

**H.R. 1408, TO PROVIDE FOR  
THE SETTLEMENT OF CERTAIN  
CLAIMS UNDER THE  
ALASKA NATIVE CLAIMS  
SETTLEMENT ACT**

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**LEGISLATIVE HEARING**

BEFORE THE

SUBCOMMITTEE ON INDIAN AND  
ALASKA NATIVE AFFAIRS

OF THE

COMMITTEE ON NATURAL RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

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**LEGISLATIVE HEARING ON H.R. 1408, TO PROVIDE FOR THE SETTLEMENT OF CERTAIN CLAIMS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT, AND FOR OTHER PURPOSES.**

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**Thursday, May 26, 2011  
U.S. House of Representatives  
Subcommittee on Indian and Alaska Native Affairs  
Committee on Natural Resources  
Washington, D.C.**

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The Subcommittee met, pursuant to call, at 11:01 a.m. in Room 1324, Longworth House Office Building, Hon. Donald Young, [Chairman of the Subcommittee] presiding.

Present: Representatives Young, Denham, Kildee, and Hanabusa.

Mr. YOUNG. The purpose of today's hearing is to hear testimony on H.R. 1408, a bill that I introduced, along with the Ranking Member, Dan Boren, and the majority of the other Members of this Subcommittee.

**STATEMENT OF THE HONORABLE DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA**

Mr. YOUNG. H.R. 1408, the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act, will authorize Sealaska, the regional Alaska Native Corporation for Southeast Alaska, to finalize its 40-year-old land settlement due under the Alaska Native Claims Settlement Act, ANCSA, of 1971, by selecting Native lands from within a designated pool of land in Southeast Alaska.

ANCSA allocated 44 million acres and nearly \$1 billion to Alaska's Native people, to be managed by the 12 regional corporations, including Sealaska, and more than 200 village corporations.

First introduced in 2007, this bill has undergone an extensive vetting process throughout the region that has resulted in meaningful changes, such as providing for continued public access to lands, and modifying certain land selections, among others.

In addition, the legislation allows Sealaska to move away from sensitive watersheds, to select a more balanced inventory of second growth and old growth, and to select most of its remaining ANCSA lands on the existing road system, preserving on balance as much as 40,000 acres of inventoried roadless old growth.

Further, Southeast Alaska communities face dire economic realities. Some communities have unemployment nearing 50 percent, and many more are in the double digits. It was not always this way, but through the mismanagement of the forest by the Forest Service, and the continued siege from environmental groups, industry has suffered, and over the last couple of decades, the population has seen a consistent and steep decline.

By permitting Sealaska to select its remaining entitlement lands from outside of the withdrawal boxes, the Sealaska bill would help Sealaska maintain jobs in rural and predominantly Native communities. Sealaska provides hundreds of jobs and is the largest private employer in the entire region.

After nearly 40 years since the passage of ANCSA, Sealaska has still not received conveyance of its full land entitlement. It is critical that Sealaska complete its remaining land entitlement under ANCSA in order to continue to meet the economic, social, and cultural needs of its Native shareholders, and the Native community throughout Alaska.

It is very, very important that this bill does pass, and welcome, Mr. Kildee. It is good to have you here, and do you have an opening statement?

[The prepared statement of Chairman Young follows:]

**Statement of The Honorable Don Young, Chairman,  
Subcommittee on Indian and Alaska Native Affairs**

The purpose of today's hearing is to hear testimony on H.R. 1408, a bill I introduced with the Ranking Member, Dan Boren, and the majority of the other Members of this Subcommittee.

H.R. 1408, the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act will authorize Sealaska, the regional Alaska Native Corporation for Southeast Alaska, to finalize its 40-year old land settlement due under the Alaska Native Claims Settlement Act (ANCSA) of 1971 by selecting Native lands from within a designated pool of land in Southeast Alaska.

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**STATEMENT OF THE HONORABLE DALE E. KILDEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN**

Mr. KILDEE. Thank you, Mr. Chairman, and thank you for your patience with me. I had another hearing, but first of all, I want to thank you for calling this important hearing on H.R. 1408.

I have been in Congress now for 35 years, and it is great to find someone who is a soulmate, someone who believes that justice is very important, and that justice delayed is justice denied.

We have obligations to the Native Alaskans, and we want to make sure that we do everything that we can to make sure that we carry out the land entitlements which were promised them.

People may disagree as to how and what, but this Congress has great authority, and I appreciate the fact that Mr. Young has been so diligent and in having this area, and I look forward to hearing from the witnesses.

[The prepared statement of Mr. Kildee follows:]

**Statement of The Honorable Dale Kildee, a Representative in Congress from the State of Michigan**

I thank the Chairman for calling this important hearing on H.R. 1408, the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act.

As we know, under the Alaska Native Claims Settlement Act (ANCSA), the Sealaska Corporation is entitled to up to 375,000 acres of land to resolve long-standing native land claims. This land is for the benefit and ECONOMIC development of sealaska shareholders. To date, this land entitlement has not been fulfilled.

H.R. 1408 would allow Sealaska to select its remaining entitlement land from outside the land borders designated by ANCSA. While there are differing opinions about this process, everyone on this Committee is dedicated to ensuring that Sealaska receives the land to which they are entitled.

I thank the chairman for calling this important hearing and I look forward to the witnesses' testimony to help further the discussion. I am committed to Sealaska receiving the land it is entitled to and to working with the Chairman to resolve any concerns to see that this important matter is settled.

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Mr. YOUNG. I thank the gentleman, and this is going to be a little bit awkward, because I just made my opening statement, and Mr. Kildee made his opening statement. I have to be on the Floor for about 15 minutes, and if I can, Mr. Kildee, Mr. Denham is on his way, and I will run over and get back as soon as I can.

I have an issue on the Floor that I have to take care of under the Defense Bill, and I will recess until Mr. Denham gets here, and then he will call us back in, and we will hear from our witness from the Department of Agriculture.

I do apologize to you for this. There is only one of us in Alaska, and when they are going to have this clone experiment, I say that you don't need two of us, but sometimes I wish there were two of us.

So if you would excuse me for about 15 minutes, and I would like to hand you the gavel. I don't know how that would go over.

Mr. KILDEE. You wouldn't object, but some others may.

Mr. YOUNG. So with that in mind, we will stand in recess until Mr. Denham gets here, and as soon as he gets here, we will start the discussion with our first witness, and I will be back as soon as I can.

Mr. KILDEE. Thank you, Don.

Mr. YOUNG. Thank you.

[Recess.]

Mr. DENHAM. [Presiding.] The Committee on Natural Resources will now come back to order. Thank you. We will now hear from our witnesses. On the first panel is Harris Sherman, the Under Secretary of Agriculture for Natural Resources and the Environment.

Like all of our witnesses, your written testimony will appear in full in the hearing record. So I ask that you keep your oral statements to five minutes as outlined in our invitation letter to you under Committee Rule 4(a).

I also want to explain how our timing lights work. When you begin to speak, our Clerk will start the timer and a green light will appear. After four minutes, the yellow light will appear, and at that time, you should begin wrapping things up. At five minutes the red light will come on, and you may complete your sentence, but at that time, we must stop you.

**STATEMENT OF HARRIS SHERMAN, UNDER SECRETARY,  
NATURAL RESOURCES AND ENVIRONMENT, U.S. DEPARTMENT OF AGRICULTURE**

Mr. SHERMAN. Thank you very much. My name is Harris Sherman, and I am the Under Secretary at USDA for Natural Resources and the Environment. We are pleased to have a chance to comment on H.R. 1408.

At the outset, I want to state that we fully support Sealaska's finalization of all of its land selections, and finalization of all associated issues that come from that. We fully recognize and appreciate, and respect the history and the connection of Native Alaskans to the Tongass.

This process has gone on for too long. It needs to be brought to closure, and if we do, I think it will help all parties. We are also pleased that progress has been made by the parties to resolve a number of the issues that came up in prior legislation.

And this progress has been seen in recent iterations of S. 730, and I also should say that we are pleased about the ongoing dialogue between the parties. There remain a number of important issues where we need to find common solutions, solutions which allow Sealaska to pursue future opportunities, and ones which will allow other important principles to succeed.

And in particular the transition away from old growth and roadless forests to second growth forests and restoration projects, and the transition to a more diversified vibrant economy in Southeastern Alaska, not only with timber, but it includes commercial fishing, and mariculture, tourism, and recreation, and renewable energy.

Many parties have been working on these issues, and I want to say that we are particularly appreciative of Sealaska's efforts to assist us in this regard. All of these efforts will provide jobs both to native and non-native communities alike.

Now, in that context, or concerns with the bill are as follows. First, the lands identified by Sealaska for timber development overlap to a considerable extent with lands that are critical to the suc-



cess of the Forest Service's transition strategy over the next 10 to 15 years.

These are lands that are central to providing local mills with sustainable, dependable wood for the foreseeable future. These are lands where we have invested over 50 million in the form of infrastructure and thinning efforts.

And these represent some of the best lands for the transition period. Since Sealaska's intentions as we understand it are to export most of these logs abroad, we are genuinely concerned, however, how we will meet the needs of Sealaska's remaining mills, and the value added products that they support.

Second, a portion of the lands targeted by Sealaska for development outside of the withdrawal areas are old growth reserves, which provide essential habitat for the Goshawk and the Gray Wolf, both species of concern.

The Forest Service in its Tongass Land Management Plan committed to protecting these areas was an important factor in the Fish and Wildlife Service's support of the plan. If developed, we are concerned about the impact of the Goshawk and the Gray Wolf, and whether it could trigger petitions to list the species, and what the response of the United States Fish and Wildlife Service would be.

Third, the Forest Service remains very concerned with the possibility of 30 new end-holdings of the so-called future sites within the National Forests. We know from experience that end-holdings are often problematic.

They represent significant access issues, boundary issues, challenges to handling and controlling impacts on and off Federal land, and other general management issues. Fourth, we believe that the legislation will likely necessitate amendments to the Tongass Management Plan, a process that has proved difficult in the past years.

So those are our concerns, Mr. Chairman, and with that said though, I want to emphasize that we are prepared to work with the Committee, with Sealaska, and other stakeholders to find appropriate solutions. Thank you very much.

[The prepared statement of Mr. Sherman follows:]

**Statement of Harris Sherman, Under Secretary, Natural Resources and Environment, United States Department of Agriculture**

Mr. Chairman, Honorable Ranking Member and distinguished members of the Committee, thank you for the opportunity to speak with you today about Native land claims in Southeast Alaska. I will open my testimony by addressing the direction in which the Department of Agriculture (USDA) and the Forest Service are heading regarding economic sustainability in Southeast Alaska and how our vision for economic diversification ties into H.R. 1408, the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act.

The USDA recognizes and supports the timely, equitable and final distribution of land entitlement to Alaska Native Corporations, including Sealaska, under the Alaska Native Claims Settlement Act (ANCSA). The USDA understands Sealaska's interest in acquiring lands, which have economic and cultural value. The USDA has been working with Sealaska. Members of Congress and other community partners to find solutions to move forward the land entitlement and finalization, and recognizes the progress that is reflected in S. 730, the Senate version of the Act. I also wish to express our continued interest in working collaboratively with Sealaska, Congress and other community partners to find an equitable solution that is in the public interest.

While the USDA supports a number of the goals of this legislation, we continue to have a number of concerns we wish to work through with the involved parties.

This will be the focus of my testimony. The testimony will also convey a Department of the Interior concern with H.R. 1408 regarding a cooperative management provision of the legislation.

### **Background**

When enacting ANCSA in 1971, Congress balanced the need for a fair and just settlement of Alaska Native aboriginal land claims with the need for use of the public lands in Alaska. The approach to resolve Alaska Native claims in ANCSA is unique in its reliance on the creation of Alaska Native Village and Regional Corporations, which generally receive entitlement from lands located within the original Native village withdrawal areas. Congress defined the land entitlements of both village and regional corporations, but provided for some differentiation among corporations to consider individual village or region circumstances.

One such consideration was the reduction of land entitlement to the village and regional corporations representing Alaska Natives in Southeast Alaska. The Tlingit and Haida Tribes of Southeast Alaska brought a “taking” lawsuit against the United States for land claims and the U.S. Court of Claims awarded damages to the tribes shortly before ANCSA was enacted. Recognizing this prior award, Congress reduced the entitlement of village and regional corporations in Southeast Alaska, with Sealaska receiving its entitlement only under Section 14(h) of ANCSA.

Sealaska has thus far received more than 290,000 acres of 14(h) entitlement, with approximately 63,605 acres of ANCSA entitlement yet to be conveyed, based on the Bureau of Land Management’s (BLM) estimates. Sealaska has prioritized its selections within the original withdrawal areas as required by the 2004 Acceleration Act, with approximately 138,000 acres of prioritized selections identified. The selections identified by Sealaska within the original withdrawal areas are more than sufficient to meet Sealaska’s remaining ANCSA entitlement, but were put on hold at Sealaska’s request to pursue a legislative alternative to select outside the ANCSA withdrawal area to settle their remaining entitlements.

### **Southeast Alaska Transition Strategy**

Since testifying last before this committee, the USDA has made great strides in developing approaches to diversify and sustain the economy in Southeast Alaska. Through a coordinated interagency effort, USDA is focusing with local interests on ways to provide long-term, sustainable support for a wide array of economic opportunities for Southeast Alaska communities, including Alaska Natives around second-growth timber production, ecosystem restoration, bio-energy, ocean products and tourism and recreation. Tourism and recreation, as a whole, has been the fastest growing industry in Southeast Alaska, employing over 3,200 people and accounting for \$109 million in wages and benefits. Ocean products, including fisheries and mariculture, are providing in excess of \$234 million in wages and benefits. Furthermore, we see an ecosystem restoration job sector providing more than 100 jobs in Southeast Alaskan communities. Beyond traditional opportunities, the Forest Service and other partner USDA agencies are working to facilitate future opportunities and growth in job sectors beyond forestry and forest products.

To support the communities and people of Southeast Alaska, the Forest Service has developed a comprehensive 5-year plan focused on a suite of integrated projects including timber projects in the roaded base, pre-commercial thinning, integrated stewardship, road and watershed restoration and fish and wildlife habitat improvements, all designed to allow managers to mix and match and meet the local needs of Alaska Native villages and Southeast Alaskan communities. Furthermore, the agency issued a contract for asset mapping to identify economic strengths, weaknesses, opportunities and threats to diversification focused on the different economic clusters identified in our contract with the Juneau Economic Development Council. The USDA agencies just completed several months of meetings with working groups comprised of key industry leaders, including participation by Sealaska representatives. The groups addressed the integration of forest restoration and broad economic development in the areas of forest, ocean, visitor and energy products. Additionally, USDA has announced and distributed more than \$55 million last year in funding to communities in Southeast Alaska for an array of projects and activities that demonstrates our commitment to Southeast Alaska. I am optimistic that the USDA can promote new economic opportunities for Southeast communities, including Alaska Natives, beyond the traditional focus of roadless old growth timber harvests.

In this broad context, the USDA has determined its stance on H.R. 1408 and evaluated whether it facilitates or hinders the Administration’s goals for promoting job protection, creation, and economic diversification in Southeast Alaska.

Conflict on the Tongass National Forest pertaining to the harvesting of old growth in roadless areas has intensified over the last 10–15 years. The forest has faced 18

lawsuits during this period, many of which were resolved through settlements or adverse judgments, but all of which cost valuable time and taxpayer dollars. The Administration recognizes a balance must be struck between many diverse and competing needs and we need to chart a course of action that moves us away from old growth and roadless area harvests sooner rather than later. To move us away from this conflict, we must operate on three primary principles 1) provide timber for local value added products; 2) keep the conservation strategy in the Tongass Land Management Plan and environmental values intact and 3) stay clear of roadless areas.

We understand that Sealaska is interested in maintaining export of round logs, using a local workforce generally found in the rural communities of Southeast Alaska to do the harvesting and hauling. The Forest Service's primary interest is maintaining adequate supply of timber for local processing by existing mills and the jobs associated with those mills. This is a central aim of the transition strategy that the Forest Service has developed and one that is achievable if the Forest Service has access to a sufficient quantity of timber available on lands that have existing roads. The Forest Service and Sealaska have an interest in maintaining the loggers and other forestry infrastructure to support a local forest economy and both the Forest Service and Sealaska have an interest in moving away from the dependency on old growth and moving to harvesting young growth stands.

The lands identified in H.R. 1408 represent a significant part of the Forest Service's roaded land base for Southeast Alaska identified in the Tongass Land Management Plan as suitable for timber harvest. The majority of the lands identified in H.R. 1408 are close to the only remaining medium sized mill and several smaller, local mills in the Tongass National Forest.

The Forest Service has determined that approximately 64 percent of land withdrawn and available for selection in section 4(b)(1) of H.R. 1408 overlaps projects listed on the Tongass 5 Year Plan. Specifically, the selections would impact six projects, which represent potential profitable sales to the medium sized mill and smaller local mills in the next five years. Additionally, the Forest Service has made substantive investments in lands identified in H.R. 1408 through environmental analysis, stand management, roads, log transfer facilities, maintenance, trails, fish habitat restoration and others activities, totaling more than \$50 million.

Approximately 6,900 acres of land identified for selection in section 3(b)(1) support an older age class of second growth forests (50 years and older, on productive soils). These lands include more than 5,000 acres on Kozciusko Island and another 1,275 acres on Kuiu. These selections cover areas that represent the Forest Service's best, first entry into commercial second growth, including projects currently listed on the Tongass' 5-year plan.

Ultimately, the transfer of these of these older second growth stands from the Forest Service to Sealaska will reduce the available timber supply for local mills and hamper the Forest Service transition to second growth in Southeast Alaska. Removing these stands also means that more old growth areas would be harvested longer, because it will take more time for the second growth stands to mature into legally harvestable ages. The Forest Service believes this will increase the potential for litigation around timber sales and thereby create significant uncertainty for the forest industry.

There are a number of ways this issue could be addressed, and USDA is willing to work with Sealaska to find a solution that meets the needs of all the affected parties and is in the public interest in Alaska.

#### **Conservation Strategy and Old Growth Reserves (OGR)**

The Tongass Land Management Plan's conservation strategy was formulated around Sealaska's selections within the original ANCSA withdrawal areas. Old growth reserves found within the land pool identified in H.R. 1408 are central to the Tongass National Forest's conservation strategy as outlined in its land management plan. The land management plan includes a comprehensive, science-based conservation strategy to address wildlife sustainability and viability. This strategy includes a network of variable sized old growth reserves across the forest designed to provide for connectivity and maintain the composition, structure and function of the old growth ecosystem.

In 1997, the US Fish and Wildlife Service (USFWS) decided not to list Queen Charlotte goshawk and Alexander Archipelago wolf under the Endangered Species Act, based on the protective measures incorporated in the conservation strategy of the 1997 Tongass Forest Plan, primarily the network of old growth reserves and the positioning of the reserves across the landscape, and the existence of forested corridors between the reserves. The USFWS reaffirmed this finding regarding the goshawk in 2007, and the Department of the Interior asked the Forest Service to retain the Conservation Strategy in the 2008 Tongass Forest Plan Amendment (TLMP).

These were among the main reasons why the 2008 TLMP Amendment kept all the major components of the conservation strategy.

Conveyance of land selections as proposed in H.R. 1408 will decrease the effectiveness of the Tongass' conservation strategy and could hamper the plan's ability to maintain viable populations of plant and wildlife species. This could lead to the need for USFWS to reconsider its previous determinations regarding the goshawk and gray wolf. Replacing the old growth reserve areas with an equal number of acres from somewhere else within the forest does not resolve the effects on the land management plan's conservation strategy; the location and design of the old growth reserve network is critical to the success of the conservation strategy. Distribution of the reserves across the landscape and composition of the habitat within each reserve, were carefully considered. Because of the potential Endangered Species Act issues, the Forest Service is concerned that H.R. 1408 could increase the chances for litigation, which would increase uncertainty for all parties, including Sealaska and local mills. The USDA is willing to discuss mechanisms for maintaining these old growth reserves to ensure they remain whole.

Although H.R. 1408 provides that implementation of this legislation will not require an amendment or revision to the Tongass Land Management Plan (TLMP), this language would not prevent issues from arising during TLMP implementation. If the significant management assumptions and strategies that formed the basis of the plan are modified through enactment of H.R. 1408, the TLMP cannot be implemented as currently intended.

#### **Finalizing Sealaska Entitlement**

As the title of this legislation suggests, any legislated solution finalizing Sealaska's entitlement must actually resolve all of Sealaska entitlement issues upon enactment, such as remaining entitlement acres, resolve outstanding split estate issues, relinquish existing Sealaska ANCSA selections and removal of the original ANCSA withdrawal areas. This issue is significant to the Forest Service because without closure the agency cannot identify a stable land base and ensure that investments made today can be capitalized in the future. The Department of the Interior notes that H.R. 1408, if enacted, may set a precedent for other corporations to seek similar legislation.

In that context, we also have concerns about in-holdings. Selection from the land categories in section 4(b)(2) ("Sites with Traditional and Recreational Use Value"), in section 4(b)(3) ("Traditional and Customary Trade and Migration Routes") and in section 4(c) ("Sites with Sacred, Cultural, Traditional, or Historic Significance,") will result in a significant number of sites and routes scattered throughout the forest, creating in-holdings that cause significant management issues including access and boundary management problems. It is agency policy to avoid the creation of in-holdings. Likewise, the elimination of such in-holdings is, and has historically been, one of the agency's foremost land acquisition priorities. The Forest Service has extended considerable public resources to acquire the types of in-holdings that H.R. 1408 would create. We have concern over the 33 in-holdings created by the new land categories in H.R. 1408. The Forest Service estimates that surveying and boundary management for new Sealaska land selections under H.R. 1408.

Additionally, the escrow provision included in the legislation does not address the relinquishment of any rights Sealaska may have to escrow funds from lands within the original withdrawal area. In addition, H.R. 1408 is also not clear on what right Sealaska may have to claim escrow on the new parcels identified, which have previously been harvested. The USDA advocates clearly articulating the escrow account provisions to relinquish Sealaska's right to escrow within the original ANCSA identified withdrawal areas.

#### **Alaska Land Transfer Acceleration Act**

In line with the Alaska Land Transfer Acceleration Act of 2004, the USDA supports a reduced conveyance timeline. H.R. 1408, however, only provides for selections under section 4(b)(1) and would penalize Sealaska only if it had not made its selection under section 4(c)(2) within 15 years. Sealaska has previously provided copies of maps, which identify their sites of preference. Settling on those land selections prior to passage of H.R. 1408, could resolve one of USDA's primary concerns with H.R. 1408.

#### **Public Access**

We continue to believe H.R. 1408 will affect the Forest Service's ability to provide for continuous public access for subsistence uses and recreation on the Tongass National Forest. The legislation provides Sealaska the right to regulate access on certain lands where the public use is incompatible with Sealaska's natural resource development, as determined by Sealaska. The ability of the Forest Service to provide

for access, subsistence activities and public and commercial recreation and tourism and will be limited by enactment of the legislation.

**Special Use Permits: Liability and Responsibility**

The USDA supports Sealaska's willingness to continue to allow outfitting and guiding permits on lands identified in section 4(b)(2) ("Sites with Traditional and Recreational Use Value") for the remaining term of the existing authorizations and for a subsequent 10 year renewal. However, the legislation should clearly specify that the existing Forest Service permits authorizing these uses would be revoked upon conveyance of the land, that Sealaska would allow continued use under the same terms and conditions as provided in the Forest Service permits, and that the United States would not be liable for the actions of these permittees. As it currently stands, the legislation specifically exempts Sealaska from liability, but provides for Sealaska to negotiate terms of the permit.

**Amendments to the Tribal Forest Protection Act and the National Historic Preservation Act**

This legislation includes amendments to the Tribal Forest Protection Act (TFPA) and the National Historic Preservation Act (NHPA) to consider lands owned by any Alaska Native Corporation as tribal-owned lands for the purposes of these Acts, the implications of which are described below. The USDA is willing to discuss amendments to ANCSA; however, we view the amendments to the TFPA and NHPA as unrelated to fulfilling remaining ANCSA entitlement.

The TFPA is intended to strengthen Forest Service relationships with federally recognized Tribes and to restore forested lands by authorizing the Secretary of Agriculture to enter into contracts and agreements with Tribes to carry out certain projects on the National Forests to reduce threats to adjacent or bordering lands owned by Tribes. The bill would extend the benefits of TFPA beyond those Tribes currently listed on the official list of federally acknowledged tribes in the contiguous 48 states and in Alaska. The Alaska Native Corporations are not Tribal Governments as recognized by the Bureau of Indian Affairs and they do not have the capability of having the Federal government hold their lands in trust.

H.R. 1408 would amend the NHPA to include Alaska Native Corporations. Tribal lands as now defined in the NHPA include those within the boundaries of American Indian Reservations, which are governed by a Tribal Council duly elected by the Tribal members. These lands are managed for the benefit of Tribal members. Alaska Native Corporation lands, however, are managed by a corporate board of directors to provide a for-profit benefit to its shareholders.

The inclusion of Alaska Native Corporations as parties entitled to the benefits prescribed under both the TFPA and NHPA is at odds with the intent to provide tribes with certain benefits prescribed by these Acts. Granting tribal status to lands owned by for-profit corporations for any purpose could have wider implications than what may be intended. The Department would like to have more time to assess this potential impact of this provision before the committee takes any action on it.

**Cooperative Management of National Parks**

Although USDA defers to the Department of the Interior, USDA notes that DOI has expressed concerns with the cooperative management agreement provisions in sections 3(a)(2) and 3(c)(2) of H.R. 1408 would require the National Park Service (NPS) to offer to enter into cooperative management agreements with Sealaska and other corporations for activities in Glacier Bay National Park. This could confuse the execution of existing memoranda of understanding and concession contracts which are currently working well in the park. The NPS maintains a Memorandum of Understanding with the Hoonah Indian Association, a federally recognized tribe, as well as a cooperative agreement with the non-profit Huna Heritage Foundation to provide cultural learning activities in the park. Both entities are also partners in monitoring the condition of Tlingit historic sites in the park.

In addition, requiring cooperative management agreements for such activities such as guided tours and establishment of visitor sites with profit-making corporations would be inconsistent with the open, competitive process currently provided under concession management law and regulation. Existing practices are already resulting in engaging Native Alaskans in the visitor experience: a subsidiary of Huna Totem Corporation has the Glacier Bay lodge and tour 2 3 contracts with Aramark Leisure Services through 2013, and Goldbelt Inc., a Juneau-based Native corporation, had the contracts between 1996 and 2004.

**Environmental Mitigation, Incentives and Credits**

Section 6(b) of H.R. 1408 would expressly authorize environmental mitigation and incentives for land conveyed to Sealaska. The USDA supports these provisions,

which would allow any land conveyed to be eligible for participation in carbon markets or other similar programs, incentives or markets established by the federal government.

**Conclusion**

In conclusion, while USDA supports the goals of this legislation, we remain concerned about the consequences of the legislation, including its ability to actually finalize the entitlement and current outstanding split estate issues and the potential for the legislation to bring to closure the question of Sealaska's entitlement under ANCSA. More broadly, USDA is concerned about the impact of H.R. 1408 on the supply of timber for local mills; the transition to a sustainable timber harvest regime focused on second-growth forests; and the overarching conservation strategy outlined in the Tongass Land Management Plan. However, the Department will continue to work with Sealaska and all the parties involved resolving these concerns and finding solutions that work for everyone.

This concludes my testimony and I am happy to answer any questions you may have.

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Mr. DENHAM. Thank you, Mr. Sherman. I will now recognize Members of the Committee for five minutes, and if necessary, we would be happy to entertain a second round of questioning. I think first to my left, Mr. Kildee.

Mr. KILDEE. Thank you, Mr. Chairman. Mr. Sherman, your written testimony states that the USDA views the amendments to the Tribal Forest Protection Act, and the National Historic Preservation Act included in this bill, as unrelated to the fulfillment of Sealaska's remaining land settlement.

You also state that you have concerns about imputing the Alaska Native Corporations, such as Sealaska, as beneficiaries of these statutes. Would the USDA be willing to work with Sealaska on changes to these statutes in another bill, or are you wholly opposed to them?

Mr. SHERMAN. Congressman, we are always willing to sit down and talk to Sealaska about these issues. Our main concern here has been that these provisions that you cited give essentially tribal government status to what is a profit making entity, and that is a highly unusual procedure.

It could affect government relationships, and it could affect how we treat various things, but we are happy to talk to them, and work with them, and see if there is some sort of common approach here. But it is an unusual departure from what has happened in the past, and it does raise some concerns for us.

Mr. KILDEE. I have in my State of Michigan 12 Federally recognized tribes, and most of them flow from the Treaty of Detroit, signed in the 1850s, and there of course we have a clear-cut government-to-government relationship. Article I, Section 9 of the Constitution makes that very clear.

Do the tribes in Alaska enjoy that same type of sovereignty that the tribes, the Federally recognized tribes in the Lower 48 have.

Mr. SHERMAN. We have a government-to-government relationship with the tribes of Southeast Alaska. We do have that. In this particular case, we are not dealing with a tribe, per se. We are dealing with a profit making corporation. That is what its purpose is.

So we have maintained a government-to-government relationship with the Southeast Alaska Tribes, but we believe that this is a somewhat different situation.

Mr. KILDEE. Is there something necessarily bad in this instance, this unique area of the United States, the land that we purchased from Russia, and it became a State, I believe, around President Eisenhower's time.

Is there anything necessarily improper about a corporation also having a governmental status, or is that just an attitude or feeling, or a value judgment?

Mr. SHERMAN. I believe it is unusual. Whether it is unprecedented, I don't know. I mean, we can get back to you on this issue, but it is unusual, and it is a departure from the way that we have handled things in the past.

But again we would be happy to sit down and talk about what are the specific issues related to this, and whether it would make any sense to consider an exception to the general approaches that we have used in the past.

Mr. KILDEE. If you have existing some comparison between the status of the Alaskan Native Americans and the status of tribes in the Lower 48, and if you have something existing, if you could get that both to the Committee and to me, I would appreciate that.

Mr. SHERMAN. We would be happy to do so.

Mr. KILDEE. And thank you very much. Thank you for your interest in this, and thank you for your good work over there. I appreciate it very much.

Mr. SHERMAN. Thank you.

Mr. KILDEE. I yield back, Mr. Chairman.

Mr. DENHAM. Thank you, Mr. Kildee. Mr. Sherman, in your testimony, the Forest Service expresses concern that the bill will take too much economically viable second growth timber of the 50 and older age class away from you, and that it will hamper the Forest Service's ability to transition the Tongass to a young growth harvesting strategy. Would you prefer to see Alaska receive increased old growth?

Mr. SHERMAN. What I would prefer to see is a plan which would allow both Sealaska and the other entities to have an adequate source of timber to proceed in the future. Our concern here, Congressman, is that we have had a very delicate balance where the Forest Service has tried to target the next 15 to 20 years by which we can provide wood to the local milling industry.

And that has evolved, and identifying certain productive old growth areas outside of the so-called withdrawal areas that Sealaska was entitled to select lands in, and it has identified certain second growth areas, which would come on-line in order to meet these local needs.

So our strategy and our plan has been to work on those areas, and set up those areas for the future. And unfortunately here what we are seeing is Sealaska having an equal interest in those lands that we were preparing.

Now, what does that mean in terms of where Sealaska could go? I think that would be—I think we would have to identify within the withdrawal areas what lands are available to them for timber development on the remaining selections.

There are some second growth areas within those lands. There is a possibility that we could discuss with Sealaska on their participation in timber sales for Forest Service lands. There may be some

other options that we ought to be looking at, but again these lands were very critical to us to provide adequate timber to the local milling industry.

Mr. DENHAM. Thank you, and I know that the Forest Service is looking for more time to work out differences on the bill, and I know that the Chairman expects to have this bill done for the 40th anniversary, which is this December, but what is your time line for working issues out and resolving this?

Mr. SHERMAN. We have been having productive conversations, I believe, with Sealaska. We have been identifying areas that need further examination. I think that the area that you just mentioned was one where we had to intensify our evaluation of which lands they are interested in, and how those overlap with our interests, and see if there is some sort of resolution of that.

We are very focused on these old growth preserves outside of the withdrawal areas, because we need to protect those areas. But we can talk further with Sealaska about how to protect those areas.

The in-holdings that Sealaska has identified as so-called future sites, these need further evaluation, and we have been working with Sealaska on those. All of these areas are fruitful, and future discussions that I believe we can have with Sealaska, and there is no reason not to continue actively with those discussions.

I am reluctant to predict some sort of a time line because these are complicated issues. Nevertheless, we should roll up our sleeves and do our best.

Mr. DENHAM. Well, it is understandable that they are complicated issues, but we definitely work on timelines here, and the Chairman has focused on again the 40th anniversary in getting this done by December. So do you have any kind of ballpark time? Are we talking a month, two months, 45 days? Could you commit to 45 days?

Mr. SHERMAN. I don't believe I can commit to a particular timeline, but I can commit to you that we will continue actively our discussions with Sealaska and see what progress we can make.

Mr. DENHAM. Are you confident that we can complete this then this year?

Mr. SHERMAN. I am not either confident nor pessimistic about it. I think we have to see as we bore down on these specific—

Mr. DENHAM. So you are having ongoing discussions, but you are nowhere close right now to any type of resolution?

Mr. SHERMAN. I think we are getting closer to understanding what our respective concerns are, and we are working on solutions to address those concerns.

Mr. DENHAM. You are getting closer to understanding what the concerns would be?

Mr. SHERMAN. Closer to understanding, and I believe from that understanding, solutions may be forthcoming.

Mr. DENHAM. OK. Thank you. Ms. Hanabusa.

Ms. HANABUSA. Thank you, Mr. Chair. Mr. Sherman, as you probably know, I represent Hawaii, and so the issues regarding Native rights are very dear to my heart, and I do believe in self-determination of the Native peoples.

Having said that, one of the concerns that I have with your testimony is really set forth in your conclusion, where you have con-



cerns about the legislation itself, and the fact that it is changing the status of lands.

I am also very concerned about when we try to right a wrong that we make it worse by buying litigation. So I would like to understand what is it about it that—and I assume that you are talking about the miscellaneous section of the bill itself, where it speaks to the status of the conveyed lands.

And so I would like to understand from you what is it about the statements that are contained in this bill, which I believe talks about making them into tribal lands of some sort, and thereby it seems like it is transferring it into the same category of Native American lands, and a trust relationship may or may not develop.

So am I understanding your concern correctly, and if not, please tell me exactly what you are referring to in your conclusion?

Mr. SHERMAN. Well, our concern is multifaceted. We are first concerned about if certain lands are selected that present challenges to the conservation strategy that has been set by the Forest Service for Southeast Alaska, we are concerned that litigation could result from that.

And we are concerned that certain species could be listed, which again would represent a step backwards. Second, we are concerned about the in-holdings that I identify, because in-holdings have been very problematic across the United States for the Forest Service.

Many of our programs are designed to eliminate in-holdings, because they represent so many, both legal and managerial, challenges for the Agency. We are very concerned about that.

And we are concerned that we have to meet the needs of Alaska, in terms of timber production. That is a statutory requirement that we have, and if we can't provide the resources to do that, that will become problematic.

So there is a series of issues like that, that again raise both legal and managerial challenges for us, and we believe that if we are going to change the arrangement that was made under ANCSA that it has got to be done very carefully, and we have to go in with our eyes wide open.

Ms. HANABUSA. Mr. Sherman, I appreciate the explanation, because I thought that your concern was not so much one—and not to minimize your concern, but was not so much one that I feel will fall into the category of the self-determination rights of the Native people, versus what the Forest Service or the Department of Agriculture may think is in the best interests of everyone.

I thought that it was more like, for example, in the Carcieri decision of the Supreme Court, which talked whether lands could be transferred, and having that clarification from you, aren't you basically saying now that there is this plan, and you are afraid that if Sealaska, if this bill goes through, and they are then afforded the right to withdraw these specific parcels of land, that it will somehow cause an imbalance in what you feel to be the plan that has come through. Am I understanding you correctly?

Mr. SHERMAN. That is correct. Let me be very clear. We believe that Sealaska is entitled to between 60 to 80,000 additional acres of land. Initially, those lands that they had targeted within what we call the withdrawal area.

So this request is now outside of the withdrawal areas, and that represents certain challenges to the plan that the Forest Service had established for Southeast Alaska.

Ms. HANABUSA. I understand that, Mr. Sherman, and I would just like to add that give your clarification, I believe that for those of us who believe in Native rights and Native determinations, the fact that this has not been done for 40 years, that I can understand very clearly why now the Chairman has proposed this piece of legislation.

Because it is something that you can't—when you are trying to right a wrong, or right something that has not been done, you can't just say, well, we will do it, but it is conditioned upon everything that has gone on for 40 years. Thank you very much, Mr. Chairman.

Mr. DENHAM. Thank you, Ms. Hanabusa. Are there any additional questions for this witness? If not, I would like to thank the Under Secretary for his testimony. Members of the Subcommittee may have additional questions for the witnesses, and we ask that you respond to those in writing. The hearing record will be open for 10 days to receive these responses.

We are now ready for our next panel of witnesses. Those are witnesses Byron Mallott, a Board Member of the Sealaska Corporation; Bob Claus, the Forest Program Director of the Southeast Alaska Conservation Council; and Owen Graham, Executive Director of the Alaska Forest Association.

Before I recognize the witnesses, I would ask for unanimous consent that written comments on H.R. 1408 from the Washington, D.C. Representative for Alaska Governor Sean Parnell, and from the President of the Intertribal Council, be inserted in the hearing record. Hearing no objection, so ordered.

[A letter submitted for the record by Joe Durglo, President, Intertribal Timber Council, follows:]



**MEMBER TRIBES**

Algonak Native Corporation  
 Alabama-Coushatta Indian Tribe  
 of Texas  
 Association of Village Council Presidents  
 Bad River Band of  
 Lake Superior Chippewa Indians  
 Bob Forte Band of Chippewa  
 Choctaw Nation of Oklahoma  
 Chugachmiut, Inc.  
 Coast of Aline Tribe  
 Confederated Salish & Kootenai  
 Confederated Tribes of Coos,  
 Lower Umpqua & Siuslaw  
 Confederated Tribes of Grand Ronde  
 Confederated Tribes of Siletz Indians  
 Confederated Tribes of  
 the Colville Reservation  
 Confederated Tribes of the  
 Umatilla Indian Reservation  
 Confederated Tribes of Warm Springs  
 Coquille Indian Tribe  
 Eastern Band of Cherokee  
 Elk Valley Rancheria  
 Fond du Lac Forest Management  
 Forest County Potawatomi Community  
 Fort Bidwell Indian Community Council  
 Grand Portage Band  
 of Lake Superior Chippewa  
 Hanza Valley Tribal Council  
 Hualapai Tribe Family  
 Jicarilla Apache Nation  
 Karuk Tribe  
 Kawerak, Inc.  
 Keweenaw Bay Indian Community  
 Lac du Flambeau Band  
 of Lake Superior Chippewa  
 Leech Lake Band of Ojibwe  
 Matah Tribal Council  
 Menominee  
 Miscellaneous Apache Tribe  
 Menominee Indian Community  
 Mississippi Band of Choctaw  
 Nez Perce Tribe  
 Ogishia Sioux Tribe  
 Passamaquoddy Tribe  
 Penobscot Nation  
 Pueblo of Acama  
 Quileute Tribe  
 Quinault Indian Nation  
 Red Lake Band of Chippewa  
 Round Valley Indian Tribes  
 St. Regis Mohawk Tribe  
 San Carlos Apache Tribe  
 Sealaska Timber Corporation  
 Southern Ute Indian Tribe  
 Spokane  
 Stockbridge-Munsee Community  
 Tanana Chiefs Conference  
 The Klamath Tribes  
 Tlingit & Haida Indian Tribes of Alaska  
 Togetherthere Corporation  
 Tulalo  
 Tule River Tribe  
 Turtle Mountain Tribe  
 White Earth Tribal Forestry  
 White Mountain Apache  
 Yakama Nation  
 Yurok Tribe

# Intertribal Timber Council

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May 24, 2011

The Honorable Don Young, Chairman  
 The Honorable Dan Boren, Ranking Member  
 Committee on Natural Resources  
 Subcommittee on Indian and Alaska Native Affairs  
 1337 Longworth House Office Building  
 U.S. House of Representatives  
 Washington, DC 20515

Via e-mail to [chris.fluhr@mail.house.gov](mailto:chris.fluhr@mail.house.gov) and [jennifer.romero@mail.house.gov](mailto:jennifer.romero@mail.house.gov)

Re: Statement submitted for the May 26, 2011 Subcommittee hearing record on H.R. 1408, the "Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act."

Dear Chairman Young and Ranking Member Boren:

As President of the Intertribal Timber Council (ITC), I am writing to submit the ITC's comments for the Subcommittee's May 26, 2011 hearing record on H.R. 1408, the "Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act."

The ITC is a thirty five year old association of sixty two forest owning tribes and Alaska Native organizations that collectively manage more than 90% of the 18 million acres of timber land and woodland that are under BIA trust management, as well as the significant forest and woodland resources of Alaska Native organizations. These lands provide vitally important habitat for fish, wildlife and plants, cultural and spiritual sites, recreational and subsistence uses, and through commercial forestry, income for tribes and Alaska Native organizations and jobs for their members. The Sealaska Corporation is a longtime member of the ITC.

The ITC supports H.R. 1408 with the exception of Section 6(d)(1). With regard to Sealaska's final land selection under ANCSA in H.R. 1408, we note, as we did last Congress in April 9, 2010 comments to the Committee on H.R. 2099 (111<sup>th</sup> Congress), that the ITC is not sufficiently versed in the various identified parcels and their associated classifications to comment on those specifics. However, we applaud the continuing efforts on the part of Sealaska, the other communities in Southeast Alaska, and the Alaska Congressional Delegation to diligently examine, refine, and advance the ANCSA land pool, selection and finalization process for Sealaska. The ITC believes Sealaska and its members should have a contemporary opportunity to help secure their future from lands they have occupied from time immemorial, and we generally support this legislation, developed with Sealaska, as the realization of that opportunity.

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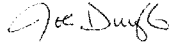
The ITC opposes Section 6(d)(1) because this provision would inappropriately apply the Tribal Forest Protection Act (TFPA, P.L. 108-278, 25 U.S.C. 3115a) to tens of millions of acres of private Alaska Native Corporation land, both village and regional. As we expressed to the Committee last Congress, the ITC continues to believe that the application of the TFPA to Alaska Native corporate lands is contrary to the intention of the TFPA, and that seeking to so expand it as a minor provision called a "Technical Correction" in legislation with a substantially different purpose is not appropriate.

Unlike the legislation considered during the last Congress, H.R. 1408 seeks to apply the TFPA by declaring ANCSA lands as eligible for TFPA agreements and contracts and grants, rather than by revising TFPA definitions. This revised approach to extending the TFPA to private ANCSA corporate lands still is contrary to the essential purpose of the TFPA, which is the protection of Indian forest land as defined in the National Indian Forest Resources Management Act from threats arising on adjacent U.S. Forest Service and BLM lands. This is an integral part of the basic fiduciary obligation of the special government-to-government trust responsibility of the United States. The TFPA statute requires that its applicable land 1) be held in trust or with restrictions against alienation by the United States for a tribe or its members, 2) be Indian forest land as defined in the National Indian Forest Resources Management Act, and 3) be under the jurisdiction of the requesting tribal government, none of which are met by Alaska Native corporate lands.

The extension of such unique and historic trust protection authorities, with associated federal liabilities, to private forest lands such as Alaska Native corporate lands is a matter ripe with public policy implications for states, for Indian tribes, for federal agencies, and private land owners across the United States. Certainly, it corrupts the basic purpose and intent of the TFPA, and in any event should not be legislatively advanced as a secondary amendment in a bill with a different purpose. The ITC requests that Section 69(d)(1) be removed from H.R. 1408.

We hope that our comments will assist the Subcommittee in considering and revising H.R. 1408.

Sincerely,



Joe Durglo  
President

cc: The Honorable Pedro Pierluisi  
The Honorable Eni Faleomavaega  
The Honorable Kili Sablan  
The Honorable Madeleine Bordallo  
The Honorable Jeff Denham  
The Honorable Dan Benishek  
The Honorable Ben Lujan  
The Honorable Colleen Hanabusa  
Albert M. Kookesh, Board Chairman, Sealaska Corporation  
Tom Tidwell, Chief, U.S. Forest Service  
Robert Abbey, Director, Bureau of Land Management

[The letter submitted for the record by John W. Katz, Director of State/Federal Relations and Special Counsel to the Governor, State of Alaska, Juneau, Alaska, follows:]

SEAN PARNELL  
Governor



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STATE OF ALASKA  
OFFICE OF THE GOVERNOR

May 24, 2011

The Honorable Don Young  
Chairman  
Subcommittee on Indian and Alaska Native  
Affairs  
United States House of Representatives  
1324 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Dan Boren  
Ranking Minority Member  
Subcommittee on Indian and Alaska Native  
Affairs  
United States House of Representatives  
1324 Longworth House Office Building  
Washington, D.C. 20515

Re: Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act (H.R. 1408)

Dear Chairman Young and Ranking Member Boren,

The State of Alaska provides the following comments on the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act (H.R. 1408) for the subcommittee's hearing on May 26, 2011.

The State commends the subcommittee's attention to the important issue of resolving Sealaska Corporation's land entitlement, due under the Alaska Native Claims Settlement Act (ANCSA) of 1971. Nearly 40 years since the passage of ANCSA, the equitable satisfaction of Sealaska's remaining entitlement is long overdue.

It is the State's view that lands conveyed to Sealaska must be suitable to meet its cultural, traditional, and economic needs. Lands currently available to Sealaska are inadequate, particularly for economic purposes. In contrast, the new acreage proposed under H.R. 1408 offers greater timber harvest potential.

Southeast Alaska's remaining timber industry, which is a vital sector of the economy, is on the verge of collapse. Currently, the industry is at its lowest level of production since Alaska became a state in 1959. This is due in large part to the fact only 144,000 acres of the 17 million acres in the Tongass are currently considered "roaded suitable" by the Forest Service. The remaining timber industry of Southeast Alaska relies on Forest Service timber contracts; contracts provided by the State of Alaska, which manages limited State lands in Southeast; and harvests on Sealaska's lands. Combined timber from these three sources supports the industry's logging, manufacturing and export infrastructure. Each of the timber sources is critical to the log supply and stability to the current industry, and allowing the industry to rebuild and create new jobs in the region. The population for virtually every village and

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community in Southeast Alaska has fallen over the last ten years. This alarming trend is forecast to continue over the next 25 years, unless significant steps are taken now.

Sealaska states that without the passage of legislation, the corporation will run out of commercially viable timber to harvest from its lands and will be forced to shut down its timber operations in 2012. In contrast, with passage of this legislation, Sealaska forecasts being able to support a sustainable forestry program from its lands, indefinitely, allowing the corporation to continue its essential economic contribution to the region.

Furthermore, the proposed selections contain stands of young-growth forest, whereas the remaining valuable timber areas in current selections include only old growth forest. The ratio of young to old growth in the proposed selections will help accelerate the region's transition from old growth to young growth harvest and encourage investment in domestic wood processing and bioenergy facilities.

The State endorses the objectives of H.R. 1408 and recognizes the improvements to this latest version of the Sealaska legislation. However, certain provisions in this legislation raise concerns. The State's primary concerns are described below.

First, in certain circumstances, H.R. 1408 raises concerns regarding public access across conveyances. Certain provisions in the bill lack standards for regulating public access, would delegate to Sealaska broad discretion to determine when and where public easements are necessary, and would preclude challenges to decisions by Sealaska regarding public access. In this regard, it does not appear that Section 17(b) of ANCSA applies in all circumstances.

Second, some concern persists regarding the large number of small parcels involved in the bill. For example, certain local communities object to sites proposed by Sealaska. The inclusion of strong provisions related to public access would significantly diminish our concern.

Third, the State questions the purpose of language proposing to terminate restrictive covenants on historic and cemetery sites. This would represent a fundamental change to how the newly selected, as well as previously conveyed sites are treated under ANCSA. We believe the relevant ANCSA language, which applies to all regional corporations, strikes a reasonable balance between site protection and possible uses.

Fourth, the State would like clarification that parcel transfers will not disrupt the Division of Forestry's beach log salvage program for most of the coastline from Dixon Entrance to Cape Yakataga. If the selected upland parcels are transferred from Federal ownership to Sealaska Corporation and are within an established Beach Log Salvage Area, we believe Sealaska Corporation should continue the tradition of granting permission to recover logs in the area between the mean high tide line and mean higher high tide line with no associated charges.

Finally, H.R. 1408 proposes to transfer roads to Sealaska for timber harvesting and other development and a right to construct a log storage facility on State tidelands, apparently without the

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requirement of a State tidelands permit. It is important that these roads and future improvements are available for other timber owners to use including the state, the Alaska Mental Health and University of Alaska land trusts, other Native corporations, and private landowners. The State requests clarification that a State tidelands permit is required for log transfer facilities.

The State of Alaska is eager to work with the House Natural Resources Committee, Congressman Young, and Sealaska to address our concerns. Thank you for the opportunity to comment on H.R. 1408. We respectfully request that this letter be included in the hearing record.

Sincerely,



John W. Katz  
Director of State/Federal Relations  
and Special Counsel to the Governor

Mr. DENHAM. All the witnesses again are reminded that their complete written testimony will appear in the written record, and you have five minutes to summarize it. You may begin.

**STATEMENT OF BYRON MALLOTT, BOARD MEMBER,  
SEALASKA CORPORATION, JUNEAU, ALASKA**

Mr. MALLOTT. Mr. Chairman, my name is Byron Mallott, and I am a Director of the Sealaska Corporation. I have asked Jaeleen Araujo, who will provide her name, to sit with me in the event that there are specific questions that I am unable to answer if that is all right with you.

Mr. DENHAM. Without objection, so ordered.

Mr. MALLOTT. I want to state that this bill is strongly supported by Sealaska. We believe that its intent is clear. That after 40 years, it is time to resolve and finalize Sealaska's entitlement under the Alaska Native Claims Settlement Act.

I want to be responsive to several issues that I have heard raised. One is that it is Sealaska's intent to export any timber that it harvests from these selections. That is not the case. It has never been the case. What we do is to try to find the most reasonable and responsible market for our timber.

And if the market suggests that it is appropriate for us, and that is our desire, our absolute desire, is to maximize the local use, the local hire, the local economic impact with all of our resources, and that is something that I think we need to emphasize.

The other thing that I want to emphasize, Mr. Chair, is that Sealaska's timber harvest activities over the period since we began to establish a new kind of forest products industry in Alaska on private tribal lands has put close to in my judgment a billion dollars into the Alaskan economy.

It has generated over \$300 million to other Native corporations. It has impacted the overall economy of the region and the State in

the most positive way, and it has allowed a resource to be available for regeneration for the future.

Now, some people would argue that the harvest practices that the remaining harvested forests has not meaningful value. I would submit that to Native peoples, who are the first peoples of the forest, it does.

We are here for the long term. We have been here for 10,000 years, and we will be here for another 10,000 years, and we will see cycles of timber begin as seedlings, and achieve old growth, and go through the life process many, many times.

That is our view of the Tongass National Forest. I would also say, Mr. Chair, that it is time to resolve this issue. That the Native peoples of Southeast can use the land productively, and we can use it in the best interests of our Nation, in terms of conservation, in terms of all of the uses that such lands can be put to, both in our interests and in the public interest.

It is somewhat ironic to me that the argument can be made that the best arbiter, the best judgment about the use of a marketable resource, can be made by the government, as opposed to private enterprise and a private owner.

That argument does not stand. History is replete with the results of that kind of management. I also want, Mr. Chairman, to say that regardless of what happens with any legislation that affects us, our people, that we live with the consequences, good or bad, or indifferent, because we will never leave this place, the Tongass.

It is our home. It is our history, and it is our culture. It is what makes us who we are, and we only want to secure our place for ourselves, and for our children. Thank you.

[The prepared statement of Mr. Mallott follows:]

**Statement of Byron Mallott, Board Member, Sealaska Corporation**

Mr. Chairman and Members of the Subcommittee:

My name is Byron Mallott, and I am a Board Member for Sealaska Corporation, as well as a former President and CEO of Sealaska. I am from Yakutat, an Alaska Native village, and I am *Shaa-dei-ha-ni* (Clan Leader) of the *Kwaashk'i Kwáan*. My Tlingit name is *K'oo deel taa.a*.

I want to thank you for the opportunity to testify on behalf of Sealaska, the regional Alaska Native Corporation for Southeast Alaska, regarding H.R. 1408, the "Southeast Alaska Native Land Entitlement Finalization Act," a bill that we refer to as *Haa Aani* in Tlingit, which roughly translates into "Our Land" or "Our Place". "Haa Aani" is the Tlingit way of referring to our ancestral and traditional homeland and the foundation of our history and culture.

Sealaska is one of 12 Regional Corporations established pursuant to the Alaska Native Claims Settlement Act ("ANCSA") of 1971. Our shareholders are descendants of the original Native inhabitants of Southeast Alaska—the Tlingit, Haida and Tsimshian people. Our ancestors once used and occupied every corner of Southeast Alaska and our cultural and burial sites can be found throughout the region. This legislation is a reflection of the significance of Our Land to our people and its importance in meeting our cultural, social and economic needs.

Forty years ago, as a young man, I traveled to Washington, DC as an advocate for the land claims of Alaska's Native people. Here I am again, forty years later, advocating for the equitable completion of Sealaska's land entitlement.

This legislation involves less than 85,000 acres from the Southeast Alaska region, a region with almost 23 million acres of land; 85% of that land is already in some form of conservation, wilderness or other protected status. Putting the Sealaska legislation in perspective, Sealaska's remaining land entitlement represents about one third of one percent of the total land mass in Southeast Alaska.

Yet this legislation also represents a significant opportunity for the public, Congress, the Administration, communities, environmental organizations and others to get it right for once in the Tongass. H.R. 1408 achieves environmental balance, sus-



tains jobs, ensures that Native people are viable participants in our economy, and returns important cultural and economic lands to Southeast Alaska's Native people.

H.R. 1408 fulfills the promise of ANCSA because it:

- allows Sealaska to finalize its ANCSA land entitlement in a fair, meaningful way;
- redresses inequitable legal limitations on Sealaska's land selections by allowing it to select remaining entitlement lands from outside of withdrawal areas that, among the regional Alaska Native Corporations, uniquely constrained Sealaska;
- allows for Alaska Native ownership of sites with sacred, cultural, traditional and historic significance to the Alaska Natives of Southeast Alaska;
- creates the opportunity for Sealaska to support a sustainable rural economy and to support economic and job opportunities throughout Southeast Alaska; and
- results in environmental benefits to the public because high conservation value lands important for fisheries, old growth wildlife reserves, areas important for local subsistence use and municipal watersheds will remain in public ownership.

As discussed in detail in my testimony below, there is a compelling, equitable basis for supporting this legislation. There is no dispute that Sealaska has a remaining land entitlement, and this legislation does not give Sealaska one acre of land beyond that already promised by Congress. Sealaska has worked closely with the timber industry, conservation organizations, tribes and Native institutions, local communities, the State of Alaska, and federal land management agencies to craft legislation that provides the best possible result for the people, communities and environment of Southeast Alaska.

One thing has become extremely clear in our effort to resolve Sealaska's land entitlement—that every acre of Southeast Alaska is precious to someone. With the vast array of interests in Southeast Alaska, there is simply no way to achieve an absolute consensus on where and how Sealaska should select its remaining entitlement. However, we truly believe that this legislation offers a balanced solution as a result of our engagement with all regional stakeholders.

#### **Our Dilemma**

Alaska Native Corporations were tasked by Congress in 1971 with supporting the economic future of the Alaska Native community, in part by utilizing lands returned by the United States to Native people to develop resources that would advance the social, economic and cultural well-being of our tribal member shareholders.

We believe that Congress' core promise to Alaska Natives in ANCSA was that Alaska Natives would be able to develop sustainable economies so that we could work to achieve for ourselves economic parity with the rest of America. Socio-economic parity was a focal point of *Alaska Natives and the Land*, a congressionally-mandated study published in 1968, which was a foundational predicate for Congress to act on Alaska Native land claims.

Sealaska has utilized some of its land base to develop timber resources. Of the 290,000 acres Sealaska has received under ANCSA, Sealaska has harvested timber on 189,000 acres in accordance with modern forestry and forest engineering best management practices that protect water quality, anadromous fish habitat, wildlife habitat, forest soils, and the long term productivity of the forest. Selective harvesting and even-aged harvesting has been employed. Less than half (81,000 acres) of managed forest lands have been clear cut (even-aged harvest). Sealaska's timber business has been a powerful economic engine that has helped to support the regional economy for 30 years, and seventy percent of Sealaska's timber revenues have been shared with more than 200 Alaska Native Corporations, as required under sections 7(i) and 7(j) of ANCSA. Wherever it selects the land, Sealaska may choose to utilize some of its remaining entitlement to support sustainable forestry with a timber rotation that could sustain hundreds of jobs in our region, in perpetuity, while protecting important forest resources.

Unlike the other eleven Regional Native Corporations, Sealaska was directed to select the entirety of its entitlement lands only from within boxes drawn around just ten of the Native villages in Southeast Alaska. Forty-four percent of the ten withdrawal areas is comprised of salt water, and multiple other factors limit the ability of Sealaska to select land within the boxes. This has made it difficult to make equitable selections. No other Regional Corporation was treated in this manner under ANCSA.

To date, Sealaska has selected 290,000 acres of land under ANCSA from within the withdrawal boxes. Based on Bureau of Land Management ("BLM") projections for completion of the Section 14(h)(8) selections, and our own estimates, the remain-

ing entitlement to be conveyed to Sealaska is between 65,000 and 85,000 acres of land. The only remaining issue is where this land will come from. Of the lands available to Sealaska today within the ANCSA withdrawal boxes:

- 270,000 are included in the current U.S. Forest Service inventory of roadless forestland;
- 112,000 acres are comprised of productive old growth;
- 60,000 acres are included in the Forest Service's inventory of Old Growth Habitat Land Use Designation (LUD) lands; and
- much of that land is comprised of important community watersheds, high conservation value lands important for sport and commercial fisheries and areas important for subsistence uses.

The Sealaska legislation allows Sealaska to move away from sensitive watersheds and roadless areas, to select a balanced inventory of second growth and old growth, and to select most of its remaining ANCSA lands on the existing road system, preserving on balance as much as 40,000 acres of old growth, much of which is inventoried "roadless old growth".

#### **Why is Sealaska Corporation Different?**

A common misperception of the Sealaska bill is that Sealaska is required to select its Native lands from within the 10 withdrawal areas in Southeast Alaska because Sealaska "asked for it". This perception is reflected in opinion pieces in Alaska newspapers and has been shared with Committee staff for the House and Senate Committees of jurisdiction. We therefore believe this misconception should be addressed here.

ANCSA authorized the distribution of approximately \$1,000,000,000 and 44,000,000 acres of land to Alaska Natives and provided for the establishment of 12 Regional Native Corporations and more than 200 Village Corporations to receive and manage the funds and land to meet the cultural, social, and economic needs of Native shareholders.

Under section 12 of ANCSA, each Regional Corporation, other than Sealaska, was authorized to receive a share of land based on the proportion that the number of Alaska Native shareholders residing in the region of the Regional Corporation bore to the total number of Alaska Native shareholders, or the relative size of the area to which the Regional Corporation had an aboriginal land claim bore to the size of the area to which all Regional Corporations had aboriginal land claims. While each other Regional Corporation received a significant quantity of land under section 12 of ANCSA, Sealaska received land only under section 14(h) of that Act.

Sealaska did not receive land in proportion to the number of Alaska Native shareholders, or in proportion to the size of the area to which Sealaska had an aboriginal land claim, in part because, in 1968, some compensation was provided to the Tlingit and Haida Indian by the U.S. Court of Claims, which determined that the Tlingit and Haida Indians were entitled to recover \$7.5 million for the taking of the 17 million acre Tongass National forest and 3.3 million acre Glacier Bay National Park.

The 1968 Court of Claims payment should be viewed in context with the universal settlement reached by Congress just three years later that allowed for the return of 44 million acres to Alaska's Native people. With a population that represented more than 20 percent of Alaska's Native population in 1971, Southeast Alaska Natives ultimately will receive title to only 1 percent of lands returned to Alaska Natives under ANCSA.

Moreover, the 1968 settlement provided by the Court of Claims did not compensate the Tlingit and Haida for 2,628,207 acres of land in Southeast Alaska also subject to aboriginal title. These lands became an important basis for the participation of the Southeast Alaska Natives in the settlement in 1971. The court also determined the value of the lost Indian fishing rights at \$8,388,315, but did not provide compensation for those rights. These rights were pursued through a property claims action before the Indian Claims Commission, originally filed in 1954, but there was no decision on the merits when ANCSA passed in 1971. The Commission subsequently ruled that ANCSA extinguished such claims and the proceeding became a moot.

Sealaska ultimately would be entitled to recover as much as 375,000 acres of land under ANCSA. However, under the terms of ANCSA, and because the homeland of the Tlingit, Haida and Tsimshian people had been reserved as a national forest, the Secretary of the Interior was not able to withdraw any land in the Tongass for selection by and conveyance to Sealaska. The only lands available for selection by Sealaska in 1971 were slated to become part of the Wrangell-St. Elias National Park or consisted essentially of mountain tops.

For this reason, in the early 1970s, Sealaska requested that Congress amend ANCSA to permit Sealaska to select lands from within 10 withdrawal boxes estab-

lished under ANCSA for the 10 Southeast Native villages recognized under that Act. In 1976, Congress granted that right.

In short, in the 1970s Sealaska sought areas from which to make selections because, at that time, Southeast Alaska's Native people had no other place to go in the Tongass, their very homeland. The suggestion that Alaska's Native people invited their own exclusion from their Native homeland is an idea that any compassionate witness to our history should find repugnant. It was a choice between something limited or nothing at all. Hardly a choice.

H.R. 1408 addresses problems associated with the unique treatment of Sealaska and the unintended public policy consequences of forcing Sealaska to select its remaining entitlement from within the existing ANCSA withdrawals. The legislation presents to Congress and to this Administration a legislative package that will result in public policy benefits on many levels. H.R. 1408 allows Sealaska to select from alternative, well defined withdrawals areas in Southeast Alaska. The legislation enables the conveyance of the final acres to which Sealaska is entitled—and not one acre more.

Historic pressures resulted in the political marginalization and spatial confinement of Native people in Southeast Alaska, documented in "A New Frontier" (discussed directly below), including federal pressures to prevent Native claims from impacting the timber industry. These pressures no longer (we hope) restrict the decisions of either the Congress or the Forest Service in pursuing a legislative solution that will enable Sealaska to finalize its Native entitlement in a manner that is both equitable and results in minimal impacts to other interests in the Tongass.

Observers unfamiliar with ANCSA sometimes suggest that the Sealaska legislation might somehow create a negative precedent with respect to Alaska Native land claims. This seems odd in the context of the history of the Tongass and its impact on the Southeast settlement. Moreover, ANCSA has been amended more than 30 times. ANCSA was and remains a congressional undertaking, and as a statute, it is organic. As observed by Senator Mark Begich at a hearing on this bill before the Senate Subcommittee on Public Lands and Forests in October 2009, Congress has, on multiple occasions, deemed it appropriate to amend ANCSA to address in an equitable manner issues that were not anticipated by Congress when ANCSA passed.

#### **Additional Observations: Why Native Land Claims Are Unique in the Tongass**

Two documents present an important historical perspective on the long struggle to return lands in the Tongass to Native people: (1) the draft document funded by the Forest Service and authored by Dr. Charles W. Smythe, "A New Frontier: Managing the National Forests in Alaska, 1970–1995" (1995) ("A New Frontier"); and (2) a paper by Walter R. Echo-Hawk, "A Context for Setting Modern Congressional Indian Policy in Native Southeast Alaska ("Indian Policy in Southeast Alaska"). A four page summary of the paper by Mr. Echo-Hawk is attached to this testimony; due to Committee limitations on the length of attachments to written testimony, we were not able to attach the full documents to this testimony.

The findings and observations summarized below are to be attributed to the work of Dr. Smythe and Mr. Echo-Hawk. For the sake of brevity, we have summarized or paraphrased these findings and observations. We encourage people with an interest in the history of the Tongass generally, or in this legislation specifically, to take the time to read these documents in full.

Dr. Smythe's research, compiled in "A New Frontier", found, among other things:

- By the time the Tongass National Forest was created in 1908, the Tlingit and Haida Indians had been marginalized. As white settlers and commercial interests moved into the Alaska territory, they utilized the resources as they found them, often taking over key areas for cannery sites, fish traps, logging, and mining.
- The Act of 1884, which created civil government in the Alaska territory, also extended the first land laws to the region, and in combination with legislation in 1903, settlers were given the ability to claim areas for canneries, mining claims, townsites, and homesteads, and to obtain legal title to such tracts. Since the Indians were not recognized as citizens, they did not have corresponding rights (to hold title to land, to vote, etc.) to protect their interests.
- For decades prior to the passage of ANCSA, the Forest Service opposed the recognition of traditional Indian use and aboriginal title in the Tongass National Forest. As late as 1954, the Forest Service formally recommended that all Indian claims to the Tongass be extinguished because of continuing uncertainty affecting the timber industry in Southeast Alaska.
- On October 7, 1959, the U.S. Court of Claims held that the Tlingit and Haida Indians had established their claims of aboriginal Indian title to the land in

Southeast Alaska and were entitled to recover compensation for the taking of their lands, and for the failure to protect their hunting and fishing rights.

- The efforts by the Interior Department in the 1930s and 1940s to establish reservations in Southeast Alaska alarmed the Forest Service—which at the time opposed the principle of aboriginal rights and its serious conflict with plans for a pulpwood industry in Alaska.
  - The policy of the Roosevelt Administration, with Harold Ickes as Interior Secretary, was to recognize aboriginal rights to land and fisheries in Alaska and to support efforts to provide a land and resource base to Native communities for their economic benefit. Following hearings on the aboriginal claims related to the protection of fisheries, Secretary Ickes established an amount of land to be set aside for three village reservations: Hydaburg—101,000 acres; Klawock—95,000; acres Kake—77,000 acres.
  - The judgments of the Department of the Interior were troubling to the Forest Service. If realized, the whole timber industry in southeast Alaska would be jeopardized.
  - The Department of Agriculture later expressed its agreement with the efforts of the U.S. Senate to substantially repeal the Interior Secretary's authority to establish the proposed reservations in Southeast Alaska.
- Walter Echo Hawk's paper, "Indian Policy in Southeast Alaska", observes, in part:
- The Tongass National Forest was actually established subject to existing property rights, as it stated that nothing shall be construed "to deprive any persons of any valid rights" secured by the Treaty with Russia or by any federal law pertaining to Alaska. This was ignored.
  - A Tlingit leader and attorney William Paul won a short-lived legal victory in the Ninth Circuit Court of Appeals in *Miller v. United States*, 159 F. 2d 997 (9th Cir. 1947), which ruled that lands could not be seized by the government without the consent of the Tlingit landowners and without paying just compensation.
  - To combat this decision, federal lawmakers passed a Joint Resolution authorizing the Secretary of Agriculture to sell timber and land within the Tongass National Forest, "notwithstanding any claim of possessory rights" based upon "aboriginal occupancy or title." This action ultimately resulted in the *Tee-Hit-Ton Indians v. United States* decision, in which the U.S. Supreme Court held that Indian land rights are subject to the doctrines of discovery and conquest, and "conquest gives a title which the Courts of the Conqueror cannot deny." 348 U.S. 272, 280 (1955). The Court concluded that Indians do not have 5th Amendment rights to aboriginal property. The Congress, in its sole discretion, would decide if there was to be any compensation whatsoever for lands stolen.

#### **H.R. 1408: A Legislative Solution with Significant Public Policy Benefits**

Alaska's congressional delegation has worked hard to ensure that the fair settlement of Sealaska's Native land claim is accomplished in a manner that may have the greatest benefit to all of Southeast Alaska with the least possible impact on individuals, communities, federal and state land management agencies, and other interested stakeholders.

This legislation is also largely in symmetry with the goals of the Obama Administration for the Tongass, which has worked to protect roadless areas and accelerate the transition away from forest management that relied on old growth harvesting. The Administration has been clear that it wants to help struggling communities in rural Alaska. The Administration also has dedicated unprecedented resources to working with American Indian and Alaska Native communities nationwide. This legislation helps to finalize Sealaska's Native entitlement in an equitable way, while supporting a transition by Sealaska to second growth harvesting and maintaining rural Southeast Alaska jobs.

Without legislation to amend ANCSA, Sealaska will be forced either to select and develop roadless old growth areas within the existing withdrawals or shut down all Native timber operations, with significant negative impacts to rural communities, the economy of Southeast Alaska, and our tribal member shareholders. This legislation proposes an alternative: H.R. 1408 would permit Sealaska to select its remaining entitlement lands from outside of the ANCSA withdrawal boxes. The alternative land pool from which Sealaska could select under H.R. 1408 includes forestland suitable for timber development, but commits Sealaska to also select second growth in lieu of the old growth available to Sealaska today. In fact, the legislation ultimately would preserve as much as 40,000 acres of old growth, and even more inventoried roadless acres, to be managed as part of the Tongass National Forest.

H.R. 1408 would permit Sealaska to select 3,600 acres of land as sacred and cultural sites, and 5,000 acres of small parcels of land often referred to as "Native fu-

tures sites". Under the terms of the legislation, no timber or mineral development would be permitted on sacred sites or Native futures sites. Because Sealaska would be permitted to select these sites in lieu of timberlands, these provisions reduce overall timber acres available to Sealaska by 8,600 acres.

Although Sealaska would thus give up "economic" assets under the proposed legislation, we believe the Southeast Alaska Native community will benefit because 3,600 acres of sacred sites will be returned to Native ownership. The community will also benefit from the 30 smaller selections (Native futures sites) that would be made available for development as green energy (tidal, geothermal, or run-of-river hydro) sites, bases for ecotourism or cultural tourism, or simply to exist as sites in Native ownership. By permitting Sealaska to select a handful of small parcels for such uses, H.R. 1408 helps to preserve Native culture in perpetuity, ensures that the Tongass remains a Native place, and provides the catalyst for creating sustainable economies within the Tongass.

The public benefits of this legislation extend far beyond Sealaska Corporation and its shareholders. Pursuant to a revenue sharing provision in ANCSA, Sealaska distributes 70 percent of all revenues derived from the development of its timber resources—more than \$315 million since 1971—among all of the more than 200 Alaska Native Corporations.

As discussed throughout this legislation, Sealaska's land legislation strategy was also driven in large part by conservation organizations' stated public goals of "protecting roadless areas", "protecting old growth reserves", "accelerating the transition to second growth" and creating alternate economies.

Finally, movement toward completion of Sealaska's ANCSA land entitlement conveyances will benefit the federal government. This legislation allows Sealaska to move forward with its selections, which ultimately will give the BLM and the Forest Service some finality and closure with respect to ANCSA selections in the region.

#### **The Forest Service's Plans for the Tongass: Impact of H.R. 1408 on Tongass Management**

The U.S. Forest Service has, in the past, expressed concern that H.R. 1408 could impact its ability to harvest second growth to support Southeast Alaska mills, and could impact other goals laid out in the 2008 Amendment to the Tongass Land Use Management Plan.

We believe Sealaska's offer to leave behind roadless old growth timber in the Tongass is significant; it is a proposal we believe this Administration should support based on its goals to protect these types of forest lands. We also believe that lands proposed for conveyance under H.R. 1408 conflict minimally with and may ultimately benefit the Forest Service's Transition Framework for the Tongass.

The Forest Service uses various classifications to define the condition of its second growth. The term "suitable" means that forestland is available for harvest. The term "unsuitable" refers to lands that are not available for harvest under normal harvest prescriptions. For purposes of our calculations, unsuitable lands exclude second growth in conservation designations, but include second growth available for restoration and stewardship contracting.

- There are 428,972 acres of second growth on the Tongass National Forest.
  - 57% is available for harvest—suitable acres
  - 43% is not available for harvest, except through restoration and stewardship contracts—unsuitable acres
- Of the oldest second growth (over 40+ years):
  - 44% is suitable for harvest
  - 56% is unsuitable
- Sealaska selection of second growth would include approximately (an approximation is made due to differences between the bills introduced in the Senate and the House):
  - 7% of the total second growth
  - 9% of the suitable second growth
  - 4% of the unsuitable second growth
- Sealaska selections of age 40+ second growth include:
  - 12% of the total 40+ second growth
  - 9% of the 40+ second growth is from suitable acres
  - 4% of the 40+ second growth is from unsuitable acres

For the Forest Service, the most significant limitation to an accelerated transition to second growth is the large number of acres of older second growth that is in restricted timber use status. If these restrictions were modified, there could be an acceleration to exclusive second growth harvesting.

If H.R. 1408 were to pass today, under current standards and guidelines, the Forest Service would retain at least 223,000 acres of suitable second growth and

177,000 acres of unsuitable second growth that is available for stewardship and restoration. We believe the total pool of lands available to the Forest Service is more than sufficient to support log demand for its Transition Framework.

We also believe that to achieve a successful transition to second growth, the Forest Service needs Sealaska to remain active in the timber industry in the Tongass, because Sealaska's operations support regional infrastructure (including roads and key contractors), development of markets (including second growth markets), and development of efficient and sustainable second growth harvesting techniques. In short, the likely success of the Forest Service's transition to second growth is significantly improved if Sealaska second growth operations are in close proximity to Forest Service second growth operations.

Sealaska has 30 years of experience developing and distributing Southeast Alaska wood to new and existing markets around the world. Sealaska recently has pioneered second growth harvesting techniques in Southeast Alaska and is active in this market.

This legislation, which moves Sealaska into some older second growth, ensures that Sealaska will engage as an early partner with the Forest Service in second growth market development, while continuing to provide local jobs and supporting the local economy.

It is also important to note that regardless of whether Sealaska selects within the existing ANCSA withdrawal boxes or outside of those boxes, Sealaska must select its remaining entitlement lands from within the Tongass. In other words, by selecting Native entitlement lands, whether under existing law or the proposed legislation (H.R. 1408), Sealaska's land selections will incorporate lands suitable for timber development and may require the Forest Service to adjust land management plans. However, the ability to make minor management adjustments is built into the revised Tongass Land Management Plan.

#### **Local Impact of H.R. 1408: Saving Jobs in Rural Southeast Alaska**

The Southeast Alaska region lost about 750 jobs in 2009, the largest drop in at least 35 years. In January 2011, the Alaska Department of Labor and Workforce Development reported the unemployment rate for the Prince of Wales—Outer Ketchikan census area at approximately 16.2 percent. In October 2007, the Alaska Department of Labor and Workforce Development projected population losses between 1996 and 2030 for the Prince of Wales—Outer Ketchikan census area at 56.6 percent.

While jobs in Southeast Alaska are up over the last 30 years, many of those jobs can be attributed to industrial tourism, which creates seasonal jobs in urban centers and does not translate to population growth. In fact, the post-timber economy has not supported populations in traditional Native villages, where unemployment ranges above Great Depression levels and populations are shrinking rapidly.

We consider this legislation to be the most important and immediate "economic stimulus package" that Congress can implement for Southeast Alaska. Sealaska provides significant economic opportunities for our tribal member shareholders and for residents of all of Southeast Alaska through the development of our primary natural resource—timber. Sealaska and its subsidiaries and affiliates expended over \$45 million in 2008 in Southeast Alaska. Over 350 businesses and organizations in 16 Southeast communities benefit from spending resulting from Sealaska activities. We provide over 363 full and part-time jobs with a payroll of over \$15 million. Including direct and indirect employment and payroll, Sealaska in 2008 supported 490 jobs and approximately \$21 million in payroll.

We are proud of our collaborative efforts to build and support sustainable and viable communities and cultures in our region. We face continuing economic challenges with commercial electricity rates reaching \$0.61/kwh and heating fuel costs sometimes ranging above \$6.00 per gallon. To help offset these extraordinary costs, we work with our logging contractors and seven of our local communities to run a community firewood program. We contribute cedar logs for the carving of totems and cedar carving planks to schools and tribal organizations. We are collaborating with our village corporations and villages to develop hydroelectric projects. We do all of these collaborative activities because we are not a typical American corporation. We are a Native institution with a vested interest in our communities.

Our shareholders are Alaska Natives. The profits we make from timber support causes that strengthen Native pride and awareness of who we are as Native people and where we came from, and further our contribution in a positive way to the cultural richness of American society. The proceeds from timber operations allow us to make substantial investments in cultural preservation, educational scholarships, and internships for our shareholders and shareholder descendants. Through these efforts we have seen a resurgence of Native pride, most noticeably in our youth. Our

scholarships, internships and mentoring efforts have resulted in Native shareholder employment above 80% in our corporate headquarters, and significant Native employment in our logging operations.

ANCSA authorized the establishment of Native Corporations to receive and manage that land so that Native people would be empowered to meet their own cultural, social, and economic needs. H.R. 1408 is critically important to Sealaska, which is charged with meeting these goals in Southeast Alaska.

#### **Glacier Bay National Park**

In 1971, Congress tasked Native Corporations with selecting and managing sacred sites on behalf of the Native community. Legislation introduced on Sealaska's behalf during the 110th Congress proposed the conveyance to Sealaska of a handful of sacred, cultural, traditional and historic sites in Glacier Bay National Park, based on precedent for such transfers to Indian Tribes in National Parks in the lower 48 states. As a result of concerns expressed regarding these potential conveyances, Sealaska sought an adjustment to the legislation to provide merely for "cooperative management" of the sites.

With the National Park Service continuing to express concern regarding the "cooperative management" language in the bill, Congressman Young agreed to help resolve the concerns, and further revised the Glacier Bay language to clarify that the cooperative management requirement applies only to Glacier Bay sacred sites identified in the bill, to avoid any misperception that such language could apply to the entire Park.

Cooperative management agreements would ensure Native use and management of the handful of very significant sacred and cultural sites identified within Glacier Bay, regardless of future changes in Park management. This language does not propose to negate the existing Memorandum of Understanding between the Park and the Huna Indian Association (HIA), and there have been discussions about revising the language to address a few additional concerns of HIA. As with all elements of this legislation, Sealaska remains open to a continued dialogue on this matter.

#### **Conservation Considerations**

We were disheartened last year when a handful of environmental groups disseminated blatant misinformation about this legislation. We think these groups must view this legislation as a part of a larger compromise between development and conservation, and by publishing statements like "Stop the Corporate takeover of the Tongass", these groups chose to ignore the Native equitable and other public benefits of this legislation. This only hurts our communities and the people who live there, including those who survive on jobs created by Sealaska.

This legislation is fundamentally about the ancestral and traditional homeland of a people who have lived for 10,000 years in Southeast Alaska. For 145 years, people from across the western world have traveled to Southeast Alaska with an interest in the rich natural resources of the region—an area the size of Indiana. In the mid-1800s, Americans came to hunt for whales. In the late-1800s, gold miners arrived. In the first half of the Twentieth century, the fishing industry built traps at the river entrances, depleting salmon populations. In the 1950s and 1960s, two pulp mills signed contracts with the United States that gave the mills virtually unlimited access to Tongass timber. In the meantime, Natives from the late-1800's through the 1930's often were being moved from their traditional villages.

Some conservation groups represent the latest influx of people with an idea about what best serves the public interest in the Tongass. In fairness, the conservation community writ large has long fought to preserve the Tongass for its wilderness and ecological values, and often I have appreciated the balance that the conservation community seeks for the forest.

What I do not appreciate is environmentalism that does not recognize the human element—that people have to live in this forest. I do not accept environmentalism that does not recognize that the Tongass is a Native place. We welcome people to our homeland—but we do not appreciate the assault by some on our right to exist and subsist in the Tongass.

There are groups that consistently agree with us that we should have our land, but wish to decide—to the smallest detail—where that land should be. We have been asked to place as much as two million acres of conservation on the back of our legislation as the price for selecting lands that make cultural and economic sense to our people. Native people have always been asked to go second. Let's not forget that H.R. 1408 addresses the existing land entitlement of the Native people of Southeast Alaska.

In attempting to resolve Sealaska's unfortunate dilemma in an equitable manner, the Alaska Congressional delegation has been careful to draft legislation to be in

alignment with the current Administration's stated objectives for the Tongass and other national forests.

Moreover, while original withdrawal limitations make it difficult for Sealaska to meet its traditional, cultural, historic and—certainly—economic needs, these original withdrawn lands are not without significant and important public interest value. For example, approximately 85 percent of those lands now withdrawn for Sealaska are classified by the Forest Service as inventoried roadless areas. A significant portion is Productive Old-Growth forest (some 112,000 acres), with over half of that being Old Growth Habitat LUD as classified under the 2008 Amendment to the Tongass Land Use Management Plan. H.R. 1408 allows these roadless old growth lands to return to public ownership, to be managed as the federal government and general public sees fit.

Some groups claim that “the lands that Sealaska proposes to select...are located within watersheds that have extremely important public interest fishery and wildlife habitat values.” They are correct in a general sense. We agree that all lands in our region are valuable; our federal lands and our Native lands should be managed responsibly. We acknowledge the need for conservation areas and conservation practices in the Tongass. This bill meets those goals.

Sealaska remains fully committed to responsible management of the forestlands for their value as part of the larger forest ecosystem. At the core of Sealaska's land management ethic is the perpetuation of a sustainable, well-managed forest to produce timber and to maintain forest ecological functions. We have attached a 2-page summary of Sealaska's land and stewardship practices to this testimony.

#### **Time is of the Essence**

Timing is critical to the success of the legislative proposal before you today. Without a legislative solution, we are faced with choosing between two scenarios that ultimately will result in dire public policy consequences for our region. If H.R. 1408 is stalled during the 112th Congress, either Sealaska will be forced to terminate all of its timber operations within approximately one year for lack of timber availability on existing land holdings, resulting in job losses in a region experiencing severe economic depression, or Sealaska must select lands that are currently available to it in existing withdrawal areas. If forced to select within the existing boxes, development will inevitably occur in the inventoried roadless areas available today to Sealaska.

#### **Sealaska Recognizes the Importance of the Public Process**

The alternative selection pool identified in the Sealaska bill is a product of an exceptional public process, including three previous Congressional hearings, more than a dozen meetings held by Senator Murkowski's staff in Southeast communities, and hundreds of community meetings held by Sealaska.

The Sealaska bill has the support of the full Alaska delegation and many residents, communities and tribes throughout Southeast Alaska and statewide:

- The legislation is supported by the National Congress of American Indians, the Intertribal Timber Council, the Alaska Federation of Natives, the ANCSA Regional Presidents & CEOs, the Central Council of Tlingit and Haida Indian Tribes, and numerous tribes throughout Southeast Alaska.
- The Alaska Forest Association—which works with and represents Southeast Alaska's remaining timber mills—fully supports the Sealaska legislation.
- The Sealaska bill represents a net gain to the U.S. Forest Service of roadless and old growth timber in the Tongass National Forest. The legislation is fundamentally aligned with the goals of the Obama Administration.

Some critics of this bill want to shut down this legislation because it might mean that Sealaska selects lands in “their” backyard, near “their” favorite spots. This is understandable. But every acre of the Tongass is precious to someone and we need somewhere to go to fulfill our entitlement. Sealaska has been careful to select lands that are part of the Forest Service's timber base. Sealaska has compromised and adjusted its legislation several times on the basis of community and even individual concerns.

#### **Congressman Don Young has worked to Resolve Federal, State, and Local Concerns**

To address federal, state and local community concerns, Congressman Young committed to reintroducing legislation that:

- drops lands proposed for conveyance to Sealaska on northeastern Prince of Wales Island near Red Bay, and incorporates new lands into the pool of lands that would be available to Sealaska for Native selections—all new lands identified in the legislation are to be added solely on the basis of meetings with communities and other stakeholders in Southeast Alaska;



- revises language that allows Native Corporations to work with the Secretary of Agriculture under the Tribal Forest Protection Act to address fire hazards and spruce bark beetle infestations, and language that allows Native Corporations, as owners of Indian cemetery sites and historical places in Alaska, to work with the Secretary of the Interior to secure support under the National Historic Preservation Act—our revised bill language clarifies that these amendments do not create Indian country in Alaska;
- clarifies that the conveyance of Native sacred sites is subject to the criteria and procedures applicable to the selection of sacred sites under ANCSA;
- amends the bill to protect local guide permits on lands that would be conveyed to Sealaska;
- provides that the conveyances of smaller parcels (also called Native future sites), which are subject to significant development restrictions, are further subject to an easement for public access across such lands in addition to public access easements that would be granted under Section 17(b) of ANCSA;
- provides that Native sacred sites could be conveyed subject to an easement for public access across such lands where there is “no reasonable alternative” access, a provision that also provides public access rights in addition to the public easements that would be available under Section 17(b) of ANCSA;
- clarifies that any “site improvement” on any sacred site selected by Sealaska (for example, construction of a traditional longhouse or an access trail) must not be inconsistent with management plans for adjacent public lands; and
- provides that the BLM shall have additional time to convey ANCSA lands to Sealaska.

#### **Our Future in Southeast Alaska**

Our people have lived in the area that is now the Tongass National Forest since time immemorial. The Tongass is the heart and soul of our history and culture. We agree that areas of the region should be preserved in perpetuity, but we also believe that our people have a right to reasonably pursue economic opportunity so that we can continue to live here. H.R. 1408 represents a sincere and open effort to meet the interests of the Alaska Native community, regional communities, and the public at large.

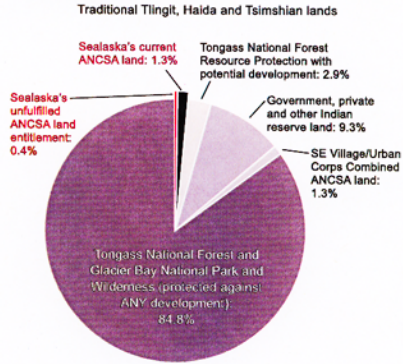
It is important for all of us who live in the Tongass, as well as those who value the Tongass from afar, to recognize that the Tlingit, Haida and Tsimshian are committed to maintaining both the natural ecology of the Tongass and the Tongass as our home. We therefore ask for a reasoned, open, and respectful process as we attempt to finalize the land entitlement promised to our community 40 years ago. We ask for your support for H.R. 1408.

Gunalchéesh. Thank you.



## OVERVIEW OF SEALASKA LAND AND STEWARDSHIP

### 23 MILLION ACRES OF SOUTHEAST ALASKA LAND OWNERSHIP



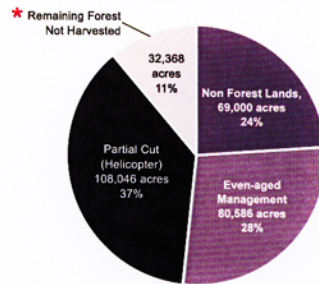
### SEALASKA LAND STATISTICS

- 290,000 acres in current Sealaska ownership
- 220,225 acres are forest lands
- 188,632 acres have been harvested from 1980 to 2009
- Of the remaining 32,368 acres of forest we've not harvested: \*

  - Wide buffers to protect salmon and resident fish streams
  - Bald eagle nest trees
  - Municipal watersheds
  - Subsistence areas

### SEALASKA LAND AND HARVEST STATISTICS

Current Conveyance (290,000 acres)  
1980 - 2009 Harvest (188,632 acres)



Continued on other side

**SEALASKA STEWARDSHIP FACTS**

- Six miles of stream bank riparian habitat have been restored. These lands were previously harvested down to stream banks before conveyance to Sealaska.
- Monitoring of effectiveness of efforts to protect riparian buffer zones on private timberlands to protect fish habitat and water purity
  - Largest and longest running fish habitat and water purity monitoring program on private timberlands in the Pacific Northwest
- Twelve-year wildlife habitat and young growth tree study to provide strategies for optimization of wildlife habitat and tree growth
  - All studies done in cooperation with state and federal agencies, other private landowners and industry associations
- Numerous peer review reports published in professional journals based on research and studies
- Peer reviewed article by Oregon State University on Sealaska wildlife habitat and silviculture research to be published this year in professional journal

**Managed versus Unmanaged**

Sealaska managed 30-year-old stand near Kake  
PCT age 20; basal prune age 29  
Notice how sunlight can reach the forest floor to benefit understory plants important for deer browse and other wildlife benefit.



25-year-old, unmanaged stand not on Sealaska land. Foreground has been cleared for Hollis to Klawock highway and creates a cross section view to look into the unmanaged condition. Notice that sunlight cannot reach the forest floor.

**SEALASKA STEWARDSHIP AND SILVICULTURE\*****Current on all treatments**

- Hand planting of 1,600,000 seedlings on 8,230 acres
- 38,500 acres pre-commercial tree thinning
- 1,230 acres basal pruning
- \$16.2 million invested
- All young stand management treatments are current

\* Silviculture: forest management, the practice of growing trees

[NOTE: Additional attachments have been retained in the Committee's official files.]

Mr. DENHAM. Thank you, Mr. Mallott. Mr. Claus.

**STATEMENT OF BOB CLAUS, FOREST PROGRAM DIRECTOR,  
SOUTHEAST ALASKA CONSERVATION COUNCIL, CRAIG,  
ALASKA**

Mr. CLAUS. Thank you, Mr. Chairman. My name is Bob Claus, and I live in Craig, Alaska. I have a strong commitment to the people and places of Southeast Alaska. I served as an Alaskan State

Trooper on Prince of Wales Island for 15 years, and I continue to work every day with the people on the island.

I have spent many hours visiting with and listening to the people who live in the Native villages, fishing towns, and former logging camps, which will be most impacted by this bill.

The lifestyle of rural Alaska is beyond the imagination of most Americans. We build and heat our houses with wood that we take from the forest. We eat deer from the woods, and we fish in the streams and oceans. We arrange our lives around the strength of the fish runs, the winter survival of deer, and the abundance of the berry harvest.

People have lived like this in this place for thousands of years. People on the island are opposed to this proposal because of the changes that they fear. People are afraid that they will lose their ability to hunt along the North Prince of Wales road system.

They are afraid that they will lose their ability to make a living from fishing if they lose Federal buffers for salmon streams. They are afraid that the transfer of control from the Forest Service to the Sealaska Corporation will mean a loss of local year around jobs, contributing to the decline of their towns' economies.

They are afraid that the loss of protection for karst and cave lands will destroy unique geologic features, and adversely impact salmon streams. The cost of this bill outweighs the public benefit, and the people of Southeast Alaska know it.

This is shown by the formal letters and resolutions from communities opposing this proposal. I recently heard a story about the history of salmon canneries in one of our small towns.

A big industrial company came to the village, built a cannery, and set up fish traps. Local people fish in cans, and earned a laborer's wage. The fish traps decimated the fish runs. The big company pulled out, and what the people got in return was a few years of wages, a destroyed fish run, and a traditional culture in disarray.

How does putting fish in cans until the fish are gone different than loading logs on to ships until the logs are gone? Fishing has changed since then, and the timber industry has to change, too.

Community leaders from across the political spectrum are actively working toward a different vision for the future of Southeast Alaska, and we believe that an intact forest ecosystem supports the billion-dollar fishing industry, the billion-dollar tourism and recreation industry, and the traditional and customary economies practiced by local residents.

We believe that the community scaled forest products work and energy projects are compatible with this economy. This bill with this emphasis on clear-cut logging for export is an attack on our vision of the future for Southeast Alaska.

SEACC recognizes Southeast Alaska as a Native place, and supports Sealaska getting lands rightfully owed to them, but we question the balance of this particular bill. One way to measure fairness is through the resource value as measured by timber, existing infrastructure, potential for economic development, and habitat value.

The amount and location of the land selection should reflect the true costs to the American people. Sealaska has chosen the most productive and easily accessible timber stands. The Native futures

site selections represent the best sites in Southeast Alaska for tourism and energy related development.

Some of those are in direct conflict with existing small businesses and community plans, and all of them block future investment by any other party. The potential selection of cultural sites creates conflicts within the Native community over who is the appropriate owner of cultural sites, and who decides whether a commercial use of those lands is appropriate, and whether these lands could be lost to creditors.

This bill fails to find that balance that supports our true sustainable economy. Part of that balance will be to conserve lands to protect fisheries, habitat, and community traditional use areas.

SEACC remains committed to a broad balanced solution that addresses the interests of the Sealaska Corporation, and respects Native culture, as well as the economic needs of all of the people of Southeast Alaska. We oppose this bill because it does not contribute to that solution.

[The prepared statement of Mr. Claus follows:]

**Statement of Bob Claus, Forest Program Director,  
Southeast Alaska Conservation Council**

Mr. Chairman and members of this Subcommittee:

My name is Bob Claus and I am a community organizer for SEACC based on Prince of Wales Island. Thank you for the opportunity to testify before you today and I respectfully request that my written testimony and accompanying materials be entered into the official record for this Subcommittee hearing.

Founded in 1970, SEACC has members all across Southeast Alaska, from Craig on Prince of Wales Island to Yakutat. SEACC's individual members include commercial fishermen, Native Alaskans, small timber operators and value-added wood manufacturers, tourism and recreation business owners, hunters and guides, and Alaskans from all walks of life.

SEACC is dedicated to preserving the integrity of Southeast Alaska's unsurpassed natural environment while providing for balanced, sustainable use of our region's resources. Southeast Alaska contains magnificent old-growth forests, outstanding fish and wildlife habitat, important "customary and traditional" or subsistence use areas, excellent water and air quality, unsurpassed outdoor recreation opportunities, world class scenery, internationally and nationally significant cave and karst resources, and provides a unique way of life for the hardy, independent people who choose to call it home.

We were invited to testify here today because of our long involvement with this legislation.<sup>1</sup> There was a hearing at the Subcommittee on Public Land and Forests yesterday across the Capital on the most recent Senate version of this same legislation, S. 730. Unlike the last session, however, the two bills are not identical.

Unlike H.R. 1408, Senate Bill 730 does not offer hyperbole for fact like the supposed findings in section 2 of the House bill;<sup>2</sup> encroach upon the federally-recognized tribe for the Hoonah Natives government-to-government relationship with the National Park Service over their traditional homelands in Glacier Bay National Park; threaten as many small communities or valuable fish and wildlife habitat; or fail to see the value in conserving internationally significant karst and cave resources, primary fish producing watersheds, and lands recognized by local community leaders as important just the way they are. Senate Bill 730 recognizes the need for stream buffers to protect salmon habitat, although including an ill-advised sunset clause. H.R. 1408 should include permanent stream buffers to protect fisheries.

I want to be clear—the Senate bill is better than H.R. 1408, but that is little consolation to the communities and forest users most directly affected by this legislation. We hope the Chairman uses this opportunity to draft a bill that doesn't favor one interest or community at the expense of others.

Community leaders from across the political and economic spectrum are actively working towards a different vision of the future for Southeast Alaska than that proposed in this bill. Our salmon forest supports the sustainable nearly \$1 billion fishing industry, which employs nearly 10 times the number of workers as timber. Our fish, wildlife, and outdoor recreation opportunities support over a billion dollars in direct, indirect, and induced visitor spending in Southeast Alaska, and provide over

21 percent of the full and part time jobs in Southeast Alaska.<sup>3</sup> The critical foundation of the region's economy is customary and traditional hunting, fishing and gathering; salmon is the primary source of food for rural Southeast Alaskans. We acknowledge the difficult times and economic desperation that our small communities are facing, but logging watersheds vital to food gathering make it even more difficult for them.<sup>4</sup>

We believe that sustainable community-scaled forest products work and energy projects are compatible with this vision. This bill, with its emphasis on clearcut logging for export, conflicts with that vision of a bright future for Southeast Alaska.

#### **Communities Placed in Conflict with One Another**

This legislative proposal is extremely controversial and divisive in Southeast Alaska's small communities.

One of our proudest national heritages is the freedom that Americans enjoy to access and use our public lands, anyplace and anytime. The lands sought by Sealaska will curtail public access and use of public lands and resources. The uncertain scope of the permitted activities and location of the easements proposed in H.R. 1408 raise concerns, as does the authority given Sealaska to control access and use of the easements and adjacent lands.

The small communities of Edna Bay, Naukati, Cape Pole, Hollis, Whale Pass, Kupreanof, Thorne Bay, Point Baker and Port Protection have written formal letters or resolutions opposing this bill, and these are the communities closest to the transfer areas. Other communities and organizations formally opposed prior versions of this legislation. Hundreds of island residents have signed petitions opposing the bill.

Many residents of these communities closest to the lands threatened by H.R. 1408 question how they can continue their shared way of living if Sealaska takes their forest. Many wonder if the existing timber industry will be able to transition away from old-growth logging if Sealaska receives the oldest young-growth on the forest.

Residents of the rural communities on Prince of Wales have long used all the lands proposed for selection by Sealaska on North Prince of Wales Island, Kosciusko and Tuxekan Islands for subsistence hunting, fishing, and gathering. Without the legal requirements for public oversight and participation provided these rural residents under Title VIII of the Alaska National Interest Lands Conservation Act on public lands, they will have no voice on how these "private" lands are managed by Sealaska nor will Sealaska be obligated to minimize impacts to subsistence resources and uses from its management.

Residents of Hydaburg fought to safeguard lands surrounding Keete/Nutkwa and Kassa Inlets and Mabel Bay. Sealaska has targeted these traditional lands for the short-term economic benefits associated with clearcut logging and round log export to Asian markets. The 1989 House-passed version of the Tongass Timber Reform Act, H.R. 987, safeguarded these lands permanently by designating them part of the Nutkwa Wilderness. The final compromise legislation in 1990 ultimately left these lands unprotected.<sup>5</sup> SEACC and others have consistently advocated for long-term protection for these lands ever since.

#### **Out-Of-Withdrawal Selections for Economic Development Lands in H.R. 1408 Disproportionately Target the Most Ecologically Productive Lands in Southeast Alaska.**

The pool of lands from which Sealaska is seeking for clearcut logging possess some of the highest biological values represented by salmon, deer, black bears, big-tree old-growth forest, and estuaries on the Tongass National Forest.<sup>6</sup>

Analysis of earlier versions of this legislation demonstrate that the ecological productivity of the lands sought by Sealaska for intensive clearcut logging is proportionally higher in 2009, with nearly 47,000 (59.2%) of the acres inventoried as big tree forest. Recent maps prepared by the Forest Service also show the significant overlap between old growth reserves set aside Tongass-wide to safeguard wildlife populations and Sealaska's selections, particularly on the North Prince of Wales, Kosciusko, Tuxekan, Election Creek, Polk Inlet, and Keete parcels. Although Section 6(c) of H.R. 1408 tries to insulate the Forest Service from the effects to the Tongass Land Management Plan from conveying the selected lands to Sealaska, the U.S. Fish and Wildlife's decision not to list the goshawk and Alexander Archipelago wolf under the Endangered Species Act was premised on the adequacy of the Tongass Conservation Strategy adopted in the Tongass Plan. Given the extensive modification of that conservation strategy on Prince of Wales and surrounding islands that will result if this legislation is enacted, the Forest Service and Fish and Wildlife Service will face serious questions about the status of these old-growth dependent wildlife populations.

A substantial majority of the lands targeted by Sealaska on North Prince of Wales, Kosciusko, and Tuxekan Islands contain world-class karst and cave resources.<sup>7</sup> These resources are protected under federal law, and would lose that protection if turned over to Sealaska. Karst terrain occurs on water-soluble bedrock such as limestone, dolomite, or gypsum. It is characterized by underground water drainage, sinkholes, pits, and caves. These well-drained soils support some of the most majestic old-growth forest on the Tongass. Approximately 71% of the lands identified for conveyance by Sealaska are underlain by karst. The forest canopy protects the thin soils atop karst from eroding directly into the soluble rock below. Past and proposed clearcut logging on these fragile soils disrupt the natural hydrology, harm cave formations that hold information of thousands of years of climate change, and alter sediments that hold keys to understanding patterns of human migration into the Americas as well as other paleontological clues to our past. Eleven years ago, the Forest Service discovered human remains in On Your Knees cave on North Prince of Wales Island. DNA testing determined that these human remains were 10,300 years old. The oldest human remains in Alaska have been found in this cave system, and it has not yet been fully explored or mapped. See FOREST SERVICE RETURNS ANCIENT HUMAN REMAINS TO TLINGIT TRIBES, Juneau Empire (Oct. 21, 2007).<sup>8</sup>

#### **Futures Sites**

The Native futures sites selections represent the best sites in all of Southeast Alaska for tourism and energy related development. Some are in direct conflict with existing small businesses and community plans, and all block future investment by any other party. Some sites, like Pegmatite Mountain, Spring Creek, and Blake Channel are actively opposed by local communities.<sup>9</sup>

#### **Unfair to US Taxpayers**

Sealaska's proposed selections contain millions of dollars worth of public roads and facilities built at taxpayer expense, unlike the areas they are currently authorized to select. One way to measure fairness is through the resource value, as measured by timber, existing infrastructure, potential for economic development, and habitat values. The amount and location of land selections should reflect the true costs to the American public and not just the total number of acres. This should be a value for value exchange, not an acre for acre exchange.

Thank you for the opportunity to provide these comments on the proposed legislation.

#### **Endnotes for SEACC's Testimony on H.R. 1408**

<sup>1</sup> By this reference, we incorporate testimony we gave the Committee in 2007 on H.R. 3560 (available at <http://seacc.org/files/FINAL%20SEACC%20H.R.%203560%20testimony%2011-14-07.pdf>) and last spring on H.R. 2099 (available at <http://seacc.org/files/SEACC%20Testimony%20%20on%20HR%202099%203-31-10%20LH%20%282%29.pdf>) into the record for today's hearing, as well as supporting documentation provided committee staff.

<sup>2</sup> This problem is exemplified in section 3(5)(B) of H.R. 1408's statement that the \$7.5 million awarded by the Court of Claims to the Tlingit-Haida Central Council (THCC) "did not justify the significant disparate treatment of Sealaska under the Alaska Native Claims Settlement Act" exemplifies our point. Both the historical record of Alaska Native land claims and the legislative record for the ANCSA reveal that the 1968 settlement was the sole reason Congress decided to treat Southeast Alaska Natives differently from other Alaska Natives in the ANCSA. See *e.g.*, Section 13(d), H.R. 10367, 92nd Congress, 1st Session, 117 CONG. REC. 37,067 (1971).

<sup>3</sup> McDowell Group, *Economic Impact of Alaska's Visitor Industry*, Table 9 at p. 20 (March 2010). This report is available at—[http://www.dced.state.ak.us/ded/dev/pub/Visitor\\_Industry\\_Impacts\\_3\\_30.pdf](http://www.dced.state.ak.us/ded/dev/pub/Visitor_Industry_Impacts_3_30.pdf).

<sup>4</sup> As noted by experts at the Alaska Department of Labor: "Living in Alaska involves higher costs no matter where you live, but living in rural Alaska increases those costs even more." Alaska Economic Trends at 15 (May 2011) available at <http://labor.state.ak.us/trends/may11.pdf>

<sup>5</sup> See House Committee on Interior and Insular Affairs, *Amending ANILCA to Designate Certain Lands in the Tongass National Forest as Wilderness, and For Other Purposes*, H.R. 987, 101st Cong., 1st Sess., (1989), reprinted in House Report No. 101—84, Part I, 101st Cong., 1st Sess., (1989). As reported, the House passed H.R. 987 by a vote of 356 to 60, with 15 not voting. See 135 CONG. REC. 3718 (daily ed. July 13, 1989)(designating approximately 52,654 acres as the Nutkwa Wilderness). That fall, Congress enacted the Tongass Timber Reform

Act into law. See Pub. L. 101-626, 104 Stat. 4426 (Nov. 28, 1990)(designating approximately 28,118 acres as the Nutkwa LUD II Management Area). The nearly 25,000 acre of lands unprotected in the final legislation are the lands at risk in H.R. 1408.

<sup>6</sup>Schoen, John and Erin Dovichin, eds. 2007. *The Coastal Forests and Mountain Ecoregion of Southeastern Alaska and the Tongass National Forest*. Audubon Alaska and The Nature Conservancy, 715 L Street, Anchorage, Alaska. This complete report is available online at: <http://conserveonline.org/workspaces/akcfm>. See also Exhibit 3 to SEACC's Testimony on S.881 (Oct. 8, 2009)(a map comparing Landscape Scale Density of Oldgrowth Forests 1950's-2005 on the southern portion of the Tongass National Forests with the land pool proposed for selection by Sealaska) available at <http://seacc.org/files/SEACC%20Final%20Testimony%20for%2010-08-09%20Hrg%20on%20S881.pdf>

<sup>7</sup>See Exhibit 4 to SEACC's Testimony on S.881 (Oct. 8, 2009)(available at <http://seacc.org/files/SEACC%20Final%20Testimony%20for%2010-08-09%20Hrg%20on%20S881.pdf>)

<sup>8</sup>This story can be found on the web at [http://www.juneauempire.com/stories/102107/loc\\_20071021021.shtml](http://www.juneauempire.com/stories/102107/loc_20071021021.shtml).

<sup>9</sup>See e.g., <http://m.juneauempire.com/local/2011-05-07/tenakee-springs-opposes-sealaska-and-ipecc-geothermal-site-selection>

Mr. DENHAM. Thank you, Mr. Claus. Mr. Graham.

**STATEMENT OF OWEN GRAHAM, EXECUTIVE DIRECTOR,  
ALASKA FOREST ASSOCIATION, KETCHIKAN, ALASKA**

Mr. GRAHAM. Thank you. And thanks for the opportunity to speak in support of this legislation. The shortage of timber supply in Southeast Alaska has led to severe hardship for many people.

Congress has set aside about 10 million acres in the region as wilderness, national monuments, parks, legislated roadless areas. Those reserves, which include about two million acres of forestland, were permanently set aside largely to satisfy the demands of environmental groups.

Even with all this land set aside in perpetuity, there is still ample forestland to support a viable timber industry. Unfortunately, we don't have access to most of that, that non-set aside forestland.

The non-Federal lands comprise only about 6 percent of the region, and although the State and the private landowners do a good job of managing their timberlands, their lands are insufficient to supply the minimum volume needed to keep our industry viable and sustainable.

Sealaska is a good steward of the land. I have seen it with my own eyes, and I have worked with them for over 30 years. They do a good job of harvesting their timber, following the State practices, and they do a good job with the reforest station, and they do a lot of science studies.

They protect their fishery values, and they are a good company, and a good organization. When Congress made their wilderness and roadless withdrawals, they promised to continue to supply roughly 12,000 acres of timber annually to support the timber industry and the economy in the region.

But that promise has not been fulfilled. In 1990, when Congress enacted the Tongass Timber Reform Act, we had over 3,000 direct jobs in our industry, but immediately after TTRA was passed, the supply of timber from the National Forests began to decline dramatically.



At the same time, timber supplies from most of the small Native village lands also declined. The Federal lands are currently providing only about 1,000 acres of timber annually. That is less than 10 percent of the promised timber supply.

And yet environmental groups still appeal and litigate nearly every timber sale that is prepared. Although both Sealaska and the State have continued to provide timber, they just manage a small amount of timberland in the region.

And even without those supplies from the State and the private timberlands, our mills would be gone already. In fact, we are down to one medium-sized sawmill, and a handful of real small sawmills.

Of the timber industry people who lost their jobs over the last 20 years, about two-thirds had to leave the region to find work. This created a great hardship, not just for them, but also for the communities that they left.

Many of the people who were able to find work and remain living in the region are now facing potential layoffs again as Sealaska's timber supply dwindles. These people will not be able to find jobs a second time because there will be no jobs unless both Sealaska and the Forest Service are allowed to continue their timber operations.

Passage of H.R. 1408 will provide Sealaska the opportunity to continue their operations and we hope that Congress will also support and encourage the Forest Service to restore the Federal timber supply that we were promised so long ago. Thank you.

[The prepared statement of Mr. Graham follows:]

**Statement of Owen Graham, Executive Director, Alaska Forest Association**

Mr. Chairman, Congressman Young, and members of the Committee. Thank you for the opportunity to submit testimony for the record of this important hearing on H.R. 1408.

My name is Owen Graham. I am executive director of the Alaska Forest Association. The AFA is the statewide association representing companies engaged in forest practices including support companies. We have 115 members and represent timber companies, loggers, trucking and towing companies, suppliers, and other members who have a stake in the future of a vital and hopefully healthy timber economy in Alaska.

AFA strongly supports the passage of H.R. 1408 without delay. Passage of this bill is critical to the future of our remaining industry. Alaska Native timber is in decline in part because ANCSA land entitlement has not been fulfilled, even though ANCSA was passed over three decades ago. The Native lands represent only about 3% of the land in Southeast Alaska, but Sealaska's timber operations, currently support about 40% of the forest industry employment in the region because of the inappropriate reductions in timber harvest from federal lands.

Drastic reductions in the federal timber sale program since 1990, after the Tongass Timber Reform Act was enacted, have been disastrous for our industry and our communities. The federal lands comprise about 94% of the total land in the region and, as a result of the dramatic decline in federal timber sales; our industry has declined over 90%. If Sealaska is unable to continue their forestry operation, we will not be able to maintain much of our industry support infrastructure—transportation companies, fuel barges, equipment suppliers, etc.

Even though the Forest Service has a timber plan in place which claims to provide up to 267 million board feet annually, the agency has only offered about 15 mmbf of new timber sales annually. Because the timber sale program on federal lands is so unreliable, it is critical that private timber be available to support our industry. In most states, there is a mix of federal, state, and private timber which provides more opportunity to compensate for periodic declines in the federal timber sale program. We do not have that diversity of land ownership in Southeast Alaska, but it is vitally needed. This legislation will move the region a little closer to balance.

From today's struggles described above, AFA hopes our industry can be restored to a level closer to what we had in 1990. That is why the passage of this bill is so vital and so timely. This committee and Congress need to act immediately.

Please do not be persuaded by those who claim the passage of this bill will threaten wildlife viability or plant diversity. This is simply not true. There are millions of acres under complete protection in the Tongass including nearly 7 million acres of wilderness or legislated LUD II areas where development is statutorily prohibited. These legislatively set-aside areas include about 2 million acres of commercial timberland. The Tongass Land Management Plan administratively sets aside more than 3 million additional acres of commercial timberland. The commercial lands that are the subject of this legislation total less than 85 thousand acres—less than 2% of the commercial timberlands in Southeast Alaska.

Sealaska is a good steward for their lands. They comply with the State Forest Practices Act regulations and they put an effort into managing their young-growth timber for the future. In addition, their lands are managed to allow timber, wildlife and fish to all prosper on the same acres. I have seen this with my own eyes.

Some of those who speak against this legislation are the same people that have used administrative appeals, litigation and political pressure to drive down the timber supply from federal lands.

A number of small communities have expressed concerns about potential impacts on the timber supply for local processors. Further, these communities fear a loss of recreational and subsistence access to the lands that Sealaska has selected. Sealaska has addressed these concerns; land selections have been modified to avoid the most contentious areas and Sealaska has agreed to provide public access to their lands. Further, the Forest Service timber sale plans for these areas indicate no conflict over the next few years and the agency has ample opportunity to adjust the forest plan to account for potential future timber sale impacts. After all, the forest plan has about three million acres of commercial forestland held in reserve that could be put to use if needed.

Fish streams, wildlife habitat and recreation opportunities are already well protected in this region; what is not assured is the future of our timber industry. We have lost 90% of our employment due primarily to a decline in the availability of timber from the federal lands in the region. We cannot afford to reduce the timber supply from private lands as well.

Sealaska has agreed to provide access to their lands for both subsistence and recreational hunting and fishing and Sealaska's operations will provide continued jobs and other economic benefits to both regional and local communities.

This bill does not finalize the total acres that Sealaska will receive under ANSCA, so we recommend that the committee instruct the BLM to work with Sealaska to negotiate the final entitlement.

Thank you again. The AFA urges immediate passage of this bill to help keep our industry alive and our communities healthy.

#### REGIONAL IMPACTS

- Sealaska employment and its contractor employment combined is the largest for-profit sector employer in Southeast Alaska.
- Many Southeast communities, including Juneau, experience some level of economic impact from Sealaska timber harvest operations.
- In 2008 Sealaska Corporation, Sealaska Timber Corporation and Sealaska Heritage Institute spend \$45 million in Southeast Alaska.
- Sealaska and its contractors directly employed 363 workers in 2008
- Including both direct and indirect employment, Sealaska-related employment totaled nearly 490 workers and \$21 million in payroll in 2008.

#### Summary

- The timber industry and the communities in Southeast Alaska need the continued economic activity provided by Sealaska's operations.
- The only impacts on the federal timber supply for local sawmills in the next 5-years are two commercial thinning projects proposed on Kosciusko Island (both of which have questionable economic viability). Beyond the next 5-years, there is a potential 2% impact, but that impact can easily be avoided by minor schedule changes.
- We need to sustain all of our timber employment—both from private and public lands—and there is more than adequate timber available to do so. The maximum timber harvest rate over the next 100-years would still leave about 90% of the existing old-growth commercial timberlands untouched.

Mr. DENHAM. Thank you, Mr. Graham. All witnesses and Members are reminded that they have five minutes, and we will go for a second round of questioning. The Chair now recognizes Mr. Young.

Mr. YOUNG. Thank you, Mr. Chairman, and I do appreciate you taking over for me, and a thank you to the witnesses, and I do apologize, but I did achieve my goal on the Defense Bill, and so I feel quite good about that.

Byron, the question of public access to lands that Sealaska would acquire in the Prince of Wales Island has been raised by some of the residents, the local communities on that island.

I have received letters that suggest that people who have lived there on these lands and used these lands for 30 years, and that Sealaska should avoid land selections near these communities, or how is that going to work?

Mr. MALLOTT. Sealaska has never posted its lands, except in very specific instances for specific reasons, and this is over almost a 40 year period now, and we would not do so in the future.

The legislation, and the discussions, and the agreements that Sealaska has reached with virtually all of the parties involved would make essentially unparalleled public access available through and on to Sealaska's lands, and Jaeleen may have a more specific answer if she might be given the opportunity, Mr. Chair.

Mr. YOUNG. Well, in fact, Byron, wouldn't it be only fair to say that the Forest Service could prohibit use of that land as it is supposedly Federal lands, and it remains in the Forest Service's hands, and they could keep people off that land, too. And you are not saying that is going to be done and under your jurisdiction, correct?

Mr. MALLOTT. We are not saying that.

Mr. YOUNG. That is good, because the Forest Service, I know that they have restricted before and restricted uses for types of vehicles, et cetera, already. So I don't know why there are concerns.

I get very concerned about those that say that this is their right. This is not their right, and I know that I have talked to people, and they say, well, we have been doing this all these years. It is on Federal land, and they have not been restricted before.

So I commend the Sealaska people for saying, yes, there will be utilization on that land. No structures, but utilization and for recreational purposes. Byron, again, I introduced this bill in 2007, and it has been vetted throughout the region.

I have made some modifications based on suggestions received, and there seems to be new criticisms every time we introduce the bill. Can you describe the negotiations in communities, and the work that you have done trying to get a solution?

Mr. MALLOTT. Sealaska has had almost 200 meetings throughout the region with individuals, with groups, with communities. It has been involved in the Tongass Futures Roundtable process, which has all of the interests in the Tongass National Forest at the table.

The sacred sites, particularly the future sites, have been modified over the course of three Congresses in which this bill has now been introduced, and we continue to this day to discuss and negotiate issues that others have a concern with.

We feel that we have been fully responsive, fully transparent, and we are at a point where we are not sure how much more that in the interests of our tribal members, tribal member shareholders, that we can give.

Mr. YOUNG. Well, again, I have watched this process, and I am deeply disturbed by those that keep saying that something is wrong with the bill after you negotiate with them, and my goal, Mr. Chairman, is to move this legislation as soon as possible.

You also said that this legislation is the most important economic stimulus package that Congress could implement for Southeast Alaska. We keep talking about jobs. What is the estimated jobs if this thing goes forth for that area?

Mr. MALLOTT. At the very minimum, there would be hundreds of jobs. The opportunity to essentially reconstitute the core of a sustainable timber industry is what we are talking about. If this bill is not passed, and Sealaska does not gain access to lands that it is entitled to, both for timber harvests and for other purposes—and I emphasize the other purposes. They are many, and they have to do with our existence in the forests—it is very likely that the timber industry will go away.

And whether it will ever be reconstituted is problematic. I believe that even the United States Forest Service recognizes that, and they are I think anxious that somehow the issues be resolved so that we can work together to build an industry that is sustainable over time.

Mr. YOUNG. Thank you, Byron, and my time is up, and I will come back for a second round of questions.

Mr. DENHAM. Thank you, Mr. Young. Mr. Kildee.

Mr. KILDEE. Mr. Mallott, you talked about reforestation. Are there plans when trees are harvested? I come from Michigan, and my dad's first job was as a lumberjack, and in 1919, the last load of virgin timber in the lower peninsula of Michigan was hauled into Trevor City, Michigan.

And they didn't think about reforestation. I am pleased that you are aware of the fact that reforestation is a very important element of forestry, of the timber industry. Back in 1935, Franklin D. Roosevelt saw that, and saw what had happened in Michigan, and most of the white pine built most of the houses in Chicago.

And we planted trees in 1935 and 1936, and I was about five years old then, and those trees now are mature trees, and probably not as big as some of the huge trees that were harvested originally.

Are you talking with the USDA about reforestation plans if you get access to more of this area where you can do forestry?

Mr. MALLOTT. Yes, Congressman. Sealaska has an active reforestation and silvicultural program underway on our current lands. We spend multimillions on reforestation on steep slopes, for example.

We live in a very wet climate, and dealing with slopping lands is very much an issue. We have relationships with several western universities that have specific programs that provide both advice and on the ground direction involved in reforestation and the full range of silvicultural practices.

And we know, for example, that we can both from an economic perspective, but again from a multi-use perspective maximize both

the availability and the diversity of second growth through very active silvicultural practices, and we are committed to that, and we are engaged in it today at a very high level.

Mr. KILDEE. All right. I would encourage you to continue that. I am not sure what will finally happen to this bill. I know that Mr. Young is really determined and has been pushing this for a long time, and I think we can do certain things that will help reach your goals, while at the same time preserving those things that maybe should not be touched, right?

And then along with reforestation, perhaps we can put something together, but I know what reforestation has done to Michigan. It has helped a great deal, and we should have done much more.

But I think that is something that we did not think of from 1919 to 1935, and it took Franklin Roosevelt to get the idea of planting trees about that high with the Civilian Conservation Corps, and young men out there planting those trees.

But I think that we have to do it in a more scientific manner than how we did it in 1935 in Michigan, but I encourage you to stay involved in that.

Mr. MALLOTT. We fully agree.

Mr. KILDEE. Thank you.

Mr. DENHAM. Thank you, Mr. Kildee. Mr. Claus, in your testimony, very dramatic testimony, you mentioned that there could be a point in time when there are no more logs.

Do you really think that there could be a point in time, and is there any type of plan out there to harvest everything?

Mr. CLAUS. I don't know. I don't believe there is a plan to harvest everything. I think that would be an exaggeration. What I do believe—

Mr. DENHAM. We hear a lot of exaggerations here in this House. So, I just wanted to confirm that.

Mr. CLAUS. Well, I do think that there is a limited amount of old growth timber. There is a limited amount of the kind of timber that does support our salmon fisheries, and that does support our habitat for endangered species, like the wolf, and the deer that people eat.

And that is in limited supply, especially in the lower elevations, and where things are easily accessible. There is a limit to the amount of old growth timber that can be taken off the Tongass National Forest.

Mr. DENHAM. And I agree. And would there also be a limit on how much too much growth would be, and where it actually leaves a community in jeopardy? In my district, we have a lot of mountainous areas, and at a certain point in my district, when you get too much growth, my communities become very concerned.

And when we have forest fires that not only destroys the forest, but also destroys the homes and the towns in that area. Is there a point in your estimation where you have too much growth?

Mr. CLAUS. In Southeast Alaska, we don't face the kind of fire danger that is faced in many other forests across the country.

Mr. DENHAM. So you can never have too much growth there?

Mr. CLAUS. I don't believe so. No, sir.

Mr. DENHAM. And since 1990 do you know how many timber sales Sealaska or SEACC has gone on record to support?

Mr. CLAUS. Have gone on record to support?

Mr. DENHAM. Yes.

Mr. CLAUS. I don't know. I don't that.

Mr. DENHAM. You don't know, or is there a number? Have you supported any plans?

Mr. CLAUS. Well, what we have done is that we have been working with the Forest Service in a different way in the last five or six years in a collaborative way to try to make the timber sales more realistic from our point of view to avoid the kind of litigation, and the things that have gone on in the past, and I think we have been successful at that.

Mr. DENHAM. So you have been successful in working with the Forest Service, and you have supported the plans that the Forest Service has put out?

Mr. CLAUS. Yes.

Mr. DENHAM. And you have gone on record to support that?

Mr. CLAUS. I don't know that. We have worked with them, on the Sandy Creek Project, and—

Mr. DENHAM. I am just asking how many times you have gone on the record to support the Forest Service?

Mr. CLAUS. The Central—

Mr. DENHAM. It sounds like you have worked with a lot of different folks, and a lot of different agencies.

Mr. CLAUS. Yes.

Mr. DENHAM. I just want you to go on record and tell me which ones you have supported, and if there has been a plan out there that you have supported, and if you could provide that to us for the record?

Mr. CLAUS. The most recent one is the Central Cooper sale, and that is ongoing, and we can provide more details to you at a later time. I don't have that in front of me.

Mr. DENHAM. Thank you. And it is my understanding that you are not prepared to support Mr. Young's bill at this time. The Senate version, as I understand, does not go quite as far as Mr. Young's bill. Do you support that version?

Mr. CLAUS. We do not support the Senate version, but it is considerably closer, and I think that with further work with the Sealaska Corporation and other entities that might be closer to something that we could accept than this bill.

Mr. DENHAM. Are you in any type of discussions, or are there pieces of that bill that you are offering your concern on issues?

Mr. CLAUS. I am sorry, sir, but I didn't understand that.

Mr. DENHAM. Is there anything specifically in that bill that you are looking to change so that you can gain your support?

Mr. CLAUS. We think that there ought to be more conservation added to the bill to balance off the timberlands that Sealaska has and that we have concerns about. Certain of the future sites, yes, sir. So those things we would be happy to discuss in detail.

Mr. DENHAM. Thank you. Ms. Hanabusa.

Ms. HANABUSA. Thank you, Mr. Chairman. Mr. Claus, I don't know anything about your entity, OK? So you tell me what the

Southeast Alaska Conservation Council is, and also what your position as Forest Program Director entails?

Mr. CLAUS. Yes, Ma'am. The Southeast Alaska Conservation Council, or SEACC, is a 40-year-old organization, and 41 years old this year. We have been involved in timber policy on the Tongass since then.

We are a group of members of approximately 1500 members, most of them Alaskans, most of them individual people. We have a small staff of about 10. My job as the Forest Program Director is to help advise on policy to our board of directors.

And I have a small staff right now of myself and two others who do community organizing work in the communities, and mostly in Wrangell right now, and Ketchikan, which are our focuses.

Ms. HANABUSA. So it just happens that it is about 40 years old? Did its creation coincide with the Alaska Native Claims Settlement Act?

Mr. CLAUS. I don't think so. It was a coincidence that the land issues at that time were the big issue of the day, and SEACC was formed at the same time, yes.

Ms. HANABUSA. Has SEACC been active in all of the discussions on the Native Alaskan Settlement Act? In other words, when other entities, or other of the 12 entities have actually withdrawn lands, have you participated in the process like you are doing here today?

Mr. CLAUS. Our focus is on forest issues in Southeast Alaska and around the Tongass National Forest, and the intersection of the Alaska Native Claims Settlement Act with that is not a direct one. We have not. So, no, we have not been outside of the region working with the Claims Act.

Ms. HANABUSA. So anything regarding the Tongass, in that area, you have been participating as a voice in terms of how the lands are being withdrawn. Would that be a correct statement?

Mr. CLAUS. Yes, Ma'am.

Ms. HANABUSA. You said something in your testimony that I found a bit troubling. You mentioned the cultural sites, and as I stated earlier, issues regarding Native rights, and especially their cultural practices, are very dear to me.

You said that you didn't know who really owned those sites, and who had a right to those sites. Do you remember that part of your testimony earlier?

Mr. CLAUS. Yes.

Ms. HANABUSA. Could you tell me what you meant by that?

Mr. CLAUS. Yes, and what my concern is that I hear from Native people is that they don't know that a corporation like Sealaska would be the best carrier, the best owner, of cultural sites that they believe are attached to their clans.

And I don't speak for them. I was saying what I hear are some of the concerns from the Native community, and that is as much as I should probably say about that.

Ms. HANABUSA. But your testimony was that you didn't believe it, and so you are saying that it is not you, per se, but it is the Native peoples that you spoke to that are saying that?

Mr. CLAUS. I am sorry if I misspoke. My concern is that there is a conflict inside the Native community about how management

of the cultural sites should go forward, and I think that needs to be resolved by the Native people, and not by me.

Ms. HANABUSA. Do you consider yourself a Native person?

Mr. CLAUS. I do not.

Ms. HANABUSA. So, Mr. Mallott, could you tell me what you consider to be these cultural sites that Mr. Claus has difficulties explaining why he made that statement, other than some Native people said to him that they think that there is an issue regarding whether Sealaska should do it?

Are you very clear in your own mind, Mr. Mallott, as to what are those Native cultural sites?

Mr. MALLOTT. Very, very, very vividly clear. They are sacred sites that we have an incredibly long historical, and cultural, and traditional attachment to, and we want to protect into time immemorial.

And a for profit corporation is not really what Sealaska is. We represent tribal people, Native people, and protecting those sacred sites are among our very highest priorities. I would like to ask if I could for Jaeleen to comment. Jaeleen is Sealaska's General Counsel. She is also a tribal member shareholder, and knows this issue intimately.

Ms. HANABUSA. I am sorry, but you are out of time, but Mr. Chair.

Mr. DENHAM. I am happy to provide an extra minute.

Ms. HANABUSA. You will have a minute. Thank you very much. Please proceed.

Ms. ARAUJO. Thank you, Congresswoman. I just want to add that Alaska as you know was treated very differently in terms of Native land claims. Alaska Native Corporations are the only ones with an entitlement to Native lands.

Our tribes currently don't have that right, and so if our cultural properties are going to go into Native ownership, it will have to be through our corporations. We are the only ones in Southeast, in terms of a Native institution, that have a remaining entitlement, and so we would like to use some of that to get some of our Native cultural properties back into Native ownership.

We have the support of many of our tribes, and our intention with these cultural properties, and we already have draft MOUs in progress with the tribes, and to work with our tribes to manage these properties in perpetuity in a way that is appropriate for our local tribes, and our local clans.

But we are the only ones with the Native land entitlements, and so we would like to use that on behalf of our tribes, and because all of our shareholders are tribal member shareholders.

Ms. HANABUSA. Thank you, and as Mr. Mallott said, 10,000 years in the past, and 10,000 years in the future. Thank you very much. Thank you, Mr. Chair.

Mr. DENHAM. Thank you. Mr. Young.

Mr. YOUNG. Thank you, Mr. Chairman. Owen, you have been listening to the testimony. How many acres are in the Tongass?

Mr. GRAHAM. Seventeen million.

Mr. YOUNG. Seventeen million. And what are we talking about in this bill?

Mr. GRAHAM. Oh, 80,000 roughly.



Mr. YOUNG. So, 80,000 and 17 million, and Mr. Claus says that the world is coming to an end, and there is not going to be any more timber.

Mr. GRAHAM. Yes.

Mr. YOUNG. What happened to the timber industry? You have been in it for 40 years. How has it changed in the Southeast?

Mr. GRAHAM. Well, we have lost 90 percent of our employment. We have lost most of our mills. We had two large pulp mills, and three large sawmills, and a lot of medium-sized mills.

We have one medium-sized mill left, and all the rest of it is gone, and the people are gone. A few of them are working for Sealaska, and we are trying to hang on to those jobs.

Mr. YOUNG. Well, I am interested, because Mr. Sherman mentioned that the Forest Service is supposed to supply under the present Tongass Land Management Plan, I think, 267 million board feet annually?

Mr. GRAHAM. Yes.

Mr. YOUNG. And how much do they usually offer?

Mr. GRAHAM. Over the last 10 years, new timber sales have been less, way less, than 20 million board feet per year, way less than 10 percent.

Mr. YOUNG. Less than 10 percent? Mr. Chairman, I have to say that as an example, we are talking about 80,000 acres of land, and the Forest Service is supposed to guarantee 267,000 acres of land, and Mr. Claus, how many—and again I go back to the Chairman's question. How many sales have you ever supported? One?

Mr. CLAUS. That is the most recent one that I recall. I don't know about others.

Mr. YOUNG. Well, with all due respect, but I have been in this business a long time, and you have never supported a sale. Even this one, you are not really happy with it that we do support if. I have been here a long time, and I have watched your organization destroy an industry.

We passed the Tongass National Forest Plan, and we were told by your group, Peace In the Valley, we are going to have small sawmills, and we are going to support you. You have never supported a thing. You want to kill the industry, and you have tried to kill us, and you have done a good job of doing it.

And isn't it true that if we don't get this bill passed, is there any chance for any—Sealaska or any other industry in Southeast Alaska, that will work?

Mr. GRAHAM. Well, you know, Sealaska is the anchor for our industry, and we are just struggling to hang on right now. If we lose Sealaska, we will lose 40 percent of what we have left, and our health insurance program would collapse. I think our pension program would collapse.

I think that a lot of our infrastructure, towing, and suppliers, would collapse. I think that it is extremely likely that it would all just crumble apart.

Mr. YOUNG. Byron, I will go back to you again. You are picking lands that have mostly been logged already, correct?

Mr. MALLOTT. Yes.

Mr. YOUNG. And there is a road structure in, right?

Mr. MALLOTT. Yes.

Mr. YOUNG. So we are not doing anything really new. How would that—how is the comment that it will affect the fishing industry when it has already been logged? How does that jive?

Mr. MALLOTT. It doesn't. We are among the strongest supporters and local participants in the Southeast Fishing industry.

Mr. YOUNG. So you are a fisherman?

Mr. MALLOTT. Yes, salmon, and halibut, and other species, and we would be the last to try to be involved in any practices that would destroy or inhibit salmon production in any stream in the Southeast.

The move to second growth quite frankly was an effort to continue to move away from any kind of potential impact on other resource values within the forest, while still allowing a sustainable timber harvest.

That is all that I can say. We are absolutely committed to sustaining all fisheries and the value of all aquatic resources in the Tongass National Forest.

Mr. YOUNG. Thank you, Byron. Mr. Claus, I want you to submit to the Committee the total number of appeals and lawsuits that your organization has been a party to since 1990 in the Tongass. I expect that information as soon as possible, because I don't think you have it, or you would have said that before.

Mr. CLAUS. I don't have that with me.

Mr. YOUNG. Well, I need that. I want to show you what you have done over these years, and how you have used the legal system, and how you have destroyed an economy, and how you are trying now to destroy the Native people.

And I got sort of a kick from the Madam from Hawaii. He has heard Natives do it. We have two of the Native leaders right here, and we have one more in the back of the room.

These are the leaders, and I get concerned when a white guy starts talking about what the Natives are saying, and I will be right up front with you about that. The Native leaders are elected, and they are chosen, and they are the spokesman.

And sacred sites to me is a crucial issue, and the selection of 80,000 acres, Mr. Chairman, out of 17 million acres. I remember going to—and by the way, all these communities that Mr. Claus says oppose this were logging camps.

Now we have some retirees sitting there, and government workers, and people who have it made living on Federal land, and getting a paycheck, and trying to take it away from what I call the original owners of the land.

Now that is the injustice, and in this Committee, there is going to be justice served for my American Indians and my Alaska Natives, and no outside organization paid for by some wealthy person out of San Francisco is going to interfere with that, because that is wrong. It is not justice. Thank you, Mr. Chairman.

Mr. DENHAM. Thank you, Mr. Young. Any more questions? I have one final question. Mr. Mallott, Sealaska has been waiting for nearly 40 years to gain its entitlement of land following passage of the Alaska Native Claims Settlement Act.

I understand that some folks argue that it is the corporation's own fault for accepting a 1996 amendment to that Act that caused Sealaska to select inside the 10 selection areas surrounding Native

villages in Southeast Alaska, and that Sealaska delayed gaining lands inside the box several years ago by asking BLM to defer completing your land selections there.

In your written testimony, you touched on this, but could you explain in greater detail the history of how you ended up with the land conveyance choices that you face under current law, and what happened in 1976?

Mr. MALLOTT. Sealaska was unique among the ANCSA corporations in having its land selection opportunities clearly limited to within the specific townships surrounding the Native villages within the region.

We were impacted at the time by the two long term pulp contracts which supplied timber to the Ketchikan and Sitka mills. They were at the time the only harvests taking place within the Tongass.

The available timber was large and the opportunity or the ability within the framework of those contracts for another entity, even the owners of the land, the Native corporations, to make selections was severely limited.

It was not our doing or our choice to limit in any way the opportunity for us to select lands that would give us the opportunity and give us a sense of justice fulfilled in any of our practices, and in any of our Acts.

And any decisions that Sealaska took were in the framework of circumstances within which we had no control, and were given choices that we had to accept or essentially give up opportunities that were available to us.

The choices that were made and where we stood at the time reminds me of the movie Blazing Saddles, where the black sheriff holds a gun to his own head, and says that you are going to lose the only black sheriff you have ever had, and it is just that crazy, Mr. Chairman, for anyone to accuse the Native community and Sealaska of making choices that would diminish either its opportunity or put it in a position where it could not realize the selection and the utilization of lands that otherwise might be available to them. It is ludicrous.

Mr. DENHAM. Thank you, Mr. Mallott, and a thank you to all of our witnesses for your valuable testimony and patience. Members of the Subcommittee may have additional questions for the witnesses, and we ask you to respond to these in writing.

The hearing record will be open for 10 days to receive those responses. If there is no further business, without objection, the Subcommittee stands adjourned.

[Whereupon, at 12:18 p.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

The following submissions for the record have been retained in the Committee's official files:

- Edna Bay Community, Statement submitted for the record on H.R. 1408
- Moll, Chohla, Spokesperson, Alliance for Access to Sitka's Streams and Forests, Statement submitted for the record
- Poelstra, Myla, Representing Nine Alaska Towns—Thorne Bay, Cape Pole, Hollis, Naukati, Whale Pass, Kupreanof,

Port Protection, Edna Bay, Point Baker, Statement submitted for the record on S. 730

- Regelin, Wayne, President, Territorial Sportsmen, Statement submitted for the record
- Southeast Alaska Conservation Council, Craig, Alaska, Supplemental testimony and attachments submitted for the record

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[A letter submitted for the record by lodge owners, guides and outfitters, sporting goods companies, hunting and fishing groups, and non-government fish and wildlife conservation organizations follows:]

June 10, 2011

Senate Committee on Energy and Natural Resources  
House Committee on Natural Resources

RE: S. 730 and H.R. 1408

Dear Committee Members,

The undersigned lodge owners, guides and outfitters, sporting goods companies, hunting & fishing groups, and non-government fish and wildlife conservation organizations from Alaska and across the country are writing to express our opposition to the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act (S. 730 and H.R. 1408, although the bills are far from identical).

We do not dispute the fact that Sealaska has legitimate claim to acreage on the Tongass. However, the locations for selection were clearly defined in the Alaska Native Claims Settlement Act (ANCSA) of 1971. Now, almost 40 years later, Sealaska is trying to change the rules by picking high-value public lands outside these defined selection areas. Sealaska has had the opportunity to select from these areas for a number of years and absolutely no legislation is required for the settlement of their claims.

Sealaska's land selections outlined in S. 730 and H.R. 1408 include many of the best hunting, fishing, subsistence, and outfitter/guide use areas on the Tongass. The sporting community has objected to prior versions of this legislation because of concerns over threats to fish and wildlife habitat from increased timber harvest, limits to public access, increased commercial development, and displacement of existing businesses and operators. Given these concerns have not been adequately addressed in the current legislation, and there is no legal justification for Sealaska to make selections outside the ANCSA areas, we urge you to oppose S. 730 and H.R. 1408.

Thank you for your continued support for fish and wildlife conservation on America's public lands.

Best regards,

**National Groups (7)**

American Fly Fishing Trade Association  
Randi Swisher  
President  
Westminster, CO

Berkley Conservation Institute/Pure Fishing  
Jim Martin  
Conservation Director  
Mulino, OR

The Campfire Club of America (est. 1897)  
Leonard J. Vallender  
Chair, Committee for Conservation of Forests and Wildlife  
Chappaqua, NY

Federation of Fly Fishers  
Philip Greenlee  
Chairman of the Board/President  
Livingston, MT

Recycled Fish

Teeg Stouffer  
Executive Director  
Nebraska City, NE

Salmon and Steelhead Conservation Society  
James Wilcox  
Secretary and Treasurer  
Olympia, WA

Wildlife Forever  
Douglas H. Gramm  
President and Chief Executive Officer  
Minneapolis, MN

**Alaska (7)**

Alaska Bear Guides  
Scott Newman, Master Guide  
Owner/Operator  
Petersburg, AK

Brightwater Alaska, Inc.  
Charles R. Ash  
President  
Anchorage, AK

Copper River Lodge  
Pat Vermillion  
Owner  
Iliamna, AK

Painter Creek Lodge  
Jon Kent  
President  
Anchorage, AK

Pioneer Outfitters  
Terry Overly, Master Guide  
Owner/Operator  
Tok, AK

Royal Coachman Lodge  
Pat Vermillion  
Owner  
Dillingham, AK

Togiak River Lodge  
Larry Lund  
Owner/Managing Partner  
Togiak, AK

**Arizona (2)**

Arizona Flycasters  
L. Gary Stinson  
Conservation Chair  
Phoenix, AZ

Arizona Wildlife Federation  
Tom Mackin  
President  
Mesa, AZ

**California (7)**

California Division (Izaak Walton League of America)  
Peter Hillebrecht  
President  
Orange, CA

El Dorado Chapter (Trout Unlimited)  
Ron Zigelhofer  
President

Placerville, CA  
 Golden West Women Flyfishers  
 Cindy Charles  
 Conservation Chair  
 San Francisco, CA

Northern California/Nevada Council  
 (Fed. of Fly Fishers)  
 Anne-Marie Bakker  
 President  
 Sonoma, CA

Okuma Fishing Tackle Co.  
 Douglas Lasko  
 President  
 Ontario, CA

Santa Barbara Flyfishers  
 Lew Riffle  
 Conservation Chair  
 Santa Barbara, CA

Steelhead Flyfisher  
 Jeff Bright  
 Owner  
 San Francisco, CA

**Illinois (1)**

Elliott Donnelly Chapter (Trout Unlimited)  
 Grant Brown  
 President  
 Chicago, IL

**Iowa (1)**

Hunter Companies  
 Hunter Parks  
 President  
 Cedar Rapids, IA

**Maryland (1)**

Waterwisp Flies  
 Jim Greene  
 President & CEO  
 Chevy Chase, MD

**Minnesota (2)**

Bob Mitchell's Fly Shop  
 Michael Alwin  
 Proprietor  
 Lake Elmo, MN

Great Lakes Fly Shop  
 John Fehnel  
 Owner  
 Duluth, MN

**Montana (6)**

Big Sky Inflatables, LLC  
 Richard Stuber  
 Owner  
 Stevensville, MT

Fishing with Larry  
 Guy Schoenborn  
 President  
 Columbus, MT

Mystery Ranch Backpacks  
 Mark Seacat  
 Marketing Director  
 Bozeman, MT

Sweetwater Travel  
 Pat Vermillion  
 Owner  
 Livingston, MT

Triple-M-Outfitters  
 Mark Faroni  
 Owner/Outfitter  
 Dixon, MT

Yellow Dog Flyfishing Adventures  
 Jim Klug and Ian Sinclair Davis  
 Partners  
 Bozeman, MT

**Nebraska (1)**

HuntingLife.com  
 Kevin Paulson  
 Founder and CEO  
 Lincoln, NE

**Oregon (2)**

Catch Magazine  
 Brian O'Keefe  
 Owner  
 Sisters, OR

Fly Water Travel  
 Ken Morrish  
 Co-Owner  
 Ashland, OR

Togiak River Lodge  
 Larry Lund  
 Owner/Managing Partner  
 Forest Grove, OR

**Pennsylvania (3)**

Arrowhead Chapter (Trout Unlimited)  
 Jerry Potocnak  
 President  
 Sarver, PA

Chestnut Ridge Chapter (Trout Unlimited)  
 Scott Hoffman  
 Treasurer  
 Uniontown, PA

Pennsylvania Fly Fishing Company  
 Glenn Burgess  
 Partner  
 Boiling Springs, PA

**Washington (2)**

Steelhead Committee (Fed. of Fly Fishers)  
 William Atlas  
 Chair  
 Seattle, WA

SunDog LLC  
 Dominick Villella  
 Owner  
 Seattle, WA

**Wisconsin (1)**

Aldo Leopold Chapter (Trout Unlimited)  
 Michael Barniskis  
 President  
 Beaver Dam, WI

**International (1)**

European Fishing Tackle Trade Association  
 Jean Claude Bel  
 Chief Executive Officer  
 London, United Kingdom

[A letter submitted for the record by Mike Daulton, Vice President of Government Relations, National Audubon Society, follows:]

May 25, 2011

The Honorable Don Young  
 Chairman, Subcommittee on Indian and Alaska Native  
 U.S. House of Representatives  
 1324 Longworth House Office Building  
 Washington, D.C. 20515

Re: Testimony on H.R. 1408

Dear Chairman Young:

On May 26, 2011, the House Subcommittee on Indian and Alaska Native Affairs will hold a hearing on H.R. 1408, the “Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act.” Please accept this letter as testimony for the record on behalf of the National Audubon Society.

The National Audubon Society opposes H.R. 1408 as the legislation is presently proposed.

H.R. 1408 is a controversial proposal that would allow the Sealaska Corporation to select and take title to valuable lands within the Tongass National Forest that are currently open to the public for fishing, hunting, and recreation. Much of the land sought by Sealaska would be subject to intensive clear-cut logging. Although a relatively small total percentage of the forest acreage has been logged on the Tongass National Forest, half or more of the large-tree old growth forest has already been logged in Southeast Alaska. The very largest trees—the individual “giants” greater than 10 feet in diameter—were largely eliminated in the last century. Forest stand diversity in the Tongass National Forest has already been substantially altered due to past logging.

The National Audubon Society fully respects the right of the Sealaska Corporation to obtain its full land entitlement as provided for by law under the Alaska Native Claims Settlement Act (ANCSA) and supports the prompt conveyance by the Bureau of Land Management (BLM) of the lands already selected by Sealaska Corporation. H.R. 1408 is not needed to satisfy Sealaska Corporation’s entitlement and would convey public lands in the Tongass National Forest from scores of new areas ranging in size from a few acres to several thousands of acres and create numerous land use conflicts with local communities and other forest stakeholders.

All aboriginal Alaska Native land claims were settled under ANCSA, historic legislation that required a complicated balancing of private and public interests. H.R. 1408 would bypass ANCSA for the benefit of a single, private for-profit business, the Sealaska Corporation. H.R. 1408 would provide the Sealaska Corporation a unique ability to obtain dozens of large and small parcels of high-value public lands strategically sited throughout the Tongass National Forest in Southeast Alaska.

- **Sealaska has targeted some of the most biologically productive public lands in** the Tongass for logging and other kinds of development, including some **inventoried roadless areas**. Lands that Sealaska Corporation seeks to obtain includes areas that are heavily used and highly valued as public lands by southeast Alaska residents, commercial fishermen, local outfitters/guides, and visitors to Alaska’s Inside Passage.
- **No further Congressional action is needed for Sealaska to obtain its land entitlement.** In fact, Sealaska Corporation has *already* made its final



land entitlement selections of approximately 65,000 acres with the BLM. Sealaska Corporation is itself responsible for the delay in acquisition of its remaining entitlement as it has asked the BLM to hold off on conveyance of its remaining land selections while it seeks to get more valuable lands by lobbying Congress.

- **Sealaska has previously received a significant claims settlement.** Sealaska received a substantial settlement under ANCSA, including more than \$90 million and approximately 354,000 acres of land to be selected in “compact” and “contiguous” tracts within the vicinity of nine Native villages in Southeast Alaska. Sealaska’s past selections have included large tracts of valuable old growth timber that have since been harvested.
- **Sealaska supported designation of the land selection areas that it now seeks to modify.** Sealaska Corporation supported legislation that established the selection areas that the corporation is now seeking to modify. As reported by Alaska Congressman Don Young, the selection areas established in 1976 “embodies a compromise negotiated and supported by Sealaska, the State of Alaska, Native villages in the region and various environmental groups.” (Congressional Record, Dec. 16, 1975) The land selection rights Sealaska Corporation now seeks to change are exactly what the corporation requested previously. Sealaska now wants to override ANCSA so the corporation can select more valuable lands in a combination of large and small parcels scattered across the Tongass National Forest.
- **H.R. 1408 would establish a new precedent for the privatization of public lands.** As proposed, the legislation could predictably result in additional small parcel claims on public lands being proposed throughout Alaska by other Alaska Native Corporations.
- **The lands that Sealaska has proposed to obtain are substantially more valuable** than the lands it is entitled to under current law. The proposed acquisition is not based on a value-for-value exchange of the lands currently selected by Sealaska Corporation. The lands that Sealaska Corporation now seeks are disproportionately valuable relative to the forest overall including old growth timber values that are substantially greater than the forest average.

In conclusion, H.R. 1408 would severely impact the national interest in the balanced management and conservation of public resources within the Tongass National Forest and should not be enacted.

Sincerely,

Mike Daulton  
Vice President of Government Relations  
National Audubon Society

[A resolution submitted for the record by Elfin Cove, Alaska, follows:]

**Sealaska Lands Bills S. S730 and H.R. 1408  
Resolution No. 11-02**

**Whereas:** The residents of Elfin Cove have a long tradition of use of Point Lavinia and the Inian Peninsula East for subsistence gathering, hunting and fishing, and;

**Whereas:** Elfin Cove is completely surrounded by the Tongass National Forest, community members have utilized these areas for tourism enterprise, recreation and solitude experiences, and;

**Whereas:** Point Lavinia and the Inian Peninsula East are part of a contiguous wilderness area that is in immediate proximity to Elfin Cove, and;

**Whereas:** Elfin Cove residents have established a protective stewardship over the aforementioned areas, and

**Whereas:** These areas contain rare and endangered species of flora and fauna,

**Be It Resolved:** That the membership of the Community of Elfin Cove Non-Profit Corporation is **against** the Sealaska Lands Bill lands selection of Point Lavinia and the Inian Peninsula East as Native Futures Sites slated for tourism and recreation enterprise development.

Witness:

Dennis Meier—Chairman, CECNPC

Attest:

Janfe Button—Secretary, CECNPC

Date: 6/3/2011

Vote at CECNPC meeting: 5 in favor, 1 abstain

[Letters submitted for the record by the Organized Village of Kake, Alaska, follow:]



**Organized Village of Kake**

P.O. Box 316  
Kake, Alaska 99830-0316

Telephone 907-785-6471

Fax 907-785-4902 / email KeexKwaan@KakeFirstNation.org

(Federally Recognized Tribal Government serving the Kake, Alaska area)



June 1, 2011

The Honorable Don Young,  
Chairman  
Subcommittee on Indian & Alaska Native Affairs  
U.S. House of Representatives  
1324 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Dan Boren  
Ranking Member  
Subcommittee on Indian and Alaska Native Affairs  
U.S. House of Representatives  
1324 Longworth House Office Building  
Washington, D.C. 20515

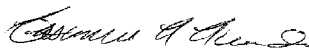
Dear Chairman Young and Ranking Member Boren:

At the May 26, 2011, hearing on H.R. 1408, the Sealaska Lands Bill, important questions arose about concerns in the Native community over Sealaska gaining ownership and control of sacred sites. We respectfully request that the following information be added to the Subcommittee record for H.R. 1408 and shared with all the members of the subcommittee.

The attachments include a March 9, 2011 letter to Chairman Young expressing our interest in working with the Chairman to finalize Sealaska's land entitlement and create jobs in our area, as well as our "opposition to Sealaska gaining control of sacred sites in and around Kake." Attached to that letter was a February 6, 2011 letter from the Organized Village of Kake to the Petersburg District Ranger Christopher Savage regarding ongoing government-to-government consultation with the United States Forest Service over protection for sacred sites on Tongass National Forest lands important to the tribal citizens of the Organized Village of Kake.

Thank you for your attention to our request. Please contact us if we can assist in moving this bill forward.

Sincerely,

  
Casimero A. Aceveda  
President

attachments



**Organized Village of Kake**

P.O. Box 316

Kake, Alaska 99830-0316

Telephone 907-785-6471

Fax 907-785-4902 / email KeexKwaan@KakeFirstNation.org

*(Federally Recognized Tribal Government serving the Kake, Alaska area)*



March 9, 2011

Congressman Don Young  
2314 Rayburn House Office Building  
Washington, DC 20515

Dear Congressman Young:

The Organized Village of Kake wishes to work with your office as you consider reintroduction of the "Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act" that will promote Sealaska Corporation's land selection still due to them and create jobs in our area.

However, as you begin the process anew with this new session of Congress, we feel it important to express our opposition to the provisions in the draft "Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act" that would allow the Sealaska Corporation to gain control of sacred sites in and around Kake.

Attached is a letter that documents a sacred sites consultation with the US Forest Service through its representative Chris Savage. A brief summary:

- Sacred Sites of the Tribes, Clans, and Individuals are priceless, with the protection of such sites being a part of the Federal Government's Trust Responsibility to Indian Tribes, and
- Ideal management would be under the stewardship of the Traditional Tribes (in our case, the local Federally Recognized Indian Tribe) serving as the Tribal caretaker of Federal Trust lands, and
- Federal Trust status should be maintained until Tribal Government stewardship can be achieved, and
- Sacred Sites should not be turned over to an ANCSA corporation.

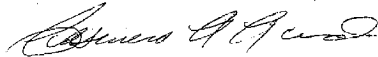
Recently, Senator Murkowski's staff held two meetings to hear concerns about the Sealaska bill in Craig and Ketchikan. Due to prior commitment for a tribal government council meeting in Kake at that time, no delegation from our Council was able to attend, but we do wish to ensure that our voice is heard.

Consider this letter and the attachment evidence of our strong opposition to any bill that would diminish protections for our Sacred Sites or give control of them to Sealaska Corporation.

03/09/11 Transmittal Letter to Congressman Young  
re: USFS Sacred Sites Consultation Letter  
page 2

Thank you for your time and consideration of this letter and the attached. They are of paramount importance to our Tribe as we all move forward together on these and other issues affecting our people, Alaska, and the nation.

Sincerely,



Casimero A. Aceveda  
President

attachment: 02/06/11 Letter to U.S. Forest Service re: Sacred Site Consultation

cc: Angoon Community Association  
Chilkat Indian Village (Klukwan)  
Chilkoot Indian Association (Haines)  
Craig Community Association  
Douglas Indian Association  
Hoonah Indian Association  
Hydaburg Cooperative Association  
Ketchikan Indian Community  
Klawock Cooperative Association  
Organized Village of Kasaan  
Organized Village of Saxman  
Petersburg Indian Association  
Sitka Tribe of Alaska  
Wrangell Community Association  
Yakutat Tlingit Tribe  
Central Council Tlingit & Haida Indian Tribes of Alaska



**Organized Village of Kake**

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Kake, Alaska 99830-0316

Telephone 907-785-6471

Fax 907-785-4902 / email KeexKwaan@KakeFirstNation.org

*(Federally Recognized Tribal Government serving the Kake, Alaska area)*



February 6, 2011

Christopher S. Savage, District Ranger  
U.S. Forest Service  
Tongass National Forest  
Petersburg Ranger District  
PO Box 1328  
Petersburg, AK 99833

RE: Sacred Site Consultation

Dear Mr. Savage:

Thank you for your recent meeting with the Organized Village of Kake (OVK) IRA Council on 02/01/11 here in Kake. We are writing to document our comments from that meeting, which from multiple perspectives we feel are important to place into the record with the United States of America as it maintains and fulfills its trust responsibility to Indian Tribes and Indian People, now and into the future.

Protection of Sacred Sites is one of the many facets within the U.S. trust responsibility to Indian Tribes, and we are pleased to see this being followed up by the U.S. Forest Service per Regional Forester Beth Pendleton's 01/13/11 letter in regard to Executive Order 13007. The Sacred Sites of the Tribe, Clans and individuals are priceless in their value and we appreciate the sensitivity and respect shown by the Petersburg Ranger District over the years, including the confidentiality that should be afforded these sites.

To provide our comment in regard to Sacred Sites, we must for the record state what we see as the ideal scenario, which would have the Tribe as the caretaker in partnership with the Federal Government, perhaps having the Sacred Sites in trust status; thus, providing maximum protection and Federal trust oversight. This is something we would like to discuss further and work cooperatively to achieve something akin to this vision in the future.

Until such time that the individual Tribal Governments could have direct involvement, while maintaining a Federal trust responsibility as discussed above, we feel it important to maintain the Sacred Sites (which we feel includes other lands of special meaning to our people – e.g. garden sites, camp sites, etc.) under the direct oversight and protection by the Federal Government. To achieve this, the United States should maintain direct title and do whatever is needed to protect the sites from any outside harm, maintain their confidentiality, and any other actions required to fulfill the Federal trust responsibility. Under no circumstances do we feel that our Sacred Sites or other lands of special meaning be turned over to any entity other than a Tribal Government, which in Kake's case is the Organized Village of Kake. To be specific, such lands should not be turned

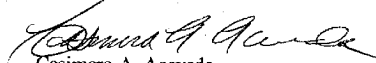
02/06/11 Sacred Site Comment Letter to USFS  
page 2

over to private or profit-making corporations such as the ANCSA corporations that were unilaterally created by the U.S. with a mission that is very different from that of the traditional tribes & clans.

Oversight of special lands such as Sacred Sites are best carried on through the current federally recognized Indian Tribes, such as the Organized Village of Kake, whose primary mission is for the welfare and protection of its citizens and resources – *until such time when that can occur, the sites should remain under the stewardship and trust responsibility of the Federal Government.* To work towards these goals and expanding upon the good working relationship we have with the Petersburg Ranger District staff, we would like to work with you in even greater depth – such as development of a working MOA between the USFS and our Tribe specific to Sacred Sites and other cultural sites, refining the definition of sites falling into these important classifications, work on a confidential inventory of sites, and other related objectives.

As always, thank you for your time to work with our Tribe on these and other matters. If any further information or comment may be needed on this specific consultation, please contact our office.

Sincerely,



Casimero A. Aceveda  
President

cc: Beth Pendleton, Regional Forester – Alaska Region  
John Autrey, Tribal Government Relations Specialist – Tongass National Forest  
Lillian Petershoare, Tribal Government Relations Specialist – Alaska Region

#### Statement submitted for the record by Alan Stein

My name is Alan Stein. Over 40 years ago as a young man, I looked through a seaplane window at Prince of Wales Island where today Sealaska has stirred up great controversy by having Representative Young introduce H.R. 1408.

It was April, 1971 when I landed in Port Protection only to learn Native Alaskans had blocked all public land transfers in the State of Alaska pending a final settlement in the Alaska Native Claims Settlement Act ANCSA (December, 1971).

The US Forest Service told me I could not obtain title to the land I homesteaded until the Natives settled their claims.

While building a cabin with a chain saw and hammer, I became the President of the Point Baker Association formed to protect Northern Prince of Wales Island. Our lawsuit resulted in the *National Forest Management Act* (1976). I came before this committee in March of that year to present oral testimony and I represented the United Fishermen of Alaska and PBA.

I worked as a commercial logger at Dean Hiner's floating log camp near Calder Bay and appreciate the bone weary work men of the woods do. Dean and 50 other small outfits sued the two Pulp Companies for anti trust violations that put them out of business and won in federal court. But not before they were driven out of business.

I owned and operated many commercial fishing vessels during my 25 years in Alaska. I will always consider Alaska my true home.

In 1989, I organized a coalition of Alaskan Natives, commercial fishermen, canneries, and others into the Salmon Bay Protective Association (SBPA). I was elected the Director. About 1,000 commercial fishermen joined our organization. Republican

cannery owners from Alec Brindle's Ward Cove and Bob Thorstenson's Icicle Seafoods to Democratic owners such as Terry Gardiner of Norquest Seafoods made substantial contributions. The United Fishermen of Alaska supported our efforts. As did the major fishing organizations in SE Alaska.

Our law suit, *Stein v Barton* (1990) did two things.

- First, it led to Congressional recognition and permanent protection of some of the habitat Alaskan Natives and others used to hunt and fish on some federal land on Prince of Wales Island.
- Second it won the first national permanent protections of salmon streams during logging; the injunction put into place was used as a model when Congress made 100 foot no cut buffer strips permanent protection provisions in the *Tongass Timber Reform Act* (1990).

### **Sealaska Never Acted to Protect Subsistence Habitat on Federal Land**

#### *Spiritual Connection Argument Weakened by its 40 year Inaction*

Sealaska's arguments of dispossession from their lands by a colonial power would be laughable historically were the earnestness of the claim not so great.

The Wrangell Natives in the SBPA included some whose relatives had been the subjects of the *Tee Hit Ton* decision. 348 U.S. 272 (1955). Byron Mallot attaches a report by Walter Echo Hawk claiming this Supreme Court case is "one of the worst decisions handed down." P4 Echo Hawk.

In Echo Hawk's view, the US Forest Service was a colonial power over the SE Alaska Natives and *Tee Hit Ton* is the "Law of Colonialism." Echo Hawk p 7

Mallot's reliance on Echo Hawk—who invokes ideology steeped in "genocide," "marginalization," "colonization," "post colonization," "subjugation, dispossession, and exploitation" to urge a new Congressional policy toward the Tlingit and Haida "in their indigenous aboriginal habitats" (Echo Hawk p1-2)—strikes me as sheer nonsense in light of the rest of the story on Salmon Bay.

Eddie Churchill, an Alaskan Native of blessed memory, who was the head of the Wrangell Cooperative Association, sat on SBPA's board of directors. I fought long and hard to make sure that he and his tribe (as well as everyone else) could continue to hunt and fish in Salmon Bay by protecting its fish and wildlife. Congress agreed with us when they designated Salmon Bay a LUD II protecting it for all users, so long as it remains in US Forest Service hands.

#### *Sealaska AWOL when it came to protecting indigenous native habitat at Salmon Bay in 1990—undercuts their argument they consider all wildlife sacred*

Although I knew many of the members of the Board of Directors of Sealaska Corporation at the time, never did any of them express a desire to assist the Natives of Wrangell to preserve the land around Salmon Bay Lake. Never did Byron Mallot or Al Kookesh ask to intervene in this case on the behalf of Native subsistence users.

If Byron really believes Echo Hawk's "statement that monetary compensation does not protect a way of life (hunting, fishing)," p 8, then where was Byron and Sealaska when I was fighting to save that way of life?

The absence of the Sealaska Board of Directors from the SBPA case reinforced something that I heard from the Chief of the Chilkoot Tlingit, Austin Hammond of blessed memory. "There are those of us who want to honor the land and take only what we need," he told me while standing in front of his house on the shore of Lynn Canal.

"Some of the young men in Sealaska only see money in the trees. Remember what I tell you."

If Austin were here today, I am sure he would disapprove of Sealaska's bill H.R. 1408 to destroy the fishing and hunting grounds of other tribes, other towns of men who grew up outside. Austin would get Byron and Al to sit on the peace rock along the Chilkoot River and talk, before they could get up, with all the leaders of the towns whose lives they want to upset with this bill. Austin would tell them Echo Hawk is sheer bull, a policy whose foundations falter on false historical and legal interpretation.

**SEALASKA SEEKS EXPANSIONS FAR BEYOND THE SCOPE OF ANCSA,  
ANILCA and other Congressional Statutes**

**New land categories are unfair, unjust, and break previous settlements  
hammered out over decades.**

*H.R. 1408 must be seen in the context of the substantial benefits Sealaska has won from Congress over the last 40 years.*

Since the 1960s, Sealaska has obtained multiple settlements of its lands claims, all of which constitute what was fair and just. It has also benefited from other special interest Native bills in Congress.

H.R. 1408 goes far beyond anything contemplated in ANCSA or subsequent settlements.

- A **cash settlement** of over seven million dollars in the late sixties compensated Natives for lands they occupied or used that had been placed into the Tongass National Forest. This was a final settlement, but a few years later, Natives sought more compensation.
- **ANCSA** gave Natives a total of 656,400 acres or **1,025.62 square miles**. All but 65,000 acres or 100 square miles have been transferred. Sealaska also got a fair share of one billion 1971 dollars in cash. This land is among the most valuable timberland in the United States.
  - Villages got 286,400 acres or **447.5 square miles**
  - Sealaska got 370,000 acres or **578 square miles**. Source: 2007 Annual Report Sealaska.
- Natives then sought Subsistence rights to hunt and fish on all federal land as a priority over all other users, arguing that their spiritual needs were not met by ANCSA.
- In 1980, Congress in **TITLE 8 of the Alaska National Interest Lands Act**, gave Alaska Natives the preferential subsistence hunting and fishing rights they sought. This exclusive priority to hunt and fish was a huge additional benefit that Natives had not won in ANCSA.
- Congress created **huge tax benefits** to Sealaska when it allowed it to sell net operating losses (the value of the timber in 1971 minus the value at a low point in the market, such that "Sealaska has not paid State or Federal taxes") and may not pay taxes on profits long into the future. See Sealaska Annual Report 2010 page 54
- Sealaska shareholders get free medical care from birth to grave even though the United States never subdued or conquered Alaska Natives.
- Finally, Sealaska and other Alaska Native Corporations under the 8 (a) provision of a federal law were given a **huge benefit worth in excess of 25 billion dollars over the last ten years**. Alaska Native Corporations do not have to compete with other corporations for federal contracting. They have exclusive bidding rights. See last year's Washington Post article for abuses under this scheme that Congress failed by one vote to remedy this year. SEE <http://www.washingtonpost.com/wp-dyn/content/article/2010/10/07/AR2010100707217.html>
  - <http://www.govexec.com/dailyfed/0309/030609rb1.htm>
  - [http://voices.washingtonpost.com/federal-eye/2009/07/lawmakers\\_cast\\_a\\_critical\\_eye.html](http://voices.washingtonpost.com/federal-eye/2009/07/lawmakers_cast_a_critical_eye.html)

Despite these and other **land, cash, tax, health benefits, and hunting and fishing exclusive rights that taxpayers have given the Tlingit and Haida to make them whole**, the rationale in Byron Mallot's testimony, in Sealaska 2010 Annual Report and in H.R. 1408 is that the injustice of conquest was so great that only greater and more valuable tax payer assets given to Sealaska's corporate leaders will bring peace to the soul of America's conscience.

Besides resting on false assumptions, the Sealaska approach raises troubling issues.

When is final final?

When is enough enough?

Where will the 40 year history of hand outs end?

Will it be when all public lands in Alaska are tied up, access blocked by Alaska Native Corporations, forever breaking the historical compromises hammered out in 1971, 1975, 1980, and subsequent years? It seems to me ANCSA was supposed to put Alaska Natives on their feet, not establish an elite class of corporate officers who make high salaries while shareholders get bupkees. This despite the trusts set aside for elders and students filled not so much by timber money as 8(a) profits.



At some point Congress must put its foot down and tell Sealaska they should spend their time figuring out how to make money rather than take money from taxpayers.

I find this approach not only hypocritical but historically inaccurate in that legal precedent and demographic movements have been jammed into an ideological prism so out of wack with reality that the goal of justice is distorted beyond recognition.

Specifically the Enterprise or Future Sites have extraordinary value both in dollars and use. The Icy Straights site should be either leased to a private corporation based on the projected revenue of power generated from what is likely to be worth more than all the Columbia River Dams or developed by a public power authority. Sealaska should be allowed no Future or Enterprise sites. Enough is enough with taxpayer give aways above and way beyond what justice requires.

Cultural or Sacred sites such as cemeteries are adequately protected under Federal Law as administered by the US Forest Service. This to is nothing but a scam against taxpayers seeking to lock up land now used by many for benefit of a few. The location of gravesites is so closely held that the wilderness itself protects them.

I specifically object to what I have heard from one of Sealaska lobbyists who has told me that SE Alaska Natives were disposed of the entire Tongass. This is contemporary myth making on a grand scale and is false.

No future or sacred sites need to be added to sweeten the deal.

#### **History and archeology belie Sealaska claims**

Over the ten thousand years of the archeological record of SE Alaska that I have studied, several cultures have occupied the roughly 350 mile long coastline.

- The 9,200-year-old man found in a cave near Port Protection has not been shown to be genetically akin to modern Tlingit or Haida. Yet Tlingits claimed and obtained the remains as one of their own.
- A cultural shift occurred around five thousand years ago per the research at Tebenkoff Bay by the University of California Santa Barbara archeologists who found a transition from back bay fish based economies to front bay deer hunting and war like cultures at this period before Abraham left Bagdad.
- Nevertheless, Tlingit occupation may or may not date from five thousand years ago when they migrated out of Japan or Korea and merged with previous cultures. If Tlingits assert their occupation was from time immemorial, they draw on myth, not the archeological record.
- Haida migrations out of the Queen Charlotte Islands, which displaced Tlingit villages northward on Prince of Wales, did not occur until just before first contact around 1774.

While Tlingits may argue they occupied the entire Tongass National Forest, the archeological truth is that there was very restricted land settlement and occupation in winter villages in major bays with a population estimated before the small pox epidemic of the early 1830s at less than 10,000. First Coast Survey. Warfare was common and villages provided protection. Hence small land areas were occupied.

By the time of transfer to the United States, the population was estimated to have shrunk by half. Id.

The distribution of population continued to be concentrated geographically to winter villages with smaller groups shifting over time during the summer to sockeye stream to sockeye stream with a pattern of depletion and movement prominent. So that in any one decade, use of the land was limited to shorelines at productive salmon creeks. Of the 2500 salmon creeks in SE Alaska, very small percentages were ever used during any decade. And never continuously. The Tlingit and other pre-historic residents occupied a very small part of the Tongass at any one time.

The scope of historical occupation is highly relevant to the issue of land ownership.

Per the Organic Act of 1884, use and possession of land was required to establish ownership. Given the transitory use of a limited amount of land, the more than 1000 square miles Sealaska has/will have received alone is just reflection of the scope of the land used and occupied in any one decade prior to 1867. At the turn of the 19th century, the scope of town land area shrank even further as detailed in further discussion.

I have studied the historical record extensively from the time of first contact through the early 20th century and can find no record of forcible ejection of Haida or Prince of Wales Tlingit from their lands on any where near a systematic or extensive basis. (I was trained in the graduate school of history at the University of Wisconsin, Madison. I have published on the subject matter of Prince of Wales Archeology.)

So, a far different dynamic than the simplistic charge of Echo Hawk's colonialism was at work

Abandonment of traditional villages by 1907 or earlier was the rule and practice on the Prince of Wales Archipelago. Thus the migration from the Kaigani Haida in Klinkwan, Sukwan, Koinglass, and the smaller settlements south of Sukwan Island had been completed or were well underway by 1907. Howkan had a post office and missionary provided school teacher from about 1883. Its inhabitants moved to Hydaburg, Craig, Ketchikan, and other places after the turn of the century. The abandonment occurred in response to opportunity—opportunity to make money in the salteries and new canneries on the West Coast of Prince of Wales; opportunity to get a better education; opportunity to be near medical care.

A similar dynamic occurred for the village of Tukexan and Kareen, Old Kassan, and the village near Cape Fox, which was abandoned when the Harriman Expedition arrived with John Muir aboard at the fin de siècle.

It is offensive to the historical record to overlay Echo Hawk's rigid ideological colonialism explanation for the movement of the Tlingit and Haida from their outlying villages in the late 19th century to the towns they occupy to this day. The people who moved to Craig and Hydaberg and Klawock did so to learn, work, and embrace Christianity.

As for the land ethic portrayed by Sealaska of respecting all living things, we should not forget that between the first Boston men who arrived in the 1780s and 1820, a vast herd of sea otter were hunted nearly to extinction by Alaska Natives on Prince of Wales who wanted rifles, blankets, and other trade goods. While the Russians did enslave the Aleuts who they brought to finish off the sea otters after 1802, the Haida and Tlingit on Prince of Wales were able to bring the population of sea otter to near extinction by reason of zeal for modern trade goods alone.

*Northern Sealaska Board Members and logging in Southern tribes' backyard, most of it in ancient Haida territory*

- Almost all the commercial selections in S. 730 are on the southern Tongass where most of the heavy logging occurred in the past.
- Yakutat's Byron would rather concentrate logging onto Prince of Wales Island Archipelago than allow any around his home village at Yakutat and made sure Congress made the 100 square mile ANCSA lands at Yakutat off-limits.
- Angoon's Al Kookesh made sure logging for his town occurred also in the south square in ancient Haida territory.
- Kluckwan on the Chilkoot was all too willing to select lands for logging off the West Coast of Prince of Wales in Haida territory. The combined affect of these changes to ANCSA which moved the selections away from their villages boxes designated in 1975 amendments and concentrated them onto the Prince of Wales Archipelago made sure the hunting and fishing of their fellow Haida and Southern Tlingit were put into jeopardy. This is a second example of hypocrisy on the part of Sealaska.

It is hard for me to fathom why the Tlingit would want to force almost all the logging onto former Haida territory. Perhaps some ancient grievance is at the bottom of it.

I am all for a settlement of Sealaska's claims in the areas it selected in 2008 when it made submissions to the BLM which are inside the boxes established in 1975 by request to Congress of Sealaska's President.

Congress should walk away from H.R. 1408 and encourage Sealaska to live up to the capitalistic goals which Byron Mallot helped create when he worked as an aide to Ted Stevens forty years ago.

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[A letter submitted for the record by Andrew Thoms, Executive Director, Sitka Conservation Society, follows:]

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**June 6, 2011**

Dear Members of the House Subcommittee on Indian and Alaska Native Affairs:

Southeast Alaska is an awe-inspiring place of glaciers, fiords, and towering spruce trees. For all of its natural beauty, however, one of the region's most remarkable characteristics is that its land is held almost entirely in public hands as the Tongass National Forest. The public not only has free access to the land, but the public has a say in how the land should be developed while the Forest Service seeks to find the best balance for all users and most significant social/economic impact. The Sitka Conservation Society has over 1000 local members who are all part of our organization because they value the lands and waters of the Tongass. Our membership includes native and non-native Alaskans and also includes shareholders of Sealaska and other Native Corporations.

Our membership is extremely concerned about the the Sealaska Lands Bill (S.703 and H.R. 1408). We are scared of this legislation because, if passed, some of the most important and beloved places in Southeast Alaska will be taken from public hands and placed in those of a private corporation. The public will need special permission to access the land, and the public will have no power to determine whether and how the land should be developed. For these reasons, we oppose the Bill and request that you do as well.

The Tongass National Forest is enormous, but its richest natural resources are concentrated in a small handful of places, many of which have been identified as Sealaska selections. Most of the acreage in the Sealaska Bill is timber land. A transfer to Sealaska would mean the loss of some of the largest and oldest trees in Southeast Alaska as well as crucial habitat, with only a shortterm financial benefit to a limited number of people. It would also mean a loss of millions of dollars of taxpayer investment in Forest Service infrastructure that would be transferred to Sealaska Corporation. This infrastructure would include roads, bridges, landings, and more. Taxpayer investments in this land also has included timber stand management such as thinning and pruning that significantly increases the value of many of the acres that Sealaska has selected, and makes these acres critical for future Forest Service land management plan actions. The land that Sealaska is selecting in the bill is much more valuable than that in the original agreement made under ANCSA. If Sealaska is allowed to select outside of the originally agreed upon boxes, we would demand that it be a value-for-value trade rather than an acre-for-acre trade.

While we are alarmed by Sealaska's timber selections, our largest concern lies in the 3,600 acres of unidentified cultural sites. Under the Bill, practically anything can qualify as a cultural site, regardless of whether there is evidence of human habitation at the site. Sealaska has yet to make its cultural site selections, but, based on its previous ANCSA selections, popular subsistence salmon streams appear particularly vulnerable. Sealaska selected Redoubt Falls, the nearest subsistence stream to Sitka, as a cultural site under ANCSA, despite no archeological evidence that the site had been historically used by Native people. There are a few other subsistence streams within a couple hours of town, which hundreds of Sitka families depend on to fill their freezers each year. All of these streams would qualify as cultural sites. We consider the selection at Redoubt to foreshadow the conflicts that will occur over the next 10 years as Sealaska strategically selects small parcels of critically important social/economic/environment acres across the Tongass.

Once in private hands, cultural sites would have no federal protections, such as the Native America Graves Protection and Repatriation Act. This means Sealaska, which has a horrific land management record, would be left to care for its newly acquired lands with practically no oversight. Sealaska has not made it public among tribes, clans, historical associations, and local governments that once in their hands, important sacred and cultural sites will lose their NAGPRA protections. We find it cynical that Sealaska is selling a story of these sites being better protected in their hands than with the already strict protections under NAGPRA as well as the taxpayer investment and protection afforded by multiple federal agencies who currently oversee these sites in collaborative agreements with local tribes and clans.

We request that the 3600 acres granted to Sealaska to choose throughout the Tongass be removed from the legislation and that Sealaska work with local tribes and federal agencies to develop cooperative co-management agreements for the sites so that historically important acres remain a public resource and gain all the protections under NAGPRA, the Antiquities Act, and other federal agency management protections.

Finally, we are alarmed that Sealaska has not divulged to local constituencies that the privatization of public lands would result in the lands no longer offering the subsistence opportunities and regulations that are provided to Southeast Alaska residents on public lands. In many cases, the lands that Sealaska is selecting are important for subsistence uses for local Native and non-Native citizens. With these lands in private hands, the subsistence regulations would change from federal land

to state/private lands. This would mean that extended seasons and bag-limits would not apply to these lands which would further shut off subsistence access.

Overall, we are extremely disappointed in the way that the Sealaska Corporation and its representatives have organized support for this legislation. The most glaring case has been when Albert Kookesh, a Sealaska Board Member who is also a sitting Alaska State Senator, made an assertion to the Craig City Assembly in an official meeting that they would not receive state funding for their needed projects if they didn't support the Sealaska legislation. That Sealaska Board Member/Senator was subsequently found in violation of state ethics policies. This blazon threat was made in full public display in a City Assembly forum. We have heard worse from local citizens of threats made for not supporting the legislation behind closed doors. Locally, we have heard Sealaska board members use race-based arguments to raise support for the legislation when challenged with non-racial access and land-value issues. It has gone so far as to make people feel that they can't oppose the legislation based on its merits for fear that they will then be branded a "racist" in the region. This dynamic is causing great chagrin in a region that has worked to overcome a history of racial conflict. If this legislation is causing so much divisive conflict, and if the methods of building support are so divisive, we feel that there is obviously a problem with the legislation. If the legislation was a good thing for the region, it would not be causing so much controversy.

The Sealaska Lands Bill already has been divisive in Sitka and other communities, but we may be seeing only the start. If the Bill passes and Sealaska follows through with the land management practices it has used in the past, communities will suffer far more than they will gain. We want what is best for our community and the awe-inspiring place that we live. The best thing for us would be that this Bill is voted down and sent back to the drawing board.

On behalf of the membership of the Sitka Conservation Society, we would thank you for your consideration of our concerns.

Sincerely,

Andrew Thoms  
Executive Director  
Sitka Conservation Society

