC's first year was a success. On May 30, 1986, Brack Duker told the Montana Board of Investments that CFAC was doing well and may not need the $8 million he had requested from the board to help finance the takeover of the aluminum plant from ARCO. The board had granted CFAC a third extension on the loan offer until Aug. 1, 1986, so the company could assess whether it needed the money. [98] CFAC officials

looked back on the company's successful first year of operation during a press conference in early October. Jerome Broussard said the company's financial shape was "better than we expected." He attributed the success to wage and benefit concessions from employees, streamlining of operations that reduced needed manpower, using just-in-time methods to reduce inventory and obtaining lower freight costs. Those factors and a new power rate tied to the market price of aluminum would help the company compete in the world aluminum market. Broussard explained that the aluminum plant's viability was never an issue with ARCO because ARCO was simply making a strategic decision to get out of the metals business. Duker praised the efforts of the community in saving the plant by packing BPA hearings. [99] Brian Kennedy congratulated CFAC for a successful first year of operation in an Oct. 15 editorial. "What a difference one year makes!" he said. Kennedy recalled the critics of the CFAC's plan to become a tolling company and the bitterness of workers forced to accept wage and benefit cuts. Now, after one year, the company was making money and was handing out its first profit-sharing checks. [100] On Nov. 25, Gov. Schwinden visited the plant to assess the financial success of the company after its first year of operation. [101]

But while the public was generally glad to see CFAC succeed, they were concerned if not bewildered by the company's approach to taxes. The Hungry Horse News chose CFAC's unexpected financial success as the top local news story for the year. At the same time, the story had taken a bad turn as the plant protested its property tax assessment, causing untold problems for School District 6, the newspaper noted. [102] CFAC had filed its tax appeal in the Flathead County Assessor's office on July 1. According to Broussard, the plant's appraised value had increased from $120 million in 1985 to $148 million in 1986, a change he called "unrealistic." Broussard pointed out that no buyers appeared when ARCO tried to sell the plant in 1984 through 1985. "The market value placed on this plant is way out of line for what it could be sold," Broussard said. He also cited the wage and benefit concessions made by CFAC employees in 1985 to help keep the plant operating. A reduction in tax revenues, however, would affect School District 6, Flathead County and the city of Columbia Falls. [103] In 1986, the aluminum plant remained the number one taxpayer in Flathead County despite having tied up nearly $1 million in the tax protest. CFAC's tax bill for 1986 was $2.35 million, down from $2.85 million in 1985. The next highest taxpayers in the county for 1986 were Northwestern Telephone Service at $1.3 million, Burlington Northern Railway at $1.5 million, Plum Creek Timber Co. at $905,000 and Pacific Power & Light at $533,000. [104]

On Dec. 2, 1986, CFAC announced that it had paid its Flathead County property taxes under protest and was filing an appeal with the Montana Department of Revenue. About 80% of the $1.18 million paid by CFAC was put in an escrow account while the appeal was heard. The CFAC plant had been assessed at $120 million in 1985 and at

$148 million in 1986, but an independent firm assessed the plant's value at only $30 million in May, according to Broussard. CFAC's 1986-1987 tax bill of $2.3 million was higher than the tax bill paid by eight other Pacific Northwest aluminum plants. The regional plants averaged $742,000 in property and other fixed taxes. [105] By December, School District 6 was considering the impact of tax protests by the top-two taxpayers in the county after Burlington Northern also filed a protest. The protests locked up tax revenues while the appeals were resolved, which could take months or even years. Normally CFAC's tax contribution accounted for about 18% of the school district's $7 million budget. If the money was not available, the tax burden might be shifted to residents. [106]

CFAC's property tax protest was scheduled to be heard by the Flathead County Tax Appeal Board on Feb. 19, 1987. The hearing at the county level was the first step in the company's protest, and the burden of proof lay with CFAC. If the ruling was unsatisfactory to CFAC, the company could appeal the ruling to a state appeal board and then possibly take the matter to district court. According to Monty Long, the Flathead County tax assessor, CFAC's tax protest tied up $949,413. The loss of tax revenue hurt Flathead County somewhat, Long said, but it was a significant setback to School District 6, which received from 65% to 70% of its tax revenues from the CFAC plant. CFAC's rationale had been that ever since the company took over the plant from ARCO, it had been forced to make drastic cost-cutting efforts to keep the plant from shutting down. [107]

The next step, it turned out, was not taken in the courts but in the political arena. During a special meeting held on Feb. 5, 1987, the Columbia Falls City Council passed a resolution supporting a bill in the Montana House that would reduce CFAC's tax liability from 11% to 3% by changing the plant's tax appraisal classification from Class 8 to Class 5, thereby saving the company about $900,000 of its $2.4 million tax bill. [108] Rep. John Harp of Kalispell introduced the bill in the Montana House on Feb. 24. The bill would amend the law defining property tax classifications that included machinery and equipment at the CFAC plant. According to Harp, the Class 5 designation, which assessed property value at 3% and was used for new industrial property as well as telephone and rural electrical cooperative equipment, was being used at the Montana Resource mining operation in Butte. When the Berkeley Pit was reopened by Montana Resource after being shut down for two years, it was given the Class 5 designation for a period of three years. Harp argued the same logic should have been applied when CFAC took over the Columbia Falls aluminum plant from ARCO in September 1985. "It's important that we keep this place competitive or we're going to lose it," Harp said. [109]

Brian Kennedy commented on the proliferation of tax protests in Flathead County in a March 11, 1987, editorial. According to Flathead County Treasurer Idella Smithers, more than 2,000 tax protests had been filed in the county in 1986, including CFAC, the county's largest taxpayer. "As insurance for their protest, the company is actively supporting a bill at the state legislature that would reduce the plant's taxable percentage from 11 percent to 3 percent," Kennedy said. Aluminum plants in the Pacific Northwest were not worth as much as they once were, he said. "But unrealistic property appraisals won't help the plant's future," he noted. [110] There were other critics of the tax break for CFAC. On March 12, the Flathead County Commissioners voted two to one in opposition to support for the House bill. Commissioners Ken Krueger and Howard Gipe were opposed to giving a tax break to a profitable business, in light of CFAC's successful first two years when other businesses and industries were not faring as well. Krueger noted that the county would lose about $350,000 in tax revenue. Krueger and Gipe agreed they would back such a bill if CFAC fell on hard times. Commissioner Allen Jacobsen voted in support of the House bill. [111]

House Bill 851 went to the Montana House Taxation Committee on March 17, 1987, where Harp urged the committee to consider the long-term future of the aluminum plant. He noted that the state received income tax revenue on the workers' profit-sharing in addition to income taxes on the plant's $28 million payroll. Speaking in favor of the bill were Columbia Falls Mayor Colleen Allison; Tom Payne, a CFAC manager who spoke for the Columbia Falls Chamber of Commerce; Judy Berardi of the People For Jobs organization; Dennis Corbett, representing the Aluminum Workers Trades Council; and CFAC part-owner Jerome Broussard. Krueger and Gipe spoke in opposition to the bill, arguing that CFAC had not presented any evidence it was in trouble financially or that a tax break was necessary for its survival. Gipe called House Bill 851 a "special interest bill." School District 6 Superintendent Ryan Taylor told the committee that the school board trustees had decided not to oppose the bill even though it would mean cuts in the school district's tax revenue. "We're not waving banners to support it, but we had to look at the entire picture," Taylor said. "Much more would be lost in our schools if the plant was forced to shut down." [112]

Harp recognized that the bill would mean reduced revenue for local schools and government, but he noted that the local community saw the "bigger picture" of saving the plant and saving jobs. Both Harp and Broussard acknowledged that the company made a profit in 1986, but they pointed out that the company needed to be more financially secure to survive the competitive nature of the industry. [113] Ryan later clarified the school district's position. He told the Hungry Horse News that he had not testified in support of House Bill 851. Instead, the school district had taken the stance of "not objecting to" the proposed legislation. Taylor explained that while the bill would

reduce tax revenue for the school district, it was more important to help CFAC maintain its competitiveness in order to stay operating. [114]

The Flathead County Tax Appeal Board heard arguments on March 19 and 20, 1987, about how obsolete the CFAC plant was and what was the best way to determine the plant's worth. Richard Nichols, an appraiser with American Appraisal Associates, a private firm hired by CFAC that had earlier estimated the plant's value at $30 million, outlined a number of serious disadvantages affecting the plant's value. Reduction pot design caused inefficient power losses and the plant's geographical isolation created higher freight costs. Nichols estimated these and other factors cost the plant about $58.6 million per year in potential profit. Roy Spaulding, an industrial appraiser for the state of Montana, agreed that some degree of obsolescence existed at the CFAC plant, but he estimated that potential profits were reduced by only $10 million. [115]

The state and the company also took different approaches to establishing the aluminum plant's value. The state based its valuation on the cost to replace the plant, which could be around $684 million if CFAC bought a modern facility. Plants similar in design to CFAC were no longer being built, Spaulding noted, so by factoring in the plant's life expectancy the state estimated the plant to be worth $147 million. The company based its valuation on the estimated income the plant could produce. With increasing competition from cheaper foreign aluminum smelters that had access to cheaper power, U.S. aluminum plants in general were difficult to sell. Broussard told the tax appeal board that even though the plant was running better than ever before, it was still inefficient when compared to other aluminum smelters. Aluminum smelters working under tolling contracts were also becoming more commonplace. When asked if he would rebuild CFAC with its current power rates, Broussard replied, "Given that and a number of other reasons, absolutely no way." Broussard explained the difficulty ARCO had selling the plant. Nichols said he believed that even with a valuation of $30 million, the plant would not sell. [116]

The Montana House approved House Bill 851 on March 21, 1987, by an 81 to 15 vote. News of the bill's passage led to bittersweet reactions by those responsible for drafting School District 6's 1987-1988 budget. Monty Long said the county could expect to lose from $900,000 to $1 million in tax revenues as a result of the bill. "The big loser in this whole thing is the school district," he said. Long estimated that School District 6 would lose $134,000 for its annual elementary school budget and $116,000 for its annual high school budget. Gary Saurey, CFAC's tax and internal control coordinator, estimated that if the bill passed, CFAC's tax payment would amount to about 6% of School District 6's total budget. "We're paying three times or more (in property taxes than comparable size plants) and obviously, it's causing us problems," Saurey said. [117] In an April 1

editorial, Brian Kennedy urged Columbia Falls residents to vote in favor of a $1.3 million special levy for School District 6. Kennedy pointed out that tax protests by CFAC and Burlington Northern and a new bill in the Montana Legislature could adversely affect the school district's 1987-1988 budget. [118]

The Montana Senate voted 40 to 10 in favor of House Bill 851 on April 7, 1987, and the bill headed to Gov. Schwinden for his signature. The bill had moved through the Legislature in an unusually short period of time with no amendments attached by either chamber. With that degree of support, it was expected that the governor would not veto the bill. Opponents called it "special interest legislation" and argued that one business should not be singled out for a tax break when many other Montana businesses were suffering financially. State Sen. Ray Lybeck of Kalispell pointed out that the company's property taxes were way out of line compared to other Pacific Northwest aluminum smelters and needed changing. State Sen. Bob Brown of Whitefish described the bill as preventative medicine intended to help CFAC keep operating rather than delaying action until it was too late. Brown also pointed out that School District 6 had not opposed the bill. [119] Meanwhile, the Flathead County Tax Appeal Board denied CFAC's tax protest. CFAC had 20 days to appeal the board's ruling to the state appeal board. [120] By mid-April, following Gov. Schwinden's signature, the Flathead County Commissioners were considering ways to deal with a $360,000 loss in tax revenues. Commissioner Gipe said his campaign promise to reduce property taxes by 20% now looked impossible. Commissioner Jacobson, the only commissioner to back the bill, agreed that "it's going to put quite a crimp in the county budget." [121]

An agreement was reached between CFAC and the Montana Department of Revenue on April 23, 1987, regarding the company's dispute over its 1986 tax appraisal. Rep. Harp reported that the company would receive a 9% reduction in its property tax liability, which would amount to a savings of about $207,000. The company's total 1986 tax bill was $2.3 million, which was less than the $2.8 million paid by ARCO in 1985 but more than three times the average tax bill for aluminum smelters in the Pacific Northwest. As part of the agreement, CFAC would not pursue its appeal of its 1986 appraisal. In protest, CFAC had paid only its first-half taxes, which tied up nearly $1 million in revenue for local schools and government. [122] Bob Holliday, the state's industrial appraiser, stood by the state's original appraisal of the CFAC plant but explained that a settlement avoided what could have become a lengthy and costly legal battle. Broussard said the company was satisfied with the settlement. [123]

By 1988, the top nine taxpaying companies in Flathead County paid one third of the county's property taxes. The top three – CFAC, Plum Creek and F.H. Stoltze Land & Lumber Co. – were all based in Columbia Falls. CFAC spokesman Jack Canavan said

CFAC's tax bill for 1988 would be about $1.4 million, down from $2.4 million in 1987. The sharp reduction was due to the new law passed by the Montana Legislature that reduced the company's tax liability from 11% to 3%. [124] In October 1988, several Montana politicians looked back at their role in the passage of House Bill 851. CFAC's success in the intervening 19 months had raised the issue of whether the tax-reduction bill was necessary. The bill had been introduced by Rep. Harp, and few had argued against it in the Legislature. Harp, who was running for the Montana Senate, said he felt the legislation was necessary to keep the plant viable for as long as possible, and CFAC's success was a boon for everyone in the Flathead Valley. "The majority of that bonus money (from profit-sharing) is spent in the valley, which should help everyone," Harp said. Rumors in the valley indicated profit-sharing checks to be paid in October 1988 might reach $25,000 per full-time employee. With the possibility of changing economic conditions in the future, Harp added, the legislation should be left alone. [125]

Ray Lybeck, who was running for re-election to the Montana Senate, had also voted for the bill, but he was proposing in his campaign to change CFAC's tax classification again – this time to a variable rate. "When they're making money, they pay more taxes," Lybeck said. "When they're not doing so good, it drops back down." He pointed out that the BPA's power prices were based on a similar structure. Lybeck noted that the Aluminum Workers Trades Council "was not quite so friendly" about the tax proposal despite his explanation that rising property taxes could take away their profit-sharing. Flathead County Commissioner Gipe had opposed the bill from the very beginning. "I feel no different today than I did then," he said. "If you give any tax reductions, it should be across the board. And that's exactly what I'd like to see." He explained that businesses with less political influence would love a similar tax reduction. "There're other businesses here in the valley that have gone under," Gipe said. [126]

The Hungry Horse News ran a number of letters in response to the comments made by Harp, Lybeck and Gipe on Oct. 19, 1988. Myron Beck said he was "tired of politicians working to kill industry in this valley" and said Lybeck's and Gipe's statements indicated an effort to "squeeze more money out of the business community." Beck said he believed the amount of tax revenue collected by the state from CFAC employees' profit-sharing checks was more than the $900,000 tax reduction resulting from the House bill, and there was an additional $1 million in corporate taxes paid by CFAC's owners. Jim and Evelyn Grant said the law was fair because the equipment at the CFAC plant was old and aluminum plants across the Pacific Northwest benefited from lower taxes. The Grants wondered if the windfall profits made recently by the timber industry would remain in the Flathead Valley, and pointed out that taxes on CFAC's profit-sharing checks would generate more tax revenue for local government than under the former property tax rate. [127] William M. Brass said Lybeck should be working to reduce taxes for

other businesses rather than going after CFAC. He explained that one of the main reasons for lack of real growth and prosperity in Montana was the anti-business attitude of Montana politicians. Brass argued that profit-sharing money would "turn over seven times generating new jobs and a more prosperous feeling throughout the valley." [128]

The letters continued in the Nov. 2 issue of the Hungry Horse News. Tom Woods, president of Cedar Products in Kalispell, congratulated the workers for their hard work and said they deserved their profit-sharing checks. Woods explained that some people in the valley were jealous of the workers and wanted to take away their profit-sharing in the form of higher taxes, rather than let the profit-sharing money benefit the community by being spent and used in the local economy. Mayor Colleen Allison reminded workers of the community's effort to save the aluminum plant with the We Want The Plant and People For Jobs grassroots groups. "If we had not won and CFAC had not become a viable business, WHO THEN would be paying the taxes…YOU would!" she said. Allison described the efforts spent to get CFAC lower power rates from the BPA and lower tax rates. "JUST REMEMBER," she said, "when a business does well… we all do well." [129]

Dennis L. Allen wrote that it was time for the aluminum company to give something back to the community. "I was in favor of a tax break for CFAC when it was in need in order to keep the plant open," he wrote. "But now I believe it is time to give something back to the majority of us (the taxpayers) who picked up the tax loss." Allen argued that property taxes for residents of Columbia Falls increased by one third. He also noted that profit-sharing checks only benefited local businesses and the CFAC employees themselves, not the taxpayers, and that the Columbia Falls tax base would not improve because most of CFAC's employees lived outside of Columbia Falls. "Why must our elderly, disabled and low income help pay for CFAC bonuses?" Allen asked. [130] A letter to the editor about payroll at the smelter by Linc France appeared in the Nov. 9 Hungry Horse News. France said he had conducted his own informal poll to measure the impact of profit-sharing money paid by CFAC on the local economy and reported that about 40% of business people in Columbia Falls saw no difference, 5% were unsure and 55% saw a definite upswing in business. "This all proves to me and a lot of other people that the bonus is helping Columbia Falls," he concluded. [131]

The amount of local property taxes paid on the aluminum plant in Columbia Falls steadily fell over the plant's last decade. Taxes paid to the Flathead County Treasurer's Office for the CFAC plant in 1987 came to $1,598,194. By 2001, the amount that would have been paid was $1,646,268, but the payment was voided entirely as the plant was entirely shut down during the West Coast Energy Crisis. The amount paid in 2005 was $1,261,904. Taxes paid in 2008 totaled $863,981. Taxes on the CFAC plant for 2009, the

year the plant stopped running for good, were abated by $82,537, and the amount paid for 2009 totaled $633,191. Taxes paid in 2013 totaled $319,894. Taxes due May 31, 2014, for the first half of the year were $159,947 for property and equipment valued at $12.3 million with a taxable value of $363,593. [132]

With tolling contracts, profit-sharing, a solid work force and tax reductions all in hand, the Columbia Falls Aluminum Co. enjoyed some strong years while continuing to face power and market troubles. The international aluminum market continued to be unpredictable, with the proliferation of independent alumina and aluminum producing companies with plants springing up in locations around the world, leading to further weakening of the vertically-integrated oligopoly. The collapse of the Soviet Union brought a flood of aluminum into global markets, while the rise of China lay more than a decade further in the future. Meanwhile, regional power problems persisted, with some Pacific Northwest aluminum plants closing and many turning to the new de-regulated open market instead of the BPA. Adding to all those economic and business considerations was an unexpected factor that put CFAC in the national spotlight – greed at the top, which led to the profit-sharing class action lawsuit and the sale of the plant to a foreign company.

---

[1] "Nonferrous Metals: Industry Structure, Background Paper No. OTA-BP-E-62, Congress of the United States," Office of Technology Assessment, September 1990 [AL5138]
[2] Office of Technology Assessment, September 1990 [AL5138]
[3] "Reynolds closes 2 Arkansas plants," New York Times, Nov. 26, 1985 [AL5298] and James R. Klub, "Organisation of aluminium supply," from Chapter 8 of "The Aluminium Industry," 2001 [AL5293]
[4] Michael Jamison, "Swiss firm buys plant," Missoulian, May 22, 1999 [AL0092]
[5] Don Schwennesen, "Ever ore? Columbia Falls aluminum plant hangs on in era of change" and "Four decades, The plant turned 40, bearing scars of middle age" and "Captains of the local industry," Missoulian, Dec. 23, 1995 [AL0046]
[6] Schwennesen,Dec. 23, 1995 [AL0046]
[7] Mark Miester, "A better climate, Jerome Broussard found business success and personal fulfillment in Big Sky country," Tulane University online, June 2004 [AL3888]
[8] Miester, June 2004 [AL3888]
[9] Schwennesen,Dec. 23, 1995 [AL0046]
[10] "Former aluminum plant manager Robert Sneddon dies," Daily Inter Lake, July 30, 1996 [AL4368]
[11] "Longtime employees opt for early retirement plan" and "Five ARCO managers promoted to fill retirement vacancies," Hungry Horse News, March 10, 1983 [AL2524]
[12] "CFAC appoints new manager," Daily Inter Lake, May 27, 1994 [AL1862]
[13] "CFAC promotes Allen Barkley to handle external affairs post," Hungry Horse News, May 26, 1994 [AL3357]
[14] "Allen Barkley leaving CFAC," Hungry Horse News, May 11, 1995 [AL3911]
[15] Schwennesen, Dec. 23, 1995 [AL0046]

[16] Mel Ruder, "Tracing history of aluminum plant in Col. Falls," Hungry Horse News, Sept. 18, 1985 [AL0248]
[17] Brian Kennedy, "ARCO may give plant to its employees," Hungry Horse News, June 20, 1985 [AL0271]
[18] Brian Kennedy, "ARCO eyes two offers," Hungry Horse News, June 27, 1985 [AL0270]
[19] Miester, June 2004 [AL3888]
[20] Jim Robbins, "A broken pact and a $97 million payday," New York Times, April 19, 1998 [AL0066]
[21] "Duker, state financiers tour ARCO plant," Hungry Horse News, Aug. 28, 1985 [AL0267]
[22] "Loan boosts ARCO buyout a step ahead," Hungry Horse News, Aug. 14, 1985 [AL0269]
[23] Brian Kennedy, "Duker still dealing for ARCO" and "Checkered past uncovered for Texas metals company," Hungry Horse News, July 31, 1985 [AL0272]
[24] U.S. Magistrate Judge Leif B. Erickson, Findings and Recommendation of U.S. Magistrate Judge, Cause No. CV-92-041-M-JDS, Columbia Falls Aluminum Company v. Aluminum Workers Trade Council, and AWTC et. al. v. CFAC, Brack Duker and Jerome Broussard, May 20, 1996 [AL1496] and U.S. District Court Judge Jack Shanstrom, In The United States District Court for the District of Montana, Missoula Division, In Re: Columbia Falls Aluminum Company Profit-Sharing Litigation, Cause Nos. CV 92-27-M-JDS, CV 92-41-M-JDS, Order, July 23, 1997 [AL1735]
[25] Letter from ARCO Vice President Patricia Gallery to EPA Docket Coordinator Headquarters to comment on placing CFAC site on Superfund National Priorities List, May 29, 2015 [AL5106]
[26] "Loan boosts ARCO buyout a step ahead," Hungry Horse News, Aug. 14, 1985 [AL0269] and "State offers ARCO employees plant purchase loan," Whitefish Pilot, Aug 14, 1985 [AL4377]
[27] "ARCO deal foreseen by Sept. 4," Hungry Horse News, Aug. 21, 1985 [AL0268]
[28] "Duker, state financiers tour ARCO plant," Hungry Horse News, Aug. 28, 1985 [AL0267]
[29] "It's a deal: ARCO sells," Hungry Horse News, Sept. 11, 1985 [AL0259]
[30] Mark Brunson, "Duker's new company takes over ARCO plant," Daily Inter Lake, Sept. 18, 1985 [AL1984]
[31] Brunson, Sept. 18, 1985 [AL1984]
[32] "ARCO plant bought by Duker group," Whitefish Pilot, Sept. 11, 1985 [AL4376]
[33] Shanstrom, July 23, 1997 [AL1735] Erickson, May 20, 1996 [AL1496]
[34] Michael Jamison, "Columbia Falls Aluminum Company," Montana Business Quarterly, June 1998 [AL0351]
[35] Dan Black, "Tough times test CFAC's mettle," Flathead Business Journal, Feb. 7, 1992 [AL1756]
[36] "New deal underway at CF Aluminum Co.," Hungry Horse News, Sept. 18, 1985 [AL0260]
[37] "Duker takes over, new ARCO management settles in," Whitefish Pilot, Sept. 25, 1985 [AL4375]
[38] AP, "Aluminum plant forges deal with Australian mining firm," Missoulian, March 22, 1986 [AL0011]
[39] Ben Cohen, "Buyout poses ownership puzzle," Daily Inter Lake, Sept. 22, 1985 [AL1988]
[40] Shanstrom, July 23, 1997 [AL1735]
[41] U.S. Senator Max Baucus, "Employee ownership of ARCO plant at Columbia Falls, MT," Congressional Record, Sept. 25, 1985 [AL0247]
[42] Senator Baucus, Sept. 25, 1985 [AL0247]
[43] Untitled letter from Brack Duker to Peter Prowitt, U.S. Senate, SH706, Washington, D.C., July 28, 1986 [AL1495]
[44] Duker, July 28, 1986 [AL1495]
[45] CFAC document, undated [AL2875]
[46] "CFAC contract faces second vote today," Hungry Horse News, Nov. 27, 1985 [AL0276]
[47] Brian Kennedy, "Union, CFAC open contract talks" and "One-third of salaried step down," Hungry Horse News, Nov. 6, 1985 [AL0274]

[48] Kennedy, Nov. 6, 1985 [AL0274]
[49] Shanstrom, July 23, 1997 [AL1735]
[50] Brian Kennedy, "Workers say 'no' to contract concessions," Hungry Horse News, Nov. 20, 1985 [AL0273]
[51] Hungry Horse News, Nov. 27, 1985 [AL0276]
[52] Ruder, Sept. 18, 1985 [AL0258]
[53] AP, "CFAC plant's suit dismissed," Missoulian, Feb. 7, 1986 [AL1185]
[54] Columbia Falls Aluminum Co., Montana Aluminum Investors Corp., Brack Duker, Jerome Broussard v. Hindin/Owne/Engelke Inc., 224 Mont. 202, 728 P.2d 1342, Dec. 9, 1986 [AL3903]
[55] "Judge directs CFAC lawsuit to California," Hungry Horse News, Feb. 12, 1986 [AL2679]
[56] Columbia Falls Aluminum Co., Montana Aluminum Investors Corp., Brack Duker, Jerome Broussard v. Hindin/Owne/Engelke Inc., 224 Mont. 202, 728 P.2d 1342, Dec. 9, 1986 [AL3903]
[57] "CFAC fights suit," Hungry Horse News, Jan. 8, 1986 [AL2667]
[58] Hungry Horse News, Feb. 12, 1986 [AL2679]
[59] Columbia Falls Aluminum Co., Montana Aluminum Investors Corp., Brack Duker, Jerome Broussard v. Hindin/Owne/Engelke Inc., 224 Mont. 202, 728 P.2d 1342, Dec. 9, 1986 [AL3903]
[60] In the Supreme Court of the State of Montana, No. 86-202, Columbia Falls Aluminum Co., Montana Aluminum Investors Corp., Brack Duker and Jerome Broussard v. Hindin/Owen/Engelke Inc., Dec. 9, 1986 [AL4847]
[61] Scott Crandell, "Trying year for aluminum plant became top local story for 1985," Hungry Horse News, Jan. 1, 1986 [AL2664]
[62] James E. Larcombe, "C. Falls plant's profits lie in processing ore," Missoulian, April 8, 1986 [AL0012]
[63] Office of Technology Assessment, September 1990 [AL5138]
[64] "BPA hearing tonight, CFAC nears tolling contracts," Hungry Horse News, Jan. 29, 1986 [AL2674]
[65] "C.F. Aluminum Co. signs long-term contract," Hungry Horse News, March 26, 1986 [AL2680]
[66] Missoulian, March 22, 1986 [AL0011]
[67] "CFAC signs long-term contract, but power rate remains critical," Hungry Horse News, May 21, 1986 [AL2684]
[68] Brian Kennedy, "News from CFAC plant looks better," Hungry Horse News, May 14, 1986 [AL2683]
[69] "CFAC signs new contract good to 1995," Hungry Horse News, Nov. 18, 1987 [AL2732] and "CFAC extends Norwegian contract," Missoulian, Nov. 20, 1987[AL0015]
[70] Brian Kennedy, "CFAC pact assures production until 1995," Hungry Horse News, March 16, 1988 [AL0253] and "CFAC contract guarantees work," Whitefish Pilot, March 16, 1988 [AL4374]
[71] Kennedy, March 16, 1988 [AL0253] and "Metal production assured to 1995," Hungry Horse News, July 26, 1989 [AL2771]
[72] "Aluminum – Columbia tentatively sold for $120-million; terms conditional," Platt's Metals Week, Nov. 30, 1992 [AL0835]
[73] "Columbia Falls faces contract deadlines," Platt's Metals Week, June 19, 1995 [AL0845]
[74] "CFAC signs deals to produce aluminum for five years," Daily Inter Lake, Aug. 27, 1995 [AL0034]
[75] "Signed up, new CFAC tolling contracts good for the next five years," Hungry Horse News, Aug. 31, 1995 [AL4831]
[76] Jamison, May 22, 1999 [AL0092] [AL0847]
[77] "CF hearing planned Jan. 29, BPA power rate is next obstacle," Hungry Horse News, Nov. 28, 1985 [AL0263]

[78] "BPA hearing planned Jan. 29, People for Jobs renews efforts," Hungry Horse News, Jan. 8, 1986 [AL2666]
[79] "Support needed at BPA meeting," Hungry Horse News, Jan. 15, 1986 [AL2670]
[80] "Jan. 29 motto: 'Finish the job,'" Hungry Horse News, Jan. 15, 1986 [AL2668]
[81] "Public will have its say at BPA hearing on Jan. 29," Hungry Horse News, Jan. 22, 1986 [AL2671]
[82] Brian Kennedy, "Please attend BPA hearing on Jan. 29," Hungry Horse News, Jan. 22, 1986 [AL2672]
[83] "Does it surprise you that BPA may give the aluminum industry a break? And that it could be good for you?" Bonneville Power Administration, Hungry Horse News, Jan. 22, 1986 [AL2673]
[84] Bonneville Power Administration, Jan. 22, 1986 [AL2673]
[85] "Banner day," Hungry Horse News, Jan. 29, 1986 [AL2675]
[86] "Crowd impresses BPA," Hungry Horse News, Feb. 5, 1986 [AL2676]
[87] Brian Kennedy, "Flathead turns out again to support aluminum plant" and "Duker: Thanks for helping," Hungry Horse News, Feb. 5, 1986 [AL2678]
[88] Brian Kennedy, "Some observations on the BPA meeting, thanks for the effort," Hungry Horse News, Feb. 5, 1986 [AL2677]
[89] "Members of People for Jobs will lobby state legislators," Hungry Horse News, June 11, 1986 [AL2690]
[90] Final Environmental Impact Statement, Bonneville Power Administration, Direct Service Industry Options, U.S. Department of Energy, April 1986 [AL4952]
[91] U.S. Department of Energy, April 1986 [AL4952]
[92] U.S. Department of Energy, April 1986 [AL4952]
[93] U.S. Department of Energy, April 1986 [AL4952]
[94] U.S. Department of Energy, April 1986 [AL4952]
[95] U.S. Department of Energy, April 1986 [AL4952]
[96] "BPA delays decision on power rates plan," Hungry Horse News, April 23, 1986 [AL2681]
[97] "BPA finalizes variable charge, power rate palatable to CFAC," Hungry Horse News, June 18, 1986 [AL2691]
[98] "CFAC may not need entire $8 million loan, says Duker," Hungry Horse News, June 4, 1986 [AL2687]
[99] Chery Sabol, "CFAC reports profitable first year," Hungry Horse News, Oct. 15, 1986 [AL2698]
[100] Brian Kennedy, "CFAC looks better," Hungry Horse News, Oct. 15, 1986 [AL2699]
[101] "Ted gets tour," Hungry Horse News, Nov. 26, 1986 [AL2702]
[102] Michael Kustudia, "For Flathead in 1986, aluminum plant recovery top story," Hungry Horse News, Dec. 31, 1986 [AL2705]
[103] Brian Kennedy, "CFAC appeals tax-appraisal increase," Hungry Horse News, July 2, 1986 [AL2692]
[104] "CFAC still top single Flathead County taxpayer," Hungry Horse News, Jan. 21, 1987 [AL2708]
[105] "CFAC protests property taxes," Hungry Horse News, Dec. 3, 1986 [AL2703]
[106] "CFAC's tax protest could have profound impact on District 6," Hungry Horse News, Dec. 10, 1986 [AL2704]
[107] "Tax appeal hearing Feb. 19," Hungry Horse News, Jan. 21, 1987 [AL2709]
[108] "City votes for lower CFAC taxes," Hungry Horse News, March 11, 1987 [AL2711]
[109] "Bill seeks big break for CFAC," Hungry Horse News, Feb. 25, 1987 [AL2710]
[110] Brian Kennedy, "CFAC joins many to protest its taxes," Hungry Horse News, March 11, 1987 [AL2712]
[111] "Commission opposes CFAC tax proposal," Hungry Horse News, March 18, 1987 [AL2713]
[112] "Falls applause greets CFAC tax bill," Hungry Horse News, March 18, 1987 [AL2714]

[113] Steve Shirley, "Tax cut for CFAC receives backing from city officials," Missoulian, March 18, 1987 [AL1187]
[114] "CFAC tax story corrected," Hungry Horse News, April 1, 1987 [AL2718]
[115] Michael Kustudia, "Hearing examines discrepancy of value estimate on CFAC plant," Hungry Horse News, March 25, 1987 [AL2716]
[116] Kustudia, March 25, 1987 [AL2716]
[117] "Schools lose under CFAC tax bill," Hungry Horse News, March 25, 1987 [AL2715]
[118] Brian Kennedy, "District 6 levies deserve support," Hungry Horse News, April 1, 1987 [AL2717]
[119] "CFAC tax bill breezes through Legislature, Krueger and Gipe object, but Senate favors 40-10," Hungry Horse News, April 8, 1987 [AL2719]
[120] "CFAC denied tax protest," Hungry Horse News, April 8, 1987 [AL2720]
[121] "CFAC bill hits county revenues," Hungry Horse News, April 22, 1987 [AL2721]
[122] AP, "CFAC settles dispute with state," Missoulian, April 24, 1987 [AL1188]
[123] "Settlement ends CFAC protest," Hungry Horse News, April 29, 1987 [AL2722]
[124] "Col. Falls home to 4 of biggest taxpayers," Hungry Horse News, Nov. 30, 1988 [AL2757]
[125] "Solons review '87 CFAC tax cut back," Hungry Horse News, Oct. 12, 1988 [AL2750]
[126] Hungry Horse News, Oct. 12, 1988 [AL2750]
[127] Myron Beck, "I'm sick of politicians working to kill industry" and Jim and Evelyn Grant, "Profit sharing money will generate more," Hungry Horse News, Oct. 19, 1988 [AL2752]
[128] William M. Brass, "Raising tax on CFAC won't reduce taxes," Hungry Horse News, Oct. 19, 1988 [AL2753]
[129] Colleen Allison, "When a business does well… we all do well" and Tom Woods, "Congratulations, CFAC you deserve your profit sharing," Hungry Horse News, Nov. 2, 1988 [AL2754]
[130] Dennis L. Allen, "Someone needs to tell me how this bonus helps," Hungry Horse News, Nov. 2, 1988 [AL2754]
[131] Linc France, "This proves the bonus is helping Col. Falls," Hungry Horse News, Nov. 9, 1988 [AL2756]
[132] "CFAC tax history for plant site, 1987-2013," Flathead County Treasurer's Office, May 12, 2014 [AL4535]