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S. HRG. 114–509

PENDING LEGISLATION

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

S. 346	**S. 3203**
S. 437	**S. 3204**
S. 1416	**S. 3254**
S. 2056	**S. 3273**
S. 2380	**S. 3312**
S. 2681	**S. 3315**
S. 2991	**S. 3316**
S. 3049	**S. 3317**
S. 3102	**H.R. 1838**
S. 3167	**H.R. 2009**
S. 3192	

SEPTEMBER 22, 2016

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Committee on Energy and Natural Resources

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U.S. GOVERNMENT PUBLISHING OFFICE

22–000 WASHINGTON : 2018

For sale by the Superintendent of Documents, U.S. Government Publishing Office
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The text for each of the bills which were addressed in this hearing can be found on the committee's website at: https://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=ABDA167D-50B9-47E9-9912-AEB86FD53A35.

PENDING LEGISLATION

THURSDAY, SEPTEMBER 22, 2016

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The Committee met, pursuant to notice, at 9:39 a.m. in Room SD–366, Dirksen Senate Office Building, Hon. Lisa Murkowski, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. LISA MURKOWSKI, A U.S. SENATOR FROM ALASKA

The CHAIRMAN. Good morning, everyone.

The Committee will now come to order as we begin our legislative hearing this morning to consider 21 measures that are broadly focused on our nation's public lands, natural hazards, conservations, monument designations and various other measures.

I am the sponsor of six of the bills on the agenda this morning so I am going to just cut right to the chase, speak to them and try to move through our program this morning as expeditiously as we can.

The first bill that I have on the agenda this morning is the Second Division Memorial Modification Act that will authorize three new benches for the memorial in President's Park on the National Mall. Those benches will honor soldiers from the Army's Second Infantry Division who were killed in the Cold War in Korea, the War in Iraq and the War in Afghanistan. Apparently it actually takes an act of Congress to do this modification.

As we consider the bill I want to give a special shout out to a gentleman by the name of Aves Thompson and all those who are streaming this hearing from the Second Infantry Division's reunion in Missouri this morning. Know that I am going to be working hard, before you all come to Washington, DC next September, to celebrate the Second Infantry Division's 100th year of active service to our nation. I am going to be working hard to get this through.

Next up on the agenda is the National Volcano Early Monitoring System Act. Few may realize this, Senator Cantwell certainly does coming from the Pacific Northwest, but the United States has 169 active volcanoes, many in Alaska, some in Washington and along the Pacific Northwest. Establishing a national watch office will help us monitor, warn and protect millions of Americans from the dangers and impacts of their eruptions.

The third measure is my Alaska Native Claims Settlement Improvement Act which includes a series of adjustments to help communities throughout Alaska. The original Alaska Native Claims

Settlements Act, or ANCSA, was always meant to be a living law. Forty-five years after its passage we have a range of issues that demand our attention, whether it be land conveyances that have still not yet been completed or land allotments for our Alaska Natives who are veterans of the Vietnam War, and this bill deserves the Senate's timely approval.

When we are talking about timely approval I cannot not mention the situation in King Cove and my request for the King Cove Road Land Exchange Act. This would provide a lifesaving road for this small, isolated community. The Interior Department had a chance to do the right thing, but back in December 2013 it refused. Since then, King Cove has seen 52 more Medivacs, including 17 that have been carried out by the Coast Guard. Members of this Committee have had an opportunity to hear about this situation over the months and over the years.

Just last week on the Senate Floor I shared the story of a Native Elder in her 70s who came into the King Cove Clinic. She had a broken hip, but she had to wait 40 hours for the fog to lift before she could be Medivacked to Anchorage.

I am seeking to avoid pain and suffering that could be avoided if we had a short, gravel, one-lane, non-commercial use road to connect it to Cold Bay. We have an opportunity to do the right thing by approving this lifesaving road. This measure is not included as part of my Alaska Economic Development and Access Act because it is not an economic development issue for me. It is a life safety issue.

I do have a measure that we have entitled the Alaska Economic Development and Access to Resources Act. This is a measure that will help unlock Alaska's federal areas, and allow responsible oil, gas, mineral and timber production to proceed. Right now, we are facing, pretty much, a brick wall of opposition in these areas.

What this package will do will help facilitate production in the NPRA, the non-wilderness portion of ANWR and our offshore Arctic and that will work to refill our Trans-Alaska Pipeline, help to reduce our state's budget crisis and fulfill the promises made to Alaska at statehood, just as it creates tens of thousands of new jobs, bolsters our competitiveness and protects our national security. At its core, my economic development package is a measure to ensure that Alaska is not just a resource rich state but also a resource producing state, especially when it comes to our federal lands and waters.

I would just remind the Committee that was our deal in Alaska. When President Carter signed ANILCA into law in 1980, he promised and this was his words, "100 percent of the offshore areas and 95 percent of the potentially productive oil and mineral areas will be available for exploration or for drilling in Alaska."

Today that promise has effectively been turned on its head. It seems like 100 percent of our offshore areas are effectively closed and only about five percent of our onshore areas are actually open. That cannot be allowed to stand, and my legislation is a way to change that course.

The economic development package would also resolve a difficult situation that has emerged in Southeastern Alaska. The Alaska Mental Health Trust was constitutionally established with the re-

sponsibility to use its lands to raise revenues to provide care for the most vulnerable across our state and that includes resources through timber. The Trust has announced that it will hold two timber sales on the lands that it holds near Ketchikan and Petersburg where logging is widely opposed, and the Trust basically says it does not have any other choice here.

While the Trust might not have a choice, we do, in the form of language to expedite a land exchange that the Trust and the Forest Service have already agreed to in concept. There has been an agreement to initiate that was executed last year, and its assumption is in the proposed Tongass Land Management Plan. This is our chance to reach an agreement to help the Trust, help our small timber industries and address the concerns of the residents in these communities. If the Administration is serious about a successful transition to young growth, my bill will help ensure it.

Finally one of the main topics of today's hearing will be monument designations, an area where the Administration has repeatedly pushed its authority. It seems like we are reading about a new designation almost every week. That is probably an exaggeration, but it just seems like that.

The Antiquities Act was a response to an existential threat that Congress could not respond to in a timely manner, the theft of and from archeological sites. That is why designations under it were supposed to cover the smallest area possible, not the largest.

Now not all presidents have found it necessary to call upon this authority, although presidents from both parties have done so and some have used their authority to diminish the size of a previous designation. But in this Administration the Antiquities Act has been wielded as a tool to both sidestep and threaten Congress.

What needs to be recognized is that monument designations have an impact on local communities. What needs to be recognized is that public comments cannot only come from supportive organizations. We need to rethink and reform how monument designations can be made and that is why I have introduced the legislation entitled the "Improve National Monument Designation Process Act" which requires both local consultation and congressional approval.

While we may hear other perspectives here today, I am proud to speak on behalf of the vast majority of Alaskans when I say these bills are critical to our economy and to our future. They will protect us from natural hazards, open up new economic opportunities, restore balance between Congress and the Executive Branch and also honor our military heroes.

I have already received about 70 statements for the record, and I would ask that they be included as part of the Committee hearing record today.

[The information referred to follows:]



Trust
Land Office

September 21, 2016

2600 Cordova Street, Suite 100
Anchorage, AK 99503
Tel 907.269.8658
www.mhtrustland.org

U.S. Senate Committee on Energy & Natural Resources
Testimony on S. 3203

Honorable Committee Members through the Chair:

The Alaska Mental Health Trust Land Office (TLO) supports the Alaska Mental Health Exchange Act of 2016, introduced by Alaska Senator Murkowski whether it be in the format of S.3006 or S. 3203. This bill will serve to better align land ownership patterns with the inherent missions of both the USDA Forest Service (USFS) and the Alaska Mental Health Trust (Trust). The proposed exchange (Trust Land Exchange) has identified about 17,341 acres of Trust lands and approximately 20,580 acres of USFS lands located within the Tongass National Forest. The exchange positively protects interests of value to the communities, supports the economy, and helps preserve Southeast timber industry during transition to young growth, while providing revenue for Alaskan Mental Health services in Alaska.

During Alaska's transition to a state, Congress passed the Alaska Mental Health Enabling Act of 1956. This act transferred the responsibility for providing mental health services from the federal government to the territory of Alaska and ultimately the state of Alaska, by creating the Alaska Mental Health Trust (Trust). The Trust is a state corporation that administers the Alaska Mental Health Trust, a perpetual trust managed for the benefit of people with mental illness, developmental disabilities, chronic alcoholism and other substance related disorders, Alzheimer's disease and related dementia, and traumatic brain injury. The Trust operates like a private foundation, using its resources to ensure that Alaska has a comprehensive integrated mental health program. The Trust annually budgets approximately $20 million to support services and programs for Trust beneficiaries. Timber sales have accounted for about a third of the TLO's income since the reconstitution of the Trust in 1994.

Alaska Mental Health Exchange Act of 2016 will accelerate the Trust Land Exchange at this critical juncture of time while transitioning from old growth to young growth harvest in Southeast Alaska. The parties developed an Agreement to Initiate (ATI) under the USFS requirements for a federal exchange. This exchange has been the culmination of years of collaborative work and input from a variety of stakeholders within the communities of Southeast Alaska, environmental organizations, and state and federal agencies. This equal value land exchange incorporates Trust lands surrounding six communities; Juneau, Sitka, Petersburg, Wrangell, Myers Chuck, and Ketchikan and designated timber lands in the Tongass National Forest. This will help preserve the current subsistence, watershed ecosystem services, old growth timber, recreational value, and visual integrity of lands surrounding the communities. This legislation will provide these described outcomes while providing essential revenue for Alaskan Mental Health services.

On July 2, 2013, Secretary of Agriculture Vilsack issued Memo 1044-009; the memo outlined the strategy that the Tongass National Forest is to implement over the next 10 to 15 years. The TLO believes that the proposed Trust Land Exchange is an integral part of this transition plan. The TLO has collaboratively worked with the Forest Service, landowners and stakeholders in many venues over the past decade to reach the point where the USFS and the TLO signed a land exchange ATI on June 30, 2015. These included the Tongass Futures Roundtable (TFR), the Tongass Advisory Committee (TAC) and the Tongass Landowners group. All these groups recognize the importance of diversifying timberland ownership which will reduce the reliance on federal timber supply.

The TFR was composed of a wide cross section of stakeholder groups concerned about future management of the Tongass National Forest. This working group recognized the need to maintain the current characteristics of land now in Trust ownership and the importance of the Trust to preserve its corpus and mission. The TLO, USFS, and the TFR participated in a process to identify federal and Trust lands to be included in this proposed exchange. The TAC primary objective was to reduce the amount of old growth timber harvest on the Tongass and accelerate the transition to young growth harvest as outlined in Secretary Vilsack's Memo. The ATI met these objectives of both of these groups.

Since the ATI signing, the TLO and the Forest Service have worked toward initiating the National Environmental Policy Act (NEPA) process over the past year with the TLO bearing all costs of the exchange. Although the NEPA process has not commenced, after the USFS provided its best estimate of the scope of work and timeframes to complete the NEPA process, it was apparent to many that the projected 5+ year process to complete the exchange after beginning the NEPA process will not be in time to provide "bridge timber" to assist the existing timber industry in the proposed Tongass Transition plan.

Secretary Vilsack's memo states: "*The objective of this Secretarial Memorandum is to ensure that USDA, the Chief of the Forest Service, the Alaska Region of the Forest Service, and the Tongass National Forest work together to catalyze a transition from a timber sale program based on old growth to one based on young growth.*" The memo also says, "*USDA is equally committed to doing its part to ensure that the communities within and adjacent to the Tongass National Forest are economically vibrant. These two goals must go hand in hand... Moreover, we must do this in a way that preserves a viable timber industry that provides jobs and opportunities for residents of Southeast Alaska.*"

The interrelations of the stated objectives of the Secretary's Memorandum and the proposed land exchange are evident. Secretary Vilsack recognized the potential benefit of the land exchange in a letter to The Honorable Secretary Murkowski dated November 19, 2013. In this letter the Secretary stated: "*I agree that the proposed land exchange could well serve the objectives outlined in my memorandum:*

1. *To seek opportunities to supply sufficient old growth "bridge timber" while the industry re-tools for processing young growth. The opportunity to use the exchanged lands could help in providing part of the bridge to second growth."*

The following Action Objectives of the Secretary's Memo can be enhanced through the proposed exchange:

a. *Seek opportunities to supply sufficient old growth "bridge timber" while the industry re-tools for processing young growth.*

   The TLO on behalf of the Alaska Mental Health Trust (AMHT) is proposing to utilize the conveyed land to establish a timber base which will be part of the required fiber to the current industry in southeast Alaska. The Exchange will provide a long term supply of wood to the current operators.

d. *Develop by July 30, 2013, scenarios that effectuate a more rapid transition by prioritizing and developing additional young growth and restoration projects that could be completed over the next 5 years.*

   The Exchange project should be included within the scenarios as a means to "retain the expertise and infrastructure of the existing industry" while developing "opportunities for communities across the region in the recreation, tourism, fishing and renewable energy sectors."

h. Pursue partnerships with foundations, non-profits, corporations, and others to advance a second growth industry, undertake restoration projects, and otherwise speed the transition. The AMHT is a state corporation that provides benefit services to Alaskans who are mental health beneficiaries. The Trust Land Exchange creates the kind of partnership envisioned by the Secretary's transition plan because it will work with current industry and communities to develop markets, products, and help diversify the timber owner land base. This partnership was recognized through the collaborative process of the Tongass Futures Roundtable, the USFS and the TLO, when they endorsed the proposed land exchange. Implementing the Trust Land Exchange will protect the remaining old grow timber surrounding SE Communities, provide fiber to the existing forest product operators, and provide long-term contracts to advance the second growth industry.

Therefore, to benefit from the integration of the land exchange into the transition requires the exchange to happen quickly. The TLO supports implementing the exchange as rapidly as possible, which requires this legislation. Since the legislation has been introduced, the TLO has worked cooperatively with the USFS to modify the boundaries of the proposed land exchange to appropriately address key management, conservation, and environmental issues. We look forward to further close coordination with the USFS and this committee toward enactment of this exchange legislation. The TLO will put all available resources to working with the USFS, Bureau of Land Management, and Southeast Alaskan communities to provide a sustainable and healthy economy, as well as a healthy and social environment, while fulfilling its fiduciary responsibility to the Trust.

Sincerely,

John Morrison
Executive Director
Trust Land Office

cc: Governor Walker
Senator Murkowski
Senator Sullivan
Representative Young
Regional Forester Pendleton
Tongass Forest Supervisor Stewart
AK DNR Commissioner Andy Mack

Attachments: Secretary Vilsack Memo 1044-009
Senator Murkowski Letter to Secretary Vilsack
Secretary Vilsack letter to Senator Murkowski

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

July 2, 2013

SECRETARY'S MEMORANDUM 1044-009
Addressing Sustainable Forestry in Southeast Alaska

1. PURPOSE AND BACKGROUND

Alaska's Tongass National Forest is a national treasure. At 17 million acres, the Tongass includes vast old growth temperate rainforests that are increasingly rare globally. The Tongass is also a place that has sustained the people and communities of Southeast Alaska for generations. Whether through providing food and other subsistence uses to the rural communities in the region, supporting cultural practices and identity, drawing people to the region for world-class recreation and fishing, or supporting wood products and other forest-based industries, the Tongass is vital to the economic and cultural well-being of the region. The Forest is also important to the climate; while the Tongass comprises about 2 percent of the Nation's forests, according to one scientific study it contains the equivalent of 8 percent of the carbon sequestered in the forests of the conterminous United States. The Department of Agriculture is committed to maintaining Southeast Alaska's exceptional natural resources in perpetuity. USDA is equally committed to doing its part to ensure that the communities within and adjacent to the Tongass National Forest are economically vibrant. These two goals must go hand in hand.

To conserve the Tongass National Forest under the principles of the Multiple-Use Sustained-Yield Act of 1960, Tongass Timber Reform Act and other relevant statutes, we must speed the transition away from old-growth timber harvesting and towards a forest industry that utilizes second growth – or young growth – forests. Moreover, we must do this in a way that preserves a viable timber industry that provides jobs and opportunities for residents of Southeast Alaska.

This Memorandum affirms that this transition to a more ecologically, socially, and economically sustainable forest management is a high priority for USDA, the Forest Service, and the Tongass National Forest. USDA's goal is to effectuate this transition over the next 10 to 15 years, so that at the end of this period the vast majority of timber sold by the Tongass will be young growth. This timeframe will conserve old growth forests while allowing the forest industry time to adapt. To achieve this goal, several steps must be taken as described in the Actions section of this Memorandum.

Over the past three years, USDA has increased investments in alternative economic development opportunities for communities across the region in the recreation, tourism, fishing and renewable energy sectors, while initiating a transition away from a historical reliance on old growth timber harvests. To accomplish the transition to a timber program based primarily on young growth, it is important to retain the expertise and infrastructure of the existing industry so businesses can quickly re-tool. These businesses are fundamental to both the young growth and restoration components of the future timber program, and to the economic vitality of the region. Such an approach requires a reliable supply of economically viable timber, with the old growth component decreasing over time while the young growth component increases.

Updated forest inventories have improved our understanding of the age, location, and amount of young growth across the Tongass, and helped clarify the challenges in establishing an economically viable young growth program due to the relatively young age of the available stands, market conditions, and other factors. Additional research will be necessary to develop effective ways to meet these challenges. Achieving the transition in 10 to 15 years also calls for enactment of a statutory provision, to exempt a limited amount of young growth on the Tongass from current requirements that generally restrict harvesting young growth timber until it reaches maximum growth rates. Administrative mechanisms to accomplish such an adjustment are time consuming and would divert scarce resources from achieving the goals of the transition. Compared to private lands, the Culmination of Mean Annual Increment (CMAI) requirements could delay development of an economically viable young growth program for decades. USDA will continue to work with Congress on such a provision.

To ensure a smooth transition, the Forest Service will continue to offer a supply of old growth timber while increasing the supply of young growth to provide industry in Alaska the opportunity to develop new markets, learn new skills, and acquire new equipment. The continuation of limited sales of old growth timber is essential to maintain the existing industry until young growth can efficiently be processed. The Forest Service will also continue the Tongass National Forest's micro-sale program and the old growth small sale program that targets niche markets, while developing a new integrated program of work focused on young growth, ecological restoration, and forest stewardship that protects and restores the Forest's extraordinary fish and wildlife habitat. This strategy will maintain and restore the Forest's clean water, abundant fish, healthy populations of wildlife, and scenic beauty while sustaining deep-rooted community and cultural ties to the land and providing jobs in the woods.

Through an all lands, all hands approach USDA will utilize all of its expertise, tools and resources such as economic assistance, workforce training, capacity building, and improved

delivery of services to help strengthen and diversify local economies. Working with Rural Development and the Farm Service Agency; other Federal agencies as appropriate; State, local, and Tribal entities; non-governmental organizations; and local communities will be essential to success. Collaborative development of a transition strategy increases collective ownership of the approach; collaborative implementation with our many partners offers opportunities to leverage funding available from the Forest Service.

2. ACTIONS

The objective of this Secretarial Memorandum is to ensure that USDA, the Chief of the Forest Service, the Alaska Region of the Forest Service, and the Tongass National Forest work together to catalyze a transition from a timber sale program based on old growth to one based on young growth. Pursuant to this Memorandum, the Secretary asks the Forest Service to:

a. Seek opportunities to supply sufficient old growth "bridge timber" while the industry re-tools for processing young growth. The first step is the Big Thorne timber sale. This project along with other planned timber sales would supply timber to existing mills for several years and allow the Forest Service to reallocate staff to young growth projects.

b. As soon as possible, allocate staff and financial resources to planning young growth projects, ramping down old growth sales and increasing investments in young growth.

c. Continue to work with Congress to exempt a limited amount of young growth on the Tongass from current requirements that generally restrict harvesting young growth timber until it has reached maximum growth rates, or CMAI. Providing flexibility with regard to CMAI is essential to permit the development of economically viable young growth projects within the timeframe set as a goal for the transition.

d. Develop by July 30, 2013, scenarios that effectuate a more rapid transition by prioritizing and developing additional young growth and restoration projects that could be completed over the next 5 years. Examine scenarios that assume adoption of the statutory provision noted above that provides Forest Service greater flexibility in harvesting young growth timber.

e. Strongly consider whether to pursue an amendment to the Tongass Forest Plan. Such an amendment would evaluate which lands will be available for timber harvest, especially young growth timber stands, which lands should be excluded, and additional opportunities to promote and speed transition to young growth management. A determination of whether to initiate an amendment should be completed by September 30, 2013. If an amendment in pursued, identify an efficient timeline for completion that supports the timeframe for transition outlined in this Memorandum.

f. Continue support for research on how best to manage young growth, develop markets for it, and help industry re-tool to process it. As results become available, apply them as

needed to improve young growth management.

g. Intensify work with Rural Development to pursue opportunities to facilitate investments in re-tooling. Develop by December 31, 2013, in collaboration with Rural Development and other stakeholders, a plan for providing financial assistance to re-tool timber processing equipment in Southeast Alaska to assist the industry to efficiently handle young growth timber.

h. Pursue partnerships with foundations, non-profits, corporations, and others to advance a second growth industry, undertake restoration projects, and otherwise speed the transition.

I will remain engaged in this effort to ensure the Tongass National Forest transitions effectively to a timber program based primarily on young growth. It is vital that the Forest Service continue to seek input from and work with stakeholders in the region towards this transition. In this regard, I will approve establishment of an advisory committee under the Federal Advisory Committee Act to provide advice to the Forest Service on how to expedite the transition to young growth management.

3. MISCELLANEOUS

a. Effective Date. July 1, 2013

b. This Memorandum does not create any right or benefit, substantive or procedural enforceable by law or equity. This Memorandum creates no private right of action.

LISA MURKOWSKI
ALASKA

COMMITTEES
ENERGY AND NATURAL RESOURCES
RANKING MEMBER
APPROPRIATIONS
HEALTH, EDUCATION, LABOR, AND PENSIONS
INDIAN AFFAIRS

United States Senate
WASHINGTON, DC 20510-0203
(202) 224-6665
(202) 224-5301 FAX

510 L Street, Suite 600
Anchorage, AK 99501-1956
(907) 271-3735

101 12th Avenue, Room 329
Fairbanks, AK 99701-6278
(907) 456-0233

800 Glacier Avenue, Suite 101
Juneau, AK 99801
(907) 586-7277

805 Front Age Road, Suite 105
Kenai, AK 99611-8104
(907) 283-5808

1900 First Avenue, Suite 225
Ketchikan, AK 99901-6050
(907) 225-6880

851 East Westpoint Drive, Suite 307
Wasilla, AK 99654-7142
(907) 376-7665

July 25, 2013

The Honorable Thomas Vilsack
Secretary, U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Mr. Secretary:

I am writing to see if the Department could expedite a land exchange in Southeast Alaska that could significantly aid the Department's plans for a transition to harvesting of young-growth timber in the Tongass National Forest of Southeast Alaska.

The Alaska Mental Health Trust for several years has proposed a land exchange – formally initiated on September 4, 2012 -- where the Trust would exchange some 18,000 acres of scenic old-growth timber near urban areas/ports in Alaska for approximately 21,000 acres of predominately second-growth timber that could then be used to support a young-growth industry in the region – the total acreage being dependent on an equal value/appraisal process. This would appear to be exactly in keeping with your July 2 memorandum seeking to accelerate a transition to young-growth timber harvesting in the Tongass. The lands that would be exchanged were selected after years of negotiation and discussion among the Forest Service, the Mental Health Trust, environmental, conservation, fishery groups and local governments and are currently believed to be nearly totally acceptable to most all parties – a truly amazing feat for any land exchange in the nation's largest national forest.

The exchange, however, appears to be high centered because the exchange has reached the stage where the Forest Service needs to complete an Agreement to Initiate (ATI) the exchange, a requirement of the Forest Service guidelines for a federal land exchange. While the Mental Health Trust has committed to funding the Forest Service's costs of completing the exchange through a cost-share agreement, the Forest Service under its rules apparently can't complete a cost-share agreement to cover the administrative costs of processing land exchanges until an ATI is actually executed. This governmental "catch 22,"given your Department's tight budget for FY 13 and lack of funding for staffing to handle the preparation of the ATI, is preventing work from even advancing on the exchange that is important to both the region's tourism and timber industries.

Given that it takes on average three years after an ATI is executed to complete the more than a dozen environmental studies and reports needed to allow for an actual land conveyance to be approved, I am asking to see if you could add the exchange as an element of your recently announced transition plan/memorandum for the Tongass National Forest and then use transition funds for the agency staffing necessary to complete the ATI. That is then money that then could

be repaid by the Trust to the Forest Service as part of its financial commitment to completing the components of the feasibility analysis for the land exchange.

Even if a pending Sealaska land conveyance bill is approved by Congress permitting the harvest of young-growth trees within the first decade without regard to Cumulative Mean Annual Incremental (CMAI) harvest growth standards, a developing second-growth industry is going to need more young-growth timber to be available to fund the mill conversion costs of such a new transition. Getting the lands proposed in this swap into the state-sponsored Trust and out from under federal control could be a key factor in a financially viable young-growth timber transition taking place in the region and for the preservation of old-growth sawmills currently operating in the region.

I hope you will authorize the resources that the Forest Service will need to permit the Agreement to Initiate the Alaska Mental Health Trust land exchange to be finalized quickly, so that the formal public review process required before such an exchange, can start on an expedited basis. Without the exchange, which will prevent old-growth timber overlooking major cruiseship attractions at Juneau, Ketchikan, Petersburg and Wrangell from being harvested, the region could face negative impacts to its tourism economy, while the Forest Service's own young-growth transition plan could be negatively impacted. And the land exchange will generate vital income to the Trust, which is a perpetual trust managed for the benefit of Alaskans with mental illness, developmental disabilities, chronic alcoholism and other substance-related disorders, Alzheimer's disease and related dementia, and traumatic brain injury – a Trust established by the federal government as part of the Alaska Statehood Act in 1959.

I thank you for your attention to this matter.

Sincerely,

Lisa Murkowski,
United States Senator

CC: Thomas Tidwell, Chief U.S. Forest Service
Forrest Coles, U.S. Forest Service Region 10
Beth Pendleton, U.S. Forest Service Region 10

USDA

United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

NOV 1 9 2013

The Honorable Lisa Murkowski
United States Senate
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murkowski:

Thank you for your letter of July 25, 2013, regarding the proposed land exchange between the Alaska Mental Health Trust Land Office (Trust) and the Tongass National Forest. I apologize for the delayed response.

I appreciate your suggestions. As stated in my July 2, 2013, Memorandum 1044-009, *Addressing Sustainable Forestry in Southeast Alaska*, the transition of the Tongass timber program will be done in a way that preserves a viable timber industry so businesses can re-tool to process young growth timber efficiently.

The proposed *Trust Land Exchange*, which was developed in collaboration with a variety of stakeholders and supported by the Tongass Futures Roundtable, would convey to the Department of Agriculture's Forest Service approximately 18,000 acres of Trust land adjacent to the communities of Juneau, Petersburg, Wrangell, Sitka, and Ketchikan, Alaska. Due to their proximity to the communities, it would be difficult for most of these lands to be developed by the Trust in keeping with the Trust's mission. The 21,000 acres of National Forest System lands that would be conveyed to the Trust under the proposed exchange include approximately two-thirds old growth and one-third young growth timber, and are in areas more suitable for development.

I agree that the proposed land exchange could well serve the objectives outlined in my Memorandum:

1. To seek opportunities to supply sufficient old growth "bridge timber" while the industry re-tools for processing young growth. The opportunity to use the exchanged lands could help in providing part of the bridge to second growth.

2. Scenarios that effectuate a more rapid transition by prioritizing and developing additional young growth and restoration projects that could be completed over the next 5 years.

3. To intensify work with Rural Development to pursue opportunities to facilitate investments in re-tooling, and to develop by December 31, 2013, in collaboration with Rural Development and other stakeholders, a plan for providing financial assistance to re-tool timber processing equipment in Southeast Alaska to assist the industry to efficiently handle young growth timber.

4. To pursue partnerships with foundations, non-profits, corporations, and others to advance a second growth industry, undertake restoration projects, and otherwise speed the transition. This will include developing new markets for products developed by industry.

Again, thank you for writing. An equal value land exchange between the Trust and the Forest Service will be properly and promptly considered. It will also help to strengthen and diversify local economies throughout Southeast Alaska.

Sincerely,

Thomas Vilsack
Secretary

September 16, 2016

RE: S 3006 and S 3203 AMHT land swap-Sarkar Cove/Sarkar Lake

To Whom It May Concern:

The purpose of this statement is to inform you that the residents and property owners of the Sarkar Cove/Point area strongly support and endorse the proposed changes to S 3006 and S 3203, removing approximately 752 acres from the previously proposed areas surrounding Sarkar Cove/Point and Sarkar Lake, and moving that acreage to an area currently designated "2016 Naukati Addition." While this change involves a relatively small amount of land to be exchanged, it will go a long way to preserve the integrity of the Sarkar Cove and Sarkar Lake areas. Not only does Sarkar Cove/River/Lake support an important salmon run, the residents of this area rely, to a significant degree, on ground water from the surrounding area for daily water usage. Preserving the surrounding forest will help maintain the quality of our household water. Finally, but no less important, a significant number of people from across the country, and even the world, visit our special area each year involving themselves in activities that include fishing, sightseeing, bird watching, kayaking, canoeing, hiking and camping. El Capitan Lodge is located in Sarkar Cove/Point and not only hosts hundreds of people each summer, it also employs many seasonal workers. The Sarkar Lake region provides several miles of boardwalk and canoe portage trails for people to enjoy this spectacular land. Additionally, Sarkar Cove is part of the "Outside Passage" and many pleasure boats moor in its protected waters each summer as they make their way up and down the Alaska coastline. The provisions in these bills, swapping the AMHT acreage from the Sarkar region to a more interior east area, will ensure the continued use and enjoyment of this special land not only by the "locals," but also by people from around the globe. This "swap" also supports and protects the significant amount of public funds that were spent enhancing the Sarkar Lake system for several outdoor uses that would surely suffer if allowed to proceed as originally proposed.

Sincerely,

Kelly P. Yousem

Kelly P. Yousem
Sarkar Cove resident and
President of the Sarkar Road
and Utilities Association.
kyousem@me.com
(303) 668-8877

Alaska Forest Association

111 Stedman Street
Ketchikan, AK 99901
Phone: 907-225-6114
Fax: 907-225-5920

Testimony of

Owen Graham

Executive Director, Alaska Forest Association

Testifying Before

Senate Energy and Natural Resources Committee

Regarding

S. 3203 The Alaska Economic Development Act

September 19, 2016

Good Morning Senator and Chair Murkowski, Ranking Member Cantwell, and Members of the Committee. Thank you for the opportunity to present testimony today at this hearing. My name is Owen Graham. I am Executive Director of the Alaska Forest Association (AFA). AFA is the statewide organization which represents the Forest industry and advocates for balanced and sound timber harvest/production in the State of Alaska. AFA has members from all over the State including Southeast Alaska, South Central Alaska, and the Interior.

The Association is one of the oldest in the State of Alaska and provides members the opportunity to participate in programs such as Tongass Timber Trust (group health), Alaska Loggers Retirement (pension plan) and a public information program which promotes the facts concerning the forest products industry.

AFA strongly supports rapid passage of S. 2302. Alaska needs economic development and this bill will provide a needed boost to our statewide economy and economic development for oil and gas, mining, and AFA's particular interest, forestry.

Each of the sections in the Forestry title are absolutely critical to economic development in the timber industry in Alaska. AFA supports each of these sections and will present testimony on each separately

Section 501—Roadless SEC. 501. ROADLESS AREA CONSERVATION RULE EXEMPTION.

"The Roadless Area Conservation Rule established under part 294 of title 36, Code of Federal Regulations (or successor regulations), shall not apply with respect to any National Forest System land in the State of Alaska." – Bill language

This simple provision is profoundly important to the economic future of Southeast Alaska. As the Chairman knows, the Tongass National Forest is the largest forest in the nation at 16.8 million acres. Prior to the administrative roadless rule, about 40% of that Forest had already been congressionally designated as wilderness, monument, LUD II (another form of legislative/wilderness) or other legislative designation which prevents any reasonable possibility for road construction or economic development.

There is simply no need for additional administrative "Roadless" designations in a national forest which is already fully congressionally "protected" by many other laws including the Alaska National Interest Lands Conservation Act and the Tongass Timber Reform Act.

For example, in ANILCA, this Congressional recognition of sufficient protection was stated in Section 101(d):

> "This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition."

Despite this clear statement by Congress, the Forest Service withdrew millions of additional acres as so-called "Roadless" areas for "protection" of these acres in the Tongass. Since 90% of the entire Forest is and remains "roadless" this violated Section 101(d) of ANILCA and other laws. As a result of this action, the State of Alaska and many others including cities and business groups sued to overturn this improper Forest Service administrative withdrawal. That case was brought under the administration of Governor Frank Murkowski, also a former Senator and Chairman of this Committee.

An out of court settlement was reached which exempted Alaska from the devastating impacts the roadless rule would have on Alaska compared to the rest of the country. Unfortunately, a federal district Court overturned this out of Court Settlement a few years ago and the current Administration has refused to honor and defend the out of court settlement. Luckily, the State of Alaska and other allies have defended this out of

court settlement before the US District Court for the District of Columbia. That Court has recently questioned the status of the case and asked for additional briefing from the parties. There the case sits.

It is high time for the Congress to step in and make clear that its policy and legislative actions prohibit and prevent the Roadless Rule from applying to the Tongass.

Passage of Section 501 would do just that AFA urges this Committee to pass this provision as rapidly as possible.

Section 502- Alaska Mental Health Trust Land Exchange

The Alaska Forest Association strongly supports rapid passage of Section 502, the Alaska Mental Health Land Exchange. The passage of this section is absolutely critical for the continued success and viability of the Viking Mill and for Viking's sister company's (Dahlstrom Lumber Company) with operations in Washington State at Hoquiam. Viking and Dahlstrom Lumber Company operate in an integrated process and wood which Viking is able to harvest in Southeast Alaska plays a key part in the integrated operations by which the Hoquiam Mill supplies its customers. About seventy per cent of Viking's customers are domestic purchasers.

AFA and its members believe that it is absolutely critical that Viking have a steady supply of timber for the Alaska operation which will also affect the Hoquiam Washington facility. Viking sends much of its lumber to Hoquiam for remanufacture and to be kiln dried, packaged and distributed. This integrated work in Hoquiam helps support the 38 jobs in Washington State and over 150 in Southeast Alaska.

Viking is a key economic engine in Southeast Alaska as it provides jobs for its own mill workers, as well as related employment for timber fallers, truck drivers, equipment owners, and operators as well as stevedores many of whom are also members of AFA. Viking and AFA's members need the AMHT land exchange to provide additional timber supply to help broaden, diversify and stabilize the industry's timber supply in Southeast Alaska.

Because of ongoing failure by the Forest Service to supply timber, it is critical for the Alaska Mental Health Trust Land Exchange to pass immediately. This timber, if it becomes available to Viking, could provide up to ten years of supplemental supply to the Viking Mill at Klawock and be very helpful to its integrated operations in Hoquiam. The current scarcity of timber supply in the Southeast Alaska region is why passage of the AMHT land exchange is time critical.

As of September 15, 2016, Viking had approximately 4.5 MMBF of logs in inventory at its mill and another roughly 28 MMBF of timber under contract. This is sufficient timber for a single-shift operation of the mill for just over a year and it is unlikely that sufficient other sources of timber will become available before this supply runs out. Further, the high quality spruce timber, which is the most important component of Viking's product line, will run out in just a few months at which point Viking's operations will immediately become much less economical than they would be if logs from the AMHT land exchange were available.

Viking is currently one of the largest year-round employers on Prince of Wales Island. Most of its annual $22 million in revenue remains on the Island and has contributed significantly to the Island's economy over the years.

Keeping Viking's mill supplied with the reliable source of timber contained in the Alaska Mental Health land exchange is essential to the continued employment of more than 150 people, including not only of Viking's employees but employees of our subcontractors as well.

Please pass Section 502 as rapidly as possible.

Section 503—Tongass State Forest Facilitation

The AFA strongly supports the establishment of a 2 million acre State Forest in Southeast Alaska. This has been a goal of the AFA for many years because the US Forest Service either cannot or will not provide the supply of timber which it is required to provide under federal forest laws. The Forest Service has either abandoned its duty to provide this timber supply or is no longer competent to do so. In either case this Committee and Congress must act if the Alaska timber industry is to survive and rebuild. In fact, the Forest Service is currently embarked on a ridiculous, premature "transition" to young growth timber harvesting which cannot work until the young trees mature in about another 30-50 years. The AFA has been explaining to the Forest Service and the Department of Agriculture that this premature transition will not work, but the Forest Service persists in attempting to administratively lock-in the transition decision before the end of the current Administration. This young growth transition decision which was unilaterally directed by the Secretary of Agriculture violates federal law. But that does not seem to matter to the Department of Agriculture which intends go

forward despite the dire consequences to the Alaska timber industry and the communities in Southeast Alaska.

Just this last month, the Forest Service hosted a large group of Congressional staff and other carefully selected individuals on a 3-day field trip on Prince of Wales and other southeast Alaska islands. That field trip included professional foresters from the Forest Service who acknowledged that this transition cannot work. AFA salutes these professionals for telling the truth about this politically motivated attack on our already meager timber supply in Southeast Alaska.

So it is even more critical that this Committee pass legislation to facilitate the creation of a state forest. If a state forest were established, the Forest Service could still experiment with its "young growth" obsession without actually harming the rest of the economy of Southeast Alaska. As it stands now, the Forest Service planned, premature young growth transition will destroy the remaining timber manufacturing industry since there is no economically viable way for any of this immature young growth to be processed in Southeast Alaska and shipped to customers some 800 miles away in the Pacific Northwest. At best, all the immature trees that are cut will be exported to China as unprocessed logs.

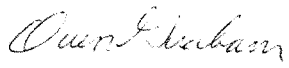
However, if Congress will allow the State to establish a State Forest in areas which the State has selected on the State Forest map which is attached to this testimony, there is hope. There is also consensus: All three members of the Alaska Congressional Delegation support the establishment of this State Forest as does the Governor of Alaska. The AFA has determined that under management by the State of Alaska the

management of a portion of the forest can be self-funded by stumpage receipts which will greatly exceed the current moribund receipts which the Forest Service timber sales produce. An example of the failed Forest Service management is the most recent Kuiu Timber Sale which was so poorly designed and offered that there were no bids on the sale at all, despite the current desperate timber supply plight in the region.

In summary, the AFA urges this Committee and Congress to pass Section 503 and allow the establishment of a State owned and managed forest from 2 million Acres of the 16.8 million acre Tongass Forest. [redacted] The proposed State Forest is limited to land which is currently not set aside by Congress for any Wilderness, Monument, LUD II or other such protective category. This will leave nearly 15 million acres of land (still the largest land base of any national forest in the country) which is more than enough for the Forest Service to "manage".

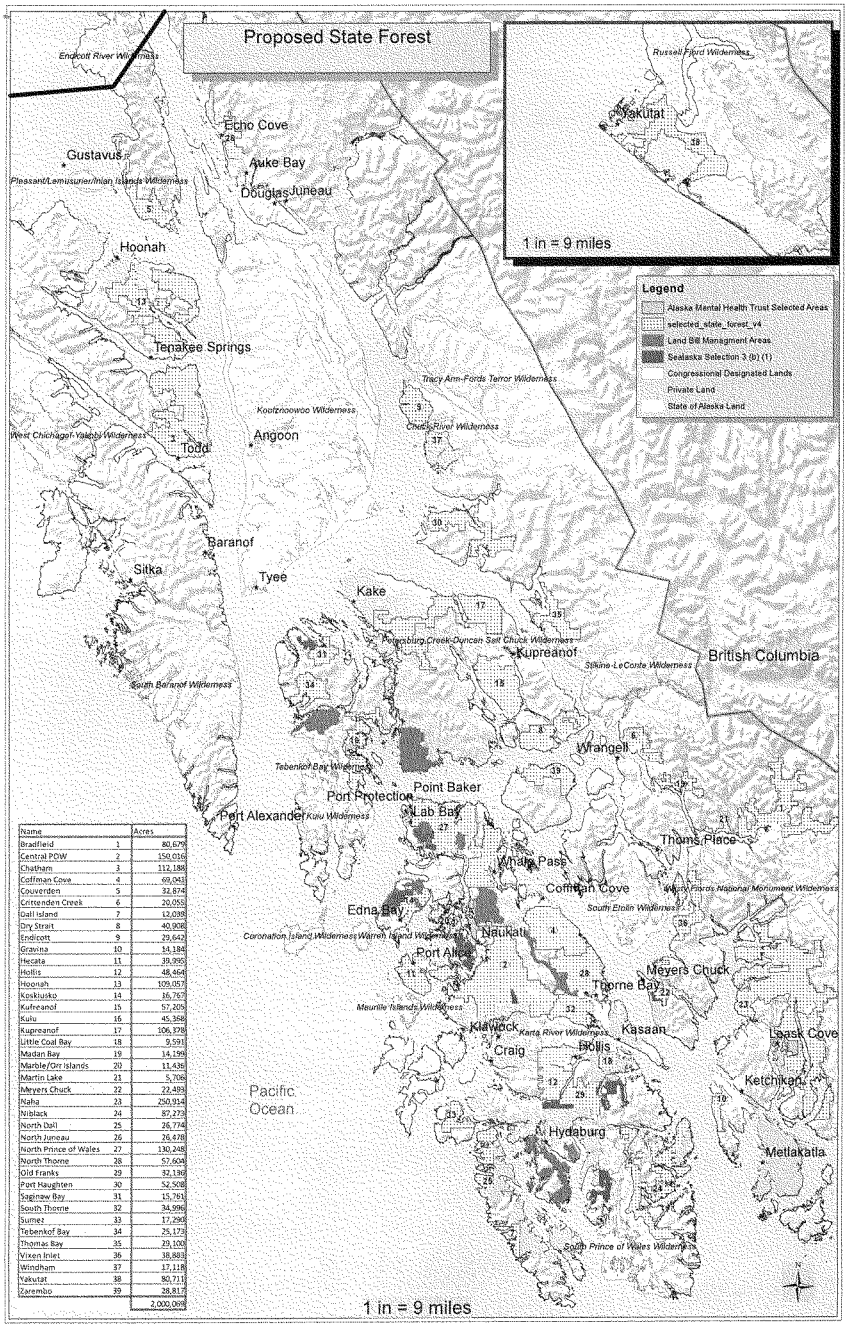
Finally, AFA wishes to thank the Alaska Delegation and particularly Senator Murkowski for their long term commitment to help timber industry and Southeast Alaska to achieve this solution and restore the Alaska Timber industry to a positon where it can contribute to a diversified economy in Alaska.

Sincerely,



Owen Graham
Executive Director
Alaska Forest Association
111 Stedman Suite 200
Ketchikan, AK 99901

Phone 907-225-6114
Email ojgraham@aol.com



Name		Acres
Bradfield	1	80,679
Central POW	2	150,016
Chatham	3	112,188
Coffman Cove	4	69,043
Couverden	5	32,874
Crittenden Creek	6	20,055
Dall Island	7	12,038
Dry Strait	8	40,908
Endicott	9	23,642
Granite	10	14,184
Hecata	11	39,395
Hollis	12	48,464
Hoonah	13	109,057
Koskiusko	14	16,767
Kufreanof	15	57,209
Kuiu	16	45,368
Kupreanof	17	106,378
Little Coal Bay	18	9,591
Madan Bay	19	14,199
Marble/Orr Islands	20	13,436
Martin Lake	21	5,706
Meyers Chuck	22	22,499
Naha	23	250,914
Niblack	24	87,273
North Dall	25	26,774
North Juneau	26	26,478
North Prince of Wales	27	130,248
North Thorne	28	57,604
Old Franks	29	32,136
Port Haughten	30	52,508
Saginaw Bay	31	15,761
South Thorne	32	34,996
Sumez	33	17,290
Tebenkof Bay	34	25,173
Thomas Bay	35	29,100
Vixen Inlet	36	38,883
Windham	37	17,118
Yakutat	38	80,711
Zarembo	39	28,817
		2,000,069

Testimony of Kirk Dahlstrom
Secretary
Viking Lumber

Testifying Before
Senate Energy and Natural Resources Committee
Regarding
S. 3203 The Alaska Economic Development Act
September 19, 2016

Good Morning Senator and Chair Murkowski, Ranking Member Cantwell, and Members of the Committee. Thank you for the opportunity to present testimony today at this hearing. My name is Kirk Dahlstrom. I am Secretary and operator of Viking Lumber Mill located in Klawock, Alaska. Viking is the sole remaining mid-sized sawmill in southeast Alaska and a family-owned and operated business, incorporated in the State of Alaska. I have been the general manager of operations at Viking's facilities located between Craig and Klawock on Prince of Wales Island, Alaska since 1994. I am responsible for all of Viking's operations. The mill is this point is almost totally dependent on timber which is sold from the Tongass National Forest.

Viking strongly supports rapid passage of Section 502, the Alaska Mental Health Land Exchange. The passage of this section is absolutely critical for the continued success and viability of the Viking Mill and for Viking's sister company's (Dahlstrom Lumber Company) operations in Washington State at Hoquiam. Viking and Dahlstrom Lumber Company operate in an integrated process and wood which Viking is able to harvest in Southeast Alaska plays a key part in the integrated operations by which the Hoquiam Mill supplies our customers. Seventy per cent of our customers are domestic purchasers, including Wayne Dalton Corporation, Centralia, Washington; Sierra Lumber, San Jose, California; and Jameson Fence Supply, Dallas, Texas.

It is absolutely critical that Viking has a steady supply for the Alaska operation which will also affect the Hoquiam Washington facility. Viking sends much of its timber to Hoquiam for remanufacture and to be dressed, dried, packages, wrapped and distributed. This integrated work in Hoquiam helps support the 38 jobs in

Washington State. I am also submitting two letters of support from the Alta Forest Products, Chehalis, Washington and Dahlstrom Lumber facility in Hoquiam each of which supports the passage of the Alaska Mental Health Trust Land Exchange as important to their operations. Please accept and add these letters to the hearing record.

Viking is a key economic engine in Southeast Alaska as it provides jobs for its own mill workers, as well as related employment for timber fallers, truck drivers, equipment owners, and operators as well as stevedores many of whom are also members of AFA. I was also President of AFA for four years and remain on AFA's Board of Directors. I make this testimony to provide the committed facts regarding the devastating harm that could befall the families, related businesses, and communities of Southeast Alaska if the Alaska Mental Health Exchange does not pass and quickly.

Viking manufactures raw logs into lumber products. With no timberland holdings of its own, Viking is entirely dependent on a steady supply of public timber sales, the majority of which are offered by the Forest Service on the Tongass National Forest. Timber from the Tongass has always been and continues to be a critical source of supply for Viking's operations. Since 1994, we have purchased and successfully operated over 30 Forest Service timber sales. But now, the Forest Service timber sales are lagging and are not providing my mill with a steady supply of timber. Viking needs the AMHT land exchange to provide some other source of timber supply to help broaden and diversify its timber supply base.

We have operated our mill continuously for 15 years, except for maintenance shutdowns, until we had to shut down our mill for the first time on December 17, 2009, because we lacked the necessary volume of Hemlock and Spruce logs to continue mill operations. As a result, we had to lay off 15 employees.

Fortunately, the Forest Service awarded the Diesel timber contract to Viking on December 23, 2009. Because of our critical need for the logs from Diesel, we moved forward to promptly complete the necessary paperwork and planned to restart the mill on February 8, 2010, at which time we also planned to re-hire all of our laid off personnel, and keep the mill running continuously that year.

However, on January 11, 2010, environmental groups filed a lawsuit seeking, among other things, to enjoin the Diesel timber sale claiming to protect the Alexander Archipelago wolf and the Sitka black-tailed deer, which is one source of food for the wolf. Tongass Conservation Soc'y v. Forest Service, 10-cv-00006 TMB. In 2010, the 9th Circuit Court denied plaintiffs' request for injunctive relief in a ruling that was affirmed on appeal. On remand, this Court granted the Forest Service's Motion for Summary Judgment in a ruling that was also affirmed on appeal. See Tongass Conservation Soc'y v. Forest Service, No. 10-35904, Slip Op., Oct. 24, 2011 (Doc. No. 208). Even though the lawsuit against the Diesel timber sale was found to be without merit in four legal opinions, the litigation delayed operations on the sale, consumed Viking's financial resources, and made planning mill operations and the general conduct of business very difficult.

That is why the Alaska Mental Health Trust Land Exchange is so critical to future operations of Viking. If the Trust Land Exchange is approved, I am working with AMHT to provide harvest and production of the timber which AMHT will receive in the exchange on Prince of Wales Island. This timber if it becomes available to Viking could provide up to ten years of supply to the Viking Mill at Klawock and be very helpful to our integrated operations in Hoquim. So passage of the AMHT land exchange is time critical.

As of September 15, 2016, Viking had approximately 4.5 MMBF of logs in inventory at its mill and another roughly 28 MMBF of timber under contract on the state sale. However, the high quality spruce, which is the most important source of raw material for Viking's product line, will run out in just a few months at which point Viking's operations will immediately become much less economical than they would be if logs from the AMHT land exchange were available.

Of course, logs ready for processing do not instantaneously appear at the mill. Instead, the timber must be accessed, harvested, loaded and then transported from the timber sale to the mill site. That takes time and makes the Congressional approval of the AMHT exchange so time critical.

Viking is currently one of the largest year-round employers on Prince of Wales Island. Most of our annual $22 million in revenue remains on the Island and has contributed significantly to the Island's economy over the years.

Keeping Viking's mill supplied with the reliable source of timber contained in the Alaska Mental Health land exchange is essential to the continued employment of more than 150 people, including not only of Viking's employees but employees of our subcontractors as well.

Finally, I want to thank the Alaska Delegation and particularly Senator Murkowski for her commitment, common sense, and passion to help us achieve this solution. On behalf of Viking and its Alaska and affiliated Washington State employees, Viking asks this Committee and Congress to pass the Alaska Mental Health Land Exchange Act as quickly as possible and authorize the land exchange so this timber can be made available to Viking.

Thank you.

Attachments:

1. Alta Forest Products Letter in support of the AMHT Exchange
2. Dahlstrom Lumber Letter in support of the AMHT Exchange

Alta Forest Products
810 NW Alta Way
Chehalis, WA 98532

Dear Senator Cantwell,

In regards to Senate Bill – S.3006

Regarded as "Alaska Mental Health Trust Land Exchange Act of 2016"

Alta Forest Products operates three Western Red Cedar (WRC) fence manufacturing facilities in Washington State (Morton, Shelton, and Amanda Park) employing over 300 dedicated milling professionals with family wage jobs. We work hand in hand with TERO and employ an exemplary crew of minority workers at our Amanda Park mill which is located on the Quinault Reservation

Alta's fencing products are produced from renewable Western Red Cedar trees. The logs are sourced exclusively from well managed timberlands in regions where the species grow, including Washington, Oregon, Idaho & Alaska

Alta prides itself by leading the industry in technology and green manufacturing which results in 100% of the log fiber being recovered and utilized.

In recent years West coast WRC manufactures have been extremely challenged to source enough raw materials to keep their mills running and our industry has seen the closure of multiple mills. Most recently was early 2016 when Mary's River Lumber that employed some 250 workers in Washington and Oregon was forced to close and publicly cited the lack of raw materials as the main contributing factor to the company's closure

The passage of S.3006 will give an opportunity for WRC logs that do not fit the grade of products manufactured in the state of Alaska to be processed by mills in Washington State.

At the same time that our industry suffers from lack of raw materials due largely to timber harvest restrictions, consumer demand for our products is high. We urge you to keep inferior foreign products from being imported into our markets and putting our Washington jobs at risk. Please pass bill S.3006 which makes sense for state of Alaska and Washington.

Sincerely,



Todd Shipp
Vice President of Procurement
Alta Forest Products

DAHLSTROM LUMBER COMPANY
100 Airport Way • P.O. Box 386 • Hoquiam, WA 98550
Telephone (360) 533-0448, 533-0521 • FAX (360) 533-3619

Dear Sir or Madam:

We are writing in an effort to express the impact that the Alaska Mental Health Trust land exchange will have on several communities throughout SouthEast Alaska and Washington State especially. The land exchange is vital in providing continued economic security within these communities.

The Alaska Mental Health Trust land exchange will not only generate income for the Trust for many Alaskans with mental illness, brain injuries, developmental disabilities and Alzheimer's disease , to name a few, but has also far reaching affects to many small communities that are dependent on jobs provided by the timber supply generated by the harvest and management of the forest.

Directly, Viking Lumber, the only old-growth sawmill still in operation in Southeast Alaska currently employs 43 employees within a small community in Klawock Alaska. This sawmill, though seemingly small, is mighty in the far reaching impact its vital operation has on the continued employment of jobs throughout Alaska and Washington and Oregon. The continued supply of wood brought to the mill will sustain the viability of the mill and allow it to continue to operate profitably. It is essential that this mill not be allowed to close as it is the keystone in production that will make it possible for many other companies to also continue business in several economically sensitive communities.

Companies that employ many with jobs that are essential for struggling families in communities that are not rich with opportunity are keen to see the Alaska Mental Health Trust land exchange proceed. These companies, Papac Alaska, Columbia Helicopters, Boyer Tug and Barge, Alcan Timber, just to name a few are associated with the business provided through the harvest of timber that the land exchange will ensure.

In Washington state, several businesses are also directly impacted by the production of the Viking Lumber mill. Little River and Afab and Dahlstrom Lumber are companies that employ 38 direct jobs in the Grays Harbor county and depend on the production generated by the mill in Alaska. Not only do these companies provide many stable jobs for its employees but indirectly bring business to other companies within the Grays Harbor area. These companies, along with Viking Lumber in Klawock Alaska, will likely not survive without the Alaska Mental Health Trust Exchange.

The Alaskan Mental Health Trust land exchange, after years of conscientious planning with local governments and environmental and conservation groups, has come up with an acceptable policy for continued stewardship of land that not only just makes sense environmentally for the community but also economically. With the land exchange the Trust will continue to be able to provide much needed services to those in need. Countless jobs generated in small communities of Alaska and Washington where small businesses are dependent on the timber supply directly and indirectly are hanging in the balance.

Please consider the impact the Alaskan Mental Health Trust land exchange will have on so many families. Your position and voice are much needed in bringing light to the importance of this matter.

Sincerely,

Dennis Reynvaan

September 20, 2016

The Honorable Lisa Murkowski
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murkowski,

Please accept these comments for the committee regarding the Alaska Mental Health Trust Land Exchange.

As you know and understand, the Timber Industry in Alaska is on life support and may soon disappear completely. This would be a hard blow to the region's fragile economy. In many of our communities there are very few opportunities to work year round in a position that provides enough income and stability to raise a family and otherwise thrive. Without timber harvest, many more young people will leave, and more communities will be hollowed out.

The US Forest Service has not been able to provide adequate timber to keep any stability for the industry in Southeast Alaska. The exchange of the 17,341 acres of Trust lands for up to 20,580 acres of US Forest Service lands of equal value would avoid the potential adverse impacts on tourism, recreation, wildlife management, and watershed protection while sustaining what remains of the timber industry in Southeast Alaska by providing more timber lands that could be managed on a sustained yield basis.

The Alaska Mental Health Trust Land Exchange bill is critical to maintain the current timber industry in SE Alaska by providing the Trust the ability to offer sufficient timber supply until other lands owners can place enough timber on the market during the transition to young growth harvest. Trust timber sales will provide required timber for the last medium size sawmill on Prince of Wales which supplies employment for 150 people. The timber industry provides many other jobs in SE communities.

I strongly urge you to pass the Alaska Mental Health Trust Land Exchange bill to support the SE economy, communities, timber industry, and the Trust in providing mental health services in SE Alaska.

Sincerely,

Brian Brown
PO Box 23105
Ketchikan, Alaska 99901

Kleeschulte, Chuck (Energy)

From:	Dan Bockhorst <danb@kgbak.us>
Sent:	Monday, September 19, 2016 3:04 PM
To:	Kleeschulte, Chuck (Energy)
Subject:	Ketchikan Gateway Borough Support for S. 3203, the Alaska Economic Development and Access to Resources Act
Attachments:	Resolution_2667.pdf
Follow Up Flag:	Follow up
Flag Status:	Flagged

Senator Murkowski:

I am aware that the Senate Energy and Natural Resources Committee has scheduled a hearing for this Thursday, September 22. Among the bills being heard is S. 3203, the "Alaska Economic Development and Access to Resources Act."

The Ketchikan Gateway Borough Mayor and Assembly have a long history of *strongly* supporting responsible economic development and access to Alaska's abundant resources. S. 3203 is clearly consistent with that position.

There are three parts of S. 3203 that are of particular importance to the Ketchikan Gateway Borough. Those are Sections 401, 502, and 503, which are addressed below.

Section 401.

Section 401 of the bill provides for Department of Energy grants for the development of more environmentally acceptable and less expensive ways to separate and process rare earth elements, which would increase the likelihood of economic production of rare earth elements at the Bokan Mountain mining project near Ketchikan.

The Ketchikan Gateway Borough has long supported efforts to encourage production of rare earth elements through development of the Bokan-Dotson Ridge Rare Earth Element Project.

Section 502.

Section 502 of the bill contains provisions to carry out the Alaska Mental Health Trust land exchange with the U.S. Forest Service.

For years, the Ketchikan Gateway Borough Assembly has strongly encouraged the Alaska Mental Health Trust land exchange. The latest expression of such support is reflected in Resolution No. 2667, adopted by the Ketchikan Gateway Borough Assembly on August 15, 2016. A copy of Resolution No. 2667 is attached.

Section 503.

Section 503 of S. 3203 provides for a conveyance, *subject to valid existing rights*, of not more than 2,000,000 acres of federal land for use by the State as a State forest. The Borough has previously expressed its support for this measure.

By emphasizing the three sections above, there is no lack of support on the part of the Borough for the other 18 substantive sections of S. 3203. As stressed above, The Mayor and Members of the Assembly of the Ketchikan Gateway

Borough have consistently supported responsible economic development and access to Alaska's abundant natural resources.

Sincerely,

Dan Bockhorst
Borough Manager
Ketchikan Gateway Borough
1900 First Avenue, Suite 210
Ketchikan, Alaska 99901

Telephone: (907) 228-6625

KETCHIKAN GATEWAY BOROUGH

RESOLUTION NO. 2667

A Resolution of the Assembly of the Ketchikan Gateway Borough Strongly Supporting and Urging Passage of S. 3006, the Alaska Mental Health Land Exchange Act of 2016

RECITALS

A. **WHEREAS**, in 1956, Congress passed the Alaska Mental Health Enabling Act, granting an entitlement of one million acres of federal land to the Territory of Alaska to generate revenues for the benefit of Alaskans with mental illness, developmental disabilities, chronic alcoholism, Alzheimer's disease, and dementia; and

B. **WHEREAS**, the Alaska Mental Health Trust Board has a fiduciary responsibility to: (1) maximize long-term revenue from Trust Land; (2) encourage a diversity of revenue-producing uses of Trust Land; (3) manage Trust Land prudently, efficiently and with accountability to the Trust and its beneficiaries; and (4) protect and enhance the long-term productivity of Trust Land; and

C. **WHEREAS**, for nearly a decade, the Alaska Mental Health Trust has been seeking to exchange with the US Forest Service 18,066 acres of forested Trust lands near downtown Ketchikan, Juneau, Petersburg, Wrangell, Sitka, and Myers Chuck, in exchange for US Forest Service timber lands of equal value in the Ketchikan Gateway Borough and on Prince of Wales Island; and

D. **WHEREAS**, from the perspective of Trust beneficiaries, the highest and best use of the 18,066 acres of Trust lands may be to harvest high-value timber lands and develop other lands for residential, commercial, or industrial purposes; and

E. **WHEREAS**, harvesting and development of the 18,066 acres could have wide ranging adverse impacts on tourism, recreation, wildlife management, and watershed protection; and

F. **WHEREAS**, the exchange of the 18,066 acres of Trust lands for US Forest Service lands of equal value of lands would avoid the potential adverse impacts on tourism, recreation, wildlife management, and watershed protection; and would also help sustain what remains of the timber industry in Southeast Alaska by providing more timber lands that could be managed on a sustained yield basis; and

G. **WHEREAS**, the Ketchikan Gateway Borough Assembly has consistently and repeatedly endorsed the proposed land exchange (e.g., Resolution No. 2293

adopted January 17, 2011; Resolution No. 2409 adopted June 4, 2012; Resolution No. 2471-A adopted June 17, 2013; Resolution No. 2513 adopted October 21, 2013); and

H. **WHEREAS**, on June 30, 2015 the US Forest Service and the Trust completed an "Agreement To Initiate" an administrative land exchange which involves preparation of an Environmental Impact Statement that could take years to complete; and

I. **WHEREAS**, delays in the US Forest Service timber sale planning efforts have caused serious concerns that there will not be enough timber available to support what remains of the timber industry in Southeast Alaska to allow it to transition to young-growth timber unless the State of Alaska and Mental Health Trust can provide bridge timber sales in the interim; and

J. **WHEREAS**, S. 3006, the Alaska Mental Health Trust Land Exchange Act of 2016, sponsored by U.S. Senator Lisa Murkowski and co-sponsored by U.S. Senator Dan Sullivan, would provide Congressional authorization and direction for the exchange, which should expedite completion of the transfer so that timber lands could be transferred to the Trust within 12 months; and

K. **WHEREAS**, the Alaska Mental Health Trust Land Exchange Act of 2016 is fair and responsible; notably, it requires: (1) the land exchange to be of equal value, based on appraisal; (2) environmental reviews to protect all species, cultural and historic resources, wetlands, and floodplains; (3) that tribal consultations be conducted; and (4) that the trust cover all expenses incurred by the US Forest Service in completing the exchange; and

L. **WHEREAS**, the Trust has previously worked with the Ketchikan Gateway Borough and other affected municipal governments, affected communities, the Southeast Alaska Conservation Council, the Tongass Futures Roundtable, the Mitkof Homeowners Association of Petersburg, The Nature Conservancy and Trout Unlimited to select lands with the least environmental impacts and to fashion the exchange terms to benefit wildlife.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH as follows:

Section 1. The Ketchikan Gateway Borough strongly supports and urges passage of S.3006, the Alaska Mental Health Trust Land Exchange of 2016, which reflects the proposed land exchange between the US Forest Service and the Alaska Mental Health Trust as presented in the Agreement to Initiate dated June 30, 2015.

Section 2. The Borough Clerk is directed to provide a copy of this resolution to:

(1) The Honorable Lisa Murkowski, U.S. Senator for Alaska;
(2) The Honorable Dan Sullivan, U.S. Senator for Alaska;
(3) The Honorable Don Young, U.S Congressman for Alaska;
(4) The Honorable Bill Walker, Governor of Alaska;
(5) Tom Vilsack, Secretary of Agriculture;
(6) M. Earl Stewart, Tongass Forest Supervisor;
(7) Jeff Jessee, Chief Executive Officer, Alaska Mental Health Trust Authority;
(8) John Morrison, Executive Director, Alaska Mental Health Lands Trust Office

Section 3. Effective Date. This resolution shall be effective immediately.

ADOPTED this 15th day of August, 2016.

David Landis, Borough Mayor

ATTEST:

Kacie Paxton, Borough Clerk

APPROVED AS TO FORM:

Scott A. Brandt-Erichsen, Borough Attorney

September 20, 2016

The Honorable Lisa Murkowski
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murkowski,

Congress passed the Alaska Mental Health Enabling Act, granting an entitlement of one million acres of federal land to the Territory of Alaska in 1956. The purpose was to generate revenues for the benefit of Alaskans with mental illness, developmental disabilities, chronic alcoholism, Alzheimer's disease, and dementia.

The Alaska Mental Health Trust Board has a fiduciary responsibility to: (1) maximize long-term revenue from Trust Land; (2) encourage a diversity of revenue-producing uses of Trust Land; (3) manage Trust Land prudently, efficiently, and with accountability to the Trust and its beneficiaries; and (4) protect and enhance the long-term productivity of Trust Land.

In just the last two years the Trust has provided 59 grants to organizations in SE, totaling over $3 million. Another 323 Trust beneficiaries in SE have been awarded mini grants from the Trust totaling over $482,000. The Trust needs to create revenues from its land and resources in order to continue provide these types of services.

For nearly a decade the Alaska Mental Health Trust has been seeking to exchange forested Trust lands near downtown Ketchikan, Juneau, Petersburg, Wrangell, Sitka, and Myers Chuck, in exchange for US Forest Service timber lands of equal value in the Ketchikan Gateway Borough and on Prince of Wales Island.

The exchange of the 17,341 acres of Trust lands for up to 20,580 acres of US Forest Service lands of equal value would avoid the potential adverse impacts on tourism, recreation, wildlife management, and watershed protection while sustaining what remains of the timber industry in Southeast Alaska by providing more timber lands that could be managed on a sustained yield basis.

The Alaska Mental Health Trust Land Exchange bill is critical to maintain the current timber industry in SE Alaska by providing the Trust the ability to offer sufficient timber supply until other lands owners can place enough timber on the market during the transition to young growth harvest. Trust timber sales will provide required timber for the last medium size sawmill on Prince of Wales which supplies employment for 150 people. The timber industry provides many other jobs in SE communities.

I strongly urge you to pass the Alaska Mental Health Trust Land Exchange bill to support the SE economy, communities, timber industry, and the Trust in providing mental health services in SE Alaska.

Sincerely,

William Swift, Executive Director, Greater Ketchikan Chamber of Commerce
2417 Tongass Ave, Suite 223 A
Ketchikan, AK 99901

Kleeschulte, Chuck (Energy)

From: Robert Sivertsen <rwsivertsen@gmail.com>
Sent: Wednesday, September 21, 2016 1:10 AM
To: Kleeschulte, Chuck (Energy)

9/22/2016

The Honorable Lisa Murkowski
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murkowski,

Congress passed the Alaska Mental Health Enabling Act, granting an entitlement of one million acres of federal land to the Territory of Alaska in 1956. The purpose was to generate revenues for the benefit of Alaskans with mental illness, developmental disabilities, chronic alcoholism, Alzheimer's disease, and dementia.

The Alaska Mental Health Trust Board has a fiduciary responsibility to: (1) maximize long-term revenue from Trust Land; (2) encourage a diversity of revenue-producing uses of Trust Land; (3) manage Trust Land prudently, efficiently, and with accountability to the Trust and its beneficiaries; and (4) protect and enhance the long-term productivity of Trust Land.

In just the last two years the Trust has provided 59 grants to organizations in SE, totaling over $3 million. Another 323 Trust beneficiaries in SE have been awarded mini grants from the Trust totaling over $482,000. The Trust needs to create revenues from its land and resources in order to continue provide these types of services.

For nearly a decade the Alaska Mental Health Trust has been seeking to exchange forested Trust lands near downtown Ketchikan, Juneau, Petersburg, Wrangell, Sitka, and Myers Chuck, in exchange for US Forest Service timber lands of equal value in the Ketchikan Gateway Borough and on Prince of Wales Island.

The exchange of the 17,341 acres of Trust lands for up to 20,580 acres of US Forest Service lands of equal value would avoid the potential adverse impacts on tourism, recreation, wildlife management, and watershed protection while sustaining what remains of the timber industry in Southeast Alaska by providing more timber lands that could be managed on a sustained yield basis.

The Alaska Mental Health Trust Land Exchange bill is critical to maintain the current timber industry in SE Alaska by providing the Trust the ability to offer sufficient timber supply until other lands owners can place enough timber on the market during the transition to young growth harvest. Trust timber sales will provide required timber for the last medium size sawmill on Prince of Wales which supplies employment for 150 people. The timber industry provides many other jobs in SE communities.

I strongly urge you to pass the Alaska Mental Health Trust Land Exchange bill to support the SE economy, communities, timber industry, and the Trust in providing mental health services in SE Alaska.

Sincerely,

Bob Sivertsen
3817 Alaska Avenue
Ketchikan, Alaska 99901

Kleeschulte, Chuck (Energy)

From: Clare Doig <cdoig@forestandlandmanagement.com>
Sent: Wednesday, September 21, 2016 12:39 AM
To: Kleeschulte, Chuck (Energy)
Subject: Fwd: Support of S.3006

Sent from my iPad

Begin forwarded message:

From: Clare Doig <cdoig@forestandlandmanagement.com>
Date: September 19, 2016 at 10:00:38 PM AKDT
To: Chuck_Kleeshulte@energy.senate.gov
Subject: Support of S.3006

Dear Senator Murkowski,

I am writing in support of S. 3006, the exchange of lands between the Alaska Mental Health Trust and the U.S. Forest Service.

This exchange will benefit the communities which value the Trust's current lands as the scenic background that enhances their tourism dependent enterprises. It will benefit the Mental Health Trust by allowing it to manage the forest lands it receives as investment properties to generate revenues to support the programs needed by the Trusts beneficiaries; Alaskans with mental health problems and related disabilities. The exchange will benefit the residents of southeast Alaska by supporting the continued operation of the only large sawmill and the major employer in Klawock and Prince of Wales Island.

This exchange will also benefit the US Forest Service, as it will provide a little more time for it to work through the the various issues preventing it from fulfilling it's mandate to provide sufficient volumes of economically operable timber to support the southeast Alaska timber industry.

I am writing this as a professional forester, born and raised in Sitka, Alaska, and having worked the majority of my professional career in Alaska. It is my personal and professional opinion that this exchange is in the best interest of all of the principal stakeholders.

Thank you for your consideration of these comments.
Sincerely,

Clare E.Doig, ACF,CF
P.O. Box 110149
Anchorage, Alaska 99511

Greater Southeast Alaska Conservation Community

The Honorable Lisa A. Murkowski
Chairman
Committee on Energy and Natural Resources
709 Hart Senate Office Building Washington, DC 20510-0203

The Honorable Maria Cantwell
Ranking Member
Committee on Energy and Natural Resources
511 Hart Senate Office Building Washington, DC 20510-4705

Subj: Introduced bills concerning the Tongass National Forest

15 September 2016

Dear Senators,

The Greater Southeast Alaska Conservation Community (GSACC) is a grassroots regional environmental (501 c.3) nonprofit formed in 2011. GSACC's mission is, *"To defend and promote the biological integrity of Southeast Alaska's terrestrial, freshwater, and marine ecosystems for the benefit of current and future generations."* Our volunteer board is composed of career professionals in resource management and biological research as well as commercial fishermen representing several gear groups focusing on a variety of target species.

On behalf of the Board of Directors and membership of GSACC, we urge Senator Murkowski to withdraw the full suite of bills. Individually as well as collectively, the bills are an assault on the already tenuous state of ecological integrity in our region, through transfers of land ownership and the resulting substantial deregulation of forest management. The unprecedented scale and sweeping changes imposed by any of these bills (S.3203, S. 3204; & S.3273) is a breathtaking demonstration of opportunism at the expense of present and future generations of Alaskans and all American citizens as owners of our public lands.

S.3006 (imbedded in S.3206) deserves special mention because of its intense press coverage. As the communities of Petersburg and Ketchikan face the Alaska Mental Health Trust's (AMHT's) daunting ultimatum to log its landslide-prone mountain slopes in those towns unless S. 3006 passes, much of Southeast's residents cannot help but feel being played as hostages and political pawns in this legislation. Senator Murkowski, you said in 2010 in Petersburg that you truly "regret the anxiety & tension that the Sealaska bill had created in our small towns and that you recognize, "...has pitted neighbor against neighbor" and that the "resentment is not good for communities."

Indeed Senator, such is the pernicious effect your lands legislation has already had on our communities and continues to this day.

S. 3006 short-circuits the existing Agreement to Initiate a land exchange with AMHT and the USFS. It also short-circuits the necessary public involvement associated with that procedural protocol by employing the industry's perennial narrative of imminent collapse in order to justify congressional intervention.

Instead of the terms of S. 3006, we ask that you introduce a bill for a simple Federal legislative buy-out of the AMHT lands in question — to provide an equivalent monetary endowment for AMHT instead of a land-based one. In the words of GSACC board member Becky Knight, published in the Juneau Empire recently:

"The best alternative would be for the federal government to trade an ample monetary endowment to AMHT in exchange for the land holdings (it) has been trying to unload. The endowment should be based on an appraisal of the profit that the Trust could be expected to net over two cutting cycles (i.e. the net value to the Trust of the present timber, plus something for the land.)

As Ms.Knight points out this approach, modeled after the Shee Atika buy-out, would allow AMHT to focus on its primary mission, one normally expected of Mental Health service providers in government, instead of serving as a heavy-handed corporate proxy of the Southeast Alaska timber industry.

Your stated regret for pitting neighbor against neighbor, misses an essential fact. Your zeal for privatization and deregulation is also pitting the unsustainable sector of old growth clearcutting against our two world class, sustainable economic sectors. Even the Editor of the Ketchikan Daily News recently acknowledged the impacts to Ketchikan's tourism economy, should Deer Mountain get logged.

Southeast's billion dollars-apiece, commercial fishing and tourism industries are each dependent upon intact, old growth forests and the resilient, productive watersheds they provide. The timber industry is targeting those same old growth forests, which require centuries for the original structure and function to return. Whole watersheds comprised of centuries-old forest can be eliminated in a single cutting season, while timber represents all of 1% of the regional economy.

Greater Southeast Alaska Conservation Community

In closing, please find evidential photographic documentation taken by one of GSACC's members, who as a commercial salmon troller is depending upon resilient, productive watersheds. The images represent State of Alaska-approved activities of the Sealaska Timber Corporation on the Cleveland Peninsula just a few miles north of Ketchikan. Please consider the effects of your privatization and deregulation legislation upon the changing vistas and natural wealth of our world famous Scenic By-Ways of the Inside Passage.

Sincerely,

David Beebe

David Beebe
GSACC president



Sealaska Clearcut, and cruise ship, Clarence Strait, June 2014 photos by Joseph Sebastian, skipper, FV Alta E







September 19, 2016

The Honorable Lisa Murkowski
Chairman
Senate Energy and Natural Resources Committee
709 Hart Senate Office Building
Washington, DC 20510

The Honorable Maria Cantwell
Ranking Member
Senate Energy and Natural Resources Committee
511 Hart Senate Office Building
Washington, DC 20510

Ucore Rare Metals, Inc. and the Greater Ketchikan Chamber of Commerce support Senator Murkowski's recently introduced bill, the Alaska Economic Development and Access to Resources Act. S. 3203 contains a host of provisions that will benefit the Alaskan economy and support Alaskan industry and has garnered further support from the Alaska Miners Association and the City of Craig. Additionally, provisions within the bill promote the creation of green technology and strengthen U.S. national security by encouraging the development of new technologies to meet the nation's demand for critical and strategic materials.

Advancements in technology over the past half-century have driven the demand for rare earth elements. Everything from smartphones to electric vehicles to advanced defense applications such as the Joint Strike Fighter rely in some capacity on the unique properties of rare earths and would be rendered useless without them. Currently, the production of these elements is dominated by China which controls the majority of the world's mining of rare earth containing ore and each subsequent stage in the separation supply chain. Chinese production of rare earths relies upon two separation techniques, ion exchange and solvent extraction. While the ion exchange process can produce small amounts of high purity rare earths, solvent extraction enables large scale separation. However, solvent extraction techniques have a very low-selectivity for individual rare earths and necessitate the use of many separation stages using corrosive chemicals leading to the generation of vast amounts of highly toxic, organic waste. One need not look further than the artificial lake created in China's rare earth-producing Inner Mongolia region to witness the environmental degradation being caused as a result solvent extraction separation.[1]

[1] Tim Maughan, "The dystopian lake filled by the world's tech lust." *BBC*, 2 April 2015. http://www.bbc.com/future/story/20150402-the-worst-place-on-earth.

Section 401 of S.3203 provides for the creation of a grants program to develop "more environmentally acceptable and less expensive ways to separate and process rare earth elements, which would increase the likelihood of economic production of rare earth elements in North America." Not only would this language promote the development of an alternative to foreign sources of rare earths, improving U.S. national security, but section 401 would foster American development of clean technology. "Environmentally benign technologies," as referred to by the bill, offer the ability to meet 21st century demand for rare earths while simultaneously promoting metal sustainability and the elimination of pollutants from the rare earth separation supply chain.

Despite increased demand for rare earths over the past half-century, low-cost, environmentally-friendly alternatives to traditional separation processes have yet to be proven. Instead, companies have relied primarily on the expensive and polluting solvent extraction method of separation. The pilot plant to be constructed under Section 401 would not only help alleviate U.S. dependence on foreign sources of rare earths, but also drive innovation toward the next generation of separation technologies such as Molecular Recognition Technology.

With no domestic rare earth mine or separation facility currently in operation, the U.S. exposes itself to dangerous supply interruptions. Thus far, the sole mitigation strategy employed by the Department of Defense consists of stockpiling small reserves of certain rare earths, a rather sanguine approach considering the host of defense-related applications that would be rendered ineffective if U.S. access to rare earths was restricted. Section 401, in placing an emphasis on closed loop systems with the capability to recover heavy rare earths such as dysprosium, terbium, and europium, enables to U.S. to obviate its dependence on foreign sources of critical materials.

Ucore supports the language included in Section 401 of S.3203 and believes the bill effectively promotes the development of domestic alternatives to foreign sources of critical materials.

Regards,

Randy MacGillivray, VP Project Development
Ucore Rare Metals, Inc.

William Swift

William Swift, Executive Director
Greater Ketchikan Chamber of Commerce

Jason Custer, President
Greater Ketchikan Chamber of Commerce

US MAGNETIC MATERIALS ASSOCIATION

September 19, 2016

The Honorable Lisa Murkowski
Chairman
Senate Energy and Natural Resources Committee
709 Hart Senate Office Building
Washington, DC 20510

The Honorable Maria Cantwell
Ranking Member
Senate Energy and Natural Resources Committee
511 Hart Senate Office Building
Washington, DC 20510

The U.S. Magnet Material Association (USMMA) wishes to express support for Senate bill 3203, the Alaska Economic Development and Access to Resources Act. Included in S.3203 are a series of provisions that will support the U.S. domestic industrial base and promote the security of the nation's supply chains for critical and strategic materials, including those for rare earths.

At present China controls the majority of the world's mining and production of rare earth elements, including nearly complete control over the production of rare earth metals from oxides. Such rare earth elements are of critical and strategic importance to the United States, specifically to the Department of Defense as these materials are used in a host of applications ranging from the F-35 to the Small Diameter Bomb. Despite the critical nature of these elements, the United States is exposing itself to undue risk by relying on Chinese-produced material. Just six years ago, in the wake of increased tensions between China and Japan, China cut its export quota for rare earths by 40 percent from 2009 levels severely restricting the supply of rare earths and dramatically increasing their prices.[1]

From the 1980s until the early 2000s, then from 2011-2015, the United States was able to largely rely on a mine in Mountain Pass, California as an alternative to certain Chinese-produced light rare earths, albeit, the U.S. still operated without a domestic rare earth metals production capability. The mine was most recently operated by Molycorp, Inc. However, after rare earth prices collapsed from 2012 to 2016, primarily as a result of China abolishing its rare earth quotas and increasing production, Molycorp's business case rapidly evaporated. Molycorp subsequently filed for bankruptcy in June of 2015, resulting in the existing process facility being dismantled and sold, leaving the U.S. with no production capability for rare earths. Thus, once again, the U.S. military is solely reliant on foreign sourced material to

[1] Bradsher, Keith. "Amid Tension, China Blocks Vital Exports to Japan." The New York Times. September 22, 2010. Accessed April 4, 2016. http://www.nytimes.com/2010/09/23/business/global/23rare.html?_r=0.

support the production of countless defense systems, including direct reliance on Chinese production of rare earth metals.

Congress has repeatedly issued warnings to the Department of Defense that it lacks a secure domestic supply chain for the production of rare earths.[2,3] While the Department of Defense has noted the reliance on foreign sources of rare earth elements and the lack of "capability along several nodes of the value chain, particularly in rare earth–based metals," thus far the Department's only mitigation strategy has been to stockpile yttrium and dysprosium and monitor the market.[4,5]

Language included in Section 401 of S.3203 would encourage the domestic development of separation and processing capabilities for rare earth elements. One of the primary reasons for the failure of Molycorp was the inability of the U.S. company to produce material at a lower cost than traditional Chinese suppliers. Thus, to establish true independence, a technological breakthrough, with an accompanying breakthrough in cost of production, must be achieved to allow the United States to once again assert independence in the rare earth market. The Department of Energy grants program to be established under the section would help alleviate a critical supply chain risk factor in the production of rare earth elements including dysprosium (magnets), terbium (actuators and sonar), and europium (fluorescents) by introducing a disruptive technology with significant cost and environmental advantages over traditional Chinese production. In a heightened security environment, it is critical that the United States develop alternatives to foreign sources of rare earth material which should include the development of new technologies designed to separate and process rare earths. Section 401 of S.3203 is welcome progress in this direction and is wholly supported by the U.S. Magnet Material Association.

Regards,



Ed Richardson
President
USMMA

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[2] U.S. House, Committee on Appropriations. *Department of Defense Appropriations Bill, 2015*(H. Rept. 113-473). Washington: Government Publishing Officer, 2014.
[3] U.S. House, Committee on Appropriations. *Department of Defense Appropriations Bill, 2012* (H. Rept. 112-110). Washington: Government Publishing Office, 2011.
[4] Department of Defense. *Strategic and Critical Materials 2015 Report on Stockpile Requirements*. 2015.
[5] *National Defense Authorization Act for Fiscal Year 2014,* Pub. L. No. 113-66.

Subject: FW: Alaska hearing statement Support for S. 3273 - City of Wrangell and Wrangell Chamber Support the Landless
Attachments: City of WRG Res No. 04-16-1341.pdf; WRG Chamber Landless Resolution.pdf

From: Richard Rinehart [mailto:richardjrinehart@yahoo.com]
Sent: Monday, September 19, 2016 8:41 PM
To: Kleeschulte, Chuck (Energy)
Subject: Support for S. 3273 - City of Wrangell and Wrangell Chamber Support the Landless

September 19, 2016

Charles Kleeschulte
Republican Professional Staff
Committee on Energy and Natural Resources
United States Senate
312 Dirksen Building
Washington, DC 20510

Re: Support for S. 3273, section 10 – The Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act

Dear Ms. Kleeschulte:

City of Wrangell and Wrangell Chamber Support the Landless Native Communities in SE Alaska!!!

I see there is a hearing being held on Thursday for the Senate Committee on Energy and Natural Resources. I want to send you this information for the record and so you may pass it along to senators and staff on the committee.

I wish to make it clear to the committee members that we have local community support for the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act (see also S. 3004 and S. 872).

Please see the attached resolutions from the City of Wrangell and Wrangell Chamber of Commerce.

Richard J. Rinehart, Jr.
Ph. (907) 209-9094
richardjrinehart@yahoo.com

CITY AND BOROUGH OF WRANGELL

RESOLUTION No. 04-16-1341

A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF WRANGELL, ALASKA, SUPPORTING THE LANDLESS NATIVES OF WRANGELL

WHEREAS, in 1971 Congress enacted the Alaska Native Claims Settlement Act to recognize and settle the aboriginal claims of Alaska Natives to their homelands, and provided for the establishment of Native Corporations to receive and manage funds and lands awarded in settlement of claims of all Alaska Natives, and

WHEREAS, in Southeast Alaska five traditional Native communities were left out of the Claims Settlement Act, including our Community of Wrangell, one of the oldest Native Communities in Southeast Alaska for reasons unknown, and

WHEREAS, in 1971 a total of 747 Alaska Natives enrolled to the Native Village of Wrangell, and today a much larger number are enrolled to our Community through inheritance and gifting of shares, and

WHEREAS, because of the exclusion of our Native Village we and our heirs have been denied the cultural, economic and social benefits that other Southeast Communities have enjoyed that benefit not only Native residents but all others as well, and

WHEREAS, in 1993, Congress directed the Secretary of the Department of Interior to prepare a report examining the reasons why the Unrecognized Communities, including Wrangell, had been denied eligibility to form Native Corporations under the Alaska Native Claims Settlement Act, this report is known as the ISER (University of Alaska Institute of Social and Economic Research)report, and

WHEREAS, the report noted that our Community appeared on early versions of the legislation enacting the Claims Settlement Act, that inclusion and subsequent omission was never clearly explained in any provision of the Act or in the accompanying conference report, and

WHEREAS, Alaska's Congressional Delegation has now introduced legislation in the US House of Representatives by Congressman Don Young, in a Bill titled H.R. 2386 "The Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act", and in the US Senate in a Bill Titled S.872 with the same name by Senator Lisa Murkowski and Senator Dan Sullivan, and

WHEREAS, ISER report referenced above found no meaningful distinction between the Native Village of Wrangell, and other communities in sections 14 and 16 of the Act and therefore no justification for omission from the list of communities eligible to form urban or group Corporations under ANCSA, and further, testimony has been given in the US Congress supporting our Claims to our customary and traditional homelands.

NOW THEREFORE BE IT RESOLVED, THAT THE CITY AND BOROUGH OF WRANGELL, ALASKA supports the passage of said legislation to bring about a fair and just settlement for the benefit of the Natives of Wrangell and for the good of the entire Community.

ADOPTED: April 12, 2016

David L. Jack, Mayor

ATTEST: Kim Lane

Kim Lane, ~~MMC~~, Borough Clerk

City & Borough of Wrangell
Incorporated Borough May 30 2008
Incorporated City June 15, 1903
Alaska

RESOLUTION OF SUPPORT FOR THE LANDLESS NATIVES OF WRANGELL

WHEREAS, in 1971 Congress enacted the Alaska Native Claims Settlement Act to recognize and settle the aboriginal claims of Alaska Natives to their homelands, and provided for the establishment of Native Corporations to receive and manage funds and lands awarded in settlement of claims of all Alaska Natives, and

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NOW THEREFORE BE IT RESOLVED, that the Wrangell Chamber of Commerce supports the passage of said legislation to bring about a fair and just settlement for the benefit of the Natives of Wrangell and for the good of the entire Community.

DATED: April 6, 2016

SIGNED: Christie L. Jamieson

Christie L. Jamieson

BY IT'S: President, Wrangell Chamber of Commerce

September 19, 2016

Charles Kleeschulte
Republican Professional Staff
Committee on Energy and Natural Resources
United States Senate
312 Dirksen Building
Washington, DC 20510

Re: Support for S. 3273, section 10 – The Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act

Dear Ms. Kleeschulte:

All Native Organizations support the Landless Native Communities in SE Alaska!!!

I see there is a hearing being held on Thursday for the Senate Committee on Energy and Natural Resources. I want to send you this information for the record and so you may pass it along to senators and staff on the committee.

I wish to make it clear to the committee members that we have full support of the Native community for the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act (see also S. 3004 and S. 872).

I have attached copies of letters of support and resolutions from the Alaska Native Brotherhood, Alaska Federation of Native, the National Congress of American Indians, the Central Council Tlingit Haida Indian Tribes of Alaska, and the Wrangell Cooperative Association. Every native organization we have asked has provided their full support for our Landless bill.

Some conservationist groups that oppose the Landless are trying to make this about cutting trees – it is not! We don't oppose their mission and goals, we care for fish, trees and our habitat too – we live here. These opponents to our bill are misguided. This bill is about recognition, equitable treatment and correcting a legislative injustice that has gone on for over forty years.

Please support senators Murkowski and Sullivan and pass S. 3273.

Thank for your consideration and support.

Sincerely,

Richard Rinehart Jr.
Landless Shareholder
Wrangell, Alaska



Wrangell Cooperative Association
PO Box 2021
Wrangell, AK 99929
907.874.4304
wcatribe@gmail.com

September 30, 2015

The Honorable Congressman Don Young
Chairman of Subcommittee on Natural Resources
1324 Longworth House Office Bldg
Washington, DC, 20515

The Honorable Raul Ruiz, Ranking Member
Chairman of Subcommittee on Natural Resources
1324 Longworth House Office Bldg
Washington, DC, 20515

Dear Chairman Young and Ranking Member Ruiz,

I am writing this letter in support of S 872, *Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act*, on behalf of the Wrangell Cooperative Association (WCA) The WCA is a federally recognized tribe located in the City of Wrangell, one of the five "landless" communities, along with Ketchikan, Haines, Petersburg and Tenakee.

Despite the fact that our five communities made up nearly a quarter of all Sealaska shareholders, we were not included in the 1971 Alaska Native Claims Settlement Act (ANCSA) and an explanation for our exclusion was never given. Congressional reports conducted decades later concluded that Wrangell, and the other landless communities, were ANCSA eligible and their exclusion was not justified.

For more than forty years, Wrangell has been fighting the battle to be recognized. Our community has not seen the additional benefits that other ANCSA communities have seen, and continue to see, after being granted 23 000 acres and afforded the opportunity to form village corporations. Many WCA tribal elders have passed away, spending years supporting the landless effort, never imagining that their blood, sweat and tears would ever lead to resolution. We hope that S. 872 can bring some closure to this issue, and some comfort to the five communities that could use the recognition.

The Tongass National Forest is the largest national forest in the U.S. at about 17 million acres. If ANCSA were to settle with the five tribes, the amount of land distributed would be a drop in the bucket compared to the vast size of the Tongass. Wrangell Island, the Stikine River watershed, and surrounding areas, have been managed and protected by our people for thousands of years. WCA's mission is to protect the cultural, ceremonial and subsistence lifestyle for all Alaskans, and to promote the safe use and availability of a healthy environment for present and future generations. We will continue to steward the Tongass for thousands of years to come.

Thank you for your time.

Aaron Angerman
Tribal Administrator
Wrangell Cooperative Association

EXECUTIVE COMMITTEE

PRESIDENT
Brian Cladoosby
Swinomish Tribe

FIRST VICE-PRESIDENT
Randy Noka
Narragansett Tribe

RECORDING SECRETARY
Aaron Payment
Sault Ste. Marie Tribe of Chippewa Indians of Michigan

TREASURER
Arlan Melendez
Reno Sparks Indian Colony

REGIONAL VICE-PRESIDENTS

ALASKA
Jerry Isaac
Native Village of Tanacross

EASTERN OKLAHOMA
S. Joe Crittenden
Cherokee Nation

GREAT PLAINS
Leander McDonald
Spirit Lake Nation

MIDWEST
Roger Rader
Pokagon Band of Potawatomi

NORTHEAST
Lance Gumbs
Shinnecock Indian Nation

NORTHWEST
Fawn Sharp
Quinault Indian Nation

PACIFIC
Rosemary Morillo
Soboba Band of Luiseno Indians

ROCKY MOUNTAIN
Ivan Posey
Shoshone Tribe

SOUTHEAST
Ron Richardson
Haliwa-Saponi Indian Tribe

SOUTHERN PLAINS
Stephen Smith
Kiowa Tribe

SOUTHWEST
Manuel Heart
Ute Mountain Ute Tribe

WESTERN
Arlan Melendez
Reno Sparks Indian Colony

EXECUTIVE DIRECTOR
Jacqueline Johnson Pata
Tlingit

NCAI HEADQUARTERS
1516 P Street, N.W.
Washington, DC 20005
202.466.7767
202.466.7797 fax
www.ncai.org

NATIONAL CONGRESS OF AMERICAN INDIANS

October 13, 2015

The Honorable John Barrasso, *Chairman*
Subcommittee on Public Lands, Forests, and Mining
U.S. Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden, *Ranking Member*
Subcommittee on Public Lands, Forests, and Mining
U.S. Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Re: NCAI Support for S. 872 – The Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act

Dear Chairman Barrasso and Ranking Member Wyden:

On behalf of the National Congress of American Indians (NCAI), the oldest, largest, and most representative American Indian and Alaska Native organization serving the broad interests of tribal governments and communities, I would like to thank the Subcommittee for holding a legislative hearing on S. 872 – The Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act. NCAI strongly supports the legislation and urges swift passage.

In 1971, Congress passed the Alaska Native Claims Settlement Act (ANCSA) to settle aboriginal land claims of Alaska Natives and create Alaska Native Corporations to provide a means to pursue economic development for the benefit. However, five traditional Native villages were excluded from ANCSA: Haines, Petersburg, Wrangell, Ketchikan, and Tenakee. To the best of our knowledge, no reasonable explanation has ever been offered for this exclusion.

While members of these five traditional Native villages have received revenue sharing under Section 7(j) of ANCSA as Urban shareholders of the Sealaska Corporation, they have not enjoyed the social, economic, and cultural benefits of owning shares in a Village, Urban, or Group Corporation. Additionally, these members have been deprived of the significant cultural benefit of owning an interest in lands located within and around our traditional homelands.

Nearly forty-four years after ANCSA, it is time to finally complete its recognition of Native villages and land entitlement conveyance. S. 872 will recognize the five traditional Native communities in Southeast Alaska under the ANCSA, and authorize each to form an Urban Corporation. Further, it authorizes each of the newly formed Urban Corporations to receive certain settlement land pursuant to ANCSA.

Passing this legislation ensures the continued economic and cultural benefits to the members of the five traditional Native Villages and secures Native ownership of many sacred and cultural sites in the Southeast Alaska region; preserving and protecting Tlingit, Haida, and Tsimshian cultural properties for current and future generations.

Enclosed: NCAI Resolution #DEN-07-97

I would like to thank you again for your support of S. 872. If you have any additional questions, please contact NCAI Staff Attorney & Legislative Counsel Colby Duren, cduren@ncai.org or (202) 466-7767.

Sincerely,

Jacqueline Pata
Executive Director

NATIONAL CONGRESS OF AMERICAN INDIANS

EXECUTIVE COMMITTEE

PRESIDENT
Joe A. Garcia
Ohkay Owingeh
(Pueblo of San Juan)

FIRST VICE-PRESIDENT
Jefferson Keel
Chickasaw Nation

RECORDING SECRETARY
W. Ron Allen
Jamestown S'Klallam Tribe

TREASURER
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Superior Chippewa Indians

REGIONAL VICE-PRESIDENTS

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Mike Williams
Akiak Native Community

EASTERN OKLAHOMA
Joe Grayson, Jr.
Cherokee Nation

GREAT PLAINS
Ron His Horse Is Thunder
Standing Rock Sioux Tribe

MIDWEST
Robert Chicks
Stockbridge-Munsee

NORTHEAST
Randy Noka
Narragansett

NORTHWEST
Ernie Stensgar
Coeur d'Alene Tribe

PACIFIC
Juana Majel
Pauma-Yuima Band of Mission Indians

ROCKY MOUNTAIN
Willie Sharp, Jr.
Blackfeet Tribe

SOUTHEAST
Archie Lynch
Haliwa-Saponi

SOUTHERN PLAINS
Darrell Flyingman
Cheyenne-Arapaho Tribes

SOUTHWEST
Derek Valdo
Pueblo of Acoma

WESTERN
Alvin Moyle
Fallon Paiute-Shoshone

EXECUTIVE DIRECTOR
Jacqueline Johnson
Tlingit

NCAI HEADQUARTERS
1301 Connecticut Avenue, NW
Suite 200
Washington, DC 20036
202.466.7767
202.466.7797 fax
www.ncai.org

The National Congress of American Indians
Resolution #DEN-07-097

TITLE: Urging Congress to Recognize Landless Southeast Native Communities

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the Southeast Native communities of Haines, Ketchikan, Petersburg, Tenakee Springs, and Wrangell were not provided the authority under the Alaska Native Claims Settlement Act (ANCSA) to form Native Corporations; and

WHEREAS, these communities comprise greater than 20% of the shareholders of the Sealaska Corporation; and

WHEREAS, the five landless communities have, for more than three decades, sought congressional provision for their full eligibility for ANCSA benefits; and

WHEREAS, Congress in 1993 commissioned a formal study to examine the reasons why the five communities were denied ANCSA eligibility; and

WHEREAS, no reasonable explanation has ever been provided for not including Haines, Ketchikan, Petersburg, Tenakee Springs, and Wrangell as communities which should be participating in the ANCSA settlement in the same manner as are the other Native communities of Alaska; and

WHEREAS, the Native members of the landless communities continue to seek redress which would provide for the formation of ANCSA corporations, land entitlement, and recovery of lost economic benefits; and

WHEREAS, recognition of the five (5) communities is long overdue.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby urge the United States Congress to recognize the Sealaska shareholders registered in the communities of Haines, Ketchikan, Petersburg, Tenakee Springs, and Wrangell as Native communities with the same status as Native communities recognized in Section 14(h) and Section 16 of ANCSA and provide authorization for those Native communities to form ANCSA corporations and select land and provide compensation for the economic opportunities lost due to the delayed recognition of their rights to share in the land entitlement in the same manner as those Native communities recognized for such participation in 1971 under ANCSA; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was referred by the General Assembly at the 2007 Annual Session of the National Congress of American Indians to the Executive Committee, and adopted on December 5, 2007 by the Executive Committee, with a quorum present.

President

ATTEST:

Recording Secretary

Alaska Federation of Natives
2015 Legislative & Litigation Committee
Resolution 15-7

TITLE: SUPPORT OF THE UNRECOGNIZED SOUTHEAST ALASKA NATIVE COMMUNITIES SEEKING LEGISLATION TO ALLOW THEM TO FORM ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA) CORPORATIONS AND RECEIVE ANCSA BENEFITS

WHEREAS: The Alaska Federation of Natives (AFN) is the largest statewide Native organization in Alaska having upwards of 300 members, including 165 federally recognized tribes, 146 village for-profit corporations, 12 regional for-profit corporations, and 12 regional not-for-profit and tribal consortiums that contract and compact to run federal and state programs; and

WHEREAS: The mission of AFN is to enhance and promote the cultural, economic, and political platform of the entire Alaska Native community through staunch advocacy before the United States Congress and other federal, state, and local forums; and

WHEREAS: In 1971, the United States Congress enacted ANCSA to recognize and settle the aboriginal claims of Alaska Natives to their traditional homeland by authorizing the establishment of Alaska Native corporations to receive and manage lands and funds awarded in the settlement of ANCSA; and

WHEREAS: ANCSA was passed to provide for a fair and just settlement of all claims by Natives and Native groups of Alaska and was to be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Alaska Natives; and

WHEREAS: The Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell (known as the "landless" communities of Southeast Alaska) were not listed as communities eligible to form Native village or urban corporations under ANCSA, despite the fact these communities comprised greater than 20% of the shareholders of Sealaska; and

WHEREAS: The reason for this exclusion is not explained in the statutory or report language of ANCSA, and an appeal of this exclusion was not authorized in ANCSA; and

WHEREAS: A Congressional report commissioned in 1993 to examine the reasons why the five communities were denied ANCSA eligibility indicates the communities do not differ significantly from the southeast communities that were allowed ANCSA eligibility; and

WHEREAS: These five landless communities have sought full eligibility for ANCSA benefits for four decades.

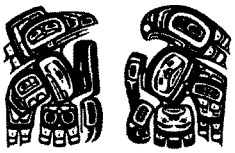
NOW THEREFORE BE IT RESOLVED the Alaska Federation of Natives requests the United States Congress to recognize the eligibility of the southeast landless communities to form Alaska Native Corporations, receive land selection rights, and compensation under ANCSA.

BE IT FURTHER RESOLVED that this resolution shall be the policy of AFN until it is withdrawn or modified by subsequent resolution.

Passed on July 21, 2015



Julie Kitka
President



CENTRAL COUNCIL
Tlingit and Haida Indian Tribes of Alaska
9097 Glacier Highway • Juneau, Alaska 99801

CENTRAL COUNCIL OF TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA
Eightieth Annual Tribal Assembly
April 15-17, 2015
Juneau, Alaska

Resolution TA/ 15-19

Title: Support of the Unrecognized Southeast Alaska Native Communities Seeking Legislation to Allow Them to Form Alaska Native Claims Settlement Act (ANCSA) Corporations and Receive ANCSA Benefits

By: Seattle Tlingit and Haida Community Council

WHEREAS, Central Council of Tlingit and Haida Indian Tribes of Alaska (Central Council) is a federally recognized tribe with nearly 30,000 tribal citizens; and

WHEREAS, Central Council exercises its power to address land and resource allocation issues and uses in the Tongass National Forest; and

WHEREAS, in 1971, the United States Congress enacted the Alaska Native Claims Settlement Act (ANCSA) to recognize and settle the aboriginal claims of Alaska Natives to their traditional homelands by authorizing the establishment of Alaska Native Corporations to receive and manage lands and funds awarded in settlement of the claims of Alaska Natives; and

WHEREAS, ANCSA was passed to provide for a fair and just settlement of all claims by Natives and Native groups of Alaska and was to be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives; and

WHEREAS, the Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell (known as "Landless" communities of Southeast Alaska) were not listed as communities eligible to form Native village or urban corporations under ANCSA, despite the fact that these communities comprised greater than 20% of the shareholders of Sealaska; and

WHEREAS, the reason for this exclusion is not explained in the statutory or report language of ANCSA, and an appeal of this exclusion was not authorized in ANCSA; and

WHEREAS, a Congressional report commissioned in 1993 to examine the reasons why the five communities were denied ANCSA eligibility indicates that the communities do not differ significantly from the southeast communities that were allowed ANCSA eligibility; and

WHEREAS, these five Landless communities have sought full eligibility for ANCSA benefits for four decades.

NOW THEREFORE BE IT RESOLVED, that the Eightieth Tribal Assembly of Central Council of Tlingit and Haida Indian Tribes of Alaska convened in Juneau, Alaska on April 15-17, 2015, hereby agrees that the Landless communities should be eligible to form Alaska Native Corporations and to receive land selection rights and compensation under ANCSA.

ADOPTED this 16th day of April 2015, by the Eighteenth Tribal Assembly of Central Council of Tlingit and Haida Indian Tribes of Alaska.

CERTIFY

President Richard J. Peterson

ATTEST

for Tribal Secretary Jolene Edenshaw

Alaska Native Brotherhood & Alaska Native Sisterhood
Grand Camp

RESOLUTION No. 14-08

Title: Support all Southeast Alaska Native Communities and their Descendants from the failures of the Alaska Native Claims Settlement Act (ANCSA) to include Land Selection Rights and Compensation.

WHEREAS, in 1971 the United States Congress enacted the Alaska Native Claims Settlement Act (ANCSA) to recognize and settle the aboriginal claims of Alaska Natives to their traditional homelands by authorizing the establishment of Alaska Native Corporations to receive and manage lands and funds awarded in settlement of the claims of Alaska Natives; and

WHEREAS, the purpose of ANCSA was to settle the land claims of the Alaska Natives and to provide them with the means to pursue economic development for the benefit of Alaska's Native people; and

WHEREAS, the Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell and possibly others were not listed as communities eligible to form Native village or urban corporations under ANCSA, despite the fact that these communities comprised greater than 20% of the Shareholders of Sealaska; and

WHEREAS, a significant number of these individuals have passed since the passage of ANCSA without receiving their inherent land right; and

WHEREAS, a Congressional report commissioned in 1993 to examine the reasons five of these communities were denied ANCSA eligibility indicates that the communities do not differ significantly from the Southeast communities that were allowed ANCSA eligibility; and

WHEREAS, these communities and their descendants are seeking an act of Congress or the courts to seek relief in the form of land selection rights and appropriate compensation;

BE IT THEREFORE RESOLVED that the Alaska Native Brotherhood and Alaska Native Sisterhood assembled in Petersburg, Alaska on October 8 through 11, 2014, whose theme was Haa Aani, Haa Shuka – Our Land, Our Future urge Congressional action to bring relief to these communities and their descendants and to take all

necessary action to prevent damage to or further takings of Native lands available for settlement purposes (e.g. 17 acres at boat harbor by City of Tenakee Springs, gravesites, home sites and allotments in the communities of Haines, Douglas, etc.).

William E. Martin
ANB Grand President

Freda M. Westman
ANS Grand President

ATTEST: I certify that this resolution was adopted by the ANB/ANS Grand Camp in convention at Petersburg, Alaska, during the week of October 8 through October 11, 2014.

Colette Buchanan
ANB Grand Secretary

September 19, 2016

Mr. Charles Kleeschulte
Republican Professional Staff
Committee on Energy and Natural Resources
United States Senate
312 Dirksen Building
Washington, DC 20510

Re: Support for S. 3273, section 10 – The Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act

Dear Ms. Kleeschulte:

DEMOCRATS and REPUBLICANS all support the Landless Native Communities in SE Alaska!!!

I see there is a hearing being held on Thursday for the Senate Committee on Energy and Natural Resources. I want to send you this information for the record and so you may pass it along to senators and staff on the committee.

I wish to make it clear to the committee members that we have broad local support for the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act (see also S. 3004 and S. 872).

I have attached copies of letters of support from our local state senators and representatives in Alaska. All our senators and our local representatives support our bill. Republicans and Democrats alike all support this bill that was introduced by Senators Murkowski and Sullivan.

I know if you are not from Alaska it is hard to know who to believe and which side to support. Please join our local delegation in support for the five Landless Native communities to finally receive a just and equitable settlement.

Thank for your consideration and support.

Sincerely,
Richard Rinehart Jr.

Landless Shareholder
Wrangell, Alaska

Alaska State Legislature

Juneau Delegation
Senator Dennis Egan
Representative Cathy Muñoz
Representative Sam Kito III

Alaska State Capitol
Juneau, Alaska
99801

September 30, 2015

Senator Lisa Murkowski, Chairman
U.S. Senate Committee on Energy & Natural Resources
709 Hart Senate Building
Washington, D.C. 20510

Dear Senator Murkowski,

This letter is to express our support of S. 872, "The Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act."

When the Alaska Native Claims Settlement Act of 1971 was adopted, the communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell were not included, even though the population of those villages comprises greater than 20 percent of the shareholders of the Regional Corporation for Southeast Alaska. Additionally, these communities were not given the opportunity to appeal the decision; a right Congress granted every other Alaska Native group under ANCSA.

Senate Bill 872 would resolve a nearly 50 year old discrepancy in the law. This legislation will establish urban corporations and will provide a process to receive similar land allocations, approximately 23,000 acres, as other recognized Native villages under Alaska Native Claims Settlement Act.

We strongly urge the Senate Committee on Energy and Natural Resources to pass S. 872 and hope each member supports this legislation.

Sincerely,

Senator Dennis Egan | Representative Cathy Muñoz | Representative Sam Kito

ALASKA STATE LEGISLATURE

SESSION
State Capitol, Rm30
Juneau, Alaska 99801-1182
(907) 465-3873 Phone
(907) 465-3922 Fax
(877) 463-3873 Toll Free
Sen.Bert.Stedman@akleg.gov

INTERIM
1900 1st Ave., Suite 310
Ketchikan, AK 99901-6442
Phone (907) 225-8088
Fax (907) 225-0713

201 Katlian St., Suite 103
Sitka, AK 99835-7561
Phone (907) 747-2952
Fax (907) 747-5807

SENATOR BERT K. STEDMAN

July 24, 2015

The Honorable Don Young
Chairman
Subcommittee on Indian, Insular and Alaska Native Affairs
Committee on Natural Resources
1324 Longworth House Office Bldg.
Washington, D.C. 20515

The Honorable Raul Ruiz
Ranking Member
Subcommittee on Indian, Insular and Alaska Native Affairs
Committee on Natural Resources
1329 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Chairman Young and Ranking Member Ruiz:

I am writing in support of H.R. 2386, "*The Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act.*" The bill would finally bring justice to Alaska Natives and Tribal members in five different community areas: Haines, Ketchikan, Petersburg, Tenakee, and Wrangell. Alaska Natives ("Landless") from these community areas were inexplicably left out of the Alaska Native Claims Settlement Act (ANCSA) of 1971, even though their aboriginal land rights based on generations of occupancy and use were supposedly extinguished by Congress in ANCSA.

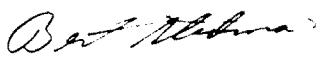
In fact, not only were they left out, they were not even given the opportunity to appeal the decision. A right Congress granted to every other Alaska Native group under ANCSA. H.R. 2386 would right a nearly 50 year old wrong by recognizing the value of their claims, establish urban corporations for these Alaska Natives and provide a process for them to receive the same amount of land (23,000 acres) other Native villages received under ANCSA in exchange for their land claims.

Congress has already investigated the issue. In 1994, a congressionally directed study was performed by Institute of Social and Economic Research (ISER) at the University of Alaska.

After an exhaustive review, the ISER study concluded the eligibility requirements set by Congress through ANCSA would have been met by each one of the Landless communities.

I would also note that there is plenty of land in the Tongass National Forest (Tongass) to grant to the Landless communities. The Tongass is 17 million acres. 21 times the size of the Joshua Tree National Park in California in the Ranking Member's district. The land to be granted to the Landless is barely a spot on the map at 1/147th the entire size of the Tongass, most of which has been permanently set aside. I strongly urge your support to pass H.R. 2386.

Sincerely,



Senator Bert Stedman

September 19, 2016

Charles Kleeschulte
Republican Professional Staff
Committee on Energy and Natural Resources
United States Senate
312 Dirksen Building
Washington, DC 20510

Re: Support for S. 3273, section 10 – The Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act

Dear Ms. Kleeschulte:

I see there is a hearing being held on Thursday for the Senate Committee on Energy and Natural Resources. I want to send you this information for the record and so you may pass it along to senators and staff on the committee.

A Tlingit Native Perspective

My Tlingit name is Tashee, I am the recognized clan leader or hít s'aatí for the Kiks.ádi of the Shx'at Kwáan (Stikine River Area). On behalf of my people I am writing to you about the important piece of legislation, referred to above, pending before the Subcommittee on Public Lands, Forests and Mining of which you are a member. We urge your support.

You have heard that this injustice has been going on for over 40 years. It has actually been going on for **over 100 years**. For nearly 150 years (1867-2015) the communities of Ketchikan, Wrangell, Petersburg, Haines and Tenakee Springs have been without our village lands. It took over 100 years and several generations before ANCSA became reality.

a) We, the Shx'at Kwáan, first began to petition Washington D.C. 126 years ago when we sent attorney Willoughby Clark in 1890 to lobby the president and congress for lands improperly taken.
b) In 1915, (one hundred and one years ago) the Alaska Native Sisterhood Society Camp 1 was formed in Wrangell.
c) In 1934 (eighty-two years ago) the first meeting of the Tlingit & Haida Central Council was held in Wrangell.
d) In 1954 (sixty-two years ago) William L. Paul, Sr. brought suit against the government in Tee-Hit-Ton vs. the United States a US Supreme Court case. The Teeyhíttaan are one of the nine clans from the Shx'at Kwáan (Stikine River Area) and are still Landless today.

e) Ketchikan, Wrangell, Petersburg and Haines were always involved and part of the Alaska Native Land Claim efforts, however, for reasons unknown they were left out of the village land selections. See ISER report entered into the record for S. 872.

It is hard for most people to think in Tlingit terms. You must have a very long term perspective. Old growth forests are beautiful indeed and five hundred year old trees are impressive, and we have much respect and reverence for them too. But please keep in mind our people have been on our lands way before the oldest trees in the oldest forests. We were literally here when the mountain tops and valley floors were being formed.

We have been on this land since **Time Immemorial**. We were here before the ice age and again when the ice first receded; we have songs and stories of our people going under and over the glacier to get to what is currently our homeland. We were here before the great flood and have stories of our people climbing mountains to escape the flood waters – we have place names for those mountains. Those stories are thousands of years old, but we don't just have ancient songs and stories we have scientific proof that our people have been here for at least 10,000 years. That is older than Western civilization as we know it. We have several other stories about specific places that belonged to specific clans. Many of these stories are hundreds of years old, which is older than the United States of America. We also have written history since first contact with western civilization documented in the ShtaX'heen Kwaan of the Tlingit of Southeast Alaska.[1]

To understand the Tlingit and their connection with their land you must understand how they viewed things. Everything had a spirit: the mountain tops in our stories had spirits that protected our people in our time of need. The sea and the forest provided our food on which we subsist on to this day. Our clans owned those lands and the waters that sustain us. In Tlingit this is known as at.oow or something owned by the clan.

> At.oow are the most prized possessions of a clan. At.oow is literally translated as "an owned or purchased object" and can refer to land or sacred sites, celestial bodies such as the moon and sun, names, stories, songs, spirits and crests. The rights to these objects or a clan's at.oow were acquired through an ancestor. On occasion, the payment involved the death of an ancestor. The event in which this occurred may be recorded as a crest or spirit design on a physical object or through names, songs and stories. Clan crests and spirit designs are socially and spiritually important to the Tlingit.[2]

When you take away our land you have taken away our at.oow, a vital connection we have with our spiritual environment. You have cut us off from this spiritual relationship with our land and made us spiritually destitute.[3]

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[1] the ShtaX'heen Kwaan of the Tlingit of Southeast Alaska: A Literature Review presented to Richard Dauenhauer Phd by Joshua T. Ream Fall 2010. Copy attached.

[2] Rosita Worl, Introduction to the Tlingit Culture and Repatriation. http://www.pbs.org/harriman/explog/lectures/worl.html:

[3] Frank Hopper, Indian Country Today, What It Means to be Landless. http://indiancountrytodaymedianetwork.com/2015/07/01/what-it-means-be-landless-alaska-native-bill-congress-160883

You have letters in opposition from conservation groups that will tell you this is about timber and logging – it is not. To our people this is about healing a deep cultural and social wound that was started when the U. S. government troops bombed our villages, and enforced laws (such as the Organic Act of 1884) that were designed to remove us from our lands.

The assault on our people started when the United States government claimed possession of our lands. It was perpetuated over the years in the name of resources development starting with the fur trade, then gold miners, then salmon canneries, finally timber in Southeast and Oil to the North. Our people have been on record standing up against and fighting this exploitation of our homeland.

We find it ironic that we were left out of the full benefits intended in the Alaska Native Claims Settlement Act of 1971 due to lobbying efforts from the timber industry seeking to protect their long term leases to harvest timber in the Tongass National Forest. And in recent history we continue to be denied our rightful ownership due to lobbying efforts from conservation groups, both within and from outside Alaska, that are worried that we may harvest timber from our lands (something the US Forest Service continues to do on a much larger scale). No one knows for sure why this ironic circumstance was created, see the ISER report, but we do know that only Congress can fix the situation and right this long overdue injustice. We ask for your support for S. 3273 and a positive recommendation to the Committee on Energy and Natural Resources and then on to the full Senate.

Thank you for hearing our story. I know you will do what is right. Gunalcheesh!

Richard 'Tashee' Rinehart
Hít s'aatí
Shx'at Kwáan Kiks.ádi

Statement

-

Senate Energy and Natural Resources Committee Hearings

S.3273 Proposed Bill, Section 10:

Inclusion of the 5 remaining Native Communities into ASCSA:

:

To the Honorable Members of the Senate Energy and Natural Resources Committee:

As an Alaskan Native, I have waited 45 years for our Haines Native Community to finally be recognized and included within the 1971 ANCSA Act. Haines is one of five communities that were excluded and therefore denied all claims to our ancestral lands, our fishing and hunting grounds, even a physical place to have a cultural center. We have been denied our right to form Urban Corporations and to use our lands as we see fit.

I believe that it is time for us to be a part of this reconveyance of our aboriginal lands and compensation, as were all other Alaska Native Communities that were originally included within ANCSA. It is also time that we finally receive Federal recognition - we are intricately connected and inherently part of what makes up the entirety of Alaskan Natives - and always were.

I am asking for your consideration in voting for this Senate Bill. It's been almost a half century since 1971. All this time I have been waiting for my Haines Native Community to finally be given what was always ours.

Thank you for your time.

Jack Young
Tlingit Elder (Klinkit)
Haines Alaska

PO Box 1332
Haines AK 99827
(907) 766-3731

Statement

-

Senate Energy and Natural Resources Committee Hearings

S.3273 Proposed Bill, Section 11:

Alaska Native Vietnam Veterans - Land Allotment Amendments:

:

To the Honorable Members of the Senate Energy and Natural Resources Committee:

I am an Alaska Native Vietnam Veteran, who served during the Vietnam conflict. I am asking that you consider these amendments to ANCSA within this Improvement Act of 2016 (section 11, S.3273), specifically extending the timeline for qualifying Native Vets, and allowing heirs of deceased veterans to receive the allotment as well. Even the Department of Defense officially recognizes the timeline for the Vietnam War as August 5, 1964 to May 7, 1975. I served my country honorably during the Vietnam Conflict and should not be denied this opportunity.

I believe that all Alaska Native Veterans should have the right to receive their 160-acre allotments. The ANCSA Act, which also excluded Haines from being Federally recognized and having an organized entity locally (Landless, Section 10), also prevented us from knowing about this and applying.

Again, it has been almost 50 years. So many of us have passed on. It is time for us to be recognized as Native Veterans who served their country and that we finally be given our due right to apply and receive our land.

Thank you for your time.

Jack Young
Tlingit Elder (Klinkit)
Haines Alaska

PO Box 1332
Haines AK 99827
(907) 766-3731

Kleeschulte, Chuck (Energy)

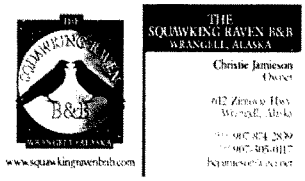
From: Christie Jamieson <bcjamieson@gci.net>
Sent: Tuesday, September 20, 2016 12:17 PM
To: Kleeschulte, Chuck (Energy)
Subject: S. 3273

Importance: High

Good morning Mr. Kleeschulte:

I strongly support the passage of S. 3273, The Alaska Native Claims Settlement Act legislation and revisions proposed. The passage of S. 3273 will bring forth a fair and just settlement for the benefit of the Natives of Wrangell, Alaska.

Sincerely yours, Christie L. Jamieson
Wrangell, Alaska



CITY OF TENAKEE SPRINGS

John Wisenbaugh
MAYOR
citytke@gmail.com

P.O. Box 52
Tenakee Springs, Alaska 99841
Phone 907-736-2207
Fax 907-736-2249

Senator Lisa Murkowski
709 Hart Senate Office Building
Washington, DC 20510
Phone: (202)-224-6665
Fax: (202)-224-5301

September 15, 2016

Dear Senator Murkowski:

The City of Tenakee Springs and the Chichagof Conservation Council are jointly writing to convey our shared concerns over certain provisions in your bill, "Alaska Native Claims Settlement Improvement Act of 2016," S.B. 3004 or S. 3273. Our concern is primarily with Section 10 which is titled "Unrecognized Southeast Alaska Native Communities Recognition and Compensation." While we acknowledge with respect the connection of Alaska Native people with their Southeast Alaska home, it is not appropriate or desirable to establish a new corporation in Tenakee Springs or to withdraw substantial Tenakee Inlet acreage from the Tongass National Forest, whereupon much of it would be clearcut by the proposed new corporation. We have submitted letters, resolutions and hearing testimony on these and related matters in the past. While we remain opposed to establishment of a new corporation in Tenakee, and will continue to oppose strongly any attempt to privatize land currently part of the Tongass, we are interested in alternative ways to address the longstanding connections between Alaska Native people and specific places in Tenakee Inlet.

The City of Tenakee Springs, the Tenakee-based Chichagof Conservation Council, and many Tenakee residents have shared a consistent call to protect Tenakee's salmon-rich watersheds, and have worked to protect Tenakee Inlet for more than 40 years.

Our community's stability and health depends on the salmon that spawn and rear in Tongass watersheds. Tenakee Inlet is exceptionally well-endowed with intact and richly productive streams. Our freezers and canning jars are full, thanks to the coho that are just now entering the streams of upper Tenakee Inlet to spawn. Many of the young people living here are trollers whose cash income is supported by those same streams. Tourists and sport fishermen are drawn here by the abundant fishing, viewing and hunting opportunities.

The Tongass Timber Reform Act mandates minimum 100-foot no-cut buffers along all salmon streams and their large tributaries. The current Tongass Land Management Plan also requires careful management and development of forest lands in streamside, riparian zones that are important to salmon but lie beyond the one hundred foot minimums. We want to keep these salmon watershed protection and conservation measures in place. We will continue to oppose legislation that exposes the irreplaceable remaining intact watersheds of Tenakee Inlet to large scale, industrial-strength clearcutting by the Forest Service, private corporations, or any other entity. Those watersheds -- and the salmon they provide -- are the core of this community, of who we are and how we live.

CITY OF TENAKEE SPRINGS

Two watersheds in Tenakee Inlet, Kadashan and Trap Bay, were protected as Legislated LUD II areas by Congress in the 1990 Tongass Timber Reform Act. Alaska's entire Congressional delegation agreed to the final bill and President George H.W. Bush signed the bill into law. We want to go on record supporting the continuing protection of these areas including strengthening of their legal conservation standing.

In addition, we would like to see long-term protection, by law, for the Tenakee Inlet watersheds identified by Trout Unlimited as most important to the Southeast Alaska's $1 billion regional salmon fishery. The proposal, supported by many commercial and recreational salmon fishermen and organizations, includes the following Tenakee Inlet Watersheds: Crab Bay, Saltery Bay, Seal Bay, Long Bay, Goose Flats, Little Goose Flats, and Upper Tenakee Inlet. We hope that you will help us to ensure that all of these important watersheds remain intact, healthy and productive.

We have also long supported small-scale, locally based, value added use of forest products from the remnants of the many areas that were clear cut in the pulp mill days, for example on the scale of the current "Tenakee Logging Company" (TLC) operation in Corner Bay. TLC saws a wide variety of wood products for local residents and property owners including framing lumber, trim lumber, poles and pilings. They work with Sitka spruce, western hemlock and Alaska yellow cedar. Their footprint on the land is very modest. That kind of small, local timber business constitutes the limit of what the land can bear here in Tenakee Inlet. Such businesses also provide local jobs and materials that are important to our community.

We are grateful that, despite the impact of misguided land management practices of past decades, Tenakee Inlet remains largely intact, and we are committed to keeping it that way
This position does not in any way diminish our respect and admiration for traditional Native culture and values. We recognize that the resolution of Native claims through ANSCA did not address all the wounds of the past, and welcome with open arms efforts to reestablish a Native presence in Tenakee.

One suggested alternative is beginning to restore balance by offering the large and well-appointed USFS facility at Corner Bay to establish a Tlingit cultural center in Tenakee Inlet. There are also historical, cultural sites in Freshwater Bay and Tenakee Inlet that could benefit from collaborative research and stewardship. Adding Tlingit place names to the map of Tenakee Inlet might also be a worthy project. Such efforts would benefit from your support.

With regard to S.3004, we would be remiss without pointing out other troubling aspects of the bill, in addition to the fundamental problem with establishing a corporation in Tenakee Inlet. For example:

- Tenakee Springs is a rural community and is classified as "rural" for subsistence purposes. However, S.3004 proposes to establish an "urban" corporation. Tenakee cannot be rural and urban at the same time and we cannot support anything that might cloud or diminish our subsistence standing.
- There are no maps showing the lands potentially of interest.
- There is no specification of the group of people who would become shareholders of a new urban corporation. Available historic documentation indicates that Tenakee Inlet did not have a permanent village prior to the cannery era. Since very few Alaska Native people live in Tenakee now, presumably there is a group of people residing elsewhere who intend to become shareholders; who are they?
- The legislation does not allow for any public process in land selection. Rather, it puts forth a process that would involve only the Interior Secretary and the particular urban corporation that might be established, with no public review of or engagement in the land selection, thereby blocking Tenakee or other communities out of the process altogether.

CITY OF TENAKEE SPRINGS

- The legislation does not acknowledge or protect the salmon watersheds and local wood products economy, as mentioned above.
- The legislation does not explicitly exclude Legislated LUD II lands protected by Congress in the Tongass Timber Reform Act of 1990, especially Kadashan and Trap Bay in Tenakee Inlet.

Senator, thank you very much for considering the interests and concerns that are so important to our community of Tenakee Springs. We would like to be included in your deliberations on S.3004 and certainly hope we can contribute to a constructive resolution.

Sincerely:

John Wisenbaugh, Mayor

Molly Kemp, Chichagof Conservation Council

Kleeschulte, Chuck (Energy)

From: Marian Allen <marianlallen@hotmail.com>
Sent: Tuesday, September 20, 2016 11:13 PM
To: Kleeschulte, Chuck (Energy)
Subject: S 3273

Mr. Kleeschulte:

I wish to submit this testimony on S3273, the Alaska Native Claims Settlement Improvement Act (and revised).

Members of the Senate Committee on Energy and Natural Resources:

Respectfully, I wish to comment on S3273.

First of all, the Sealaska Bill passed in the last session of Congress, according to Senator Murkowski, was the "finalizing" of all outstanding selections under the ANCSA legislation in 1971, which itself was the "final" solution of land settlement with Alaska Natives. When do we see the final, final solution?

This bill creates more for-profit village corporations, specifically ones in Ketchikan, Wrangell, Petersburg, Tenakee and Haines. Certainly Ketchikan and Wrangell should have been included in the original settlement because they have always been the home of tribes. I do not know about Haines, but both Petersburg and Tenakee have not been the homes of tribes. Tenakee has no permanent residents who are Native and the Natives in Petersburg have come to live in that originally Norwegian immigrant town from neighboring tribes. Certainly all SE Alaska Natives should have had the opportunity to join a village corporation in the original legislation, and all are members of Sealaska, the regional corporation, so they have not been entirely cut out of the economic development. In fact, they receive higher dividends than those who belong to village corporations. However, they need to be treated fairly.

The question is then, how do we provide a just solution to this situation? There are several options that don't include further resource extraction from the Tongass National Forest. The obvious one for some is that those people who are in the non-Native communities join the village corporation of their ancestors, but that is only a small number of the people affected. Other options are to give them a cash settlement, or create some kind of non-profit organization that does not further deplete the carbon sequestration that the Tongass provides. Yet another idea is to create a permanent fund type of solution. Creative thinking can provide other ideas that do not include boom and bust economics.

The Tongass National Forest sequesters about 7% of the carbon in the US in the Old Growth/climax forests and therefore is an important piece in mitigating global warming. The Native corporations engage in clear cutting primarily Old Growth trees and exporting them in the round. These irreplaceable trees play an important role in the main economic drivers of SE Alaska: fishing and tourism. Salmon have disappeared from most areas of the world and SE Alaska is one of the very last places that has healthy salmon runs. We call the Tongass the salmon forest because salmon provide nutrients to it and it provides habitat for spawning and young salmon. The forest and salmon are mutually dependent on each other. It is those Old Growth forests that are critical to their habitat as well as all the other life that dwells here, and it is the grand beauty of this last largest temperate rainforest and its ecosystem that draws tourists. These sectors of our economy bring in most of our revenue. There are under 200 timber jobs now in SE. Another element of our economy is living off the land. The National Forest provides access to all to hunt, fish and gather for their personal, traditional and spiritual needs. Native Corporations are very poor stewards of the land, having more lax timber harvest standards than the US Forest Service.

This bill also is unjust because it allows She Attika to divest itself at the expense of the American tax payer of land it has clear cut that will see no further profit for hundreds of years. Sealaska then would trade the subsurface rights it holds to that land for surface rights where they can make a profit. These two measures set a bad precedent. It opens the door for other corporations to exchange land that they have extracted profit from in a boom and bust approach to management that is without monetary value for centuries.

Any more removal of lands from the Tongass NATIONAL Forest hurts everyone. The Forest Service manages the forest better than other agencies or corporations. It is open to all and to many uses. As a grandmother I am extremely concerned about global warming and feel compelled to work to do what I can to slow that process for my grandsons and the millions of other young people who were no part of creating this situation. It is the biggest problem the world faces. The Tongass National Forest has a positive role to play in slowing that process. Please do not pass this bill. Send it back for much more work to make it a bill that will not harm my grandchildren.

Thank you for your consideration.

Marian Allen

829 Pherson Street

Sitka, AK 99835

Fleurant, Susan (Energy)

Subject: FW: Comments on S3203 Alaska Economic Development and Access to Resources Act

From: Marian Allen [mailto:marianlallen@hotmail.com]
Sent: Thursday, September 29, 2016 1:37 PM
To: fortherecord (Energy) <fortherecord @energy.senate.gov>
Subject: Comments on S3203 Alaska Economic Development and Access to Resources Act

Comments on S.3203 the Alaska Economic Development and Access to Resources Act

Global warming is real and is a crisis situation. (Here is a link to a NASA website with some interesting and disturbing information if you haven't seen any of this yet.: http://earthobservatory.nasa.gov/blogs/earthmatters/2016/09/12/heres-how-the-warmest-august-in-136-years-looks-in-chart-form/) The Tongass National Forest sequesters about 7% of the carbon in the US. We cannot afford to take any action that adds to the global warming problem, especially when SE Alaska already has two sustainable economic drivers: tourism and fishing. Section 503 of this bill actually would hurt those industries because an intact forest is important for tourism and critical for fish habitat. Salmon need the Old Growth forests to feed and create the architecture in the streams where they spawn and rear as fry, and tourists do not want to look at or, certainly, hike in clear cuts.

The Tongass is a *national* forest and the Forest Service manages it for multiple uses. Those uses include working to maintain good habitat for salmon, managing for tourism and subsistence, cultural and spiritual activities, as well as timber cutting. Many, many SE Alaska residents depend upon the whole ecosystem here, forest, shore and sea, for food. Clear cutting diminishes our ability to harvest those resources. The State of Alaska's fish and wildlife standards are less protective than federal standards and so a major step backwards. As a national forest the Tongass is open to all.

An additional reason this Act is not economically healthy is that once the trees are cut in this region of the world, it takes several human generations before they have any economic worth, and many hundreds of years before they return to their climax state. In the meantime the industries that currently sustain themselves on the Tongass suffer.

Let's get on with the show and stop trying to exempt the Tongass from the Roadless Rule. Roads cost money, impact ecosystems in negative ways and work against mitigation for global warming, and they are built to access projects that speed up global warming. Instead let's support building sustainable industries in Alaska.

Section 502 doesn't even belong in a federal act as it can be resolved within the state. It proposes a very dangerous action: clear cutting on very steep hillsides. In a rainforest with shallow root systems, landslides are a real potential.

Section 402 prioritizes management of the Tongass for activities that add to the global warming problem and, again, takes the boom and bust economic model as the healthy way to proceed. It prioritizes a heavy ecological impact industry over all other users.

As a grandmother, a longtime resident of SE Alaska who depends upon the Tongass for a healthy diet, this Act would personally hurt me. More important than my own welfare, however, is the welfare of my grandchildren

and future generations of humans. These young people and those not yet born have no responsibility for the mess we have made of Earth. It is our responsibility to do everything in our power to mitigate the effects of global warming for them. This Act is shortsighted and just wrong.

Sincerely,

Marian Allen

829 Pherson St.

Sitka AK 99835

The Alaska Native Claims Settlement Improvement Act (S.3004) creates more problems than it solves. Specifically, Section 10 would grant more than 115,000 acres of public Tongass National Forest lands to new, for-profit Native Corporations. The legislation:

- Allows Alaska Native residents from Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to establish new for-profit Native Corporations.

- Offers each of these 5 "urban" Native corporations 23,040 acres of high value, "local," public lands from anywhere on the Tongass. As drafted, the bill:
    - Directs the Secretary of Interior to offer "local areas of historical, cultural, traditional, and economic importance to Alaska Natives" from the five communities and "give preference to land with commercial purposes"
    - Mandates economic development of lands no matter their importance for customary and traditional or historical uses;
    - Fails to expressly safeguard Tongass lands previously protected by Congress in perpetuity as Legislated LUD IIs ("roadless wildlands") in the 1990 Tongass Timber Reform Act and 2014 Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act.

- Creates more problems than it solves because history has shown:
    - Land conveyed does not belong to Alaska Natives but to corporations;
    - Existing ANCSA corporations have not historically balanced the need to produce revenue for shareholders with the desire to maintain long established, place-based, traditions and cultures;
    - Split ownership of surface and subsurface estates means local Natives lose control over subsurface mining, drilling, and other subsurface development.

- Reopens the thorough settlement of all Alaskan Native claims by Congress in the 1971 Alaska Native Claims Settlement Act (ANCSA)

When Congress passed the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act in 2014, Senator Murkowski explained:

> "It has taken seven years, but I'm proud to say that we finally completed the land conveyance for Southeast Alaska's nearly 20,000 Native shareholders, and at the same time ensured that the region's remaining timber mills have timber."

When Congressman Young introduced a modified Sealaska bill in February 2013, he stated:

> "Four decades after the passage of ANCSA, it is well past time for Sealaska to receive their full land entitlement, which will enable the Federal Government to complete its statutory obligation under ANCSA to the Tlingit, Haida, and Tsimshian people of Southeast Alaska."

If a fair examination of this Native claims shows that redress is needed, it should be done in public, with a solution that involves the American public, all the people of Southeast Alaska, and respects all users of the forest.



Figure 1: Recent Sealaska clearcut on Cleveland Peninsula, 2015 ©Greenpeace

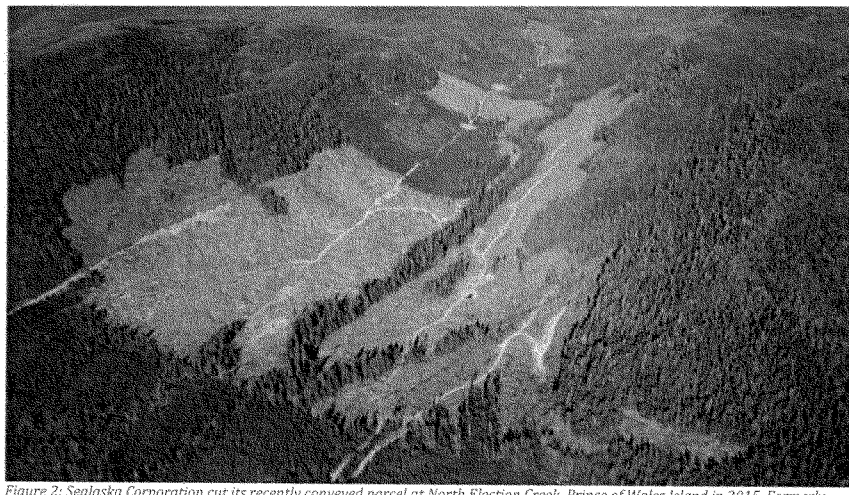


Figure 2: Sealaska Corporation cut its recently conveyed parcel at North Election Creek, Prince of Wales Island in 2015. Formerly, this area was an important Old Growth Reserve under the Tongass Forest Plan. ©Greenpeace

Tanana Chiefs Conference

Chief Peter John Tribal Building
122 First Avenue, Suite 600
Fairbanks, Alaska 99701-4897
(907) 452-8251 Fax: (907) 459-3850

SUBREGIONS

UPPER KUSKOKWIM
McGrath
Medfra
Nikolai
Takotna
Telida

LOWER YUKON
Anvik
Grayling
Holy Cross
Shageluk

UPPER TANANA
Dot Lake
Eagle
Healy Lake
Northway
Tanacross
Tetlin
Tok

YUKON FLATS
Arctic Village
Beaver
Birch Creek
Canyon Village
Chalkyitsik
Circle
Fort Yukon
Venetie

YUKON KOYUKUK
Galena
Huslia
Kaltag
Koyukuk
Nulato
Ruby

YUKON TANANA
Alatna
Allakaket
Evansville
Fairbanks
Hughes
Lake Minchumina
Manley Hot Springs
Minto
Nenana
Rampart
Stevens Village
Tanana

September 19, 2016

The Honorable Senator Lisa Murkowski
709 Hart Senate Office Building
Washington, DC 20510

Dear Senator Murkowski:

My name is Victor Joseph, and I am the President of Tanana Chiefs Conference (TCC) in Fairbanks, Alaska. I thank you very much for allowing me to submit a statement to you on S. 3273. TCC supports the passage of amendments to the Alaska Native Veterans Allotment Act in S. 3273. I ask that this written statement regarding the veterans allotments be incorporated into the record for S. 3273.

As you already know, many Natives in Alaska wants the Veterans Allotment Act amended so more Alaska Native veterans get allotments. It is my belief that S. 3273 does exactly that; it will help more Alaska Native veterans get allotments.

The Bureau of Indian Affairs opposed a similar bill in the past but that was not with the consent of any Tribes in Alaska. In addition to being President of TCC, I am also the co-President of the Alaska Native Tribal Working Group. This Group represents about 190 Tribes in Alaska. This Group was established about 13 years ago in an effort to get the Veterans Allotment Act amended. Thus, the Tribes in Alaska support S. 3273. Also, in the past there was some opposition from environmental groups in Alaska. But, veteran allotments have a beneficial environmental effect. Native veterans want allotments so they can practice subsistence, not develop the land commercially. Subsistence values include a strong duty to protect the land and resources.

The goal of amending the Veterans Allotment law is to help make it possible for all Alaska Natives who honorably served in the military during the Vietnam War to receive allotments of land in Alaska. The numerous restrictions in the current Act have defeated many of the applications filed and even discouraged many from applying. As of December 1, 2003, BLM had rejected about 47 percent of the applications filed under the Veterans Allotment Act. Originally, Congress enacted the Alaska Native Allotment Act in 1906 so that Alaska Natives would obtain title to land and resources that had fed, clothed and sheltered them for thousands of years. Many Alaska Natives still wait for that promised title. I urge this Committee to pass S. 3273.

There are four reasons why the Alaska Native Vietnam Veterans Allotment Act needs amending.

A. The Type Of Land Available For Allotments Under Existing Law Is Practically Non-Existent

The first reason the existing law needs to be amended is the lack of federal land that is available for veteran allotments. There is so little land that very few veterans got or will get allotments. The problem is that the existing law severely limits what type of land is available for allotments. In fact there is hardly any land left in Alaska that meets the Act's many restrictions.

In order for land to now be available for veteran allotments, the land must be:

- non-mineral, without gas, coal, or oil,
- not valuable for minerals, sand or gravel,
- without campsites,
- not selected by the State of Alaska or a Native Corporation,
- not designated as wilderness,
- not acquired federal lands,
- not contain a building or structure,
- not withdrawn or reserved for national defense,
- not a National Forest,
- not BLM land with conservation system unit sites, (unless the manager consents),
- not land claimed for mining,
- not homesites, or trade and manufacturing sites or headquaters site,
- not a reindeer site, and
- not a cemetery site.

These restrictions make it almost impossible for veterans to find any land that is available. The land restrictions make it especially difficult for veterans in southeast Alaska. This is true because land in a national forest is not available but most of southeast Alaska is within the Tongass National Forest. This restriction prevents most if not all deserving veterans in southeast Alaska from obtaining allotments. The solution is found in S.3273, which makes available for veteran allotments all federal land that is vacant, except land in National Parks, Preserves or Monuments.

B. The Current Use And Occupancy Requirements Make It Virtually Impossible For Most Veterans To Get Allotments

The second and equally important reason existing law needs to be amended is to eliminate the current use and occupancy requirements. To be qualified for an allotment a veteran must meet the extensive use and occupancy requirements of the Alaska Native Allotment Act of 1906, as amended. This means that Veteran applicants must prove substantially continuous use and occupancy of the land for a period of five years that is potentially exclusive of others.

The major problem with this restriction is that the applicant's use and occupancy must have started before the land was withdrawn, reserved or selected. However, vast areas of land in Alaska was withdrawn, reserved or selected before the veterans were even born or before they were old enough to begin using the land in the way that is required to initiate an allotment claim. The type of federal land that is available under the current law is extremely scarce. The current veterans allotment law excludes vast areas of land including land selected by the State or Native Corporations and all land within the boundaries of a national forest. Most of southeast Alaska is within a national forest. In other areas of Alaska, the majority of federal land is not available because it was withdrawn before Vietnam veterans were even born. For example, the initial withdrawal for Glacier Bay National Park, which covers thousands of acres, was in 1923. All of Nunivak Island was withdrawn in 1929. Additionally, most of the land in southeast Alaska was withdrawn in the early 1900's. The state of Alaska selected land throughout the state beginning in the early 1960's. Most of the land on Nunivak Island was withdrawn in 1929. This problem is solved by the provision in S. 3273 that replaces use and occupancy requirements with legislative approval of allotments. This provision also provides due process protections of all valid existing interests in the land that is claimed for a veteran allotment. This provision is similar to the legislative approval provision Congress made available to applicants of allotments who applied under the Alaska Native Allotment Act. Legislative approval will also save time and money because it will eliminate administrative adjudication of the applicant's use and occupancy.

C. The Current Military Service Dates Unfairly Excludes Many Who Served During The Vietnam Era

The third reason the law needs to be changed is that current law is unfair to many deserving veterans who do not qualify even though they honorably served their country during the Vietnam era. Many Alaska Native veterans who served during the Vietnam era do not qualify for an allotment under the military service time restrictions in the current law.

This is true because only veterans who served from January 1, 1969 to December 31, 1971 are now eligible to apply for an allotment. However, the Vietnam era covered a much longer time span. The "Vietnam era" is legally defined as beginning August 5, 1964 and ending May 7, 1975. Veterans who served during the "Vietnam era" from August 5, 1964 to December 31, 1968, and from January 1, 1972 to May 7, 1975 are excluded from getting an allotment under current law.

It is unfair to treat some Alaska Native veterans who honorably served their country during the Vietnam era differently than other Native veterans who also served during that same Vietnam era. All served our country at the time they were most needed. They should all get the opportunity to apply for an allotment

This problem is solved by the provision in S. 3273 which expands the eligible military service dates to include the dates of the entire Vietnam era.

D. The Current Law Unfairly Excludes Veterans Who Are Now Deceased

The fourth reason that the law needs to be changed is that the existing veterans allotment law allows the heirs of a deceased veteran the opportunity to apply for an allotment but that opportunity is severely restricted. The veteran must have died in the Vietnam War or from war related injuries. The problem with this requirement is that veterans died after the war and thus, their heirs are not able to apply for an allotment. In addition, many veterans who died after the war, died from causes that are most certainly related to their service in Vietnam such as suicide, alcoholism and accidental deaths related to alcohol. However, these causes are not defined as a war related injury. Under S. 3273, heirs of all deceased Vietnam era veterans who are otherwise eligible will be able to get an allotment.

CLOSING

The opportunity to submit this letter is an honor for me and I thank you on behalf of all Alaska Natives who served our country during the Vietnam War.

I would also like to thank you for your leadership in the Senate when it comes to educating your colleagues about the federal trust relationship that exists between the U.S. Congress and Native American and Alaska Natives people which allows Congress to pass legislation specifically for Alaska Natives. As you know, this political relationship, based in the US Constitution, provides Congress with the authority to address Alaska Natives specifically in this proposed legislation. TCC and the other Alaska Native tribal organizations will continue to work with you to educate members of Congress on this sacred relationship in order to see this important bill pass into law.

Sincerely,

TANANA CHIEFS CONFERENCE



Victor Joseph, President

June 11, 2016

TO: The Honorable Senator Lisa Murkowski

RE: Support of Amendment to Native Allotment

I have written previously to explain my particular circumstances and to ask for support in amendments that would allow the Alaska Native Veterans Allotment Act of 1988 be introduced and / or amended.

I am an Alaskan Native, born in Fort Yukon as were all my family members. I spent many of my formidable years in Nenana. I was taught how to live a subsistence lifestyle and taught to respect and honor the land that gives everything to us in return. I am no longer a young man but I still relish my heritage and relationship with the land. I was in the Navy – having served in Vietnam five years – when the original Native Allotment was open I was deployed and did not have an opportunity to file on a parcel of land at that time. I did file at a later time, but there was no land around Nenana to file on, so I DID FILE, however my claim was rejected.

It is with high hopes now that I seek your support that would allow me to once again be able to take advantage of an opportunity to file on a parcel of land – a piece of my heritage – a place to pass on our culture and a piece of land on which they can pass on our way of life to future generations.

If you need any additional information or if you need my support in any way, please feel free to contact me at the numbers listed below. Once again, knowing that I am a Vietnam Vet gives you some idea that I am not a young man, and I want to spend my remaining years practicing the lifestyle that I was taught, teaching it to others who share the same heritage and passing on our culture.

Thank you for your time and consideration and I look forward to hearing from you in the near future.

Signed,



William Lord
P O Box 26
Nenana, Alaska 99760
(907) 322-5220

June 11, 2016

TO: The Honorable United States Senator Lisa Murkowski

RE: Support of Amendment to Native Allotment

I have written previously to explain my particular circumstances and to ask for support in amendments that would allow the Alaska Native Veterans Allotment Act of 1988 be introduced and / or amended.
I am an Alaskan Native, born and raised in Nenana, as were both my Parents and Grandmother. I was taught how to live a subsistence lifestyle and hot to respect and honor the land that gives everything to us in return. I am no longer a young Man and I have three children to whom I wish to pass on their heritage and relationship with the land. I was in the Navy – having served in Vietnam four years – when the original Native Allotment was open I was deployed and did not have an opportunity to file on a parcel of land at that time. I did file at a later time, but there was no land around Nenana to file on, so I DID FILE, however my claim was rejected.
It is with high hopes now that I seek your support that would allow me to once again be able to take advantage of an opportunity to file on a parcel of land – a piece of my heritage – a place to pass on our culture and a piece of land on which they can pass on our way of life to future generations.
If you need any additional information or if you need my support in any way, please feel free to contact me at the numbers listed below. Once again, knowing that I am a Vietnam Vet gives you some idea that I am not a young man, and I want to do all I can – with your support – to leave my children what is rightfully theirs. Thank you for your time and consideration and I look forward to hearing from you in the near future.
Signed,



Nicholas Monroe
P O Box 385
Nenana, Alaska 99760
(907) 832-5858
Cell (907) 715-6586

June 10, 2016

Dear Senators Lisa Murkowski & Dan Sullivan:

This letter is to thank you very much for introducing S.3004! I appreciate the continued support for our Alaska Native Veteran's.

The land that I applied for meant a lot to me because it was land that I used for subsistence purposes my whole young life. It was land that I used for trapping, hunting, and camping. Without land it is impossible to do these things!

My original application was rejected because my dates of service didn't fall within the guidelines for the Act that was passed and also because the land had been given to my village corporation and my regional corporation.

Once again, thank you for your support and for introducing S.3004.

Thank you for your consideration.

Sincerely,

Carlos W. Frank Sr.

Carlos Frank, Sr.
455 3rd Ave., Apt. 529
Fairbanks, AK 99701

June 13, 2016

Dear Senators Lisa Murkowski & Dan Sullivan:

I'm writing this letter to thank you for introducing Senate bill 3004 and to thank you for your continued support of the Alaska Native Veterans.

The land that I had applied for my veteran allotment was rejected because it was in Mount McKinley National Park. Although S 3004 does not give me the opportunity to apply for the same land, I can apply for vacant federal land which I will certainly do.

I joined the Air Force in April of 1969 and served until April of 1973, being honorably discharged. It was very important to me to serve our country. When I got out of the service I made my living off the land hunting, fishing, and trapping.

I would be very happy to have the chance to apply again and this time I think I can have a veteran allotment.

Thank you again for your support.

Sincerely,

Theodore D. Suckling

Theodore D. Suckling
P.O. Box 55
Nenana, Alaska 99760

13/06/2016

To Senator Lisa Murkowski and Senator Dan Sullivan:

I would like to thank you for introducing Senate bill 3004 and to also thank you for your continued support of the Alaska Native Veteran's.

My Brother Richard Gooden was a good man and gave much for his country. I believe the criteria for the Alaskan Native Vietnam Veteran's Allotment Act should be changed to include my brother and his decedents because of his missed opportunity to participate in the Alaska Native Claims Settlement Act. I'm asking for this to honor his sacrifice and his memory, because the time he would have spent exercising his rights under ANCSA and perpetuating his heritage for his descendants by surveying an allotment for himself, he instead was serving his country in Vietnam. I am very proud of Richard as he was very proud of his service to his Country. He was born in the Kobuk Valley.

My brother Richard Gooden served in the Navy from 1969 to 1973, being honorably discharged. Before the war I was told that he was a happy go lucky guy, but after he returned his demeanor had changed. He was moody and stressed and could quickly lose his temper. I mostly remember how he was after the war. I've seen pictures of his Vietnam experience and several of them were of him in fatigues with an m-16 and I was told he was in several battles. He didn't talk about his Vietnam experience. His DD214 shows he served on Submarines, both the USS Sailfish and the USS Puffer. He earned several Medals; National Defense Service Medal, Navy Expeditionary Medal, Vietnam Service Medal w/1 Bronze Star, Vietnam Service Medal w/2 Bronze Star.

Since I was very young, 3 to 7 years old, I didn't understand what was happening but for the time I knew him, I remember he was a very reliable, hardworking man who took care of his Parents, Brothers and Sisters. He died when I was 14, in the spring of 1981.

S.3004 would finally allow his heirs to apply for an allotment on his behalf.

Once again, thank you for your support and ask that you move S.3004 to finalization.

Thank You,

Patrick Huff

June 22, 2016

To Senator Lisa Murkowski and Senator Dan Sullivan:

I would like to thank you for introducing Senate bill 3004 and to also thank you for your continued support of the Alaska Native Veterans.

On behalf of my late brother, James Demoski, I applied for an allotment under the Vietnam Veteran's Allotment Act. The application was rejected because my brother did not die as a direct result of the war and I was told that I was not eligible to apply for him. Senate bill 3004 would allow me to do that now.

James joined the Navy and served from 1966 to 1974, being honorably discharged. It was very important to him to serve our country.

When James got out of the service he went to his land mostly to find solitude and someplace that was his own.

I would be very happy to have the chance to re-apply for an allotment on my brother's behalf because there are good memories of him there.

Once again, thank you for your support and ask that you move S.3004 to finalization.

Thank You,

Carol A Lowe

Carol Lowe
P.O. Box 32
Galena, AK 99741

14/06/2016

To Senator Lisa Murkowski and Senator Dan Sullivan:

I would like to thank you for introducing Senate bill 3004 and to also thank you for your continued support of the Alaska Native Veterans.

I did not apply under the 1906 Allotment Act because I was told that I wasn't old enough, that I had to be 18 years old. By the time I was old enough I was away serving our country and when the Vietnam Veteran's Allotment Act was passed, I did not feel that I qualified for that either because the land that I wanted wasn't available. There was not very much land to apply for to begin with.

I joined the Navy in November of 1967 and served until August of 1973, being honorably discharged. It was very important to me to serve our country.

When I got out of the service I made my living off the land hunting and trapping and fishing.

I would be very happy to have the chance to apply for an allotment because there would be more land to choose from and it's hard to do any subsistence activities without land.

Once again, thank you for your support and ask that you move S.3004 to finalization.

Thank You,

Phillip D. Argall
P.O. Box 286
Nenana, AK 99760



Ukpeagvik Inupiat Corporation
Testimony in Support of Section 3 of S. 3273
Subsurface Sand & Gravel Amendment to the Barrow Gas Field Transfer Act
September 22, 2016

Introduction. My name is Anthony Edwardsen, President of the Ukpeagvik Inupiat Corporation (UIC). UIC is the village corporation of the Inupiat community of Barrow, Alaska, organized pursuant to the provisions of the Alaska Native Claims Settlement Act (ANCSA).

UIC strongly supports early enactment of Section 3 of S. 3273. Section 3 would provide a technical correction to clarify the location of sand and gravel deposits under UIC's land, resolving a longstanding and inequitable miscalculation that has stymied infrastructure development in Barrow.

Background on the Allocation of Subsurface Rights Under UIC's Land. As a result of the ANCSA settlement, UIC owns the surface estate to approximately 220,000 acres in and around Barrow. Lying under about one-half of the UIC's surface estate is what has become called the Barrow Gas Fields. The subsurface rights to extract gas from the Barrow Gas Fields lying under UIC's surface estate are held by the North Slope Borough (NSB), conveyed to it by the Barrow Gas Field Transfer Act of 1984. This Act vests all other rights to that subsurface estate in the United States, except that the Act specifically directs the Secretary of the Interior to convey to UIC the sand and gravel underlying the surface estate owned by UIC. That conveyance was conditioned on UIC providing NSB with an easement over UIC's surface estate surrounding the Barrow Gas Fields for all purposes associated with NSB's operation, maintenance, development, production, generation or transportation of energy from the Barrow Gas Fields. UIC and NSB met that condition when they concluded the necessary easement agreement on August 26, 1986. As a result, the Act and accompanying agreement essentially split the subsurface estate within the Barrow Gas Fields between the NSB (for gas extraction) and UIC (sand/gravel excavation).

Section 3 of S. 3273 More Accurately Locates UIC's Sand and Gravel. UIC has not obtained the full value of the sand and gravel resources the United States promised UIC for the valuable

easement UIC gave NSB in 1986. Today's technology permits far greater precision in locating subsurface sand and gravel resources than was available in 1986. Recent geo-technical surveys conducted by the Alaska Department of Transportation and others have discovered that much of the sand and gravel under UIC's surface estate, which sand and gravel Congress intended in 1984 to convey to UIC, is located just outside the boundary of the Barrow Gas Fields defined in the 1984 Act. Section 3 of S. 3273 would correct this location error.

Access to Local Sand and Gravel is Essential for Construction in the Arctic. Barrow is located at the edge of the Arctic Ocean, built upon and surrounded by tundra and permafrost wetlands. All construction in Barrow -- roads, building pads, runways, infrastructure, and anything else that needs a stable foundation -- requires the placement of gravel fill which provides an insulating barrier between the infrastructure and the fragile tundra permafrost. Without a thick gravel base, constructed facilities will thaw the permafrost and sink until they collapse. Early on in Barrow's development, gravel was often taken directly from Barrow's Arctic Ocean beachfront where it was easy to obtain. But this practice accelerated coastline erosion and the risk of flooding in Barrow. UIC has worked with the Alaska Department of Transportation to identify gravel sources a few miles inland that can be used to shore up the eroding coastline and to provide the necessary foundation for essential construction activities. It is critical to Barrow's future that UIC be able to develop a stable, affordable source of sand and gravel under UIC lands in order to permit further development in Barrow, protect its coastline, and preserve its way of life.

Section 3 of S. 3273 Fulfills the 1984 Act. To complete the federal obligation with which Congress intended in the 1984 Act to benefit UIC, and which UIC in good faith bargained for in its 1986 easement agreement, Congress should enact Section 3 of S. 3273, a technical amendment to the Barrow Gas Field Transfer Act of 1984, which will fulfill the commitment of the United States to provide UIC with rights to the sand and gravel resources lying wholly under UIC's surface estate in and surrounding the Barrow Gas Fields. UIC respectfully requests that Section 3 of S. 3273 be enacted as soon as possible, and is grateful to Chairwoman Murkowski and the Alaska congressional delegation for their support of this provision. Thank you.

Native Village of Shishmaref
Shishmaref I.R.A. Council
P.O. Box 72110
Shishmaref, AK 99772

City of Shishmaref
P.O. Box 72083
Shishmaref, AK 99772

Shishmaref Native Corporation
P.O. Box 720151
Shishmaref, AK 99772

November 12, 2015

The Honorable Senator Murkowski, Senator Sullivan and Congressman Young,

The Native Village of Shishmaref (Tribe), the City of Shishmaref and the Shishmaref Native Corporation request your assistance in creating a transportation corridor through the Bering Land Bridge National Preserve from Shishmaref Native Corporation lands to Ear Mountain as allowed under ANILCA to develop a rock quarry at Ear Mountain and construct a transportation corridor for safety for the community of Shishmaref.

The community of Shishmaref is working on community sustainability and resilience to the impacts of natural hazards in cooperation with the State of Alaska's Department of Commerce, Community and Economic Development, the State of Alaska's Department of Transportation and Public Facilities, and Kawerak's Transportation Program. This transportation corridor is identified in Shishmaref's strategic plan and their Long Range Transportation Plan.

Similar requests for landholder access and transportation and utility system corridors have been made and authorized in the past. Consistent with that precedent, because the village of Shishmaref is surrounded by the 2.6 million-acre Bering Land Bridge National Reserve, this request should also be authorized.

The Alaska National Interest Lands Conservation Act (ANILCA) Guarantees a Right of Access to Landowners Surrounded by National Conservation Areas

The Alaska National Interest Lands Conservation Act (ANILCA) (Pub. L. No. 96-487 (1980) [codified at 16 U.S.C. § 3101 *et seq.*] established seven wilderness areas in Alaska, including the Bering Land Bridge National Preserve. The purpose of ANILCA was to preserve certain lands and waters in the State of Alaska that contain nationally significant natural scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational and wildlife values, for the benefit, use, education, and inspiration of present and future generations. ANILCA also provided for use of motorized vehicles

and construction of cabins, fisheries and aquaculture facilities, and other structures in these wilderness areas, in recognition of the unique conditions in Alaska.

Congress enacted provisions protecting the access rights for those land-holders whose lands are located within or are effectively surrounded by any of the conservation areas established by ANILCA. *See* 16 U.S.C. § 3170(b), which provides as follows:

> "*Notwithstanding any other provisions of this Act or other law, in any case in which* State owned or privately owned land, including subsurface rights of such owners underlying public lands, or a valid mining claim or other ***valid occupancy is within or is effectively surrounded by one or more conservation system units***, national recreation areas, national conservation areas, or those public lands designated as wilderness study, the State or private owner or ***occupier shall be given by the Secretary such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the concerned land*** by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of such lands."

Regulations such as National Environmental Policy Act (NEPA) review must be applied to appropriately balance access rights and other values of these lands with their environmental value under ANILCA. *See, e.g., Hale v. Norton*, 476 F.3d 694, 700 (9th Cir. 2007) (noting that even "if the adverse environmental effects of the proposed action are adequately identified and evaluated, the agency is not constrained by NEPA from deciding that other values outweigh the environmental costs."); *See also* National Park Service Special Considerations for NPS Units in Alaska (Section 16 of Director's Order and Reference Manual 53).

ANILCA Procedures Allow for the Development of Transportation and Utility Networks through Alaska Wilderness Areas and Congress has Enacted Legislation Authorizing Specific Access Roads through Wilderness Areas

Even if Shishmaref were not an inholder under 16 U.S.C. § 3170(b), other ANILCA provisions in Title XI which establish procedures that allow for the development of transportation and utility networks through Alaska wilderness areas would be applicable. *See* 16 U.S.C. § 3164-3166. These ANILCA provisions establish an alternative basis and procedure for approval of the proposed transportation corridor proposed by for Shishmaref IRA, which would be eligible for construction despite the wilderness status of the surrounding lands.

The standards and procedures set forth in 16 U.S.C. § 3164-3166 are triggered only where there is an absence of other applicable law "with respect to a transportation

basis for the construction of the proposed Shishmaref to Ear Mountain transportation corridor.

The Native Village of Shishmaref is in Kawerak's Tribal Transportation Consortium. The proposed transportation corridor through the Bering Land Bridge National Preserve is an approved route on the tribal inventory. Kawerak will be amending the tribal transportation improvement plan (TIP) to include this project so the planning process may begin with the community and all property owners on the proposed transportation corridor to Ear Mountain.

Ear Mountain is the closest rock quarry source to Shishmaref. The State of Alaska's Department of Transportation and Public Facilities have completed work under the Shishmaref Relocation Road Reconnaissance Study to evaluate road access and will provide the documents for public comment later this spring that will define the proposed route to Ear Mountain.

We are available to work with you to obtain a transportation corridor for the community of Shishmaref, Alaska. Fred D. Eningowuk is the contact person for the Strategic Management Plan update and our contact for this project. You can contact him at shhgrant@yahoo.com or call him at (907) 649-6792.

We look forward to working with our congressional delegation and the administration on this project.

Sincerely,

Mayor
City of Shishmaref

President
Native Village of Shishmaref

President
Shishmaref Native Corporation

cc: Denise Michels, Transportation Director
Jeanette Koelsch, Superintendent, Bering Land Bridge
Larry Pederson, Land Manager, Bering Strait Native Corporation
Sally Cox, State DCCED
File



315 Lincoln Street, Suite 300
Sitka, Alaska 99835
Tel (907) 747-3534
Fax (907) 747-5727
www.sheeatika.com

HEARING BEFORE THE
UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

HEARING TO RECEIVE TESTIMONY ON VARIOUS BILLS
SEPTEMBER 22, 2016

WRITTEN TESTIMONY
OF
DR. KENNETH CAMERON
PRESIDENT/CEO AND CHAIRMAN
SHEE ATIKÁ, INC.

Chairman Murkowski, Ranking Member Cantwell and Members of the Committee:

My name is Kenneth Cameron and I am the President/CEO and Chairman of Shee Atiká, Inc. ("Shee Atiká"). Shee Atiká is the Native Corporation organized under the Alaska Native Claims Settlement Act ("ANCSA") for the Alaska Natives historically residing in the vicinity of Sitka, Alaska. Shee Atiká presently has almost 3,300 Alaska Native shareholders. It is my privilege to submit this written testimony in support of Section 5 of S. 3273, the *Alaska Native Claims Settle-ment Improvement Act of 2016* (the "*ANCSA Improvement Act*"). Shee Atiká greatly appreciates the introduction of this important legislation and the opportunity to submit this written statement in its support.

Section 5 of the *ANCSA Improvement Act* addresses the treatment of the United States Forest Service's (the "Forest Service's") reacquisition of over 22,000 acres of land in Cube Cove on Admiralty Island in order to return the land back into Wilderness within the Admiralty Island National Monument. The timing of this hearing is opportune, as last week the Forest Service and Shee Atiká completed the purchase by the Forest Service of the first two segments of the multi-segment acquisition of Cube Cove. A copy of the joint press release issued by the Forest Service and Shee Atiká concerning the Cube Cove purchase and the completion of the purchase of the first two segments is attached to my written testimony and I respectfully request that it be included in the hearing record.

As the press release notes, this is a "landmark" transaction that, when completed, will be the "largest transfer of lands from a private inholding back into Forest-Service-managed Wilderness in the history of the agency." The transaction is the result of a multi-year team effort by the Forest Service, Shee Atiká and the Alaska Congressional delegation. In particular, Shee Atiká would like to express its gratitude to Chairman Murkowski, Senator Sullivan and Representative Young for their support and guidance in connection with this transaction.

This transaction is very important to both parties. The transaction allows Shee Atiká to finally realize the complete value of the settlement of their shareholders' aboriginal land rights as promised by ANCSA when it was enacted in 1971. Shee Atiká was unable to originally select land within the immediate vicinity of Sitka due to the long-term timber contracts the United States had entered to supply the Sitka and Ketchikan pulp mills. This forced Shee Atiká to select land on Admiralty Island, an area of intense environmental interest, with the result that Shee Atiká had to pursue a multi-year legal battle to obtain just the right to log its land because this land was an inholding to the Admiralty Island National Monument/Kootznoowoo Wilderness ("Monument/Wilderness"). While Shee Atiká prevailed, the legal battle left Shee Atiká nearly bankrupt. Moreover, the specter of protracted and expensive environmental litigation remains concerning the future use of Shee Atiká's lands because these lands continue to be an inholding to the Monument/Wilderness. Returning Shee Atiká's lands to federal ownership in return for the payment of the appraised fair market value allows Shee Atiká and its shareholders to receive the value of what was promised them in *ANCSA* and allows them to redeploy the consideration to achieve the economic viability promised in *ANCSA*.

From the Government's perspective, the reacquisition of Shee Atiká's lands has been a high priority goal for many years and will result in the incorporation of these lands into the Monu-ment/ Wilderness. Elimination of Shee Atiká's 23,000 acre inholding will also allow for more efficient management by the Forest Service of the Monument/Wilderness and will eliminate many miles of boundary with non-federal interests.

In this regard, Section 5 of the *ANCSA Improvement Act* will facilitate the transaction in a number of respects to ensure that it is implemented in a fair, equitable and efficient manner for both the Forest Service and Shee Atiká. In particular, Section 5 provides for appropriate treatment of the consideration received by Shee Atiká that matches the treatment that Shee Atiká would have received under the original *ANCSA*. Section 5 also provides Shee Atiká with the option to receive such consideration in the form of either cash or as so-called "bid credits" that may be used to acquire surplus property being sold by federal agencies. Section 5 does not itself, however, grant Shee Atiká any new right to receive any federal lands, only to use the consideration from the Cube Cove transaction to acquire surplus federal assets (including lands) otherwise offered for public disposal.

Shee Atiká recognizes the limited time and resources that the Committee has at its disposal and, therefore, greatly appreciates the holding of this hearing to consider this important legislation. In light of the fact that the first two segments of the acquisition have been completed and both parties have expressed an interest in completing the acquisition as soon as possible, we would respectfully request that the Committee and the full Senate consider the bill as soon as practically possible.

We would also note that companion legislation has been introduced in the House of Representatives by Congressman Young as H.R. 5909, the *Shee Atiká Land Entitlement Act*. That legislation is largely identical to Section 5 of the *ANCSA Improvement Act*, with the exception that the House bill includes an additional provision to protect Shee Atiká's rights with respect to any land it retains if the transaction is terminated prior to a complete acquisition by the Forest Service.

We respectfully request that the Committee and the full Senate consider inclusion of this important provision as the Senate and House bills move through the legislative process towards enactment.

In addition to Section 5 of the *ANCSA Improvement Act*, Shee Atiká also supports S. 2056, the *National Volcano Early Warning and Monitoring System Act.* The bill establishes a National Volcano Early Warning and Monitoring System, which includes the Alaska Volcano Observatory ("AVO"), to monitor, warn, and protect citizens from undue and avoidable harm from volcanic activity. The bill would unify the monitoring systems of volcano observatories into a single connected system, as well as create a National Volcano Watch Office operational 24-hours a day, seven days a week. The AVO monitors volcanoes and volcano fields in Alaska, including the Mount Edgecumbe volcano and field which is located very close to Sitka. As a result, volcanic unrest, seismic activity and eruption at Mount Edgecumbe would impose significant hazards to human life and property, as well as to wildlife and natural resources, in the Sitka area, including respiratory hazards and damage to commercial and recreational airspace. Shee Atika, therefore, supports S. 2056 as a means to provide greater safety through early warning and monitoring to the citizens of Sitka and other communities located near volcanoes and volcano fields.

Thank you for the opportunity to submit this written statement. We look forward to continuing to work with the Committee on this important legislation to our Alaska Native shareholders.

USDA

Forest Service
Alaska Region
P. O. Box 21628
Juneau, Alaska 99802

SHEE ATIKÁ

Forest Service Twitter: @AKForestService
Forest Service Web: http://www.fs.usda.gov/r10
Shee Atiká Web: http://www.sheeatika.com

JOINT PRESS RELEASE 16-07
For Immediate Release
September 16, 2016

Contact: James King, Forest Service, Director, Recreation, Lands, and Minerals
Phone: 907-586-8877 Email: jamesgking@fs.fed.us

Kenneth Cameron, Shee Atiká, Inc., President/CEO and Chairman
Phone: 907-747-3534 Email: info@sheeatika.com

Forest Service purchases land in Cube Cove returning it to Wilderness

JUNEAU, Alaska—September 16, 2016. Today marks the completion of the purchase of the first two segments of a multi-segment land acquisition in Cube Cove on Admiralty Island. Funds for this purchase come from the congressionally-designated Land and Water Conservation Fund (LWCF).

In July, a landmark purchase agreement between the Forest Service and Shee Atiká Corporation that will return over 22,000 acres of land back into Wilderness within the million-acre Admiralty Island National Monument was signed. Due to the size of the property, the purchase agreement established a method to acquire the property in segments through the LWCF. Today's purchase of 4,463.45 acres represents approximately 20% of the total purchase.

When this purchase is completed it will be the largest transfer of lands from a private inholding back into Forest Service-managed Wilderness in the history of the agency. Admiralty Island is located within the Tongass National Forest, which is the largest intact temperate rainforest in the world, home to large populations of brown bears and other wildlife and also critical watersheds for salmon and fish stocks.

Cube Cove is located 30 miles south of Juneau, Alaska, and 20 miles north of Angoon, Alaska, and is an inholding within the boundaries of the Admiralty Island National Monument and within the Kotznoowoo Wilderness area.

The land owner, Shee Atiká Corporation, is a Sitka-based urban Native corporation organized under terms of the Alaska Native Claims Settlement Act (ANCSA). The Cube Cove lands were conveyed to Shee Atiká in the early 1980s as part of ANCSA, and the federal government has long been interested in reacquiring the inholding.

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"I'm pleased to finalize the purchase of Cube Cove and see these lands become a part of the Admiralty Island National Monument and Kootznoowoo Wilderness," said Alaska's Regional Forester, Beth Pendleton.

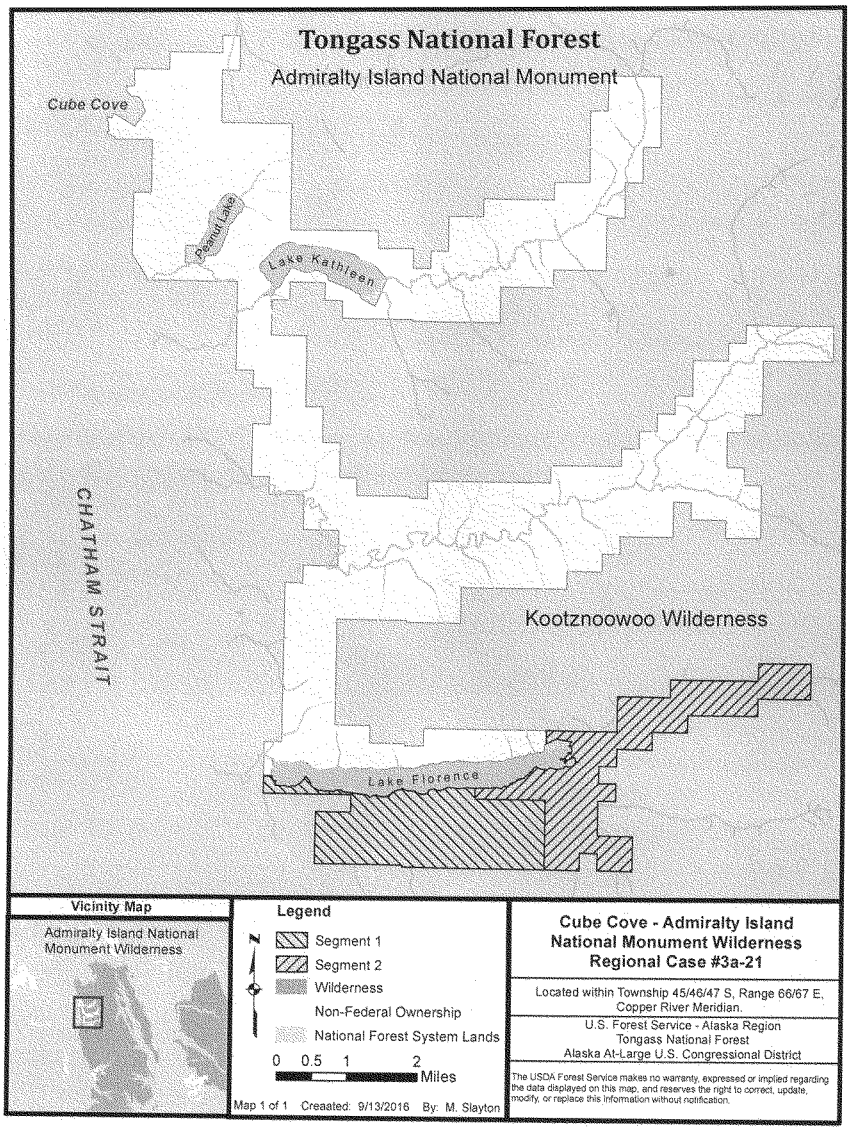
"The return of the Cube Cove land to the Monument has been a team effort by the U.S. Forest Service, Shee Atiká and the Alaska Congressional delegation," said Kenneth Cameron, President/CEO and Chairman of Shee Atiká, Incorporated.

Extensive logging took place on the property from 1984 to 2002. The phased purchase is of the surface estate, with its former logging infrastructure now removed, and will be allowed to return to a more natural state over time. Purchase of Wilderness inholdings is a high priority for land acquisition in the Tongass National Forest Land and Resource Management Plan.

The Alaska Region of the Forest Service manages almost 22 million acres of land within the Chugach and Tongass National Forests to meet society's needs for a variety of goods, services, and amenities while enhancing the Forests' health and productivity, and to foster similar outcomes for State and private forestland across Alaska. The U.S. Forest service is an agency of the United States Department of Agriculture.

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Tongass National Forest
Admiralty Island National Monument
Cube Cove
Pearul Lake
Lake Kathleen
CHATHAM STRAIT
Kootznoowoo Wilderness
Lake Florence
Vicinity Map
Admiralty Island National Monument Wilderness
Legend
Segment 1
Segment 2
Wilderness
Non-Federal Ownership
National Forest System Lands
0 0.5 1 2
Miles
Map 1 of 1 Creaated: 9/13/2016 By: M. Slayton
Cube Cove - Admiralty Island National Monument Wilderness
Regional Case #3a-21
Located within Township 45/46/47 S, Range 66/67 E, Copper River Meridian.
U.S. Forest Service - Alaska Region
Tongass National Forest
Alaska At-Large U.S. Congressional District
The USDA Forest Service makes no warranty, expressed or implied regarding the data displayed on this map, and reserves the right to correct, update, modify, or replace this information without notification.

Kleeschulte, Chuck (Energy)

From: cindya_h@yahoo.com
Sent: Wednesday, September 21, 2016 1:06 AM
To: Kleeschulte, Chuck (Energy)
Subject: Senate Bill 3273

I am a Shee Atika shareholder and would like to have my comments included in Senate Bill 3273.

I am adamantly opposed to the sale of Cube Cove. The sale of Cube Cove is being done without the approval of the shareholders and Not in the shareholder's best interests.

Please do NOT allow this sale of OUR lands to go through. This land is for our descendants. Please help us protect OUR land for our future generations.

Our current president and ceo of Shee Atika has NOT been acting in our best interest. Please keep OUR land safe.

Thank you for your time.

Cynthia Bass
7022 Pepper Crest Lane
Spring, Tx 77379
936-498-5128

Shee Atika Shareholder

CIRI

September 21, 2016

The Honorable Lisa Murkowski, Chairwoman
Senate Energy and Natural Resources Committee
United States Senate
Washington, DC 20510

Dear Senator Murkowski:

On behalf of the more than 8,700 shareholders of Cook Inlet Region Inc. (CIRI), I wanted to commend you for holding a hearing on S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016 and a number of other bills to address critical issues of importance to Alaska Native communities.

In particular, we applaud and endorse Section 7 of S. 3273 that would allow CIRI to select appropriate lands to satisfy the current outstanding under-conveyance of entitlement lands under the Alaska Native Claims Settlement Act (ANCSA). After over 40 years of trying to resolve this issue in good faith through the normal processes, both administrative and legal, we are resigned to the unfortunate reality that the only possibility of remedying the under-conveyance that both CIRI and the U.S. Department of the Interior acknowledge in a reasonable timeframe is through the legislative process. For background, CIRI concluded the land selection process with its village corporations several years ago, and as a consequence and consistent with what we previously informed the Department of the Interior, CIRI was approximately two townships short of lands it is entitled to under ANCSA.

As Alaskans, we were delighted to see the village selection process finally completed as were the village corporations, and the certainty the selection process provides to all parties is essential for the villages' future decisions. Accordingly, CIRI believed it should also be accorded that same certainty and we know you share our commitment to identify all lands in Alaska suitable and eligible for selection under ANCSA so that this overdue land entitlement can be satisfied to the benefit of CIRI's shareholders.

When the village land selection process was finalized, we requested expedited attention and assistance from the Department of the Interior to remedy the deficiency in CIRI's land holdings. With your help, we requested from the Department of the Interior an inventory of lands in Alaska available for selection by Alaskan Native Corporations (ANCs) with an eye towards working in cooperation with CIRI's fellow ANCs to both satisfy CIRI's entitlement and further the mutual interests of CIRI and other ANCs. That list was never provided and almost three years after the completion of CIRI's conveyances to its village corporations,

P.O. Box 93330, Anchorage, AK 99509-3330 • P: 907-274-8638 • F: 907-279-8836 • www.ciri.com

CIRI became aware of a Department of the Interior Solicitor's opinion that the Department of the Interior would not be able to make any lands outside of the CIRI region available to CIRI for selection. Accordingly, your legislation which provides the direction, authority and protections to allow CIRI's under-conveyance to be remedied in full cooperation with other ANCs from suitable public lands in Alaska is timely, reasonable and necessary to resolve CIRI's entitlement under-conveyance.

And, unfortunately, CIRI's situation is not unique. Although ANCSA was passed 45 years ago, some Alaska Native Corporations still have not received the entirety of the settlement they are due under that legislation. Your bill, S. 3273, in addition to clarifying CIRI's entitlement selection authority, addresses a number of other outstanding issues and would further the underlying promise and goal of ANCSA to help Alaska Natives advance economically through the appropriate utilization and development of their assets and entitlement lands. Among other initiatives, your bill helps Alaskan Natives and Native communities across and throughout the state. In addition it provides urban corporations for over 3,400 shareholders who were overlooked in the original ANSCA bill.

S. 3273 underscores that ANSCA is a living document that needs to be amended periodically to ensure the original intent and to remedy inequities or gaps in the original legislation. We commend your vision and initiative in pursuing S. 3273 and the other bills on the hearing agenda this week. We stand ready to help as you shepherd them through the legislative process.

Sincerely,

Cook Inlet Region, Inc.

Sophie Minich

Sophie Minich, President and Chief Executive Officer



LEADER in All We Do

Written Testimony before U.S. Senate Energy and Natural Resources
Alaska Native Claims Settlement Improvement Act of 2016
July 5, 2016
Testimony on behalf of Doyon, Limited
Submitted by Aaron M. Schutt, President and CEO

On behalf of the Doyon, Limited Board of Directors, our 19,300 shareholders, and employees, this is a written statement of support for the Alaska Native Claims Settlement Improvement Act of 2016.

Doyon is one of the thirteen Native regional corporations established by Congress under the terms of the Alaska Native Claims Settlement Act (ANCSA) of 1971. Doyon's mission is to promote the economic and social well-being of our present and future shareholders, to strengthen their Native way of life, and to protect and enhance our land and resources.

Doyon is the regional corporation for Interior Alaska, and is the largest private landowner in Alaska, with a land entitlement under ANCSA of more than 12.5 million acres. Our lands extend from the Brooks Range on the north to the Alaska Range on the south. The Alaska-Canada border forms the eastern border and the western portion almost reaches the Norton Sound. Our lands also include the area covering the original Canyon Village land selections, and as such, Doyon, Limited is a strong supporter of the introduction and passage of legislation authorizing the conveyance of these lands to the Native people of Canyon Village.

Members of Canyon Village continue to hold their traditional site at Canyon Village of historical and cultural importance– and have long advocated for their land selections authorized by ANCSA. In meetings between Doyon and shareholders who represent Canyon Village and Kian Tr'ee Village Corporation over the last forty years, we note the consistency in their position despite the decades of frustration.

Recognized by Congress as a Native village subject to ANCSA, Canyon Village was originally established in 1962 on vacant and unappropriated federal land located on the Porcupine River in northeast Alaska, by Alaska Natives from Fort Yukon who wished to live an independent subsistence lifestyle. The Bureau of Indian Affairs subsequently certified Kian Tr'ee Corporation as the Native group corporation for Canyon Village, and in June 1976, Kian Tr'ee Corporation filed its land selection with the Bureau of Land Management (BLM) pursuant to section 14(h)(2) of ANCSA for conveyance to the Native group.

Regrettably, due to a series of events outside of their control, for 40 years now the Athabascan people of Canyon Village have been denied the benefit of the settlement of aboriginal land claims

provided for by ANCSA. First, in 1965, BLM withdrew the aboriginal lands in and around Canyon Village as part of a powersite classification for the then-proposed Rampart Dam project on the Yukon River. Then in 1980, the Alaska National Interest Lands Conservation Act (ANILCA) expanded the boundary of the Arctic National Wildlife Refuge (ANWR) to include the land surrounding Canyon Village. Although the dam project was abandoned well before 1980, the federal government's delay in formally revoking the withdrawal for that project (which did not happen until 1990) prevented the completion of conveyance in the intervening years before the lands were included in ANWR.

Furthermore, the unauthorized and mistaken relinquishment in 1977 by the Canyon Village Townsite Trustee of a nearly 300-acre tract included in Canyon Village's approved townsite petition, resulted in the relinquishment of all but 30 acres of the original application. The erroneous relinquishment on behalf of the agency representative was made in the mistaken belief that those lands would be made part of the Canyon Village ANCSA entitlement. The relinquishment of the townsite petition only adds to the unfortunate circumstances that the Alaska Native founders of Canyon Village and their descendants have suffered in their efforts to obtain ownership of their Native lands.

As a result of these actions and inactions, Kian Tr'ee is today one of only two certified Native group corporations in Alaska that has neither a conveyance nor a pending conveyance arranged by special legislation or negotiation. The particular lands selected by the group in 1976 remain of significant cultural and historic relevance and importance to the remaining founders (very few, unfortunately, who may live to see their aboriginal lands returned to their people) and their descendants. As a result of the unique circumstances that have stood in the way of conveyance, legislation is necessary for these lands to be conveyed.

In closing, Doyon strongly supports and urges Congress to pass legislation to finally complete the long overdue conveyance of the aboriginal lands that were selected by the Native people of Canyon Village now 40 years ago.

Chugach
ALASKA CORPORATION

HEARING BEFORE THE UNITED STATES SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

HEARING TO RECEIVE TESTIMONY ON VARIOUS BILLS

SEPTEMBER 22, 2016

WRITTEN TESTIMONY

OF

Sheri Buretta, Chairman of the Board

Chugach Alaska Corporation

Chugach
ALASKA CORPORATION

Sheri Buretta
Chairman of the Board
Chugach Alaska Corporation
3800 Centerpoint Drive, Suite 1200
Anchorage, AK 99503

Committee of Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510-6150

Chairman Murkowski, Ranking Member Cantwell and Members of the Committee:

My name is Sheri Buretta and I am Chairman of the Board of Chugach Alaska Corporation (Chugach). Chugach is the Regional Native Corporation organized under the Alaska Native Claims Settlement Act (ANCSA) for Alaska Natives historically residing in the Chugach Region as more fully described in my statement attached. Chugach currently has approximately 2600 Alaska Native shareholders.

It is my privilege to submit this written testimony in support of Section 13 of S. 3273, the *Alaska Native Claims Settlement Improvement Act of 2016* (*ANCSA Improvement Act*). Chugach greatly appreciates the introduction of this important legislation and the opportunity to submit this written statement in support of its enactment.

Sincerely,

Sheri Buretta

Sheri Buretta,

Board Chair

Chugach Alaska Corporation

Chugach
ALASKA CORPORATION

September 22, 2016
Section 13, ANCSA Improvement Act
Study of Chugach Lands

Introduction

The Chugach region extends from southern tip of the Kenai Peninsula to the 141st meridian near Malaspina Glacier between Icy Bay and Yakutat and covers 5,000 miles of coastline. It includes the communities of Cordova, Valdez, Whittier and Seward and the villages of Eyak, Chenega, Tatitlek, Nanwalek and Port Graham.

The Alaska Native Claims Settlement Act (ANCSA) Improvement Act, as introduced by Senator Lisa Murkowski (R-AK), includes a provision, Section 13, requiring a study to be conducted within one year of the date of enactment of the bill to identify the impacts on the value of Chugach Alaska Corporation (Chugach) land that resulted from changes in Federal law, or from Federal or State land acquisitions after December 1, 1980, and to identify recommendations and elements of a land exchange for current lands that were conveyed to Chugach Natives, Inc. "Chugach" as a result of ANCSA and the settlement of land claims thereafter.

The following provides for justification related to the request for a study and recommendations for a land exchange or other appropriate compensation to provide for a fair and just settlement of outstanding inequities related to the settlement of land claims rights of Alaska Natives in the Chugach region.

ANCSA and the Chugach Natives

ANCSA was passed into law in December 1971. Under the language of the Act, Chugach is entitled to 928,000 acres, including 550,000 acres of subsurface and 378,000 acres of full fee estate in lands to be selected by Chugach and agreed to by the United States of America, by and through James G. Watt, Secretary of the Interior, and John R. Block, Secretary of Agriculture and the State of Alaska, by and through Esther C. Wunnicke, Commissioner of the Department of Natural Resources, in settlement of its aboriginal land claims.

The vast majority of lands in the Chugach region, approximately 70%, was unavailable for selection due to the existence of the Chugach National Forest and State of Alaska land holdings and interests. This made the selection of lands particularly difficult for Chugach. As of 1981, ten years after passage of the Settlement Act (ANCSA), an agreement had still not been reached regarding Chugach land selections. This prompted Congress to direct a study of lands in the Chugach region under Section 1430 of the Alaska National Interest Lands Conservation Act of 1980, Subsection A, Public Law 96-487, with the end goal for the parties (USFS, State of Alaska, Chugach and other concerned parties including the communities within the region) to come to agreement on land selections. However, at the end of the study the parties were not able to

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reach an agreement. This eventually led to Congress making a final determination on the land selections, which was not in alignment with the interests of Chugach. Ultimately, Chugach received lands that were primarily comprised of "mountain tops and glaciers," not ideal locations for potential development to meet the goals and promises of ANCSA: Economic self-sufficiency and self-determination for the Alaska Native people. In those years, Chugach primarily focused on developing resources related to fish processing and timber harvesting as the best way to achieve economic self-sufficiency. Unfortunately, a downturn in both the timber industry and seafood processing sector following the Exxon Valdez oil spill led Chugach to file for bankruptcy in 1991.

Chugach and TAPS

In 1969, prior to the passage of ANCSA, Alaska was in the midst of realizing a tremendous economic boom with the discovery of significant oil resources at Prudhoe Bay in the Alaska North Slope. Engineers had determined the best route to move oil from Prudhoe Bay to market would be a pipeline that stretched 800 miles to Valdez, which boasted a natural deep water port. A terminal would be built in Valdez to receive, process and load the oil onto tankers bound for market. Major producers including BP, Exxon and Atlantic Richfield (now Conoco-Phillips) would share the ownership of the pipeline, dubbed the Trans-Alaska Pipeline System (TAPS). However, to build the pipeline, several Alaska Native groups with interests in the area who were protesting land rights would have to abandon their protest in order for the State and the oil producers to move forward with building the pipeline.

Chugach was one of the Alaska Native groups in protest. The terminal was slated to be built on traditional Chugach land. After a series of meetings and under immense pressure from the State and the producers, Chugach eventually agreed to give up their claim to these lands, and the release of Valdez as a Native Village, in return for **$1** and a promise of contracts and jobs for Chugach and our shareholders. In a statement submitted by the then President of Chugach Native Association George Olson, he said, "I want to emphasize and re-emphasize that the Native people do not wish in any way to impede the progress of the State. But it must be recognized that the contest is between the Native people of Alaska and the federal government. We seek compensation for the lands that have been taken from us." In 1970, Alyeska Pipeline Service Company (Alyeska), owned by the oil producers, was formed as the entity to design, build, maintain and operate TAPS. While Chugach over time was able to secure certain contracts with Alyeska, other contractors including Alaska Nataive Corporations (ANCs) with no land rights in the region secured much more significant contracts. While contracts for Chugach subsidiaries did occur, the relative volume was inadequate relative to the promise of jobs and contracts.

By the end of 1975 the bulk of the serious contracting had ceased. This resulted in Cecil Barnes, then President of Chugach, to write Alyeska with a proposal involving camp maintenance – which was ultimately denied by Alyeska. This resulted in only one proposal available for Chugach at the time, characterized by Barnes as "our first large venture."

Valdez is in the Chugach region, and today we do contract with TAPS operator Alyeska, providing administrative and technical services through our subsidiary Chugach Alaska Services LLC, in

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addition to oil spill response in a partnership between Chugach and the villages of Tatitlek and Chenega (TCC), both of which have been very instrumental in meeting Alaska Native hire provisions required by Section 29 of the TAPS agreement. However, inequity still exists as the promises made in return for giving up rights to the Valdez terminal property were never fully fulfilled.

The Exxon Valdez Oil Spill and Chugach

In 1989 the largest oil spill in U.S. history to date occurred when the Exxon Valdez tanker ran aground on Bligh Reef in Prince William Sound (PWS) 30 miles from the Valdez Terminal. 11 million gallons (~250,000 barrels) of crude oil was released into the waters of Prince William Sound. This event would forever change the face of petroleum transportation on navigable waters in the United States. Crude oil from the spill-soiled waters and washed up on the shoreline of PWS, encompassing 1,300 miles. Populations of fish, marine mammals, sea birds and shell fish are still recovering due to lack of preparation and inadequate cleanup operations. These impacts were felt especially by the PWS communities that are part of the Chugach Region. Subsistence activities, primarily hunting and fishing, were severely negatively impacted. Communities were overwhelmed with outside workers who quickly moved in and virtually overwhelmed our small communities with contractors, spill response workers and equipment. While some Chugach shareholders were able to obtain jobs or benefit from the cleanup response, all of our shareholders were negatively impacted as the devastating effects of the spill on subsistence hunting and fishing were suffered over many years. Subsequently, a long drawn out settlement of claims against Exxon further eroded relationships and trust with respect to oil producers and shippers in PWS.

As a result of the spill, the Exxon Valdez Oil Spill (EVOS) Settlement Fund was established. The board of EVOS set about to purchase surface estate from Native Village corporations in the Chugach region. The village corporations, seeing an opportunity for economic recovery from the damage caused by the spill, via the sale of their surface rights on these lands, negotiated for the sale of 249,000 acres of their lands (surface estate) to EVOS. EVOS in turn assigned (donated) the lands to various federal and state agencies, with the intention that the lands would be held for conservation. However, Chugach held the subsurface rights to all of the lands. For Chugach, it now meant having to work with federal/state agencies in order to pursue development of their subsurface rights to these lands.

An additional negative impact of the Exxon Valdez spill and the EVOS settlement was the effect on public sentiment related to lands in Prince William Sound. Many environmental groups, conservation organizations, federal agencies, individuals and other special interest groups rallied behind an anti-development agenda for resources in PWS. While Chugach may have struggled in the past with development of its lands due to the difficulty of physical access to its lands, Chugach now also had to face a major conservation force that opposed any development on Chugach lands – lands that were specifically intended via the Settlement Act to provide for economic development for the Chugach Native People.

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Despite Chugach holding the dominant subsurface estate, a direct conflict exists between Chugach's responsibility to its Native shareholders for economic development and self-sufficiency of ANCSA land, and the EVOS agenda of conservation.

Village Corporations

After Chugach's bankruptcy, the Chugach Board of Directors adopted a very conservative approach to development of their lands. Instead of land development, the advent of government contracting opportunities for disadvantaged businesses through the 8a program gave Chugach the impetus to focus on government contracting. For years, this became the overwhelming share of Chugach revenues. As Chugach focused on government contracting, land development projects were not pursued due to the challenges noted above. As a result, our villages also did not have opportunities for economic development or shareholder jobs related to land projects. In the aftermath of the Exxon Valdez spill with the EVOS settlement trust (funded largely by fines/fees on Exxon) looking to buy surface rights, our villages sold their surface estate interests as their only option for economic gain. While the cash infusion proved helpful for some, this one-time benefit resulted in a loss of their land rights, and for Chugach it meant a much more difficult road to any kind of economic benefit from the development and use of these lands.

Wilderness Study Area & Roadless Rule

Chugach owns or has valid selection rights to over 625,000 acres of surface, subsurface and oil and gas rights within the boundaries of the Chugach National Forest (CNF), resulting in Chugach being the largest private landowner within CNF boundaries. CNF contains 5.5 million acres of land, 98.9% of which is inventoried as "Roadless." The majority of Chugach's economically viable lands are adjacent to or surrounded by the national forest lands, resulting in no practical means of access to Chugach's inholdings except across federal lands. When applied to Roadless areas within the CNF, the potential for the Forest Service's existing Roadless rule to frustrate or impair Chugach's valid existing statutory and common law rights of access to its land is abundantly clear.

Chugach has expressed on multiple occasions our concerns and issues with the Roadless Area Conservation act. A letter submitted on August 8, 2003 by Rick Rogers, Chugach's V.P. of Lands, Resources, and Tourism to the USFS was in support of the Proposed Alaskan exemption of two national forests. The Proposed Alaskan exemption, if adopted, would exempt both the Tongass and Chugach national forest from the Roadless Rule ("the existing Roadless rule") promulgated during the Clinton Administration. Mr. Rogers states in the letter, "The Process used to create the existing Roadless rule was deeply flawed, forged by politics rather than professional reasoning, and in direct conflict with several federal laws. A single, one-size-fits-all rule that affects Roadless areas across the entire National Forest System cannot possibly address conditions unique to each Roadless area within each forest." Ultimately the exemption did not pass through the courts, resulting in potentially limited access to Chugach's 625,000 acres of economically viable land.

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Chugach does have certain rights of access to its lands through the Wilderness Study Area (WSA) and inventoried Roadless areas as a result of provisions in ANCSA and ANILCA; however the artificial encumbrances of the Roadless policy led to more rigorous, time-consuming and expensive scrutiny. In some instances where an Environmental Assessment would have been required, a full Environmental Impact Statement will be required. Public perception and potential damage to the Corporation's reputation is at stake as well.

Chugach's final conveyances, after 45 years, are still pending. Much of the Chugach Region either experienced "uplift" or "subsidence" during the 1964 Alaska Earthquake. The quake was centered in the Chugach Region in Unakwik Inlet, between the communities of Whittier and Valdez. Some areas rose as much as 16 feet, exposing hundreds to thousands of feet of land that was submerged prior to the quake. The State of Alaska claims title to the avulsed lands under the Equal Footing Doctrine. The USFS also has claimed title under their impression that when the Chugach National Forest was created in 1907, the waters and submerged lands were part of that inclusion. A Memorandum of Agreement was signed between the agencies in 1992 for joint management of those lands until a settlement was reached. If the State prevails, Chugach's coastline properties would be limited to where the mean high tide line was at the date of statehood. In some cases this could leave Chugach's coastline properties buffered by a great distance of state land and the water. Determining exactly where mean high tide line was in January of 1959 is a very complex and expensive endeavor that will further delay Chugach's remaining conveyances.

Benefits to Federal Agencies

A number of the tracts of Chugach land that the Company would consider for an exchange include those of interest to federal agencies. Below is a summary of issues we feel would be of interest to these agencies.

- The vast majority of Chugach landholdings on EVOS purchased surface lands are of high mineral potential including gold, silver, copper, zinc, manganese and other metallic minerals, along with huge resources of granite, armor rock, gravel and other industrial materials.
- On lands that the agencies received in fee, they are charged with enforcing restrictive covenants in perpetuity to protect and restore resources affected by the oil spill. Those covenants include:
  1). No alteration of topography,
  2). No alteration or modification of stream flows
  3). No operation of motorized vehicles, 3). No removal of vegetation,
  4). No removal of timber (standing or dead and down), and
  5). No construction of buildings or improved camping facilities.
  Clearly, it was the intent of the EVOS Trustee Council to protect these lands in perpetuity for the benefit of the public and the resources. The agencies, without acquiring the subsurface estate under those lands where they own the surface estate, cannot with any certainty maintain covenants it is charged with enforcing.

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- On a portion of the conservation easements, there is a provision that allows for public access on protected lands. Any activities related to mineral/gravel extraction will presumably be viewed as a detriment to the public. Therefore it may be in the public's best interest that the agencies acquire those lands underlying conservation easements as well as those lands underlying surface fee estate.
- According to the EVOS Trustee Council website "By purchasing land throughout the spill region, the EVOS Trustee Council ensured that key habitats for injured species would not be further damaged by extensive development or logging, serious threats at the time of the spill. The Trustee Council felt that in an already spill-impacted environment, purchasing land could go a long way toward allowing the ecosystem to recover." Further, "The Trustee Council has dedicated nearly 60 percent of available settlement funds –over $400 million—for habitat protection in the spill region."
- As written in the Chugach National Forest Land Management Plan Record of Decision dated May 31, 2002 on p. 8-9, Regional Forester Dennis E. Bschor states, "My overall goal is to manage the affected lands within Prince William Sound to maintain their wild character and provide unique dispersed recreation opportunities, and to provide for the continued recovery protection, and enhancement of wildlife, fish, and other injured resources." Further, "EVOS Trustee Council Acquired Lands Management Areas will provide outstanding opportunities for solitude, isolation and quiet when traveling cross-country." CLMP Revised Land and Resource Management Plan Social Systems Desired Condition p. 4-41.
- The subsurface is the dominant estate and the owner has the right to access and develop its interest. Disturbance of the surface estate that these agencies are responsible for protecting is inevitable (if the subsurface is developed) and fails the mission and purpose of the hundreds of millions of public funds spent to conserve them.
- An exchange with Chugach (subsurface owner) would provide the public with a significant conservation benefit while providing Chugach the meaningful economic benefits it was promised under the Settlement Act.
- Regarding the USFS, National Policy includes:
  1) Consolidation of Lands,

  2) Eliminate need for right of ways through National Forest system lands,

  3) Protection of key resources (i.e., Wilderness, endangered species, unique portions of the forest),

  4) Clear direction to dispose of lands not suitable for the Forest Service,

  5) Cannot acquire lands which have outstanding rights,

  6) Must (should) support the CNF land and resource management plan, and

  7) NEPA requires that outright purchase be considered as an alternative to exchange.

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- Chugach may be willing to entertain offers for its lands within Wilderness and Wilderness Study Area units, which would help keep those system units intact. In previous discussions, these lands were of great interest to the agencies.

Summary

The goal, promises, and spirit of ANCSA were not met with the Chugach people as a result of the factors highlighted in this statement. Chugach's interest in opening up evaluation and discussion related to a fair land exchange is justified by the history presented.

Chugach has on many occasions attempted to enter into discussions with the USFS to resolve these land claim issues. In a letter from the then USFS Forest Supervisor Joe Meade, on June 27, 2003, Mr. Meade stated clearly that the USFS was not interested in pursuing any further discussion with Chugach related to land exchanges and that they did not feel such was in the best interest of the public. Federal and state agencies, for many of the purposes stated above, have taken the position that no development will take place on these lands. However, this entirely ignores the position of the Chugach Native People and is a particular denial of the intent set forth by ANCSA. In addition, conservation efforts and federal designations of park lands, forest lands, wilderness study areas and Roadless rules have created a significant devaluation of Chugach lands. While exchange language refers to "equal value," the fact remains that our lands have lost significant value as a result of the action of federal and state regulatory agencies that was beyond our control.

As identified, there are many potential benefits to the agencies in pursuing a land exchange on a number of Chugach properties, which could create a beneficial outcome for all parties. We are asking for the ability under Section 13 of the ANCSA Improvement Act to have our land selections reviewed in order to enter into meaningful discussion surrounding opportunities for a fair and equitable land exchange or other concessions in order for Chugach to benefit as intended under ANCSA from utilization and development of our lands.

Testimony of Stanley Mack
Mayor of the Aleutians East Borough

Before
The Senate Energy and Natural Resources Committee
Regarding
S. 3204 - The Need for Reliable Emergency Medical Transportation for the Isolated Community of King Cove, Alaska

Sept. 21, 2016

Good morning, Senator and Committee Chair Murkowski, Ranking Member Cantwell and Members of the Committee. My name is Stanley Mack, and I am the Mayor of the Aleutians East Borough. I am an Aleut and was born and raised in King Cove, a community of mostly indigenous Aleut people with ancestral roots stretching back thousands of years.

I am honored to be able to present you with information on behalf of all King Cove and Aleutians East Borough residents regarding a dire need we have in this community of 965 residents. I would also like to commend Senator Murkowski who has been an extraordinary champion for this cause. We are so grateful for her unwavering support. She has proven time and time again, that she will not back down until King Cove has a life-saving road to emergency medical access.

For us, it's a matter of life and death. Our weather in King Cove is fierce, including gale-force winds, snow squalls and dense fog. As a result, flights to and from our airstrip, located between two volcanic peaks, are canceled or delayed about 100 days a year. When the weather is good, it's accessible only during daylight hours. When our extreme weather prevents travel by air, that often means travel by boat is also dangerous, with 12 to 15-foot seas. Our local clinic simply cannot handle critical medical emergencies, such as traumatic injuries, heart or respiratory illnesses or complications from childbirth. In these cases, we have no choice but to medevac our loved ones to the nearest hospital, which is located in Anchorage, 625 miles away.

You have probably heard that other remote communities in Alaska face similar difficulties in accessing emergency medical care in Anchorage. We cannot argue with that. However, what makes our situation unique is our solution is just 30 surface miles away in Cold Bay where the weather is far tamer than that of King Cove. That's where an all-weather airport with a 10,000' paved main runway and a 6,500' crosswind runway is located. It was built by the U.S. military in 1942 as part of the Aleutian campaign during World War II. It's open nearly 365 days a year. The only reliable and feasible solution to get there is a small, one-lane non-commercial gravel road connection that would link King Cove's existing road system to the Cold Bay Airport. That is our lifeline to the outside world.

Our critics will tell you that other marine vessels and infrastructure can address our transportation access problem. These alternatives have been analyzed in previous studies and dismissed as unworkable in this severe Aleutian environment.

Imagine if you had a loved one in distress as you consider the following medevacs:

An infant boy struggling to breathe who was medevaced and later diagnosed with RSV.

A young woman in her 20s with a severely obstructed airway was medevaced 7 ½ hours later because foul weather prevented travel by air.

A fisherman who dislocated both hips and fractured his pelvis after a 600-pound cod pot fell on him.

An elderly man in his 80s suffering from sepsis.

These medevacs are just a few out of 52 total medevacs since U.S. Secretary of the Interior Sally Jewell callously rejected the road in December of 2013. When she visited King Cove in August 2013, she informed us she was there to "speak on behalf of the Izembek birds and animals, which have no voice." The federal government has demonstrated that the "voice" of the indigenous Aleut people matters little if at all. Where is the government's trust responsibility to the Aleut people? Where is the concern for the lives of human beings?

Ironically, the same Interior Department/U.S. Fish & Wildlife Service that cites concerns for the birds and wildlife, actively promotes the area's world-class hunting opportunities, particularly for brown bear and waterfowl. The refuge has some of the highest daily sport hunting bag limits anywhere for bird hunting. Yet, Interior Secretary Jewell says she's concerned that a small road will *disturb* the birds.

The Izembek Refuge, including federally designated wilderness, contains nearly 70 miles of roads built by the U.S. military during World War II. Nearly 50 miles continue to be maintained and used by the U.S. Fish and Wildlife Service. Some of those roads are used by hunters from around the world who access them from Cold Bay. Hunters drive their trucks and launch their skiffs right into Izembek Lagoon, causing far more damage to the eelgrass than a few cars driving on a gravel road one-quarter of a mile away ever could. Yet, the Aleut people are not allowed to drive through the Izembek wilderness to access the Cold Bay airport from King Cove during harsh weather. I don't understand why the indigenous people aren't afforded the same rights and privileges.

We've heard our opponents say, why don't you just move? This statement is patronizing in the extreme. Please understand that King Cove is our home. It is where our families, relatives, friends and neighbors live. This is where we make our living, fishing from the abundant waters that not only feed our region but also provide seafood for the rest of the nation. It is also the home of our ancestors who were conscientious stewards of the land – land which was later designated as wilderness without informing or consulting the Aleut people who have lived here for more than 4,000 years.

Even though our community is remote, we are still part of the United States. We are just asking to have what most Americans take for granted: reliable, affordable and safe access to emergency medical care. We aren't asking for a handout from the federal government. We are just requesting permission from Congress to build a tiny gravel road which would connect to the Cold Bay Airport, and allow us to

access the outside world. This is unfortunately necessary because the Secretary of the Interior ignored our needs by her heartless decision on December 23, 2013 to deny the land exchange and road which Congress had already pre-approved.

In conclusion, I would once again like to thank Senator Murkowski who has refused to give up on our cause. She believes that King Cove lives matter. We respectfully ask all committee members to support Senator Murkowski's efforts to authorize this (206-acre land) road corridor along with an equal-value land exchange. This legislation would make a huge difference in our lives, and the lives of our loved ones. Please pass S. 3204 as soon as possible.

Thank you.

Testimony of Della Trumble
Lifelong Aleut Resident of King Cove & Community Spokesperson

Testifying Before
Senate Energy and Natural Resources Committee
Regarding
S. 3204 - The Need for Reliable Emergency Medical Transportation for the Isolated Community of King Cove, Alaska

Sept. 21, 2016

Good Morning Senator and Chair Murkowski, Ranking Member Cantwell, and Members of the Committee. My name is Della Trumble. I am an Aleut. I was born and raised and continue to live in King Cove, Alaska. The residents of King Cove love our community, and we have a special place in our hearts for you, Senator Murkowski. We thank you for your strong and continued support on this long-standing issue that means so much to the people of King Cove.

Today, I am speaking on behalf of all the shareholders of the King Cove Corporation, as a member of the Agdaagux Tribe of King Cove and for all other residents of King Cove. I am also speaking as a mother, an Alaskan and as a citizen of the United States.

I am deeply connected to the land that you know as the Izembek Refuge through my ancestors, who lived and subsisted on this wilderness for 4,000 years. Our culture and respect for our natural environment will never allow us to damage the refuge. We were taught to only take what you need and to always maintain a renewable resource.

I have lived this road issue now for over 35 years of my life, as have many other people in this community. I have made 25 trips to Washington to testify, lobby, and advocate for this road to allow for a safe, dependable and affordable transportation access from King Cove to the all-weather Cold Bay Airport. Our need for this very modest road connection to the Cold Bay Airport is essential for our medical and health needs and for our sustainable future. Who would have believed that this battle for safe access would have taken decades, a right that so many people in the United States enjoy daily?

We sincerely thought the passage of the 2009 Omnibus Public Lands Act was the final decision needed to authorize the road. The community remains stunned by Secretary Jewell's insensitive decision to deny us the road. However, her decision did not totally surprise us. When she visited King Cove in August of 2013, she informed us she was there to "speak on behalf of the Izembek birds and animals which have no voice." These are the very birds that are being hunted by sport hunters at this moment -- birds that are being sent to King Cove because hunters are only utilizing the bird for the sport and not for food.

In response to Secretary Jewell's comment, our Police Chief and life-long resident, Robert Gould, politely told the Secretary it was his responsibility to "speak on behalf of all King Cove residents who have lost loved ones or must continue to endure medical and health challenges because of the community's transportation access problem."

How much more do we need to endure, particularly when there is such a reasonable, dependable and affordable solution to our transportation access problem to the Cold Bay Airport? We desperately need the 10-mile, one-lane gravel road connecting King Cove to the Cold Bay Airport. This road connection will drastically improve our ability for emergency and routine medical and health care and significantly upgrade our overall quality-of-life. Why is this simple concept so difficult for some people to accept?

Since December 23, 2013, when Secretary Jewell said NO to our road, we have had 52 medevacs out of King Cove to the Cold Bay Airport. Thank God, for the brave men and women of the U.S. Coast Guard who were available to help out with 17 of those medevacs when no other option could work. However, we never take the assistance and availability of the Coast Guard for granted because we know it is not their mission or responsibility to risk their lives to make these heroic rescues.

When a medevac occurs, it isn't just the patient that suffers. Family members and friends agonize over their loved one's condition and safety in an environment with severe, fluctuating weather. Many people in King Cove experience fear and anxiety over traveling because of past experiences. I know first-hand how heart-wrenching it can be when a loved one gets on a plane and things end up going

terribly wrong. No mother should ever have to witness their own precious daughter crash-land at the King Cove Airstrip due to our highly unpredictable turbulence and downdrafts from the volcanic mountainous terrain surrounding the narrow valley where our 3,000' gravel runway is located. It was the scariest few minutes of my life as I sat there watching the plane be pushed downward by the wind and crash-landing on the runway without its landing gear down. It was undoubtedly a very frightening moment in my life. Similar experiences, from both flying and traveling on the water have been encountered by way too many King Cove Aleuts. It must stop. We know we are continuing to live on borrowed time with our transportation access problem.

Please know we will never quit fighting until we are successful in our quest to achieve a safe, dependable and affordable transportation solution for our residents. We know the only logical solution is a modest, non-evasive, one-lane gravel road.

Finally, we are so fortunate to have Senator Murkowski's commitment, common sense, and passion to help us achieve this solution. On behalf of all King Cove Aleuts and all other community residents, we respectfully ask Congress and the President to authorize the road and do so without the involvement of the Department of the Interior. Please make this right. We have fought long enough. It is time.

Thank you.

Testimony of Dean Gould
President of the King Cove Corporation & Lifelong Aleut King Cove Resident

Testifying Before
Senate Energy and Natural Resources Committee
Regarding
S. 3204 - The Need for Reliable Emergency Medical Transportation for the Isolated Community of King Cove, Alaska

Sept. 21, 2016

Good morning, Senator and Chair Murkowski, Ranking Member Cantwell and Members of the Committee. My name is Dean Gould. I am an Aleut, a lifelong King Cove resident and president of the King Cove Corporation. I am testifying on behalf of the shareholders of the King Cove Corporation, a village corporation that represents a total of 420 shareholders and as well as the people who live in King Cove, all of whom support a road between the communities of King Cove and Cold Bay. It has been well-documented during the past four decades that the King Cove Corporation supports this road and will continue to do so until we receive a positive resolution to the ongoing issue of safe transportation between these communities. On a number of occasions, we have proposed land trades. In one case, we offered a massive land swap, which equated to more than 300 times the amount of our lands awarded us under ANLICA in exchange for access to a small (206-acre) single-lane gravel road to the Cold Bay airport.

Senator Murkowski, we appreciate your continued efforts on our behalf. You understand that this issue is real and necessary in order to avoid endangering more lives in the future. We are also grateful for the support of Senator Dan Sullivan, Congressman Don Young, Alaska Governor Walker, the Alaska Legislature, the Alaska Federation of Natives and the Aleut Corporation, all of whom have been staunch supporters of this road and land exchange.

Since U.S. Secretary of Interior Sally Jewell denied us road access in December of 2013, there have been 52 medevacs. Seventeen were conducted by the U.S. Coast Guard. Recently one of our elderly shareholders spent 40 hours with a broken hip

in the clinic waiting for a medevac plane to transport her to the proper medical care in Anchorage. This is an elder who is so afraid of flying that she prefers to come home to King Cove on the ferry Tustumena from Homer every year and returns by ferry. We have had elders who were stuffed into a king crab pot and hoisted from a boat 20-feet up to the dock in Cold Bay to get to medical help. Too many of our shareholders and the people of King Cove have had to endure unnecessary apprehension and pain trying to get between these communities during medical emergencies.

As I write this, today is a good example. It is gusting 50 miles per hour and increasing to 60 miles per hour. We hope and pray when we have weather like this that there will be no need for a medevac. If there was a road, this would be a non-issue. We know how to drive in the wind, and we could get to Cold Bay safely.

On behalf of our shareholders and the people of King Cove, we ask that Congress please pass S. 3204. Please allow us to have safe, reliable transportation access between our communities. We have fought long and hard for this issue, and it is time to make it right.

Thank you.

RE: Opposition to bills that would undermine the Antiquities Act and block new parks – S. 437, S. 1416 and S. 3317.

September 21, 2016

Dear Senator,

On behalf of the undersigned organizations and our millions of members across the country, we are writing to express our opposition to the "blocking new parks" bills (S. 437, S.1416, and S. 3317) being heard before the Senate Energy and Natural Resources Committee on Thursday September 22nd. It is disappointing to see three separate bills to undermine the Antiquities Act – the law which is responsible for originally protecting nearly half of our national parks – being advanced less than a month after our country celebrated the 100th anniversary of the National Park Service.

Since it was signed by President Theodore Roosevelt in 1906, the Antiquities Act has been used on a bipartisan basis by 16 Presidents (8 Republicans and 8 Democrats) to protect America's most iconic natural, cultural, and historic places including the Grand Canyon, the Statue of Liberty, Fort Monroe, the Pacific Remote Islands, and Acadia, Zion and Olympic National Parks. The sheer diversity of historic, cultural, and natural treasures that have been protected by the Antiquities Act is the reason why groups representing sportsmen, cultural heritage organizations, evangelicals, conservation, recreation businesses, historic preservation, and many others all oppose efforts to undermine this vital law.

Not only do national monuments protect our irreplaceable natural, historic, and cultural resources for future generations, they benefit local economies today. A recent report released by Small Business Majority finds that the 10 natural and cultural monuments protected by President Obama are responsible for $156.4 million in annual economic benefits for local communities and that visitation to these areas drastically increases following designation.

Senate bills S. 437, S. 1416, and S. 3317 are an attempt to block the designation of, and weaken protections for, new national monuments. These attempts to block new parks on land and in our oceans are something that is wildly out of step with the American public's interest in protecting our special places – especially apparent during the celebration of the National Park Service's centennial year. According to Colorado College's 2016 Conservation in the West Poll, 80% of western voters support "future presidents continuing to protect existing public lands as national monuments." This poll reinforces other surveys that document widespread opposition to congressional attacks on new parks.

The changes proposed in these bills – S. 437, S. 1416, and S. 3317 – are entirely contrary to the intent and purpose of this celebrated and effective conservation tool. The Antiquities Act was created by Congress specifically to allow the President to act swiftly to protect irreplaceable national treasures at times when Congress is unwilling or unable to do so. It is nearly impossible to imagine the United States without being able to visit and celebrate our uniquely American places – from Glacier Bay to Dry Tortugas – but if the proposed bills had been included in the original Act, it is entirely possible these treasures could have been irreparably damaged.

Furthermore, national monuments designated under the Antiquities Act protect public lands and waters – and the historical, cultural and natural resources within them – owned jointly by all Americans. Granting a state legislature or Governor the ability to veto a designation, as S. 437 proposes, is entirely

different than encouraging local input and antithetical to the American system of public management of our shared lands and waters. Similarly, exempting federal public lands within a single state from one of our nation's most important federal lands conservation statutes, as S. 3317 proposes, is troubling and inappropriate. S. 1416 would also force the federal government to partially relinquish management of the federal public estate, by prohibiting reservations of water rights. While uncommon, in certain cases these reservations can be critical to protecting the objects for which the monuments were designated in the first place. Our federal lands and waters are shared equally by all Americans and should managed for the public good, and not subject to exemptions and vetoes by those that do not act on behalf of the American public at large.

These bills are a clear effort to block new parks and not to protect local input. Recently successful community-led efforts to protect treasured public lands like Organ Mountains Desert Peaks National Monument show that local collaboration and community input remain at the forefront throughout the monument-designation process, with robust public meetings prior to designations, thousands of public comments, and close contact with stakeholders to help guide management plans for newly protected sites and make recommendations for recreation and other uses.

For these reasons and many others, we write to share our opposition to these "blocking new parks" bills S. 437, S. 1416, and S. 3317. We appreciate the committee's consideration of our position when examining these bills.

Sincerely,

The Wilderness Society
National Trust for Historic Preservation
National Parks Conservation Association
League of Conservation Voters
Southern Utah Wilderness Alliance
American Rivers
Soda Mountain Wilderness Council
Los Padres ForestWatch
New Mexico Wilderness Alliance
Oregon Natural Desert Association
Crow Canyon Archaeological Center
Conservatives for Responsible Stewardship
The Conservation Alliance
Friends of Organ Mountains - Desert Peaks
Montana Wilderness Association
Friends of Cedar Mesa
Coalition to Protect America's National Parks
Las Cruces Green Chamber of Commerce
New Mexico Voices for Children
Conservation Law Foundation
Marine Conservation Institute
Surfrider Foundation
Natural Resources Defense Council
Vet Voice Foundation
Utah Diné Bikéyah
Partnership for the National Trails System
Mystic Aquarium
The Ocean Project
Rivers & Birds
Oceana
Greenpeace
Sierra Club
National Geographic Pristine Seas
Klamath Forest Alliance
Epic-Environmental Protection Information Center
Conservation Lands Foundation
Center for Biological Diversity
The Trust for Public Land
GreenLatinos
Klamath-Siskiyou Wildlands Center
Defenders of Wildlife
National Audubon Society
Great Old Broads for Wilderness
Colorado Outdoor Business Alliance
Colorado Canyons Association

Bonsai Designs
American Alpine Club
Verde Brand Communications
Mountain Khakis
Sea to Summit
Bergans of Norway
Point6
Exxel Outdoors, Kelty, Sierra Designs, Ultimate Direction
Hala Gear
Osprey Packs, Inc
Hispanic Federation
Mission Blue
Angler's Covey
Pikes Peak Outfitter
Colorado Tackle Pro
Pikes Peak Outdoor Recreation Alliance
Friends of Ironwood Forest
Islanders for the San Juan Islands National Monument
Alaska Wilderness League
California Wilderness Coalition
Tuleyome
Scenic America
Friends of Arizona Rivers
Earthjustice
Wildlands Network
Ocean Conservancy
Friends of the Desert Mountains
New Mexico Wildlife Federation
Mojave Desert Land Trust
Partnership for Responsible Business



NPCA's Positions on Legislation at September 22nd Hearing

September 21, 2016

Dear Senator,

Since 1919, the National Parks Conservation Association (NPCA) has been the leading voice of the American people in protecting and enhancing our National Park System. On behalf of our more than one million members and supporters nationwide, I write to urge you to consider our positions on the following bills when they come before the Senate Energy and Natural Resources Committee on Thursday, September 22nd.

NPCA **opposes S. 437, S. 1416,** and **S. 3317** that would limit the president's authority under the Antiquities Act to designate new national monuments and/or would place unnecessary roadblocks to the protection of important and sensitive places for the enjoyment of present and future generations. The Antiquities Act was created by Congress to allow the president to permanently protect irreplaceable national treasures at times when Congress is unwilling or unable to act swiftly. The Antiquities Act has withstood the test of time and has been available as a conservation tool for presidents of both parties; eight Republicans and eight Democrats have designated 151 national monuments under this authority. Important and nationally significant cultural, historical, and natural sites have been protected through the Antiquities Act including Grand Canyon and Acadia National Parks, Statue of Liberty and Muir Woods National Monuments, and the Chesapeake and Ohio Canal National Historical Park. Altering the authority, or exempting certain states from the critical federal lands conservation statute, would not serve the American people and the public lands that they continue to enjoy year after year.

NPCA **supports S. 2991**, the Methow Headwaters Protection Act that would withdraw lands in the Upper Methow Valley in the North Cascades from mineral entry and exploration. This wild and beautiful region, a component of the ecosystem surrounding North Cascades National Park, is rare and special for its recreational, scenic and wildlife values, and should be protected for generations to come. Mineral exploration and potential subsequent mining would bring noise, air pollution, water degradation and disruption to this natural setting which is enjoyed by visitors and residents, and is critical to the survival of protected wildlife including grizzly bears, wolves and wolverines. These threatened features are drivers of an economic engine for local tourism and recreation businesses, estimated at $150 million annually for Okanogan County.

NPCA **opposes S. 3203**, the Alaska Economic Development and Access to Resources Act, due to significant concerns about Sections 101 and 403. These sections would likely impair national park resources and the management and protection of treasured Alaska lands owned by all Americans. For example, Section 101 increases Alaska state entitlements to federal land if the federal government does not develop a plan to produce more oil on federal land. This transfer could have significant impacts on the

management of lands adjacent to national parks, preserves, and monuments, leading to potentially significant resource impacts. In addition, Section 403 regarding the Alaska National Interest Lands Conservation Act (ANILCA) suggests potentially broad changes to the management and protection of public lands. This section is written such that it could undo any federal regulation applied to lands managed by the National Park Service under ANILCA, and thereby may significantly limit the Park Service's ability to protect invaluable historic, cultural, or natural park resources.

Thank you for considering our views. Please contact Ani Kame'enui at akameeuni@npca.org or 202-454-3391 with any questions.

Sincerely,

Kristen Brengel
Vice President, Government Affairs

777 6th Street, NW, Suite 700 | Washington, DC 20001-3723 | P 202.223.6722 | F 202.872.0960 | npca.org

The CHAIRMAN. With that, I will turn to Ranking Member Cantwell for your comments and then we will turn to our colleagues.

Thank you.

STATEMENT OF HON. MARIA CANTWELL,
U.S. SENATOR FROM WASHINGTON

Senator CANTWELL. Thank you, Madam Chair.

I know we have a lengthy agenda today including several proposals that have been the subject of intense debate for many years, but we also have 21 bills on the agenda that are much less controversial. I hope we will be able to work with our colleagues to try to find ways to move forward on these proposals.

So I would like to discuss a few of these bills.

First of all, thank you for including S. 2991, a bill Senator Murray and I introduced, which would protect the headwaters of the Methow River in the North Cascades region of our state withdrawing national forest lands from mining.

I am proud to have worked with Senator Murray to protect the headwaters of the Methow Valley. Governor Inslee, tribes, local elected officials, business owners and residents are all on the same page in wanting to protect this area. Our bill would withdraw from future mining, subject to valid existing rights, 340,000 acres of National Forest lands that are prime habitat for salmon, spotted owl, lynx and grizzly bear.

This bill is about two things: clean water and keeping an amazing place the way it is.

Federal, state, local and private investments have funded $100 million of salmon recovery and other fish and wildlife restoration in the Methow Valley. So no one wants to put that investment at risk. A copper mine that has been proposed near the town of Mazama would jeopardize that.

More than a million tourists come to the Valley every year and contribute $150 million to the local economy. That, by a mine, would also be jeopardized. So, it would threaten the identity of the Valley.

This area has had lots of discussion over the last 40 years about its future. It turned down the idea of being a destination ski resort just so the rural nature of the area could continue.

Since then the Valley has been working on being just a mecca for outdoor recreation, including Nordic skiing, climbing, hunting, backpacking. This is not a place to develop a copper mine, and yet it is also a stark reminder that the Mining Law of 1872 is widely outdated.

While this bill would permanently withdraw the Methow headwaters from mining, the Forest Service and Department of Interior have administrative authority to temporarily withdraw this land while the bill is being considered. I strongly urge the agencies to use their authority to protect these headwaters and this particular area.

A handful of the bills on the agenda today are controversial. For the record, I strongly oppose anything that would prohibit or restrict the President's ability to designate national monuments using the Antiquities Act. Similarly, I have fought for many years to protect the Arctic National Wildlife Refuge, the Tongass Na-

tional Forest, and other important conservation lands in Alaska which are important to all Americans.

I would like to focus on a couple areas of bipartisan support. I strongly support a bill that I have co-sponsored and the Chair mentioned, the National Volcano Early Warning and Monitoring System, to help warn the public against avoidable harm from volcanic activity.

I know some of our colleagues, Madam Chair, might think that this is something just distant and far away, but I guarantee you, since these volcanoes are all up and down the West Coast of the Pacific Northwest, it so impacts us. Not having information that detects whether they are causing or could cause immediate impact—we need the science to help guide us here. Having the information is so critical. This is a very important part for Alaska and Washington. We look forward to working together.

Many of our colleagues have bills on the agenda that reflect important priorities for their state, so I look forward to working with you and our colleagues to find areas of agreement on these important legislative bills.

Since we have so many of them on the agenda, I am going to end my remarks there and thank you again for the hearing.

The CHAIRMAN. Thank you, Senator Cantwell.

We have two Senate colleagues that will constitute the first panel. The Minority Leader, Senator Reid, will be here to testify and speak to one of the matters that is on the docket today. We also have my friend and colleague, the Senator from Alaska. Senator Sullivan, if you would like to proceed with your comments and then when Senator Reid comes in we will hear from him.

STATEMENT OF HON. DAN SULLIVAN,
A U.S. SENATOR FROM ALASKA

Senator SULLIVAN. Thank you, Madam Chair.

Good morning everybody. Ranking Member Cantwell, my colleagues and friends on the Committee, thank you for allowing me the opportunity to discuss several bills which are critically important to Alaska's future.

I want to begin, as Madam Chair, you did, by underscoring the bravery of the members of the Second Infantry Division and urge support of its Memorial Modification Act.

The Alaska-specific bills on today's agenda, the Alaska Economic Development and Access to Resources Act or the King Cove Land Exchange Act and the Alaska Native Claims Settlement Improvement Act all hold monumental importance to Alaska's communities and the future of our great state.

Madam Chair, I am going to re-emphasize a number of the points you made in your opening statement. I also want to acknowledge your leadership on so many of these issues for our state and our country. It has been so important having you in the Chair.

I want to start by talking about the King Cove Road, as you did. As you know, Congress, and specifically this Committee, previously passed legislation authorizing a lifesaving, emergency access road for the people of King Cove, Alaska. Yet, due to a callous decision made on Christmas Eve by the Secretary of Interior, Sally Jewell, these Americans have been denied reliable, lifesaving access to

medical care, something that most other Americans take for granted.

Since Secretary Jewell's decision in 2013, as you mentioned Madam Chair, there have been 52 life flight evacuations, most recently last week when an expectant mother experienced complications. Of these, 17 have been conducted by the brave men and women of the U.S. Coast Guard.

This road has been needed for decades. It was needed in 2009 when Congress first provided authorization, it was needed in 2013 when Secretary Jewell turned her back on the people of King Cove, and it is needed today. I strongly urge the Committee to act on this.

As this Committee knows, Alaska is a very resource-rich state. Indeed if it were its own country, we would rank in the top ten of many of the most important minerals in the world. We have a proud tradition of responsible resource development while upholding the most rigorous environmental standards.

Unfortunately, some areas of my state also have some of the highest costs of energy and some of the highest rates of poverty in the country. Among the promises of Alaska statehood was the agreement that Alaska could support itself through responsible resource development while also helping meet the country's energy needs. Today the Federal Government's restrictive land use policies and layer upon layer of burdensome regulations have broken this promise. These bills today start to turn this around.

The Alaska Economic Development and Access to Resources Act would jump start Alaska's economy and touch every corner of the state by increasing opportunities for responsible resource development of our abundant resources.

Over the August work period, like many of you, like all of you, I traveled back home and I was in Southeast Alaska and saw firsthand the importance of one provision of this bill that you already spoke to, Madam Chair. That is the land exchange for the Mental Health Trust Authority.

Now it is important to recognize the Mental Health Trust, which was established in our constitution, serves a population of Alaska's most vulnerable citizens, those with disabilities, and the land exchange in this bill is critical towards achieving the responsibilities towards these citizens in the most environmentally sensitive way. This bill would help the country and it would also help some of Alaska's most remarkable and courageous citizens.

Since the Alaska Native Claims Settlement Act (ANCSA) passage in 1971, it has been amended many times. In this legislation, S. 3273, is a combination of many small efforts that aim to resolve many local issues, some of which have been around since the passage of ANCSA. This collection of provisions does not represent monumental issues for Congress but are life changing for the citizens and many small Alaskan Native communities that are affected by this bill.

Finally, Madam Chair, I would like to just mention one other provision that is very important in this bill, which I care deeply about and I know members of this Committee do as well. This is a resolution for Alaska Native Vietnam-era Veterans who missed the opportunity to apply for a Native allotment. Now, the Alaska

Allotment Act of 1906 enabled every Alaska Native to apply for an allotment, 160 acres. ANCSA extinguished that opportunity in 1971. But many of these Alaska Natives were serving in the military in 1971, some in Vietnam, some in other places and they missed the deadline.

So all this bill is trying to do is to give people who were serving their country at a time when, let's face it, a lot of Americans were avoiding serving their country, the opportunity to finally apply for the Native allotment that was rightfully theirs. I believe that just in terms of pure fairness, taking care of our veterans, that this is a critical, critical provision that, hopefully, every member of this Committee and every member of Congress can agree on.

Thank you again for the opportunity to speak to these important bills.

The CHAIRMAN. Thank you, Senator Sullivan. We appreciate your support and your leadership in these areas for our state.

I know that members of the Committee also have bills on the calendar today that you would like to speak briefly to. As we await Senator Reid I am happy to give you a moment to speak to them, if you would so desire.

Senator Manchin, you indicated a desire to speak?

STATEMENT OF HON. JOE MANCHIN III,
A U.S. SENATOR FROM WEST VIRGINIA

Senator MANCHIN. Yes, I do and I am happy to have my colleague also with me, Senator Capito, because we are both very much concerned about our national heritage area, which is the Appalachian Forest.

My statement is in support of Senate bill 3167 which is on the agenda. I appreciate, Madam Chairman, your putting that on there and making it part of the agenda. I want to thank you for holding the hearing and including Senate bill 3167, the Appalachian Forest National Heritage Area Act of 2016.

I would also like to thank the distinguished witnesses for joining us today. We appreciate their expertise and perspective on these issues.

I am here to discuss Senate bill 3167, which is the Appalachian Forest National Heritage Act of 2016, which I was pleased to introduce with my good friends, Senators Capito, Mikulski, Cardin and our Chairman. This bipartisan legislation designates 18 counties in the Central Appalachian Mountains of West Virginia and Maryland as a national heritage area, which, taken as a whole, possess cultural, natural and historical resources that form a cohesive and nationally distinctive landscape.

In an effort to conserve the distinctive cultural, natural and historical features of this area, the Appalachian Forest National Heritage Act will designate a new national heritage area which will provide a cooperative framework to increase collaboration between the Federal Government, states and the local governments of these 18 counties. The national heritage area will ensure the area is protected for the enjoyment of future generations, promote the area for tourism and highlight its historical value.

The historical value of this area reflects the contributions of West Virginia and Maryland's timber harvesting industry which

helped fuel industrial growth in the late 19th and 20th century. The area also includes numerous historical and cultural sites such as the Cass Scenic Railroad State Park, five national historical landmarks, segments of four national scenic byways and one all American road as well as a nationally significant natural, physical resources. This designation will also provide positive economic development in the area.

There are currently 49 national heritage areas, two of which are located in West Virginia—the Coal Heritage Area and the Wheeling Heritage Area. An example of the positive economic impacts that a national heritage area designation can bring, the Wheeling National Heritage Area generates an annual $56.7 million in economic impacts, supports 784 jobs and generates $3.8 million in annual taxes.

I would like to submit the rest of my remarks for the record, Madam Chairman.

[The information referred to follows:]

Statement for the Record in Support of S.3167 - Appalachian Forest National Heritage Area Act of 2016
Senator Joe Manchin
U.S. Senate Energy and Natural Resources Committee
September 21st, 2016

Madam Chairman, thank you for holding this hearing and for including my bill, S. 3167, the Appalachian Forest National Heritage Area Act of 2016.I would also like to thank the distinguished witnesses for joining us today. I appreciate their expertise and perspective on these issues.

I am here to discuss S. 3167, the Appalachian Forest National Heritage Area Act of 2016, which I was pleased to introduce with my colleagues, Senator Capito, Senator Mikulski and Senator Cardin. This bipartisan legislation designates eighteen counties in the Central Appalachian Mountains of West Virginia and Maryland as a national heritage area, which taken as a whole, possess cultural, natural and historical resources that form a cohesive and nationally distinctive landscape. In an effort to conserve the distinctive, cultural, natural and historical features of this area, the Appalachian Forest National Heritage Area Act will designate a new national heritage area which will provide a cooperative framework to increase collaboration between the federal government, states, and the local governments of these 18 counties.

The National Heritage Area will ensure the area is protected, for the enjoyment of future generations, promote the area for tourism, and highlight its historical value. The historical value of this area reflects the contributions of West Virginia and Maryland's timber harvesting industry which helped fuel industrial growth in the late 19th and early 20th century. The Area also includes numerous historical and cultural sites such as the Cass Scenic Railroad State Park; 5 national historic landmarks; segments of 4 National Scenic Byways and 1 All-American Road, as well as nationally significant natural and physical resources such as the remnants of old growth forests and 14 national natural landmarks.

This designation will also provide positive economic development in the area. National heritage areas leverage federal funds to create jobs, generate revenue for local governments, and sustain local communities. There are currently 49 national heritage areas, two of which are located in West Virginia – the Coal Heritage Area and the Wheeling Heritage Area. An example of the positive economic impacts that a national heritage area designation can bring, the Wheeling National Heritage Area generates an annual $56.7 million in economic impacts, supports 784 jobs, and generates $3.8 million in annual tax revenue. Other benefits include, improvements to water and air through restoration projects, improved quality of life through new or improved amenities, education and volunteer opportunities, and community engagement.

The Appalachian Forest Heritage Area Inc., which my bill designates as the local coordinating entity, has kept alive the rich heritage of these counties for the past 13 years. Operating out of

Elkins, West Virginia, this organization has been patiently waiting to receive designation as a national heritage area for several years. Despite not having designation, they have been active and successful in their efforts to promote and conserve the heritage of the Central Appalachian Mountains. For example, last program year, 38 Appalachian Forest Heritage Area AmeriCorps members served over 65,000 hours of time benefiting the local communities and improving more than 1700 acres of public land. It's time they receive their official designation.

The national heritage area program is a cost-effective program. National heritage areas are required to match every dollar of federal funding, and national heritage areas are currently matching an average of $5.50 from other sources of funding to one dollar of federal funds. Economic impact studies have indicated that the small federal investments required for the national heritage area programs pale in comparison to the $12.9 billion dollars which national heritage areas contribute annually to the economy. I would also like to mention that this bill does not result in additional land management programs, regulations or management controls. The national heritage areas program is a land grants and outreach program.

The forests of the Central Appalachian Mountains of West Virginia and Maryland are cherished by proud and resilient people who wish to preserve and pass along their cultural traditions to future generations. We welcome visitors, and we wish to continue to share the natural beauty with the millions of visitors from around the world who visit this region every year. By designating the Appalachian Forest National Heritage Area, future generations will be able to enjoy benefits of the great outdoors, and the pleasure of connecting with nature in the great states of West Virginia and Maryland. I look forward to continuing to work on this bill.

I would also like to briefly mention my support for S. 3204, the King Cove Road Land Exchange Act. Since 1980, there have been 19 deaths attributed to a lack of a safe, reliable method of transportation from King Cove. That's unacceptable. This proposed road is the safest and most efficient way to ensure the good people of King Cove are able to receive proper medical care while continuing to live in an area that has been inhabited by their ancestors for 4,000 years. I would like to commend my friend from Alaska, Senator Murkowski, for her zeal in continuing her efforts to get this road built.

Thank you again, Madam Chairman.

Senator MANCHIN. But this is very, very, very important for our two states of West Virginia and Maryland. All of our delegation is in support and it is a tremendous economic opportunity. This is one time when we have everybody from our environmentalists, to our naturalists, to our basically, hunters and fishermen, all of our sporting clubs, in agreement this is something that would be well worth it and much needed.

So, I want to thank you for the opportunity to speak on this.

The CHAIRMAN. Thank you, Senator Manchin, we appreciate the coalition building that goes on ahead of time.

Let's turn to Senator Capito, then we will go to Senator Heinrich and Senator Daines.

Senator Capito.

Senator CAPITO. Well, thank you and I don't want to keep our witness waiting so I will be very, very—should we go first?

The CHAIRMAN. I am sorry. I failed to see. [Laughter.]

Senator Reid has arrived.

Senator Reid, welcome to the Committee. [Laughter.]

We are honored to have you before the Committee this morning and would welcome your statement on the bill before the Committee.

STATEMENT OF HON. HARRY REID,
A U.S. SENATOR FROM NEVADA

Senator REID. I appreciate very much your arranging for and allowing me to speak. I am sorry I am late, but I had a little work to do on the Floor when we opened the Senate.

I appreciate all the work that the two of you do to lead this Committee. It is an extremely important Committee.

Nevada is different than most people think. Nevada is more than the bright lights of Las Vegas. It is a stunningly beautiful state and, except for Alaska, one of the most mountainous states in the Union. People don't realize that.

We have 314 separate mountain ranges. We have 32 mountains over 11,000 feet high. We have one mountain that is 14,000 feet high. We have about four million acres of wilderness. So it is really a beautiful state, and the legislation that Senator Heller and I have worked on in this regard is also as part of the beauty of Nevada.

In the large state of Nevada, we have very few counties. You know, it is hard to believe that I hear, I don't know, for example, West Virginia has how many counties do you have, Joe?

Senator MANCHIN. 55.

Senator REID. How many?

Senator MANCHIN. 55. [Laughter.]

Senator REID. We have just a handful of counties. We have one county that is quite large in area that has less than a thousand people in it.

So anyway, Nevada is a unique place and it is an extremely beautiful place.

Pershing County is 6,000 square miles. We have one person living in that area per square mile. It is a sparsely populated county but it is rich with all kinds of beautiful things, a lot of minerals. Mining has taken place there for well more than a century.

We have historic wonders, snowcapped mountains. Mount Limbo Wilderness Area overlooks the dry lake bed of Lake Winnemucca which was, at one time, a desert terminus lake, and it has dried up mainly because of what we have done, the Bureau of Reclamation, over the years. That is all history behind us, but that's the reason Lake Winnemucca is dry.

The areas that we are talking about here today are the home of some of the oldest petroglyphs found in all of North America, dating back 10,000 years. It is just a stunningly beautiful place, and I want everyone to know how important it is for Nevada.

I can remember, I will be real quick here, I know you have a lot to do. But I went from being the most popular person in the world in Nevada, I am from rural Nevada, to the most unpopular. It did not take long. I supported wilderness. Now that I have gotten most of that done, wilderness has now become a big selling point in Nevada. So people who are afraid of wilderness should not be.

In Elko County I created a lot of wilderness. I helped create it, I should say. And oh, we got so much opposition. Now they advertise because of the wilderness. We have a Heli-skier there. And they come, people come from all over the world to ski in Elko County. Why? Because they are advertising skiing through wilderness that I helped create.

So, wilderness is important for the economy of any state, and with a sparsely populated area like Pershing County, it is also popular. And it doesn't affect hunting. It doesn't affect fishing. It just is a wonderful thing to preserve that land for my children, my children's children and for generations to come. Preserve it in its pristine state.

In Nevada we still have many areas that are pristine. They are untouched. And that is what this is all about. So I appreciate it very much.

Just one quick thing because Neil Kornze, he used to work for me, is now head of the BLM. He said, would you please mention if you ever appear before the Committee, H.R. 3844, which is the BLM Foundation Act. So whenever this comes up I know you will schedule it here at some point in time. Consider this my testimony for that bill, okay? [Laughter.]

The CHAIRMAN. Thank you.

Senator REID. So if you will leave me alone with no difficult cross examination, I will take leave.

The CHAIRMAN. We thank you for coming before the Committee.

Senator Cantwell.

Senator CANTWELL. Well, I just would be remiss if I did not use this opportunity to thank you, Senator Reid, for your Annual Energy Conference that you hold in Nevada every year. I know that conference is a place where many people come to discuss the future of energy policy, and Nevada has definitely been at the forefront of some of these policies. So thank you for your leadership in having those discussions.

Senator REID. Senator Cantwell, thank you.

You know, as a result of those hearings that started a long time ago, we now have, in Nevada, you can't believe how much solar energy. At one place driving from Railroad Pass to my property on

Searchlight, you can drive for three and a half miles and all you see are solar panels.

It looks like a big lake, but it's not. They are solar panels. Millions and millions of them are there. So thank you very much.

The one thing I didn't mention and I should. We just completed, just less than a month ago, my 20th annual Summit on Lake Tahoe. It is because of the work done, principally by this Committee and others, but this Committee, we have brought to Lake Tahoe which we share with the State of California and the beautiful, beautiful, unique lake. There is only one other lake like it in the world and that is in Siberia, Lake Baikal. Lake Tahoe is so beautiful, and we have been able to bring more than $2 billion to that basin during the last 20 years to preserve that lake.

The last event we had, Dianne Feinstein said, why are you doing this? I said, "Listen Dianne, it is my last summit and I am going to do it my way." So what we did, we did the usual. People testified a little bit and we had 8,000 people there, 8,000 people. Why? Because I brought on The Killers, Nevada's rock group, and we educated those people who had never heard of Lake Tahoe and certainly not all the issues dealing with the environment. They were forced to come because we did the program before The Killers came on.

So anyway, we had a great time. President Obama was there. I just didn't want to leave here without mentioning what a treasure we share with California, Lake Tahoe.

The CHAIRMAN. Thank you, Senator Reid, we appreciate you being before the Committee.

Senator MANCHIN. If I may ask the Senator one question?

Senator, this legislation has no opposition. I don't see anybody opposing it whatsoever. I don't know why we haven't——

Senator REID. So get to work on it.

Senator MANCHIN. What?

Senator REID. Get to work on it. Report it out. [Laughter.]

Senator MANCHIN. But have you had any opposition back home on it?

Senator REID. No, no.

Senator MANCHIN. All you are doing is exchanging, aren't you?

Senator REID. Joe, wilderness now, I am sorry, I'll be more formal, Senator Manchin. [Laughter.]

Opposition now to wilderness in Nevada just is almost nonexistent. There are some people who oppose President Obama doing things under the Antiquities Act, but he has only done one thing there. I hope he is going to do one other. But other than that, wilderness is something——

Senator MANCHIN. I am saying your outdoorsmen seem to be working with you on that because they are, still have habitat. They are still able to use the land, hunt and fish, everything.

Senator REID. You bet. You indicated really how it is. Everyone has come to accept that we need to preserve these properties. It's just wonderful.

Now, also, Joe, Senator Manchin, we have this going for us. Eighty-six percent of the State of Nevada is owned by the Federal Government. There is no other state like it. New Mexico has quite a bit. You don't match us.

Arizona has quite a bit, but, you know, no one comes close to 86 percent of the state is Federal Government. We have given plenty to the Federal Government. More than 40 percent of the State of Nevada is restricted airspace. You cannot fly over in a civilian airplane. It is all military.

Then, you know, we have had the above ground nuclear test, underground nuclear test. We have two of the finest, wait, not two of the finest, we have the finest training facilities for fighter trainers for the Air Force and the Navy in Nevada. One is in Las Vegas, well, outside of Las Vegas. The other is near Fallon, Nevada, where Senator Heinrich was born. If you want to land on a carrier air craft anymore in the United States Navy, you learn to do it in Fallon.

Senator MANCHIN. I'll be darned.

Senator REID. There is not, there isn't a puddle of water there in many, many months. [Laughter.]

Okay.

Senator MANCHIN. Thank you.

Senator HEINRICH. There are a couple of irrigation ditches. [Laughter.]

Senator REID. Yeah, but they are little puddles.

The CHAIRMAN. Thank you, Senator Reid. We will make sure that all this is part of the record because this is certainly going to enhance the tourism opportunities in your fine state.

So——

Senator REID. Thank you, Senator.

The CHAIRMAN. We are happy to have you here.

With that, let's turn to Senator Capito for your comments and then Senator Heinrich and then we will move to our second panel with our Administration witnesses.

Senator Capito.

STATEMENT OF HON. SHELLEY MOORE CAPITO, A U.S. SENATOR FROM WEST VIRGINIA

Senator CAPITO. Thank you, Madam Chair. I want to thank the Ranking Member too for bringing forth these bills.

I just briefly wanted to comment and join my fellow Senator, Senator Manchin, to talk about the importance to us to have the Appalachian Forest National Heritage Act of 2016.

I have enjoyed the Committee, but what I really enjoy about the Committee is that we all get to talk about the relative beauty and great things about all of our individual states and particularly when we look at the more wilder and more beautiful parts of our state, like Senator Reid was talking about his state.

So I am really pleased that this is coming forward on the first day of Fall, I believe, because in this region, the Appalachian Forest National Heritage region, you will see some of the most beautiful leaves as we move through the Fall. It is quite a tourism event for our state.

We have a vast and unique landscape. We get tens of thousands of visitors, many from the Washington, DC area. And we have just moved in a little bit further so we are making it easier for you to really see our beautiful state and do our skiing. But this heritage

area really gives us a chance to highlight the many years, decades, of both Appalachian heritage and in the timbering industry.

We know that West Virginia has been under immense strain. I have talked about that in this Committee and other Committees. I think things like this, like this Act, will help us enhance and multiply the dollars for our tourism and help us transition into other areas of economic development which I have really spent the several years I have been in the Senate trying to do.

So, we have got hard work at the Appalachian Forest Heritage, the folks who are there now. We have had 35 AmeriCorps members that have logged 65,000 hours in their local communities. And it has proved already over 1,700 acres of public land.

Senator Manchin mentioned that this spans mostly in West Virginia but does go into Maryland, and the two Maryland Senators are very much in favor of this.

So again, I would like to commend Senator Manchin for offering this and thank the Chair for bringing this forward and invite everybody who is listening and who is watching on this first day of Fall, to come into that Appalachian Heritage and see the beautiful parts of West Virginia. You won't regret it.

Thank you.

Senator Manchin: There might be some leaf peepers around here, huh?

Senator CAPITO. Yeah, leaf peepers. [Laughter.]

Senator MANCHIN. That is what we call them.

The CHAIRMAN. Thank you, Senator Capito.

Senator CAPITO. Additionally, I would like to say to the Chairman, please. The King Cove Land Exchange Act, I am so for it, I know more about it than some of the things in my state. [Laughter.]

So, I hope today brings good news for that.

The CHAIRMAN. Thank you. Thank you for listening and for your support.

Senator Heinrich, it is now your turn to extol the virtues of New Mexico.

STATEMENT OF HON. MARTIN HEINRICH, U.S. SENATOR FROM NEW MEXICO

Senator HEINRICH. I will be happy to do that.

I want to thank the Committee for considering several bills of interest to my constituents in New Mexico today on the agenda.

First I want to talk a little bit, maybe we can swap this out real quick with the other photo, but I want to talk a little bit about the San Juan County Settlement Implementation Act.

[The information referred to follows:]



Senator HEINRICH. This bill would finally resolve a number of, literally decades long, public land and resource issues in Northwestern New Mexico; it would bring to a close decades of litigation over mineral leases; it would allow the Navajo Nation to receive its final settlement acts pursuant to a legal settlement dating back to 1974; and, it would permanently protect unique geologic, paleontological and cultural resources in the Ah-Shi-Sle-Pah area managed by the Bureau of Land Management.

I also want to speak momentarily about another bill, the Organ Mountains-Desert Peaks Conservation Act, that would complete the community proposal for the region included in the 2014 designation of the Organ Mountains Desert Peaks National Monument.

[The information referred to follows:]

Organ Mountains-Desert Peaks National Monument
Las Cruces, New Mexico

Senator HEINRICH. This monument has been an incredible economic and community success for Doña Ana County in the two years since its designation but only Congress can complete the original community vision for this area by improving operational flexibility for Customs and Border Patrol by protecting the important missions at nearby Fort Bliss from encroachment by incompatible development and by designating wilderness in the monument's back country.

Lastly, I want to mention that Senator Flake and I recently introduced legislation to improve the process for land exchanges between state trust lands in western states and federal public land management agencies. Our bill would address the checkerboard land ownership pattern that is all too common all across the intermountain west by exchanging state land inholdings within federal conservation areas, parks, and wilderness areas for lands of equal value that are more likely to produce revenue for the schools and hospitals that benefit from development of state trust lands.

All three of these measures would improve public land management in New Mexico, and I thank the Committee for their consideration.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Heinrich.

I know Senator Daines was interested in speaking, but we are it for right now. So let's move to our second panel so we have an opportunity to hear from our agency witnesses.

Senator Gardner, we had just given members an opportunity to make comments about any of the bills that they have introduced. Since you are here and we have not yet seated the second panel, I will extend the same courtesy to you if you would like or if you want to include that as part of your questioning. It is your preference.

STATEMENT OF HON. CORY GARDNER,
A U.S. SENATOR FROM COLORADO

Senator GARDNER. Well, I will just be quick in terms of the hearing. Thank you, Chairman, for having this hearing today and including 3312, the Disposal Reauthorization Act, which is a riveting title for a very important issue in Colorado.

Grand Junction, Colorado, of course, the Western Slope, has a long history of uranium and at one point even paved the streets of Grand Junction with uranium mine tailings because they were proud of the work of being the atomic city. Of course, over the years, we have learned that that probably was not the best thing to do and as a result have had decades worth of clean ups and programs to make sure that we are restoring the work that they did from decades ago. So, undoing the restoration of that work.

So, thank you, Madam Chair, for holding this hearing and including this bill.

The CHAIRMAN. Great. Thank you.

Gentlemen, if you would like to join the Committee. We appreciate you being here and your patience this morning, gentlemen, gentleman and lady.

We are pleased this morning to have Mr. Neil Kornze, who is the Director of the Bureau of Land Management. We are also joined by

Ms. Leslie Weldon, who is the Deputy Chief of the U.S. Forest Service.

Normally, we would invite additional stakeholders to testify but there was a lot of uncertainty as to whether or not we were even going to be able to have this hearing this week, whether we were going to be in session. Recognizing that we were looking to bring, perhaps, witnesses from as far away as King Cove or from Juneau, it did not seem fair or right to ask them to come and then not be able to have some certainty with the timing of the hearing.

So we have our witnesses here from the BLM and from the Forest Service. The Department of Energy will also be submitting a written statement about the bill within its jurisdiction which is S. 3312. So, that will also be part of the record.

[The information referred to follows:]

Statement from The Department of Energy

for

Committee on Energy and Natural Resources

United States Senate

S. 3312 – The Responsible Disposal Reauthorization Act of 2016

September 22, 2016

The Department of Energy, Office of Legacy Management (DOE-LM) has no issues with the intent of the Responsible Disposal Reauthorization Act of 2016 to extend the operating life of the Grand Junction Disposal Site from the year 2023 to 2048. The disposal site is located about 18 miles southeast of the City of Grand Junction and was built as part of the Uranium Mill Tailings Radiation Control Act of 1978. The disposal site is the only active site available for receiving uranium mill tailings managed by DOE-LM. The Department works closely with local, state, and federal officials to ensure protection of public health, safety, and the environment by moving contaminated materials away from public places.

To date, the Grand Junction Disposal Site contains about 4.5 million cubic yards of low-level radioactive waste and receives approximately 2,700 cubic yards of waste per year. The disposal site has sufficient space to receive an additional estimated 235,000 cubic yards indicating the site could operate for 87 more years at current rates. New waste materials are derived from numerous locations – the City of Grand Junction continues to excavate waste tailings previously used in roads, sidewalks, and homes. DOE-LM operates groundwater treatment systems at several UMTRCA Title I and Title II sites that will periodically continue to generate residual materials

eligible for disposal in the Grand Junction Disposal Cell and that valuable capacity should continue to be utilized.

The CHAIRMAN. With that, if you would like to proceed, Mr. Kornze, we will hear your statement.

STATEMENT OF HON. NEIL KORNZE, DIRECTOR, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Mr. KORNZE. Wonderful.

Good morning, Chairman Murkowski, Ranking Member Cantwell, rest of the Committee. It's a pleasure to be with you.

I'll begin briefly by summarizing the written statements concerning the 13 bills on today's agenda that relate to the Bureau of Land Management (BLM).

S. 346, the Oregon Withdrawal, withdraws 101,000 acres of federal land in Southwest Oregon from public land mining and mineral leasing laws. The Department supports S. 346 which will protect important habitat and resources unique to this region.

S. 2681, San Juan County, and S. 3049, Oregon Mountains, the Department appreciates the hard work of the Senators from New Mexico on both of these bills. S. 2681 allows for the exchange of certain federal coal leases, authorizes the substitution of Navajo Nation land selections and designates two wilderness areas in Northern New Mexico. S. 3049 designates eight wilderness areas within the Oregon Mountains Desert Peaks National Monument and includes direction for future management of additional public land in Doña Ana County. The Department supports the goals of both of these bills and would like to work with the sponsors on some modifications.

S. 3102, Pershing County, Nevada, proposes an innovative way to consolidate checkerboard lands and designates 136,000 acres of wilderness in Pershing County which we heard a lot about this morning. We largely support the goals of S. 3102 and welcome the opportunity to work on some modifications to the bill.

S. 2380, the Recreation Public Purposes Act Commercial Recreation Concessions Pilot Bill. This bill would amend what we call the RMPP Act to allow the commercial uses on lands that are leased or acquired through the RMPP law. The Department strongly opposes this bill because it undermines the public purpose mandate of the original RMPP Act and conflicts directly with the BLM's responsibility to obtain fair market value for the use of public lands.

S. 3203, the Alaska Economic Development Access to Resources Act, would increase federal oil and gas production requirements in the State of Alaska. It would lift the prohibition of oil and gas leasing and production in the Arctic National Wildlife Refuge (ANWR) and includes numerous other provisions related to the Department of the Interior and some to agriculture, I believe. The Department opposes S. 3203.

S. 3273, the ANCSA Improvement Act, amends the Alaska Native Claims Settlement Act and other laws concerning numerous Alaska Native Corporations and issues. The bill affects resources managed by several Interior and Ag agencies. We appreciate the efforts of the sponsors in developing this legislation. Many of the matters are very complex, and we look forward to working with them on addressing the issues outlined in our written testimony.

H.R. 1838, Clear Creek, establishes the Clear Creek National Recreation Area in San Benito and Fresno Counties, California. The Department does not support this designation as currently written due to serious public health concerns. The Department, however, supports the bill's separate designation of the Joaquin Rocks Wilderness.

S. 3316, the ACE Act, provides a new approach for consolidating state lands that are scattered across 13 Western states. The Act allows states to relinquish inholdings within federally-designated conservation units and in return acquire other BLM-managed properties. The Department endorses this concept and would like to work with the sponsors on some important amendments.

H.R. 2009, Pascua Yaqui, involves three small parcels of public land in Tucson, Arizona. The Department supports this bill.

The Antiquities Act bills, there are three of them. They each amend the Antiquities Act of 1906. The Administration strongly opposes these three bills because they would severely limit the President's authority to protect the nation's resources for the American public.

The Antiquities Act has been used by presidents of both parties for over 100 years to preserve critical natural, historic and scientific treasures on public lands. Moreover, nearly half of the nation's national parks, including the Grand Canyon, Zion Arches and Olympic National Park were initially protected as national monuments.

In addition to these BLM-related bills, the Department of the Interior also has submitted statements for the record on four bills that fall under the jurisdiction of other departmental bureaus. I will quickly go through those.

The Department strongly opposes the King Cove Land Exchange Act. It does not support S. 3315, the Second Division Memorial Act. The Department does support S. 2056, the National Volcano Early Warning and Monitoring System Act, and S. 3167, which establishes the Appalachian Forest National Heritage Area.

We appreciate the inclusion of all of the DOI statements in the hearing record.

Finally, Chairman, I would like to note that in early July the House passed H.R. 3844, the BLM Foundation Act. The establishment of the BLM Foundation is an important Administration initiative and will help us facilitate critical work from the clean-up of legacy wells in places like Alaska to the management of wild horses and burros which span many of the states represented by members here.

We hope that the BLM Foundation will be among the priorities that this Committee moves forward in the weeks ahead.

Thank you for the opportunity to testify and I will be happy to answer any questions you might have.

[The prepared statement of Mr. Kornze follows:]

Statement of
Neil Kornze
Director
U.S. Department of the Interior, Bureau of Land Management
Senate Energy and Natural Resources Committee
S. 346, Southwestern Oregon Watershed and Salmon Protection Act
September 22, 2016

Thank you for the opportunity to testify on S. 346, the Southwestern Oregon Watershed and Salmon Protection Act. This bill would withdraw 5,215 acres of public land managed by the Bureau of Land Management (BLM) and 95,806 acres of National Forest System lands managed by the U.S. Forest Service (Forest Service), from operation of the public land, mining, and mineral and geothermal leasing laws.

The lands to be withdrawn include the Hunter Creek and North Fork Pistol River headwaters and the Rough and Ready Creek and Baldface Creek watersheds. The lands also border or are near the Kalmiopsis Wilderness. The Department understands that the purpose of the withdrawal is to protect important habitat of threatened and endangered aquatic and botanical resources. The Department supports S. 346.

Background

In southwestern Oregon, the BLM manages approximately 1.2 million acres of public lands through the Coos Bay and Medford District Offices. The BLM works closely with the State of Oregon, tribal governments, counties and cities, as well as local communities to ensure the sustainable management of these lands and their multiple uses. The lands provide a wide variety of uses, ranging from timber production and mineral exploration to recreational opportunities and critical wildlife habitat. A high number of threatened, endangered and sensitive aquatic and botanical species are known to occur throughout the area. Mining has been identified as a primary threat to a number of these botanical species and could pose harm to the threatened salmon species within these waters.

Withdrawal Area

The lands proposed for withdrawal under S. 346 are generally known as the Klamath Mountains, and their defining characteristic is the North Fork of the Smith River, which originates in the Kalmiopsis Wilderness and drains most of the area under consideration for withdrawal. Once it crosses the Oregon-California state line, the Smith River is the largest free-flowing river system in California. Creeks that feed into the North Fork and other rivers that flow to the Oregon Coast offer unique ecological features stemming from the confluence of the Coast Range, Cascades, and Siskiyou Mountains. A high concentration of rare plants, forested trails, and scenic views are all emblematic of these drainages. Rough and Ready Creek and Baldface Creek are listed as eligible for National Wild and Scenic River designation by the U.S. Forest Service.

Administrative Segregation

On June 29, 2015, the Assistant Secretary of the Interior for Land and Minerals Management published in the Federal Register a Notice of Proposed Withdrawal and Notification of Public Meetings (Notice) for the lands identified in S. 346. This Notice temporarily segregated the lands for two years from operation of the public land, mining, and mineral and geothermal leasing laws. The segregation is in effect until June 29, 2017. The segregation is intended to maintain current conditions while Congress considers the legislation for a permanent withdrawal.

The current segregation protects all valid existing rights, including those under the mining and mineral leasing laws. Existing mining claims may be developed if a minerals validity examination shows that a discovery of a valuable mineral deposit existed at the time of the segregation. Currently, there are 279 existing claims in the withdrawal areas, of which 234 are lode claims and 45 are placer claims. To date, no existing claims have been proven valid under the validity examination process.

S. 346

S. 346 would permanently withdraw 5,215 acres of BLM-managed public lands in the Coos Bay and Medford Districts and 95,806 acres of Forest Service lands in the Rogue River-Siskiyou National Forest from operation of the public land, mining, and mineral and geothermal leasing laws. The proposed withdrawal encompasses two areas near or bordering the Kalmiopsis Wilderness. These include the Hunter Creek and North Fork Pistol River headwaters and the Rough and Ready Creek and Baldface Creek watersheds.

The Department supports S. 346, which will ensure the protection of both the lands and resources it covers. The necessity of this protection is exemplified by the fact that within the lands proposed for withdrawal by S. 346, the BLM's 2016 Northwestern and Coastal Resource Management Plan and Southwestern Oregon Resource Management Plan identified five Areas of Critical Environmental Concern (ACECs) – Hunter Creek Bog, North Fork Hunter Creek, West Fork Illinois River, Rough and Ready, and Woodcock Bog. The two Resource Management Plans also recommended the withdrawal of these five ACECs.

Additionally, included within the boundary of the withdrawal are approximately 1,680 acres of non-Federal land that are not currently affected by segregation or withdrawal. If these non-Federal acres enter into Federal ownership in the future, they would become subject to the terms and conditions of the withdrawal.

Finally, like the current temporary segregation the permanent withdrawal proposed under S. 346 would not prohibit mining operations under existing notices or plans. Any preexisting exploration or mining operations would continue, but new mining claims would be prohibited. S. 346 also would not restrict existing recreational uses or forest management activities.

Conclusion

Thank you for the opportunity to testify in support of S. 346, which would serve to protect pristine and unique natural areas in southwest Oregon. I would be happy to answer any questions you may have.

Statement for the Record
U.S. Department of the Interior
Senate Committee on Energy and Natural Resources
Concerning Three Bills to Amend the Act Popularly Known as the
Antiquities Act of 1906
September 22, 2016

Thank you for the opportunity to provide the views of the Administration on three bills—S. 437, S. 1416, and S. 3317—to amend the Act popularly known as the Antiquities Act of 1906 ("Antiquities Act").

The Administration strongly opposes these three bills. The Antiquities Act has been used by U.S. Presidents of both major parties for more than 100 years as an instrument to preserve and protect critical natural, historical, and scientific resources on Federal lands for future generations. The authority has contributed significantly to the strength of the National Park System and the protection of special qualities of other Federal lands—resources that constitute some of the most important elements of our nation's heritage. These three bills, which would limit the President's authority in various ways, would undermine this vital authority.

S. 437 would require the President to consider proposals for national monument designations subject to the procedural provisions of the National Environmental Policy Act of 1969 (NEPA) and obtain approval from Congress and the state legislature in which the proposed national monument is located prior to designating a national monument. For any new marine national monument located in an exclusive economic zone, additional requirements would have to be met, including submitting a proposal to the governor of each state or territory located within 100 nautical miles of the proposed national monument. The bill would also prohibit any restrictions on public use of marine national monuments in the exclusive economic zone until after a public review period and approval by Congress.

S. 1416 would prohibit the President from reserving any implied or expressed water rights associated with a national monument; water rights associated with a national monument could only be acquired in accordance with the laws of the state in which a monument is located.

S. 3317 would bar the use of the Antiquities Act to extend or establish new national monuments in Utah unless authorized by Congress.

The authority granted to the President by Congress through the Antiquities Act is one of the most important tools a president has to protect and conserve historic and natural resources. It is a tool that this President has not used lightly or invoked without serious consideration of the impacts on current and future generations. The Administration has consistently invited public comment from national, state, local and Tribal stakeholders at meetings in local communities. However, by requiring the formal approval of Governors and legislatures prior to a designation, S. 437 would limit the flexibility of the President to respond to impending threats to resources, and the ability of the President to recognize, protect and preserve areas of incredible importance to the Nation's heritage. Furthermore, while land management agencies typically use the NEPA process in their development of management plans for new national monuments, NEPA does not

apply to decisions by the President, as provided in S. 437, because the President is not a Federal agency. This would be unprecedented. And S. 3317 would eliminate a critical tool available to protect natural or cultural resources on Federal land in the State of Utah, if those resources were threatened.

With respect to S. 1416, we note that currently the designation of a national monument by presidential proclamation does not alter or affect the valid existing water rights of any party, including any previously reserved rights of the United States. While there are often no federally reserved water rights associated with monument designations, through the establishment of a national monument, the Federal government may reserve unappropriated waters appurtenant to the land to the extent necessary for the requirements and purposes of the monument. Water appropriated through state law that has an earlier priority date to the national monument would retain that priority. By prohibiting a president from reserving water rights associated with a national monument, S. 1416 would limit the ability of a Federal land management agency to maintain the water necessary to protect a monument's resources and meet the needs of visitors.

The Antiquities Act was the first U.S. law to provide general legal protection of cultural and natural resources of historic or scientific interest on Federal lands. After a generation-long effort, President Theodore Roosevelt signed the Antiquities Act on June 8, 1906. The Antiquities Act set an important precedent by asserting a broad public interest in the preservation of these resources on Federal lands. Designations under the Act apply only to Federal lands; they place no restrictions on private property and have not affected valid existing rights.

After signing the Antiquities Act into law, President Roosevelt used the Antiquities Act eighteen times to establish national monuments. Those first monuments included what are now known as Grand Canyon National Park, Petrified Forest National Park, Chaco Culture National Historical Park, Lassen Volcanic National Park, Tumacacori National Historical Park, and Olympic National Park.

Since enactment, sixteen U.S. Presidents, both Republican and Democrat, have used the Act more than 150 times to establish or expand national monuments. The National Park Service currently manages 55 national monuments established by presidential proclamation, including some of our most iconic national monuments such as Devils Tower, Muir Woods, and the Statue of Liberty. The Bureau of Land Management also administers 23 national monuments designated by presidential proclamation (one of which is co-managed with the National Park Service), including Agua Fria (AZ) and Canyons of the Ancients (CO) that preserve significant archeological sites. The Fish and Wildlife Service administers eight presidentially proclaimed national monuments (two of which are co-managed with the National Park Service).

Like his predecessors, President Obama's designations have provided permanent protections for unique historic and cultural sites, incredible natural resources and wildlife habitat. These include, among others, Waco Mammoth National Monument in Texas, Stonewall National Monument in New York, San Juan Islands National Monument in Washington, and Río Grande del Norte National Monument in New Mexico. President Obama's use of the Antiquities Act has been supported by a wide range of stakeholders, including state and local governments, tribes,

business groups, elected officials, community leaders, regional utilities, as well as faith leaders, sportsmen, historians, conservationists, recreation enthusiasts, and others.

Without the President's authority under the Antiquities Act, it is unlikely that many of these special places would have been protected and preserved as quickly and as fully as they were. As Congress intended when it enacted the Antiquities Act, the statute provides the necessary flexibility to respond to impending threats to resources, while striking an appropriate balance between legislative and executive decision making.

These bills, S. 437, S. 1416, and S. 3315, would severely limit the historically-affirmed presidential authority to protect the Nation's resources for the American public and their children, and such a weakening of the President's authority would be contrary to the Antiquities Act's spirit and protective purposes.

The Antiquities Act has a proven track record of protecting significant Federal lands and waters and the unique cultural and natural resources they possess. These monuments have become universally revered symbols of America's beauty and legacy. Though some national monuments have been established amidst controversy, who among us today would dam the Grand Canyon, turn Muir Woods over to development, or deny the historic significance of Harriet Tubman's struggle against slavery? These sites are much cherished landscapes which help to define the American spirit. They speak eloquently to the wisdom of retaining the Antiquities Act is its current form.

Statement for the Record
U.S. Department of the Interior
Senate Committee on Energy and Natural Resources
S. 2056, the National Volcano Early Warning and Monitoring System Act
September 22, 2016

Thank you for providing the Department of the Interior with the opportunity to present this Statement for the Record on S.2056, the *National Volcano Early Warning and Monitoring System Act*. The Department strongly supports S. 2056 and shares its goal of improving public and aviation safety through comprehensive monitoring of the most threatening volcanoes in the United States and its Territories.

The National Volcano Early Warning System (NVEWS) is the U.S. Geological Survey's (USGS) approach to upgrading and modernizing its monitoring networks to ensure that all active volcanoes in the United States and its Territories are monitored at levels commensurate with their threat. NVEWS priorities are based on a 2005 national assessment of volcano threat levels, which the USGS is in the process of revising to incorporate new knowledge. While several network upgrades were made possible through the American Reinvestment and Recovery Act (ARRA) stimulus of 2009-2011, the USGS has since been making opportunistic NVEWS upgrades funded out of existing base resources. The USGS has achieved 30% completion of network upgrades to NVEWS standards with some Very-High-Threat and High-Threat volcanoes lacking basic monitoring networks. As with existing efforts, any work conducted to fulfill the objectives of the bill would need to compete for funding with other Administration priorities.

This legislation would enable the building out of the NVEWS network and will improve the USGS' capabilities to detect eruption precursors at the earliest possible stages (usually weeks to months before an eruption) and to deliver probabilistic eruption forecasts and warnings to the public, land managers, emergency responders and the aviation sector. The success of volcanic hazard mitigation efforts is highly dependent upon the quality and comprehensiveness of the in-ground monitoring networks deployed on and around the Nation's active volcanoes, the scientific expertise in our volcano observatories, and the preparedness of communities through well developed and regularly exercised volcano emergency response plans.

The USGS is fully prepared to deliver an updated implementation plan for completion of the National Volcano Early Warning and Monitoring System for the Nation's Very-High-Threat and High-Threat volcanoes in response to the legislation. The volcano research grants program that would be authorized under bill S. 2056 would allow the USGS to engage more of the Nation's major universities in this basic and applied research and lead to advancement of the field of volcanology. The USGS has a successful track record of effective leveraging of resources with other federal agencies, state geological surveys and universities. An authorized grants program under bill S.2056 would enable continued collaboration and design and development of promising and cost-effective volcano monitoring technologies of the future.

Statement of
Neil Kornze
Director
U.S. Department of the Interior, Bureau of Land Management
Senate Committee on Energy and Natural Resources
S. 2380, RPPA Commercial Recreation Concessions Pilot Program Act
September 22, 2016

Thank you for inviting the Bureau of Land Management (BLM) to testify on S. 2380, the RPPA Commercial Recreation Concessions Pilot Program Act. S. 2380 would amend the Recreation and Public Purposes Act (R&PP Act) to require the Secretary of the Interior (Secretary) to establish a commercial concessions pilot program for lands transferred or leased under the R&PP Act (R&PP Act lands, covered lands). The BLM understands that allowing third party commercial concessions on R&PP Act lands could possibly enhance the public's use and enjoyment of those lands. However, allowing unlimited profit-generating activities on covered lands would severely undermine the core principle of the R&PP Act and ignore BLM's statutory responsibility to obtain a fair return for the use and disposal of valuable public resources that belong to all Americans. As a result, the BLM strongly opposes S. 2380 in its current form.

Background

The BLM frequently exercises authority under the R&PP Act to help states, local communities, and nonprofit groups obtain lands at no or low cost for important, specified public purposes. Examples of public purposes allowed under the Act include establishment of parks, schools, hospitals and other health facilities, fire and law enforcement facilities, courthouses, social services facilities, and public works. Since the R&PP Act's passage in 1954, the BLM has transferred approximately 410,000 acres of public lands to qualifying entities in the form of over 1,600 R&PP Act patents. The Bureau also currently manages over 630 R&PP Act leases totaling approximately 76,000 acres.

Because the R&PP Act allows for the transfer and lease of public lands at prices far below fair market value, the state, local, and nonprofit entities that receive the lands must agree to always use them for bona fide public purposes. This compromise is the foundation of the R&PP Act, and it is the basis for a limitation imposed on for-profit activities on covered lands. Under longstanding BLM policy, any revenue collected on lands leased or transferred under the R&PP Act must be used on those lands. This restriction prevents public lands obtained at little or no cost from being used for large-scale revenue generation at the expense of the American public.

The BLM includes reversionary clauses in the transactions to enforce the terms of the original agreements that state and local governments and nonprofit organizations enter into upon applying for and receiving R&PP Act transfers and leases. These provisions help ensure R&PP Act lands will either be used for public purposes in perpetuity or revert to Federal management. Over the years, the BLM has addressed many requests to eliminate the Federal reversionary interests in covered lands. In the leasing context, this generally can be accomplished by replacing an existing R&PP Act lease with a commercial lease at fair market value. In the case of an existing R&PP Act transfer, the state, local, or nonprofit entity generally can purchase the Federal reversionary interest at fair market value.

S. 2380

S. 2380 would amend the R&PP Act to require the Secretary to establish a commercial concessions pilot program to cover R&PP Act lands. Under the pilot program, the Secretary would enter into agreements with one to 10 parties to whom R&PP Act lands have been patented or leased for the establishment of commercial concessions on the covered lands. The agreements between the Secretary and these parties could last up to 20 years based on specific financing criteria, and they could be extended once for no longer than their original terms.

In addition, S. 2380 would allow R&PP Act land holders who have such agreements with the Secretary to enter into subsequent agreements with third parties for the establishment of commercial concessions pursuant to the initial secretarial agreements. The bill also includes troubling language that would effectively subvert the public purpose mandate of the R&PP Act by opening covered lands to virtually any residential, agricultural, industrial, or commercial use without being considered a change in use under the Act. Finally, S. 2380 would allow any revenue collected by the R&PP Act land holders pursuant to the commercial concessions to be spent without restriction.

Taken together, these provisions would permit public lands obtained for very little or no cost to be used for potentially limitless profit at the expense of the American taxpayer. While the title of the bill purports to provide only for recreation concessions, the legislative text also would open covered R&PP Act lands to all uses allowable under BLM regulations for leases, permits, and easements – including revenue-generating uses for which the BLM collects fair market value. This outcome would be contrary to the spirit of the R&PP Act, in direct conflict with the mission and purposes for which the BLM manages the public's lands under the Federal Land Policy and Management Act, and would prevent the BLM from ensuring a fair return to the American people for valuable public resources. Therefore, the BLM strongly opposes S. 2380 as currently written.

Conclusion

Thank you for inviting me to testify before you today. I would be happy to answer any questions you may have.

Statement of
Neil Kornze
Director
U.S. Department of the Interior, Bureau of Land Management
Senate Energy and Natural Resources Committee
S. 2681, San Juan County Settlement Implementation Act
September 22, 2016

Thank you for the opportunity to present the views of the Department of the Interior (Department) on S. 2681, which would authorize the Secretary of the Interior (Secretary) to retire a certain type of Federal coal lease rights – "preference right lease applications" or PRLAs – in exchange for coal bidding rights elsewhere on Federal lands; substitute certain land selections of the Navajo Nation, and designate two wilderness areas in northern New Mexico.

The Department appreciates the work of Senator Heinrich (D-NM) and Senator Udall (D-NM), and generally supports the goal of seeking resolution to long-standing unresolved mineral development and tribal land selection issues. The Department also supports the designation of the Ah-Shi-Sle-Pah Wilderness and the expansion of the existing Bisti/De-Na-Zin Wilderness. We would like to continue discussions with the sponsors and the Committee on how best to achieve the intent of this bill while minimizing the cost to taxpayers of such a resolution and ensuring continued protection of environmental and cultural resources.

Background

Exchange of Coal Preference Right Lease Applications

Prior to 1976, the Secretary was authorized by the Mineral Leasing Act (MLA) to issue permits to prospect for coal on public lands in areas where no known coal deposits existed. If coal was discovered, the prospector could file a preference right lease application (PRLA). If commercial quantities of coal were demonstrated, the prospector was entitled to a "preference right lease," – a noncompetitive, exclusive right to mine coal on these public lands for an initial 20-year term. The Federal Coal Leasing Amendments Act of 1976 repealed the Secretary's authority to issue prospecting permits and terminated the preference right leasing program, subject to valid existing rights. However, prospecting permittees who have filed a PRLA prior to 1976 continue to be recognized as having valid existing rights that require adjudication by the BLM. In 1987, the BLM promulgated regulations exclusively for processing these pre-1976 PRLAs.

To date, all coal PRLAs have been processed, except for eleven held by the Ark Land Company (Ark Land), covering approximately 21,000 acres in northern New Mexico. These PRLAs are within three miles of Chaco Culture National Historical Park and in the Ah-shi-sle-pah Wilderness Study Area (WSA), Fossil Forest Research Natural Area, and North Road and Ash-shi-sle-pah Road Areas of Critical Environmental Concern (ACECs). These areas have cultural archaeological, paleontological, primitive recreational, and environmental significance, and are not an ideal site for commercial development of the coal. In the interest of protecting the important cultural and environmental resources in the area, in 2012, after extensive investigation, litigation and negotiation, the BLM and Ark Land signed a settlement agreement that would seek

to exchange the eleven PRLAs for an equal value in Federal bidding rights for Federal coal within the border of the State of Wyoming. While this exchange can currently be completed through existing regulations (43 CFR Subpart 3435), further authority is needed to ensure that use of the Federal bidding rights will not require taxpayers to pay the share of sums that would have otherwise been paid from bonus bid receipts to the State of Wyoming or any other party under the bid-sharing formula in the Mineral Leasing Act.

Navajo-Hopi Land Settlement Act

As part of the Navajo-Hopi Land Settlement Act (P.L. 93-531), the Navajo Nation selected approximately 12,000 acres of lands which overlap the PRLAs and are within protected areas such as the Ah-shi-sle-pah WSA and south of the Bisti/De-Na-Zin Wilderness and the Ah-shi-sle-pah Road ACEC. These selections have not yet been completed due to the encumbrance of the PRLAs. The Navajo Nation has sought to "deselect" these lands and select others, but is unable to complete the action without further legislation. With new legislative authority allowing the Navajo Nation to reselect lands, these sensitive lands currently under discussion would receive protection.

Ah-Shi-Sle-Pah WSA & Bisti/ De-Na-Zin Wilderness

The approximately 6,563-acre Ah-Shi-Sle-Pah WSA, located about 40 miles south of Farmington, New Mexico, features a unique badlands landscape of sandstone cap rocks and rolling, water-carved clay hills. This special place is rich in petrified wood, fossils, and exposed geologic formations and contains soft colors rarely seen elsewhere. On the valley floor, petrified stumps can be found standing up out of the ground. The area is popular for day hikers and photographers who enjoy its unique geologic history.

The approximately 41,170-acre Bisti/ De-Na-Zin Wilderness, which is about 28 miles south of Farmington, offers some of the most unusual scenery found in the Four Corners Region. Time and the elements have etched an almost fantasy world of strange rock formations made of interbedded sandstone, shale, mudstone, coal, and silt throughout this remarkable area. Natural sandstone weathering has created hoodoos – tall, thin spires of rock rising up out of the ground – pinnacles, cap rocks, and other unusual formations. This area recently received national attention following the discovery of two fossilized Pentaceratops dinosaur skeletons.

S. 2681

Coal Preference Right Lease Applications (Section 2)

S. 2681 would authorize the Secretary to retire coal PRLAs by issuing bidding rights in exchange for relinquishment of the PRLAs. The bill would define a "bidding right" as an appropriate legal instrument that may be used in lieu of a monetary payment for a bonus bid in a coal sale under the MLA, or as monetary credit against a rental or royalty payment due under a Federal coal lease. Thus, a bidding right could be used in lieu of cash for part or all of a winning bonus bid in a subsequent coal lease sale, or for rental or royalty owed under a Federal coal lease. S. 2681 further provides for payment of 50% of the amount of the bidding right used to the state in which

the newly-issued coal lease – or in which the lease under which a royalty payment is made – is located. The payments to the state would be made from revenues received under the MLA that otherwise would be deposited as miscellaneous receipts. Under S. 2681, bidding rights would be fully transferrable to any other person and the bidding rights holder would have to notify the Secretary of the transfer. The bidding rights would terminate after 5 years, unless the rights could not be exercised within the 5-year period under certain conditions outlined in the bill.

The Department generally supports the goal of S. 2681 to provide legislative authority for a solution to the long-standing coal PRLA issue in northern New Mexico. However, the Administration is concerned about the likely costs associated with this legislation as drafted. Based on the terms of the legislation, and in the context of the Ark Land settlement agreement, it appears these costs could be substantial, which raises significant challenges for identifying suitable offsets. We are aware that the New Mexico delegation has been working on alternative language to minimize these costs. We appreciate these efforts and would like to work with the sponsor to incorporate such provisions in the bill as it moves forward.

Finally, the BLM would also like to work with the sponsors and the Committee on language regarding the timing of the valuation of the coal within the PRLAs, and to ensure the Department's Office of Valuation Services will determine the fair market value of the resources consistent with standard valuation practices.

Navajo Nation Land Selection (Section 3)

Section 3 of S. 2681 would cancel certain land selections made by the Navajo Nation pursuant to the Navajo-Hopi Land Settlement Act of 1974, and would authorize the Navajo Nation to make new selections of equal value to replace those canceled. The bill excludes certain lands eligible for selection, including land within BLM's National Conservation Lands and certain ACECs.

The Department supports the bill's provisions to allow for new land selections while also protecting many areas with significant natural and cultural resources, and supports the bill's provisions for the deselection of these lands. We would like to work with the sponsors and Committee on the bill's exclusion areas to ensure all of the Special Management Areas and ACECs within the area continue to be managed by the BLM to ensure their protection. We would also like to work with the sponsors and Committee on language to ensure consistency with the original intent of the Navajo-Hopi Settlement Act.

Ah-Shi-Sle-Pah Designation & Bisti/De-Na-Zin Wilderness Expansion (Sections 4 & 5)

Section 4 of S. 2681 would designate approximately 7,242 acres of BLM-managed lands in northwestern New Mexico, as the Ah-shi-sle-pah Wilderness, including the entire existing WSA. Section 5 of the bill would enlarge the Bisti/De-Na-Zin Wilderness by adding approximately 2,250 acres of BLM-managed lands directly south of the area. The BLM supports both of these designations. These wild and rugged areas are rich with paleontological resources and provide an opportunity for those wishing to explore and enjoy rare, prehistoric treasures and experience the outstanding backcountry.

Conclusion

Thank you for this opportunity to present testimony on S. 2681. The Department thanks the sponsors and the Comittee for their dedication to this issue. We look forward to continuing to work with the sponsors to achieve these goals.

Statement of
Neil Kornze
Director
U.S. Department of the Interior, Bureau of Land Management
Senate Energy and Natural Resources Committee
S. 3049, Organ Mountains-Desert Peaks Conservation Act
September 22, 2016

Thank you for inviting the Bureau of Land Management (BLM) to testify on S. 3049, the Organ Mountains-Desert Peaks Conservation Act. The BLM supports S. 3049, which designates eight new wilderness areas and includes direction for future management on additional public lands in Doña Ana County, New Mexico. We would like the opportunity to work further with the sponsors and Subcommittee on certain aspects of the bill that we believe would facilitate implementation and improve the manageability of the areas that would be designated by S. 3049.

Background

Doña Ana County is many things – the county with the second highest population in New Mexico; home to Las Cruces, one of the fastest growing cities in the country; and a land of amazing beauty. Towering mountain ranges, dramatic deserts, and fertile valleys characterize this corner of the Land of Enchantment. The Organ Mountains, east of the city of Las Cruces, dominate the landscape. Characterized by steep, angular, barren rock outcroppings, the Organ Mountains rise to nearly 9,000 feet in elevation and extend for 20 miles, running generally north and south. This high-desert landscape within the Chihuahua Desert contains a multitude of biological zones – mixed desert shrubs and grasslands in the lowlands ascending to pinon and juniper woodlands, and finally to ponderosa pines at the highest elevations. Consequently, the area is home to a high diversity of animal life, including peregrine falcons and other raptors, as well as mountain lions and other mammals. Abundant prehistoric cultural sites, dating back 8,000 years, dot the landscape. The Organ Mountains are a popular recreation area, with multiple hiking trails, a popular campground, and opportunities for hunting, mountain biking, and other dispersed recreation.

On the west side of Las Cruces are the mountain ranges and peaks of the Robledo Mountains and Sierra de las Uvas, which make up the Desert Peaks area. These desert landscapes are characterized by numerous mesas and buttes interspersed with deep canyons and arroyos. Mule deer, mountain lions, and golden eagles and other raptors are attracted to this varied landscape. Prehistoric cultural sites of the classic Mimbres and El Paso phases are sprinkled throughout this region along with historic sites associated with more recent settlements. This area is also home to the unusual Night-blooming Cereus – seeing the one-night-a-year bloom in its natural surroundings is a rare delight. Finally, the area provides varied dispersed recreational opportunities.

To the southwest of Las Cruces, near the Mexican border, is the Potrillo Mountains Complex. The geologic genesis of these mountains is different from that of the Organ Mountains and Desert Peaks area. Cinder cones, volcanic craters, basalt lava flows, and talus slopes characterize this corner of Doña Ana County. These lands are famous for their abundant wildlife and contain significant fossil resources. A well-preserved giant ground sloth skeleton, now

housed at Yale University, was discovered in this area. The sheer breadth of these lands and their open, expansive vistas offer remarkable opportunities for solitude.

The Department applauds the efforts of Senators Udall and Heinrich, former Senator Bingaman, and a wide range of local governments, communities, user groups, conservationists, and Federal agencies to develop this consensus proposal to protect all of these special areas.

S. 3049

S. 3049 designates eight wilderness areas in Doña Ana County, New Mexico, which would be included in BLM's National Conservation Lands. The legislation also releases nearly 31,000 acres from wilderness study area (WSA) status, provides for the management and future transfer of land from the Department of the Defense (DOD) to the BLM, withdraws certain additional lands from disposal, mining, and mineral leasing, and includes provisions related to border security, the management plan for the Organ Mountains-Desert Peaks National Monument (Monument), and acquisition of specified State trust land adjacent to the Desert Peaks area of the Monument.

Wilderness

Section 3 of S. 3049 designates eight wilderness areas totaling approximately 241,000 acres. The BLM supports the proposed wilderness designations in S. 3049. We would like the opportunity to work with the sponsors on minor and technical amendments to this section, including boundary modifications for enhanced manageability, to include certain adjacent lands with significant wilderness characteristics, and to provide access to public trails and private inholdings. The BLM is also aware that dispersed and occasional paragliding currently occurs within one of the proposed wildernesses. As a result, we would like to work with the sponsors and Subcommittee on amendments to the paragliding management language that aid implementation and ensure consistency with the Wilderness Act.

The new wilderness designations are in three distinct areas of the Monument. First, within the Organ Mountains area in eastern Doña Ana County, approximately 19,200 acres would be designated as the Organ Mountains Wilderness. The bill requires that the boundary for this wilderness be 400 feet from the centerline of Dripping Springs Road.

Within the Desert Peaks area in northwestern Doña Ana County, the bill would designate the approximately 13,900-acre Broad Canyon Wilderness, the approximately 16,800-acre Robledo Mountains Wilderness, and the approximately 11,100-acre Sierra de las Uvas Wilderness. Within the proposed Robledo Mountains Wilderness, a small corridor of approximately 100 acres has been designated as "potential wilderness" by section 3(l) of S. 3049. The lands included in this potential wilderness contain a communications right-of-way, and it is our understanding that it is the intention of the sponsors to allow the continued use of this site by the current lessees. However, in the event that the communications right-of-way is relinquished, these lands would be reclaimed and become part of the wilderness area. We support this provision.

Finally, within the Potrillo Mountains area in the southwest corner of Doña Ana County, the bill would designate the approximately 28,000-acre Aden Lava Flow Wilderness, the approximately

17,000-acre Cinder Cone Wilderness, the approximately 126,000-acre Potrillo Mountains Wilderness, and the approximately 9,600-acre Whitethorn Wilderness. Both the Potrillo Mountains Wilderness and Whitethorn Wilderness extend into adjacent Luna County.

Much of the lands proposed for wilderness designation have been historically grazed by domestic livestock, and grazing continues today. Many of BLM's existing wilderness areas throughout the West are host to livestock grazing, which is compatible with these designations. This use will continue within the wildernesses designated by S. 3049.

Fillmore Canyon

Section 3(k)(4) of the bill authorizes hunting, hiking, wildlife viewing, camping, and other outdoor recreational activities on approximately 2,050 acres of land, which is currently part of the Army's Fort Bliss and includes the dramatic and scenic Fillmore Canyon as well as the western slopes of Organ Peak and Ice Canyon. This section requires the DOD to develop an outdoor recreation plan for the area that is consistent with its primary military mission and permits the DOD to close all or a portion of the area to protect public or military member safety. In the event that the DOD determines that military training capabilities, personal safety, and installation security would not be hindered, the agency shall transfer administrative jurisdiction of the area to the BLM. After such a transfer, the bill withdraws the area from the public land, mining, and mineral leasing laws. At the DOD's request, the BLM would be required to enter into a Memorandum of Understanding (MOU) providing for the conduct of military training within the area and, to the maximum extent practicable, for the protection of natural, historic, and cultural resources. We would welcome these lands into BLM's National System of Public Lands and would like to work with the sponsors and the Department of the Army on language enhancing implementation of this section and ensuring that any lands transferred to the BLM are incorporated into the Monument.

Additional Withdrawals

Section 3(k) of the legislation provides for the withdrawal of two parcels of BLM-managed lands from the public land, mining, and mineral leasing laws. The parcel designated as "Parcel C" is approximately 1,300 acres of BLM-managed lands on the eastern outskirts of Las Cruces. This parcel is a popular hiking and mountain biking site and provides easy access to the peak of the Tortugas Mountains. From here, visitors can take in spectacular views of Las Cruces and the Rio Grande Valley. We understand that the sponsors' goal is to ensure that these lands are preserved for continued recreational use by Las Cruces residents. The legislation provides for a possible lease of these lands to a governmental or nonprofit agency under the Recreation and Public Purposes Act. The larger, 6,500-acre parcel, designated as "Parcel B," lies on the southern end of the Organ Mountains area of the Monument. It is our understanding that the sponsors considered adding this parcel to the Monument because of important resource values. However, a multitude of current uses make inclusion of this parcel in the Monument inconsistent with the purposes established for the Monument. Therefore, the limited withdrawal of the parcel will better serve to protect the resources within this area without negatively affecting the current uses of the area. The BLM supports the withdrawal of both of these parcels, but would like to work with the sponsors on language accommodating potential maintenance of and improvements to State Route 404.

Border Security
In order to provide the greatest flexibility to the Department of Homeland Security and other law enforcement agencies, the bill includes a number of provisions to facilitate and improve border security. First, the legislation releases over 28,000 acres from WSA status along the southern boundary of the proposed Potrillo Mountains Wilderness. Within an approximately 16,500-acre area along that southern border, designated as "Parcel A", the bill charges the Secretary with protecting the wilderness character, to the extent practicable, while at the same time allowing for the installation of communications and surveillance facilities that may be necessary for law enforcement and border security purposes. Finally, in order to provide additional flexibility to law enforcement personnel, the bill keeps open for administrative and law enforcement uses only an east-west route bisecting the Potrillo Mountains Wilderness. The BLM would like to work with the sponsors on language ensuring that a small portion of the existing West Potrillo Mountains WSA extending into Luna County that is not otherwise designated by this bill is also released from WSA status. We also recommend that management for wilderness characteristics in this area be accomplished through the land use planning process.

Monument Management Plan and Land Exchange
Section 5(a) of the bill requires that the Monument management plan include a watershed health assessment to identify opportunities for watershed restoration. The BLM, along with many partners, has undertaken restoration efforts on nearly two million acres in New Mexico, with the goal of restoring grasslands, woodlands, and riparian areas to their original healthy conditions. The BLM will continue to implement appropriate land restoration activities that will benefit watershed and wildlife health.

Section 5(c) of S. 3049 requires the Secretary, within 18 months, to "attempt to enter into an agreement" with the Commissioner of Public Lands of New Mexico to exchange approximately 11,000 acres of State trust land adjacent to the Desert Peaks area of the Monument to the BLM and an unspecified acreage of BLM-managed public lands to the State. The BLM-managed lands to be exchanged to the State would be jointly identified by the Secretary and Commissioner of Public Lands of New Mexico. While the BLM appreciates that the land exchange includes public interest determinations, complete environmental and cultural review, standard appraisals, and equalization of values, we believe this language could inadvertently affect land exchanges elsewhere in New Mexico where significant biological, cultural, and recreational values are present. The BLM would like the opportunity to work with the sponsors and Subcommittee on time frames and language ensuring that the BLM retains the flexibility to accomplish other important land exchanges.

Conclusion
The BLM appreciates the sponsors' years of extensive public outreach and hard work on S. 3049 and supports the bill. We have a number of substantive as well as minor and technical modifications to recommend, and we look forward to continuing to work with the sponsors and the Committee to address those issues as this bill moves through the legislative process.

Statement of
Neil Kornze
Director
U.S. Department of the Interior, Bureau of Land Management
Senate Energy and Natural Resources Committee
S. 3102, Pershing County Economic Development and Conservation Act
September 22, 2016

Thank you for inviting the Bureau of Land Management (BLM) to testify on S. 3102, the Pershing County Economic Development and Conservation Act. This bill authorizes public land sales, exchanges, and conveyances in Pershing County, Nevada; designates approximately 136,000 acres of BLM-managed public lands as seven wilderness areas; and releases approximately 48,600 acres of BLM-managed public lands from Wilderness Study Area (WSA) status. The BLM largely supports the conveyance and conservation goals of S. 3102 and would welcome the opportunity to work with Senators Heller and Reid and the Committee on important modifications to the bill.

Background

Pershing County, located in northwestern Nevada, is home to nearly 7,000 people. The county holds spectacular value for recreation because of its close proximity to the Black Rock Desert, Selenite Mountains, and Augusta Mountains. It also boasts significant historic, cultural, and paleontological treasures. The BLM manages approximately 2.9 million acres of public lands within Pershing County for a wide range of uses, including mineral development, recreation, livestock grazing, and conservation.

Public Land Sales & Exchanges

In 1976, with the passage of the Federal Land Policy and Management Act (FLPMA), Congress directed the BLM to retain management of most public lands, thereby reducing the acreage that had been available for disposal in earlier years. Under FLPMA, the BLM's mission is to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations. FLPMA also provides the BLM with a clear multiple-use and sustained yield mandate that the agency implements through its land use planning process.

Nevertheless, public land sales remain a component of the BLM's land management strategy when these sales are in the public interest and consistent with publicly-approved land use plans. The primary land sale authority of the BLM is found in Section 203 of FLPMA. Land sales conducted under FLPMA occur at the discretion of the Secretary of the Interior (Secretary) and are made at fair market value in accordance with Federal law. Current policy is to generally conduct sales under competitive bidding procedures to ensure a fair return. In such cases, sales are widely advertised through public notices, media announcements, and on appropriate BLM websites.

Similarly, the BLM uses land exchanges to ensure effective land management. Among other purposes, land exchanges allow the BLM to acquire environmentally sensitive lands while transferring public lands into non-Federal ownership for local needs and the consolidation of scattered tracts. The BLM conducts land exchanges pursuant to Section 206 of FLPMA, which

provides the agency with the authority to undertake such exchanges, or when given specific direction by Congress. To be eligible for exchange under Section 206 of FLPMA, BLM-managed lands must have been identified as potentially available for disposal through the land use planning process. Extensive public involvement is critically important for such exchanges to be successful.

The Administration notes that the process of identifying lands as potentially available for disposal through sale or exchange does not include the clearance of impediments to disposal or exchange, such as the presence of threatened and endangered species, cultural or historic resources, mining claims, oil and gas leases, rights-of-way, and grazing permits. Under FLPMA, these clearances must occur before a disposal action can be completed.

Public Purpose Conveyances
The BLM regularly leases and conveys lands to local governments and nonprofit entities for a variety of public purposes. These leases and conveyances are typically accomplished under the provisions of the Recreation and Public Purposes Act (R&PP Act) or through direction supplied by specific Acts of Congress. Such direction allows the BLM to help states, local communities, and nonprofit organizations obtain lands at nominal cost for important public purposes. The BLM generally supports appropriate legislative conveyances at nominal cost if the lands are to be used for purposes consistent with the R&PP Act, if the lands are appropriate for disposal, and if the conveyances have reversionary clauses to enforce this requirement.

S. 3102
S. 3102 directs Federal land sales, exchanges, and conveyances in Pershing County, Nevada. The legislation also designates approximately 136,000 acres of public lands as seven wilderness areas and releases approximately 48,600 acres of BLM-managed WSAs from further study.

Checkerboard Land Resolution (Title I)
Section 103 of S. 3102 directs the sale or exchange of up to approximately 334,000 acres of BLM-managed public lands located within the area identified as the "Checkerboard Lands Resolution Area" and that have been or will be identified as potentially suitable for disposal in the Winnemucca Resource Management Plan, or in any subsequent land use plan amendment or revision for the planning area. This acreage total also includes approximately 15,000 additional acres of BLM-managed public lands specifically identified on the legislative map.

In addition, the bill directs the Secretary of the Interior (Secretary) to identify, no later than one year after enactment, Management Priority Areas (MPAs) within the "Checkerboard Lands Resolution Area" that are considered by the Secretary to be Greater Sage-Grouse habitat; part of an identified wildlife corridor or designated critical habitat; of value for outdoor recreation or public access for hunting, fishing, and other recreational purposes; of significant cultural, historical, ecological, or scenic value; or of value for improving Federal land management. Once the initial identification of the MPAs is completed, the Secretary may identify additional MPAs at any time.

Under the bill, land sales must be conducted through a competitive bidding process and cannot exceed 150,000 acres in total. However, exchanges would be exempted from the acreage cap.

The bill requires that all lands authorized for sale or exchange be appraised en masse within one year of enactment and every five years thereafter. Any lands with a value of less than $500 per acre, under this Act, may be exchanged on an acre-for-acre basis with private land within a MPA; no other lands would be eligible for exchange. The first land sale must be completed within one year of enactment, with at least one sale conducted every year thereafter, until the acreage limit for sales has been reached, or the end of a sale postponement period requested by the county.

The bill also requires that five percent of the proceeds from the sales of land would be disbursed to the State for general education programs. Ten percent would be disbursed to the county for use as determined through normal county budgeting procedures. The remaining 85 percent would be deposited into a special U.S. Treasury account, which would be available to the Secretary of the Interior to: 1) reimburse costs of the BLM incurred in preparation of land sales or exchange (e.g., the costs of surveys and appraisals and the costs of compliance with the National Environmental Policy Act [NEPA] and the Federal Land Policy and Management Act [FLPMA]); 2) conduct projects in the county to address wildlife habitat conservation and restoration; address drought conditions; secure public access to Federal land for hunting, fishing, and other recreational purposes; 3) acquire environmentally sensitive land in the county; and 4) conduct surveys related to the wilderness areas designated by this Act.

While the BLM generally supports the consolidation of land patterns to provide for more orderly land management and the conservation of natural and cultural resources, the BLM has some concerns with the land sales and exchanges directed in section 103. We would like to work with the sponsors and Committee to address them as this legislation moves forward. Equal value land transfers must be the cornerstone of any proposal. The Administration is committed to continuing its adherence to the Uniform Appraisal Standards for Federal Land Acquisition and Uniform Standards of Professional Appraisal Practice. While it may be appropriate to consider alternative methods for low-value parcels as envisioned by this legislation, we believe in general that adhering to existing FLPMA processes as much as possible is important. In addition, the President's FY 2017 Budget included a proposal to reauthorize the Federal Land Transaction Facilitation Act (FLTFA), which provided the BLM with an important tool to facilitate land tenure adjustments. FLTFA expired in 2011. Reauthorization would allow the BLM to sell lands identified as suitable for disposal in recent land use plans, and then to use the proceeds from those sales to acquire environmentally sensitive lands, including State trust land inholdings. We recommend that Congress move to reauthorize FLTFA.

Furthermore, the personnel the BLM would need to process these land transfers are the same personnel currently employed in a wide variety of other vital land management issues, including processing renewable energy and transmission rights-of-way applications and land use authorizations for community needs to name just two. Therefore, the bill's time frames will necessarily have consequences for a wide variety of other users of the public lands.

As we have previously testified, the BLM believes that Federal land should not be used to pay for activities that would normally be funded through annual appropriations or the administrative costs of land sales and exchanges. We would like to work with Congress to determine how best to implement the proposed sales and exchanges while also achieving the important conservation

and resource protection objectives outlined in this title. Finally, the BLM notes that some of the lands proposed for sale or exchange appear to conflict with at least two Section 368 energy corridors. We would welcome the opportunity to work with the sponsors and the Committee on language or boundary adjustments addressing impacts to these corridors.

Land Conveyances & Transfers (Title II)
Section 201 of S. 3102 provides for directed sales of up to approximately 102,000 acres of BLM-managed public lands identified as "covered land" on the legislative map to a "qualified entity," which is defined in the bill as the owner (or authorized leaseholder acting with the consent of the owner) of the mining claims, mill sites, or tunnel sites currently existing on any portion of the covered land. All sales would be for fair market value, subject to uniform appraisal standards and practices, and must be completed within one year. The qualified entity would assume all costs of the sales, including survey and administrative costs. Proceeds from these sales would be disbursed in the manner outlined for the sales and exchanges required by section 103.

The BLM opposes this section as currently written because the lands proposed for sale include Greater Sage-Grouse habitat, numerous sites eligible for the National Register of Historic Places, and a portion of the California National Historic Trail and viewshed. We would like to work with the sponsors and Committee on technical amendments to this section, including boundary adjustments to protect natural and cultural resources in this area, the use of standard appraisal language, and ensuring that the lands to be conveyed are appropriate for disposal.

Section 202 of the bill directs the Secretary to convey, at no cost, approximately 10 acres to Pershing County for use as a public cemetery. We note that BLM is currently working to transfer this cemetery to the county under the R&PP Act. While the BLM supports this conveyance, we would like to work with the sponsors and the Subcommittee on language for consistency with the R&PP Act, including a standard reversionary clause to ensure that the land continues to be used for this important public purpose.

Wilderness (Title III)
Section 301 of S. 3102 designates the approximately 12,300-acre Cain Mountain Wilderness, the approximately 25,000-acre Bluewing Wilderness, the approximately 23,000-acre Selenite Peak Wilderness, the approximately 12,000-acre Mount Limbo Wilderness, the approximately 14,000-acre North Sahwave Wilderness, the approximately 35,300-acre Tobin Crest Wilderness, and the approximately 15,000-acre Fencemaker Wilderness. The BLM supports each of these designations.

These proposed additions to the National Wilderness Preservation System will protect fragile desert ecosystems and provide important habitat for Greater Sage-Grouse, pronghorn antelope, mule deer, desert bighorn sheep, and many other species of wildlife and plants. The proposed Mount Limbo Wilderness, for example, features a spectacular landscape of granite outcrops, basaltic flows, and alluvial fans that is perfect for backcountry exploration. These proposed wildernesses provide excellent opportunities for hiking, hunting, rock climbing, camping, and horse-packing for those who wish to experience the solitude of rugged canyons and dramatic desert vistas. The BLM recommends the use of standard language for the designation of wilderness areas. We would also like to work with the sponsors and Committee on boundary

adjustments for manageability and consistency with the Wilderness Act and on clarifying language related to technical issues, temporary telecommunications devices, and noxious weed treatments.

Finally, section 304 of the bill releases approximately 48,600 acres of five BLM-managed wilderness study areas (WSAs) from further study, allowing these areas to be managed according to the existing BLM land use plans.

Conclusion

The BLM recognizes the sponsors' extensive public outreach and hard work on S. 3102, and we largely support the bill's conveyance and conservation goals. We have a number of substantive as well as minor and technical modifications to recommend, and we look forward to working with the sponsors and the Committee to address these issues as the bill moves through the legislative process.

Statement of
Neil Kornze
Director
U.S. Department of the Interior, Bureau of Land Management,
Senate Energy and Natural Resources Committee
S. 3203, Alaska Economic Development and Access to Resources Act
September 22, 2016

Thank you for the opportunity to discuss the views of the Department of the Interior (Department) on S. 3203, the Alaska Economic Development and Access to Resources Act.

Among its measures, S. 3203 would increase Federal oil and gas production requirements in the State of Alaska; mandate additional offshore lease sales within the Alaska portion of the Outer Continental Shelf (OCS); and lift the prohibition of oil and gas leasing and production in the Arctic National Wildlife Refuge. The bill also would potentially exclude any mining claims that predate a withdrawal from any law, regulation, or Federal action, and revoke the designation of all Areas of Critical Environmental Concern within the State. The Department strongly opposes S. 3203 for the reasons outlined below.

Background

The DOI manages 500 million acres of lands, primarily located in the Western states, and 1.7 billion offshore acres on the OCS. The DOI's broad mission responsibilities include the management of these diverse Federal lands, waters, wildlife, and fishery resources. The resources administered by each of the DOI's agencies are managed for many purposes, primarily related to preservation, recreation, and development of natural resources, yet each of these agencies has distinct responsibilities.

Bureau of Land Management (BLM)

The BLM is responsible for managing more than 10 percent of the Nation's surface and nearly a third of its minerals. The BLM manages this large portfolio on behalf of the American people under the dual framework of multiple use and sustained yield. The BLM administers public lands for a broad range of uses, including renewable and conventional energy development, livestock grazing, timber production, hunting, fishing, recreation, and conservation.

With respect to conventional energy development, the BLM takes seriously its responsibility to manage the Federal government's onshore oil and gas resources in an environmentally sound and responsible manner. The Mineral Leasing Act of 1920 (MLA), as amended, directs the Secretary of the Interior to lease Federal oil and gas resources, and to regulate oil and gas operations on those leases. The BLM has used this authority to develop regulations governing all aspects of oil and gas operations, including requirements related to pre-leasing, surface-disturbing activities,

well construction, and production measurement. The Indian Mineral Leasing Act extends this regulatory authority and the resultant rules to Indian oil and gas leases on trust lands (except those lands specifically excluded by statute). Finally, the Federal Land Policy and Management Act of 1976 (FLPMA) directs the BLM to manage the public lands using the principles of multiple use and sustained yield and to take any action necessary to prevent unnecessary or undue degradation. In fulfilling these objectives, FLPMA requires the BLM to manage public lands in a manner that protects the quality of their resources, including ecological, environmental, and water resources. Cumulatively, this statutory regime requires the BLM to balance responsible development with protection of the environment and public safety. The BLM works hard to ensure the appropriate balance is maintained and that the applicable regulation and requirements are applied and enforced fairly and consistently across all the lands where the BLM has oversight responsibilities.

Onshore Oil & Gas Leasing in Alaska

Oil and gas leasing on Alaska's Federal lands onshore is concentrated in two regions: the Cook Inlet Region and the National Petroleum Reserve in Alaska (NPR-A). Exploration and production in the Cook Inlet Region began in the 1950s and continues to contribute to Alaska's economy and energy needs. The NPR-A is a 22.8-million-acre area on Alaska's North Slope. In 1923, President Harding set aside this area as an emergency oil supply for the U.S. Navy. In 1976, in accordance with the Naval Petroleum Reserves Production Act, the administration of the reserve was transferred to the Department of the Interior, more specifically the BLM.

Bureau of Ocean Energy Management (BOEM)

BOEM manages the development of the OCS energy and mineral resources, including approximately 1.7 billion acres containing 3,800 active leases. The Outer Continental Shelf Lands Act (OCSLA) authorizes the Secretary of the Interior to grant mineral leases and to prescribe regulations governing oil and natural gas activities on OCS lands, while protecting the human, marine, and coastal environments through advanced science and technology research. Among its duties, BOEM oversees assessments of the oil, gas, and other mineral resource potential of the OCS; inventories oil and gas reserves; develops production projections; and conducts economic evaluations that ensure the receipt of fair market value by U.S. taxpayers for OCS leases.

Offshore Oil & Gas Leasing in Alaska

BOEM's Alaska OCS Region oversees more than one billion acres on the OCS located offshore more than 6,000 miles of coastline. As part of this management, BOEM's Alaska OCS Region implements the Department's 2012-2017 and forthcoming 2017-2022 Outer Continental Shelf Oil and Gas Leasing Five-Year Programs within the bounds of the Alaska OCS Region. The

Alaska OCS encompasses the Beaufort and Chukchi Seas, the Bering Sea, Cook Inlet, and the Gulf of Alaska.

U.S. Fish and Wildlife Service (FWS)

The mission of the FWS is working with others to conserve, protect, and enhance fish, wildlife, and plant and their habitats for the continuing benefit of the American people. Among the many statutes and programs administered by the FWS is the National Wildlife Refuge System Administration Act, which codified a mission for the National Wildlife Refuge System. That mission is to administer a network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats for the benefit of present and future generations. The FWS administers 89.1 million acres of Federal land in the Nation, of which 76.7 million acres are in Alaska. The National Wildlife Refuge System includes more than 565 refuges, 38 wetland management districts, 5 marine national monuments and other protected areas encompassing approximately 836 million acres of land and water across the United States that are part of the National Wildlife Refuge System. With respect to Alaska, the FWS manages 16 refuges, including the Arctic National Wildlife Refuge (NWR) in northeastern Alaska.

Arctic NWR

In 1980, Congress enacted the Alaska National Interest Lands Conservation Act (ANILCA). ANILCA designated most of the original Arctic National Wildlife Range as Wilderness except for approximately 1.5 million acres on the Refuge's coastal plain. Section 1002 of ANILCA required that studies be performed to provide to Congress a comprehensive inventory and assessment of fish and wildlife resources, an analysis of potential impacts of oil and gas exploration and development on those resources, and a delineation of the extent and amount of potential petroleum resources. Information gathered from the biological, seismic, and geological studies was used to complete the 1987 Coastal Plain Resource Assessment and Legislative Environmental Impact Statement. Referring to this area of the coastal plain, Congress declared in Section 1003 of ANILCA that the "production of oil and gas from the Arctic National Wildlife Refuge is prohibited and no leasing or other development leading to production of oil and gas from the [Refuge] shall be undertaken until authorized by an act of Congress."

S. 3203, the Alaska Economic Development and Access to Resources Act

S. 3203 concerns lands administered by the Secretary of the Interior and lands in the National Forest System administered by the U.S. Department of Agriculture (USDA). The Department defers to the U.S. Forest Service on provisions affecting National Forest System lands, which includes *Title V – Forestry*. Additionally, the Department defers to the Department of Energy on *Title IV – Mining*, Sec. 401, which concerns programs administered by that Department.

Title 1 – Fill "TAPS"

Title 1 directs the Secretary of the Interior to develop a plan within one year of the bill's enactment to increase oil production on Federal land in Alaska by 500,000 barrels per day by 2026. If the plan is not developed within the one-year timeframe, the Secretary is required to increase by 1.0 million acres the amount of acreage to which the State of Alaska is entitled under the Alaska Statehood Act and other applicable Federal law. For each additional year the deadline is not met, Title 1 directs the Secretary to increase the acreage entitlement by an additional 1.0 million acres.

Analysis

The Department's primary role in establishing oil and gas production on Federal land is to provide access to private entities that wish to develop the oil and gas resources owned by the public. On BLM-managed lands, consideration of the eligibility of a particular parcel for oil and gas leasing begins well before the lease sale. The BLM's Resource Management Plans (RMPs) establish the foundation for its land management decisions, containing general resource allocations and other decisions that reflect the BLM's effort to balance the many competing uses within a planning area and fulfill the agency's mandate of multiple use and sustained yield. Through the RMPs, major resource conflicts are considered such as balancing important wildlife habitat needs with energy development. For purposes of oil and gas leasing, lands within a planning area are identified as fitting in one of three categories: lands open under standard lease terms, lands open with restrictions, and lands closed to leasing. Many of the lands closed to leasing consist of areas with special designations and other unique and environmentally-sensitive areas such as habitat for special status species.

While the Department determines which lands are open to leasing, it does not play a role in the actual exploration, drilling, and development of oil and gas resources, nor does it dictate production quotas. Market forces drive industry investment and resulting oil and gas production. For example, economic factors such as the price of oil and the capital cost of rigs and other infrastructure may dictate that developing oil in Alaska is uneconomic, or at least less favorable, relative to developing other oil field prospects outside of the state.

The Department does not have, and does not desire to have, the authority to direct private entities to develop oil and gas resources on public lands.

For these reasons, the Department strongly opposes the Title 1 requirement to convey 1 million acres of public lands to the State of Alaska for every year that the 500,000 barrel-per-day production plan is not developed.

Title II – Outer Continental Shelf

Section 201 amends OCSLA to require that BOEM provide lessees acquiring or holding Alaska OCS oil and gas leases with an eight-month suspension of the primary lease term for each year of the lease. Since Alaska OCS lease terms are for ten years, the mandate could significantly extend those lease terms with no requirement for a lessee to explore or produce from a lease. This is a significant departure from longstanding leasing requirements for all OCS oil and gas leases and is counterproductive to BOEM's efforts to promote diligence in the development and production of offshore oil and gas leases. BOEM recognizes that the Arctic environment presents unique development challenges, which is why the 10-year primary lease term is longer than that offered in the more established Gulf of Mexico region, with the exception of deepwater leases. In addition, BOEM already provides a process for companies to apply for a suspension of their lease terms if a lessee affirmatively demonstrates that it is moving forward with developing the lease.

Section 201 also allows current lessees to opt into the yearly lease term suspension. This would be a substantial departure from the terms on which the leases were offered in a competitive process, and on which basis the lessees entered signed lease agreements. Under the existing terms, current leases will expire if not timely developed within the original term, and the lease areas will be available to all potential bidders in a sale in which all lease terms—including lease duration—are publicly disclosed.

BOEM opposes the requirements of Section 201, but would be willing to work with the Committee to review lease terms in relation to the challenges facing developers on the Arctic OCS.

Section 202 amends OCSLA to mandate additional lease sales in the Beaufort Sea, Chukchi Sea, and Cook Inlet planning areas in specific years. OCSLA provides for a well-understood process for the Secretary to establish a lease sale schedule in consultation with affected states, while ensuring appropriate environmental reviews. The proposed 2017 – 2022 Five Year Oil and Gas Leasing Program provides for potential lease sales in the Beaufort Sea in 2020, Cook Inlet in 2021, and the Chukchi Sea in 2022. The placement of the sales later in the program allows for thorough consultation with stakeholders and extensive environmental review. Inclusion of additional sales in earlier years of the next program would not allow for this critical collaboration and the corresponding analyses. Moreover, BOEM's current Five Year Program already calls for a lease sale in Cook Inlet in 2017. Scheduled sales in the Beaufort Sea and Chukchi Sea planning areas, scheduled for 2017 and 2016 respectively, were cancelled due to a lack of industry interest and market conditions. BOEM's current and proposed Five Year Programs provide for a leasing schedule that balances the needs of all stakeholders on the Alaska OCS. The BOEM does not support the requirements of Section 202 because it does not provide this balance and would not provide the time needed to complete appropriate environmental and socioeconomic impact reviews for the additional mandated sales.

Title III – Federal Onshore

Subtitle A – Authorizing Alaska Production

Sections 301 through 306 of the bill repeal Section 1003 of the ANILCA, thereby, lifting the prohibition on leasing, production, or other developments leading to production from the Arctic NWR. Under the bill, the Secretary is directed to establish a leasing and development program specific to a 375,000-acre area in the coastal plain of the Arctic NWR. The bill defines this area as the "Undeformed Area of the Coastal Plain," and authorizes it as being open to oil and gas exploration, leasing, development, production, and transportation. S. 3203 implements a competitive lease sale process in the coastal plain of Arctic NWR, as well as, directives for and constraints on environmental analyses, consultation requirements, and environmental protection and remediation standards.

Sections 307 through 310 of the bill permit the establishment of rights-of-way and easements in connection with the development within the Arctic NWR, clarify Arctic NWR boundaries, and establish the "Undeformed Area of the Coastal Plain Local Government Impact Aid Assistance Fund."

Analysis

Sections 1002 and 1003 of ANILCA prohibit leasing, development and production of oil and gas within the Arctic NWR unless specifically authorized by an Act of Congress. Section 304(g) of ANILCA directs the Secretary of the Interior to prepare, and from time to time, revise a comprehensive conservation plan (CCP) for each refuge in Alaska. The CCP is based on guidance found in ANILCA; the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997; the National Environmental Policy Act of 1969 (NEPA), as amended; other Federal laws, and Fish and Wildlife Service Planning Policy (602 FW 1-3). Consistent with this direction, the FWS completed the Revised CCP and Final Environmental Impact Statement (EIS) for Arctic NWR in 2015.

The 2015 CCP is the culmination of a multi-year planning and public involvement process, during which more than 800,000 public comments were received. It describes how Arctic NWR will achieve the purposes for which it was established, which include the following: To conserve fish and wildlife populations in their natural diversity; to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats; to provide for continued subsistence use by local residents; and to ensure water quality and necessary water quantity within the refuge.

The CCP recommends approximately 12.28 million acres within Arctic NWR (including the approximately 1.5 million acre coastal plain that would be impacted by Title III of the proposed legislation S. 3202) for Wilderness designation by Congress.

After careful review and consideration of the best available information, relevant issues, concerns, and public input received throughout the planning process, and other factors including relevant laws, regulations and policies, the FWS determined that Wilderness designation would best accomplish the Arctic NWR purposes and best achieve the mission of the National Wildlife Refuge System. Wilderness designation ensures long-term protection of fish and wildlife habitat and provides subsistence, recreational and other opportunities in a natural environment while minimizing human caused change.

The FWS manages recommended wilderness in a way that protects the Wilderness character of the area. In the case of Arctic NWR, areas recommended for wilderness designation will continue to be managed under the Minimal Management zoning category, as defined in the revised CCP and final EIS. Refuge uses and on-the-ground management would not incur substantial changes. The legal requirements of the Wilderness Act do not apply unless Congress makes a formal designation.

Arctic NWR exemplifies the wilderness idea and millions find satisfaction, inspiration and even hope in just knowing it exists. The Arctic NWR represents the hope that one of the finest remnants of our national inheritance will be passed on, undiminished for future generations, including for traditional subsistence uses.

The Administration strongly opposes Title III of S. 3203, which would require an oil and gas leasing program for the exploration, development, and production within the Coastal Plain of the Arctic NWR. This area has been recommended by the President to be protected in perpetuity under the Wilderness Act. Title III of S. 3203 would instead damage this nearly pristine, intact ecosystem at the top of the continent - one of the crown jewels of the public's National Wildlife Refuge System.

Subtitle B – National Petroleum Reserve-Alaska

Subtitle B directs the Secretary to offer one or more area-wide oil and gas lease sales in areas within the NPR-A identified as available for oil and gas leasing in the BLM's 1998 Northeast National Petroleum Reserve–Alaska, Integrated Activity Plan (NPR-A IAP)/Environmental Impact Statement Record of Decision.

The bill also directs the Secretary to develop a plan, within 180 days of the bill's enactment, for exploration and evaluation in the NPR-A of gravel sources suitable for the construction of roads and pads necessary for oil and gas development activities. Not later than one year after the date

of enactment, the Secretary, in coordination with the Secretary of Defense, must implement the plan and submit the associated results to Congress.

Analysis

The Department currently offers annual lease sales within the NPR-A in accordance with a 2011 directive from President Obama. The BLM has held 12 oil and gas lease sales within the NPR-A since 1999, with an upcoming sale scheduled for December 2016. This lease sale will include 145 tracts covering approximately 1.4 million acres. There are currently 134 authorized leases in the NPR-A spanning over 895,000 acres. Of the 134 current leases, none is currently in production. However, in October 2015, the BLM approved a drilling permit and offered a right-of-way grant for the Greater Mooses Tooth One project, which is expected to come online in late 2018 with approximately 30,000 barrels of oil per day at peak production. The BLM has also begun analysis of the nearby Greater Mooses Tooth Two project, which if approved, would eventually contain up to 48 individual wells.

The Department does not support Subtitle B as it would reverse BLM oil and gas leasing decisions made in 2013 when the Department approved a new Integrated Activity Plan (IAP) for the entire NPR-A. The 2013 IAP replaced the oil and gas leasing decisions made in the referenced 1998 IAP. The 2013 IAP makes 11.8 million acres available for oil and gas leasing in the NPR-A and identifies lease stipulations and Best Management Practices to be followed by authorized users. By utilizing the map specified in the 1998 IAP, the bill makes an additional 1.28 million acres of land and water available for oil and gas leasing within the Teshekpuk Lake Special Area (TLSA). The 2013 IAP specifically identified these areas as being unavailable for leasing in the TLSA. Based on the National Environmental Policy Act analysis, these areas protect caribou calving grounds and insect-relief areas for caribou herds, as well as waterbird and shorebird breeding, molting, staging, and migration habitats.

While the Department does not oppose Subtitle B's provision requiring development of a plan for exploration and evaluation of gravel resources in the NPR-A that are suitable for oil and gas development, we note that additional time would be needed to implement the plan given the short field season within the NPR-A. Providing for exploration and evaluation of gravel sources would be beneficial for future planning and development of the NPR-A. It should be noted that under current mineral material regulations, the cost of this type of work is covered by private companies that are seeking gravel and related materials to support private development of publicly held natural resources.

Title IV – Mining

Section 401 of Title IV provides Department of Energy grants for extraction and purification of rare earth elements. The Department of the Interior defers to the Department of Energy on this provision.

Section 402 exempts from the relevant withdrawal or land management action any existing unpatented lode mining claim, placer claim, mill site, or tunnel site claim that was located prior to a withdrawal, Federal management regulatory action, or other action that withholds an area of Federal land from settlement, sale, location, or entry under some or all of the general land laws for the purpose of affecting mining or mineral activity in order to maintain other public values in the area. The bill provides that such a claim would be considered to be valid for the purposes of mining or mineral activity until such time as the Secretary successfully contests the validity of the claim. Furthermore, any burden of proof or costs would be the responsibility of the Secretary.

Section 403 amends Section 1326 of ANILCA by restricting the Department from making, on any public lands larger than 5,000 acres, as of the date of enactment of S. 3203, a designation that "limits, or has the effect of limiting or impeding, activities and uses allowed on public lands." The bill provides examples of the application of this provision, including the designation and management of public lands as wilderness study areas, components of the National Wild and Scenic Rivers System, critical habitat under the Endangered Species Act of 1973, or Areas of Critical Environmental Concern (ACECs). Under the bill, such a designation may be made only after providing notice of the designation in the Federal Register and to Congress, along with a joint resolution of approval by Congress. Section 403 also revokes all ACECs that are in existence at the time of enactment.

Analysis

Section 402 appears to exclude any mining claims that predate a withdrawal from any law, regulation, or Federal action applicable to that withdrawal. The Department cannot support this section as it could be read to revise Federal minerals management across all public lands, and to remove pre-existing mineral claims, including areas within designated Wild and Scenic River corridors and rivers under study, from all Federal management.

While the Department does not support the specific proposed revisions to the Mining Law, it is worth noting that the President's budget includes a legislative proposal for major revisions to the 1872 Mining Law. We are encouraged by the Sponsor's interest in this issue area and would welcome the opportunity to work with the Sponsor and the Committee on updates to this law, which has not been substantially revised in nearly 150 years.

The Department also strongly opposes the legislative changes proposed in Section 403 of Title IV. This section revokes all ACECs, which would be detrimental to the BLM's land use planning activities, undoing decades of effort and undermining a congressional mandate and public participation that has been honored since the passage of the Federal Land Policy and Management Act forty years ago.

The addition of such requirements for designations that otherwise limit activities and uses on more than 5,000 acre areas would undermine the BLM's federally mandated responsibility (FLPMA Section 202(b)) to develop land use plans, including to: give priority to the designation and protection of ACECs; consider the relative scarcity of the values involved and the availability of alternative means and sites for realization of those values; and weigh long-term benefits to the public against short-term benefits. Further, the BLM already notices special designations in the Federal Register, as they are identified in land use plans, which are published in the Federal Register. ANILCA already requires that withdrawals of 5,000 acres or more be noticed in the Federal Register, reported to Congress, and terminated within one year of notice without a joint resolution of approval of the withdrawal by Congress. S 3203 would similarly undermine the Forest Service's federally mandated responsibility (NFMA Section 6) to develop land use plans and the agency's associated collaborative and public participation processes.

This section would also limit management of Wild and Scenic Rivers under the Wild and Scenic Rivers Act and of wilderness study areas, many of which are managed for wilderness values in fulfillment of the conservation system unit's enabling legislation.

While the examples given in this section are large in scope, Section 403 may also restrict short-term, temporary, and emergency closures, such as trail or backcountry unit closures because of bear activity, closures related to law enforcement investigations, closures due to wildland fire fighting, and related actions. On many occasions, these closures could exceed 5,000 acres. Additionally, within the National Park System, the language may prohibit "activity and use restrictions" developed as part of a concession contract offered after the date of enactment (absent Congressional approval) if those activities were conducted on an area greater than 5,000 acres.

Title V – Forestry

Title V concerns National Forest System lands. The Department defers to the U.S. Forest Service for analysis on this provision.

Conclusion

Thank you for the opportunity to testify. I will be glad to answer any questions you may have.

Statement for the Record
U.S. Department of the Interior
Senate Committee on Energy and Natural Resources
S. 3204, King Cove Land Exchange Act
September 22, 2016

Thank you for providing the Department of the Interior (Department) with the opportunity to present this Statement for the Record on S. 3204, the King Cove Land Exchange Act. The Department strongly opposes S. 3204, which would irreversibly damage a critically important and intact, internationally significant wetland area in the Izembek National Wildlife Refuge (Refuge) that is part of the National Wilderness Preservation System.

The Refuge, established in the 1960s, encompasses lands designated as Wilderness by Congress in the 1980 Alaska National Interest Lands Conservation Act (ANILCA). In the Omnibus Public Land Management Act of 2009 (Public Law 111-11, Title VI, Subtitle E) (Act), Congress authorized the Secretary of the Interior to exchange lands within the Refuge for lands owned by the State of Alaska and the King Cove Corporation for the purpose of constructing a single lane gravel road between the communities of King Cove and Cold Bay, Alaska, if it is in the public interest. As directed by Congress in the Omnibus Public Land Management Act of 2009, Secretary Jewell conducted an analysis of the proposed land exchange that took almost four years to complete.

The nearly four-year analysis on the effects of the proposed land exchange, including the impact a road would have on the Refuge's vital ecology and Congressionally-designated wilderness, culminated in a 2013 environmental impact statement (EIS) that helped inform the Secretary's decision. To complete the EIS, the Service conducted a public process that included over 130 meetings with stakeholders, government-to-government consultations, and numerous trips to King Cove by Service and Department officials. The decision made based on the 2013 EIS does not preclude the State of Alaska, the Aleutians East Borough, or the communities of King Cove and Cold Bay from implementing marine or air alternatives for transportation improvements to improve medical access outside of the Refuge.

The Department recognizes the concerns of King Cove residents about access to health care. Congress recognized these same concerns in fiscal year 1999 when they appropriated funds ($37 million) to improve King Cove's medical clinic and airport, and to purchase a hovercraft to provide transportation between King Cove and Cold Bay. The $6.0 million hovercraft was in operation from 2007 to 2010 and it successfully completed every requested medical evacuation. The Committee language directs an all-weather year-round transportation route for the residents of King Cove, but the proposed road would not provide consistent access due to blowing and drifting snow, and avalanche risk.

Given the concerns raised by King Cove residents, the Department remains committed to assisting in identifying and evaluating options to improve access to affordable transportation and health care for the citizens of this remote Alaska community.

Izembek Refuge is a globally significant area, designated as a Globally Important Bird Area by the American Bird Conservancy and designated a Wetland of International Importance under the RAMSAR convention, one of only 19 such sites in the United States. The Refuge serves as vital habitat for shorebirds and waterfowl – including 98 percent of the world's population of Pacific black brant – as well as brown bear, caribou, and salmon. These species are important subsistence resources for Native Alaskans. A road would permanently bisect the isthmus, where most of the Refuge's 300,000 acres of Congressionally-designated wilderness are located. By designating this area as Wilderness in 1980, the most protective category of public lands, Congress recognized the need to protect the Refuge as a place where natural processes prevail with few signs of human presence.

At the core of the areas protected are internationally significant eelgrass beds in Izembek and Kinzarof lagoons, as well as adjacent wetlands and uplands of the narrow isthmus. In addition to the brant, other species that depend on these wetlands and eelgrass beds include emperor geese, Steller's eiders, and hundreds of thousands of other federally-protected waterfowl and shorebirds.

The effect of the bill would be to require the Department to enter into an equal-value (monetary) exchange of lands that would not provide the lands originally offered by King Cove and the State of Alaska. The Izembek National Wildlife Refuge Land Exchange/Road Corridor Final Environmental Impact Statement evaluated a proposed land exchange that would have brought many more acres of land into the Refuge System (roughly 300 times more), yet the Department's analysis indicated the larger acreage could not adequately compensate or mitigate for the impact to unique values of existing refuge lands, nor the anticipated effects that the proposed road would have on wildlife, habitat, subsistence resources, and wilderness values of the Refuge that would have resulted had that exchange gone forward. Moreover, the proposed route for this new road would extend the Northeast Terminal Road that connects King Cove to the new hovercraft pad location into the Wilderness area of the refuge. The Northeast Terminal Road currently ends near the Wilderness boundary. The Service has observed all-terrain vehicle (ATV) tracks off the road to the Northeast Terminal onto undeveloped private land since it was built, and a corresponding increase in habitat degradation and wildlife disturbance. The Department is concerned that extending this road through the Wilderness area will lead to similar ATV traffic into Refuge land and the associated habitat damage and wildlife disturbance.

The Izembek Refuge and its Wilderness were established to protect some of the most unique and important wetlands in the world, and running a road through those sensitive areas will have lasting consequences for Alaska's wildlife. We will continue to work with the State of Alaska and local communities to support viable alternatives to ensure the continued health and safety of King Cove residents.

Statement of
Neil Kornze
Director
Bureau of Land Management, U.S. Department of the Interior
Senate Energy and Natural Resources Committee
S. 3273, Alaska Native Claims Settlement Improvement Act

September 22, 2016

Thank you for the opportunity to present the views of the Department of the Interior (Department) on S. 3273, the Alaska Native Claims Settlement (ANCSA) Improvement Act. Among its measures, S. 3273 amends ANCSA and other laws concerning Alaska Native issues and Alaska Native communities, including: Ukpeagvik Inupiat Corporation; Shishmaref; CIRI (Cook Inlet Region, Inc.); Canyon Village, Kaktovik, and Nagamut; Alaska Native Corporation Authorizations; a 13th Regional Corporation; and Chugach Alaska Corporation (CAC). In addition, S. 3273 includes two provisions concerning "Unrecognized Southeast Alaska Native Communities Recognition and Compensation" and "Alaska Native Veterans Land Allotment Equity". After the brief introduction, below, a summary analysis of each of these individual sections follows.

Background

The Alaska Native Claims Settlement Act (ANCSA) of 1971 extinguished aboriginal land claims; entitled Alaska Native communities to select and receive title to 46 million acres; and established a corporate structure for Native land ownership in Alaska under which Alaska Natives would become shareholders in one of 12 private, for-profit, land-owning Regional Corporations. Each Regional Corporation encompassed a specific geographic area, and was associated with Alaska Natives who had traditionally lived in the area, and each Regional Corporation received an acreage entitlement through which it could select and receive ownership of Federal lands. For landless Alaska Natives living outside the state, ANCSA authorized a 13th Regional Corporation. In addition, ANCSA created more than 200 Alaska Native Village Corporations.

As the Secretary of the Interior's designated survey and land transfer agent, the Bureau of Land Management (BLM) is the Federal agency working to survey and convey to Alaska Native Corporations title to the 46 million acres selected. The BLM's Alaska Land Transfer program administers transfer of lands to individual Alaska Natives under the Alaska Native Allotment Act (1906 Act); manages the 46 million-acre transfer to Alaska Native communities under ANCSA; and is also responsible for implementing the 104.5 million-acre conveyance to the State of Alaska of lands it selected under the Alaska Statehood Act. When the survey and conveyance work under the Native Allotment Act, the Alaska Statehood Act, and ANCSA is completed, over 150 million acres, approximately 42% of the land area in Alaska, will have been transferred from Federal to state and private ownership.

S. 3273

The following sections of S. 3273 concern lands administered by the Secretary of the Interior (Secretary) through the National Park Service (NPS), the U.S. Fish and Wildlife Service (FWS), and the Bureau of Land Management (BLM): Section 3, Ukpeagvik Inupiat Corporation Sand and Gravel Resources (FWS); Section 4, Shishmaref Easement (NPS); Section 7, CIRI (Cook Inlet Region, Inc.) Land Entitlement (BLM); Section 8, Canyon Village, Kaktovik, and Nagamut (BLM); Section 9, Alaska Native Corporation Authorizations (NPS/BLM/BIA); Section 10, Unrecognized Southeast Alaska Native Communities Recognition and Compensation (BLM); Section 11, Alaska Native Veterans Land Allotment Equity (BLM); Section 12, 13th Regional Corporation (BLM); and Section 13, Chugach Alaska Corporation Lands Study (NPS/FWS).

Section 5, Shee Atika Incorporated, and Section 6, Admiralty Island National Monument Land Exchange, concern National Forest System lands administered by the U.S. Forest Service. The Department defers to the U.S. Forest Service on these sections.

Section 3. Ukpeagvik Inupiat Corporation (UIC) Sand and Gravel Resources

Section 3 of S. 3273 would transfer all right, title, and interest in sand and gravel deposits underlying the surface estate of land owned by the Ukpeagvik Inupiat Corporation and require mitigating measures by UIC to protect Steller's eider, a species of waterfowl protected under the Endangered Species Act as a threatened species, if development of those resources takes place. As written, the bill states: that (1) UIC shall continue to mitigate negative impacts on the nesting sites of the Steller's eider and (2) UIC shall not blast or use explosives during the active nesting season of the Steller's eider.

The Department, through the FWS, is concerned that mitigation prescribed by the bill is insufficient to minimize the potential impacts to the Steller's eider. Specific approaches and plans for mitigation are not outlined or adequately addressed. No details of mitigation measures referred to in (1), above, are provided, so it is unclear how this would avoid, minimize, or otherwise mitigate impacts. Avoiding blasting in summer would reduce some impacts associated with road construction; but extraction and hauling gravel in or near habitat used for nesting or brood-rearing could result in the destruction of nests or disturbance to nests or broods.

Not all impacts to Steller's eiders can be avoided and, therefore, the Department suggests that impacts can be mitigated, and future conflicts between development and conservation can be reduced, through the development and implementation of a conservation plan that conserves and protects adequate high quality nesting and brood-rearing habitat. The Department suggests the following language in the alternative: UIC shall mitigate the negative impacts on Steller's eider consistent with a conservation plan developed and permitted in accordance with section 10(a)(1)(B) of the Endangered Species Act. With these concerns in mind, FWS welcomes the opportunity to work with the Committee on the mitigation provisions to minimize potential impacts of the transfer on the Steller's eider.

Section 4. Shishmaref Easement

Section 4 directs the Secretary of the Interior to grant the Shishmaref Native Corporation a 300-foot easement crossing the Bering Land Bridge National Monument, a unit of the National Park System, to permit a surface transportation route between the Village of Shishmaref and Ear Mountain, Alaska. The easement is to be jointly proposed by the Shishmaref Native Corporation, the City of Shishmaref, and the Native Village of Shishmaref. The bill deems the easement to meet all applicable requirements of Title 11 of the Alaska National Interest Lands Conservation Act (ANILCA).

The purpose of this action is to help facilitate the relocation of the Village of Shishmaref to a new location that is less subject to erosion than the present village site. The road from Shishmaref Lagoon to Ear Mountain would provide access to rock that would be needed if the Village is relocated to somewhere on the shore of Shishmaref Lagoon.

As co-chair of the Coastal Erosion Working Group of the Arctic Executive Steering Committee, the Department is well aware of challenges created by coastal erosion in the Arctic and the need to improve the federal response to this and other climate-related hazards impacting Alaskan Arctic coastal communities. In addition, the Department in its fiscal year 2017 budget proposal included a $15 million increase across eight BIA trust natural resource programs to support preparation for and response to the impacts of climate change, including a funding set-aside for Alaska Native villages in the Arctic and other critically vulnerable communities in evaluating options for long-term resilience.

Understanding that the community has voted to move the village, the Department also understands that no village site has yet been selected, the significant funding for relocation has not been identified or secured, and alternative and potentially more economical sources of rock have not been fully investigated. Construction of a road to Ear Mountain would be a significant project, costing $50 million to $90 million, according to the Alaska Department of Transportation and Public Facilities, 2016. In addition, such a road would require an Environmental Impact Statement for any wetlands permit as well as for a right-of-way across the Preserve.

At this point, the Department believes it is premature to grant an easement or right-of-way before it is known whether such an easement or right-of-way is needed. Moreover, existing law and regulation provide an orderly process for applying for, processing, and granting access. At such time that it may be determined that surface transportation to Ear Mountain is needed, the Village can apply for a right-of-way across Bering Land Bridge National Preserve. If it is found to be necessary to develop access from Shishmaref Lagoon to obtain rock from Ear Mountain, rather than from other sources, a right-of-way could be granted under the authority of section 1110(b) of ANILCA.

Section 7 – CIRI (Cook Inlet Region, Inc.) Land Entitlement

Section 7 authorizes Cook Inlet Region to fulfill its Section 12(c) land entitlement under ANCSA of 43,000 acres by selecting from among several types of Federal land, including land located: outside the boundaries of Cook Inlet Region; within the boundaries of the National Petroleum

Reserve-Alaska; within a unit of the National Wildlife Refuge System in Alaska but not inside the Arctic National Wildlife Refuge; and outside of the boundaries of any national monument or unit of the National Park System. In addition, Section 7 authorizes CIRI to select land located within Cook Inlet Region that has been identified by the Federal government as excess to its needs, except lands addressed in 1425(b) of ANILCA, concerning the North Anchorage Land Agreement.

Fulfillment of the land entitlement of the Cook Inlet Region, Inc. (CIRI) under Section 12(c) of ANCSA and subsequent legislation raises complex issues which the parties are diligently working to resolve. The CIRI land selections and entitlements have been the subject of specific legislation, a 1986 Memorandum of Understanding, as well as specific selection and conveyance procedures. Over the years, the Department and the BLM have worked with CIRI to interpret and implement ANCSA and to fulfill CIRI's land entitlement. Although there are sometimes differences among the parties, we have maintained a collaborative and productive working relationship. The BLM remains committed to continuing that strong working relationship. In 2013, CIRI made re-conveyances to Cook Inlet Region villages, which provided an important measure of certainty with respect to CIRI's entitlement. This action did not all resolve issues relating to CIRI's entitlement, and BLM and CIRI are continuing to work together to resolve the remaining issues.

The Department does not support Section 7 of the bill as we find it to be unnecessary. We are fully committed to seeking the conveyance of CIRI's full entitlement in the most expeditious manner, and will continue working closely with the sponsor of S. 3273, CIRI, and other members of the delegation.

Section 8. Canyon Village, Kaktovik, and Nagamut

Section 8 amends Section 14(h) of ANCSA to require the Secretary of the Interior to make specific conveyances to Canyon Village, Kaktovik, and Nagamut, and states that these three conveyances fulfill ANCSA entitlements.

- Canyon Village. Directs the Secretary to convey 6,400 acres of surface to the Kian Tr'ee Corporation for the Native Village of Canyon Village, with the subsurface estate conveyed to Doyon Limited.
- Kaktovik. Provides that notwithstanding Sec. 1302(h)(2) of ANILCA, the Secretary is directed to withdraw lands chosen by Kaktovik from within the National Wildlife Refuge System (NWRS) and to convey the lands to Kaktovik. This provision addresses Arctic Slope's right to in-lieu subsurface estate.
- Nagamut. Directs the Secretary to convey to Nagamut lands chosen by Nagamut that are within the NWRS that cover their original township(s) or land that is as close as "practicable" to the original township(s).

The FWS has not had sufficient time to fully review this provision and assess its potential effects to the Department's trust responsibilities. The FWS will complete its review and assessment as soon as practicable and will be happy to provide its views to the committee in person or in response to a question on the record.

Section 9. Alaska Native Corporation Authorizations

Section 9 amends the National Historic Preservation Act, Tribal Forest Protection Act, and Native American Graves Protection and Repatriation Act to make tribal lands and private Alaska Native corporate lands equivalent for purposes of the three laws. The Department has significant concerns with this legislated equivalency. ANCSA corporate lands are privately-owned, and held in fee. Tribal land is held in trust. Expanding the scope of the Secretary's trust responsibility from tribal lands to corporate fee-owned lands is a fundamental shift that the Department has not had the opportunity to fully analyze and may have implications with the historical definition of "tribal land".

The United States has a different relationship with tribes and with native corporations resulting in the development of separate policies. Executive Order 13175 requires consultation with tribes on a government-to-government basis due to the tribes' status as domestic, dependent nations. The resulting DOI Policy on Consultation with Indian Tribes reflects this government-to-government relationship. DOI Policy on Consultation with ANCSA Corporations defines a government-to-corporation relationship limited to consultation concerning federal actions or activities that "may have a substantial direct effect on an ANCSA Corporation."

In addition to the Department's over-arching concern of expanding the scope of the Secretary's trust responsibility, this change is concerning due to the differing and sometimes conflicting purposes or priorities of tribes and corporations. For these reasons, the Department opposes Section 9 of the bill.

Section 10. Unrecognized Southeast Alaska Native Communities Recognition and Compensation

Section 10 would amend ANCSA to authorize the five Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to organize as urban corporations, entitling each, upon incorporation, to receive one township of land (23,040 acres) in southeastern Alaska from local areas of historical, cultural, traditional and economic importance.

Congress specifically named the villages in the southeast that were to be recognized in ANCSA; these five communities were not among those named. The five communities applied to receive benefits under ANCSA and were determined to be ineligible. Three of the five appealed their status and were denied.

Members of these five communities are at-large shareholders in Sealaska Regional Corporation. The enrolled members of the five communities comprise more than 20 percent of the enrolled membership of the Sealaska Corporation, and as such, have received benefits from the original ANCSA settlement.

Recognition of these five communities as provided in the bill, despite the history and requirements of ANCSA, risks setting a precedent for other similar communities to seek to overturn administrative finality and re-open their status determinations. Establishing this *de facto* new process could create a continual land transfer cycle in Alaska. Although the Administration does not support Section 10 of S. 3273 as written, we would be glad to work with the Committee

to address these issues. The Administration believes that the completion of the remaining entitlements under ANCSA and the Statehood Act is necessary to equitably resolve the remaining claims and fulfill an existing Congressional mandate.

Section 11. Alaska Native Veterans Land Allotment Equity

Section 11 would amend two distinct sections of ANCSA, in an effort to provide access to lands for individual Alaska Natives who do not meet criteria to receive lands under the Alaska Native Allotment Act, the Alaska Native Vietnam Veterans Allotment Act, or ANCSA.
Only Subsection (b) applies to veterans and their heirs.

The 1906 Alaska Native Allotment Act authorized the Secretary of the Interior to convey up to 160 acres of non-mineral land to individual Alaska Natives who could prove personal use and occupancy of these lands prior to the withdrawals for the national forests. Over 10,000 Alaska Natives filed allotment applications. To date, certificates of allotments have been issued to approximately 98 percent (over 13,100 parcels) of individual Native allotments. There remain pending approximately 280 applications under the 1906 Act, most of which will require the State of Alaska to voluntarily reconvey title to the United States government before a conveyance can be made to the individual allotment claimant.

The 1906 Act was repealed with ANCSA's enactment on Dec. 18, 1971, but ANCSA contained a savings provision for individual allotment claims then pending before the Department. The vast majority of the still-pending applications were legislatively approved by Section 905 of ANILCA following its enactment in 1980.

Section 11(a), "Clarification Regarding Occupancy of Native Allotments in National Forests", does not concern veterans. It amends ANCSA Sec. 18(a) and addresses claims to Federal lands that were withdrawn pre-Alaska Statehood for the creation of the Tongass and Chugach National Forests (1907). Sec. 11(a) does not protect valid existing rights and conveyances.

Section 11(a) of S. 3273 affects a group of Alaska Natives whose applications: 1) were pending at the Department on the date of repeal for the 1906 Act; 2) were for allotments in the Tongass or Chugach National Forests; and 3) which claimed ancestral rather than personal use and occupancy prior to the 1907 and 1910 withdrawals establishing the National Forests. Section 11(a) would override the 1983 Ninth Circuit decision in *Shields v. United States*. The bill would reopen and legislatively approve any application for a Native allotment in lands withdrawn for the Tongass and Chugach National Forests that was pending at the Department on December 18, 1971, the date on which ANCSA repealed the 1906 Act.

The BLM expects that enactment of Section 11(a) would require reopening and approval of over 1,000 scattered inholdings within the two National Forests. Implications of Section 11(a) for lands already conveyed to Native Corporations under ANCSA are uncertain.

Section 11(b), "Open Season for Certain Alaska Native Veterans for Allotments", amends ANCSA Section 41 to allow any Alaska Native Vietnam-era veteran who has not yet received a Native allotment to select up to 2 parcels of Federal land, totaling no more than 160 acres, and an

heir to apply for an allotment on behalf of the estate of the deceased veteran. Sec. 11(b) does not protect valid existing rights and conveyances.

Certain Alaska Native veterans of the Vietnam War may have missed an opportunity to apply for an allotment because they were serving in the U.S. armed forces immediately prior to the 1971 repeal of the Allotment Act. The 1998 Alaska Native Vietnam Veterans Allotment Act (P.L. 105-276) was enacted to redress any unfairness that may have resulted because of such military service. The 1998 Act authorized the Department to reopen Native allotment applications for an 18-month period ending in January 2002, for certain Alaska Native Vietnam War-era veterans who may have been prevented from filing timely applications in 1971 because they were on active military duty at the time.

Congress tightly restricted the time period for which applications were reopened in order to minimize effects on other pending applications, private property interests, and other government programs. During this time period, the BLM received applications from 740 individuals claiming a total of 1,070 parcels. Of these, about 70 percent did not meet the terms of the Act and were rejected. Certificates for 245 allotments have been issued, and just seven applications remain pending. The Vietnam-era Veterans transfer program is nearly completed.

S. 3273 would allow Alaska Native veterans to select any vacant Federal land in the state of Alaska that is located outside of the TransAlaska Pipeline right-of-way, a unit of the National Park System, a National Preserve, or a National Monument. Thus, under S. 3273, available lands would include wildlife refuges, national forests, wilderness areas, acquired lands, national defense withdrawn lands, and lands selected by, or conveyed to, the State of Alaska or an Alaska Native Corporation. The bill would authorize compensatory replacement selections from appropriate Federal land, as determined by the Secretary, as a replacement for land Native Corporations may voluntarily reconvey for Native veteran allotments.

S. 3273 would disrupt precedent under existing law and complicate settled land use arrangements under ANCSA and ANILCA, undermining the goals of the Alaska Land Transfer Acceleration Act to finalize land entitlements under ANCSA, the Statehood Act, and existing applications for individual Alaska Natives and Native veterans. In this particular case, the bill would also create inequities between Alaska Native Vietnam veterans and Alaska Natives and award land to those who did not serve in the military prior to the repeal of the Allotment Act.

While the Department opposes Section 11 as written, we would be glad to work with the Committee on this issue to address our shared priority of equitable treatment of Alaska Natives through the Alaska Land Conveyance program.

Section 12. 13th Regional Corporation

Section 12(b) authorizes the establishment of a new 13th Regional Corporation under ANCSA for non-resident Alaska Natives. Previously, a 13th Regional Corporation was created under Alaska law as a private, for-profit corporation on December 31, 1975. That corporation no longer exists. The State of Alaska issued a Certificate of Dissolution on January 1, 2014. The Department does not object to this section.

Section 13. Chugach Alaska Corporation (CAC) Land Exchange Pool Study

Section 13 would require a study of the impacts on the value of Chugach Alaska Corporation (CAC) lands caused by changes in Federal law or Federal or State land acquisitions since December 1, 1980, or just prior to the passage of the ANILCA. This section would also require examination of alternative forms of compensation that could be offered to CAC for conveying its existing property rights.

As currently written, the study of the impacts on the value of CAC lands would need to address any number of Federal laws that may have positive or negative effects on land values, including laws pertaining to wetlands or endangered species. In addition, there is likely little, if any, market data that would be relevant to demonstrating the impacts of Federal laws or of State or Federal government land acquisitions. Therefore, the study's results would be inconclusive and provide no reliable estimate of the impacts on land values. Such a study would have little, if any, value.

A study of alternative methods of compensation for the conveyance of CAC subsurface lands to the United State or the State of Alaska could be completed. If CAC is willing to convey its subsurface estate lands that lie beneath surface estate lands previously acquired by the U.S. Forest Service (USFS), NPS, or FWS under the Exxon Valdez Oil Spill restoration program, the conveyance would provide permanent protection of those lands and be of mutual benefit to CAC and the United States. A study of alternative methods of compensation may assist in furthering that end. It should be noted that identification of alternative methods of compensation will not eliminate the need of appraising and estimating the market value of subsurface lands.

The NPS has acquired approximately 30,000 acres of surface estate lands within Kenai Fjords National Park from the English Bay Corporation (an ANCSA Native corporation), and the FWS has acquired from the English Bay Corporation approximately 2,000 acres that are within the Alaska Maritime National Wildlife Refuge and adjacent to Kenai Fjords National Park. These lands overlay subsurface estate owned by CAC. At the time of purchase the NPS and FWS approached CAC about selling their subsurface estate, but CAC was not interested in selling.

The USFS has acquired significantly more surface estate lands from ANCSA village corporations than has the NPS or FWS. Such surface estate lands, located within Chugach National Forest, also overlay CAC subsurface estate lands. For this reason, if a study is to be conducted, it would be more appropriate for the Secretary of Agriculture to take the lead in conducting the study.

The Department would like to work with the sponsor and the Committee on clarifying Sec. 13.

Conclusion

Thank you for the opportunity to testify on this bill. The Department appreciates the efforts of the sponsors in undertaking a comprehensive bill to amend the Alaska Native Claims Settlement Act. We look forward to working with the sponsors to address the concerns outlined above.

Statement of
Neil Kornze
Director
U.S. Department of the Interior, Bureau of Land Management
Senate Energy and Natural Resources Committee
S. 3316, Advancing Conservation and Education Act
September 22, 2016

Thank you for the opportunity to testify on S. 3316, the Advancing Conservation and Education Act. This bill is a serious and thoughtful effort to resolve a long-standing problem facing Federal and state land managers throughout the West: the often conflicting needs of Federal agencies charged with managing lands designated for conservation purposes and of State agencies charged with meeting differing management mandates. Today's hearing is the continuation of a process to find common ground toward resolving these challenges. Senators Heinrich and Flake have demonstrated their commitment to finding a bipartisan and workable solution; the Department of the Interior and the Bureau of Land Management (BLM) pledge to cooperate in reaching that goal.

Background

The lengthy history of America's westward expansion is complex. Much has been written about the story of the General Land Office and its successor the BLM, and the disposal of hundreds of millions of acres of public land through homesteading and other means. Ultimately, the passage of the Federal Land Policy and Management Act of 1976 (FLPMA) set a new policy to retain the Federal lands and guides the BLM's multiple use and sustained yield mandate. This testimony focuses on the situation we find ourselves in today with respect to state trust lands, the challenges that it presents, and the opportunities we may find to resolve those issues.

The admission of Ohio into the Union in 1803 marked the beginning of Congressional action to provide land to the individual states through their Enabling Acts. Beginning in 1848, new states tended to receive two sections of land in each township[1], generally sections 16 and 36. That increased to four sections with the admission of Utah, Arizona, and New Mexico who generally received sections 2, 16, 32, and 36. When Alaska entered the Union in 1959 rather than being assigned specific sections, the provisions of the Alaska Statehood Act entitled the state to select over 103 million acres of Federal land.

Each of the thirteen states covered by S. 3316 – Alaska, Arizona, California, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming – has state laws governing the management of these lands. On the whole they are dedicated to providing revenue to benefit education and other state purposes. While the somewhat random disbursement of sections may have seemed logical in the 19th and 20th centuries, today it has given us an ownership pattern of lands that makes management difficult and challenging for both

[1] The rectangular survey system was established by the Land Ordinance of 1785. It established a system of townships made up of 36 individual sections measuring one square mile. Each section is made up of 640 acres.

the states and the Federal government. These ownership patterns can also prove confusing for the many users of the public lands.

Today, many of these state sections – nearly 3 million acres with over half of those acres in Alaska – lie within conservation units established by Congress and the President. Among these are state lands within national parks, wildlife refuges, national monuments, National Conservation Areas, and designated wilderness areas. While these conservation designations only apply to Federal lands within those designated areas, the ability of states to fully access or develop the resources of these inholdings may be limited.

The BLM has the authority under section 206 of FLPMA to exchange public land with states or other entities if the Secretary of the Interior "determines that the public interest will be well served by making that exchange." Furthermore, FLPMA requires that all exchanges be of equally valued lands as determined by appraisals conducted according to the Federal Uniform Appraisal Standards.

S. 3316, Advancing Conservation and Education Act

S. 3316, the Advancing Conservation and Education Act, addresses the scattered nature of state land parcels in 13 western states by establishing a new mechanism for the states to relinquish state inholdings within Federally-designated conservation units and then allowing the states to subsequently select other BLM-administered lands within the states for acquisition. The Department of the Interior endorses the concept and would like to work with Senators Heinrich and Flake and other members of the Committee to reach this goal consistent with FLPMA, the National Environmental Policy Act (NEPA), and other important resource management laws.

We believe that conversation must include not only the Congress, the states, and the BLM, but also tribal and local governments, user groups, and the public at large. While there are still a number of significant issues that will need to be explored, clarified, and resolved in order to reach consensus on a way forward, the Department generally appreciates several major improvements Senators Heinrich and Flake have incorporated in S. 3316 from a prior version of the legislation. For example, we note the addition of provisions regarding the protection of Indian rights and interests. Following are some major concerns, with the understanding that the Administration is continuing its review of this significant piece of legislation.

Valuation & Cost

Equal value land transfers must be the cornerstone of any proposal. The Administration is committed to continuing its adherence to the Uniform Appraisal Standards for Federal Land Acquisition and Uniform Standards of Professional Appraisal Practice. While it may be appropriate to consider alternative methods for low-value parcels as envisioned by the legislation, we believe in general that adhering to existing FLPMA processes as much as possible is important. The provision in S. 3316 establishing ledger accounts is an interesting one that merits further exploration.

The Administration appreciates that the costs of conveyances under the bill would be split equally between the state and Federal government.

Lands Available for Exchange

FLPMA establishes clear national policy that public lands should generally be retained in public ownership. However, section 203 of FLPMA allows the BLM to identify lands as potentially available for disposal that meet specific criteria through its land use planning process. Such determinations are made after full public participation and are consistent with all applicable laws. Under FLPMA, disposal of the lands is discretionary and BLM must first consider local conditions and needs.

S. 3316 specifies and prioritizes which lands the states may relinquish and which lands they may select. The bill defines "eligible areas" as Congressionally-designated wilderness; NPS units; units of the National Wildlife Refuge System; lands within the BLM's National Landscape Conservation System, including national monuments, National Conservation Areas, and Wilderness Study Areas; conservation units within the National Forest System; and areas identified in BLM Resource Management Plans as having wilderness characteristics. States may relinquish inholdings within these units and select public land in other areas to receive in exchange. The BLM and other land managing agencies – the NPS, Fish & Wildlife Service, and Forest Service – welcome the opportunity to consolidate holdings in these special places. We appreciate that the "priority areas" for relinquishments under this version of the bill are more inclusive than an earlier version on which the BLM testified during the 113th Congress, and we would like to discuss the possibility of adding additional categories of priority areas with the Sponsor and the Committee.

Likewise, we support flexibility on the selecting side within certain parameters. Focusing on lands already identified for disposal through the BLM's land use planning process should be a priority. Additionally, we believe a priority should be placed on exchanging out to the state unencumbered mineral estate where the Federal government is not the surface landowner, as well as areas in a checkerboard land ownership pattern and Federal lands interspersed with other lands.

While the legislation places certain public lands off-limits for selection, such as lands within conservation designations and Areas of Critical Environmental Concern, we would like to discuss other lands that we should consider limiting access to for selection. For example, the BLM has numerous developed recreation sites outside of conservation units, including campgrounds, trailheads, and designated off highway vehicle play areas. Taxpayer funds and user fees have been used to develop such sites which often receive high visitation and are popular with the public.

The legislation also makes available for potential selection by the states lands with high mineral and energy development and transmission potential. This could include lands currently leased for oil and gas development, lands under consideration for future leasing, lands within designated Solar Energy Zones, and lands with existing mining claims. The appropriateness, cost-effectiveness, and viability of transferring each of these types of lands need to be considered carefully. For example, the wholesale conversion of existing mining claims to state mining leases raises any number of issues. Transferring lands with associated or developed oil and gas mineral estate raises issues of both valuation and protection of valid existing rights. It also raises concerns about potential cost and scoring implications of this legislation, given that these lands –

and particularly those with existing leases – generate revenue to the Federal government that is typically assumed in the Budget baseline.

Furthermore, these and many other issues deserve a careful public review. It is important to note that public lands selected by the states may already be in use for a wide variety of purposes, including grazing, hunting, fishing, wildlife habitat, and recreation. Transfer to the states could have consequences for these users and uses. Incorporating the state selection process into the BLM's on-going land use planning process could help to avoid at least some of these conflicts.

The President's FY 2017 Budget included a proposal to reauthorize the Federal Land Transaction Facilitation Act (FLTFA) which provided the BLM with an important tool to facilitate land tenure adjustments. FLTFA expired in 2011. Reauthorization would allow the BLM to sell lands identified as suitable for disposal in recent land use plans, and then to use the proceeds from those sales to acquire environmentally sensitive lands, including state trust land inholdings. We recommend that Congress move to reauthorize FLTFA.

Timeframes

The Administration appreciates that the timeframes included in S. 3316 have been extended from those of an earlier version of this legislation. It is important to both the states and the Federal government that any land transfers under the bill be undertaken with full public participation and thoughtful consideration. However, the personnel the BLM would need to process these land transfers are the same personnel currently employed in a wide variety of other vital land management issues, including oil and gas leasing and monitoring, as well as processing renewable energy and transmission rights-of-way applications, and land use authorizations for community needs to name just a few. Therefore, the bill's timeframes will necessarily have consequences for a wide variety of other users of the public lands.

State Variations

Not surprisingly there are issues to be considered in S. 3316 that affect individual states differently. For example, Arizona's state constitution requires that state lands may only be disposed of through auction to the highest bidder or by exchange with other governmental entities. This bill technically does not provide for exchanges, but rather relinquishment and selection. In Alaska, the BLM is continuing to fulfill its obligations to transfer millions of acres of mandated entitlements under the Native Allotment Act of 1906, the Alaska Native Claims Settlement Act of 1971, and the Alaska Statehood Act. If passed as currently drafted, S. 3316 could have the effect of dramatically slowing the pace of completion of these important entitlements.

Conclusion

The Departments of the Interior and Agriculture commend Senators Heinrich and Flake for the conscientious effort put into this proposal to date. We recommend continuing a dialogue to develop a solution that protects the interests of all the American people and the individual states. We hope that today's hearing is another step of that process and there will be opportunities for future conversation and hearings.

Statement of
Neil Kornze
Director
U.S. Department of the Interior, Bureau of Land Management
Senate Energy and Natural Resources Committee
H.R. 1838, Clear Creek National Recreation Area and Conservation Act
September 22, 2016

Introduction

Thank you for the opportunity to testify on H.R. 1838, which would establish the Clear Creek National Recreation Area and designate the Joaquin Rocks Wilderness on public lands in San Benito and Fresno Counties in California. The Bureau of Land Management (BLM) supports the designation of the Joaquin Rocks Wilderness. By establishing a National Recreation Area, the bill seeks to expand recreational opportunities in the BLM's existing Clear Creek Management Area (CCMA), including in an area that has been identified by the Environmental Protection Agency (EPA) as containing naturally occurring asbestos, a well-known carcinogen. This action has the potential to expose the public to increased cancer risks and is unsafe. As a result, the BLM cannot support the National Recreation Area provisions as currently written because they would prevent us from managing these lands to adequately protect public health and safety.

Background

The BLM manages approximately 63,000 acres of public lands in the 75,000-acre CCMA in southern San Benito and western Fresno Counties, California. The CCMA offers a variety of settings and landforms that host many diverse natural and cultural resources, and offers recreation and other multiple-use opportunities, including grazing. The CCMA also contains a 30,000-acre area of serpentine rock containing naturally occurring asbestos. Until 1979, asbestos was mined in parts of the CCMA at the Atlas Asbestos Mine and mill, which is now a Superfund site.

Since the 1970s, Federal and state health agencies have expressed concerns about how recreational use in the CCMA by hikers, campers, hunters, botanists, rock collectors, and OHV users disturbs soils containing asbestos and creates the potential for exposure to and inhalation of airborne asbestos-laced dust, increasing the risk to human health. As a result of this concern, as well as the presence of the San Benito evening primrose (a special status plant species), the BLM has designated this 30,000-acre area within the CCMA as the Serpentine Area of Critical Environmental Concern (Serpentine ACEC). ACEC designations highlight areas where special management attention is needed to protect and prevent irreparable damage to important historical, cultural, and scenic values, fish, or wildlife resources or other natural systems or processes; or to protect human life and safety from natural hazards.

Based on the concerns for the health of recreational visitors, the EPA initiated a risk assessment study in 2004 in connection with the clean-up of the Atlas Asbestos Mine Superfund Site to evaluate visitors' exposure to airborne asbestos fibers in the CCMA. The EPA's Clear Creek Management Area Asbestos Exposure and Human Health Risk Assessment (completed in May 2008) concluded that asbestos exposure for many recreational activities in the ACEC may result in excess lifetime cancer risks. The study noted that children are at greater risk than adults

because they are exposed to these high levels of asbestos at an earlier age. The study also showed that visiting the CCMA for a period of more than one day per year can put adults and children above the EPA's acceptable risk range for exposure to carcinogens and increase excess lifetime cancer risk from many typical CCMA recreational activities, including OHV use and hiking.

As a result of the EPA study, the BLM implemented a temporary closure of the Serpentine ACEC in May 2008 to all forms of entry and public use in order to protect public health and safety. The BLM collaborated with the EPA, stakeholders, and the public to incorporate the EPA's health risk information into land-use decisions for the CCMA. Through an extensive planning process, with full opportunity for public comment, the BLM determined that limiting an individual's time spent in the Serpentine ACEC is the most effective way to mitigate the health risks from asbestos exposure. Thus, the BLM limits high-risk activities within the Serpentine ACEC through its Clear Creek Resource Management Plan (RMP), which was finalized in February 12, 2014. Under the management plan, the BLM allows for a range of recreational uses and other activities in portions of the CCMA. It also limits the types of uses and places time restrictions during which an activity can take place within the Serpentine ACEC to minimize asbestos-related risk to public health and safety. Specifically, the RMP strictly limits vehicular and pedestrian access to the Serpentine ACEC. The BLM will reassess recreation opportunities and travel management decisions if significant new information becomes available concerning human health risks from exposure to airborne asbestos fibers in the CCMA.

H.R. 1838

As noted earlier, H.R. 1838 would establish the Clear Creek National Recreation Area and designate the Joaquin Rocks Wilderness on public lands in San Benito and Fresno Counties in California.

Clear Creek National Recreation Area

Section 3 of H.R. 1838 establishes the Clear Creek National Recreation Area, to be managed by the Secretary of the Interior, to promote motorized and non-motorized recreation, including OHV use, scenic touring, hunting, and gem collecting. Under the bill, the Secretary would open the CCMA to a variety of uses, including motorized recreation, mountain biking, hiking, hunting, and camping. The bill provides direction for developing a comprehensive management plan that would provide for these activities.

While we appreciate the sponsor's work on new language from previous versions of this legislation clarifying that the Secretary may still close any area, trail, or route from use for the purposes of public safety or resource protection under a future permanent management plan, we are still concerned that the bill's provisions for interim management leave the agency's ability to close areas for the protection of public health and safety in doubt. As mentioned above, certain activities in these areas are currently limited for health and safety reasons due to the risks from the carcinogen asbestos in the area. Public and employee health and safety has guided the BLM's approach in managing the area, and the agency would like to work with the sponsor to ensure the bill provides adequate authority for the BLM to manage the recreation area, including for the risk of exposure to asbestos, and on language addressing the significant potential risks to the public and employees.

Even though section 4 of H.R. 1838 provides the BLM an exemption from responsibility for the public's exposure to asbestos while recreating at the CCMA pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (42 U.S.C. 9605), the bill does not reduce risk to the public; it only attempts to reduce liability to the BLM. As determined by the EPA, the potential public health risks are high in the Serpentine ACEC of the CCMA, especially with respect to young children. In addition, the BLM is required to meet Occupational Safety and Health Administration standards for employees working in a designated hazardous asbestos area within the Serpentine ACEC, as well as meet Federal, State, and local air and water quality regulations designed to protect public health and safety from uncontrolled releases of hazardous airborne pollutants.

Finally, the National Environmental Policy Act, the Federal Land Policy and Management Act (FLPMA), and the BLM's implementing regulations and land use planning guidance already provide for collaborative processes designed to involve Federal, State, Tribal, and local government agencies, as well as the public and local stakeholders, in the planning process. The BLM would like the opportunity to work with the sponsor on technical modifications to the bill to ensure consistency with these existing land use planning authorities.

Joaquin Rocks Wilderness Area

Section 5 of H.R. 1838 proposes to designate 20,500 acres of public land in Fresno and San Benito Counties as the Joaquin Rocks Wilderness. The core of this area – more than 7,000 acres – has already been designated for special protection by the BLM as an ACEC. The centerpiece of the proposed wilderness area is the three large sandstone monoliths, known locally as Las Tres Piedras, which tower 4,000 feet above the southern San Joaquin Valley. The rocks are home to a number of raptors, including the prairie falcon and the majestic California condor. Vernal Pools at the top of the rocks provide important seasonal habitat, and are also an important water source for wildlife in this arid region. Rock art sites throughout the proposed wilderness attest to earlier occupation and may even include ancient astronomical references. The BLM supports the wilderness designation in H.R. 1838, and would like the opportunity to work with the sponsor on minor boundary modifications and mapping issues and on minor modifications to management language to be consistent with usual wilderness management language.

Release of San Benito Mountain Wilderness Study Area

Section 7 of H.R. 1838 proposes to release nearly 1,500 acres of BLM-managed land in the San Benito Mountain Wilderness Study Area (WSA) from WSA status. This small area does not contain lands that meet the basic requirements for wilderness. If the San Benito Mountain WSA is released from WSA status by Congress, it would be managed consistent with the goals and objectives and resource management actions for the Serpentine ACEC and the San Benito Mountain Research Natural Area, as described in the Record of Decision and Approved RMP for CCMA. The BLM supports this provision.

Conclusion

The BLM appreciates the work by Congressman Farr on H.R. 1838. Lands in the CCMA present complex resource management and public health and safety issues. While we support the proposed designation of the Joaquin Rocks Wilderness, we cannot support provisions in the

bill that could increase the exposure of public land users and employees to naturally occurring asbestos. We would like to continue working with Congressman Farr and this Committee to address future uses at the CCMA, including the growing and popular activity of responsible OHV use in California and across the West. Thank you for the opportunity to testify. I would be glad to answer any questions.

Statement of
Neil Kornze
Director
U.S. Department of the Interior, Bureau of Land Management
Senate Energy and Natural Resources Committee
H.R. 2009, Pascua Yaqui Tribe Land Conveyance Act
September 22, 2016

Thank you for the opportunity to present the views of the Department of the Interior (Department) on H.R. 2009, the Pascua Yaqui Tribe Land Conveyance Act. H.R. 2009 provides that 40 acres of land in the Tucson, Arizona, area are declared to be held in trust by the United States for the benefit of the Pascua Yaqui Tribe (Tribe); 13 acres are to be sold to the Tucson Unified School District (District); and the District is authorized to acquire the Federal reversionary interest on 27 acres patented under the Recreation and Public Purposes (R&PP) Act. We appreciate the sponsor's amendment to H.R 2009, which addresses the concerns raised in our testimony of Nov. 4, 2015, on the bill as introduced. The Department supports H.R. 2009 as referred to the Senate.

Background

The Pascua Yaqui Tribe's lands are located in Pima County, near Tucson, Arizona, and are a combination of lands held in trust by the United States and lands purchased and held in fee by the Tribe. The District has historically operated the Hohokam School on lands nearby and adjacent to the tribal lands. The District currently holds two parcels of land under separate R&PP patents totaling approximately 67 acres, in which the United States holds reversionary interests enforceable under the R&PP Act. This land consists of a tract of approximately 27 acres on which the Hohokam School currently sits and another tract of approximately 40 acres that is currently undeveloped. The Bureau of Land Management (BLM) also manages an unencumbered tract of approximately 13 acres located between the two parcels patented to the District which have been identified as potentially suitable for disposal in the current Resource Management Plan.

H.R. 2009

H.R. 2009 declares that approximately 40 acres of land, designated in the bill as "Parcel A", are held in trust by the United States for the benefit of the Tribe on the day after the District relinquishes all of its right, title, and interest to the 40 acres. In addition, the bill authorizes the Secretary to convey to the District a parcel of 13 acres of currently unencumbered public lands, designated in the bill as "Parcel B", subject to valid existing rights and payment of fair market value. Also, the bill authorizes the Secretary to convey to the District the Federal reversionary interest in 27.5 acres of land, designated in the bill as "Parcel C", previously patented to the District under the R&PP Act upon the District's payment of the appraised value to the Department.

Conclusion

H.R. 2009 represents an opportunity to improve land use for both the Tribe and the District on these three tracts of land. Thank you for the opportunity to testify. I will be glad to answer any questions.

The CHAIRMAN. Thank you, Mr. Kornze.

Next, we will turn to Ms. Weldon. Thank you for joining us this morning.

STATEMENT OF LESLIE WELDON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Ms. WELDON. Thank you very much, Madam Chair and members of the Committee, for the opportunity to discuss six bills that are before the Committee that relate to the Forest Service. In my opening statement today I'd like to briefly address each of the six bills, and my written testimony contains more extensive comments and background information.

Beginning with S. 364, the Southwest Oregon Watershed and Salmon Protection Act. This bill would permanently withdraw 95,000 acres in the Smith River, Illinois River and Rogue River watersheds within the Rogue River-Siskiyou National Forest from new mining claims, mineral leasing and geothermal leasing. These lands have exceptionally high conservation values and the Department supports this bill and the Forest Service has been working with the BLM on administrative withdrawal in aid of the legislation.

With S. 2991, the Methow Headwaters Protection Act, this bill proposes to withdraw over 340,000 acres of the Okanogan-Wenatchee National Forest from all forms of mineral development. The Department supports S. 2291 and believes mineral withdrawal is the best path forward towards upholding the tribal, traditional, spiritual and recreational values as well as the significant economic benefits of the Methow Valley to surrounding communities.

With S. 3192, the Alex Diekmann Peak Designation Act, this bill would name a currently unnamed mountain for conservationist Alex Diekmann in the Beaverhead National Forest. The Department supports this bill and this recognition acknowledgement.

I'd like now to discuss the two Alaska-related bills, S. 3203, the Alaska Economic Development and Access to Resources Act, and S. 3273, the Alaska Native Claims Settlement Improvement Act.

Both bills involve the Department of Interior so you've heard the comments related to those issues. I'd like to specifically address Title V, including sections exempting Alaska from the roadless rule and proposed land exchanges between the Tongass National Forest and the Mental Health Trust and directing the Forest Service to convey up to two million acres of Alaska State land for the use as a state forest.

The Administration opposes the exemption of Alaska from the roadless rule. Application of the rule as ruled to national forests has not hindered approval of appropriate access and the forests in Alaska have requested and received approval for approximately 46 projects within the inventoried roadless area since 2011, including hydroelectric projects.

Section 502 directs the Forest Service to conduct a land exchange with the Alaska Mental Health Trust. The Department supports the goal of this legislation and has worked diligently and very effectively with the executives of the Alaska Mental Health Trust Authority to refine technical details of the exchange, and we hope

that this work will be considered as the legislation continues to develop.

Section 503 directs the Forest Service to convey up to two million acres of the Tongass National Forest to the State of Alaska for use as a state forest. The Department opposes this section of the bill because conversion of these lands to state forest jeopardizes the values and benefits provided to Alaska by the multiple use mandate of the Forest Service. The Tongass National Forest is a major economic driver and contributes to a robust diversity of opportunities and jobs including 4,000 jobs resulting from the fisheries industry in 2014 as well as supports and enhances an over $1 billion in visitor spending to Alaska's tourism industry.

To briefly discuss two sections of 3273. Section V addresses consideration received by Shee Atika Incorporated for the purchase of Cube Cove land by the Forest Service. The Department does not have concerns with this section of the bill. Section VI directs the exchange of subsurface estate owned by Sealaska Corporation at Cube Cove on Admiralty Island for a mixture of subsurface and surface acres, surface estate, within the Tongass Forest. Although the Department agrees with the goals of this legislation, we believe this exchange should be completed using an equal value exchange following existing regulations and policies. The Department does—would like to continue to pursue resolution of the split estate land interest with Sealaska Corporation using our administrative processes.

Lastly, on 3254, the Spearfish Canyon and Bismarck Lake Land Exchange Act, this bill proposes to exchange national forest system land for land owned by the State of South Dakota. The Department opposes this bill as it contains provisions that raise concerns and existing authority already exist for the Forest Service to exchange lands within the state.

Thank you for the opportunity and would be happy to answer any questions.

[The prepared statement of Ms. Weldon follows:]

Statement of
Leslie Weldon
Deputy Chief, National Forest System
Forest Service
U.S. Department of Agriculture

Before the
Committee on Energy and Natural Resources
United States Senate
September 22, 2016

Madam Chairman and members of the Committee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 346, S. 2991, S. 3192, S. 3203, S. 3254, and S. 3273.

S. 346, "Southwestern Oregon Watershed and Salmon Protection Act of 2015"

The Department of Agriculture supports the Southwest Oregon Watershed and Salmon Protection Act of 2015. This bill would permanently withdraw 101,022 areas of federal lands with exceptionally high conservation values from new mining claims, mineral leasing, and geothermal leasing. A total of 95,806 of the affected acres are located within the National Forest System on the Rogue River-Siskiyou National Forest (RRS). The remaining 5,216 acres are located on Department of the Interior Bureau of Land Management (BLM) land on the Medford and Coos Bay Districts. The parcel proposed for withdrawal includes the watersheds of the North Fork Smith River, which is designated as a Wild and Scenic River, and Rough and Ready Creek, which is eligible for designation as a Wild and Scenic River and is a tributary to the Illinois and Rogue Rivers, which are designated Wild and Scenic Rivers.

In light of this pending legislation, and acting on the direct written request of the bill's sponsors, the Forest Service submitted a request to the BLM for execution of a five-year administrative withdrawal in aid of legislation. This application was completed on March 13, 2015, and, on June 29, 2015, the Assistant Secretary of the Interior for Land and Minerals Management published a Federal Register Notice proposing a five-year withdrawal (80 Fed. Reg. No. 124, p. 37,015). Publication of this notice initiated a two-year "segregation period" closing the land to

mining and mineral activities. The segregation and proposed withdrawal are both subject to valid existing rights and would not affect the approximately 1,680 acres of private inholdings that are located within this bill's footprint.

The segregation period allows time for processing of the withdrawal application and completion of National Environmental Policy Act (NEPA) analyses. The Environmental Analysis (EA) considered several alternatives including a five-year withdrawal term and the EA was subject to a public comment period. The comments that were submitted indicated overwhelming public support for the withdrawal.

More recently, the Forest Service has filed an application recommending an extended 20-year withdrawal term instead of the five-year term that was initially considered and modifying its purpose. Should the Secretary of the Interior approve this application, a new Federal Register Notice will be published and a new 90-day public comment period will commence.

S. 346 also includes technical corrections to prior legislation that protected 17 miles of the Chetco River, which is a designated Wild and Scenic River. This river is known for its wild salmon and steelhead populations and is a vital economic, recreation, and ecological resource. The Department of Agriculture supports these provisions of the bill.

S. 2991, "The Methow Headwaters Protection Act of 2016"

S. 2991 proposes to withdraw approximately 340,079 acres of Federal land and interests in the land located in the Okanogan-Wenatchee National Forest from all forms of mineral development. The Methow region is one of several areas on National Forest System lands across the country where the USDA Forest Service is analyzing complex and often controversial potential mineral activities. The agency anticipated completing the NEPA environmental assessment and making a decision during the summer of 2016 regarding a proposed permit for mineral exploration. However, through the public engagement process and subsequent analysis, several new considerations have surfaced, including tribal concerns regarding the impacts of

mining activity in the area proposed for exploration. The Department of Agriculture supports S. 2291 and believes a mineral withdrawal is the best path toward mitigating any impacts to the ecological, cultural and economic significance of the Methow Valley to the surrounding community.

S.3192, "The Alex Diekmann Peak Designation Act of 2016"

This bill would name a currently unnamed mountain for renowned conservationist Alex Diekmann. The 9,765-foot peak is located 2.2 miles west-northwest of Finger Mountain on the western boundary of the Lee Metcalf Wilderness, on the Beaverhead National Forest in Montana.

The Department of Agriculture supports this bill.

S. 3203, "The Alaska Economic Development and Access to Resources Act"

The USDA Forest Service will address Title V of S. 3203 in this testimony. The other titles of the bill are addressed in the Department of the Interior's testimony.

Section 501

The Department of Agriculture opposes Section 501, which exempts National Forest System lands in the State of Alaska from the application of the 2001 Roadless Area Conservation Rule (the "Roadless Rule").

The Roadless Rule protects and conserves inventoried roadless areas of national forests by prohibiting road construction, reconstruction, and timber harvest in inventoried roadless areas. These activities have a high likelihood of altering and fragmenting landscapes, resulting in immediate, long-term loss of roadless area values and characteristics. Notwithstanding the Rule's prohibitions, a road may be constructed or reconstructed, and timber may be cut, sold, or removed, in an inventoried roadless area under certain circumstances. Application of the Roadless Rule to national forests in Alaska has not hindered approval of appropriate access or removal of timber in accordance with the Rule.

The Chief of the Forest Service reviews activities planned in inventoried roadless areas to ensure that the agency is applying a nationally consistent approach to implementing the Roadless Rule and that the agency is complying with its mandate to protect roadless area characteristics. The national forests in Alaska have requested and received approval for approximately 46 projects within inventoried roadless areas since 2011, including, among other things, several hydroelectric and mineral exploration projects and an intertie project. These projects have been cleared by the Chief in a timely manner. Consequently, exempting the national forests in Alaska from the Roadless Rule is unwarranted.

Section 502

This section directs the USDA Forest Service to conduct a land exchange with the Alaska Mental Health Trust. The Department supports the goal of this legislation to preserve significant natural, scenic, and recreational values in southeastern Alaska communities through a land exchange with the Alaska Mental Health Trust. Since introduction of the bill, the USDA Forest Service and executives of the Alaska Mental Health Trust Authority have worked diligently to refine the technical details of the land exchange. However, the Department cannot support the bill as currently written. We would appreciate an opportunity to work with the Committee to make technical changes in the language to meet the objectives of the bill.

Section 503

This section directs the USDA Forest Service to convey up to 2,000,000 acres of the Tongass National Forest to the State of Alaska for use as state forest land. Alaska would pay market value for these lands, or convert lands selected by the State under section 6 of the Alaska Statehood Act, Pub. L. 85-508, as a credit towards conveyance of National Forest System land.

The Department opposes this section of the bill. Conversion of these lands to state forest land jeopardizes the values and benefits provided to Alaska by the multiple-use mandate of the USDA Forest Service to sustain the health, resilience and productivity of the national forests for current

and future generations. It would also alter the balance struck in the Alaska Statehood Act, which limited the State's entitlement to lands within national forests in Alaska to 400,000 acres, which have already been selected by the State. The Tongass National Forest is a major economic driver in southeast Alaska. Its 17,000 miles of undammed creeks, rivers and lakes provide optimal habitat for five species of salmon, which are critical to a seafood industry that in 2014 provided 4,372 jobs with $259 million in earnings. The Tongass National Forest also is the largest intact temperate rainforest on Earth, containing a diversity of landscapes, more than 70 species of mammals, 275 species of birds, and unmatched recreation opportunities. Visitors from around the world come to sightsee, fish, hike, hunt, camp, view wildlife, and enjoy all that the Tongass National Forest offers, contributing over a billion dollars in visitor spending to Alaska's tourism industry and generating 6,923 jobs that provide $189 million in earnings.

We have invested in collaborative approaches to better manage the forest, develop stronger projects, build public support for forest management and restoration, and reduce the risk of litigation. We continue to work collaboratively with communities, industry, environmental groups and others to supply wood to local mills, conserve watersheds, accomplish forest restoration, and provide employment and opportunities along with a range of other benefits.

There are several collaborative groups currently engaged in large-scale landscape planning to develop an ecologically, socially, and economically sustainable forest management strategy with an emphasis on young growth management, while providing the necessary "bridge" timber for the existing infrastructure on the Tongass National Forest. It is the Department's goal to continue these collaborative efforts towards sustaining a robust timber economy, while also leveraging the multiple other uses of this national forest.

S. 3254, "Spearfish Canyon and Bismarck Lake Land Exchange Act"

The Department opposes the Spearfish Canyon and Bismarck Lake Land Exchange Act, which proposes to exchange National Forest System land for land owned by the State of South Dakota, because the bill is unnecessary and contains provisions that raise concerns. Existing authority

already allows the Forest Service to exchange land with the State. The land conveyed to the State would be used for public recreation and conservation, while the land conveyed to the United States would be administered as National Forest System land subject to existing grazing agreements. In this bill, the Pennington and Lyman County lands conveyed by the State are located within the Nebraska National Forests and Grasslands, however the Nebraska National Forests and Grasslands are not referenced in the bill. Also, the recreation goals expressed in the bill are already met through services that the agency provides on the Black Hills National Forest.

In particular, the bill also would direct the Secretary to continue to allow grazing on the non-Federal land that is transferred subject to terms and conditions existing before the conveyance, including any existing leases, permits, or contracts for grazing; stocking rates; grazing fee levels; access rights; and ownership and use of improvements. These requirements to manage lands subject to existing state practices would interfere with the Secretary's ability to manage these lands in accordance with other Federal law and policy and would lead to fractured management across the landscape. Finally, the bill would require that the value of the land to be exchanged be based on "agricultural value," which is not recognized or defined as a method of land appraisal in the Uniform Standards of Professional Appraisal Practices nor in the Uniform Appraisal Standards for Federal Land Acquisitions with is the standard for land exchanges.

S. 3273, "The Alaska Native Claims Settlement Improvement Act of 2016"

The USDA Forest Service will address Sections 5 and 6 of S. 3273 in this testimony and will work with the Department of Interior to the extent that the Forest Service is affected by Section 10 of bill. The other sections of the bill are addressed in the Department of the Interior's testimony.

Section 5

The Department of Agriculture generally does not have concerns with Section 5 of the bill, however we have a technical issue with the assignment of responsibilities that we would like to discuss with the sponsor. This section permits consideration received by Shee Atiká Incorporated for the purchase of Cube Cove land by the United States to be treated as the receipt of land or interest in land within the meaning of section 21(c) of the Alaska Native Claims Settlement Act

(ANCSA) (43 U.S.C. 1620(c)) or as cash in order to equalize the values of properties exchanged under section 22(f) of ANCSA (43 U.S.C. 1621(f)).

The Cube Cove land purchase is in alignment with the current administrative process where the Forest Service and Shee Atiká Incorporated have entered into an Option Contract allowing for the United States to purchase approximately 23,000 acres of surface estate in Cube Cove from Shee Atiká Incorporated. The contract identifies 13 segments that can be purchased over five years. The first two segments have already been purchased by the United States through the Land and Water Conservation Fund. It is anticipated that the next 11 segments will be purchased over the next five years, provided the terms and conditions in the contract are met.

Section 6

This section directs the exchange of approximately 23,000 acres of subsurface estate owned by Sealaska Corporation at Cube Cove on Admiralty Island for approximately 8,872.5 acres of surface and subsurface estate and 5,145 acres of surface estate only within the Tongass National Forest. The Forest Service is pursuing this exchange under existing authorities to resolve the split estate issue where the Forest Service owns surface estate and Sealaska owns the subsurface estate. Although the Department agrees with the goals of this legislation, we believe this exchange should be completed using an equal value exchange following existing regulations and policies, including appraisal in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions. The Forest Service does not support this bill, and will continue to pursue resolution of the split estate and land interests with Sealaska Corporation using our administrative processes.

The CHAIRMAN. Thank you, Ms. Weldon.

We will now begin with questions for our second panel.

Ms. Weldon, let me begin with you and this relates to the provision within the Alaska Economic Development Access to Resources Act relating to the Alaska Mental Health Trust Exchange with Forest Service.

You have indicated that you support the goal of the legislation which we appreciate. You will recall that I sent a letter to Secretary Vilsack back in November of 2013, some time ago. At that time there was discussion about how we can move forward with an exchange and it involved various stakeholders supported by the Tongass Futures Roundtable. In his response back to me, the Secretary said that this was something we need to properly and promptly consider.

This was something that was proposed back in 2007. It is now 2016. We have got the agreement initiated, as I have noted. That is one step. You have indicated that you are supportive of the goal, and we need to work through some technical difficulties.

What I need to know, what the people of Alaska, and specifically the people in Southeast and in Wrangell and Petersburg and Juneau want to know, is whether or not we can complete this exchange in a timely manner because Mental Health Trust is prepared to begin harvesting in areas that the communities are clearly concerned about. Mental Health Trust has said they have no option right now, and they have, kind of, put some fire under moving this legislation now.

If they don't see that it is going to move, they are going to move forward with the harvest. They have an obligation, a trust obligation, to the most vulnerable of our population under establishment of the Mental Health Trust. They feel like they have got their hands tied.

I understand your words and I appreciate that, but I need some commitment from you that you will not only work with us in a collaborative manner, and I appreciate that, but work with us to get it done this year because otherwise I am afraid they, the Mental Health Trust, will move forward. They will harvest in these areas and the conveyance that we have been working on for so many years goes nowhere. Can you give me that commitment?

Ms. WELDON. Thank you for your question.

And yes, the commitment is clearly there and we've really appreciated the work that we've been able to do with the executive group with the Mental Health Authority as far as getting clarity around which lands as well as talking a little bit more about what is entailed with, for example, many of the parcels that may be more isolated and what's required for analysis.

So our goal is to work very closely and, to the extent that we can, expedite our ability to get the land exchange done.

The CHAIRMAN. Well, I am concerned when we use the words like analysis and reviews because we know around here that stuff like that takes a long time.

Again, there is a very specific timeline that the Mental Health Trust has given us with this. My concern is if we need to look at some practical steps that we need to address, whether it is changes in the scope of land surveying, ways to accelerate the environ-

mental reviews, ways to prioritize the tracks that can be conveyed, whatever it is its going to take to get this commitment moving. That is what I need to hear from you today, from the Department, that we are going to be able to resolve this so that, again, the people who are writing and calling me from Juneau and Petersburg and Wrangell, have some assurance.

Ms. WELDON. Yes, and we will do our best to be as strategic and as efficient in moving through the process as possible.

The CHAIRMAN. Okay, well, we are going to work aggressively with you.

I will comment on a statement that you just made in your statement. In your testimony when you were talking about the Administration's opposition to the Tongass Roadless Rule exemption, you say application of the Roadless Rule to national forest in Alaska has not hindered approval or appropriate access or removal of timber in accordance with the rule. You said that in your written testimony and then you just repeated that here. I just do not think that that is plausible. I do not think that is accurate, even with these five words as a qualifier.

We had Alaska Electric Light and Power in Juneau several years ago. They waited months and, you know, we have got a very short summer season. They needed to get equipment off loaded to reduce trees that were growing within in their power lines because they needed to cross 100 yards of inventoried roadless to unload these brush cutters from a barge, and it took months to get that.

Just this year Forest Service required helicopter installation of a power line between Petersburg and Kake because they would not allow for a road installation that would have reduced the cost of the project significantly because of the roadless.

So, your statement, I think, really misses the point here. The Roadless Rule in Alaska has devastated our state's timber industry. The rule currently prevents most activities on 9.2 million acres out of a 16.7-million-acre forest, 57 percent of the forest. By your most recent record of decision, it takes 2.56 million acres of commercial timber from the timber base.

I find it difficult to even imagine that you can make the statement that it has no impact, that it has not hindered or delayed in any way activities. Believe you me, the people on the ground are saying that it does because they see it almost on a daily basis.

Senator Cantwell had to take a conference call, so I will go to you, Senator Heinrich.

Senator HEINRICH. Thank you, Madam Chair.

Director Kornze, as you know, the issues that would be resolved by the San Juan County Settlement Implementation Act have been around for a little while. If you look back at the mineral issues in the bill, they date back to 1964. The Navajo Nation is still waiting for land that they were promised in 1974.

Can you talk a little bit about why the BLM sees this legislation as a better option than continuing to pursue legislation?

I would also mention that we look forward to working with you on the pay-for issues. I think we have a path forward there. But if we don't resolve these issues legislatively, what are the chances of a quick resolution through the courts?

Mr. KORNZE. Well I think Senator Murkowski just highlighted that things can take all too long. And if we don't have a legislative solution for this particular place and the complicated issues around it related to preference right leasing, related to Navajo selection, I couldn't even put a number on how many years it would take to unwind this ball of yarn.

Senator HEINRICH. Okay.

Mr. KORNZE. And so, we are excited to see this resolved and also, we do understand that there are, there's a solution in hand or nearby for dealing with the pay issues which has been the stumbling block for many years. And so, we're pleased to see that come together.

Senator HEINRICH. Well, we are excited about that as well.

Madam Chair, I will just mention we have some letters that I will be seeking later to introduce into the record regarding this legislation from San Juan County, New Mexico, from the Navajo Nation President's Office, as well as from the Navajo Nation Speaker's Office.

[The information referred to follows.]

Scott Eckstein
Chairman

Jack L. Fortner
Chairman Pro Tem

Wallace Charley
Member

Keith Johns
Member

Margaret McDaniel
Member

SAN JUAN COUNTY
NEW MEXICO
SINCE 1887

100 South Oliver Drive
Aztec, New Mexico 87410-2432
Phone: (505) 334-9481 Fax: (505) 334-3168
www.sjcounty.net

Mr. Kim J. Carpenter
County Executive Officer

August 16, 2016

The Honorable Martin Heinrich
United States Senate
303 Hart Senate Office Building
Washington, DC 20510

Dear Senator Heinrich:

We write in support of S. 2681, the San Juan County Settlement Implementation Act. We understand this bill would address a number of natural resource issues in San Juan County, New Mexico that have been pending for decades. S. 2681 would settle coal preference right lease applications that date back to 1964, provide a process for completing land conveyances to the Navajo Nation under the Navajo-Hopi Land Settlement Act of 1974, and permanently protect the Ah-shi-sle-pah Wilderness Study Area. We also understand that these issues have remained unsettled for decades and cannot be resolved without congressional action. Although we fundamentally do not agree with designating Wilderness Land that could impact the development of oil and gas production, we understand the dynamic of this longstanding unsettled Act. We also acknowledge that if this issue were to go to court, that the law as it is written would most likely be upheld.

Like many western counties, the Payment In Lieu of Taxes (PILT) program is of critical importance to our County's fiscal health. In San Juan County there are currently 11,438 acres of public land that are pending transfer to the Navajo Nation under the Navajo-Hopi Land Settlement Act of 1974, which will make those acres ineligible under the PILT program. The Bill would keep 4,220 of those acres in public ownership and establish a process for the Navajo Nation to substitute other lands to complete the land settlement. Because some of those substitute lands are likely to be in other counties, passage of this legislation will likely keep more acres in San Juan County eligible for inclusion in PILT payments. However, let this letter serve also as the notice of the importance that PILT funding has to counties throughout the United States, especially those with abundant amounts of Federal land. Furthermore, we ask that you strongly consider that PILT funding one day be fully restored to counties.

Additionally, we strongly support the provision of the legislation that makes any public land that is subject to a mineral lease or contract ineligible for selection by the Navajo Nation. Oil, gas, and coal production are the life blood of our County's and even State's economy and this provision will ensure that production on existing leases will continue.

Sincerely,

Scott Eckstein, Chairman
San Juan County Commission

THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT

March 10, 2016

The Honorable Martin Heinrich
United States Senate
303 Hart Office Building
Washington, DC 20510

Senator Heinrich:

I appreciate your continued effort to resolve the status of the Preference Right Lease Applications ("PRLAs") that have encumbered Navajo Nation selected lands within the Bisti Region in New Mexico, for over thirty years. This legislation will bring finality to the Navajo Nation's New Mexico land selections that were made pursuant to the Navajo-Hopi Land Settlement Act of 1974 ("Act"). It also clarifies that the communities of Ramah, Tohajiillee and Alamo are part of the "boundary" of the Navajo Nation.

The Office of Navajo and Hopi Indian Relocation and Navajo Nation selected lands in New Mexico under the Act that overlapped Preference Right Lease Applications held by Ark Land Company. The existence of the PRLAs prevented the conveyance of the surface and subsurface interests in the selected lands to the Nation, thereby severely limiting any realistic utility of the lands. A 2001 Interior Board of Land Appeals decision subsequently precluded the Nation from deselecting lands.

Your legislation will now authorize the deselection of certain lands. We will work with your staff to ensure the bill includes a legal description of the 4,220 acres to be deselected to avoid any potential misinterpretation. In addition, the Nation is looking into areas for potential re-selection and we may need to further address. Also, we are in the process of reviewing the maps and if we have concerns with the maps, we appreciate the opportunity to address any issues in markup. I would also like to ensure that the Nation be compensated at an equal value to the state with respect to payments in lieu of any monetary payment of a bonus in a coal lease sale or of rental or royalty. We would like to address this issue after introduction in bill markup.

Thank you for helping to end this long standing issue. I support your efforts and this legislation with the changes we would like to see in bill markup. We look forward to advancing and addressing any outstanding issues to help the people of the Navajo Nation and the State of New Mexico.

Respectfully,

THE NAVAJO NATION

Russell Begaye, *President*

POST OFFICE BOX 7440 / WINDOW ROCK, AZ 86515 / PH: (928) 871-7000 / FAX: (928) 871 4025

23RD NAVAJO NATION COUNCIL
OFFICE OF THE SPEAKER

HONORABLE LORENZO C. BATES
SPEAKER, 23RD NAVAJO NATION COUNCIL

November 2, 2015

The Honorable Martin Heinrich
United States Senate
303 Hart Office Building
Washington, DC 20510

Dear Senator Heinrich,

I would like to express my gratitude for your continued support to bring to a close the long running dispute concerning Preference Right Lease Application lands in New Mexico. The legislation developed by you and your staff will allow the Navajo Nation to close the land selection process in New Mexico resulting from the Navajo-Hopi Land Settlement Act of 1974.

The Navajo-Hopi Land Settlement Act allowed the Navajo Nation to select lands in New Mexico in partial fulfillment of making the Nation whole from lands ceded to the Hopi Tribe. The Navajo Nation selected lands in New Mexico which were encumbered by Preference Right Lease Applications (hereinafter "PRLAs"). These PRLAs meant that while the surface rights to the lands could be conveyed to the Nation, the subsurface rights were held by private parties.

Your legislation will allow the Navajo Nation to finally gain full title to these lands. However, since more than 30 years have passed since their selection the legislation allows the Nation select other parcels that may better fit with the our future economic development needs. Finally, your legislation clears up an essential stumbling block the Navajo Nation has had with the Department of Interior concerning the baseline boundary of the Nation which determines what lands can be selected. The baseline boundary will begin from the Navajo trust lands that comprise the satellite communities of Ramah, Alamo, and To'hajiilee.

Thank you for your efforts to finally bring this long standing issue to a close. The Navajo Nation supports your efforts and this legislation.

Respectfully,

Lorenzo Bates, Speaker
The Navajo Nation Council

Post Office Box 3390 / Window Rock, Arizona 86515 / T: (928) 871-7160 F: (928) 871-7255

Senator HEINRICH. On a little bit of an item that is not related directly to the legislation in front of us today, I was wondering if you could quickly provide an update on the Sabinoso Wilderness issue in Northeastern New Mexico. The work that the BLM has been doing, and I commend you for it, in working with private partners to finally open this area to public access.

As you know, this is literally the only wilderness area in the country that lacks legal public access today. I know there are many New Mexicans, especially from the Northeastern part of the state, that are eagerly awaiting the opportunity to go visit and hopefully see it open for things like hiking and hunting and camping next year.

Mr. KORNZE. So we are excited to see this happen also, opened up to the public. As you noted, it is the only wilderness area that we're aware of that does not have public access. A generous foundation and land trust have been working together to acquire an adjacent parcel, and I believe that has been executed. So we are looking at early, very early, in the new year to have our process completed to open up that public access.

Senator HEINRICH. That is great news.

Has the Department of the Interior had any discussions with or communication with Customs and Border Patrol regarding border security to the south of the OMDP area and what feedback have you received about the impact of this bill on their operations?

Mr. KORNZE. So related to the Doña Ana bill, Border Patrol has weighed in and noted that it would give them significant additional flexibility so they seem to be very pleased with the legislation.

Senator HEINRICH. One last question while I have got a little bit of time left.

Since the establishment of the Organ Mountains-Desert Peaks National Monument it has certainly been a tremendous asset for the local community and small businesses. In particular, we have been, sort of, astounded at how quickly it was embraced by the small business community. A recent survey of local businesses in tourism-related industries showed that 20 percent of businesses had introduced new products or new services related directly to the monument and that 32 percent of them used the monument in their promotional and marketing materials.

I am curious from the management perspective of the Bureau, what have you seen as far as changes in either visitorship or interest from the public in experience in the places that were included in the monument designation?

Mr. KORNZE. So we have seen a lot of excitement in the community. As you noted, there's a lot of businesses that have attached themselves to it in a positive way. We've seen about a ten percent increase in visitorship. We've got new signage out there. We're completing a public process then we'll have a plan for management in place. So, we're pretty excited.

The Green Chamber of Commerce has been very, very active in bringing additional attention, and I believe I saw numbers that they think nearly 100 jobs have been added in the community as a result of the designation.

Senator HEINRICH. That is fantastic.

I know in September there is apparently "Monuments to Main Street," a whole series of activities around the monument, getting people out into the monument for both educational and economic reasons. We certainly appreciate BLM's work with the local chamber and economic leadership.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Heinrich.

Senator Daines.

STATEMENT OF HON. STEVE DAINES,
A U.S. SENATOR FROM MONTANA

Senator DAINES. Thank you, Chair Murkowski and Ranking Member Cantwell, for holding a hearing on my bill, Senate bill 3192, the Alex Diekmann Peak Designation Act.

This bill, that I introduced with my colleague, Senator Tester, as well as Representative Zinke, who introduced the House version, will name a peak in the Beaverhead Deer Lodge National Forest after Alex Diekmann. Alex was a resident of my hometown of Bozeman. Alex passed away earlier this year from cancer after spending his life work fostering meaningful conservation work, taking landowners, federal and state agencies across Montana as well as neighboring states and bringing them together.

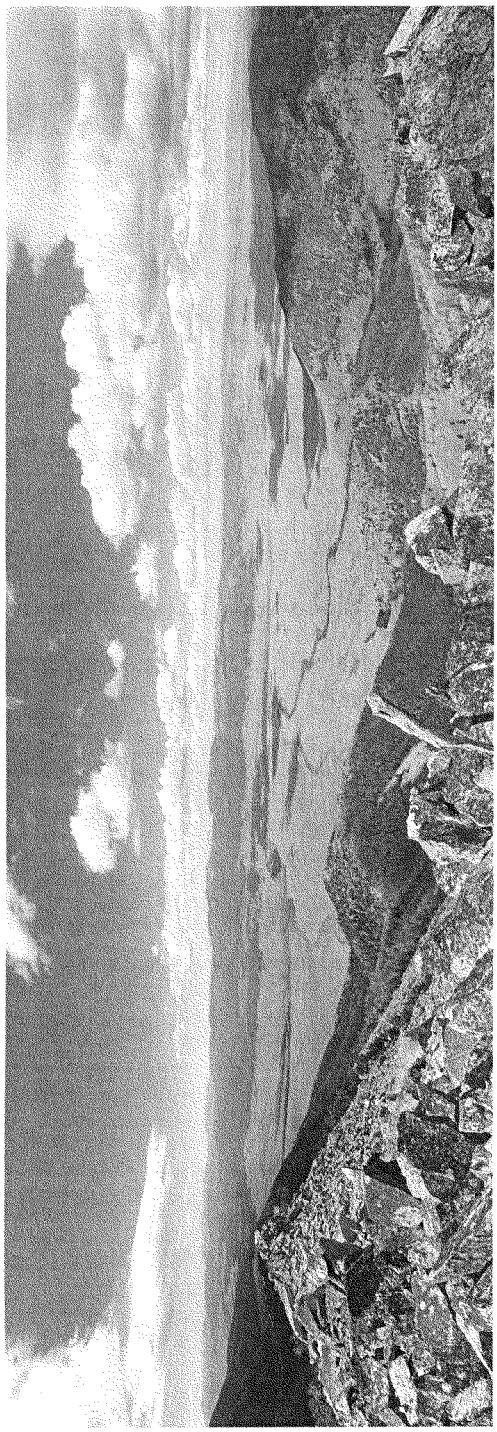
My condolences to his wife, Lisa, and his two sons, Logan and Liam. Logan is a graduate of Bozeman High School. Liam attends Bozeman High. That is also the high school that I attended.

Thank you, Ms. Weldon, for the Forest Service support for this legislation as well. I appreciate that today.

We know that in the West the land projects are not easy tasks. It takes special people to really balance the needs of landowners, of ranchers, of foresters, of local cities, of towns, county commissioners, federal and state interests, as well as allowing all these stakeholders to come together to benefit each other and to benefit our community, as well as our iconic wildlife in Montana.

What will become Alex Diekmann Peak is pictured behind me. I am getting homesick as I look behind me.

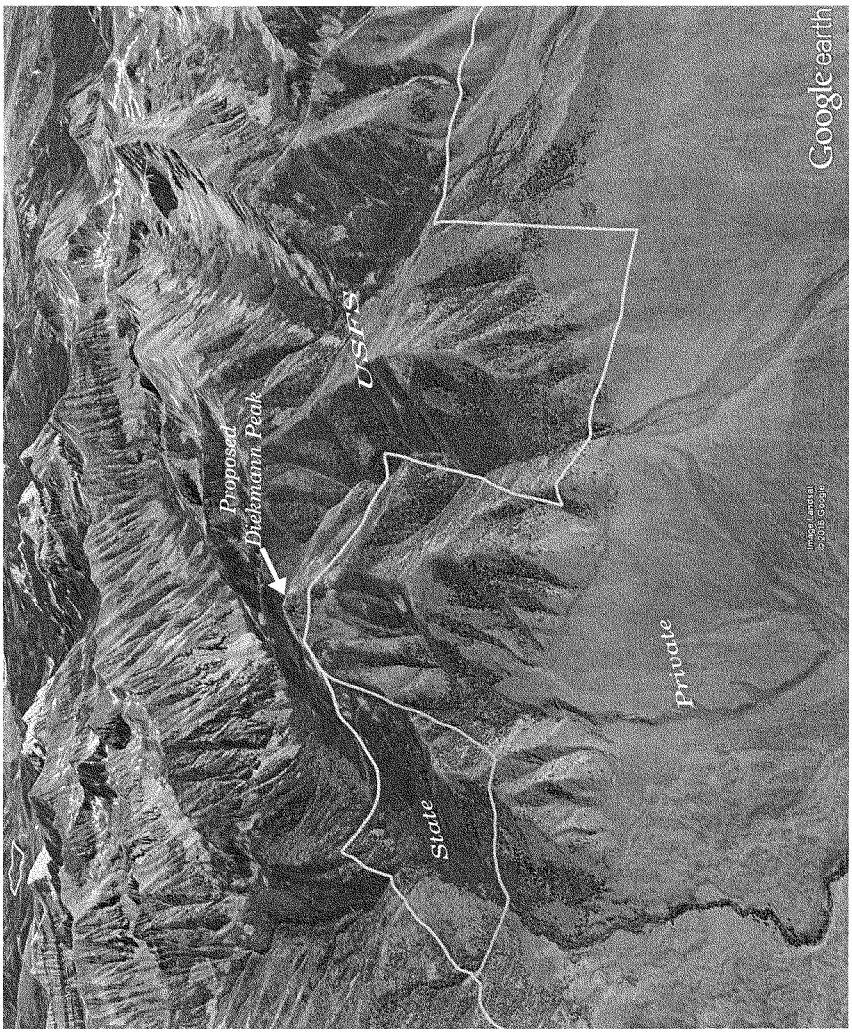
[The information referred to follows:]



Senator DAINES. One is a view looking into the Madison Valley. That is from the top of the peak. You can see the Madison Valley, in fact, the Madison River in the distance, a river I fly fished on in August and caught some great trout. It looks over a private ranch with a conservation easement that was facilitated by Alex Diekmann.

The peak abuts the national forest, federal land. It also neighbors state property.

[The information referred to follows:]


Proposed
Bielenberg Peak
USFS
State
Private
Google earth

Senator DAINES. It is a convergence of an ownership pattern that Alex was intimately familiar with and synchronized in such an amazing way.

The lines there show, you can actually see Alex Diekmann Peak. You can see state lands, private lands and national forest. In so many ways, this peak then really captures what Alex Diekmann was all about.

That is why this bill is supported from Montanans from all walks of life. Our Gallatin and Madison County Commissioners, the State of Montana, the Montana Association of Land Trust, Sportsmens groups, many more ranchers, foresters, who knew and truly loved Alex Diekmann.

I ask unanimous consent to submit my longer written statement in the record as well as letters and resolutions in support of this peak designation from our state, Madison County, where the peak is located, Gallatin County, Alex's home area, and several others from mayors, sportsmen groups and others.

The CHAIRMAN. It will be included as part of the record.

[The information referred to follows:]

Statement for the Record from Senator Daines
September 22, 2016

Thank you Chairman Murkowski and Ranking Member Cantwell for holding a hearing on my bill, S. 3192, the *Alex Diekmann Peak Designation Act*. This bill, that I introduced with my colleague Senator Jon Tester and Representative Ryan Zinke who introduced the House version, will name a peak in the Beaverhead-Deerlodge National Forest after Alex Diekmann—a resident of my hometown of Bozeman, Montana—who recently passed away from cancer after spending his life's work fostering meaningful conservation work with landowners, federal and state agencies across Montana and neighboring states. Thank you, Ms. Weldon, for the Forest Service's support for this legislation as well.

We know in the West that land projects are not easy tasks—it takes special people to really balance the needs of local landowners—ranchers and foresters—local cities and towns—county commissioners, federal and state interests, as well as allowing all these stakeholders to come together to benefit each other, the community, and our iconic wildlife in Montana. Alex Diekmann had that talent—that's why this bill is supported from Montanans from all walks of life—Gallatin and Madison County Commissioners, the state of Montana, Montana Association of Land Trusts, the Madison River Foundation, other sportsmen groups and many more ranchers, foresters who knew and loved Alex.

One of the areas where Alex spent a lot of his time—and fostered a lot of good work—is in the Madison River Valley—home to some of the best trout fishing in North America, access to some of Montana's iconic Wilderness areas for hunting, fishing, and horseback riding, and also home to many multi-generation farming and ranching families—like Granger Ranch near Ennis, Montana—where the O'Dell Creek, restored to productive wetlands from arid farmland drained in the 1950s, which helps spawn the Madison River's trout, feeds into the Madison, and where, in recent years, state fish and wildlife agencies release Trumpeter Swans into their natural habitat.

Then there's the Sun Ranch, which you can see in the photo behind me—taken looking into the Madison River Valley from what will now be Alex Diekmann Peak. This peak happens to be a point where federal land, state land, and private land with a conservation easement converge—a perfect place to recognize the complex land negotiations which Alex was so good at seeing through.

Other projects include some in the Haskill Basin—outside of Whitefish, Montana—which helps sustain a log supply to one of Montana's oldest family-owned mills, Stoltze lumber, while also protecting watersheds that supply the city of Whitefish with its water supply. There are many more projects that Alex worked on in Montana and neighboring states.

I ask unanimous consent to submit letters and resolutions of support of this peak designation from Governor Bullock of Montana, Madison County where the peak is located, Gallatin County, Alex's home area, and several others from mayors, sportsmen groups, and others.

I thank you for considering this bill, thank you for the Forest Service for your support, and I hope we can pass this bill this Congress.

OFFICE OF THE GOVERNOR
STATE OF MONTANA

STEVE BULLOCK
GOVERNOR

MIKE COONEY
LT. GOVERNOR

July 22, 2016

Senator Jon Tester	Senator Steve Daines	Congressman Ryan Zinke
311 Hart Senate Building	320 Hart Senate Building	113 Cannon House Building
Washington, DC 20510	Washington, DC 20510	Washington, DC 20515

Dear Senator Tester, Senator Daines, and Congressman Zinke:

Thank you for introducing legislation to support recognizing and remembering Alex Diekmann by designating Peak 9,765 south of Ennis, Montana, the "Alex Diekmann Peak." I urge Montana's delegation to bring Congress together in support of this proposed legislation.

Alex's long career in conservation in Montana is remarkable. His efforts were central to conserving some of Montana's greatest natural habitats and our most beautiful scenery. In fact, Alex was responsible for the conservation of more than 50 distinct areas in Montana, Wyoming, and Idaho. These efforts ensured that over 100,000 acres in the Northwest would be preserved for years to come. We can all be grateful for and proud of his many efforts to keep the Big Sky State untouched.

Alex's conservation efforts are broad – grasping areas such as Devil's Canyon in Wyoming and Idaho's Sawtooth Mountains. Not only these, but he had a significant impact on the protection of lands all across the Treasure State. He contributed to critical river access in Glacier National Park and he pioneered recreational trails and clean drinking water supply for the city of Whitefish.

The life of Alex Diekmann leaves a lasting legacy for our state and country, and will benefit all Americans for generations to come. It is my great pleasure to support recognizing Alex and his legacy by dedicating Peak 9,765 south of Ennis, Montana as "Alex Diekmann Peak." I appreciate your efforts to provide this recognition and my office is available should it be needed.

Sincerely,

STEVE BULLOCK
Governor

STATE CAPITOL • P.O. BOX 200801 • HELENA, MONTANA 59620-0801
TELEPHONE: 406-444-3111 • FAX: 406-444-5529 • WEBSITE: WWW.MT.GOV

affta

AMERICAN FLY FISHING TRADE ASSOCIATION

June 22, 2016

The Honorable Steve Daines
U.S. Senate
320 Hart Senate Office Building
Washington, DC 20510

Dear Senator Daines,

This past February, the conservation world lost a true champion to a long and heroic battle with cancer. Alex Diekmann's life was unfortunately shortened by cancer, but his legacy of protecting and preserving some of Montana's iconic and pristine landscapes will go-on, forever. Alex worked tirelessly to guarantee permanent conservation and public access to an array of landscapes across the west, but Montana was his home and without a doubt some of his most successful efforts were realized in the Madison Valley. As such, it would only be fitting that an unnamed peak in the Madison Range be designated as Alex Diekmann Peak. Alex's conservation and public-benefit achievements are directly tied to the currently unnamed peak, which shadows the Sun Ranch and the Madison River. I stongly urge you to support any efforts to honor Alex with the naming of Alex Diekmann Peak.

Sincerely,

Benjamin Bulis
AFFTA President and CEO

P.O. Box 158 • Whitefish, MT 59937 • (406) 863-2400 • Fax: (406) 863-2419

June 14, 2016

The Honorable Steve Daines
U.S. Senate
320 Hart Senate Office Building
Washington, D.C. 20510

Subject: Designation of Alex Diekmann Peak in Montana
Letter of Support from the City of Whitefish, Montana

Dear Honorable Steve Daines:

It is with great enthusiasm that I write to ask for your support in designating Peak 9,765, located south of Ennis, Montana, as "Alex Diekmann Peak". Prior to his passing on February 1, 2016, I had the pleasure of working closely with Alex on a 3,020 acre conservation easement located near the City of Whitefish, Montana. This landmark project, which Alex orchestrated, permanently protected the City's water supply while maintaining public access to recreational lands. Alex's tenacity, leadership, and vision are the reasons why this important project came to fruition for our community, and I cannot think of a more appropriate way to honor Alex than to advance legislation to recognize his legacy through the naming of Alex Diekmann Peak.

Over the course of Alex's renowned public-interest career, and before losing a heroic battle with cancer, he was responsible for the conservation of more than 50 distinct areas in Montana, Wyoming, and Idaho, and securing for the future over 100,000 acres of iconic mountains and valleys, river, ranches, and farms, and historic sites and open spaces.

Alex was a dear friend, colleague, and mentor. He is deserving of this recognition, and I urge Congress to recognize his abiding impact on our western landscapes in a formal and lasting way.

Sincerely,

City of Whitefish

John M. Muhlfeld
Mayor

GALLATIN COUNTY

311 West Main, Rm. 306 • Bozeman, MT 59715
commission@gallatin.mt.gov

County Commission

Joe P. Skinner
Steve White
Donald F. Seifert

Phone (406) 582-3000
FAX (406) 582-3003

June 21, 2016

The Honorable Steve Daines
U.S. Senate
320 Hart Senate Office Building
Washington, DC 20510

RE: Naming of Peak in Madison Range

Dear Senator Daines:

Please accept this letter of recommendation for the naming of a peak in the Madison Range south of Ennis, Montana, currently known by its elevation of 9,765 feet, Alex Diekmann Peak. The peak is approximately 7 miles from the Madison River, and straddles private land on the west side and public land on the east side.

Alex Diekmann worked tirelessly in Gallatin County and other areas across the States of Montana, Wyoming and Idaho to conserve over 100,000 acres of land in an effort to preserve our fish and wildlife resources, outdoor recreation lands and the beautiful landscapes we all enjoy. This significant impact in the area of conservation is one worthy of this recognition in a formal and lasting way.

Alex was truly gifted in this area. His community spirit, skills and commitment to conservation was unmatched. His desire to secure the future of the mountains, valleys, rivers, creeks, ranches, farms, historic sites and open spaces resulted in repeated success despite many odds along the way. Alex was instrumental in the passage of two ten-million-dollar Open Space bonds passing in Gallatin County which allowed for significant conservation efforts in our valley.

In addition to the conservation of thousands of acres within the Gallatin Valley, Alex also aided in the conservation of the spectacular Devil's Canyon in Wyoming's Craig Thomas Special Management Area, crucial fish and wildlife habitat and recreation access lands in Idaho's Sawtooth Mountains, along the Salmon River, and the Canadian Border; and vitally important and diverse lands across the Crown of the Continent in Montana, including key areas like Taylor Fork within the Greater Yellowstone Ecosystem; critical river access and history at Glacier National Park; essential wildlife corridors in the Cabinet-Yaak Ecosystem; recreational trails and critical drinking water supply for the City of Whitefish; and beyond.

Alex Diekmann's life and work leaves a lasting legacy that honors the traditions and the future of our state and will benefit all Americans for the generations to come. We urge you to work diligently to advance legislation to recognize that legacy through the naming of Alex Diekmann Peak.

Thank you for your positive consideration of this request.

Sincerely,

GALLATIN COUNTY COMMISSION

Joe P. Skinner, Chairman

R. Stephen White, Member

Donald F. Seifert, Member

MADISON COUNTY BOARD OF COMMISSIONERS

Commissioners

David Schulz
Ronald E. Nye
James P. Hart

P.O. BOX 278
VIRGINIA CITY, MT 59755
e-mail: madco@madison.mt.gov
www.madison.mt.gov

Phone: (406)843-4277
Fax: (406) 843-5517

April 25, 2016

The Honorable Steve Daines
U.S. Senate
320 Hart Senate Office Building
Washington, DC 20510

Dear Senator Daines:

Recently, the Madison County Commission was made aware of a request to give name to a peak in the Madison Range south of Ennis, Montana. The proposed Alex Diekmann Peak (currently known only by its elevation of 9,765 feet) is about 7 miles from the Madison River, straddling private land on the west side and public land on the east side. The peak's western face sits within the Sun Ranch, and the top of the peak and eastern face are within the Lee Metcalf Wilderness Area. The creek cut valley to the north is known as Wolf Creek, and winds around the back of the proposed Alex Diekmann Peak. Once likely a great U-shaped valley it is now transformed into a stream-eroded v-cut. The relatively low-lying and undulating mounds are terminal moraines from the latest glacial activity tens of thousands of years ago. The view from the top of the peak extends through the Madison Valley to Ennis, the Tobacco Roots further north, plus the Centennial Mountain Range to the south.

Various reasons make this request one of value.

- Along with other Montanans who care deeply about our state's incomparable natural resource areas, we want to note our profound gratitude to Alex Diekmann — whose remarkable efforts were central to conserving some of the most significant and spectacular scenery, outdoor recreation lands, and fish and wildlife resources in Montana and throughout the Northern Rockies — and to urge Congress to recognize his abiding impact on our landscape in a formal and lasting way.

- Over the course of his renowned public-interest career, before losing a heroic battle with cancer earlier this year, Alex Diekmann was responsible for the conservation of more than 50 distinct areas in Montana, Wyoming, and Idaho, securing for the future over 100,000 acres of iconic mountains and valleys, rivers and creeks, ranches and farms, and historic sites and open spaces. Alex possessed a truly unique set of gifts, and without his community spirit, tremendous skills, and conservation commitment, many of these places surely would have been lost.

- Among the dazzling array of special landscapes that will endure thanks to Alex's efforts are the spectacular Devil's Canyon in Wyoming's Craig Thomas Special Management Area; crucial fish and wildlife habitat and recreation access lands in Idaho's Sawtooth Mountains, along the Salmon River, and near the Canadian border; and particularly extensive, diverse, and vitally important lands all across the Crown of the Continent in Montana, including key areas like Taylor Fork within the Greater Yellowstone Ecosystem; critical river access and history at Glacier National Park; essential wildlife corridors in the Cabinet-Yaak Ecosystem; recreational trails and critical drinking water supply for the City of Whitefish; and well beyond. [**NOTE**: supporters should recognize Alex's broad array of conservation success but should focus especially on his impact on their own geography and/or resources.]

- Given the permanent, positive mark Alex Diekmann made all across the map, and especially given his extensive, successful efforts to guarantee permanent conservation of and public access to the natural wonders in and near the Madison Valley and the Madison Range, we strongly support the proposal to dedicate a currently unnamed mountain (known as Peak 9,765) south of Ennis as Alex Diekmann Peak. Alex's public-benefit achievements were directly tied to this landscape, so enacting legislation to name this particular geographic feature would be an extremely fitting tribute to his memory and the contributions he made to us all.

- Alex Diekmann's life and work leaves a lasting legacy that honors the traditions and the future of our state and will benefit all Americans for the generations to come. We hope you will do what you can to advance legislation to recognize that legacy through the naming of Alex Diekmann Peak.

During our regular meeting of April 25, 2016, the Commission made and passed a motion to support this request. Your consideration and approval of the request is greatly appreciated by the Madison County Board of Commissioners and many others in the Madison Valley and Madison County who feel this to be an appropriate way to honor the life of Alex Deikmann.

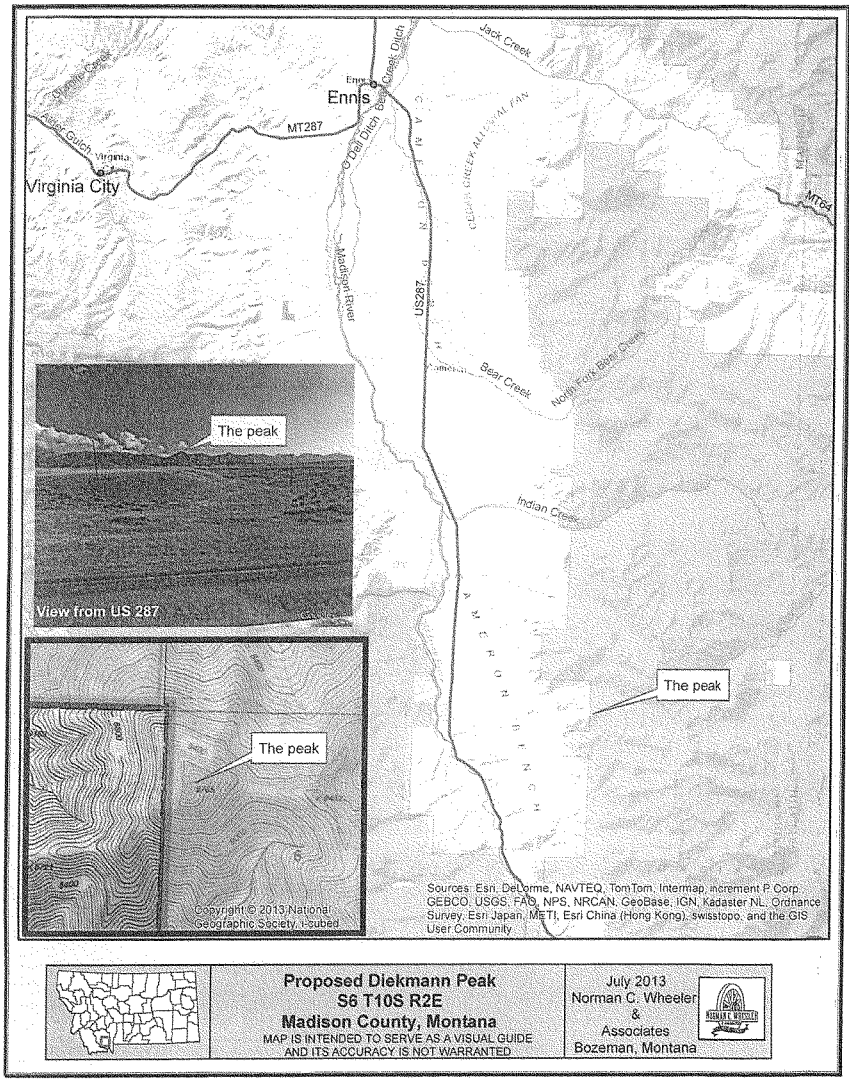
Sincerely,

David Schulz, Chairman
Board of Commissioners
Madison County

Ronald E. Nye

James P. Hart




Ennis
Virginia City
MT287
US287
Jack Creek
Bear Creek
Indian Creek
Madison River
The peak
View from US 287
The peak
The peak
Sources: Esri, DeLorme, NAVTEQ, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, and the GIS User Community
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Proposed Diekmann Peak
S6 T10S R2E
Madison County, Montana
MAP IS INTENDED TO SERVE AS A VISUAL GUIDE AND ITS ACCURACY IS NOT WARRANTED
July 2013
Norman C. Wheeler & Associates
Bozeman, Montana

MADISON RIVER
-FOUNDATION-

PO BOX 1527 · ENNIS, MT 59729 · 406.682.3148
mrfinfo@3rivers.net · www.madisonriverfoundation.org

April 26, 2016

The Honorable Steve Daines
U.S. Senate
320 Hart Senate Office Building
Washington, DC 20510

Dear Senator Daines,

The Madison River Foundation strongly supports the proposal to dedicate a currently unnamed mountain, Peak 9765 in the Madison Range, as Alex Diekmann Peak. The Madison Valley will remain an important wildlife corridor and the Madison River is ensured clean, cool water due to Alex's conservation efforts.

The impact of Alex's work here in the Madison Valley is immeasurable. He worked to ensure four miles of public access at the Madison River's Three Dollar Bridge. His easement on O'Dell Creek helped to transform a degraded landscape into a jewel of Madison County. This wetland restoration continues to serve as a model today. Alex's work has resulted in protections on 6 ranches in Madison County comprising 23,000 acres. All of this work provides open lands for wildlife, water resources, and ourselves.

There are countless other accomplishments that Alex Diekmann is directly responsible for in other areas – Devil's Canyon in Wyoming, Idaho's Sawtooth Mountains, the Greater Yellowstone Ecosystem and Glacier National Park. Over 100,000 acres of the Northern Rockies is secure for the future because of Alex's tireless efforts.

Alex Diekmann's life and work leaves a lasting legacy that will benefit all Montanans for generations to come. His community spirit allowed him to secure partnerships which funded essential conservation easements. These easements guarantee our spectacular scenery and wildlife resources will remain untouched for generations to come. Alex did this for the greater good, not for self-promotion.

The Madison River Foundation will honor Alex Diekmann posthumously with our 'Friend of the Madison' award this summer. Naming a peak in the Madison Range as Alex Diekmann Peak will honor Alex's legacy forever. The permanence of naming a mountain in Alex's name will be an extremely fitting tribute to a man who has made such an impact on our landscape.

Sincerely yours,

Liz Davis
Executive Director

MONTANA ASSOCIATION OF LAND TRUSTS

P.O. Box 892, Helena MT 59624
Glenn Marx, Executive Director 490-1659
Email: montanamalt@q.com
Website: montanalandtrusts.org

MALT MEMBERS

Bitter Root Land Trust, Hamilton

Kaniksu Land Trust, Sand Point, ID

The Conservation Fund, Missoula

Five Valleys Land Trust, Missoula

Flathead Land Trust, Kalispell

Gallatin Valley Land Trust, Bozeman

Montana Land Reliance, Helena

The Nature Conservancy, Helena

Prickly Pear Land Trust, Helena

Rocky Mountain Elk Foundation, Missoula

The Trust for Public Land, Bozeman

Vital Ground Foundation, Missoula

AFFILIATE MEMBERS

Missoula County Community and Planning Services

Plum Creek Timber Company

Ducks Unlimited

June 6, 2016

The membership of the Montana Association of Land Trusts is united and unanimous in its full support of a proposal to name an unnamed mountain peak in the Madison Range after Alex Diekmann, a revered and respected member of our private land conservation family.

Alex passed away on Feb. 1, 2016, but his legacy will endure forever. His dedication to Montana conservation, his genius for complex conservation transactions, and his sheer determination to successfully complete those transactions enabled him to accomplish legendary conservation that will benefit Montanans for generations.

Conservation of wildlife habitat and expansion of recreational access at Taylor Fork in the Gallatin Valley, protection of a municipal water supply and support of forest health at Haskill Basin in the Flathead Valley, and restoration and enhancement of O'Dell Creek in the Madison Valley represent the best of Montana collaborative and community conservation. Alex Diekmann's poise, professionalism and passion were essential in each one.

Alex was a transactional genius. He was masterful at merging complex programs, funding sources, partnerships and projects into a seamless package that accomplished nothing short of miraculous results. He could have put that genius to work for a financial institution or business clients. Instead he put that genius to work for Montana and Montanans, for our landscape and our Montana mystique, and to inspire his contemporary peers and future conservationists to care for this special place called Montana.

The entire membership of the Montana Association of Land Trusts fully endorses – and lends its full support to – the proposal to give one of the Madison Mountain Range's majestic peaks the honorable name of Alex Diekmann Peak. It is wholly appropriate that Montana salutes the incredible work of Alex Diekmann by naming a peak in his honor that can be viewed – with awe – from the restored banks of O'Dell Creek.

Alex was not only a special member of the land trust family, he was a treasured resource for all Montanans, and he richly deserves the incredible and respectful honor of Alex Diekmann Peak.

We, the Montana Association of Land Trusts, stand ready to assist any and all efforts in support of the congressional legislation to create Alex Diekmann Peak. We also stand ready to assist any and all Montana collaborative efforts to generate awareness for and support of this proposal.

Thank you for supporting this proposed legislation and joining the broad coalition in recognizing the accomplishments of a man who literally changed the Montana map in compelling and wonderful ways that will benefit Montana as long as Montanans revere the beauty of Alex Diekmann Peak.

Sincerely,

Gavin Ricklefs,
Bitter Root Land Trust
Montana Association of Land Trusts Board President

Gates Watson,
The Conservation Fund
Montana Association of Land Trusts Board Member

Rock Ringling,
The Montana Land Reliance
Montana Association of Land Trusts Board Member

Penelope Pierce,
Gallatin Valley Land Trust
Montana Association of Land Trusts Board Member

Mary Hollow,
Prickly Pear Land Trust
Montana Association of Land Trusts Board Member

Dick Dolan,
The Trust for Public Land

Eric Grace,
Kaniksu Land Trust

Richard Jeo,
The Nature Conservancy

Ryan Lutey,
The Vital Ground Foundation

Paul Travis,
Flathead Land Trust

Grant Kier,
Five Valleys Land Trust

Mike Mueller,
Rocky Mountain Elk Foundation_

Montana
Fish & Wildlife Commission

Steve Bullock, Governor

Dan Vermillion, Chairman
PO Box 668
Livingston, MT 59047
406-222-0624
District 2

Gary J. Wolfe
4722 Aspen Drive
Missoula, MT 59802
406-493-9189
District 1

Richard Stuker
1155 Boldt Road
Chinook, MT 59523
406-357-3495
District 3

Richard Kerstein
Box 685
Scobey, MT 59263
406-783-8564
District 4

Matthew Tourtlotte
940 Blonco Circle
Billings, MT 59105
406-698-9696
District 5

M. Jeff Hagener, Director
MT Fish, Wildlife & Parks
1420 East Sixth Avenue
PO Box 200701
Helena, MT 59620-0701
406-444-3186
(Fax)406-444-4952

Look for the Montana
Fish & Wildlife Commission
web page at
fwp.mt.gov

Montana Fish, Wildlife & Parks

June 9, 2016

The Honorable Jon Tester
311 Hart Senate Building
Washington, D.C. 20510

The Honorable Steve Daines
320 Hart Senate Building
Washington, D.C. 20510

The Honorable Ryan Zinke
113 Cannon House Building
Washington, D.C. 20515

RE: Letter of Support of the Naming of Alex Diekman Peak in Montana's Madison Valley.

Dear Senator Tester, Senator Daines and Congressman Zinke:

We are writing as Montana's Fish and Wildlife Commission to support the Montana based effort to name an **unnamed** peak in Montana's Madison Range after the late Montana conservationist, Alex Diekman. Alex passed away this past February after a courageous battle with cancer, throughout which he continued to build broad-based coalitions to help conserve some of the most special Montana landscapes for future generations of Montanans and Americans.

Alex Diekman was endowed with special qualities of personal character and natural leadership, and was a long-standing member of the conservation community with a kind heart and sound judgment that caused his fellow Montanans to seek him out as a leader of their choice for their conservation advocacy. As an employee of the Trust for Public Lands, Alex Diekman accomplished conservation successes in Montana such as the Three Dollar Bridge project in the Madison Valley, the O'dell Spring Creek restoration project in the Madison Valley, and 53 other conservation projects across Montana and the West that protected over 150,000 acres private and public lands for future generations.

In his final project, Alex Diekman, despite his courageous and painful battle with cancer, continued to work to complete the protection of 23,000 acres of forest land surrounding Whitefish, Montana. This project safeguards the drinking water for the residents of Whitefish, Montana, supports sustainable timber management for the region, and provides public recreational access to the visitors of the Whitefish community.

Alex Diekman cared deeply about the public good, effective in his efforts to build consensus, committed in his service, thoughtful in his approach, and committed to insuring a future for Montana's fish, wildlife, and landscapes. One of Alex Diekman's highest priorities was to build the coalitions of diverse stakeholders to support conservation of Montana's wild places and to insure that conservation efforts worked for all members of the Montana community.

Given the permanent, positive mark Alex Diekman made all across the map, and especially given his extensive, successful efforts to guarantee permanent conservation of and public access to the natural wonders in and near the Madison Valley and the Madison Range, we strongly support the proposal to dedicate a currently **unnamed** mountain (known as Peak 9,765) south of Ennis as Alex Diekman Peak. Alex's public-benefit achievements were directly tied to this landscape, so enacting legislation to name this particular geographic feature would be an extremely fitting tribute to his memory and the contributions he made to us all.

Alex Diekman's life and work leaves a lasting legacy that honors the traditions and the future of our state and will benefit all Americans for the generations to come. We hope you will do what you can to advance legislation to recognize that legacy through the naming of Alex Diekman Peak.

Dan Vermillion, Chairman
Montana Fish and Wildlife Commission



September 20, 2016

The Honorable Steve Daines
320 Hart Senate Office Building
Washington, DC 20510

Sent via email to: meghan_marino@daines.senate.gov

Dear Senator Daines,

As Chairman of The Western Landowners Alliance (WLA) I am writing to thank you for your efforts regarding the naming of Alex Diekmann Peak in Montana's Madison Valley and also to offer WLA's voice and support to accomplishing this worthy task through enactment of the Alex Diekmann Peak Designation Act (S. 3192 and H.R. 5778).

WLA represents landowners, ranchers and managers from across the western United States and is dedicated to sustaining working lands, open space, rural communities, and ecologically sound landscapes that maintain important habitats and species.

Alex Diekmann's life and career stand as a testament to what can be accomplished when we work together, find common ground and dedicate ourselves to the conservation of lands and resources important to us all. Working as a Senior Project Manager for the Trust for Public Land, Alex was responsible for the protection of 50 distinct areas in Montana, Wyoming and Idaho, conserving for the public 100,000 acres of iconic mountains, river valleys, wetlands and creeks, ranches, farms and historic sites. These include Wyoming's Devil's Canyon, crucial fish and wildlife habitat in Idaho's Sawtooth Mountains and vitally important lands across the Crown of the Continent in Montana where Alex's legacy includes important conservation efforts from the Greater Yellowstone Ecosystem to Glacier National Park. The special character and public recreation opportunities these protected places offer will remain intact, today and for generations to come, thanks to Alex Diekmann's unique talents, spirit, and committed efforts in the public interest.

It would be a fitting tribute for Alex Diekmann Peak to loom over The Madison Valley where Alex had such a significant impact. There he helped to protect 30,000 acres of working ranchland and all the vital habitat and water resources they encompass. Alex's role in the remarkable protection of the Madison River's Three Dollar Bridge Fishing Area and its connection to the Lee Metcalf Wilderness via an easement through private land was immeasurable. Even in failing health, Alex remained dedicated to and engaged in The Madison Valley as an integral part of the team restoring O'Dell Spring

505 466 1495 PO Box 6278, Santa Fe, NM 87502 info@**westernlandownersalliance.org**

Creek and its associated wetlands. This project continues to this day and is seen as a national model for conservation via public private partnerships.

Alex inspired everyone fortunate enough to know and work with him with his skill, passion, kind nature and dedication. The Western Landowners Alliance views Alex's legacy as a path that should be followed, and believes that recognizing his life and accomplishments by naming a mountain peak in his honor would be a long lasting reminder of both his accomplishments and the importance of collaboration to preserve the treasures entrusted to us for future generations. Accordingly, WLA enthusiastically supports swift passage of this important legislation.

Sincerely,

Jeffrey A. Laszlo
Chairman

505 466 1495 PO Box 6278, Santa Fe, NM 87502 info@**westernlandownersalliance.org**

THE TRUST FOR PUBLIC LAND

Northern Rockies
1007 E. Main St
Suite 300
Bozeman, MT
59715
t: 406 522 7450
f: 406 522 7453
tpl.org

June 13, 2016

The Honorable Jon Tester
U.S. Senate
Washington, DC 20510

The Honorable Steve Daines
U.S. Senate
Washington, DC 20510

The Honorable Ryan Zinke
U.S. House of Representatives
Washington, DC 20515

Dear Senator Tester, Senator Daines and Congressman Zinke:

On behalf of the Northern Rockies Advisory Board and Staff of The Trust for Public Land, we write to urge your strong support and leadership in the effort to re-name Madison Valley Peak 9,765 in honor of our dear friend and colleague, Alex Diekmann.

Alex was dedicated, inspired, and determined in his protection of Montana's quintessential landscapes. This particular peak, overlooking the Sun Ranch - which Alex helped to protect -- and his beloved Madison River, is a fitting tribute to Alex's conservation legacy. Over almost two decades, Alex's project portfolio grew to include over 100,000 acres of our mountains, river valleys, ranches, and open spaces protected forever. He was a deal genius, creating win-wins for landowners, community partners, and irreplaceable landscapes.

We stand ready to work with you to advance legislation to name the Alex Diekmann Peak, so that present and future generations of Montanans can honor and be inspired by Alex's great works.

Sincerely,

Robert Stephens, Chair
Northern Rockies Advisory Board

Dick Dolan, Director
Northern Rockies Office

Senator DAINES. Thank you, Madam Chair.

I would like to commend Chair Murkowski and Ranking Member Cantwell for considering a series of bills here today dealing with the Antiquities Act.

Director Kornze, many Montanans will be concerned about any national monument unilaterally created by the Obama Administration in my home state without input from local community and our state.

Before my time here in Congress, President Obama and the Department of the Interior proposed designating the Northern Prairies as a national monument, which is land across what we Montanan's call our high line. This would have been a unilateral decision done without Congressional approval and most importantly, done without including our farmers, our ranchers, our county commissioners, our local sportsmen, the Montanans who are most affected by this decision as part of that process.

Any bill which has a potential to impact land management must be locally driven and not just spearheaded here in Washington. I can tell you that is how we do business in Montana, and that is how we bring people together versus polarizing them.

Director Kornze, what is the Administration's process for getting local land users and local governments on board with Antiquities Act designations?

Mr. KORNZE. Well the Administration, you know, listens to communities. We listen to many stakeholders, you know, all Americans own our public lands. It's one of the great virtues of this country.

And so, we take feedback from people all the time on all sorts of different ideas. And so, we take that outreach. We visit with people. We go to the ground. We've been to many places around the country where people have asked us to visit, to hear first-hand and to see resources.

Senator DAINES. Regarding that input, is that a statutory authority to get the input from local governments and land——

Mr. KORNZE. Statutory authority?

I'm not sure, I mean, the President has the power to use the Antiquities Act. It is his alone.

Senator DAINES. It is. But is there any statutory authority that would say we probably ought to have the county commissioners, local sportsmen groups, conservation groups, be a part of that process?

Mr. KORNZE. I'm not aware of a structure similar to that.

Senator DAINES. My point here, if the Administration is already consulting with local governments and states, would you support legislation to require state or government approval?

Mr. KORNZE. I'm not in a position to suggest any limitations on the President's powers.

Senator DAINES. Well, you are representing the Department of the Interior here today and the Park Service is in charge of managing most national monuments. Why wouldn't you want to see the local governments and the local groups there be a part of that approval process, particularly the state and local government?

Mr. KORNZE. I think we have had very successful engagement with communities. I think things have been done well with some of the monuments that have been created during this Administra-

tion. And we have, you have seen a commitment from Secretary Jewell, from Secretary Vilsack, to have real public engagement.

Senator DAINES. Yes.

Mr. KORNZE. So.

Senator DAINES. I would just respectfully disagree. I would be happy to bring you back to Montana. You might hear a little different view of your assessments being done well and opportunities to improve that process.

Mr. KORNZE. So, is there a designation in Montana that you're talking about?

Senator DAINES. There is this, this goes back to that high line designation that I referred to that stirred up a lot of concern and consternation and they felt like——

Mr. KORNZE. I've not heard of that one before.

Senator DAINES. Okay, I would be happy to chat more with you about that, but I know I am out of time.

This is just a concern, and I will just say Alex Diekmann was one who brought people together.

Mr. KORNZE. Yes.

Senator DAINES. As we say in Montana, we are a blend of Merle Haggard and John Denver, and we would like to bring those two melodies together——

Mr. KORNZE. Do they really say that?

Senator DAINES. Come back and I will show you that.

Mr. KORNZE. That would be great.

Senator DAINES. Montana.

But anyway, I am out of time, and thanks for your time here, Director Kornze.

The CHAIRMAN. Thank you, Senator Daines.

Senator Wyden.

Senator WYDEN. Thank you, Madam Chair.

Senator Daines is a good friend. I am not going to try singing to try the fact that he has made a very good analogy. [Laughter.]

Madam Chair, my thanks to you and to Senator Cantwell for including our bill, the Southwest Oregon Watershed and Salmon Protection Act, this morning.

Mr. Kornze, Ms. Weldon, it is great to see you both here. We have worked often with you and know of your good work.

I want to talk briefly about the Southwest Oregon Watershed and Salmon Protection Act. The land surrounding Rough and Ready Baldface Creeks have some of the most exceptional, ecological values in Oregon. The streams are not only vitally important, the salmon runs, but they provide the drinking water supply for several nearby communities. Keeping the area free from new mining is essential to ensuring clean water, healthy habitats and ecosystems and the protection of valued recreation areas.

What we are talking about, Mr. Kornze and I have had lots of conversations on this topic over the years because there is always confusion. We are talking about limits on new mining. We are not talking about affecting existing, valid rights.

I know that when you get into these kinds of issues in our part of the world, as we have seen so often, stuff sort of gets lost in the translation. But we are talking about nothing that would affect existing, valid rights.

We have been working on this legislation, practically since the days when I had a full head of hair and rugged good looks. I mean, we have been trying to protect this landscape from mining since the 1990s.

Over the years public opposition to this kind of strip mining has really grown tremendously and the withdrawal now has the overwhelming support from the local communities interested in protecting the lands and the rivers they love.

To their credit, the Administration has recognized the significance of the area. We are pleased that the Bureau of Land Management is moving forward with an administrative withdrawal of this exceptional area.

I would just make one request. Ms. Weldon, I guess I am going to spare you this morning. You and I have had lots of questions over the years here in this room.

Just one point for you to take away, Director Kornze. I know the agency, the BLM, and the Forest Service have been working together on that five-year administrative mineral withdrawal. I will tell you that 600 plus comments that we heard at our public hearings, at your public hearings, virtually everyone asked for a twenty-year or a permanent withdrawal.

So my request is, and as I say, I appreciate the Chair's courtesy here, I hope that you all will consider what the folks said, overwhelmingly, at these community meetings. If you want to you can just respond in writing and give us a sense of process.

[The information referred to was not received as of the time of printing.]

Senator WYDEN. But Director Kornze, we have worked closely with you for many years. We appreciate your professionalism.

Ms. Weldon, you as well, and thank you for the good work you are doing.

As my Western colleagues know, we have got only Westerners in the room. How fitting. Public lands issues in the West are not for the faint-hearted. These are issues that generate a great deal of passion, and we appreciate your professionalism and look forward to working with you.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Wyden.

Senator Gardner.

Senator GARDNER. Thank you, Madam Chair.

Thank you, Director Kornze and Deputy Chief Weldon, for being here this morning.

Again, thank you Chairman, for putting S. 3312 on the agenda this morning, the Responsible Disposal Reauthorization Act. I do have several letters of support that I would ask unanimous consent be put into the record.

One is from the Colorado Department of Public Health and Environment supporting the extension of the reauthorization of this uranium mill tailings disposal site. This is a site that is responsible for taking care of mill tailings that were used in road construction projects during the height of the Cold War from Colorado as well as from Utah and Arizona. I believe, Senator Lee, it is Monticello, not Montichello, Utah that receives some of these tailings from and this would extend it to 2048.

The second letter would be from the Mesa County Commissioners and thank you for that.

[The information referred to follows:]

COLORADO
Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

The Honorable Lisa Murkowski
Chairman
Energy and Natural Resources Committee
304 Dirksen Senate Building
Washington, DC 20510

The Honorable Maria Cantwell
Ranking Member
Energy and Natural Resources Committee
304 Dirksen Senate Building
Washington, DC 20510

September 20, 2016

Re: Support for the Responsible Disposal Reauthorization Act of 2016 (extending the authorization of the Grand Junction disposal cell (also known as the Cheney disposal cell) in Mesa County, Colorado)

Dear Senator Murkowski and Senator Cantwell:

The Colorado Department of Public Health and Environment supports the Responsible Disposal Reauthorization Act of 2016, which extends the authorization of the Cheney disposal cell outside of Grand Junction, in Mesa County, Colorado until September 30, 2048.

The disposal cell currently receives uranium mill tailings waste from mill sites and vicinity properties located in Colorado. Each year approximately 2700 cubic yards of uranium mill tailings are deposited in the disposal cell. Given that this is the only Department of Energy uranium mill tailings disposal site left in the country, it is critical that this facility remains open to receive and dispose of the uranium mill tailings that are discovered in our communities. This action will ensure the continued protection of human health and the environment.

Thank you for this opportunity to comment and voice our support for this important legislation.

Sincerely,

Larry Wolk, MD, MSPH
Executive Director and Chief Medical Officer
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246

MESA COUNTY
COLORADO
BOARD OF COUNTY COMMISSIONERS
District 1 - John Justman 970-244-1605
District 2 - Scott McInnis 970-244-1604
District 3 - Rose Pugliese 970-244-1606

P.O. Box 20,000 544 Rood Avenue Grand Junction, Colorado 81502-5010 mcbocc@mesacounty.us Fax (970) 244-1639

September 19, 2016

Senator Cory Gardner
United States Senate
400 Rood Ave., Federal
Building Ste. 220
Grand Junction, Colorado 81501

Re: Extending the authorization of the Mesa County Uranium Mill Tailings disposal site (Cheney Repository) in Mesa County

Dear Senator Gardner:

The Mesa County Board of Commissioners ("BOCC") supports the proposal to extend the authorization of the Mesa County Uranium Mill Tailings disposal site until September 30, 2048.

The site provides a place to properly control and dispose of residual radioactive material from inactive uranium processing sites so as to protect the public health, safety and welfare from the potential harmful effects of such materials. The continued operation of this site is important as we continue to have a need to dispose of these materials as they are identified in the community as part of building activities.

The BOCC has a Memorandum of Understanding with the United States Department of Energy that formalizes the protocol for the Department of Energy to provide meaningful consultation with and participation of the County in the Department's utilization of the Cheney Repository.

We thank you for this opportunity to comment.

Sincerely,

Rose Pugliese, Chair
Board of County Commissioners

John Justman
Commissioner

Scott McInnis
Commissioner

Senator GARDNER. I would also ask for permission to insert two newspaper articles to the record as well.

[The information referred to follows:]

Tipton wants to extend life of radioactive waste disposal site

By Gary Harmon

Friday, September 16, 2016

The U.S. Department of Energy's Grand Junction Disposal Cell near Whitewater would continue accepting low-level radioactive waste until 2048, under legislation proposed by U.S. Rep. Scott Tipton, R-Colo.

The Mesa County Commission on Monday is scheduled to consider a resolution of support for Tipton's measure.

The site is scheduled to close in 2023, but public health officials sought help to keep it open to accept uranium mill tailings from other Colorado sites in which uranium mills operated during the Cold War.

The Grand Junction site "is the only cell still open and receiving waste from the ongoing cleanup of uranium mill tailings," said April Gil, a manager at the Grand Junction office of the Energy Department, adding that legislation "is important to ensure the continued safe disposal of the waste."

Most of those sites have already been cleaned up, "but from time to time mill tailings will be uncovered during road construction and redevelopment programs," Tipton said in a statement. "The repository in Grand Junction is the only DOE facility authorized to accept these mill tailings once they are discovered."

The Energy Department completed what was known as the vicinity-property cleanup of structures contaminated with tailings in 1998, but the agency kept the disposal site open for material from other sites.

The Grand Junction cell receives approximately 2,700 cubic yards of waste annually from Grand Junction and Durango, as well as Monticello, Utah, and Tuba City, Arizona.

The cell was constructed in 1990 and now contains nearly 4.5 million cubic yards of the tailings, a low-level radioactive material that had been used in the construction of buildings, sidewalks, pipes and several other structures, including children's play areas.

The cell has room for 235,000 cubic yards of waste.

The material was a fine sand left over from the process of milling uranium into yellowcake.

The disposal cell was built on an areas known as Cheney Reservoir, named for a Whitewater-area rancher and not for Richard B. Cheney, who was elected vice president in 2000.

There is no public access to the site about 18 miles southeast of Grand Junction.

County backs keeping tailings dump site open

By Gary Harmon

Monday, September 19, 2016

Identical measures to extend the life of the Grand Junction Disposal Cell for low-level radioactive wastes are now before Congress, both with the support of the Mesa County Commission.

The commission on Monday approved letters of support for a measure carried by U.S. Rep. Scott Tipton and a companion bill by U.S. Sen. Cory Gardner, both Colorado Republicans.

The measures would extend until 2048 the ability of the U.S. Department of Energy to operate the cell, which was constructed in 1990 to contain the material collected during a cleanup of homes, businesses and other buildings constructed with mill tailings.

Tailings, as the material was known, was the fine, sandy remains of rock crushed in the process of milling uranium.

The cell, located about 18 miles southeast of Grand Junction, now contains nearly 4.5 million cubic yards of contaminated material. The cell has room for another 235,000 cubic yards of waste.

State officials now respond to some 200 inquiries per year about tailings that still remain in the Grand Valley, said Pete Baier, deputy administrator for operations. Three Colorado Department of Public Health and Environment employees deal with tailings-related inquiries, he said.

If the cell were to be closed, the nearest disposal facility would be in Clive, Utah, and transferring contaminated material there would be prohibitively expensive, especially for homeowners or private businesses, Commissioner Scott McInnis said.

The federal government covers cleanup costs for local governments and other organizations and it should do the same for individuals, resident Janet Johnson said.

The commission should condition its support for the legislation with requests for such support, Johnson said.

Contaminated material should not be brought in from other areas of the country to the Grand Junction cell, she said.

"It's good to keep it open, but it's good to keep it restricted to our region," she said.

Senator GARDNER. Thank you, Madam Chair.

Again, Director Kornze, I think conversations we have had on this dais about the Antiquities Act continue to be a question that I receive back home meeting with county commissioners in Southwestern Colorado and other places.

Secretary Jewell was here before the Committee earlier this year talking about national park issues, Department of the Interior issues. One of the questions that I asked her was whether or not she was aware of any more Colorado designations from the President this year under the Antiquities Act. At the time she said she was not aware of any but those decisions reside with the President as you said.

She also said and committed to me that she would get back to me if she heard of any designations in Colorado. I would ask you the same thing. Are you aware of any considerations being made in Colorado using the Antiquities Act that are being considered right now?

Mr. KORNZE. I will give you the same caveats that, you know, these decisions lie with the President. And so, I can't know what decision, you know, what the President plans to do, but I will tell you I'm not aware of any conversations in terms of proposals for anything in Colorado. Maybe you're hearing things in your office. I'm not having people visit in my office to talk about possible monuments in Colorado.

Senator GARDNER. Thanks, Director.

I would just ask you the same commitment just to make sure that if you do hear this, if you could relay that to my office because I get asked that whether anything is cooking in Washington by county commissioners on a regular basis.

Thank you very much.

Thank you, Madam Chair. I yield back my time.

The CHAIRMAN. Thank you.

Senator Lee.

Senator LEE. Thank you Madam Chair, and thanks for holding this hearing. We thank our witnesses as well.

This past Monday marked an anniversary, a significant anniversary, for people in my state, the State of Utah. It marked the 20th anniversary of the date that President Bill Clinton utilized the Antiquities Act to designate as a national monument more than 1.5 million acres of land in Southern Utah. This is the area that became known as the Grand Staircase Escalante National Monument.

After the designation occurred, Utah's Congressional Delegation, Utah's state and county leaders and local residents in Utah, especially residents living closest to the area designated as a monument, all warned that a national monument designation would dramatically disrupt their way of life in Southern Utah and make it harder for hard working Utahans to earn a living.

You know, discussing these concerns, the Administration officials and monument advocates insisted that an Antiquities Act designation, that the creation of this particular national monument, would actually enhance the local economy. It would boost it.

Twenty years later the verdict is out. The people of Utah were right. The Grand Staircase has been devastating for the people of

Utah's Garfield and Kane Counties. It has depressed economic development and recreation on nearly two million acres of land and undermined economic stability in the region.

Land use restrictions that accompanied the monument have wiped out many of the stable jobs that once existed in this area of South Central Utah where the monument was designated. Those were jobs that previously formed the backbone, the core, of the local economy. These jobs included jobs in areas such as ranching and mining and timber harvesting, all of which were affected to a significant and in many ways devastating degree by the designation of this monument.

Utah is, once again, 20 years later facing the threat of a national monument designation under the Antiquities Act. At the behest of a clamorous group of environmental activists, and I want to make clear here, mostly out-of-state environmental activists, people who mostly do not live in Utah. President Obama is currently considering designating under the Antiquities Act what would be called the Bears Ears National Monument in Southeastern Utah.

Just like the Grand Staircase Escalante National Monument, the proposed Bears Ears Monument would deprive these vulnerable communities and especially vulnerable populations within these already vulnerable communities of vital economic, recreational and cultural resources.

Yesterday a group of Native Americans from Utah delivered to the Secretary of the Interior a series of letters, petitions and resolutions opposing the proposed Bears Ears National Monument. I would like to enter those documents into the record.

The CHAIRMAN. Those will be included.

Senator LEE. Thank you.

[The information referred to follows:]

LEGISLATIVE GENERAL COUNSEL
₵ Approved for Filing: R. Frost ₵
₵ 05-17-16 5:42 PM ₵

H.C.R. 201

CONCURRENT RESOLUTION OPPOSING UNILATERAL USE OF THE ANTIQUITIES ACT

2016 SECOND SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor expresses strong opposition to the designation of a new national monument in the state without local input and state legislative approval.

Highlighted Provisions:

This resolution:

- expresses strong opposition to the use of the Antiquities Act by the President of the United States to establish a new national monument in the state without local input and state legislative approval.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the members of the Utah Legislature and the Governor are honored to have all taken an oath to uphold the divinely inspired Constitution and the laws of the state and the United States;

WHEREAS, the framers of our constitution, as evidenced by their inspired and carefully crafted constitutional balance of power and responsibilities between branches of government and between the national and state governments, did not intend to grant the

H.C.R. 201

executive branch unilateral authority to set aside vast swaths of land within the borders of a state without input from Congress Ĥ→ ~~[or]~~ **and** ←Ĥ state officials;

WHEREAS, egregious federal overreach is among the greatest threats to:

- the current strength and vitality of the state;
- the health, safety, and welfare of its citizens;
- the pursuit by its citizens of life, liberty, and happiness;
- the long-term economic prosperity of the state; and
- the equitable per pupil funding of education for Utah's children;

WHEREAS, the Utah Legislature and the Governor oppose the actions of those who would seek to resolve conflicts with the federal government by methods outside the bounds of the law;

WHEREAS, it is in this spirit of lawful resolution of conflicts that the Utah Legislature and the Governor submit the matters herein set forth;

WHEREAS, the state of Utah is a public lands state, committed to preserving certain of these lands in their natural condition, allowing continued recreational access for hunters, anglers, campers, and other recreators on other land, as well allowing some public lands to be utilized for additional benefits, including agriculture, timber production, and energy and natural resource development;

WHEREAS, a high and critical priority for the Legislature and the Governor is the health, protection, preservation, and productivity of, and access to the public lands within the state—lands that are greater in size than the total land mass within the borders of 19 of the other 49 states;

WHEREAS, roughly 66% of the land within the sovereign state of Utah is presently owned and administered by the federal government, unlike 38 states in the Union that govern almost all the land within their borders, and members of the Legislature and the Governor are concerned by federal policies and management that threaten the health, protection, and productivity of, and access to these public lands;

WHEREAS, Utah is 50th in the nation in per pupil spending due to the large portion of the state that is held as federal land and not subject to property tax;

WHEREAS, the officials of the state have a legitimate basis to believe that President Barack Obama is considering issuing a proclamation under the Antiquities Act designating one

or more national monuments within the borders of the state of Utah before the end of his term in office;

WHEREAS, one of the national monuments being considered—Bears Ears National Monument—may be nearly 1.9 million acres in size and cover roughly 40% of San Juan County;

WHEREAS, the Antiquities Act limits a presidential monument designation to the "smallest area compatible with proper care and management of the objects to be protected";

WHEREAS, the state of Utah is already home to the Grand Staircase-Escalante National Monument designated by President Bill Clinton, which placed 1,880,461 acres, or 2,938 square miles, of land within the borders of Utah under protected status, greatly restricting its use by local individuals, all without consulting the Governor, the Legislature, or the congressional delegation of the state of Utah;

WHEREAS, an additional national monument designation within the borders of the state without the consent of the Governor, Legislature, or Utah's congressional delegation will have the effect of further restricting the public's access to and enjoyment of public lands in Utah;

WHEREAS, the creation of another national monument in Utah—already home to five national parks and seven national monuments—would only add to the burden placed on the funding of Utah schools;

WHEREAS, during her confirmation hearing on March 7, 2013, Secretary of the Interior Sally Jewell committed to Senator Mike Lee that gaining local support for a national monument should be a prerequisite for national monument designations under the Antiquities Act;

WHEREAS, over the past three years, Secretary Jewell has repeatedly made reference to the importance of local buy-in through local meetings, input, and public hearings before a national monument is designated;

WHEREAS, on Wednesday, February 24, 2016, in a House Natural Resources Committee discussion with Secretary Jewell, Chairman Rob Bishop noted that during each of President Obama's previous monument declarations, at least one member of that state's congressional delegation supported a monument declaration;

WHEREAS, Chairman Bishop went on to note that not one single member of Utah's

congressional delegation supports another national monument declaration in Utah under the Antiquities Act;

WHEREAS, on February 23, 2016, in her response to Senator Lee during a hearing before the Senate Committee on Energy and Natural Resources, Secretary Jewell became noncommittal regarding working with Utah's Governor, federal delegation, and local elected officials, and stated in reference to concerns about a potential new monument designation in southeastern Utah: "Well, to be clear, I can't commit to anything with regard to the Antiquities Act because that is a tool of the President of the United States. I will commit that we will go out and spend time within the community and take input from the community. That is something that we have done every time and we will continue to do that.";

WHEREAS, as of May 2016, that process of taking input from local communities has not occurred in Utah;

WHEREAS, the Legislature of the state of Utah hereby goes on record as not only withholding its consent to the establishment of any proposed new national monuments without state legislative input and approval, but emphatically objecting to the establishment of the same;

WHEREAS, Governor Gary R. Herbert has written to the President of the United States twice—once in August 2015 and once in February 2016—urging him not to use the Antiquities Act to designate another national monument in Utah;

WHEREAS, Governor Herbert noted that another monument designation in Utah would "inflame passion, spur divisiveness, and ensure perpetual opposition";

WHEREAS, while some tribes with historic ties to Bears Ears support the proposed monument, most members of the Navajo Nation who live in San Juan County do not support the monument designation;

WHEREAS, Navajos in San Juan County experience some of the highest rates of unemployment in the state;

WHEREAS, San Juan County commissioner Rebecca Bennally, whose constituency includes members of the Navajo Nation who live in San Juan County, indicated on April 20, 2016, that Navajos in that region would prefer sacred sites be protected through application of a conservation area designation, with some areas left available for development and job creation for locals;

WHEREAS, the Legislature and the Governor believe that democratic process matters, and that consideration of whether to set aside Bears Ears for preservation should involve all interested stakeholders, in a manner that protects Bears Ears while still allowing local concerns to be heard and recognized;

Ĥ→ **WHEREAS, local Native American tribal members in San Juan County who were the first known inhabitants of the Bears Ears area are strongly opposed to the designation of a national monument and should be afforded additional time to present their concerns and interests in how the area would be managed in the future;** ←Ĥ

WHEREAS, the Legislature and the Governor invite the President and the Secretary of the Interior to join Utah's congressional delegation, the Governor, state legislative leadership from both parties, locally elected officials, and interested stakeholders to engage in such a constitutional process;

Ĥ→ **WHEREAS, the Legislature and the Governor urge federal, state, and local cooperation to ensure that multiple use and sustained yield are maintained on public lands while protecting ancient Native American artifacts under existing laws like the Archeological Resource Protection Act (ARPA) and the National Environmental Policy Act (NEPA);** ←Ĥ

WHEREAS, the Legislature and the Governor are opposed to a unilateral use of the Antiquities Act to create a Bears Ears National Monument without a more in-depth process that draws all stakeholders together;

WHEREAS, while some resident and non-resident individuals and groups support the designation of the monument, the majority of San Juan County citizens, including Navajo tribal members, are opposed to it;

WHEREAS, the Legislature and the Governor also favor protection and conservation of the Bears Ears area, but prefer a constitutionally sound, locally driven legislative approach;

WHEREAS, citizens in rural Utah already experience difficult economic prospects, and tourism alone from Utah's current seven national monuments and five national parks has not been able to provide a sufficient, year-round revenue base for these communities;

WHEREAS, citizens in rural Utah deserve the opportunity to create a diversified, ongoing economy;

WHEREAS, responsible and environmentally sound economic development can be pursued simultaneously with wilderness preservation and conservation;

WHEREAS, a monument designation would remove forever the possibility of economic development in the Bears Ears region, hurting those who live in the area to benefit those who only wish to visit the area;

WHEREAS, many potential issues with a proposed Bears Ears monument have not been resolved and need further informed discussion;

WHEREAS, the proposed Bears Ears National Monument contains approximately 150,000 acres of School and Institutional Trust Lands Administration land;

WHEREAS, neither the federal government nor the proponents of the Bears Ears area

have done any environmental or socioeconomic impact study of the proposal;

WHEREAS, the system of having federal officials over a thousand miles away govern land in Utah, particularly without sufficient local input, is contrary to the dual sovereignty design of our federal republic, which protects individual liberty by diffusing sovereign power;

WHEREAS, decisions regarding the health, safety, and welfare of Utah citizens are, under our federal system, properly placed with local governments;

WHEREAS, the use of the Antiquities Act in recent years by presidents to designate millions of acres of land as national monuments disparately impacts western states, including Utah, because only western states have large areas of federal land remaining within their borders;

WHEREAS, two western states—Wyoming and Alaska—received special exemptions from the Antiquities Act in 1950 and 1980, respectively, after the act was used extensively within the boundaries of those two states; and

WHEREAS, Utah is already the home to seven national monuments and should be considered for an exemption from the Antiquities Act, like Wyoming and Alaska:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses strong opposition to the creation of any new national monuments within the state by the President of the United States without approval by the Governor and the Legislature.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage Congress to amend the Antiquities Act to prevent presidents from unilaterally designating enormous amounts of land within a sovereign state, Utah in particular, as national monuments without local input and state legislative approval.

BE IT FURTHER RESOLVED that the Legislature and the Governor Ĥ→ ~~[encourage]~~ **request that** ←Ĥ Attorney General Sean Reyes Ĥ→ ~~[to research]~~ **oppose** ←Ĥ the authority of the President of the United States to designate a proposed national monument within the borders of the state of Utah without state legislative approval.

BE IT FURTHER RESOLVED that the Legislature and the Governor Ĥ→ ~~[encourage]~~ **request that** ←Ĥ Attorney General Sean Reyes Ĥ→ ~~[to research and explore]~~ **pursue** ←Ĥ all legal options Ĥ→ **and recourse** ←Ĥ available to the state regarding Ĥ→ **improper** ←Ĥ unilateral national monument designations.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of

the United States, the members of Utah's congressional delegation, and Attorney General Sean Reyes.

Legislative Review Note
Office of Legislative Research and General Counsel

RESOLUTION NO. 2016-08

A RESOLUTION OF SAN JUAN COUNTY, UTAH:

DEFICIENCIES OF A PROPOSAL BY A NON-GOVERNMENTAL ORGANIZATION FOR ESTABLISHMENT OF A NATIONAL MONUMENT IN SAN JUAN COUNTY; NOTIFICATION OF COUNTY PREROGATIVES AND INTENT FOR LAND USE PLANNING

WHEREAS, we, the Commission of San Juan County, Utah, are locally-elected government officials responsible for the security, health, welfare, taxation, customs, culture, economic stability, and land-use planning for the county;

WHEREAS, San Juan County is a sovereign political subdivision of the State of Utah that contains Federal, State, and county managed lands;

WHEREAS, the Bears-Ears Inter-Tribal Coalition (hereafter the Coalition), a Non-Governmental Organization having no governmental jurisdiction over San Juan County land-use planning activities, has made a proposal to the President of the United States and the Secretaries of Interior and Agriculture requesting the establishment of a national monument under Title 54 of the National Park Service Preservation Statutes, Title 43 of the Federal Land Policy and Management Act, and other statutes;

WHEREAS, the proposal by the Coalition advocates pre-emption of no less than 18 established Federal, State and local land use and planning efforts, including an agreement between San Juan County and the Navajo Nation;

WHEREAS, the Coalition's assertion of "rampant looting" of artifacts conflicts with reports from local and Federal law enforcement, the boundary proposed by the Coalition is arbitrary, and the proposal is deficient of the Quality, Utility, Objectivity and Integrity standards required of Federal Agencies for decision-making;

WHEREAS, the 1.9 million acre area proposed for a national monument contains 151,000 acres of revenue-generating, School and Institutional Trust Lands Administration lands owned by the State of Utah that are valid existing property interests not meeting the definition of "public lands;"

WHEREAS, the area proposed for a national monument contains 43 grazing allotments that are limited-fee title, surface-estate lands that are valid existing property interests not meeting the definition of "public lands;"

WHEREAS the area proposed for a national monument contains no less than 661 state-appropriated water-right diversion points that are valid existing property interests not meeting the definition of "public lands;"

WHEREAS the area proposed for a national monument contains approximately 18,000 acres of patented property that are valid existing property interests not meeting the definition of "public lands;"

WHEREAS, pre-1976 in perpetuity easements, prescriptive RS 2477 roadways, ditches, water conduits, utility routes, and first-responder rights-of-way across public lands do not meet the statutory, historical definition of "public lands" and are valid, pre-existing property interests not under ownership or control of Federal Agencies;

WHEREAS, the Manti-La Sal National Forest contains the entire watershed, water storage and water-transfer infrastructure that the cities of Blanding and Monticello are entirely dependent upon for their culinary water needs;

WHEREAS, the United States has no authority to appropriate water rights from, in, or to the Manti-Sal National Forest, such authority being vested with the State of Utah;

WHEREAS, ongoing and unencumbered right-of-way access is essential to the exercise of property interests, rights, civic duties for law enforcement and day-to-day operational aspects of livestock grazing allotments;

WHEREAS, the 1.9 million acre tract, having been demonstrated to contain vast private interests and areas of valid existing inholdings;

THE AFOREMENTIONED FACTS BEING PRESENTED, QUESTIONS HAVING BEEN RAISED, OR CONCLUSIONS HAVING BEEN MADE, THE GOVERNING BODY OF THE COUNTY OF SAN JUAN CONCLUDES AND AFFIRMS:

I. The 43 surface grazing allotments occurring as split estate throughout the area proposed for a national monument do not meet the definition of "public lands," those lands being under the jurisdiction of State of Utah and San Juan County.

II. The Antiquities Act gives the POTUS authority to withdrawal only Federally-owned or controlled public lands for national monuments; the presence, location and/or extent of public lands, if any, within the 1.9 million acre boundary proposed by the Coalition has not been inventoried by the POTUS, the Departments of Interior or Agriculture.

III. The Coalition's proposal would preempt State and local jurisdictions and a Memorandum of Agreement with the Navajo Nation for land use planning;

IV. The Coalition's proposal violates protocols, has minimal basis in statutory law, and requests actions neither the POTUS nor the Secretaries of Interior or Agriculture have authority to grant;

V. The Coalition's proposal effectively requests the POTUS and Secretaries of Interior or Agriculture to re-appropriate water rights, take public and private rights-of-way, encumber or extinguish grazing allotments, and take State-owned tax revenue lands - all without procedural due-diligence, inholder notification, or opportunity for adjudication or compensation.

VI. Title II, Section 202(c)(9) of the Federal Land Policy and Management Act affirms San Juan County as having a first-among-equals authority in land use planning, requiring the Secretaries of Interior and Agriculture to attempt consistency with the land-use plans and planning efforts of San Juan County.

VII. Establishment of a national monument, as proposed by the Coalition, has not been sufficiently investigated, has not been demonstrated as warranted, and, as proposed, will have foreseeable, negative consequences and impacts to the human environment.

THEREFORE, BE IT RESOLVED THAT THE GOVERNING BODY OF THE COUNTY OF SAN JUAN, UTAH HEREBY PROPOSES AND DIRECTS:

1) Revise and update San Juan County Land Use Master Plan, review, consider and incorporate, as appropriate, all County-wide State and Federal land-use plans and planning efforts;

2) Lead the updating of a San Juan County Master Plan using the FLPMA doctrine of Coordination and a historical understanding of the definition of "public lands;"

3) Survey, distinguish and publish in the updated County Master Plan, Federally-owned minerals and timber from valid existing surface rights, grazing allotments, water rights;

4) Furnish advice to the Secretaries of Interior and Agriculture on timber harvesting, allocation and permitting in the Manti-La Sal National Forest such as will balance the environment and economic interests of all citizens and populations of San Juan County.

5) Review – using established San Juan County Heritage Council or other County programs – the concerns of the Coalition for veracity and potential inclusion in the land-use planning process.

ADOPTED AND APPROVED by the Governing Body this 4th day of October 2016.

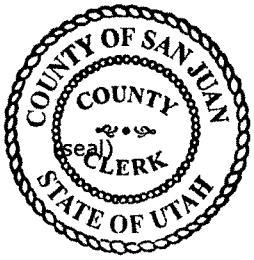
Phil Lyman Chair, San Juan County Commissioner

Bruce Adams, San Juan County Commissioner

Rebecca Benally, San Juan County Commissioner

ATTEST:

John David Nielson, San Juan County Clerk



Senator LEE. Those documents include a resolution from the Blue Mountain Dine, a petition from the descendants of Kahlelli, a resolution from the Aneth Chapter of the Navajo Nation, a resolution from the City of Blanding, a resolution from the City of Monticello, a resolution from the San Juan County Board of Commissions, a letter from the Utah Wildlife Board and a resolution from the Utah State Legislature. Each of these documents expressed Utahans' strong opposition to the Presidential creation of a national monument in the Bears Ears area. Their message should be heard loud and clear. Enough is enough. These petitioners know their land and these petitioners know there is a better way.

Congressman Rob Bishop, the Chairman of the House Natural Resources Committee, along with Congressman Jason Chaffetz, both from Utah, have spent the last three years working on the Public Lands Initiative (PLI), legislation that would further protect the lands, the very same lands, that President Obama is considering for a possible designation under the Antiquities Act. After holding more than a thousand meetings, Chairman Bishop is on the verge of passing the PLI. Unfortunately, this process risks being short-circuited by the premature creation of a national monument by executive fiat. This threat is exactly why I have introduced S. 3317 which would prohibit the further extension or establishment of national monuments in the State of Utah, except by express authorization of Congress.

To be clear, this is not some new radical idea or some special unique carve out just for Utah. Since 1950, the State of Wyoming has enjoyed an identical exception from the Antiquities Act and the state is not some hellscape as a result of this. My bill would simply put Utah on an equal footing with Wyoming and give the people of Utah, who have been severely harmed by the abuse, the flagrant abuse, of the Antiquities Act, some piece of mind about the future of their lands and their livelihoods.

Mr. Kornze, last week you praised the process that has brought us this far. We know we have further to go. Please, I implore you, I beg of you, let us continue to work toward consensus. Tell the President not to declare a national monument in San Juan County, Utah.

Thank you.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Lee. I know this is an extraordinarily important issue for you and the people of Utah. I got the feedback from you about the field hearing that you were able to conduct earlier this summer. This is a critically important issue to Utah and to those of us in the West, so thank you for your advocacy on this.

Senator Flake.

Senator FLAKE. Thank you, Madam Chair, and thank you for holding this expansive hearing on a number of important lands bills.

I introduced S. 2380, the RPPA Commercial Recreation Concessions Pilot Program Act, to allow local governments greater flexibility when offering recreation opportunities. States and counties should be able to provide the same types of commercial recreation concessions that the BLM can.

I would like to submit for the record six letters of support for this bill, including ones from the National Association of Counties, National Association of State Park Directors, Maricopa County, Arizona and the Arizona State Parks.

The CHAIRMAN. They will be included as part of the record.

Senator FLAKE. Okay, thank you.

[The information referred to follows:]

NATIONAL ASSOCIATION of COUNTIES NACo

March 21, 2016

The Honorable Jeff Flake
United States Senate
Senate Russell Office Building 413
Washington, D.C. 20510

Dear Senator Flake:

On behalf of the National Association of Counties (NACo), the only national association representing all 3,069 of America's counties, thank you to you and Senator McCain for introducing S. 2380, the RPPA Commercial Recreation Concessions Pilot Program Act.

NACo supports S. 2380 because it would create pilot programs in several counties that BLM could use to evaluate the impacts of third party recreation concessionaires. Clear legislative authority to allow third party concessionaires on BLM land has the potential to create new recreational and economic opportunities in public land counties across the United States.

Over the years, counties have taken an active role in overseeing recreational areas within the BLM's purview. This is a win-win for BLM and the counties, creating new local recreational opportunities and freeing up BLM resources that may be utilized to address other management priorities. NACo appreciates your efforts to strengthen recreational opportunities through this bill. The expansion of public-private partnerships on public lands will enhance county economic development and provide flexibility that will promote additional park, conservation and quality of life programs.

The RPPA Commercial Recreation Concessions Pilot Program Act is a tool that can improve partnerships between counties and the BLM, provide economic development opportunities and create additional public recreational opportunities. NACo greatly appreciates your leadership on this initiative.

Please contact Chris Marklund at cmarklund@naco.org or 202.942.4207 if you have any questions or we can be of further assistance.

Sincerely,

Matthew D. Chase
Executive Director
National Association of Counties

AMERICA'S STATE PARKS

National Association of State Park Directors
P.O. Box 91567 Raleigh, NC 27675
(919) 218-9222 info@naspd.org
www.naspd.org

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TEXAS

EXECUTIVE DIRECTOR

Lewis Ledford
NORTH CAROLINA (ret.)

February 2, 2016

The Honorable Jeff Flake
U. S. Senate
413 Russell Senate Office Building
Washington, DC 20510

Dear Senator Flake:

The National Association of State Park Directors would like to express our appreciation for your work to provide for quality outdoor recreation on public lands.

Specifically, S.2380 The RPPA Commercial Recreation Concessions Pilot Program Act legislation you recently introduced with Senator McCain has merit in providing a pilot program for an improved methodology for the administration and provision of public services on BLM lands to state and local government and certain non-profit organizations for outdoor recreation. It will provide for the lands to be used for the intended purposes but without the restrictions that have heretofore limited state and local governments' ability to take full advantage of recreational opportunities for concession such as campgrounds, equestrian use, mountain bike rentals and more. In our view, the proposed legislation would afford comparable management and recreational use, including concessions, for local agencies that are similar to those that have been permissible by the federal agency.

In discussions with states with BLM lands, some have expressed that they are not positioned at present to exercise an interest in acquiring lands for these recreational concession opportunities. However, others including some local governments have strong interests. We recommend there be some provisions included that would allow for future opportunities to "opt-in" as conditions and interests change.

Finally, in a related outdoor recreational message, I encourage your strong support for the long-term reauthorization of the Land and Water Conservation Fund that restores allocations to a more equitable stateside assistance program where matching funds have been a hallmark of one of the more successful Congressional programs of the last 50 years. I would be pleased to share more in this regard.

Sincerely,

Lewis R. Ledford

cc: Sue Black, Executive Director, Arizona State Parks

Promoting and advancing the state park systems of America for their own significance, as well as for their important contributions to the nation's environment, heritage, health and economy.

Maricopa County
Clint Hickman, Chairman
Board of Supervisors, District 4

301 West Jefferson Street
10th Floor
Phoenix, AZ 85003-2143
Phone: 602-506-7642
Fax: 602-506-4989
www.maricopa.gov

September 19, 2016

Senator Lisa Murkowski
Senate Committee on Energy and
Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Senator Maria Cantwell
Senate Committee on Energy and
Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Cantwell:

I'm writing today on behalf of Maricopa County, Arizona to express our strong support for S. 2380, the RPPA Commercial Recreation Concessions Pilot Program Act. As Maricopa County has over four million residents and covers 9,225 square miles with multiple recreation facilities and parks, we have a significant interest in the passage of S. 2380 and are grateful for the leadership of Senator Flake and Senator McCain in introducing this important initiative.

As you know, in 1926 Congress enacted the Recreation and Public Purposes Act (RPPA), which authorizes the sale and lease of certain public lands for recreation or public purposes to state and local governments. Since the passage of the act, counties across the west have benefitted, including Maricopa County. On these lands, Maricopa County provides 10 parks, 5 nature centers, an outdoor education center, 6 campgrounds, 3 public golf courses and 500 miles of recreational trails in approximately 120,000 acres of Sonoran Desert Open Space.

The Bureau of Land Management (BLM) has also benefitted significantly from counties taking an active management role in overseeing recreational areas that the BLM is not equipped to operate and adequately maintain. Further, the public is provided with recreation opportunities that enhance the quality of life for local residents, develop new tourism amenities for visitors and spur small business opportunities, which in turn helps stimulate the local and regional economy in communities across the country.

Residents and visitors alike continue to express a need for new and enhanced recreation facilities and services on these lands. As a result, Maricopa County has explored the option of public/private partnerships or third party concession agreements to expand recreation and tourism opportunities. We understand that unfortunately, BLM does not believe they have the authority to allow these types of agreements on county lands that were granted under the RPPA, so Maricopa County is very supportive of this legislation which would establish a pilot program for commercial recreation concessions.

Given the obvious benefits to the BLM, local economies and the recreating public, Maricopa County believes it is vital for the BLM to find a way to encourage these types of partnerships. We support the RPPA Commercial Recreation Concessions Pilot Program Act and thank you for your leadership on this important issue.

Sincerely,

Clint Hickman, Chairman
Maricopa County Board of Supervisors

Cc: Senator Jeff Flake

Doug Ducey
Governor

Sue Black
Executive Director
Arizona State Parks

September 19, 2016

The Honorable Jeff Flake
Senate Russell Office Building 413
Washington, D.C. 20510

Dear Senator Flake,

Arizona State Parks (ASP) would like to express our support of S. 2380, which will serve to improve and expand our partnerships with the Bureau of Land Management (BLM) and local counties across the state.

The mission of ASP is "Managing and conserving Arizona's natural, cultural and recreational resources for the benefit of the people, both in our Parks and through our Partners." The work that Senator McCain and yourself have done with the RPPA Commercial Recreation Concessions Pilot Program Act, strongly aligns with our mission and values.

If you require additional information, please feel free to contact me directly at sblack@azstateparks.gov or (602) 542-7102.

Sincerely,

Sue Black
Executive Director
Arizona State Parks

NACPRO

NATIONAL ASSOCIATION OF COUNTY PARK AND RECREATION OFFICIALS

An Affiliate of National Association of Counties and the National Recreation and Park Association

2015-16 Executive Board

President
Daniel Betts
Director of Recreation
Forest Preserve District of Cook County
536 N. Harlem Avenue
River Forest, IL 60305
Phone: 708-771-1550
Daniel.Betts@cookcountyil.gov

Past President
Scott Bangle
General Manager
Riverside County Regional Park & Open Space District
4600 Crestmore Road
Jurupa Valley, CA 92509
Phone: 951-955-4398
SBangle@rivcoparks.org

President Elect
John Knight
Director
Shawnee County Parks & Recreation
3137 SE 29th Street
Topeka, KS 66605-1885
Phone: 785-251-2600
John.Knight@snco.us

Vice President
Justin Patterson
Director Parks & Property Stewardship
Metro
600 NE Grand Avenue
Portland, OR 97232-2736
Phone: 503-797-1886
Justin.Patterson@oregonmetro.gov

Secretary
John Elholm
Parks Director
Washington County
11660 Mycron Road North
Stillwater, MN 55082
Phone: 651-430-4303
John.Elholm@co.washington.mn.us

Treasurer
Bill Maasen
Superintendent Parks & Golf Courses
Johnson County Parks and Recreation
7904 Renner Road
Shawnee Mission, KS 66219
Phone: 913-826-3437
Bill.Maasen@jocogov.org

Association Manager
Brenda Adams-Weyant
PO Box 74
Marienville, PA 16239
Phone: 814-927-8212
Fax: 814-927-6659
BrendaAW@verizon.net

February 3, 2016

The Honorable Jeff Flake
Senate Russell Office Building 413
Washington, D.C. 20510

Dear Senator Flake:

I'm writing today on behalf of the National Association of County Park and Recreation Officials (NACPRO) to thank you and Senator McCain for introducing S. 2380, the RPPA Commercial Recreation Concessions Pilot Program Act. NACPRO is a non-profit, professional organization that advances official policies that promote county and regional park and recreation issues while providing members with opportunities to network, exchange ideas and best practices, and enhance professional development. NACPRO is a National Association of Counties affiliate organization.

As you know, Congress, in 1926, enacted the Recreation and Public Purposes Act (RPPA), which authorizes the sale and lease of certain public lands for recreation or public purposes to state and local governments. Since the passage of the act, counties across the west have benefitted. On these lands, many counties now provide parks, campgrounds, public golf courses and miles of recreational trails.

The BLM has benefitted significantly by counties taking an active management role in overseeing recreational areas that BLM is not equipped to operate and maintain. Most importantly, the public is provided with recreation opportunities that enhance the quality of life for local residents and that provide recreational tourism opportunities for visitors, which in turn helps stimulate local economies.

Residents and visitors continue to express a need for new and enhanced facilities and services on these lands. Many counties are not capable of financing large capital projects nor are they able to staff new facilities, so recently, many counties have

looked to public/private partnerships or third party concession agreements to expand recreation and tourism opportunities. Unfortunately, BLM does not believe it has the authority to allow these types of agreements on county lands that were grants under the RPPA, so NACPRO is thankful that you have introduced legislation that would establish such a pilot program for commercial recreation concessions.

Given that there are obvious benefits to BLM, local economies, and, most of all, to the recreating public, we think it is vital for BLM to find a way to not only allow, but encourage these types of partnerships. NACPRO believes the RPPA Commercial Recreation Concessions Pilot Program Act is an excellent first step and we are extremely thankful that you are willing to lead the initiative. Please let us know if we can provide any assistance to you with this bill.

Sincerely,



Daniel E. Betts
NACPRO President



National Recreation and Park Association

February 3, 2016

The Honorable Jeff Flake
United States Senate
413 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Flake:

The National Recreation and Park Association (NRPA) would like to thank you for your efforts to provide quality outdoor recreation opportunities on public land. Specifically, we express our support for your introduction of S. 2380, the RPPA Commercial Recreation Concessions Pilot Program Act.

NRPA is a nonprofit organization working to advance parks, recreation and environmental conservation efforts nationwide. Our members touch the lives of every American in every community every day. Through our network of more than 50,000 citizen and professional members we represent park and recreation departments in cities, counties, townships, special park districts, and regional park authorities ensuring close-to-home access to parks and recreation opportunities exist in their communities. Everything we support and do is focused through our three pillars: Conservation; Health & Wellness and Social Equity.

Therefore, we believe that S. 2380, which you have cosponsored with Senator McCain, has merit in providing a pilot program that will enhance the way Bureau of Land Management (BLM) lands are conveyed to State and local government and certain non-profit organizations for effective partnerships with which promote healthy outdoor recreation and economic activity. State and local governments will have increased ability to take full advantage of recreational opportunities for concession such as campgrounds, equestrian use, mountain bike rentals and more.

Further, BLM will benefit significantly by partnering with local government entities with complementary missions to take a more active management role in overseeing recreational areas. Most important, the public stands to benefit most, through the improved recreation opportunities that enhance the quality of life for local residents and that provide recreational tourism opportunities for visitors, which in turn helps stimulate local economies.

22377 Belmont Ridge Road | Ashburn, Virginia | 20148 | www.nrpa.org
703.858.0784 | Fax 703.858.0794

In fact, a recent NRPA study found that local and regional parks are a major economic driver with operations and capital spending in Arizona, alone, creating $2.1 Billion in economic activity and supporting directly 17,000 jobs each year.

Given the clear benefits to BLM, local economies, and, most of all, to the recreating public, we think it is vital for BLM to find a way to not only allow, but encourage these types of mutually beneficial partnerships. NRPA believes S. 2380 is an appropriate and important step in this process and we are pleased to add our name in support of this legislation.

Finally, in a related outdoor recreational message, we encourage your continued strong support for the long-term reauthorization of the Land and Water Conservation Fund (LWCF) that restores a more equitable annual allocation to the State Assistance Program. The LWCF has been one of the more successful Congressional programs of the past half-century and State Assistance – even while averaging about 15% of total LWCF spending for decades -- has provided Arizona with more than $60 million in matching grant funding and supported the development of over 730 close-to-home public recreation projects and facilities across the state. Imagine what a robustly (and equitably) funded State Assistance Program could achieve.

For information on NRPA's economic report and LWCF State Assistance, please contact me or visit www.nrpa.org to learn more.

Sincerely,

Kevin O'Hara
Vice President for Urban and Government Affairs
National Recreation and Park Association

Senator FLAKE. I also thank you for including H.R. 2009. This bill takes a small amount of land into trust for the Pascua Yaqui Tribe and it has the support of the entire Arizona delegation.

Before Congress takes land into trust for tribes, it is important for all jurisdiction issues to be worked out with the affected governments. In this particular case to which H.R. 2009 applies, that has already been done.

I would like to submit letters of support from Pima County and the tribe into the record.

The CHAIRMAN. Those will also be included.

[The information referred to follows:]

Olivia Cajero Bedford
District 3

STATE SENATOR
FIFTY-SECOND LEGISLATURE

CAPITOL COMPLEX, SENATE BUILDING
1700 WEST WASHINGTON
PHOENIX, ARIZONA 85007-2890
PHONE: (602) 926-5835
TOLL FREE: 1-800-352-8404, ext.65835
FAX: (602) 926-3262
E-MAIL: obedford@azleg.gov

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JLBC
JCCR

TUCSON SENATE OFFICE
400 WEST CONGRESS
SOUTH BUILDING, SUITE 201
TUCSON, ARIZONA 85701
PHONE: (520) 328-6060
FAX: (520) 328-6028

House Natural Resources Committee
United States House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

March 15, 2016

Chairman Bishop and Committee Members,

I write to express support for H.R. 2009, the Pascua Yaqui Tribe's Land Conveyance Act of 2015. The 36 acre vacant parcel would be conveyed to the Pascua Yaqui Tribe if this bill is signed into law. The parcel is bisected with a waterway called the Black Wash. This wash, during Arizona's monsoon flooding events, carries water, silt and debris across a major thoroughfare, Camino de Oeste, and into a neighborhood in Southwest Tucson. The Tribe has plans to build flood control facilities on this parcel, once it is held in trust. Flood control on this parcel will help mitigate the flooding on Camino de Oeste and the Tribe's reservation, and will also help the non-reservation neighborhood that is just downstream from the parcel. As you may know, when it rains in the desert water flows quickly and the effect can be very damaging after only a small amount of rain. A 15 minute rain in August can cause several days of clean-up on these streets and in these neighborhoods. Additionally, emergency response vehicles have encountered ingress and egress problems to and from Camino De Oeste, Calle Tetakusium responding to emergency calls during rainfalls. School and public transportation have the same issues.

The Pascua Yaqui Tribe has been a good neighbor to the City of Tucson, Pima County, and Tucson Unified School District for many years. The 36-acre parcel is bare desert land that is currently not used for any purpose. The ability of the Tribe to construct flood control facilities to collect and release water at a slower rate across the parcel would be another example of the Tribe working to help the entire community.

Again, I support the passage of H.R. 2009, the Pascua Yaqui Tribe Land Conveyance Act of 2015 for the reasons stated above, and I am happy to answer any questions you may have Mr. Chairman or members of the committee.

Sincerely,

Olivia

State Senator Olivia Cajero Bedford
Legislative District 3

PIMA COUNTY BOARD OF SUPERVISORS
DISTRICT 3
130 WEST CONGRESS STREET, 11TH FLOOR
TUCSON, ARIZONA 85701-1317
(520) 724-8051
district3@pima.gov
www.district3.pima.gov

SHARON BRONSON
CHAIR

June 29, 2016

The Honorable Jeff Flake
United States Senate
Senate 413 Russell Senate Office Building
Washington, D.C. 20510-0305

Re: HR 2009

Dear Senator Flake:

I write to express support for H.R. 2009, the Pascua Yaqui Tribe's Land Conveyance Act of 2015. The 36 acre vacant parcel at issue would be conveyed to the Pascua Yaqui Tribe if this bill is signed into law. The parcel, located in Pima County, is bisected with a waterway called the Black Wash. This wash, during Arizona's monsoon flooding events, carries water, silt and debris across a major thoroughfare, Camino de Oeste, and into a neighborhood in Southwest Tucson. The Tribe plans to build flood control facilities on this parcel, once it is held in trust. Flood control on this parcel will help mitigate the flooding on Camino de Oeste and the Tribe's reservation, and will also help the non-reservation neighborhood that is just downstream from the parcel. As you may know, when it rains in the desert water flows quickly and the effect can be very damaging after only a small amount of rain. A 15 minute rain can cause several days of clean-up on these streets and in these neighborhoods. Additionally, emergency response vehicles have encountered ingress and egress problems to and from the area of Camino De Oeste and Calle Tetakusium while responding to emergency calls during rainfalls. School and public transportation have the same issues.

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Sincerely,

Sharon Bronson
Pima County Board of Supervisors, Chair
District 3

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130 W. CONGRESS STREET, 11TH FLOOR
TUCSON, ARIZONA 85701-1317

TELEPHONE (520) 724-8126
FAX (520) 884-1152
E-MAIL: district5@pima.gov
WEBSITE: www.district5.pima.gov

RICHARD ELÍAS
PIMA COUNTY SUPERVISOR
DISTRICT 5

PIMA COUNTY

July 12, 2016

The Honorable Jeff Flake
United States Senate
Senate 413 Russell Senate Office Building
Washington, D.C. 20510-0305

Re: HR 2009

Dear Senator Flake:

I write to express strong support for H.R. 2009, the Pascua Yaqui Tribe's Land Conveyance Act of 2015. Under this measure a 36-acre vacant U.S. parcel would be conveyed to the Pascua Yaqui Tribe so it can construct much-needed features to control dangerous and damaging storm flows.

The Pima County parcel in my district is bisected with the Black Wash. This wash, during heavy monsoon flow events, carries water, silt and debris across a major thoroughfare, Camino de Oeste, and into a neighborhood in southwest Tucson.

Tribe facilities on this parcel, once it is held in trust, will help mitigate flooding on Camino de Oeste and on the Tribe's reservation, and will also help a non-reservation neighborhood that is just downstream from the parcel.

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The Pascua Yaqui Tribe has been a good neighbor to the City of Tucson and Pima County for many years. The 36-acre parcel is bare desert land that is currently vacant. If the Tribe can construct flood-control facilities to collect and release water at a slower rate across the parcel, it would be another example of the Tribe working to help the entire community.

I support the passage of H.R. 2009, the Pascua Yaqui Tribe Land Conveyance Act of 2015, for the reasons stated above, and I am happy to answer any questions you may have.

Sincerely,

Richard Elías
District Five Pima County Supervisor

STATEMENT OF THE HONORABLE ROBERT VALENCIA, CHAIRMAN OF THE PASCUA YAQUI TRIBE OF ARIZONA

BEFORE THE
U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

CONCERNING:
H.R. 2009, A BILL TO PROVIDE FOR THE CONVEYANCE OF CERTAIN LAND INHOLDINGS OWNED BY THE UNITED STATES TO THE TUCSON UNIFIED SCHOOL DISTRICT AND THE PASCUA YAQUI TRIBE OF ARIZONA

SEPTEMBER 22, 2016

Madam Chairwoman Murkowski, Ranking Member Cantwell, and members of this Committee:

On behalf of the Pascua Yaqui Tribal Council and membership, thank you for the opportunity to provide testimony to the Committee regarding H.R. 2009. My name is Robert Valencia, I currently serve as the Chairman of the Pascua Yaqui Tribe, a Federally Recognized Tribe located near the City of Tucson, in Pima County, Arizona. The matter under consideration today is important to the Tribe because of the location of the Tribe's reservation in a flood plain called the Black Wash.

Background:

Our Yaqui ancestors walked the earth by the grace of the creator, as we still do today. Yaqui ancestors were indigenous to our aboriginal territory from Durango in Southern Mexico, north to Colorado, and west to California. The Tribe settled, prospered, and endured in the Rio Yaqui homeland since time immemorial. Authority was inherent and derived in part from our elders' ability to protect and provide for the needs of the Yaqui people. For 300 years, the Yaqui people fought the Spanish and later the Mexican government for control of their fertile homeland. War and hostilities drove factions of the Yaqui from their homeland into present day Arizona. The Yaqui people settled in various communities from South Tucson to Scottsdale. In 1964, Congressman Morris K. Udall introduced a bill in Congress authorizing the transfer of 202 acres of federal desert land to our Yaqui elders. On September 18, 1978, Public Law 95-375 recognized the Tribe as a United States Indian tribe. Fundamentally, 200-400 years have only superficially changed the Yaqui Nation. Although, now partly settled on our reservation Southwest of Tucson, Arizona, the obligations to the people passed down by our elders and our sovereign autonomous spirit has never changed. The Pascua Yaqui Tribe, as a historical Indian tribe, has inherent jurisdictional power over most matters occurring within our territory. H.R. 2009 would expand this territory, with the agreement of the Tucson Unified School District (TUSD), in a way that

would allow the tribe to address significant flooding issues that affect the reservation and impacts our neighbors downstream.

H.R. 2009:

H.R. 2009 is a bill that will accomplish several goals. First, it will allow the Tucson Unified School District to hold two parcels (Parcel "B" and Parcel "C" of map, appendix 1) without restrictive covenants for the beneficial use of the District. Second, it will allow TUSD to convey an area of land (Parcel A) to the United States to be held in trust for the Pascua Yaqui Tribe.

Under its terms H.R. 2009, if passed and enacted into law, would affect a conveyance of three separate parcels of land either now owned by the United States or for which the United States owns a reversionary interest under the Recreation and Public Purposes Act of 1926.

The parcel described in *Section 3(a)* of the Bill is currently owned by TUSD, but is subject to the U.S.'s reversionary interest under the Recreation and Public Purposes Act. The Bill directs the U.S. to hold this parcel in trust for the Tribe if conveyed to the U.S. by TUSD. This parcel is almost entirely within the 100-year flood plain. It is directly to the east of the Tribe's Casino of the Sun, which is visible on the aerial photographs in your attachments. The District received this parcel under the Recreation and Public Purpose Act of 1926. In order for the U.S. to convey land to the District for public purposes under the Act, the District had to designate a specific use for this land. When the District asked for and received this land it designated the land for construction of a school. Time and events have made this land unsuitable for a school site, and the District has indicated that it has no plans to ever develop this land as a school. Under the 1926 Act if the land conveyed cannot be used for the specific purpose for which it was conveyed, the land would revert to the U.S.

You may notice that there is a large wash, which is known as the "Black Wash," running through this parcel. The wash flows from Southeast to Northwest. The Black Wash is a significant topographical feature from which there is constant flooding to the west and northwest whenever there is a significant rain event. The flooding comes from east to west across Camino de Oeste (the roadway on the western boundary of this parcel) into the parking lot of the Casino of the Sun and into the parking lot of the Tribe's Administration Building just to the south of the Casino of the Sun. (Photos Appendix 2) These rain events occur frequently during Tucson's "Monsoon Season" from mid-June to mid-September each year. If the Tribe controlled this parcel, it could be improved to create safe, all-weather access to the Tribe's Reservation during rain events. At the current time a significant rain event can cut off all roads into the Tribe's Reservation, thus creating critical access issues that have resulted in the past in lack of outside emergency or medical services anywhere on the Reservation during a significant rain event.

This parcel could also be used to create a flood detention basin or other surface water catchments or channels to prevent or control this flooding. These improvements would also contribute to better control of downstream surface water flooding events that would benefit the

entire area, including in particular the downstream areas of unincorporated Pima County. For those reasons, the exchange as a whole is in the public interest. (*See* letters of support, Appendix 3)

Conclusion:

The Pascua Yaqui Tribe is always moving forward and planning for its future and for the betterment of the lives of Pascua Yaqui members. Expeditious passage of H.R. 2009 would give the Tribe the opportunity to continue to make improvements for the people. I respectfully request your support and passage of H.R. 2009. Thank you for the opportunity to testify. This concludes the Tribe's remarks and I am available to answer any questions you may have.

Appendix 1



Parcel A -
TUSD 36.65 ac. approx.

Parcel B -
US 13.24 ac. approx.

Parcel C -
TUSD 27.5 ac. approx.

PYT Reservation

PARCEL A:
LOT 1 EXC W 75' & EXC S50'
SECTION 19-T15S-R13E
G&SRBM, ARIZONA
36.65 AC APPROX.

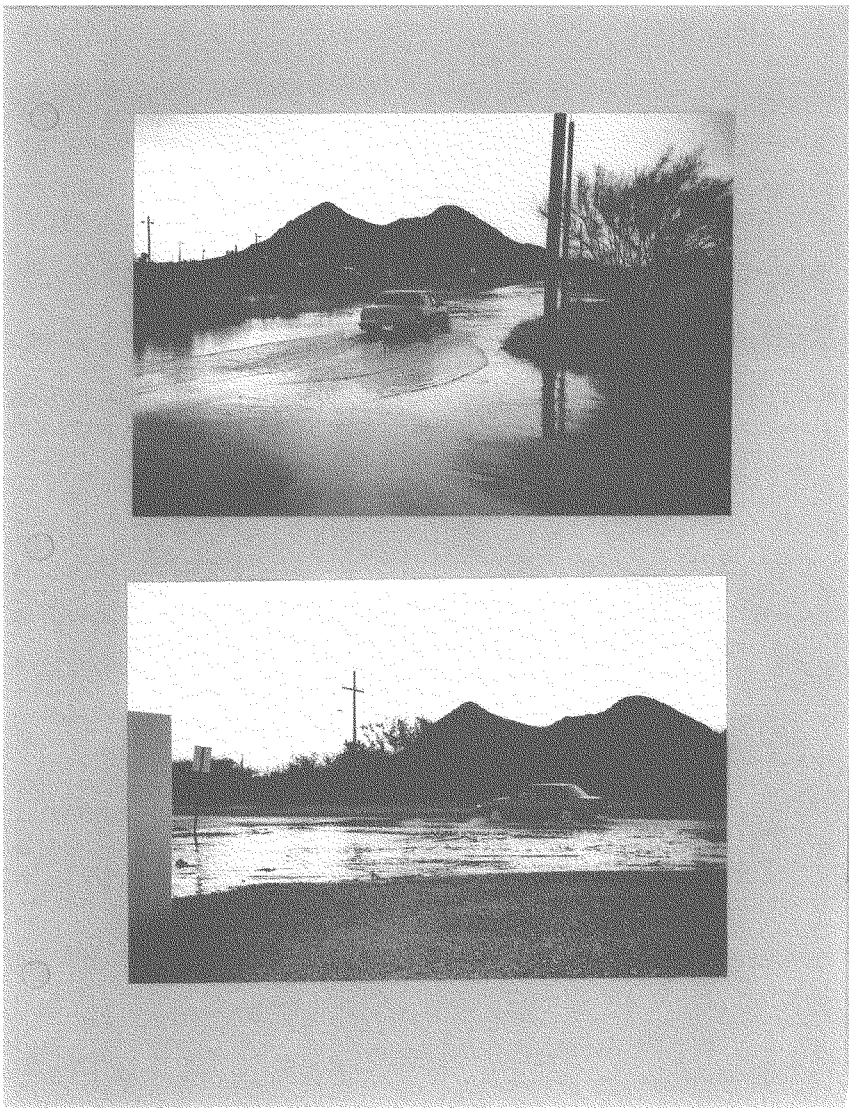
PARCEL B:
W2NW4NE4NW4,
W2SW4NE4NW4,
SE4SW4NE4NW4
SECTION 19-T15S-R13E
G&SRBM, ARIZONA
13.24 AC APPROX.

PARCEL C :
E2NE4NW4,
E2NW4NE4NW4,
NE4SW4NE4NW4
SECTION 19-T15S-R13E
G&SRBM, ARIZONA
27.50 AC APPROX.

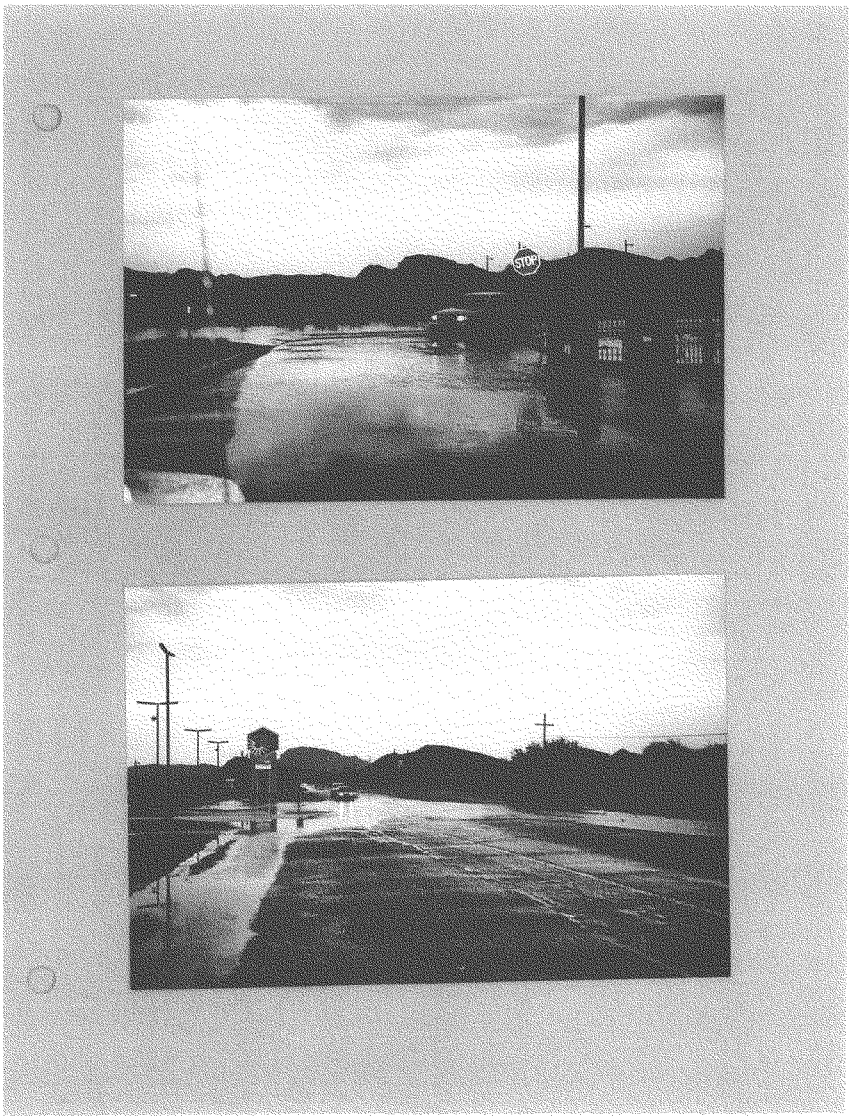
0 500 1,000
Feet Feet

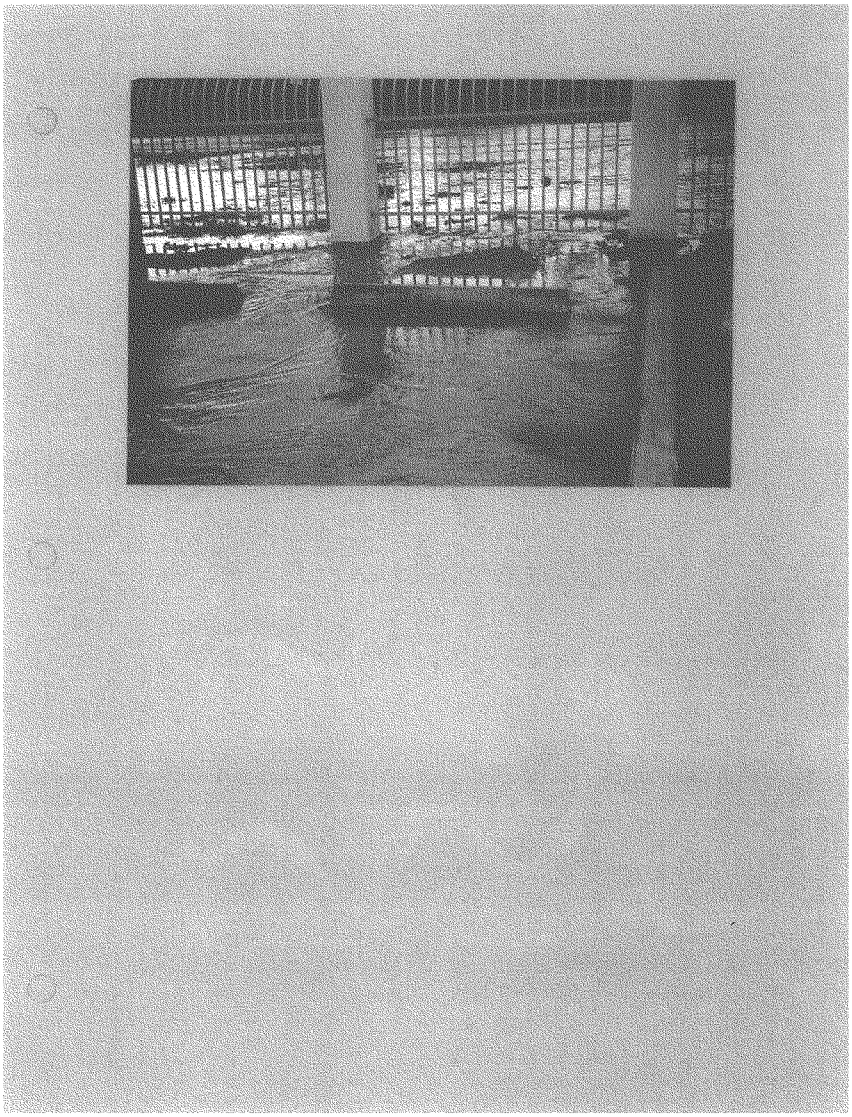
PYT Land Department
../2015/BLM Congressional Bill

Appendix 2






STOP



Thursday, October 19, 2000

Rainfall in front of the Casino. In the Casino parking Lot. And to the North side of the Casino on Los Reales.







Appendix 3

PIMA COUNTY BOARD OF SUPERVISORS

130 W. CONGRESS STREET, 11TH FLOOR
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DISTRICT 5

PIMA COUNTY

July 12, 2016

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United States Senate
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Washington, D.C. 20510-0305

Re: HR 2009

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Sincerely,

Richard Elías
District Five Pima County Supervisor

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SHARON BRONSON
CHAIR

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Washington, D.C. 20510-0305

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Sincerely,

Sharon Bronson
Pima County Board of Supervisors, Chair
District 3

Senator FLAKE. I am also glad to work with my friend, Senator Heinrich, to introduce the Ace Act. This is truly a win/win. State trust lands get to swap their trapped lands for those with greater economic potential while federal land managers get to eliminate inholdings. We were able to work with Arizona's ranchers, miners and water users to ensure their interest are protected in these exchanges.

I would like to submit this letter of support from the Arizona State Land Department.

The CHAIRMAN. That also will be included as part of the record.

Senator FLAKE. Alright.

[The information referred to follows:]

Douglas A. Ducey
Governor

Lisa A. Atkins
Commissioner

Arizona State Land Department
1616 West Adams, Phoenix, AZ 85007
(602) 542-4631

Statement for the Record

Arizona State Land Department

Lisa A. Atkins, Commissioner

U.S. Senate Committee on Energy & Natural Resource

On

S. 3316, Advancing Conservation and Education Act of 2016

September 22, 2016

The Arizona State Land Department (ASLD) appreciates the opportunity to provide a statement for the record in support of S.3316, Advancing Conservation and Education Act of 2016 (ACE 2016), a measure that provides a novel approach to solving challenges for federal and state land managers who cope with issues involving non-contiguous land tenure.

Congress granted lands to western states, including Arizona, to be held in Trust as a permanent endowment for primary public institutions. Since Arizona's statehood and the creation of the State's land Trust (Trust), significant increases in federal designations of special land use and conservation areas have caused conflicting land management patterns throughout the state, and ultimately, an ineffective execution of diverse agency missions.

The patchwork of land ownership throughout the State limits realizable income for the Trust, and in most cases impedes access to various isolated and trapped surface and sub-surface estates belonging to the Trust. Checker-boarded inholdings also limit the ability of federal agencies to manage priority and sensitive landscapes contiguously and without assurances that a conflicting use will not develop in the future.

The proposed legislation is representative of true congressional purpose: identification of a problem and creating a resolution that is meaningful and bi-partisan. ASLD commends the sponsors, Senators Jeff Flake and Martin Heinrich for introducing the bill and providing a resolution to facilitate greater land and resource opportunities for citizens and beneficiaries throughout the West.

ACE 2016 provides an opportunity for the ASLD to relinquish certain State Trust land parcels within eligible sensitive federal land management areas and select alternative federal land parcels of equal appraised value. This "in lieu selection" process creates a more meaningful tool for all public and private land interests that current legal authorities do not provide.

Existing authorities for land exchanges are limited, require a large amount of resources and involve limited options for potential selection and relinquishment. Saliently, ACE 2016 proposes a more expeditious and considerate process for removing the Trust's lands from 'inaccessible areas' with conflicting land management objectives. And, more importantly, the beneficiaries are made whole by compensating the Trust with replacement lands, allowing ASLD to fulfill its responsibilities to the Beneficiaries and the public. These transactions further benefit federal public land missions that involve protecting priority areas from development encroachment and creating perpetual assurances for those federal agencies that their planning and resource allocations are not in conflict with adjacent non-federal land.

ASLD supports ACE 2016 as a solution for resolving land tenure issues that have increased financial burdens and untenable land management objectives that are not in the best interests of the Trust, nor the public. The measure provides a reasonable path forward for planning and executing better land and resource management through a transparent public process.

Senator FLAKE. Just a broader statement on national monuments, Madam Chair. You and other members of the Committee have heard me talk many times about the importance of the Colorado River to Arizona. We have enough challenges on the river without the specter of a new federal reserved right of bending the already perilous apple cart. That is why I introduced S. 1416 to prohibit the President from creating a new federal reserve water right with a national monument.

Madam Chair, I am also glad to co-sponsor your improved National Monument Designation Process Act. The Federal Government owns nearly half of Arizona and when you account for other lands, public lands and tribal lands, you will find that only 18 percent of the state is actually in private ownership. With so little private land in Arizona, multiple use, public lands provide opportunities for grazing, mineral development and recreation of all types. Any action that removes those opportunities needs to be done in conjunction with the state and local governments, and your bill will ensure that cooperation happens.

I would like to submit for the record these statements that I have received from a wide range of Arizona interests opposed to yet another national monument, including the Game and Fish Department, Arizona Game and Fish, Chamber of Commerce and the Theodore Roosevelt Conservation Partnership.

[The information referred to follows:]

THE STATE OF ARIZONA
GAME AND FISH DEPARTMENT
5000 W. CAREFREE HIGHWAY
PHOENIX, AZ 85086-5000
(602) 942-3000 • WWW.AZGFD.GOV

GOVERNOR
DOUGLAS A. DUCEY
COMMISSIONERS
CHAIRMAN, EDWARD "PAT" MADDEN, FLAGSTAFF
JAMES R. AMMONS, YUMA
JAMES S. ZIELER, ST. JOHNS
ERIC S. SPARKS, TUCSON
KURT R. DAVIS, PHOENIX
DIRECTOR
LARRY D. VOYLES
DEPUTY DIRECTOR
TY E. GRAY

As Chairman of the Commission, I thank the Senate Energy and Natural Resources Committee for the opportunity to submit this testimony for the record.

The Arizona Game and Fish Commission (Commission) supports multiple use of public lands that provides Arizona's residents and the resource with net benefits, and continues to oppose federal special land-use designations that impact the ability of the Arizona Game and Fish Department (Department) to fulfill its public-trust responsibility and mission to conserve Arizona's diverse wildlife resources and to manage for safe, compatible outdoor recreation opportunities for current and future generations. Such a threat to this responsibility often looms in the waning days of a presidential administration in the form of the Antiquities Act.

Intended to curtail the looting and destruction of objects of historical or scientific interest, the 1906 act granted the President of the United States unchecked authority to reserve a national monument of "the smallest area compatible with the proper care and management of the objects to be protected." The Act was well-intentioned and effective in its purpose, but remains outside the framework of checks and balances that ensures responsible governance.

The power of the President to designate federal lands as a National Monument without the consent of Congress, local governments, or affected citizens is not consistent with the principles of a government by and for the people.

Arizona currently has 18 monument designations, the most of any state. These existing designations have negatively impacted the Department's ability to develop and maintain critical water sources, manage wildlife, restore habitat, and perform wildlife translocations. For example, in 1999 Department biologists counted at least 103 bighorn sheep making their home in the Maricopa Mountains of what later became the Sonoran Desert National Monument. The Department experienced detrimental delays, outright prohibitions of necessary wildlife management actions and a crippling lack of access to the area after the 2001 designation necessitated a management plan to authorize the means and methods previously used to successfully nurture this wildlife resource. After the 11 year process of developing the plan was completed and another population survey could finally be conducted in 2015, 35 bighorn sheep remained.

Time and again the Commission has seen the multiple use doctrine curtailed and the ability of Arizonans to recreate on their lands fundamentally impacted by special land use designations. Even designations that seek to preserve existing uses require management plans that must be drafted at the federal agency level, navigating layers of bureaucracy that result in project delays, increased costs, increased man hours and legal challenges. Road closures and use restrictions by federal agencies managing these lands are common. Especially relevant are those lands managed

by the National Park System, where access roads deteriorate and are subsequently closed as a consequence of the System's $11.9 billion backlog of deferred maintenance, $329 million of which is attributed to the existing 1.2 million acres of the Grand Canyon National Park alone.

However, the Antiquities Act does not include a process for public input, so there is no place for the Commission, or any other citizens, to formally bring such concerns or past experiences.

The Antiquities Act has bestowed unilateral power upon the President of the United States to designate federal lands as a National Monument without the consent of Congress, local governments or affected citizens. The federal reserved water rights doctrine, established in 1908 and expanded through decades of court battles ensures that when the federal government reserves public land for uses such as a monument, it also implicitly reserves sufficient water to satisfy the purposes for which the land-use designation was created.

In 1952 Arizona began an 11 year Supreme Court battle to settle questions of allotments before it could begin to build the Central Arizona Project. The use of Colorado River water requires successful navigation of a century of laws, treaties, court decisions, decrees, contracts and guidelines that form the "Law of the River" and determine appropriate use of water in the Colorado River Basin. It also requires a contract with the Secretary of the Interior.

In Arizona, an application to appropriate public water that is under the jurisdiction of the state costs a minimum of $1,000. The administrative review of this application takes 20 days and, if found to be complete, the substantive review of the request can range from 100 to 420 days depending on use. This lengthy review is conducted to verify that the use of water does not conflict with vested rights, is not a menace to public safety, and does not run counter to the interests and welfare of the public.

In Washington D.C. the right to use water anywhere in the country can be reserved in exactly as much time as it takes for the President to sign his name.

Designations made either by presidential executive fiat or those made by an act of Congress have implied reserved rights, but only one of those requires a public process. Only Congress is required to publically consider the interest and welfare of the people of Arizona. The lack of oversight inherent to the Antiquities Act could be devastating to Arizona's water future both statewide and in nearby local communities.

The Game and Fish Commission supports the limitation of reserve water rights in a national monument. By requiring that water rights for a monument created by Presidential decree be secured through the laws of the state, S.1416 ensures that Arizona's water future remains in the hands of its own citizens.

- Edward "Pat" Madden
Chairman, Game and Fish Commission

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JAMES S. ZIELER, ST. JOHNS
ROBERT E. MANSELL, WINSLOW
DIRECTOR
LARRY D. VOYLES
DEPUTY DIRECTOR
TY E. GRAY

January 15, 2016

The Honorable Barack Obama
President of the United States of America
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Re: Proposed Grand Canyon Watershed National Monument

Dear Mr. President:

As present and former Arizona Game and Fish Commissioners, we have extensive knowledge on the importance of habitat conservation across the public and private lands in Arizona. As Commissioners, we are charged with making sure not only game species thrive within our borders, but also non-game species of wildlife such as the California condor and the Black-footed ferret. We are responsible for all of Arizona's diverse wildlife and held accountable by both consumptive users as well as non-consumptive users.

We are also well aware of the management issues surrounding Arizona's wildlife, and how complex that can be, particularly in dealing with land ownership matters, and the various Federal designations placed on much of that land. Arizona has more National Monuments (18), than any other State in the Union. In fact, only 23% of the remaining federally owned land in our State does not have some sort of special designation. We do not believe we need any more!

The people of Arizona are our stakeholders, and to that end, we support the multi-use concept on our public land. That approach allows us to provide the most recreational opportunities with respect to wildlife for whatever pursuit a citizen desires, from hunting, to fishing, wildlife watching, boating, hiking, camping, photography, or OHV use. This multi-use approach allows us to work closely with the U.S. Forest Service (USFS) and Bureau of Land Management (BLM) in concert to further the objectives of the multi-use concept.

That partnership is not broken, and we do not believe another layer of bureaucracy is needed to conserve or "protect" 1.7 million more acres on the Arizona Strip or Kaibab National Forest.

There have been several reasons put forth as to why a monument designation is needed, but we say to you, Mr. President, that reasoning is offering you a solution to a non-existing problem! Some of those issues include the following:

- **Protection from uranium mining** The area is already protected under a moratorium on uranium mining until the year 2032. If that ore is ever needed, we might have an environmentally safe technology in the future that would allow for clean extraction.

- **Protection of old growth trees** Arizona's forest products industry is but a shell of its former self and selected harvest and forest management shouldn't be eliminated as a viable management tool. Some of the catastrophic fires over the last decade demonstrate the importance of regulated forest management.

- **Public land grazing** The proponents of eliminating what they call "inappropriate livestock grazing" would eliminate ranchers who exhibit good stewardship practices for both the land and wildlife. No one wants poor land stewards and they should be dealt with accordingly, but the good ones not only make a living ranching, they do so with wildlife in mind. The Arizona Game and Fish Department works hand in hand with ranchers and private land owners all over the state to that end.

- **Road closures** Extensive travel management plans have been undertaken by the Forest Service and BLM which has resulted in the closure of many roads. We do not believe the public needs to be further shut out from accessing our public lands.

- **Wildlife migration corridors** Some have said our premiere mule deer herd may be in jeopardy as they move between Arizona and Utah, but so far they are not. If there ever is an issue, we should seek to remedy and mitigate it - not adopt another set of rules on this area now for a non-existent problem.

President Theodore Roosevelt's legacy has already protected much of the Grand Canyon. In fact, the Grand Canyon National Park was first a monument, but now is a National Park and citizens must pay to see it and enjoy it. The National Park Service is behind in maintenance and management, and is millions of dollars in arrears. We don't have that problem on the Kaibab and Arizona Strip so we would respectfully request that you not designate these lands as a monument and subject them to more rules and regulations that are not only unnecessary, but would complicate the management of Arizona's wildlife by our Game and Fish Department.

We can ensure Arizona's wildlife is properly managed and conserved by the continued cooperation and partnership of the Arizona Game and Fish Department, USFS and BLM, without the necessity of another National Monument in Arizona.

Respectfully submitted,

Kurt R. Davis Chairman	Edward "Pat" Madden Vice Chairman	
James R. Ammons Commissioner	James S. Zieler Commissioner	Robert E. Mansell Commissioner

Former Commissioners in Support of Commission Position:

Larry D. Adams	Robert R. Woodhouse	Joe Melton
W. Hays Gilstrap	William H. McLean	Gordon Whiting
Jack F. Husted	Michael M. Golightly	
J.W. Harris	Susan E. Chilton	

CC: Arizona Congressional Delegation
Governor Doug Ducey
Secretary of the Interior Sally Jewell
Secretary of Agriculture Tom Vilsack

THE STATE OF ARIZONA
GAME AND FISH DEPARTMENT
5000 W. CAREFREE HIGHWAY
PHOENIX, AZ 85086-5000
(602) 942-3000 • WWW.AZGFD.GOV

GOVERNOR
DOUGLAS A. DUCEY
COMMISSIONERS
CHAIRMAN, KURT R. DAVIS, PHOENIX
EDWARD "PAT" MADDEN, FLAGSTAFF
JAMES R. AMMONS, YUMA
JAMES S. ZIELER, ST. JOHNS
ROBERT E. MANSELL, WINSLOW
DIRECTOR
LARRY D. VOYLES
DEPUTY DIRECTOR
TY E. GRAY

January 15, 2016

The Honorable Raul Grijalva
1511 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Grijalva,

On December 4, 2015, the Arizona Game and Fish Commission (Commission) updated a resolution (enclosed) opposing further monument designation and voted unanimously to inform you and the Arizona congressional delegation why the Commission opposes H.R. 3882: The Greater Grand Canyon Heritage National Monument Act.

Cities, towns, counties, members of congress, sportsmen's organizations and businesses have coalesced and share a common concern that additional federal land-use designations in Arizona will have a detrimental impact on local economies and recreational access. Arbitrary road closures, coupled with restrictions on outdoor multi-recreational opportunities, have resulted in a significant intrusion on the Arizona Game and Fish Department's wildlife management authorities.

In addition:

- With 18 monuments, Arizona already has the most monuments in the nation.
- 77 percent of Arizona's lands are restricted from public access and recreation.
- More than 42 percent of Arizona's land is already under federal management.
- The proposed monument would connect 1.7 million acres of federal land with the Grand Staircase-Escalante National Monument, Vermillion Cliffs National Monument, Grand Canyon-Parashant National Monument and Grand Canyon National Park to carve out an area of 6,139,878 acres, nearly the size of the state of Maryland.
- The Grand Canyon National Park is dealing with a $329 million backlog in deferred maintenance. Adding 1.7 million acres to an already overextended National Park Service risks the health and safety of land, wildlife and visitors.

The Commission continues to oppose any federal land-use designations that impact the Department's and Commission's ability to fulfill its public-trust responsibility to manage the State's wildlife and associated natural resources. H.R.3882 is harmful to our mission and, frankly, unnecessary as these lands already are being effectively managed.

Sincerely,

Larry D. Voyles
Director

A RESOLUTION OF THE ARIZONA GAME AND FISH COMMISSION CONCERNING THE LOSS OF MULTIPLE-USE PUBLIC LANDS DUE TO SPECIAL LAND-USE DESIGNATIONS

WHEREAS, Arizona's great strength lies in the value of its public lands, and the ability for the public to access and utilize those lands for a variety of recreational uses, and;

WHEREAS, although federal lands make up 42 percent of Arizona, more than 43 percent of those lands have special land use designations which prescribe significant restrictions to recreation and management. Only 23 percent of Arizona's lands remain open for public use and free from special land use designations, and more than 77 percent of Arizona's lands are restricted from public access and recreation through ownership (private, state, and tribal) or through federal special land use designations, and;

WHEREAS, the conservation of wildlife resources is the trust responsibility of the Arizona Game and Fish Commission (Commission) and this extends to all lands within Arizona, to ensure abundant wildlife resources for current and future generations, and;

WHEREAS, with 4.5 million acres, Arizona has the third highest total designated wilderness acreage in the U.S. This, coupled with an additional 5.8 million acres of special land use designations including National Monuments, National Parks, National Wildlife Refuges, National Conservation Areas, Areas of Critical Environmental Concern, Wild and Scenic Rivers, and Wilderness Characteristics Areas, has caused the systematic loss of recreational opportunities and erosion of the Arizona Game and Fish Department's (Department) ability to proactively manage wildlife on more than 10.3 million acres, and;

WHEREAS, the Arizona Game and Fish Department has experienced adverse impacts resulting from special land use designations including loss of motorized access, project delays, increased costs, increased man-hours, and legal challenges. These ultimately lead to decreased efficiency in conserving and managing Arizona's wildlife resources, and;

WHEREAS, public land managers have a responsibility to the people of Arizona to ensure continued opportunities for multiple-use recreational activities. For example, FLPMA (1976) is the Bureau of Land Management's (BLM) "organic act" that establishes the agency's multiple-use mandate to serve present and future generations. Once federal lands are converted to special use lands such as Wilderness and National Monuments, the FLPMA mandate no longer applies and those lands permanently lose multiple-use provisions, and;

WHEREAS, the National Park Service is currently operating with a deferred maintenance backlog of $11.49 billion dollars and is unable to keep up with current needs. This deferred maintenance affects road upkeep, water delivery, and safety of park visitors. The Grand Canyon, alone, has $329 million in deferred maintenance. Adding new responsibilities to this already overburdened system through additional special use designations puts wildlife habitats and populations at risk, and;

WHEREAS, in spite of organic legislation emphasizing multiple-use of public lands, neither the USFS nor BLM has established any objectives for acreages of public lands to be maintained in full multiple-use, free from restrictive designations in Arizona, and;

WHEREAS, the Multiple-Use Sustained-Yield Act of 1960 and the Federal Land and Policy Management Act of 1976 both legally prohibit the federal land management agencies from affecting the state's jurisdiction and responsibilities.

NOW, THEREFORE, BE IT RESOLVED that the Arizona Game and Fish Commission supports public land use that provides Arizona's public and resources with a net benefit, and;

BE IT FURTHER RESOLVED that the Arizona Game and Fish Commission opposes further conversion of public lands from multiple-use to land use designations that result in the net loss of wildlife resources, wildlife-related recreational opportunities and associated economic benefits, without expressed concurrence of the state of Arizona and the Commission, and;

BE IT FURTHER RESOLVED that any proposed special land use designation must analyze the cumulative impacts of further loss of public lands that provide for multiple-use and wildlife-related recreational and economic opportunities, and

BE IT FURTHER RESOLVED that any proposed special land use designation on federal lands must analyze the impact to the Arizona Game and Fish Department's ability to fulfill its trust responsibility to manage the state's wildlife resources.

ADOPTED on the 15th day of January, 2016 by the Arizona Game and Fish Commission.

Kurt R. Davis
Chairman
Arizona Game and Fish Commission

Douglas A. Ducey
Governor

Lisa A. Atkins
Commissioner

Arizona State Land Department
1616 West Adams, Phoenix, AZ 85007
(602) 542-4631

Statement for the Record

Arizona State Land Department

Lisa A. Atkins, Commissioner

U.S. Senate Committee on Energy & Natural Resource

On

S.437, Improved National Monument Designation Process

September 22, 2016

The Arizona State Land Department (ASLD) appreciates the opportunity to provide this statement in support of S.437, proposed by Chairman Murkowski and Senator Sullivan, to require congressional approval for monument designations and imposition of subsequent land use restrictions.

Arizona is exemplary of conservation and preservation practices for the majestic landscapes within its borders. Arizona citizens are exemplary of cooperative resource management that advances both protection of historic and cultural sites and promotion of multiple-use land management.

Congress granted lands to the western states as they were admitted into the Union to support endowed public institutions in perpetuity, with K-12 being the primary beneficiary. The ASLD serves as Trustee and fiduciary for the Arizona State Land Trust (Trust), a multi-generational, perpetual Trust consisting of 9.2 million acres. The Trust has a specific and unwavering obligation to ensure that the Beneficiaries are not only compensated for use of their land, but that decisions made on their behalf are consistently for best possible use.

Throughout the 20th Century, Congressional and Executive actions have created special land designations that have narrowed the State and the ASLD's abilities to establish long-term land use plans compromising ASLD's constitutional obligations to serve its Beneficiaries. Further, the State's land base has been segregated into a patchwork of awkward land management boundaries.

The Beneficiaries have never been compensated for the impacts of having trapped lands within the land designations such as National Monuments.

S. 437 represents a first reasonable step toward mending a process where the federal government giveth and then taketh away. The Antiquities Act has been used by several U.S. Presidents within Arizona's borders that has resulted in encumbering several hundred thousand acres of surface and subsurface estate of State Trust land.

Grand Canyon-Parashant National Monument, Ironwood Forest National Monument, Vermillion Cliffs National Monument, Redfield Canyon, and Eagletail Mountains are examples of the continued erosion of the State's ability to rightfully plan and generate revenue from its original congressional land conveyance of Trust lands.

The process of the Antiquities Act of 1906 (Act) (54 U.S.C. §§ 320301-320303) is as antiquated as the objects and places it was created to protect. The State of Arizona has expressed increasing concerns of proposed designations under the Act, such as the Grand Canyon Watershed National Monument, which will result in increased management challenges and lost revenues to the State and Trust.

Arizona is an epicenter of innovation and growth in the West. Infrastructure needs, trade routes, transportation corridors, urban development, military missions and outdoor recreation pose planning and resource allocation challenges for the State. Increased land restrictions through monument designations impose even greater challenges and financial burdens on public and private sectors, particularly when done without consultation or compensation.

The Act was intended to serve as an emergency authority to allow Presidential protections of special artifacts and areas treasured by the American public. The emergency provision authorizes only a most minimal footprint necessary for their continued existence. Unfortunately, the Act has been applied much more broadly and, we believe, inappropriately used as a means to prevent consumptive land uses and as a de facto conservation tool.

While S. 437 does not prevent future administrative land withdrawals and designations and does not prohibit the trapping of Arizona's Trust land from future congressionally adopted measures. However, it does promote a better process for public inclusion in future designations through mandating affected state(s)' approval and regulatory compliance under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et. seq.).

We support the provisions of this bill that admirably create a more robust consultation process with states, as well as the effort to hold federal actions and decisions, including Presidential Proclamations, to public review processes under NEPA. This would be consistent with other land designations established by Congress.

ASLD is concerned that continued land designations, and increasing specialized land use demands, will force further restrictions on its ability to effectively manage and plan for use of the land and other natural resources it holds in Trust, and for which the Trust has not been compensated through the course of these tenured practices. Moving forward, we urge this Committee, and Congress to identify ways to compensate the Trust for actions that have resulted in lost and restricted value, as well as the inaccessibility to Trust lands

trapped by preexisting conveyance, special use designations and other land tenure issues.

Douglas A. Ducey
Governor

Lisa A. Atkins
Commissioner

Arizona State Land Department

1616 West Adams, Phoenix, AZ 85007
(602) 542-4631

Statement for the Record

Arizona State Land Department

Lisa A. Atkins, Commissioner

U.S. Senate Committee on Energy & Natural Resource

On

S.1416, limitation on the authority to reserve water rights in designating a national monument

September 22, 2016

The Arizona State Land Department (ASLD) appreciates the opportunity to provide a statement in support of S1416 co-authored by Senators Flake, McCain, Lee and Hatch to limit federal authority to reserve water rights in designating a national monument.

Protection of existing water rights in Arizona, where approximately 70% of land ownership is federal or tribal, requires the State to be vigilant in monitoring changes to land and water use. Special federal land designations, particularly designations that are created with limited public input, pose concerns for other land owners whose existing water rights could become compromised by these federal actions.

Congress granted lands to the western states as they were admitted into the Union to support public institutions in perpetuity. The ASLD serves as Trustee and fiduciary for the Arizona State Land Trust (Trust) consisting of 9.2 million acres. The Trust has a specific and unwavering obligation to ensure that the Beneficiaries are not only compensated for use of their land, but that decisions made on their behalf are consistently for best and highest possible use.

Throughout the 20th Century, as a consequence of Congressional and Executive actions that have created special land use designations, ASLD's abilities to establish and implement land use goals has been encumbered. These actions have diminished ASLD's decisions making, constitutional obligations, and has further segregated the State's land base into a patchwork of inconsistent, spurious land management boundaries.

Additionally, the checker-boarded areas of State Trust land and federal land are hydrologically connected in most circumstances. The language in this bill will prevent the federal government from creating additional federal reserved water rights without seeking additional action by Congress.

This is critical to Arizona's interest in protecting the value of State Trust Land, which is managed as a for-profit concern for the benefit of the Trust. Because federal reserved water rights have different attributes than State-based water rights, we must ensure that no additional federal reserved water rights are created without study as to the particular location, impacts to all users, and through a public and transparent process. The downstream impact of a poorly-sited federal reserved water right could have considerable implications for the value of Trust land throughout Arizona, as well as other adjacent private land owners.

S.1416 represents a meaningful step toward ensuring Arizona's natural resources are maintained by the State in perpetuity and that use or diversion of its rightful resources are not taken without compensation and consultation. ASLD appreciates your recognizing and providing a tool to ensure the Trust's ability to properly manage its assets – land, water, and other natural resources – for the benefit of the thirteen public entities who derive revenue from those assets and provide indispensable services to the citizens of this State.

ARIZONA CHAMBER
OF COMMERCE & INDUSTRY

Testimony by Glenn Hamer
President and CEO, Arizona Chamber of Commerce and Industry
Submitted to the U.S. Senate Committee on Energy and Natural Resources
Sept. 22, 2016

On behalf of the Arizona Chamber of Commerce and Industry, we welcome this opportunity to submit for the record the following testimony, as well as a policy paper by the Arizona Chamber Foundation and Prosper Foundation, regarding the implications of the designation of the Grand Canyon Watershed National Monument.

President Obama is considering using his power pursuant to the 100-year old Antiquities Act to designate 1.7 million acres in northern Arizona—an area larger than the state of Delaware—the Grand Canyon Watershed National Monument. Monument designation will limit lands available for multiple use in Arizona, impede efficient land and resource management, and represent unwarranted and unwanted federal overreach.

The Antiquities Act was originally intended to enable presidents to quickly protect federal lands and resources that contain historic landmarks and objects of scientific or historical interest, especially to prevent looting of archaeological and Native American sites. Unfortunately, the Antiquities Act contains few if any checks to ensure monument designations adhere to the limitations set forth in the Act itself.

A monument designation in northern Arizona would be particularly damaging for a variety of reasons. First, almost 70 percent of Arizona is already controlled by the federal government; Arizona has more national parks and monuments than any other state. The National Park Service, which is the branch of the Department of Interior that typically manages national parks and monuments, is already struggling to maintain the land under its control, with an estimated shortfall in deferred maintenance of $11.5 billion. National parks and monuments in Arizona represent nearly $500 million of that shortfall, with Grand Canyon National Park alone suffering a shortfall of $329.5 million. Adding another 1.7 million acres will only hinder—not help—land management, conservation and access.

Furthermore, Arizona and the federal government have historically enjoyed a multiple-use partnership on the large percentage of Arizona's land under federal control. This partnership was born out of a bipartisan stakeholder consensus formed in the 1980s, including Arizona's congressional delegation, the federal government and environmental groups, and has been a critical component of the state's economic vitality. President Obama's proposed monument designation completely upends that partnership, undermining the state-federal partnership that has previously characterized land management in Arizona.

ARIZONA MANUFACTURERS COUNCIL

3200 N. Central Ave. | Suite 1125
Phoenix, AZ 85012
www.azchamber.com
P: 602.248.9172 | F: 602.391.2498

Second, the monument designation has implications for private property and water rights in Arizona. Because a monument designation "federalizes" the land, it could impact the surface and groundwater rights in the monument area. Unless the monument designation is written to specifically respect existing water rights—and there is no indication it will—the monument designation will automatically carry an implied water right to serve the purposes of the designation. This opens the door to more conflicts in Arizona's general stream adjudications, including claims involving the complex interactions between surface and groundwater and putting state and private rights to the watershed in and around the monument area at risk.

Monument designation also has negative implications for the future of education funding in the state by locking up 64,000 acres of State Trust land. Protecting State Trust land is more important now than ever in light of Proposition 123, a ballot initiative passed by Arizona voters in May 2016 that increases the financial distributions from the trust to beneficiaries, the most prominent of which is the state's K-12 system.

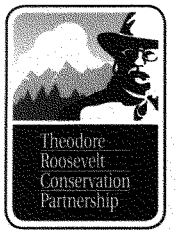
Arizona's State Enabling Act makes clear that State Trust land may only be used in a way that serves the best interest of the trust. By locking up 64,000 acres of State Trust land without any discussion of compensation, the amount of money available to fund education in Arizona will be reduced.

Finally, we know from past experience that a monument designation doesn't necessarily protect the plants and animals that live there. For example, in 1999, there were more than 100 big horn sheep in the area that was later designated the Sonoran Desert National Monument. But monument designation made it more difficult for the Arizona Department of Game and Fish to access the area and provide new water sources. Since the monument designation the sheep population has plummeted to fewer than 35.

Proponents of monument designation like to say that designation is necessary to protect the Grand Canyon. That simply is not true. The Grand Canyon is already protected as a national park. This monument designation has nothing to do with the Grand Canyon—it's about imposing more federal control and further restricting Arizona's land without any input or oversight from local stakeholders.

A new national monument designation will restrict access to wilderness areas, impede active forest, wildlife and resource management, and risk jeopardizing Arizona's natural resources by placing them under the custody of an agency already experiencing a multi-billion dollar shortfall. The best way to protect Arizona's land and natural resources is to enact good public policies that entrust the care of those resources to the people who know the land best—those here in Arizona.

We appreciate the opportunity to share our concerns over the abuse of the Antiquities Act. The Arizona Chamber of Commerce and Industry stands ready to offer its insight on this and other land and resource management issues as the Committee considers them in the future.



His Vision

~

Our Mission

May 14, 2015

The Honorable Sally Jewell
Secretary, U.S. Department of the Interior
1849 C St., N.W.
Washington, DC 20240

The Honorable Tom Vilsack
Secretary, U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Dear Madam Secretary and Mr. Secretary:

The Theodore Roosevelt Conservation Partnership is a 501(c)(3) nonprofit conservation organization working to guarantee all Americans quality places to hunt and fish. The TRCP is dedicated to the conservation legacy of its namesake and works on sportsmen's conservation issues in Arizona and across the United States. In Arizona, we draw on the support and action of over 2,400 individual advocates and we work cooperatively with 25 sportsmen and conservation organizations.

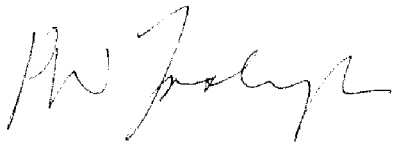
We are writing to express concern about the proposed Grand Canyon Watershed National Monument (GCWNM). In order for an area to merit consideration for monument designation under the Antiquities Act, we believe that the following criteria must be met:

- A thorough public process must be carried out that includes multiple stakeholder groups, including sportsmen.
- Significant sportsmen support must exist for any monument proposal overlaying areas open to hunting and fishing.
- Clear provisions must be offered and put in place to protect state agency fish and wildlife management actions, reasonable access, and the traditions of hunting and fishing.

The proposed GCWNM meets none of these criteria. The proposed GCWNM was developed by a narrow group of interests and then thrust upon the public to react to. This lack of process has created far-reaching animosity and has forced interest groups to draw lines in the sand and take hard positions. Unlike popular and recently adopted monuments in New Mexico and Colorado, we are not aware of any hunting and fishing groups that support the proposed GCWNM, and we are aware of a long list of groups that are opposed.

1660 L ST NW
SUITE 208
WASHINGTON, DC 20036
202-639-8727
WWW.TRCP.ORG

Sincerely,



Whit Fosburgh
President and CEO
Theodore Roosevelt Conservation partnership

CC:
Arizona Congressional Delegation

Arizona
Association of
Conservation
Districts

P.O. Box 50518
Phoenix, AZ 85076
Phone: 480-452-6895

Senator Jeff Flake
Senate Russell Office Building 413
Washington D.C. 20510

Re: Support for S. 437 and S.1416

The Arizona Association of Conservation Districts welcomes the opportunity to endorse S. 437 and S. 1416 sponsored by Senator Flake. Both bills are severely needed to curb the overreach of both party's Presidential monument declarations.

Arizona is home to 32 Natural Resource Conservation Districts organized under state statute and 10 tribal districts organized under federal statute. All are recognized by the Arizona Legislature as having "special expertise of natural resources within their districts."

Arizona Revised Statute Title 37, Chapter 6, 37-1001 Declaration of policy states:
"It is the declared policy of the legislature to provide for the restoration and conservation of lands and soil resources of the state, the preservation of water rights and the control and prevention of soil erosion, and thereby to conserve natural resources, conserve wildlife, protect the tax base, protect public lands and protect and restore the state's rivers and streams and associated riparian habitats, including fish and wildlife resources that are dependent on those habitats, and in such a manner to protect and promote the public health, safety and general welfare of the people".

For seventy five years Arizona's local conservation districts have been working with and coordinating local conservation efforts to address local conservation problems. This model has proven to be the most effective means to join federal, state and local funds and talent to maintain and enhance Arizona's varied and unique landscapes while keeping them productive for our people and our nation.

The Arizona Association of Conservation Districts has vigorously opposed the designation of the Grand Canyon Watershed National Monument for the following reasons:

The proposed designation, if enacted, removes the ability of our local Conservation Districts to address the watershed health, leaves no opportunity to address erosion (wind or water), and no opportunity to address noxious or invasive species; neither plant nor animal, by our locally elected people who live and work on these lands and understand it

because they are tied to it through their intimate lifelong and sometimes generational knowledge.

The proposed designation, if enacted, prevents local stewardship of wildlife; creates an area of no management of numbers of wildlife or maintenance of water catchments.

By creating the proposed National Monument, local management is eliminated and replaced by a form of non-management directed from Washington D.C.

These reasons also apply to past and future monument designations.

Our local conservation districts are now leading a massive multi-partner effort to eradicate invasive brush from large landscapes across Arizona to return it to its pre-fire suppression grassland state, including much of the lands within the proposed Grand Canyon Watershed National Monument designation. This effort will be eliminated from those lands under the Monument proposal. Is that what Arizona and the nation really want? This project coordinated locally will literally create new groundwater for our cities and towns by increasing penetration of the precious rain that falls on Arizona's rangelands and forests. How will that be achieved? A closed canopy caused by heavy brush infestation prevents 80% of the moisture that falls from reaching the ground; under a closed canopy there is no ground cover under that brush to prevent water erosion when large amounts of moisture do reach the ground. As we remove this brush, perennial grasses will return to the landscape catching and slowing the runoff of that water so it will soak in and more will reach our groundwater. It will also replenish our streams and rivers.

Under Monument designations the ability to identify and address watershed health issues will not be an option. Under Monument designations, active management will be eliminated and replaced by a form of non-management which can only be characterized as benign neglect directed from Washington D.C.

Under Monument designations there is no recognition of the lessons learned from Arizona's Schultz Pass Fire, Rodeo – Chediski Fire, or the Slide Fire to name a few.

Under the monument designations, the ability to treat the results of a wildfire are removed; again because of non-management. We know this from experience. Despite assurances otherwise, past Monument designations have reduced or eliminated grazing, strong armed private inholders in order to get them to sell out and either removed water improvements or just let them deteriorate until they no longer function.

Because we value locally led conservation above conservation directed from Washington D.C. the Arizona Association of Conservation Districts request that all efforts be made to stop the Grand Canyon Watershed National Monument designation and this body pass Senate bills 437 and 1416.

Bill Dunn
President, Arizona Association of Conservation Districts



ARIZONA MINING ASSOCIATION
916 W Adams Street Suite 2
Phoenix AZ 85007
(602) 266-4416

Kelly Shaw Norton, AMA President

US SENATE ENERGY and NATURAL RESOURCES COMMITTEE

September 22, 2016

- The Arizona Mining Association (AMA) is a non-profit corporation comprised of entities engaged in mining and mineral processing in Arizona. Its members include (but are not limited to): ASARCO LLC, BHP Copper Inc., Freeport-McMoRan, Capstone- Pinto Valley, KGHM - Carlota Copper Company, Hudbay - Rosemont Project, Resolution Copper Company, Florence Copper, Energy Fuels, Peabody Energy, and Golden Vertex. In 2013, AMA member companies produced approximately 65% of the nation's newly-mined copper, along with significant amounts of associated valuable co-products (e.g., gold, silver, selenium, tellurium and molybdenum). In 2013, the Arizona copper industry employed approximately 11,500 people and had an estimated direct and indirect impact on the Arizona economy of nearly $5 billion. AMA members also are engaged in the mining of coal, uranium and other materials, and make significant contributions to the Arizona economy as a result of those activities. The AMA is the unified voice of responsible, sustainable and safe mining in Arizona. We support educational programs that demonstrate the importance and benefits of mining to the economy and the quality of life.

- We want to thank Senator Flake for the opportunity to submit concerns on the Antiquities Act and proposed Grand Canyon Watershed National Monument withdrawal.

- The Arizona Mining Association has been tracking the proposal to add another unneeded National Monument consisting of 1.7 million acres since the Obama Administration withdrew 1.2 million acres from mining and multi-use in 2012 in the same area in Arizona.

- The Antiquities Act was intended as a tool to set aside "the smallest area compatible with the proper care and management of the objects to be protected." It was not meant to be used for expansive amounts of land without public input and Congressional approval.

- The proposed monument area which has been successfully managed for a very long time for multi-use by the Arizona Game & Fish Department, BLM, and US Fish and Wildlife. Transferring its management to the National Park Service who has been struggling to maintain the current land under its control would be a mistake.

- It is concerning that this proposed area also includes 64,000 acres of State Trust Land and 28,000 acres of private land. Without knowing what restrictions will be placed on the monument once it's established, there is no guarantee that private landowners or the state would be able to access, use, develop, or transfer their property.

- As Arizonan's we are all concerned about water. In the documentation we have seen it is unclear what portion of this monument is actually protecting the watershed. Most of the included land isn't anywhere near the Grand Canyon.

- The withdrawal of this land from multi-use management will restrict reasonable and thoughtful use of natural resources. Industries affected include recreation, grazing, forestry, hunting & fishing, energy development, and mining.

- We have heard arguments and read statements in the media that this monument is necessary to prevent uranium mining.

- Uranium is fuel for nuclear energy, providing over 60% of the emission-free and carbon-free electricity in the U.S. today. We need to rely on the deposits in our country instead of being reliant on the rest of the world for our uranium supply.

- Uranium mining today is not like it was in the 70's. It is a highly regulated industry successfully enforced by federal, state, and local authority.

- There has been alot of discussion about Uranium mining contaminating the Colorado River but the AZ Geological Survey has found that "130,000 pounds of naturally-occurring uranium flows down the Colorado River in the Grand Canyon each year, not from past or present mining, but because uranium is a part of the natural environment."

- We cannot let those who want to remove this land from natural resource management use scare tactics about water contamination as a reason and the Antiquities Act as the vehicle.

- These lands historically provide a large portion of metals and hard rock minerals produced in and used by our country. If this area is designated as a national monument, existing claims would remain but we all know that any new mines would not be allowed to open in a designated national monument.

- It is no secret that most of the western states are trying to minimize the overreach of the federal government.

- The decisions on the establishment of this and all national monuments in Arizona need to go through a complete NEPA process and be approved by the state of Arizona and Congress.

- The state of Arizona has overwhelmingly said it does not want this monument. This includes the Governor, AG, State Land Commissioner, Legislature, Congressional delegation, cities, towns, and over 50 associations involved in the multiple uses found in our state.

- The Arizona Mining Association and its members do not think the Antiquities Act should be abused by the federal government and used to take this land.

Regards,



Kelly Shaw Norton
President



May 28, 2015

Honorable John McCain
US Senate
241 Russell Senate Office Building
Washington, DC 20510

Honorable Jeff Flake
US Senate
413 Russell Senate Office Building
Washington, DC 20510

Dear Senators McCain and Flake:

We write to thank you for your leadership related to the proposed designation by the Obama Administration of a "Grand Canyon Watershed National Monument." We read with great interest your March 10, 2015 letter to President Barack Obama and agree with the concerns you raise. We applaud your legislative efforts to curb the use of the Antiquities Act from affecting water rights without congressional approval.

Specifically, we agree about the need for robust collaboration before any designation takes form. We all want to preserve the Grand Canyon for future generations and a sweeping designation of 1.7 million acres of land could result in unintended consequences if stakeholders do not have the opportunity for adequate input. Elected leaders from the State of Arizona – federal, state, and local – should have ample opportunity to understand specifically what the Obama Administration is contemplating, and then engage with a wide variety of stakeholders to provide thoughtful input.

Among those who need to provide considerable input is the travel and tourism industry – of which we play a significant role. Based on the details currently available, this designation has the potential to harm a variety of recreation and tourism industries, including our own, depending on how boundaries are defined and how management is conducted. We have none of those answers and would strongly oppose this designation prior to receiving those details and having the opportunity to provide input and receive assurances the travel and tourism industry would be held harmless.

To punctuate the issue of boundaries mentioned above, the Town of Tusayan and the State of Arizona should have the opportunity to ensure the businesses and resources of the Town and the state-owned Grand Canyon Airport will not be adversely affected. Both Tusayan and Grand Canyon Airport rely on recreation and tourism and this proposed designation could significantly harm both.

A designation of this size and scope should have a thoughtful and thorough process built around it and we look forward to being part of that dialogue.

Too much in politics comes down to an all-or-nothing mentality which rarely results in a positive outcome. To that end, thank you for doing what you can to ensure this proposed designation receives the scrutiny it deserves. Please let us know how we can be a positive addition to your efforts.

Sincerely,

Brenda Halvorson
Papillon Airways
President, CEO

Alan Stephen
Grand Canyon Airlines
Vice President of Corporate Affairs

Brian Brusa
Maverick Aviation Group
Vice President of Government Relations

Archery Trade Association *Association of Fish and Wildlife Agencies * Boone and Crockett Club * Camp Fire Club of America * Congressional Sportsmen's Foundation * Council to Advance Hunting and the Shooting Sports * Dallas Safari Club * Delta Waterfowl Foundation * Houston Safari Club * Masters of Foxhounds Association * Mule Deer Foundation * National Association of Forest Service Retirees* National Rifle Association * National Shooting Sports Foundation * National Wild Turkey Federation * North American Bear Foundation * Orion: The Hunter's Institute * Quality Deer Management Association * Rocky Mountain Elk Foundation * Ruffed Grouse Society * Safari Club International * Tread Lightly! * Wildlife Management Institute * Wild Sheep Foundation*Whitetails Unlimited * U.S. Sportsmen's Alliance

May 11, 2015

Dear Representative Grijalva, Kirkpatrick & Gallego:

Our organizations, which represent millions of American hunter-conservationists are writing to express our concerns about your January 29th letter to President Obama encouraging use of the Antiquities Act to designate 1.7 million acres of lands around the Grand Canyon National Park as the Grand Canyon Watershed National Monument.

The land that would comprise the proposed monument includes some of the most important wildlife habitat, big game species and hunting opportunities in the U.S. including world class mule deer and elk. Not only is hunting an economic driver in the region, it also serves as a significant source of conservation revenue. In addition to license sales and excise taxes, this area generates revenue from the sale of special tags that have allowed the Arizona Game & Fish Department (AGFD) to partner with the U. S. Forest Service and the Bureau of Land Management to invest millions of dollars in habitat conservation and wildlife management in the region. We are deeply concerned that these outstanding economic and natural resource benefits will be significantly impaired by an Antiquities Act designation.

Proponents of the monument have cited a number of environmental challenges they inaccurately claim the designation could address. For example,

- Proponents have identified timber sales on the Kaibab National Forest as a threat to the areas' ecological integrity. In reality, wildfire, due to excessive fuel build up, is the greatest threat to Southwestern forests. Reducing fire risk mandates active management to eliminate the risk of catastrophic fires. The drought in the west is worsening, leaving our untreated forests extremely vulnerable in a potential catastrophic fire season. Wildfires have scorched more than 4 million acres in Arizona since 2000. Another catastrophic fire would put the state forests and the wildlife that reside in them at risk.

- Proponents have asserted that off-highway vehicles (OHV) are destroying the lands. In reality, cross-county OHV travel is already prohibited. OHV use is restricted to designated roads/routes and managed by BLM and USFS under their respective Travel Management Plans which provide an adaptive framework that can address future concerns and management needs.

- Proponents have asserted that an Antiquities Act designation will protect wildlife habitat connectivity. In reality, areas within the proposed monument are largely undeveloped; obstructions to wildlife movements are highly localized and typically associated with fences and roads. AGFD, the Arizona Department of Transportation, land management agencies, private landowners, and others are working to identify and remedy these barriers. There is no indication that a monument designation would expand or improve on those efforts.

- Proponents have asserted that overgrazing is harming these lands. In reality, livestock grazing within the proposed monument is responsibly and sustainably managed by the BLM and USFS. Stocking rates, seasons, and levels of use are specified by the management agency and adjusted to address resource needs and changing conditions. We feel that an Antiquities designation could be an unhelpful "solution in search of a problem" that would likely affect a system that is working well.

We have consulted with the AGFD and learned that their concerns about monuments designated using the Antiquities Act are rooted in past experience. For example, designation of the Sonoran Desert National Monument in 2001 has impaired recovery efforts for the Sonoran pronghorn while also restricting water development projects critical to the Sonoran desert bighorn sheep population. These adverse impacts on resident wildlife populations, coupled with knowledge of similar problems in Arizona and elsewhere, has resulted in the AGFD Commission voting to oppose the Grand Canyon Watershed Monument in 2012 and again in 2015.

In June, of 1906, President Theodore Roosevelt established the Grand Canyon Game Preserve which he believed should be: "set aside for the protection of game animals and be recognized as a breeding place therefore." It would be ironic indeed if the conservation legacy of Theodore Roosevelt were to succumb to a legacy of non-management and hamstringing of critical conservation measures due to a misguided monument designation proclaimed without the benefit of local stakeholder input.

We would encourage you to honor both the wise legacy of President Roosevelt and the legacy of wildlife conservation by reconsidering your position supporting Administrative designation of the Grand Canyon Watershed National Monument without a thorough environmental evaluation and a thoughtful, transparent process including formal public involvement.

Thank you for your consideration of this matter.

Sincerely,

Archery Trade Association
Association of Fish and Wildlife Agencies
Boone and Crockett Club
Camp Fire Club of America
Congressional Sportsmen's Foundation
Council to Advance Hunting and the Shooting Sports
Dallas Safari Club
Delta Waterfowl Foundation
Houston Safari Club
Masters of Foxhounds Association
Mule Deer Foundation

National Association of Forest Service Retirees
National Rifle Association
National Shooting Sports Foundation
National Wild Turkey Federation
North American Bear Foundation
Orion: The Hunter's Institute
Quality Deer Management Association
Rocky Mountain Elk Foundation
Ruffed Grouse Society
Safari Club International
Tread Lightly!
Wildlife Management Institute
Wild Sheep Foundation
Whitetails Unlimited
U.S. Sportsmen's Alliance

Buckeye Water Conservation & Drainage District

205 ROOSEVELT AVENUE
P.O. BOX 1726
BUCKEYE, ARIZONA 85326-0160
PH: (623) 386-2196
FAX (623) 386-7789

April 25, 2013

Congressman Raul M. Grijalva
Third District, Arizona
1511 Longworth HOB
Washington, DC 20515

Re' HR 1348 – Great Bend of the Gila River National Monument

Dear Congressman Grijalva,

We are writing to express our concern over your proposed legislation that would create a new national monument in and around the Gila Bend area.

We are an irrigation district that has drawn our existence from the Gila River since 1886. Water is our life blood and we are extremely concerned about the impact that this would have for us to continue our operations as they have existed for over 100 years, including historically returning flow back into the Gila River. Agriculture is and will continue to be the economic driver in this area, and any mandates that affect this could be detrimental to the existing economy.

Only 17.6% of Arizona is in private ownership. This legislation would invariably diminish development opportunities for private property owners in the future by limiting access via roads, utilities, energy transmission and also hinder existing land use on state and federal lands in this area.

We do agree though that vegetation management is necessary in the Gila River and ask that you continue the work that Congressman Pastor started with the Tres Rios project. The Gila River from the confluence of the Agua Fria to Gillespie Dam has become overrun with salt cedars and tamarisk that threaten our lands and livelihood by the impact they have diverting flows, flooding due to backwater effects and frequent fires.

We would encourage you to work through the existing laws on the books to protect archeological sites and not paint with such a broad brush.

Sincerely,

Ed Gerak

Ed Gerak, General Manager

CC: Congresswoman Ann Kirkpatrick, First District, Arizona
Congressman Ron Barber, Second District, Arizona
Congressman Paul Gosar, Fourth District, Arizona
Congressman Matt Salmon, Fifth District, Arizona
Congressman David Schweikert, Sixth District, Arizona
Congressman Ed Pastor, Seventh District, Arizona
Congressman Trent Franks, Eighth District, Arizona
Congresswoman Kyrsten Sinema, Ninth District, Arizona

CITY OF Yuma

Office of the Mayor
One City Plaza
Yuma, Arizona 85364

(928) 373-5002
Fax (928) 373-5004
www.YumaAZ.gov

August 3, 2016

Honorable Senator John McCain
2201 East Camelback Road, Suite 115
Phoenix, AZ 85016

Honorable Senator John McCain

As Mayor of the City of Yuma, I strongly support the position expressed by Arizona Game and Fish Commission Chairman Kurt Davis and the Arizona Game and Fish Department that opposes the proposed Grand Canyon Watershed National Monument.

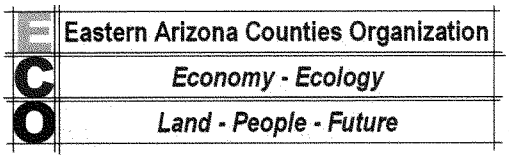
As you know, Arizona already has more National Monuments than any other state. Many of our residents are outdoor enthusiasts and travel to this area to hunt, fish, hike, boat, and bird watch among other outdoor activities. History of land designations tells us that lands will experience increased restrictions or full closures over time. Local economies throughout Arizona will be negatively impacted while Arizona Game and Fish Department's ability to support wildlife conservation will be severely curtailed due to loss of revenue.

The federal government cannot afford to maintain the existing national parks and monuments now. The additional 1.7 million acres for this national monument will only add to the inability to meet required maintenance needs of the full national parks system. Funding would better be directed to supporting the existing national park system or other national priorities like transportation infrastructure.

Sincerely,

Douglas J. Nicholls, PE, RLS
Mayor
City of Yuma

cc: Senator Jeff Flake
Representative Paul Gosar
Representative Trent Franks
Director Christy Goldfuss, Environmental Quality
Secretary Thomas Vilsack, Department of Agriculture



The Honorable Jeff Flake
United States Senate
B85 Russell Senate Office Building
Washington, DC 20510
Via email Chuck_Podolak@flake.senate.gov

The Honorable John McCain
United States Senate
241 Russell Senate Office Building
Washington, DC 20510
Via email nick_matiella@mccain.senate.gov

Re: Support for S. 1416 to amend the Antiquities Act to prohibit the president from unilaterally creating a federal reserved water right when designating a national monument.

September 19, 2016

Dear Senators Flake and McCain;

The Eastern Arizona Counties Organization (ECO) regroups by an Intergovernmental Agreement under A.R.S. 11-952 the six counties of Apache County, Cochise County, Gila County, Graham County, Greenlee County and Navajo County.

The mission of ECO if to develop, plan and implement specific programs impacting economic development in the Counties, and insuring that the Counties' safety, custom, culture and economic well-being concerns are integrated in land and natural resource management decisions made by the federal agencies.

ECO operates 10 programs including Forest Restoration; Endangered Species; Watershed Restoration; Infrastructures; Recreation; Energy; Water; Natural Resources Planning; Public Lands; and, Emerging Issues.

By changing the designation of federal land the president also adjusts the nature of the water rights associated with those parcels. The Supreme Court examined this particular issue in 1976 and held that the Park Service could enjoin private landowners from withdrawing groundwater on adjacent lands, because those withdrawals can be seen as interfering with the purpose of the national park or monument.

Recently, some members of the House requested the unilateral designation of a "watershed" national monument along the Colorado River. Such designation, if made without the timely enactment of S. 1416 could have significant consequences for the delicate balance of water rights in Northern Arizona.

The Eastern Arizona Counties Organization is therefore pleased to write in strong support of S. 1416 to amend the Antiquities Act to prohibit the president from unilaterally creating a federal reserved water right when designating a national monument, introduced by Senators Jeff Flake and John McCain, and wants to express its appreciation to the Senators for their continued involvement and leadership in addressing the issues of water and water rights in Arizona.

Thank you for your consideration.

Respectfully submitted,



On behalf of the Board of Directors,

Pascal Berlioux, Ph.D. MBA
Executive Director
Eastern Arizona Counties Organization
pberlioux@easternarizonacounties.us

Eastern Arizona Counties Organization 550 N. 9th Place Show Low, AZ 85901 (928) 637 3037

Littlefield-
Hurricane Valley
Natural
Resource
Conservation
District

2187 S. 2350 E.
St. George, Utah 84790

September 23, 2015

The Honorable Jeff Flake
United States Senate
413 Russell Senate Office Building
Washington, D.C. 20510-0305

Dear Senator Flake:

We, as supervisors of the Littlefield-Hurricane Valley Natural Resource Conservation District, oppose the Grand Canyon Watershed National Monument. Our purpose as conservationists is to make wise use of our Natural Resources. We are elected by the people in our area to make best use of the land and resources in our environment. We presently work together with the Bureau of Land Management, Arizona Game and Fish, State Land, Park Service and Private land owners to accomplish our mission. Our District has a mandate and goal to promote conservation, and monument designation will severely hinder those efforts.

The state of Arizona and our neighboring state of Utah already have a significant amount of land designated as National Parks and National Monuments, and we don't feel that any further designation is warranted. The current system of management has been working for many years and we don't see the need to add another layer of control and additional cost to this area.

Sincerely,

Ed Bundy, Chairman

Barry Bundy, Secretary

Larry Iverson, Treasurer

Orvel Bundy, Supervisor

Littlefield-Hurricane Valley Natural
Resources Conservation District

GAIL GRIFFIN
STATE SENATOR, DISTRICT 14

CAPITOL COMPLEX, SENATE BUILDING
1700 WEST WASHINGTON
PHOENIX, ARIZONA 85007-2890
(602) 926-5895
TOLL FREE 1-800-352-8404
FAX: (602) 417-3025

E-MAIL: ggriffin@azleg.gov

Arizona State Senate

COMMITTEES:

WATER AND ENERGY, CHAIR
FINANCIAL INSTITUTIONS
RULES

September 21, 2016

Senator Jeff Flake
Washington, DC

Re: The Abuse of Presidential Power Regarding National Monuments in Arizona

Dear Senator Flake,

I am pleased that the Senate Committee on Energy and Natural Resources will hear S. 437 and S. 1416 on September 22nd. As you are aware, Arizonans have a grave concern that the current administration has abused its authority in an effort to put even more Arizona land under federal control through the Antiquities Act. Our concerns culminated in the Arizona Legislature passing by an overwhelming margin Senate Concurrent Memorial 1001 during the 2015 legislative session (attached).

The prevailing sentiment in the Legislature and amongst all Arizonans is that this egregious over-extension of federal authority subverts the purpose of the numerous federal and state laws already in place to protect vulnerable lands. This arbitrary and reckless designation of national monuments puts the state's proud environmental heritage and future fiscal well-being in danger. Further federal interference in Arizona land management will only undo the progress made in ensuring state lands are available for future generations.

Please encourage your U.S. Senate colleagues to listen to our concerns and support S. 437 and S. 1416. Thank you for reaching out to your constituents and please let me know if you have any questions.

Sincerely,

Gail Griffin
Legislative District 14

SENATOR STEVE PIERCE
1700 WEST WASHINGTON, SUITE S
PHOENIX, ARIZONA 85007-2844
CAPITOL PHONE: (602) 926-5584
CAPITOL FAX: (602) 417-3101
TOLL FREE: 1-800-352-8404
spierce@azleg.gov

DISTRICT 1

Arizona State Senate

SENATE PRESIDENT 2012

COMMITTEES:
NATURAL RESOURCES
CHAIRMAN
TRANSPORTATION
JUDICIARY

September 23, 2015

The Honorable Jeff Flake
United States Senator
368 Russell Senate Office Building
Washington, DC 20510

Dear Senator Flake:

This letter expresses my opposition to the proposed creation of the Grand Canyon Watershed National Monument (GCWNM) within Arizona and joins others including: the Arizona Legislature, U.S. Senators John McCain and Jeff Flake, the Arizona Game and Fish Department and its commission and multiple local public officials. Without the necessary support from Arizona stakeholders this proposal for unilateral executive action should not advance.

The GCWNM would designate 1.7 million acres, making it the second largest national monument in the country and almost doubling the amount of national monument acreage in the state. Designating such a vast area – larger than the state of Delaware – requires a narrow management regime that could negatively affect the area's resources and the state as a whole.

The multiple-use policy currently managing this area was developed with public input and based on resource management plans that allows for reasonable use of the area for purposes such as recreation, grazing, mining, energy development and hunting and fishing access. Such uses provide an economic and intrinsic benefit to Arizona and a national monument designation would eliminate this benefit for a nonexistent threat.

Potentially more damaging are the consequences to the states' forests and water resources at a time when the Southwest is experiencing a 15-year drought. A national monument designation would lock away this area from crucial wildfire management and hinder water resource management practices without providing any tangible advantage.

Although it is unquestionable the Grand Canyon is a national treasure that is worth protecting, a national monument designation serves no purpose other than to harm the state of Arizona and its resources.
In light of these facts, I respectfully urge you to oppose the proposed GCWNM.

Sincerely,

Steve Pierce

Senator Steve Pierce
Arizona State Senate
Legislative District 1

SENATOR STEVE PIERCE
1700 WEST WASHINGTON, SUITE S
PHOENIX, ARIZONA 85007-2844
CAPITOL PHONE (602) 926-5584
CAPITOL FAX (602) 417-3101
TOLL FREE 1-800-352-8404
spierce@azleg.gov

DISTRICT 1

Arizona State Senate

SENATE PRESIDENT 2012

COMMITTEES:

NATURAL RESOURCES
CHAIRMAN

TRANSPORTATION

JUDICIARY

September 23, 2015

The Honorable Jeff Flake
United States Senator
368 Russell Senate Office Building
Washington, DC 20510

Dear Senator Flake,

This letter expresses my opposition to the proposed executive designation of the Sedona Verde Valley Red Rock National Monument.

A subjective organization is bringing this proposal that lacks the necessary support from state leaders, Arizona's congressional delegation and the local community. In fact, the Arizona State Legislature passed S.C.M. 1001 in March of this year expressing the state's opposition to the unilateral creation of new national monuments and earlier that same month U.S. Senators John McCain and Jeff Flake outlined their opposition in a letter to the President.

The need for any national monument designation is unclear. The area is not under threat of widespread destruction; only high use and vandalism. While it is important to address these issues the most prudent way to do so is under the current multiple-use policy; not through a national monument designation.

The effects of such a designation create many uncertainties. There are serious questions concerning land use, visitation, effects on private lands and the potential for decreased local control. Perhaps the most important consequence concerns the water rights of the Sedona Verde Valley which are being adjudicated in court. Water is a vital resource to the area's economy, community and environment and a monument designation will complicate an already complex process. Responsible use of the area and its resources provide a substantial benefit and there is no need to endanger this benefit for an already manageable and relatively minor threat.

This issue is multifaceted, nuanced and will have a direct and permanent effect on the city of Sedona and its residents. For these reasons a thorough and objective process is necessary before any designation should be considered by the President. Instead the proposal has been fast-tracked, questions remain unanswered and the amount of public input the issue deserves is lacking.

The national monument proposal is ill-timed, unnecessary and would have potentially deleterious consequences. I respectfully urge you to oppose it.

Sincerely,

Steve Pierce

Senator Steve Pierce
Legislative District 1

MOHAVE COUNTY SHERIFF'S OFFICE

JIM McCABE
SHERIFF

May 18, 2015

RECEIVED
JUN 22 2015

[redacted]

Senator Jeff Flake
Arizona State Senate
Capitol Complex
1700 West Washington
Phoenix, AZ 85007-2890

Dear Senator Flake:

I write to express my opposition to the formation of the proposed Grand Canyon Watershed National Monument by presidential executive order.

Creating a new and enormous – 1.7 million acres – National Monument amounts to a significant Federal land grab. It would add additional Federal regulation to human activity, including ranching, hunting, and recreational access.

It is just this sort of Federal overreached that has led to proposals for states to assume control of the huge areas of public land in the American West. Creation of vast new National Monuments not by Congressional open debate and action but by presidential executive order, even while lawful, would contribute further to distrust of the Federal action.

I ask for your support in opposing the proposed Grand Canyon Watershed National Monument.

Sincerely,

Jim McCabe
Sheriff

600 West Beale Street • P.O. Box 1191 • Kingman, Arizona 86402
PHONE: (928) 753-0753 • FAX: (928) 753-0765

TOWN OF TUSAYAN

at the entrance to Grand Canyon National Park

Statement to Senator Flake concerning the Proposed Grand Canyon Watershed Monument September 20, 2016

Merriam-Webster Dictionary defines Unilateral as, "done or undertaken by one person or party ... or affecting one side of a subject ... or an engagement which (obligates) only one party". The Monument appears to be a unilateral decision. In comparison, I will identify the impact of another unilateral decision affecting Tusayan, an Arizona incorporated municipality, within the proposed Monument zone.

In 2014, the Forest Service accepted, in writing, a Tusayan road easement application offering housing opportunities for residents of Tusayan, where resident owned housing is non-existent. In March 2016, after two years of the NEPA process, the application was returned with an explanation that it did not meet the "initial screening criteria". After expending $400,000 on the application process and USFS consultants, they returned the application stating that a return was neither a denial nor a rejection and the return could not be appealed. As a result, demeaning, real life situations continue to befall Tusayan residents who dedicated their lives to the Grand Canyon.

One example is recently retired former Mayor Greg Bryan. Mayor Bryan lived and worked in Tusayan more than 17 years, retiring in December 2015. Upon retirement, he was forced to move from the town he helped create, since no private owned housing exists. No private housing exists because the Forest Service refused to allow the Town to improve an existing road to Town property where affordable homes can still be built.

The Forest Service broke their own rules in this unilateral decision. This told residents of Tusayan, your best chance of owning a home doesn't matter; your right to improve less than a mile of dirt road to your own property, doesn't matter; your chance to build a community, rather than keep an employer only housing paradigm doesn't matter.

Arizona has more monuments than any other State in the Union, but this doesn't matter in unilateral decisions. 70% of Arizona is already federal land doesn't matter in unilateral decisions. Tusayan would become the only municipality entirely swallowed up in this monument doesn't matter in unilateral decisions. Private and municipal property would be unwillingly placed under an advisory committee to determine land management doesn't matter in unilateral decisions.

The truth is, we do matter!

The Town of Tusayan has proven itself a good and cooperative neighbor to the Park and Forest Service. In 2013, when the federal government shutdown, the Grand Canyon National Park closed, as did Forest Roads, and highways. While the shutdown lingered, Tusayan coordinated with the State of Arizona and local businesses to reopen the Park. Hundreds of thousands of dollars were forwarded to the federal government and the Park reopened. Upon settlement of the federal shutdown, Arizona was reimbursed their contributions to the federal government and made whole. Local businesses were reimbursed their contributions and made whole. The National Park Service was restored to their original funding level and

(928) 638-9909 PO Box 709, 845 Mustang Drive, Tusayan, AZ 86023 www.tusayan-az.gov

TOWN OF TUSAYAN
at the entrance to Grand Canyon National Park

made whole. Tusayan has yet to be reimbursed and now has expended nearly a million dollars on federal responsibilities and Forest Service application requirements with nothing to show for it.

Soundbites supporting the monument characterize it as "saving the Grand Canyon", mostly from mining. In reality, most federal agency representatives intimate with this effort, privately acknowledge concern with federal overreach. The monument process is being used to address mining issues which have already been blocked and restricted for decades. The potential members of an "advisory committee" are already expressing how they will finally be able to "push their agendas" without interference from people who actually live within the monument boundaries. Again, a unilateral decision. Tusayan has proven our willingness to work cooperatively. Federal beaurocrats, mainly in Washington, have proven to be the opposite.

Tusayan strongly opposes the establishment of the Grand Canyon Watershed Monument, whether through Congressional decree or Executive Order. Tusayan believes this is federal overreach to appease special interest groups who do not live among, nor represent the views of the many life-long residents who cherish and manage the Grand Canyon.

Unilateral means to obligate one party. This Monument is an underhanded way to achieve special interest goals, that can't be achieved any other way. The clear definition of a unilateral decision.

Thank you.

Eric Duthie

Tusayan Town Manager

(928) 638-9909 PO Box 709, 845 Mustang Drive, Tusayan, AZ 86023 www.tusayan-az.gov

STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

Statement for the Record

State of Arizona

Governor Douglas A. Ducey

U.S. Senate Committee on Energy & Natural Resources,

Full Committee Hearing to Consider Pending Legislation

September 22, 2016

On behalf of the State of Arizona, I appreciate the opportunity to provide written comment for the Congressional Record regarding pending legislation related to the designation of national monuments through unilateral authorities prescribed under the Antiquities Act of 1906. These designations ultimately result in restrictive use of natural resources and water rights belonging to private and state land owners and prohibitions for the public's full enjoyment and use of their public federal land.

Arizona proudly boasts some of the country's most unique and majestic landscapes that entice visitors and businesses to this epicenter of western progress. My administration is focused on building upon opportunity: laying foundations for improving government efficiencies that truly reduce the bottom line, and modernize what are outdated rules and regulations that thwart sound principles of governance.

Proposals that encourage protection, preservation or limitations on use of certain lands in the west have been advanced through various legal and administrative processes. Congressional actions and administrative withdrawals of certain lands including areas around the Grand Canyon have signified historic successes of multiple stakeholders to advance objectives that have been publicly vetted.

The 1.7 million proposed GCWNM designation is different. By Presidential Proclamation authorized by Antiquities Act of 1906 (Act), the land becomes set aside in perpetuity without input from the State or its citizens and without any feasibility or economic impact analyses. The Act's passage in 1906 was to provide the President with the ability to protect certain artifacts that otherwise had no lawful protections at that time.

1700 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007
602-542-4331 • www.azgovernor.gov

It may have made sense at the time, too. Between 1906 and 1909, President Theodore Roosevelt issued executive proclamation creating 18 scientific areas or natural monuments under the authority granted to him by the Act - all of them in far western states, thousands of miles from Washington, D.C., in remote areas where thieves, bandits, and the dregs of society were destroying Native American sites. That is NOT how the Antiquities Act is being applied today. Today, the Antiquities Act is being used to lock- up private and public landscapes from common, legal, and necessary economic activities that are vital and necessary to the economic prosperity of our great nation.

This administration represents progressive 21st century management that provides opportunities for ALL, and seeks to reduce and eliminate unreasonable and outdated regulations that are exclusionary and harmful to developing industries of all kinds. In 21st Century land management practices, the Act represents as antiquated a system as the antiquities it was created to protect. Its process is flawed and has evolved into a practice that resembles feudalism, serving only very small and limited interests. The Act does not require substantive input or analysis, and has never been challenged judicially.

Aside from the immense failure of governing and process that the Antiquities Act represents and that GCWNM proponents promote, the creation of federal land use designations also has far-reaching detrimental effects. By their very nature, federal land use designations such as this impede economic opportunity and the private property rights of landowners throughout the region. Let's be clear - these designations are purely about preservation, not multiple-use management that, as the first Chief of the Forest Service Gifford Pinchot would say, achieves "the greatest good for the greatest number in the long run." Multiple-use land management is an essential component of Arizona's economy: recreation, mining, agriculture, and grazing. Put another way, four of the "Five C's" represented in the great Seal of Arizona (copper, cattle, cotton, and citrus) would not exist if we did not allow for multiple uses of public lands, and of course the ability to recreate in Arizona 365 days per year relies on the fifth C (climate). Imposition of a preservation management objective overlay on 1.7 million acres of land in Arizona thwarts Arizona's land management objectives and values, and it does so by bypassing a public process that would most certainly result in a much more thoughtful result.

The GCWNM is not narrow, targeted, warranted, or being considered through an open, cooperative public process. The State opposes outdated laws and rules that violate a good faith contract between state and federal entities to work cooperatively to identify natural resources that require active or immediate action; and to undertake such efforts in a manner that is consistent with a balanced public process applicable to all other land management decisions. The State supports conservation and considerate management of its culture, history, and landscapes. There may be areas in the United States where creation of narrow, targeted preservation areas is warranted; however, the process should include considerable efforts to identify, balance, and mitigate impacts to economies, other potential resources, and to personal property rights.

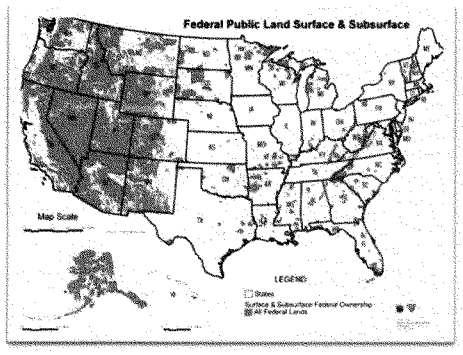
We, the State of Arizona, encourage a fair alternative to the proposed use of the Antiquities Act to create the GCWNM, which will unfairly limit access and prohibit the ability of private entities to conduct business on 1.7 million acres of lands in Arizona. Resource and land management decisions best serve all constituents when state and federal interests are intermingled; which results in true partnerships and democratically balanced outcomes. We ask that the United States Congress review and amend the Antiquities Act of 1906 as it is unrepresentative of the principles on which this great nation was founded: a robust system of checks and balances to ensure that government is honest, and making decisions that best serve all citizens.

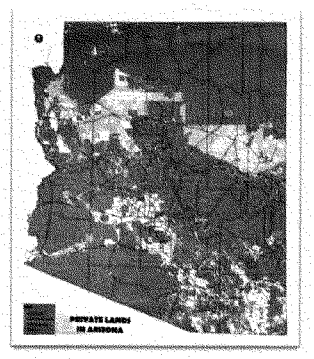
Opposition to National Monuments within Arizona

The State of Arizona is opposed to the creation of the proposed 1.7 million acre Grand Canyon Watershed National Monument (GCWNM), and any other new or enlarged National Monument within Arizona.

The GCWNM is opposed by: 39 bipartisan Arizona State House and Senate members, 25 members of the U.S. House of Representatives including the majority of Arizona Congressmen, both U.S. Senators McCain and Flake, the Arizona Game and Fish Department and its Commission, Arizona city and county elected officials, members of the Arizona Havasupai and Navajo Tribes, and over 60 wildlife, recreational and agricultural organizations. [11]

Nearly 81 percent (59.7 million acres) of land within Arizona is already under the control of the United States (see the red areas in the BLM and AZ state maps below), including National Monuments, National Parks, National Forests, Bureau of Land Management, military, tribal, U.S. Fish and Wildlife, Wilderness restrictions and special land use designations. The GCWNM will withdraw 1.7 million additional acres from multiple-uses, such as recreation (hiking, camping, hunting, fishing), agriculture (farming, ranching, grazing), mining and development.





Only about 18 percent of the 73 million acres of land within Arizona is in private ownership, and thus paying taxes for public education and other needed government services. This places Arizona and the other western states at huge fiscal disadvantages, in comparison to the eastern states that have very small percentages of their land under the control of the United States.

Executive Summary of the Facts

The following includes many of the reasons why the United States cannot and should not create the GCWNM and other new National Monuments:

- It is a contractual breach by the United States of the terms of Arizona's Enabling Act, which stipulates that a portion of the revenue from the State Trust land be used for public education (the beneficiaries.) The existing and newly proposed National Monuments encumber almost 162,000 acres of Arizona State Trust land, which violates the terms of Arizona's Enabling Act and financially punishes Arizona public education [4]
- None of the Arizona Legislatures (as required by Article I, Section 8, Paragraph 17 of the U.S. Constitution), Governors, or any voter referendum has ever approved the creation of any of the National Monuments or National Parks created within Arizona [2]
- It will encumber 1.7 million more acres of land within Arizona (an area larger than the States of Delaware and Rhode Island combined), including the unconstitutional seizing of over 62,000 acres of additional State Trust land, 7,000 acres of private land, and vast amounts of contractually leased public land. The perimeter fence alone will be greater than the distance between Washington D.C and New York City, approximately 206 miles long
- It will lock-up vast natural lumber and mineral resources, including gold, silver, copper, and what is believed to be the largest and richest uranium deposits in the world, a resource that has been called "the most significant of strategic minerals." The National Materials and Minerals Policy Research and Development Act of 1980, TITLE 30 CHAPTER 28 § 1601 begins by stating "The Congress finds that (1) the availability of materials is essential for national security, economic well-being, and industrial production." Encumbering this important resource would be devastating for the United States, especially in light of the recent revelation that under Secretary of State Clinton, the Russians have gained control over 20 percent of the United States Uranium [10]
- GCWNM was not proposed in compliance with FLPMA (Federal Land Policy and Management Act) or NEPA (National Environmental Policy Act), and its creation lacks transparency, public involvement and a full accounting of all impacts to multi-users including outdoor recreational enthusiasts. It specifically harms Arizona's authority to manage wildlife (including threatened and endangered) and their associated habitats [1]
- Use of the Antiquities Act of 1906 [3] for the creation of National Monuments within the states is in violation of the U.S. Constitution:
    1. Article I, Section 8, Paragraph 17: use of state land by the United States must be for enumerated uses and "purchased by the consent of the legislature of

the state". Arizona has never approved or has been compensated for the State Trust land encumbered within the National Monuments. [2]

2. The Fifth Amendment: "No person shall... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation," which has occurred repeatedly to Arizona State Trust, private and contractually leased public land [7]
3. Article 4, Section 4: citizens are constitutionally guaranteed a "Republican Form of Government" within the states, which is violated whenever an individual enters Federally controlled Arizona lands [8]
4. The Antiquities Act is unconstitutional because it grants the President with entirely new powers that are not enumerated and are not in Pursuance of the Constitution (the Supremacy Clause, Article VI, Clause 2.) The U.S. Constitution does not grant Congress with the enumerated power or authority to enact these new Executive powers, which are clearly not in pursuance of the Constitution, but are in fact in direct conflict with it (Article I, Section 8, Paragraph 17.) In order for the Act to be considered Constitutional, a new amendment is required that would define "National Monuments" and "National Parks" as enumerated uses of land within a state by the United States, and would provide the President with these new powers claimed within the Act: to seize land within a state for use by the United States without the consent of the state legislature and without just compensation. [3]

- The GCWNM, and the current National Monuments, violate multiple provisions of the Antiquities Act of 1906 which is used as the instrument for the unlawful seizure of huge amounts of State Trust, private and contractually leased public land [3]
- It violates the doctrine of the Equality of States: The United States currently controls 59.7 million acres (81 percent) of land within Arizona. This includes 3.7 million acres within 22 National Monuments and Parks, which have already encumbered almost 100,000 acres of State Trust land, and countless acres of private land and contractually leased public land. The United States only pays PILT (Payment in Lieu of Taxes) at an annual average of about 59 cents per acre, but unlike all other private landowners, the United States does not pay assessed property taxes on any of the 59.7 million acres of land it holds within Arizona. This massive inequity in the Federal control of state land does not exist within the eastern states, and it dramatically harms our city, county and state government's ability to fund education and basic public services. [9]
- It again violates the doctrine of the Equality of States: Arizona currently has the largest number of National Monuments (22) created with the second largest number of acres (3.7 million.) There are grave inequalities between western and

eastern states. There are almost 5 times more National Monuments in the western states (W=102, E=23), the total number of acres of National Monuments in the western states is 879 times larger (W=71,200,000 acres, E=81,000 acres), and the average number of acres within each National Monument in the western states is 189 times larger (W=698,337 acres, E=3,523 acres). [9]

- It will end multiple-use lands within the GCWNM, including access, conservation efforts and wildlife-related recreation, wildlife population augmentations, wildlife habitat manipulations and enhancements, wildlife water development and maintenance, and hunting and fishing access [1]
- It has huge potentially negative economic impacts: fishing, hunting and recreation generates $1.2 billion in spending, creating an economic impact of $2.1 billion to the State of Arizona annually, supporting more than 18,000 jobs, $699 million in wages, and generating more than $132 million in state tax revenue. Arizona's neighbor Utah reports that with the creation of the Escalante-Grand Staircase National Monument, local counties and communities have experienced rural depopulation, a negative impact on public schools, and overall economic losses and negative impacts to the cities, counties and state. [6]

In conclusion, the State of Arizona implores the United States to end its 109-year unconstitutional practice of creating National Monuments within Arizona and the other states, that place land use restrictions on additional acreage within Arizona, and to immediately begin the process of fully returning these lands to the control of each state. Additionally, the United States needs to immediately begin the process of disposing of its vast land holdings within Arizona and the other western states, as it has already done in the eastern states.

The following information is provided in support of the claims made within this document, and are referenced by superscript numerals (see above) to the following numbered items.

1. The Findings of the Arizona Game and Fish Department

The Arizona Game and Fish Department (AZGFD) and its Commission are in opposition to the GCWNM, its special land-use designation, and the resulting impacts on multiple-use lands, including the impacts on access, conservation efforts and wildlife-related recreation. This proposed Presidential Proclamation lacks transparency, public involvement and a full accounting of all impacts to multi-users, specifically the Department's authority to manage wildlife, associated habitat and the impacts to outdoor recreational enthusiasts.

The AZGFD Commission's concerns include:

- The new National Monument has not been proposed in compliance with the Federal Land Policy and Management Act or the National Environmental Policy Act.

- It does not take into consideration traditional uses of the land, which includes recreational opportunities.
- It may further restrict and preclude motorized access for recreational use, wildlife viewing opportunities, disabled hunters and anglers, and the retrieval of downed game.
- It may cause legal ambiguity concerning the ability to properly manage wildlife and wildlife habitat.

An analysis by the AZGFD demonstrates that this new national monument designation can lead to restrictions on proactive wildlife management, including but not limited to:

- Wildlife population augmentations
- Wildlife habitat manipulations and enhancements
- Wildlife water development and maintenance
- Hunting and fishing access

2. U.S. Constitutionally: Enumerated Use of State Land by the United States

According to the U.S. Constitution Article I, Section 8, Paragraph 17, the United States has specific enumerated uses for land within a state that are "purchased by the consent of the legislature of the state." Much of the 59.7 million acres (81 percent) of Arizona land that is currently under the control of the United States does not serve a Constitutionally approved enumerated purpose, including:

- National Monuments
- National Parks
- National Forests
- U.S. Fish & Wildlife Acreage
- Wilderness Areas
- Wildlife Refuges
- National Historic Sites
- Bureau of Land Management (BLM) holdings

3. The Antiquities Act of 1906

The enumerated powers and restrictions of the United States government are defined within the Constitution, and the Tenth Amendment states that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." The Antiquities Act is unconstitutional because Congress does not have the power or authority to grant the Executive Branch of the United States with the power to seize land, a power which is not granted anywhere within the Constitution. In fact, Article 4, Section 3 suggests that Congress only has the power to dispose of land, not to acquire.

The Antiquities Act is also unconstitutional, because it allows for the creation of 'National Monuments,' which are not defined as constitutionally enumerated uses of state land by the United States. In the past 109-years, Congress has never bothered to propose an amendment to the U.S. Constitution that would fix these problems..

Section 2 of the Antiquities Act states "That the President of the United States is hereby authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with proper care and management of the objects to be protected: Provided, That when such objects are situated upon a tract covered by a bona fied unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts in behalf of the Government of the United States."

The Act states that those lands that will become National Monuments must be owned or controlled by the government of the United States, which has typically not been the case in much of the lands that constitute the National Monuments created within Arizona. Nowhere within the Act does it suggest that the United States has the authority to seize State Trust land, especially without state legislative approval or just compensation as required by Article I, Section 8, Paragraph 17.

The Act encourages property owners with a "tract covered by a bona fied unperfected claim or held in private ownership" to relinquish their property to the United States, which conflicts with the Fifth Amendment that requires the United States to compensate citizens when it takes property for public use. [7]

However, the Act does state "the limits of which in all cases shall be confined to the smallest area compatible with proper care and management of the objects to be protected." In almost every case, this provision of the Act has been violated by the United States, where the average size of the National Monuments located within Arizona is almost 174,000 acres, clearly not confined to the smallest area as called for within the Act, lands that include Arizona State Trust, private and contractually leased public land.

The United States has not demonstrated a valid justification for the immense 1.7 million acre size of the proposed GCWNM, or in fact the other 22 National Monuments that were created within Arizona. Where is the inventory of each specific individual "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest" to be protected, as called for in the Act? Where is each object located (GPS coordinates), where are the digital photographs of each object, where is the independent peer-reviewed scientific documentation and justification / necessity for protecting each object, how many square feet of land does each object occupy and what is the amount of land (in square feet) that is required for the "proper care and management of the objects to be protected" as called for within the Act?

4. Arizona Enabling Act of 1910 and Public Education Funding

The creation of National Monuments directly conflicts with Arizona's Enabling Act, which repeatedly refers to the use of State Trust land, and in Section 24 states: "the passage of this Act are hereby granted to the said State for the support of common schools". If the United States creates another National Monument within Arizona, almost 162,000 acres of State Trust land will be financially unavailable for use by the beneficiaries outlined in Arizona's Enabling Act, including public schools and universities. This is a violation, a breach of the contractual terms agreed to by Congress and by the State of Arizona within its Enabling Act, which stipulates that the financial proceeds from the Arizona State Trust land would be used to support public education.

5. National Monuments Located Within Arizona

The twenty-two National Monuments created within Arizona total 3.7 million acres. The addition of the proposed 1.7 million acre GCWNM would increase Arizona's total National Monument acreage by 146 percent to 5.4 million acres. The total size of National Monuments within Arizona would then exceed each individual size of the states of Massachusetts, New Jersey, Hawaii, Connecticut, Delaware and Rhode Island, an area 127 times larger than Washington DC.

6. Negative Economic Impacts of National Monuments

According to the Congressional Sportsmen's Foundation, fishing and hunting recreation generates $1.2 billion in spending and creates an economic impact of $2.1 billion to the State of Arizona annually. These activities support more than 18,000 jobs, provides residents with $699 million in salary and wages and generates more than $132 million in state tax revenue. Our neighbor Utah reports that with the creation of the Escalante-Grand Staircase National Monument, local counties and communities have experienced rural depopulation, a negative impact on public schools, and overall economic losses and negative impacts to the cities, counties and state.

7. Due Process Under the Law

The seizure of 1.7 million more acres for the GCWNM by Presidential Proclamation is a violation of the State of Arizona and its private citizen's constitutionally guaranteed Due Process rights. The Fifth Amendment states that "No person shall... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

8. Guaranteed Republican Form of Government

The 59.7 million acres of land currently controlled by the United States within Arizona is a violation both of Arizona state sovereignty and Arizona's constitutionally guaranteed Republican Form of Government (Article 4, Section 4). When within those Federally controlled lands, citizens do not have a voice or vote, they do not have the same liberties that are guaranteed by Arizona outside of those lands, and they have no city, county or state representation.

9. Doctrine of the Equality of States

Arizona's Enabling Act of 1910 states "the proposed State of Arizona shall be deemed admitted by Congress into the Union by virtue of this Act on an equal footing with other States." The Supreme Court ruled (3 Stat. 489, 492 (1819)) concerning the sovereignty and jurisdiction of the States, that inasmuch as the original States retained sovereignty and jurisdiction over the navigable waters and the soil beneath them within their boundaries, retention by the United States of either title to or jurisdiction over common lands in the new States would bring those States into the Union on less than an equal footing with the original States. (http://law.justia.com/constitution/us/article-4/22-doctrine-of-equality-of-states.html). The huge 81 percent of land controlled by the United States places Arizona (and the other western states) on an unequal footing with the original States and with the eastern states.

10. Arizona Uranium deposits in the proposed GCWNM

On June 24, 2015, the Arizona State Geologist released its new report "Partial database for breccia pipes and collapse features on the Colorado Plateau, northwestern Arizona" (http://www.azgs.az.gov/news_releases2015.shtml#jun24) that found concentrations of breccia pipes 10 to 100 times higher than previously known, in two test study areas. Breccia pipes are the primary targets for uranium and other minerals. The State Geologist believes that the same density of pipes extends across the entire region, which would make the area, that includes the GCWNM, one of the largest and richest uranium districts in the world. For the United States, Uranium has been called "the most significant of strategic minerals." From a safety standpoint, more Uranium flows down the Colorado River from natural erosion (60 tons) than is annually mined worldwide.

11. Resolutions, Letters and Opposition to the Grand Canyon Watershed National Monument Include

- A February 2015 letter in opposition written to the President by 25 members of the U.S. House of Representatives
- A 2015 Arizona State Legislative Concurrent Memorial #1001
- A February 2015 Legislative Resolution from the Arizona State House of Representatives
- A May 2012 Resolution from the Arizona Game and Fish Department Commission
- A March 2015 Resolution from Jim Unmacht, the President of the Arizona Sportsmen for Wildlife Conservation, which includes AZ Deer Association, AZ Outdoor Sports, AZ Big Game Super Raffle, 1.2.3.Go..., AZ Antelope Foundation, AZ Desert Bighorn Sheep Society, Outdoor Experience 4 All, Xtreme Predator Callers, AZ Houndsmen, AZ Flycasters Club, Coconino Sportsmen, AZ Bowhunters Association, South Eastern AZ Sportsmen's Club, Mohave Sportsman Club, AZ State Chapter of National Wild Turkey Federation, AZ Elk

Society, AZ Chapter of Safari Club International, AZ BASS Nation, The BASS Federation, SRT Outdoors, Anglers United, AZ Council of Trout Unlimited

- An April 2015 Resolution from Mayor John Moore and the city council of the City of Williams, Arizona
- An April 2015 Resolution from the Town Council of Fredonia, Arizona
- A letter to The Honorable Sally Jewell, Secretary, U.S. Department of the Interior and to The Honorable Tom Vilsack, Secretary, U.S. Department of Agriculture from Whit Fosburgh, President and CEO of the Theodore Roosevelt Conservation partnership
- A letter to U.S Representatives Grijalva, Kirkpatrick & Gallego from the members of Archery Trade Association, Association of Fish and Wildlife Agencies, Boone and Crockett Club, Camp Fire Club of America, Congressional Sportsmen's Foundation, Council to Advance Hunting and the Shooting Sports, Dallas Safari Club, Delta Waterfowl Foundation, Houston Safari Club, Masters of Foxhounds Association, Mule Deer Foundation, National Association of Forest Service Retirees, National Rifle Association, National Shooting Sports Foundation, National Wild Turkey Federation, North American Bear Foundation, Orion: The Hunter's Institute, Quality Deer Management Association, Rocky Mountain Elk Foundation, Ruffed Grouse Society, Safari Club International, Tread Lightly!, Wildlife Management Institute, Wild Sheep Foundation, Whitetails Unlimited, U.S. Sportsmen's Alliance
- A March 2015 letter to Congresswoman Ann Kirkpatrick from the Arizona Wildlife Foundation
- A March 2015 letter to Congresswoman Ann Kirkpatrick from the Apache County Supervisor Barry Weller
- An April 2015 letter from Steve Clark, Executive Director of the Arizona Elk Society
- A public statement in August 2015 by Mohave County, the Mohave Cattlemen association and the Mohave Sportsmen Club
- Letters sent to Federal officials by the Arizona Cattlemen's Association
- Letters sent to Federal officials by the Arizona Farm Bureau
- Letters sent to Federal officials by President Jim Parks and the Coconino County Cattle Growers & Farm Bureau
- Former Yavapai County Cattle Growers President Andy Groseta
- The members of the Arizona Rock Products Association

Impact of the proposed Grand Canyon Watershed National Monument
Arizona Department of Transportation

The Grand Canyon National Park Airport is owned and operated by the State of Arizona through the Arizona Department of Transportation. Although it has historically failed to consistently generate revenues adequate to cover its expenses, it has managed to do so for the past three years due to the introduction of a number of operating efficiencies, process improvements and expense reductions. A business plan for the modernization of the Airport has been created that promises to allow it to achieve long-term financial self-sufficiency and generate sufficient revenue to cover its operating and capital expenses without being a burden to the taxpayers of Arizona. The establishment of the Grand Canyon Watershed National Monument could have a profound impact upon this plan, the Department's ongoing modernization and the airport's financial sustainability.

The use of the Antiquities Act to envelop the Grand Canyon National Park Airport within a National Monument would lead to an uncertain future for Arizona's 4th busiest commercial airport because the State of Arizona would be deprived of the established procedures for public review and stakeholder input provided by the Federal Land Policy and Management Act and the National Environmental Policy Act. Without adequate input into the process, or knowledge of impending constraints, the Arizona Department of Transportation cannot plan for the future or determine whether the Airport will maintain financial self-sufficiency or become a permanent burden to the taxpayers of our state.

The three areas of potential impact most of concern to the Department are (1) water, (2) tour operations, and (3) infrastructure modernization.

(1) *Water*

Airports must have water for firefighting purposes, general public use in restroom facilities and for drinking water. This proposed National Monument has the potential to affect access to water, which would decrease the Airport's fire protection and prevent it from properly serving the visitors that come to Arizona and the Grand Canyon from all over the world. The following issues describe the current water situation and the potential impact of the National Monument in greater detail.

- Currently, the Airport contracts with Hydro Resources, the local water provider, to supply water during certain periods of time which is then stored in tanks on the airport property. Hydro Resources' supply depends on its control of water wells and water rights in Tusayan. There is the potential that the proposed Monument could alter the distribution of local water rights and require the Airport to find another water source.
- The Airport deed for 859 acres from the National Forest Service provided water rights for the airport, but not Rain Tank, a five acre pond in the middle of airport property. The State and the Airport have spent more than $10 million in legal costs to resolve the water rights around Rain Tank, while preserving the water rights originally received from the National Forest Service. There is the potential that the Watershed Monument could alter this arrangement and limit the State's options for future water resources at the Airport.
- If any existing water rights or arrangements are altered by creation of a National Monument, the Airport, and taxpayers of Arizona, could have to resort to the more costly method of trucking water onto the property.

(2) *Tour Operations*

- Grand Canyon National Park Airport is the 4th busiest commercial airport in Arizona. Approximately 80% of the passengers fly on tour flights over the Grand Canyon and five of the airport tenants own 99% of the allocations for tour flights.
- The proposed National Monument has the potential to limit or restrict tour operations and reduce related passenger revenues, including enplanement-based FAA capital improvement grants. Restrictions on revenue, and the sources of this revenue, would impair the ability of the Airport to meet and maintain federally required standards and result in an additional burden to Arizona taxpayers.

(3) *Modernizing and new business at the airport*

- The Airport's 50 year-old terminal must be replaced, or at least modernized to handle anticipated passenger growth, comply with the Americans with Disability Act, meet current aviation security requirements and incorporate basic energy and water efficiency. A National Monument designation has the potential to limit this needed development, reduce the Airport's ability to meet passenger demand and impair its financial self-sufficiency.
- A key to the financial self-sufficiency of the Airport is the development of Airport property that doesn't have an aeronautical use. These future developments would help provide a revenue stream that could cover operational and capital expenses while also creating local jobs and economic growth. The proposed Monument could restrict this kind of future development.
- The proposed Monument could also impact the Airport's ability to obtain easements of utilities needed for future modernization of the Airport or to run water lines from wells outside of the proposed Monument's boundaries.

MOHAVE COUNTY BOARD of SUPERVISORS

2001 College Drive, Suite 90
Lake Havasu City, AZ 86403
johnsbd@frontiernet.net

Telephone (928) 453-0724
Fax (928) 453-0717
1-888-735-3711

BUSTER D. JOHNSON
SUPERVISOR DISTRICT 3

Honorable Senators thank you for allowing local input on these very important pieces of legislation having to do with this nation's energy and natural resources.

I am Buster Johnson and have represented Mohave County's 3rd District since elected in 1996. I am submitting written testimony today in support of S. 437, the Improved National Monument Designation Process Act, and S. 1416, a bill designed to limit the authority to reserve water rights in designating a national monument. Both pieces of legislation are important for Mohave County and the constituents I represent. As you may know, the majority of Mohave County residents depend on the Colorado River for both recreational and economic growth. With nearly 50% of Arizona now being owned by the federal government and nearly 90% of Mohave County, we cannot afford any further monument designations.

S. 437 is crucial for Mohave County and Arizona. With the President proposing to take executive action to designate nearly 1.7 million acres of land in northern Arizona as the Grand Canyon Watershed National Monument, this legislation is greatly needed. S.437 would require input from Congress, state and local governments before a presidentially created monument can be approved. Should the President go ahead with the executive action, it would be devastating for the future growth of Arizona and have a long lasting effect on Mohave County.

As the federal and state government continues to take privately held lands away from our residents, it becomes harder and harder to create jobs and keep our taxpayers employed. In January of 2000, President Bill Clinton signed a proclamation taking away 1 million acres of land in the Arizona Strip area for the Grand Canyon-Parashant National Monument. That monument is now one of 18 monuments in the state which is more than any other state has. Designating land for a new monument will take away even more land in the Arizona Strip area putting it in the hands of the federal government and away from the taxpaying citizens of this state.

I am asking you also to approve S.1416. Water is becoming a scarce resource in Arizona. As it stands right now, if the President were to move forward with this proposed monument, it could have the potential to 'federalize' the area's watershed and uproot critical water rights in Arizona and Mohave County. This legislation would protect Arizona's water by prohibiting the president from conducting "water grabs" by creating a new federally reserved right with a national monument.

Our state cannot afford to lose any more land or water rights to the federal government. Why as a matter of public policy is locking down known natural resources wise? The Parashant Monument has not added to the beauty or economy of our state. The only thing it has done has placed "keep out signs" on the land barring our citizens from making a living or enjoying the land.

Protecting our lands can be enhanced with current mining operations and off roaders who want to preserve our lands for future generations to experience. Working together will protect the land far better than no trespassing signs. Allowing economic development on this land would be a great benefit to both the state and Mohave County. It is estimated that allowing uranium mining in this area would create more than a thousand jobs directly related to mining operations, and many more jobs would be created as a result of the economic activity associated with the mining. Designating this land as a national monument will take away this economic opportunity for the taxpayers of Mohave County and an estimated $40 million annually in payroll.

I again ask for your support of S. 437 and S. 1416. If we all work together, we can find was to preserve the natural beauty of this country while at the same time keeping it open for future generations to enjoy.

Buster D. Johnson
Mohave County Supervisor
District III

ARIZONA CATTLE GROWERS' ASSOCIATION
1401 NORTH 24TH STREET, SUITE #4
PHOENIX, ARIZONA 85008 • (602) 267-1129
www.azcattlemensassoc.org

ACGA
September 30, 2016

Honorable Senator John McCain
218 Russell Senate Office Building
Washington, DC 20510

Re: Grand Canyon Watershed National Monument

Dear Senator McCain:

The Arizona Cattle Growers' Association wishes to inform you of the concerns we have with the potential creation of the Grand Canyon National Monument. On January 28, 2015 Congresswoman Kirkpatrick, Congressman Grijalva and Congressman Gallego sent a letter to the President urging him to create the Grand Canyon Watershed National Monument. This monument would encompass the Kaibab National Forest, Bureau of Land Management areas in the Arizona strip, and would further expand two other national monuments. The proposal includes 1.7 million acres of land and will impact ranching, recreation, hunting and even local communities. Arizona is home to the most national monuments in the United States with a total of 18. Over 2.5 million acres of Arizona land is a national monument. Congressman Grijalva is also trying to codify the monument through legislation, HR3882 Greater Grand Canyon Heritage National Monument Act, which will be devastating to those rural communities that depend on these public lands.

National monuments in Arizona have put increased pressure on management of the land. In many cases, the only productivity left on these lands is cattle grazing and these designations slowly bring grazing to an end. These lands take extra time to manage, have higher standards of management and lead to additional litigation for land management agencies because of a "special designation". The land managing agencies are faced with a greater challenge as these monuments go through the 10 year planning process. It is at these points that competing interest for public lands do not align and environmental groups put added pressure to remove any and all multiple use activities. The most recent example has been the Sonoran National Monument, designated by President Clinton. This monument eliminated grazing south of Interstate 8 and the planning process completed in 2013 closed one grazing permit and cut numbers on others. In addition, recreation on these lands has been severely hindered.

Our public lands system has a great deal of process and protection to authorize all multiple use activities. Often times, these processes take multiple years before any decision is made and is usually litigated. National Monuments only further exacerbate the issue while those that live and work on the land suffer from inability to manage. We hope that you others in the Arizona delegation understand our concerns for the future of these lands.

Sincerely,

Jim O'Haco

Jim O'Haco
President

Farm Bureau Federation
325 S. Higley Rd, Suite 210
Gilbert, AZ 85296

September 23, 2016

The Honorable Jeff Flake
Senate Russell Office Building 413
Washington, D.C. 20510

Dear Senator Flake,

In light of the proposed 1.7 million acre Grand Canyon Watershed National Monument (GCWNM), we appreciate the work you are doing to update and modernize the Antiquities Act (Act). Senate bill 1416, which you sponsored, amends the Act to prohibit the president from unilaterally creating a federal reserved water right when designating a national monument. Another bill, Senate bill 437, which you have co-sponsored modifies the process for creating new national monuments to require Congressional and state legislature approval, as well as a NEPA process. Both bills are critically important to protecting water rights and improving the process by which national monuments are created.

The Antiquities Act was established in 1906 as a means to preserve historic landmarks, historic and prehistoric structures and other objects of historic or scientific interests and their landmass was to be "confined to the smallest area compatible with proper care and management of the objects to be protected." Today the Act is used to restrict large swaths of land with little to no consultation or evaluation of the impact on local communities and industries and give further control of natural resources like water over to the federal government. It is by far time the Act be updated to involve land owners, grazing permitees, and local governments as affected partners in the process where federal land use designations restrict public use and access. We also support congressional approval and NEPA review for any proposed designation.

The regulation of water quantity, and correspondingly water rights, has been the purview of the states. The federal government should not impinge on a state's authority to regulate water rights through national monument designations.

Some of our own Farm Bureau members have experienced first-hand grazing and access limitations under previous designations. Even more of our members will face a similar situation if the Antiquities Act is not fixed. We support Senate bills 1416 and 437.

Sincerely,

Kevin Rogers

Kevin Rogers, President
Arizona Farm Bureau Federation

AZ/Utah Local Economic Coalition

2001 College Drive, #90, Lake Havasu City, AZ 86403
Phone 928-453-0724

Members

Garfield County, UT
Kane County, UT
Mohave County, AZ
San Juan County, UT
Washington County UT
Town of Fredonia, AZ

September 23, 2016

Dear Senators,

We are writing as elected officials whose counties represent areas directly impacted by uranium mining and the proposed Grand Canyon Watershed National Monument. We are writing in support of S. 437, the Improved National Monument Designation Process Act, and S. 1416, a bill designed to limit the authority to reserve water rights in designating a national monument. Both pieces of legislation are important to the areas represented by this Coalition. Arizona and Utah have a history of diverse economic opportunities ranging from livestock grazing to tourism and significantly, mining. We respect and take a responsibility for protecting the Grand Canyon, but designating this land as a national monument will take away current mining operations and off roaders who want to preserve our lands for future generations to experience.

We are in support of S. 437. It is a crucial piece of legislation. With the President proposing to take executive action to designate nearly 1.7 million acres of land in northern Arizona as the Grand Canyon Watershed National Monument, this legislation is greatly needed. S.437 would require input from Congress, state and local governments before a presidentially created monument can be approved. Should the President go ahead with the executive action, it would be devastating for the future growth of Arizona and Utah and have a long lasting effect on our economies.

Our states cannot afford to lose any more land to the federal government. Nearly 50% of both Arizona and Utah is now owned by the federal government. Mohave County alone has only 10% private land. Designating another 1.7 million acres to the feds will reduce private ownership even more. Why as a matter of public policy is locking down known natural resources wise? In January of 2000, President Bill Clinton signed a proclamation taking away 1 million acres of land in the Arizona Strip area for the Grand Canyon-Parashant National Monument. That monument is now one of 18 monuments in the state which is more than any other state has. Designating land for a new monument will take away even more land in the Arizona Strip area putting it in the hands of the federal government and away from the taxpaying citizens of this state.

We are also asking the Committee to approve S.1416. Water is becoming a scarce resource in Western states. As it stands right now, if the President were to move forward with this proposed monument, it could have the potential to 'federalize' the area's watershed and uproot critical water rights. This legislation would protect those water rights by prohibiting the president from conducting "water grabs" by creating a new federally reserved right with a national monument.

Removing public access to this land does nothing to protect our watershed. Our watershed has been threatened over the past 15 years due to extreme drought conditions and without the necessary tools provided by certain industries, the watershed will continue to be depleted with no remedies to protect the well-being of our citizenry. Water has always been a critical issue in the southwest and we continue to find ways to reduce consumption and recycle wherever possible. This designation will make it more difficult for state and local governments to find the means necessary to ensure our citizens have a continued water supply.

We again ask for your support of S. 437 and S. 1416. If we all work together, we can find was to preserve the natural beauty of this country while at the same time keeping it open for future generations to enjoy.

Buster Johnson
Mohave County Supervisor

Alan Gardner
Washington County, UT Commissioner

Senator FLAKE. When I travel around the state I repeatedly hear from constituents asking me to help stop a new designation. Senator Lee talked about some of the issues that go along with that and the lack of economic opportunity that results.

It is frustrating, Madam Chair, that we cannot do anything about these monuments and we have no voice in the process. That is why it is important to have these kind of fixes that this bill would put in place.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Flake, and all of the letters and reports that you have asked to be included as part of the record shall be included as such.

There has clearly been a fair amount of discussion and concern raised by members of the Committee here this morning as it relates to monuments and monument designations. The fact that we have three measures before the Committee that relate to that, I think, is significant.

As I mentioned in my opening comments, utilization of the Antiquities Act, designation of monuments is not a partisan exercise. Sixteen of the 19 presidents since 1906 have created 152 different monuments. I find it rather interesting that it was President Franklin Roosevelt who used the authority the most often, 36 times. But when you look at what he set aside through these monument designations it was 2.8 million acres of monuments, only on land.

Yet, when you look at what has come out of this Administration, President Obama has clearly proclaimed the most monument acreage, nearly 553 million acres both on land and on sea. Again, the Antiquities Act was designed to reserve the smallest area compatible with the proper care and management of the objects to be protected is the language.

I recognize that some of the monument designations are smaller in size, less than 5,000 acres. But then you look at some of the larger ones, particularly the marine designations, the largest is 283 million acres.

As has been noted by my colleagues from not only Arizona and Utah, but also Montana and Colorado, there is impact when you do these designations, real impact on the livelihoods of those who live near the designated areas, whether we are talking about traditional hunting and gathering practices or commercial fishing or mineral or grazing rights or just the ability to use a snow machine in the winter time. There is a real life impact on local communities.

Mr. Kornze, I have a couple questions for you as they relate to national monuments.

First is along the same lines as Senator Gardner asked in Colorado, and that is whether or not you can give me any information as to whether the Administration plans to designate any new onshore or offshore monuments in the State of Alaska before this President leaves office?

Mr. KORNZE. So, if I can indulge just for one second, and Senator Flake raised a number of important points. I just want to note the Ace Act is exciting. I think we need to clean up a lot of the scattered lands.

The Concessions Act, the BLM would be very excited to have Congress develop a concessions authority that applies to us in the same way that it does to the Park Service or the Bureau of Reclamation. Your legislation does something quite different. We would be, we would love to sit down with you and develop something that is a true concessions authority. We think it would be great for recreation in all states. Thank you, Chairman.

Related to Alaska, I can give you the same answer that I gave Senator Gardner. You know, I don't have anyone in my office, talking about monuments in Alaska. Again, I can't tell you what the President is or isn't thinking but in terms of, you know, my interaction with these issues, I'm not aware.

The CHAIRMAN. Well, you have indicated there is nobody in your office. Are you aware of any conversations outside of your particular office where there is discussion about designation of either an onshore or offshore monument designation in Alaska?

Mr. KORNZE. I'm not.

The CHAIRMAN. Okay.

I would ask the same that Senator Gardner has which is that if you are made aware of such conversations we would certainly appreciate that information.

I wanted to ask about the comment or a comment in your written testimony. In my bill, S. 437, we have the requirement to apply NEPA to the President's designation to designate a monument. You have suggested in your testimony that this requirement would be unprecedented because you say that NEPA only applies to federal agencies, and the President is not a federal agency.

I certainly understand the President is not a federal agency, but also, Congress is not a federal agency. Since Congress is not a federal agency, how is it that the Administration requires or demands that a NEPA analysis be done on decisions that are made by Congress and legislation?

I will give you my specific example, and it ties back to an issue that I care very much about and that is the King Cove Land Exchange. When we passed the Omnibus Lands Act back in 2009 and through Public Law 111–11, we subjected to NEPA our decision to authorize that land exchange. You will recall that was a 300 to 1 land exchange to facilitate the construction of the King Cove Road.

Was it inappropriate to do that? We are not, again, Congress is not a federal agency. So if you think that it was appropriate in that instance how do you justify the President's decisions being excluded from a NEPA?

Mr. KORNZE. So, I'm not intimately familiar with all the process that has run on King Cove but I can——

The CHAIRMAN. I just use that as an example.

Mr. KORNZE. Yeah.

The CHAIRMAN. Because King Cove was, of course, on my mind.

Mr. KORNZE. So here's my understanding of the issue. You know, NEPA does not necessarily apply to Congress.

The CHAIRMAN. Right.

Mr. KORNZE. President or the courts. But when federal agencies are asked to take an action, NEPA is something that is done, right?

So Congress, for instance, and again, I'm not the world's expert on this issue, but I'll give you what I think I know. If Congress has

the power to say, you know, "x" thing is established, right? This thing does exist or Congress could say we direct the Bureau of Land Management to do this. So, if you're putting us in motion, NEPA would be part of our process. You could, though, definitively say, "x" is established.

So, I think it's a fine line. It's a piece of administrative law or what sector of law we would describe this as, but the President has the authority, like Congress does, to take actions.

The CHAIRMAN. I guess I would just suggest that it would not be unprecedented to suggest that monument designations should be subjected to NEPA analysis.

You have indicated in response to a couple questions on this that you would not suggest anything that would limit the President's powers to move forward under the Antiquities Act. Congress has done that a couple times. It was mentioned back in 1950 when Wyoming had its exclusion and Alaska under ANILCA in 1980 it was determined that Alaska basically had certainly provided enough to the country when it came to designation by the President, by President Carter at that time, that any designation would be subject to a limitation.

So it is not something where, again, the President should be able to advance just on his or her own volition and directive. The suggestion that has been made, certainly, by members here is that it is appropriate to take into account local stakeholder input, the input from the councils and the assemblies, the input from congressional delegations and legislatures, legislators.

When you have responded to the inquiry about what level of weight or significance is given to that local input and recognizing, for instance what Senator Lee has presented to the Administration, to the President, with respect to Bears Ears, I think it is important that we figure out a way that the public is listened to, that there is a process, that stakeholder engagement is not only encouraged, but that it is heard.

I think you have heard from many, all Westerners, on the issue of monument designation but it is something that is on the top of Westerner's minds and, I think, for good reason. We have to have a way that we can weigh in when our economies are being impacted. We hear from our constituents that this is an issue that is as big as anything that is out for discussion right now. I think you need to carry that message back to all those within the Administration.

Senator Cantwell has not had an opportunity to ask questions.

Senator CANTWELL. Thank you, Madam Chair.

I wanted to go to Ms. Weldon. Thank you for being here today.

This is the first time the Forest Service has publicly announced its support for mineral withdrawal of the Methow headwaters. I believe this is an important step, and I hope we can coordinate with you and the Forest Service and the staff in the region to work on this particular area.

I saw in your testimony that the Forest Service proposed a five-year administrative withdrawal for S. 364, the Southwest Oregon watershed bill which you described as a withdrawal in aid of legislation. Can you describe how this would work, particularly with the

Methow, and would you start working on that withdrawal immediately?

Ms. WELDON. Yes, our goal is to begin working on that, coordinating with the Bureau of Land Management on the process for an administrative withdrawal. There's quite a bit of work, as you know, that's entailed within that. So, as we get started we'll be looking at how long it takes for us to get through that, but definitely we'll be initiating the process.

Senator CANTWELL. So you do not think it would be consistent while you are going through that process to approve anything that would be counter to that?

Ms. WELDON. In light of us beginning this process the likelihood of us approving any additional expirations is low. We need to make sure we're focusing on the long-term withdrawal process.

Senator CANTWELL. Okay, because we certainly would see that as very inconsistent to start on a withdrawal and then all of a sudden make an approval. So we certainly hope that working together, both legislatively and administratively, we can make sure that we are listening to the people of that area, who certainly do not support any mining activity that would threaten those headwaters since they are such vital headwaters for the entire region. So, thank you for that.

Ms. WELDON. Thank you.

Senator CANTWELL. Also, regarding one of the bills on the agenda, S. 2056, the bill Senator Murkowski and I introduced, establishing a national volcano and early warning system. Can you expand on what role the Forest Service might play? I bring this up because Mount Baker and Glacier Peak, two of our volcanoes—I think we have only one seismometer on each of those peaks. People have said you need at least five to make sure that we are assessing the risk. What are your thoughts about how the Forest Service could work with USGS and local emergency managers, particularly since Lahar is such a major threat to us?

Ms. WELDON. Thank you.

Yeah, I spent quite a bit of my career working in those landscapes, especially with the Cascade ranges there. I know we have some continuing activity that we're coordinating, especially with Mount St. Helens. We plan to continue to work with the USGS as we keep exploring the value of warning system that's more extensive.

I'm not totally up to date on the status of that but with our actions and activities that we do and coordinate on an emergency basis, the preventative side of that, I think, is equally important. So, we look forward to continuing coordinating closely with the USGS, with our local elected officials, local communities as well.

Senator CANTWELL. Thank you.

Thank you, Madam Chair.

The CHAIRMAN. Thank you.

I have one last question and Mr. Kornze, I am sure you must have anticipated that there had to be a King Cove question.

Mr. KORNZE. Right.

The CHAIRMAN. I also tried to loop it into my comments on monuments, but I am just clearly so troubled. You heard the Senator from West Virginia weigh in and say for gosh sakes, can't we

please just finally get this resolved? She is so supportive of the some thousand people who live in King Cove, who are just looking for a 11-mile, one lane, gravel, non-commercial use road to gain access to the all-weather airport there in Cold Bay. It is such a simple thing, yet it has risen to a level where it is not just about King Cove, it is the principle of the matter. How can the Federal Government be denying these people living in a very remote part of America something that we would absolutely take for granted in any other part of America?

I struggle with this because this situation has not gotten better, as you know. Fifty-two, 52 Medivacs since the Secretary rejected this road in 2013, 52 of them, 17 requiring the Coast Guard to come in.

I was in Kodiak this weekend as the Coast Guard was cutting a ribbon on new Coast Guard housing. I had to thank every single one of those Coast Guard men and women and their spouses for the call outs that they do as one of the most potentially dangerous and threatening missions that they do. This is not part of Coast Guard's core services to provide Medivac service to a community 600 miles away. And yet, that is what has happened. It is simply not acceptable.

When you hear stories like a 70-year-old man waiting 40 hours for the fog to lift when if there were a road he could be there. He could be to a full hospital. And the story that Senator Sullivan shared this morning, just last week. Yet another incident.

I do not understand how those in the Department can just sit back and say this is okay or this is acceptable or maybe Lisa will just stand down one of these days. No.

So, the question to you is the question that I have asked Secretary Jewell every time she is before any of the committees that I sit on. She made a promise to me saying that she was going to be there to help, that she would find a way to help. I still have yet to see any proposal, any plan that would help the nearly 1,000 Alaskans that live in this remote community.

There was one proposal that was written down and it was basically a rehash of the various ideas that have been out there over the past couple decades, but we have gotten nothing. In the meantime, people's lives are in jeopardy.

Mr. KORNZE. So this is a very important issue. I know it's extremely important to you.

As I noted earlier I've not been intimately involved with this, as you can imagine, working from the Bureau of Land Management, but I am happy to take your thoughts back to the Secretary and to the Fish and Wildlife Service and we do take them very, very seriously.

The CHAIRMAN. Well, it is not just my thoughts.

Mr. KORNZE. Yeah.

The CHAIRMAN. It is not my thoughts. It is my prayers because I just cannot stand by thinking that there is going to be a tragedy. Instead, it is just suffering, lots of suffering and pain and fear and fright, needless, unnecessary because we can do something about it.

For crying out loud, this is a small, one lane, gravel, non-commercial use road. And it is the government that says nope, we can't

do that. We cannot add a small connector road because we are afraid that somehow or other that is going to disturb the waterfowl that come through the area. The waterfowl that U.S. Fish and Wildlife Service promotes for hunting. How ironic is that?

This is crazy talk. When people get frustrated with their government, it is because of situations just like this where they say, wait a minute, can't there be some way to work this out?

Well, there was. It was a 300 to 1 exchange. The Federal Government was going to get wilderness. The Native people were willing to give up their lands that they had received as part of their settlement because they wanted 206 acres to build out this small, connector road.

You already have road that goes right up to the boundary of the refuge on the King Cove side and a road that comes right up to the boundary from the Cold Bay side. All we need is that connector. And in the middle of this refuge are roads that crisscross all over and back that have been part of the landscape since World War II.

I know what is happening. This Administration is just running the clock. They are running the clock, and they will be able to wash their hands of it. In the meantime, as of today, 52 different Alaskans, infants, elders, have suffered. That is absolutely unacceptable, absolutely unacceptable.

So the message that you need to take back to the Secretary and to the President is on their watch, on their watch, they have turned their back on Alaskans, on Alaska Natives, on their responsibility, on our responsibility. And they are now going to walk away, and they will be able to wipe their hands clean. I just hope they will still remember that in the meantime under their watch people have been living in fear, in trepidation and with pain and suffering that could have been addressed. It is inexcusable, and I am not backing down on this.

One way or another, it probably won't be with this Administration, but one way or another the people of King Cove are going to find safety. That is the message that you can take back.

Mr. KORNZE. I will.

The CHAIRMAN. Okay.

With that, we stand adjourned. I thank you both for coming before the Committee and 21 bills we would like to work with you in these areas to advance them.

Thank you so much and we stand adjourned.

[Whereupon, at 11:31 a.m. the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

U.S. Senate Committee on Energy and Natural Resources
September 22, 2016 Hearing: Pending Legislation
Questions for the Record Submitted to the Honorable Neil Kornze

Questions from Chairman Lisa Murkowski

Question 1: You maintained in your testimony that scheduled sales in the Chukchi and Beaufort planning areas in 2016 and 2017 respectively, were cancelled due to a lack of industry interest and market conditions. What specific information did you receive from industry that provides the basis for your statement? When did you receive such information? Please provide a list of documents that support your contention.

Response: Prior to moving forward with an OCS oil and gas lease sale, the Bureau of Ocean Energy Management (BOEM) issues a Call for Information and Nominations (Call). A Call is designed to provide BOEM with information about interest in OCS oil and gas leasing by requesting that industry identify specific blocks in a Program Area that appear promising for oil and gas exploration and development.

Relevant to the lease sale in the Chukchi Sea Planning Area (Sale 237), originally scheduled for 2016, a 45-day Call was published in the Federal Register on September 26, 2013, with a closing date of November 18, 2013. See https://www.federalregister.gov/documents/2013/09/27/2013-23670/outer-continental-shelf-ocs-alaska-ocs-region-chukchi-sea-planning-area-proposed-oil-and-gas-lease. The Call deadline was extended to accept information and nominations until December 3, 2013, due to the government shutdown that occurred in early October, 2013. In response to the Call, BOEM received no nominations from industry.

Relevant to the lease sale in the Beaufort Sea Planning Area (Sale 242), originally scheduled for 2017, a 45-day Call was published in the Federal Register on July 25, 2014, with a closing date of September 12, 2014. See http://www.boem.gov/79-FR-44060/. In response to the Call, BOEM received one nomination of interest from ConocoPhillips Company on September 11, 2014. After analyzing the single nomination, BOEM determined that there was no competitive interest in the Call area. The detailed information for the nomination is considered to be proprietary information and will be provided to Chairman Murkowski separately upon request.

Question 2: Do you agree that under ANILCA the Native Village of Shishmaref has the right to gain a transportation route across the Bering Land Bridge National Preserve?

Response: The Department is aware of the proposed relocation of the village of Shishmaref, and understands that the National Park Service's Bering Land Bridge National Preserve superintendent has been in communication with village representatives on this important matter. When the relocation occurs there will be a need for gravel/rock material. It remains to be determined what the best options are for obtaining these materials. One option would be to build a road from a new village site to Ear Mountain, which would cross approximately six miles of Bering Land Bridge National Preserve. Another option would be to obtain rock from an existing or new quarry and barge it to the new village. There is an operating quarry at Nome that may be the best and least

expensive alternative. The various alternatives will need to be investigated as the village relocation project progresses. If it is determined that the best option for obtaining rock for the village relocation is construction of a road to Ear Mountain and development of a quarry there, the NPS will work with Shishmaref and others on the ANILCA Title 11 requirements for that project.

Question 3: Concerning the Fortymile Mining District in Alaska:

a. How, specifically, can mining operators engage with BLM, especially in light of BLM's pattern of inconsistencies and failed commitments to these operators, to ensure fair, reasonable, and permitted access and use, particularly when they have business and land use operations for which they must plan?

Response: The BLM is collaborating with partners, and stakeholders to develop well-defined and transparent criteria in order to provide a quantitative means to assess reclamation success. Once developed, the criteria will help to reconcile conflicting interpretations of the regulations and clarify expectations between the BLM and miners. The BLM has met with the Fortymile Mining District and the Alaska Miners Association (AMA) on numerous occasions to discuss the development of these criteria and to listen to their associated concerns. Staff have provided presentations at the AMA Convention in Fairbanks, the AMA Federal Oversight Committee, to the Fortymile Mining District in Chicken, and to BLM Alaska's Resource Advisory Committee. Each presentation included opportunities for stakeholders to provide input and feedback.

In the summer 2015, the BLM implemented the Jack Wade Creek Demonstration project in the Fortymile Wild and Scenic River Corridor to test new reclamation techniques for placer mined streams in Alaska. As part of this project, the BLM held a a workshop to discuss reclamation evaluations and view the demonstration project in Chicken, Alaska. One of the successes from the workshop is that one of the area miners has asked the BLM to help develop another demonstration project in 2016 on his mine site The BLM has committed funding and staff time to work with that miner to help him employ new reclamation techniques and to otherwise assist in his reclamation activities. This demonstration project is a great example of how the BLM is employing a collaborative approach to ensure placer miners will have the opportunity to carry on this historic activity for years to come.

Another opportunity for engagement with the BLM is through BLM-Alaska's Resource Advisory Council (RAC). The RAC is a 15-member advisory panel which provides advice and recommendations on resource and land management issues to the BLM. BLM-Alaska's RAC has diverse representation that includes a board member from the Fortymile Mining District. Through the advice of the RAC, BLM Alaska has established a placer mining subcommittee which has representatives from the AMA, Fortymile Miners, the State of Alaska, other placer miners and the conservation community to help facilitate engagement with placer miners on ensuring federal regulations are met and do

not create an undue burden on the placer miner. The BLM held the first meeting of the subcommittee on July 27, 2016, in Tok, Alaska, which was attended by several local placer miners. Additional meetings to engage the subcommittee to assist in refining our processes and identify areas we can improve efficiency are planned for the spring.

The BLM will continue to work closely with all stakeholders on land management issues to both ensure applicable requirements are met and that placer mining continues to be viable in Alaska.

b. What is your agency chain of command? Is it true that the State Director has no authority over field offices? Does Headquarters have authority over State offices?

Response: The BLM Director has authority, given to him by the Secretary of the Interior, over all BLM programs. The BLM State Directors have been delegated the authority by the BLM Director to oversee all the BLM offices and programs within their respective states.

Questions from Senator John Barrasso

Question 1: Senator Murkowski and Senator Flake have both proposed modest amendments to the Act with the desire to increase local input, and hopefully buy-in, from the public in the areas surrounding a potential monument designation. Given the Department's ongoing campaign to increase conservation partnerships and other collaborative efforts, does the Department believe that the President, as an elected official, should be able to proceed with processes like monument designations, regardless of potential public outcry and opposition?

Response: Used by presidents of both parties for more than 100 years, the authority granted to the President by Antiquities Act is one of the most important tools a president has to preserve and protect critical natural, historical, and scientific resources on Federal lands for future generations. It is a tool that this President has not used lightly or invoked without serious consideration of the impacts on current and future generations. The Administration has consistently invited public comment from national, state, local and Tribal stakeholders at meetings in local communities. However, requiring the formal approval of Governors and legislatures or additional formal processes prior to designation would limit the flexibility of the President to respond to impending threats to resources, and the ability of the President to recognize, protect and preserve areas of incredible importance to the Nation's heritage.

Question 2: Does the BLM or Department of Interior have a formalized notification process to inform state, local, and federal officials when considering or designating a monument?

Response: Designation of monuments under the Antiquities Act is a presidential, not Departmental, action. When examining whether to recommend particular monuments for

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Presidential action, the Department engages in consultation with national, state, local, and tribal stakeholders, in keeping with the President's commitment.

Question 3: Given the Park Service's significant deferred maintenance backlog, coupled with the fact that the agency manages most monuments post-designation, is the agency consulted about the size, scope, or scale of a prospective monument prior to designation? Does the agency have the ability to recommend changes to a proposed designation?

Response: Designation of monument, including its size and scope, under the Antiquities Act is a presidential, not Departmental, action. The President may request recommendations from the Secretary of the Interior, and the National Park Service (NPS) may provide input for the responses to those requests. This input can include NPS recommendations as to size, scope, or other issues.

The NPS is mindful of the deferred maintenance backlog and the contribution that new national monuments may have to it. To minimize the impact, the NPS pursues partnerships and philanthropic support to help staff and maintain new national monuments. For instance, with Katahdin Woods and Waters National Monument, the donor of the monument lands also donated $20 million to help support the new monument and pledged to assist with raising another $20 million. In the case of the Stonewall National Monument, the NPS and New York City signed a cooperative management agreement in which the City agreed to continue to provide daily maintenance of Christopher Park, the federally owned portion of the monument. The NPS is also considering partnerships with lesbian, gay, bisexual, and transgender groups to aid in interpretation of the site and with the Christopher Park Alliance, the group that has historically installed and maintained the landscaping in Christopher Park. Finally, with respect to the Belmont-Paul Women's Equality National Monument, NPS received a $1 million donation to upgrade the ventilation system and address other maintenance issues. The site is also managed in cooperation with the National Woman's Party.

Question 4: In 2016 alone, the President has designated or expanded monuments to the tune of more than 285 million acres. That's a land mass of Texas, Louisiana, Oklahoma, and Arkansas, plus a few thousand acres. Following Senator Murkowski and Senator Gardner's line of questioning, how many more monuments does the President intend to designate in the final days of this administration?

Response: Designation of monuments under the Antiquities Act is a presidential, not Departmental, action. When examining whether to recommend particular monuments for Presidential action, the Department engages in consultation with national, state, local, and tribal stakeholders, in keeping with the President's commitment.

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Question 5: While not the subject of the hearing today, please provide an update on the BLM's process to develop mitigation policy, in compliance with the larger Department of Interior policy, as a result of the Presidential Memorandum on mitigation.

Response: The BLM's final mitigation policy is comprised of both a Manual and a more detailed Handbook. The BLM released these documents on December 23, 2016.

Questions from Senator Ron Wyden

Question 1: Director Kornze, I know the BLM and the Forest Service have been working together on a 5-year administrative mineral withdrawal of this same area, but during the 600-plus comments that we heard at your public meetings, almost all asked for either a 20 year or a permanent withdrawal. Is this something your agency is considering? Will you support either a 20-year or a permanent withdrawal? If not, what needs to happen to have you work with us and Oregonians to make either of those a possibility?

Response: On September 30, 2016, the U.S. Forest Service and the BLM published in the Federal Register a notice announcing an amended proposal for a 20-year withdrawal in southwestern Oregon. The public comment period for the 20-year withdrawal proposal closed on December 29, 2016. The BLM made a recommendation in support of the proposed withdrawal, which was signed by the Assistant Secretary for Land and Minerals Management on December 30, 2016.

Question 2: The BLM recently closed the comment period for a 5-year administrative mineral withdrawal for the same area that is identified in my bill, the Southwestern Oregon Watershed and Salmon Protection Act of 2015. Of course, an administrative withdrawal would expire after 5 years, while my bill would ensure permanent withdrawal and protections for this important ecosystem. Based on the comments you received during the comment period, is the local community and the state supportive of the withdrawal? Can you give examples of support demonstrated?

Response: The BLM received over 20,000 comments on the proposed agency withdrawal. A majority of these comments were in support of the withdrawal. The BLM received comments from members of the public, state and local agencies and elected representatives. The amended application would increase the duration of the withdrawal from 5- to 20-years, and would specify that the agencies themselves are requesting the withdrawal in order to protect certain resource values. The comment period for the amended application closed on December 29, 2016.

Question 3: What makes the Baldface Creek and Rough and Ready Creek, and the surrounding lands, an important place to protect and an unsuitable place for mining?

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Response: Rough and Ready Creek and Baldface Creek are listed as eligible for National Wild and Scenic River designation by the U.S. Forest Service. This area is also home to a high concentration of rare plants. It is also a popular recreation destination due to its forested trails and scenic views.

Questions from Senator Jeff Flake

Question 1: Roughly half of the land within the boundaries of the proposed Grand Canyon Watershed National Monument falls under the BLM. What actions, if any, has the Department taken in regard to a possible designation of a new national monument in Arizona?

Response: Designation of monuments under the Antiquities Act is a presidential, not Departmental, action. The BLM is aware of continued interest in the protection of land surrounding Grand Canyon National Park, however, BLM has not taken any formal actions related to a possible designation by the President.

Question 2: Secretary Jewell has participated in public meetings about a proposed new national monument in Utah. Are you aware of any plans by the department to conduct public meetings about a possible new national monument in Arizona?

Response: The BLM is not aware of current plans by the Department for public meetings regarding a new national monument in Arizona.

Question 3: In a hearing last February, Secretary Jewell told me that when examining whether to recommend a new monument "the Department engages in consultation with national, state, local, and tribal stakeholders." What should Arizona stakeholders expect that consultation with the Department to look like?

Response: The Administration consistently strives to take into account the interests and concerns of national, state, local, and tribal stakeholders, and invites public comment from these stakeholders, including at meetings in local communities. In fact, Administration officials, including from the Department, have attended many community meetings across the nation, and have heard from stakeholders interested in protecting the places that they care about. These officials have also heard from stakeholders concerned with the potential impacts of any such designation. Arizona stakeholders, as well as other interested stakeholders, should expect that their public comments will be considered prior to any decision by the President to invoke his authority under the Antiquities Act.

Question 4: In your written testimony you imply that S.2380 would "allow[] unlimited profit-generating activities on covered lands". Does the Department view 43 CFR 2920 and 2030 as "allowing unlimited profit-generating activities"?

U.S. Senate Committee on Energy and Natural Resources
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Questions for the Record Submitted to the Honorable Neil Kornze

Response: The 43 CFR 2920 authorizes the issuance of commercial, residential, industrial, and agricultural leases, permits, and easements under certain conditions, and 43 CFR 2930 authorizes permits for recreation. The cited regulations do not limit the amount of profit that can be generated by lessees from activities authorized on the lease. However, the regulations require that the authorized activities conform to BLM plans, policy, objectives and resource management programs as well as the payment of fair market value for all such profit-generating uses of the public lands.

Question 5: In your written testimony you state that S.2380 would "open[] covered lands to virtually any residential, agricultural, industrial, or commercial use." The Recreation and Public Purposes Act as amended by S.2380 would allow a "pilot program to authorize commercial **recreation** concessions" (emphasis added). Please explain how the Department interprets residential, agriculture, or industrial uses to fall under a recreation concession.

Response: S. 2380 states that "any activity defined as permissible under parts 2920 and 2930 of title 43, Code of Federal Regulations, shall be permissible" with respect to land covered by an agreement under the bill.

Question 6: Please identify the number of commercial recreation concessions that the BLM allows to operate on BLM land and indicate whether the all the revenue from these concessions are used on the same lands which generated the revenues.

Response: The BLM currently manages 18 commercial leases authorizing commercial recreation activities on public lands. Commercial lease holders pay fair market value for the use of the public lands, and commercial lease revenues collected by the BLM are deposited in the General Fund of the U.S. Treasury. None of the revenue is retained or used for the management of the lands on which it is generated. Because commercial lease holders pay fair market value for the leases, the BLM places no additional restrictions on the revenues they generate.

Questions from Senator Steve Daines

Question 1: There is significant concern among many sportsmen groups about national monuments being managed for preservation, rather than for the multiple uses identified in the Federal Land Policy & Management Act (FLPMA). As you know, national monument proclamations typically include implied, rather than explicit, language permitting hunting and fishing. Many sportsmen groups are concerned federal agencies could prohibit hunting and fishing in certain monuments because these uses are not explicitly permitted in proclamations. It's my understanding the Bureau of Land Management follows manuals for national monuments that describe permitted uses, including hunting and fishing. However, management plans for monuments managed by the National Park Service appear to be more site specific and often do

not allow hunting. Do you support including explicit language in all monument management plans to allow hunting and fishing in monument proclamations where these activities are appropriate?

Response: The BLM supports hunting and fishing on public lands, including national monuments, where appropriate. The BLM manages national monuments under its jurisdiction according to the Federal Land Policy and Management Act of 1976, including the principles of multiple use and sustained yield, consistent with the authority that designated each national monument (either a presidential proclamation issued under the Antiquities Act of 1906 or an individual Act of Congress). Discretionary uses on national monuments do not need to be explicitly included in a national monument proclamation to be allowed. Many historic uses on national monuments – including hunting and fishing – continue as they did before monument designation, unless specifically limited by law, regulation, policy, or by specific language in a proclamation. The BLM acknowledges and respects the State's role in setting hunting and fishing regulations and works closely with them on the management of fish and wildlife on public lands, including national monuments.

Question 2: Many proposed national monument areas include robust big game populations, including elk and mule deer, and are appropriate for hunting. Active habitat management projects such as thinning, water development, prescribed fire and timber harvest can benefit wildlife in these areas. Water developments such as wildlife water guzzlers are especially critical for proposed monuments in the arid southwest. Do you support authorizing habitat management projects in monument management plans, where needed?

Response: The BLM supports habitat management projects on public lands, including national monuments, where appropriate.

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Questions for the Record Submitted to Ms. Leslie Weldon

Questions from Chairman Lisa Murkowski

Question 1: My economic development bill would grant Alaska an exemption from the Roadless Rule, which was re-imposed on us in 2009. According to the draft Record of Decision on the amendment to the Tongass Land Management Plan, 80,251 acres of the Tongass are currently listed as roadless areas, even though roads have already been built through them – "roaded roadless." Those acres were carelessly placed in roadless in 2001 because the proposed management classifications were crafted nearly 30 years earlier. The timber industry in the Tongass, and the Administration's young-growth transition plan, desperately need many of those acres to be restored to the timber base. That would reduce the need for early logging of young-growth in areas like beach fringe, and would improve the economics of Forest Service timber sales since the roads to those tracts already exist. If you aren't willing to support an Alaska exemption to the roadless rule, would the Administration look at allowing access to the "roaded roadless" in the Tongass as a way of allowing our timber industry to survive until a young-growth transition can take place?

Answer: The Forest Service evaluated an alternative in the Final Environmental Impact Statement (FEIS) for the Tongass Plan Amendment that considered allowing old growth and young growth harvest in portions of inventoried roadless areas (IRAs) that were roaded before the 2001 Roadless Rule and during the 2001 Roadless Rule exemption period for the Tongass. As indicated in the FEIS, no harvest could occur in "roaded roadless" until agency rule-making modified the 2001 roadless rule at 36 C.F.R. 294.13(b)(4). The Record of Decision was published in the Federal Register on December 8, 2016.

Question 2: The Administration recently completed the purchase of the first two of 13 tracts that the Forest Service has identified for acquisition inside the Admiralty Island National Monument in Southeast Alaska near Cube Cove. Since the Administration is so strongly supportive of the land acquisition, why is it not more supportive of the provisions in my ANSCA Improvement Act that are essential for the Sitka Native corporation, Shee Atika, to be able to afford to sell the lands for preservation?

Answer: The Forest Service generally does not have concerns with section 5 of the bill. However, we would like to discuss with the sponsor a technical issue concerning the assignment of responsibilities under section 5(d).

Question 3: The Forest Service recently issued a press release announcing the purchase of lands on Admiralty Island. The release discusses the purchase of the surface estate, but ignores the fact that Sealaska Native Corp. owns the subsurface and still has the right to impact the surface if and when it moves to develop the subsurface estate. Exactly what is

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the Forest Service prepared to do to settle Sealaska's surface estate issues on Admiralty Island?

Answer: The Forest Service received a letter from Sealaska Corporation dated January 20, 2016, proposing to exchange their subsurface estate on the Cube Cove property for fee simple estate of National Forest System land on Prince of Wales Island. In response to this letter, we expressed our desire to explore an opportunity to unify ownership in the event that the Forest Service acquired the surface estate from Shee Atikà, Incorporated. We also explained that we would wait to engage in discussion until a split estate existed between the United States and Sealaska Corporation on the property. The recent purchase of the first two of 13 segments of the Cube Cove property by the United States created a split estate, so the agency is now prepared to meet with Sealaska Corporation regarding a potential land exchange.

The Forest Service's land exchange regulations at 36 CFR part 254, subpart A, along with other applicable laws, regulations, and policy direction, govern the Agency's land exchange process. As an initial step, the Forest Service prepares a feasibility analysis of a proposed land exchange as a first-level screen to: 1) ensure that the proposal complies with the forest land and resource management plan; 2) identify public benefits; 3) ensure the availability of resources to complete the proposed exchange, 4) identify title and property description problems; and 5) identify potential support and opposition.

We are interested in initiating a feasibility analysis if Sealaska Corporation remains willing to participate in the land exchange process regarding the Cube Cove property and National Forest System land. Any exchange proposal will require appraisals of the federal and non-federal estates. We will begin discussions with Sealaska Corporation in the near future.

Questions from Senator Jeff Flake

Question 1: Roughly half of the land within the boundaries of the proposed Grand Canyon Watershed National Monument falls under the Forest Service. What actions, if any, has the Service taken in regard to a possible designation of a new national monument in Arizona?

Answer: The Forest Service does not currently have any direction specific to national monument designations in Arizona.

Question 2: Are you aware of any plans by the service to conduct public meetings about a possible new national monument in Arizona?

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Questions for the Record Submitted to Ms. Leslie Weldon

Answer: The Forest Service is unaware of any public meetings on a possible new national monument in Arizona.

Question 3: In a hearing last February, Secretary Jewell told me that when examining whether to recommend a new monument "the Department engages in consultation with national, state, local, and tribal stakeholders." As manager of half of the land in the proposed monument I would expect the Forest Service to participate in this consultation. What should Arizona stakeholders expect that consultation with the service to look like?

Answer: For all potential land management decisions, the Forest Service seeks input from a broad cross-section of stakeholders, generally including local businesses, elected officials and conservation, tribal, academic, and cultural preservation communities.

Department of Energy
Washington, DC 20585

October 18, 2016

The Honorable Lisa Murkowski
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

Dear Madam Chairman:

The Department of Energy submitted a Statement for the Record for the September 22, 2016 hearing regarding S. 3312, the Responsible Disposal Reauthorization Act of 2016. To complete the hearing record, please find enclosed the answer to a question that you submitted for this hearing.

If you need any additional information or further assistance, please contact me or Fahiye Yusuf, Office of Congressional and Intergovernmental Affairs at (202) 586-5450.

Sincerely,

Jed D'Ercole
Deputy Assistant Secretary for Senate Affairs
Congressional and Intergovernmental Affairs

Enclosure

cc: The Honorable Maria Cantwell
Ranking Member

Printed with soy ink on recycled paper

QUESTION FROM CHAIRMAN LISA MURKOWSKI

Q1. In Sec.401 of S. 3203, there is a provision to allow the Department of Energy to make grants for the demonstration of new technology, using molecular recognition processes, to reduce the cost of separating minerals using non-toxic means. If enacted, these grants could help solve our lack of domestic production of rare earth elements, especially heavy rare earths. I know DOE has asked one of its national labs to work on REE processing technology. Exactly what steps is DOE taking to reduce our current 100% foreign dependence for rare earth elements, and could a specific authorization for molecular recognition technology help speed up that process?

A1. The Department of Energy's (DOE) Critical Materials Strategy Reports[1] identified three pillars to address critical materials challenges: 1) diversifying supply of critical materials, 2) developing alternatives to critical materials, and 3) driving recycling, reuse, and more efficient use of critical materials. First, diversified global supply chains are essential. To manage supply risk, multiple sources of materials are required. This means taking steps to facilitate the extraction, processing, and manufacturing of critical materials here in the United States, as well as encouraging other nations to expedite alternative supplies. In all cases, extraction, separation, processing, and manufacturing must be done in an environmentally sound manner. Second, substitutes must be developed. Research leading to material and technology substitutes will improve flexibility, decrease demand for critical materials, and help meet the materials needs of the clean energy economy. Third, recycling, reuse and more efficient use of critical materials could significantly lower world demand for newly extracted materials. Research into recycling processes coupled with well-designed policies will help make recycling economically viable over time. Addressing these three pillars is a moving target, as critical materials challenges change over time.

Several entities within the Department contribute to and closely collaborate on DOE's critical materials research and development (R&D) effort. The Basic Energy Sciences program in the Office of Science supports broad-based, fundamental materials research. The Advanced Research Projects Agency - Energy invests in high-potential, high-impact

[1] http://energy.gov/sites/prod/files/DOE_CMS2011_FINAL_Full.pdf

energy technologies that are likely too early for private-sector investment. Within the Office of Energy Efficiency and Renewable Energy (EERE), investment in research related to critical materials occurs within the Vehicle Technologies Office, the Wind Power Technologies Office, the Solar Energy Technologies Office, the Geothermal Technologies Office, and the Advanced Manufacturing Office. The DOE Office of Fossil Energy (FE), through the National Energy Technology Laboratory (NETL), has undertaken a program to establish the economic research to explore the technical feasibility of recovering rare earth elements from coal and coal byproducts.

DOE national laboratories are also integral to this R&D effort. The national laboratory system includes the Nation's historic leader in rare earth materials research, the Ames Laboratory in Ames, Iowa. While Ames Laboratory has a core-competency in rare earth materials, many other national laboratories also contribute significantly to R&D aimed at reducing the criticality of critical materials. For example, Argonne National Laboratory, Brookhaven National Laboratory, Pacific Northwest National Laboratory, Sandia National Laboratories, and Lawrence Berkeley National Laboratory have complementary efforts spanning from basic and applied research to development.

In response to the Critical Materials Strategy reports, the Department launched a national competition for an Energy Innovation Hub. Early in 2013, DOE announced the Critical Materials Institute (CMI), led by Ames National Laboratory. CMI is the Nation's premier research, development and analysis institute dedicated to finding innovative solutions and developing creative, transformational paths to eliminating the criticality of rare earth and other materials.

The Institute has focused its efforts around the three pillars of the Critical Materials Strategy. For example, to diversify supply, researchers are studying new, lower cost ways to extract, separate and process rare earth metals from ores and recycled materials. To develop substitutes, Institute researchers, in partnership with private sector partners, are searching for substitutes for rare earth magnets and phosphors. To improve reuse and recycling, CMI's R&D in this area is focused on two major areas: first, improving the cost- and energy-efficiency of separating the rare earth containing components from end-

of-life products like light bulbs, hard drives and motors; and second, developing new technologies to extract rare earth elements from these end-of-life components to produce new materials.

One of the primary barriers to upstream domestic critical materials development has been the high cost requirements associated with overcoming the technical challenges at the separation stage in the supply chain. This barrier to entry has led to a natural monopoly of processing operations concentrated in certain countries. The Department addresses processing innovations through R&D to help reduce processing cost requirements. For example, CMI is developing several more efficient, more environmentally friendly, and lower cost ways to extract, separate, and process rare earth metals from ores and recycled materials, such as neodymium for permanent magnets.

In addition, currently NETL has an open Funding Opportunity Announcement for "Production of Salable Rare Earth Elements from Domestic U.S. Coal and Coal By-Products." This FOA may provide opportunities to assist with the scale up of new technologies for the small scale production of salable rare earth products. We encourage all U.S. developers of rare earth production technologies to access the current funding opportunity announcement and consider applying.

Ripchensky, Darla (Energy)

Subject: FW: S.3315, Second Division Memorial Modification Act -for the record

Importance: High

From: Aves Thompson [mailto:aves96@aol.com]
Sent: Monday, September 19, 2016 11:09 AM
Subject: S.3315, Second Division Memorial Modification Act

Senator Lisa Murkowski
Chair, Senate Energy and Resources Committee
Re: S.3315, Second Division Memorial Modification Act

Dear Madame Chair and Members of the Committee,

The 2nd Indianhead Division Association Scholarship and Memorials Foundation (Foundation) seeks to rededicate the 2nd Division Memorial on Constitution Avenue near 17th Street in the President's Park on the National Mall in Washington, DC., by making a small but important modification to the Memorial.

The Memorial was initially erected and dedicated in 1936 to honor the 2nd Division soldiers killed in World War I and rededicated in 1962 by adding two wings to the Memorial to honor the 2nd Division dead in World War II and the Korean War. Unfortunately, the Memorial no longer reflects all members of the 2nd Division who have given their life in service of their country, specifically those who have fallen on or near the Korean Demilitarized Zone (DMZ) between South and North Korea, as well as those who have fallen in Afghanistan and Iraq.

S. 3315, has been introduced to make a small, but crucial, change to the Memorial. The legislation will allow for the addition of three small benches commemorating the fallen 2nd Division soldiers in service on and near the Korean Demilitarized Zone (DMZ) between South and North Korea and the fallen soldiers of both Afghanistan and Iraq. Legislation is necessary, as the National Park Service has denied modification of the Memorial based on current law (40 USC Section 8903(b).

We ask for your assistance in changing the law to allow this small but important modification.

As President of the Foundation and on behalf of its nearly 2,000 members, we urge you to support this legislation that will allow this small but important modification. Please note that the Korean War Veterans Association and the Veterans of Foreign Wars organizations also support this legislation.

Thank you for your consideration.
Respectfully,

Aves Thompson, National President
2nd Indianhead Division Association
SECOND TO NONE
(907) 240-0114 cell and text

TESTIMONY ON THE METHOW HEADWATERS PROTECTION ACT OF 2016
(S. 2991)

September 22, 2016

For consideration by the Committee on Energy and Natural Resources
United States Senate

Submitted by Erik Murdock, Policy Director
Access Fund
4720 Walnut St #200, Boulder, CO 80301
www.accessfund.org

Dear Chairman Murkowski and Members of Committee on Energy and Natural Resources:

On behalf of the Access Fund, I welcome the opportunity to submit this testimony for inclusion into the public record regarding the proposed "Methow Headwaters Protection Act Of 2016" (S. 2991). We enthusiastically support S. 2991 for the reasons stated herein.

The Access Fund is a national advocacy organization whose mission keeps climbing areas open and conserves the climbing environment. A 501(c)(3) non-profit and accredited land trust representing millions of climbers nationwide in all forms of climbing—rock climbing, ice climbing, mountaineering, and bouldering—the Access Fund is the largest US climbing advocacy organization with over 13,000 members and 100 local affiliates. The Access Fund provides climbing management expertise, stewardship, project specific funding, and educational outreach. Washington is one of our largest members states, Access Fund members from across the country regularly climb in the region addressed by this proposal, and we have invested significant resources in the region with our Conservation Team on trail projects and we've worked extensively with the US Forest Service in support of sustainable recreation management policies on the Okanogan National Forest. For more information about the Access Fund, visit www.accessfund.org.

The Upper Methow Headwaters region contains some of the most outstanding climbing and mountaineering in Washington state, including short challenging sport climbs up the Chewack River, the massive multi-pitch climbing on the towering Goat Wall, alpine rock climbing and glacier mountaineering around the Silver Star Massif, sport climbing near Robinson Creek and mountaineering along the Pacific Crest Trail, and nationally significant alpine rock climbing along Early Winters Creek and Washington Pass. Climbers value this area greatly for its wide range of year-round seasonal opportunities in a diverse and spectacular setting. There are also many other recreational activities that would be protected by this bill, including boating, biking hiking, fishing and hunting, and skiing. We enthusiastically support this proposal that would protect the nationally-significant climbing opportunities and the unique quality of life in the Upper Methow area that is characterized by stunning peaks, and beautiful riparian corridor, pastoral farming and undeveloped viewsheds. For more information on climbing in the Upper Methow region, see Mazama and Washington Pass rock climbing information at www.mountainproject.com .

All of these unique values are greatly threatened by the prospect of a copper mine on Goat Peak which is central to this landscape, as is evidenced by the placement of a fire lookout on its summit. Industrial scale mining in the Upper Methow—with its damaging impacts to water and air quality, impaired viewsheds, and harm to the recreational experience—is incompatible with climbing and mountaineering as well as other recreational activities and the quality of life in the area. Also, the significant economic contributions brought by the recreation community to the Upper Methow area would be severely damaged, as many visitors would choose to go elsewhere if mining were allowed. Furthermore, the local population would greatly suffer from industrial scale mining because truck traffic moving copper out of the valley would necessarily have to move either through the small town and four-way stop in the idyllic town of Winthrop, or travel over the Scenic Byway of the North Cascades Highway which boasts some of the most breathtaking scenery in the country with Washington Pass, North Cascades National Park and the

Ross Lake National Recreation Area. There couldn't be a location more ill suited to industrial mining than the Upper Methow Valley. This is why the Methow Headwaters Protection Act of 2016 is such an important step in protecting the long-term recreational and economic integrity of the treasure that is the Upper Methow Valley.

The Methow Headwaters Protection Act of 2016 would implement a "mineral withdrawal" of 340,000 acres in the Okanogan National Forest in and around the Methow Headwaters and prevent future mining including the prospect of a large-scale copper mine on Goat Peak. This withdrawal brings much-deserved protection to the Methow Headwaters area from the impacts of industrial mining, an effort that is widely supported by the recreation and conservation communities, local businesses, and elected officials, downstream ranchers and farmers, and residents throughout the area.

The Methow Headwaters Protection Act of 2016 will protect the many unique values in the area for future generations of Washington residents and the many thousands of tourists that visit the area each year. The Access Fund very much appreciates Senator s Murray and Cantwell's leadership in recognizing the threats of mining to this incredible landscape when crafting this widely supported bill.

* * *

Chairman Murkowski and members of the Committee on Energy and Natural Resources, the Access Fund appreciates the opportunity to provide testimony on Methow Headwaters Protection Act Of 2016 (HR. 5780). The Access Fund has reviewed this bill and supports it strongly.

Respectfully Submitted,

Erik Murdock
Policy Director
The Access Fund

Fleurant, Susan (Energy)

Subject: FW: S3315

From: Corlyss Affeldt [mailto:corlyss@gmail.com]
Sent: Tuesday, September 20, 2016 6:08 PM
To: Lane, Michelle (Energy)
Subject: S3315

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Senator Lisa Murkowski
Chair, Senate Energy and Resources Committee
Re: S.3315, Second Division Memorial Modification Act

Dear Madame Chair and Members of the
Murkowski
Chair, Senate Energy and Resources Committee
Re: S.3315, Second Division Memorial Modification Act

Dear Madame Chair and Members of the Committee,

The 2nd Indianhead Division Association Scholarship and Memorials Foundation (Foundation) seeks to rededicate the 2ndDivision Memorial on Constitution Avenue near 17th Street in the President's Park on the National Mall in Washington, DC., by making a small but important modification to the Memorial.

The Memorial was initially erected and dedicated in 1936 to honor the 2nd Division soldiers killed in World War I and rededicated in 1962 by adding two wings to the Memorial to honor the 2ndDivision dead in World War II and the Korean War. Unfortunately, the Memorial no longer reflects all members of the 2nd Division who have given their life in service of their country, specifically those who have fallen on or near the Korean Demilitarized Zone (DMZ) between South and North Korea, as well as those who have fallen in Afghanistan and Iraq.

S. 3315, has been introduced to allow for the addition of three small benches commemorating the fallen 2nd Division soldiers in service on and near the Korean Demilitarized Zone (DMZ) between South and North Korea and the fallen soldiers of both Afghanistan and Iraq. Legislation is necessary, as the National Park Service has denied modification of the Memorial based on current law (40 USC Section 8903(b).

We ask for your assistance in changing the law to allow this small but important modification.

As a 2d Infantry Division Veteran, I urge you to support this legislation.

Thank you for your consideration.
Respectfully,
Corlyss Affeldt
10800 forestview circle
Eden prairie mn 55347

Statement of the Alaska Chapter Sierra Club
for the hearing record on
S. 437, S. 3204, S. 3203, S. 3273
Committee on Energy and Natural Resources
United States Senate
Washington, D.C.
September 22, 2016

OCT 17 2016

The Alaska Chapter of the Sierra Club appreciates the opportunity to submit comments on the four bills dealing with the public lands in Alaska.

In summary, the Chapter opposes S.437, Improved National Monument Designation Process Act; S. 3204, King Cove Road Land Exchange Act; various sections in S. 3203, Alaska Economic Development and Access to Resources Act; and various sections in S. 3273, Alaska Native Claims Settlement Improvement Act of 2016.

There is one provision we support. Section 5 of S. 3273, Shee Atika Incorporated, authorizes federal acquisition of the corporation's surface estate in 23,040 acres within Admiralty Island National Monument.

S. 437 would amend the Antiquities Act of 1906 to require the president, before proclaiming a national monument, to seek the approval of Congress and the legislature of the state in which the monument would be located. The president would also be required to comply with the National Environmental Policy Act. Essentially the same requirements would apply to a proposed national marine monument within the U.S. exclusive economic zone.

Requiring congressional and state approval of a proposed monument would allow opponents of national monuments to cause lengthy delays and potentially block a proposed monument proclamation. This would prevent the president from acting in a timely manner to protect public lands and other nationally significant historic and scientific resources threatened by adverse developments and incompatible activities.

An example of timely presidential action to safeguard threatened public lands is President Jimmy Carter's national monument proclamations in Alaska. Had the President not acted, public land areas being considered for addition to the national conservation systems would have been opened to private appropriation under the public land laws and to state land selections aimed at disqualifying the proposed areas. His action preserved Congress's options as it completed work on what became the Alaska National Interest Lands Conservation Act of 1980.

S. 3204 King Cove Road Land Exchange Act.

S. 3204 would direct the Secretary of the Interior to engage in a land exchange with the State of Alaska and the King Cove Native village corporation. The exchange would enable the State to build a road across the Izembek Wilderness portion of the Izembek National Wildlife Refuge to link King Cove with the community of Cold Bay.

As shown by studies done by the U.S. Fish and Wildlife Service, the proposed road is incompatible with the purposes and values of the refuge. A road would facilitate off-road vehicle access to the wilderness area and other sensitive refuge areas, leading to habitat damage and increased hunting and trapping pressure on refuge wildlife.

S. 3203 Alaska Economic Development and Access to Resources Act.

- Title Three would establish an oil and gas leasing program for the coastal plain of the Arctic National Wildlife Refuge.
- Subtitle B of Title Three would direct the Secretary to offer oil and gas leases in National Petroleum Reserve-Alaska;
- Title Four, section 403 would amend the so-called "no more" provision of the Alaska National Interest Lands Conservation Act (ANILCA) that terminates executive branch withdrawals of over 5,000 acres unless Congress enacts a joint resolution of approval within one year after the withdrawal. The amendment would require congressional approval to any withdrawal of 5,000 acres or more that "limits, or has the effect of limiting or impeding activities and uses allowed on public lands as of the date of enactment of this section," including wilderness study areas, wild and scenic rivers, Endangered Species Act critical habitats, and Areas of Critical Environmental Concern.(ACECs). The amendment also revokes existing ACECs in Alaska;
- Title 5, section 501. The Roadless Area Conservation Rule would not apply to the Tongass and Chugach national forests in Alaska;
- Title 5, section 502, Alaska Mental Health Trust Land Exchange, directs the Secretary of Agriculture to trade national forest timber land on Prince of Wales Island for Trust-owned acreage adjacent to southeast Alaska communities.
- Title 5, section 503, Tongass State Forest Facilitation, would direct the Secretary of Agriculture to convey two million acres of the Tongass National Forest to the State of Alaska for addition to the state forest system.

S. 3273 Alaska Native Claims Settlement Improvement Act of 2016.

- Section 6, Admiralty Island National Monument Land Exchange, directs the Secretary of Agriculture to allow the Sealaska Corporation to trade its 23.040 acres of subsurface estate (Shee Atika Incorporated owns the surface estate) in the monument for 14,000 acres of national forest timber land on Prince of Wales Island;
- Section 7, CIRI Land Entitlement, would authorize the Cook Inlet Region, Inc., a Native regional corporation to select 43,000 acres of its ANSA land grant from federal lands, including from National Petroleum Reserve-Alaska, national wildlife refuges, wild and scenic rivers, and national forests;
- Section 10, Unrecognized Southeast Alaska Native Communities Recognition and Compensation, would establish five urban Native corporations that would select a total of 115,200 acres (23,040 acres each) from the Tongass National Forest; and
- Section 11, Alaska Native Veterans Land Allotment Equity, would convey 160-acre Native Allotments to Alaska Native veterans, and approves Native allotment applications pending before the Interior Department when the Alaska Native Claims Settlement Act was enacted on December 18, 1971.

Thank you for considering our views.

Jack Hession

Jack Hession
Executive Committee
Alaska Chapter Sierra Club

Written Testimony before the U.S. Senate Committee on Energy and Natural Resources

Hearing to Receive Testimony on Various Bills

Hearing September 22, 2016
Testimony Submitted for the Record October 6, 2016

Submitted by:
Alaska Department of Natural Resources

On behalf of:
The State of Alaska

I. Introduction

Chairwoman Murkowski, Ranking Member Cantwell, and honorable members of the Senate Committee on Energy and Natural Resources – The Alaska Department of Natural Resources (ADNR) submits the following testimony on a number of the bills heard on September 22nd that pertain to the land and natural resources of Alaska. On behalf of Governor Bill Walker, thank you for this opportunity to provide this testimony.

The testimony for each bill is enumerated below. ADNR takes no position and has no objection to the bills heard at the hearing but not discussed in this testimony.

II. S. 437 – Improved National Monument Designation Process Act

ADNR supports this legislation and the involvement of affected states in federal executive branch actions – both within the boundaries of the state and in the offshore waters adjacent to the state.

III. S. 1416 – A Bill to Limit the Authority to Reserve Water Rights in Designating a National Monument

ADNR supports this legislation and the role of an affected state in managing water and water rights associated with newly created national monuments within their borders. Respectfully, the Committee or members of Congress may wish to clarify that neither the declaration of a national monument under 54 USC § 320301(a) nor the reservation of particular parcels of land under 54 USC § 320301(b) includes expressed or implied federal water rights outside of the applicable state process and law.

IV. S. 2056 – National Volcano Early Warning and Monitoring System Act

ADNR supports this legislation. Modernizing the National Volcano Early Warning and Monitoring System moves our national capacity for responding to these events from "detect and

react" to "forecast and prepare" and is likely to protect and prevent harm to the people and resources of Alaska and the United States. Alaska's population and economy are especially susceptible to volcanic and geologic hazards given the geologic, seismic, and volcanic profile of the state and its extensive and remote territory.

Respectfully, the Committee or members of Congress may wish to include state participants, such as the respective state geological surveys, in the advisory committee discussed in section 4 (c)(2), to inform the Secretary of the needs of states such as Alaska that feature significant volcanic activity.

For reference, there are currently 52 active volcanoes in Alaska, and on average at least one of these volcanoes erupts in a given year, generating potentially hazardous ash clouds. The Alaska Volcano Observatory (AVO), has responded to 26 eruptions from 10 different volcanoes over the last decade and this legislation would enhance these efforts to forecast and prevent harm and impact from these eruptions. Ash clouds are extremely hazardous to safe aircraft operation. Due to Alaska's geographic position, a significant percentage of all international air freight and approximately 50,000 people in a given day travel through areas that could be affected by the eruption of Alaskan volcanoes – making Alaskan volcanic monitoring an issue of national and international importance.

V. S. 3203 – Alaska Economic Development Act

Title I – ADNR supports this title of the legislation. Hydrocarbon production from federal acreage brings royalty and economic benefits to the State, in addition to economic and energy security benefits to the country as a whole. A comprehensive plan in furtherance of such production is completely consistent with the State's interests, and ADNR is available to assist federal partners with development of such a plan. Additional land entitlement would also benefit the state and increase the access and utilization of Alaska's natural resources for the benefit of Alaskans.

Title II – ADNR supports this title of the legislation. The statutory inclusion of lease sales in the leasing program for the federal planning areas in the Arctic Outer Continental Shelf (OCS) is consistent with the State's position of strong support for these sales through the administrative planning process and is of critical importance to the State. This is a position which the State, the North Slope Borough, and the Arctic Slope Regional Corporation have uniformly supported because responsible development in the Arctic OCS benefits the communities who live in the region in addition to all Alaskans.

Title III – ADNR supports this title of the legislation. An orderly leasing program within the coastal plain is consistent with the intent of prior legislation and federal administrative findings, and would be of enormous benefit to the economy of Alaska and the nation as a whole.

Title IV – ADNR supports this title of the legislation, including the provisions to encourage the development of rare earth elements, to secure federal mining claims, and to clarify the scope of Alaska National Interest Lands Conservation Act (ANILCA) withdrawals.

Title V – ADNR supports this title of the legislation, including an exemption for Alaska from the "roadless rule," the completion of the land exchange between the Alaska Mental Health Trust and the U.S. Forest Service, and the creation of a Tongass State Forest.

VI. S. 3204 – King Cove Road Land Exchange Act

ADNR supports this legislation and a solution to this long-standing issue for the residents of King Cove and Cold Bay. The Governor of Alaska has prioritized this issue and ADNR stands ready to assist facilitate land transactions necessary to effectuate this legislation subject to applicable state law.

In closing, thank you very much for the opportunity to provide testimony on these bills.

Trust
Alaska Mental Health
Trust Authority

3745 Community Park Loop, Suite 200
Anchorage, AK 99508
907-269-7960
www.mhtrust.org

10/3/2016

The Honorable Lisa Murkowski
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murkowski,

I am writing in my capacity as chairman of the board of trustees for the Alaska Mental Trust on behalf of the entire seven member board. We obviously strongly support the **Alaska Mental Health Trust Land Exchange** Legislation. *I urge to you pass legislation allowing the Trust to fulfill its financial responsibility of supporting programs serving Alaska's most vulnerable populations.*

The Alaska Mental Health Trust and the Trust Land Office (TLO) have been working toward a land exchange for more than 10 years to enable the Trust to better fulfill its mission of generating income to assist in meeting the needs of Trust beneficiaries. Trust beneficiaries include Alaskans of all ages with mental illness, developmental disabilities, substance use disorders, traumatic brain injuries, and Alzheimers's and related dementias.

Our efforts to effect a land exchange have been undertaken in order to make Trust land productive for our beneficiaries while accommodating the interests of communities in Southeast Alaska and broader public interests as well. Those efforts have included extensive public participation while defining the exchange parcels and efforts to define and best accommodate myriad public and private interests.

The exchange is of great benefit because it:

- Protects popular trails, viewsheds, and iconic recreational sites along the Inside Passage;
- Ensures watersheds are protected so that Southeast residents receive clean water
- Preserves old growth timber stands in the forest;
- Ensures jobs stay in the Southeast communities by protecting the timber and tourism industries;
- Protects and promotes the interests of vulnerable Alaskans by providing revenue to support the Trust's mission.

The State of Alaska is facing the worst fiscal crisis in its history. Cuts to state programs threaten to reduce vital services for Trust beneficiaries. There is a critical need for the Trust to generate income to assist in meeting beneficiary needs. While the Trust provides over $20 million annually in support of programs and services for beneficiaries it is insufficient to meet the need. Additional revenue is needed and needed soon. If the Trust cannot generate additional revenue in a timely fashion the well-being and even the lives of our beneficiaries will be increasingly at risk. Legislation is the best option to complete the exchange in a timely fashion.

Trustees want to do what is right for Southeast community and economy, for the broad public interest, but most importantly for vulnerable Alaskans that benefit from the Trust. It's essential that the Alaska Mental Health Trust increase its ability to provide financial support for programs serving our beneficiaries.

I encourage you to pass this legislation with appropriate modifications that have been negotiated by the TLO and the USFS. I also offer the Trust's assistance if we can help in any way.

Thank you for your efforts on behalf of Alaskans.

Sincerely,



Russ Webb
1338 F Street
Anchorage, AK 99501



ALASKA MINERS
ASSOCIATION

121 W. FIREWEED SUITE 120 | ANCHORAGE, ALASKA | 99503 | 907.563.9229 | ALASKAMINERS.ORG

September 21, 2016

Senator Lisa Murkowski, Chairman
United States Senate Energy and Natural Resources Committee
304 Dirksen Senate Building
Washington DC 20510

Re: Testimony for the record for September 22, 2016 Committee Hearing: S. 3203, S.3204, S.3273

Dear Senator Murkowski:

The Alaska Miners Association (AMA) appreciates the opportunity to provide a statement for the record in advance of the September 22, 2016 Senate Energy and Natural Resources Committee Hearing, which will present several key pieces of legislation vital to Alaskans and Americans.

AMA is a non-profit membership organization established in 1939 to represent the mining industry in Alaska. We are composed of comprise more than 1,400 members that come from eight statewide branches: Anchorage, Denali, Fairbanks, Haines, Juneau, Kenai, Ketchikan/Prince of Wales, and Nome. Our members include individual prospectors, geologists, engineers, vendors, suction dredge miners, small family mines, junior mining companies, and major mining companies. We look for and produce gold, silver, platinum, molybdenum, lead, zinc, copper, coal, limestone, sand and gravel, crushed stone, armor rock, and other materials.

AMA wishes to provide comments on the following Legislation:

S. 3203, the Alaska Economic Development and Access to Resources Act – Title IV. Mining

"Withdrawal" as used in ANILCA § 1326. S. 3203 contains a host of provisions, of which one of the most vital is a definition of the word "Withdrawal" as used in ANILCA § 1326. "No More" was a principle which the Alaska Legislature insisted be part of the Alaska National Interest Lands Act (ANILCA). The idea was that, in exchange for setting aside millions of acres of Federal Lands in Alaska as Wilderness, the remaining Federal Lands would be open to development.

However, Federal Agencies in Alaska are evading the intent of the "no more" clause because the word "withdrawal" is not specifically defined in ANILCA. Their position is that land set aside in management plans are "temporary" and, therefore, not a withdrawal. Even if not designated as a withdrawal, if the agencies temporarily treat the land as if it was withdrawn and then roll over that "temporary withdrawal" from land plan to land plan it results in a de facto withdrawal of areas. Examples are "Old Growth Reserves" (OGRs) on the Tongass National Forest and Areas of Critical Environmental Concern (ACECs) on Bureau of Land Management (BLM) land.

The Congressional intent of ANILCA was clear; however, executive agencies have used various devices to circumvent ANILCA § 1326. Furthermore, in the recent case of *Southeast Conference v. Vilsack,* 684



F.2d 135 (D.D.C. 2010) the U.S. District Court for the District of Columbia decided that because there was no ANILCA definition of "withdrawal," it was free to use the definition of "withdrawal" set out in § 204(e) of the Federal Land Management Policy Act of 1976 (FLPMA) and related case law:

[A] withdrawal exempts covered land from the operation of laws that otherwise authorize the transfer of federal lands to the private domain for private use. (Attached Slip Opinion at page 13).

Based on this definition, the Court determined that 1.22 million acres of "Old Growth Reserves" set aside by the 2008 Amended Tongass Land Management Plan were not withdrawals but are merely examples of the Forest Service's statutory responsibility under the National Forest Management Act to "provide for multiple use and sustained yield products and services of units of the National Forest System." 16 U.S.C. § 1604(e). They neither exempt lands from the operation of public land laws, nor suspend the operation of those laws in certain lands. Land-use designations simply have no effect on laws that authorize transfer of federal lands to the private domain (Slip Opinion at page 14).

The FLPMA definition is a problem for Alaskans because, among other things, it is restricted to the concept of "transfer." Alaskans use federal lands for many other important purposes, including access across and through federal lands to other State lands and inholdings. Alaskans also use federal lands extensively for many legitimate purposes, including we prospecting federal lands for mineral outcrops, which can be barred when land is "withdrawn." In brief, an unlimited "temporary" closure of land to multiple use is as much a withdrawal as a permanent closure,

The BLM, for instance, has determined that ACECs on public domain should be considered land-use designations under FLPMA not subject to the "no more" clause. This is a gigantic loophole which the the agency has wrongfully attempted to use to set aside millions of acres in Alaska notwithstanding the unequivocal language and intent of "no more" clause.

Section 403 of S.3023 would close the loophole by defining the word "withdrawal" in ANILCA. This definition would cause the "no more" clause of ANILCA to actually work as a "no more" clause.

Bokan Mountain-Dotson Ridge mining project: provisions within Title IV of S.3203 promote development of green technology and strengthens national security by encouraging the development of new technologies to meet the nation's demand for critical and strategic materials. Domestic supply of these minerals is vital; provisions that incentivize domestic development are vital toward advancing this priority.

Advancements in technology over the past half-century have driven the demand for rare earth elements. From smartphones to electric vehicles, to the highly technical products employed by our Nation's Armed Forces, rare earths are in high demand and their supply is almost entirely foreign. Currently, the production of these elements is dominated by China which controls the majority of the world's mining of rare earth containing ore and each subsequent stage in the separation supply chain. Chinese production of rare earths relies upon production techniques that may and would not necessarily comply with the United States' regulatory requirements. This begs the question, why should we buy these products from a nation with possible undesirable practices, when we can develop the products domestically in an environmentally responsible manner, at the same time enhancing the economy?

ALASKA MINERS ASSOCIATION

Section 401 of S.3203 provides for the creation of a grants program to develop "more environmentally acceptable and less expensive ways to separate and process rare earth elements, which would increase the likelihood of economic production of rare earth elements in North America." Not only would this language promote the development of an alternative to foreign sources of rare earths, improving U.S. national security, but section 401 would foster American development of clean technology. "Environmentally benign technologies," as referred to by the bill, offer the ability to meet 21st century demand for rare earths while simultaneously promoting metal sustainability and the elimination of pollutants from the rare earth separation supply chain. Section 401 would not only help alleviate U.S. dependence on foreign sources of rare earths, but also drive innovation toward the next generation of development technologies.

The Alaska Miners Association supports S.3203 and urges swift passage of this bill.

S. 3204, the King Cove Road Land Exchange Act
AMA supports S.3204 not because our immediate members or the mining industry stand to benefit from its passage, but as an Alaskan-based organization support this bill because its passage is simply the right thing to do. The proposal of a road through the Izembek National Wildlife Refuge, in the name of safety, should be honored and construction and operation of the road can be done without negative impacts to the environment.

S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016
AMA supports S.3273 because the majority of its provisions contain policies that will enhance the ability of Alaska's Native Corporations to receive the entitlements and benefits expressly contained in the Alaska Native Claims Settlement Act upon its passage in 1971. Items such as conveyance of Cook Inlet Region, Inc.'s remaining 43,000 acres of land; land exchange proposals for several Corporations, reestablishment of the 13th Regional Corporation; and several other provisions help Alaska's Native Corporations to use its land and sustain its communities for years to come, and are compelling reasons to vote for the passage of S.3273.

S. 437, the Improved National Monument Designation Process Act
National Monument Designation is a major issue, particularly with Alaskans who live, work, and play in a state with more Conservation System Units than the rest of the Nation combined. Designation of a National Monument comes with associated land withdrawals, management prescriptions, and other classifications that prevent access to and multiple use of lands. We support limiting the authority of the Executive Branch under the Antiquities Act to designate to create any more National Monuments and Parks in the United States or its economic zone without consultation of the impacted states.

Conclusion. AMA applauds the introduction of S. 3203, S. 304, S. 3272, and S. 437 as strong legislation that will enhance economic and community development for Alaskans and Americans alike.

Thank you for the opportunity to submit this statement for the record.

Sincerely,

Deantha Crockett
Executive Director

ALASKA CHAMBER

September 21, 2016

The Honorable Lisa Murkowski, Chair
U.S. Senate Energy and Natural Resources Committee
304 Dirksen Senate Building
Washington, D.C. 20510

Re: Testimony for the Senate Energy and Natural Resources Committee Hearing on September 22, 2016 on S. 3203, S.3204, S. 437, and S. 3273.

Dear Senator Murkowski:

The Alaska State Chamber of Commerce (Alaska Chamber) would like to express its support for S. 3203, S. 3204, and S. 3273 as these key pieces of legislation will be most beneficial to Alaskans and the Alaska economy.

The mission of the Alaska State Chamber of Commerce (Alaska Chamber) is to promote a positive business environment in Alaska. The Alaska Chamber represents hundreds of businesses, manufacturers and local chambers from across Alaska. Our members support resource development that is both done in a responsible manner and brings economic opportunity to Alaska and its residents.

One item in particular, and as you are probably already aware, the Alaska Chamber has long been a supporter of exploration and development of our oil and gas resources in the Alaska Arctic Outer Continental Shelf (OCS). Development of the OCS has the potential to provide 54,700 new jobs nationwide with a cumulative payroll of $145 billion. OCS development will also help extend the longevity of the Trans-Alaska Pipeline System (TAPS). TAPS has played a critical role in Alaska's economic prosperity and our nation's energy security. Without a significant new source of oil, TAPS may be forced to shut down, dealing a heavy blow to Alaska and posing an energy and national security risk to the nation.

The remainder of the provisions of S. 3203 (Alaska Economic Development and Access to Resources Act) will help bolster Alaska's economy by providing the necessary access to our natural resources here in Alaska. Not that long ago when we joined the Union it was under the auspices that developing Alaska's natural resources would provide us with a strong economy. By reminding policy makers and the bureaucrats in Washington, D.C. of this fact we can hope to take

ALASKA CHAMBER

our future into our own hands and provide for a prosperous economy for generations to come.

The majority of land in Alaska is already under federal control, and the federal agencies in charge of those lands continue to either outright block any potential utilization of the natural resources in those lands or make it nigh impossible by creating so many hurdles that its no longer feasible to pursue. By S. 437 (Improved National Monument Designation Process Act) limiting the authority of the President to designate any more National Monuments without first not consulting the impacted states first we have at least a fighting chance of preventing any more of Alaska to be locked up.

Despite being passed in 1971 there are still unresolved provisions under Alaska Native Claims Settlement Act (ANCSA). S. 3273 (Alaska Native Claims Settlement Improvement Act) seeks to finally close the loop on promises made and enable native corporations to fully utilize their lands and resources which while bolstering their communities for years to come will also enhance Alaska's economy as a whole.

While not having any direct association with impacting Alaska's economy, the Alaska Chamber supports the conveyance of land for the sake of building the road out of King Cove. By finally conveying these lands will the level safety and security for those Alaskans in King Cove who would greatly increase. S. 3204 will finally allow this long overdue endeavor to occur.

Thank you for the opportunity to submit our comments for the record and your, and the rest of Alaska's delegation's, efforts to continue to stand up for Alaska.

Sincerely,

Curtis W. Thayer
President and CEO

471 W. 36th Ave., Suite 201, Anchorage, AK 99503 • (907) 278-2722 • alaskachamber.com

Alaska Wilderness League * American Rivers * Clean Water Action
Conservatives for Responsible Stewardship * Defenders of Wildlife * Earthjustice
Environment America * League of Conservation Voters
Natural Resources Defense Council * Oceana * Sierra Club
Southern Environmental Law Center * The Wilderness Society

September 20, 2016

The Honorable Lisa Murkowski
Chairman
Energy and Natural Resources Committee
United States Senate
Washington, DC 20510

The Honorable Fred Upton
Chairman
Energy and Commerce Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Maria Cantwell
Ranking Member
Energy and Natural Resources Committee
United States Senate
Washington, DC 20510

The Honorable Frank Pallone
Ranking Member
Energy and Commerce Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Murkowski and Upton and Ranking Members Cantwell and Pallone:

On behalf of our millions of members and supporters, we urge you to only report an energy bill if it will facilitate our nation's transition to cleaner sources of energy and doesn't have provisions that would further climate disruption or harm our air, water, wildlife, and other natural resources.

The latest scientific evidence dictates that our transition to clean, low-carbon energy must be accelerated if we are to mitigate the worst effects of the climate change. Unfortunately, the provisions in Senate-passed Energy Policy and Modernization Act (EPMA), S.2012, do not meet that urgent need. This conference will not be able to rectify that deficiency but could advance modest but important provisions to upgrade our grid, improve energy efficiency, invest in new renewables and train the workforce needed to implement this transition.

Positive provisions included in EPMA include permanent extension of the Land and Water Conservation Fund, new programs to support grid storage and advanced grid technologies, the Sensible Accounting to Value Efficiency (SAVE) Act, many provisions from the Energy Savings and Industrial Competitiveness Act (Portman-Shaheen), Senate building code language, Senate America COMPETES Act reauthorization, workforce training, and manufacturing initiatives. In order to make any progress in transitioning to clean energy these provisions must be included in the final version of this bill.

Unfortunately, EPMA also includes several provisions that would weaken current law, undermine climate science and are at odds with the overwhelming desire of the American public to protect the environment. Unless these harmful provisions are removed this bill would lock in fossil fuel development and infrastructure with its attendant air, water and land pollution for decades to come.

The bill passed in the House is even more concerning. The House-passed bill is littered with extreme ideological provisions that undermine many of our current protections including those secured under the Clean Air Act, the Equal Access to Justice Act, National Environmental Policy Act, the Clean Water Act, the Endangered Species Act, and other key laws. The House bill (HB) contains the legislative language from H.R.8, H.R. 2898, H.R. 2406, H.R. 1937, H.R. 538, H.R. 2647 and H.R. 1806, all of which are controversial, have veto threats from the Obama Administration, and should not be included in a final bill.

We understand that Senate conferees intend to narrow the vast number of policies under consideration for the conference report. Still, we remain concerned that even this more limited universe may include provisions that undermine the positive provisions of the bill or harm our environment, climate, and public health.

Our organizations will vigorously oppose a final bill if it would do damage to the environment.

Noted below are provisions of strong concern.

Energy Efficiency:

- **EPMA Section 1015/HB Sec. 3116**: This provision repeals Section 433 of the Energy Independence and Security Act (EISA) which requires all new and modified federal buildings to eliminate fossil fuel generated energy by 2030. A repeal of this provision alone would undermine our transition to a clean, low-carbon energy future. The federal government has tremendous potential to reduce pollution and leverage the significant benefits of energy efficiency to reduce the $6 billion it spends on energy in its buildings and should be demonstrating leadership in this transition.
- **EPMA Section 1020, Elimination of Green Building Programs:** This provision requires the federal government to review green building programs and look for duplication. The Government Accountability Office (GAO) report referenced in the section recommends enhanced coordination between agencies to increase effectiveness of complementary programs. Nothing in the GAO report suggests elimination of programs, and the report asserts in some areas "it may be appropriate for multiple agencies or entities to be involved in the same programmatic or policy area due to the nature or magnitude of the federal efforts."
- **EPMA Section 1103, Furnace Efficiency Standard Delay:** This provision would delay and damage an essential federal efficiency measure for furnaces and reduce its carbon and monetary savings. The legislation developed regarding minimum efficiency standards for

residential furnaces has been highly contentious and controversial. The language approved by the House is the result of negotiation and represents a broad consensus of stakeholders. The language in the EPMA Sec. 1103 does not reflect the efforts of stakeholders to find common ground and enjoys no such support. The Senate language would further delay a standard that is already 25 years overdue and will cut energy waste, netting consumers almost $700 on average over the life of the furnace. DOE is on track to finalize an improved standard through a thorough, open and transparent stakeholder process, and policymakers should avoid setting a negative precedent undermining the progress made to bring this standard to a meaningful resolution.

- **EPMA Section 1104, Third-Party Certification Under Energy Star Program**: This section removes the checks and balances for consumer electronics products within Energy Star. The proposed amendment would essentially gut the front end certification of the ENERGY STAR program for consumer, home office, and electronic products. Manufacturers would be allowed to self-certify that their products meet the ENERGY STAR requirements and their submissions would no longer be subject to review by an independent third-party certification body, which all other products are required to do. The proposal opens the door for products to falsely qualify for the ENERGY STAR label.
- **HB Division A Sec. 3152, Clarifying Rulemaking Procedures:** This provision mandates a public comment period before the Department of Energy can issue a notice of proposed rulemaking, creating an inflexible, unnecessary statutory requirement. Further the provision is highly skewed to consider only manufacturers' interests on areas that DOE already considers throughout the regulatory process. Finally, the provision risks negatively impacting as many as 11 of the 13 rules currently under development at DOE.

Infrastructure

- **EPMA Section 2201-3, Expedited Project Review - LNG**: This provision expedites the review of applications to export liquefied natural gas. It does not give DOE sufficient time to consider all factors, including full economic and environmental reviews, in approving LNG export terminals. Speeding up the process of approving LNG export terminals ties our economy more closely to fossil fuels at a time when we should be transitioning away from their use.
- **HB Section 1101, Natural Gas Pipeline Review:** This section attempts to limit the environmental review of major interstate natural gas pipelines by allowing inaccurate or inadequate aerial surveys to assess land impacts and allowing conditional approval without verification of environmental data, sets an arbitrary deadline for agency decisions that can be used to expedite pipeline permits at the expense of thorough environmental review, and limiting environmental analysis in other ways.
- **HB Section 1115, National Energy Security Corridors:** This section would eliminate the established federal review processes under the National Environmental Policy Act for approval of pipelines and affiliated infrastructure in National Parks and other federal lands. This would eliminate environmental and public review of these land use changes

and transfers authority over these lands to the Department of Energy, an agency with no practical experience in proper stewardship of federal lands.

Supply

- **EPMA Section 3001, Hydropower Relicensing**: We appreciate that in the markup of S. 2012 the Committee removed the most egregious anti-environmental provisions from the hydropower title, and we are pleased that the bill does not contain the provisions in H.R. 8 that weaken the Clean Water Act, the Endangered Species Act, or the protections for fish, wildlife, and public lands in Sections 18 and 4(e) of the Federal Power Act, respectively. And we are pleased that S. 2012 makes it easier for States to process water quality certifications in a timely fashion by requiring power companies to submit completed applications. This provision in particular will prevent power companies from intentionally delaying their relicensing proceedings in order to avoid compliance with the Clean Water Act. However, we share the concerns of States, Tribes, and the White House about how the provisions in Section 3001 would be implemented. For example, we are concerned that if enacted as written, Section 3001 could limit agencies from, as part of the relicensing process, requiring power companies to conduct new studies into the impacts of their dams. This section would apply even if the dam's existing license, and thus the studies that the current license depends on, are more than 50 years old and pre-date modern environmental statutes and changing climate conditions. Further, we share the concerns of many stakeholders that elevating disputes over license conditions to the Council on Environmental Quality, and ultimately the President, politicizes what should be a technical and science-based decision process. Finally, we are concerned that provisions in Section 3001 require federal natural resource agencies to conduct costly, wasteful and time-consuming review of matters outside of their scope of expertise and jurisdiction. Taken together, the effect of these provisions could lead to increased costs to taxpayers and unnecessary delays in licensing, which is contrary to the goals of all parties to license proceedings.
- **EPMA Section 3017, Biomass Definition:** This provision categorically asserts that all types of forest bioenergy should be treated as carbon-neutral, and that biomass is a renewable energy source as long as it is harvested from forest land that remains as forest land. This is scientifically inaccurate. Using biomass from whole trees or "thinnings" for electricity can take several decades to achieve net carbon reductions, during which time the carbon dioxide burden to the atmosphere increases. Additionally, the language of this provision creates ambiguity over the respective roles of EPA, Department of Energy (DOE) and the U.S Department of Agriculture (USDA). This could undermine EPA's statutory authority over carbon pollution under the Clean Air Act.
- **EPMA Section 3115, Renewable Energy Definition:** This provision revises the definition currently used in the federal purchasing of renewable energy to include waste heat. Yet, this provision does not increase the purchasing requirements. Without increasing the requirements, this definition change will ultimately decrease the amount of renewable energy the federal government is using because it will award the government for what it already does.

- **EPMA Section 3101, Methane Hydrate Research and Development**: This provision would dramatically expand methane hydrates research and development with the goal of unlocking a fossil fuel that could contribute massively to carbon pollution. At a time when our economy is transitioning away from these fuels to meet our carbon reduction goals, our government shouldn't be subsidizing the development of new ones. Additionally, the vast majority of methane hydrates are located offshore where environmental damage is more likely to occur. For example, a newly authorized activity under this program is seismic exploration in the Gulf of Mexico. Seismic exploration involves the use of powerful airgun bursts that has been shown to harm marine life and fisheries over large areas of ocean and has proven highly controversial off the southeast U.S. and elsewhere.
- **EPMA Section 3305, Expedited Project Review - Mining**: This section would require federal land management agencies to develop expedited review processes for new mining permits. This is a misguided approach that will sacrifice protection of public resources and our environment.
- **EPMA Section 3402, Carbon Capture and Sequestration Modifications**: This section establishes a new coal technology program at DOE to replace existing programs. While the section includes laudable goals of developing technologies to make coal less environmentally harmful, it also subsidizes coal systems that are incompatible with climate protection. For example, it would subsidize converting coal to other products like transportation fuels. Additionally, a proposed modification to this section would create a system that assumes that co-firing biomass combined with capture automatically creates negative carbon emissions. As previously stated, biomass is not automatically carbon neutral, and Congress should leave the determination of its carbon emission profile to scientists and other experts.
- **EPMA Section 3501; HB Title XXXIII, Nuclear Research**: This provision spends taxpayer resources to expand the already heavily subsidized nuclear industry's research arm in clearly uneconomic areas despite its demonstrated risks. Moreover, the provision lacks any of the required environmental and security reviews to ensure that the program's long term impacts do not significantly erode the quality of the human environment and nuclear nonproliferation goals.

Accountability

- **EPMA Section 4301, Bulk-power System Reliability Impact Statement:** This provision establishes unnecessary and duplicative assessments by requiring the Electric Reliability Organization (ERO), also known as the North American Electric Reliability Corporation (NERC), to issue "reliability impact statements" for all major rulemakings at Federal agencies that may impact electric utilities. It also requires agencies to consider these statements in their rulemakings, as well as respond to the reliability impact statement in detail in the final rule. NERC is a private corporation that does not allow for public participation in their deliberations. Furthermore, NERC's approach assumes that there will be no corrective actions or future investment in electric transmission or replacement generation. Therefore, the loss of old generation, which is primarily fossil

fuel-based, is always determined to be a risk, and the basis for a negative review of reliability impacts.

- **EPMA Section 4401, Sale of Public Lands:** This provision would require the Secretary of the Interior to develop a multipurpose cadastral survey of Federal real property and identify inaccurate, duplicate, and out-of-date Federal land inventories to facilitate proposals to sell off America's public lands. We strongly support data transparency, but heed the caution raised by the U.S. Geological Survey on a similar proposal in 2013 that the approach would yield limited value at a significant cost, potentially billions of dollars. Furthermore, we're concerned that this provision would encourage the inappropriate sale of public lands and other assets to address short-term needs, which is in direct contrast with consistent public polling showing that Westerners from all political parties strongly oppose proposals to sell off America's public lands.

Resources

- **EPMA Section 10101, National Parks Budget Cut:** This provision requires the Director of the National Park Service to reimburse states that paid to reopen national parks during the October 2013 government shutdown. Though we believe that the funding of national parks is first and foremost a federal responsibility, utilizing funds from the fiscal year in which the states are reimbursed will result in an effective cut to the National Park Service's operating budget. Our parks are already underfunded and deserve more funding, especially in the year of their centennial.
- **HB Division C, Section 2064, Imposed Hunting in National Parks:** This section would require the National Park Service to use volunteer hunters to reduce wildlife populations unless the agency has permissions from the respective state not to use volunteer hunters. This would directly conflict with that Park Service's fundamental stewardship responsibilities. We are concerned with the continued attempts to impose hunting in national park units where it conflicts with the visitor experience and values of the park.
- **HB Division C, Section 2151, Bison Management:** This section is premature - the National Park Service is currently preparing a Bison Management Plan for the hybrid bison in Grand Canyon National Park. Wildlife management of any species should be based on the best available and objective scientific analysis, not the prescription of a management plan by Congress.

Water

- **HB Division C, Title I, California Water Management:** The House bill includes language from H.R. 2898 to override the Endangered Species Act in California's Bay-Delta watershed. This bill is a non-starter that the White House has threatened to veto. Other legislative proposals to address California's drought include titles that mandate or authorize water project operations that are similar to those implemented over the past several years of the drought. However, these legislative efforts would also adversely affect thousands of fishing jobs that depend on healthy salmon runs, and new scientific information shows that such water project operations would likely result in the

extinction of several native fish species in California. In light of enormous declines in key species due to drought, federal agencies have reinitiated consultation under the Endangered Species Act. In light of these administrative responses, the inclusion of legislation regarding water project operations in California's Bay-Delta watershed in the conference report is wholly inappropriate and inconsistent with the Endangered Species Act and state law. In contrast, legislation and funding that improves agricultural and urban water use efficiency, funds wastewater recycling, or the development of similar sustainable water supplies would help advance meaningful solutions to water issues across the West.

Opposition to House-passed legislation

- **H.R. 8, the North American Energy Security and Infrastructure Act**, contains efficiency provisions that would increase energy use and costs to consumers, a hydropower title that curtails NEPA review along with state, local, and tribal authority over projects on their own lands, allows pipelines to be built on National Park land without the necessary environmental reviews, and provisions that could lock in dirty fossil energy for decades to come at a time when we should be investing in cleaner, cheaper alternatives.
- **H.R.538, the Native American Energy Act**, would limit public involvement in energy projects on tribal lands.
- **H.R.1937, the National Strategic and Critical Minerals Production Act**, weakens environmental review for the hardrock mining industry and jeopardizes the water quality of nearby communities.
- **H.R.2406, the SHARE Act**, threatens wildlife and public lands while undermining our bedrock environmental protections.
- **H.R.2647, the Resilient Federal Forests Act of 2015**, would legislatively promote devastating logging projects and subvert environmental review.
- **H.R.2898, the Western Water and American Food Security Act**, weakens protections for salmon, migratory birds, and other fish and wildlife in California's Bay-Delta estuary and threatens the jobs that depend on the health of these species.
- **H.R.1806, the America COMPETES Reauthorization Act of 2015**, would undermine investments in science and federal research and development.

We stand ready to work with you to ensure that the final conference report not only addresses America's energy future, but also protects our environment, climate, and public health.

Thank you for your consideration,

Alaska Wilderness League
American Rivers
Clean Water Action
Conservatives for Responsible Stewardship

Defenders of Wildlife
Earthjustice
Environment America
League of Conservation Voters
Natural Resources Defense Council
Oceana
Sierra Club
Southern Environmental Law Center
The Wilderness Society

cc: Senators John Barrasso, Jim Risch, John Cornyn, Ron Wyden, and Bernie Sanders; Representatives Rob Bishop, Joe Barton, John Shimkus, Robert Latta, Cathy McMorris Rodgers, Pete Olson, David McKinley, Mike Pompeo, Morgan Griffith, Bill Johnson, Bill Flores, Markwayne Mullin, Don Young, Cynthia Lummis, Jeff Denham, Bruce Westerman, Lamar Smith, Randy Weber, Mike Conaway, Glenn Thompson, Raul Grijalva, Cresent Hardy, Lee Zeldin, Collin Peterson, Eddie Bernice Johnson, Peter DeFazio, Bobby Rush, Lois Capps, Doris Matsui, John Sarbanes, Peter Welch, Ben Ray Luján, Paul Tonko, Jared Huffman, and Debbie Dingell

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The Honorable Lisa A. Murkowski
Chairman
Committee on Energy and Natural Resources
709 Hart Senate Office Building
Washington, DC 20510-0203

The Honorable Maria Cantwell
Ranking Member
Committee on Energy and Natural Resources
511 Hart Senate Office Building
Washington, DC 20510-4705

September 29, 2016

Dear Chairman Murkowski and Ranking Member Cantwell:

On behalf of our members and supporters, we are writing to express our deep concern and strong opposition to S. 3203, the *Alaska Economic Development and Access to Resources Act*, introduced on July 13, 2016, which received a hearing in your committee on September 22, 2016. This bill was introduced among a slate of other bills which, taken as a whole, would constitute an all-out attack on the integrity of Alaska's public lands, threatening to privatize some of the most valuable and ecologically sensitive lands and waters throughout the state.

S. 3203 is a wide reaching development bill that would pose a serious threat to some of the most pristine and unique public lands and waters across Alaska. Broadly, the legislation would place millions of acres of federal public lands at risk of damaging, non-renewable resource development, targeting many of the same lands that currently provide for Alaska's renewable industries, subsistence resources, and tourism-based activities. It would remove opportunities for Alaskans to have their say in the future of their state and for all Americans to weigh in on some of our nation's most beloved public lands by bypassing public processes and replacing them with congressional action. Finally, it would transfer millions of acres of federal public land to the state of Alaska or private ownership, for the purpose of extractive resource development.

Section by Section, our organizations concerns' with this bill include:

Title I – Federal production requirements with land transfer penalties

Title I: would give the Department of the Interior one year to develop a plan to increase oil production on federal land in Alaska by 500,000 barrels of oil per day by 2026. For every year that this plan is not completed, the state of Alaska would be entitled to an additional 1 million acres of land. In essence, this provision would be a ticking time bomb for federal lands in Alaska, mandating a (potentially unachievable) pro-development use of federal land in Alaska to the detriment of all other values of this land. It is implied that lands transferred to Alaska under the penalty component of this provision would be extensively developed. This title holds Alaska's public lands hostage, demanding increased drilling regardless of factors outside of the agency's control, public input or environmental impacts.

Title II – Outer Continental Shelf drilling

Section 201: would allow oil companies to suspend leases held in the Arctic Ocean – in effect extending the leases without either producing on them or rebidding on them in future lease sales. As required by the Outer Continental Shelf Lands Act, these leases were sold for initial terms of 10 years. At the end of each term, leases expire and revert back to the federal government, at which time a new decision must be made as to whether to lease again in those areas. Under specific circumstances, leases can be suspended by the Bureau of Safety and Environmental Enforcement (BSEE), pushing the expiration date beyond the initial 10-year term. Between 2003 and 2008, the oil and gas industry leased approximately 3.5 million acres in the Arctic's Beaufort and Chukchi Seas. Of those leases sold, only 1 current lease in the Chukchi Sea and 37 current leases in the Beaufort Sea remain today. Due in large part to self-inflicted mistakes and a lack of preparedness, companies that purchased leases in the Arctic Ocean have been unable to safely conduct drilling there, and many leaseholders have asked BSEE to exercise its authority and suspend the expiration of their leases. Allowing companies to keep leases longer than the standard 10 years is to the detriment of both the American taxpayer and the fragile environment of the Arctic.

Section 202: would mandate two lease sales each in the next 5 year OCS drilling plan for the Beaufort (in 2017 and 2022), Cook Inlet (2017 and 2019) and Chukchi (2017 and 2019) planning areas. Considerable company failures (for example, Shell's disastrous 2012 drilling season), the harshness of the Arctic climate, and a 75% chance of a major oil spill in the Chukchi Sea if oil production moves forward underscores why the Arctic is no place to drill. America's Arctic Ocean is also ground zero for the devastating impacts of climate change – warming at about twice the rate of the rest of the world – and offshore drilling will only exacerbate the problem. Legislating additional lease sales in the Arctic outside of the 5-year plan process and taking away the public's right to voice its concerns about Arctic drilling is of significant concern to the fragile Arctic environment.

Title III – Onshore drilling

Subtitle A: would establish an oil and gas leasing program in the pristine Arctic National Wildlife Refuge. While this legislation appears to prioritize oil drilling in the undeformed area of the Arctic Refuge's Coastal Plain (375,000 acres as defined in this USGS document), Section 302 actually opens the entirety of the Coastal Plain (including nearly 100,000 acres of Arctic Slope Regional [ASRC] corporation subsurface estate, as well as the non-Wilderness areas of Arctic National Wildlife Refuge) to development by repealing the Alaska National Interest Lands Conservation Act Section 1003's prohibition on development. The Coastal Plain provides habitat for numerous species of migratory birds,

as well as calving and post-calving nursery areas for the Porcupine Caribou Herd. Even if development was limited to the undeformed area, it would cause significant damage to the biological heart of the Arctic Refuge ecosystem – this area comprises 78% of the coastline and 70% of the river delta habitat in the Refuge.

Section 302: would exempt or severely limit application of the National Environmental Policy Act - the nation's charter for environmental protection - to the drilling program in the Refuge and allows decisions to be made about exploration based on a nearly thirty-year old environmental review document without any new review. It also eliminates the fundamental "compatibility" determination that is at the heart of national wildlife refuge management, under which activities that impair refuge purposes are identified and, if necessary, prohibited or restricted. Section 303 mandates leasing and requires that the first least sale include at least 200,000 acres with the greatest oil potential, regardless of other wildlife or subsistence values.

Sections 305 and 306: contains misleading and discretionary provisions related to environmental "protections," reclamation standards, and lease provisions. For example, Section 306 contains a meaningless and misleading 2,000-acre "limitation" on development. But Subtitle A opens the entire 1.5-million-acre Coastal Plain to oil and gas activities, and exploration and production wells could be drilled anywhere on the Coastal Plain. This "limitation" only addresses surface areas covered by "production and support facilities" and does not cover seismic or other exploration activities, which have had significant impacts on the Arctic environment. It also does not include any requirement to plan for consolidated operations in a way that is protective or avoids duplicative infrastructure. Overall, Subtitle A restricts the Secretary's ability to protect sensitive areas or to engage in meaningful review of the environmental effects of any development on the Coastal Plain.

Section 308: would perfect Kaktovik Inupiat Corporation's (KIC) land selections within the Arctic Refuge and convey title to the subsurface estate below KIC selections to ASRC. ASRC received these lands in a questionable behind-closed-doors land exchange. This land exchange specifically prohibited leasing and development of these lands for oil and gas in the absence of congressional authorization. By repealing ANILCA section 1003, section 302 of this subtitle would allow for oil and gas exploration, leasing, development, and production on these lands. These corporation lands may not be subject to acreage limitations and other minimal environmental protections in the bill and, like the rest of the Coastal Plain, are not appropriate for oil and gas development. Additionally, Section 308 would trade over 500,000 acres of federal land and subsurface rights in the Refuge for adjacent state lands.

Section 309: would unilaterally decide a dispute over the western boundary of the Refuge that the U.S. Bureau of Land Management settled in the 1960s, but that the State has recently tried to revive.

Opening the Coastal Plain of the Arctic National Wildlife Refuge to oil and gas drilling would have devastating impacts on Refuge's biological heart – home to more than 250 species including polar and brown bears, muskoxen, and birds that migrate from all 50 states and 6 continents each year. The Porcupine Caribou Herd, a primary subsistence food source for the indigenous Gwich'in people, migrates hundreds of miles each year to the Coastal Plain, which the Gwich'in call "Sacred Place Where Life Begins", to give birth. Drilling the Arctic Refuge could alter the annual path of the Porcupine caribou herd, threaten critical breeding grounds for migratory birds, and cause population-scale impacts for many species.

Subtitle B, section 311: would require at least one lease sale in the northeast portion of the National Petroleum Reserve – Alaska (Reserve) to include critical environmental areas in the vicinity of Teshekpuk Lake. Much of the area surrounding Teshekpuk Lake is currently closed to oil and gas leasing under the management plan for the Reserve. Teshekpuk Lake is the largest lake in Arctic Alaska, and is important habitat for many threatened migratory birds. Teshekpuk Lake and the surrounding area is also important to local communities, who rely on wildlife in the area as a subsistence resource.

Section 312: would require an extensive review of sources of gravel in the Reserve to use in the construction of roads and other infrastructure supporting oil and gas development, which is of significant environmental concern.

Title IV – Mining

Section 401: would establish a grant program within the Department of Energy that encourages the development and demonstration of "environmentally benign" rare earth element extraction and separation processes, along with techniques that produce rare earth salts. It requires at least $7.5 million be made available for the testing of green chemistry separation processes, and it also requires the construction of a pilot plant that uses molecular recognition technology to provide 'proof of concept' for element separation and processing. The potential effects of this section depend on any impending grant projects.

Section 402: would exclude certain mining claims, including unpatented hard rock and placer mining claims, located prior to any withdrawal from the scope of that withdrawal. Withdrawal is broadly defined to include statutory and regulatory withdrawals, as well as other actions that withhold federal land from mining or mineral activity to protect other values. Section 402 also puts the burden on the government to disprove the validity of these mining claims. Perhaps most egregiously, Section 402 exempts these mining claims from *any* law or regulation. This provision has the potential to reopen protected areas, such as National Parks, to mining activities and to exempt those activities from environmental review, public process and agency oversight, and other environmental protections.

Section 403: would invalidate all designated Areas of Critical Environmental Concern (ACECs) that exist today in Alaska. ACECs have been a fundamental part of BLM's land management authority since 1976, and today ACECs protect subsistence and ecological values in the state. BLM has created ACECs in close consultation with Alaskans, including tribes who seek protections for the subsistence way of life. This subsection is of significant conservation concern, as it undermines past public processes which have created ACECs, and limits future use of this management tool.

Even more egregiously, Section 403 would require congressional action to affirm any designation of more than 5,000 acres of federal lands in Alaska or a management decision where that designation or a management decision in some way limits activities or uses of that land. It requires notice and a joint resolution of approval from Congress within one year, or the federal action is terminated. This severely restricts all federal land management agencies from moving forward with land planning decisions. This subsection would hamstring the ability of federal land and wildlife management agencies to make any significant or lasting changes to management of public lands or to protect sensitive species or areas.

Title V – Forestry

Section 501: would exempt national forests in Alaska from the Roadless Rule, encouraging increased clearcutting of our largest national forest at a time when the U.S. Forest Service is trying to transition away from old-growth logging.

Section 502: would override an on-going public process to exchange public lands from the Tongass National Forest for lands currently owned by the Alaska Mental Health Trust (the Trust). The exchange could allow up to 21,000 acres of environmentally sensitive National Forest System lands to be conveyed to the Trust for the sake of clear-cut logging. The public deserves to weigh in on this plan to concentrate logging in heavily impacted areas of Revillagigedo Island (Ketchikan) and Prince of Wales Island and the ongoing public process should not be bypassed.

Section 503: would allow the state of Alaska to seize control of more than two million acres of public land from the Chugach National Forest and Tongass National Forest for clearcutting – equaling an area the size of Yellowstone National Park. Alaska already has more than nine times the amount of state-owned land than any other U.S. state, with the fourth smallest state population. Alaska's national forests provide benefits and resources in their natural state for sustainable industries, communities and the public at large. For the Tongass National Forest in southeast Alaska, transferring lands out of federal management would have far reaching impacts for the region's ecosystem and economy. Encompassing some of the largest remaining tracts of coastal temperate rainforest left on earth, the Tongass is a wealth of wildlife and scenic beauty. Handing these invaluable lands over to the state for intensive development would hurt the region's existing and thriving tourism and commercial fishing industries. These sustainable industries generate around $2 billion annually into the southeast Alaska economy, and they continue to grow because of the healthy fisheries, iconic American wildlife and scenic beauty of public lands. If enacted, this section would put southeast Alaska's remaining pristine old-growth forest, its wildlife and its sustainable economy in peril. This section could result in the transfer of an area of national forest land larger than Delaware for rapid clear-cut logging.

The Bottom Line:

This bill is part of a suite of dangerous bills and riders introduced by the Alaska delegation that together serve as an all-out attack on the integrity of federal lands and waters in Alaska. S. 3203 would put millions of acres of Alaska's more iconic, beloved and relied upon federal public lands at risk for damaging, non-renewable resource development.

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The Honorable Lisa A. Murkowski
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Committee on Energy and Natural Resources
709 Hart Senate Office Building
Washington, DC 20510-0203

The Honorable Maria Cantwell
Ranking Member
Committee on Energy and Natural Resources
511 Hart Senate Office Building
Washington, DC 20510-4705

September 29, 2016

Dear Chairman Murkowski and Ranking Member Cantwell:

On behalf of our members and supporters, we are writing to express our deep concern and strong opposition to the Alaska Native Claims Settlement Improvement Act, S. 3273, which received a hearing on September 22, 2016. This bill was introduced among a slate of other bills which, taken as a whole, would constitute an all-out attack on the integrity of Alaska's public lands, threatening to privatize some of the most valuable and ecologically sensitive lands and waters throughout the state.

Senator Murkowski introduced S. 3273 in June as an updated version to an earlier introduced bill, S. 3004. Some portions of the bill have been considered in previous legislation. This legislation purports to improve the 1971 Alaska Native Claims Settlement Act (ANCSA), however, instead it would circumvent this landmark law by removing important checks and balances, especially with regard to the Tongass and National Wildlife Refuges. It would open unprecedented doors to for-profit Native corporations, increasing the corporate land cap, expanding corporate selection power, creating new corporations and granting unwarranted subsurface rights. This bill would set a precedent for an untold number of new for-profit Native corporations to stake claims to federal lands throughout Alaska for natural resource exploitation.

The provisions of this bill are broad ranging, and many parts of the bill pose significant threat to public lands across Alaska. Section by section, these are the areas of significant concern for our organizations:

Section 3: Barrow Sand and Gravel

This section would transfer sand and gravel rights for 22 sections of land near Barrow to the Ukpeagvik Inupiat Corporation (UIC). These lands neighbor the Barrow Gas fields, as conveyed in 1984, and surface rights for the land are currently held by UIC. The bill sponsor has indicated that the purpose of this section is to provide subsurface rights to the corporation so that gravel can be obtained for construction in Barrow. If this transfer happens, road building and gravel mining could move forward around important Steller's eider nesting habitat. Steller's eiders are listed as Threatened under the Endangered Species Act (ESA), however the bill does not address potential ESA requirements for mitigation nor make assurances that mitigation efforts will be sufficient.

Section 4: Shishmaref Easement

This section would create a 300-foot easement from the community of Shishmaref – located on Alaska's northwest coast – to Ear Mountain, approximately 25 miles to the south, through the Bering Land Bridge National Preserve. Ear Mountain has been identified as a source of gravel for use in reinforcing the eroding coastline or relocating the residents of Shishmaref.

This section would permit a road easement across a National Preserve, allowing for expedited review/conveyance, bypassing ANILCA reviews and circumventing public process. Assisting the village of Shishmaref with the effects of significant coastal erosion due to climate change is an important priority, however, as written the language allows the Shishmaref Native Corporation, the City of Shishmaref, and the Native Village of Shishmaref to define an easement, within a National Preserve with few restrictions regarding duration of time, purpose, and mitigation. Without a plan in place that identifies the needs for the gravel this easement may be premature and could set a bad precedent.

Sections 5/6: Tongass National Forest Land Exchange and Buy-Back

These two sections of the bill work together to return surface and subsurface rights for a recently logged parcel of land on Admiralty Island to the federal government, directing the government to buy these rights back and exchange the logged lands for currently intact forest.

Section 5: would authorize the federal government to buy back surface rights of 23,000 acres on Admiralty Island, which has been completely clearcut by the Shee Atika corporation. The U.S. Forest Service is already in the process of buying back this land, and this administrative process should be allowed to continue, with appropriate public oversight.

Section 6: would exchange the subsurface rights of the same 23,000 acres on Admiralty, owned by Sealaska corporation, for 8,800 acres of surface/subsurface and 5,100 acres of surface rights on unlogged and valuable acres elsewhere in the Tongass National Forest. This "dirt for trees" exchange should not be allowed to take place. Instead, Sealaska should participate in the buy-out occurring between the Forest Service and Shee Atika, and receive fair market value for the subsurface estate.

When coupled together, this legislative land exchange allows a corporation to divest itself of lands drained of economic value, in return for new pristine lands elsewhere, creating a leap-frog effect of natural resource extraction that could reverberate throughout the Tongass. An equitable land sale

between the corporations and the agency could create an intact National Monument, and also allow corporations to obtain the last remaining economic value of their lands allocated under ANCSA. But legislation to leverage the sale for additional extraction and economic gain is inappropriate and offensive. The solution should be for the U.S. Forest Service to buy back lands from willing Native Corporation sellers, after fair market appraisal using public input and oversight.

Section 7: CIRI Land Entitlement

This unprecedented policy would provide CIRI – an Alaska Native regional corporation based in south central Alaska – with the ability to select 43,000 acres of land in Alaska from an exceptionally broad pool of public lands across the entire state. All federal land managers except the National Park Service could be affected, and no prohibition exists for selecting lands within identified special areas, or numerous other areas protected because of historical, cultural, or ecological importance. Once conveyed to CIRI, extractive resource development activities would be near certain: CIRI confirmed its interest in finding lands with 'economic potential' during a July 2016 interview.

This section would allow for the privatization of currently protected public lands – at undisclosed locations, without a public process – and would likely subject those lands to unsustainable and destructive extractive resource development.

Section 8: Native Corporation Land Conveyance

This section would convey lands to three Alaska Native corporations in three different areas of Alaska. First, it would convey up to 6,400 acres of lands to the Native Village of Canyon Village, along the western edge of the Arctic National Wildlife Refuge, while granting the subsurface rights for these lands to the Doyon Regional Corporation – unless it opts to select elsewhere. It also would require that lands selected by Kaktovik within the Arctic National Wildlife Refuge be conveyed despite provisions in the Alaska National Interest Lands Conservation Act (ANILCA) that expressly prohibit such a land transfer. Finally, the bill would provide lands to Nagamut – matching exactly or as closely as possible the original townships of the Native Village – within national wildlife refuge lands.

This section would allow the Doyon corporation to receive title to additional lands within the Arctic Refuge – providing increased pressure for oil and gas development – and it overrides key provisions of ANILCA that ensure protection of the fragile Coastal Plain of the Arctic Refuge.

Section 9: Expanded Role of Native Corporations

This section would expand the role of Alaska Native corporations in the state, placing them on par with tribes in certain instances, including within the Forest Protection Act, the Native American Graves Protection and Reparation Act, and the National Historic Preservation Act.

Tribal sovereign powers are those reserved for federally recognized tribes in Alaska to uphold their obligations to current and future generations to sustain culture, traditional way of life, and health and quality of their traditional lands. This section would grant a portion of these sovereign powers to ANCSA corporations, for-profit entities that serve under a fiduciary duty to shareholders.

Section 10: Southeast Alaska – Five New Urban Corporations

This section would create five new 'urban corporations' in southeast Alaska for the communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell. When the Alaska Native Claims Settlement Act (ANCSA) passed, these communities were deemed ineligible for village or urban corporation status and, as such, community members were given 'special status' as members of their regional corporation, receiving additional shares.

Under this provision, new corporations would receive 23,040 acres of land, likely from within the Tongass National Forest. History has shown a pattern of extensive old-growth clearcutting by similarly situated corporations in the region, and as new corporations driven by a motive to provide economic returns to shareholders, similar activities would be likely here as well.

Furthermore, this section would create a precedent to reopen the process for more than 80 additional communities throughout the state. The bills would hand over 115,000 acres of high-value public lands – including exceptional habitat in the Tongass National Forest – to these new corporations for intensive development and private gain. The bills would threaten some of our nation's most ecologically valuable natural areas while exposing millions of acres of the public lands in Alaska to an uncertain future.

Section 11: Alaska Native Vietnam Veteran Allotment Staking

This section makes significant and potentially precedent-setting changes to previously settled land claims by reopening and expanding a nearly completed process for Alaska Native Veterans of Vietnam to apply for parcels of land currently owned by the federal government. In 1998 and 2000, legislation was passed to allow Alaska Native veterans of Vietnam and their descendants who may have missed their opportunity to apply for land transfers due to active duty, and the Bureau of Land Management conducted a rapid assessment and land transfer process. This bill seeks to reopen the process to broaden pool of individuals eligible and expand the lands available for withdrawal to include vulnerable public lands such as wildlife refuges, national forests, wilderness areas, national defense withdrawn lands, and lands selected by, or conveyed to, the State of Alaska or an Alaska Native Corporation. Additional scattered private inholdings on public lands throughout the Tongass and other areas of the state would limit public access to the surrounding public domain.

The bills would allow for the transfer of nearly half a million acres of public lands to private ownership, and would allow corporations to pool public lands to maximize development. The language also has the potential to produce thousands of inholdings in conservation units, with few limitations that protect these environmentally, culturally or historically important areas currently in the public trust.

Public lands in Alaska benefit all of the people of Alaska, as well as people across the country. Many of these lands provide significant economic benefit, with visitor industry spending contributing $2.42 billion to the state annually and generating 38,700 jobs in Alaska. Transferring these valuable lands into private ownership would allow for intensive development which, in turn, endangers the region's fish and wildlife and its sustainable economy.

Section 13: Chugach Alaska Corporation Land Exchange Pool Study

This section would require the U.S. Department of Interior (DOI) to identify the impacts that federal law and federal and state land acquisitions since December 1980 have had on the value of land conveyed to

the Chugach Alaska Corporation in south central Alaska. DOI would be required to study potential compensation for any land value changes, including financial compensation, easements or land exchanges, and then report to the Senate and House Natural Resources Committees on its recommendation. This section has the potential to cause significant management problems for our nation's second largest national forest.

The Bottom Line:

This bill is part of a suite of dangerous bills and riders introduced by the Alaska delegation that together serve as an all-out attack on the integrity of federal lands and waters in Alaska. S. 3273 contains numerous provisions that transfer some of the most pristine public lands in Alaska out of the public trust and into the hands of private, for-profit corporations. These transfers pose threats not only for wildlife, but for the people who rely on these public lands for subsistence and economic uses.

The Honorable Lisa A. Murkowski
Chairman
Committee on Energy and Natural Resources
709 Hart Senate Office Building
Washington, DC 20510-0203

The Honorable Maria Cantwell
Ranking Member
Committee on Energy and Natural Resources
511 Hart Senate Office Building
Washington, DC 20510-4705

September 13, 2016

Dear Chairman Murkowski and Ranking Member Cantwell:

On behalf of our members and supporters, we are writing to express our deep concern and strong opposition to a recent slate of bills, including S. 3004, 3005, 3006, 3202, 3203, 3204 and 3273, as well as related riders attached to the Interior Appropriations Bill (S. 3068) and the draft Wildfire Legislation. These bills and riders collectively threaten to remove citizen access and public oversight for some of the most valuable, scenic, and ecologically sensitive areas in the state and nation. Taken as a whole, the legislation is an all-out attack on the integrity of federal public lands and waters in Alaska – from the Tongass to the Arctic.

We have substantial concerns with this sweeping legislative package, which would hand over nearly 700,000 acres of our shared American public lands - including National Forests, Wilderness areas, National Monuments, National Wildlife Refuges, and other areas of historical, cultural, or ecological importance – and place these public resources into private hands. The package would erode the public's voice on important land management decisions – an essential check that ensures sound decision-making to balance a variety of factors and interests in a predictable, open, and transparent manner. The bills would also set precedent that could expose millions of additional acres of public lands in Alaska to private takeover in the future.

The legislation ignores tough decisions and compromises already made by the current and prior administrations, agencies, the American people, and Congress alike. These bills do not improve federal land management across the state of Alaska, nor do they thoughtfully address deficiencies in past decisions. Furthermore, they disregard Alaska's robust subsistence, tourism and fishing economies which rely on Alaska's public land and waters for fish and wildlife habitat and access to world-class scenery.

Some of America's greatest natural treasures would be harmed if this package of bills moves forward. Provisions would eliminate environmental protections established for the Arctic National Wildlife Refuge, allowing oil and gas leasing and development in the sensitive Coastal Plain. Other proposed legislation exempts America's largest national forests – Alaska's Chugach and Tongass National Forests – from the Roadless Rule. One bill mandates that a road be built through designated Wilderness and globally significant wetlands habitat in the Izembek National Wildlife Refuge, requiring less ecologically valuable lands to become part of the refuge in exchange. Other provisions allow a private corporation to select lands within refuges and

designated Special Areas in the National Petroleum Reserve – Alaska, and force Arctic lease sales without the scrutiny of proper administrative and public oversight, including multiple lease sales in the Arctic Ocean.

Functionally, this package of bills and riders would be particularly destructive in the Tongass National Forest. The legislation uses a variety of ways to cause aggressive and destructive clearcutting of forest lands, adding to decades of past social and environmental harm. One provision would transfer two million acres of forest into state control, beyond the reach of federal protections for public access and wildlife conservation. The bills would further seize 115,000 additional acres for private ownership, by creating five new corporations. Other provisions would delay or bypass ongoing U.S. Forest Service public processes, thus derailing any meaningful transition toward more sustainable Tongass management. The legislation would also force the public to give away old-growth forested lands to corporate logging interests, in exchange for negligible mineral rights beneath lands already exhausted by old-growth clearcut logging. Any bills implementing land swaps and land selections leading to increased destruction in Southeast Alaska are flatly unacceptable.

Each of these bills represents a harmful impact to federal public lands or waters in Alaska. Collectively, they are catastrophic. This suite of short-sighted legislation threatens to drain Alaska and the U.S. at large of some of its most prized and unique public areas for temporary, and mainly private, benefit. These are the very lands and waters that will be critical for Alaska's future resiliency and sustainability as it develops subsistence, fishing, and tourism industries in an increasingly urbanized and changing world. We urge you to not move any of this legislation forward. It constitutes a bad deal for Alaskans and the American public at large.

Sincerely,

Jim Kowalsky
Chairman
Alaskans For Wildlife

Cindy Shogan
Executive Director
Alaska Wilderness League

Ronald Fowler
President
Blue Goose Alliance

Helen Cherullo
Executive Director
Braided River

Miyoko Sakashita
Oceans Director/Senior Counsel
Center for Biological Diversity

John Sterling
Executive Director
The Conservation Alliance

Martin Hayden
Vice President of Policy
Earthjustice

Anna Aurilio
Director, Washington DC Office
Environment America

Carol Hoover
Executive Director
Eyak Preservation Council

David Raskin
President
Friends of Alaska National Wildlife Refuges

David Beebe
Board President
Greater Southeast Alaska Conservation Community

Mark Magaña
President
GreenLatinos

Larry Edwards
Forest Campaigner
Greenpeace

Bernadette Demientieff
Executive Director
Gwich'in Steering Committee

Alex Taurel
Deputy Legislative Director
League of Conservation Voters

Brian Moore
Legislative Director
National Audubon Society

Desiree Sorenson-Groves
Vice President, Government Affairs
National Wildlife Refuge Association

Niel Lawrence
Arctic Director
Natural Resources Defense Counsel

Jessica Girard
Program Director
Northern Alaska Environmental Center

Michael Stocker
Director
Ocean Conservation Research

Athan Manuel
Director of Public Lands
Sierra Club

Andrew Thoms
Executive Director
Sitka Conservation Society

Meredith Trainor
Executive Director
Southeast Alaska Conservation Council

Nicole Whittington-Evans
Alaska Regional Director
The Wilderness Society

Fran Mauer
Alaska Representative
Wilderness Watch

Osprey Orielle Lake
Founder/Executive Director.
Women's Earth and Climate Action Network

Cc: Senate Committee on Energy and Natural Resources

Aleut CORPORATION

September 22, 2016

The Honorable Lisa Murkowski, Chairman U.S. Senate Energy and Natural Resources Committee 304 Dirksen Senate Building Washington, D.C. 20510

Re: Testimony for the record for the September 22, 2016 Senate Energy and Natural Resources Committee Hearing: S. 3204

Dear Senator Murkowski:

The Aleut Corporation is writing to provide a written statement for the record in advance of the September 22, 2016 Senate Energy and Natural Resources Committee Hearing, which will include Senate Bill S. 3204.

The Aleut Corporation is one of the thirteen Regional Native Corporations that were established in 1972 under the terms of the Alaska Native Claims Settlement Act (ANCSA). To date, the Aleut Corporation has approximately 3900 shareholders. Operations of the Aleut Corporation and its subsidiaries include Government Contracting, Fuel Sales, Mechanical Construction, Radiochemical Analysis and Remediation, Industrial Products & Services and Real Estate Management. The Company also participates in various partnerships, joint ventures and other business activities. We currently have over 900 employees throughout the U.S.

The Aleut Corporation writes to comment on the following legislation:

S. 3204, the King Cove Road Land Exchange Act

The Aleut Corporation joins the Alaska delegation, thousands of Alaskans, and many business and trade associations, including the Alaska Federation of Natives (AFN) and the ANCSA Regional Corporation CEO's Association in support of the King Cove Road exchange.

For years the Aleut Corporation has urged approval of the King Cove land exchange. We strongly believe that a road corridor from King Cove to the all-weather airport at Cold Bay is in the best interest of all Alaskans. This is a public safety and human rights issue, which should be given the highest priority.

The Aleut Corporation applauds the introduction of S. 3204 as a key piece of legislation for the health and safety of Alaskans.

Thank you for the opportunity to provide testimony on this important legislation.

Sincerely,

Thomas Mack

Thomas Mack, President
Aleut Corporation

One Aleut Plaza, 4000 Old Seward Highway, Suite 300, Anchorage, Alaska 99503 | Ph: 907.561.4300, 800.232.4882 | Fax: 907.563.4328 | www.aleutcorp.com

Alyeska pipeline SERVICE COMPANY

P.O Box 196660 ANCHORAGE, ALASKA 99519-6660 TELEPHONE (907) 787-8700

Thomas J. Barrett
President

September 30, 2016

The Honorable Lisa Murkowski
Chair, Energy & Natural Resources Committee
U.S. Senate
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Murkowski:

Thank you for the opportunity to share the views of the Alyeska Pipeline Service Company regarding sections of S.3203, the Alaska Economic Development and Access to Resources Act. Among other provisions, the bill seeks to facilitate production in the National Petroleum Reserve-Alaska, the non-wilderness portion of the Arctic National Wildlife Refuge, and the Outer Continental Shelf off Alaska's North Slope.

Expanded access to responsible development of onshore, near-shore, and offshore oil and natural gas resources on the North Slope of Alaska is vitally important to the United States' energy security and job prosperity, and is particularly important to the future sustainability of the Trans-Alaska Pipeline System (TAPS). We, therefore, support proposals that seek to provide for that expanded access and responsible development, including the proposals in S. 3203.

Operated and maintained by Alyeska Pipeline Service Company, TAPS has safely delivered crude oil to meet the nation's energy needs for 39 years. The ongoing success of this sturdy pipeline system and its role in the nation's energy infrastructure is directly dependent on healthy levels of Alaska crude oil production.

At the peak of Alaska's production in 1988, TAPS delivered 2.1 million barrels of oil per day, transporting some 24 percent of the nation's crude oil production. In 2015 the pipeline averaged only 508,446 barrels per day. The lower throughput creates serious challenges for the long-term operation of TAPS. Lower throughput means lower flow rates and lower crude temperatures. To keep the pipeline operating safely, we must apply significant new investments to re-engineer and adapt the pipeline. The changing hydraulic profile on TAPS has triggered the replacement of our mainline pumps, in-station pipe replacement, additional piping for recirculation to heat the slipstream oil, added heating equipment along the line, additional pigging, and an additional pig launcher and receiver.

We are confident in our handling of these and other issues that required significant attention and considerable resources and investment. We know, however, that these challenges will grow in difficulty as long as throughput continues to decline. The most effective long-term solution to these challenges is simply for more oil to be delivered into TAPS from the North Slope of Alaska. Better management of leasing programs on federal lands onshore and offshore Alaska could play a vital role in that long-term solution.

As we focus on ensuring the nation continues to benefit from the investment in the existing energy infrastructure of TAPS over the next several decades, we strongly support responsible exploration efforts that result in increased throughput into the pipeline. We are confident that once additional hydrocarbon resources are developed, Alyeska will be able to deliver the oil for the benefit of the American people and America's economy through the existing infrastructure of TAPS.

Thank you for your consideration of our comments. If you have any questions or need additional information, please contact Kim Harb of my staff at (202) 466-3866.

Sincerely,

Tom Barrett

cc: The Honorable Maria Cantwell
Ranking Member, Energy & Natural Resources Committee



American Exploration &
Mining Association

10 N Post St. Ste. 305 | Spokane WA 99201-0705
P. 509.624.1158 | F. 509.623.1241
info@miningamerica.org | www.miningamerica.org

Testimony of The American Exploration & Mining Association
Senate Energy and Natural Resources Committee Hearing
S. 3102, the Pershing County Economic Development and Conservation Act
September 22, 2016

Chairwoman Murkowski and Ranking Member Cantwell, on behalf of the American Exploration & Mining Association ("AEMA") please accept for the official record the testimony of Laura Skaer, Executive Director, in support of S. 3102, the Pershing County Economic Development and Conservation Act.

American Exploration & Mining is a 121 year old, 2,000 member, non-profit, non-partisan trade association based in Spokane, Washington. AEMA members reside in 42 states (25% of our membership resides in Nevada) and are actively involved in prospecting, exploring, mining, and reclamation closure activities on USFS administered lands, especially in the West. Our diverse membership includes every facet of the mining industry including geology, exploration, mining, engineering, equipment manufacturing, technical services, and sales of equipment and supplies. AEMA's broad membership represents a true cross-section of the American mining community from small miners and exploration geologists to both junior and large mining companies. More than 90% of our members are small businesses or work for small businesses. Most of our members are individual citizens.

AEMA applauds the visionary approach S. 3102 takes to resolve the longstanding challenge of managing the checkerboard lands in Pershing County, Nevada. This 40-mile wide zone of alternating sections of public and private lands is difficult and costly for both landowners and the Bureau of Land Management ("BLM") to manage. The process in S. 3102 to privatize some of the public land sections within the checkerboard will be a win-win for landowners, BLM, and Pershing County.

First, S. 3102 will help landowners realize the full potential of the lands they already hold by creating contiguous blocks of private land that can be more readily developed into responsible projects that will provide jobs and tax revenue to Pershing County. Secondly, the expedited process in S. 3102 for selling lands that BLM has already identified as being suitable for disposal will allow the agency to better meet its mandate to more effectively manage its resources on public lands with higher natural resources values. BLM also will receive a portion of the proceeds from the land sales, which will help fund future conservation programs in Pershing County. Finally, S. 3102 will directly benefit Pershing County and its rural residents by increasing the private land tax base, reducing the County's reliance on PILT, and stimulating economic growth and diversification.

AEMA, in particular, supports Title II of the bill, which provides mining companies in Pershing County the opportunity to purchase the lands where their operations are located. Privatizing these mining lands provides economic certainty to all the stakeholders, including the local taxpayers.

Once the mining companies purchase these lands at fair market value, BLM's regulatory jurisdiction over future mine development and expansion is removed. BLM's mine permitting process is time consuming, bureaucratic, and unpredictable. Eliminating BLM's role in this process will facilitate and expedite the future development and expansion of these Pershing County businesses. The State of Nevada, which has comprehensive and effective regulations governing mine design, operation, closure reclamation, and bonding, will assume jurisdiction over these lands and will ensure that these mines continue to be operated, closed, and reclaimed in an environmentally responsible fashion.

Although AEMA does not generally support the designation of new wilderness areas, we understand the wilderness areas in S. 3102 were developed in a consensus process in which Pershing County residents and the County Commissioners worked closely with ranchers, miners, prospectors, and conservationists to draw the boundaries of these wilderness areas. AEMA respects this stakeholder-driven process and hopes that future bills with wilderness designations will follow a similar collaborative process.

Several of our member companies worked closely with the Pershing County Commissioners, Pershing County residents, and members of Congress during the public dialogue that formed the foundation for S. 3102. AEMA endorses the collaborative approach that Pershing County used to develop this land bill and suggests that this grassroots process should be adopted as a template for the right way to develop future land bills elsewhere. We urge the Committee to swiftly adopt and send S. 3102 forward for full Senate consideration.

Sincerely,

Laura Skaer

Laura Skaer
Executive Director

AMERICAN MOTORCYCLIST ASSOCIATION

September 21, 2016

The Honorable Lisa Murkowski
Chair
Committee on Energy & Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Maria Cantwell
Ranking Member
Committee on Energy & Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Chair and Ranking Member:

The American Motorcyclist Association applauds the U.S. Senate Committee on Energy & Natural Resources for holding a legislative hearing on several bills, including on H.R. 1838, the Clear Creek National Recreation Area and Conservation Act. This bipartisan bill would reopen the Clear Creek Management Area in California for off-highway-vehicle use. The AMA supports H.R. 1838.

Founded in 1924, the AMA is the premier advocate of the motorcycling community, representing the interests of millions of on- and off- highway motorcyclist and all-terrain vehicle riders. Our mission is to promote the motorcycle lifestyle and protect the future of motorcycling.

In 2008, the U.S. Bureau of Land Management closed the Clear Creek Management Area, citing concerns about high levels of naturally occurring asbestos. Upon further investigation, these concerns turned out to be unwarranted.

While the U.S. Environmental Protection Agency contends that levels of asbestos within the management area are unsafe, subsequent studies commissioned by the state of California have demonstrated that the amount of asbestos that OHV riders are exposed to is limited. In fact, other activities in the area expose recreationists to significantly higher levels of asbestos.

The legislation under consideration would direct the Bureau of Land Management to reopen the Clear Creek Management Area. This site once was considered to be one of the premier OHV recreation sites in the country and provided wholesome recreation for thousands of visitors annually.

The effect of this bill's passing would be a significant boost for the economies of local communities and for the recreational opportunities of OHV riders across the West.

Again, the AMA applauds the committee for holding this hearing. Please submit our letter of support into the record at the committee's discretion.

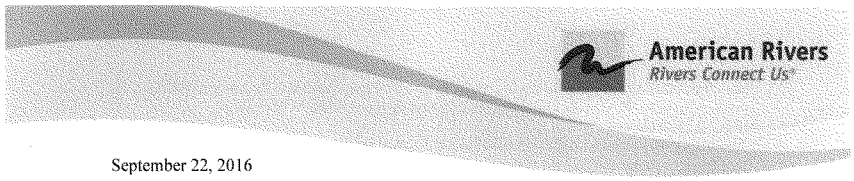
Thank you for your time and consideration of our request.

Sincerely,

Wayne Allard

Wayne Allard
Vice President of Government Relations

949 North Capitol Street, NW | Suite 837 | Washington, D.C. 20001
Phone (202) 220-1390 | Fax (202) 220-1399 | www.AmericanMotorcyclist.com | @AMA_Rights



September 22, 2016

Chairman Lisa Murkowski
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Ranking Member Maria Cantwell
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Murkowski and Ranking Member Cantwell:

On behalf of American Rivers' more than 200,000 members and supporters across the nation, I am writing to express our strong support for the Southwestern Oregon Watershed and Salmon Protection Act of 2015 (S. 346) and for Methow Headwaters Protection Act of 2016 (S. 2991). We would also like to register our opposition to S. 1416, a bill to amend title 54, United States Code, to limit the authority to reserve water rights in designating a national monument and to S. 437 and S. 3317, which would undermine the Antiquities Act.

S. 346 would help protect pristine and unique natural areas contained on solely federal lands in three outstanding watersheds in southwestern Oregon. This legislation would preserve habitat alongside the Wild and Scenic North Fork Smith River in Oregon, the watershed of Rough and Ready Creek (an eligible Wild and Scenic River and tributary to the Wild and Scenic Illinois and Rogue rivers), as well as 17 miles of the Wild and Scenic Chetco River. Also protected would be the headwaters of Hunter Creek and the Pistol River—two prized native salmon and steelhead rivers and sources of drinking water for small Oregon communities.

Local and statewide bi-partisan support for withdrawing the area from new mining claims is exceptionally strong; towns, counties, businesses, and tribes have all spoken in favor of a mining withdrawal. During the related public process for an administrative withdrawal for the area, more than 35,000 public comments were submitted to the U.S. Forest Service (USFS) and Bureau of Land Management (BLM) in favor of mineral withdrawal. Of the 23,000 public comments during the more recent Environmental Assessment on the administrative withdrawal, the USFS reported that 99.9percent were in favor of withdrawing the area. On September 9, 2015, nearly 300 local residents and concerned citizens attended a public meeting held by the USFS and BLM regarding the administrative withdrawal. The testimony of every speaker was in favor of the mineral

1101 14th Street, NW | Suite 1400 | Washington, DC 20005-5637 | phone 202.347.7550 | fax 202.347.9240 | AmericanRivers.org

withdrawal. Similarly the following night in Grants Pass, the overwhelming majority (approximately 90 percent) of speakers testified in favor of the withdrawal.

The bill covers approximately 106,000 acres located on National Forest and BLM lands that have exceptionally clean water that provide excellent habitat for spawning steelhead and salmon as well as drinking water to residents in Josephine and Curry Counties in Oregon and Crescent City, California. This vibrant river system remains one of the few strongholds for abundant wild salmon and steelhead in the continental United States. Salmon from these rivers support robust commercial and sport-fishing industries. The Wild and Scenic Rogue River alone contributes $16 million every year into the economy of southwest Oregon.

The region's rare plants foster unique globally rare biodiversity in designated and proposed Botanical Areas. The rivers also provide outstanding hiking, rafting, fishing, and hunting opportunities. The area also already contains two Bureau of Land Management (BLM) Areas of Critical Environmental Concern.

By withdrawing certain publicly owned lands in Curry County and Josephine County, Oregon, from all new forms of entry, appropriation, disposal, location, patent, mineral leasing, and geothermal leasing laws, S. 346 effectively safeguards these areas while also protecting existing rights and sustainable economic activity.

Another bill on the docket for today, S. 2991 or the Methow Headwaters Protection Act of 2016, stands to withdraw from mineral entry 340,079 acres in the headwaters of the Methow watershed in Washington State. This legislation would remove from potential destruction an incredible landscape of outstanding importance to the ecosystem. The pure headwaters provide habitat for a myriad of threatened and endangered species while providing ample opportunities for outdoor recreation. That recreation economy—providing approximately $150 to the people of Okanogan County—would be imperiled if a current proposal for an industrial-scale copper mine were to move forward. We strongly support its enactment.

As for S. 1416, a bill to amend title 54, United States Code, to limit the authority to reserve water rights in designating a national monument, the overly broad language of this title prevents the Executive departments from fulfilling several essential water-related strictures set out in statute and guided by more than a century of court precedents. This legislation, if enacted, would jeopardize the ability of federal resource agencies to acquire and perfect federal reserved water rights necessary to carry out public land management purposes. S. 1416 would confuse and possibly negate the federal government's reserved water rights and water rights obtained through state-based administrative and judicial systems. Moreover, this legislation would prevent full compliance with applicable state laws, federal laws and executive orders, consistent with Federal agency authority under the Federal Land Policy and Management Act of 1976, 43 U.S.C. §§1701-1785 (FLPMA) relating to water use.

FLPMA states that the public lands shall be managed "in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archaeological values" (Section 102 (8)). Where Congress, or the

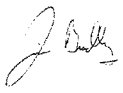
Executive Branch, has withdrawn lands from the public domain for a specific Federal purpose, such reservation may create a Federal reserved water right to unappropriated water in the amount necessary to fulfill the primary purpose of the reservation (U.S. v. New Mexico). The U.S. Supreme Court established Federal reserved water rights in the 1908 case of Winters v. United States, 207 U.S. 568. Erasing one of the underpinnings of federal land management and water rights in the United States will have no beneficial effect, and so we object strongly to S. 1416.

For 110 years, the Antiquities Act has provided 16 Presidents to set aside some of the United States' most incredible lands and waters to preserve them for the coming generations. Many properties, such as the Grand Canyon and Olympic National Parks, have had their protections expanded by Congress once it recognized the value of the property and the Antiquities Act's inability to fully conserve them. Beyond defending rich historical, natural, and cultural sites, properties designated under the Antiquities Act provide a tremendous financial benefit to local communities; the 10 monuments created by President Obama alone provide $156.4 million in annual economic benefits to the Americans living near them.

The changes proposed in S. 437 and S. 3317 run contrary to the intent and exercise of the Antiquities Act. Neither governors nor state legislatures should have the ability to deny the President the ability to designate a monument of federal property, as S. 437 would allow. Providing exemptions for a single state , such as S. 3327 would permit, would create a lack of equity between states with respect to federal lands contained within them. Therefore we oppose both pieces of legislation.

Thank you for the opportunity to testify in support of S. 346 and S. 2991, and in opposition to S. 437, S. 1416, and S. 3317.

Sincerely,



Jim Bradley

Vice President, Policy and Government Relations

AMERICAN WHITEWATER
www.americanwhitewater.org

Thomas O'Keefe, PhD
Pacific Northwest Stewardship Director
3537 NE 87th St.
Seattle, WA 98115
425-417-9012
okeefe@americanwhitewater.org

September 21, 2016

Chairwoman Lisa Murkowski
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Ranking Member Maria Cantwell
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairwoman Murkowski and Ranking Member Cantwell,

American Whitewater appreciates having the opportunity to provide testimony in support of S. 346 (Wyden), the Southwestern Oregon Watershed and Salmon Protection Act of 2015. Thank you for your willingness to hold a hearing on permanently protecting the pure rivers of the Kalmiposis region from future mining activities. There is overwhelming local and regional support from residents, businesses, elected officials and tribes for permanently protecting the conservation and economic values of the pristine rivers of Southwestern Oregon from these threats. In light of this, and the undeniable negative impacts that metals mining would have on the region, we support S. 346 moving quickly into mark-up and final passage.

American Whitewater is a national 501(c)(3) non-profit organization with a mission to "conserve and restore America's whitewater resources and to enhance opportunities to enjoy them safely." With over 5,400 members and 100 affiliate clubs, we represent the conservation interests of tens of thousands of whitewater enthusiasts across the country. A significant percentage of our membership lives in Oregon and Northern California, and we have over a dozen affiliate clubs in the region. Many of our members choose to live and work in the Kalmiopsis region because of the access they have to spectacular rivers like Rough and Ready Creek, the Wild and Scenic Illinois River, the Wild and Scenic Rogue River, Baldface Creek, the Wild and Scenic North Fork Smith River, and the Wild and Scenic Chetco River. Additionally, our members from across the country travel to the region to experience these wild rivers, which are free from the negative impacts caused by resource extraction or development.

In addition to our members who recreate on these rivers for personal enjoyment, several of our members have businesses based on the rivers directly within the areas covered by S. 346 and those downstream. The rivers of the Kalmiopsis region have been legendary among river runners for decades for the outstanding whitewater experiences they provide, which includes high quality whitewater, exceptionally pure water quality, opportunities

for backcountry exploration, nationally significant botanical values, and pristine and critical habitat for Fall Chinook, steelhead, sea-run cutthroat trout, resident rainbow and threatened SONNC coho.

Many of these same values form the backbone of the local recreation economy by providing additional outstanding recreational opportunities–including fishing, hiking, and camping–that attract outdoor enthusiasts from around the world and provide millions of dollars of revenues to the region. The sport-fishing industry of the Rogue River alone contributes $16 million annually to the local economy.[1] All river guides, hotels, restaurants, commercial fishermen and many other small businesses in Oregon and California benefit from the clean waters and world-renowned salmon runs these rivers hold, and the economic benefits of withdrawing these lands from new mining activities will be realized by protecting the business interests of those who make their living on these rivers. Additionally, and importantly, Baldface Creek and the North Fork Smith River in particular provide clean drinking water for downstream communities.

According to the U.S. Environmental Protection Agency, the metals mining industry is the largest source of toxic pollution in the country.[2] There is a long history of mining companies seeking to develop industrial-scale strip mines in the region. If these proposals are realized, they will have a direct and severely negative impact on all the values and benefits described above.

Our members are just one facet of a broad and diverse range of local and regional residents, businesses and tribes who overwhelmingly support permanently protecting the pure rivers of the Kalmiopsis region from future mining activity. As you are likely aware, the Forest Service and Bureau of Land Management are currently pursuing a temporary mineral withdrawal in aid of S. 346. During the comment period for the NEPA process for this action, the public submitted over 35,000 comments in favor of withdrawing the area from new mining claims. According to the Forest Service, 23,000 of these comments were submitted during the Environmental Assessment phase and 99.9% of them were in support of protecting the area from mining. Additionally, on September 9th, 2015, nearly 300 local residents attended a public meeting in Gold Beach, Oregon and every speaker who testified supported the action. A second public hearing was held the following night in Grants Pass, Oregon, and approximately 90% of the speakers testified in favor of the withdrawal.

Passing S. 346 and protecting Kalmiopsis rivers from mining impacts is in alignment with previous Congressional and federal agency designations that recognize that the greatest value for these rivers is for conservation of water quality and fishery values and protection for public use and enjoyment. S. 346 includes the pristine watersheds of nationally outstanding rivers and streams, including the Congressionally-designated Wild

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[1] ECONorthwest, *The Economic Value of Rogue River Salmon*, p. 1 (January 2009). Available at http://kswild.org/what-we-do-2/WildlandProtection/RogueSalmonFinalReport.pdf, last visited September 20, 2016.

[2] See U.S. Environmental Protection Agency 2014 Toxic Release Inventory at https://www.epa.gov/trinationalanalysis/comparing-industry-sectors-2014-tri-national-analysis, last visited September 20, 2016.

and Scenic Rogue, Illinois, North Fork Smith and Chetco Rivers. The Forest Service has determined that certain tributaries–Rough and Ready (tributary to the Illinois) and Baldface Creeks (tributary to the North Fork Smith)–are eligible for "Wild and Scenic" designation in their own right.

S. 346 also helps to ensure that the recreational values of the Congressionally-designated Smith River National Recreation Area in California are permanently maintained and not degraded by mining activities in the State of Oregon. The Smith River NRA was withdrawn from mineral entry to protect the outstanding recreational and fisheries values of the Smith River. It is now prudent to extend the withdrawal to the entire Smith River watershed to prevent possible harmful impacts from mining that would have significant negative economic consequences to the local economy.

By withdrawing certain publicly owned lands in Curry County and Josephine County, Oregon from all forms of entry, appropriation, disposal, location, patent, mineral leasing, and geothermal leasing laws, S. 346 permanently safeguards these areas while also protecting existing rights and sustainable economic activity. We join with those who overwhelmingly support passing S. 346.

Thomas O'Keefe, PhD
Pacific Northwest Stewardship Director
Seattle, WA

Dave Steindorf
California Stewardship Director
Chico, CA

Megan Hooker
Associate Stewardship Director
Bend, OR

Fleurant, Susan (Energy)

Subject: FW: Support for the Southwestern Oregon Watershed and Salmon Protection Act of 2015 (S. 346)

From: Andras Outfitters [mailto:andrasoutfitters@me.com]
Sent: Thursday, September 29, 2016 1:14 PM
To: Gautreaux, Mary (Wyden) <Mary_Gautreaux@wyden.senate.gov>; Fauerbach, Erin (Wyden) <Erin_Fauerbach@wyden.senate.gov>; Ripchensky, Darla (Energy) <Darla_Ripchensky@energy.senate.gov>
Subject: Support for the Southwestern Oregon Watershed and Salmon Protection Act of 2015 (S. 346)

Chairman Lisa Murkowski
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Ranking Member Maria Cantwell
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

RE: Support for the Southwestern Oregon Watershed and Salmon Protection Act of 2015 (S. 346)

Dear Chairman Murkowski and Ranking Member Cantwell:

We the undersigned businesses of southwest Oregon, express our steadfast support for the Southwestern Oregon Watershed and Salmon Protection Act of 2015 (S. 346) in order to protect the headwaters of the Wild and Scenic Illinois and Smith Rivers and Hunter Creek from proposed nickel strip mines.

The S. 346 bill will protect some of the most pristine rivers in North America, which provide excellent habitat for spawning salmon, abundant opportunities for an expanding recreation-based economy, as well as drinking water to residents in Josephine and Curry Counties in Oregon and Del Norte County in California.

We believe that clean water, fish and wildlife habitat, and recreational opportunities must be protected and preserved for future generations. This high quality of life attracts new residents, and creates jobs that strengthen our small businesses and local communities. Businesses depend on the clean water and the scenery that draw people to southwest Oregon and northwest California. With threat of destructive nickel strip mining, these natural treasures and related local industries are endangered.

We respectfully ask you to protect this important area of our beloved region. Thank you for this opportunity to testify in support of S. 346.

Warm regards and good fishing,

Jim and Rachel Andras / Andras Outfitters
Email: andrasoutfitters@me.com / www.andrasoutfitters.com
800 488 5794 / Jim 530 722 7992 Rachel 530.227.4837

Rachel Andras: Professional Health and Wellness Coach
stepstohealthcoachrachel@gmail.com

Statement of Phyllis Baxter, Executive Director of Appalachian Forest Heritage Area, Inc. to Subcommittee on National Parks of the Senate Energy and Natural Resources Committee regarding S.3167, To Establish the Appalachian Forest National Heritage Area, and for other purposes.

September 15, 2016

Mr. Chairman. Thank you for the Subcommittee's consideration of S. 3167 to establish the Appalachian Forest National Heritage Area. We would like to offer brief comments in support of this bill and to share with you some of the ongoing benefits of this endeavor.

Appalachian Forest Heritage Area celebrates the central Appalachian forest including its history, culture, natural history, forest management and products. Our grassroots partnership has been operating as an ad hoc heritage area initiative for over thirteen years within eighteen counties in the highlands of West Virginia and western Maryland. Our organization promotes rural community development through heritage tourism development and forest conservation.

We have developed diverse stakeholder support, identified assets related to forest heritage, and established an organization through a broad range of partnerships. We have over 175 support letters from stakeholder organizations including forest industry, public agencies, local governments and communities, and environmental, heritage, historic preservation, and community development partners. We have completed a Feasibility Study addressing the National Heritage Area criteria identified by the National Park Service, which has been reviewed and approved by the National Park Service as meeting this criteria. In completing this study, and throughout our planning, operations, and efforts to seek national designation, we have done all that we can to follow the steps and standards set forth in the proposed National Heritage Area program bill, so that if and when such a bill is passed, we will be fully compliant with its provisions and expectations.

Appalachian Forest Heritage Area has operated as a sustainable organization for more than thirteen years, demonstrating that we are committed to helping build the future for our unique and nationally significant forest region. We explore the relationship between the Appalachian highlands forest and the people who live within it by developing interpretive products to share multiple forest heritage themes and stories, connecting cultural heritage and natural tourism sites, and establishing a forest heritage museum and information center which is serving over 2000 visitors a year. We mobilize volunteers to assist cooperating public lands and private landowners with forest conservation efforts such as non-native invasive species control, tree plantings, recreation improvements, and environmental awareness.

We administer a dynamic AmeriCorps program which places members with local sites providing direct service for conservation, historic preservation, and heritage development. In the most recent program year, 38 AFHA AmeriCorps members served over 65,000 hours benefiting local communities. They improved over 1700 acres of public land and managed over 1,000 volunteers. Each member completed at least one substantial project that would not otherwise get done, while providing direct community service.

We are seeking National Heritage Area designation because this honor will acknowledge the nationally significant role that the Appalachian Forest has had in our nation's history, and will provide recognition of the importance of our region's forest heritage resources historically and today. National Heritage Area designation will provide us with access to technical assistance and resources that will help us to expand our efforts, and to reach out more effectively across the entire 18-county, two-state area. This designation will enable us to accomplish much more to benefit our forests, our area, and our communities.

National Heritage Areas are a proven strategy to support collaborative regional efforts where stakeholders are working together to preserve their nationally significant resources while leveraging those resources for appropriate growth and community benefit. Appalachian Forest Heritage Area is working every day towards accomplishing these goals for our rural, under-developed area. We ask you to approve action on this Bill to establish the Appalachian Forest National Heritage Area to recognize, protect, and help develop the forest heritage assets of this outstandingly beautiful, nationally significant region.

Thank you for your attention to our efforts.

Anchorage Office • 3900 C Street, Suite 801 • Anchorage, Alaska 99503-5963 • 907.339.6000 • FAX 907.339.6028 • 1.800.770.2772

arctic slope regional corporation

September 26, 2016

The Honorable Lisa Murkowski
Chairman, Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Building
Washington, DC 20510

RE: September 22, 2016 Hearing on Various Bills, Including S. 3203, the Alaska Economic Development and Access to Resources Act, and S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016.

Dear Chairman Murkowski:

On behalf of Arctic Slope Regional Corporation ("ASRC"), I am pleased to submit comments on the subject of the Committee's September 22, 2016 hearing on various bills, including S. 3203, the Alaska Economic Development and Access to Resources Act, and S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016.

ASRC is an Alaska Native corporation, representing the Iñupiat people of the North Slope region of Alaska. We were created at the direction of Congress under the terms of the Alaska Native Claims Settlement Act of 1971 ("ANCSA"). ANCSA was designed to settle the aboriginal claims of Alaska Natives and authorized the transfer of roughly 45 million acres of land to twelve for-profit regional corporations and more than two hundred village corporations in the state. The legislation extinguished Alaska Native aboriginal land rights, and authorized and directed us to adopt a western corporate model to manage Native lands and natural resources for the benefit of our shareholders.

ASRC owns nearly 5 million acres of land on Alaska's North Slope. Our shareholders live primarily in eight extremely remote Arctic villages in one of the most isolated and challenging environments in the world. Through ANCSA, Congress authorized ASRC to use the North Slope's natural resources to benefit the Iñupiat people both financially and culturally. Consistent with this unique legislation, ASRC is a for-profit business committed both to providing sound returns to its shareholders and to preserving Iñupiat culture and traditions.

Corporate Headquarters • PO Box 129 • Barrow, Alaska 99723-0129 • 907.852.8533 or 907.852.8633 • FAX 907.852.5733

S. 3203, the Alaska Economic Development and Access to Resources Act

Title I – Fill TAPS

Title I of S. 3203 directs the Department of the Interior to increase oil production on federal lands, with the ultimate objective of increasing production on federal land in the State of Alaska to 500,000 barrels of oil per day by 2026.

We support this language, which would ensure the continued viability of the Trans-Alaska Pipeline System (TAPS), infrastructure that is critical to the economic and social wellbeing of Iñupiat communities on the North Slope.

TITLE II – Outer Continental Shelf

Section 201 of S. 3203 extends Alaska outer Continental Shelf (OCS) lease terms to allow credit for months of the year when operations are not permitted. Section 201 also establishes that any oil and gas lease on the Alaska OCS shall be issued for a primary term of not fewer than 10 years and perhaps should be extended to "not fewer than 15 years."

The OCS leasing system is development-based, meaning that an operator currently must be able to commercially develop a lease within 10 years in order to retain it. Other Arctic nations employ exploration-based systems, allowing developers time to determine technical and commercial viability. On the Arctic OCS, developers cannot conduct exploratory drilling operations year round, severely limiting their ability to develop a lease within a 10 year period, hence the need to extend the lease term to a minimum of 15 years.

The current leasing system makes no sense for the Arctic OCS. And yet, the Arctic OCS has incredible resource potential—greater than that of the Atlantic and second only to the Gulf of Mexico. BOEM's 2016 National Assessment estimates that the Alaska OCS contains more than a quarter of total OCS undiscovered technically recoverable oil (26.61 Bbbl) and more than a third of total OCS undiscovered technically recoverable gas (131.45 Tcfg). We therefore support the common sense reforms set forth in Section 201.

Section 202 of S. 3203 directs the Secretary of the Interior to include additional lease sales in the five-year OCS oil and gas leasing program for fiscal years 2017 through 2023, including:

- in the Beaufort Sea planning area, 1 lease sale in each of years 2017 and 2022;
- in the Cook Inlet planning area, 1 lease sale in each of years 2017 and 2019; and
- in the Chukchi Sea planning area, 1 lease sale in each of years 2017 and 2019.

In contrast, the Bureau of Ocean Energy Management's ("BOEM") "2017–2022 Outer Continental Shelf (OCS) Oil and Gas Leasing Proposed Program" ("Proposed Program"), 81 Fed.

Reg. 14,881 (March 18, 2016), identifies just one potential lease sale each in the Beaufort Sea (2020) and Chukchi Sea (2022) Planning Areas. The Draft Programmatic Environmental Impact Statement for the Proposed Program states that fewer lease sales are scheduled for Alaska Program Areas "where offshore oil and gas experience is much more limited." ASRC submits that new exploration should not be delayed for want of experience, nor is this even a valid concern. Oil and gas activities are not new to the Beaufort and Chukchi Seas, let alone the Arctic region. In the 1980s and 1990s, 32 exploration wells were drilled in Alaska's OCS alone. Likewise, in more recent years, both Shell and Hilcorp Alaska have engaged in successful Arctic OCS operations. ASRC submits that by scheduling additional lease sales during the 2017-2022 lease sale period, S. 3203 would spur the investment that is needed to develop a successful program.

Title III – Federal Onshore

Arctic National Wildlife Refuge

Subtitle A of Title III ("Authorizing Alaska Production") would authorize the exploration, leasing, development, production, and transportation of oil and gas in and from the "undeformed area" of the Coastal Plain of the Arctic National Wildlife Refuge (ANWR).

The provisions of Subtitle A are nearly identical to another bill you have introduced, S. 494 (the "Authorizing Alaska Production Act"), which we support fully.

We note that Section 308 requires the Secretary of the Interior to convey to: (1) the Kaktovik Iñupiat Corporation (KIC) the surface estate of certain land, and (2) ASRC the remaining subsurface estate to which it is entitled. Congressional authorization is required to complete the conveyance of land to KIC which it selected pursuant to ANCSA and a 1986 land exchange with the United States. Under the terms of ANCSA and a 1983 land exchange agreement between ASRC and the United States, ASRC is entitled to receive the subsurface estate under the remaining KIC entitlement lands within ANWR. KIC and ASRC have waited more than 30 years to receive these lands to which they are entitled, and ASRC fully supports the final resolution of this matter.

Lease Sales in the Northeast NPR-A

Subtitle B of Title III ("National Petroleum Reserve–Alaska") directs the Secretary of the Interior to offer one or more area-wide oil and gas lease sales in areas identified as "Available for Oil & Gas Leasing" in the Preferred Alternative and mapped as Figure II.C.1, in the Northeast National Petroleum Reserve–Alaska (NPR-A), Integrated Activity Plan/Environmental Impact Statement Record of Decision, dated October 1998. Subtitle B also directs the Secretary to develop a plan for exploration and evaluation in the NPR-A of gravel sources suitable for the construction of roads and pads necessary for oil and gas development.

The 23 million-acre NPR-A was set aside nearly 90 years ago and contains some of Alaska's best potential for onshore oil and gas. Estimates show the Reserve could hold nearly a billion barrels of recoverable oil, and more than 50 trillion cubic feet of natural gas. Oil and gas exploration and development can coexist with wildlife populations and the subsistence needs of the people of the North Slope. ASRC participated in the development of the Integrated Activity Plan/Environmental Impact Statement completed in 1998. We support this legislation's mandate to permit lease sales in areas identified as "Available for Oil & Gas Leasing" in the 1998 plan.

Title IV

Strengthening the "No More" Clause

Section 1326 of the Alaska National Interest Lands Conservation Act (ANILCA) (the "no more" clause) currently prohibits certain permanent withdrawals in Alaska without the approval of Congress:

> (a) No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.
>
> (b) No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation areas or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress.

However, as noted by Alaska's Resource Development Council, "[f]ederal agencies have commonly navigated around Section 1326(b) by conducting wilderness and wild and scenic river reviews in conjunction with updating land management plans. The agencies claim that because the studies are conducted in conjunction with management plan revisions, they are not conducted 'for the single purpose' of establishing a new conservation system unit."

S. 3203 clarifies that certain Executive Branch land management decisions in Alaska would violate ANILCA's "no more" clause. Section 403 amends Section 1326 of ANILCA to establish that a "withdrawal" of more than 5,000 acres of public lands within the State shall be defined to include any designation of lands that "limits, or has the effect of limiting or impeding, activities and uses allowed on public lands as of the date of enactment of [ANILCA], including designations and management of public lands as a wilderness study area, a component of the National Wild and Scenic Rivers System, a critical habitat under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), an area of critical environmental concern (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), and any similar land use designation or management of public lands pursuant to any Federal land use law."

S. 3203 establishes that the President or the Secretary of the Interior may withdraw lands from public activities and uses (that were permitted at the time ANILCA passed) only after providing notice of the designation in the Federal Register and to Congress, and that any such withdrawals shall have no effect unless approved by Congress within one year. ASRC supports this commonsense amendment to Section 1326 of ANILCA.

"Areas of Critical Environmental Concern"

Section 403 of S. 3203 also provides that "[e]ach designation of an area within the State as an area of critical environmental concern in effect on the date of enactment of this subsection is revoked."

The designation of Areas of Critical Environmental Concern (ACECs) has resulted in the set aside millions of acres of public lands in Alaska, which clearly conflicts with Congressional intent under ANILCA's "no more" clause. ASRC supports this language, which effectively clarifies that ACECs violate the "no more" clause and should not have been designated in the first place.

S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016

S. 3273 contains numerous "updates and improvements" to ANCSA, including a variety of stand-alone provisions that address the specific interests of individual Alaska Native corporations.

Our testimony addresses three sections of interest to ASRC, and requests that the Committee consider adding an additional section to address certain federal mitigation requirements that have unnecessarily resulted in the permanent set aside of Native lands.

Section 3 – Conveyance of Sand and Gravel to UIC

Section 3 of S. 3273 amends the Barrow Gas Field Transfer Act of 1984 to direct the Secretary of the Interior to convey sand and gravel deposits under certain Ukpeaġvik Iñupiat Corporation (UIC) lands to UIC.

Since the passage of ANCSA, ASRC has consistently supported the desire of the eight village corporations in the Arctic Slope region of Alaska to obtain the sand and gravel resources near the villages to provide the village corporations with a reasonable economic base, and to provide our communities with the sand and gravel resources they need. ASRC fully supports the transfer of these sand and gravel resources to UIC.

Section 7 – CIRI Land Entitlement

Section 7 of S. 3273 authorizes the Cook Inlet Region, Inc. (CIRI) to select its outstanding 43,000 acres of land entitlement under ANCSA from areas throughout Alaska. The legislation establishes that any conveyance of land outside of the CIRI region shall be subject to the condition that CIRI obtain the written consent of the Alaska Native regional corporation for that region. ASRC supports Section 7 with this consent language.

Section 8 Conveyances to Canyon Village, Kaktovik, and Nagamut

Among other things, Section 8 requires the Secretary to withdraw and convey to KIC the surface estate of certain land which KIC selected pursuant to ANCSA. Under a 1983 land exchange agreement between ASRC and the United States, ASRC would be entitled to receive the subsurface estate under the KIC entitlement lands. KIC and ASRC have waited more than 30 years to receive these lands to which they are entitled, and ASRC fully supports the final resolution of this matter.

Request to Add Language to Address Certain Federal Mitigation Requirements that Have Unnecessarily Resulted in the Permanent Set Aside of Native Lands

ASRC requests that the Committee consider amending S. 3273 to address inequities in the application of the Clean Water Act (CWA) to lands owned by Alaska Native corporations.

As you know, the CWA regulates impacts to all "waters of the United States." Section 404 of the CWA requires a Section 404 permit for all non-exempt activities for the placement of fill or dredged materials into any water of the United States. Activities regulated under the Section 404 program may include resource development projects, water resource projects, and infrastructure development projects, all of which may yield important economic and noneconomic opportunities for Alaska Native communities.

Section 404 of the CWA and federal implementing regulations require Section 404 permittees to take appropriate and practicable steps to avoid, and then minimize adverse impacts to the aquatic ecosystem. When these methods have been exhausted, compensatory mitigation is required for aquatic "resource losses which are specifically identifiable, reasonably likely to occur, and of importance to the human or aquatic environment." *See* 33 C.F.R. § 320.4(r)(2).

Compensatory mitigation must be "directly related to the impacts of the [project] proposal, appropriate to the scope and degree of those impacts, and reasonably enforceable." *Id.*

The U.S. Army Corps of Engineers ("Army Corps") has issued compensatory mitigation regulations under 33 C.F.R. part 332 that govern the extent and form that mitigation must take. The fundamental objective of the compensatory mitigation rules is to offset environmental losses resulting from unavoidable impacts to waters of the United States authorized by the Army Corps. The rules generally require that compensatory mitigation should be located within the same watershed as the impacted site, and should be located where it is most likely to successfully replace lost aquatic functions and services.

Army Corps regulations authorize four methods of compensatory mitigation, including: (1) restoration, (2) establishment, (3) enhancement, and, in certain circumstances, (4) preservation. Credit for "preservation" as a form of compensatory mitigation generally is given only when existing wetlands and/or other aquatic resources are preserved in conjunction with restoration, creation or enhancement, though the preservation of existing wetlands and/or other aquatic resources in perpetuity may be authorized as the sole basis for generating credits in exceptional circumstances. However, while preservation is not the preferred method of mitigation, preservation is an important method of mitigation where opportunities for restoration, establishment, or enhancement are limited, such as within ecologically intact environments, which is common in Alaska.

While ASRC recognizes the value of working with the Army Corps to ensure that individual projects on Native lands avoid and minimize adverse impacts to wetlands, streams, and other aquatic resources, we think Alaska Native corporations should be exempt from CWA compensatory mitigation requirements when the Native corporation itself applies for a Section 404 permit and the project is located on Native lands.

In ANCSA, Congress granted to Alaska Native corporations the right and obligation to serve as the stewards of the land conveyed to them in settlement of aboriginal land claims. Alaska Native values demand that we manage our lands for past, current and future generations. However, complying with federal compensatory mitigation rules can impose unreasonable costs on Native corporations, and may preclude us from pursuing important resource development, water resources, and infrastructure projects on Native lands. Many projects on Native lands occur within ecologically intact environments, which means that opportunities for restoration, establishment, or enhancement within the watershed are extremely limited. As a consequence, Native corporations have been forced to set aside permanent conservation easements to mitigate project impacts. Native corporations should not be forced to permanently set aside lands received in settlement of aboriginal land claims—nor should they be forced to create or restore new wetlands in other regions—simply to advance projects that will produce important economic and noneconomic benefits for Alaska Native communities.

We therefore support amending federal law to exempt Alaska Native corporations from the compensatory mitigation requirements under Section 404 of the CWA for projects on Alaska Native lands, while clarifying that Native corporations remain subject to requirements under the CWA to work with the Corps to avoid and minimize adverse impacts to wetlands, streams, and other aquatic resources.

Additionally, the use of preservation as a method of mitigation can be challenging in the context of impacts on watersheds on Alaska Native lands, where there are often few privately-held lands available for purchase. While a Native corporation may choose to set aside a conservation easement to advance a Native-owned project, or may sell a conservation easement to a project proponent in order to offset the impacts of a project that is not Alaska Native-owned, Army Corps regulations currently require that such conservation easements must be perpetual in duration. The Alaska Native people have suffered the loss of millions of acres of their traditional lands. Native corporations should not have to set aside additional lands through the execution of perpetual conservation easements in order to satisfy mitigation requirements under the CWA.

We therefore support amending federal law to allow Alaska Native corporations to lease land for the purpose of conserving that land through the life of a project. A Section 404 permittee would thus be allowed to satisfy compensatory mitigation requirements for an activity by entering into a preservation lease with a Native corporation so long as the permitted activity affects wetlands located in the same watershed as the Native land to be leased. At the conclusion of a project, once impacted aquatic resources have been fully restored, all rights to the land would revert back to the Alaska Native corporation.

Sincerely,
ARCTIC SLOPE REGIONAL CORPORATION

Richard Glenn
Executive Vice President
Lands & Natural Resources

Cc: Senator Maria Cantwell, Ranking Member

Senator Dan Sullivan
Congressman Don Young
Governor Bill Walker
Regional Association of ANCSA CEO's

ARIZONA CHAMBER FOUNDATION

PROSPER FOUNDATION



POLICY BRIEF

The Proposed Grand Canyon Watershed National Monument: A Monumental Mistake?

Introduction

Arizona has more national parks and monuments than any other state in the country. Between lands owned and managed by the federal government and those it holds in trust for the Indian tribes, almost 70% of all land in Arizona is under the control of the federal government. Privately-owned land is the foundation of our state's economic engine, yet less than 20% of land in Arizona is privately owned. As such, Arizona depends on the multiple use designation of federal lands and a strong state-federal land management partnership for its economic health, and for most of Arizona's history that multiple-use partnership has worked.

President Obama is now considering a proposal to further limit the multiple-use mandate on Arizona's lands by using a more than 100-year old law to designate 1.7 million acres of northern Arizona as the Grand Canyon Watershed National Monument. Until 2012, the majority of those 1.7 million acres were successfully managed under a multiple-use framework in partnership among state and federal agencies, resulting in effective and productive wilderness, resource, and wildlife management. When the Secretary of the Interior withdrew almost one million acres of Arizona's land from mining development in 2012—a move that was opposed by Senator John McCain and then-Senator Jon Kyl along with other members of Arizona's

70% of all land in Arizona is under the control of the federal government

Less than 20% of land in Arizona is privately owned

The Grand Canyon Watershed National Monument would designate another 1.7 million acres of Arizona as federal land

congressional delegation—he upset that framework, undermining the important state-federal partnership that had previously characterized land management in Arizona. The proposed monument designation will even further limit the lands available for multiple use, drastically reducing public access, impeding efficient land management, and representing unwarranted and unwanted federal overreach.

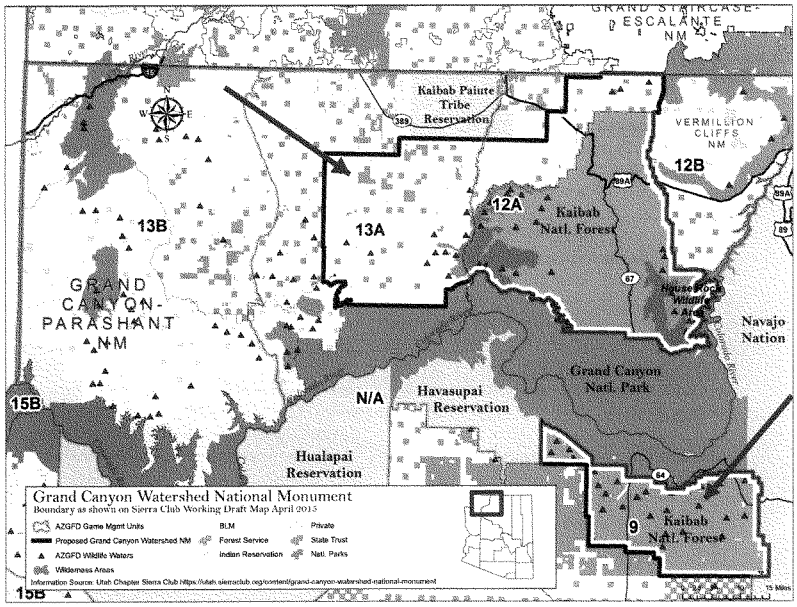
In addition, the proposed monument designation would break the spirit of a historic compromise on wilderness designations and multiple land use policy that culminated in the Arizona Wilderness Act of 1984. The Act, which will be explored in greater detail in a future Foundation paper, designated over 1.1 million acres of wilderness across Arizona and, at the same time, released an additional 540,000 acres of federal land for multiple-use development.[1] The Act represents the "gold standard of stakeholder collaboration and bipartisan compromise," allowing "sustainable uranium mining to co-exist with the protection of some of Arizona's most treasured natural resources." [2] The stakeholders involved in that historic process included the Reagan Administration, members of the Arizona congressional delegation, the State of Arizona, the federal Bureau of Land Management, the mining industry, environmental groups, and others. With respect to the Act's treatment of federal lands on the Arizona Strip, it was well understood by Congress and the stakeholders involved that the low-impact method of breccia pipe uranium mining occurring still today north of Grand Canyon National Park did not threaten the newly created wilderness areas or the Grand Canyon itself. As such, much of the Arizona Strip was excluded from wilderness designation, and all stakeholders involved fully expected that the future development of those lands would be governed by the land management planning process. Moving forward with monument designation now would cast aside that historic compromise and undermine the collaborative state and federal land management process that Arizona has long enjoyed.

The proposed Grand Canyon Watershed National Monument would encompass 1.7 million acres of northern Arizona. This single presidential designation would double the amount of acreage in Arizona designated as a national monument, and would include most of Arizona north of the Grand Canyon and a significant area between Flagstaff and the Grand Canyon National Park boundary.

I. The Antiquities Act and the Proposed Grand Canyon Watershed National Monument

The Antiquities Act of 1906 authorizes the President to unilaterally proclaim relatively small tracts of land owned or managed by the federal government as national monuments without input from Congress or the affected states. The Act was originally intended to enable presidents to quickly protect federal lands and resources that contain historic landmarks, structures, and objects of particular scientific or historic interest, and especially to prevent the looting of archaeological and Native American sites. [3]

However, presidential monument designations have long been controversial, for reasons including the size of the areas designated, types of resources they are claimed to protect, inclusion



of nonfederal lands within monument boundaries, and the lack of transparency in presidential designations and limited opportunity for public participation and input, especially from the local community affected.[4] Although the Act requires any monument designation to set aside "the smallest area compatible with the proper care and management of the objects to be protected,"[5] there are few if any checks to ensure that monument designations adhere to this limitation. For example, in 1978 President Jimmy Carter used the Antiquities Act to designate 11 million acres of Alaska wilderness the Wrangell-St. Elias National Monument in the face of fierce opposition by Alaskans, including Alaska Senator Mike Gravel and other state and local leaders.[6]

The proposed Grand Canyon Watershed National Monument would encompass 1.7 million acres of northern Arizona. This single presidential designation would double the amount of acreage in Arizona designated as a national monument, and would include most of Arizona north of the Grand Canyon and a significant area between Flagstaff and the Grand Canyon National Park boundary.[7] The total proposed monument area is larger than the state of Delaware, which would make it the nation's second largest on-land national monument.[8] Most lands in the proposed monument designation area are currently managed in a multi-use framework by the Arizona Game and Fish Department in partnership with the Bureau of Land Management and U.S. Forest Service, but the area also includes nearly 64,000 acres of State Trust land and an additional 28,000 acres of privately held land.[9]

II. Local Agents, Not Those in Washington, Are the Best Stewards of Arizona's Land

Arizona, home of the Saguaro Cactus and Ponderosa Pine, Sonoran Desert and 210 named mountain ranges, is a quintessential western state: characterized by picture-perfect vistas and independent citizens with a long-held appreciation for the outdoors. The western way of life is epitomized in Arizona, where generations have lived, worked, and recreated in harmony with the natural environment. Ranching families that have lived in Arizona since the time of statehood still graze their cattle on Arizona's high grasslands and generations of sportsmen hunt Arizona's elk and deer, working within the confines of Arizona Game and Fish regulations to responsibly manage wildlife to the benefit of all species.

The idea that regulators in Washington are in the best position to exclusively manage Arizona's land and natural resources, without state and local input and collaboration, would sound laughable to most people in Arizona. Yet that is exactly what will happen if President Obama moves forward with the proposed Grand Canyon Watershed National Monument, sweeping nearly 2 million acres of northern Arizona under exclusive federal control with virtually no input, oversight, or involvement from Arizona citizens and their elected representatives.

More controversial policies are imposed when federal authority is augmented or expanded. Because the proposed monument designation represents a particularly aggressive example of federal overreach, the effects of the designation will be amplified. The reintroduction of the Mexican gray wolf by the U.S. Fish and Wildlife Service into regions and landscapes within Arizona that are not part of the wolf's historical range typifies the kind of federal policy imposed by Washington that has proven to have controversial local consequences. The recent toxic waste spill at the hands of the Environmental Protection Agency into western rivers, including the Animas River in Colorado, is another example of a situation in which unnecessary federal involvement proved problematic. On August 5, 2015, federal EPA agents caused three million gallons of acid mine water and heavy metals to flow into rivers in Colorado, New Mexico, and Utah, threatening Arizona's rivers as well. A report by the Department of Interior found that the incident was both "preventable" and "'emblematic' of agencies' inconsistent and deeply flawed approaches to reopening shuttered mines." [10] The EPA has come under fire for its slow response and attempt to downplay the environmental damage, which could ultimately cost taxpayers as much as $28 billion over the years to remediate. [11] Some, including the Navajo Nation, worry that heavy metals may be present in waterways for decades.

Given the disappointing mismanagement of important western issues, it is clear that Washington, on its own, is not the best steward of Arizona's land and natural resources. But should the monument designation proceed, the Department of Interior—based in Washington—would obtain exclusive control of the area within the monument

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designation. The consequences of this are heightened by the fact that the National Park Service, which is the branch of the Department of Interior that typically manages national parks and monuments, already struggles to maintain the land under its control, with an estimated shortfall in deferred maintenance of $11.5 billion. [12] National parks and monuments in Arizona represent nearly $500 million of that shortfall, with Grand Canyon National Park alone suffering a shortfall of $329.5 million. [13]

Bringing this huge portion of Arizona's territory, both public and private, under the exclusive authority and management of a federal agency that is struggling to maintain the land already under its control would only serve to hinder management, conservation, and access, especially given that national parks and monuments under the purview of the Department of Interior are subject to closures due to government shutdowns and budget shortfalls. In addition, a new monument designation primes the area for future, more restrictive designations that will further impede public access and management flexibility, endangering Arizona's precious lands.

III. A Monument Designation Will Only Hurt—Not Help—Arizona

As President Reagan once said, the nine most terrifying words in the English language are "I'm from the government and I'm here to help." Although proponents of the Grand Canyon Watershed National Monument designation would say that it is designed to help preserve and protect Arizona, it would do just the opposite. Indeed, presidential designations under the Antiquities Act to create national monuments can represent the worst kind of federal overreach, and this proposed monument designation is no exception. Even the name of the proposed monument is misleading: much of the land included is at great distance from the Grand Canyon, and the proportion of land that actually constitutes real "watershed" is far from clear. Rather than protect Arizona and its resources, this designation would have far-reaching consequences in terms of public access, water rights, and land and resource management.

First, designating the area as a national monument "federalizes" the land, opening the door to new restrictions on use and access for Arizona's cattlemen, sportsmen, and recreating public. Although in general monument proclamations may include protections for valid existing uses, there is no requirement that they do so. Some monument proclamations have restricted or prohibited existing uses like the harvesting of timber, motorized and mechanized off-road vehicles, and hunting, fishing, and grazing. [14] And while the extent to which valid existing uses may be affected is unclear, the status of new uses is even less certain. [15] Proponents argue that these types of restrictions are necessary to protect the land and its resources and native species, but history has shown that a monument designation can actually hurt local wildlife populations. For example, in 1999 there were more than 100 big horn sheep in what would become the Sonoran Desert National Monument; today there are fewer than 35. The Arizona Department of Game and Fish attributes this population decline to the Department's limited access inside the monument area to provide new and sustainable water sources. [16]

Second, a national monument designation could impact the surface water and groundwater rights in the monument area. While a monument proclamation could be written to ensure that water rights are unchanged by the designation (much in the way a proclamation could protect valid existing land uses),

there is no requirement that the proclamation include language respecting existing water rights. Under federal law, the designation of any new federal land reservation, including a monument, automatically carries with it an implied water right to serve the purposes of that new reservation as of the date of designation. In addition to superseding later created state rights to surface water, this opens the door to more conflicts in Arizona's general stream adjudications, including claims involving the complex interactions between surface and groundwater. And because the broad rights granted to the President under the Antiquities Act to "protect" areas in a national monument designation include the ability to obtain water rights, state and private rights to the watershed in and around the monument area are at risk. [17] Calling the Grand Canyon Watershed National Monument designation an "illegal water grab," Senator John McCain explained, "If the Obama Administration moves forward with this proposed monument, it has the potential to 'federalize' the area's watershed and uproot critical water rights in Arizona." [18] As the Arizona Republic's Editorial Board pointed out, "[w]ater rights in the arid West—especially in times of drought—frequently are underappreciated in Washington, D.C. They can mean the difference between economic life or death. A monument designation could alter the water rights of countless rural enterprises in the area of a Grand Canyon monument." [19]

Under federal law, the designation of any new federal land reservation, including a monument, automatically carries with it an implied water right to serve the purposes of that new reservation as of the date of designation. In addition to superseding later created state rights to surface water, this opens the door to more conflicts in Arizona's general stream adjudications, including claims involving the complex interactions between surface and groundwater.

Third, a national monument designation could undermine the ability to effectively manage Arizona's land and resources, putting forest health at risk and increasing the likelihood that Arizona will experience catastrophic forest fires. Supporters of monument designation argue that a national monument in northern Arizona is necessary to ensure that Arizona's old-growth Ponderosa Pine forests are no longer threatened by commercial logging, but the truth is that commercial-scale logging of old-growth forests in Arizona ended in the 1990s as a result of legal challenges. [20] Instead, catastrophic wildfires—and not commercial logging—now present the greatest threat to Arizona's old-growth forests. [21] A monument proclamation can restrict or altogether prohibit the harvesting of timber, so forest thinning, which actually protects old-growth forests, could no longer be counted on as a viable and necessary management tool.

While proponents of the national monument designation argue that it is necessary to prevent uranium mining in the area around the Grand Canyon, scientists within the National Park Service have called the potential environmental impacts of uranium mining in the Grand Canyon region "very minor to negligible." [22]

It is also important to note that uranium mining is essential for the production of nuclear energy, and provides over 60% of the emission-free and carbon-free electricity in the United States. Twenty-first century uranium mining is highly regulated and performed under a comprehensive regime enforced by federal, state, and local authorities including the Bureau of Land Management, the Forest Service, the U.S. Environmental Protection Agency, and the Arizona Department of Environmental Quality, to ensure compliance with environmental standards. Access to federal lands for mineral exploration and development is critical to maintain a strong

domestic mining industry, and these lands his-torically have—and will continue to—provide a large share of the metals and hardrock minerals produced and used in this country. Although a monument designation may preserve valid existing mining claims, this important source of carbon-free energy would be significantly dimin-ished since siting an actual mining operation within a national monument would be operationally and socially impossible.

Proponents of the national monument also ar-gue that the designation is necessary to protect archaeological sites and sacred Native American land (which is already protected), but the proposed monument area encompasses far more land than is necessary to do that.

What's worse, the supposed economic benefits claimed by proponents may be illusory. Although proponents have claimed that a national monu-ment designation would strengthen and expand economic growth in the region, there is empirical evidence indicating such a designation results in no stimulus for local economies and, in some cases, negative economic impacts. [23] A study conducted by professors at Utah State University concluded that land protection through monument designa-tions does not automatically result in net positive economic impacts; [24] this makes sense, given that a national monument designation typically entails additional land-use restrictions, limitations or out-right bans on commercial development, grazing, the harvesting of timber, and off-road vehicles, and can even include bans on new or existing activities.[25] Such restrictions on land use invariably have significant and far-reaching consequences for job creation and economic growth far beyond the monument's region.

Designating the area as a national monument "federalizes" the land, opening the door to new restrictions on use and access for Arizona's cattlemen, sportsmen, and recreating public.

IV. Inclusion of Non-Federal Land: Implications for Arizona's State Trust Land and Private Landholders

Although the Antiquities Act technically only ap-plies to lands "owned or controlled" by the federal government, the Act states that property "may be relinquished to the Government" where the object of preservation is situated on private land.[26] It is un-clear whether relinquishment may be accomplished only through voluntary agreement between the parties or via forced condemnation.[27] Importantly, even if the technical ownership of the land does not change as a result of a monument designation (i.e. the federal government does not actually acquire title to the land), rights of private landholders, in-cluding state entities, may nevertheless be affected; plots of privately held land may be completely surrounded by monument land thus cutting off or limiting access and use, and development rights may be eliminated or constrained where develop-ment becomes incompatible with the purpose for which the monument was created.[28]

In the case of the proposed Grand Canyon Watershed National Monument, the implications for state landholders are significant. Of the 1.7 million acres in the proposed monument, roughly 64,000 acres are part of Arizona's State Land Trust.

Protecting State Trust land is more important now than ever in light of Proposition 123, which is expected to appear on Arizona's ballot in May 2016. Thanks to land grants laid out in Arizona's statehood

enabling act and subsequent acquisitions, the State of Arizona holds roughly 9 million acres in trust for a variety of beneficiaries, just over 8 million acres are held in trust specifically for the benefit of Arizona's "common schools" (i.e. k-12 education).[29] The Enabling Act is clear that State Trust land may only be disposed of (through sale, lease, grazing permits or otherwise) in a way that serves the best interest of the trust, and even then only in accordance with specific guidelines.[30]

> In the case of the proposed Grand Canyon Watershed National Monument, the implications for state landholders are significant. Of the 1.7 million acres in the proposed monument, roughly 64,000 acres are part of Arizona's State Land Trust.

Arizona's State Land Department and State Treasurer actively manage the Trust land and revenues for the benefit of Arizona's schools. Proposition 123, if passed by voters, will amend Arizona's Constitution to increase Land Trust distributions to 6.9% for 10 years, providing an additional $2 billion in Land Trust revenue over that time for Arizona's schools and helping to settle a long-standing lawsuit over school funding.[31] By locking up 64,000 acres of State Trust land, the national monument would deny their beneficial use to the State Land Trust and its beneficiaries. Without any discussion of compensating the Trust for essentially taking 64,000 acres of Trust land, the amount of money available to fund education in Arizona will be reduced. This has the potential to set a precedent for the future treatment of State Trust land, with far-reaching implications for trust beneficiaries and the funding of education in Arizona.

The implications for private landholders are no less significant. The proposed national monument area encompasses 22,000 acres of private land. Even if private landowners retain title, their rights to access, use, develop, and transfer their property will almost certainly be affected.[32]

Advocates for the monument say that private landowners will still have access to their land, and that water rights and activities like hunting, fishing, recreation, and forest management would continue unchanged.[33] Unfortunately, there is nothing in the Antiquities Act to ensure this is the case. There is no specific language the President must use to designate a national monument through an executive order, and no requirement that the President provide language for potentially affected states or parties to review in advance of designation. Given that the name of the proposed monument includes the word "watershed," there is reason to believe water rights may be implicated. While President Obama could include language in his executive order specifically reserving and protecting private property and water rights, there is nothing that obligates him to do so, and he has provided no indication that he will. Absent protective language in the designation itself, there is no guarantee that private land use and water rights will be protected.

Arizona's state land and wildlife management agencies are diligently working with the public to manage Arizona's land and resources for the benefit of its residents and native species. These agencies and their efforts should be supported, not overruled, by a presidential declaration without public input. Arizona's State Land Department actively manages over nine million acres of state land held in trust and managed for the sole purpose of generating revenues its beneficiaries, and Arizona's Game and Fish Department, which manages everything from off-highway vehicles to hunting, fishing, recreation, wildlife, and conservation efforts, already works in close partnership with the U.S. Forest Service and Bureau of Land Management. A national monument designation would diminish their ability to manage the resources under their purview, would limit hunting and recreation, delay projects, boost costs, expose the agencies to increased legal challenges,[34] and diminish the value of State Trust land that is essential to Arizona's education funding framework.[35]

IV. Protecting Arizona from Unnecessary and Overly Restrictive Federal Policies

The Antiquities Act is just one part of a federal legal regime that is both unnecessary and overly restrictive in its treatment of land use. This regime—the scope of which will be explored more fully in a future Foundation paper—allows for myriad regulatory abuses, the effects of which are far-reaching not just for land management and property rights but for mining, economic development, and interstate commerce.

Designation of the Grand Canyon Watershed National Monument pursuant to the Antiquities Act is just one manifestation of this regime, but the likely effects are illustrative of the larger problem. Without action, 1.7 million acres of northern Arizona may soon be under the exclusive jurisdiction of the Department of Interior in Washington, D.C., upsetting the existing federal-state land management partnerships, with all the attendant consequences that brings.

There are now several different efforts underway to protect Arizona's land and preserve states' rights from the proposed monument designation. Each would require more transparency, congressional oversight, and public input in the national monument designation process.

The first is a bill introduced by Senator Mike Crapo of Idaho, called The National Monument Designation Transparency and Accountability Act (S. 228), that would limit the President's unfettered discretion in designating national monuments by requiring Congress to approve new national monuments within two years of establishment, and only after determining "that the state in which the monument is to be located has enacted legislation approving its designation."[36] In the absence of congressional approval, new monuments would revert to their previous status. Senator Crapo's bill would also ensure that any restrictions placed on public lands are narrowly tailored and essential to the proper care and management of the objects protected by a monument designation, thereby ensuring better conformity with the guidelines in the Antiquities Act and better respecting states' rights and interest in the management of their own lands.[37]

The second effort, an amendment introduced by Congressmen Paul Gosar of Arizona and Cresent Hardy of Nevada, is a so-called "targeted county approach" that prohibits public land management agencies from carrying out declarations under the Antiquities Act in counties where there is significant local opposition. The Gosar-Hardy Amendment (H.R. 2822), which passed the U.S. House of Representatives by a vote of 222-206 in July 2015, also specifically prohibits pending presidential national monument designations in specified counties,

Legislative efforts underway to protect Arizona's land and preserve states' rights from the proposed monument designation:

S. 228
The National Monument Designation Transparency and Accountability Act

H.R. 2822
Gosar-Hardy Amendment

S. 1416
"A bill to amend title 54, United States Code, to limit the authority to reserve water rights in designating a national monument."

including Mohave and Coconino in Arizona and various counties in California, Colorado, Nevada, New Mexico, Oregon, and Utah.[38]

A measure introduced by Arizona Senators Jeff Flake and John McCain, along with Senators Orrin Hatch and Mike Lee of Utah, represents a third effort and focuses on the impact on water rights of federal monument designations, limiting the ability of the Administration to change existing water rights without an act of Congress. Currently, the President has the ability to unilaterally expand the federal reserved water rights associated with existing federal lands through monument designations because such declarations limit public access and change the water rights associated with the land. This measure would restrict the type of water rights that are associated with a monument when it is designated without congressional approval, ensuring that the President cannot conduct "water grabs" by unilaterally expanding federal water rights.[39]

Each of these efforts, if enacted, would help protect Arizona, and all represent good public policy. However, none are likely to become law. The best solution for Arizona--and every other western state that faces a similar threat from Washington--is, instead, a grassroots movement that, with the help of state governors, attorneys general, and state land managers across the Southwest, conveys opposition to the President and federal legislators in Washington. Every Arizonan should be outraged that the President is contemplating a unilateral move that would take private property, State Trust land, and Arizona's unique resources and lock them up under federal control without any respect for the public process, private property rights, or the livelihood of the people and communities who work and live here. Citizens across the Southwest must channel this outrage to the benefit of all western states by making their opposition to these types of Antiquities Act designations known.

Conclusion

The federal government already owns or controls 70% of the land in Arizona. The best way to protect Arizona's land and natural resources is to enact good public policies that entrust the care of those resources to the people who know the land best—those here in Arizona. The proposed Grand Canyon Watershed National Monument, if enacted, typifies the type of abuse and federal overreach long perpetrated under the Antiquities Act. Although the Act is intended to allow designations to quickly protect an area in danger and requires the designation of the smallest area possible, there is little oversight or transparency—and no public involvement by the communities affected—to ensure that these requirements are met. Simply put, a new national monument designation in Arizona would further restrict public access to Arizona's wilderness areas, impede active forest, wildlife, and resource management, and risk jeopardizing Arizona's natural resources by placing them under the custody of an agency already experiencing a multi-billion dollar budget shortfall. As President Theodore Roosevelt once said, "Wildlife and its habitat cannot speak, so we must and we will."

The best solution for Arizona—and every other western state that faces a similar threat from Washington—is, instead, a grassroots movement that, with the help of state governors, attorneys general, and state land managers across the Southwest, conveys opposition to the President and federal legislators in Washington.

The Following Local and National Leaders and Organizations Oppose the Designation of the Grand Canyon Watershed National Monument:

Arizona Governor Doug Ducey
Arizona Attorney General Mark Brnovich
Senator John McCain
Senator Jeff Flake
Congressman Paul Gosar
Congressman David Schweikert
Congressman Trent Franks
Congressman Matt Salmon
The Honorable Jon Kyl
Arizona State Land Commissioner Lisa Atkins
Arizona Speaker of the House David Gowan
Arizona State Senate President Andy Biggs
Arizona State Senator Gail Griffin
Arizona State Senator Steve Pierce
1.2.3.Go...
Anglers United
Archery Trade Association
Arizona Antelope Foundation
Arizona BASS Nation
Arizona Big Game Super Raffle
Arizona Bowhunters Association
Arizona Cattlemen's Association
Arizona Chamber of Commerce and Industry
Arizona Chapter of Safari Club International
Arizona Council of Trout Unlimited
Arizona Deer Association
Arizona Desert Bighorn Sheep Society
Arizona Elk Society
Arizona Farm Bureau
Arizona Flycasters Club
Arizona Game and Fish Commission
Arizona Houndsmen
Arizona Manufacturers Council
Arizona Mining Association
Arizona Outdoor Sports
Arizona Sportsmen for Wildlife Conservation
Arizona State Chapter of National Wild Turkey Federation
Association of Fish and Wildlife Agencies
Association of Wildlife Conservation Partners
Boone and Crockett Club
Bullhead City Town Council
Camp Fire Club of America
Coconino Sportsmen
Congressional Sportsmen's Foundation
Fredonia Town Council
Masters of Foxhounds Association
Mohave County Board of Supervisors
Mohave Sportsman Club
Mule Deer Foundation
National Association of Forest Service Retirees
National Rifle Association
National Shooting Sports Foundation
National Wild Turkey Federation
North American Bear Foundation
Orion: The Hunter's Institute
Outdoor Experience 4 All
Quality Deer Management Association
Rocky Mountain Elk Foundation
Ruffed Grouse Society
South Eastern Arizona Sportsmen's Club
SRT Outdoors
The BASS Federation
Tread Lightly!
Tusayan Town Council
U.S. Sportsmen's Alliance
Whitetails Unlimited
Wild Sheep Foundation
Wildlife Management Institute
Williams Town Council
Congresswoman Cynthia Lummis
Congressman Mark Amodei
Congressman Cresent Hardy
Congressman Doug LaMalfa
Congressman Glenn Thompson
Congressman Scott Tipton
Congressman Bruce Westerman
Congressman Ryan Zinke
Congressman Paul Cook
Congressman Mike Kelly
Congresswoman Aumua Amata Coleman Radewagen
Congressman Daniel Webster
Congressman John Culberson
Congressman John Fleming
Congressman Louis Gohmert
Congressman Bob Goodlatte
Congressman Steve King
Congressman Doug Lamborn
Congressman Tom McClintock
Congressman Steve Pearce
Congressman Don Young

End Notes

1. Arizona Wilderness Act of 1984, P.L. 98-406, 98 Stat. 1485.

2. Letter to the Honorable Ken Salazar, Secretary, U.S. Department of Interior, from Senators Orrin Hatch, Mike Lee, Jon Kyl, John Barrasso, and John McCain and Congressmen Trent Franks, Ben Quayle, David Schweikert, Paul Gosar, Jeff Flake, Jason Chaffetz, and Rob Bishop, Oct. 12, 2011.

3. Carol Hardy Vincent & Kristina Alexander, National Monuments and the Antiquities Act at 1-2 (Congressional Research Service March 21, 2014), available at https://www.hsdl.org/?view&did=751853; Nicolas D. Loris, The Antiquated Act: Time to Repeal the Antiquities Act (The Heritage Foundation March 25, 2015), available at http://report.heritage.org/bg2998.

4. Vincent & Alexander at 3.

5. Antiquities Act of 1906, 16 U.S.C. Sec. 431.

6. Vincent & Alexander at n.10, see also President Jimmy Carter, Proclamation 4625 - Wrangell-St. Elias National Monument, Dec. 1, 1978, available at http://www.presidency.ucsb.edu/ws/?pid=30244; Geoffrey T. Bleakley, Contested Ground: An Administrative History of Wrangell-St. Elias National Park and Preserve, Alaska, 1978-2001 at 21 (National Park Service 2002), available at http://www.nps.gov/parkhistory/online_books/wrst/wrst.pdf.

7. Pete Aleshire, "Lawmaker Decries Plan for Monuments," Payson Roundup, Sept. 11, 2015, available at http://www.paysonroundup.com/news/2015/sep/12/lawmaker-decries-plan-monuments/.

8. The Grand Staircase-Escalante National Monument, at 1.9 million acres, is the largest. See http://www.blm.gov/ut/st/en/fo/grand_staircase-escalante.html; see also Press Release: Senators John McCain and Jeff Flake Urge President Obama Not to Take Executive Action to Designate More National Monuments in Arizona, March 10, 2015, available at http://www.mccain.senate.gov/public/index.cfm/2015/3/senators-john-mccain-and-jeff-flake-urge-president-obama-not-to-take-executive-action-to-designate-more-national-monuments-in-arizona.

9. Arizona State Land Department Figures, Nov. 12, 2015

10. Alan Neuhauser, "EPA to Blame for 'Preventable' Gold King Mine Spill," US News and World Report, Oct. 22, 2015, available at http://www.usnews.com/news/articles/2015/10/22/epa-to-blame-for-preventable-gold-king-mine-spill-interior-dept-finds; Technical Evaluation of the Gold King Mine Incident, San Juan County, Colorado, U.S. Department of the Interior, Bureau of Reclamation, Technical Service Center, October 2015, available at https://assets.documentcloud.org/documents/2475483/technical-evaluation-of-the-gold-king-mine.pdf.

11. Michael Bastasch, "Gov't Report Raises Serious Questions About EPA's Handling Of Gold King Mine," The Daily Caller, October 22, 2015, available at http://dailycaller.com/2015/10/22/govt-report-raises-serious-questions-about-epas-handling-of-gold-king-mine/#ixzz3rO4tcMJh

12. Press Release: House Passes Gosar-Hardy Amendment Blocking Grand Canyon Watershed National Monument, July 8, 2015, available at https://gosar.house.gov/press-release/house-passes-gosar-hardy-amendment-blocking-grand-canyon-watershed-national-monument.

13. Bill Theobald, "Report: Arizona's national parks need $500 million in maintenance," Arizona Republic, March 25, 2015, available at http://www.azcentral.com/story/news/arizona/politics/2015/03/24/report-arizona-national-parks-need-maintenance/70407568/.

14. Vincent & Alexander at 8.

15. Vincent & Alexander at 7.

16. Robert Mansell, "Proposed national monument: federal land grab, protection or feel-good folly?" Arizona Capitol Times, May 11, 2015, available at http://azcapitoltimes.com/news/2015/05/11/proposed-national-monument-federal-land-grab-protection-or-feel-good-folly/#ixzz3s4qKo9aA.

17. Vincent & Alexander at 2-3.

18. Press Release: Hatch, Flake, McCain and Lee Introduce Bill Prohibiting Presidential Water Grab, May 21, 2015, available at http://www.hatch.senate.gov/public/index.cfm/2015/5/hatch-flake-mccain-and-lee-introduce-bill-prohibiting-presidential-water-grab

19. Editorial Board, "Our View: Protecting the Grand Canyon is important, but it's crucial we address any potential problems before they arise," Arizona Republic, May 25, 2015, available at http://www.azcentral.com/story/opinion/editorial/2015/05/26/feds-near-people-out-before-grabbing-our-land/27826113/

20. Mark Flatten, "Logging Industry on Verge of Extinction," East Valley Tribune, April 29, 2003, available at http://www.eastvalleytribune.com/news/article_29fed0a2-22ac-5560-9384-edbd70a39489.html.

21. Peter Friederici, "Catching Fire," Nature Conservancy Magazine, July/August 2013, available at http://www.nature.org/media/magazine/media/NCMagazine_2013_Issue_3_July-August.pdf.

22. Press Release: Government Scientist Believed Impacts from Arizona Uranium Mining "Grossly Overestimated" in Obama Administration Document, May 23, 2012, available at http://naturalresources.house.gov/newsroom/documentsingle.aspx?DocumentID=296638.

23. Loris at 2.

24. See Ryan M. Yonk, Randy T. Simmons, and Brian C. Steed, "Politics, Economics, and Federal Land Designation: Assessing the Economic Impact of Land Protection– Grand Staircase-Escalante National Monument," Utah State University, available at http://www.usu.edu/ipe/wp-content/uploads/IpePublications/Politics-Economics-and-Federal-Land-Designation-Assess-the-Economic-Impact-of-Land-Protection-Grand-Staircase-Escalante-National-Monument.pdf

25. Loris at 3.

26. 16 U.S.C. Sec. 431; see also Vincent & Alexander at 6.

27. The Fifth Amendment protects state property just as it does privately-held property. California v. United States, 395 F.2d 261,

263-64 (9th Cir. 1968) ("[T]he Fifth Amendment protects the property of the State from appropriation by the United States without 'just compensation.' This is true even when the property has been dedicated by the State to public use.").

28. Vincent & Alexander at 7.

29. History, Arizona State Land Department, https://land.az.gov/about/history.

30. Enabling Act Sec. 28, Act of June 20, 1910, ch. 310, 36 U.S. Stat. 557, 568-579, available at http://www.azleg.state.az.us/const/enabling.pdf.

31. Senate Concurrent Resolution 1001, State of Arizona, Fifty-Second Legislature, First Special Session, 2015 available at http://www.azleg.gov/legtext/52leg/1s/bills/scr1001s.pdf.

32. In the case of both private and State Trust land, the level of interference wrought by a national monument designation could also potentially give rise to a takings claim. The Fifth Amendment to the United States Constitution guarantees that private property shall not be taken for public use without just compensation. U.S. Const. amend. V. To establish a viable takings claim, a landholder must establish that it has a property interest for purposes of the Fifth Amendment, and also that the government action amounts to a compensable taking. Arkansas Game & Fish Comm'n v. United States, 87 Fed. Cl. 594, 615 (2009). Federal courts have recognized, and the U.S. Supreme Court has accepted, that "private property" for purposes of the Fifth Amendment includes state-held property dedicated to public use. California v. United States, 395 F.2d 261, 264 (9th Cir. 1968), cf. Arkansas Game and Fish Comm'n v. United States, 133 S. Ct. 511 (2012). As such, both privately-held and State Trust land likely enjoy constitutional protections against an uncompensated land-grab by the federal government.

33. Pete Aleshire, "Lawmaker Decries Plan for Monuments," Payson Roundup, Sept. 11, 2015.

34. Ryan Heinsius, "Debate Continues Over Proposed Grand Canyon Watershed National Monument," KNAU Arizona Public Radio, Jun 24, 2015, available at http://knau.org/post/debate-continues-over-proposed-grand-canyon-watershed-national-monument#stream/0.

35. There is an additional effort to defund the Antiquities Act altogether through federal legislation. While some have considered this a viable option, many consider the better course to be maintaining the Antiquities Act for the purposes for which it was originally intended while respecting states' rights by giving an affected state the opportunity to weigh in on any proposal to designate a national monument within its borders.

36. S. 228, The National Monument Designation Transparency and Accountability Act of 2015, available at https://www.congress.gov/bill/114th-congress/senate-bill/228.

37. Press Release, Crapo Bill to Provide Check on Presidential Power in National Monument Designation Process, Jan. 22, 2015, available at http://www.crapo.senate.gov/media/newsreleases/release_full.cfm?id=358671.

38. Press Release: House Passes Gosar-Hardy Amendment Blocking Grand Canyon Watershed National Monument, July 8, 2015, available at https://gosar.house.gov/press-release/house-passes-gosar-hardy-amendment-blocking-grand-canyon-watershed-national-monument.

39. Press Release: Flake, Hatch, McCain and Lee Introduce Bill Prohibiting Presidential Water Grab, May 21, 2015, available at http://www.flake.senate.gov/public/index.cfm/2015/5/flake-hatch-mccain-and-lee-introduce-bill-prohibiting-presidential-water-grab; see also Editorial Board, "Our View: Protecting the Grand Canyon is important, but it's crucial we address any potential problems before they arise," The Arizona Republic, May 25, 2015, available at http://www.azcentral.com/story/opinion/editorial/2015/05/26/feds-hear-people-out-before-grabbing-our-land/27826113/.

ARIZONA CHAMBER FOUNDATION

Arizona Chamber Foundation
3200 North Central Avenue, Suite 1125
Phoenix, Arizona 85012
602-248-9172
www.azchamber.com/foundation

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Phoenix, Arizona 85012
602-529-1204

Statement for the Record

Paul A. Lang, President of Ark Land Company

Before the Senate Committee on Energy and Natural Resources

September 22, 2016

Re: S. 2681

Chairman Murkowski, and Members of the Committee, my name is Paul Lang and I am President of Ark Land Company ("Ark Land"), the land holding subsidiary of Arch Coal, Inc. On behalf of Ark Land, I would like to submit this statement for the record in strong support of S. 2681, the "San Juan County Settlement Implementation Act of 2016."

Ark Land urges swift enactment of this legislation, and we appreciate the leadership of Senators Heinrich and Udall in crafting this bill. We also appreciate the work of Representatives Lujan and Lummis, who have authored similar legislation, H.R. 1820, which is pending in the full House of Representatives.

S. 2681 would enable the Department of the Interior to complete a tribal lands settlement and resolve related lands management and mineral rights issues, which have remained unresolved for over four decades. The absence of a resolution has precluded both the Navajo Nation and Ark Land from exercising their respective property rights. Ark Land and others have held valid coal preference right lease applications in San Juan County, New Mexico since the late 1960s and these applications are on lands that were selected by the Navajo Nation under the terms of the Navajo-Hopi Settlement Act of 1974. The Navajo Nation has been unable to take title to these lands all of this time, because the Settlement Act requires that lands transferred to the tribes be unencumbered. Additionally, over these decades, special land management classifications have been layered onto these public lands, including certain lands that are now classified as wilderness study areas, a Fossil Forest, and Areas of Critical Environmental Concern. Additionally, all of these parcels abut or are very near the Chaco Culture National Historical Park.

All sides have wanted a resolution of this issue for years, and have more recently negotiated in good faith to reach a solution via a Settlement signed on March 5, 2012 between Ark Land and the BLM. In that Settlement, the mineral rights are retired in return for bidding credits exercisable against federal lease and royalty obligations. In the Settlement, BLM also stipulated that Ark Land is holding preference right lease applications for 267 million tons of commercial quantities of coal. This property right is an asset for which Ark Land needs to be compensated if it cannot exercise its rights, and the Settlement provided a path to resolution. However, a few years ago, the Solicitor's Office determined that the Department of the Interior would need

legislation in order to resolve the coal preference right lease applications in a manner that would also leave states financially whole, since states receive a portion of bonuses and royalties paid, in accordance with section 35 (a) of the Mineral Leasing Act.

The San Juan County Settlement Implementation Act of 2016 would provide a fair and equitable resolution of these outstanding issues, for the Navajo Nation, those who hold coal preference right lease applications, the states, as well as the U.S. taxpayer, by avoiding a takings claim that is sure to cost the US Government far more than the negotiated settlement enabled by this legislation. With certain modifications to the bill text as introduced, which have already been shared with the Committee and are being pursued by the House sponsors as well, this equitable solution can be enacted at no cost to the taxpayers.

While S. 2681 contains additional provisions of which we are supportive but which are beyond the direct interest of Ark Land, we urge enactment of the bill before the 114th Congress adjourns. As the saying goes, "Justice delayed is justice denied." We believe that four decades is too long for the Navajo Nation and for Ark Land to have waited. But a just and equitable agreement is within our grasp, and we urge the Congress to act now so that all the parties involved can finally have resolution to this public lands issue, and the federal agencies can move forward with the management of these lands for their other values.

In closing, thank you again, Chairman Murkowski, for your interest in this matter, and for convening this legislative hearing. Ark Land is happy to answer any questions the Committee may have.

*For additional information, contact:

Tom Altmeyer

TAltmeyer@archcoal.com or 202 333 5265

Fleurant, Susan (Energy)

Subject: FW: Ak mental health trust land exchange with the USForest Service

-----Original Message-----
From: Mike Barton [mailto:mikebarton@gci.net]
Sent: Wednesday, October 05, 2016 10:32 PM
To: Kleeschulte, Chuck (Energy)
Subject: Ak mental health trust land exchange with the USForest Service

Honorable Lisa Murkowski
US Senate
Washington, DC

Dear Senator Murkowski,

I urge the passage of this legislation. It provides the means for supplying the last vestiges of the once thriving timber industry with enough wood to continue the employment of 150 people and the resulting health and well being of their families. At the same time it provides the Mental Health Trust with the revenues it needs to provide services for the beneficiaries of the Mental Health Trust. These services, and the means for providing them, were part of the negotiations and discussions surrounding Alaska's statehood.

Furthermore, the passage of this legislation facilitates the transition from the utilization of old-growth timber to young growth timber in order to help meet the country's needs. This transition has been made more urgent because of the withdrawal of federal lands from the Forest Service's timber base. Much of that withdrawal resulted from Congressional action.

In summary, I understand that the local communities support this legislation. I urge passage.

Thank you.

Mike Barton
POB 240070
Douglas, AK
99824

Sent from my iPad

Fleurant, Susan (Energy)

Subject: FW: Testimony, S.3315, 2d ID Memorial Modification

Importance: High

From: David Benbow [mailto:David@statesvillelaw.com]
Sent: Tuesday, September 20, 2016 5:52 PM
To: Lane, Michelle (Energy)
Cc: Aves Thompson; bob haynes (teflonbob12@gmail.com)
Subject: FW: Testimony, S.3315, 2d ID Memorial Modification
Importance: High

******

Michelle Lane (michelle_lane@energy.senate.gov)

Senator Lisa Murkowski
Chair, Senate Energy and Resources Committee
Re: S.3315, Second Division Memorial Modification Act

Dear Madame Chair and Members of the Committee,

The 2nd Indianhead Division Association Scholarship and Memorials Foundation (Foundation) seeks to rededicate the 2nd Division Memorial on Constitution Avenue near 17th Street in the President's Park on the National Mall in Washington, DC., by making a small but important modification to the Memorial.

The Memorial was initially erected and dedicated in 1936 to honor the 2nd Division soldiers killed in World War I and rededicated in 1962 by adding two wings to the Memorial to honor the 2nd Division dead in World War II and the Korean War. Unfortunately, the Memorial no longer reflects all members of the 2nd Division who have given their life in service of their country, specifically those who have fallen on or near the Korean Demilitarized Zone (DMZ) between South and North Korea, as well as those who have fallen in Afghanistan and Iraq.

S. 3315, has been introduced to allow for the addition of three small benches commemorating the fallen 2nd Division soldiers in service on and near the Korean Demilitarized Zone (DMZ) between South and North Korea and the fallen soldiers of both Afghanistan and Iraq. Legislation is necessary, as the National Park Service has denied modification of the Memorial based on current law (40 USC Section 8903(b).

We ask for your assistance in changing the law to allow this small but important modification.

As a 2d Infantry Division Veteran, I urge you to support this legislation.

Thank you for your consideration.
Respectfully,
David Benbow, Benbow and Phillips, Attorneys at Law, PO Box 432, Statesville, NC 28687-0432...formerly Sgt Benbow, Company C, 3/23rd Infantry, 2nd Infantry Division, 1968 and 1969 and 3rd platoon member with Michael Rymarczuk, from Philadelphia, who was killed in the DMZ by North Koreans in an ambush on July 30, 1968

Fleurant, Susan (Energy)

Subject: FW: S3004/3273 ANCSA Improvement Act 9/22/2016

From: Art Bloom [mailto:artmbloom@gmail.com]
Sent: Friday, September 23, 2016 3:09 PM
To: fortherecord (Energy) <fortherecord_@energy.senate.gov>
Subject: S3004/3273 ANCSA Improvement Act 9/22/2016

-S3004/3273 Section 10 would allow a for-profit corporation to select lands anywhere in Tenakee Inlet, even watersheds (Kadashan and Trap Bay) that were guaranteed permanent protection by the Tongass Timber Reform Act of 1990.
- Other Tenakee Inlet watersheds important to Southeast Alaska's $1 billion regional salmon fishery - Crab Bay, Saltery Bay, Seal Bay, Long Bay, Goose Flats - would also be opened to logging under less restrictive management practices than required on federal land.
-Tenakee is a rural community and is classified as "rural" for subsistence purposes, but this bill would establish an "urban" corporation. Tenakee can not be rural and urban at the same time, and we oppose anything that would cloud our community's subsistence standing.
- Previous investigations have concluded that no group qualified for corporation status in Tenakee Inlet under ANSCA, and this bill is a thinly disguised attempt to withdraw lands from the Tongass National Forest to make it available for private clearcut logging.
- Opposition to establishing a new corporation in Tenakee, or privatizing Tongass lands, does not diminish our respect for traditional Native culture and values.
-S 3004/3273 Section 10 does not provide any maps showing potential areas to be transferred
-S3004/3273 Section 10 does not identify the beneficiaries of the proposed new corporations
-S3004/3273 Section 10 does not provide for **any** public process in land selection or transfer

I am strongly opposed to S3304/3273.

Arthur Bloom
Resident of Tenakee Springs, Alaska
PO Box 42
Tenakee Springs, AK 99841

July 10, 2016

Secretary Sally Jewell
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Secretary Tom Vilsack
U.S. Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250

Chief Thomas Tidwell
U.S. Forest Service
1400 Independence Ave. SW
Washington, DC 20250-1111

Re: Support for proposed Methow Headwaters mineral withdrawal

Dear Secretary Jewell, Secretary Vilsack, and Chief Tidwell:

I am writing to express support for the proposed permanent mineral withdrawal of lands in the Methow Headwaters. The Methow Valley is an important and vital contributor to the economy of Okanogan County. Its waters are critical to farming, ranching, and salmon, and the area's aquifer supplies communities that include Winthrop and Twisp. Its lands are home to important, diverse wildlife populations and provide recreational and scenic qualities that attract visitors and second homeowners to the valley, as well as support the livelihoods of a large number of full-time residents.

Development of a large-scale mine in the headwaters is misplaced and threatens the qualities that define the Methow Valley, its economy and the rural character of Okanogan County. Further, opposition to large-scale mining has unified the community. Concern over a potential industrial mine in the Methow Headwaters has continued to grow and today includes more than 135 diverse businesses, community leaders and organizations, including the Okanogan Farm Bureau, and many concerned citizens.

Withdrawing these lands so that a legislative solution can be pursued is important and urgent. I support immediate action by the Forest Service to initiate the withdrawal process "in aide of legislation." In doing so I support the desires of our community, the continued growth of the regional economy and the precious water supplies that are the region's most important resource.

Sincerely,

Ray Campbell

Ray Campbell
Okanogan County Commissioner, District 3

Cc: Representative Dan Newhouse, US House of Representatives
Senator Patty Murray, US Senate
Senator Maria Cantwell, US Senate
Jim Pena, Regional Forester, Pacific Northwest Region (R6)
Mike William, Forest Supervisor, Okanogan-Wenatchee National Forest



INCORPORATED

213 Third Street ♦ Juneau, Alaska 99801 ♦ (907) 586-8228 ♦ Fax (907) 586-8226 ♦ www.reachak.org

October 5, 2016

The Honorable Lisa Murkowski
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murkowski,

I am in support of the **Alaska Mental Health Trust Land Exchange** Legislation. The Alaska Mental Health Trust and the Trust Land Office have been working toward a land exchange for more than 10 years with extensive public participation while defining the exchange parcels. *I urge to you pass legislation allowing the Trust to fulfill its financial responsibility of supporting our most vulnerable populations in Alaska.*

Given that Alaska is facing the worst fiscal crisis in history, legislation is the best option to complete the exchange in a timely fashion. In just the last two years the Trust has provided 59 grants to organizations in Southeast, totaling more than $3 million. Another 323 Trust beneficiaries in Southeast have been awarded mini grants from the Trust totaling over $482,000. We need to ensure that the Trust can continue to provide revenue for comprehensive, integrated mental health services in Alaska today and into the future. I cannot emphasize enough the value of this critical safety net for the most vulnerable Alaskans.

The exchange is of great benefit because it:

- Protects popular trails, viewsheds, and iconic recreational sites along the Inside Passage
- Ensures watersheds are protected so that Southeast residents receive clean water
- Preserves old growth timber stands in the forest
- Ensures jobs stay in the Southeast communities by protecting the timber and tourism industries
- Protects mental health services by providing revenue to support the Trust's mission

Without legislation we are putting our communities at risk.

- If the Trust cannot generate revenue in a timely fashion, we jeopardize our mental health services.

I want to do what is right for the Southeast community and economy, and for all of the people that benefit from the Trust. It's time to let the Alaska Mental Health Trust continue its critical work for those who experiencing mental illness, developmental disabilities, chronic alcoholism, and Alzheimer's disease and related dementia.

Sincerely,

Kim Champney
REACH Chief of Services



June 20, 2016

The Honorable Dean Heller
324 Hart Senate Office Building
Washington DC 20510-2805

The Honorable Harry Reid
522 Hart Senate Office Building
Washington DC 20510-2803

The Honorable Mark Amodei
332 Cannon House Office Building
Washington DC 20515-2802

Dear Nevada Members of Congress:

We are writing to express our support for the *Pershing County Economic Development and Conservation Act* (the "Proposed Act") and to urge you to utilize all efforts possible to pass this Proposed Act into law.

As you are aware, the Proposed Act was **unanimously recommended** by the Pershing County Commission to ensure the future of the County's economic well-being while protecting vital wilderness areas in the region.

In addition, the Proposed Act is absolutely critical to the future of mining in Pershing County. The Proposed Act will give mining companies in the County, including Clover Nevada LLC, the opportunity to purchase, at fair market value, the lands they currently hold under federal mining claims.

Privatization of mining lands will provide mining companies with increased ownership and regulatory certainty that will lead to greater investments, additional development and production from these lands. For Pershing County, the foregoing will translate into much needed economic development and employment creation in the region.

The State of Nevada, a national leader in mining regulation, will regulate and oversee the development and reclamation of these lands in the future, providing confidence to Nevadans that the lands will be developed and reclaimed in a responsible manner.

The proceeds from the privatization of the lands outlined for disposal in the Proposed Act will be distributed as follows:

- 10% of the proceeds will go directly back to the County and can be utilized for critical public functions—which are desperately needed;
- 5% of the proceeds will go back to the State of Nevada to be utilized for public education purposes across the State; and
- The remaining proceeds will be utilized by the Nevada BLM to mitigate for wild fire, sage grouse habitat restoration and drought mitigation. These revenues will also ensure both economic well-being and the future of conservation in Pershing County.

Lastly, we support the designation of public lands as wilderness under the *1964 Wilderness Act* to protect Pershing County's most important wild places. This wilderness proposal is truly a grass roots effort that has considered all users of these public lands with great attention given to grazing, mining, recreation, and conservation interests. Unprecedented cooperation among often-competing interests has produced a County lands bill that enjoys broad support from the citizens of Pershing County and unanimous support by the Pershing County Commissioners.

We appreciate your public service and look forward to working with you to enact the *Pershing County Economic Development and Conservation Act.*

Should you have any questions or concerns regarding the foregoing, please feel free to contact the undersigned at jack.mcmahon@elkomininggroup.com.

Respectfully,

Clover Nevada LLC
Jack McMahon
Authorized Signatory

Coalition for Nevada's Wildlife
P. O. Box 70143
Reno, Nevada 89570

June 16, 2016

The Honorable Dean Heller
United States Senate
324 Hart Senate Office Building
Washington, DC 20515

email address: jeremy_harrell@heller.senate.gov

Dear Senator Heller:

The Coalition for Nevada's Wildlife offers our full support for the proposed Pershing County Economic Development and Conservation Act. We believe in our Nevada model of resolving public lands issues through the stakeholder involved County lands bill process.

The Pershing County process is a great example of a grassroots proposal, rather than a top down approach. This comprehensive proposal builds on the efforts of the Pershing County Checkerboard Lands Committee, a community-driven process to solve complicated land management issues in which our Wildlife Coalition participated.

The current proposal resolves previous WSA status lands. Management of lands with Wilderness designation are often problematic for both wildlife management and many sportsmen. Habitat improvement projects, water developments, fire suppression and restoration, as well as loss of historic access, can be difficult under Wilderness management. This proposal at least gives certainty to future management so that is becomes incumbent upon sportsmen to stay involved in the formulation of specific wilderness plans.

The legislation also outlines a process to deal with the complicated land management issue of checkerboard lands. These lands present a management problem both for BLM and private land owners and often confusion for sportsmen and other outdoor recreationalists. Passage of this legislation could result in a logical checkerboard resolution model, with large chunks of key wildlife habitat being placed in public hands while lands with economic development potential could be put into private hands, creating tax revenue to benefit Pershing County.

Our organization stands ready to assist with the passage of this important legislation. We believe in the value of our public lands, healthy wildlife habitat, opportunities for diverse recreation, economic development for our counties and the enhanced quality of life those factors provide. We applaud the efforts of the Pershing County Commission in working to solve public land issues through this democratic process.

We strongly believe that County Land Bills are the most effective means of conveying needed federal lands to the state and private interests in contrast to wholesale transfer of our public federal lands to state ownership. This issue should be handled by local interests with local knowledge; in any other mechanism, the public loses.

We look forward to your introduction of this bill soon and have high hopes, through bipartisan work, our delegation will ensure it's passage through Congress this year.

Sincerely,

Coalition for Nevada's Wildlife

Larry J. Johnson – President (also Director, Nevada Outdoorsmen in Wheelchairs)
Tom Smith – Vice President (also Director, Truckee River Flyfishers)
Stacey Trivitt – Director (also President, Carson Valley Chukar Club
Joel Blakeslee – Director (also President, Nevada Trapper's Association)
Judi Caron – Director (also Member, Safari Club International, Northern Nevada Chapter)
Jim Puryear -- Director (also Director, Nevada Bighorns Unlimited–Reno; also Director, Nevada Outfitters and Guides Association)
Willie Molini – Director (President, Nevada Waterfowl Association)
Mike Cassiday – Director (also Director, Safari Club International, Northern Nevada)
Les Smith – Director (also State Chairman, Rocky Mountain Elk Foundation)
Karen Boeger – Director (also Director, Back Country Hunters and Anglers)
Bob Brunner - Director

NEVADA SPORTSMEN AND CONSERVATIONISTS WORKING FOR THE ENHANCEMENT OF WILDLIFE AND HABITAT



Mitchell J. Krebs
President & Chief Executive Officer
Director

June 27, 2016

The Honorable Dean Heller
324 Hart Senate Office Building
Washington DC 20510-2805

The Honorable Harry Reid
522 Hart Senate Office Building
Washington DC 20510-2803

The Honorable Mark Amodei
332 Cannon House Office Building
Washington DC 20515-2802

RE: Economic Development and Conservation Act Proposal – Pershing County, Nevada

Dear Nevada Members of Congress:

Coeur Mining has prepared this letter to express our support for the Pershing County Economic Development and Conservation Act and urge you to introduce this legislation and do all you can to enact this critical effort for the future of Pershing County. The Pershing County proposal, as unanimously recommended by the Pershing County Commission, will insure the future of the County's economic and conservation future by addressing critical land tenure and federal land management issues. We urge the Nevada Congressional Delegation to introduce this legislation and utilize all efforts possible to enact this proposal into law. We stand ready and eager to assist in this important work.

The Pershing County proposal is critical to the future of mining in Pershing County. Our company and others will have the opportunity to purchase at fair market value the lands we currently hold under federal mining claims. Privatization of these mining lands will provide these companies with increased ownership and regulatory certainty that leads to greater investments, additional development and production from these lands, and important for Pershing County - economic development and jobs. Since our operations began in 1986, the Rochester silver and gold mine in Pershing County has been an important contributor to the local economy and community, generating over $14 million annually in taxes, employment, and labor-related income revenue to Pershing County alone. The Rochester Mine supports sustainable development and contributes to positive economic conditions to strengthen our surrounding areas and communities.

The State of Nevada, which is a national leader in mining regulation, will regulate and oversee the development and reclamation of these lands in the future so Nevadans can be confident that these lands will be developed and reclaimed in a responsible manner.

The sale of mining lands as well as the checkerboard sales will benefit Pershing County and the State of Nevada through the distribution formula in the legislation. 10% of land sales will go directly back to the County which can be utilized for critical public functions, which is desperately needed. 5% of land sales will go back to the State of Nevada to be utilized for public education purposes across the State.

Lastly, the remaining revenues will be retained by Nevada BLM to be utilized to mitigate for wild fire, sage grouse habitat restoration, and drought mitigation. These revenues will also insure the economic and conservation future in Pershing County.

Lastly, we support the designation of public lands as Wilderness under the 1964 Wilderness Act to protect Pershing County's most important and wild places. This wilderness proposal is truly a grass roots effort that has considered all users of these public lands with great consideration given to grazing, mining, recreation, and conservation interests. The power of cooperation among often competing interests has produced a powerful county lands bill that enjoys broad support from the citizens of Pershing County and unanimous support by the Pershing County Commissioners.

We appreciate your public service and look forward to working with you to enact the Pershing County Economic Development and Conservation Act.

Sincerely,

Mitchell J. Krebs
President and Chief Executive Officer

COMMUNITY CONNECTIONS

IT IS IN THE SHELTER OF EACH OTHER THAT THE PEOPLE LIVE.

Irish Proverb

October 5, 2016

The Honorable Lisa Murkowski
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murkowski,

We are in support of the Alaska Mental Health Trust Land Exchange Legislation. The Alaska Mental Health Trust and the Trust Land Office have been working toward a land exchange for more than 10 years with extensive public participation. We urge you to pass legislation allowing the Trust to fulfill its financial responsibility of supporting our most vulnerable populations in Alaska.

Alaska is facing the worst fiscal crisis in history. Legislation is very important and key to help support the land exchange in a timely fashion. Community Connections provides services to a wide range of individuals in Southern SE Alaska including individuals with developmental disabilities, youth and families with mental health concerns and seniors who need supports to stay in their own homes. The Alaska Mental Health Trust helps support our agency through grant funding of our services and programs. We serve nearly 600 people and their families each year. We need to guarantee that the Trust can continue to provide revenue for comprehensive, integrated mental health services in Alaska, so agencies like Community Connections can continue to serve our most vulnerable people.

The exchange is of great benefit because it:

- Protects popular trails, view sheds, and recreational sites along the Inside Passage
- Ensures watersheds are protected so that Southeast residents receive clean water
- Preserves old growth timber stands
- Ensures jobs stay in the Southeast communities by protecting the timber and tourism industries
- Protects mental health services by providing revenue to support the Trust's mission

Without legislation we are putting our communities at risk.

- If the Trust cannot generate revenue in a timely fashion, we jeopardize our mental health services.

It is important to support the Southeast communities and economy, and for all of the people that benefit from the Trust. We encourage you to fully support the legislation for the land exchange so the Alaska Mental Health Trust can continue its critical work for those who experience mental illness, developmental disabilities, chronic alcoholism, and Alzheimer's disease and related dementia.

Sincerely,

Bess Clark
Executive Director

721 Stedman St.
Ketchikan, AK 99901
Tel: (907) 225-7825
Fax: (907) 225-1541

P.O. Box 420
Craig, AK 99921
Tel: (907) 826-3891
Fax: (907) 826-3892

The Confederated Tribes of the Colville Reservation
P.O. Box 150, Nespelem, WA 99155
(509) 634-2200
FAX: (509) 634-4116

June 9, 2016

Honorable Patty Murray
United State Senate
154 Russell Senate Office Building
Washington, DC 20510

Honorable Maria Cantwell
United States Senate
511 Hart Senate Office Building
Washington, DC 20510

RE: Methow Headwaters Protection Act (S.2991)

Dear Senators Murray and Cantwell:

On behalf of the Confederated Tribes of the Colville Reservation (CCT), I wish to thank you for introducing the *Methow Headwaters Protection Act of 2016* (S.2991), which would protect the Methow Valley from potential mining activity in the Okanogan-Wenatchee National Forest.

The CCT's ancestral homelands lay within the Methow Valley and we oppose any development of large-scale mining that would desecrate our sacred, aboriginal lands. The Colville Tribes have long been involved in projects to restore critical habitat in the Methow with federal, state, and local partners.

Most recently, in October 2015 the Bonneville Power Administration and the CCT's Fish and Wildlife Department entered into a $417,000 agreement for the Tribes to continue habitat restoration work in the Methow Sub-basin. The Colville Tribes' work under this agreement will benefit Chinook salmon, summer steelhead, bull trout and Pacific lamprey, and will protect the Methow River by restricting livestock access to critical watersheds.

Large-scale mining in the Methow would threaten the CCT's longstanding and ongoing habitat restoration efforts. Most importantly, contamination resulting from the leakage of chemicals could affect the health and well-being for all residents of the Methow for many generations.

We appreciate your interest in these issues and stand ready to assist in moving S.2991 forward. Thank you for your leadership and continued support for the Colville Tribes.

If you have any questions, please feel free to contact me.

Sincerely,

Jim Boyd
CHAIRMAN

Fleurant, Susan (Energy)

Subject: FW: S. 3203, the Alaska Economic Development and Access to Resources Act 9/22/2016

From: Jan M. Conitz [mailto:jconitz@gmail.com]
Sent: Friday, September 30, 2016 4:03 AM
To: fortherecord (Energy) <fortherecord_@energy.senate.gov>
Subject: S. 3203, the Alaska Economic Development and Access to Resources Act 9/22/2016

I am writing to express concern that some provisions of this bill will take the public lands in the Tongass National Forest out of the public's hands and turn them over to industrial logging and mining interests that do not benefit the public in general.

Sec. 402 - Valid Existing Claims: the USFS should not be restricted in being able to regulate surface use of Tongass National Forest lands.Otherwise the character and public benefits of these lands could be permanently destroyed.

Sec. 503 - Roadless Area Conservation Rule Exemption: Why should Alaska's National Forests be exempted from the rule?? The reasons for the Roadless Rule are every bit as valid in Alaska's forests as they are in the lower 48.

Sec. 502 and 503 - Land swaps and provisions for Mental Health Trust and state forest lands are unnecessary and are counter to the purpose of the Tongass National Forest, which should be for the greatest possible public benefit.

Jan Conitz
PO Box 100095
Anchorage AK 99510

Fleurant, Susan (Energy)

Subject: FW: S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016, 9/22/2016

From: Jan M. Conitz [mailto:jconitz@gmail.com]
Sent: Friday, September 30, 2016 4:16 AM
To: fortherecord (Energy) <fortherecord @energy.senate.gov>
Subject: S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016, 9/22/2016

Please accept my comments on this bill.

Sec. 6 - Admiralty Island National Monument Land Exchange is a poor deal. The value of lands proposed to be provided in exchange for subsurface estate at Cube Cove is far higher than the value of the subsurface estate and gives away some of the last intact old growth forest lands on Prince of Wales Island to industrial logging and degradation.

Sec. 10 - New Native Corporations: perpetuates an existential conflict for Alaska Native residents of areas in and around the Tongass Forest, by compelling them to log lands upon which they have depended for subsistence for thousands of years. The capitalist model of putting short-term profits above sustainability is inherently unjust to Alaska Natives, and should not be perpetuated at the expense of these forest lands and the people who use them.

Sec. 11 -- Alaska Native Veterans Allotment Equity: the existing processes should brought to conclusion. This along with other provisions in the bill appear to be motivated by certain interests seeking to convert as much additional old growth forest in the Tongass to short-term cash benefitting only a few and hurting the forest and the greater public good.

Jan Conitz
PO Box 100095
Anchorage AK 99510

COUNCIL OF ATHABASCAN TRIBAL GOVERNMENTS
P.O. Box 33
Fort Yukon, AK 99740
Ph: 907-662-2587 Fax: 907-662-3333
www.catg.org

The Honorable Lisa Murkowski
Chairwoman
Committee on Energy & Natural Resources
709 Hart Senate Office Building
Washington, DC 20510-0203

The Honorable Maria Cantwell
Ranking Member
Committee on Energy & Natural Resources
511 Hart Senate Office Building
Washington, DC 20510-4705

September 20, 2016

Dear Chairwoman Murkowski and Ranking Member Cantwell:

We respectfully request that these written comments be included as part of the September 22, 2016 hearing record to voice our opposition to S. 3203. Our comments today are in opposition of S. 3203 and we ask that you do not move this bill forward, and if it does move forward that you strike Section 403 in its entirety.

The Salmon Fork ACEC was proposed by Alaska Native Tribes and Alaskan residents and was not imposed by the BLM. It is the fruit of a true grass roots effort, democracy in action. The Salmon Fork ACEC is result of a near-decade long effort of advocacy, cooperation, and resources that Tribes in Alaska devoted to the process in an effort to protect traditional homelands, clean drinking water, and invaluable subsistence resources.

We have learned that in your position as Chair of the Senate Energy and Natural Resources Committee (ENR) you have scheduled a Committee hearing that will include bill S. 3203 – Alaska Economic Development and Access to Resources Act. The witness list has not been released yet and we respectfully request that you include a tribally-elected leader to testify on S. 3203. We believe it is imperative that a tribally-elected leader from our region to voice concerns in person regarding a bill that many tribal leaders believe would be detrimental to the health and welfare of tribal citizens and traditional tribal homelands. If requested, we would be happy to suggest to the ENR committee the names of a few well-informed Alaska Native tribally-elected leaders who would gladly offer in-person testimony.

Two provisions in S. 3203 are especially concerning to Tribal leadership. Section 403 would amend the Alaska National Interest Lands Conservation Act (ANILCA) to severely limit agencies' ability to manage public lands and protect tribal and subsistence resources. It states "(c) Limitation on land use designations" that designation of an area of critical environmental concern shall not be effective unless notice is provided to Congress as well as in the Federal Register, and the designation would terminate unless, not later than 1 year after the date on which notice of the action has been submitted to Congress, Congress passes a joint resolution of approval of the executive branch action. Additionally,

subsection "(d) Revocation of designations of areas of critical environmental concern" would revoke any area of critical environmental concern in the State in effect on the date of enactment of this subsection.

An Area of Critical Environmental Concern (ACEC) is currently defined in section 103 of the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1702) as an area "within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards."

The ACEC is used as an important planning tool by the BLM to ensure that protections for critical areas are given priority. FLPMA section 202, 43 U.S.C. 1712 requires BLM give priority to identifying and designating ACECs in the course of developing a resource management plan. During the public scoping process the Chalkyitsik tribal government and others nominated 1,577,752 acres of the Draanjik River watershed (Salmon Fork) as an ACEC, encompassing 66% of BLM managed land within the Upper Draanjik River Subunit. The purpose of this nomination was to protect clean drinking water and unique and irreplaceable resources that are critical to our traditional and customary land use.

The BLM evaluated the proposal and determined that a portion of the area met the importance and relevance criteria (43 CFR 1610.7-2) that require special management attention. The BLM included 623,000 acres in the Salmon Fork ACEC in Alternative E of the recently published plan, a compromise from the nearly 1.6 million acres originally nominated. Chalkyitsik Village Council and the Gwichyaa Zhee Gwich'in Tribal Government, as cooperating agencies in the planning process, support this compromise and regard the designation of the Salmon Fork ACEC to be in the best interests of the Tribes. It is imperative that these special management considerations for this important area not removed.

The BLM is currently working on three different resource management plans as well as amendments to plans and sub-plans across Alaska. Numerous Tribes have nominated ACECs in their regions to protect unique and important natural resources. The management plans combined will impact nearly 100 Alaska Native Tribes. The needs of rural tribal communities must be considered. An ACEC is a necessary tool, not only for the BLM but also for citizens and Tribes to be meaningfully engaged in the planning process for land management decisions that will impact Alaska Native traditional homelands for many years to come.

We recognize that through S. 3203 you hope to create opportunities for resource development in Alaska and we understand that the ACEC revocation was included to prevent the BLM from using the designation as a management tool to create more wilderness in Alaska in contravention to ANILCA's "no more" clause. However, the ACEC designation is not in violation of the "no more" clause because it does not operate to withdraw public lands and should not be equated with Conservation System Units and Wilderness Areas and it does not designate wilderness.

The Federal Lands Policy and Management Act of 1976 (FLPMA 102(j), 43 U.S.C. 1702(j)) defines the term "withdrawal" to mean "withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under

those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land, other than "property" governed by the Federal Property and Administrative Services Act, as amended from one department, bureau or agency to another department, bureau or agency." In applying the statute, the ACEC designation in itself does not trigger the ANILCA clause because it does not remove lands from the operation of public land laws. It simply allows BLM the ability to manage areas to protect specific values, like cultural and subsistence uses.

The BLM may recommend withdrawal by the Secretary of the Interior of lands within an ACEC from mineral entry. Simply making a recommendation in a Resource Management Plan doesn't trigger ANILCA's provision. The ANILCA provision would not be triggered until the Secretary acted on the recommendation and withdrew the land. Neither the designation of an ACEC by itself nor the recommendation for a withdrawal triggers ANILCA's clause because the BLM's associated management prescriptions do not remove lands from the operation of public land laws. Applying the definition of "withdrawal" from FLPMA to trigger ANILCA's no-more provision, the agency must make land unavailable to private appropriation by removing it from operation of some or all of the general public and laws. Neither an ACEC designation nor a recommendation to withdraw land takes land out of the operation of public land laws. Neither action is a withdrawal; neither action triggers ANILCA's no-more provision.

S. 3203's Section 403 (c) amends ANILCA and puts ACECs into the "no more" category, which effectively removes ACEC nomination from the toolkit Tribes may use to participate in land management actions affecting them. The result will be to disempower Tribes by weakening their ability to protect traditional resources. Our Tribes have worked extremely hard over the past eight years to gain protection for the Salmon Fork through ACEC designation in the Eastern Interior plan. We have expended scarce resources and considerable staff and volunteer time on education and advocacy efforts. The provision in your bill that would strip Alaska of its current ACEC protections, disregards the value and work of tribally elected leaders, advocates, elders and traditional chiefs. Many of the elders and chiefs who participated in this planning process have dedicated their life's work to protecting the Draanjik region and have since passed away.

In conclusion, we respectfully request that the provision of S 3203 concerning ACECs in Alaska be reconsidered and rescinded. At the least, we ask this bill be tabled and that you provide an outreach effort to tribes. As written, the bill would usurp the government-to-government relationship and dishonor the trust responsibility the federal government owes to Tribes. It also directly erodes the Tribe's voice as cooperating agencies. Alaska Tribes should be consulted especially as this legislation directly impacts Tribes and critical protections needed to avoid exposing sacred traditional homelands and clean river water to potential environmental disaster.

Sincerely,

Woodie W. Salmon
Chairman
Council of Athabascan Tribal Governments



September 19, 2016

Honorable Senator Murkowski
Senate Committee on Energy and Natural Resources
709 Hart Senate Office Building
Washington, DC 20510

Honorable Senator Cantwell
511 Hart Senate Office Building
Washington, DC 20510

Re: Southwest Oregon Salmon and Watershed Protection Act

Dear Senators Murkowski and Cantwell:

We are a group of small business owners, sportfishermen, and a local mayor in Curry County, Oregon. Our community, businesses —and favorite recreation –are based on the clean water and salmon in our rivers. Our local Chambers of Commerce call our corner of Oregon "America's Wild Rivers Coast" because each fall and winter nearly 100,000 people come here to fish for big salmon and steelhead.

For that reason, we are grateful to Senators Wyden and Merkley for introducing the Southwestern Oregon Salmon and Watershed Protection Act, and we urge you to support it. The bill is a non-controversial, straightforward "mineral withdrawal."

We need it because two companies, one foreign-owned, want to develop strip mines for nickel at the headwaters of some our best rivers, including the renowned National Wild and Scenic Illinois, Rogue, and Smith. The ore is poor grade so any mining would require moving a huge amount of earth and cause a lot of damage for not a lot of gain.

Our clean rivers are the economic engines of our small coastal communities that depend on tourism. According to an Oregon Department of Fish and Wildlife report, freshwater fishing brings in nearly $5 million to our county (latest data is 2007). The same report estimated that visitors made 98,000 freshwater fishing trips and local people made 87,000 fishing trips annually. These add up to a lot of fishing and fishing-generated revenue that is a key to our

local economy, rural food system, and quality of life for residents. The last thing we need is mine pollution, and we don't trust the EPA to keep our river waters clean.

This bill is non controversial. The legislation is supported by local businesses, sportsmen's groups, and our city. Please see the attached list of local business supporters and resolutions from the City of Gold Beach in support of the mineral withdrawal. Two public hearings held by the Forest Service last fall to consider a temporary withdrawal in aid of this legislation drew 500 local people in support. The public comment period drew 45,000 comments; 99 percent were in support.

Because our livelihoods depend on keeping our water clean and filled with salmon, we urge you to support this popular and non-controversial bill.

If you have any questions or want to come and fish for salmon on our coast, please give a call.

Respectfully,

/s/ *Dave Lacey*
South Coast Tours
Gold Beach, OR, (541) 373-0487

/s/ *Harvey Young*
Fishawk River Company
Brookings, OR

/s/ *James Smith*
Arch Rock Brewing Company
Gold Beach OR

/s/ *Larry Brennan*
Arch Rock Brewing Company,
Gold Beach OR

/s/ *Karl Popoff*
Mayor
City of Gold Beach, OR

LOCAL BUSINESS SUPPORT
FOR SOUTHWESTERN OREGON SALMON AND WATERSHED PROTECTION ACT

We the undersigned businesses of southwest Oregon need your help in protecting the headwaters of the National Wild and Scenic Illinois and Smith Rivers, as well as Hunter Creek and Pistol River from proposed nickel strip mines. We respectfully ask you to protect this important area of our beloved region by passing the Southwestern Oregon Salmon and Watershed Protection Act of 2015.

Tourism, recreation and related business ventures are a growing industry and asset to the Illinois Valley, Curry County and surrounding areas in Southwest Oregon. Businesses depend on clean water and the scenery that draw people to the Wild Rivers Coast as well as the Illinois Valley. The communities that surround the Smith, Illinois and Hunter Creek watersheds have so much to gain from healthy, protected watersheds. Investment in sustainable industries and community infrastructure will add to the attractiveness of the region bringing new businesses and residents alike. With the threat of destructive nickel strip mining, these natural treasures and related local industries of southwest Oregon are endangered.

We believe that clean water, fish and wildlife habitat and recreational opportunities, must be protected at the present, and preserved for future generations. This high quality of life attracts new residents and creates jobs that strengthen our small businesses and local communities. Please protect the headwaters of the Smith, Illinois, Pistol and Hunter Creek to support the community's efforts in promoting sustainable economic development in Southwest Oregon's Wild Rivers Country.

Sincerely,

South Coast Tours LLC
Gold Beach, OR 97444

Fishawk River Company
Brookings, OR 97444

Crumley's Guide Service
Hunter Creek, OR 97444

Smithstonian Design
Hunter Creek, OR 97444

Arch Rock Brewing
Hunter Creek, OR 97444

Team Sucio Productions
Pistol River, OR 97444

Siskiyou Forestry
Gold Beach, OR 97444

RMDC Consultants
Gold Beach, OR 97444

Confluence Outfitters
Gold Beach, OR 97444

Travis Bowman Guide Service
Gold Beach, OR 97444

Catch of the Day
Wedderburn, OR 97444

Shane's Welding
Gold Beach, OR 97444

Hunter Creek Bar and Grill
Hunter Creek, OR 97444

Confluence Outfitters
Gold Beach, OR 97444

Helen's Guide Service
Gold Beach, OR 97444

Bryson Appraisals
Gold Beach, OR 97444

Barnacle Bistro
Gold Beach, OR 97444

Three Wishes Beads
Gold Beach, OR 97444

Mark Van Hook Guide Service
Hunter Creek, OR 97444

Gene Garner Guiding
Gold Beach, OR 97444

Bill Monroe Outdoors
Gresham, OR 97080

Early Fishing
Brookings, OR 97415

Dean Finnerty Guides & Outfitters
Cottage Grove, OR 97424

Interior Cover Ups
Gold Beach, OR 97444

Finish Line Copy Services
Gold Beach, OR 97444

Sew Like the Wind
Hunter Creek, OR 97444

Wilderness Canyon Adventures
Pistol River, OR 97444

TNT Electronics
Gold Beach, OR 97444

Picture This Photography and Framing
Gold Beach, OR 97444

Dave Lacey Woodworking
Hunter Creek, OR 97444

Tradewinds Bamboo Nursery
Hunter Creek, OR 97444

Fox and Fern Botanicals
Gold Beach, OR 97444

Five Star Charters
Gold Beach, OR 97444

Curry Home Inspection
Gold Beach, OR 97444

Wild Rivers Art Emporium
Gold Beach, OR 97444

Sacred Gifts
Gold Beach, OR 97444

Denny Hughsons Rogue Guide Service
Gold Beach, OR 97444

Bob Reese Fishing Guide
Bay City, OR 97107

Western Waters Guide Service
Brookings, OR 97415

VIP Outdoors
Molalla, OR 97038

Wild Rivers Fishing
Brookings, OR 97415

RESOLUTION R1516-16

A RESOLUTION IN SUPPORT OF THE SOUTHWESTERN OREGON WATERSHED AND SALMON PROTECTION ACT OF 2015—MINERAL MINING WITHDRAWAL FROM CERTAIN FEDERAL LANDS IN CURRY & JOSEPHINE COUNTY

WHEREAS, Federal Senators Ron Wyden and Jeff Merkley introduced Senate Bill 346, and Federal Representative Peter DeFazio introduced House Bill 682, both known as the Southwestern Oregon Watershed and Salmon Protection Act of 2015; and

WHEREAS, those federal bills were introduced to protect the Hunter Creek and Pistol River watersheds from the catastrophic effects of nickel mining at Red Flats; and

WHEREAS, the proposed nickel mining at Red Flats is by a foreign owned company and their venture will bring no economic benefit to Curry County; and

WHEREAS, it appears that special interest lobbyists are attempting to persuade federal senate and house members from other regions and states that the mining proposal is an economic benefit to our region and our region supports the mining; and

WHEREAS, the Wild Rivers Coast which starts at Klamath, California and extends north to Bandon, Oregon has the highest concentration of federally designated Wild & Scenic Rivers in the United States: the Klamath, the Smith, the Chetco, the Rogue, the Illinois, and the Elk—the area encompassed by the act as introduced in the S346 & HR682 federal bills; and

WHEREAS, in the past 4 years, Travel Oregon and the Wild Rivers Coast Regional Tourism Collaborative (comprised of city, county, state, and local tourism and economic development professionals) have invested a significant amount of time and resources in developing an experiential outdoor recreation economy on the southcoast because of the region's superlative natural resources and scenic wonders; and

WHEREAS, any large scale mining, but specifically nickel mining at Red Flats, will have a detrimental and devastating impact on habitat, fish and wildlife, the environment, and our fragile tourism economy.

NOW, THEREFORE, BE IT resolved the City Council of the City of Gold Beach formally opposes any mining in the national forest surrounding our community, but specifically the Red Flats nickel mining proposal, and **fervently supports** the efforts of Senators Wyden & Merkley, and Representative DeFazio to have the areas designated in S346 and HR682 *PERMANENTALY WITHDRAWN* from any possible or future mining.

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON, and EFFECTIVE THIS 13th DAY OF JUNE, 2016.

Karl Popoff, Mayor

Jodi Fritts, City Administrator/City Recorder

Fleurant, Susan (Energy)

Subject: FW: S 3203 and S3273

-----Original Message-----
From: Bonnie Demerjian [mailto:bhdemerjian@gmail.com]
Sent: Sunday, September 25, 2016 11:15 PM
To: fortherecord (Energy) <fortherecord_@energy.senate.gov>
Subject: S 3203 and S3273

We are writing to express our deep dismay over Senator Murkowski's bills S3203 and S3273. Contrary to the intent of these measures, we want Tongass National Forest lands to remain in public hands and be managed in the best interests of ALL Americans, not special interest groups.

Bonnie and Haig Demerjian
PO Box 1762
Wrangell, AK 99929

Sent from my iPad

Statement of Lisa Diekmann

Regarding S. 3192, The Alex Diekmann Peak Designation Act of 2016

Submitted to the Senate Committee on Energy and Natural Resources

October 5, 2016

Chairman Murkowki, Ranking Member Cantwell, and Members of the Committee,

My name is Lisa Diekmann, and I am writing to express my deep appreciation to all of you for your recent hearing regarding S. 3192, the Alex Diekmann Designation Act of 2016, and for your gratifying interest in commemorating the life and work of my late husband.

As you know, a broad spectrum of public officials, community leaders, ranchers, farmers, and other landowners, eminent conservationists, and many other people from my state of Montana and elsewhere have urged passage of this legislation, which recognizes Alex's remarkable work to conserve a host of iconic places throughout the Northern Rockies. Many of these people have shared their personal stories about the unique, abiding value of Alex's conservation achievements and his special role in their lives and their communities. I am grateful, as you consider the naming of Alex Diekmann Peak, for the opportunity to add my own perspective to theirs, and for the inclusion of this brief statement in your hearing record.

Like so many families in our hometown of Bozeman, throughout the West, and all across America, our family is deeply connected to the remarkable scenic lands that surround us. These are the mountains we hike, the trails we run and ski, the rivers we fish, but the connection runs deeper still; just as we are a part of this landscape, it truly is a part of us. I was blessed to share that experience with Alex and our two sons, Logan and Liam, in the life we shared here, not only in the time we spent enjoying it, but also in his passionate commitment to protecting it for us today and for the generations to come.

Alex spent a full but all-too-brief career here conserving the scenery, natural resources, and recreation access that are part and parcel of life in Montana. I admit that I am biased when it comes to Alex's achievements, but the facts with regard to his accomplishments on behalf of others are clearly evident: protecting over 100,000 acres of spectacular mountains and valleys, farms and ranches, fishing and hunting access, and critical wildlife habitat. His presence is still here, in all those places that are protected thanks to his investment of spirit – from Glacier National Park, the Cabinet-Yaak Ecosystem, and Whitefish Lake in northern Montana to the Greater Yellowstone Ecosystem closer to our home, to celebrated national treasures outside the state, including the Salmon River and the Sawtooths in Idaho and Devil's Canyon in Wyoming.

Among that panoply of conservation highlights, the currently unnamed peak that would be named for Alex through the bill you are considering has a particular significance. It stands as a sentinel above the Madison River, rising up from a wonderful ranch that Alex was able to protect for the future. This is where Alex helped to safeguard some 13 miles of amazing Madison River frontage, forging an unlikely partnership of landowners, public agencies, and other community interests to conserve and restore a world-class resource. It is also where he taught our boys to fish and where, at his request, we scattered his ashes, so he could remain here forever.

I have been deeply touched and overwhelmed by the outpouring of support for the designation of Alex Diekmann Peak in recognition of his work, and his remarkable gift for bringing people together to protect the open spaces they love. I am particularly grateful to Senators Steve Daines and Jon Tester, and to Congressman Ryan Zinke, for their many kindnesses to my family and their efforts to make this designation a reality.

For me, Alex is imprinted already on the map of the Madisons, as it is on all the other places of his work life and of our life together. The official naming of Alex Diekmann Peak will serve as a beautiful, appropriate, lasting reminder for one and all of the surpassing value of my husband's public-interest work, and of the model for positive change that work represents. Thank you so very much for what you are doing to honor my husband, his conservation legacy, and a very special place.

DONN LESON SADDLES
2881 COACH DRIVE · GRANTS PASS, OREGON 97527
PHONE (541) 476-1762 · DONNFLESONSADDLE.COM

October 4, 2016

TESTIMONY from Donn and Karin Leson of Donn Leson Saddles, Grants Pass, Oregon in support of the Southwestern Oregon Salmon and Watershed Protection Act (S. 346 and H.R. 682).

Our small business has customers from around the world, but we make our home in Southwest Oregon because of the quality of life it provides and the accessibility to some of the finest National Forest and Bureau of Land Management lands in the West. These federal public lands and the beautiful rivers and creeks that flow through them are priceless to us.

One of our very favorite areas is the Rough and Ready Creek watershed, which is subject to the Southwestern Oregon Watershed and Salmon Protection Act's mineral withdrawal provisions. It's an irreplaceable gem that provides many delights and hikes—from short to long—and one of the finest swimming holes in an area of who's rivers have of the cleanest, clearest water in the nation.

Just south of Rough and Ready Creek, in the wilds of the unprotected South Kalmiopsis, is the Baldface Creek and North Fork Smith River watersheds. Like Rough and Ready Creek, the area is also subject to the Act. This is an exceptional area of wild creeks, rare plant wetlands, vast vistas and big skies. As with the adjacent Rough and Ready Creek Watershed, it produces some of the cleanest, clearest water in the nation.

Mine development, ore haul roads and nickel processing facilities would have irreversible impacts to this mostly pristine area—altering its character forever and degrading the exceptional water quality of these creeks and National Wild and Scenic Rivers.

We commend and thank Senators Wyden and Merkley and Representatives DeFazio and Huffman for introducing and working to pass into law the Southwestern Oregon Watershed and Salmon Protections Act.

With appreciation,

Donn and Karin Leson

Aubrey Dunn
COMMISSIONER

State of New Mexico
Commissioner of Public Lands

310 OLD SANTA FE TRAIL
P.O. BOX 1148
SANTA FE, NEW MEXICO 87504-1148

COMMISSIONER'S OFFICE
Phone (505) 827-5760
Fax (505) 827-5766
www.nmstatelands.org

September 21, 2016

The Honorable Lisa Murkowski
United States Senate
709 Hart Senate Office Building
Washington, DC 20510

RE: S. 3049 (Organ Mountains Desert Peaks Conservation Act)

Dear Senator Murkowski:

I am writing in opposition to S. 3049 (the Organ Mountains-Desert Peaks Conservation Act) sponsored by Senator Tom Udall (D-NM) and cosponsored by U.S. Senator Martin Heinrich (D-NM) because of its negative effect on neighboring state trust lands.

The bill seeks to designate 19,197 acres of wilderness in association with the existing Organ Mountains-Desert Peaks National Monument in southern New Mexico. Over 73,000 acres of New Mexico state trust lands are already landlocked within the Organ Mountains-Desert Peaks National Monument, which has greatly limited the Land Office's ability to lease this land and generate the support that was intended when those lands were granted to the state by the U.S. Congress through the Enabling Act of 1910. The additional wilderness designation will landlock an additional 6,720 surface and mineral state trust land acres more or less, and approximately 1,280 split-estate mineral acres. By essentially eliminating any productive use that may be made of this land, passage of this legislation would undermine achievement of the purposes intended when the state trust lands were granted; namely, support of public schools, universities, hospitals and other important institutions in New Mexico.

With low oil prices already severely reducing state trust land revenues, the proposed designation of new wilderness areas will only add insult to injury and further reduce revenues needed to provide educational opportunities for New Mexico's schoolchildren and other basic state functions. In total, recent designations of national monuments and wilderness study areas and execution of conservation agreements for threatened species in New Mexico have reduced or eliminated productive use of

162,000 acres of state trust lands. As New Mexico's State Land Commissioner, I have a fiduciary responsibility to ensure that state trust lands provide the support that was intended when the lands were granted in trust, and I will not stand idly by and watch the federal government commit another land grab.

While S. 3049 would authorize the Department of the Interior to acquire the state trust lands in two of the affected townships and convey other, unidentified federal lands in exchange, prior experience working with the BLM indicates that this is a woefully inadequate remedy. Since taking office in January of 2015, I have sought to work with the BLM to identify disposal lands that could be conveyed in exchange for state trust lands landlocked within the recently designated Rio Grande Del Norte National Monument, but those efforts have not succeeded. I have no reason to believe that the authority granted in this bill would be used any more effectively to achieve timely and effective compensation for the detriment that the wilderness designation will cause to the state trust.

Therefore, I oppose any designation of wilderness areas proposed in S. 3049. Without legislation that will result in making the trust whole again to serve its original purpose of benefiting New Mexico's universities, hospitals, other important institutions and primarily the public schoolchildren in New Mexico, I will continue to strongly oppose this legislation.

Sincerely,

Aubrey Dunn
New Mexico State Land Commissioner



EARTHWORKS

September 22, 2016

Chairwoman
Lisa Murkowski
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Ranking Member Maria Cantwell
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Support for the Southwest Oregon Watershed and Salmon Protection Act of 2015 (S. 346)

Dear Chairwoman Murkowski and Ranking Member Cantwell,

Thank you for the opportunity to provide this letter in support of S. 346, the Southwestern Oregon Watershed and Salmon Protection Act of 2015. There is overwhelming local and regional support from residents, businesses, elected officials and tribes for protecting the conservation and economic values of the pristine rivers of Southwestern Oregon via this legislation.

We would like to thank Senators Wyden and Merkley for introducing S. 346 and also Representatives Peter DeFazio (OR) and Jared Huffman (CA), who have introduced companion legislation in the House of Representatives (H.R. 682).

Earthworks is a national 501(c)(3) non-profit organization dedicated to protecting communities and the environment against the adverse effects of mineral and energy development. We represent approximately 75,000 members, including those who live, recreate and work in the Kalmiopsis region of southwest Oregon.

This legislation would protect key salmon habitat that contributes to major regional commercial and sport-fishing industries. The Wild and Scenic Rogue River alone contributes an estimated

$16 million every year into the economy of southwest Oregon.[1]

As you are likely aware, the Forest Service and Bureau of Land Management are currently pursuing a temporary mineral withdrawal in aid of S. 346. In response to this proposal, the U.S. Fish and Wildlife Service highlighted the tremendous conservation value of the region, stating that the Kalmiopsis-Siskiyou region hosts some of the most productive salmon and steelhead fisheries outside of Alaska. The agency further stated that "Salmonid strongholds, including ESA listed Coho salmon and nationally significant Wild and Scenic Rivers, occur throughout the proposed withdrawal area, and concluded that, "Withdrawing this area from mining will provide needed long-term habitat conservation benefits to lamprey and native freshwater resident fishes while simultaneously benefiting anadromous salmonid species."[2]

Once again, we express our strong support for this legislation.

Thank you.

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[1] ECONorthwest, *The Economic Value of Rogue River Salmon*, p. 1 (January 2009). Available at http://kswild.org/what-we-do-2/WildlandProtection/RogueSalmonFinalReport.pdf, last visited September 20, 2016.

[2] U.S. Department of the Interior, Fish and Wildlife Service, Letter to State Director BLM from State Supervisor Oregon Fish and Wildlife Office, comments on the proposed mineral withdrawal by the Bureau of Land Management and U.S. Forest Service in southwestern Oregon (FWS Tails #:01EOFWOO-2015-CPA-0060.



June 15, 2016

The Honorable Dean Heller
324 Hart Senate Office Building
Washington DC 20510-2805

The Honorable Harry Reid
522 Hart Senate Office Building
Washington DC 20510-2803

The Honorable Mark Amodei
332 Cannon House Office Building
Washington DC 20515-2802

Dear Nevada Members of Congress:

We are writing to express our support for the *Pershing County Economic Development and Conservation Act* (the "Proposed Act") and to urge you to utilize all possible efforts to pass the Proposed Act into law.

The Proposed Act will give mining companies in Pershing County, including the companies managed by Elko Mining Group LLC ("Elko"), namely: Solidus Resources, LLC ("Solidus"), and Clover Nevada LLC ("Clover"), the opportunity to purchase, at fair market value, the lands they currently hold under federal mining claims.

The privatization of Solidus's and Clover's lands will provide the companies with increased regulatory certainty and will result in an accelerated permitting process for the companies' mining projects in the County. The accelerated permitting will allow for the swift construction of the projects, leading to rapid job creation in the County, and spurring increased investments in the County by both companies.

Elko's employees appreciate your public service and look forward to supporting you as you endeavor to enact the *Pershing County Economic Development and Conservation Act.*

Should you have any questions or concerns regarding the foregoing, please feel free to contact jack.mcmahon@elkominginggroup.com, on behalf of the undersigned.

Respectfully,

Elko Mining Group LLC
Name: Jack McMahon
Title: President

Full Name	Title	Signature
Debbie Lassiter	Exec. Dir Corp. Env. Affairs	
Alissa Sanchez	Dir. Envl. Permitting	
John Iley	Dir Geology	
Gary Edmondo	Consulting Geologist	
William Oakley	Research Geologist	
Gary L. Hicks	GIS Specialist	
Kent Fowlow	Senior Geologist	
Carol McKenzie	Regional Admin Asst	
Andrew Conover	Project Manager	
William Cole	IT specialist	
Lisanna Lewis	Regional Controller	

EP Minerals®

The Honorable Dean Heller
324 Hart Senate Office Building
Washington DC 20510-2805

The Honorable Harry Reid
522 Hart Senate Office Building
Washington DC 20510-2803

The Honorable Mark Amodei
332 Cannon House Office Building
Washington DC 20515-2802

Dear Nevada Members of Congress:

We are writing to express our support for the Pershing County Economic Development and Conservation Act and urge you to introduce this legislation and do all you can to enact this critical effort for the future of Pershing County. The Pershing County proposal, as unanimously recommended by the Pershing County Commission, will insure the future of the County's economic and conservation future by addressing critical land tenure and federal land management issues. We urge the Nevada Congressional Delegation to introduce this legislation and utilize all efforts possible to enact this proposal into law and we stand ready and eager to assist in this important work.

The Pershing County proposal is critical to the future of mining in Pershing County as our company and others will have the opportunity to purchase at fair market value the lands we currently hold under federal mining claims. Privatization of these mining lands will provide these companies with increased ownership and regulatory certainty that leads to greater investments, additional development and production from these lands and important for Pershing County—economic development and jobs. The State of Nevada, who is a national leader in mining regulation, will regulate and oversee the development and reclamation of these lands in the future so Nevadans can be confident that these lands will be developed and reclaimed in a responsible manner.

The sales of mining lands as well as the checkerboard sales will benefit Pershing County and the State of Nevada through the distribution formula in the legislation. 10% of land sales will go directly back to the County which can be utilized for critical public functions—which is desperately needed. 5% of land sales will go back to the State of Nevada to be utilized for public education purposes across the State. Lastly, the remaining revenues will be retained by Nevada BLM to be utilized to mitigate for wild fire, sage grouse habitat restoration, and drought mitigation. These revenues will also insure the economic and conservation future in Pershing County.

Lastly, we support the designation of public lands as Wilderness under the 1964 Wilderness Act to protect Pershing County's most important and wild places. This wilderness proposal is truly a grass roots effort that has considered all users of these public lands with great consideration given to grazing, mining, recreation, and conservation interests. The power of cooperation among often competing interests has produced a powerful county lands bill that enjoys broad support from the citizens of Pershing County and unanimous support by the Pershing County Commissioners.

Tel (775) 824-7600 • Fax (775) 824-7601 • 9785 Gateway Drive, Reno, NV 89521 • www.epminerals.com

EP Minerals®

We appreciate your public service and look forward to working with you to enact the Pershing County Economic Development and Conservation Act.

Sincerely,

Gregg Jones
President and CEO
EP Minerals, LLC

Tel (775) 824-7600 • Fax (775) 824-7601 • 9785 Gateway Drive, Reno, NV 89521 • www.epminerals.com

Testimony of Congressman Sam Farr
H.R. 1838, the Clear Creek National Recreation Area and Conservation Act
U.S. Senate Committee on Energy and Natural Resources
Subcommittee on Public lands, Forests, and Mining

Madam Chairwoman, members of the Subcommittee, thank you for this opportunity to speak to you about H.R. 1838, the Clear Creek National Recreation Area and Conservation Act On behalf of myself and my House colleagues Mr. Valadao and Mr. Denham, I want to thank you for considering this important legislation. This bill truly represents a bipartisan collaboration and I am proud to have them join me in working to advance this modest bill.

On July 5, 2016, the House passed H.R. 1838 by voice vote under a motion to suspend the rules and pass the bill. This legislation protects and enhances in three ways the public's access to and enjoyment of some of the unique public lands managed by the Bureau of Land Management (BLM) in Central California. First, the bill re-designates the Clear Creek Management Area (CCMA) as the Clear Creek National Recreation Area (CCNRA) and reopens it to off road vehicle (OHV) recreation. Second, the bill designates the adjacent Joaquin Rocks landscape as wilderness and finally designates 5 BLM identified streams in the area as National Wild & Scenic Rivers.

These actions together encapsulate the efforts of both the OHV community and California's wilderness advocates and ensures that this legislation has a broad base of support from the community and local electeds. I would now like to take the opportunity to describe these three facets of the bill in more detail.

Clear Creek

The Clear Creek stream gives its name to approximately 65,000 acres of mountainous land managed by the BLM that lies in the Diablo Mountains between the coastal Salinas Valley and California's great inland Central Valley. Designated by the BLM as the CCMA, this area includes a significant concentration of serpentine rock at the surface which leaves many stretches of open barren slope ideally suited to OHV recreation. BLM recognized this and managed approximately 30,000 acres of the CCMA for public OHV recreational use. As OHV recreation grew in popularity through the 1960s, 70s, and 80s, Clear Creek became a haven for dirt bike enthusiasts and others drawn to its open spaces and challenging terrain. By 2005, annual use had grown to over 35,000 visitors, including hikers, campers, hunters, rock collectors, but primarily OHV users.

In 2008, the U.S. Environmental Protection Agency (EPA) released a study that concluded the naturally occurring asbestos prevalent in the CCMA's serpentine soils posed an unacceptable cancer risk to members of the public, especially OHV users, recreating within its boundaries. People familiar with the CCMA area had long understood that its serpentine rock

contained uncommon concentrations of asbestos. Indeed, throughout the 1960s and 70s, the Atlas Asbestos Company operated an asbestos mine in the CCMA. In 1984, the BLM designated approximately 31, 000 acres within the CCMA that had the highest concentrations of serpentine soils as the Clear Creek Serpentine Area of Critical Environmental Concern (ACEC).

In the years leading up to 2008, BLM increasingly had taken measures to minimize the recreating public's asbestos exposure. However, until the EPA's report, the BLM lacked any clear quantification of the risks associated with OHV use. With those risk numbers at hand, BLM leadership felt that it could no longer permit the OHV and other uses that it had up to that point. So on May 1st, 2008, BLM issues a temporary closure order for the CCMA and initiated the National Environmental Policy Act (NEPA) process to reach a decision on a long term plan. In February of this year, the BLM completed that process with the release of its final Record of Decision for the CCMA. That decision allows limited public access to but makes permanent the 2008 ban on OHV use within the CCMA.

The 2008 closure sparked an intense outcry from the OHV community. Obviously, people resented loosing access to one of the premier OHV locations in the western United States and one at which many of them had been riding at for years. The surrounding communities felt the loss of visitor income when people stopped traveling to Clear Creek. BLM's public meeting on the subject of the closure regularly drew hundreds of people. Many argued that the EPA's study over sampled the amount of asbestos an OHV user would typically be exposed to riding at Clear Creek. In 2011, the State of California Department of Parks and Recreation's Off-Highway Motor Vehicle Recreation Commission even sponsored an alternative analysis of EPA's data that concluded the health risk to OHV use in the CCMA was far less than that identified by EPA.

H.R. 1838 stands for the proposition that the Americans ought to have a greater degree of freedom in judging the risks that they can accept while recreating on our public lands. I have no doubt that riding a motorcycle at Clear Creek is risky and that riders face additional risks from asbestos exposure. And I do not question the good intentions of BLM's leadership in making the management decisions that they did in the face of the health risks outlined by EPA. It was an understandable reaction in today's risk adverse world. But should we banish all risk from public lands recreation? Hunting, skiing, rock climbing, mountaineering, diving, boating, surfing, kayaking, and any number of other outdoor sports pose risks. In some cases, people lose their lives or suffer serious injury while engaged in one of these recreational activities. Provided the risk is not so overwhelming and the person recreating knows the nature and magnitude of the risk, the federal government ought not to substitute its own judgment in place of the individual knowingly taking on the risk.

H.R. 1838 establishes the CCMA as the Clear Creek National Recreation Area (CCNRA). It directs the BLM to reopen the CCNRA to of OHV recreation. It provides for BLM to reuse its 2006 route plan developed prior to the 2008 shutdown on an interim basis

while it develops a long term plan. Within these parameters, the bill provides BLM the broad discretion to implement measures to minimize the recreating public's exposure to asbestos. It also gives the BLM the authority to levy a recreational user fee and apply the proceeds to the management of OHV recreation at CCNRA and to contract with qualified state or local government agencies to manage all or a portion of the CCNRA's recreational activities. Finally, the bill requires an extensive public information effort to fully inform people recreating within the CCNRA of all known and suspected asbestos related health risks associated with recreation within the CCNRA.

Joaquin Rocks Wilderness

Just to the east of the Clear Creek Management Area and wholly outside the traditional OHV riding areas lays a little known natural wonder called the Joaquin Rocks. H.R. 1838 would designate approximately 21,000 acres of this feature and the surrounding ridgeline as federal wilderness all which is located entirely on Bureau of Land Management administered lands in the southern Diablo Range

The area takes its name from the legendary Joaquin Murieta, believed by some to be a heroic figure in early California and an outlaw by others. The Joaquin Rocks are said to have provided a secluded hiding place for him and his band during the 1850s. The area also shows archeological evidence of past Native American occupation. Rising up over 4,000 feet from the valley floor, the striking Joaquin Rocks are the centerpiece of this remote area. These three scenic 250' tall monoliths are the eroded remnants of an ancient vaqueros sandstone formation.

The area features numerous rugged canyons. Oak woodlands cloak the numerous spur ridges that descend down to the valley. Vegetation in the area includes, blue oak, California juniper, grey pine, chaparral, and native grasslands. Due to the cooler climate provided by its elevation, the area delivers outstanding displays of native wildflowers well into summer. The steep cliffs of the Joaquin Rocks—and the numerous other towering sandstone formations found throughout the area—are host to species of falcons, hawks and owls. These formations could also provide potential nesting habitat for the California condor which has been reintroduced into the nearby Gavilan Range. One of the peaks of the Joaquin Rocks - La Centinela - hosts a unique vernal pool supporting fairy and tadpole shrimp.

In closing Madam Chairwoman, I want to recognize several people who have played an important role in shaping this legislation. Don Amador from the Blue Ribbon Coalition and Gordon Johnson from the California Wilderness Alliance are the odd couple of California public lands policy. Their collaboration provided the initial inspiration for this bill and helped resolve countless details over the course of its drafting. I also want to thank the BLM's local staff who has been extremely helpful and professional throughout this process. And finally I want to thank several constituents who never let me forget how important Clear Creek was to them: Ed Tobin

with the Salinas Ramblers Motorcycle Club is a tireless organizer who has kept the Clear Creek riding community focused on the public and political process; and Ron DeShazer, a retired forklift operator and a long time Clear Creek rider, came to dozens of town halls and other meetings for the last six years to calmly ask for Congressional assistance to reopen Clear Creek to public OHV use.

Fleurant, Susan (Energy)

Subject: FW: Comments on the Senate Bills S. 3203, hearing date 9/22/16

From: Cheryl Fecko [mailto:cherylfecko@gmail.com]
Sent: Monday, October 3, 2016 8:50 PM
To: fortherecord (Energy) <fortherecord @energy.senate.gov>
Subject: Comments on the Senate Bills S. 3203, hearing date 9/22/16

Senate Energy and Natural Resources Committee-To whom it may concern,

I am writing this email to voice my opposition to **all** of the proposed Senate Bills that will continue to privatize the Tongass National Forest in Southeast Alaska. For 30 years I have lived, worked, and recreated on Prince of Wales Island (POW), the 3rd largest island in the US. We previously have had access to public lands on POW to hunt, fish, harvest wood, many of us living a near subsistence lifestyle by choosing. If these bills become law that lifestyle and that access will diminish.

Prince of Wales Island was hit hard in the early days of intensive logging, and continues to be divided up and logged by legislation that puts National Forest land in private hands taking land managed for multiple use and designating it for clearcut logging. The logging practices used by State, private, and Native lands is another reason to leave our public lands public. Logging is done with less protection for scenic byways, beach fringe and lakeside buffers, wildlife corridors, and smaller but vital fish streams. As more and more public land becomes private land, these important forest components and the forest as an ecosystem loses.

I mention Prince of Wales Island not only because it is where I live but because it now seems that any pro-logging legislation gets slapped on Prince of Wales. I get it, our voices are small in number and not as loud, but we care for our communities, watersheds, and surroundings just like others do. I get it, there is one mill left and it's on POW island, but it has to ship out in some cases 60% of what is harvested to stay in business. Is that keeping a "mill" in business?

S. 3203 is especially directed at public lands on Prince of Wales Island, that will allow mines unregulated access to forest land, and allow Mental Health Trust and the State of Alaska to take lands managed for multiple use and manage millions of acres for only one use-clearcut logging. Most of the Mental Health Trust Land Exchange will log steep slopes and community backdrops on POW. It's just not fair. I thought the days of such logging practices were gone, but apparently not.

S.3273 allows for new Native corporations to form. Haven't we seen what a disaster that model held for Native corporations formed through ANSCA? And again here is another bill meant to privatize public land that we all access and utilize. We are now seeing that permits need to be purchased to access tribal lands on Prince of Wales Island. This may be just the beginning.

I am appealing to the Energy and Natural Resources Committee to keep the Tongass National Forest public lands public.

Thank you for the opportunity to comment,

Cheryl Fecko
Prince of Wales Island Resident

Forest Recreation Management, Inc.
PO Box 1168, Hill City, SD 57745
605-574-4402, fax 605-574-4407

September 21, 2016

Sen. Lisa Murkowski
Sen. Maria Cantwell
Energy and Natural Resources Committee Office
304 Dirksen Senate Building
Washington, DC 20510

Dear Senators,

In committee tomorrow (Thursday), you will be marking up an amendment that will transfer land and facilities from the Black Hills National Forest to the South Dakota Department of Game, Fish, and Parks. The main purpose of the bill, sponsored by the South Dakota delegation, is to create a new State Park in Spearfish Canyon. Part of the proposed action is to include the transfer of Forest Service holdings around Bismarck Lake, including a campground and summer camp. Bismarck Lake is 50 miles from Spearfish Canyon and is totally unrelated to Spearfish Canyon. While we would like to keep all three of them in our permit area, Bismarck Lake is of our highest concern.

Forest Recreation Management, Inc., of which I am the President, encourages you to at least amend the Bismarck Lake area out of the Spearfish Canyon transfer amendment. Forest Recreation Management, Inc. has the concession permit from the Forest Service to operate the campgrounds and other recreation facilities in the Black Hills National Forest and has done so for the past 18 years. This proposal removes three profitable properties from the National Forest. Bismarck Lake is the one which provides the largest profit to our company allowing us to successfully operate some of the less profitable areas in the Black Hills.

It would trade prime lakeside property with developed recreation to the State for undeveloped prairie property. The facilities built by US taxpayers and recently renovated by them would be given to the state to reap the profits. Our employees would be replaced by either State employees or volunteers. The federal income tax we pay would go away and the improvements we make at the campground would then be paid instead by state tax money.

The fees we pay annually through the use of Granger-Thye fee offset monies, would be substantially lowered resulting in a decrease of improvements to our local Forest Service areas.

The addition of the Bismarck Lake area into the Spearfish Canyon land exchange is a bad deal for US taxpayers and especially for Forest Recreation Management, Inc., both as a company and as a Service Partner to the Black Hills National Forest.

In fairness to the South Dakota delegation, the state failed to inform them that we were concessioners and would be damaged by the exchange.

Please reject the Bismarck Lake area from the legislation.

Yours truly,
J. Alan Johnson,
President

cc. Sen. John Thune
Sen. Mike Rounds
Rep. Kristi Noem

September 21, 2016

Senate Energy and Natural Resources Committee

This letter is submitted in comment on S.2056, a bill to provide for the establishment of the National Volcano Early Warning and Monitoring System. Passage of this bill would represent a significant milestone in the effort to keep our country safer and reduce the economic and human losses to volcanic hazards.

Volcanic eruptions pose significant and underappreciated hazards to the United States, its people, infrastructure and economy. The impacts of volcanic eruptions are not limited to places on the ground next to volcanoes, because volcanic ash can disrupt air traffic over large areas and ash fall can extend a long distance away from the eruptive center. The economic losses caused by a single eruption can be large and felt globally. The 2010 eruption of Eyjafjallajökull volcano in Iceland caused more than 2 billion dollars of economic losses from air traffic disruption and airspace closures, and business losses caused by them. Closer to home, every day about 50,000 people fly over active volcanoes in Alaska (all trans-Pacific air traffic between North America and Asia), along with immense quantities of air cargo; the passenger count has more than doubled over the last 15 years. People and facilities on the ground near volcanoes in several states face more direct hazards from lava flows, pyroclastic flows, ash fall, and other direct hazards.

We cannot prevent or delay volcanic eruptions, but we can in many cases provide early warning that will reduce the number of people at risk, and ideally that will keep people and aircraft entirely out of harm's way. Advance warning is possible for many volcanic eruptions because volcanoes often give warning signs in advance of eruption; to see these warning signs, we need to maintain a variety of monitoring instruments on the volcano, and provide for the staff and systems to interpret these data. We also need a thorough knowledge of the volcano's eruptive history and its tendencies, which allow us to put this monitoring data into context and make informed decisions about likely future activity. The NVEWS bill, if passed into law, would provide the directive and funding to expand and modernize networks of volcano monitoring instruments, to provide for the staff needed to maintain them, to analyze and interpret monitoring data, and to make informed assessments of present and potential future activity.

This bill would authorize the funding needed to monitor volcanoes in the United States commensurate with the threat that they pose. The level of threat has been assessed based on each volcano's known historic and prehistoric activity, its potential for harming people or facilities on the ground, and its potential for producing ash clouds in the airspace that pose a threat to aviation. Assuming that

the expenditures authorized by this bill are backed up with appropriations, passage of this bill would result in a targeted expansion of volcano monitoring in the United States prioritized by the level of volcanic threat. Expanded volcano monitoring will enhance public safety and reduce losses when eruptions occur. Benefits, especially the economic benefits that come from reduced losses and disruption of business, will be felt nationwide.

My state of Alaska faces direct volcanic hazards on a regular basis. Airborne ash from volcanic eruptions causes flight cancellations several times each year, and often far from the erupting volcano. These disruptions can occur hundreds of miles away, so no part of the state is immune from these effects. The geologic record, and even the historical record, shows that much larger eruptions with far more serious effects could happen at any time in the future. It is wise for our society to invest in efforts that reduce risks to lives, property and our economy, especially given that the annual cost of these efforts is smaller than the earnings of many individual athletes or celebrities. The losses we can avoid through improved volcanic monitoring and early warning will be much larger than the costs of the monitoring efforts.

I urge Congress to pass this bill and fully support its implementation.

Sincerely,



Dr. Jeffrey T. Freymueller
Professor, Geophysical Institute and Dept. of Geosciences
Coordinating Scientist, Alaska Volcano Observatory
University of Alaska Fairbanks
Fairbanks, AK 99775

FRIENDS OF THE KALMIOPSIS

1134 S. E. ALLENWOOD DRIVE
GRANTS PASS, OREGON 97527
541-474-2265

October 5, 2016

Chairman Lisa Murkowski
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Ranking Member Maria Cantwell
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Southwest Oregon Salmon and Watershed Protection Act (S. 346)

Dear Chairman Murkowski and Ranking Member Cantwell:

Thank you for the opportunity to provide a letter of support to the hearing record for the Southwestern Oregon Watershed and Salmon Protection Act—S. 346 and H.R. 682 and for holding a hearing on this important legislation. S. 346 withdraws three very special areas of mostly National Forest lands in Southwestern Oregon from location and entry under the mining laws of the United States and makes technical corrections to the National Wild and Scenic Rivers Act specific to the congressionally designated Wild and Scenic Chetco River. Both the legislation and a proposed temporary withdrawal have overwhelming public support. The support includes that of the communities that would be most impacted by the potential start-up of nickel strip mines.

Friends of the Kalmiopsis is a place-based group that has been working to protect the Rough and Ready Creek and North Fork Smith River watersheds and the greater South Kalmiopsis wild area since the early 1990s. These watersheds, along with the headwaters of Hunter Creek and the Pistol River, and 17 miles of the Wild and Scenic Chetco River constitute the little over 106,600 acres subject to S. 346.

We're part of a local effort that now spans the state line between Oregon and California and three counties. The effort includes local grassroots groups who've organically come together with our neighbors to protect the world-class Wild and Scenic Rivers of this remote, rugged corner of Southwest Oregon and Northwest California. The National Forest and adjacent BLM lands of the region produce some of the cleanest, clearest drinking water in the nation. It's an area where some of the last best wild salmon and steelhead runs on the West Coast—south of the Olympic Peninsula—still inhabit pristine creeks and rivers. And it's also host to one of the highest concentrations of rare and endemic plants in North America.

We can speak with experience to the decades of public support for protecting these watersheds and their rivers and opposition to their being mined. In the 1990s, before the current advances in the internet, over 5,000 citizens wrote to the U.S. Forest Service in opposition to the

proposed Nicore Mine at Rough and Ready Creek. Most of these asked for a solution such as mineral withdrawal and/or protective legislation. There were only 10 letters in favor of any level of mining. To this day, support for protecting these areas from mining remains overwhelming, and if anything stronger than before. Of the 45,000 comments received on the proposed temporary administrative withdrawal over the period of a year, all but 26 supported the mineral withdrawal. Opportunities for the public to provide input included two formal comment periods (spanning a total of 120 days) and two public hearings.

Also indicative of the support for protection and the struggle against mining in our area is the establishment of the Smith River National Recreation Area (Smith River NRA), in which Congress withdrew approximately 400,000 acres of National Forest land in the Smith River watershed in California. Driving the legislation was a proposed nickel strip mine and processing facility in the North Fork Smith River's lower watershed in California. The scars of extensive mineral exploration (from almost 40 years ago) are easily visible on Google Earth. However, even though the mining company that held over 4,000 plus acres of existing nickel-laterite claims had plenty of opportunity to demonstrate their valid existing right to mine the area, they did not take advantage of it, or renew attempts to develop the Gasquet Mountain Nickel Mine.

First of their own volition, the company dropped their mine project when federal subsidies for nickel were eliminated. Eventually the foreign-owned company simply walked away (abandoned) from their Gasquet Mountain nickel claims. With the low price of nickel and the relatively low grade of the North Fork Smith River nickel-laterites we can only guess that it would not have been a wise investment to develop a mine and processing facility on the companies existing claims within the Smith River NRA.

It should be noted that according to U.S.G. S. reports, the Gasquet Mountian/North Fork Smith River nickel laterite is the largest, and overall of a higher grade than the other southwest Oregon nickel laterites, with the single exception of the Nickel Mountain Mine at Riddle, Oregon in Douglas County. Glenbrook Nickel, who owned the Nickel Mountain Mine, closed it and the nearby smelter permanently in 1998. This after the company had spent over $30 million on an import facility at Coos Bay Oregon in the early 1990s, and for a number of years imported high grade nickel laterite from 6,000 miles away.

Court records exist showing that the holder of a large block of nickel-laterite claims at Rough and Ready Creek—in the largest of the three areas subject to the withdrawal provisions of S. 346 —tried to interest Glenbrook in purchasing Rough and Ready Creek nickel laterite soils to process in their smelter. However, Glenbrook was not interested due to low quality of the Rough and Ready Creek deposits. Instead the company preferred importing high grade nickel laterite from many thousands of miles away, to the low quality nickel-laterite in their backyard, less than 100 miles away.

In the 1990s, the USFS conducted an extensive environmental analysis of the proposed Nicore Mine Project at Rough and Ready Creek. What they found was an area of "extremely high scientific, social and ecological values" juxtaposed with a speculative mining venture that lacked critical details. The dearth of information in the plan was egregious. For example, there was no provision for where and how the mined material would be processed or even where the water needed for the operation would come from. Without these critical details, the USFS could

not fully analyze the effects of the Nicore Project. They could not deny the mining outright either. So they went back to the proponent yet another time to try and get the needed information to complete his mining plan.

If the U. S. Forest had allowed the speculative, incomplete Nicore Project to proceed the environmental and health impacts would have been significant and irreversible. We know now that residents near the Glenbrook Nickel import facility at Coos Bay brought a class action lawsuit against the company over the red dust that it's operation generated. They'd lived with the ill health effects and inconvenience of their homes being coated with the red dust generated by the import facility despite the State of Oregon's regulation of it. We also know now that in 1998, USEPA was in the process of implementing rules specific to the Glenbrook Nickel Smelter and the facility's hazardous air pollution emissions. And in recent years we have seen the great distances that mine pollution spills can travel down rivers. The community of Gasquet, California's water intake, a little more than 15 miles downstream of one of the potential mine projects in North Fork Smith River watershed and in the area subject to S. 346, is directly in the path of any pollution released by a mine and nickel processing facility.

Mines pollute. It's not a matter of if but when. Repeatedly metal mining facilities in the United States are responsible for a little less than half of all toxic pollution released to the environment. In the current reporting year, the USEPA's Toxic Release Inventory found that just 88 metal mine facilities were responsible for 45% of all toxic pollution in the United States.

The withdrawal of 17 mines of the Wild and Scenic Chetco River has also undergone thorough environmental analysis, with numerous opportunities for public input. It also has overwhelming public support.

The technical corrections to the Act designating 44.5 miles of the Chetco River as a National Wild and Scenic River were included in the River's Wild and Scenic River Management Plan after undergoing environmental analysis and public comment under the National Environmental Policy Act (NEPA). They were recommended by the Siskiyou National Forest (now the Rogue River-Siskiyou National Forest), the agency in charge of managing the river in compliance with the National Wild and Scenic Rivers Act. The 5,610 acres of the Wild and Scenic Chetco River subject to S. 346's withdrawal provisions constitutes approximately 1/4 mile on either side of this world-class salmon and steelhead river, from the Kalmiopsis Wilderness boundary to the U.S. Forest Service Boundary, excluding private land.

On July 26, 2013 the 5,610 acres of the Wild and Scenic Chetco River were temporarily withdrawn from location and entry under the United States mining laws and leasing under the mineral and geothermal leasing laws, for a period of 5 years by Public Land Order No. 7819. The measure is designed to make sure nothing happens to this special congressionally protected river and its nationally outstanding water quality, fisheries and scenic values while Congress considers legislative protections found in S. 346. The interim measure was subject to analysis and public comment by the Bureau of Land Management during a 90 day period and by the U.S. Forest Service under the NEPA. During these opportunities for public input, the agencies received over 11,000 comments supporting the withdrawal of the river corridor with only 6 dissenting comments. The measure was also overwhelming supported during the local public hearing.

S. 346 is straightforward legislation. It will prevent the location of new mining claims on approximately 106, 631 acres of federal public land and require the holders of existing mining claims to demonstrate there's been the discovery of a valuable mineral deposit on each claim and that it complies with laws of the United States before mining activities can commence. S. 346 is subject to valid existing rights so it grandfathers in existing claims, but only if they comply with the laws of the United States, including the 1872 Mining Law.

We understand that the legislation will not prevent mining on existing claims, if they are found to have a valuable mineral deposit that can be mined profitably, in compliance with the laws of the United States. However, it will—in advance of irreversible environmental impacts—require that the mine proponent show they have an actual right to mine before degradation of pristine areas begins.

The three areas subject to S. 346 provides some of the cleanest drinking water in the nation to downstream communities. In Del Norte County California, the communities include Gasquet, Hiouchi, Redwoods National and State Parks and Crescent City. According to the Del Norte County Board of Supervisor's letter in support of S. 346, the majority of Del Norte County resident get their drinking water from the Smith River downstream of the National Forest lands subject to S. 346. In Josephine County, one of the wells that provides drinking water to the communities of Cave Junction and Kerby is on the floodplain of the Illinois River, downstream of the area subject to S. 346. The community of Brooking—with a population of a little over 10,000—gets their drinking water from the Chetco river about 11 miles downstream of one of the withdrawal areas. Many residents live along rivers down stream of the proposed withdrawal area. Their drinking water sources are wells, many of which more than likely have a hydrologic connection to the rivers.

In addition to the importance of the areas subject to S. 346 as a source of pure drinking water, they may be unique in the exceptional and diverse conservation values packed into relatively small areas of federal public lands. And while the withdrawal areas have national and regional significance in their own right, they're also a central to one of the most important ecological regions on the West Coast—the Kalmiopsis/Wild Rivers Coast regions. This area is at the heart of the greater Klamath-Siskiyou Region, which is the northernmost extension of the California Floristic Province. The Province is a globally important region for conservation and a hotspot of biological diversity.

The proposed withdrawal would not only provide protection from mining for the exceptional 106,631 acres directly subject to it, but also adjacent congressionally protected areas and rivers and nearby and downstream communities and residents. The downstream rivers include the National Wild and Scenic North Fork, Middle Fork and Mainstem Smith Rivers and the National Wild and Scenic Illinois River, Hunter Creek and the North Fork Pistol River. The communities include Cave Junction, Gasquet, Hiouchi, the Redwood State and National Park, Crescent City and Gold Beach.

The Rough and Ready Creek and Baldface Creek proposed withdrawal area of S. 346 shares an approximately 20-mile common boundary with the Kalmiopsis Wilderness. The withdrawal area's southern boundary is directly adjacent to and downstream of the Smith River National Recreation Area, sharing an approximately 14 mile common boundary with the NRA. The

Rough and Ready Creek and Baldface Creek withdrawal area, and the adjacent congressionally protected and unprotected National Forest lands form watersheds, provide exceptionally clean and clear domestic water supplies to many thousands of residents in Southwest Oregon and Northwest California. The withdrawal area and the adjacent Wilderness and Smith River NRA are home or headwaters to three National Wild and Scenic Rivers, each with outstandingly remarkable wild salmon and steelhead runs (world-class), water quality and recreation and scenic values.

While part of larger ecological landscapes and regions of national importance, the exceptional conservation values of the three withdrawal areas are justification enough for their protection under S. 346. They include:

- Nine special designated US Forest Service or BLM Botanical Areas or Areas of Critical Environmental Concern (and one proposed Botanical Area);
- 6.5 miles of the National Wild and Scenic North Fork Smith River, a world-class salmon and steelhead river with outstandingly remarkable water quality, fisheries and scenic values;
- 17 miles of the National Wild and Scenic Chetco River, a world-class salmon and steelhead river with outstandingly remarkable, water quality, fisheries, scenic and recreation values;
- Two USFS Eligible Wild and Scenic Rivers (Baldface Creek and Rough and Ready Creek, with outstandingly remarkable fisheries, water quality, scenic, geological/ hydrological, and botanical values);
- Approximately 148 miles of streams (including pristine to near pristine habitat for sensitive or threatened species including coho salmon, chinook salmon, steelhead and cutthroat trout and foothill yellow-legged frogs);
- All or a large part of two USFS Inventoried Roadless Areas (South Kalmiopsis and Packsaddle);
- The USFS proposed 34,153 acre South Kalmiopsis Wilderness Addition with additional adjacent lands found to have high wilderness character;
- Numerous rare plant wetlands known Serpentine Darlingtonia Fens that are subject to a United State Fish and Wildlife Service Conservation Agreement; and
- Diverse habitats for numerous rare, threatened, endangered and/or sensitive plant and animal species.

Conclusion

The protection that S. 346 would provide these exceptional National Forest and BLM lands and their beautiful creeks and rivers has undergone extensive analysis, review and public comment for many years. Each time the public has overwhelmingly supported protection for these areas from mining. The land managing agencies' environmental analysis and recommendations substantiates that these federal public lands are important for conservation and their extremely high scientific, social and ecological values. S. 346 will protect any valid existing rights that existing claim holders may be found to have.

We thank its hardworking sponsors, Senator Ron Wyden and Jeff Merkley and Representatives Peter DeFazio and Jared Huffman in the House and Chairman Senator Murkowski, Ranking Member Cantwell and members of the Senate Energy and Natural Resources Committee for your consideration of this important legislation and urge you to support it.

Thank you again for this opportunity to provide testimony in support of S. 346.

Sincerely,



Barbara Ullian, Coordinator

Ripchensky, Darla (Energy)

From: Lydia Garvey <wolfhowlmama@yahoo.com>
Sent: Friday, September 23, 2016 10:15 PM
To: fortherecord (Energy)
Subject: re S 3203/3273, hearings 9/22/16- comments

Dear Civil Servants,
I have serious concerns, see below:
S 3203-

- Sec. 402 – Valid Existing Claims – Elevates mining above all uses of the forest by restricting the USFS's authority to regulate surface use of National Forest lands. *Our national forests must be managed for all users.*
- Sec. 503 -- Roadless Area Conservation Rule Exemption - Exempts both the Tongass and Chugach National Forests from Roadless Rule. *The Roadless Rule makes sense fiscally and ecologically and should continue to be implemented in Alaska.*
- Sec. 502 -- Alaska Mental Health Trust Land Exchange -- Authorizes the exchange of about 20,000 acres of Tongass National Forest lands for timber development on Prince of Wales and Revilla Islands for over 18,000 acres of existing Mental Health Trust lands near Ketchikan and Petersburg. *No logging should occur on the steep hillsides and popular recreation areas that the Alaska Mental Health Trust currently owns, but this issue can be resolved in Alaska; legislation is unnecessary.*
- Sec. 503 -- Tongass State Forest Facilitation – Allows selection of two million acres of the Tongass National Forest by the State of Alaska for a state forest, which would be managed for timber production first, not "multiple use." *Alaska Fish and Wildlife habitat standards are less protective than federal standards.*
- Re 3273-
- Sec. 5 – Reacquiring Cube Cove Surface Lands -- permits Shee Atika to elect to receive payment in cash or bid credits for acquiring federal surplus property from federal agencies for about 23,000 acres of land it clearcut on Admiralty Island. *This is actually a little bit of good news; it would eventually make Admiralty Island National Monument "whole".*
- Sec. 6 -- Admiralty Island National Monument Land Exchange -- authorizes the USFS to obtain Sealaska's subsurface estate at Cube Cove in exchange for surface and subsurface estate to about 8,872 acres and the surface estate to approximately 5,145 acres of Tongass lands on Prince of Wales Island. *This exchange is not for equal value. In a real "value for value" exchange, Sealaska would get less than 500 acres of old-growth forest in exchange for its 23,000 acres of subsurface estate at Cube Cove.*
- Sec. 10 – New Native Corporations -- authorizes Native residents of Haines, Ketchikan, Petersburg, Tenakee and Wrangell to organize Urban Corporations and receive 23,040 acres of Tongass lands each. *Fails to provide protection for Tongass Legislated LUD II wildlands and perpetuates all the flaws of the ANCSA corporate model.*
- Sec. 11 -- Alaska Native Veterans Allotment Equity - reverses key compromises reached in 1998 and disrupts efforts to finalize entitlements under existing laws. *This section causes more problems than it solves.*
- Do your job-Protect Our lands, waters, wildlife, health & future! You work for Citizens- Not industry!
- Your attention to these most urgent matters would be much appreciated by all present & future generations of all species.

- Thank you
- Lydia Garvey Public Health Nurse
- 429 S 24th st Clinton OK 73601

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Trout Unlimited

September 24, 2016

The Honorable Lisa Murkowski
U.S. Senate, SH-709 Hart Senate Office Building

The Honorable Maria Cantwell
U.S. Senate, SH-511 Hart Senate Office Building

Re: Support for S. 346 – the Southwest Oregon Watershed and Salmon Protection Act of 2015

Dear Chairwoman Murkowski and Ranking Member Cantwell:

Geos Institute would like to thank the Senate Energy and Natural Resources Committee ("Committee") for this opportunity to submit testimony in support of S. 346, sponsored by Oregon's U.S. Senators Ron Wyden and Jeff Merkley.

Geos Institute is a nonprofit organization that provides science-based solutions to climate change challenges by partnering with decision makers, conservation groups, and land managers. Since 1998, we have been compiling scientific and economic information on the importance of the Kalmiopsis wildlands and rivers in southwest Oregon that we summarize herein for the Committee and in support of permanent protection for the area as specified in S. 346.

We would especially like to thank Senators Wyden and Merkley, and also Representatives Peter DeFazio (OR) and Jared Huffman (CA), who have introduced companion legislation in the House of Representatives (H.R.682) This legislation is necessary to withdraw from mining specified federal public lands in Curry and Josephine Counties, for amending the Wild and Scenic Rivers Act to elevate the certain segment designations, and to extend full protection for the Chetco Wild and Scenic River against mining impacts to the myriad public values represented by these unique and relatively pristine rivers and landscapes.

I would like to call the Committee's attention to related testimony submitted by conservation groups (The Pew Charitable Trusts, American Rivers, Klamath-Siskiyou Wildlands Center et. al) demonstrating overwhelming public support for the area as reflected in public meetings on temporary mineral withdrawal in aid of legislation conducted by the Forest Service and the support of numerous businesses, local leaders, Native Americans, and other constituents. In sum, withdrawing the area from mining has generated very little public opposition.

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84 Fourth Street Ashland, OR 97520 Ph: 541.482.4459 Fax: 541.482.7282

122 C Street NW Suite 240 Washington, DC 20001 Ph: 310.779.4894 Fax: 202.544.5197

At-Risk Ecological Values of Scientific and Public Interest

The Kalmiopsis wildlands of southwest Oregon represent a unique geo-botanically rich area within the world-class Klamath-Siskiyou ecoregion that encompasses southwest Oregon and northern California. The World Wildlife Fund recognized the larger ecoregion within which this remarkable area lies as among the top temperate conifer forests in the world (DellaSala 2013). The larger ecoregion within which it lies is well known in the scientific community for its world-class values that are present in the affected area. Some of these unique values include:

- Pristine rivers that support a continentally significant fishery;
- Most intact landscape along the Pacific Coast from Mexico to Canada;
- Streams with at least one Forest Service recognized "outstandingly remarkable value;"
- Outstanding botanical diversity including one of the highest concentrations of rare plants in western North America and the highest concentration of rare plants of any of Oregon's 1,400 watersheds, many of which are localized endemics (highly restricted distributions) occurring on serpentine soils (rare soil type containing unusual concentrations of certain minerals);
- Critical habitat for threatened fish and wildlife species;
- Large relatively intact landscape connections to over 1 million acres of nearby wilderness, national parks (redwoods), and recreation areas (e.g., Smith River National Recreation Area);
- Climate refuge for rare plants, fish, and wildlife in search of relatively stable environments (low human disturbance); and
- Historical and cultural sites.

I would also like to call the Committee's attention to the importance of the specific creeks and tributaries proposed for withdrawal in S. 346 as follows.

Rough & Ready Creek and Tributaries – the Wild and Scenic Eligibility Report by the Forest Service (1994a) states that this creek is "unusual by both national and regional standards." It includes streams flowing through serpentine rock types (uncommon nationally) with unconfined alluvial channels (rare regionally), contains large numbers of rare plants ("exceptional levels:" 37 occurrences of 22 sensitive plants documented), rare plant communities (western hemlock—sadler oak plant association), is free-flowing (however, some small impoundments and diversions occur on the lower reaches), has "the potential to provide exceptionally high quality habitat for fish species indigenous to the region" (wild stocks, state or federally listed species), and is "internationally, nationally or regionally an important producer of resident and/or anadromous fish species."

Baldface Creek and Tributaries – at the time of its eligibility determination, the USDA Forest Service (1994b) concluded that this creek "provides some of the best water quality and fisheries habitat known on the Siskiyou National Forest" and that "the world-class fishery on the Smith River depends on the water and fish produced in the Baldface drainage." Further, "more numbers

of fish were counted on this creek than any other on the Illinois Valley Ranger District." Other outstanding remarkable values include botanical, wildlife, scenic (landscape elements of landform, vegetation, water, color, and related factors that are notable or exemplary visual features) recreational, and cultural (prehistoric).

Chetco River and Tributaries - outstandingly remarkable water quality supporting regionally important fisheries, including unusually large fall chinook salmon runs, winter steelhead, and sea-run coastal cutthroat trout.

Greater Red Flat Area (Hunter Creek and North Fork Pistol River) – includes the BLM designated Hunter Creek Area of Critical Environmental Concern (ACEC), which contains the Hunter Creek Bog (species rich fen with numerous wildflowers), five special status wildlife species (clouded salamander, southern torrent salamander, red-legged frog, mountain quail, winter steelhead) along with over 120 other wildlife species. Notably, mardon skipper, a candidate for listing under the Endangered Species Act (ESA), has been surveyed in the Hunter Creek ACEC and other areas with serpentine soils. Fall Chinook salmon and winter steelhead runs occur in the Greater Red Flat area as well. The area also contains the headwaters of Hunter Creek and North Fork Pistol River and has exceptional concentrations of rare plants.

The two mineral withdrawal areas combined contain habitat for some 400 species of plants, including McDonald's rockcress, a federally threatened species and second plant species to be listed under the ESA. Veva's erigeron, an extremely rare member of the sunflower family, is known to occur in this area.

Mining Threats

Where there are serpentine soils, there is nickel, chromite, cobalt and other potentially exploitable minerals. The concentration of nickel in particular has resulted in industrial scale-mining proposals that would degrade water quality, salmon, and botanical values. Small amounts of gold are present in streambeds and miners use suction dredges mounted on small crafts to remove flecks of gold, an activity extremely harmful to salmonid spawning sites. Of note, former Interior Secretary Bruce Babbitt in his visit to the area in January 2001 declared that the area's mining violations were "among the most egregious in the nation." In sum, the impacts of current and proposed mining led American Rivers in 2015 to declare Rough and Ready and Bald Face creeks and the North Fork of the Smith River as among America's most endangered rivers.

I am including as Exhibit B an executive summary of an economic study conducted by Oregon economist Ernie Niemi, who estimated the value of the area's natural amenities and potential costs from proposed industrial-scale nickel mining to at-risk public values. In sum, natural amenities of the Kalmiopsis area support an increasingly thriving tourism industry that spent some $245 million in Curry and Josephine Counties in 2013, generated more than $70 million in business earnings, 3,400 jobs, and almost $9 million in government revenues. Dollars were primarily spent on visiting Oregon Caves National Monument, rafting, angling, and a variety of

outdoor recreation pursuits (hunting, fishing, wildlife viewing, jet boating). The public comes to the region to recreate because of the beautiful landscape, wild rivers, and outdoor amenities that are increasingly difficult to find in today's developed world and that would be irreparably harmed by industrial-scale nickel mining and other mining activities.

Proposed nickel mining would diminish natural values, increase health risks from toxic wastes and air pollution, reduce nearby home values and commercial properties, result in taxpayer funded cleanup costs, and contribute to overall economic destabilization (high volatility of mining activity and jobs, Exhibit B). For example, if the proposed nickel mines resemble similar mines elsewhere, the acid-rain costs, alone, to those exposed could total $30,000–$450,000 per year. Property values could be reduced by 4 to 21 percent from Superfund sites needed to clean up mining wastes that could cost taxpayers some $1,000-50,000 (2003 dollars) per acre of disturbed lands. Tourism values and related business would suffer economic impacts as well.

In closing, simply put, this is the worse possible place to conduct mining in one of the last relatively untrammeled and exceptionally important wild areas remaining in western North America.

We would also like to request that Senator Wyden consider asking the Committee to include in this legislation the provision for his proposed Illinois Valley Botanical and Salmon Area that is in his proposed Oregon and California Land Grant Act of 2015 (S.132). The areas overlap and complement each other hydrologically and ecologically.

Sincerely,

Dominick A. DellaSala, Ph.D.
Chief Scientist, Geos Institute
Ashland, OR

Citations

DellaSala, D.A. 2013. Klamath-Siskiyou Conifer Forests of northern California and southwest Oregon. Biomes and Ecosystems: An Encyclopedia, Howarth, R.W. ed. Ipswich, MA; Salem Press, 2013; Salem Press. Pp: 742-744.

USDA Forest Service. 1994a. Rough and Ready Creek Siskiyou National Forest: Eligibility Study. USDA Forest Service, Illinois Valley District, Cave Junction, OR.

USDA Forest Service. 1994b. Baldface Creek Siskiyou National Forest: Eligibility Study. USDA Forest Service, Illinois Valley District, Cave Junction, OR.

Exhibit A: Scientist Letter (over 200 signatories) in Support of Permanent Protection for the Kalmiopsis Area

September 15, 2015

Jerome E. Perez, Esq.
State Director: Oregon/Washington
Bureau of Land Management, Portland, OR

Re: Recognition of the Kalmiopsis Wildlands in Southwest Oregon and Need for Maximum Interim Protection From Industrial-Scale Nickel Mining

As scientists with expertise in natural resources management, we write to request your leadership in the temporary withdrawal of ~95,805 acres of the Rogue-Siskiyou National Forest and 5,216 acres of BLM Medford District in southwest Oregon from industrial scale-nickel mining proposals. We request that you provide the maximum possible interim protection allowable (20 years) under the 1872 Mining Law while permanent protection efforts are considered such as the Southwest Oregon Watershed and Salmon Protection Act introduced by Oregon Senators Ron Wyden and Jeff Merkley and Congressman Peter DeFazio (OR) and Jarred Hoffman (CA).

"The permanent protection of this area [Klamath-Siskiyou] *will not only be an important benefit for science, but will also rank as one of the great environmental achievements in American history."*
E.O. Wilson, Professor Emeritus Harvard University

The Kalmiopsis wildlands represent a hotspot of geo-botanical richness within the world-class Klamath-Siskiyou ecoregion of southwest Oregon and northern California. The World Wildlife Fund recognized the ecoregion as among the top temperate conifer forests in the world (DellaSala et al. 2013). The Kalmiopsis area within the ecoregion contains nationally significant botanical values that have been the focus of scientists for well over a century. Pioneering botanists such as Dr. Thomas J. Howell began cataloguing the area's plants in the 1880s, Dr. Robert Whittaker (1960) documented the extraordinary plant diversity in the 1950s, and Drs. Robert Coleman and Art Kruckerberg (Coleman and Kruckeberg 1999) described the relationship between the area's unique serpentine geology and high concentrations of rare and endemic plants in the 1980s. The area includes a rich assortment of plant communities from Jeffrey pine savannah to mature forest to *Darlingtonia* fens, many of these communities include plant species found nowhere else on Earth. Scientists also have documented the importance of roadless areas as "refugia" for sensitive species in the area requiring relatively intact landscapes such as the endemic Port Orford-cedar that is being killed off by *Phtyophorus lateralis* (root rot fungus) primarily spread by mud on vehicles. Other studies have demonstrated that the area's river corridors might function as a climate refuge for numerous plants and wildlife (Carroll et al. 2010, Olson et al. 2012).

The watersheds of the Kalmiopsis contain the headwaters of continentally significant rivers (Abell et al. 2000) and clearest waters in the nation, including Baldface Creek and Rough and Ready Creek, that are tributaries to the Wild and Scenic Smith and Illinois Rivers, respectively. Additionally, Hunter Creek and the North Fork Pistol River represent two highly productive native salmonid streams on the Wild Rivers Coast. American Rivers recently recognized the Rogue and Smith rivers as among the most endangered in the nation due to proposed nickel mines in these tributaries that you now seek to withdraw from mining.

We appreciate the collaboration that is taking place between the BLM and Forest Service in the withdrawal process underway for this area and ongoing interest from the Oregon Congressional delegation in seeing it receive the maximum interim protection allowable while congress deliberates on longer-term proposals. When permanently protected, the at risk-watersheds and wildlands of the Kalmiopsis region, in aggregate with the surrounding Kalmiopsis Wilderness and adjoining Smith River National Recreation Area, would make this one of the nation's premier wildlands complexes that will continue to provide downstream communities with outstanding ecosystem benefits that come from intact public lands and watersheds.

Sincerely (affiliations are for identification purposes only),

Only the Lead Signatories are Shown Here

Dominick A. DellaSala, Ph.D
Chief Scientist, Geos Institute
Ashland, OR

David Wilcove, Ph.D.
Princeton University
Princeton, NJ

Erik S. Jules, Ph. D
Humboldt State University
Arcata, CA

Aaron Johnston, Ph. D
University of Washington
Seattle, WA

Jack E. Williams, Ph.D.
Senior Scientist, Trout Unlimited
Medford, Oregon

Bill Ripple, Ph.D.
Distinguished Professor of Ecology
Oregon State University, Corvallis

Reed Noss, Ph.D.
University of Central Florida
Orlando, FL

Carlos Carroll, Ph.D.
Klamath Center for Conservation Research
Orleans, CA

Susan P. Harrison, Ph.D.
University of California, Davis

David M. Olson, Ph.D.
Conservation Earth Consulting
Burbank, CA

Paul Hosten, Ph.D.
Plant Ecologist
Kauai, HI

Dennis Odion, Ph. D.
University of California, Santa Barbara

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Abell, R., et al. 2000. Freshwater ecoregions of North America: a conservation assessment. Island Press, Washington, D.C

Carroll, C., J. R. Dunk, and A. J. Moilanen. 2010. Optimizing resiliency of reserve networks to climate change: multi-species conservation planning in the Pacific Northwest, USA. Global Change Biology 16:891-904.

Coleman, R.G., and A.R. Kruckeberg. 1999. Geology and plant life of the Klamath-Siskiyou Mountain region. *Natural Areas Journal* 19(4):320-340.

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Olson, D.M., D.A. DellaSala, R.F. Noss, J. R. Strittholt, J. Kaas, M. E. Koopman, and T.F. Allnutt. 2012. Climate change refugia for biodiversity in the Klamath-Siskiyou ecoregion. *Natural Areas Journal* 32:65-74.

Whittaker, R.H. 1960. Vegetation of the Siskiyou Mountains, Oregon and California. Ecological Monographs 30:279-238.

Exhibit B: The Economic Importance of the Kalmiopsis Area's Natural Resource Amenities Executive Summary, Prepared by Economist Ernie Niemi, Natural Resource Economics, Eugene, Oregon

The Kalmiopsis area's outstanding natural amenities also are important to the economy. They generate steady jobs, personal income, business earnings, and government revenue through the outdoor recreation industry and by enabling Curry and Josephine Counties to attract workers, business managers, entrepreneurs, and households. Powerful economic trends, such as the increasing number of retirees seeking to live where the quality of life is high, will enhance the natural amenities' ability to generate robust, resilient future economic growth, but only if appropriate actions are taken to protect these amenities and their exceptional character.

Recent studies document the economic importance of the Kalmiopsis area's natural amenities:

- Travelers spent $245 million in Curry and Josephine Counties in 2013, nearly all of which by those who came to the area as a destination rather than just passing through.
- This spending, plus re-spending by businesses and workers, generated more than $70 million in business earnings, 3,400 jobs, and almost $9 million in government revenue .
- Travelers' spending generated about four percent of all jobs in Josephine County, and 16 percent in Curry County.
- 72,717 individuals from elsewhere visited Oregon Caves National Monument in 2013 and spent $4,795,000 locally, generating 69 jobs and $1,757,000 in personal income.
- In 2007, 13,147 rafters and anglers floated the wild section of the lower Rogue River, and 84,840 passengers took trips on commercial jetboats on the Hellgate section of the river. These recreationists spent $9.8 million in Josephine County, generating $14 million in total sales by businesses and governmental agencies, 225 full- and part-time jobs and $7.5 million in personal income for workers and business owners. The average income per job was about $30,000, slighty less than the average for the economy as a whole.
- In 2008 recreationists spent more than $40 million (2013 dollars) in Curry and Josephine Counties, combined, on shellfishing, fishing, hunting, and wildlife viewing.

Proposals to develop three nickel strip mines—two southwest of Cave Junction and one east of Gold Beach–threaten many natural amenities and their ability to stimulate business growth. The mines pose multiple risks for neighbors, taxpayers, communities, and the overall economy:

Degraded natural amenities. Case studies of mines in western states found three-quarters of resulted in pollution that exceeded water-quality standards. Moreover, whenever the mines took steps to prevent or reduce the pollution, about two-thirds of these efforts failed.

Increased risk of cancer. Individuals downwind from the mines would face the risk of cancer from exposure to nickel refinery dust, a human carcinogen.

Costs to neighbors from exposure to mine-related pollution. Strip mines and ore-processing facilities elsewhere often emit pollutants harmful to humans, pets, livestock, fish, wildlife, crops, native vegetation, buildings, and materials. Rural and urban residents of southwestern

Oregon likely would incur costs similar to those in this table, which were determined by national studies. If the three mines resemble nickel mines elsewhere, the acid-rain costs, alone, to those exposed would total $30,000–$450,000 per year.

Costs to Rural and Urban Populations Exposed to Air Pollutants, per Ton of Pollutant

Population Exposed	Annual Cost Per Ton of Pollutant					
	$PM_{2.5}$	PM_{10}	NO_x	NH_3	VOC	SO_2 (Acid Rain)
Rural	$1,100	$200	$300	$ 100	$300	$300
Urban	$3,300	$500	$300	$4,200	$500	$600

Source: Muller, N.Z. and R.O. Mendelsohn. 2007. "Measuring the damages from air pollution in the United States." *Journal of Environmental Economics and Management.* 54(1), 1-14.

Note: $PM_{2.5}$ = particulate matter 2.5 microns in diameter or smaller. PM_{10} = particulate matter 10 microns in diameter or smaller. NO_x = nitrogen oxides. NH_3 = ammonia. VOC = volatile organic compounds. SO_2 = sulfur dioxide or its equivalent source of acid rain.

Reductions in the nearby home values. Many strip mines and ore-processing operations have become highly contaminated Superfund sites. A nationwide survey of studies found that Superfund sites reduce the value of nearby residential properties by 4 to 21 percent. Even if the three mines do not become Superfund sites, the development of industrial operations could reduce the values of nearby homes.

Reductions in the value of some commercial properties. Reductions in the value of tourism businesses would occur if mining-related pollution were to diminish the area's attractiveness to outdoor recreationists. Widespread negative commercial impacts would occur if, for example, mining pollution were to degrade the quality of municipal/industrial water supplies so all users must pay extra for clean water.

Stigma. Severe contamination, or even the threat of it, could cause people and businesses to leave the area. Case studies of Superfund sites have found stigma reduced the value of nearby residential properties by as much as 40 percent.

Taxpayer-funded cleanup costs. Mine operators often have failed to set aside enough money to cover cleanup costs, and, by declaring bankruptcy or abandoning a mining site, push these costs onto taxpayers. Cleanup costs at mines elsewhere have cost taxpayers $1,000–$50,000 [2003 dollars] per acre of disturbed land at the mining site.

Economic destabilization. The high volatility of mining activity and jobs could destabilize families, businesses, communities, and public services.

These costs can be prevented by permanent conservation of the natural amenities at risk from the proposed mining. Numerous studies of protected areas in Oregon and other western states indicate the permanent protection also likely would enable the area's natural amenities to generate economic activity even more broadly and at a faster pace than occurs now.

Permanently protecting the area's natural amenities in a matter that increases its attractiveness to visitors likely would generate at least 200-400 local visitor-related jobs. Additional jobs would materialize as the protection reassures in-migrants that the area's natural amenities and quality of life will remain extraordinary. Protection via other mechanisms likely would have a less robust effect on the local economy.

GOLD ACQUISITION CORP.

June 19, 2016

Sent via E-mail

The Honorable Dean Heller
324 Hart Senate Office Building
Washington DC 20510-2805

The Honorable Harry Reid
522 Hart Senate Office Building
Washington DC 20510-2803

The Honorable Mark Amodei
332 Cannon House Office Building
Washington DC 20515-2802

Dear Senator Heller, Senator Reid, and Congressman Amodei:

I am writing to express Gold Acquisition Corp.'s, and our parent company, Pershing Gold Corporation's, strong support for the Pershing County Economic Development and Conservation Act and urge you to introduce this legislation and do all you can to enact this critical effort for the future of Pershing County. As owner and operator of the Relief Canyon Mine in Pershing County, this bill will make an important difference in our future, as well as the economy and well being of Pershing County. The Pershing County proposal, as unanimously recommended by the Pershing County Commission, will insure the County's economic and conservation future by addressing critical land tenure and federal land management issues.

The public process the Pershing County Commissioners used to seek input from Pershing County residents on this proposal was unprecedented. They held numerous Town Hall meetings to seek input from all sectors of the community – ranching, mining, wilderness advocates, prospectors, outfitters, and area business interests. I attended all of these meetings and was truly impressed with the extraordinary efforts the County Commissioners made to listen to and carefully consider this public input. This collaboration serves as a wonderful example of the democratic process where all sides of the issue were presented and given thoughtful consideration.

The public dialogue about the proposed creation of wilderness areas in Pershing County was unique in my experience. Ranchers, miners, outfitters, wilderness advocates, and the Pershing County Commissioners all worked together to minimize existing land use conflicts and the proposed wilderness area boundaries. There was give and take on all sides, with the end result producing a county lands bill that is a balanced approach that enjoys broad support from the citizens of Pershing County and unanimous support by the Pershing County Commissioners.

The Pershing County proposal will greatly enhance the future of mining in Pershing County. Under Title II of the proposal, Pershing Gold and other companies will

1055 CORNELL AVE, P.O. BOX 1033, LOVELOCK, NEVADA 89419
PHONE (775) 273-7019 FAX (775) 273-7063

Gold Acquisition Corp.
1055 Cornell Ave P.O. Box 6, Lovelock, Nevada 89419

have the opportunity to purchase at fair market value the lands we currently hold under federal mining claims. Owning these mining lands will provide us with much more regulatory certainty about when we will be able to secure future permits, which will lead to faster discovery of new deposits and expansion of our exiting operations. In addition to creating more jobs and tax revenue for Pershing County, the improved business certainty resulting from the proposal will stimulate investment interest in Pershing County that will benefit all Pershing County mineral interests as well as local businesses that provide goods and services to Pershing County mines and mineral exploration companies.

Following privatization of these mining lands, the State of Nevada will regulate the development and reclamation of these lands. As you know, the Nevada Division of Environmental Protection is recognized as having one of the most comprehensive and effective mine regulatory and financial assurance programs worldwide, so Nevadans can be confident that these lands will continue to be developed and reclaimed in a responsible manner.

Title I of the bill gives Pershing County the important opportunity to rationalize and consolidate the checkerboard lands to stimulate future economic growth and diversification. It also gives the Secretary of the Interior the opportunity to identify special management areas to support a wide array of public land management objectives including enhancing wildlife habitat, preserving cultural resources, and providing public access for recreational pursuits.

Pershing County will receive ten percent of the revenue from the land sales derived from both titles and will increase its private land tax base. The County sorely needs this increased revenue to be able to fulfill its obligations to provide for public health and safety. The Bureau of Land Management will also receive a revenue stream from the land sales which can be used in Pershing County to rehabilitate burned areas, restore and enhance sage-grouse habitat, and implement drought mitigation measures.

I very much appreciate your vision and leadership and the dedication of your staffs in working with the Pershing County Commissioners to develop this proposal. I urge you to introduce this legislation as soon as possible. I look forward to working with you and your staffs in the upcoming effort to enact this proposal into law. Please do not hesitate to call on me to assist in this important work.

Sincerely yours,

Debra W. Struhsacker

Debra W. Struhsacker, Vice President
Pershing Gold Corporation

cc: Mr. Darin Bloyed, Chairman, Pershing County Commissioners

GREENPEACE Sitka Field Office Box 6484 Sitka, Alaska 99835 907-747-7557

October 6, 2016

Senate Energy & Natural Resources Committee
Washington, D.C.
For the Record <fortherecord@energy.senate.gov>

Subj: Comments on S.3203 and S.3273 (both regarding Alaska), for the 9/22 hearing record

I am writing for Greenpeace concerning S.3203 (Alaska Economic Development and Access to Resources Act) and S.3273 (Alaska Native Claims Settlement Improvement Act), and particularly from my perspective of being a 40-year resident of Southeast Alaska who has been involved for that time in forest issues on the Tongass National Forest and elsewhere in the region, and having moved here as an engineer for Sitka's former pulp mill. These are timely comments, being submitted before the 6 PM EST deadline today, and concern aspects of the bill that would affect the region.

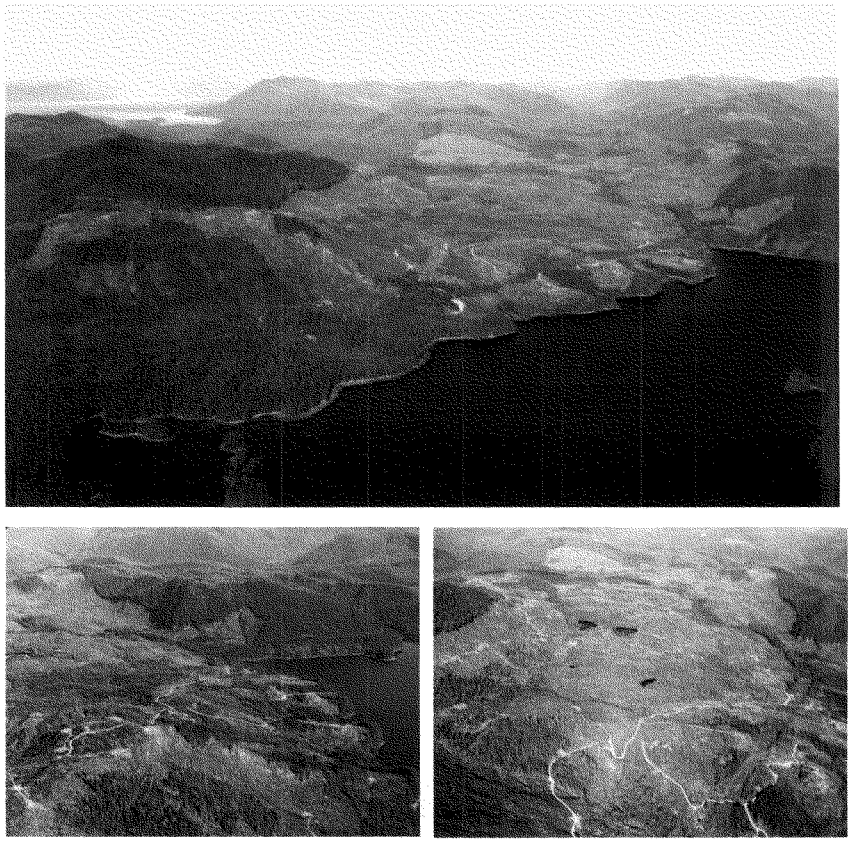
We urge the committee to not pass these bills. Both of the bills will worsen the excessive social and ecosystem impacts that have occurred from intense logging in Southeast Alaska over the past six decades, on private- and state-owned as well as the Tongass National Forest, and particularly in the southern half of the region where the negative impacts of these bills on forests are focused.

Concerning S.3203 (Alaska Economic Development and Access to Resources Act)

Title V of the bill would impact forests. Concerning *§501* (excluding the Tongass NF from the Roadless Rule) and *§503* (a 2-million acre land-grab from the Tongass, for the State of Alaska to log), we agree with testimony given on Sept. 22 by Forest Service Deputy Chief Leslie Weldon. The three photos below, although illustrating a different land give-away in the bill, epitomize the failure of public trust protection that would occur if lands if this legislation transfers land to the State of Alaska, which would manage them under the very weak Alaska Forest Resources and Practices Act. The act for example has no limit on clearcut size.

Section 502 is for a roughly 21,000 land-for-land exchange between the Alaska Mental Health Trust (AMHT) and the US Forest Service. Instead, the best approach by far would be a financial exchange for the forest lands that AMHT cannot reasonably develop and which it wants to unload. Sen. Murkowski should be agreeable to a buy-out of these lands since AMHT's real need is finances, not land particularly, and an endowment from such a buy-out would meet that need. Further, she has promoted this kind of solution in S.3273 §5, for Shee Atika Corporation (discussed below).

The three photos below, all taken a year ago yesterday, illustrate why we believe the Forest Service should not entertain or condone such land-for-land exchange on the Tongass National Forest, where the other party's objective is logging. These show AMHT's nearly 4,000 acre clearcut extending from the head of George Inlet to Leask Lakes (on Revillagigedo, east of the city of Ketchikan). This recent continuous clearcut is immediately adjacent to the appx. 8,000 acres that AMHT would get through the land-for-land exchange in S.3203 §502 (and which is also the sole topic in S.3006). We strongly oppose §502 (and S.3006) unless it is modified to being a finances-for-land exchange.



AMHTs Leask Lakes clearcut of nearly 4,000 acres, at the head of George Inlet, looking northward. In the §502 land trade, AMHT would get an adjacent 8,000 acres to the east. (Photos: 10/5/2015, Greenpeace). **There is other extensive logging nearby on both federal and non-federal land. Please, don't allow the §502 land-for-land exchange.**

Concerning S.3273 (Alaska Native Claims Settlement Improvement Act)

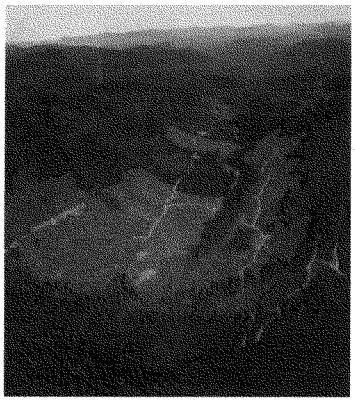
Four sections of the bill directly concern Southeast Alaska, and a fifth one may also do so.

Section 5 (titled "Shee Atika Incorporated"): We *approve* of §5. This is a finances-for-land exchange. Although the land has already been clearcut, there is a long-term national advantage to this trade. The trade is already proceeding administratively, with one portion

completed last month, with the remainder to be completed when funding allows. The bill would speed this up. This section of the bill serves as a model for the Tongass for doing finances-for-land exchanges instead of land-for-land exchanges, but they should be done instead of logging occurring.

Section 6 (titled "Admiralty Island Nat'l Monument Land Exchange"): We strongly oppose this section, which would trade the subsurface, owned by Sealaska Corporation, which under Shee Atika's above surface estate. It is a subsurface-for-land exchange that would give Sealaska 15,000 acres of forest land on already very heavily logged Prince of Wales Island. These photos of on-going Sealaska logging operations illustrate the problem.





Two photos from October 2015 (Greenpeace).

Above: Sealaska's valley-scale clearcutting on the west end of the Cleveland Peninsula. Logging is continuing northward to beyond the top of the photo, in an additional land selection obtained in a rider to the 2014 National Defense Authorization Act (NDAA). While this clearcut is not on Prince of Wales Island, where Sealaska would get land under §6, it illustrates Sealaska's current, unacceptable practices.

Left: Sealaska's clearcutting in Election Creek, on Prince of Wales Island. This land selection was a medium-sized Old-growth Habitat Reserve (OGR) of the Tongass National Forest, until Sealaska obtained it in the rider to the 2014 NDAA. This year, logging is continuing into forest at the top of the photo, which is also part of the same land selection.

Allowing Sealaska to select and log more land for logging for logging will have very serious environmental impacts, especially on Prince of Wales

Island or anywhere else in southern Southeast Alaska. This kind of logging is not allowed on the Tongass National Forest (and certainly not in a designated old-growth reserve), but it is the common practice on private- and state-owned forest land, because the State of Alaska's weak Forest Resources and Practices Act.

Section 7 (titled "CIRI land entitlement"): This section allows Cook Inlet Region Incorporated to select its remaining 43,000 acres of land entitlement from federal lands pretty much anywhere in the state of Alaska, including from the Tongass National Forest. This is extremely with regard to Southeast Alaska, because the forests of the region have already been extensively logged, with the best logged first (in terms of both timber value and ecological value) and then the best of the rest. Moreover, if CIRI were to pick land in this region it would likely be on the southern half because its land is the most productive, including most likely Prince of Wales Island. Simply put, this would be a very bad outcome, as the photos above illustrate.

Section 10 (titled "Unrecognized Southeast Alaska Native Communities"): This section would establish five new for-profit corporations in the region, with a total land entitlement of 115,000. The issue has been before Congress many times in the past and should by now be a settled matter, and ANCSA has provided for these communities in certain ways. To the extent that Congress may determine that additional recognition of the communities is justified, the recognition should be financial and not include land conveyances. At this late date, Southeast Alaska has been carved up and impacted by logging to the extent that no further large blocks of federal land should be disbursed.

Section 11 (titled "Alaska Native veterans land allotment equity"): This section has statewide effect, including in Southeast Alaska. The deadline for applying for Native land allotments has previously been extended, and there is no need to do so again. See attachment #1 to this letter, which beginning on p.10 includes a statement by former Rep. George Miller giving the history of the matter. (House Rept. 107-744, 2002, regarding an act of the same title as at present).

Conclusion

Note that at several places the two bills preclude land selections from "conservation units" such as national parks and designated Wilderness areas. Such preclusions are not adequate protection of the public trust. As shown above, there have had to be other kinds of protections, administrative ones such as above the old-growth habitat reserve in Election Creek. Additionally, in heavily impacted areas like Prince of Wales Island and southern Southeast Alaska protecting the public's interest requires careful examination of particular development proposals, to which broad-brush land give-aways by Congress are anathema.

Finally, attachment #2 is my point-by-point tear-down of testimony by the State of Alaska before Congress last November, on supposed justifications for the kinds of forest land give-aways that Sen. Murkowski is proposing in these two bills.

Thank you for your consideration,



Larry Edwards (ledwards@greenpeace.org)

Attachments: (1) House Rept. 107-744, 2002. (2) "Critique of Alaska Governor's-Office Statements ... Sept. 29, 2015," by Greenpeace, Nov. 3, 2015.

http://www.gpo.gov/fdsys/pkg/CRPT-107hrpt744/html/CRPT-107hrpt744.htm

[House Report 107-744]
[From the U.S. Government Publishing Office]

107th Congress Report
HOUSE OF REPRESENTATIVES
2d Session 107-744

(See: "Dissenting views of representative George Miller", beginning on p.10)

ALASKA NATIVE VETERANS LAND ALLOTMENT EQUITY ACT

October 11, 2002.--Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Hansen, from the Committee on Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3148]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3148) to amend the Alaska Native Claims Settlement Act to provide equitable treatment of Alaska Native Vietnam Veterans, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Alaska Native Veterans Land Allotment Equity Act''.

SEC. 2. AMENDMENT TO ALLOW CERTAIN ALASKA NATIVE VETERAN LAND ALLOTMENTS.

Section 41 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629g) is amended as follows:

(1) Paragraphs (1) and (2) of subsection (a) are amended to

read as follows:

``(1) The period for filing allotments under this Act shall end 3 years after the Secretary issues final regulations under section 3 of the Alaska Native Veterans Land Allotment Equity Act. A person described in paragraph (1) or (2) of subsection (b) shall be eligible for an allotment of not more than two parcels of Federal land totaling 160 acres or less.

``(2)(A) Allotments may be selected from the following:

``(i) Vacant lands that are owned by the United States;

``(ii) Lands that have been selected or conveyed to the State of Alaska if the State voluntarily relinquishes or conveys to the United States the land for the allotment.

``(iii) Lands that have been selected or conveyed to a Native Corporation if the Native Corporation voluntarily relinquishes or conveys to the United States the land for the allotment.

``(B) A Native Corporation may select an equal amount of acres of appropriate Federal land within the State of Alaska to replace lands voluntarily relinquished or conveyed by that Native Corporation under subparagraph (A)(iii).

``(C) For security reasons, allotments may not be selected from--

``(i) lands within the right-of-way granted for the TransAlaska Pipeline; or

``(ii) the inner or outer corridor of that right-of-way withdrawal.''.

(2) Subsection (a)(3) is repealed.

(3) In subsection (b)(1), strike ``A person'' and insert ``Except as provided in paragraph (3), a person''.

(4) Subsection (b)(1)(B) is amended to read as follows:

``(B) is a veteran who served during the period between August 5, 1964, and May 7, 1975, including such dates.''.

(5) Subsection (b)(2) is amended to read as follows:

``(2) If an individual who would otherwise have been eligible for an allotment dies before applying for the allotment, an heir on behalf of the estate of the deceased veteran may apply for and receive the allotment.''.

(6) In subsection (b)(3), insert before the period the following: ``, except for an heir who applies and receives an allotment on behalf of the estate of a deceased veteran pursuant to paragraph (2)''.

(7) Subsection (e) is amended to read as follows:

``(e) Regulations.--All regulations in effect immediately before the enactment of subsection (f) that were promulgated under the authority of this section shall be repealed in accordance with section 552(a)(1)(E) of the Administrative Procedure Act (5 U.S.C. 552(a)(1)(E)).''.

(8) Add at the end the following new subsections:

``(f) Approval of Allotments.--(1) Subject to valid existing rights, and except as otherwise provided in this subsection, not later than January 31, 2007, the Secretary shall approve an application for allotments filed in accordance with subsection (a) and issue a certificate of allotment which shall be subject to the same terms, conditions, restrictions, and protections provided for such allotments.

``(2) Upon receipt of an allotment application, but in any event not later than October 31, 2005, the Secretary shall notify any person or entity having an interest in land potentially adverse to the applicant of their right to initiate a private contest or file a protest under existing Federal regulations.

``(3) Not later than January 31, 2007, the Secretary shall--
``(A) if no contest or protest is timely filed, approve the application pursuant to paragraph (1); or
``(B) if a contest or protest is timely filed, stay the issuance of the certificate of allotment until the contest or protest has been decided.
``(g) Reselection.--A person who made an allotment selection under this section before the date of the enactment of Alaska Native Veterans Land Allotment Equity Act may withdraw that selection and reselect lands under this section if the lands originally selected were not conveyed to that person before the date of the enactment of Alaska Native Veterans Land Allotment Equity Act.''.

SEC. 3. REGULATIONS.

Not later than 1 year after the date of the enactment of this Act, the Secretary of the Interior shall issue final regulations to implement the amendments made by this Act.

Purpose of the Bill

The purpose of H.R. 3148 is to amend the Alaska Native Claims Settlement Act to provide equitable treatment of Alaska Native Vietnam veterans, and for other purposes.

Background and Need for Legislation

In 1998, Public Law 105-276 amended the Alaska Native Claims Settlement Act (ANCSA) to provide Alaska Native Vietnam veterans an opportunity to obtain an allotment of up to 160 acres of land under the Native Allotment Act. Approximately 2,800 Alaska Natives served in the military during the Vietnam conflict and therefore did not have an opportunity to apply for their Native allotment. However, Public Law 105-276 contains three major obstacles that prevent Alaska Native Vietnam veterans from selecting and obtaining their Native allotment. First, Alaska Native Vietnam veterans can only apply for land that was vacant, unappropriated, and unreserved when their use first began. Second, Alaska Native Vietnam veterans can only apply if they served in active military duty from January 1, 1969 to December 31, 1971 (even though the Vietnam conflict began August 5, 1964 and ended May 7, 1975). Third, Alaska Native Vietnam veterans must prove they used the land (applied for in their native allotment application) in a substantially continuous and independent manner, at least potentially exclusive of others, for five or more years. This requirement was not in the original Native Allotment Act, nor has it been required of other Alaska Native applicants in applying for their native allotment. Further, adjudication of use and occupancy issues will take years and will be very costly.

H.R. 3148 will increase the available land by authorizing Alaska Native Vietnam veterans to apply for land that is federally owned and vacant. The lack of available land under existing law nullifies the very purpose of granting Alaska Native Vietnam veterans an allotment benefit. H.R. 3148 will also expand the military service dates to coincide with the entire Vietnam conflict: August 5, 1964 through May 7, 1975. The expansion of military service dates to include all Alaska Natives who served in the military during the Vietnam conflict

is consistent with the federal government's policy of providing benefits to veterans of the Vietnam war. In addition, H.R. 3148 will also replace existing use and occupancy requirements with legislative approval of allotment applications. Use and occupancy requirements would be replaced for several reasons: (1) Congress has made legislative approval available to all other allotment applicants under 43 U.S.C. 1634(a)(1)(A); (2) legislative approval of allotments prevents costly and lengthy adjudication of use and occupancy issues; and (3) many Alaska Native Vietnam veterans could not meet use and occupancy requirements as a result of military service.

The bill would also extend the deadline of the allotment application to three years after the Secretary of the Interior issues final regulations under section 3 of the bill. H.R. 3148 would also correct the dates of approval of allotments to accommodate the extension of the application process of an Alaska Native Vietnam veteran. Language has also been added to assure ANCSA native corporations that their land entitlement would remain intact when a veteran makes his or her allotment land selection on corporation lands. For security reasons, H.R. 3148 prohibits an Alaska Native Vietnam veteran from selecting lands within the right of way granted for the TransAlaska Pipeline (or the inner or outer corridor of that right-of-way) and lands withdrawn or reserved for national defense purposes. Section 2(g) would allow a person who made an allotment selection under this section, before the date of enactment of this bill, to withdraw that selection and reselect lands under this section if the lands originally selected were not conveyed to that person prior to enactment of this bill. H.R. 3148 also directs the Secretary of the Interior to develop final regulations to implement the bill.

Committee Action

H.R. 3148 was introduced on October 16, 2001, by Congressman Don Young (R-AK). The bill was referred to the Committee on Resources. On June 5, 2002 the Committee held a hearing on the bill. On September 12, 2002, the Committee met to mark up the bill. Congressman Don Young offered an amendment in the nature of a substitute to make several changes recommended by Doyon Limited, CIRI, several Alaska Native Corporations and Alyeska Pipeline Company. It was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

Committee Oversight Findings and Recommendations

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

Constitutional Authority Statement

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

Compliance With House Rule XIII

http://www.gpo.gov/fdsys/pkg/CRPT-107hrpt744/html/CRPT-107hrpt744.htm

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, H.R. 3148 could increase direct spending, but they estimate that any such impact would not be significant.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the Alaska Native Claims Settlement Act to provide equitable treatment of Alaska Native Vietnam Veterans, and for other purposes.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, October 3, 2002.

Hon. James V. Hansen,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3148, the Alaska Native Veterans Land Allotment Equity Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

Barry B. Anderson
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3148--Alaska Native Veterans Land Allotment Equity Act

Summary: H.R. 3148 would amend current law to authorize the Secretary of the Interior to grant allotments of federal lands to certain Alaska Natives or their heirs. CBO estimates that implementing H.R. 3148 would cost $11 million over the 2003-2007 period, assuming appropriation of the necessary amounts. The bill could increase direct spending, but we estimate that any such impact would not be significant.

H.R. 3148 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would have no significant impact on the budgets of state, local, or tribal governments.

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Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3148 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year	
	2003	2004
CHANGES IN SPENDING SUBJECT TO APPROPRIATION		
Estimated Authorization Level	1	2
Estimated Outlays	1	2

Basis of estimate: Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 3148 would cost $11 million over the next five years. We also estimate that the bill could reduce offsetting receipts (a credit against direct spending), but by less than $500,000 a year. For this estimate, CBO assumes that H.R. 3148 will be enacted early in fiscal year 2003 and that the necessary funds will be provided near the start of each fiscal year. Estimates of outlays are based on historical spending patterns for similar activities.

Spending subject to appropriation

H.R. 3148 would amend current law to authorize the Secretary of the Interior to grant allotments of federal lands to certain Alaska Natives who served in the armed forces in Vietnam during the period from August 5, 1964, to May 7, 1975. The bill also would authorize the Secretary to grant allotments to the heirs of eligible deceased veterans, and, under certain circumstances, would allow certain other Alaska Native individuals and organizations with existing allotments to withdraw those allotments and select other lands instead. H.R. 3148 would direct the Secretary to promulgate regulations to implement the proposed program and specifies that applications to participate could be submitted until three years after the date when those regulations are published. Under the bill, any application still pending as of January 31, 2007, would be automatically approved at that time, provided that no other party has contested the application.

Based on information from the Department of the Interior (DOI), CBO estimates that issuing regulations pursuant to H.R. 3148 would cost about $1 million in 2003. We also estimate that eligible Alaska Natives would file up to 2,000 new applications for allotments. Assuming that, on average, the department spends $5,000 to review each application permit, we estimate that the costs of processing those applications would total $10 million over the 2004-2007 period.

Direct spending

Under H.R. 3148, eligible Alaska Natives could apply for allotments on a wide variety of federal lands in Alaska, including those that might produce offsetting receipts from programs to develop natural resources. According to DOI, the

Secretary is unlikely to approve applications for allotments on lands that are expected to generate significant receipts over the next 10 years. Under the bill, it is possible that some applications may be automatically approved on January 31, 2007, even if the Secretary has not had sufficient time to review them. However, any applications so approved would be subject to valid existing rights; hence, we estimate that any forgone offsetting receipts under H.R. 3148 would likely be insignificant.

Intergovernmental and private-sector impact: H.R. 3148 contains no intergovernmental or private-sector mandates as defined in UMRA and would have no significant impact on the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Megan Carroll; Impact on State, Local, and Tribal Governments: Marjorie Miller; and Impact on the Private Sector: Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

Compliance With Public Law 104-4

This bill contains no unfunded mandates.

Preemption of State, Local or Tribal Law

This bill is not intended to preempt any State, local or tribal law.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 41 OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

OPEN SEASON FOR CERTAIN ALASKA NATIVE VETERANS FOR ALLOTMENTS

Sec. 41. (a) In General.--[(1) During the eighteen month period following promulgation of implementing rules pursuant to subsection (e), a person described in subsection (b) shall be eligible for an allotment of not more than two parcels of federal land totaling 160 acres or less under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as such Act was in effect before December 18, 1971.] (1) The period for filing allotments under this Act shall end 3 years after the Secretary issues final regulations under section 3 of the Alaska Native Veterans Land Allotment Equity Act. A person described in paragraph (1) or (2) of subsection (b) shall be eligible for an allotment of not more than two parcels of Federal land totaling 160 acres or less.

[(2) Allotments may be selected only from lands that were vacant, unappropriated, and unreserved on the date when the person eligible for the allotment first used and occupied those lands.

[(3) The Secretary may not convey allotments containing any

of the following--
[(A) lands upon which a native or non-native campsite is located, except for a campsite used primarily by the person selecting the allotment;
[(B) lands selected by, but not conveyed to, the State of Alaska pursuant to the Alaska Statehood Act or any other provision of law;
[(C) lands selected by, but not conveyed to, a Village or Regional Corporation;
[(D) lands designated as wilderness by statute;
[(E) acquired lands;
[(F) lands containing a building, permanent structure, or other development owned or controlled by the United States, another unit of government, or a person other than the person selecting the allotment;
[(G) lands withdrawn or reserved for national defense purposes other than National Petroleum Reserve-Alaska;
[(H) National Forest Lands; and
[(I) lands selected or claimed, but not conveyed, under a public land law, including but not limited to the following:
[(1) Lands within a recorded mining claim.
[(2) Home sites.
[(3) Trade and Manufacturing sites.
[(4) Reindeer sites or headquarters sites.
[(5) Cemetery sites.]

(2)(A) Allotments may be selected from the following:
(i) Vacant lands that are owned by the United States;
(ii) Lands that have been selected or conveyed to the State of Alaska if the State voluntarily relinquishes or conveys to the United States the land for the allotment.
(iii) Lands that have been selected or conveyed to a Native Corporation if the Native Corporation voluntarily relinquishes or conveys to the United States the land for the allotment.

(B) A Native Corporation may select an equal amount of acres of appropriate Federal land within the State of Alaska to replace lands voluntarily relinquished or conveyed by that Native Corporation under subparagraph (A)(iii).

(C) For security reasons, allotments may not be selected from--
(i) lands within the right-of-way granted for the TransAlaska Pipeline; or
(ii) the inner or outer corridor of that right-of-way withdrawal.

* * * * * * *

(b) Eligible Person.--(1) [A person] Except as provided in paragraph (3), a person is eligible to select an allotment under this section if that person--
(A) * * *
[(B) is a veteran who served during the period between January 1, 1969 and December 31, 1971 and--
[(i) served at least 6 months between January 1, 1969 and December 31, 1971; or
[(ii) enlisted or was drafted into military service after June 2, 1971 but before December

3, 1971.

[(2) The personal representative or special administrator, appointed in an Alaska State court proceeding of the estate of a decedent who was eligible under subsection (b)(1)(A) may, for the benefit of the heirs, select an allotment if the decedent was a veteran who served in South East Asia at any time during the period beginning August 5, 1964, and ending December 31, 1971, and during that period the decedent--

[(A) was killed in action;

[(B) was wounded in action and subsequently died as a direct consequence of that wound, as determined by the Department of Veterans Affairs; or

[(C) died while a prisoner of war.]

(B) is a veteran who served during the period between August 5, 1964, and May 7, 1975, including such dates.

(2) If an individual who would otherwise have been eligible for an allotment dies before applying for the allotment, an heir on behalf of the estate of the deceased veteran may apply for and receive the allotment.

(3) No person who received an allotment or has a pending allotment under the Act of May 17, 1906 may receive an allotment under this section, except for an heir who applies and receives an allotment on behalf of the estate of a deceased veteran pursuant to paragraph (2).

* * * * * * *

[(e) Regulations.--No later than 18 months after enactment of this section, the Secretary of the Interior shall promulgate, after consultation with Alaska Natives groups, rules to carry out this section.]

(e) Regulations.--All regulations in effect immediately before the enactment of subsection (f) that were promulgated under the authority of this section shall be repealed in accordance with section 552(a)(1)(E) of the Administrative Procedure Act (5 U.S.C. 552(a)(1)(E)).

(f) Approval of Allotments.--(1) Subject to valid existing rights, and except as otherwise provided in this subsection, not later than January 31, 2007, the Secretary shall approve an application for allotments filed in accordance with subsection (a) and issue a certificate of allotment which shall be subject to the same terms, conditions, restrictions, and protections provided for such allotments.

(2) Upon receipt of an allotment application, but in any event not later than October 31, 2005, the Secretary shall notify any person or entity having an interest in land potentially adverse to the applicant of their right to initiate a private contest or file a protest under existing Federal regulations.

(3) Not later than January 31, 2007, the Secretary shall--

(A) if no contest or protest is timely filed, approve the application pursuant to paragraph (1); or

(B) if a contest or protest is timely filed, stay the issuance of the certificate of allotment until the contest or protest has been decided.

(g) Reselection.--A person who made an allotment selection under this section before the date of the enactment of Alaska Native Veterans Land Allotment Equity Act may withdraw that selection and reselect lands under this section if the lands

http://www.gpo.gov/fdsys/pkg/CRPT-107hrpt744/html/CRPT-107hrpt744.htm

originally selected were not conveyed to that person before the date of the enactment of Alaska Native Veterans Land Allotment Equity Act.

DISSENTING VIEWS OF REPRESENTATIVE GEORGE MILLER

While cloaked in a veil of sympathetic beneficiaries, this legislation is fraught with substantive problems. By resurrecting an old homesteading statute, the Allotment Act of 1906--which was repealed by Congress in 1971--H.R. 3148 would allow any Alaska Native (or their heirs) who served in the military anytime between 1964 and 1975 to freely select and receive up to 160 acres of public land in Alaska. As a result, several hundred thousand acres of pristine and valuable lands could be conveyed out of public ownership, with several thousand new private inholdings created in national parks, national wildlife refuges, national forests, military withdrawals and other important public lands in Alaska. Once conveyed, such allotment lands may be developed or even sold without restriction.

In 1971, the Alaska Native Claims Settlement Act granted Alaska Native corporations over 44 million acres of land and over $1 billion to manage on behalf of Native shareholders. In 1958, the Alaska Statehood Act provided the State of Alaska over 104 million acres of land. Yet neither the Alaska Native corporations nor the State have chosen to grant any of their own lands to Native veterans of Vietnam or any other era as a reward for their military service. Instead, H.R. 3148 seeks yet again to make more private withdrawals from the bank of lands that are owned by the United States for the benefit of all the American people.

Congress has twice in recent years addressed the ``missed opportunity'' equities of Alaska Natives who served in the military just prior to the 1971 repeal of the Allotment Act of 1906 and who may have lost out on their opportunities to apply because of that service. In 1998, a rider on the FY 99 VA-HUD Appropriations bill (Public Law 105-276) restored eligibility for a limited class of military veterans, those who served between 1969 and 1971. In 2000, additional refinements and technical changes were made (Public Law 106-559).

At that time, however, the Department of the Interior stated that ``we are opposed to further changes or expansion of the law, which we believe fully and fairly addresses the problem of lost opportunity due to military service for Alaska Native veterans of the Vietnam War to apply for allotments.'' And the Democratic floor manager stated that ``by allowing this bill to proceed, it is our intent that this action is final and that there will be no further extensions of land claims under an act that was passed by Congress at the turn of the century and repealed three decades ago.'' [See: Congressional Record, October 10, 2000 at page H9616]

Unfortunately, H.R. 3148 would rewrite the 1998 and 2000 negotiated agreements, disregard the ``missed opportunity'' rationale and eliminate the eligibility criteria of the original Allotment Act. The bill would substantially expand the number of veterans, or their heirs, who could obtain lands, and open public lands such as wilderness areas or the Tongass and Chugach National Forests that are off-limits under current law. In effect, it would sanction thousands of new claims on

virtually any federal lands in Alaska, without even any showing of prior use or occupancy of the lands as was required under the Allotment Act.

The substitute adopted at the committee markup does not remedy any of the fundamental flaws of the legislation. It puts the Trans-Alaska Pipeline corridor off-limits to new allotment land grants, but fails to similarly protect Department of Defense lands or other congressional designated reserves and conservation areas. It allows Native corporations and the State of Alaska to chose to convey lands for Native allotments, but further undercuts and complicates public land management in Alaska by providing that they will be reimbursed by the Untied States with additional lands.

Even the Bush Administration testified in strong opposition to H.R. 3148 at the June 5, 2002 full committee hearing. In a June 21st letter, the Department of the Interior restated their rationale for opposing the bill, noting that it ``essentially makes the renewal of the opportunity to apply for an allotment under the 1906 Allotment Act a special bonus or reward for service for one class of Alaska Natives, those who served in the Vietnam war, but no longer has any basis in missed opportunity. * * * This bonus program, available only to Alaska Natives and to no other veterans, also raises the possibility of Constitutional challenge as to whether it may be an impermissible preference.'' [See: Attachment A] An analysis dated September 24, 2002 by the Congressional Research Service states that ``it is possible that the courts might view H.R. 3148's extension of a benefit to Alaska Native veterans not shared by all veterans or non-Alaska Native residents of the State as describing a racial classification subject to strict judicial scrutiny under the Equal Protection Clause.'' [See: Attachment B]

Regardless of its potential Constitutional defects, H.R. 3148 is fundamentally bad public policy. It reopens and exponentially expands the Allotment Act of 1906 that Congress repealed in 1971 when it enacted the most generous land settlement in United States history. It discards the equitable missed opportunity premise underlying the negotiated agreements of 1998 and 2000 and discards the protections in those laws to expose wilderness areas, national forests and other valuable public lands to privatization.

H.R. 3148 should not have been reported by the Committee on Resources and it should be rejected if it comes before the House of Representatives.

George Miller.

[ATTACHMENT A]

Department of the Interior,
Office of the Secretary,
Washington, DC, June 21, 2002.

Hon. James V. Hansen,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

Dear Mr. Chairman: This letter responds to your request for the views of the Department of the Interior on H.R. 3148, which would amend section 1629(g) of the Alaska Native Claims Settlement Act (ANCSA), originally enacted as the Alaska Native

Vietnam Veterans Allotment Act of 1998 (Section 432 of Public Law 105-276). The purpose of the 1998 Act was to redress unfairness that may have resulted for certain Alaska Native Veterans of the Vietnam War who may have missed an opportunity to apply for an allotment under the 1906 Native Allotment Act because of service in the armed forces immediately prior to the repeal of the Allotment Act. The Allotment Act was repealed with the enactment of ANCSA on December 18, 1971. The 1998 Act gave qualified Vietnam veterans a renewed opportunity to apply under the Allotment Act. This letter follows and confirms my testimony to the Committee on June 5, 2002.

We certainly support the principle of equitable treatment of Alaska Vietnam Veterans, and we have made every effort at fairness under the 1998 Act. While we have made considerable progress under the 1998 Act, we appreciate that there may be frustrations among many Alaska Native veterans under the current act, frustrations in that there are limitations on eligibility and entitlements under the Act, frustrations about time of administration, and frustrations in that all are not entitled. We believe there may be a misconception among many Native veterans that because they served, they are entitled to an allotment. That was not the purpose of the 1998 Act.

The new bill, H.R. 3148, while it aims at fairness, raises a number of serious new policy, management, and technical concerns, and it would give rise to new issues of fairness with respect to other Alaska Natives and other Vietnam veterans. It would undo the important compromises reached in the passage of the 1998 Act. It would stall, if not negate the progress made so far under the 1998 Act, and it would disrupt ongoing progress, settled land use arrangements under ANCSA and ANILCA, and efforts to finalize land entitlements under ANCSA, the Statehood Act, and the 1906 Allotment Act. Therefore the Administration is opposed to H.R. 3148.

H.R. 3148 is a significant departure from the original ``missed oppostunity'' concept of the Alaska Native Vietnam Veterans Allotment Act. H.R. 3148 extends the eligibility period of the current Native Vietnam Veterans Allotment Act. H.R. 3148 extends the eligibility period of the current law from a three year period to the entire Vietnam Era, from 1964 to 1975, including four additional years after the 1971 repeal of the Alaska Native Allotment Act, when other Alaska Natives could no longer apply. Essentially, most if not all Alaska Native Vietnam veterans, or the heirs of deceased veterans, would appear to be eligible to apply for an allotment.

The 1998 Act limited military service eligibility to those individuals who served between 1969 and 1971. The rationale behind this limitation was the fact that that was the period when missed opportunity because of service was likely to occur. Also, there was a major effort by the Bureau of Indian Affairs, Alaska Legal Services Corporation, the Rural Alaska Community Action Program (RurAlCAP) and other entities during this period to solicit the filing of Native allotment applications in anticipation of the repeal of the 1906 Act. Those Alaska Natives who were serving in the military during this period may not have been able to benefit from the outreach effort. Veterans who served prior to January 1, 1969, generally had the same opportunities to learn about the Native allotment program and to apply as any other Alaska Native. Those who served after December 18, 1971, as with all other Alaska Natives, had no

further opportunity to apply for allotments because of repeal of the Act. Neither group can be considered to have missed their opportunity to apply for an allotment because of their military service.

The new bill, H.R. 3148, essentially makes the renewal of the opportunity to apply for an allotment under the 1906 Allotment Act a special bonus or reward for service for one class of Alaska Natives, those who served in the Vietnam war, but no longer has any basis in missed opportunity.

H.R. 3148 would thus discriminate and create inequities between Alaska Native Vietnam veterans and Natives who did not serve in the military, between Native veterans and non-Native veterans, and between Native veterans with military service during the Vietnam Era and Native veterans who served in World War II, Korea, or other conflicts. This bonus program, available only to Alaska Natives and to no other veterans, also raises the possibility of Constitutional challenge as to whether it may be an impermissible preference.

Progress under the current law

From the passage of the 1998 Act until the final regulations were published, BLM conducted extensive outreach efforts to reach potential Alaska Native Veteran Allotment applicants. These efforts are detailed on the attached appendix.

Section 432 of Public Law 104-276 required the Secretary of the Interior to promulgate regulations within 18 months to carry out the Alaska Native Veterans Allotment program. The law also provided for an 18-month application filing period to begin when the regulationsbecame effective. On February 8, 2000, following a series of public meetings to gather input from Native groups, State and Federal entities, and private individuals and groups, a proposed rule was published in the Federal Register. Following a 60-day comment period, the final rule was published on June 30, 2000. Revised regulations to implement the terms of a December 2000 amendment to the 1998 Act were published in final form on October 16, 2001.

During development of the regulations to implement the 1998 Act, the BLM estimated that as many as 1,100 Alaska Native veterans might be eligible to apply for allotments under the provisions of that Act. This estimate was based on analysis of the DVA data used to prepare the Department's 1997 Report to Congress, and was inflated somewhat to account for the fact that there were potentially eligible individuals who were not identified by DVA.

The filing period for Native veterans allotment applications began on July 31, 2000, and continued through January 13, 2002. BLM received applications for 991 parcels of land from more than 700 individual applicants. A majority of the applications were received, and approximately 700 parcels were claimed during January 2002, the last month of the filing period. Many of the applications filed in 2000 and 2001 have been rejected because of non-resident status, failure to meet military service criteria, or application for lands that have been conveyed or are not available. For applications involving unavailable lands, BLM made every effort to identify those applications as quickly as possible so that applicants who are otherwise eligible could still have the opportunity to apply for other land.

We do not know at this time how many of the applications filed in January 2002 are legally sufficient or defective, in part because we have had to concentrate our efforts on serializing the large, late influx of new applications and having them noted to the official BLM records. We note that approximately 250 applications received at the end of the filing period contained no land descriptions. Work is ongoing on other veterans applications. Field examination and survey of veterans allotment parcels are mixed in with existing schedules for similar work on original applications filed under the 1906 Act.

Also pursuant to section 432 of P.L. 105-276, the Department has submitted a report to the Congress on the status of Alaska Vietnam veterans who served during a period other than that specified for eligibility under section 432. The report made an extensive survey of circumstances of Alaska Vietnam veterans and reasons why they did not apply under the Allotment Act, but it recommended against expanding the eligibility period and raised no considerations consistent with terms proposed by H.R. 3148.

Other problems with H.R. 3148

In addition to the fairness and potential Constitutional problems noted above, the bill raises other serious concerns.

H.R. 3148 rescinds all regulations promulgated to implement the current law

H.R. 3148 would repeal all regulations promulgated under the Alaska Native Veterans Allotment Act of 1998, which includes the original regulations published in the Federal Register in June 2000 (43 CFR 2568) as well as the amended regulations published on October 16, 2001, to implement the changes made by Public law 106-559 in December 2000 (the amended regulations became effective on November 15, 2001). Eliminating the veterans allotment regulations would not only leave BLM and the other land management agencies without any guidance to implement the program, but it would also leave applicants with no certainty of what is expected of them. These regulations provide, among other matters, the guidance essential for the processing of veterans allotment applications, the rules governing compatibility determinations for applications in Conservation System Units, the rules governing appeals from different types of decisions, and safeguards to State and ANCSA entitlements.

H.R. 3148 removes protections for certain lands provided under the 1998 act

The change in the definition of available lands for allotments from ``vacant, unappropriated, and unreserved'' to ``vacant lands that are owned by the United States'' raises the question whether the prior requirements of the 1906 Allotment Act still apply. Section (b)(1) of the 1998 Act, as kept under HR 3148, would indicate that they do, but the new (a)(2) is conflicting. If the term ``vacant land of the United States'' controls, then any vacant U.S. lands are open, including parks, refuges, wilderness, and possible defense properties. CSU protections may be rendered moot. Previously withdrawn lands, including, for instance, Tongass National Forest, would

presumably become available. Further, H.R. 3148 proposes to repeal 43 U.S.C. 1629g(a)(3), which protected numerous special areas, including acquired lands, lands withdrawn for defense purposes, National Forest lands, wilderness, campsites, trade and manufacturing sites, lands containing buildings or other development, cemetery sites, home sites, and more. Defense and acquired lands would be available. For instance, since 1991, the Fish and Wildlife Service has spent over 150 million dollars acquiring land on Alaska's National Wildlife Refuges, mostly from Native corporations and allotted. These newly acquired lands would be available for Native veteran allotment applications under this bill.

Additionally, H.R. 3148 may eliminate the standard Allotment Act rules concerning use and occupancy of the land. This changes previous tenets of law for occupancy of public lands.

In a related issue, it is unclear whether H.R. 3148 would eliminate the requirement of the 1906 Native Allotment Act that an applicant must be a resident of Alaska. Allowing Native allotments in Alaska for non-residents, many of whom have never lived in Alaska, we believe would be totally contrary to the intent of both the 1906 Act and the 1998 Alaska Native Veterans Allotment Act. While we do not interpret the language in H.R. 3148 as eliminating the residency requirement, we wish to make it clear that we are opposed to any effort to eliminate thisrequirement and we object to any language which could be interpreted to do so.

H.R. 3148 provides for legislative approval of all applications eighteen months after the filing deadline

This, combined with the rescission of the regulations, virtually assures that most applications will be approved without the regular review process and without the applicants demonstrating that they used and occupied the claimed land in accordance with the 1906 Native Allotment Act and remaining regulations. Persons who do not meet the use and occupancy requirements can apply for land secure in the knowledge that becasue of short time frames and lack of regulations, BLM will not be able to field examine and adjudicate most claims by the deadline and most will ultimately be legislatively approved. This will encourage wrongful claims and result in wrongful conveyance of Federal land. It will also render ineffective the protections provided to conservation system units (CSU's) by Section (1)(a)(5) of the existing law.

Eligibility of all heirs of all decedents

Although the right to file an application under the 1906 Allotment Act did not survive the death of an individual, the 1998 Act, for the first time in the history of public land law, allowed the filing of an allotment application by the personal representative of the estate of a deceased veteran if that veteran died in combat or as a POW during a certain period of time or died later as a result of a service connected wound received during that time. The military service eligibility period for deceased veterans in Section 432 was January 1, 1969, through December 31, 1971; this period was expanded by the December 2000 amendment to include the period beginning August 5, 1964, and ending December 31, 1971. These provisions were a carefully limited compromise from earlier pre-enactment

provisions that allowed all heirs to apply, strongly opposed by the Department.

The lack of manageability of allowing all heirs to apply can be illustrated by reference to one word, Cobell. At the core of that now infamous law case is the essential impossibility of tracking multiplying heirs and fractionated heirships. H.R. 3148 would eliminate all reference to a personal representative and would allow ``an heir'' to apply for an allotment on behalf of the estate of a deceased veteran. Many Native allotment applicants have numerous heirs, and many estates of deceased Natives have never been probated so heirship is unknown. H.R. 3148 would put the Department in the business of attempting to determine eligible heirs, of having to establishing the class of possible eligible heirs in order to grant an allotment, and of risking, after such allotment were granted, facing another claim by some other undiscovered heir. Multiple potential heirs could apply on behalf of a single estate, and if there is a dispute among heirs, BLM would have to engage in the conflict.

When combined with the 18 month legislative approval, a likely result of the heirship provisions is that several claims could be approved for the same decedent, even if conflicting, because necessary review would not be achieved in the 18 months.

Added to this is the inevitable additional difficulty of proof of site and of use and occupancy through heirs, rather than by the original occupant. There is substantial potential for conflict, litigation, and delay of all allotment applications by virtue of any heirship provision. The Department is strongly opposed to any expansion of rights of heirs to apply.

Unrealistic deadlines and impacts on current ANCSA, State, and Allotment Act conveyances and on third party interests

Because the work on new Veterans applications is necessarily mixed in with current work on already pending Allotment, State, and ANCSA applications the bill would result in devastating impacts on BLM's ability to finalize State and ANCSA land transfer entitlements and to complete conveyances to other Alaska Natives under the 1906 Native Allotment Act.

We estimate that the potential exists for as many as 5200 parcels of land to be claimed under the expanded eligibility provisions of H.R. 3148. H.R. 3148 would create a filing period for applications ending on July 31, 2003. The bill also contains a provision for approval of veterans allotment applications and issuance of certificates of allotment ``not later than January 31, 2005, that is, eighteen months after the end of the filing period. This deadline is problematic for two reasons: (1) it is unrealistic to expect as many as 5200 individual parcels of land to be adjudicated, examined, surveyed, and conveyed in an eighteen-month period (survey alone normally takes longer than eighteen months from issuance of survey instructions and contracts to approval of survey plats and field notes and notation of surveys to BLM records); and (2) the deadline would necessitate that the processing of veterans allotment applications be placed ahead of State applications and other Native applications under the 1906 Act and under the Alaska Native Claims Settlement Act.

BLM records show that more than 3100 parcels claimed under the 1906 Allotment Act are still pending and awaiting final disposition. Many of the applicants for these parcels have been waiting for decades to receive title to their allotments.

Third party or adverse interests could be compromised by the application and protest deadlines and automatic approvals of allotment applications, resulting in potential takings, since the Department will not have the time to identify all third party interests in time to meet the protest requirements of the bill and third parties may not be informed and be able to protest and adjudicate their interests before an allotment is approved.

These are some, but not all of the serious concerns raised by the bill. We believe that the bill will cause far more problems than it will solve.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Paul Hoffman,
Deputy Assistant Secretary for Fish, Wildlife, and Parks.

[ATTACHMENT B]

Congressional Research Service,
Washington, DC, September 24, 2002.

Memorandum

To: House Committee on Resources, Attention: Jeff Petrick.
From: M. Maureen Murphy, Legislative Attorney, American Law Division.
Subject: Potential Constitutional Issues in Connection with Providing Allotments to Alaska Native Vietnam Era Veterans as Proposed in H.R. 3148.

This responds to your request for information on potential constitutional challenges that could be raised to H.R. 3148, the Alaska Native Veterans Land Allotment Equity Act,\1\ whicih the House Committee on Resources voted to report on September 12, 2002. As requested, our response will be limited to identifying potential constitutional claims and describing the standards that the courts might apply in deciding the issues raised by them.

\1\ A bill similar to H.R. 3148, as introduced, is S. 2553, introduced by Sen. Murkowski for himself and Sen. Stevens. 148 Cong. Rec. S2553 (May 22, 2002).

This legislation would amend the Alaska Native Vietnam Veterans Allotment Act of 1998 (hereinafter, the Act),\2\ which resurrected a 1906 law repealed by the Alaska Native Claims Settlement Act of 1971 (ANCSA) \3\ for the limited purpose of permitting Alaska Native veterans who had been serving in the military during 1969, 1970, or 1971 to receive allotments of public lands in Alaska. The amendment would broaden the class of Alaska Native Vietnam Era veterans able to take advantage of this law and liberalize the conditions under which allotments

may be granted.

\2\ Pub. L. 105-276, Sec. 423, 112 Stat. 2516, 43 U.S.C. Sec. 1629g (1998).

\3\ Pub. L. 92-203, 85 Stat. 688, 43 U.S.C. Sec. Sec. 1601 et seq.

You are specifically interested in exploring what the Deputy Assistant Secretary of the Interior for Fish, Wildlife, and Parks, may have meant, in a June 21, 2002, memorandum to Chairman Hansen, by stating that the program contemplated by this legislation ``raises the possibility of Constitutional challenges as to whether it may be an impermissible preference.'' We not that the memorandum to Chairman Hansen does not elaborate on the reference to impermissible preference; nor does it assert that such a challenge would succeed. Whether such a challenge could succeed depends upon whether the class that is given a preference is held to be a suspect class, such as a class based on race, and whether in enacting the legislation Congress meets the standard that the courts will apply to the class distinguished for special treatment. Obviously, the group that is given preferential treatment in this legislation is comprised of Alaska Native veterans, who served in the years covered by this amendment. The reference in the memorandum, therefore, refers either to the possibility that the class is race-based because it consists of only Alaska Natives or to the fact that the beneficial treatment is being accorded on an arbitrary or capricious basis, rather than on a rational basis, to a group of Alaska Natives rather than all Alaska Natives; to a group of Vietnam Era Veterans rather than to all Vietnam Era veteran; or to a group of veterans rather than to all veterans. Without further specification, we can only speculate that this comment directs your attention to the possibility that the legislative history of this amendment would not provide a court sufficient information to conclude that Congress has met the appropriate standard for the legislation to survive equal protection scrutiny.

The rationale behind the 1998 Act may not be easily transferable to the current proposal. The 1998 legislation appears to have been an attempt to remedy a perceived injustice visited upon Alaska Natives who were eligible for allotments under the 1906 act but were serving in the military immediately prior to its repeal by ANSCA. The logic is that if they were in military service, they might not have been fully able to take advantage of the widely publicized \4\ last opportunity to apply for an allotment.\5\ Remedying the situation addressed by the 1998 legislation, therefore, would seem to comport with the test the Supreme Court has applied to legislation that singles out Indians or Indian tribes for preferential treatment in such cases as Morton v. Mancari \6\ and Delaware Tribal Business Comm. v. Weeks.\7\ Morton v. Mancari, the Supreme Court upheld laws providing preferential BIA hiring for Indians, emphasizing the breadth of Congressional authority in Indian affairs. It indicated that laws providing preferential treatment for Indians wojuld be upheld: ``[a]s long as the special treatment can be tied rationally to the fulfillment of Congress' unique obligation toward the Indians, such legislative judgments will not be disturbed.'' \8\

\4\ See 65 Fed. Reg. 6259 (February 8, 2000), describing efforts of Alaska Native Advocacy groups to contact eligible Natives who had not applied for allotments.

\5\ In introducing the legislation that gave rise to the 1998 Act. Rep. Don Young set forth its remedial purpose: ``Alaska Natives, who were in service to their country during the Vietnam War, missed their opportunity to apply for a Native allotment under the Native Allotment Act. Many were in war zones and others had not received their application from the Bureau of Indian Affirs (BIA). It is my firm belief that our Alaska Native Vietnam veterans merit the same rights as other Alaska Natives under this act. It is morally wrong of our country * * * to deny them the basic right afforded to other Alaska Native citizens under this act. This legislation will correct this inequity and give them the opportunity to apply for their allotment under the Native Allotment Act.'' 143 Cong. Rec. E 2220, E 2221 (November 7, 1997 daily ed.).

\6\ 417 U.S. 535 (1994).

\7\430 U.S. 73 (1977).

\8\ 417 U.S. 535, 555.

Whether that reasoning may be applied to H.R. 3148 with similar force depends to some extent upon the justification advanced in the legislative process. In enacting H.R. 3148, is Congress remedying failures in the original legislation and, thereby, acting as a trustee for the Alaska Natives whoe opportunities for allotments were foreclosed by their military service? If H.R. 3148 is merely providing an additional benefit to Alaska Native VietnamEra veterans not made available to any other Alaska Natives, Vietnam veterans, or veterans in general, the legislative history, to be most persuasive to a court, should indicate the reason for singling out those Alaska Native veterans in terms of some trusteeship obligation to them. Even if there is a sufficient showing of why Congress is obligated to provide this type of benefit for these beneficiaries or why Congress, in exercising its trusteeship powers in Indian affairs, has chosen to single this group out for special treatment, there lurks another issue that the courts may choose to address: how the enactment of ANSCA has altered Congress' trusteeship relationship towards Alaska Natives.

H.R. 3148 would broaden eligibility for allotments under the 1998 legislation by: extending the time period during which military service would qualify an Alaska Native veteran for an allotment; permitting allotments in some land not covered in the 1998 legislation; removing various requirements in the earlier legislation; and broadening the class of survivors able to claim an allotment on the basis of a decedent. Among the requirements removed are those specifying: (1) that the land be ``vacant, unappropriated, and unreserved on the date when the person eligible for the allotment first used and occupied those lands;'' \9\ and, (2) that the applicant for an allotment provide the Secretary of the Interior with proof of ``substantially continuous use and occupancy of the land for a period of five years.'' \10\ Under the amendment, any Alaska Native veteran who served at any time in the Vietnam Era, August 5, 1964 to May 7, 1975, who is determined to meet the qualifications of the 1906 Act as it existed upon repeal, would be eligible. Moreover, survivors of such veterans would be able to apply. \11\

\9\ 43 U.S.C. Sec. 1629g(a)(2).

\10\ Act of May 17, 1906, ch. 2469, 34 Stat. 197, as amended and codified at, 43 U.S.C. Sec. Sec. 270-1 to 270-3, prior to repeal by Pub. L. 92-203, Sec. 18(a), 85 Stat. 710 (ANSCA) and incorporated by reference into Pub. L. 105-559, Sec. 301. (hereinafter, the 1906 Act).

\11\ According to Rep. Young, who introduced this legislation, these are viewed as ``obstacles'' to the allotment process. 147 Cong. Rec. E 1894 (October 15, 2001).

There are other liberalizing features in the proposal, some of which may be viewed as corrections of defects in the earlier legislation and the regulatory regime implementing it. The proposal requires repeal of the entire set of regulations issued under the 1998 law, indicating dissatisfaction with how the earlier remedial legislation had been implemented. Among the changes that might be seen as remedies for the failure of the current regulatory process of issue allotments appropriately is an extension of the time for filing applications. The proposal permits applications for 3 years after the Department of the Interior (DOI) issues final regulations. Current law provided an 18-inch period that ended January 31, 2002.\12\ Another is an expansion of the available lands. The current law limits the lands available for allotment. For example, it excludes campsites, wilderness areas, lands containing buildings owned other than by the person selecting the allotment, lands withdrawn for national defense purposes, national forest lands, and lands selected or claimed under a public land law, or lands selected by the State of Alaska or a Native Corporation and not conveyed.\13\ H.R. 3148 specifies only that selections of allotments may not be made from lands within the Trans-Alaska Pipeline right-of-way and the inner corridor of that right-of-way withdrawal. The current law provides for limited survivor's benefits for the estates of decedents who served in South East Asia at any time from August 5, 1964 to December 31, 1971, and were killed in action or died from a wound received in action or as a prisoner of war, and requires application be submitted by the administrator or personal representative appointed by an Alaska state court.\14\ The proposal would permit heirs of any eligible Alaska Native Vietnam Era veteran to apply for the allotment on behalf of the estate.

\12\ 43 C.F.R. Sec. 2568.70, as promulgated 65 Fed. Reg. 40954, 40963 (June 30, 2000).

\13\ 43 U.S.C. Sec. 1629g(3).

\14\ 43 U.S.C. Sec. 1629g(b)(2).

Given that the enlargement of the class of persons who may apply for allotments does not appear to be based upon the rationale behind the original legislation, the legislative history of the current proposal is likely to be scrutinized by a court that uses the Morton v. Mancari test and attempts to determine whether H.R. 3148 is legislation that is ``tied rationally'' to a trust obligation to Alaska Natives. It would appear that at least two factors would be important to such an inquiry: (1) any documentation in the legislative history with regard to the intention of Congress and (2) how the court assess the trust obligation of Congress with respect to Alaska Natives in light of the enactment of ANSCA.

At present, without publication of a Report by the

Committee, the leading piece of legislative history for H.R. 3148 is Rep. Don Young's statement upon introducing the bill. In it, he identified the problem: ``Many Alaska Native Vietnam veterans'' who saw the 1998 Act ``as their last opportunity to obtain land which had been used by their families for generations for subsistence purposes'' ``lost'' that opportunity because they ``were excluded by the terms of * * * [the 1998 Act] * * *''\15\ He identified three obstacles to the allotment process that his legislation sought to address. Only two of these appear to be defects in the 1998 legislation with respect to its intended beneficiaries: lack of available land and proof of use of the land continuously for five or more years. Under the amendment, these corrections would modify requirements of the 1906 law as incorporated into the 1998 legislation. Were H.R. 3148 confined to these provisions, the same rationale that serves for the earlier legislation might be applied to it. Increasing the available land and eliminating the continuous usage requirement arguably go to the missed opportunity of those serving in the military before the cut off date. This might be seen as nothing more than fine tuning the earlier legislation to prevent military service from impeding eligibility for an allotment.

\15\ 147 Cong. Rec. E 1894 (October 16, 2001). The number of veterans so situated was estimated by Rep. Young to be 1,700.

The third obstacle is another matter, permitting all Vietnam Era Alaska Native veterans to apply for a missed opportunity allotment. In presenting H.R. 3148, Mr. Young emphasized the expanded dates in terms of veterans' benefits, rather than fairness to those whose military service impeded their applications before the cut off date. He stated:

> The expansion of military service dates to include all Alaska Native Vietnam veterans who served in the military during the Vietnam conflict is consistent with the federal government's policy of providing benefits to all veterans for the Vietnam conflict and not just to some of those veterans. This provision also fulfills the trust obligation to Alaska Natives. The limited military service dates have excluded many Alaska Native Vietnam veterans who bravely served during the Vietnam conflict. Never before has the United States given veteran land benefits to only a portion of those who served their country. The federal government has given public land benefits to all veterans (or their widows or heirs) of every war beginning with the Indian Wars of 1790and ending with the Korean conflict in 1955. As Members will recall, Alaska Native veterans were not eligible for these public land benefits until 1924 because the courts had determined Alaska natives were not United States citizens.\16\

\16\ Id., at E 1895.

The key difference between the 1998 law and H.R. 3148 seems to be that the ending date for military service that determines eligibility in the 1998 law roughly \17\ coincides with the date that ANSCA was enacted and the 1906 allotment process was repealed. The dates of military service in the proposal are not

coordinated to the repeal of the allotment process but to the Vietnam Era. This difference may open the way for a court to look at the issue of what trust obligation exists toward Alaska Natives following the enactment of ANSCA.

\17\ ANSCA was effective December 18, 1971; military service until December 31, 1971, could be used to determine eligibility under the 1998 Act, provided the veterans had served at least 6 months between January 19, 1969, and December 31, 1971, or enlisted or was drafted after June 2, 1971 but before December 3, 1971. 43 U.S.C. Sec. 1629g(b)(B).

Federal laws granting preference to Indian tribes have been upheld under the Morton v. Mancari standard provided they are found to be rationally related to the trust obligation of the federal government toward Indians. Until the passage of ANSCA, the existence of that trust obligation was generally unquestioned. Beginning with the treaty by Alaska Natives to the Indian affairs authority of Congress,\18\ all branches of the federal government have treated Alaska Natives analogously to Indians as objects of a federal trust relationship. One of those efforts was in the direction of providing land for their occupancy and subsistence in legislation such as the 1906 Alaska Natives Allotment Act and the 1926 Alaska Natives Townsite Act, as well as in instances of administratively established land reserves for Alaska Natives.\19\ The courts have been hospitable to the exercise of trusteeship powers by the federal government with respect to Alaska Natives.\20\

\18\ ``The uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country.'' Act of March 30, 1867, Art III, 15 Stat. 539, 542.

\19\ See U.S. Department of Interior, Alaska Native Claims Settlement Act (ANSCA): ANSCA 1985 Study: June 29, 1984 Draft I-23 (1985).

\20\ See, e.g. Alaska Pacific Fisheries v. United States, 248 U.S. 78 (1918); Territory of Alaska v. Annette Island Packing Co., 298 Fed. 671 (9th Cir. 1923), cert. denied, 26 U.S. 708 (1923); In Re Sah Quah, 31 F. 327 (D.Alaska 1886).

The recent case, Alaska v. Native Village of Venetie Tribal Government,\21\ may presage a change in that perspective, However. In Venetie, a unanimous Supreme Court rules against an Alaska Native entity, the Native of Village of Venetie Tribal Government, in its assertion of taxing authority. In reaching this conclusion, the Court construed various provisions of ANSCA as well as the federal Indian country statute, 18 U.S.C. Sec. 1151. Although the case did not present the issue of federal trusteeship over Alaska Natives or the existence of a government-to-government relationship between the United States and Alaska Native entities, the Court may have indicated a certain attitude to those issues. For example, it quoted extensively from provisions of ANSCA alluding to a change in the nature of the federal relationship after passage of the claims settlement legislation in 1971. For example, citing 43 U.S.C. Sec. 1601(b), the Court stated:

\21\ 522 U.S. 520 (1998).

> In enacting ANSCA, Congress sought to end the sort of federal supervision over Indian affairs that had previously marked federal Indian policy. ANSCA's text states that the settlement of the land claims was to be accomplished ``* * * without establishing any permanent racially defined institutions, rights, privileges, or obligations [and] without creating a reservation system or lengthy wardship or trusteeship'' \22\

\22\ 522 U.S. 520, 523-524 (emphasis in the original)

Even before Venetie, claims of governmental powers by Alaska Native entities have not received full endorsement by the courts.\23\ Central to Morton v. Mancari is the Court's view of the political, government-to-government relationship between the federal government and the Indian tribes. Although whether such a relationship has been affected by ANSCA has not been determined by the courts, the effect of the Venetie decision, if not its precise holding, may be viewed as undermining the notion of Indian sovereignty for Alaska Native entities.\24\ Against this backdrop, it is possible that the courts might view H.R. 3148's extension of a benefit to Alaska Native veterans not shared by all veterans or non-Alaska Native residents of the State as describing a racial classification subject to strict judicial scrutiny under the Equal Protection Clause.\25\ Strict scrutiny generally requires that challenged legislation serve a ``compelling'' governmental interest and that it do so by ``narrowly tailored'' means. The Supreme Court has recognized that the federal government has a compelling interest in remedying ``lingering effects'' of past discrimination against a protected group. The nature and level of proof that must be advanced by the legislature in support of a remedial racial classification remain largely unsettled, however.\26\ Moreover, whether a traditional remedial rationale even applies may be questioned where the reason for preferring all Alaska Native Vietnam Era veterans, regardless of years of service abroad, over other Alaska Natives or other veterans has yet to be fully fleshed out. The bill's preference for Alaska Native Veterans may also call for a showing by the government that it is a necessary and effective vehicle for accomplishing a congressional purpose that may not be accomplished by race neutral means. This ``narrowly tailored'' aspect of strict scrutiny is generally designed to curb legislative overbreadth and confine the scope of any racial classification to the particular purpose sought to be served

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\23\ See, e.g., Kake Village v. Egan, 369 U.S. 60 (1962);

\24\ See, John R. Bielski, ``Comment: Judicial Denial of Sovereignty for Alaskan Natives: An End to the Self-Determination Era'', 73 Temple L. Rev. 1279 (2000).

\25\ Adarand Constructors v. Pena, 515 U.S. 200 (1995).

\26\ E.g., Rothe Development Corp. v. U.S. Department of Defense, 262 F.3d 1306 (Fed. Cir. 2001).

We hope this information assists you and that you will call upon our office should you need further assistance.

M. Maureen Murphy,
Legislative Attorney.

Critique of Alaska Governor's-Office Statements to the House Federal Lands Subcommittee
Re: Testimony of Tom Crafford on Sept. 29, 2015

by Larry Edwards
Sitka Field Office, Greenpeace
November 3, 2015 (Rev. 1)

Tom Crafford testified on Sept. 29, 2015 at the Federal Lands Subcommittee's *Oversight Hearing on Federal Forest Management*, on behalf of Alaska's governor and in support of a transfer of two million acres of Tongass National Forest land to the state or other entities. This report challenges the veracity of his testimony, which contrasted forest management done under State of Alaska law (which applies to all non-federal forestlands, public and private) with federal management on the Tongass National Forest. I believe his testimony was simply wrong on essentially every point, misleading Congress on the forest management situation on both federal and non-federal forestlands in the region (Southeast Alaska) that includes the Tongass. The purpose of this critique is to identify the features of his testimony that would grossly mislead Congress if not exposed, and to reveal facts the testimony failed to disclose and which conflict with the state's request for either the outright giving away of Tongass forestland or granting the state management-in-trust over Tongass lands.

About myself: I came to Southeast Alaska in 1976 as an engineer for Alaska Pulp Corporation, and have been involved in forest issues here since leaving the mill in 1978. I have been a Forest Campaigner for Greenpeace in the region for about fifteen years.

Point-by-point responses to Mr. Crafford's assertions

Below, Mr. Crafford's ten main points are quoted or summarized, followed by an exposé of the incompleteness or other untruths of each one. The ten points encompass practically every one he made. Footnotes provide time-code citations for the video of the hearing that is posted on YouTube (https://www.youtube.com/watch?v=nwEi7ypR_3A).

1) *Crafford assertion: Alaska's Forest Practices and Resources Act is "[c]ertainly far, far more streamlined and far less cumbersome than federal rules[1] ... while at the same time we think it provides those appropriate protections for other resources"[2]*

Alaska's Forest Practices & Resources Act (FRPA) is extremely weak, and does not adequately protect other resources. The act has no enforceable protections for wildlife or wildlife habitat, which is particularly glaring because the act places no limit on the size of clearcuts. The statute also lacks requirements to consider cumulative impacts — a particularly important matter across multiple land ownerships at the landscape scale, in the many areas of southeastern Alaska that have been very heavily logged over a period of several decades.

Although FRPA does place some emphasis on aquatic resources, the streamside no-cut buffers it requires as protection along fish-bearing stretches are minimal on non-federal public forestland (100 feet from the banks) and sub-minimal on private forestland (66 feet). The provisions have not been scientifically peered reviewed for efficacy, variances from the requirements are commonly granted, and upper reaches of streams are not protected.

Below are *October 5, 2015 photos* of recent logging administered under FRPA on private land (two parcels owned by Sealaska, Inc.) and "other public land" (owned by the Alaska Mental

[1] Time code 1:09:31.

[2] Time code 1:10:18.

Health Trust). Figure 1 shows recent logging by Sealaska on the Cleveland Peninsula,[3] an extension of the mainland in Southeast Alaska. The photo spans about 1.5 miles across.

Fig. 1: West end of the Cleveland Peninsula, 5-Oct-2015.

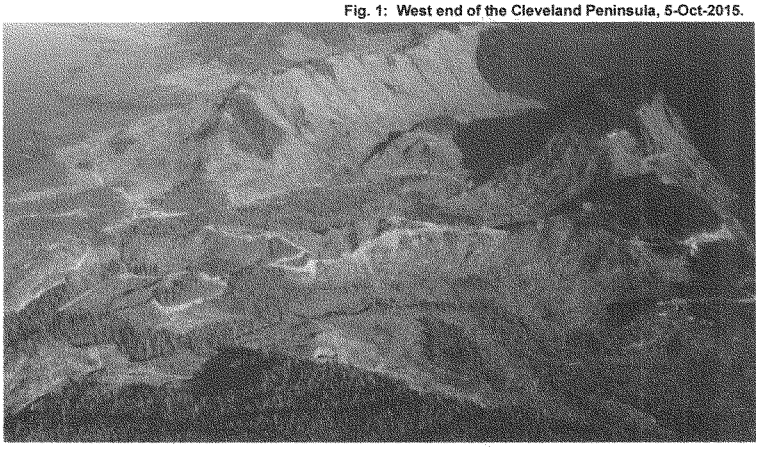
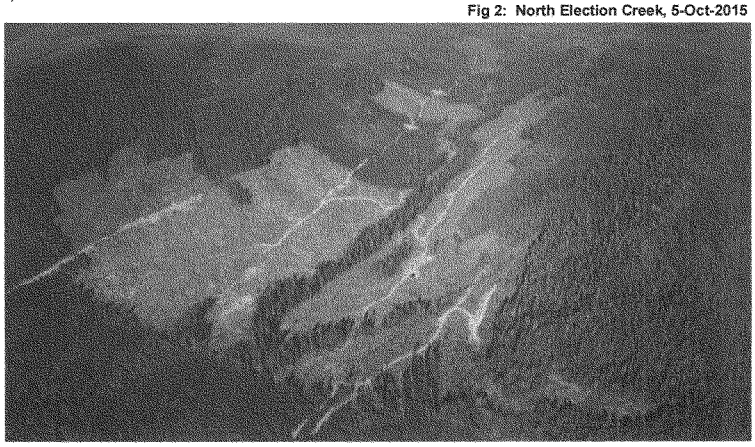


Figure 2 is north Election Creek[4] (Prince of Wales Island). It is one of the forest parcels Sealaska obtained in December 2014 in a National Defense Appropriations Act rider, and clearcutting began promptly. When in federal ownership, it was a vital, designated old-growth habitat reserve, ecologically holding together a very heavily logged area of the island (see also Figs. 3 & 4).

Fig 2: North Election Creek, 5-Oct-2015



[3] Cleveland Peninsula, Sealaska parcel: Lat. 55° 37' 21.50" N, Long. 132° 10' 40.90" Ws

[4] North Election Creek, Sealaska parcel: Lat. 55° 41' 00" N, Long. 133° 0' 0" W.

Fig. 3: 2003 imagery of North Election Creek [upper left of center] and surroundings (Google Earth)

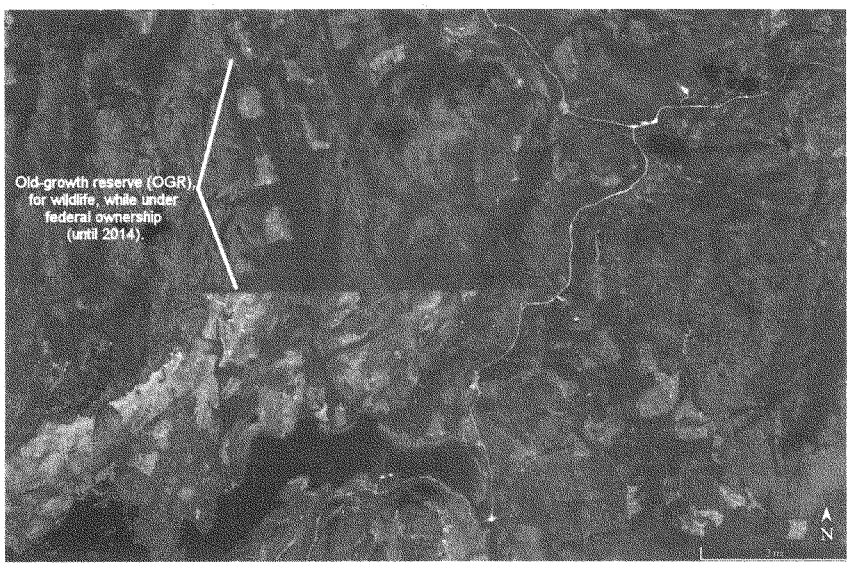
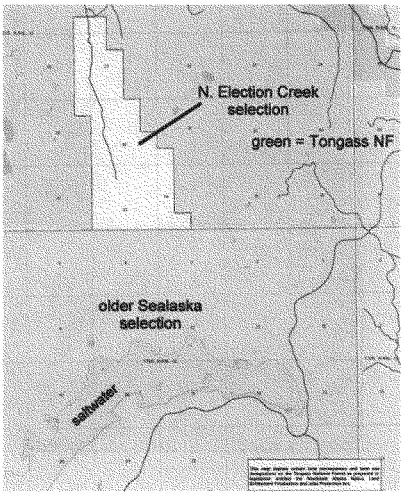
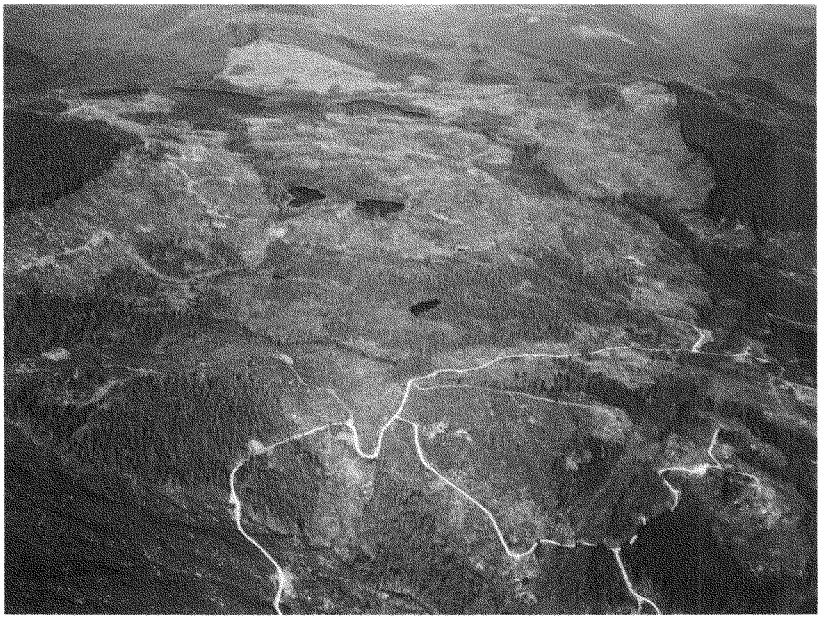


Fig. 4: Land ownership legend for the above.



Figs. 5 & 6: Ak Mental Health Trust land. Leask Lakes parcel,[5] ~4,000 acres, Revillagigedo Island. 5-Oct-2015





[5] Leask Lakes, Alaska Mental Health Trust parcel: Lat. 53° 30' 40" N.; Long. 131° 31' 40" N.

I believe the above explanation and photographs (and Fig. 7, below) demonstrate that the State of Alaska cannot legitimately claim that it is capable of balanced multiple use forest management. Its management and oversight of non-federal forests falls far short of being equivalent to management of the Tongass National Forest as prescribed by the Multiple-Use and Sustained Yield Act and the National Forest Management Act. In fact, the implementation of FRPA always shows a strongly timber-first bias. Mr. Crafford's testimony is contradicted by the facts on the ground, and is extremely misleading. Although we have legitimate complaints about the Forest Service's management of the Tongass National Forest, management of non-federal lands under state law is far from balanced.

2) *Crafford assertion: "[T]he act [FRPA] has been updated several times as new science becomes available."*[6] *"Scientific findings are reviewed in a two-step process, through Alaska's Board of Forestry and effectiveness and implementation components that ensure that best management practices (or BMPs) remain current."*

Policy has consistently trumped science at the legislative and administrative levels in Alaska regarding forest management issues, ever since the inception of FRPA in 1979 and throughout its revisions. The FRPA has never been subjected to a rigorous scientific peer review, in contrast to review given the conservation strategy that is part of the Tongass Forest Plan. The Alaska Board of Forestry is biased toward timber industry interests through both its legislated composition (AS 41.17.041) and frequently over the years the nature of individuals selected for the few board seats that ostensibly provide counterbalance. The inclusion of those few seats is at best a token effort and not a serious one for ensuring wise multiple use management. The board should not be considered a reliable judge of the available conservation science about logging impacts and how it should be applied. Detailed minutes of the board's meetings are on-line, and even a cursory review shows that the board serves primarily as an advocate for the timber industry, without the needed balance.[7] Additionally, as discussed elsewhere in these comments, the State of Alaska has demonstrated its budgetary inability to provide the protections that the FRPA does require.

3) *Crafford assertion: FRPA is administered with the "three-legged stool" of the resource departments: Fish and Game, Environmental Conservation, and Natural Resources.*[8]

Both the State of Alaska's policies (including the FRPA) and the state's severe budgetary crisis largely prevent the three resource agencies from regulating non-federal logging activities in a way that is compatible with multiple uses and ecosystem integrity.

The FRPA budgetary situation: In December 2014 the incoming governor exposed Alaska's severe budget crisis to public view, and it is broadly expected to endure far into the future. Oil production revenue is the state's primary funding source, and with the recent unforeseen substantial drop in per-barrel oil prices the state has been far short of funding its obligated operations. Deep cuts were made across agency budgets in this year's legislative session, and more cuts are planned for the next two years. The three state agencies that implement the FRPA, especially DNR's Division of Forestry (DoF), have been hit hard. This is documented in news articles[9] and the Alaska Board of Forestry's (BoF) July 2015 minutes.[10] In the Division

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[6] Time code 13:26.

[7] See list of minutes at: http://forestry.alaska.gov/alaskaboardforestry.htm

[8] Time code 16:28.

[9] Attached documents: (1) Some Southeast timber funds restored, Ketchikan Daily News, 3/11/15. (2) Forestry jobs lost but Haines may retain part of office , KHNS radio, 4/29/15.

[10] Board of Forestry minutes for July 28-29, 2015: http://forestry.alaska.gov/Assets/uploads/DNRPublic/forestry/pdfs/alaskaboardforestry/Minutes_%202015_%20July_%2028-29_draft.pdf

of Forestry's (DoF) Coastal Region (which includes Southeast Alaska), 23 jobs were cut this year, including five of the eleven forester positions, all occupied when cut. The supervisory Coastal Regional Forester position is now only two months per year. (Id. at 10). Initially, in the House Finance's Natural Resources Subcommittee much deeper cuts were passed, likely foretelling the future. Those proposed cuts "would have ended the state's timber program for all but the Alaska Interior and closed [all] state forestry offices in Southeast." (Ketchikan D. News, 3/11/15). As the legislative session closed, a 9-month seasonal forester position was added-back in Haines to keep that office open, and the Ketchikan office was reinstated with three instead of its former five foresters, plus an administrator. The final budget halved the FRPA work of the Dept. of Environmental Conservation's sole staffer devoted to that. (BoF minutes at 1). Fish & Game's FRPA responsibilities go to its Habitat Division, which "took a large budget cut this year," causing it to restrict its fieldwork only to the most important anadromous streams. (Id. at 2). This means there will be no state oversight of logging in any but the most exceptional anadromous watersheds.

The State of Alaska's "One-voice" (timber over-all) policy: Even so, the supposed three-legged stool for applying wisdom in the state's regulation of logging had collapsed long before the budget crisis, through state policy that censors the state's scientists in order to maximize the region's federal and non-federal timber production. A November 2014 Greenpeace report[11] exposed the policy, based on 16,000 pages of documents from a public records request. The one-voice policy (a term used within state government) is enforced by an administrative apparatus linked to the governor's office, and has blocked information and professional opinions from Fish & Game's biologists and the Dept. of Environmental Conservation's experts from being considered in timber sale planning or from becoming public knowledge.

So, the state lacks funding to fulfill the requirements of the FRPA (which are inadequate to begin with), and the other agencies are handcuffed from affecting a timber program that is driven by DNR's Division of Forestry and the state government's blind-to-harms policy of maximizing timber output. Mr. Crafford's three-legged stool is just splinters on the floor.

4) Crafford assertion: State timber sales are designed to protect fish habitat and water quality,[12] with streamside buffers and best management practices (BMPs).[13]

On *state* forest land,[14] for those stretches of streams that have anadromous (e.g. salmon) or resident fish (Class I and II streams, respectively),[15] the requirements for streamside no-cut buffers are comparable to those used by the Forest Service on the Tongass. However, FRPA provides no buffer protections along streams or tributaries that feed into the Class I and II stretches. The foreground stream running right to left in Figure 1 illustrate this.[16] There is a barrier falls beyond the left of the photo, below which there is a short Class I stretch (to tidewater) that has no-cut buffers on both sides. But in the remainder of the watershed the forest has been removed on one or both sides of the fishless stretch (Class III) and its steep headwaters feeders (Class IV streams). A well-established body of evidence suggests that a lack of Class III and IV stream buffers and the lack of a limit to clearcut size make streams

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[11] The report is "Big Problem — Alaska's 'One-Voice' resource development policy." https://www.researchgate.net/publication/268780406_Big_Problem_Alaska's_One-Voice_resource_development_policy

[12] Time code 16:23.

[13] Time code 16:47.

[14] AS 41.17.118(a)(1).

[15] This Forest Service nomenclature is more commonly used and equivalent to (but simpler than) stream classification nomenclature in the FRPA.

[16] Although the photo is of logging on private land, the AS citation is to FRPA provisions for state land, the principles discussed here concerning the Class III & IV streams shown also apply to state land.

more susceptible to conditions that can harm downstream fish populations. These conditions include: flash flows, increased turbidity and sediment flow, and an increase in stream temperature in summer and a decrease in winter (when salmon eggs are in the gravel).[17]

On *private* forestlands, FRPA requires only a 66-foot buffer (instead of 100) on Class I & II streams, allows variances for tree removal from within the buffer, and requires no buffers on Class III & IV streams. This is inadequate, given the broad geographic scale involved.

A separate, important point here is that while Mr. Crafford emphasized the state's protection of aquatic habitat in his testimony, he made *no* mention of wildlife habitat. The FRPA does not specify protections for wildlife habitat, nor does it require the analysis and consideration of contribution to cumulative landscape-scale impacts, across time and all land ownerships.

5) *Crafford assertion: State timber sales typically take about 18 months to plan and offer for sale.[18] In contrast, "the federal forest planning process takes "typically about five years" and planning an individual sale "is about another five year planning process."[19]*

There are several faults with Mr. Crafford's statement. First, the US Forest Service's planning at the Forestwide and individual timber sale scales are separate, non-sequential processes. That is, revising the Tongass Forest Plan does not delay timber sale decisions.

Second, there is no "typical" period for planning Forest Service timber sales. In increasing levels of detail, some sales are done under "categorical exclusions" from NEPA, and others are done under an environmental assessment (EA) or environmental impact statement (EIS).

However, even large timber sales with EISs have taken less time to prepare than Mr. Crafford suggests. For the largest Tongass timber project in over 20 years, Big Thorne, the Forest Service published a Notice of Intent in February 2011, a DEIS in October 2012, a decision in June 2013, and an advertisement for sale of two-thirds of the timber in August 2013. That is 2-1/2 years, half the time Mr. Crafford stated. Then, because the State of Alaska had through its "one-voice" policy (see above) withheld from the Forest Service during the NEPA process important information regarding the project's impacts, the project was delayed by a year for preparation of a "supplemental information report." The contract was readvertised in August 2014. That is only three years and two months after publication of the NOI and much less than Mr. Crafford's "five years," despite a one-year delay caused by the state itself.

Third, the Forest Service has multiple timber projects in various stages of planning at the same time – not just one at a time. For example, in 2015, prior to decisions being issued on two major projects, the agency had five major timber projects in planning at the same time.

Finally, the state's short time for timber sale planning on its own forestlands underscores that the FRPA sets a low bar for both planning and environmental protection. Under the FRPA, the "primary purpose" of state forests is timber production, so in planning and decisionmaking the Division of Forestry gives little consideration to non-timber resources and uses. Also, the state has recently become more aggressive in offering timber from its Southeast State Forest. For example, the state intended to offer 80 million board feet in the fiscal year that just ended. This unbalanced, aggressive approach will attract administrative appeals that will cause a narrowing of whatever difference in planning periods may exist now between state and federal sale programs.

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[17] *See*: e.g. Rhodes (2013) at 7-8 and 29-30. The document is a commentary on problems with a Forest Service timber project, but describes relevant concerns for Class III & IV streams under FRPA. *See also*: Carstensen (2013) at 14, discussing the Election Creek area in Fig. 2.

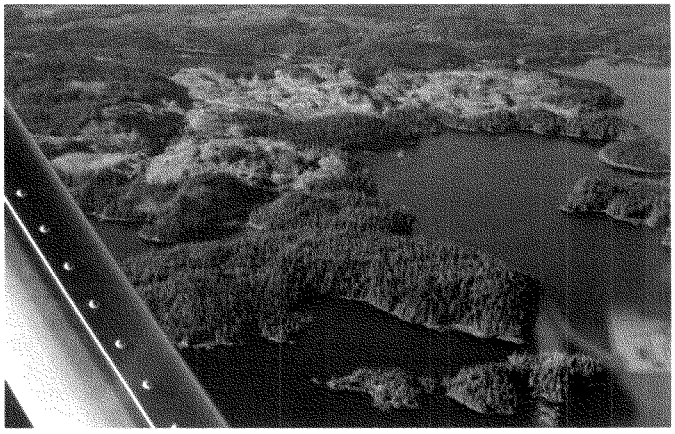
[18] Time code 16:20.

[19] Time code 1:09:40.

6) *Crafford assertion: Federal timber sales are often marginally economic or can't be sold because they are below-cost.*[20]

It is unsurprising that Tongass NF timber sales are sometimes marginally economic, for two reasons. As discussed elsewhere in these comments, the most profitable timber on the Tongass has already been cut, through "high-grading" at both the landscape and timber project scales. This has meant, over times going back at least to the 1950s, cutting the best (the highest quality, most easily accessed timber), then the best of the rest, and so on. What is left now is generally closer to what was average quality before, and is often more expensive to access as well. Another reason that timber quality and profitability on the Tongass has diminished is the nature of land entitlement selections by the State of Alaska and Native corporations that have been made since the 1960s[21] and which generally were for the most valuable timber available. Additionally, in contrast to the Forest Service's 100 acre clearcut size limit, it must be acknowledged that the *unlimited clearcut size* allowed by FRPA — on state land (Fig 7, below), other public non-federal land (Figs. 5 & 6) and private land (Figs. 1 to 3) — is highly subsidized in the form of uncompensatable losses to watersheds, wildlife and other public values. Keeping Tongass National Forest lands under federal ownership and control will avoid worsening this already uncontrollable clearcutting situation, which is promoted by this state subsidy that the Tongass NF does not and should not offer.

Fig. 7. Alaska Division of Forestry's South Thorne Bay Timber Sale (5 Oct. 2015)



When Mr. Crafford said Tongass timber sales cannot be sold if they are below cost, he was correct. However, because this well-justified restriction exists by an act of Congress, it is under the control of Congress and therefore is not a justification for Congress to transfer Tongass forestland to the state. Moreover, such transfer to the state (or other entities) would spread farther and wider the kind of destructive old-growth logging shown in the photos.[22]

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[20] Time code 15:42.

[21] These land entitlements are from the Alaska Statehood Act of 1959 and the Alaska Native Claims Settlement Act of 1971. Also, after the initial selections land swaps with the federal government have intensified the "select the best" approach.

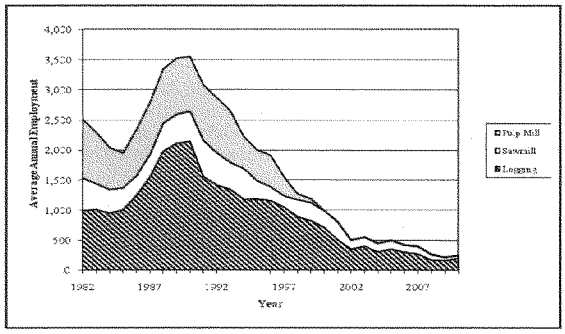
[22] The existing Alaska state forest parcels are smaller (e.g. Fig. 7) than those of Native corporations. The land transfer the state is requesting could however result in large parcels and damage as shown in

7) *Crafford assertion: "[F]ederal forest management has so deemphasized timber production in the 17 million acre Tongass National Forest" that only 672,000 acres remains available for timber management, and "timber jobs have fallen from 4,600 in 1990 to about 400 today."*[23]

First, it is absurd to compare the size of an administrative land unit named the Tongass National Forest – two thirds of whose 17 million acres are either non-forest or unproductive forest – to the area of available timberland it contains. The comparison is an intentionally misleading, commonly used ploy the state government and timber industry use to distort debate in order to grab land from the Tongass. Further forestland transfers would break the back of the peer reviewed Tongass Conservation Strategy, which has been a foundation of the Tongass Forest Plan since 1997. Moreover, Mr. Crafford's false comparison fails to account for the approximately one million acres of land in the region, primarily forestland, owned by the State of Alaska, Native corporations, the Alaska Mental Health Trust and the University of Alaska – all of which are in the timber business.

Mr. Crafford's timber industry employment figures for 1990 and today are flatly incorrect. A 2013 socioeconomic report done for the Forest Service reveals, "[t]imber employment in Southeast Alaska peaked at the end of the 1980s, with slightly more than 3,500 jobs in 1989 and 1990 (Figure [8, below])"[24] — not Mr. Crafford's 4,600 jobs (probably a statewide number). Also, the decline began about 25 years ago, mainly spanning a dozen years, and there is no reasonable rationale for this old peak to justify another boom (and bust).

Fig. 8. Southeast Alaska timber industry employment, 1982 to 2010



The "logging" sector employment shown in Fig. 8 produced logs not only for the pulp mill and sawmill employment above it, but also for the export of unprocessed round logs – a significant subsector of "logging" employment that the chart does not break out. Export logs came almost entirely from non-federal forestlands, and primarily from those owned by Native corporations. Due to favorable pulp, lumber and log export markets in the late 1980s and earliest 1990s, there were a pronounced peaks in overall timber industry employment in the three sectors: pulp and lumber production (Fig. 8 and the green in Fig. 9) and the export of

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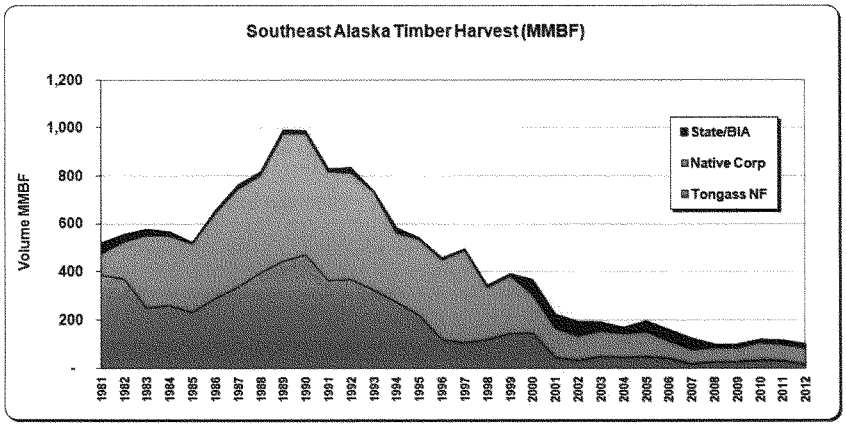
the other photos. Yet, if instead a land transfer were put into smaller parcels of equivalent acreage, to better target the most valuable remaining old-growth, the impacts to wildlife would be much greater than large parcels.

[23] Time code 14:21.

[24] Fig. 8 is from "Socioeconomic Resource Report - Final, 2013" (USFS Big Thorne project doc. 736_2234). It originally appeared in several Forest Service ANILCA 706(a) reports to Congress, most recently report #24, submitted in 2011.

logs from Native corporation lands (essentially all of the orange timber volume in Fig. 9).[25] Those corporations were liquidating their old-growth forests into cash as rapidly as possible. All together, this is what caused the sharp, unsustainable boom in timber industry employment to 3,500 jobs in 1990, followed by an inevitable bust.

Fig. 9. Southeast Alaska logging levels, by land ownership sector, 1981-2012.



Closures of the Sitka pulp mill in 1993 and Ketchikan pulp mill in 1997[26] were significant contributors to the decline of employment to the current level, as shown in Fig. 8. The two pulp mills were selling into a *global market* for dissolving pulp, the two mill's only product. That market drove an all-time production high in 1974 (in which 590 million board feet was logged on the Tongass National Forest), declined 25% by 1982, recovered somewhat in 1988, and declined globally every year since then except 1995, according to a 2004 Forest Service document. (PNW-GTR-611, at 51-52).[27] Demand and prices for dissolving pulp also declined substantially, as new technologies and materials displaced dissolving pulp (e.g. the main end-product, rayon, lost popularity). Indicative of the market's collapse, other mills making dissolving pulp closed in Port Angeles, Washington in 1997 and Sweden in 1998. (Id.).

Concerning the effect of Native corporation logging on employment, Fig. 9 shows that after timber production began on the lands transferred under ANCSA (the Alaska Native Claims Settlement Act of 1971), the annual volume logged increased quite rapidly. This volume eclipsed the substantial production that had been on-going on the Tongass National Forest. It reached the 1990 crescendo that was afforded by a favorable log export market, followed by

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[25] Fig. 9 is a compilation of statistics by former Region 10 Economist for the Forest Service, Joseph Mehrkens. Now retired, he has continued to collect the statistics.

[26] After Ketchikan Pulp Company closed its mill in 1997, in a timber contract cancellation agreement the Forest Service allowed KPC to log an additional 320 million board feet of timber between 1997 and 2000 for sawmilling and export. This explains the thick tail of the decline in timber volume between those years in Fig. 9 between those years. See: **(1)** ANILCA 706(a) report #20 report to Congress, for 2000; **(2)** St. Clair & Cockburn, "The Pulp Parachute: How Louisiana-Pacific Got Paid To Destroy the Tongass," Minneapolis/St.Paul City Pages, April 23, 1997. http://www.citypages.com/news/the-pulp-parachute-how-louisiana-pacific-got-paid-to-destroy-the-tongass-6715439

[27] Mazza, R., 2004. Economic Growth and Change in Southeast Alaska. USFS PNW Research Sta.

a bust as – one after the other – the village Native corporations exhausted their old-growth forestlands and the regional corporation (Sealaska, the major landholder among the Native corporation) logged at a slower pace toward eventual exhaustion of its old-growth inventory.

In conclusion, Mr. Crafford's claim is false that the decline from a few thousand timber industry jobs in 1990 to a few hundred today was caused by a "de-emphasis" by the Forest Service on timber sales. Instead, what occurred was a classic boom and bust, with the bust caused by a crashing global-market for dissolving pulp, the rapid exhaustion of the Native corporations' standing timber, and the best and most profitable timber on the Tongass having been largely exhausted by the pulp mills.[28] The industry has for quite some time now been an insignificant segment of Southeast's economy, and the economy has adjusted to that. Further, more harm than good would come from boosting the current industry's size by giving the state or other entities additional old-growth forest to liquidate. Doing so would multiply the enduring cumulative impacts that the region must already contend with from decades of past intensive logging. Lasting harm would be caused to the otherwise future contributions to the regional economy by commercial fisheries, tourism and subsistence use.

8) *Crafford assertion: "[W]ith each successive iteration of planning and the NEPA review, it seems like the available timber base is whittled down further and further and further, to the point that so little is left" for the timber industry.*[29]

What Mr. Crafford describes comes in large part from the industry itself whittling away at the non-renewable old-growth forest. This has been ongoing on a large scale in the region for six decades, across all land ownerships — the Tongass NF as well as lands owned by the University of Alaska, the Alaska Mental Health Trust, the State of Alaska, and eleven village, urban and regional Native corporations. All together, this still-continuing logging has already clearcut nearly 900,000 acres of old-growth forest. Moreover, in successive iterations of this logging, generally the best was taken, and then the best of the rest, and so on. The resource management and business models that drove this virtually ensured a bust for the industry, in addition to long-term damage to watersheds, wildlife and other economically important forest values. Devolving more Tongass National Forest land to state or other ownership will worsen this tragic outcome both economically and environmentally.[30] These models are unsustainable. We are long past the 1990s bust now, and should not create another one.

9) *Crafford assertion: Management of state forests is balanced, and management of federal forests needs a similar balanced approach.*[31]

My critiques above demonstrate that Alaska's management of its state forests in Southeast Alaska falls far short of being balanced management. The fact of the matter is that Mr. Crafford has it backwards. The Forest Service's management is much closer to being balanced than the state's.

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[28] The pulp mills "high-graded" the biggest, most valuable timber (which was also the best habitat), taking the best, then the best of the rest, etc. By the time the mills closed, this had greatly impacted their economics and is one reason they ended business in their competitive market.

[29] Time code 1:09:55.

[30] The full impact to wildlife takes 3-4 decades to become occur since it takes that long for the second growth forest canopy to close (creating a virtual desert on the forest floor). That is, much of the impact of logging as long ago as the mid-1980s is not yet fully realized – there is irrevocable impact debt.

[31] Time code 17:06.

10) Crafford assertion: Short of deeding-over federal forest land to the state or another entity, the other options (either the status quo or other approaches such as stewardship programs, good neighbor agreements, or states taking over (in trust) management of federal lands) would still leave in place the "hurdle" of federal environmental laws.[32]

Any of Mr. Crafford's suggested changes to the status quo would be a disaster for the region's forest environment and the social and economic structures that depend on it remaining functionally intact. Especially destructive would be the deeding of Tongass land to "the state or another entity." But any of Mr. Crafford's other non-status-quo suggestions would also be disastrous because Alaska's Forest Practices and Resources Act — which governs logging on all non-federal lands — is very weak, the state is fiscally incapable of meeting FRPA's weak requirements, and the state's "one-voice" policy is antithetical to balanced, science-based management. Federal ownership of, and management authority over, the Tongass National Forest should be *fully* maintained.

Submitted by: Larry Edwards, Forest Campaigner
Sitka Field Office, Greenpeace
Box 6484, Sitka, Ak 99835
907-747-7557, ledwards@greenpeace.org



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[32] The premises here were put forth by Crafford at time code 1:03:22. Regarding those, Rep. LaMalfa then asked at time code 1:04:24, "So short of deeding the land over to state or the entity involved, you're still going to be subject to the same hurdles, you feel?" Mr. Crafford answered, "Yes, sir" at 1:04:32.

Senator Dean Heller – Opening Statement
U.S. Senate Committee on Energy and Natural Resources
Legislative Hearing: the Pershing County Economic Development and Conservation Act of 2016 (S.3102)
September 22, 2016 – 9:30 AM

Chairman Murkowski and Ranking Member Cantwell, thank you for holding today's legislative hearing and for including my legislation, the Pershing County Economic Development and Conservation Act, in the agenda.

For years, residents of Pershing County have worked diligently to develop this innovative public lands proposal that will provide their communities new opportunities for economic development while reducing wildfire threats, improving wildlife habitat, and increasing hunting, fishing, and other outdoor recreation opportunities. It builds on the efforts of the Pershing County Checkerboard Lands Committee, initiated over a decade ago, which was a community-driven process to solve complicated land management issues. The details were hashed out by an inclusive grassroots-driven public process, including meetings, discussions, small working groups, and visits with and between Pershing County officials, local residents, and important stakeholders. The resulting legislation is a great example of a grassroots proposal, rather than a top-down public approach for public lands related legislation, and I am proud to put it before this committee on behalf of my constituents.

Over 75 percent of the lands within Pershing County, Nevada are administered by the federal government – and much of that land is in a "checkerboard pattern." A remnant of railroad construction in the 1800s, these checkerboard lands now present a major land management problem for our communities. It is confusing for sportsmen and other outdoor recreationalists, it limits economic development opportunities along the I-80 corridor, and it is a bureaucratic headache for both the Bureau of Land Management (BLM) and adjacent private land owners including some of the biggest ranching operations in the region. Resolving this mess in a common-sense manner will benefit all Nevadans.

Similar to other major public lands legislation championed and enacted into law by our delegation in the past, like my Lyon County Economic Development and Conservation Act, the Pershing County bill finds the delicate balance between sustainable economic development and conservation. Specifically, it has four major pillars:

First, it advances a sale and exchange plan for the over 300,000 acres of BLM lands in Pershing County identified for potential disposal by the BLM's resource management plans. This process is modeled off the highly successful process established by the Southern Nevada Public Land Management Act (SNPLMA) in 1998 that has facilitated sustainable development in the Las Vegas Valley since its enactment. Together with Pershing County, the Department of the Interior will jointly select lands and the parcels to be sold through a competitive bidding process for no less than fair market value – ensuring a fair return for the American taxpayer. Facilitating these targeted land sales and exchanges along the Interstate 80 corridor in a responsible manner will

increase the county's tax base, increase outdoor recreation opportunities, spur economic development, and improve land stewardship.

Second, it will facilitate the expansion and development of existing mining projects within Pershing County. The county has a wide variety of mineral resources, but silver, gold, and tungsten have been the mainstays for over a century and a half. Production began in 1860 in the Humboldt district, and later spread throughout the region. In fact, the first successful smelter to treat the base-metal ores in Nevada was built in Pershing County, so mining runs deep in its history. This initiative will be a boon for economic growth, yielding millions of dollars of investments in the county and greatly improving the county's tax base.

It will also allow Pershing County to acquire land in the Unionville cemetery. The Unionville cemetery was established in the 1870s and has been in continuous use ever since. At some point, it was discovered that the cemetery lies on BLM land and the BLM is now prohibiting new burials there. This simply does not make sense.

Third, any proceeds from land sales facilitated by the bill will be invested in Northern Nevada, benefiting the State's education system, conservation, and county programs. The resources allocated to the county deliver critical services and develop much-needed capital improvement projects, such as road maintenance, public safety, and law enforcement. The federal portions will greatly improve stewardship of important wildlife habitat for Great Basin species such as the Greater Sage-Grouse, Desert Bighorn Sheep, and antelope. It will also improve important migration corridors that are important to wildlife management in the region.

Finally, the bill resolves some long-standing land designations within the county. Five wilderness study areas within the county have been in limbo for nearly thirty years, all being managed as wilderness by the BLM. These areas were carefully looked at by the residents on the ground, and the boundaries were carefully designed. The resulting maps conserve important wildlife habitat, ensure existing road access into wilderness, and resolve local ranchers' issues with the current "wilderness study area" boundaries that will provide their operations more flexibility and stability moving forward. It is important to note that nearly 50,000 acres of public land currently being managed as wilderness will be put back into multiple-use. Those areas will be available for mineral exploration, energy development, ranching, and other activities.

As you can see, this proposal in its entirety will yield major benefits not only for Pershing County, but for the American people. It is important to note that this legislation has the unanimous support of the Nevada Congressional Delegation. My good friend Congressman Mark Amodei introduced the House companion, H.R.5752, with our other three House colleagues as original cosponsors. We all worked closely with our constituents as they finalized their grassroots proposal to ensure the legislation was a proposal we could move through the Congress.

I am also proud to report to this Committee that we've garnered the support of a diverse group of stakeholders throughout Nevada. That includes business groups like the Nevada Mining Association and the Nevada Farm Bureau Federation; the Coalition for Nevada's Wildlife which is comprised of sportsmen groups like Nevada Bighorns Unlimited, Back Country Hunters and

Anglers, and Nevada Waterfowl Association; local ranchers; and even environmental groups like the Friends of Nevada Wilderness. That support is indicative of the residents' hard work to develop an innovative lands package that balances the opinions of diverse stakeholders alike. I want to commend the Pershing County Commission and their constituents for a job well done.

Thank you again Chairman Murkowski and Ranking Member Cantwell for the opportunity to present this important Nevada public lands proposal. It is my hope that together we can a find a way to advance this bill and the handful of other Nevada proposals that have been considered by the Committee, like the Douglas County Conservation Act (S.472) and the House-passed Eastern Nevada Land Implementation Improvement Act (H.R.1815), before the end of the year.

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Advanced Technologies

September 26, 2016

The Honorable Lisa Murkowski
Chairman
Senate Energy and Natural Resources Committee
709 Hart Senate Office Building
Washington, DC 20510

The Honorable Maria Cantwell
Ranking Member
Senate Energy and Natural Resources Committee
511 Hart Senate Office Building
Washington, DC 20510

IBC Advanced Technologies, Inc. ("IBC") wishes to express support for Senate bill 3203, the Alaska Economic Development and Access to Resources Act, and the associated hearing which was held by the Senate Energy and Natural Resources Committee on September 22, 2016. As a leader in metals separations specializing in Molecular Recognition Technology ("MRT"), IBC believes that provisions in S.3203 will support the U.S. domestic industrial base for the production of critical and strategic materials by encouraging the development of new technologies and consequently strengthen U.S. national security.

IBC, based in American Fork, Utah, has a proven track record of efficiently separating and providing pure materials worldwide using environmentally clean and sustainable separations technology. Founded in 1988, IBC has built an extensive network of domestic and international partnerships and developed a wide breadth of knowledge about the challenges currently facing the metals industry.

The supply chain for rare earth elements ("REE") is dominated by China. In fact, China exerts near complete control over the production of REE in the mining, separation, and processing stages. This presents a dangerous situation to the United States as a host of defense-related applications are dependent upon rare earths and would be rendered inoperable without these critical materials. Despite this situation, the United States continues to expose itself to unnecessary risk by relying on Chinese-sourced and produced rare earths even as the last remaining domestic alternative to foreign-sourced rare earths ceased operations in the United States last year.[1]

IBC specializes in the separation of metals utilizing a highly selective green chemistry MRT process. MRT allows for the separation and recovery of metals, including REE, with greater than 99 percent purity without reliance on waste-generating solvents. In fact, MRT has already been used to demonstrate the recovery of 99.99 percent pure dysprosium from a domestic feed stock.[2] This technology would provide the United States the security of a domestic rare earth separation capability, reducing dependence on China. Additionally, MRT's green chemistry process provides an

[1] Celia Jamasmie, "Molycorp shuts down Mountain Pass rare earth plant." Mining.com. August 26, 2015. <http://www.mining.com/molycorp-shuts-down-mountain-pass-rare-earth-plant/>
[2] Press Release. "Ucore Confirms Success of SuperLig®-One Pilot Plant via Independent Analysis." September 26, 2016. <http://ucore.com/ucore-confirms-success-of-superlig-one-pilot-plant-via-independent-analysis>

IBC Advanced Technologies, Inc.
856 East Utah Valley Drive, American Fork, Utah 84003, USA
web: www.ibcmrt.com • email: info@ibcmrt.com
Tel: (801) 763-8400 • Fax: (801) 763-8491



Advanced Technologies

environmentally friendly alternative to the traditional solvent extraction process used to separate rare earths in China which results in the generation of immense amounts of highly toxic, corrosive, organic waste and results in significant environmental degradation.

Section 401 of S.3203 would promote the domestic development of separation technologies capable of processing rare earth elements. Notably, the language requires the development and construction of "a pilot plant to provide proof of concept for rare earth separation and processing using molecular recognition technology." With headquarters in American Fork, Utah and nearly three decades of experience in MRT applications, IBC is well positioned to compete for an opportunity to meet the requirements of this section.

IBC's location in Utah enables the company to serve commercial North American markets as well as the United States government. Specifically, IBC's experience with MRT can help to provide a domestic source of rare earths, including those identified by the Department of Defense as being in shortfall, thus alleviating foreign sourcing. MRT is also capable of refining and recovering numerous specialty metals including: cobalt, nickel, copper, zinc, molybdenum, rhenium, uranium, gold and the platinum group metals (platinum, palladium, rhodium, iridium and ruthenium). MRT is used to recycle valuable metals as well as to extract impurities and pollutants, including radionuclides, from waste and process streams that not only damage the environment but could adversely affect end-product quality.[3]

The language included in S.3203 is a necessary step forward in the development of a domestic rare earth separation market and would undoubtedly ameliorate the security posture for the United States. Additionally, the bill will promote new domestic technologies with a direct investment in local economies like that of American Fork, Utah that will spur job creation, boost innovation, and promote a transition to clean, cost effective alternative separation technology.

IBC supports S.3203 and believes the bill promotes the development of the next generation of clean separation technologies once again enabling domestic production of critical materials.

Regards,

President and CEO
IBC Advanced Technologies, Inc.

[3] "SuperLig® Products," ibcmrt.com. Accessed: September 26, 2016. <http://www.ibcmrt.com/products/superlig/>

JAY INSLEE
Governor

STATE OF WASHINGTON
OFFICE OF THE GOVERNOR
P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 902-4111 • www.governor.wa.gov

September 14, 2016

The Honorable Patty Murray
United States Senator
154 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Maria Cantwell
United States Senator
511 Hart Senate Office Building
Washington, D.C. 20510

Dear Senators Murray and Cantwell:

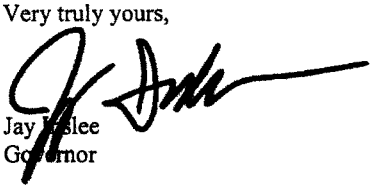
I write to express my support for legislation you have introduced – S. 2991, the *Methow Headwaters Protection Act of 2016* – and to thank you for your dedication to protecting the Methow River Valley from industrial-scale mining activities that would be injurious to the region, and are opposed by the local community.

As you know, the Methow Valley is a pristine landscape located in north-central Washington State. The region is a home for many, and a destination for many others who seek its incredible tourism and recreational opportunities. The valley lies in an area of our state where the economy is dependent on a clean and healthy natural environment, and in which a commitment to conservation is critical. Approximately 1 million people visit the valley each year, and contribute over $150 million to the Okanogan County economy. The important contribution that this economic activity makes to the local community has become all the more important in recent years, as the region has been devastated by record-breaking wildfire seasons.

Through your legislation, which would establish a mineral withdrawal for roughly 340,000 acres in the Okanogan-Wenatchee National Forest, the federal government can protect the headwaters of this valley, and the environment, economy and the community that they sustain. While mineral extraction makes sense in some areas, this region of our state is unique. The importance of preventing the degradation of this river valley's headwaters, and the related negative impacts of mining activity on fish and wildlife, cannot be overstated. This includes protecting public lands and clean water, accelerating salmon recovery, and conserving other critical habitat.

I join with local elected leaders, tribes, businesses, and other organizations in support of the *Methow Headwaters Protection Act*. Thank you for your hard work in Congress on behalf of our state, and for ensuring that the voices of those living in and around the Methow Valley are heard.

Very truly yours,



Jay Inslee
Governor

cc: The Honorable Sally Jewell, U.S. Secretary of the Interior
The Honorable Thomas L. Tidwell, Chief, U.S. Forest Service
Mr. Jim Peña, Regional Forester, U.S. Forest Service Pacific Northwest Region
Mr. Mike Williams, Forest Supervisor, Okanogan-Wenatchee National Forest

Testimony of Patrick Irwin, Pershing County Commissioner
Pershing County, Lovelock, Nevada

Chairwoman Murkowski, Ranking Member Meeks, and Members of the Committee, thank you for the opportunity to provide written testimony in support of S. 3102, the Pershing County Economic Development Act and Conservation Act. This important legislation will resolve long-standing public lands issues in Pershing County, provide protection for environmentally important federal lands, and create positive economic conditions for rural communities.

I am Pat Irwin, a Commissioner of Pershing County. On behalf of my constituents and fellow Commissioners, I commend Senators Reid and Heller for introducing the Pershing County Economic Development and Conservation Act.

S. 3102 represents a model for other counties to emulate in creating customized legislation that meets the current and future needs of county residents while harmonizing those needs with the multiple use concept of public lands and environmental preservation. As S. 3102 moves through Congress, we feel the eyes of the western United States upon us and we are proud to be at the forefront of this innovative approach to resolving public lands' issues.

S. 3102 enjoys broad support from numerous, yet disparate interests. Marshalling such broad support for S. 3102 was not easy. Exchanges during town hall meetings and even Commissioners meetings were occasionally heated and emotionally charged. I am gratified, however, by the atmosphere of compromise and cooperation that ultimately won out during County meetings regarding S. 3102. The legislation before you reflects careful consideration of a vast spectrum of interests and is unanimously endorsed by the Pershing County Board of Commissioners. As the culmination of give-and-take between mining companies, farmers, ranchers, hunters, conservationists, state wildlife representatives, geologists, placer miners and more, no one gets everything they want, but each gets something of value and significance.

This legislation confers many financial benefits to the County. For decades, Pershing County has struggled to find productive uses for 20 miles of checkerboard lands located on both sides of the I-80 corridor. Many other counties in Nevada and neighboring states grapple with similar issues. S. 3102 provides a solution to this problem by making public lands within the checkerboard available for purchase at fair market value. The sale of these lands will encourage development in communities along I-80 by creating, for the first time, the prospect of contiguous parcels of private property. Such development will expand the tax base and bring needed jobs to our economically stressed county.

Along the same lines, allowing mines to purchase, not lease, federal property will increase the value and security of mining interests on privately held land and provide a more predictable permitting process for mineral extraction. In addition to creating jobs, private ownership of mining lands will expand the County's private property tax base and decrease its reliance on Payment-In-Lieu of Taxes.

We view S. 3102 as a means to secure our County's future. Simply put, Pershing County cannot remain sustainable on the tax structure as we inherited it. Pershing County's population is 6,698, which includes 1,500 state prisoners. This, coupled with the fact that 75.6% of Pershing County is owned by the Federal Government, means we can collect taxes on merely 24.4% of the County. Unfortunately, Payment in Lieu of taxes (PILT) has proven to be the most critical portion of our budget. While financial viable

counties provide services from budgets funded by property taxes, our county must rely on PILT funding which varies in amount from year-to-year (assuming we receive it). Our reliance on PILT funding places Pershing County in an untenable and unpredictable predicament year after year.

S. 3102 bill will allow us to create a sustainable tax base to support the public safety entities in our county such as the ambulance and fire departments (which are 100% volunteer), Sheriff's Office, senior center, library, and many other services that may need to be trimmed without the passage of this bill. The bill will also allow us to dedicate money to our infrastructure and broadband initiatives that could drive economic development in our rural communities. Already, at least three mining companies await passage of S. 3102 before expanding into Pershing County. The arrival of these companies would add over 200 jobs to our community; thereby adding 200 families to our community and creating exciting possibilities for economic growth.

In addition to economic benefits, S. 3102 ends the conflict over the wilderness study areas that BLM identified in the 1980s as warranting permanent protection as wilderness and other areas that should be managed for multiple uses. Since then, these areas have been in limbo. The bill ends this unproductive standstill by designating roughly 130,000 acres as wilderness and releasing about 40,000 acres of wilderness study areas to public land uses other than wilderness.

Chairwoman Murkowski, Ranking Member Meeks, and Members of the Committee, thank you for the opportunity to address this important legislation. Should you have a question or need clarification on a point of testimony, I will be happy to assist you.

Pat Irwin
Pershing County Commissioner

Dan Blagg for Pat Irwin
Commission Chairman

Fleurant, Susan (Energy)

Subject: FW: ANSCA hearing statement landless provision 9-22-16

From: Richard H Jackson [mailto:richjack@gci.net]
Sent: Wednesday, September 21, 2016 9:35 PM
Subject: Re: landless heads up

Sent from my iPad

On Sep 21, 2016, at 5:10 PM, Richard H Jackson <richjack@gci.net> wrote:

> I am a Native Vietnam Veteran, former president of KIC, three time Grand President of the Alaska Native Brotherhood. I support the Vietnam Native Veterans Allotment Act but have concerns over exclusion from National Monuments. The Misty Fjords National Monument was approved by congress well after the Alaska Native Land Claims Settlement Act. My family has subsisted there for generations. I applied for an Allotment on the previous Veterans Allotment attempt and was denied. I applied in the Misty Fjords at Kaheeni River. I would request language to waive the exclusion . The Vietnam Native Veterans Allotment Act should address traditional land use before any Congressional Act for a Monument Wilderness area.
>
> Regards,
>
> Richard Jackson
>
> US Navy
> MM3
> USS Coral Sea CVA-43 1967-1971
>
> Sent from my iPad

TYLER RENTAL

October 3, 2016

The Honorable Lisa Murkowski
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murkowski,

I am in support of the **Alaska Mental Health Trust Land Exchange** Legislation. The Alaska Mental Health Trust and the Trust Land Office have been working toward a land exchange for more than 10 years with extensive public participation while defining the exchange parcels. *I urge to you pass legislation allowing the Trust to fulfill its financial responsibility of supporting our most vulnerable populations in Alaska.*

Given that Alaska is facing the worst fiscal crisis in history, legislation is the best option to complete the exchange in a timely fashion. In just the last two years the Trust has provided 59 grants to organizations in SE, totaling more than $3 million. Another 323 Trust beneficiaries in SE have been awarded mini grants from the Trust totaling over $482,000. We need to ensure that the Trust can continue to provide revenue for comprehensive, integrated mental health services in Alaska today and into the future.

For nearly a decade the Alaska Mental Health Trust has been seeking to exchange 17,341 acres of Trust lands near downtown Ketchikan, Juneau, Petersburg, Wrangell, Sitka, and Myers Chuck in exchange for up to 20,580 acres of US Forest Service timber lands of equal value in the Ketchikan Gateway Borough and on Prince of Wales Island.

The Alaska Mental Health Trust Land Exchange bill is critical to maintain the current timber industry in SE Alaska. It provides the Trust the ability to offer sufficient timber supply until other lands owners can place enough timber on the market during the transition to young growth harvest. Trust timber sales will provide required timber for the last medium size sawmill on Prince of Wales. This impacts 150 employees at the mill, along with others who work in the timber industry in the community. My company, Tyler Rental, Inc. is included is the list of other companies that will be affected by reduction in timber supply. Tyler Rental rents and sells all types of equipment to customers on Prince of Wales Island and throughout Southeast Alaska in support of the timber, mining, energy, tourism, and fishing industries.

The exchange is of great benefit because it:
- Sustains the timber industry in Southeast Alaska by providing more timber lands that could be managed on a sustained yield basis
- Ensures jobs stay in the Southeast communities by protecting the timber and tourism industries
- Protects popular trails, viewsheds, and iconic recreational sites along the Inside Passage
- Ensures watersheds are protected so that Southeast residents receive clean water

Ketchikan, AK
5216 Borch Street
PO Box 8158
Ketchikan, AK 99901
Office: 907-225-6069
Fax: 907-225-6118

Craig, AK
400 Port Bagial Blvd
PO Box 1172
Craig, AK 99921
Office: 907-826-2924
Fax: 907-826-2956

Juneau, AK
5295 Glacier Hwy
Juneau, AK 99801
Office: 907-780-2210
Fax: 907-780-2213

Chehalis, WA
153 Hamilton Rd North
Chehalis, WA 98532
Office: 360-748-8109
Fax: 360-748-8113

Without legislation we are putting our communities at risk.
• If the Trust cannot generate revenue in a timely fashion, we jeopardize our mental health services.

I want to do what is right for the Southeast community and economy, including the timber industry, and for all of the people that benefit from the Trust. It's time to let the Alaska Mental Health Trust continue its critical work for those who experiencing mental illness, developmental disabilities, chronic alcoholism, and Alzheimer's disease and related dementia.

Sincerely,

Randy Johnson /TC

Randy Johnson, President
Tyler Rental, Inc.
P.O. Box 8158
Ketchikan, AK 99901

September 2015

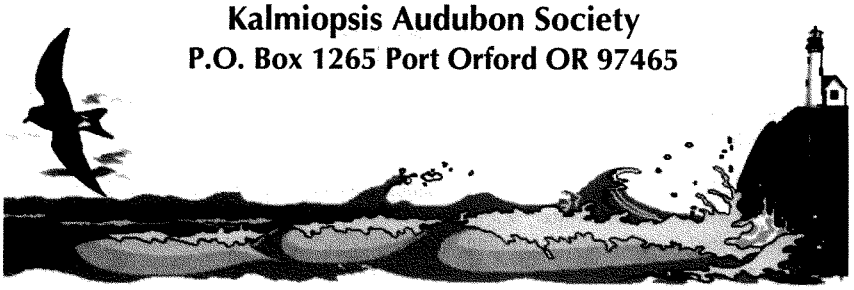
To: Senator Ron Wyden
Senator Jeff Merkley
Congressman Peter DeFazio
Governor Kate Brown:

As a small business owner here in the Illinois Valley of Josephine County, we support the Southwestern Oregon Watershed and Salmon Protection Act of 2015 (HR 682 in the House of Representatives and S 346 in the Senate). We also support the proposed five-year mineral withdrawal that will assist this important legislation by protecting the National Wild and Scenic North Fork of the Smith River and the headwaters of Hunter Creek and the Pistol River—all prized for their salmon and steelhead runs. This will also protect, after over twenty-year of tireless efforts by many stakeholder groups, the Rough and Ready Creek area here in southern Josephine County. This is a botanical hotspot, with the highest concentration of rare plants in Oregon and is a source for clean water to our community. These important water courses mean so much more to us than what nickel strip mining and large scale gold mining on the Chetco River would do for our communities. Over 11,000 people are in support of protecting these important watersheds with virtually none in opposition. Preserving the clean air and nationally outstanding water quality and fisheries of our region's rivers and streams protects our business prosperity and rural communities.

Iron Mountain Soapworks, Cave Junction, Oregon
It's a Burl, Gallery, Woodyard, Shop, Cave Junction, Oregon
Diggin Livin, Cave Junction, Oregon
Cave Junction Liquor, Cave Junction, Oregon
Yanase Jewelers, Cave Junction, Oregon
Rosie,s Inferno, Wood Fired Pizza, Cave Junction, Oregon
Solis Skin Care, Cave Junction, Oregon
Eden's Edge Farm, Cave Junction, Oregon
Douglas Kendall, Designer, Cave Junction, Oregon
Out N About Treesort, Cave Junction, Oregon
Rachel Goodman, LMT Massage Therapist, Cave Junction, Oregon
Forest Edge Farm, Fine Llamas, Cave Junction, Oregon
Big Springs Kennel, German Shepherd Pups, Cave Junction, Oregon
Kathy Lombardo, Secretary, Illinois Valley Garden Club, Cave Junction, Oregon
Natural Family Medicine, Margaret Philhower, ND, Cave Junction, Oregon
Siskiyou Alpaca, Christine and John Gardiner, Cave Junction, Oregon
Raven Flight Photos, Cave Junction, Oregon
Must B Felt, Fine Fabric Designers, Cave Junction, Oregon
Goodness and Mercy, Handyman Services, Cave Junction, Oregon
Madd Moose, Dining and Moose Watering Hole, Cave Junction, Oregon

Siskiyou Mountain Herbs, Cave Junction, Oregon
IV Trophy and Collectibles, Cave Junction, Oregon
Cave Junction Acupuncture, Cave Junction, Oregon
Meadow Martell, Supporting Access to Health Care, Cave Junction, Oregon
The Dome School, Cave Junction, Oregon
Dancefarm, Organic Veggies and Dance Instruction, Cave Junction, Oregon
Wilson Biochar Associates, Cave Junction, Oregon
Siuslaw Guide Service, Salmon and Steelhead Fishing, Cave Junction, Oregon
Wild Bill's Oregon Outlet, Cave Junction, Oregon
Mama Angie's Ladles of Love, Fine Food Catering, Cave Junction, Oregon
4 Whatever Photography, Fine Photos and Cards, Cave Junction, Oregon
Wright's World Emporium, Clothing and Gifts, Cave Junction, Oregon
Wheel's A Turnin' Garden Supply, Cave Junction, Oregon
Crucial Thymes, Fine Foods, Cave Junction, Oregon
Rogue Natural Living, Cave Junction, Oregon
Althouse Nursery, Cave Junction, Oregon
Running Fox Guitars, Cave Junction, Oregon
Kiaya Pace, Independent Hairstylist, Back Street Salon, Cave Junction, Oregon
Ravenswood Gallery, Cave Junction, Oregon
Jefferson State Financial Group, Cave Junction, Oregon
Margaret Phillhower, ND, Cave Junction, Oregon

Kalmiopsis Audubon Society
P.O. Box 1265 Port Orford OR 97465



Sept. 19, 2016

Chairman Lisa Murkowski
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Ranking Member Maria Cantwell
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Southwest Oregon Salmon and Watershed Protection Act (S. 346.)

Dear Chairman Murkowski and Ranking Member Cantwell:

I am writing on behalf of the Kalmiopsis Audubon Society, based in Curry County, Oregon, part of an extraordinary region we call "America's Wild Rivers Coast." Our group has more than 300 members who are concerned about habitat for birds, fish, wildlife and who care deeply about stewardship of our public lands for present and future generations. We've been engaged in conservation of wildlife habitat in our region for more than 35 years.

We strongly support the Southwest Oregon Salmon and Watershed Protection Act (S. 346.), introduced by Senators Wyden and Merkley, which would provide permanent protection through a mineral withdrawal for remote areas in the Rogue River-Siskiyou National Forest and adjacent BLM lands that form the headwaters of several nationally renowned rivers.

These streams include

- Rough and Ready Creek at the headwaters of the National Wild & Scenic Illinois River, which flows into the National Wild & Scenic Rogue
- Baldface Creek at the headwaters of the National Wild & Scenic North Fork Smith River, which flows into the National Wild & Scenic Smith in the Smith River National Recreation Area and Redwood State and National parks; and

- Hunter Creek and Pistol River, which flow to the Pacific south of Gold Beach, near Pistol River State Park and in the heart of the "America's Wild Rivers Coast," a two-state area that local businesses have promoted based on the valuable natural asset of rivers and salmon
- National Wild & Scenic Chetco River, which flows from Kalmiopsis Wilderness to the Pacific

We are proud that our region hosts America's highest concentration of National Wild and Scenic Rivers, known for clear water, world-class salmon runs, and outstanding recreational opportunities that draw anglers and outdoor enthusiasts from afar. Our local communities rely on the pure water, robust salmon runs, and associated recreation, as renewable resources that fuel the small businesses that make up our tourism based economies. Local communities also depend on these pure rivers as the source of drinking water.

There is broad and diverse local support – including from Curry County Commissioners, Del Norte County Supervisors, several local cities, businesses, tribes, and civic organizations-- for protecting the headwaters of our wild rivers from strip mining. This destructive type of mining would cause irrevocable harm to sensitive public lands and detract from the clean-water economy that our local fishing- and tourism-based communities now depend on. According to the U.S. EPA's Toxic Release inventory, metal mining is the nation's most polluting industry, and local communities don't want to put our outstanding National Wild and Scenic Rivers –nor our drinking water —at risk.

We are concerned that existing mining laws are inadequate to safeguard the outstanding values –clean water, fisheries, recreation—that citizens value most highly. The Forest Service has clearly indicated that, absent a mineral withdrawal, it has no authority to prevent any mining, despite the extraordinary natural resource values at stake. Moreover, in the past two years alone, a series of horrific mine disasters, including the Mount Polley tailings spill in British Columbia and the Animas River spill in Colorado, have left local communities and ecosystems with devastating damage. These incidents plainly shown that oversight of mine development and mines is not sufficient to protect local communities let alone nationally significant rivers into the future.

For all these reasons, we deeply appreciate Senator Wyden and Merkley's leadership in introducing the Southwest Oregon Watershed and Salmon Protection Act with its aim of securing permanent protection for the extraordinary wild rivers and unique wildlands of southwestern Oregon, and we strongly encourage you and all Senate Natural Resource committee members to support it.

Thank you for the opportunity to provide testimony in support of S. 346.

Sincerely,

Ann Vileisis, President

SUPPORT for the Southwestern Oregon Watershed and Salmon Protection Act

This packet contains the following resolutions and letters of support for the Southwestern Oregon Watershed and Salmon Protection Act of 2015 (SOWSPA):

- City of Gold Beach Resolution in support of SOWSPA
- City of Cave Junction letter in support of SOWSPA

There is broad support for protecting the headwaters of Southwestern Oregon's wild rivers from mining, as indicated by these letters and resolutions recently submitted in support of the Southwestern Oregon Mineral Withdrawal, which also mention support for permanent protection through the Southwestern Oregon Watershed and Salmon Protection Act:

- California Assembly Resolution in support of permanently protecting the Smith River in Oregon from mining
- California Sen. Mike McGuire letter supporting mineral withdrawal and SOWSPA
- Elk Valley Rancheria, letter in support of mineral withdrawal and SOWSPA
- Confederated Tribe of the Siletz Indians, letter in support for mineral withdrawal and SOWSPA
- Del Norte County letter in support of mineral withdrawal and SOWSPA
- City of Gold Beach, OR letter in support of mineral withdrawal and SOWSPA
- Pacific Coast Fishermen's Federation, letter in support of mineral withdrawal and SOWSPA

These letters also express support for protecting the headwaters of Southwestern Oregon's wild rivers from mining, focusing on support for the Southwestern Oregon Mineral Withdrawal and or mention support for permanent protection:

- Curry County Commissioner David Smith letter in support of mineral withdrawal
- Crescent City, CA, letter in support of mineral withdrawal
- Big Rock Services [Water] Dist. letter in support of mineral withdrawal
- Gasquet Services [Water] Dist. letter in support of mineral withdrawal
- Crescent City Chamber of Commerce, letter in support of mineral withdrawal
- Craft Brewers for Clean Water, letter in support of mineral withdrawal

At the end of you'll find a complete list of tribes, municipalities, businesses and organizations that support protection of Hunter Creek, Pistol River, Rough and Ready Creek and the North Fork of the Smith River from industrial nickel mining.

RESOLUTION R1516-16

A RESOLUTION IN SUPPORT OF THE SOUTHWESTERN OREGON WATERSHED AND SALMON PROTECTION ACT OF 2015—MINERAL MINING WITHDRAWAL FROM CERTAIN FEDERAL LANDS IN CURRY & JOSEPHINE COUNTY

WHEREAS, Federal Senators Ron Wyden and Jeff Merkley introduced Senate Bill 346, and Federal Representative Peter DeFazio introduced House Bill 682, both known as the Southwestern Oregon Watershed and Salmon Protection Act of 2015; and

WHEREAS, those federal bills were introduced to protect the Hunter Creek and Pistol River watersheds from the catastrophic effects of nickel mining at Red Flats; and

WHEREAS, the proposed nickel mining at Red Flats is by a foreign owned company and their venture will bring no economic benefit to Curry County; and

WHEREAS, it appears that special interest lobbyists are attempting to persuade federal senate and house members from other regions and states that the mining proposal is an economic benefit to our region and our region supports the mining; and

WHEREAS, the Wild Rivers Coast which starts at Klamath, California and extends north to Bandon, Oregon has the highest concentration of federally designated Wild & Scenic Rivers in the United States: the Klamath, the Smith, the Chetco, the Rogue, the Illinois, and the Elk—the area encompassed by the act as introduced in the S346 & HR682 federal bills; and

WHEREAS, in the past 4 years, Travel Oregon and the Wild Rivers Coast Regional Tourism Collaborative (comprised of city, county, state, and local tourism and economic development professionals) have invested a significant amount of time and resources in developing an experiential outdoor recreation economy on the southcoast because of the region's superlative natural resources and scenic wonders; and

WHEREAS, any large scale mining, but specifically nickel mining at Red Flats, will have a detrimental and devastating impact on habitat, fish and wildlife, the environment, and our fragile tourism economy.

NOW, THEREFORE, BE IT resolved the City Council of the City of Gold Beach formally opposes any mining in the national forest surrounding our community, but specifically the Red Flats nickel mining proposal, and **fervently supports** the efforts of Senators Wyden & Merkley, and Representative DeFazio to have the areas designated in S346 and HR682 *PERMANENTALY WITHDRAWN* from any possible or future mining.

PASSED BY THE CITY COUNCIL OF THE CITY OF GOLD BEACH, COUNTY OF CURRY, STATE OF OREGON, and EFFECTIVE THIS 13th DAY OF JUNE, 2016.

Karl Popoff, Mayor

Jodi Fritts, City Administrator/City Recorder

City of Cave Junction • Home of the Oregon Caves

P.O. Box 1396 • 222 Lister Street • Cave Junction, OR 97523
Phone (541) 592-2156 • Fax (541) 592-6694 • TDD Relay 1-800-735-2900
e-mail: cityofcj@cavenet.com

September 15, 2015

To Governor Kate Brown, Senators Ron Wyden and Jeff Merkley and Congressman Peter Defazio;

As City Councilors of the City of Cave Junction, we support the Southwestern Oregon Watershed and Salmon Protection Act of 2015 (HR 682 in the House of Representatives and S346 in the Senate). We also support the proposed five year mineral withdrawal that will assist this important legislation protecting the National Wild and Scenic North Fork of the Smith River and the headwaters of Hunter Creek and the Pistol River-all prized for their salmon and steelhead runs. This will also protect after over twenty years of tireless efforts by many stakeholder groups the W. Fork of the Illinois River, Rough and Ready Creek area here in southern Josephine County. This is a botanical hotspot, with the highest concentration of rare plants and a source for clean water to our community. Preserving our watershed and nationally outstanding water quality in our region's rivers and streams protects the citizens of Cave Junction and our rural communities.

CARL B. JACOBSON, JR.
Mayor

Dan Bosch
Councilor

DANIEL DALEGOWSKI
Councilor

JOHN GARDINER
Councilor

Smith River Watershed Resolution

Senate Joint Resolution 3
Approved by the California Senate and Assembly
July 2015

WHEREAS, The Smith River watershed of approximately 610 square miles in California and 115 square miles in Oregon is considered the prize of the California wild and scenic river system since it was included in the California Wild and Scenic Rivers Act in 1972, and then later included in the Federal Wild and Scenic Rivers System in 1981; and

WHEREAS, The Smith River is the indirect primary source of drinking water for the majority of Del Norte County's 28,000 residents, with the largest user being the City of Crescent City; and

WHEREAS, The Del Norte County Board of Supervisors and the City Council of Crescent City have voted unanimously to oppose the issuance of a limited water use license for the Cleopatra Check Drilling Program based on the potential to cause significant adverse environmental impacts within the overall watershed of the Smith River and subsequent impacts on drinking water for residents and thousands of annual visitors; and

WHEREAS, The California North Coast Regional Water Quality Control Board, the Department of Fish and Wildlife, the Natural Resources Agency and the Oregon Water Resources Department have also opposed any mining within the Smith River watershed because of the detrimental effects of strip mining; and

WHEREAS, The Smith River is unparalleled for its free flowing status, large and abundant salmon and steelhead stock, and extraordinary botanical diversity, and is the only major undammed river in California; and

WHEREAS, The Smith River National Recreation Area Act, passed by the 101st United States Congress in 1990 (Public Law 101-612), amended the Wild and Scenic Rivers Act of 1968 and permanently protected all federal lands of the Smith River watershed within California by establishing the Smith River National Recreation Area; and

WHEREAS, The Oregon portion of the North Fork of the Smith River was not included in the act and remains vulnerable to mining; and

WHEREAS, Any strip mining activities on the North Fork of the Smith River could have devastating and irreversible impacts to the entire National Wild and Scenic Smith River Watershed; and

WHEREAS, In 2012, Red Flat Nickel Corporation submitted the Cleopatra Check Drilling Mining Plan for the watershed of the North Fork of the Smith River to the Rogue River-Siskiyou National Forest, with the goals to develop and operate a devastating 3,980 acre strip mine to extract nickel, cobalt, and chromium; and

WHEREAS, The proposed mining operations will unnecessarily put the people and wildlife that rely on the Smith River at risk; and

WHEREAS, The United States Environmental Protection Agency has confirmed that hard rock mining, which includes strip mining, is the largest source of toxic pollution in the United States; and

WHEREAS, The United States Department of Agriculture's Technical Guide to Managing Groundwater Resources documents numerous published reports concerning the release of toxic metals to ground water and surface water resulting from mines and mine-related facilities; and

WHEREAS, Mining operations along the tributaries of the Smith River would inevitably impact water quality and quantity with the potential to cause significant injury to fish and other wildlife, including threatened coho salmon; and

WHEREAS, The Smith River's coho salmon are protected under the federal Endangered Species Act and are recognized as a core independent population with a high risk of extinction; and

WHEREAS, The Smith River is one of California's most important, irreplaceable watersheds for the threatened coho salmon; and

WHEREAS, The Chinook salmon, cutthroat trout, and steelhead runs are vitally important to the economies and environment of northern California and Oregon; and

WHEREAS, Millions of federal, state, and private dollars have been spent in the past decades on improving water supply systems and for restoration and protection of salmonid habitat and watershed lands downstream from the proposed mining operations; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature urges the President of the United States and Congress to permanently safeguard the currently unprotected North Fork of the Smith River watershed in Oregon from any mining activities that would have potential impacts on water supplies, economies, or the environment in California's portion of the Smith River watershed; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

California State Senate

SENATOR MIKE MCGUIRE

NORTHERN CALIFORNIA'S SECOND SENATE DISTRICT

September 25, 2015

Mr. Jerome E. Perez, Oregon State Director
Bureau of Land Management
Oregon State Office
P.O. Box 2965
Portland, Oregon 97208-2965

Dear Mr. Perez:

RE: Comments in Support of Proposed Mineral Withdrawal and Smith River Protection

Thank you so much for the opportunity to comment on this matter of critical importance to my constituents in Del Norte County and citizens of California. I strongly support the proposed withdrawal of approximately 100,000 acres of National Forest and Bureau of Land Management land located in southwestern Oregon from use under federal mining laws. Moreover, I support a permanent mineral withdrawal as proposed in the "Southwest Oregon Watershed and Salmon Protection Act of 2015" (S. 346 and HR 682).

In July of this year, the California Senate and Assembly approved Senate Joint Resolution – 3 the ***Smith River Watershed Protection*** measure which urges the President of the United States and Congress to permanently safeguard the currently unprotected North Fork of the Smith River watershed in Oregon from any mining activities. SJR-3 is appended to this letter and is herewith included as part of my comments.

In summary of SJR-3, strip mining in the Smith River watershed is simply unacceptable. The Smith and the companion rivers included in the proposed mineral withdrawal area are extraordinary streams of national significance. Any future mining activities will unnecessarily put the people and wildlife/fisheries that rely on these rivers at risk and would create irreversible impacts to the entire watersheds of these streams.

Again, I appreciate the opportunity to provide comments on the Proposed Mineral Withdrawal and look forward to the well-deserved protection of the Smith River watershed. If you have any questions regarding this letter please contact Thomas Weseloh, Chief Consultant to the California Legislature's Joint Committee on Salmon and Fisheries at Tom.Weseloh@sen.ca.gov or 707 445-7014.

Warmest Regards,



MIKE McGUIRE
Senator

Elk Valley
RANCHERIA
Crescent City, CA

2332 Howland Hill Road
Crescent City, CA 95531

Phone: 707.464.4680
Fax: 707.465.2638

August 7, 2015

VIA POSTAL SERVICE

Bureau of Land Management
Oregon State Office
P.O. Box 2965
Portland, OR 97208-2965

Re: Notice of Proposed Withdrawal; Elk Valley Rancheria, California's Comments

To Whom It May Concern:

The Elk Valley Rancheria, California, a federally recognized Indian tribe (the "Tribe") located in Del Norte County, California, provides its comments in support of the proposed mineral withdrawal of 95,806 acres of National Forest System lands on the Rogue River-Siskiyou National Forest and 5,216 acres of Bureau of Land Management lands on the Medford District and Coos Bay Districts.

The Tribe supports Senate Bill 346 and House Resolution 682, the "Southwestern Oregon Watershed and Salmon Protection Act of 2015." The proposed withdrawal assists with the preservation of the status quo and does not allow for mining claim location or entry under the mining laws, mineral lease or geothermal operations during both the two-year segregation period and the subsequent five-year mineral withdrawal, for a total of up to seven years.

The Tribe has previously expressed concern about mining in the Smith River watershed and has supported on-going efforts to protect the Smith River and associated watershed from the negative impacts of proposed nickel mining efforts. The proposed strip mining and other mineral extraction activities have been demonstrated to have a negative effect on the water supply that is so vital to the region. Likewise, those activities negatively affect cultural and historical sites of importance to the Tribe and its ancestors.

The proposed withdrawal would avoid the nickel mine's destruction of wilderness quality public lands, eradication and disturbance of the local flora and fauna, pollution of downstream waters, and depletion of a fully appropriated stream. Likewise, maintaining the status quo would avoid pollution that would harm fisheries and drinking water supplies. The cessation of both the short term mineral exploration drilling and long term industrial strip mining would clearly be beneficial to the public interest.

Again, the Tribe supports the proposed withdrawal and urges the Secretary to take said action.

Thank you for the opportunity to comment on this matter of great public importance.

Sincerely,

Dale A. Miller
Chairman

cc: Congressman DeFazio
Congressman Huffman
Senator Feinstein
Senator Boxer
Elk Valley Tribal Council
Grants Director
General Counsel

Confederated Tribes of Siletz Indians
P.O. Box 549 Siletz, Oregon 97380
(541) 444-2532 • 1-800-922-1399 • FAX: (541) 444-2307

September 18, 2015

Jerome E. Perez, Oregon State Director
Bureau of Land Management
Oregon State Office
P.O. Box 2965
Portland, Oregon 97208-2965

Re: Withdrawal of Southwestern Oregon eligible Federal lands from all forms of entry, appropriation, or disposal under the public land laws, location, entry, and patent under the mining laws, and operation under the mineral leasing and geothermal leasing laws, and for other purposes.

Dear Director Perez:

I am writing you regarding the issue of mining on public lands managed by the USDA Forest Service and the Bureau of Land Management in Southwest Oregon's Kalmiopsis region. In an earlier letter (May 5, 2015) addressed to Mr. Robert MacWhorter, Forest Supervisor of the Rogue River/Siskiyou National Forest, we expressed our concern over Red Flat Nickel Corporation's interest in exploratory nickel mining within the lower Rogue River Basin, the Illinois River, as well as Hunter Creek, Pistol River, Chetco River, and the North Fork of the Smith River (Southern Oregon border). Today we are expanding on that concern by asking that you extend the current two year segregation period to a five year withdrawal. In addition we wish to inform you that our long-term interest is in seeing a full twenty year withdrawal to allow time for our Federal legislators to pass the proposed *Southwestern Oregon Watershed and Salmon Protection Act of 2015, H.R. 682 and S.346* (introduced by Messrs. DeFazio, Huffman, Merkley, and Wyden; February 3, 2015) which would create a condition of permanent mineral entry withdrawal for approximately 95,805 acres of National Forest and 5,216 acres of BLM managed lands.

Our ancestral homelands include all the river basins of Southwest Oregon. Although we were driven from these ancestral lands during the 19th century our connection to the cultural resources in these basins has continued since removal. Our ability in large part to preserve our culture and ancestral ways, specific to the resources our people use/protect within these basins, is critical to the future success of the Confederated Tribes of Siletz. An example of this is our devotion to our annual *Run to the Rogue* celebration wherein we commemorate our ancestor's removal from their treasured homelands, by travelling their footsteps in reverse direction. During this 3 day celebration tribal members spend time with their families reconnecting to family histories in these basins and focusing on preservation of cultural traditions such as fishing for salmon and gathering basketry materials, food and medicinal plants. These activities occur seasonally during other months of the year as well. Through these activities tribal members expect to be able to drink the natural waters produced within these basins, eat mammals, fish, shellfish and plants that are susceptible to environmental pollutants. Although we have concerns related to multiple species and beneficial uses within these basins we will highlight one species/beneficial use concern for demonstration purposes.

Lamprey eel are a key fisheries resource for the Siletz Tribe. Larval lamprey rear in freshwater streams for four to ten years before they begin their ocean migration. During the past twenty years west coast tribes have forced the agencies to recognize multiple issues driving Pacific lamprey population declines. Using several genetic studies carried out during the past fifteen years, fisheries experts from the U.S. Fish and Wildlife Technical Working Group (federal, state and tribal partners) have identified the Rogue Basin as a key producer of Pacific lamprey when considering all stocks of lamprey found across the eastern Pacific. Because Pacific lamprey larvae reside in freshwater for so long along with other biological factors proving super-sensitivity, they have been shown to be more susceptible to environmental pollution (Portland Harbor Super Fund studies and recent Columbia River Intertribal Fish Commission studies). Toxic run off from mining operations would be detrimental to the remaining stocks of lamprey found in our above mentioned streams of concern. In turn we are equally concerned about water use to support these activities and how that use will compete with critical fisheries habitat.

The current proposed mining activity has a long history of high risk and extensive environmental pollution under which the responsible parties rarely take financial responsibility and for which the citizens of the state or country where it occurs carry all the financial burden of the cleanup. Although we support economic development across Oregon we do not support ventures associated with a high degree of environmental risk.

In summary we wish to express our great concern over the sustainability of resources within our ancestral homelands under any sort of precious mineral exploratory or otherwise, mining activities. In addition we wish that you extend the current two year segregation period to a five year withdrawal. Lastly, we request that you work toward a full twenty year withdrawal to allow our legislators adequate time to pass the *Southwestern Oregon Watershed and Salmon Protection Act of 2015* with its' intended permanent withdrawal of 101,021 acres of Federal lands from future (1) entry, appropriation, or disposal under the public land laws; (2) location, entry, and patent under the mining laws; and (3) operation under the mineral leasing and geothermal leasing laws.

Sincerely,

Delores Pigsley
Tribal Chairman

COUNTY OF DEL NORTE
BOARD OF SUPERVISORS

981 "H" Street, Suite 200
Crescent City, California 95531

Phone
(707) 464-7204

Fax
(707) 464-1165

Jerome E. Perez, State Director
BLM Oregon
1220 S.W. 3rd Avenue
Portland, OR 97204

09/22/15

Subject: Mineral Withdrawal in Support of the Southwestern Oregon Watershed and Salmon Protection Act

Dear State Director Perez,

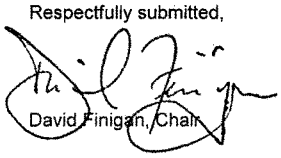
Thank you for the opportunity to comment on this very critical subject. The responsiveness of the Bureau of Land Management and the U.S. Forest Service to the request of our federal legislators for a five-year mineral withdrawal on lands that flow into our pristine watersheds is greatly appreciated.

Del Norte County is home to the Smith River which is considered to be the prize of the California Wild and Scenic River System because of it unparalleled free-flowing status, large and abundant salmon and steelhead stock, and extraordinary botanical diversity. The river's recreation opportunities are abundant and it provides the indirect primary source of drinking water for the majority of Del Norte County's 28,000 residents. The value of a healthy Smith River to the vitality of Del Norte County is incalculable. While the California portion of the Smith River was afforded protection under the Smith River National Recreation Area Act and Wild and Scenic River designation, the upper reaches of the North Fork of the Smith River, which lie in Oregon, remain vulnerable to large scale strip mining operations.

In July 2014, the Del Norte County Board of Supervisors voted unanimously to oppose the issuance of the limited water use license for Red Flat Nickel Corporation's Cleopatra Check Drilling Program based on the potential to cause significant adverse environmental impacts within the overall watershed of the Smith River and subsequent impacts on drinking water for residents and thousands of annual visitors. While this request was later withdrawn, the County has continued to work with California state legislators to garner the support needed to permanently safeguard the North Fork of the Smith River. Most recently the California State Legislature approved Senate Joint Resolution No. 3 – Smith River Watershed Protection which resolves that the state Legislature will urge the President of the United States and Congress to permanently safeguard the Smith River.

Given the exigency of the matter, Del Norte County strongly urges your support in recommending approval of the mineral withdrawal to the Director of the Bureau of Land Management to allow adequate time for our federal legislators to approve the Southwest Oregon Watershed and Salmon Protection Act which will permanently protect our world class rivers and streams.

Respectfully submitted,



David Finigan, Chair

cc: Representative Jared Huffman, U.S. Congress
Senator Mike McGuire, California State Senate
Mayor Ron Gastineau, City of Crescent City Council

GOLD BEACH
Nature's Wild Side

City of Gold Beach
29592 Ellensburg Avenue • Gold Beach, OR 97444
Administration: 541-247-7029 • *Police*: 541-247-6671 • www.goldbeachoregon.gov
Visitor Center: 541-247-7526 • www.goldbeach.org

Friday, May 20, 2016

SENT VIA EMAIL & USPS

Robert MacWhorter, Forest Supervisor
% Shannon Downey
Rogue River-Siskiyou National Forest
3040 Biddle Rd,
Medford, OR 97504

RE: SW Oregon Mineral Withdrawal

Dear Mr. MacWhorter:

Please accept this letter as a placeholder comment in favor of SW Oregon Mineral Withdrawal legislation. The Gold Beach City Council, at the May 9th Council meeting, voted to send a letter supporting the mining withdrawal proposal as well as draft a resolution in support of the withdrawal. The resolution will be ratified at the June 13th Council meeting. Even though the comment period will be officially closed at that time, I will forward a copy of the resolution once signed.

The Red Flat mining proposal--that was the genesis of this proposed withdrawal legislation--is located in close proximity to the City of Gold Beach. In the past our area has been heavily dependent on a natural resources extraction economy that was strongly encouraged by the USFS and other federal agencies. Most of that extraction was in the form of timber, but Curry County does have a long history of mineral extraction as well—mostly aggregate, though, not hazardous mining like nickel mining.

In the past 20 years, and specifically in the past 10, our area has worked really hard to make lemonade from the lemons we were handed in the early '90s (no harvesting of a *renewable* resource on federal lands that make up 75% of our county). But the timber discussion is a horse beaten so dead there isn't enough left for glue--so no point in going there. It is what it is, and we will never go back to harvesting and replanting, so we have tried to move on. We are making lemonade economically by working on building a successful tourism economy that embraces the "wild" in the wilderness and wild rivers that surround us.

Nickel mining—anywhere—but specifically HERE would be catastrophic to that tourism economy, and, in my opinion, kind of a slap in our faces. We are no longer permitted to

harvest and replant trees--a renewable natural resource: but now federal agencies may allow devastating extraction of a non-renewable source metal. Those extraction activities scar and pollute the surrounding areas and bring ZERO income to the locals that are affected by the devastation. How does that comport with the past 25 years of rhetoric that logging destroys the environment and threatens fish habitat? Roads aren't even being maintained in the national forest surrounding Gold Beach because that maintenance may adversely impact habitat. But strip mining is a possibility?

The mining company isn't even an American company. If you want to say there is controversy surrounding this issue: **there it is**—a foreign company strip mining a one-of-a-kind wilderness area, devastating salmon habitat, devastating watersheds of federally designated wild rivers, and destroying a fragile tourism economy in one of the most economically devastated counties in the entire west. All based on some obscure law over 100 years old? THAT is the controversy.

We are a first world country. We know what strip mining does to the environment and to communities surrounding it. The fact that we have to even say: STOP. PLEASE. is shameful in 2016.

But that is what we are saying: STOP PLEASE. Help us preserve our fragile tourism economy. Help us to preserve the wild areas that make us America's Wild Rivers Coast. Withdraw these areas from consideration for mineral extraction. Not just for 5 years. Not even for 20. Withdraw them permanently.

Thank you for the opportunity to comment on this very important issue.

Sincerely,

Jodi Fritts
City Administrator
jfritts@goldbeachoregon.gov

David Bitts
President
Larry Collins
Vice-President
Duncan MacLean
Secretary
Mike Stiller
Treasurer

PACIFIC COAST FEDERATION of FISHERMEN'S ASSOCIATIONS

W.F. "Zeke" Grader, Jr.
Executive Director
Glen H. Spain
Northwest Regional Director
Vivian Helliwell
Watershed Conservation Director
In Memoriam:
Nathaniel S. Bingham
Harold C. Christensen

Please Respond to:

☐ **California Office**
P.O. Box 29370
San Francisco, CA 94129-0370
Tel: (415) 561-5080
Fax: (415) 561-5464

www.pcffa.org

Email: fish1ifr@aol.com

[X] **Northwest Office**
P.O. Box 11170
Eugene, OR 97440-3370
Tel: (541) 689-2000
Fax: (541) 689-2500

28 September 2015

Jerome E. Perez, Oregon State Director
Bureau of Land Management,
Oregon State Office,
P.O. Box 2965,
Portland, Oregon 97208-2965

PDF Email to:
BLM_OR_WA_WITHDRAWALS@blm.gov

Dear Oregon State Director Perez:

We submit these comments to you on behalf of the Pacific Coast Federation of Fishermen's Associations (PCFFA) as well as its sister organization, the Institute for Fisheries Resources (IFR).

As the largest trade association of commercial fishing families on the west coast, we at PCFFA (together with IFR) urge you to protect the headwaters of the Wild and Scenic Illinois and Smith Rivers and the Wild Rivers Coast from proposed nickel and other strip mines. We respectfully ask you to protect these waterways, which (as key salmon producing rivers) are crucially important to our livelihoods and those of our members, many of whom harvest salmon for all or part of their living.

Every stream and river in Oregon counts for and is important for commercial salmon fishing production due to "weak stock management." This is the biologically and legally required management tool by which all fisheries in a given at-sea area can be closed if *any one* stock, or substock, that is intermingling with the other targeted but more abundant stocks becomes too weakened in population size to allow any additional incidental or even accidental take without risking its depletion or eventual extinction.

This is not just a theoretical threat, but happens as a regular part of west coast ocean fisheries management. For instance, in 2006 ocean salmon fisheries from Monterey, CA to the OR-WA

border were closed or severely restricted because of the one very weak fall-Chinook stock in the Klamath River that year. Once the Klamath fall-Chinook populations dipped below the "minimum spawner floor" in 2006, all other fisheries in that 700 mile area were either closed down or severely restricted to prevent even accidental take of the weakest fall-Chinook from the Klamath. This closure cost our industry about $200 million in economic losses, even though the rest of the fall-Chinook stocks coastwide were relatively strong and could, in themselves, have otherwise supported abundant fisheries.

Weak stock management-driven closures could just as easily affect the Oregon coastal salmon stocks if *any* of these intermingling stocks get seriously depressed, due to destructive industrial mining, in *any one* river system on the coast. All other Oregon (and perhaps Northern California and Washington) ocean salmon fisheries could potentially be shut down to protect *any one* very weak stock, at a huge economic cost to our industry. The risk of a mining-triggered salmon habitat loss which results in an economic disaster in our industry is just too great to allow such impacts.

These same streams for which protection is sought also contain ESA-listed Oregon Coastal ESU coho, and/or Southern Oregon/Northern California ESU coho. Significant loss of either of these protected populations could trigger serious weak stock management restrictions, and could also limit large portions of the commercial at-sea fishery in both states.

It also just makes no sense from a public policy perspective to be spending tens of millions of dollars repairing damaged in-stream coho spawning and rearing habitat while simultaneously allowing mining operations to re-destroy that same habitat, and at a huge tax-payer subsidy.

I ask you to support the maximum possible interim protection available while Congress considers permanent protection through legislation, such as the Southwestern Oregon Watershed and Salmon Protection Act, which we fully support.

Sincerely,

Glen K. Spain

Glen H. Spain
Regional Director
PCFFA and IFR

Cc: Tim Sloane, PCFFA/IFR
Executive Director

Curry County
Board of Commissioners

David Brock Smith,
Commissioner

94235 Moore Street, Suite 122
Gold Beach, OR 97444
541-247-3296, 541-247-2718 Fax
800-243-1996 *www.co.curry.or.us*

September 23rd, 2015

Neil Kornze, National Director
Bureau of Land Management
1849 C Street NW, Room 5665
Washington D.C. 20240

Jerome Perez, Oregon State Director
Bureau of Land Management
333 S.W. 1't Avenue
Portland OR 97204

Regarding: Mineral withdrawal on 95,806 acres of National Forest System lands on the Rogue River-Siskiyou National Forest

As a Commissioner for Curry County and on behalf of our residents, I thank you for the opportunity to comment on the critical issue of mineral withdrawal in Southwestern Oregon. On August 7th, 2013, the Curry County Board of Commissioners passed an Amendment to the Curry County Code adding a New Article One, Division Fourteen relating to a Federal Coordination Policy. This Policy, under Section 1.14.010, subsection (1) asserts additional coordination as outlined in the FLPMA and NFMA to, "provide early and frequent opportunities for.... local governments to participate in the planning process". The purpose of the Federal Coordination Policy, as outlined in Section 1.14.020, is that Curry County asserts its maximum rights to coordination, as provided by law, with all federal agencies conducting activities in or affecting Curry County and the policies contained in the Federal Coordination Policy are enacted with the express intent of developing meaningful and productive relationships with the federal agencies that coordinate with Curry County.

Section 1.14.030, Subsection (3) outlines the Federal Coordination Policy Mining Policies. The Curry County Board of Commissioners agrees that the proposed project to be conducted by the Red Flat Nickel Corporation will cause serious negative externalities to the project location at the headwaters of the free flowing Hunter Creek and Pistol River watersheds. If allowed to be developed; the board also recognizes there will be serious negative impacts to the surrounding area, restriction of access to popular recreational areas, degradation of the rare and unique botanical resources, as well as the health risks to the residents and wildlife. The Board places higher values on its citizens' health and safety, the many recreational uses of the Red Flat area as well as the highly prized Hunter Creek and Pistol River fisheries for wild chinook and coho salmon, steelhead, cutthroat and resident trout than on the foreign owned Red Flat Mining Corporation interests. Furthermore, the BOC feels this proposed project is not in line with a number of other Curry County policies outlined within the Federal Coordination Policy.

Additionally, the Smith River; which is considered to be the prize of the California Wild and Scenic River System, is included in the proposed mineral withdrawal. While the California portion of the Smith River has the protections of the Smith River National Recreation Area Act and Wild and Scenic designation, the headwaters and North Fork lie in Southwestern Oregon and therefore have no additional protections. The Smith River's free flowing status, large, abundant salmon and steelhead runs and extraordinary botanical diversity, coupled with multiple recreation opportunities and an important source of drinking water for the majority of the residents, make its health vitally important to the safety, welfare and economy of our residents.

We understand that the proposed mineral withdrawal in no way disrupts our citizen's rights to access, recreate and utilize these lands within the proposed area and encourage citizens to do so. We would also encourage the respective federal agencies to fund road infrastructure maintenance programs on the road systems that exist within the proposed area.

In closing, given the critical significance of the Hunter Creek, Pistol River and Smith River Watersheds to the Southwestern Oregon and Northwestern California communities and their economies, Curry County respectfully requests your approval of the proposed mineral withdrawal within the Rogue River-Siskiyou National Forest. Thank you for your consideration on this important matter.

Respectfully,

David Brock Smith, Commissioner
Curry County Board of Commissioners
District 4 Chair,
Association of Oregon Counties
Association of O&C Counties Board Member

CC: Senator Ron Wyden
Senator Jeff Merkley
Congressman Peter DeFazio
Rob MacWhorter
Patricia Burke

City of Crescent City
Where the Redwoods Meet the Sea
377 J Street, Crescent City, CA 95531 • 707.464.7483 • Fax 707.465.4405 • www.crescentcity.org

September 21, 2015

Oregon State Director
Bureau of Land Management
Oregon State Office
P.O. Box 2965
Portland, OR 97208-2965

Re: City of Crescent City public comment supporting proposed mineral withdrawal

To Whom it May Concern:

The City is opposed to any activities that could be detrimental to the water quality of the Smith River. The Smith River is the community's water source and provides high quality drinking water for 14,000 plus residents, as well as thousands of visitors year-round. In addition to providing drinking water to the City's municipal water users, the Smith River also offers a multitude of recreational activities including kayaking, rafting, swimming, and fishing. The Smith River and its tributaries are the spawning grounds and habitat for a world-class fishery (salmon, steelhead, cutthroat trout). These recreational and fishing opportunities are not only enjoyed and valued by local residents, they are also an important feature of the region's tourist industry. As such, the City is opposed to any activities that could be detrimental to the water quality of the Smith River.

If you have any questions you can contact Eugene Palazzo, City Manager at 707-464-7483 ext. 232 or by email at epalazzo@crescentcity.org.

Sincerely,

Ron Gastineau, Mayor
City of Crescent City

BIG ROCK
COMMUNITY SERVICES DISTRICT
P.O. Box 453
Crescent City, CA 95531
(707) 464-7769

September 11, 2015

Jerome E. Perez
Oregon State Director
US. Bureau of Land Management
P.O. Box 2965
Portland, OR 97208-2965

Re: Proposed Mineral Withdrawal

Dear Director Perez:

We understand that the *Bureau of Land Management* is proposing to temporarily withdraw from mining nearly 100,000 acres of federal public lands in southern Oregon that could be threatened by nickel mining at some point in the future. We also understand that the "Southwestern Oregon Watershed and Salmon Protection Act of 2015" (S. 346 and H.R. 682) was introduced earlier this year to permanently withdraw these lands from mining and mineral entry. And, we understand that the mineral withdrawals proposed with this legislation, if implemented, would not nullify existing mining claims.

The *Big Rock Community Services District* is a California Special District with Constitutional governance authority over its place of use. Its jurisdiction is proverbially known as the *Township of Hiouchi*. Hiouchi is located on the north bank of the pristine Smith River downstream from where the North, Middle and South Forks converge into a single body of river water. One of the Special District's key municipal obligations is to supply drinkable water to the commercial businesses and community residents within its jurisdiction. Revenue to support all of the *Big Rock CSD's* municipal services comes from water consumers on a fee basis and also from property tax. Indeed, the *Big Rock CSD's* jurisdiction includes the *Redwood National Park* and California 's priceless *Jedediah Smith Redwoods State Park* that collectively host tens of thousands of visitors to this area every year. Much of the Hiouchi's disadvantaged economy is derived from sport fishing for steelhead and salmon. As is true of this township on a smaller scale, the general health of Del Norte County's businesses at large is dependent upon tourism and recreation throughout the year. A critical component of commercial dynamics in this county and a vital contributor to the attractiveness of the entire region is the pristine nature of the Smith River watershed.

The *Big Rock Community Services District's* Board of Directors/Trustees made an informal, but determined effort to solicit the related views of its constituents. Without exception to date, the residents of this community felt that exploration leading to possible mining operations could threaten the pristine nature of the Smith River and its downstream confluences.

The position of the Special District is thus. A plus B equals C. Having heard of a proposed mineral exploration site being (A) located dangerously near the North Fork (and tributaries) of the Smith River and, worse yet, (B) situated on a steep incline above the river was (C) sufficient to convince the *Township of Hiouchi* to reject any and all attempts by private or commercial operators to acquire permits. Thus, the Board of Directors/Trustees, *Big Rock Community Services District*, officially resolved to support both the proposed 5-year and permanent mineral withdrawals and to oppose *Red Flat Nickel Corporation's* mining proposal.

Inquiries regarding this matter may be addressed to 2680 U.S. Highway 199, Crescent City, CA 95531-9309.

Craig Bradford, President
Board of Directors/Trustees

600

Gasquet Community Services District

September 21, 2015

Bureau of Land Management
Oregon State Office
P.O. Box 2965
Portland, Oregon 97208-2965
BLM_OR_WA_WITHDRAWALS@blm.gov

RE: Comments in Support of Proposed Mineral Withdrawal on Specified Lands in Southwestern Oregon, 80 Fed. Reg. 37015 (June 29, 2015).

On behalf of the Gasquet Community Services District, we provide the following comments in support of a 5 year mineral withdrawal on all lands specified in Southwestern Oregon, 80 Fed. Reg. 37015 (June 29, 2015). We also support a 20-year or permanent mineral withdrawal in order to preserve our drinking water supply.

The Smith River provides drinking water to thousands of people in Del Norte County. Proposed mining activity by a foreign-owned corporation would be located upstream of the water supply intakes for residents in numerous communities. Our service district provides drinking water to approximately 300 residents/households in Gasquet, California. Presently, the water we distribute to our customers is of the highest quality --- and this is critically important to our community. Our service district is small and we could not afford additional treatment costs if mining waste and activity polluted the water.

Recent mine accidents in British Columbia and Colorado have polluted rivers that used to provide clean drinking water to downstream communities. We do not want to see such a tragedy happen here. Existing laws and regulations against mining waste spills are inadequate to protect our drinking water. Therefore, we urge you to move forward with the proposed 5-year or longer mineral withdrawal and to work towards securing a permanent mineral withdrawal for the North Fork Smith River and surrounding watersheds.

Sincerely, Mark Dodd

Gasquet Community Services District
(707)457-3107
P. O. Box 86
Gasquet, CA. 95543

Crescent City & Del Norte County Chamber
of Commerce

1001 Front Street | Crescent City | CA 95531
t. 707.464.3174 | f. 707.464.9676
www.delnorte.org | e. ccchamber@charterinternet.com

September 28, 2015

Bureau of Land Management
Oregon State Office
P.O. Box 2965
Portland, Oregon 97208-2965
BLM_OR_WA_WITHDRAWALS@blm.gov

RE: Comments in Support of Proposed Mineral Withdrawal

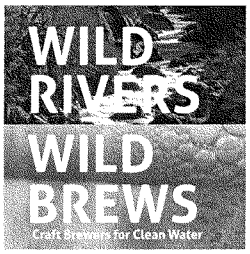
On behalf of the Crescent City/Del Norte County Visitor's Bureau, we provide the following comments in support of a 5 year mineral withdrawal. We also support a 20-year or permanent mineral withdrawal in order to preserve our drinking water supply and the health of our coastal community.

The Smith River provides drinking water to thousands of people in Del Norte County. Proposed mining activity by a foreign-owned corporation would be located upstream of the water supply intakes for residents and businesses in numerous communities. The single-largest component of our local economy is travel and tourism. To state the obvious, to locate and allow for strip mining in the headwaters of the Smith River will put our community at risk and is entirely unacceptable.

Recent mine accidents in British Columbia and Colorado have polluted rivers that used to provide clean drinking water to downstream communities. Please do not allow such a tragedy to happen here. We urge you to move forward with the proposed 5-year or longer mineral withdrawal and to work towards securing a permanent mineral withdrawal for the North Fork Smith River and surrounding watersheds described in the proposed mineral withdrawal.

Sincerely,
Jeff Parmer
Executive Director

Crescent City/Del Norte County Visitor's Bureau
1001 Front Street
Crescent City, CA 95531
707-464-3141
jparmer@delnorte.org



Gold Beach, OR — Brookings, OR

Brookings, OR — Coos Bay, OR

Grants Pass, OR — Grants Pass, OR

Medford, OR — Medford, OR

Medford, OR — Medford, OR

Medford, OR — Ashland, OR

Ashland, OR — Ashland, OR

September 21st 2015

FR: Wild Rivers, Wild Brews Coalition
TO: Jerome E. Perez, Oregon State Director
Bureau of Land Management
Oregon State Office
P.O. Box 2965
Portland, OR 97208-2965
RE: Comment Regarding 5-Year Mineral Withdrawal for SW Oregon

Dear Oregon State Director Perez:

We the undersigned breweries of southwest Oregon are writing in support of the proposed withdrawal of approximately 95,805 acres of National Forest and 5,216 acres of Bureau of Land Management (BLM) managed land in southwest Oregon's Kalmiopsis region from entry and location under the mining laws of the United States. We make this request for the multitude of benefits that come from protected watersheds.

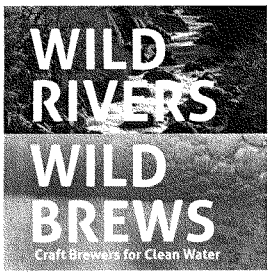
For starters, clean water is essential for great tasting beer. Clean water also plays a critical role in providing drinking water for healthy communities, providing habitat for fish and wildlife and supporting local agriculture. Our coalition of breweries stands together to support protections that would keep the crystal clear, salmon-studded waters of the Kalmiopsis clean for our communities, fish and wildlife and local businesses that depend on clean water.

The communities that surround the Smith, Illinois, and Pistol rivers and Hunter Creek have so much to gain from healthy, protected watersheds. Investment in sustainable industries and community infrastructure will add to the attractiveness of the region, bringing new businesses and residents alike. Craft brewing, tourism, and recreation based business ventures are growing industries and assets to Curry and Josephine counties and the surrounding areas of southwest Oregon. With the threat of destructive nickel strip mining, these natural treasures and related local industries of southwest Oregon are endangered.

We believe that clean water, fish and wildlife habitat, and recreational opportunities must be protected now, and preserved for future generations. These uses represent the highest and best use of our public lands and resources. The high quality of life in southwest Oregon attracts new residents and creates jobs that strengthen our small businesses and local communities.

We appreciate the BLM and the US Forest Service working together to initiate a process to limit mining in the Kalmiopsis. Please protect the headwaters of the Smith, Illinois, Pistol and Hunter Creek to support the community's efforts in promoting sustainable economic development in southwest Oregon's Wild Rivers Country.

Sincerely,



James & Kristen Smith
Head Brewer &
Chief Operating Officer
Arch Rock Brewing Co.
Gold Beach, OR

Mike Frederick & Alex Carr-Frederick
Owners & Brewers
Chetco Brewing Co.
Brookings, OR

Mark, Hanna and Matt Camarillo
Owners & Brewers
Misty Mountain Brewing Co.
Brookings, OR

Carmen Matthews & Annie Pollard
Co-owners & Brewers
7 Devils Brewing Co.
Coos Bay, OR

Brandon Crews
Head Brewer
Climate City Brewing Co.
Grants Pass, OR

Jon Conner
Owner & Brewer
Conner Fields Brewing Co.
Grants Pass, OR

Scott Saulzbury
Head Brewer
Southern Oregon Brewing Co.
Medford, OR

Nick Ellis
Owner & Brewer
Opposition Brewing Co.
Medford, OR

Neil Smith
Head Brewer
Bricktowne Brewing Co.
Medford, OR

Cameron Litton
Head Brewer
Walkabout Brewpub
Medford, OR

Alex & Danielle Amarotico
Co-owners
Common Block Brewing Co.
Medford, OR

Brandon Overstreet
Owner & Brewer
Swingtree Brewing Co.
Ashland, OR

Larry Chase
Head Brewer
Standing Stone Brewing Co.
Ashland, OR

Jim Mills
Owner
Caldera Brewing Co.
Ashland, OR

Kalmiopsis Rivers and Wild Rivers Coast

Supporters

The following tribes, municipalities, businesses and organizations support protection of Hunter Creek, Pistol River, Rough and Ready Creek and the North Fork of the Smith River from industrial nickel mining.

Tribal

Confederated Tribes of the Siletz
Elk River Rancheria
Takelma, and leader Agnes Baker Pilgrim
Tolowa Dee-ni' Nation (Smith River Rancheria)

Public Sector

Big Rock Community Services District
California Department of Fish and Wildlife
California State Assembly
Cave Junction City Council
Congressman Jared Huffman
Congressman Peter DeFazio
Crescent City Council
Crescent City and Del Norte County Chamber of Commerce
Curry County Board of Commissioners
Del Norte County Board of Supervisors
Gasquet Community Services District
Gold Beach City Council
North Coast Regional Water Quality Control Board
Oregon Water Resources Department
Oregon Department of Fish and Wildlife
Redwood National Park
Senator Ron Wyden
Senator Jeff Merkley
United States Fish and Wildlife Service

Local Business

4 Whatever Photography, Fine Photos and Cards, Cave Junction, OR
7 Devils Brewing Co., Coos Bay, OR
All Star Rafting, Maupin, OR
Althouse Nursery, Cave Junction, OR
Andras Outfitters, Talent, OR
Arch Rock Brewing, Hunter Creek, OR
Ashland Automotive, Ashland, OR
Ashland Fly Shop, Ashland, OR
Antiquarium Books and Collectables, Ashland, OR
ARTA River Trips, Merlin, OR
Barking Mad Farm, Enterprise, OR
Big Bottom Whiskey, Hillsboro, OR
Big Springs Kennel, Cave Junction, OR
Bill Dobucki, Chetco Fishing, Brookings, OR
Bliss Unlimited, LLC, Eugene, OR
Bob Rees' Oregon Fishing Guide Service, Tillamook, OR
Brandon Worthington Fly Fishing, Talent, OR
Bricktowne Brewing Co., Medford, OR
Bryson Appraisal Service Inc., Gold Beach, OR
Bucksport Sporting Goods, Eureka, CA
Caldera Brewing Co., Ashland, OR
Carson's Guide Service, Shady Cove, OR
Catch of the Day, Wedderburn, OR
Cave Junction Acupuncture, Cave Junction, OR
Cave Junction Liquor, Cave Junction, OR
Chetco Brewing Co., Brookings, OR
Pinecone Books, Cave Junction, OR
Christina Paul Photography, Kerby, OR
Clear Creek Family Practice, Selma, OR
Climate City Brewing Co., Grants Pass, OR
Common Block Brewing Co., Medford, OR
Confluence Outfitters, Gold Beach, OR
Conner Fields Brewing Co., Grants Pass, OR
Crucial Thymes, Fine Foods, Cave Junction, OR
Crumley's Guide Service, Hunter Creek, OR
Curry Home Inspection, Gold Beach, OR
Dancefarm, Organic Veggies and Dance

Sew Like the Wind, Hunter Creek, OR
Shane's Welding, Gold Beach, OR
Siskiyou Alpaca, Cave Junction, OR
Siskiyou Ecological Services, Applegate, OR
Siskiyou Forestry, Gold Beach, OR
Siskiyou Mountain Herbs, Cave Junction, OR
Siuslaw Guide Service, Cave Junction, OR
Smithsonian Design, Hunter Creek, OR
Solar Light & Energy, LLC, Bend, OR
Solis Skin Care, Cave Junction, OR
South Coast Tours LLC, Gold Beach, OR
Southern Oregon Brewing Co., Medford, OR
Standing Stone Brewing Co., Ashland, OR
Stephen Gerould Lamps and Accessories, Portland, OR
Willow Witt Ranch, Ashland, OR
Swing Tree Brewing Co., Ashland, OR
Team Sucio Productions, Pistol River, OR
Terra Firma Botanicals, Inc., Eugene, OR
The Beebe Company, Portland, OR
The Dome School, Cave Junction, OR
The G Spot, Fine Bar and Grill, Kerby, OR
The Haul, Grants Pass, OR
The Tool Merchants, Matt Stern, Williams, OR
Tradewinds Bamboo Nursery, Hunter Creek, OR
Travis Bowman Guide Service, Gold Beach, OR
Tributary Whitewater Tours, Weimar, CA
Turtle Island Co., Hood River, OR
Under Solen Media, Portland, OR
Upstream Adventures, Oakridge, OR
Vitalist School of Herbology, Grants Pass, OR
Walkabout Brewpub, Medford, OR
Wheel's A Turnin' Garden Supply, Cave Junction, OR
Wild Bill's Oregon Outlet, Cave Junction, OR
Wilderness Canyon Adventures, Pistol River, OR
Wildland Photography, Eugene, OR
William Olsen Designs, Ashland, OR
Wilson Biochar Associates, Cave Junction, OR
Winter's Hill Vineyard, Dayton, OR
Wolfhound Cycles, Talent, OR
Wooden Valley Ranch, Salem, OR
Wright's World Emporium, Clothing and Gifts, Cave Junction, OR
Wylie's Honey Brews, Phoenix, OR
YAKIMA Products Inc., Beaverton, OR
Yanase Jewelers, Cave Junction, OR
Your Personal Ceremony, Portland, OR

Organizations

American Whitewater
America Outdoors Association
California Trout
Cascadia Wildlands
Center for Biological Diversity
Cultural and Ecological Enhancement Network
Curry County Democrats
Earthworks
Environmental Protection Information Center
Federation of Western Outdoor Clubs
Friends of Del Norte
Friends of the Kalmiopsis
Geos Institute
Hunter Creek River Steward
Illinois Valley Community Development Organization
Innominate Garden Club
Josephine County Democrats
Kalmiopsis Audubon Society
Klamath-Siskiyou Wildlands Center
Lower Columbia River Canoe Club
Lower Rogue Watershed Council
Native Fish Society
Native Plant Society of Oregon
Native Plant Society, South Coast Chapter
North Coast Environmental Center
Oregon Chapter, Sierra Club
Oregon Coast Alliance
Oregon Council of Trout Unlimited
Oregon Kayak and Canoe Club
Oregon Wild
Pacific Coast Federation of Fisherman's Association
Pacific Rivers Council
Rainforest Action Network
Rogue Riverkeeper
Siskiyou Land Conservancy
Smith River Alliance
Soda Mountain Wilderness Council
South Coast Watershed Council
Sunset Garden Club
Surfrider Foundation
The Association of NW Steelheaders
The Larch Company
The Northwest Guides and Anglers Association
The Wilderness Society
Trout Unlimited
WaterWatch of Oregon

Instruction, Cave Junction, OR
Dave Lacey Woodworking, Hunter Creek, OR
Diggin Livin, Cave Junction, OR
Douglas Kendall, Designer, Cave Junction, OR
Eden's Edge Farm, Cave Junction, OR
eNRG Kayaking, Oregon City, OR
Environmental Paper & Print, Inc., Portland, OR
Finish Line Copy Services, Gold Beach, OR
Fishhawk River Company, Brookings, OR
Fiver Star Charters, Gold Beach, OR
Flywater Travel, Ashland, OR
Flying Fish Company, Portland, OR
Forest Edge Farm, Cave Junction, OR
Full Circle Real Estate – Ashland, OR
Gita Maria Inc., Eugene, OR
Goodness and Mercy, Handyman Services, Cave Junction, OR
Greenspace, Portland, OR
Helens Guide Service, Gold Beach, OR
Hunter Creek Tavern, Hunter Creek, OR
Hydro Flask, Bend, OR
Indian Summer, Kerby, OR
Indigo Outfitters, Ashland, OR
Interior Cover Ups, Gold Beach, OR
Iron Mountain Soapworks, Cave Junction, OR
It's a Burl, Gallery, Cave Junction, OR
IV Trophy and Collectibles, Cave Junction, OR
Jeanne Young, DC, DIBCN, Bend, OR
Jefferson State Financial, Cave Junction, OR
Juniper Ridge, Oakland, CA
Kathy Lombardo, Secretary, Illinois Valley Garden Club, Cave Junction, OR
KEEN Footwear, Portland, OR
Kerbyville Natural Farms, Kerby, OR
Kiaya Pace, Independent Hairstylist, Back Street Salon, Cave Junction, OR
Klamath-Siskiyou Native Seeds, Applegate, OR
Madd Moose, Dining and Moose Watering Hole, Cave Junction, OR
Mama Angie's Ladles of Love, Fine Food Catering, Cave Junction, OR
Margaret Phillhower, ND, Cave Junction, OR
Meadow Martell, Supporting Access to Health Care, Cave Junction, OR
Migration Brewing, Portland, OR
Misty Mountain Brewing Co., Brookings, OR
Momentum River Expeditions, Ashland, OR
Mountain Rose Herbs, Eugene, OR
Mt. Tabor Veterinary Care, Portland, OR
Must B Felt, Fine Fabric Designers, Cave Junction, OR
Natural Family Medicine, Cave Junction, OR
New Outlook Financial, Portland, OR
North West Nature Shop, Ashland, OR
North West Outdoor Shop, Medford, OR
Northwest Rafting Company, Hood River, OR
Northwest River Guides LLC, Portland, OR
Noto Group, Inc., Portland, OR
OARS, Angels Camp, CA
Ocean Haven Corp., Yachats, OR
Opposition Brewing Co., Medford, OR
Oregon Green Clean, Portland, OR
Orange Torpedo Trips, Merlin, OR
Organic Harvest, Selma, OR
Organically Grown Company, Eugene, OR
Out N About Trees Oregon, Cave Junction, OR
Pat's Hand-Tied Flies, Trail, OR
Patagonia, Ventura, CA
Peter Grubb, ROW Rafting, Merlin, OR
Pint Shack, Hood River, OR
PlanGreen, Portland, OR
Plywerk, Portland, OR
Pond Gallery, Portland, OR
Portland Integrated Health and Sports Medicine, Portland, OR
Pro Photo Supply, Portland, OR
Rachel Goodman, LMT Massage Therapist, Cave Junction, OR
Rama Krisa Shiitakes, Ashland OR
Raven Flight Photos, Cave Junction, OR
Ravenswood Gallery, Cave Junction, OR
Redwoods and Rivers, Big Bar, CA
Rich Earth Organic Skin Care , Portland, OR
River Drifters, Maupin, OR
River Trail Outfitters, Eugene, OR
RMDC Consultants, Gold Beach, OR
Rogue Aquatics, Central Point, OR
Rogue Fly Shop, Grants Pass, OR
Rogue Klamath River Adventures, Gold Hill, OR
Rogue Natural Living, Cave Junction, OR
Rogue Rock Gym, Medford, OR
Rogue Wilderness Adventures, Merlin, OR
Rosie's Inferno, Wood Fired Pizza, Cave Junction, OR
Ruby's Neighborhood Restaurant, Ashland, OR
RuffWear, Bend. OR
Running Fox Guitars, Cave Junction, OR
Seven Seeds Farm, Williams, OR

Western Environmental Law Center
Wild and Scenic Rivers
Wild Salmon Center

Scientists

Brett Adams, Ph.D., Utah State Univ.
Peter Albers, Ph.D., USGS, (ret.)
John Alcock, Ph.D., Arizona State Univ.
Kayce Anderson, Ph.D., Colorado State Univ.
William Anderson, Ph.D. College of Charleston
W. Scott Armbruster, Ph.D., Univ. of AK. Fairbanks
Kenneth Arrow, Ph.D., Stanford Univ. (ret.)
Peter Bahls, M.S., Northwest Watershed Institute
William Baker, Ph.D., Univ. of Wyoming
Bruce Baldwin, Ph.D., Univ. of Cal., Berkeley
Jesse Barber, Ph.D., Boise State Univ.
Frank Barnwell, Ph.D., Univ. of Minnesota
Roger Barry, Ph.D., Univ. of Colorado
Constance Becker, Ph.D., Life Net Nature
Craig Benkman, Ph.D., Univ. of Wyoming
Michael Bennett, Ph.D., A. Einstein Coll. of Med.
David Benzing, Ph.D., Oberlin College
David Berg, Ph.D., Miami Univ.
Robert Beschta, Ph.D., Oregon State Univ.
Harvey Blankespoor, Ph.D., Hope College
Bazartseren Boldgiv, Ph.D., Nat. Univ. of Mongolia
Arthur Boucot, Ph.D., Oregon State Univ.
Richard Bradley, Ph.D.
William Bridgeland, Ph.D.
James Brown, Ph.D., Univ. of New Mexico
Jesse Brunner, Ph.D., Washington State Univ.
Brian Buma, Ph.D., Univ. of Alaska
Eric Burr, M.F., Conservation NorthWest
Tom Cade, Ph.D., Cornell Univ.
Philip Cafaro, Ph.D., Colorado State Univ.
Ken Carloni, Ph.D., Umpqua Community College
Kai Chan, Ph.D., Univ. of British Columbia
F. Stuart Chapin, Ph.D., Univ. of Alaska Fairbanks
Donald Charles, Ph.D., Drexel University
Norman Christensen, Ph.D., Duke Univ.
Malcolm Cleaveland, Ph.D., Univ. of Arkansas
Mark Colwell, Ph.D., Humboldt State Univ.
Paul Corogin, M.S., Univ. of Florida
Ericha Courtright, M.S., USDA
Patrick Crist, Ph.D., George Mason Univ.
Paul Crosbie, Ph.D., Cal. State Univ., Fresno
David Culver, Ph.D., Ohio State Univ.
Luise Davis, Ph.D., Society of Wetland Scientists
Paul Dayton, Ph.D., Univ. of Cal., San Diego
James Deacon, Ph.D., UNLV
Alan Dickman, Ph.D., Univ. of Oregon
Dana Dolsen, M.S., Univ. of Alberta
Craig Downer, M.S., Andean Tapir Fund
Ken Driese, Ph.D., Univ. of Wyoming
Marianne Edain, B.A.
Richard E. Edelmann, Ph.D., Miami Univ.
Robert Espinoza, Ph.D., Cal. State Univ., Northridge
Jonathan Evans, Ph.D., Univ. of the South
Thomas Fleischner, Ph.D., Prescott College
Janet Franklin, Ph.D.
Douglas Frederick, Ph.D., NC State Univ.
Christopher Frissell, Ph.D.
Flathead Lake Bio. Station, Univ. of MT
Robert Fuerstenberg, M.S., Ecologist (ret.)
Jed Fuhrman, Ph.D., Univ. of Southern Cal.
Stephen Fuller, Ph.D., Univ. of Mary Washington
Daniel Gavin, Ph.D., Univ. of Oregon
Donald Geiger, Ph.D., Univ. of Dayton
James Gessaman, Ph.D., Utah State Univ.
Thomas Giesen, MFA; M.S., Univ. of Oregon
Barrie Gilbert, Ph.D., Utah State Univ. (ret.)
Matthew Gitzendanner, Ph.D., Associate Scientist
Rachel Golden, M.S., Oceana
Steven Green, Ph.D., Univ. of Miami
David Griffith, Ph.D., Ferris State Univ.
Jon Grinnell, Ph.D., Gustavus Adolphus College
Gary Grossman, Ph.D.
Simon Gunner, M.S., Olofson Environmental, Inc.
John Hall, Ph.D., West Virginia Univ.
Kenneth Helms, Ph.D., Univ. of Vermont
Bill Hilton Jr., Ph.D., Hilton Pond Center for Piedmont Natural History
Andres Holz, Ph.D., Portland State Univ.
Elizabeth Horvath, M.S., Westmont College
Malcolm Hunter, Ph.D.
Brian Inouye, Ph.D., Florida State Univ.
David Inouye, Ph.D., Univ. of Maryland
Jerome Jackson, Ph.D., Florida Gulf Coast Univ.
David Janos, Ph.D., Univ. of Miami
Karl Jarvis, Ph.D. Candidate, Northern Arizona Univ. School of Forestry
David Jenkins, Ph.D.,Univ. of Central Florida
Mitchell Johns, Ph.D., Cal. State Univ.
Bart Johnson, Ph.D., Univ. of Oregon
Jay Jones, Ph.D., Univ. of La Verne
Jacob Kann, Ph.D., Aquatic Ecosystem Sciences
Anne Kapuscinski, Ph.D., Dartmouth College
James Karr, Ph.D., Univ. of Washington
Ruth Kern, Ph.D., Cal. State Univ., Fresno
Nicole King, Ph.D., Univ. of Cal., Berkeley
Bruce Kirchoff, Ph.D., Univ. of N. Carolina, Greens.
John Kloetzel, Ph.D., Univ. of Maryland
Marni Koopman, Ph.D., Geos Institute
Drew Kramer, Ph.D., Univ. of Georgia
John Lamperti, Ph.D., Dartmouth College

Rick Landenberger, Ph.D., West Virginia Univ.
Beverly Law, Ph.D., Oregon State Univ.
Geoffrey Lawrence, M.S., N. Henn. Comm. Coll.
William Lidicker, Ph.D., Univ. of Cal., Berkeley
Jason A. Lillegraven, Ph.D., Univ. of Wyoming
Jay Lininger, M.S., Center for Biological Diversity
Frank Logiudice, M.S., Univ. of Central Florida
Marilyn Loveless, Ph.D., The College of Wooster
Marvin Lutnesky, Ph.D., East. New Mexico Univ.
Andrew L. Mack, Ph.D., Indo-Pacific Cons. All.
Calvin Maginel, M.S. Candidate, Univ. of Missouri
Debora Mann, Ph.D., Millsaps College
Sandra Mardonovich, M.S., Miami Univ.
Sharyn Marks, Ph.D., Humboldt State Univ.
Travis Marsico, Ph.D., Arkansas State Univ.
Patrick Martin, Ph.D., Colorado State Univ.
Carlos Martinez del Rio, Ph.D., Univ. of Wyoming
Terry McCloskey, Ph.D., Louisiana State Univ.
Carl McDaniel, Ph.D., Oberlin College
Gary Meffe, Ph.D., Univ. of Florida (ret.)
E. Charles Meslow, Ph.D., USGS (ret.)
Brian Miller, Ph.D., Middle Tennessee State Univ.
Toni Lyn Morelli, Ph.D., Univ. of Massachusetts
Molly Morris, Ph.D., Ohio Univ.
John Morse, Ph.D., Clemson Univ.
Richard Munson, Ph.D., Miami Univ.
Dennis Murphy, Ph.D., Univ. of Nevada, Reno
Peter Murphy, Ph.D., Michigan State Univ.
Philip Myers, Ph.D., Univ. of Michigan
Michael Napolitano, M.S., SF Bay Wat. Qual. Bd.
Richard Nawa, M.A., KS Wild
Charles R. Neal, B.S., U.S. Dept. of Interior (ret.)
Andrew Nelson, Ph.D., SUNY Oswego
Gretchen North, Ph.D., Occidental College
Richard Olmstead, Ph.D., Univ. of Washington
John Pagels, Ph.D., Virginia Commonwealth Univ.
Theodore Papenfuss, Ph.D., UC Berkeley
Michael Parker, Ph.D., Southern Oregon Univ.
Harmony Patricio, M.S.
Dave Perry, Ph.D., Oregon State Univ.
Esther Peters, Ph.D., George Mason Univ.
E. Pielou, Ph.D., D.Sc
Thomas Power, Ph.D., Univ. of Montana
Jessica Pratt, Ph.D., Univ. of Cal., Irvine
Robert Pyle, Ph.D., Xerces Society
Gurcharan Rahi, Ph.D., Fayetteville State Univ.
Peter Raven, Ph.D., Missouri Botanical Garden
Ann Rhoads, Ph.D., Univ. of Pennsylvania
David Roberts, Ph.D., Montana State Univ.
Garry Rogers, Ph.D., Agua Fria Open Space All.
Steven Rogstad, Ph.D., Univ. of Cincinnati
Thomas Rooney, Ph.D., Wright State Univ.
Amy Rossman, Ph.D., USDA-ARS
John Rotenberry, Ph.D., Univ. of Cal., Riverside
Matthew Rubino, M.S., NC State Univ. Dept. of Applied Ecology
Periann Russell, M.S., NC Dept. of Environment and Natural Resources
Ann Sakai, Ph.D.,Univ. of Cal., Irvine
Robin Salter, Ph.D., Oberlin College
Scott Samuels, Ph.D., Univ. of Montana
Benedetta Sarno, Ph.D., DVM
Melissa Savage, Ph.D., Univ. of Cal., Los Angeles
Fiona Schmiegelow, Ph.D., Univ. of Alberta/Yukon
Kate Schoeneker, Ph.D., USGS/Col. State Univ.
Fred Schreiber, Ph.D., Cal. State Univ., Fresno
Kathy Schwager, M.S.
Thomas W. Sherry, Ph.D., American Ornithologists' Union, Ecological Society
Jack Sobel, M.S., ETI Professionals, Inc.
Michael Soule, Ph.D., UC Santa Cruz
Wayne Spencer, Ph.D., Conservation Biology Inst.
Timothy Spira, Ph.D., Clemson Univ.
Pamela Stanley, Ph.D., Albert Eistein Col. of Med.
Richard Steiner, M.S., Univ. of Alaska (ret.)
Alan Stemler, Ph.D., Univ. of Cal., Davis
Glenn R. Stewart, Ph.D., Cal. State Polytech.
Christopher Still, Ph.D., Univ. of Cal., SB
Paul Torrence, Ph.D., Northern Arizona Univ.
Pepper Trail, Ph.D., USFWS Wild. Forensics Lab
Vicki Tripoli, Ph.D.
James Valentine, Ph.D., Univ. of Cal., Berkeley
Pete Van Hoorn, M.S.
Ken Vance-Borland, M.S., Cons. Planning Inst.
Mike Vandeman, Ph.D.
Thomas Veblen, Ph.D., Univ. of Colorado
John Vickery, M.S., M.A., Denver Natural Areas
Marlene Wagner, Ph.D. Cand., Simon Fraser Univ.
David Wake, Ph.D., Univ. of Cal, Berkeley
Faith Walker, Ph.D., Northern Arizona Univ.
Greg Walker, Ph.D., Univ. of Cal, Riverside
Donald Waller, Ph.D., Univ. of Wisconsin
Gerald Wasserburg, Ph.D., Cal. Inst. of Tech.
Vicki Watson, Ph.D., Univ. of Montana
Orion Weldon, Ph.D. Candidate
Rutgers Univ., Ecology & Evolution
Stephen Weller, Ph.D., Univ. of Cal., Irvine
Hart Welsh, Ph.D., USDA Forest Service
David Whitacre, Ph.D.
Sue Wick, Ph.D., Univ. of Minnesota
James Williams, Ph.D., U.S. Dept. of Interior (ret.)
Norris Williams, Ph.D., Univ. of Florida
Paul Wilson, Ph.D., Cal. State Univ.
Marianna Wood, Ph.D., Bloomsburg Univ.

Michael C. Kinville
PO Box 57345
North Pole, Alaska 99705
(907) 687-6356
Michael.kinville@gmail.com

9/20/2016

The Honorable Lisa Murkowski
Post Office Box 142
Columbia, S.C. 29202-0142

Dear Senator Murkowski,

My name is Michael C. Kinville, and I reside at 3505 Yellowstone Road, North Pole, Alaska. I am a shareholder in both Shee Atika Inc. and Sealaska Inc.

I am writing you in regard to Senate Bill 3273, ANCSA Improvement Act.

I must admit to a great deal of disappointment as I read this bill. I have two primary areas of concern.

First, I am disappointed that Congress has, once again, failed to hold the state of Alaska accountable for not establishing state laws that bring ANCSA corporations to parity with conventional corporations at the state level. As ANCSA worked its way through Congress in approximately 1970, Congress insisted that the state of Alaska establish laws to govern ANCSA corporations in a manner similar to Federal SEC laws. Alaska promised to enact these laws, but never did.

This lack of oversight at the federal level and lack of follow-through at the state level has created what one journalist refers to as "self-electing boards of directors". In my own experience I have found state agency charged with enforcing fair corporate elections apathetic and unresponsive to evidence of corporate violations of state law.

My first concern is based on what this bill excluded, my second concern regards what the bill includes. Rather than address fundamental flaws in ANCSA, this bill serves as a vehicle that speeds the Shee Atika's directors down a path of selling the last major section of land that we, Shee Atika, received as a result of ANCSA. I have yet to talk to one of my fellow Shee Atika shareholders who support this sale. This is very illustrative of how ANCSA corporation's boards of directors, through utter control of the election process, have isolated themselves from the will of their shareholders.

I am in a loose coalition of ANCSA shareholders who are determined to address the lack of due oversight of our corporations as we seek to increase our fellow shareholder's access and input to the management of our corporations.

I ask that you do not support Senate Bill 3273, the ANCSA Improvement Act as it is written. It fails to address basic structural problems in the current version of ANCSA, and it speed along the sale of an asset that needs to be, must be, a legacy to our future generations.

If possible, I would ask that you submit this letter for public record as the bill is considered.

Thank you for your time, and your consideration of my request.

Respectfully,



Michael C. Kinville

A TRIBAL ADVOCATE'S CRITIQUE OF PROPOSED ANCSA AMENDMENTS PERPETUATING A BROKEN CORPORATE ASSIMILATIONIST POLICY (September 2016) [1]

I. INTRODUCTION

On 26 March 2015, Alaska Senators Murkowski and Sullivan introduced the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act. [2] On 14 July 2016, those Alaska Senators introduced S. 3273, the Alaska Native Claims Settlement Act Improvement Act.[3] These bills have a common objective: to "recognize" an undetermined number of individual Alaska Native residents, or their heirs, in Wrangell, Ketchikan, Tenakee, Haines, and Petersburg and allow them to organize as Urban Corporations under the Alaska Native Claims Settlement Act (ANCSA).[4] Once incorporated, the Secretary of the Interior would offer each of these five newly-minted Corporations 23,040 acres of land (a township each, or 115,200 acres total) as compensation for the extinguishment of their aboriginal title to Alaska lands. Ostensibly, the creation of these five corporations, and conveyance of a township to each, rectifies these communities' exclusion from ANCSA forty-five years ago. The proposed methodology for that "recognition" -- perpetuation of a failed engrafted corporate model on Alaska villages -- remains assimilationist. In recognition of the serious limitations of the ANCSA corporate model, Alaska Tribal, subsistence, and Native cultural advocates should seek to amend this legislation to provide that land for each of these omitted villages be conveyed to the Secretary of the Interior and held in trust for the four Alaska Tribes, and for the traditional Tenakee Clan. Alternatively, one corporation could be created for all five communities with one township conveyed by the to Secretary of the Interior in Trust for the four Tribes and traditional Tenakee Clan. The bottom line, though, is that this legislation, as now introduced, is fundamentally flawed and should be opposed by Alaska Tribal advocates and all others who depend on the truly renewable resources of the Tongass National Forest.

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[1] By Vance A. Sanders, Attorney at Law. Mr. Sanders individually represented California Indian Tribes and was co-counsel for the Native Village of Venetie Tribal Government and Alaska Inter-Tribal Council, as *amici*, in *John v. Baker*, 982 P.2d 738 (Alaska 1999); *cert. den.* 528 U.S. 1182 (2000) (recognizing Alaska Tribal sovereignty and adjudicatory authority). Since 1984, he has represented Alaska Tribes and individual Alaska Natives in federal, state, and tribal courts, and in administrative matters.

[2] Introduced on 26 March 2015 "[t]o provide for the recognition of certain Native communities and the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes." On 15 May 2015, Alaska Representative Don Young introduced a companion Bill: HR 2386.

[3] Section 10 of S 3273. S. 3273, meanwhile, followed introduction by these Alaska Senators of S. 3004 on 26 May 2016. Because all of these bills (S. 872) or a portion of these bills (S. 3273 and S. 3004) relate to amending the Alaska Native Claims Settlement Act (ANCSA), P.L. 92-203, 85 Stat. 688 (codified, as amended, at 43 U.S.C. 1601 *et seq.*), below these three bills are referred to collectively as ANCSA corporate legislation.

[4] Section 6 of S 872 (as introduced); Section 10 of S 3273.

II. ALASKA TRIBAL STATUS: GOVERNMENT-TO-GOVERNMENT

Alaska Natives have inhabited present-day Alaska for many thousands of years. Their status as "tribes" was formally acknowledged beginning with Article III of the 1867 Treaty of Cession, through which the United States of America "acquired" Russia's interest in Alaska. That Treaty divided the population of Alaska into two categories. The "inhabitants" were to be admitted to United States citizenship or permitted to return to Russia. The "uncivilized native tribes", meanwhile, were summarily excluded as citizens and "subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country."[5] The unchallenged interpretation of this provision through present is that the treaty applies the whole body of federal Indian and statutory law to Alaska tribes.[6]

In 1993 -- 126 years after the Treaty of Cession and 22 years after ANCSA's passage -- and buoyed by an exhaustive solicitor's opinion, the Department of the Interior published a list of the federally recognized Alaska tribes.[7] The next year, Congress enacted the Federally Recognized Tribe List Act of 1994.[8] This statute directed the Department of the Interior annually to publish the list of recognized tribes; it has done so since 1994. By January 2015, the list includes 235 Alaska Native tribes. Among those are the Ketchikan Indian Corporation, Chilkoot Indian Association (Haines), Wrangell Cooperative Association, and Petersburg Indian Association;[9] Tenakee has not been and is not now on that list since it has not met the criteria for inclusion. However, Tenakee is the customary and traditional use area for the Wooshikitaan Clan.

The Tribe List Act specifically prohibited the Interior Department from removing any tribe from the list absent an act of Congress. Both the federal[10] and state courts[11] have held this is

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[5] Treaty of Cession U.S.-Russia, Art. III, 30 March 1867, 15 Stat. 542.

[6] *In re Minook*, 2 Alaska Rpts. 200, 220-221 (D. Alaska 1904).

[7] "Indian entities recognized and eligible to receive services from the United States Bureau of Indian Affairs", 58 Fed. Reg. 54,364, 54,368-69 (1993). Publication of the list was based on then-Solicitor Sansonetti's conclusion that Alaska villages are tribes. *Id.* at 54,365 *citing* Op. Sol. M-36, 975 at 58-59 (11 Jan. 1993).

[8] 25 U.S.C. a § 479a *et seq*.

[9] "Indian entities recognized and eligible to receive services from the United States Bureau of Indian Affairs", 80 Fed. Reg. 1943, 1946-1948 (14 January 2015): "The listed Indian entities are acknowledged to have the immunities and privileges available to federally recognized Indian tribes by virtue of their government-to-government relationship with the United States[.]" Tenakee has no listed tribe.

[10] *See e.g. Native Village of Fort Yukon v. Alaska*, (Fort Yukon-Tribal status) No. F.86-0075 Civ (D. Alaska, September 20, 1995); *see also Cogo v. Central Council of Tlingit & Haida Indians,* 465 F. Supp 1286 (D. Alaska 1979); *Inupiat Community of the Arctic Slope v. United States*, 680 F.2d 122, 124 (Ct.Cls. 1982); cert. den. 459 U.S. 969 (1982); *Blatchford v. Native Village of Noatak*, 501 U.S. 775, 779-780 (1991), all of which adjudicated the interests of Alaska "tribes" prior to publication of the 1993 list.

[11] *John v. Baker*, 982 P.2d 738, 770 & 776, n. 5 (Alaska 1999); cert. den. 528 U.S. 1182 (2000): "In view of the 1993 recognition by Secretary Deer of this tribal status of Alaska's Native villages... the existence of their sovereignty is not an issue. They have the same sovereign powers as recognized

dispositive and tribes exist in Alaska. Alaska's executive branch has followed the lead of the Courts. [12] Given recognition of the Alaska Native tribes by the federal and Alaska state courts, the federal and state executive branches and Congress, tribal status in Alaska is now well established.

III. ANCSA'S CORPORATE MODEL IS INEMICAL TO ALASKA TRIBES AND SHOULD NOT BE PERPETUATED BY NEW ANCSA LEGISLATION

In 1971, Congress passed the Alaska Native Claims Settlement Act (ANCSA) to extinguish Alaska aboriginal title to Alaska lands in consideration for title to some 44 million acres of land and almost a billion dollars.[13] Alaska Natives "supported ANCSA as a formal recognition of their longstanding use and occupancy of the land. They thought it would safeguard their traditional subsistence-based economy by securing title to that land for generations."[14] That fundamental hope was doomed by Congress's preferred corporate model to implement the landholding portion of the settlement:

> [C]ongress did not convey the land to tribal entities. When Congress enacted ANCSA, it considered tribal governments to be an impediment to assimilation. Instead, the law required the Natives to set up village and regional corporations to obtain title to the land. The land that ANCSA conveyed does not belong to Alaska Natives, it belongs to corporations. Hence, the Native corporations are the most visible structures established under this legislation. But these corporate structures put the land at risk. For Native land is now a corporate asset. Alaska Natives fear that, through corporate failure, corporate takeovers and taxation, they could lose their land. [15]

Any policy maker serious about protecting Alaska aboriginal peoples' ties to the land and its genuinely renewable resources should also heed the Alaska Native Review Commission's prescient findings. Among those findings, made after holding extensive field hearings all over Alaska from 1983 to 1985, or nearer in time to ANCSA's enactment, are:

> "In 1971, Alaska Natives believed that, if they owned their own land, they could protect the traditional economy and a village way of life. Subsistence is at the core of village life, and

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tribes in other states." Indeed, they do. And they have since begun to exercise those government-to-government powers in ways Alaska's Congressional delegation has yet fully to understand.

[12] Administrative Order 186 (September 29, 2000).

[13] 43 U.S.C. sec. 1605. ANCSA revoked all but one of the existing Native reserves (Annette Island), repealed the authority for new Native allotment applications, and declared a broad policy to settle land claims. 43 U.S.C. 1618(a), 1617(d), and 1601(d).

[14] Martha Hirschfield, *The Alaska Native Claims Settlement Act: Tribal Sovereignty and the Corporate Form*, 101 Yale L.J. 1331 (1992); *see also* Thomas R. Berger, *Village Journey (Village Journey)*, at vii-viii (1985).

[15] *Village Journey*, at 7. (British Columbia Supreme Court Justice Thomas R. Berger was appointed in 1983 by the Inuit Circumpolar Conference to conduct the Alaska Native Review Commission "to review the Alaska Native Claims Settlement Act of 1971." *Id.* at vi. This task took Justice Berger to Native villages all over Alaska "to hear the evidence of Alaska Natives – Eskimos, Indians, and Aleuts." *Id. Village Journey* is a must read for any policy maker serious about meaningfully addressing the economic, social, and cultural issues still faced by Alaska Natives.

> land is the core of subsistence. You cannot protect the one unless you protect the other. The law [ANCSA] has protected neither. One of the ironies of ANCSA is that, in Alaska, where the Native peoples live closer to the land and sea, with greater opportunities for self-sufficiency than Natives of any other state, they have no clearly defined tribal rights, no rights as Natives peoples to fish or wildlife. Elsewhere in the United States and Canada, Native communities enjoy special rights. ANCSA extinguished aboriginal hunting and fishing rights throughout Alaska." [16]

It is remarkable how little ANCSA assimilationist policy has changed on the federal level in the 30 years since the publication of *Village Journey*. This seminal work's findings surprise no one -- then or now.

A 1985 Department of the Interior study on the effects of ANCSA's implementation observed: "[O]ne must bear in mind the limitations of the corporate form of organization as a means of delivering benefits. Corporations can transfer money directly to the shareholders either by giving them jobs or by paying them dividends. ANCSA corporations have only been able to employ a small fraction of Native and most corporations have been unable to pay significant dividends." [17]

More recently, in 2013, the Indian Law and Order Commission, formed by Congress to investigate criminal jurisdiction in Indian Country, shed light on the deplorable public safety conditions in Alaska Native communities, and recommended remedying those conditions.[18] The Commission report acknowledged that "a number of strong arguments can be made that [Alaska fee] land may be taken into trust and treated as Indian country" and "[n]othing in ANCSA expressly barred the treatment of former [Alaska] reservation and other Tribal fee lands as Indian country."[19] The Commission recommended that these lands be placed in trust for Alaska Natives,[20] a recommendation endorsed by the Secretarial Commission on Indian Trust Administration and reform, established by former Secretary of the Interior Ken Salazar. [21]

With these policy recommendations for reform, spanning thirty (30) years, one may reasonably ask why Alaska Senators Murkowski and Sullivan and Representative Young would propose any ANCSA amendments in 2015, 2016, or later, to utilize the ill-considered and wholly ineffective corporate model.[22] Unless an Alaska Native is directly employed by a profit-making ANCSA corporation, or receives occasional dividends, the corporate model does not benefit him or her. It

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[16] *Village Journey* at 60.

[17] Martha Hirschfield, *The Alaska Native Claims Settlement Act: Tribal Sovereignty and the Corporate Form*, 101 Yale L.J. 1331 (1992) (footnotes referencing Dept. of the Interior's 1985 ANCSA Study omitted).

[18] Indian Law and Order Commission, "A Roadmap for Making Native America Safer: Report to the President and Congress of the United States," at 33-61 (November 2013).

[19] *Id.* at 45, 52.

[20] *Id.* at 51-55.

[21] U.S. Dept. of the Interior, "Report of the Commission on Indian Trust Administration and Reform," at 1 (December 10, 2013).

[22] In a 7 December 2015 letter to Julie Koehler, Senator Murkowski advised that pursuant to SB 872, "[t]he land would be used to help the corporations to make money to aid their shareholders." In other words, more of the same.

provides no cultural, traditional, or subsistence protective benefits. The failed corporate model is designed primarily to promote commercial activities on land owned by state-chartered corporations wholly divorced from traditional Native land use. As history in the Tongass has shown, this profit focus results in intense clearcut logging of many Southeast Alaska village core subsistence use areas village residents depend on for personal and cultural sustenance.

IV. PENDING ANCSA CORPORATE LEGISLATION PERPETUATES ANCSA'S FUNDAMENTAL FLAWS

S. 872's stated purposes (parroted in S. 3404/3273) are to "redress the omission of the communities described in subsection (a)(6)[23] from eligibility by authorizing the Native people enrolled in the communities to form Urban Corporations for the communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell under the Alaska Native Claims Settlement Act ... and to receive certain settlement land pursuant to that act."[24] To achieve these purposes, the Secretary of the Interior is directed to enroll each individual Native in the newly-created Urban Corporations, to issues shares of stock, and to offer as compensation each of these Urban Corporations 23,040 acres of land, which "**shall** give preference to land with commercial purposes and **may** include subsistence and cultural sites, aquaculture sites, hydroelectric sites, tideland, surplus Federal property and eco-tourism sites."[25]

The 23,040 acres to each Urban Corporation would be comprised of "local" public lands, which, as now drafted, could come from any lands, no matter their importance for subsistence, cultural, or traditional uses. As to those lands, "[t]he Secretary **shall** offer as compensation under this subsection local areas of historical, cultural, traditional and economic importance to Alaska Natives from the Villages of Haines, Ketchikan, Petersburg, Tenakee, or Wrangell."[26] And the Secretary "**shall** give preference to land with commercial purposes" in making these land selections and withdrawals.[27]

Read together, these mandatory provisions **require** the Secretary to focus on lands historically, culturally, traditionally and economically important to these five Native villages, which **shall** be used for commercial purposes. As the Southeast Native villages of Hoonah, Hydaburg, Craig, Kake, Klawock, Yakutat, and Kasaan can readily attest, this mandate inevitably will result in clearcut logging in these five rural communities, with irreversible losses to subsistence, cultural, and traditional uses long predating those selections and industrial scale logging.

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[23] Haines, Ketchikan, Petersburg, Tenakee, and Wrangell.

[24] S 872, Sections 2(b)(1)(2); S 3273 Section 10.

[25] S 872, Section 6 (emphasis added); S 3273 Section 10. Lest there be any doubt about the importance and protection of traditional subsistence areas for these 5 communities relative to those for commercial purposes, the use of "shall" in the commercial context and "may" in non-commercial contexts dispels that doubt. Ironically, over 30 years after Justice Berger documented the fundamentally flawed corporate model as protective of Alaska Natives' subsistence uses, S 872 contains this same corporate overlay.

[26] S 872 sec. 6(a)(2)(A); S. 872, Section 10 (amending 43 U.S.C. 1601, *et seq.*). (Emphasis added.)

[27] S 872 sec. sec. 6(a)(2)(B)(i); S. 872, Section 10 (amending 43 U.S.C. 1601, et seq.). (Emphasis added.)

As written, S. 872 and section 10 of S. 3273 provide no protections for lands set aside by Congress in the Alaska National Interest Lands Conservation Act (ANILCA).[28] Nor do they protect **any** of the 732,463 acres of legislated LUD IIs and 300,473 acres of wilderness created in the 1990 Tongass Timber Reform Act (TTRA). Ironically, that legislation passed the U.S. Senate 99-0, including aye votes from then-Alaska Senators Stevens and Murkowski. These 732,463 acres of Legislated LUD IIs and 300,247 acres of wilderness include lands with great importance to Native and other communities in the Tongass National Forest for protection of salmon watersheds, fishing, hunting, subsistence, berry picking, and cultural and historical recreational values.[29] Notably, these LUD II-protected areas had broad support from small Native and non-Native communities throughout the Tongass who recognized the importance of permanently protecting these special areas.

S. 872 and S. 3004/3273 undermine ANILCA's and the TTRA's fundamentally important land use protections in one fell swoop.

In 2014 the Sealaska Lands Entitlement Act was signed into law, ostensibly to finalize the land conveyances for the nearly 20,000 Native shareholders of Sealaska, including shareholders in all five communities targeted in S. 872 and Section 10 of S. 3273.[30] It also established 152,067 acres of additional legislative LUD IIs in the Tongass. Now, S. 872 and S. 3404/3273 threaten those additional LUD II areas.

It is difficult to imagine how legislation enacted just over a year ago to finalize land conveyances to 20,000 Native shareholders of Sealaska and to protect over 150,000 acres used by many of those shareholders could so blithely be jeopardized under the guise of recognizing five communities some 45 years after ANCSA's enactment.

S. 872 and S. 3004/3273 also provide that the Urban Corporations would receive the surface estates on the selected lands, with Sealaska to receive the subsurface estate.[31] At least one commentator has criticized this split estate component of ANCSA:

> Although severance of ownership between surface and subsurface estates is not unusual in Alaska, and villages must consent to subsurface development within their boundaries, this division of title raises problems of accountability. Thus, while village corporations are

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[28] 16 U.S.C. 3101 *et seq*. Among other findings, in ANILCA Congress stated its intent "in this Act … to provide for the maintenance of sound populations of, and habitat for, wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast relatively undeveloped areas [and] to preserve in their natural state extensive unaltered arctic tundra, boreal forest and coastal rainforest ecosystems. 16 U.S.C. 3101(b). Enacting legislation such as S 872 and S 3004/3273 -- that would likely lead to up to 115,200 acres of new clearcuts in the Tongass National Forest -- hardly serves either of these important purposes.

[29] P.L. 101-626, codified at 16 U.S.C. 539 *et seq*. The sound public policy in the TTRA is now threatened by the corporate greed driving SB 872.

[30] Sealaska Lands Entitlement Act, Section 3002 of P.L. 113-291, the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for FY 2015.

[31] SB 872 sec. 6(a)(2)(c)(2) and (3); S. 3273 sec. 10.

established as autonomous entitles, the powers granted to the regions can put serious limitations on their independence. [32]

And this and other commentators have characterized this "Village consent" provision as illusory:

> [G]iven the conflict in the Act between the role of the villages in protecting subsistence interests for small groups of Natives and the role of the regions in further resource development for the benefit Native Alaskans as a whole, some commentators believe it unlikely that villages would be able to exercise absolute veto power over regional subsurface development plans. '[T]he Village Corporation cannot veto exploration which would not affect subsistence values or subsistence sites, nor can it demand compensation except as a substitute for the value of the surface estate lost.'" [33]

This plethora of fundamental problems -- mandatory selection of subsistence, cultural, or traditional use areas for commercial development, lack of control over subsurface mining, drilling, and other subsurface activities, and perpetuation of the fatally flawed ANCSA corporate model -- should, from a Tribal perspective, doom S. 872 and S. 3004/3273. Although Washington policy makers seem to have learned nothing from ANCSA's failed corporate model, Alaska tribes have: ANCSA's focus on commercialization of traditional Tribal lands is the very definition of assimilation.[34] Indeed, and ironically, it is assimilation by slow, sure demise of truly renewable resources from the land. And, as Justice Berger learned over 30 years ago from his field hearings, it is the land that sustains Alaska Natives, not money from industrial-scale clearcutting or an occasion dividend.

V. ALTERNATE PROPOSALS

To "redress the omission" of the five Southeast Alaska communities at issue in S. 872 and S. 3004/3273, and because of the reality of intense commercial development of 115,200 acres of fundamentally important Native use lands should this legislation pass as currently drafted, certain viable alternatives should instead be meaningfully pursued.

a. Place Withdrawn and Conveyed Lands in Trust for The Four Tribes and Traditional Tenakee Clan

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[32] Martha Hirschfield, *The Alaska Native Claims Settlement Act: Tribal Sovereignty and the Corporate Form*, 101 Yale L.J. 1331 (1992), *citing* 43 U.S.C. sec. 1613(f) (1988).

[33] *Id.* at n. 45, *citing* Monroe E. Price, Region-Village Relations Under the Alaska Native Claims Settlement Act (pts. 1 & 2), 5 UCLA-ALASKA L. REV., 58, 237 (1975-1976).

[34] This utter and complete lack of policy insight reminds one of Chief Seattle's words: "It matters little where we pass the remnant of our days. ... A few more winters – and not one of the descendants of the mighty hosts that once moved over this broad land or lived in happy homes, protected by the Great Spirit, will remain to mourn over the graves of a people – once more powerful and hopeful than yours. ... Tribe follows tribe, and nation follows nation, like waves to the sea. ... Your time of decay may be distant, but it will surely come, for even the White Man ... cannot be exempt from the common destiny. We may be brothers after all. We shall see." (See http://www.chiefseattle.com/history/chiefseattle/speech/speech.htm).

At the time of ANCSA's 1971 passage, Alaska tribal status was not nearly as certain as it is today. Following the Federally Recognized Tribe List Act of 1994, annual publication of the list of federally recognized Tribes, and the Alaska Supreme Court's decision in *John v. Baker*, Alaska tribal status is now certain. Too, it is now certain that the Secretary of the Interior may take lands in trust for Alaska tribes under Section 5 of the Indian Reorganization Act (IRA) as amended. [35]

Due in part to a Federal District Court's decision in *Akiachak Native Community v. Salazar*, 935 F. Supp. 2d 195 (D.D.C. 2013) (successfully challenging the Department's "Alaska exception" to taking lands in trust under Section 5 of the IRA), and 2013 Indian Law and Order Commission's Report and the Report of the Commission on Indian Trust and Administration Reform, [36] on 23 December 2014, the Department of the Interior published a final rule relating to land acquisitions in Alaska.[37] Accordingly, the Department may take lands in Alaska in trust for Alaska tribes under Section 5 of the IRA.

This is a significant development. In response to comments that removal of the "Alaska exception" would be contrary to ANCSA, the Department stated "It is important to remember that Alaska Native land and history did not commence with ANCSA, and that ANCSA did not terminate Alaska Native tribal governments ... [ANCSA] did not repeal the Secretary's authority to take land into trust in Alaska under the IRA." [38] Moreover, the Department found that taking land in trust for Alaska Native tribes would:

> "Allow Alaska Native tribes to regulate and protect their traditional land bases in Alaska and potentially obtain tax income to support the exercise of essential governmental functions, such as providing infrastructure and human services; [i]mprove Alaska Native tribes' ability to maintain their cultural integrity, including language preservation, religion, traditional Native foods, and other aspects of tribal identity and sovereignty; [p]romote and strengthen tribal self governance and determination, which are closely associated with sovereignty over and management of tribal lands; [a]llow tribal members, rather than corporate shareholders, to guide development to take more useful forms and improve standards of living for all tribal members; [a]dvance the policy goals established by Congress in the IRA, eight decades ago, of protecting tribal lands and advancing tribal self-determination." [39]

For all these reasons, and more, SB 872 and Section 10 of S. 3273 should be amended to instruct the Secretary to take withdrawn lands in trust for the tribes in Ketchikan, Wrangell, Petersburg, Haines and the traditional Clan in Tenakee.

b. Alternatively, Create One New Southeast Urban Corporation, and Have Its Land Withdrawn and Conveyed in Trust for The Four Tribes And Traditional Tenakee Clan

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[35] Act of May 1, 1936, P.L. 74-538, sec. 1, 49 Stat. 1250 (codified at 25 U.S.C. 473a).
[36] *See* p 3 & nn. 18-21above.
[37] 79 Fed. Reg. 76888-76897 (2014), *codified at* 25 C.F.R. Part 151 (2015).
[38] Id. at 76890.
[39] *Id.* at 76891.

Alternatively, S. 872 and S. 3004/3273 could be amended to provide for the creation of a single Urban Corporation for all five of the omitted villages. A township of land could then be conveyed to the Secretary of the Interior under Section 5 of the IRA, as amended, to be held in trust for the four (4) tribes in Ketchikan, Wrangell, Petersburg, and Haines, and for the traditional Tenakee Clan.

C. Preserve Wilderness, National Monuments and Legislated LUD II Areas Established in ANILCA, TTRA and the Sealaska Act.

Minimally, S. 872 and S. 3004/3273 should be amended to prevent any Secretary of the Interior from offering any lands previously designated by Congress as Wilderness, National Monuments, or Legislated LUD II Management Areas in the 1980 Alaska National Interest Lands Conservation Act, Tongass Timber Reform Act, and the Sealaska Act. These areas are simply too important to be jeopardized for the corporate bottom line.

VI. CONCLUSION

From a traditional Alaska Native tribal perspective, the pending Senate ANSCA corporate legislation perpetuates the assimilationist policy embodied in ANCSA. Although, as detailed above, Alaska Tribes have made much progress on the state and federal levels since the passage of ANCSA in 1971, key policy makers continue to fail to heed the 1985 findings of a respected jurist and two Commissions, one established by Congress and reporting to it and the President, as well as a former Secretary of the Interior, and only two years ago. One can only wonder what is driving the quest to privatize over 115,000 acres of land, presumably in the Tongass National Forest. One thing is certain, though: if Alaska's Senators and its representative are serious about recognizing and honoring the five villages omitted in ANCSA, it now has the tools to do so in a manner that genuinely works for those villages. The only question is whether, armed with this knowledge and experience of ANCSA's failures over the past 45 years, and counting, and the current tools available to them, they have the political will finally to do right by Alaska Natives on the Natives' terms. Only time will tell.

Klawock Cooperative Association, Tribe
310 Bayview Blvd. – PO Box 430
Klawock, AK 99925
Phone: (907)755-2265 – Fax: (907)755-2809

Resolution No. 16-06

Title: A Resolution of the Klawock Cooperative Association (KCA) Tribal Council opposing Senate Bill 872 (S 872) as drafted; supporting Tribal Trust Option.

Whereas, The Klawock Cooperative Association (KCA), a federally recognized Indian tribe operating pursuant to its Section 16 Constitutional powers under the Indian Reorganization Act, as amended, 25 U.S.C. sec. 476, and its inherent sovereignty, must remain vigilant to protect Tribal members' subsistence use areas in perpetuity; and

Whereas, Alaska's Senate delegation has introduced legislation (S 872) entitled "Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act" which would create five (5) new Urban Corporations in Southeast Alaska (in Ketchikan, Wrangell, Petersburg, Haines, and Tenakee) and grant 23,040 acres to each new Urban Corporation, or a total of 115,200 acres; and

Whereas, KCA's Tribal members and their relatives throughout Southeast Alaska have suffered greatly from the irreversible destruction of formerly-productive subsistence use areas from clear-cut logging and timber activities on private corporate and public lands; and

Whereas, KCA, on behalf of its Tribal members and other Tribes' members must protect existing subsistence use areas on lands throughout Southeast Alaska, and S 872's grant of lands to private corporations would pose grave danger to, rather than protect, those lands;

Therefore Be It Resolved that the Tribal Council of the Klawock Cooperative Association formally **OPPOSES** S872 as presently drafted; and

Be It Further Resolved that the Klawock Cooperative Association would support S 872 if, and only if, all land granted to newly-created corporations is placed by the Department of the Interior in trust solely for Tribes in Ketchikan, Wrangell, Petersburg, and Haines and for a Clan in Tenakee (which has no federally-recognized Tribe).

CERTIFICATION

The forgoing Resolution 16-06 was duly adopted at a Regular Council meeting held this 8th day of March, 2016 by the Klawock Cooperative Association by a quorum vote.

7 **Yes** 0 **No** 0 **Abstain**

A. Webster Demmert III, President **Minnie Ellison, Secretary**

The Klawock Cooperative Association, ("the Tribe"), is a duly constituted Indian Tribe organized pursuant to the authority of Section 16 of the Act of Congress of June 18, 1934 (48 Stat. 984), amended May, 1 1936 (49 Stat. 1250) The Klawock Cooperative Association Tribal Council is a duly elected governing body of the Tribe, authorized to act by and on the behalf of its members.

PO Box 1331
Petersburg, Alaska 99833
October 3, 2016

Subject: Comments to the official Sept. 22, 2016 Senate Energy and Natural Resources Committee hearing record for **S. 3203.**

Dear Senate Energy & Natural Resources Committee:

S.3203 was among bills in your Sept. 22 hearing. These comments concern section 502 specifically, and the bill generally.

Comments on Section 502 (concerning the Alaska Mental Health Trust

Please change section 502 of the bill to be a federal buyout of the Alaska Mental Health Trust (AMHT) lands instead of a land-for-land exchange. This buyout approach is gaining public support, and as explained below it is the best solution to the land exchange dilemma now facing residents of Southeast Alaska.

Section 502—the Alaska Mental Health Trust land exchange has received great attention and controversy in Southeast Alaska. It would result in a legislative transfer of up to 21,000 acres of National Forest Land to the Alaska Mental Health Trust Authority for logging. This section is also known as S. 3006—Alaska Mental Health Trust Land Exchange Act of 2016. All of the lands AMHT would receive are highly problematic. In order to finally put the exchange issue to rest, the least controversial solution would be a federal buyout of the lands AMHT is intending to give up [Exhibit A]. These lands are in or near six affected communities[1].

In fact, in a forward thinking action, the Petersburg Borough Assembly recently supported the federal buyout option if the legislation fails to

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[1] Agreement to Initiate. U.S. Department of Agriculture. Forest Service. June 30, 2015. "The non-Federal lands encompass approximately 18,066 acres of scenic backdrops for the Southeast Alaskan communities of Ketchikan, Meyers Chuck, Wrangell, Petersburg, Sitka, and Juneau, Alaska." http://mhtrustland.org/wp-content/uploads/2014/03/2_USFS-AMHT-Signed-ATI-6-30-2015_2-24-2016-v1_0.pdf

pass [Exhibit B] and the AMHT has indicated it is open to the option of a buyout. [Exhibit C].

The reasonableness of a buyout is demonstrated by the Shee Atika, Cube Cove/Admiralty Island buyout[2] which has already been partially accomplished administratively [Exhibit D]. Moreover, AMHT could actually finalize the action much sooner this way, which directly and exactly addresses the reason AMHT issued its threat to log its controversial Petersburg and Ketchikan uplands, i.e., lack of time. With the endowment (buyout) approach, only half the surveys and appraisals would be involved since only the AMHT lands would be included—not Forest Service land.

According to an op-ed by Trust Board Chair Russ Webb, the land-for-land exchange through administrative processes "could cost [the Trust] as much as 6 million dollars." [Exhibit E]. The cost of a legislative land-for-land exchange would likely be similar. An endowment (buyout) is instead the most timely and least costly alternative to the Trust and would result in no environmental harm. It also makes fiscal sense because it would cost the Trust roughly only half the $6 million cited by Mr. Webb of the Trust.

This solution only requires the combined will of Senator Murkowski and AMHT and judging by the already success-in-progress of the Shee Atika situation, with their support it could very well become reality.

General comments on S.3202

Finally, please oppose S. 3203—the Alaska Economic Development and Access to Resources Act in its entirety. It is a raid on Alaska's public lands. If enacted, it would privatize large swaths of public lands for corporate benefit and transfer up to two million acres of the Tongass National Forest to State control, which has far weaker land use regulations than federal. Also, such transfer would likely result in prompt sale of those acres to the highest bidder to help defray Alaska's four billion dollar plus budget deficit. Other provisions of the proposed Act are equally troublesome. Please do not allow S. 3203 to advance one step further.

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[2] Alaska Dispatch News. Forest Service purchases big swath of Admiralty Island land from Native corporation. Sept. 17, 2016. http://www.adn.com/alaska-news/2016/09/17/forest-service-purchases-big-swath-of-admiralty-island-land-from-native-corporation/

Thank you,

Rebecca Knight

Rebecca (Becky) Knight
Petersburg, Alaska

Attachments:

Exhibit A. My Turn/A better solution for the mental health lands debacle
Exhibit B. Petersburg Borough Assembly letter
Exhibit C. Deer Mountain land buyout talk grows
Exhibit D. Forest Service purchases land in Cube Cove, returning it to Wilderness
Exhibit E. Trust has duties to manage assets for beneficiaries

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My Turn: A better solution for the mental health lands debacle

Posted: September 7, 2016 - 12:03am

By BECKY KNIGHT

FOR THE JUNEAU EMPIRE

The Greater Southeast Alaska Conservation Community believes there are better solutions than a land exchange to solve the highly controversial Alaska Mental Health Trust debacle. The exchange is detailed in Sen. Lisa Murkowski's Alaska Mental Health Trust Land Exchange Act of 2016 (S.3006).

Specifically, what should be pursued instead is either a federal buy-out or a land transfer with the state, not feds, from existing state forestlands. Clearly, AMHT's threats that Murkowski's bill be passed — or else — have angered many. Further, moving the impacts of large-scale, destructive logging out of the local public's eye to Prince of Wales Island and elsewhere on Revilla Island only caves in to the trust's threats and simply shifts the destruction to old-growth forests already highly-fragmented by decades of logging.

The best alternative would be for the federal government to trade an ample monetary endowment to AMHT in exchange for the land holdings the trust has been trying to unload. The endowment should be based on an appraisal of the profit that the trust could be expected to net over two cutting cycles (i.e. the net value to the trust of the present timber, plus something for the land).

Of the two alternatives suggested above, the endowment alternative would be best for the environment and would focus AMHT on its real work, instead of its current distracting extra role as an arm of the timber industry.

The endowment alternative is inspired by an item in another of Murkowski's bills, authorizing the federal government to purchase outright Shee Atika Corporation's large, already-clearcut landholding at Cube Cove, on Admiralty Island. Clearly, the senator's confidence that the federal government can afford this approach demonstrates that a federal buy-out for AMHT in Southeast is doable. Certainly, it is a worthy goal since it would move the trust out of the land management business and instead focus AMHT's attention on its vital role of serving the mental health needs of Alaskans. There would be no loss of valuable public lands and scenic resources, and no threat to life and limb from logging-triggered landslides. That threat is very real and must be avoided on slopes above Petersburg homes and on Ketchikan's Deer Mountain.

The other alternative, a land transfer with Southeast State Forest lands has some justification, since the state was the original source of the problem in the '70s and '80s when it seized AMHT's prior land holdings, forcing the trust beneficiaries to court to have them restored with new ones. While a land exchange with the state would still result in logging by AMHT, DNR intends to log those lands in their entirety anyway. Although the public at least has minimal say on DNR's logging, the endowment alternative is best.

Lastly, in addition to the AMHT exchange, Murkowski's goal to move federal lands to other ownerships through privatization and transfer, includes the landless Natives bill with a 115,200 acre loss, and other legislation which includes transfer of the heart of the Tongass to the state — with up to a 2 million acres loss. The senator's legislation is all about transfer of the American public's old-growth forest and other resources in order to circumvent gold-standard federal laws like NEPA and NFMA, as well as kill the opportunity for public comment. If passed, it would further cripple an already severely frayed and inadequate Tongass conservation strategy and would fulfill Murkowski's objective of placing logging under the weak Alaska Forest Resources & Practices Act, which for example allows clearcuts of unlimited size.

• Becky Knight is a longtime Southeast Alaska grassroots volunteer and is on the board of the Greater Southeast Alaska Conservation Community. She was president of Petersburg-based Narrows Conservation Coalition, worked as a forester for the U.S. Forest Service and is retired from the Alaska Department of Fish and Game.

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PETERSBURG
ALASKA

September 22, 2016

Alaska Mental Health Trust Authority
Trust Land Office
Attn: John Morrison, Executive Director
3745 Community Park Loop, Suite 200
Anchorage, AK 99508

US Forest Service
Tongass National Forest
Attn: M. Earl Stewart, Forest Supervisor
648 Mission Street
Ketchikan, AK 99901

Dear Mr. Morrison and Mr. Stewart,

The Petersburg Borough Assembly is extremely concerned with the August 24, 2016 decision of the Alaska Mental Health Authority ("Trust") to approve the sale of its timber parcels in Petersburg and Ketchikan should Congress fail to pass the Alaska Mental Health Trust Land Exchange Act of 2016 by the Trust's January 15, 2017 deadline. The sale parcels are part of an ongoing land exchange between the Trust and the US Forest Service ("Forest Service") that has been in negotiations since August, 2006, with an Agreement to Initiate signed on June 30, 2015.

We are in favor of the Alaska Mental Health Trust Land Exchange Act of 2016. The Assembly has supported the United States Forest Service/Tongass National Forest and Alaska Mental Health Trust Authority Proposed Land Exchange, dated September 4, 2012. We strongly encourage the Trust to continue to work with the US Forest Service to realize the exchange. While we support the Southeast Alaska timber industry, we adamantly feel that logging should not take place on the Trust's slopes above Mitkof Highway under any circumstances, as doing so could pose an accelerated risk of landslide and blowdown, endangering homes and property below, cause a loss of water quality to homeowner's patented mountainside water streams, threaten citizens transiting the highway - including Petersburg School District buses August through June, and jeopardize the Tyee hydroelectric utility corridor.

The Trust has expressed concerns for the cost of required environmental review needed to complete the land transfer; however, previous credible analyses of the likely landslide risks as a result from logging these acres clearly puts the burden of liability on the State of Alaska should impact of life or property occur. As we are sure you would agree, the safety of all Alaskans should be the driving force in matters such as these.

Nine (9) landsides have occurred since 1986, of which eight (8) were on Trust property, crossing and closing Mitkof Highway, and within the proposed land exchange/timber sale parcel area. As an attachment to this letter you will find a map showing the slide dates and locations along with many photos of slide debris.

In April of 2006, the Trust contracted with Craig Erdman of GeoEngineers, Inc., to perform risk assessments on the Trust's mountainside parcels above Mitkof Highway.

The Mitkof Highway Homeowners Association's attorneys, Dillon & Findley, contracted with Douglas N. Swanston, Ph.D, a Certified Professional Geologist, to also conduct risk assessments. Dr. Swanston, recently retired from the Forest Service, hired Art Dunn of Dunn Environmental Services to perform the updated assessments on the Mitkof Highway mountainside. Dr. Swanston conducted slope stability assessments on the Mitkof Highway corridor in the 1970's as a Forest Service employee. He compared the 2006 field findings taken by Mr. Dunn to his 1970's baseline findings and concluded "the risk or danger to the utility corridor, structures and residents along the Mitkof Highway corridor from debris torrents initiated

by logging in this zone" (from Taain Creek and northward) "is **moderately high**", and "the risk or danger to structures and residents along the Mitkof Highway corridor from debris torrents initiated by logging in this zone" (from Taain Creek and southward) "is **extremely high**". These conclusions are detailed in Dr. Swanston's Assessment of Landslide Risk to the Urban Corridor Along Mitkof Highway from Planned Logging of Mental Health Trust Lands, which is provided as an attachment.

In response to the Trust's own risk report of logging their Petersburg mountainside parcels, Dr. Swanston's Critique of: "Geotechnical Forestry Practices Evaluation Petersburg Slope Stability Assessment Petersburg, Alaska File Number 5342-004-00 concluded, "Logging disturbance of any sort along the steep, unstable slopes above Mitkof Highway, particularly on slopes that drain into the gullies and channels reaching the highway, is **extremely reckless and irresponsible** above such an important transportation corridor and an area of known permanent occupation and planned urban expansion. **The risk is simply too high** considering the demonstrated unstable conditions along the slopes, the presence of numerous active and dormant torrent channels reaching the highway and the clear and demonstrated danger to the utility corridor and residents along the highway."

The Petersburg Assembly respectfully implores you, Mr. Morrison and Mr. Stewart, to find a way to complete the land exchange within a reasonable timeframe. Doing so will be the best course of action for **all** Alaskans.

In the event the land exchange fails to move forward prior to the deadline of January 15, 2017 mandated by the Trust, we suggest, strictly as a "Plan B" option to the 2016 Act, the federal government offer an ample monetary endowment to Alaska Mental Health Trust Authority in exchange for the controversial Trust lands in Southeast Alaska, including Petersburg and Ketchikan.

Sincerely,

Cindi Lagoudakis
Vice Mayor

Cc: Governor Bill Walker
Senator Lisa Murkowski
Senator Dan Sullivan
Ketchikan Gateway Borough

Attachments:

- Map of slides that impacted Mitkof Highway from 1986 to present
- Photos of slides with dates and locations
- Dr. Swanston's 2006 Assessment of Landslide Risk to the Urban Corridor Along Mitkof Highway from Planned Logging of Mental Health Trust Lands
- Dunn Environmental Services May 22, 2006 Report on Field Investigations, Mitkof Hwy Area, Petersburg, AK
- Dr. Swanston's August, 2006 Critique of: "Geotechnical Forestry Practices Evaluation Petersburg Slope Stability Assessment Petersburg, Alaska File Number 5342-004 -00"

Borough Administration
PO Box 329, Petersburg, AK 99833 – Phone (907) 772-4425 Fax (907)772-3759
www.petersburgak.gov

http://www.ketchikandailynews.com/premium/deer-mt-land-9-17

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9/17/2016

Deer Mountain land buyout talk grows

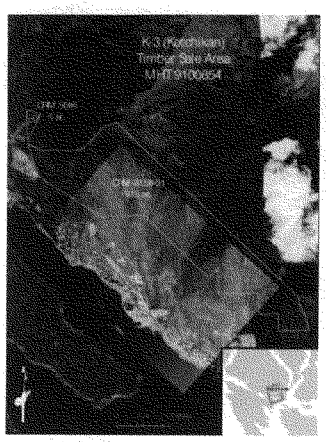
By NICK BOWMAN
Daily News Staff Writer

With quick passage of a land swap bill in Congress looking unlikely, more talk is surfacing about buying the Alaska Mental Health Trust land on Deer Mountain.

At the end of August, Russ Webb, chairman of the Alaska Mental Health Trust's board of trustees, wrote in an op-ed that Ketchikan and other communities haven't shown interest in trust land.

"Communities that value nearby Trust land have had years to secure community interest in it," Webb wrote. "No community has chosen to do so. Circumstances are now forcing the Trust to act more quickly. We have two viable choices: exchange the land or log it while there is still a timber industry."

While in Ketchikan, Sen. Dan Sullivan said opposition from environmental groups might derail a bill that would force a land swap between the trust and the U.S. Forest Service, and would avert the logging on Deer Mountain.



The proposed timber sale includes 920 acres of land above Ketchikan and makes up a significant portion of the community's viewshed. (Photo via Alaska Mental Health Trust)

"I'm not sure we can get it through the Senate because there might be outside environmental groups who think they know more about what's going on in Ketchikan than you guys do," Sullivan told the Greater Ketchikan Chamber of Commerce.

With the future of the bill, Senate Bill 3006, uncertain and the trust adamant in its assertion that without the bill passed by Jan. 15 it would start the process of logging Deer Mountain, talk of buying the land is spreading.

At a candidate forum on Wednesday, Ketchikan Gateway Borough Mayor David Landis said he's heard growing talk that the borough should consider buying the timber rights or the approximately 900 acres of land itself and preserving it.

"It certainly is worth talking about. I don't know what the cost would be, but we have done something like that before with the South Point Higgins Beach," Landis said. "There are things that we can do, and the time is short so we need to do them quickly."

On Monday, the Borough Assembly will decide whether it wants to ask the trust for a written statement that the land is for sale based on the idea that Webb's letter didn't exactly say the trust land was up for grabs.

"I've had conversations about whether there would be an opportunity for the community to purchase the land to preclude the options of logging," said Borough Manager Dan Bockhorst on Friday. "... Some people have expressed concern that there's nothing in writing that says this."

The manager said he's verbally requested a price for the land, and the trust hasn't given him one.

"They have not done an appraisal," Bockhorst said. "... We have no idea what a price would be."

Bockhorst stressed that a potential purchase isn't the borough's responsibility alone, and that it would involve the entire community.

If a negotiated sale were to take place, the community could pay a 20 percent premium on top of what the land is determined to be worth.

The borough was faced with a situation similar to Deer Mountain in 2008, when the trust was proposing to develop land along South Point Higgins Beach.

Instead, the borough paid $1.1 million for the land including the 20 percent premium to maintain it as a public park.

The transfer was completed as a negotiated sale, which avoided an open, competitive bid process. Anyone could bid through an open process, including those who want to log or develop the land.

"So if the borough or the community or some other entity wanted to buy this property outside of a competitive sale, then (the trust has_ in the past — and I don't believe the policy has changed — insisted that a negotiated sale price will be 20 percent higher than the appraised value," Bockhorst said.

http://juneauempire.com/state/2016-09-19/forest-service-purchases-land-cube-cove-returning-it-wilderness

JuneauEmpire.com

Forest Service purchases land in Cube Cove, returning it to Wilderness

September 19, 2016
JUNEAU EMPIRE

JUNEAU — Friday marked the completion of the purchase of the first two segments of a multi-segment land acquisition in Cube Cove on Admiralty Island.

In July, a landmark purchase agreement between the Forest Service and Shee Atiká Corporation was completed in order to turn over 22,000 acres of land back into Wilderness within the million-acre Admiralty Island National Monument. Due to the size of the property, the purchase agreement established a method to acquire the property in segments through the LWCF. Friday's purchase of 4,463.45 acres represents approximately 20 percent of the total purchase.

Funds for the purchase came from the congressionally-designated Land and Water Conservation Fund.

Cube Cove is located 30 miles south of Juneau.

When this purchase is completed it will be the largest transfer of lands from a private inholding back into Forest Service-managed Wilderness in the history of the agency.

"I'm pleased to finalize the purchase of Cube Cove and see these lands become a part of the Admiralty Island National Monument and Kootznoowoo Wilderness," said Alaska Regional Forester Beth Pendleton.

Admiralty Island is located within the Tongass National Forest, which is the largest intact temperate rainforest in the world and home to large populations of brown bears and other wildlife, and also critical watersheds for salmon and fish stocks.

The land owner, Shee Atiká Corporation, is a Sitka-based urban Native corporation organized under terms of the Alaska Native Claims Settlement Act. The Cube Cove lands were conveyed to Shee Atiká in the early 1980s as part of ANCSA.

http://www.ketchikandailynews.com/premium/Trust-9-01

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9/1/2016

Trust has duties to manage assets for beneficiaries

By RUSS WEBB

The Alaska Mental Health Trust Authority recently took the first step to authorize sale of timber on land near Ketchikan and Petersburg. This action has generated some strong emotions reflected in statements of support, objection, and even some accusations and threats. Here are the facts.

The Trust exists to help ensure the state has a comprehensive mental health program. It has a duty to enhance and protect the value of its trust. Beneficiaries include Alaskans with mental illness, developmental disabilities, substance use disorders, Alzheimer's disease and related dementias, and traumatic brain injuries. Beneficiaries are members of every community and nearly every family in our state.

Trust income comes from two sources: cash investments, and the sale and development of resources from Trust land. The Trust provides $20 million annually to state and local government agencies, nonprofits, providers and individuals to improve the lives and circumstances of beneficiaries. This is far less than is requested and far, far less than is needed.

Much of the Trust's income from its land has come from the sale of timber — $43 million over the last 20 years. The Trust's remaining marketable timber is on land near communities in Southeast and valued by those communities for public purposes.

To accommodate community interests, the Trust has delayed logging these parcels and has been pursuing a land exchange with the Forest Service for the past 10 years. We have worked in collaboration with individuals, agencies, communities, environmental organizations and the Forest Service to identify and select exchange parcels that balanced various interests. Exchange of the parcels agreed to by the Forest Service and Trust would make land, such as the Deer Mountain parcel, truly public land. The Trust would receive more remote land of equal value, which it can use to generate income and meet its responsibility to beneficiaries.

The purpose of the board's recent action was to assure the Trust could gain the value of timber on its land while there is still a viable timber industry. Trustees have a fiduciary responsibility — a duty to manage trust assets for the best interest of beneficiaries. We cannot legally or ethically put community interest in Trust land above those of beneficiaries and allow the land to lose value or squander the only opportunity to gain revenue from it.

Communities that value nearby Trust land have had years to secure community interest in it. No community has chosen to do so. Circumstances are now forcing the Trust to act more quickly. We have two viable choices: exchange the land or log it while there is still a timber industry.

An exchange through administrative processes could take another seven years, cost as much as $6 million, and might ultimately fail. In that time, the Southeast timber industry would likely be gone — rendering Trust timber lands virtually without commercial value.

In May 2016 Sen. Lisa Murkowski introduced legislation, Senate Bill 3006, directing the Secretary of Agriculture to make the land exchange. We are working with Sen. Murkowski to pass the bill. We are told passage in this Congress is possible though challenging.

Passage of S3006 is the Trust's preference. It would serve the interests of Trust beneficiaries, Southeast communities, and the Southeast timber industry. However, the Trust has to be prepared if S3006 is not successful. Trustees took the first step to do that by approving a potential timber sale near Ketchikan and Petersburg.

If exchange legislation does not pass, the Trust Land Office will proceed with a prescribed process for a timber sale. That process requires a written determination that the timber sale is in the best interests of the Trust. The public will receive notice of that decision and be given a 30-day period to provide information on why the sale would not be in the best interest of the Trust. If a final Best Interest Decision affirms or modifies the initial decision, another 20-day period is allowed for previous commenters to request reconsideration before a timber sale would occur.

Russ Webb is chairman of the Alaska Mental Health Trust Authority board of trustees.

Ripchensky, Darla (Energy)

From: jen laroe <jalaroe@yahoo.com>
Sent: Sunday, September 25, 2016 10:14 PM
To: fortherecord (Energy)
Subject: S. 3203 9/22/16 hearing

I want Tongass National Forest lands to remain in public hands and be managed in the best interests of all Americans
Jen LaRoe
5134 Glacier HWY
Juneau, AK 99801

Fleurant, Susan (Energy)

Subject: FW: National Wildlife Federation urges support for Antiquities Act

From: Mike Leahy [mailto:LeahyM@nwf.org]
Sent: Wednesday, September 21, 2016 6:17 PM
To: Kleeschulte, Chuck (Energy)
Subject: National Wildlife Federation urges support for Antiquities Act

Click To View Documents: Ltr NWF Antiquities Act.docx (33KB);

Dear Members of the U.S. Senate Committee on Energy & Natural Resources,

I am writing to remind you of the strong support of the National Wildlife Federation, our state affiliates, and our more than 6 million members and supporters for national monuments and the Antiquities Act that makes them possible. The attached letter explains why we and many of our affiliated state organizations support this important law.

In your hearing tomorrow you will be discussing three bills that would weaken and undermine the Antiquities Act - S. 437, S. 1416, and S. 3317.

S. 437 would allow states to dictate how national lands and waters are managed by requiring state approval for national monuments within state borders or within 100 miles of state shores.

S. 1416 could undermine the purposes of certain national monuments dependent on adequate water to support water-based recreation such as fishing or boating, or to support fish, wildlife and plants, by limiting the reservation of water rights for national monuments.

S. 3317 would deprive Utahns and all Americans of national monuments within Utah's borders.

We urge your opposition to all three of these bills.

Thank you,

Mike Leahy
Senior Manager, Public Lands and Sportsmen's Policy.



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Washington, DC 20004
202-797-6800
www.nwf.org

On behalf of over 6 million members and supporters, including hunters, anglers, fish and wildlife professionals, and outdoor enthusiasts, the National Wildlife Federation wishes to express our support for the President's authority under the Antiquities Act to establish national monuments that preserve our country's natural, cultural ,and historic treasures. We urge Congress to oppose any legislation that would undermine or block the President's ability to create national monuments that protect important wildlife habitat and priceless cultural artifacts, and preserve access to public lands for current and future generations of Americans.

Initially signed into law by President Theodore Roosevelt in 1906, the Antiquities Act has since been used by 16 presidents from both parties to create more than 130 national monuments. Time has demonstrated the wisdom of providing presidents with this authority, as nearly half of our nation's national parks - including the Grand Canyon National Park in Arizona, Acadia National Park in Maine, and Zion National Park in Utah - were initially protected as national monuments. Today, the monument designation process is unofficially required by the White House to have strong public support and engagement before the administration will consider a proposed site.

NWF agrees with this approach and supports local, community-driven monument proposals. For example, in 2014, the Organ Mountains-Desert Peaks National Monument in New Mexico was propelled by widespread public support. The next year, Browns Canyon National Monument followed suit after Colorado governor John Hickenlooper and Senators Udall and Bennet requested designation on behalf of their constituents, many of whom had been campaigning in support of the monument for over two decades.

Efforts to limit usage of the Antiquities Act would effectively block local community driven proposals to protect important public lands and waters. While some of these areas now enjoy the recognition they deserve as national parks, monuments and refuges, many historic and naturally significant public lands and waters continue to face threats like vandalism, looting and unfettered development. Others simply lack permanent protections and have uncertain futures. Monument designations can allow for broad access to a variety of uses and honor existing rights, including oil and gas leases, public access, hunting, fishing, grazing and rights-of-way. Following a designation, site-specific management plans are put into place with input from local jurisdictions and agencies, community groups and the public.

Rather than locking away lands, as some critics have stated, national monument designation often preserves the status quo on federal lands, ensuring future access and the continuation of multiple uses like grazing, hunting, and fishing, along with recreational activities like hiking and horseback riding. Not only do national monuments protect our irreplaceable natural treasures for the future, they also benefit local economies today. Following the March 2013 designation of Rio Grande del Norte National Monument in New Mexico, tourist visitation to the area increased by

40 percent. The nearby city of Taos saw an increase in lodgers' tax and the hospitality sector's gross receipts tax.

For 110 years, the Antiquities Act has been used by presidents to protect some of our most treasured historic, cultural, and natural wonders. This privilege should continue. Our public lands and waters are where we connect with America's history, hunt and fish with our friends, camp with our families and enjoy the solitude and natural beauty of our country. National Wildlife Federation and the undersigned affiliates strongly urge Congress to oppose any efforts to weaken this vital conservation and cultural tool.

Ripchensky, Darla (Energy)

From: Abe Levy <abe@slought.org>
Sent: Friday, September 23, 2016 7:44 PM
To: fortherecord (Energy)
Cc: info@seacc.org
Subject: Protect the Tongass National Forest

The Tongass NF is the crown jewel of rain forests in the entire USA. For the interests of Alaska, the USA, and the planet, we need to protect it in its entirety.

Please do not compromise the integrity of the Tongass NF in any way with any logging or any other activity other than those compatible with wilderness designation, which I would advocate for the entire NF.

Thank you kindly.

Abe Levy
4875 Pelican Colony Blvd Apt 301
Bonita Springs FL 34134-6916

Box 53
Tenakee Springs, AK 99841
tenakeetwo@yahoo.com

Re: S3004/3273, ANCSA Improvement Act, 9/22/2016

Honorable members of the Senate Energy Committee:

I write to you about the so-called "ANCSA Improvement Act". I hope that, after reading this note, that you will agree with me that this act is poorly named, and will, on the contrary, create innumerable problems and probably fix none.

I'll start with Section 6.

This section is a blatant give-away of federal lands to a for-profit corporation. Sealaska Corporation would receive 14,017 acres of prime Forest Service old growth timber lands in exchange subsurface rights to another parcel which has no known minerals or other values (the equivalent to less than 500 acres of old-growth). This is an overpayment of about 30 times. It just doesn't make sense and cheats the American taxpayer. **If sub-surface rights are to be purchased, they should be purchased with cash at market values.**

Now on to Section 10, the New Native Corporation section.

This poorly considered section creates new urban corporations. It would grant these five new corporations over 115,000 acres of Federal Lands with no limits on where these selections could be made. If lands were to be selected on the Tongass National Forest, they could include legislated Wilderness, LUD II and other lands that were granted protection under the Tongass Timber Reform Act and other legislation. Forest planning, congressional mandates, and ecological values are not considered relevant. Interestingly, we are asked to comment on this legislation with no maps, no list of who the beneficiaries of this legislation are, and absolutely no public process within Alaska.

This is not reasonable. It is not sensible or well thought out legislation. It reopens ANCSA questions and has an inordinate inpact on small Southeast Alaskan communities. For instance, the community of Tenakee Springs, where I live, is considered "Rural", a designation that is critical for our ability to harvest subsistence fish and game. How can this now be considered an urban corporation? This would undoubtedly cloud our subsistence status, a critical component for many who live in Tenakee.

Tenakee has historically opposed the privatization of public lands and for over 40 years the community has called for permanent protection at the watershed level of our irreplaceable salmon streams. Thus far, only two areas have been protected with LUD II designations----and under this legislation, even these areas would be open to selection and potential road building and timber harvest. These watersheds are critical to our community's stability and prosperity, both for those harvesting fish and wildlife for subsistence, and for commercial fishers, sport fishing and wildlife guides, and for non-consumptive tourism.

Forest Service lands that are harvested require much more rigorous safeguards than do private lands that fall under the relatively lax Alaska timber harvest regulations. Thus, our local watersheds and those in the other 4 communities named in this legislation would face potentially much greater damage to watersheds harvested under the new owners than under the Forest Service.

I do support finding ways to TRULY improve ANCSA so that the law treats native peoples fairly outside of any corporate structure and facilitates closer ties among native and non-native peoples who now share these lands. However, this hastily crafted, and poorly implemented legislation is NOT the right way to do this. Rather it deepems cultural; divisions and benefits large for-profit corporations rather than the individual Native tribal members who will likely lose places they love to logging and gain little as the corporations and their managers reap monetary benefits.

Now, consider S3203.

S3203 would give the state of Alaska 2 million acres of the prime timberlands in the Tongass.

BOTH these bills, are simply attempts to privatize and develop enormous portions of the Tongass National Forest, and would result in huge losses to American taxpayers and to all communities of Southeast Alaska.

I urge you to put this legislation in the round-file where it belongs and work with Alaskans to find a sensible way to rectify any wrongs that ANCSA created.

Thank you,

Steve Lewis

Box 53
Tenakee Springs, AK 99841
tenakeetwo@yahoo.com

Re: S3203, Alaska Economic Development and Access to Resources Act, 9/22/2016

Honorable members of the Senate Energy Committee:

S3203 is a terrible piece of legislation and deserves to never get past committee. I'll describe two parts of this bill that make this abundantly clear.

Section 503 abolishes the long-standing Roadless Rule for Alaska. This Rule has prevented enormous waste of federal funds on National Forests in Alaska. Timber harvest and requisite road buidling have proven to be uneconomical in the areas affected by the Rule, and the values of intact ecosystems are tremendous, both for the plants and animals that inhabit including humans. The Roadless Rule makes sense because it protects the resources basic to productive commercial fishing, sport fishing, hunting and wildlife viewing; important economic drivers in Southeast Alaska, and especially important in my home community of Tenakee Springs.

The current road system still provides access to timber for the small scale logging operations that make sense in the Tongass---harvesting trees and doing value-added manufacture that provides jobs to locals, rather than sending jobs overseas by shipping large portions of industrial scale harvests in the round to overseas manufacturers.

Even more troubling is a section of S3203 allowing the state of Alaska to select 2,000,000 (TWO MILLION) acres of the Tongass for state ownership. This would be well over 10% of the acreage in the Tongass, and almost certainly over 50% of the remaining commercially and ecologically valuable forested lands in the Tongass.

It's hard to imagine, but these lands would be managed for timber harvest by the state, not the multiple use management we value from the Forest Service. There are no apparent limits on where these selections could occur, but even if there were, this is a completely noxious piece of legislation. It is a pure and simple a give-away of America's public lands and is totally inappropriate.

I urge you to vote against S3203.

Thank you,

Steve Lewis

Sam and Brooke Lucy
Bluebird Grain Farms
Box 1082
Winthrop, WA 98862

12/7/2015

Secretary Sally Jewell
Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

Chief Thomas Tidwell
U.S. Forest Service
1400 Independence Ave., SW
Washington, D.C. 20250-1111

Jim Peña, Regional Forester
Pacific Northwest Region (R6)
U.S. Forest Service
1220 SW 3
Portland, OR 97204-3440

Mike Williams
Forest Supervisor
Okanogan-Wenatchee National Forest
215 Melody Lane
Wenatchee, WA 98801

Re: Letter of Support for Protection of the Headwaters of the Methow River, in the North Cascades of Washington State, through a Withdrawal of Lands from Mineral Entry

Dear Secretary Jewell, Chief Tidwell, Regional Forester Peña, and Supervisor Williams:

As residents and business owners in the Methow Valley, we are writing to express our support for protecting the upper Methow Valley from industrial-scale mining by withdrawing the lands in the upper valley from mineral entry and exploration. We believe the development of an industrial scale copper mine in the Methow Valley is completely incompatible with our landscape, our local economy and our community values. Worse, the proposal is a waste of valuable US Forest Service time and resources, at a time when massive fire danger and rapidly growing recreational use deserve all of our Forest managers focused attention.

Our business, Bluebird Grain Farms LLC, produces and processes organic small grains and dry products here in the Methow Valley. Bluebird Grains has been in business 11 years and now employs 6 people year-round.

Prior to Bluebird, we owned and operated a large scale land restoration business for 6 years and Sam farmed for another grower in the valley before that. Collectively, Sam has 23 years working on the land here in the Methow. In that time, our love for this place has only grown.

Generally, the climate here is a good climate for growing food. In particular, safe, high quality toxic free food due to the Methow's isolation from large scale Agriculture that has so compromised the food system elsewhere. In other terms, this is a pure environment to grow pure food.

Times change and so do industries. One older industry that still seems to fit here is agriculture, though it has changed form as well. Although we only farm 250 acres, I think we are the biggest farm employer in the upper Methow. And we want to grow. In no way, shape or form does industrial mining of any form benefit agriculture in this valley. **Unlike farming, mining is no longer economical viable here, nor does it add value to place.** With the growth of tourism here – the number one industry I believe these days – care of the countryside is paramount. Most folks visiting and living here love to see our fields of grain; few would enjoy seeing a mining operation.

Plants need sunlight and clean water to thrive. If we soil our watershed up here, it spoils the entire food system downstream.

We are opposed to industrial-scale mining because of the threat it poses to all things that make the Methow special, such as clean water, scenic views, peace and quiet, rural character, and healthy fish and wildlife habitat.

Polluted waters, disturbed land, negative impacts on fish and wildlife, and noisy industrial activity could literally erase the very reasons many of our customers and employees have chosen to visit or relocate to the Methow. It could also threaten the foundation of our agricultural economy—clean and abundant water. Destruction of these assets will hurt our businesses and reduce the economic viability of our community as a whole. Moreover, these losses will extend beyond the Methow, affecting all of Okanogan County by threatening our amenity-driven property tax valuations, sales taxes, and hotel/motel taxes.

The prospect of an industrial-scale mine on Flagg Mountain threatens the very values that are at the heart of our success as a community, including our economic health. This activity is simply incompatible with the economic well-being of our valley and our community. It would directly and negatively impact business interests which are strongly oriented toward sustaining our local population and welcoming visitors from far and wide to enjoy the natural beauty of this place.

We ask you, Secretary Jewell, Chief Tidwell, Regional Forester Peña, and Supervisor Williams, to work together and move quickly and initiate the process to administratively withdraw Flagg Mountain and appropriate surrounding national forest lands in the Upper Methow Valley from mineral exploration and entry for as long as possible, and to secure any funding that may be necessary to complete the withdrawal process. This action is critical to protecting one of the most visited and beloved valleys in Washington state and an integral economic engine of north central Washington. Thank you for your consideration and leadership on this important issue.

Sincerely,

Brooke Lucy
Bluebird Grain Farms

Sam Lucy
Bluebird Grain Farms

Cc: Senator Patty Murray, United States Senator
Senator Maria Cantwell, United States Senator
Representative Dan Newhouse, U.S. House of Representatives
Tom Vilsack, Secretary, Department of Agriculture
Neil Kornze, Director, U.S. Bureau of Land Management
Christy Goldfuss, Managing Director, White House Council on Environmental Quality
Acting Director, Washington and Oregon Office, U.S. Bureau of Land Management
Michael Liu, Methow Valley District Ranger, Okanogan-Wenatchee National Forest

October 5, 2016

To: US Senate Committee on Energy & Natural Resources
Subject: Comments on the Southwest Oregon Watershed and Salmon Protection Act of 2015 SB 346

The proposed mineral withdrawal area covers certain Bureau of Land Management (BLM) and Forest Service (FS) lands in Curry and Josephine Counties, Oregon. The bill is titled the Southwest Oregon Watershed and Salmon Protection Act of 2015 introduced in Congress on February 3, 2015 (S 346 and HR 682). I have lived next to the proposed mineral withdrawal area near Rough and Ready Creek for the past 23 years and enjoy hiking the lands, viewing the wildflowers, and swimming in the creeks. My property includes 40 acres in O'Brien, Oregon adjacent to FS land.

The BLM and FS public lands at issue currently make all Americans and local citizens rich in spirit and quality of life. Those lands are currently under their highest and best uses. The subject watersheds support valuable fisheries, threatened species, botanical areas, recreation and tourist industries, and provide abundant clean water for drinking and irrigation. Land resources include Wild and Scenic Rivers, Roadless Areas, State Parks, and a National Recreation Area. Thousands of people are employed, make their livelihoods, and support their families and communities based on the existing economic uses of these natural resources. Mining operations in these watersheds would make all Americans and the local citizens forever poorer through the loss of existing jobs, loss of fisheries, pollution of the waters, and denudation of the landscapes.

Many residents who live along these federal lands have water rights from streams and springs for their domestic uses and garden irrigation. The springs and streams are created from the steep mountain terrain that people live at the base of. I am a Certified Water Right Examiner in Oregon and have personally worked on many of these water rights for neighbors. Mining these steep lands would destroy many of those surface water sources. Wells could also be damaged by mining activities. That would constitute a taking of private property rights.

It is very important that the valuable natural resources of the area be protected in perpetuity. Allowing mining by foreign or local interlopers would be devastating economically and ecologically. A permanent mineral withdrawal will provide the protection that is needed to ensure clean water, an intact environment, and the economic benefits now enjoyed by all Americans and local citizens.

I strongly support SB 346 and the permanent mineral withdrawal.

Sincerely,

Gordon Lyford
P.O. Box 118
O'Brien, OR 97534

Fleurant, Susan (Energy)

Subject: FW: S3004/3273 ANCSA Improvement Act 9/23/2016

-----Original Message-----
From: Craig Mapes [mailto:mapescr@gmail.com]
Sent: Friday, September 23, 2016 11:57 AM
To: fortherecord (Energy) <fortherecord_@energy.senate.gov>
Subject: S3004/3273 ANCSA Improvement Act 9/23/2016

Honorable US Senators,

I have resided in SE Alaska for 36 years and have appreciated and enjoyed some of the last intact natural ecosystems in existence. The abundance of fish and wildlife present here is due to natural habitat.

The reason there is so much natural habitat in SE Alaska is because many years ago large tracts of land were set aside in public National Forest and Park Land. The lands held by private interests have largely been clear cut for short term gain for relatively few people.

I strongly oppose any legislation that privatizes public land for any reason and therefore oppose the S3004/3273 ANCSA Improvement Act 9/23/2016.

Sincerely,

Craig Mapes
PO Box 46
Tenakee Springs, Alaska 99841

Fleurant, Susan (Energy)

Subject: FW: S3004/3273ANSCA Improvement Act 9/22/2016

From: Joan McBeen [mailto:joanmcbeen@yahoo.com]
Sent: Thursday, September 29, 2016 11:08 AM
To: fortherecord (Energy) <fortherecord @energy.senate.gov>
Subject: S3004/3273ANSCA Improvement Act 9/22/2016

Dear Senators,

I am opposed to S3004 because of the effects it would have on the Tongass in privatizing public land resulting in mch of the old growth being clearcut. Tenakee Springs is a rural community with a population of and 114 and as such does not qualify for the establishment of an "urban " corporation. Most Tenakee residents lead subsistence life styles and I object to the possibility of losing our subsistence standing.

I am a 40 year resident of Tenakee Springs and have fought hard to keep our inlet intact. Since there are no maps to indicate which land would be privatized, I fear all our work could be wiped out with massive clearcutting in our special places to hunt, fish and recreate.

Thank you for this opportunity to comment.

Joan McBeen
PO Box 23
Tenakee Springs, AK 99841

Fleurant, Susan (Energy)

Subject: FW: S3004/3273ANSCA Improvement Act 9/22/2016

From: Samuel McBeen [mailto:smcbeen@yahoo.com]
Sent: Saturday, October 1, 2016 12:19 PM
To: fortherecord (Energy) <fortherecord @energy.senate.gov>
Subject: S3004/3273ANSCA Improvement Act 9/22/2016

I am a forty year resident of Tenakee Springs and although I supported ANSCA initially and I still support it today, I am totally apposed to S3004/3273ANSCA Improvement Act.

This has issue been appealed, debated and litigated for decades and the justification for it has never been established. Passage of this act would be irresponsible and a disservice to the vast majority of your constituents.

Please take a few minutes to read the report that follows. The facts embodied in this report are still the facts and it's conclusions are still accurate.

Sincerely, Samuel E. McBeen

A Comprehensive Review of the ISER Report
and
A Summary of its Findings
By John Wisenbaugh, Tenakee Springs, June 2009

In 1971, Congress passed the Alaska Native Claims Settlement Act (ANSCA). ANSCA was intended to settle aboriginal claims of the native peoples of Alaska. ANSCA conveyed 44 million acres of land and $1 billion to 13 regional corporations and over 200 village corporations. In Southeast Alaska, the regional corporation is Sealaska. Ten villages were listed for village corporations. Two cities, Juneau and Sitka, were awarded urban corporations. Two towns appealed their being unlisted, Tenakee and Haines, to the Alaskan Native Claims Appeal Board. The Appeal Board ruled that the list of 10 villages was exclusive and could not be added to. Later Ketchikan appealed and received the same ruling. Haines, Petersburg, Wrangell, and Ketchikan (the "big four") and Tenakee formed a group called the Southeast Alaska ANSCA Land Acquisition Coalition (SAALAC). SAALAC began to lobby Congress for a study of why they were left out, with the intention to try to get the Act amended and get themselves included in the list of villages. SAALAC hoped to get language inserted in a bill that would authorize the study. (Appendix E, memo: Stole, Rives, Boley, Jones, and Grey, to SAALAC) They were successful, and in 1993 Congress directed the Department of Interior to study why the five communities (the Big Four and Tenakee) were left out of ANSCA, to find whether they were inadvertently overlooked or deliberately excluded, and report back to Congress. The Department of Interior tasked the United States Forest Service, the Bureau of Land Management, and the Bureau of Indian Affairs with preparing the report. They in turn contracted with the Institute of Social and Economic Research (ISER) at the University of Alaska. ISER was directed to research and report the factual information available on why they were omitted and compare the community's historical development and circumstances to other Southeast villages. In February 1994 ISER submitted to Congress what is now referred to as the ISER Report.

Since 1994, the Alaska congressional delegation has introduced several bills to compensate the five SAALAC communities not eligible for village corporations in ANSCA. The most recent bill, S.784, introduced by Lisa Murkowski, recognized the Big Four and Tenakee as uncompensated and directed the establishment of

five new urban corporations, each receiving 23,000 acres of land and $650,000 cash. The congressional delegation has based these bills on an erroneous interpretation of the ISER Report, finding that these five communities were unrecognized, inadvertently overlooked, and uncompensated. This Summary will show that all three conclusions are patently false.

ANSCA is the result of over 40 years of native claims, congressional action, litigation, and legislative debate. Many early bills preceding ANSCA were proposed but were judged unsuitable. All of the enrolled ANSCA Natives received some compensation, all Native residents were considered. Many places were eliminated if they did not fit the criteria Congress developed for inclusion in the bill. All Natives were recognized as members of Regional Corporations. Some were also able to participate in their village corporations. There were many different levels of compensation across Alaska and not all shared equally, nor did Congress intend that they should.

I. Uncompensated.

All Alaska native's enrolled under ANSCA received some level of compensation from the pool of $1 billion and 44 million acres awarded by Congress (pg.VII, para 3). The $1 billion ANSCA settlement fund was divided based on population, between the village, regional, and urban corporations (pg, 3 para 4) Southeast Alaska was treated differently in ANSCA from the rest of the State. A separate section, Section 16, listed 10 villages eligible for village corporations. Section 16 did not contain any provision to appeal eligibility. determination, as did Section 11 for the rest of Alaska (pg.VIII, Para 3). This would prove to be the reason Haines, Tenakee and Ketchikan's appeals were denied. The primary reason Southeast was treated differently was the passage of an earlier bill, The Tlingit and Haida Settlement Act. The legislation awarded $7.5 million and established The Tlingit and Haida Central Council to manage the funds. The Act was intended to extinguish aboriginal claims against the Federal Government. The Tlingit and Haida Settlement communities included the "big four" but not Tenakee (page IX, Table 1). Southeast was also treated differently because of the immense value of its timberland.(page 91, para 4). Distribution of the 1 billion was through the Alaska Native Fund. Every enrollee, statewide, became a shareholder of their regional corporation. Each Southeast regional shareholder received 100 shares of Sealaska Regional Corporation stock. Also, each village and urban corporation shareholder received 100 shares of village or urban corporation stock. Each shareholder statewide received a $1,000 initial payment, about eight percent of the fund. Forty-six percent of the fund, $6,000 for each shareholder, was distributed to the regional corporations, most of which, in Southeast, was paid out as a dividend. The remaining 46% of the fund, another $6,000 per shareholder, was paid to the village, regional and urban corporations. However, rather than paid directly to the individual village shareholders it was received lump sum to the village corp. The village corporation decided what to with the funds, some paid it out in dividends and others invested it.. Shareholders of the urban corporations and at-large members of the regional corporations received the payment directly (page 93, para 1-3). The ISER report does not give a dollar amount for the distributions to the at-large shareholders, but the information is found in Appendix D. As of 12/4/93, Sealaska paid the at-large and urban shareholders $13,569.22 per one hundred shares. Sealaska paid its shareholders that are also enrolled in village corporations, $5,186.01 (Appendix D, letter: Review of Draft Report, Bob Loescher Ex. VP. Sealaska to Michael Barton, Regional Forester, USFS, page 4. Chapter 2, para 2).

Each Sealaska shareholder has an ownership interest in 17 acres of timberland and receives the direct financial return from 8 acres. The Sealaska shareholders will also receive a share of earnings from the subsurface mineral rights to all of the Southeast land conveyances, including the village corporation lands (page 95 para 1). While Sealaska has ten times more land than any village or urban corporation (17 acres x 15,782 shareholders = 268,000 acres) it has six times more members than the largest urban corporation Goldbelt (2,600) and one hundred and thirty one times more members than the smallest, Kaasan (120). Hence the at-large shareholders received overall, less money than village corporation members because of the immense value of village corporation timberland and much smaller numbers of shareholders (Page 81, Table 6.1). The enrollees to the 5 study communities all received compensation under ANSCA. As at-large shareholders of Sealaska they received more money from Sealaska than did the village corporation members and continue to do so.

II Inadvertently Overlooked, Unrecognized

The view that the five study communities, were either inadvertently overlooked or unrecognized is completely unfounded. ANSCA is the culmination of 40 plus years of aboriginal claims, litigation, legislation, debate and compromise.

Chapter One of the ISER report is a discussion of the legal basis for congressional authority to settle aboriginal land claims (pages 1-6). There is a large body of law concerned with Indian rights and treatment. The court has found that only Congress has the authority to settle aboriginal claims (page 1, para1). Bare aboriginal claims to land are not considered permanent property rights protected under the Constitution. Left without legal standing to sue for relief, most often claimants seek a legislative solution, choosing a political settlement. Congress did not intend to identify or award all lands claimed as aboriginal property. (US Congress 1971, ISER pg 2 para 2)

A short list of all the efforts to settle these claims include:

- 1929 ANB/ANS Convention Haines, Alaska. Election of delegates to form a committee to pursue land claims at the urging of native attorney William Paul and Judge Wickersham (page 66, para 3)
- 1936, May 1. The Indian Reorganization Act was amended to allow Alaska natives to organize and form tribal governments
- 1946. The Indian Claims Commission Act established a venue to hear aboriginal claims
- As a result of litigation before the Claims Commission, Congress passed the Tlingit and Haida Settlement Acts of 1965, 1968 and 1970
    a. Litigation: The Tlingit and Haida Indians of Alaska vs. United States (pg. 3, para 4)
    b. Award of $7.5 million to be managed by a new entity which became the Tlingit and Haida Indian Tribes of Alaska and established the Tlingit and Haida Central Council
- Litigation: The Tlingit and Haida Indians of Alaska and Harry Douglas, et.al. vs. The United States (1968). The court found that The Tlingit and Haida Settlement Act did not extinguish all claims of Tlingit and Haida Indians of Alaska.

These decisions laid the foundation for Tlingit and Haida participation in ANSCA (pg 5 para 1).

From 1969 to 1971, a large number of bills were introduced in Congress and debated. There were at least six in the House and five in the Senate. Some versions listed the "big four". Some contained language to provide all unlisted communities a chance to prove able to meet the eligibility criteria and several did not (page 17, para 2, page 16, para 2). That language, including Southeast villages was included in Senate Bill 35, the Senate ANSCA Bill, but it was not adopted in conference. As a result, Southeast villages had no standing to appeal their village status (appeal of Tenakee 1974, appeal of Haines 1974, appeal Ketchikan 1977, to the Alaska Native Claims Appeal Board, page 17, para 2).

The main parties to the settlement, Department of the Interior, State of Alaska, and the Alaska natives could not agree on any of the proposed bills. In 1967, Governor Hickel proposed and caused to be created what became known as the Governor's Task Force. The Task Force parties eventually agreed to a settlement based on:

- Fee simple transfer of 40 million acres of land in trust to corporations formed under the laws of the State of Alaska
- $20 million plus 9% state and federal royalties on outer continental shelf and state land development
- Grant of state money based on 5% of revenue earnings from state selected federal lands and lifting the land freeze to allow the State to resume state selection of federal land under the Statehood Act
- Rights to use federal land for subsistence hunting and gathering. (Page 12, para 5)

Congress spent the next four years defining this model (page 13, para one).

- Powerful individuals in Congress insisted that natives in modern towns not receive land Land would be conveyed only to majority native small communities with subsistence lifestyle, HR 3100 (page 15, para one)
- State concerns were based on fears of the potential divisiveness of conveying all vacant public land in and around the cities to a corporation controlled by a racially defined minority population (page 15, para three)

Chapter 2 of the ISER Report, 16 pages, is a review of village eligibility criteria and how they were developed. Those criteria are relatively concise, containing three requirements.

- Have a population greater than 25 on the date of the 1970 census, April 1, 1970
- Native population must be a majority of the community
- Community must be of other than urban or modern character

The result in Southeast Alaska was a list of 10 villages. The list could not be appealed or added to. The list did not include the "big four", Tenakee, Juneau or Sitka. The final House and Senate bills were referred to a conference committee for re-conciliation.

There was a strong lobbying effort on the part of the "big four cities", Juneau, and Sitka for inclusion (page XI, criteria for urban corporation, bullet one) Senator Stevens was favorably inclined, but did not act. There was more vigorous lobbying of the conference committee, and someone, possibly Senator Stevens, introduced a new section to ANSCA. Section 14 created provisions for four new urban corporations that would receive land and money. The cities were Juneau, Sitka, Kodiak, and Kenai (page 18, para two). The sense of the committee was that there would be not more than these four cities (page XI, bullet 2). The State concerns were alleviated by giving Juneau and Sitka land remote from the cities (page 94, para 2, 3).

The director of the Bureau of Indian affairs office in Juneau was given responsibility for making the village eligibility determinations for the entire state, a village would be considered urban and modern and character if it possessed all six of these attributes.

- Population over 600
- Centralized water and sewer serving a majority of the residents
- Five or more established businesses
- Organized police and fire services
- Private resident medical and dental services
- Fully maintained streets and sidewalks

All of the "big four" studies communities had these attributes. The "big four" are urban and modern and character as are Juneau and Sitka. They were recognized, considered and deliberately eliminated from village corporation eligibility. Juneau and Sitka, then slipped in the back door.

III. Tenakee Springs.

Tenakee Springs is a much different community. Currently the population is 93 (State of Alaska database). The 1970 census population used for ANSCA was 86. The native population was 6. Table 4.2, pg. 42, shows that none of those six enrolled to Tenakee.

61 individuals enrolled to Tenakee. (Page 22, Table 4.2) 61 individuals were not enough to make a majority population of natives. Tenakee and Haines filed timely appeals with the Alaska Native Claims Appeal Board (page 22, para one). These appeals were denied because the board ruled that the list of 10 villages could not be added to (page 22, para 2). Congress did not include language in ANSCA., Section 16, to allow an appeal of village eligibility as it had for the remainder of the State in Section 11 (page 22, para 2-3). The Appeal Board therefore did not rule on the merits. It was the conclusion of the Sealaska attorney representing the Tenakee enrollees that if the Alaska Native Claims Appeal Board had ruled on the merits, the decision would not change. Tenakee would not be eligible, because it was not a majority native community (appendix D., volume 2, Sealaska memo, 9/24/74, from D.J. Beighle, attorney to John Borbridge, President, Sealaska, page 2, para 2). The Tenakee enrollees accepted the decision as final and Sealaska distributed to the at-large shareholders stock and the initial payment on 12/12/74, (appendix E volume 2, letter from the Tenakee enrollee, John Martin, to John Borbridge, President, Sealaska; Certified list of Tenakee enrollees in Sealaska). Thus began the effort, culminating in the ISER report.

Chapter 4, 6 pages, compares population and enrollment numbers for the 10 ANSCA villages, two urban corporations and the five study communities. There is a rather glaring error in the population figures for Saxman.

- Table 4.1, gives a total Saxman population as 135, non-native 36, native 99. But then gives the percent native population as 27% when in fact it is 73%, and 27% non-native. The error was carried through into the text on pages 40, VII, VIII. The error leaves the casual observer to conclude Saxman, Tenakee, and Kasaan all had minority native populations.
- Table 4.2, gives the 1970 native population of Saxman as 135. 135 is the total 1970 population for Saxman from table 4.1. The actual listed native population was 99.
- A useful statistic would have been the total population including all enrollees compared to the total enrollment, and the percent native population. This would show that of the towns not modern and urban and character Tenakee is the only one with the enrolled native population a minority. Even so, page 44 reaches the conclusion that there is "a significant difference between Tenakee and the other small communities which became certified as native villages" (page 44, para 4).

Population data on native populations for Tenakee is hard to find, little information is found in the ISER Report beyond population numbers for 1970. Several generalizations are made about the presence of a native village at the turn of the century, the growth of the native population from 1900 to 1930, and it's subsequent decline. In Appendix A., the history profiles from which the historical sketches in Chapter 5 are drawn, are listed the total decennial populations for Tenakee, 1910 to 1980. But, without the ethnic breakout of native population numbers they are of little value. The author conflates the population increase and decrease as evidence of aboriginal migration. The population changes however also include whites, Asians, Filipinos and many from Scandinavia. (Appendix A., page 54, para 3). He makes a statement. "Natives were the majority population through mid-century". The only information backing this assertion is a statement from an unnamed 1950's census enumerator, who gives the 1946 population figures from memory. That person recalls a total population 153 of which 63% are native or 96 individuals. (96 is my calculation) Data from the archives of the Tenakee Historical Collection (THC) do not show a majority native population after 1900.

Data I could locate follows:

Year	Total Pop	Native Pop	% Native	Source
1900	17	14	82%	US Census
1910	125	17		US Census
1920	185	16		US Census
1930	210			ISER Appendix A, page 57
1939	188			ISER Appendix A, page 57
1942	138	43	32%	Tenakee Postmaster, Enumeration for the National Resources Planning Board
1946	153	96	63%	ISER Appendix A, page 57
1950	140			ISER Appendix A, page 57
1956	149	69	46%	Tenakee Weekly Newsletter Christmas Edition
1958	101	20	20%	ISER Appendix A, page 57
1960	109			ISER Appendix A, page 57
1967	125	30	24%	ISER, pg 17, Footnote 16 Fed. Field report
1970	86	6	7%	US Census
1980	138			ISER Appendix A, pg 57
1990	94	9	10%	State of Alaska Website, DCRA
2000	104	3	5%	State of Alaska Website, DCRA

The population data show an influx of itinerant people of all sorts to work in businesses (seafood processing) established by predominately white males. As those businesses closed, employees and their families returned home or moved to the next job. The figures do not show there was ever a substantial (greater than 25) permanent native population.

Chapter 5 studies the history of occupation and use. Histories of the study communities are reviewed and compared to ANSCA communities using 10 comparison criteria. ANSCA communities of similar size are used to demonstrate the similarities and differences. Ketchikan, Wrangell, and Petersburg are compared to Juneau and Sitka. Haines is compared to Craig, and Tenakee Springs, to Kasaan, population 30. Tenakee, with a population in 1970 of 86, is much closer in size to Saxman, population 135 and Klukwan, population 103. Kasaan is the only ANSCA village with a majority non-native population, until the enrollee population is added in and then the Kasaan population is 144 and 84% native. (Table 4.1 and 4.2, page 40, 42) There is no doubt that there was early native use of Tenakee. There is no evidence in ISER that there were 25 or more people there at contact. The Chapter 5 ISER comparison demonstrates that the level of tribal or organized activity in Tenakee never reached the level of Kasaan or Saxman.

The 10 criteria comparison:

- Traditional native settlements before the arrival of whites.

  Ed Snyder bought a load of general merchandise in Juneau 1899. He loaded it in his boat and rowed it to Tenakee, where he promptly sold it all. He returned with another load and bought a piece of land from Andrew Jack Sr. head of the extended Tlingit family living near the hot springs. The 1900 Census enumerates 17 people in Tenakee. It is likely they are the 14 members of the Jack family, Ed Snyder, his partner Charles Carlson, and one other white man. There is one traditional Tlingit communal house evident in early (1900-1905) photos. (Tenakee and the O'Toole's, US Census, THC; see note at end). Kasaan was one of the first Haida communities in Alaska. Perhaps the second-largest Haida community in the immediate pre-contact era. Early photos show several traditional communal houses, modern construction houses, and totem poles. Saxman was a "new community" formed through the encouragement of the Presbyterian Church and the Territorial School Authorities in 1897. It was initially settled by the Cape Fox (Sanya) kwan. (Page 47, para 3)
- Indian occupancy of identifiable areas in early towns

  In Tenakee, there were natives living at the Hot Springs and some near what is now the harbor area. The Jacks and Walters eventually sold their holdings at the hot springs and moved to the harbor area. The harbor area was outside of the 1922 Town Site Survey, USS 1418. (Appendix A., page 53 para 3, pg. 55 para 1).

  Old Kasaan was patented to a mining company in 1902. The village moved to nearby "new Kasaan." (Page 60, para 2, page 62 para 3.
- Indian land excluded from the national forest.

  In Tenakee (USS 2459) was eliminated from the national forest by Executive Order of President Franklin Roosevelt. September 3, 1935 (Appendix A. page 54).

  In Kasaan USS 1896 was eliminated from the national forest in 1939.
- Indian possessions and native town site lands.

  In Tenakee, the Harbor area had six dwellings, four outbuildings, and several gardens (pgs 50, 55). The elimination was never filed upon with the Bureau of Land Management for patent and subdivision. (Page 64, para,1,2). The population declined in the 40s and 50s. The last family left in 1968. The area has been abandoned since then. (Author's conversation with Tenakee enrollee Donald See, early 1970's).

  In 1939, Kasaan's elimination was subdivided into five blocks, 45 lots. In February of 1976 Kasaan incorporated as a second-class city under state law. The last tract was subdivided in 1981, 26 lots, (page 64, para 1, 3)

- Federal schools for Indians.
  All ANSCA communities had federal Bureau of Education/Bureau of Indian Affairs schools as well as the "big four" and 13 others. Tenakee had a territorial school attended by all the children in town.
- Church or missions serving Indians.
  In Tenakee, native residents build a church on donated land, just east of the town center. Later it became the Salvation Army church and hall. It was active until 1950 when the Hall burned (pg. 56).
  Kasaan and Saxman churches or missions are not discussed in ISER.
- Alaska Native Brotherhood/Alaska Native Sisterhood.
  Tenakee sent a delegate to the 1929 convention in Haines and had an active chapter until 1950 when the Salvation Army Hall burned (page 56).
  Kasaan and Saxman had early active chapters, and still do.

- IRA organizations.
  In 1936, the Indian Reorganization Act was amended to include Alaska Natives. They were allowed to form village councils and incorporate. With the exception Yakutat, all the ANSCA communities, and the "big four" formed IRA governments.
  Tenakee did not.
- Recognized in the Tlingit and Haida settlement and membership in the Tlingit and Haida Central Council.
  As discussed earlier, the 1968 settlement was the culmination of almost 40 years effort to gain recognition of native claims. The act formed the Tlingit and Haida Central Council and awarded $7.5 million in 1971. All of the ANSCA villages, urban towns and the "big four" were Council members with local chapters. Tenakee was not recognized and did not participate (page 36, para five).
- Native cemeteries and gravesites, totem poles.
  Tenakee has 2 cemeteries near town and one across the inlet on Strawberry Island.
  Kasaan has both gravesites (table 5.1) and totem poles (page 60, para 2).

Tenakee Springs had some aboriginal use by a small group of natives at the turn of the century, and a native population that increased and decreased with rest of the population. If the population was ever a majority native, it was for only a few years. They had a ANB/ANS chapter for a while, but did not form a IRA Tribal Council, was not recognized in the Tlingit and Haida Settlement, did not have a Federal BIA School, and did not patent and subdivide the 1935 Tongass elimination. The level of organized village life in Tenakee Springs never reached the level of any of the recognized villages. Tenakee was recognized, considered, and eliminated. The 61 enrollees all received compensation as at-large shareholders of Sealaska Corporation.

The intent of Congress and ANSCA was to fairly and equitably settle and extinguish for all time aboriginal land claims in Alaska. There was no part of Southeast Alaska that was not the dominion of one tribe or kwan or another. Probably the same held for the remainder of Alaska. Clearly, Congress was not going to return the entire state to the native population and Congress has broad discretion in how it will award compensation. Congress and ANSCA, did not intend that all natives should receive equal compensation. Land would be awarded to villages with a historic as well as present use. A majority native population of more than 25 individuals who were living a subsistence lifestyle. 10 villages in Southeast were listed, and many more were not. Natives in modern urban cities, where aboriginal land was taken by those cities would be compensated with cash, not land entitlement. ANSCA awarded 44 million acres of land, and $1 billion to Alaska's native people.

The five communities studied in the ISER report were clearly not inadvertently overlooked, unrecognized, nor were they uncompensated. Natives enrolled to the modern urban "big four", Haines, Petersburg, Wrangell, and Ketchikan were compensated as at-large shareholders of Sealaska Regional Corporation. Tenakee Springs did not have sufficient current use and lacked a majority native population. The town was not listed. Those enrollees were also compensated as at-large shareholders of Sealaska.

Note:
The Tenakee Historical Collection (THC) is a small nonprofit corporation whose mission is to recover and preserve documents, pictures, and any information relating to the history of Tenakee Springs, Tenakee Inlet, and northeast Chichagof Island. The collection is currently boxed up and in transition to a new facility at the Snyder Mercantile store location. The members hope to organize the records and open a small museum soon. It is hoped they will be able to offer for sale the splendid 125 page book of local history, Tenakee and the O'Tooles by Earl and Sharon Redman, as well as postcards and other souvenirs. Sharon's father was Dermott O'Toole, Ed Snyder's nephew. Dermott and his wife Dorie took over the operation of Snyder Mercantile in 1942. They sold it to Sharon's brothers-in-law in 1979 and the Pegues family operated the properties until 2004, when they sold to outside interest. From 1899 Ed Snyder and his descendents operated Snyder Mercantile and its associated businesses for 105 years. They left a rich legacy of papers, records, journals, and private letters. Many of these are currently held by the Tenakee Historical Collection and Earl and Sharon O'Toole Pegues Redman.

The Methow Valley Citizens Council

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PO Box 774
Twisp, WA 98856
www.mvcitizens.org
509 997 -0888

TESTIMONY ON S. 2991 - Methow Headwaters Protection Act of 2016 (Senators Murray and Cantwell)

September 21, 2016

The Methow Valley Citizens Council (MVCC) is a citizen based organization in the Methow Valley whose mission is to "raise a strong community voice for protection of the Methow Valley's natural environment and rural character." We would like to go on record in support of S. 2991, sponsored by Senator Patty Murray and cosponsored by Senator Maria Cantwell. The withdrawal of 340,079 acres from mineral entry and exploration, as proposed in this bill, is a critically important step to protect the headwaters of the Methow River from the potential degradation which would result from large scale mining activity.

MVCC has been deeply engaged in an effort to secure an administrative withdrawal of these lands in light of a recent proposal by the Canadian company, Blue River Resources, to pursue new exploratory drilling in the upper Methow Valley. An administrative mineral withdrawal would prevent establishment of new mining claims for up to 20 years. Given the urgency of the situation, we are calling upon the administration to take immediate action to initiate the withdrawal. We would like to see S. 2991 advance in the legislative process simultaneously, to secure permanent protection for the lands in question.

The Methow Headwaters Campaign brings together more than 135 local Methow Valley businesses, and a significant number of area residents, civic leaders and local, regional and national organizations concerned about the threat an industrial-scale copper mine poses to the region's economy, water resources and rural character.

Nearly one million visitors come to the Methow Valley annually to enjoy the sun, snow, streams, wildlife and rural community, and they contribute more than $150 million annually into Okanogan County's economy. The upper Methow is also critical to salmon recovery, and more than $100 million has been invested in restoration and conservation efforts in the Methow Valley alone.

We deeply appreciate the attention of the Senate Energy and Natural Resources Committee to this issue and look forward to seeing this legislation move forward.

Maggie B. Coon

Maggie B. Coon
Board Chair, Methow Valley Citizens Council

February 14, 2016

Secretary Sally Jewell
Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

Chief Thomas Tidwell
U.S. Forest Service
1400 Independence Ave., SW
Washington, D.C. 20250-1111

Jim Peña, Regional Forester
Pacific Northwest Region (R6)
U.S. Forest Service
1220 SW 3rd Avenue
Portland, OR 97204-3440

Mike Williams
Forest Supervisor
Okanogan-Wenatchee National Forest
215 Melody Lane
Wenatchee, WA 98801

Re: Business Community Support for Withdrawal of Land from Mineral Entry in the Headwaters of the Methow River in the North Cascades of Washington State

Dear Secretary Jewell, Chief Tidwell, Regional Forester Peña, and Supervisor Williams:

We the undersigned business owners write to express our opposition to the exploratory drilling activities proposed on Flagg Mountain in the Methow Valley. We believe exploratory drilling and any industrial-scale mining will directly and negatively impact our local businesses and the overall economic health and well-being of the Valley. Instead, we urge you to immediately commence the process to withdraw this area from any further mineral entry in order to protect the many irreplaceable qualities of our Valley.

Our local economy is dependent on the quality of our natural environment —clean air and water, pristine views, quiet sounds of nature, healthy fish and wildlife, and truly wild places. Our livelihoods and our families depend on the protection and enhancement of these assets; they are what make the Methow unique and worth protecting.

The prospect of an industrial-scale mine on Flagg Mountain threatens the very values that are at the heart of our success as a community, including our economic health.

Polluted waters, disturbed land, negative impacts on fish and wildlife, and noisy industrial activity could literally erase the very reasons many of our customers and employees have chosen to visit or relocate to the Methow. It could also threaten the foundation of our agricultural economy—clean and abundant water. Destruction of these assets will hurt our businesses and reduce the economic viability of our community as a whole. Moreover, these losses will extend beyond the Methow, affecting all of Okanogan County by threatening our amenity-driven property tax valuations, sales taxes, and hotel/motel taxes.

As local business owners and citizens, we are very concerned about any action, now or in the future, that would negatively affect our natural resources, most notably the Methow River

and its tributary streams and creeks. We ask you to protect the economic capital of the Valley—its natural resources and clean water—for current and future generations.

Specifically, we respectfully ask that you use your administrative authority to immediately commence the process to withdraw Flagg Mountain and appropriate surrounding national forest lands in the Upper Methow Valley from mineral entry under the general mining laws in order to safeguard the natural environment of the Methow and support our strong legacy of conservation.

Thank you for your consideration—and leadership—on this important issue.

Sincerely,

Hannah Cordes
Aspen Grove
Winthrop, WA

Jake and Alexa Whipple
Beaver Creek Well Services, LLC
Winthrop, WA

Sam Lucy
Bluebird Grain Farms
Winthrop, WA

Jeff Brown
Brown's Farm
Winthrop, WA

Brian and Amy Sweet
Cascades Outdoor Store
Winthrop, WA

Katie Bristol
Cinnamon Twisp Bakery
Twisp, WA

Dave Thomsen
Coldwell Banker Winthrop Realty
Winthrop, WA

Cathy Upper
Backcountry Horsemen, Methow Chapter
Winthrop, WA

Larry Miller
Big Picture Construction
Winthrop, WA

Meg and Dan Donohue
Blue Star Coffee Roasters
Twisp, WA

Jeff Lyman
Carlton General Store
Carlton, WA

Kathleen Jardin
Central Reservations
Winthrop, WA

Dan and Sally Kuperberg
Chewuch Inn
Winthrop, WA

Leia Hansen, Shiah Lints, Liam House-Doyle, Sol Gutierrez
Copper Glance Restaurant and Bar
Winthrop, WA

Ann Diamond
Country Clinic
Winthrop, WA

John Willett
Deer Run Chalet
Mazama

Jonathan Baker
Eqpd
Twisp, WA

Charlie Wright
Freestone Inn
Mazama, WA

Garth Mudge and Barri Bernier
Glassworks Studio and Gallery
Winthrop, WA

CB Thomas
Goat's Beard Mountain Supplies
Mazama, WA

Howard Cherrington
Integrated Design Concepts
Twisp, WA

Kellen Northcott
Java Man Espresso Bar
Winthrop, WA

Bob Gamblin and Lori Loomis
Lariat Coffee Roasters
Winthrop, WA

John Morgan and Liam Doyle
Lost River Winery
Winthrop, WA

Bill Pope
Mazama Country Inn
Mazama, WA

Sara Ashford
Culler Studio
Twisp, WA

Ryan Clement
East 20 Pizza
Winthrop, WA

Dwight Filer
Filer Plumbing
Twisp, WA

Kary Brennan
Gathered Boutique
Winthrop, WA

Molly Patterson
Glover Street Market
Twisp, WA

Kyle Northcott
Hypnotherapy KAN
Twisp, WA

Katie Tucker
Katie T's Cleaning
Winthrop, WA

Steve Kelly
Kelly's at Wesola Polana
Mazama, WA

Jerry Laverty
Laverty Construction
Mazama, WA

Sam Carlin
Lucid Glassworks
Twisp, WA

Rick and Missy LeDuc
Mazama Store
Mazama, WA

Joe Brown and Julie Muyllaert
Methow Cycle and Sport
Winthrop, WA

Dolly Stahl
Methow River Lodge
Winthrop, WA

Bill and Sandy Moody
Methow Suites Bed and Breakfast
Twisp, WA

Don Portman
Methow Valley Ski School
Winthrop, WA

Kurt & Melinda Oakley
Morning Glory Balloons
Winthrop, WA

Alison Philbin
Mt. Gardner Inn
Winthrop, WA

Patrick Hannigan
Nice Nests
Twisp, WA

Steve and Kim Bondi
North Cascades Basecamp
Mazama, WA

Rick Mills
North Cascades Construction
Mazama, WA

Larry Goldie
North Cascades Mountain Guides
Mazama, WA

Paul Butler
North Cascade Heli-Skiing
Mazama, WA

Jerry Merz
Methow Metalworks
Twisp, WA

Leia Hansen and Shiah Lints
Methow River Raft and Kayak
Winthrop, WA

Peter Morgan
Methow Valley Inn
Twisp, WA

Rich Milsteadt
Milsteadt Electric
Winthrop, WA

Shannon Fharnham
Mountain Paws
Winthrop, WA

Leslie Lanthorn
Nectar Skin Bar and Boutique
Winthrop, WA

Mark Waechter
Nordic Ultratune
Winthrop, WA

Nick Allgood
North Cascades Builders Supply
Winthrop, WA

Kevin VanBueren
North Cascades Fly Fishing
Winthrop, WA

Audrey Jo Mills
North Cascades Mountain Hostel
Winthrop, WA

Pat Norwil
Norwil Electric
Twisp, WA

Casey Ruud
Old Schoolhouse Brewery
Winthrop, WA

Anna Kominak
Pine Near RV Park & Campground
Winthrop, WA

Olivia Rose
River Run Inn
Winthrop, WA

Michael Friedrich
Rolling Huts & Methow Tents
Mazama, WA

Patrick and Kathryn Heim
Rover's Ranch Dog Boarding
Winthrop, WA

John O'Keefe
Smokejumper Aviation, LLC
Winthrop, WA

Bill Tackman
Tackman's Surveying
Winthrop, WA

Jason Miller
Tamarack Electric
Winthrop, WA

Lance Rider
The Outdoorsman
Winthrop, WA

Dave Swenson
The Wine Shed
Winthrop, WA

Tom and Lori Triplett
Triple T Roofing
Winthrop, WA

Jeff Patterson
Patterson Company Design Build
Winthrop, WA

Ben and Virginia Nelson
Rendezvous Huts
Winthrop, WA

Julianna Owens
Riverside Ave Barber and Salon
Winthrop, WA

Steve Mitchell
Rocking Horse Bakery
Winthrop, WA

John O'Keefe
Sawtooth Dental
Twisp, WA

Brian Charlton
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Chris Clark
Tall Timber Design Build
Mazama, WA

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The Iron Horse
Winthrop, WA

Anna Kominak
The Wash Works
Twisp, WA

Vicki and Tom Miniajluk
Timberline Meadows Nightly Rentals
Mazama

Denise Tompetrini
Twisp River Inn
Twisp, WA

Katrina Auburn
Twisp Feed and Rental
Twisp, WA

Aaron Studen
Twisp River Pub
Twisp, WA

Don Auburn
Twisp Small Engine Repair
Twisp, WA

Cathy and Eddy Layne
Windy Valley Landscaping
Winthrop, WA

Jenna & Brett Kokes
Winthrop Physical Therapy
Winthrop, WA

Joe Marver
Twisp River Suites
Twisp, WA

Bob Monetta
Windermere Realty Methow Valley
Twisp, WA

Gene Westlund
Winthrop Inn
Winthrop, WA

Rita Kinney
Winthrop Mountain Sports
Winthrop, WA

Mary Sharman
Yatta Yatta Yatta Design
Mazama, WA

Cc: Senator Patty Murray, United States Senator
Senator Maria Cantwell, United States Senator
Representative Dan Newhouse, U.S. House of Representatives
Tom Vilsack, Secretary, Department of Agriculture
Neil Kornze, Director, U.S. Bureau of Land Management
Christy Goldfuss, Managing Director, White House Council on Environmental Quality
Jerome E. Perez, Washington and Oregon Office, U.S. Bureau of Land Management
Michael Liu, Methow Valley District Ranger, Okanogan-Wenatchee National Forest

September 28, 2016

The Honorable Lisa Murkowski
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murkowski,

I am writing to express my support of the **Alaska Mental Health Trust Land Exchange** Legislation. I have spent the majority of my career working with and for Trust beneficiaries. I have been a Trustee on the board of The Alaska Mental Health Trust Authority for the past six years and can assure you the organization has been working diligently through the process and has ensured extensive public participation. The Trust has made a commitment financially and in countless hours of personnel time to ensure the lands selected are mutually beneficial to the communities as well as to the Trust. *I urge to you pass legislation allowing the Trust to fulfill its financial responsibility of supporting our most vulnerable populations in Alaska.*

Given that Alaska is facing the worst fiscal crisis in history, legislation is the best option to complete the exchange in a timely fashion. In just the last two years the Trust has provided 59 grants to organizations in Southeast, totaling more than $3 million. Another 323 Trust beneficiaries in Southeast have been awarded mini grants from the Trust totaling over $482,000. We need to ensure that the Trust can continue to provide revenue for comprehensive, integrated mental health services in Alaska today and into the future.

The exchange is of great benefit because it:

- Protects popular trails, viewsheds, and iconic recreational sites along the Inside Passage
- Ensures watersheds are protected so that Southeast residents receive clean water
- Preserves old growth timber stands in the forest
- Ensures jobs stay in the Southeast communities by protecting the timber and tourism industries
- Protects mental health services by providing revenue to support the Trust's mission

Without legislation we are putting our communities at risk.

- If the Trust cannot generate revenue in a timely fashion, we jeopardize our mental health services.

I know first hand the importance of the Trust's advocacy efforts and financial support on behalf of beneficiaries across the state. I also know how important preserving the beauty and economic vitality of Southeast communities. This is a win-win solution that having a lasting impact on Alaska.

Sincerely,

Mary Jane Michael
2421 Wellington Court
Anchorage, Alaska 99517

Hope your
doing well. Nice
to have the boys
back in Anchorage
But I miss the
Hennison adventures!
Best, maryjane

MINING MINNESOTA
RESPONSIBLE DEVELOPMENT of NATURAL RESOURCES

September 21, 2016

The Honorable Senator Lisa Murkowski
Chair, U.S. Senate Environment and Natural Resources Committee
709 Hart Senate Office Building
Washington, DC 20510

Via E-mail: Darla_Ripchensky@energy.senate.gov

RE: Testimony Submitted in Support of S. 437, "Improved National Monument Designation Process Act"

Dear Senator Murkowski:

MiningMinnesota respectfully submits the following testimony to the U.S. Senate Energy and Natural Resources Committee in support of S. 437, the "Improved National Monument Designation Process Act." I request that this testimony and accompanying documents be included in the Committee's record for its September 22, 2016, hearing on S. 437. MiningMinnesota is an industrial trade organization made up of all nonferrous exploration and mineral development companies in Minnesota, along with approximately 100 supplier and vendor businesses, all committed to sustainable and environmentally responsible copper-nickel and PGM mineral development and mining in Minnesota.

MiningMinnesota applauds your leadership on S. 437 and strongly supports the legislation's common sense reforms to the Antiquities Act of 1906. Given the significant impact national monument designations can have on the economic futures of states, communities and working families, it only makes sense that Congress and affected state legislatures should have greater roles in assessing and approving Antiquities Act proposals put forth by a President. Further, requiring Antiquities Act proposals to be comprehensively reviewed under the National Environmental Policy Act (NEPA), just as is required of all other significant federal actions affecting land use, is a long-overdue policy change that would open the door to greater transparency in the process of considering monument designations, and provide affected communities and citizens greater opportunity for review of such proposals and informed input.

For nearly two years, the communities and working families of the Iron Range region of northeast Minnesota have been facing the threat of an Antiquities Act designation that would be devastating to future economic growth, job creation and the development of environmentally-responsible mining projects. Anti-mining organizations from outside the region have petitioned the Obama Administration seeking a monument designation that would remove all federally-owned minerals within the 11,000+ square mile Rainy River Basin from future exploration and development. The Rainy River Basin contains millions of acres of valuable federal, state, and privately-owned minerals, and environmentally-responsible mining is currently allowed and encouraged in the majority of the Basin area under both state and federal law. The withdrawal of federal minerals within the Basin from future leasing and development would provide no environmental benefits and would be devastating to the region's and the state's economy. To their great credit, your congressional colleagues representing Minnesota – Senator

Amy Klobuchar, Senator Al Franken and the region's Congressman Rick Nolan (MN-8th) – have all expressed opposition to withdrawing federal minerals within the Basin from future development.

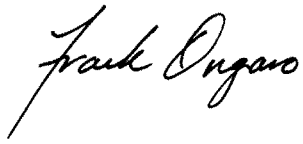
In closely monitoring this issue, researching documents obtained under FOIA, and discussing with federal agencies, it is clear the Obama Administration is giving serious consideration to the Antiquities Act request. Unfortunately, the Administration has not provided public information on the status of its consideration, nor has the Administration sought the input of affected communities and citizens, elected leaders, economic experts, or other key stakeholders. If the reforms contained in S. 437 were in law today, the process of considering this Antiquities Act proposal would be far more transparent, and the citizens and communities of northeast Minnesota would have greater opportunities to express their opinions on their economic future.

In addition to this testimony, I am submitting three documents for the record related to the Antiquities Act issue in Minnesota. (Note: The anti-mining proposal for withdrawal of federal minerals within the Rainy River Basin is also embodied in congressional legislation (H.R. 1796 & H.R. 2072) introduced by Cong. Betty McCollum (MN-4th) in early 2015. The submitted documents reference that legislation, but are also applicable to an Antiquities Act designation.)

1. April 2015 letter to Sen. Amy Klobuchar from the Iron Range state legislative delegation opposing withdrawal of federal minerals in northeast Minnesota. This letter was also submitted to other members of the Minnesota congressional delegation.
2. April 2015 letter to all members of the Minnesota congressional delegation from Jobs for Minnesotans ("Jobs") opposing withdrawal of federal minerals in northeast Minnesota. "Jobs" is a coalition of the Minnesota Chamber of Commerce and the Minnesota Building and Construction Trades formed to support development of the non-ferrous mining industry in the state.
3. April 2016 letter and resolution submitted to the Minnesota congressional delegation from the Range Area Municipalities and Schools (RAMS) opposing withdrawal of federal minerals in northeast Minnesota. "RAMS" represents municipalities, school districts and more than 72,000 residents in northeast Minnesota's "Taconite Assistance Area" where iron ore and taconite mining has been occurring since 1884.

Thank you again for your leadership on this important issue, and for the committee's consideration of this testimony.

Sincerely,



Frank Ongaro
Executive Director
MiningMinnesota
P.O. Box 16666
Duluth, MN 55816
Phone: (218) 393-2301
fongaro@miningminnesota.com
www.miningminnesota.com

Tom Anzelc
State Representative

District 5B
Cass & Itasca Counties

Minnesota House of Representatives

COMMITTEES: EDUCATION FINANCE
MINING AND OUTDOOR RECREATION POLICY
TAXES

April 16, 2015

The Honorable Amy Klobuchar
U. S. Senator
302 Hart Senate Office Building
Washington, DC 20510

RE: Federal Mineral Withdrawal and Future Lease Prohibition in Rainy River Watershed

Dear Senator Klobuchar:

As members of the Iron Range Delegation (IRD), we are writing to you because anti-mining groups are requesting the Secretary of the U. S. Department of Interior to have federally-owned minerals withdrawn from lease, exploration and development within the Rainy River Watershed. Any withdrawal of federal minerals would be devastating to Minnesota's future economy, and would provide no additional protection of water quality in that watershed. While the specific scope of this request is currently unknown, it clearly gives us great concern and is something that should be strongly opposed.

As you know, copper-nickel mining will provide thousands of construction and long-term mining jobs, thousands of spin-off jobs, and billions of dollars in new investment and economic growth. This is a tremendous opportunity for both the region and the state. A withdrawal of federal minerals will do nothing but delay and possibly prevent this economic opportunity from occurring.

Mining is not new to the Rainy River watershed. There are currently two iron ore mine operations in the Minnesota part of the watershed. In addition, the State of Minnesota has over 1,000,000 acres of School Trust Fund lands within the Rainy River Watershed. Included are 100 metallic mineral leases, covering over 32,000 acres, a majority of which are School Trust acres.

Similar to the recently rejected PEIS proposal to evaluate mining in the Superior National Forest, a proposal to withdraw federal minerals is not necessary or appropriate, would be an inefficient use of federal resources, does not contribute to the public interest, would be detrimental to bringing jobs to Minnesota, and would not provide any additional protection of water quality in the watershed.

We support strong environmental standards, and we continue to strongly support the rigorous and thorough environmental review of any and all proposed mining projects. All proposed mining projects including any that may be proposed in the Rainy River watershed will be subject to this thorough and rigorous environmental review under NEPA and associated state processes. Through these processes, state and federal regulatory agencies must find that proposed projects can meet stringent and comprehensive environmental standards before issuing permits for construction and operation.

44205 Burrows Lake Lane, Balsam Township, Minnesota 55709
State Office Building, 100 Rev Dr Martin Luther King Jr Blvd, St. Paul, Minnesota 55155-1298 651-296-4936
Email: rep.tom.anzelc@house.mn 1-800-336-9124

In addition, protections are already in place. The BWCAW is already protected from mining, and the State of Minnesota also prohibits mining in certain areas surrounding the BWCAW.

In conclusion, a withdrawal of federal minerals would be an unnecessary and costly government endeavor that would not protect water quality. A withdrawal would, however, negatively impact northern Minnesota communities and the entire state. By making it extremely difficult if not impossible to propose a mining project, a withdrawal would eliminate the ability to generate more than $2 billion for the Permanent School Trust Fund (MN DNR estimate), as well as other economic development in the Region.

We urge you to work with the US DOI and ask them to reject any call for a withdrawal of federal minerals or additional restrictions on current and future federal mineral leases.

Sincerely,

Tom Anzelc, Chair, IRD
State Representative

David Dill, IRD
State Representative

Jason Metsa, IRD
State Representative

Carly C. Melin, IRD
State Representative

Dale Lueck, IRD
State Representative

David Tomassoni, IRD
State Senator

Tom Bakk, IRD
State Senator

Tom Saxhaug, IRD
State Senator

JOBS FOR MINNESOTANS

jobsforminnesotans.org

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Lory Fedo
Hibbing Area Chamber of Commerce

Dave Lislegard
City of Aurora and Lakehead Constructors

Russell Hess
Laborers District Council of Minnesota and North Dakota

CO-FOUNDERS

David Olson
Minnesota Chamber of Commerce

Harry Melander
Minnesota Building and Construction Trades Council

April 17, 2015

To the Minnesota Delegation:

I am writing on behalf of Jobs for Minnesotans, a coalition co-founded by the Minnesota Building and Construction Trades Council and the Minnesota Chamber of Commerce, and strengthened by community leaders and businesses from across the state. Together we represent 55,000 men and women of the trades, 2,300 businesses and hundreds more mayors, local chambers of commerce and citizens who support Minnesota's mining future.

Collectively, from the Iron Range communities around Ely to the southern reaches of Austin and Fairmont, our coalition speaks for the thousands of people who believe in the opportunity to mine minerals and produce the materials essential to our quality of life. We are proud of the iron mining heritage that has supported generations of families and produced hundreds of millions of tax revenue dollars and generated billions of dollars of economic activity for this great state. Jobs for Minnesotans is equally passionate about a new era of mining in copper, nickel and other strategic metals that represents an even greater economic opportunity. These metals are critical to clean energy technologies, medical devices, defense industry applications and electronic devices – everything we use in our daily lives.

Congresswoman Betty McCollum's National Park and Wilderness Waters Protection Act presumes state and federal regulations are not sufficient to protect our natural environment. It implies regulators are not capable of working with industry and the numerous stakeholders to thoroughly review mining plans in a fully transparent manner that addresses all environmental concerns. This bill in fact concludes that mining will no longer be a lawful activity in a state with some of the most stringent environmental protections that exist. Northeastern Minnesota holds the greatest promise to provide our nation's domestic supply for metals needed in all areas of our economy. Let's stop relying on foreign countries with low environmental standards and poor labor safety laws to meet our demand. Let's do it here, let's do it right.

Jobs for Minnesotans adamantly rejects the false argument that we must choose between jobs and the environment. We trust the regulatory process and our state and federal regulators to protect everyone who enjoys the beauty of the BWCA and consider it a national treasure, including the people who make their living from the mining industry. We applaud Rep. Rick Nolan, who is truly the voice of the people who make their homes and livings in northern Minnesota, for his long-standing support of mining and the wilderness. Please join him in telling your colleagues in Congress and President Obama that the McCollum legislation is unwarranted and ultimately destructive to our state and national economy, as well as the livelihood of thousands of Minnesotans.

Sincerely,

Nancy Norr

Nancy Norr
Chair, Jobs for Minnesotans
Director, Regional Development, Minnesota Power, an ALLETE Company
nnorr@mnpower.com
218.723.3905

RAMS range association of municipalities and schools
5525 Emerald Avenue · Mountain Iron, MN 55768
Phone: 218.780.8877 · Email: SGiorgi@ramsmn.org

RAMS (Range Association of Municipalities & Schools) is an organization formed in 1939 to represent and protect the assets and integrity of communities, school districts and townships in northeastern Minnesota. Banding together, the people of the Iron Range have a stronger voice and presence at the legislature and are more effective combining efforts on issues of regional importance. The service area for RAMS is known as the Taconite Assistance Area (TAA) a geographical region encompassing approximately 13,000 square miles that stretches from Crosby, Minnesota across the state's Cuyuna, Mesabi, and Vermilion iron ranges, along the Duluth Complex to the North Shore of Lake Superior. The membership of RAMS currently includes 47 public sector units of government including 9 townships, 23 cities and all 15 public school districts in the TAA, representing over 72,000 residents. Our motto is — "One Range - One Voice."

ECONOMIC INSTABILITY AND POTENTIAL:

In 13 out of the past 15 years, the TAA has endured the highest unemployment rate in all of Minnesota. Since the year 2000 out of 20 different employment sectors found in the TAA and in all of Minnesota, 14 of those 20 employment sectors declined. For the rest of Minnesota only 6 sectors saw a decline. Since the year 2000 employment growth and decline were worse in the TAA than the rest of the state. Currently over 4200 mine workers or supplemental mine service workers are unemployed and many of them are nearing exhaustion of their unemployment benefits.

The projected economic impact to northeastern Minnesota from base and precious metal mining projects, based on studies conducted by the University of Minnesota-Duluth, indicates the creation of more than 5000 jobs related to mining operations, 12,000 jobs related to mining construction, $1.5 billion in annual wages and more than $2.5 billion in annual economic production. Any and all of these projects would first have to meet the highest regulatory and permitting standards in the world as determined by our state and federal regulatory agencies. Active base and metal mining projects have already invested over $500 million during the past 10 years in exploration, mine planning and environmental review. In a time when our national security interests are threatened, this region's abundant iron and strategic minerals can protect us against foreign governments' control of global supplies and assure long term access to domestic sources. Copper, nickel and iron are not only essential for homeland security, they are the building blocks of a clean energy economy, powering hybrid vehicles, wind turbines and solar panels. Our quality of life and national economic prosperity depend on economic sources of these metals.

OPPOSITION TO H.R. 1796 & 2072:

The withdrawal of federal minerals in the Rainy River Watershed Basin (Basin) as proposed in this legislation would prohibit the development of nearly all potential mining proposals, circumventing the well-established National Environmental Protection Act (NEPA) and Minnesota Environmental Protection Act (MEPA) environmental review and public input processes. Mining is already prohibited within the boundaries and buffers of the Boundary Waters Canoe Area and the Voyageurs National Park. No further prohibitions or restriction on granting of state or federal land leases are necessary. The impact on the future economic growth of the TAA would be significantly limited and compound an already challenging economy for many Range communities, schools and families. With no environmental benefits, the primary impact of withdrawing the Basin's federal minerals would be to prohibit nearly all potential future mining projects within the Basin - whether involving federal, state or privately-owned minerals - with corresponding devastating economic consequences across the Iron Range and throughout northern Minnesota.

In March of this year Governor Mark Dayton communicated with the Director of the Bureau of Land Management (BLM) that he was opposed to mineral mining in "close proximity" to the BWCAW. In a meeting with Governor Dayton on April 1, 2016, he admitted that he had no scientific basis for his position. This area is already protected by a buffer zone created by the BWCA Wilderness Act. Federal and state restrictions already are in place to protect and preserve the

area. Hear our voices, those of us who live and work in the TAA, we do not support H.R. 1796 & 2072, and we do not support any restriction on issuing federal land leases for the continued exploration of mineral mining in the Basin.

REGULATORY PROCESSES ALREADY EXIST:

As already stated, both the United States and the State of Minnesota have the highest environmental standards in place for any environmentally sensitive endeavor. These laws address the entire mining process from obtaining exploration drilling permits, to mine plan environmental review, through operational phases and ultimately mine closure. Permitting and licensing of any mineral mining operations require thousands of hours of rigorous examination to demonstrate the technology, finances and processes to meet the standards established by both state and federal regulatory agencies, including the US Forest Service, Army Corps of Engineers and Federal Environmental Protection Agency. Granting state and federal land leases to allow companies to explore, develop and determine the feasibility of a potential mine operation is necessary and provided for in state and federal law.(Wilderness Act of 1964) (BWCAW Act of 1978). We support the existing regulatory process and believe in its transparency and rigor.

MINNESOTA PERMANENT SCHOOL TRUST FUND:

The Minnesota Permanent School Trust Fund established in 1858 by President Abraham Lincoln, entitled the state of Minnesota with a large land grant from the federal government. The intent of this grant and the act was to provide a long term source of funds for public education in our state. Today, Minnesota owns 2.5 million acres of school trust land of which nearly 1.3 million acres is located within the Rainy River Watershed Basin. Studies have indicated that there is a potential of $2.5 billion dollars that would be generated for the Permanent School Trust in a ten year period as a result of base and precious metal mining in the TAA. The loss of this revenue and the challenge for the MN Dept. of Natural Resources which administers and determines how to best secure" long term economic returns" on the trust fund lands would be a catastrophic financial loss to generations of school age children in Minnesota as well as to the University of Minnesota.

RAMS AND RANGE OFFICIALS REQUEST:

Governor Dayton has publicly stated that he contacted the Director of the Bureau of Land Management and voiced his request that federal land leases be denied for the purposes of mineral mining in the "close proximity" of the BWCA. The people we represent in the TAA, in our local communities of the eastern Iron Range, Babbitt, Ely Aurora and Hoyt Lakes want our federal delegation and the agencies that are engaged in mineral leases and mining developments to know and hear, loud and clear, we do not agree with the Governor. We leave you with our sincere request to follow the process that has been afforded other mineral mining explorations and developments on federal land leases and please recognize the thousands of voices from northeastern Minnesota that stand in support of not changing the rules in midstream on current potential mineral mining projects.

The Governor does not speak for our 72,000 Iron Range citizens on this issue. We ask that any and all precious mineral mining companies be given a fair and equal opportunity to secure necessary land leases, submit to the permitting and environmental review processes already in place and that a fair and objective assessment be afforded those who apply for it.

Respectfully submitted by:

Steve Giorgi – Executive Director, RAMS
Mayor Chuck Novak – City of Ely
Mayor Mark Skelton – City of Hoyt Lakes
Mayor Andrea Zupancich – City of Babbitt
Nancy Norr, Director - Regional Development, Minnesota Power
Dave Lislegard – City of Aurora



RESOLUTION 03-2016 – OPPOSITION TO FEDERAL BILL H.R. 2072 CONGRESSWOMAN BETTY MCCOLLUM'S – "NATIONAL PARK & WILDERNESS WATERS PROTECTION FOREVER ACT"

WHEREAS, the Range Association of Municipalities & Schools (RAMS) represents over 72,000 residents who call the Taconite Assistance Area (TAA) their home and where iron ore and taconite mining has been occurring since 1884 (Soudan underground mine)without any significant environmental catastrophes, and

WHEREAS, the families and workers who have mined minerals in this region for over 130 years take great pride in our history of mining, technology advancements, and have helped forge an identity as a "global mining center of excellence", and

WHEREAS, Minnesota has some of the most stringent environmental standards, permitting and monitoring requirements required of every mining operation regardless of the mineral being mined, and

WHEREAS, Minnesota has some of the richest mineral deposits found anywhere in the world and those minerals have proven to be instrumental in helping our country win two world wars and are still critical to our national defense, as well as for uses in the health industry, and technology industries and used in everyday applications by millions of people around the globe, and

WHEREAS, Minnesota has a mineral policy (MN Statute 93.001) that states; "It is the policy of the state to provide for the diversification of the state's mineral economy through long-term support of mineral exploration, evaluation, environmental research, development, production and commercialization", and

WHEREAS, the Minnesota legislature has adapted the "Goal of the Permanent School Fund" (MN Statute 127A.31) which states; "The legislature intends that it is the goal of the permanent school fund to secure the maximum long-term economic return from the school trust lands consistent with the fiduciary responsibilities imposed by the trust relationship established in the Minnesota Constitution, with sound natural resource conservation and management principles, and with other specific policy provided in state law", and

WHEREAS, H.R. 2072 requires the Federal government to withdraw all Federal land within the Rainy River Drainage Basin in Minnesota from all forms of entry, appropriation, or disposal under the public land laws, location, entry, and patent under the mining laws, and operation of the mineral leasing laws, and for other purposes, and

WHEREAS, the Rainy River Drainage Basin encompasses 11,244 square miles in Minnesota that includes an estimated 1.3 million acres of state School Trust Fund minerals, and

WHEREAS, studies conducted by the University of Minnesota Duluth has projected that mineral mining in the Rainy River Drainage Basin could contribute upwards of $2.5 billion dollars after 10 years of mining operations to the state School Trust Fund, thereby providing an incredible increase in the fund and annual allotments to our school districts and the University of Minnesota, and

WHEREAS, the economic impact to the Iron Range has been estimated at $1.5 billion in annual wages with nearly 5,000 jobs created and over 12,000 construction jobs provided prior to mining operations, and

WHEREAS, science and technology are constantly improving the mining of base and precious metals and all environmental standards, permits, and quality control as well as mine reclamation and performance bonds will be adhered to by any and all new mining operations in the Rainy River Drainage Basin, therefore

BE IT RESOLVED, the RAMS board of directors does not support the passage of H.R. 2072 as written, and does stand in support of the allowance of base mineral mining in the Rainy River Drainage Basin in conjunction with existing permitting, environmental review processes, operation mine monitoring and compliance as well as the issuance of reclamation and performance bonds that will assure the protection of our precious natural resources as well as the back yards of the residents of this remarkable region known as northeastern Minnesota.

Paul Kess, President

Pat Medure, Secretary – Treasurer

Approved by the board on a unanimous vote April 28, 2016

Fleurant, Susan (Energy)

Subject: FW: S3004/3273 Alaska Native Claims Settlement Improvement Act; 9/22/2016 -

From: Stan Moberly [mailto:stan.moberly@gmail.com]
Sent: Friday, September 23, 2016 1:48 PM
To: fortherecord (Energy) <fortherecord @energy.senate.gov>
Subject: S3004/3273 Alaska Native Claims Settlement Improvement Act; 9/22/2016 -

I live in Tenakee Springs, Alaska and I oppose the transfer of any of our public lands to the for-profit corporations S3004/3273 would provide.

S3004/3273, Section 10, would allow a for-profit corporation to select lands anywhere in Tenakee Inlet, even watersheds (Kadashan and Trap Bay) that were guaranteed permanent protection by the Tongass Timber Reform Act of 1990.

Our community's stability and health depends on the salmon that spawn and rear in Tongass watersheds - for food for those that subsistence fish, for the livelihood of the numerous commercial fishermen that live here, and for the tourists and sportsmen drawn here by the abundant fishing, viewing and hunting opportunities.-the City of Tenakee Springs, CCC, and Tenakee Springs residents have called for watershed -scale protection of these irreplaceable salmons streams for more than 40 years.

Tenakee is classified as "rural" for subsistence purposes, but this bill would establish an "urban" corporation. Tenakee Springs can not be rural and urban at the same time, and we oppose anything that would cloud our community's subsistence standing.

I acknowledge & respect the connection of Alaska Native people to their regional home, it is not appropriate or desirable to establish a **new** corporation in Tenakee Springs or to withdraw lands from the Tongass National Forest whereupon much of it would be clearcut. Opposition to establishing a new corporation in Tenakee Springs ,or any attempt to privatize the Tongass Forest, does not diminish my respect and admiration for traditional Native culture and values.

I am also concerned that the bill, Section 10, does not provide any maps showing potential areas to be transferred. Nor does not identify the beneficiaries of the proposed new corporations. And it does not provide for **any** public process in land selection or transfer.

This legislation should not pass!

Sincerely,

Stan Moberly
606 E. Tenakee Ave.
Tenakee Springs, AK 99841 USA

September 21, 2016

The Senate Committee on Energy and Natural Resources
Chairman Murkowski
Ranking Member Cantwell
Testimony of Peter Wallstrom, Owner of Momentum River Expeditions
Senate Committee on Energy and Natural Resources
S. 346 Southwestern Oregon Watershed and Salmon Protection Act of 2015.

Thank you for the opportunity to offer this letter of support for S. 346, the Southwestern Oregon Watershed and Salmon Protection Act of 2015. This bill would protect nearly 100 miles of pristine streams and rivers from the potential impacts of industrial strip mining. My business, based in southwest Oregon, depends on healthy rivers in this region.

Over the past year, the U.S. Forest Service and Bureau of Land Management sought input on a temporary administrative withdrawal for this area. My business joined with over 160 other local and regional businesses that endorsed the administrative effort to protect the Smith and Illinois Rivers and Hunter Creek from the proposed nickel strip mining. These businesses include many guides and outfitters, but also farms, local retailers, and breweries.

Tourism, recreation and related business ventures are a growing industry and asset to the Southern Oregon and Northern California Coast, as well as the interior Illinois and Rogue River Valleys. Businesses, like mine, depend on clean water and the scenery that draw people to the region. The communities that surround the Smith and Illinois Rivers and Hunter Creek have so much to gain from healthy, protected waters. Investment in sustainable industries and community infrastructure will add to the attractiveness of the region bringing new businesses and residents alike. With repeated threat of destructive nickel strip mining, these natural treasures and related local industries of southwest Oregon are endangered.

The high quality of life attracts new residents, and creates jobs that strengthen our small businesses and local communities. Please protect the headwaters of the Smith and Illinois Rivers and Hunter Creek and support the community's efforts in promoting sustainable economic development in Southwest Oregon's Wild Rivers Country.

Sincerely,

Digitally signed by Peter Wallstrom
DN: cn=Peter Wallstrom, o, ou, email=petewallstrom@yahoo.com, c=US
Date: 2016.09.20 16:18:14 -07'00'

Peter Wallstrom
Owner
Momentum River Expeditions
pete@momentumriverexpeditions.com
www.MomentumRiverExpeditions.com
541-488-2525
Enjoy world class rivers in small groups with unparalleled personal service, organic meals, and guides with 8+ years of experience leading trips around the world.

Robert Monetta and Delene Monetta
Windermere Real Estate – Methow Valley
313 E. Highway 20 Box 1088
Twisp, WA 98856

December 7, 2015

Secretary Sally Jewell
Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

Chief Thomas Tidwell
U.S. Forest Service
1400 Independence Ave., SW
Washington, D.C. 20250-1111

Jim Peña, Regional Forester
Pacific Northwest Region (R6)
U.S. Forest Service
1220 SW 3rd Avenue
Portland, OR 97204-3440

Mike Williams
Forest Supervisor
Okanogan-Wenatchee National Forest
215 Melody Lane
Wenatchee, WA 98801

Re: Letter of Support to Withdrawal Lands from Mineral Entry in the Headwaters of the Methow River in the North Cascades of Washington State

Dear Secretary Jewell, Chief Tidwell, Regional Forester Peña, and Supervisor Williams:

As residents and business owner in the Methow Valley, we are writing to express our support for protecting the Upper Methow Valley in the North Cascades from industrial-scale mining by withdrawing the lands in the upper valley from mineral entry and exploration. Bob has lived and worked in the Methow for more than 30 years. He moved here at the age of 19, in search for recreation opportunities and a high quality of life. Since then he has lived everywhere from the orchards of Squaw Creek near Pateros to the recreation mecca of Mazama. Delene is a lifelong residence of Mazama, returning back to the Methow Valley after College, where together they have raised their family to appreciate the beauty and recreation of the Methow Valley.

As Realtors in the Methow Valley, we enjoy showing the wonderful places here to clients that will move to and invest in the Methow. Because of the high quality of life here, the Methow sells itself—people want to move here because of the sense of community, the natural beauty of the landscape, the close-to-home recreational opportunities, and more. Over the years, there has been a monumental effort by new and old residents to maintain the high quality experience through well thought out land use planning and environmental engineering that represent the cutting edge of environmentally minded mountain communities.

The number one reason our clients invest here is the high quality environment, an industrial-scale mine will threaten this, and there is no doubt. Mining on Flagg Mountain would certainly threaten the entire Methow Valley. It would also threaten the water, wildlife, access to recreation, scenic views, and more—these natural assets are the foundation of our local

economy. Destruction of these assets will hurt our businesses and reduce the economic viability of our community as a whole. Moreover, these losses will extend beyond the Methow, affecting all of Okanogan County by threatening our amenity-driven property tax valuations, sales taxes, and hotel/motel taxes.

The prospect of an industrial-scale mine on Flagg Mountain threatens the very values that are at the heart of our success as a community, including our economic health. This activity is simply incompatible with the economic well-being of our valley and our community. It would directly and negatively impact business interests which are strongly oriented toward sustaining our local population and welcoming visitors from far and wide to enjoy the natural beauty of this place.

We ask you, Secretary Jewell, Chief Tidwell, Regional Forester Peña, and Supervisor Williams, to work together and move quickly and initiate the process to administratively withdraw Flagg Mountain and appropriate surrounding national forest lands in the Upper Methow Valley from mineral exploration and entry for as long as possible, and to secure any funding that may be necessary to complete the withdrawal process. This action is critical to protecting one of the most visited and beloved valleys in Washington State and an integral economic engine of north central Washington. Thank you for your consideration and leadership on this important issue.

Sincerely,

Robert Monetta
Windermere Real Estate Methow Valley

Delene Monetta
Windermere Real Estate Methow Valley

Cc: Senator Patty Murray, United States Senator
Senator Maria Cantwell, United States Senator
Representative Dan Newhouse, U.S. House of Representatives
Tom Vilsack, Secretary, Department of Agriculture
Neil Kornze, Director, U.S. Bureau of Land Management
Christy Goldfuss, Managing Director, White House Council on Environmental Quality
Acting Director, Washington and Oregon Office, U.S. Bureau of Land Management
Michael Liu, Methow Valley District Ranger, Okanogan-Wenatchee National Forest

The Mountaineers
7700 Sand Point Way NE
Seattle, WA 98115
www.mountaineers.org

September 21, 2016

Chairman Lisa Murkowski
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Ranking Member Maria Cantwell
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building Washington, D.C. 20510

Dear Chairman Murkowski and Ranking Member Cantwell,

On behalf of The Mountaineers' 12,000 members, we write to submit testimony in strong support of the Methow Headwaters Protection Act of 2016 (S. 2991). We appreciate your willingness to give this bill the opportunity for a hearing.

The Mountaineers, based in Seattle, Washington and founded in 1906, is a nonprofit outdoor education, conservation, and recreation organization whose mission is "to enrich the community by helping people explore, conserve, learn about and enjoy the lands and waters of the Pacific Northwest and beyond." 1,800 skilled Mountaineers volunteers lead 3,200 outdoor education courses and activities annually for 15,500 members and guests. Our youth programs provide over 6,000 opportunities each year for children to get outside. The Mountaineers Books publishing division expands the mission internationally through award-winning publications including instructional guides, adventure narratives, and conservation photography. We are a passionate, engaged, and knowledgeable community that cares deeply about protecting the outdoor experience for current and future generations.

We strongly support S. 2291, as it would help protect the pristine and unique natural areas and ecosystems in the Methow Valley and the recreational experiences this landscape provides.

The national significance of the Methow Valley for outdoor recreation is due to the myriad of high quality recreational opportunities that attract visitors from around the world to the area. The outdoor recreation opportunities in the Methow Valley are diverse and available throughout the year, in contrast to other outdoor recreation destinations that are more seasonal. They include activities such as cross-country skiing, hiking, mountain biking, fly fishing and hunting, just to name a few.

An additional contributing factor to the national significance is the broad range of available experiences, with some destinations challenging the nation's top experts, while others are suitable for families and serve as perfect teaching venues for those just learning the activities we enjoy. The local community, including many of the members we represent, has successfully built a vibrant outdoor recreation economy around these experiences that would be threatened by the development of a large scale mine on Flagg Mountain at the headwaters of the Methow watershed.

The Mountaineers
7700 Sand Point Way NE
Seattle, WA 98115
www.mountaineers.org

Dozens of Forest Service trails and the Pacific Crest Trail pass through the valley, providing hiking and backpacking opportunities. Climbers have easy access to Goat Wall, Fun Rock, and Prospector Wall, while winter adventures can include ice climbing at Goat Wall and Gate Creek. For mountaineers, Golden Horn is a trip deep in a Forest Service roadless area that provides spectacular views of the North Cascades. Some of the best alpine climbing in the United States is a short drive up Highway 20 to the iconic Liberty Bell Group and Burgundy Spires at Washington Pass. These alpine destinations also include classic backcountry ski terrain such as Silver star. Backcountry skiers explore nearly endless terrain on the east slope of the Cascades. Nordic skiers have access to the most extensive network of groomed trails in North America with over 120 miles to choose from. The area also boasts many other recreational resources for paddling, biking, and fishing and hunting.

Industrial scale mining in the headwaters is simply incompatible with the recreational activities our members enjoy and the significant local economic benefits they provide. Polluted waters, disturbed lands and viewsheds, lost recreational access, and noisy industrial activity would erase the very reasons our members choose the Methow Valley as a recreation destination. Large-scale surface mining would drastically alter this landscape forever through impacts to water quality and the health of the surrounding landscape. According to reports compiled by the Environmental Protection Agency, the metal mining industry is the largest toxic polluter in the nation.[1]

We enthusiastically support this proposal that would protect the nationally-significant recreational opportunities and the unique quality of life in the Upper Methow area that is characterized by stunning peaks, pastoral lands, beautiful riparian corridor, and undeveloped viewsheds.

Chairman Murkowski and members of the Committee on Energy and Natural Resources, thank you again for giving the Methow Headwaters Protection Act of 2016 (S.2201) a hearing and for the opportunity to provide testimony. The Mountaineers strongly supports this bill.

Respectfully submitted,

Tom Vogl

Tom Vogl

CEO, The Mountaineers

Katherine Hollis

Conservation and Advocacy Director, The Mountaineers

[1] http://www.epa.gov/toxics-release-inventory-tri-program/2013-tri-national-analysis-comparing-industry-sectors

Testimony by U.S. Senator Patty Murray on S. 2991, the Methow Headwaters Protection Act of 2016
September 22, 2016

Thank you, Chairman Murkowski. I would like to thank you and Ranking Member Cantwell for including the Methow Headwaters Protection Act as part of today's hearing.

The Okanogan-Wenatchee National Forest in my home state of Washington is an important part of our nation's heritage, and is a key driver in the local economy. The headwaters of the Methow River, in the North Cascades, play an important role in the ecological and economic health of Washington state. Several times over the last decade, proposals to develop a large-scale copper mine on Flagg Mountain have been made.

On May 25, 2016, I introduced the Methow Headwaters Protection Act of 2016, with Senator Cantwell as an original cosponsor. The bill would permanently protect the headwaters of the Methow River from the threat of industrial scale mining by withdrawing these lands from consideration under U.S. mining laws, subject to valid existing rights. Prohibiting industrial mining would protect nationally significant qualities, including conservation and recreational values. The headwaters of the Methow River plays a critically important role in the local community, the economy, and the rural character of the Methow Valley.

I wish to acknowledge my colleague and partner on this bill, Senator Maria Cantwell. Throughout this process, Senator Cantwell has been a champion of the effort to protect this special place.

The Methow Headwaters Protection Act reflects the broad consensus in the community of the need to extinguish the risk of a copper mine or other large-scale extraction effort. Prohibiting mining activities in the upper reaches of the watershed ensures clean, cold, abundant water will be available for downstream uses, including as habitat for endangered salmon, steelhead, and bull trout populations. The withdrawal of 340,079 acres of existing federal land would also preserve high-quality habitat for the seven federally-protected fish and wildlife species in the Upper Methow Valley, including the Northern spotted owl, grizzly bear, Canada lynx, spring Chinook salmon, steelhead, and bull trout. The proposal area is also home to bald and golden eagles, martens, mountain goats, mule and white-tail deer, and wolves. Permanent protection would protect landscapes and habitats essential to many native plants and animals, as well as the ancestral homeland and cultural resources of the Confederated Tribes of the Colville Reservation and the Confederated Tribes and Bands of the Yakama Nation.

Like many proposals to protect public lands in Washington state, the Methow Headwaters proposal came together at the local level, the product of community members rallying around a vision of protecting the world-class resources of the Methow Valley, famous for its outdoor recreation opportunities and habitat and wildlife. My work with local citizens, businesses, and community-based organizations resulted in the introduction of S. 2991, as I understand that industrial-scale mining is incompatible with the Methow Valley's future and could result in irreparable harm to the values upon which the local economy is built, clean air and water, pristine views, healthy fish and wildlife populations, and wild places. I worked with community

leaders to craft legislation that would protect these values without impacting other uses of the Okanogan-Wenatchee National Forest or reducing opportunities for hobby mining.

The Methow Headwaters Protection Act will benefit the local environment and the economy of Okanogan County, which is why the list of supporters continues to grow. Today, over 135 business owners in Okanogan County, from lodging establishments to guides and outfitters to realtors to landscapers, oppose industrial mining in the Valley. Elected officials, federally-recognized tribes with ceded territory in Okanogan County, and over 1,000 private citizens support the proposal. The Methow Headwaters Protection Act will support economic opportunities for the region and will ensure the outdoor recreation industry will continue to thrive. Today, nearly one million tourists visit the Methow Valley each year to enjoy the sun, snow, streams, wildlife, and rural communities, contributing more than $150 million annually to the Okanogan County economy. The proposal ensures the world-class recreation opportunities of the Methow Valley are protected for future generations, and industry leaders such as the Outdoor Industry Alliance and The Conservation Alliance support the withdrawal.

Permanent withdrawal from mineral consideration of these lands is a sound fiscal decision and will ensure that the federal, state, local, private, and tribal investments made in land protection, restoration, and habitat improvements across the Methow River watershed, will not be squandered. Almost a quarter of a billion dollars has already been invested in outdoor recreation enhancements, farmland preservation, and salmon and wildlife habitat enhancement and restoration activities, and a large-scale mine has the potential to derail those efforts. As we face constrained federal budgets, it is even more important to protect existing investments.

I appreciate that Deputy Chief Leslie Weldon from the U.S. Forest Service is here today to testify, and I look forward to working with her and the Forest Service on this legislation.

Preservation of our most special places reflects the values I grew up with in Washington state. S. 2991 ensures the Methow Valley's pristine habitat and world-class recreation opportunities are preserved for our children and grandchildren, and protects the thriving outdoor economy of the region. I appreciate your time today and I look forward to working with you and the Committee to move forward on this legislation.



KATIE SWEENEY
General Counsel

October 12, 2016

The Honorable Lisa Murkowski
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

Dear Chairman Murkowski:

The National Mining Association (NMA) appreciates the opportunity to submit a comment for the hearing record on S. 3203, the Alaska Economic Development and Access to Resources Act. NMA is a national trade association that includes the producers of most of the nation's coal, metals and industrial and agricultural minerals; the manufacturers of mining and mineral processing machinery, equipment and supplies; and the engineering and consulting firms, financial institutions and other firms serving the mining industry.

I write today in support of the general mining and claim validity provisions included in the Alaska Economic Development and Access to Resources Act. These provisions allow for U.S. Department of Energy grants to develop domestic sources of rare earth elements – which are critical to U.S. manufacturing processes – and ensures that valid existing mining claims are not improperly extinguished by withdrawals of federal lands. Valid existing claims are generally afforded such protection but often times, claimants are subject to years of uncertainty after federal lands are segregated or withdrawn while they wait for the federal land management agency to determine whether the claims meet the tests to be excluded from the withdrawal. While they wait, they must continue to pay claims maintenance fees even though they are not currently developing their claims. By treating any mining claim that predates a withdrawal as valid, unless and until it is successfully contested by the federal government, the legislation protects the claimants' ability to exercise their rights to conduct mining activities. Furthermore, the legislation equitably assigns the burden of proof and costs associated with claim validity determinations on the federal government. NMA would be supportive of expanding this approach to apply to all federal lands.

Few countries can rival our abundance of mineral resources. However, our nation's import dependence for key mineral commodities has doubled over the past two decades. The provisions found in S. 3203 will go a long way in helping to create a secure and reliable domestic supply of metals and minerals critical to serving the nation's key economic sectors.

I would like to thank you for introducing the Alaska Economic Development and Access to Resources Act and for your continued support on these important issues. NMA looks forward to continuing a productive dialogue on minerals policies that will allow the U.S. economy to meet the challenges of the 21st century.

Sincerely,

Katie Sweeney

Katie Sweeney



September 28, 2016

NATIONAL OCEAN INDUSTRIES ASSOCIATION

1120 G Street, NW
Suite 900
Washington, DC 20005
Tel 202-347-6900
Fax 202-347-8650
www.noia.org

Senator Lisa Murkowski
709 Hart Senate Office Building
United States Senate
Washington, D.C. 20510

Dear Chairman Murkowski:

The National Ocean Industries Association (NOIA) writes in strong support of your legislation, S. 3203, the Alaska Economic Development and Access to Resources Act. By recognizing the value of responsible production of Alaska's abundant natural resources, the bill not only benefits Alaskans but continues our Nation along the path of energy independence.

NOIA is the only national trade association representing all segments of the offshore industry with an interest in the exploration and production of both traditional and renewable energy resources on the U.S. OCS. The NOIA membership comprises some 300 companies engaged in a variety of business activities, including production, drilling, engineering, marine and air transport, offshore construction, equipment manufacture and supply, telecommunications, finance and insurance, and renewable energy.

As such, NOIA strongly supports S. 3203, particularly the provisions under Title II regarding the federal Outer Continental Shelf offshore Alaska. It is estimated that the Arctic holds approximately 30% of the world's undiscovered natural gas and 13% of its undiscovered oil. This amounts to roughly 400 billion barrels of oil equivalent, or 10 times the total oil and gas produced to date in the North Sea. Other Arctic nations such as Russia, Canada, Norway, and Greenland are leasing and moving toward exploration of their Arctic resources. Developing the U.S. Arctic could be essential to securing domestic energy supplies for the future, and it will require balancing economic, environmental and social challenges. S. 3202 takes a major step toward achieving this harmony.

Thank you for your continued leadership and support of America's critical need to maintain abundant, affordable and reliable domestic energy sources for our citizens' homes and businesses.

Sincerely,

Jeffrey L. Vorberger
Vice President, Policy & Government Affairs

STATEMENT FOR THE RECORD, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE, CONCERNING S. 3167, TO ESTABLISH THE APPALACHIAN FOREST NATIONAL HERITAGE AREA, AND FOR OTHER PURPOSES.

September 22, 2016

Thank you for the opportunity to present the Department of the Interior's views on S. 3167, a bill to establish the Appalachian Forest National Heritage Area, and for other purposes.

The Department supports enactment of S. 3167, as the proposed Appalachian Forest National Heritage Area has been found to meet the National Park Service's interim criteria for designation as a national heritage area.

However, along with designating any new national heritage areas, the Department recommends that Congress pass national heritage area program legislation. There are currently 49 designated national heritage areas, yet there is no authority in law that guides the designation and administration of these areas. Program legislation that establishes criteria to evaluate potentially qualified national heritage areas and a process for the designation, funding, and administration of these areas would provide a much-needed framework for evaluating proposed national heritage areas. It would offer guidelines for successful planning and management, clarifying the roles and responsibilities of all parties, and standardize timeframes and funding for designated areas. The Department also notes that newly-authorized national heritage areas will compete for limited resources in the Heritage Partnership Program. The President's FY17 Budget proposes $9.4 million for the current 49 areas. The authorization of additional national heritage areas will leave less funding for each individual national heritage area.

S. 3167 would establish the Appalachian Forest National Heritage Area encompassing 16 counties in northeastern West Virginia and two counties in western Maryland, a region that has a rich history of human activity shaped by the geography of the forested central Appalachian Mountains. The proposed local coordinating entity would be the Appalachian Forest Heritage Area, Inc., a non-profit organization that currently coordinates forest-related heritage tourism activities in this region. The provisions in this bill are similar to provisions in most of the other national heritage area designation bills that have been enacted in recent years, including a total authorization of $10 million and a sunset date for the authorization of funding 15 years after the date of enactment.

The Appalachian Forest Heritage Area, Inc. prepared a feasibility study for designation of the area as a national heritage area several years ago. The National Park Service (NPS) reviewed the study and found that it met the NPS interim criteria contained in *National Heritage Area Feasibility Study Guidelines.* The Appalachian Forest Heritage Area, Inc. was informed of this finding in a letter dated August 16, 2007.

The area encompassed by the proposed national heritage area is a significant part of the central Appalachian highlands that has a long history of timber harvesting, forest management, and the

production of forest products. The forests provided resources for industrial expansion in the late 19th and early 20th Centuries, but large portions of the forests have regrown. Areas within the proposed national heritage area include the Monongahela National Forest, portions of the George Washington National Forest, the Canaan Valley National Wildlife Refuge, and the Seneca Rocks-Spruce Knob National Recreation Area, along with a large number of state forests and parks and areas protected by nonprofit conservation organizations. The extensive hardwood forests and undeveloped rural character of the area provide scenic vistas and opportunities for nature observation and outdoor recreation.

There are also numerous historic and cultural resources within the area, such as sites from the logging era and Civilian Conservation Corps structures. It is a place well-suited to demonstrate the connection between forest and forest products, and the folklife, music, dance, crafts, and traditions of central Appalachia. Designation as a national heritage area would help the region realize the full potential of the cultural, natural, historic, and recreational resources of the region.

STATEMENT FOR THE RECORD, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S. 3315, TO AUTHORIZE THE MODIFICATION OR AUGMENTATION OF THE SECOND DIVISION MEMORIAL.

September 22, 2016

Thank you for the opportunity to present the views of the Department of the Interior on S. 3315, a bill to authorize the modification or augmentation of the Second Division Memorial.

The Department understands the effort to recognize the service men and women who gave their lives while serving with the Second Infantry Division during the Cold War in Korea, the War in Iraq, and the War in Afghanistan, but we do not support S. 3315 because it would alter the character of the existing Second Division Memorial and the Ellipse, and it is inconsistent with several elements of the Commemorative Works Act (40 U.S.C Chapter 89).

S. 3315 would authorize the Second Indianhead Division Association, Inc. Scholarships and Memorials Foundation to add new subjects for commemoration to the existing Second Division Memorial, located in President's Park, by placing three benches honoring the members of the Second Infantry Division killed in the Cold War in Korea, the War in Iraq, and the War in Afghanistan.

The Second Division Memorial was authorized on March 3, 1931, and was dedicated by President Franklin Delano Roosevelt on July 18, 1936, to commemorate the members of the division who served in the American Expeditionary Forces in the First World War. The original design by noted sculptor James Fraser was amended in 1962 to add the flanking wings, in recognition of the Division's achievements during World War II and the Korean War.

The Second Division Memorial is in President's Park, adjacent to the National Mall in Washington, D.C., in an area designated by Congress in the Commemorative Works Act as the Reserve – an area in which no new commemorative works shall be located. As Congress noted in the law creating the Reserve, "...the great cross-axis of the Mall in the District of Columbia...is a substantially completed work of civic art; and ...to preserve the integrity of the Mall, a reserve area should be designated...where the siting of new commemorative works is prohibited." The Second Division Memorial is a completed work of civic art in this special landscape of the Reserve and under the Commemorative Works Act, the addition of these new features would be a new commemoration within the Reserve. Also, these new features would be inconsistent with the Commemorative Works Act prohibition on interfering or encroaching on an existing memorial.

In addition, Section 8903 (b) of the Commemorative Works Act sets forth additional restrictions for military commemorative works. Memorials to an individual unit of an armed force may not be authorized, and are limited to those that commemorate a branch of the armed forces. Although the Second Division Memorial was established prior to the Commemorative Works Act, the additional unit-specific features authorized in this legislation would not comply with the

Act. Finally, commemorative works to a war or similar major military conflict may not be authorized until at least 10 years after the officially designated end of such war or conflict. As the current conflicts in Iraq and Afghanistan have not yet reached this designation, their commemoration through the features authorized by this legislation is inconsistent with the Commemorative Works Act.

In closing, the Department appreciates the desire to honor and memorialize the members of the Second Infantry Division who gave the ultimate sacrifice for their country. However, the Second Division Memorial, as originally designed, was to commemorate members of the American Expeditionary Force who died during the First World War. The Department is concerned that continued additions to the memorial are counter to the Commemorative Works Act. It is probable that there will be future conflicts and wars, and thus proposals for numerous additions will further infringe upon the original design and intent of this completed commemorative work, as well as upon the significant historic landscape of the Ellipse.

NATIVE FISH SOCIETY
Advancing the Recovery of Native, Wild Fish in Their Homewaters

September 22, 2016

Chair Lisa Murkowski
Senate Energy & Natural Resources Committee
303 Dirksen Senate Office Building
Washington, D.C. 20510

Ranking Member Maria Cantwell
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Southwest Oregon Watershed and Salmon Protection Act (S. 346)

Dear Chair Murkowski and Ranking Member Cantwell,

Thank you for the opportunity to submit comments from Native Fish Society in support of the Southwest Oregon Watershed and Salmon Protection Act (S. 346).

Southwest Oregon is home to some of the most unique, ecologically important habitat in the world, and boasts strong populations of wild, native salmon and steelhead. Our grassroots, volunteer River Stewards and their local communities are grateful for the leadership of Senators Merkley and Wyden in introducing SB. 346, and we appreciate the Senate Energy & Natural Resources Committee for giving this bill a hearing to help permanently protect this important area in southwest Oregon through a mineral withdrawal on federal lands.

Within the boundaries of S. 346 are the headwaters of several nationally recognized wild rivers including Baldface Creek, a tributary to the National Wild and Scenic North Fork Smith River; Rough and Ready Creek, a tributary to the National Wild and Scenic Illinois River that flows into the National Wild and Scenic Rogue River; Hunter Creek and Pistol River, which flow into the Pacific Ocean in the center of the Wild Rivers Coast; and the National Wild and Scenic Chetco River, flowing through the heart of the Kalmiopsis Wilderness into the Pacific Ocean.

Our communities care deeply about ensuring the abundant populations of wild salmon and steelhead, clean drinking water, and diverse recreational opportunities contained within the boundaries of S. 346 remain available for future generations. Without the protections afforded through S. 346, we are concerned that this area is subject to irreversible environmental degradation from metal mining, which the U.S. Environmental Protection Agency has labeled the most polluting industry in the country.

Support for withdrawing this area from mining has received overwhelming support from a broad community of individuals, businesses, tribes, local civic organizations and cities who have commented during a related effort for an administrative mineral withdrawal. Together, our diverse coalition of stakeholders has come together in support of permanent protection for this area, and we greatly appreciate this effort to protect more than 100,000 acres in southwest Oregon from mining.

We encourage you and all the members of the Senate Natural Resource Committee to join with us in supporting the Southwest Oregon Watershed and Salmon Protection Act, and help protect these biologically unique lands home to exceptional populations of wild salmon and steelhead, clean drinking water, and world-class recreational opportunities.

Respectfully,

Sunny Bourdon, Chetco and Smith River Steward
Dave Lacey, Hunter Creek River Steward
James Smith, Hunter Creek River Steward
Mark Sherwood, Communications Director
Jake Crawford, Southern Regional Manager

About Native Fish Society: Founded in 1995, the Native Fish Society utilizes the best-available science and our grassroots network of River Stewards to conserve and restore the Northwest's wild, native fish and safeguard their freshwater habitats. The Native Fish Society has 3,000 members and supports 85 volunteer River Stewards in Oregon, Washington, western Idaho and northern California

Fleurant, Susan (Energy)

Subject: FW: AMHT Land Exchange

From: Graham Neale [mailto:GrahamNeale@hdimining.com]
Sent: Thursday, October 06, 2016 7:15 PM
To: Kleeschulte, Chuck (Energy)
Cc: Slenkamp, Paul E (DNR)
Subject: AMHT Land Exchange

October 6, 2016

The Honorable Lisa Murkowski
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murkowski,

I write to you in support of the Alaska Mental Health Trust Land Exchange Legislation. Heatherdale Resources Ltd, 100% owner of the Niblack Project on Prince of Wales Island, has worked closely with the Trust Land Office and US Forest Service on defining portions of the exchange parcels. I urge to you pass legislation, as there would be an overall benefit to Southeast Alaska, allowing the Trust to fulfill its financial responsibility to the region.

I understand this exchange has been over a decade in the making, with Alaska Mental Health Trust seeking to exchange 17,341 acres of Trust lands near downtown Ketchikan, Juneau, Petersburg, Wrangell, Sitka, and Myers Chuck in exchange for up to 20,580 acres of US Forest Service timber lands of equal value in the Ketchikan Gateway Borough and on Prince of Wales Island. A portion of the proposed exchange, on Gravina Island within the Ketchikan Gateway Borough, is of high importance to the Gravina Island Industrial Complex. GIIC is seen as the preferred location for an off-site ore processing facility for the proposed Niblack mine. With access to hydro power and a local workforce, the benefits from this facility to local communities would be significant.

Given that Alaska is facing current economic hardship, a diversification of resource development is critical to the state's future and this Exchange Bill is critical to maintain the current timber industry in Southeast Alaska. It provides the Trust the ability to offer sufficient timber supply until other lands owners can place enough timber on the market during the transition to young growth harvest. Trust timber sales will provide required timber for the last medium-sized sawmill on Prince of Wales. This represents a significant portion of the local workforce, with potential impacts to employees at the mill, along with others who work in the timber industry in the community.

The exchange provides, but is not exclusive to, the following benefits:

- Sustains the timber industry in Southeast Alaska by providing more timber lands
- Ensures jobs stay in the Southeast communities by protecting local industries and economies
- Protects popular trails, view-sheds, and iconic recreational sites along the Inside Passage
- Ensures watersheds are protected so that Southeast residents receive clean water

It behooves all of us to do what is right for the Southeast community and economies, and for all of the people that benefit from the Trust. Legislation is the best option to complete the exchange in a timely fashion and I encourage swift passage.

Sincerely,

Graham Neale **Project Manager**

Heatherdale Resources Ltd. | 15th Floor - 1040 W. Georgia St. Vancouver BC V6E 4H1 Canada
Operating in Alaska as **Niblack Project LLC** | PO Box 8295 Ketchikan AK 99901
C +1-604-551-0875 **Dir** +1-778-373-6743 **TF** 800-667-2114 **F** +1-604-639-9210
E GrahamNeale@hdimining.com **Web** heatherdaleresources.com

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March 28, 2016

Honorable Dean Heller
United States Senate
324 Hart Senate Building
Washington, DC 20510

Dear Senator Heller,

The Nevada Chapter of Backcountry Hunters & Anglers (NVBHA) is pleased to offer our support for the discussion draft of the Pershing County Economic Development and Conservation Act. NV BHA has a keen interest in issues concerning our public lands and wildlife habitat and has played a role in working with interested stakeholders on a number of previous public lands legislative efforts, including the recently passed Pine Forest Wilderness in Humboldt County.

The proposed Pershing County effort is a great example of ground-up collaboration. The comprehensive proposal builds on the efforts of the Pershing County Checkerboard Lands Committee, which was a community-driven process to solve complicated land management issues. The proposal today makes several changes to existing Wilderness Study Areas while including Lands with Wilderness Character as permanent Wilderness. Protections for these lands will safeguard important wildlife habitat for native Great Basin species such as the Greater Sage-Grouse in the Tobin Range and the Desert Bighorn Sheep in the Bluewing Mountains.

The legislation also outlines a process to deal with the complicated land management issue of checkerboard lands. A remnant of railroad construction in the 1800s, checkerboard lands now present a land management problem and often results in confusion for sportsmen and other outdoor recreationalists. We are optimistic that the process outlined in this draft legislation could result in a more logical land management paradigm, with large chunks of key wildlife habitat being placed in public hands while lands with economic development potential could be put into private hands, creating tax revenue to benefit Pershing County.

Our organization stands ready to assist with the passage of this important legislation. NV BHA believes in the importance of our public lands and applauds the efforts of the Pershing County Commission and your offices in working to solve these issues.

Sincerely,

Larry McKurtis
Chairman
Nevada Chapter, Backcountry Hunters & Anglers

Nevada Farm Bureau Federation
2165 Green Vista Dr., Suite 205, Sparks, NV 89431
1-800- 992-1106 | www.nvfb.org

Nevada Farm Bureau Written Testimony On
Pershing County Economic Development and Conservation Act – S.3102
Presented To U.S. Senate Energy and Natural Resources Committee
September 22, 2016

Chairman Murkowski and members of the U.S. Senate Energy and Natural Resources Committee, Nevada Farm Bureau wishes to include these comments into the record of this hearing on S. 3102, the Pershing County Economic Development and Conservation Act.

Nevada Farm Bureau is a general farm organization representing all segments of Nevada's agricultural industry. Our interest in this lands bill is especially focused on the ranching community of the area and livestock grazing enterprises who depend on access to use federally-managed lands.

Nevada Farm Bureau's public policy activities are guided by our organizational policy, developed and determined on an annual basis by our engaged farmer/rancher members. A couple of key points of our policy statement on Wilderness (one of the major elements contained in S. 3102) state:

- **We seek Wilderness Study Areas, not suited as Wilderness to be returned to multiple use.**
- **Any Wilderness proposal should consider the views of the residents in the affected locality and State, therefore we believe hearings concerning Wilderness legislation should be held in affected communities of the state.**

Our views on this proposal are heavily weighted by the public involvement process that created this legislative proposal. A number of local citizens, including Farm Bureau members, working collaboratively with fellow stakeholders and lead by Pershing County Commissioners, crafted a workable proposal that you now have for consideration.

While we might wish to promote different language provisions to offer greater certainty for the future of livestock grazing within designated Wilderness areas, we recognize that local, grassroots involvement came to consensus agreements in providing for this proposal.

Our respect for that process and outcome causes us to support this proposal. We hope that it will be a model considered as the standard for similar legislative proposals in the future.

For further information – Please Contact: Doug Busselman, Executive Vice President
Nevada Farm Bureau
2165 Green Vista Dr, Suite 205
Sparks, NV 89431
Phone – 775-674-4000
Email – doug@nvfb.org

NEVADA
Mining Association

The Champion of the
21st Century Mining Industry
201 West Liberty Street Suite 300 Reno, NV 89501
Tel: 775 829 2121 www.NevadaMining.org

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Tony Sanchez
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Coeur Rochester Mine
Jeff Thompson
University of Nevada
Stefan Wenger
Royal Gold

September 20, 2016

The Honorable Lisa Murkowski,
United States Senator
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murkowski:

I write today to urge your passage of S. 3102, the Pershing County Economic Development and Conservation Act, a bill currently in your committee on Energy and Natural Resources. This bill will be a boon not only for the mining and mineral exploration community, but for Pershing County and the State of Nevada.

This bill is the result of significant input from community stakeholders, from the local government, and from industry representatives. We believe the end result is a fair deal for our State, and for all Nevadans. The entire Nevada delegation should be applauded for this inclusive and productive process.

The measure before you begins to unwind the complex and often confusing "checkerboard lands" issue. It reverts thousands of acres of wilderness study areas back to multiple use, opening the land up to its full potential. These actions will facilitate the expansion of existing mining projects and simplify development of future mineral activity while maintaining our collective responsibility to preserve the Nevada outdoors.

For more than 100 years, the Nevada Mining Association has partnered with local, state, and federal governments in the creation of sensible, balanced public policy. Our 400 members represent all aspects of the mining industry – from mineral exploration to mine operation, to closure and environmental reclamation, and the entire supply chain in between. As such, in recognition of that partnership and on behalf of our members, we are pleased to offer our support for S. 3102.

Thank you for your consideration.

Sincerely,

Dana R. Bennett, Ph.D.
President

cc: Senator Dean Heller
Senator Harry Reid
Congressman Mark Amodei
Congressman Cresent Hardy
Congressman Joe Heck
Congresswoman Dina Titus

10/3/2016

The Honorable Lisa Murkowski
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murkowski,

As a Trustee for the Alaska Mental Trust, I am in support of the **Alaska Mental Health Trust Land Exchange** Legislation. The Alaska Mental Health Trust and the Trust Land Office (TLO) have been working toward a land exchange for more than 10 years with extensive public participation while defining the exchange parcels. *I urge to you pass legislation allowing the Trust to fulfill its financial responsibility of supporting our most vulnerable populations in Alaska.*

Given that Alaska is facing the worst fiscal crisis in history, legislation is the best option to complete the exchange in a timely fashion. In just the last two years the Trust has provided 59 grants to organizations in Southeast, totaling more than $3 million. Another 323 Trust beneficiaries in Southeast have been awarded mini grants from the Trust totaling over $482,000. We need to ensure that the Trust can continue to provide revenue for comprehensive, integrated mental health services in Alaska today and into the future.

The exchange is of great benefit because it:

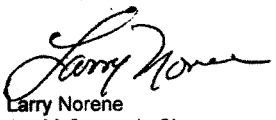
- Protects popular trails, viewsheds, and iconic recreational sites along the Inside Passage
- Ensures watersheds are protected so that Southeast residents receive clean water
- Preserves old growth timber stands in the forest
- Ensures jobs stay in the Southeast communities by protecting the timber and tourism industries
- Protects mental health services by providing revenue to support the Trust's mission

Without legislation we are putting our communities at risk.

- If the Trust cannot generate revenue in a timely fashion, we jeopardize our mental health services.

I want to do what is right for the Southeast community and economy, and for all of the people that benefit from the Trust. It's time to let the Alaska Mental Health Trust continue its critical work for those who experiencing mental illness, developmental disabilities, chronic alcoholism, and Alzheimer's disease and related dementia. I encourage you to pass this legislation with appropriate modifications that have been negotiated by the TLO and the USFS.

Sincerely,



Larry Norene
10938 Suneagle Cir
Eagle River AK 99577

September 21, 2016

David K. Norman, Washington State Geologist
Washington Department of Natural Resources
Testimony on S.2056

Bill Title: To provide for the establishment of the National Volcano Early Warning and Monitoring System.

The Washington State Department of Natural Resources urges support of Senate Bill 2056 to establish the National Volcano Early Warning and Monitoring System. This program will be an important contribution to public safety by monitoring, identifying, and addressing volcano hazards.

As our state saw first-hand from the 1980 eruption of Mount St. Helens, volcanic hazards can wreak wide-spread tolls on lives, infrastructure and the economy. The Mount St. Helens eruption inflicted damages across our state and the Pacific Northwest region as a whole. Many millions more face greater risks from volcanic hazards presented by Mount Rainier, which is much nearer to the populous and growing Seatte-Tacoma metropolitan area.

I urge passage of this vital public safety measure. Senate Bill 2056 would give our state and region a head start toward a resilient economy and secure citizenry.

Thank you for the opportunity to testify.

NORTHWEST RAFTING Co

Award Winning Global Adventures

Testimony for Public Hearing
Committee on Energy and Natural Resources
September 19, 2016

My name is Zachary Collier and I am the owner of Northwest Rafting Company, a river outfitter offering trips in Oregon, Idaho, and a few international destinations. In addition to running rivers for work I am an avid whitewater rafter and kayaker.

I fully support the Southwest Oregon Watershed and Salmon Protection Act of 2015.

I have backpacked along and kayaked Rough and Ready Creek, Baldface Creek, and the Chetco River and can attest to their beauty and unique character. The unique serpentine geology of this area allows these rivers and creeks to run clean and clear even during high water events. This geology also leads to more rare and endangered plants in these watersheds than anywhere in Oregon.

Mining near these uniquely special creeks would cause irreversible damage to it's fragile ecosystem. I am particularly concerned about the spread of the Port Orford Root Disease. These watersheds are a few of the last remaining places where this disease has not been introduced and the rare Port Orford Cedar thrives. If mining is allowed then this disease which kills these rare trees will be spread by mining trucks.

I am most concerned about the effects of mining on the Illinois River and North Fork of the Smith River which these creeks flow into. These two rivers are among the most beautiful in the world and two of my favorite places to raft and kayak. These rivers also provide clean drinking water for fish and communities downstream.

The rivers in and around the Kalmiopsis Wilderness are uniquely special and deserve permanent protection. They are special to me and many others in the whitewater community.

Sincerely,

Zachary Collier
Owner/Outfitter
Northwest Rafting Company

913 HULL STREET, HOOD RIVER, ORE. 97031

Fleurant, Susan (Energy)

Subject: FW: S 3004/3273 ANCSA IMPROVEMENT ACT 9/22/2016

From: Nick Olmsted [mailto:olmstedkemp@yahoo.com]
Sent: Friday, September 30, 2016 1:32 PM
To: fortherecord (Energy) <fortherecord @energy.senate.gov>
Subject: S 3004/3273 ANCSA IMPROVEMENT ACT 9/22/2016

Dear Members of the Senate Energy Committee,

Please record our opposition to Section 10 of S 3004/3273, the "ANCSA Improvement Act" in the hearing record of September 22, 2016.

We are long term residents of the community of Tenakee Springs in the heart of the Tongass National Forest, with combined residency of over 70 years. We oppose the privatization of public lands and support permanent protection at the watershed level of all intact and irreplaceable Tongass salmon streams. Thus far, only two areas in Tenakee Inlet have been protected with LUD II designations----and under this legislation, even these areas would be open to selection and potential road building and timber harvest by privately owned corporations.All the magnificent intact watersheds of Tenakee are critical to our community's stability and prosperity, for those harvesting fish and wildlife for subsistence, and for commercial fishers, sport fishing and wildlife guides, and for non-consumptive tourism.

Please permanently delete this piece of legislation, and keep public lands in public hands.

Sincerely,

Nicholas Olmsted
Molly Kemp

OUTDOOR ALLIANCE | The Conservation Alliance — Outdoor Business Giving Back to the Outdoors | OUTDOOR INDUSTRY ASSOCIATION

September 21, 2016

Senator Lisa Murkowski
Chair, Committee on Energy and Natural Resources
709 Hart Senate Office Building
Washington, DC 20510

Senator Maria Cantwell
Ranking Member, Committee on Energy and Natural Resources
511 Hart Senate Office Building
Washington, DC 20510

Re: September 22nd Energy and Natural Resources Hearing

Dear Chair Murkowski and Ranking Member Cantwell:

Outdoor Alliance is a coalition of seven member-based organizations representing the human powered outdoor recreation community, including Access Fund, American Canoe Association, American Whitewater, International Mountain Bicycling Association, Winter Wildlands Alliance, the Mountaineers, and the American Alpine Club. Outdoor Industry Association is the national trade association for suppliers, manufacturers and retailers in the $646 billion outdoor recreation industry, with more than 1200 members nationwide. The Conservation Alliance is an organization of outdoor businesses whose collective contributions support grassroots environmental organizations and their efforts to protect wild places where outdoor enthusiasts recreate. We work together to ensure that wild lands and rivers are preserved for recreation and conservation.

We appreciate the opportunity to offer the perspective of the outdoor recreation community and industry regarding several of the bills currently being heard by the committee. In summary, we:

- Strongly oppose measures to undercut the President's ability to protect public lands using the Antiquities Act, including S. 437, S. 1416, and S. 3317;
- Support protecting conservation and recreation values in Southwest Oregon through S. 346, the Southwestern Oregon Watershed and Salmon Protection Act of 2015;
- Support S. 2991, the Methow Headwaters Protection Act of 2016, which would protect areas of spectacular recreation and conservation value from mining threats; and
- Support S. 3049, the Organ Mountains-Desert Peaks Conservation Act, which would protect the Organ Mountains region and allow wilderness climbing areas to be managed in accordance with best climbing practices.

Access Fund | ACA | American Whitewater | IMBA | Winter Wildlands | The Mountaineers | American Alpine Club

OUTDOOR ALLIANCE | The Conservation Alliance — Outdoor Business Giving Back to the Outdoors | OUTDOOR INDUSTRY ASSOCIATION

Assaults on the Antiquities Act (S. 437, S. 1416, and S. 3317)

Our organizations strongly oppose S. 437, S. 1416, and S. 3317, all of which undercut the ability of the President to protect American public lands through the Antiquities Act.

Over the course of more than a century, nearly every president from each political party has employed the Antiquities Act to protect treasured places on America's public lands. While the Act is dedicated to protection of areas of historic or scientific significance, protection of outdoor recreation opportunities has been among the Act's invaluable additional benefits. While our preference is to protect recreation assets through legislation, when that pathway no longer becomes viable, we need a tool in place to ensure these important places are being protected for the next generation of outdoor enthusiasts.

Recent use of the Antiquities Act has helped to ensure access to outdoor recreation for a diversity of Americans, including those who live in big cities, through designation of the San Gabriel Mountains National Monument in Southern California and the Organ Mountains-Desert Peaks National Monument in Southern New Mexico (see testimony on S. 3049 below), and to protect and advance the outdoor recreation economy and important conservation values in Colorado through designation of the Browns Canyon National Monument. The San Juan Islands National Monument in Washington, designated in 2013, is another iconic designation, which offers one of the most outstanding sea kayaking experiences in the world. These designations reflect the culmination of years of painstaking work by local communities to protect the myriad values provided by these landscapes.

Far from taking lands out of productive economic use, designations under the Antiquities Act are a proven economic driver for nearby communities. Studies repeatedly demonstrate that outdoor recreation opportunities, parks, and open space increase the value of nearby residential and commercial property, and that counties in the West with protected public lands like National Monuments are more successful at attracting fast-growing economic sectors and grow more quickly than counties without public lands. A recent series of studies analyzing the economies of communities adjacent to 17 National Monuments designated since 1982 found that key economic indicators all improved or maintained following designation, and in no case did designation lead to or coincide with an economic downturn.[1]

[1] Headwaters Economics, National Monuments: Economic Performance Before and After Designation. Available at http://headwaterseconomics.org/dataviz/national-monuments/, last visited Sept. 21, 2016.

Access Fund | ACA | American Whitewater | IMBA | Winter Wildlands | The Mountaineers | American Alpine Club



We oppose efforts to undercut the efficacy of this bedrock conservation mechanism; at the same time look forward to working with Congress to protect the places and experiences that benefit outdoor recreation and local communities and economies.

S. 346, the Southwestern Oregon Watershed and Salmon Protection Act

Outdoor Alliance, the Conservation Alliance, and Outdoor Industry Association support S. 346, the Southwestern Oregon Watershed and Salmon Protection Act of 2015. The bill will permanently protect the pristine and wild rivers in Southwestern Oregon by withdrawing approximately 106,000 acres of national public lands from new mining claims. These rivers include Hunter Creek, Pistol River, Rough and Ready Creek (a tributary to the Wild and Scenic Illinois River), Baldface Creek (tributary to the Wild and Scenic North Fork Smith River), and 17 miles of the Wild and Scenic Chetco River. The Act allows valid existing mining claims and existing uses to continue.

There is overwhelming local and regional support for protecting this landscape and these rivers from mining. Currently, the Forest Service and Bureau of Land Management are pursuing a temporary mineral withdrawal in aid of S. 346. During the comment period for the NEPA process for this action, the public submitted over 35,000 comments in favor of withdrawing the area from new mining claims. According to the Forest Service, 23,000 of these comments were submitted during the Environmental Assessment phase and 99.9 percent of them were in support of protecting the area from mining. Additionally, on September 9th, 2015, nearly 300 local residents attended a public meeting in Gold Beach, Oregon, and every speaker who testified supported the action. A second public hearing was held the following night in Grants Pass, Oregon, and approximately 90 percent of the speakers testified in favor of the withdrawal.

There is such strong support for protecting these rivers because they provide clean drinking water for downstream communities and hold pristine habitat that supports world-class fisheries. They form the backbone of the local recreation economy by providing outstanding recreational opportunities–including fishing, hiking, camping and whitewater boating–that attract outdoor enthusiasts from around the world who provide millions of dollars in revenue for the local tourism-based economy. The sport-fishing industry of the Rogue River alone contributes $16 million annually to the local economy.[2]

The Wild and Scenic Chetco, North Fork Smith, Illinois, and Rogue Rivers in particular flow through rugged landscapes and have been known as whitewater boating classics for decades for their outstanding whitewater, exceptionally pure water quality, and

[2] ECONorthwest, *The Economic Value of Rogue River Salmon*, p. 1 (January 2009). Available at http://kswild.org/what-we-do-2/WildlandProtection/RogueSalmonFinalReport.pdf, last visited September 20, 2016.



salmon runs. Whitewater paddlers also value their tributaries, including Baldface and Rough and Ready Creeks. Protecting these values is incredibly important to our members.

Congress recognized the value of part of this landscape by designating the Kalmiopsis Wilderness in 1964 and the Chetco, North Fork Smith, Illinois, and Rogue Rivers as Wild and Scenic.[3] The Forest Service has recognized these values as well, and found Baldface and Rough and Ready Creeks eligible for inclusion in the national Wild and Scenic system. These designations, however, do not protect this special place from the real threat of mining, which, according to the U.S. Environmental Protection Agency, is the largest source of toxic pollution in the country.[4] Our organizations strongly support permanently protecting the rivers in the region and the robust and sustainable economic activities they support from mining threats via S. 346.

S. 2991, the Methow Headwaters Protection Act of 2016

Outdoor Alliance, the Conservation Alliance, and Outdoor Industry Association fully support S. 2291, which would help to protect the pristine and unique natural areas and ecosystems in the Methow Valley and the experiences this landscape provides.

Dozens of Forest Service trails and the Pacific Crest Trail pass through the Methow Valley, providing hiking and backpacking opportunities. Mountain bikers ride trails that include Slate Peak, Rendezvous Loop, West Fork Methow, Yellow Jacket, Cutthroat, and Cedar Falls, as well as the Methow Community trail which connects to other riding areas and the communities of Mazama and Winthrop. Nordic skiers have access to the most extensive network of groomed trails in North America, with over 120 miles to choose from. Backcountry skiers explore nearly endless terrain on the east slope of the Cascades. Whitewater boaters enjoy the experiences on the Methow River and Chewuch, which have easy access for day trips, while the Lost River offers one of the finest backcountry whitewater adventures in the North Cascades. Climbers have easy access to Goat Wall, Fun Rock, and Prospector Wall, while winter adventures can include ice climbing at Goat Wall and Gate Creek. For mountaineers, Golden Horn is a trip deep in a Forest Service roadless area that provides spectacular views of the North Cascades. Some of the best alpine climbing in the United States is a short drive up Highway 20 to the iconic Liberty Bell Group and Burgundy Spires at Washington Pass. These alpine destinations also include classic backcountry ski terrain such as Silver Star.

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[3] These rivers were designated in the following years: Chetco-1988, North Fork Smith-1988, Illinois-1984, and Rogue-1968 and 1988.

[4] See U.S. Environmental Protection Agency 2014 Toxic Release Inventory at https://www.epa.gov/trinationalanalysis/comparing-industry-sectors-2014-tri-national-analysis, last visited September 20, 2016.



The national significance of the Methow Valley for outdoor recreation is due to the quality of all the opportunities described above that attract visitors from across the country and around the world. These high quality experiences for outdoor recreation are available throughout the year, in contrast to other outdoor recreation destinations that are more seasonal. An additional contributing factor to the national significance is the range of difficulty, with some destinations challenging the nation's top experts, while others are suitable for families and serve as perfect teaching venues for those just learning the activities we enjoy. The local community, including many of the members we represent, has successfully built an outdoor recreation economy around these experiences that would be threatened by the development of a large scale mine on Flagg Mountain at the headwaters of the Methow watershed.

Industrial scale mining in the headwaters is simply incompatible with the recreational activities our members enjoy and the significant local economic benefits they provide. Polluted waters, disturbed lands and viewsheds, lost recreational access, and noisy industrial activity would erase the very reasons that make the Methow Valley so iconic. Large-scale surface mining would drastically alter this landscape forever through impacts to water quality and the health of the surrounding landscape, and according to reports compiled by the Environmental Protection Agency, the metal mining industry is the largest toxic polluter in the nation.[5]

Our organizations strongly support permanent protection from mining threats for this landscape through S. 2991.

S. 3049, the Organ Mountains-Desert Peaks Conservation Act

Outdoor Alliance, the Conservation Alliance, and Outdoor Industry Association fully support S. 3049, which would protect the Organ Mountains-Desert Peaks region and convert key Wilderness Study Areas into designated Wilderness areas. The bill is a product of a robust, community-driven process that determined appropriate Wilderness areas and associated provisions for those areas.

Rock climbing is a key cog in New Mexico's outdoor recreation economy, and the Organ Mountains-Desert Peaks National Monument includes nationally-renowned climbing. The National Monument provides outstanding recreation and natural experiences for the local community as well as visitors to the region. Outdoor Industry Association reports that in New Mexico the outdoor recreation economy supports over 47,000 jobs and generates $184 million in annual state tax revenue. Climbing in Organ Mountains-

[5] http://www.epa.gov/toxics-release-inventory-tri-program/2013-tri-national-analysis-comparing-industry-sectors.



OUTDOOR ALLIANCE | The Conservation Alliance — Outdoor Business Giving Back to the Outdoors | OUTDOOR INDUSTRY ASSOCIATION

Desert Peaks National Monument certainly enhances the local recreation economy and helps to create more jobs for New Mexico's second largest city, Las Cruces.

We believe that Wilderness designation for the Wilderness Study Areas within the Organ Mountains-Desert Peaks National Monument is a necessary step toward enhancing the climbing opportunities. Bureau of Land Management policy for climbing in Wilderness Study Areas is actually much more restrictive than for Wilderness Areas.[6] Wilderness designation will legalize new backcountry climbing opportunities and allow the Bureau of Land Management to align their climbing management strategies with current, best climbing practices.

* * *

Thank you for considering the perspective of the outdoor recreation community and industry on these important pieces of legislation.

Best regards,

Adam Cramer
Executive Director
Outdoor Alliance

Amy Roberts
Executive Director
Outdoor Industry Association

John Sterling
Executive Director
The Conservation Alliance

cc: Brady Robinson, Executive Director, Access Fund
Wade Blackwood, Executive Director, American Canoe Association
Mark Singleton, Executive Director, American Whitewater
Bruce Alt, VP Government Relations, International Mountain Bicycling Association
Mark Menlove, Executive Director, Winter Wildlands Alliance
Tom Vogl, Chief Executive Officer, The Mountaineers
Phil Powers, Executive Director, American Alpine Club

[6] BLM Manual 6330 prohibits fixed anchors (bolts) in Wilderness Study Areas, while BLM Manual 6340 allows fixed anchors in designated Wilderness Areas. Fixed anchors are a critical tool for the climbing safety system.

ACCESS FUND | ACA | AMERICAN WHITEWATER | IMBA | WINTER WILDLANDS | The Mountaineers | AAC

David Bitts
President
Larry Collins
Vice-President
Duncan MacLean
Secretary
Mike Stiller
Treasurer

PACIFIC COAST FEDERATION of FISHERMEN'S ASSOCIATIONS

Tim Sloane
Executive Director
Glen H. Spain
Northwest Regional Director
Vivian Helliwell
Watershed Conservation Director
In Memoriam:
Nathaniel S. Bingham
Harold C. Christensen
W. F. "Zeke" Grader, Jr.

Please Respond to:

[ ] **California Office**
P.O. Box 29370
San Francisco, CA 94129-0370
Tel: (415) 561-5080
Fax: (415) 561-5464

www.pcffa.org

[X] **Northwest Office**
P.O. Box 11170
Eugene, OR 97440-3370
Tel: (541) 689-2000
Fax: (541) 689-2500

21 September, 2016
In response: fish1ifr@aol.com

Chairman Lisa Murkowski
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Ranking Member Maria Cantwell
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

RE: Support for the *Southwestern Oregon Watershed and Salmon Protection Act of 2015* (S. 346)

Dear Chairman Murkowski and Ranking Member Cantwell:

As you know, PCFFA is the largest organization of commercial fishing families on the West Coast, representing the economic interests of the multi-billion dollar commercial salmon fishery and the tens of thousands of coastal fishing jobs that our industry supports in California, Oregon and Washington.

We are writing to express our strong support for the *Southwestern Oregon Watershed and Salmon Protection Act of 2015* (S. 346). We especially would like to thank Senators Wyden and Merkley for introducing Senate Bill 346 and also Representatives Peter DeFazio (OR) and Jared Huffman (CA), who have introduced companion legislation in the House of Representatives (H.R. 682) in support of these protections.

Senate Bill 346 would help protect against new mining claims being lodged in some of the most pristine and biologically valuable rivers still on federal lands in the Pacific Northwest, including

three outstanding watersheds which are also the site of some of the most important salmon spawning and rearing habitat still left intact in Southern Oregon and northern California.

This legislation would preserve key salmon habitat alongside the Wild and Scenic North Fork Smith River in Oregon, the watershed of Rough and Ready Creek (an eligible Wild and Scenic River and tributary to the Wild and Scenic Illinois and Rogue rivers), as well as 17 miles of the Wild and Scenic Chetco River. Also protected from new mining claims would be the headwaters of Hunter Creek and the Pistol River—two prized native salmon and steelhead rivers and the sources for clean drinking water for several southern Oregon communities.

As you know, the federal government and state governments of California, Oregon and Washington now collectively spend *millions of dollars each year* in efforts to protect and restore vitally important and economically irreplaceable salmon habitat. It makes absolutely no sense to simultaneously leave in place Mining Act of 1872 "loopholes" that would expose many of these very same watersheds to further damage from planned large-scale corporate mining operations that are now being proposed. Immediately closing those mining claim "loopholes," and protecting many tens of millions of dollars in salmon habitat restoration money already invested in those key watersheds, is precisely what S. 346 would do.

The bill covers approximately 106,000 acres, lands located only on either National Forest or BLM lands, that have exceptionally clean rivers that provide excellent habitat for spawning steelhead and salmon as well as drinking water to residents in Josephine and Curry Counties in Oregon and Crescent City, California. This vibrant river system remains one of the few remaining strongholds for abundant wild salmon and steelhead in the continental United States. Salmon from these rivers support major regional commercial and sport-fishing industries. The Wild and Scenic Rogue River alone contributes an estimated $16 million every year into the economy of southwest Oregon.

It is important to note that no private lands would be affected by S. 346, only existing federal public lands. The legislation also protects all current mining claims, as the bill is subject to all "valid existing rights." Only new claims would be barred.

There are thousands of other places in the country where large-scale corporate mining operations could be profitably located. They do *not* have to be allowed in the middle of some of the last, best and most pristine salmon habitat still left on the Pacific Coast, jeopardizing thousands of salmon-dependent jobs!

On behalf of the hundreds of commercial fishing families and businesses we represent, we thank you for this opportunity to testify in support of S. 346.

Sincerely,

Glen H. Spain

Glen H. Spain
Northwest Regional Director, PCFFA

PCFFA-S346(09-21-16)

October 4, 2016

Chairman Lisa Murkowski
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building
Washington, D.C. 20510

Ranking Member Maria Cantwell
Senate Energy & Natural Resources Committee
304 Dirksen Senate Office Building Washington, D.C. 20510

RE: Southwestern Oregon Salmon and Watershed Protection Act (S. 346)

Dear Chairman Murkowski and Ranking Member Cantwell:

I am writing in support of the Southwestern Oregon Salmon and Watershed Protection Act (S. 346). I deeply appreciate the leadership of Senators Wyden and Merkley in introducing this important legislation to protect the headwaters of several outstanding National Wild and Scenic Rivers in Southwestern Oregon from strip mining.

I've spent a career traveling, photographing, researching, and writing about wild rivers all across the nation, which has given me a unique perspective on the rivers in Southwest Oregon. I've paddled on more than 300 rivers and have written more than 25 books about rivers, forests, conservation and adventure travel all across America, including 5 books that are particularly germane to consideration of the proposed legislation—*A Field Guide to Oregon Rivers, A Field Guide to California Rivers, The Wild and Scenic Rivers of America*, and two forthcoming photo books *Oregon's Rivers*, and *America's Wild and Scenic Rivers.*

Working on these books has revealed to me just how extraordinary our collection of rivers in Southwest Oregon truly is. The National Wild and Scenic Rivers (Rogue, Illinois, Chetco, North Fork Smith, Smith), eligible rivers, and other free-flowing streams in the withdrawal area exemplify extremely high water quality and clarity, sustain robust salmon and steelhead runs, and offer world-class recreational opportunities for boating, fishing, and hiking.

This superb set of rivers is the best not just in the Pacific Northwest region or in Oregon or California, but also throughout the west coast and our nation —so if protection from mining makes any sense anywhere in America, it makes sense here.

As a resident in this region, I can tell you that the communities of southwest Oregon have been transitioning toward a recreational economy that depends on clean water and rivers and have self-identified as "America's Wild Rivers Coast." Allowing mineral exploration at the headwaters of our prime rivers –with the aim of ultimately developing nickel strip mines —puts decades of significant investments in salmon habitat restoration, clean drinking water for many towns, and sustainable businesses at unacceptable risk. For these reasons, local citizens and municipalities in both southern Oregon and northern California overwhelmingly support protection for the headwaters of these rivers.

Over the past few years, news headlines about mine spill disasters have become troublingly routine and have made clear that the mining industry cannot be entrusted with the fate of our nation's finest rivers.

To protect these exemplary and nationally significant rivers for future generations, I strongly urge you to support the Southwestern Oregon Salmon and Watershed Protection Act.

Thank you for the opportunity to comment.

Sincerely,

Tim Palmer

Author/ Photographer
P.O. Box 1286
Port Orford, OR 97465

Olympia Office:
305 Legislative Building
PO Box 40412
Olympia, WA 98504-4012
Phone: (360) 786-7622
Fax: (360) 786-1189

Washington State Senate

Senator Linda Evans Parlette
Senate Majority Caucus Chair
12th Legislative District

District Office:
625 Okanogan, Suite 301
Wenatchee, WA 98801
Phone: (509) 663-9702
E-mail: Linda.Parlette@leg.wa.gov
Hotline: 1-800-562-6000

July 8, 2016

To whom it may concern,

I am writing to express my support for the proposed permanent mineral withdrawal of lands in the Methow Headwaters. The Methow Valley is an important and vital contributor to the economy of Okanogan County. Its waters are critical to farming, ranching, and salmon. The area's aquifer supplies communities including Winthrop and Twisp. Its lands are home to important and diverse wildlife populations. The Methow Valley provides recreational and scenic qualities that attract visitors, as well as support the livelihoods of a large number of full-time residents.

Development of a large-scale mine in the headwaters is misplaced and threatens the qualities that define the Methow Valley, its economy and the rural character of Okanogan County. Further, opposition to large-scale mining has unified the community. Concern over a potential industrial mine in the Methow Headwaters has continued to grow; today, that includes more than 135 diverse businesses, community leaders and organizations, the Okanogan Farm Bureau, and many concerned citizens.

Withdrawing these lands so that a legislative solution can be pursued is important and urgent. I support immediate action by the Forest Service to initiate the withdrawal process "in aide of legislation." In doing so I support the desires of our community, the continued growth of the regional economy, and the precious water supplies that are the region's most important resource.

With warmest regards,

Linda Evans Parlette

LINDA EVANS PARLETTE
Washington State Senator
12th Legislative District

Fleurant, Susan (Energy)

Subject: FW: Testimony S.3315, 2d ID Memorial Modification

From: Don Perkison [mailto:donperkison@gmail.com]
Sent: Wednesday, September 21, 2016 2:42 AM
To: Lane, Michelle (Energy)
Subject: Testimony S.3315, 2d ID Memorial Modification

Subject: Testimony S.3315, 2d ID Memorial Modification

Senator Lisa Murkowski
Chair, Senate Energy and Resources Committee
Re: S.3315, Second Division Memorial Modification Act

Dear Madame Chair and Members of the Committee,

The 2nd Indianhead Division Association Scholarship and Memorials Foundation (Foundation) seeks to rededicate the 2ndDivision Memorial on Constitution Avenue near 17th Street in the President's Park on the National Mall in Washington, DC., by making a small but important modification to the Memorial.

The Memorial was initially erected and dedicated in 1936 to honor the 2ndDivision soldiers killed in World War I and rededicated in 1962 by adding two wings to the Memorial to honor the 2nd Division dead in World War II and the Korean War. Unfortunately, the Memorial no longer reflects all members of the 2nd Division who have given their life in service of their country, specifically those who have fallen on or near the Korean Demilitarized Zone (DMZ) between South and North Korea, as well as those who have fallen in Afghanistan and Iraq.

S. 3315, has been introduced to allow for the addition of three small benches commemorating the fallen 2nd Division soldiers in service on and near the Korean Demilitarized Zone (DMZ) between South and North Korea and the fallen soldiers of both Afghanistan and Iraq. Legislation is necessary, as the National Park Service has denied modification of the Memorial based on current law (40 USC Section 8903(b).

We ask for your assistance in changing the law to allow this small but important modification.

I urge you to support this legislation.

Thank you for your consideration.
Respectfully,

Donald Perkison
Veteran
2nd Division
2nd Engineers
3403 Livingston Lane
Carrollton, TX 75007-3212

BOARD OF COUNTY COMMISSIONERS

PERSHING COUNTY

P.O. DRAWER E
LOVELOCK, NEVADA 89419
775-273-2342 • FAX 775-273-5078

June 28, 2016

The Honorable Harry Reid
United States Senate
Washington, D.C. 20510

The Honorable Dean Heller
United States Senate
Washington, D.C. 20510

The Honorable Mark Amodei
United States House of Representatives
Washington, D.C. 20515

RE: Pershing County Economic Development and Conservation Act

Dear Senators Reid and Heller, and Congressman Amodei:

As you know, for the past year, Pershing County has been working with various stakeholders to develop a public lands proposal that addresses economic development, conservation, and recreation.

On June 1, after multiple public hearings and opportunities for public input, the Pershing County Board of Commissioners voted unanimously to support the Pershing County Economic Development and Conservation Act.

We respectfully request that you introduce this legislation in Congress, and do all that you can to see it signed into law as soon as possible.

Thank you for your consideration.

Sincerely,

Darin Bloyed

Darin Bloyed, Chair
Pershing County Board of Commissioners

THE PEW CHARITABLE TRUSTS

2005 Market Street, Suite 1700
Philadelphia, PA 19103-7077
215.575.9050 Phone
215.575.4939 Fax

901 E Street NW, 10th Floor
Washington, DC 20004
202.552.2000 Phone
202.552.2299 Fax
www.pewtrusts.org

September 16, 2016

The Honorable Harry Reid
United States Senate
522 Hart Senate Building
Washington, DC 20510

The Honorable Dean Heller
United States Senate
324 Hart Senate Building
Washington, DC 20510

The Honorable Mark Amodei
United States House of Representatives
332 Cannon House Office Building
Washington, DC 20515

Dear Senator Reid, Senator Heller, and Congressman Amodei:

For more than a decade, Pershing County has sought to resolve the status of checkerboard land ownership, wilderness study areas, and other public lands issues in order to provide new opportunities for economic development while protecting areas of significant ecological value. The Pew Charitable Trusts supports these goals. The Pershing County Economic Development and Conservation Act (S.3102 and H.R.5752) will designate new wilderness areas, consolidate checkerboard lands, and resolve other longstanding public lands issues in Pershing County. This introduction is an important step forward toward achieving important conservation gains with comprehensive and balanced legislation at a county-wide scale.

Nevada's Great Basin desert is a magnificent high desert with pinyon-juniper forests, sagebrush valleys, rugged canyons and dramatic mountains. It is home to wildlife species such as sage grouse, pronghorn, mule deer, and bighorn sheep. S.3102 and H.R.5752 would protect lands which are some of the State's most remote and wild places. This bill would provide wilderness designations for 136,000 acres of land, permanently preserving critical wildlife habitat, dramatic landscapes, geologic wonders, and magnificent outdoor recreation opportunities.

While we are supportive of the conservation gains in this legislation, we have concerns with some of its other provisions. Section 304 would release 48,600 acres of wilderness study areas so that they would no longer be managed for their wilderness character. Section 103(f)(1)(B) would make 150,000 acres of land available for sale or exchange, and the land conveyed under section 201 would likely result in an increase in industrial development. We would not support these changes in land management or ownership on their own merits, but we recognize and appreciate that they are balanced by the significant conservation gains in the rest of Title III.

We have additional concerns with section 103, which permits land exchanges on an acre-to-acre basis rather than a value-to-value basis. Pew recognizes the need to resolve the long-standing checkerboard ownership pattern of land in Pershing County, and we appreciate the work that went into the exchange mechanism in the bill, which protects taxpayer interests with a value cap on exchanged land, and includes additional restrictions to help ensure that the federal

government receives land that will assist the BLM in implementing public-interest management goals, including conservation and recreation. However, we think this section could be improved with modest changes. We recommend that the bill prohibit the Secretary from disposing of land via exchange if that land would otherwise qualify for inclusion in a management priority area as described in section 103(d)(4). We also recommend that the bill direct the Secretary to perform additional analysis to determine if the $500/acre value cap for exchanged land in section 103(d)(3)(A) is consistent with the average value of agricultural land in the county, and, if the average valuation of such land is lower, adjust the cap accordingly.

We are sincerely grateful for the effort you and your staff have put into this bill, and we look forward to working with you on this legislation.

Sincerely,



Mike Matz, Director
U.S. Public Lands
The Pew Charitable Trusts

THE PEW CHARITABLE TRUSTS

2005 Market Street, Suite 1700 215.575.9050 Phone
Philadelphia, PA 19103-7077 215.575.4939 Fax

901 E Street NW, 10th Floor 202.552.2000 Phone
Washington, DC 20004 202.552.2299 Fax
www.pewtrusts.org

Statement of John Seebach, Project Director, U.S. Public Lands
The Pew Charitable Trusts
Regarding S. 346, S. 3049, S. 3102, S. 3203, S. 437, S.1416, and S. 3317

Submitted to the Senate Committee on Energy and Natural Resources

For the Record of the hearing held on September 22, 2016

The U.S. Public Lands program at The Pew Charitable Trusts seeks to preserve ecologically and culturally diverse U.S. public lands through congressionally designated wilderness, the establishment of national monuments, and administrative protections. We appreciate the opportunity to submit these comments for the record.

S. 3049 – The Oregon Mountains-Desert Peaks Conservation Act

The Pew Charitable Trusts supports S. 3049, the Organ Mountains-Desert Peaks Conservation Act, sponsored by Senators Tom Udall and Martin Heinrich. This legislation would designate approximately 241,000 acres of wilderness within the Organ-Mountains Desert Peaks National Monument. This legislation further protects some of southern New Mexico's most iconic vistas and preserves important landmarks and archeological and cultural resources. It will allow local families and visitors for generations to continue to hike, hunt, and learn from the thousands of significant historic sites throughout the area.

The Organ Mountains-Desert Peaks Conservation Act is the result of years of on-the-ground collaboration among a wide variety of stakeholders, including Hispanic leaders, veterans, Native Americans, sportsmen, small business owners, border security experts, ranchers, faith leaders, historians, and conservationists.

S. 346 - The Southwestern Oregon Watershed and Salmon Protection Act

The Pew Charitable Trusts also stands in support of S. S.346, the Southwestern Oregon Watershed and Salmon Protection Act of 2015, sponsored by Senators Ron Wyden and Jeff Merkley. This legislation would withdraw more than 100,000 acres of land and waterways in an area commonly referred to as the Kalmiopsis from new mining or geothermal energy leasing.

The Kalmiopsis is recognized for its wide diversity of wildlife and plants and its clean, cold rivers, which provide drinking water to hundreds of thousands of people. This area is a one-of-a kind collection of

wild rivers, Jeffrey pine savannas, and rare plant species, some found nowhere else on the planet. It is also one of the last wild salmon strongholds in the continental United States. S. 346 would protect the place from the deleterious effects of mining and energy development, safeguard local communities' clean drinking water supplies, uphold tribal treaty rights, enhance revenues for local businesses, and preserve a priceless one-of-a-kind landscape for future generations.

S. 3102 - The Pershing County Economic Development and Conservation Act

The Pershing County Economic Development and Conservation Act (S.3102), introduced by Senators Dean Heller and Harry Reid, will designate 136,000 acres of new wilderness in the magnificent high desert of Nevada's great basin while resolving checkerboard land ownership and other longstanding public lands issues in Pershing County. This legislation is an important step forward toward achieving important conservation gains with comprehensive and balanced legislation at a county-wide scale. While we have expressed concerns with some provisions in the bill, the Pew Charitable Trusts supports the conservation gains in this bill and we look forward to working with the committee and its sponsors to improve this legislation and see it enacted into law.

S. 2681 – The San Juan County Settlement Implementation Act

The San Juan County Settlement Implementation Act (S. 2681), introduced by Senators Tom Udall and Martin Heinrich, would create nearly 10,000 acres of new wilderness in the badlands of San Juan county. This legislation will permanently protect a scenic area rich in dinosaur fossils in the new Ah-shi-sle-pah Wilderness area and expand the Bisti and De-Na-Zin wilderness areas, which are home to unique rock formations.

S. 3203 – The Alaska Economic Development and Access to Resources Act

If enacted, section 403 of S. 3203 would amend the Alaska National Interest Lands Conservation Act (ANILCA) to revoke all areas of critical environmental concern (ACECs) in Alaska, based on a faulty premise that ACECs violate ANILCA's prohibition against new withdrawals. ACECs do not remove those lands from the operation of public land laws and therefore by definition are not withdrawals. The Gwich'in people of Alaska have spent nearly a decade advocating for the protection of critical watersheds supporting subsistence resources in the region. The bill would eliminate many of the protections that they have achieved through many years of negotiations.

Section 403 would nullify any executive agency action that "limits, or has the effect of limiting or impeding, activities and uses allowed" on more than 5,000 acres of public lands unless Congress approves the action via a joint resolution within one year of the action being noticed. The provision would apply to ACECs, wilderness study areas, wild and scenic rivers, critical habitat under the Endangered Species Act, or "any similar land use designation or management of public lands" under any Federal land use law. This would in effect give Congress veto authority over nearly every land management decision made in Alaska by the federal government pursuant to authorities already granted them by Congress.

We oppose S. 3203 and ask that you do not move this bill forward; if the committee decides to act on the bill, we urge you to strike Section 403 in its entirety.

S. 437, S.1416, and S. 3317

The Pew Charitable Trusts opposes S. 437, S. 1416, and S. 3317. Each of these bills would, in different ways, curtail Presidential authority to designate and manage National Monuments granted by Congress under the Antiquities Act of 1906. Since President Theodore Roosevelt first used this authority to designate Devils Tower in Wyoming, sixteen Presidents of both political parties have used the Antiquities Act to protect historic landscapes and cultural icons, including the Grand Canyon and the Statue of Liberty. Congress should not weaken the President's authority to safeguard America's public lands.

We appreciate the opportunity to submit these views for the Committee's consideration. For additional information, please contact me at (202) 540-6509 or jseebach@pewtrusts.org.

Fleurant, Susan (Energy)

Subject: FW: S3204-22September2016

From: Christopher Preston [mailto:christopherpreston1752@gmail.com]
Sent: Thursday, September 22, 2016 10:26 AM
To: fortherecord (Energy) <fortherecord @energy.senate.gov>
Subject: S3204-22September2016

Dear Committee

I have lived in King Cove, worked in the fisheries there, taken the air taxi to Cold Bay airport, and enjoying the natural bounty of the region.

The Izembek National Wildlife Refuge is literally priceless. Cutting it up with a road would be a tragedy that will span the generations. It is not clear that the road is essential to the community at KIng Cove. Some would say it is. Others would be appalled by the whole idea.

American icon Henry David Thoreau declared "We are rich in proportion to the amount of things we can leave alone." Please leave the Izembek Refuge alone. Once these things are destroyed they are gone forever. This ecosystem deserves to stay intact forever.

Please bear this in mind as you learn about the issue today.

Sincerley, Christopher Preston

--
Christopher J.Preston
745 South 4th St. W.
Missoula, MT 59801
(406) 543-3868

Statement by
EMMETT J. STURGILL
RAFTER S CATTLE COMPANY
KINGMAN, ARIZONA
CHAIRMAN OF FEDERAL LANDS/BUREAU OF LAND MANAGEMENT COMMITTEE FOR THE ARIZONA CATTLE GROWERS' ASSOCIATION

With regard to
Congressman Paul Gosar's
Public Listening Session:
"Government Land Grabs – Exposing the Truth"
April 11, 2016
Kingman, Arizona

For the record, my name is Emmett J. Sturgill and I have been a lifelong resident of Northern Arizona and involved in managing lands and livestock here since 1974. In addition to my experience in the cattle business in this area – I was employed for 35 years with the Arizona Department of Public Safety. These experiences have provided me with the knowledge and understanding of lands, animals, laws and government agency operations.

We stand in opposition to the proposed Grand Canyon Watershed National Monument. This proposed National Monument – with the stroke of a pen – will dramatically damage our economy in Northern Arizona and will forever destroy economically viable ranching families, sportsmen opportunities, mineral exploration, energy opportunities and the general welfare of the areas in and around this 1.7 million acre proposed National Monument.

This proposed expansion of added regulatory jurisdiction – on such a broad landscape of Northern Arizona – is a covert attack on land access, viable natural resource production and the opportunity for us in Northern Arizona to live on, care for and produce food for our great nation and state in this area. The process for this proposed National Monument is devoid of local input from the communities, leaders, citizens and businesses in this area.

The proposed National Monument is following a disturbing trend that has emerged over recent years in land designations: It circumvents the usual route of involving our elected officials in the U.S. Congress and at our State Legislature; and it advances without the consent of our elected legislators or consultation with our state and local governments. While the Property Clause in our U.S. Constitution grants Congress the authority to make the bulk of land designations – by statutory provisions for forest designations, federal wilderness areas and the establishment of National Parks – the authority to designate national monuments has been delegated to the President under the Antiquities Act of 1906. This must change.

The Antiquities Act lacks significant standards for size, creating a high potential for abuse. Although Congress retains the ability to designate national monuments through statute, it principally relies on monument designations put forward by the Executive Branch. Between 1906 and 1999, Presidents designated 118 national monuments. Although Congress has limited the Act's reach in some respects, the federal courts have expanded and upheld every exercise of the Antiquities Act.

President Clinton took the Antiquities Act to new heights with the designation and expansion of more than 20 national monuments, many of which were opposed by local residents and landowners. The current administration is continuing this trend with nearly 20 monument designations, closing off millions of acres of in the west. In order to prevent this abuse of power, Congress should take steps to curb the President's ability to arbitrarily designate national monuments, and create a mechanism for congressional review of proclamations. Congress should also provide for state and local input before the designation takes place.

It is disturbing to us in Northern Arizona that the President is denying Arizona citizens a voice in the proposed designation of a national monument in our own backyard. Such a designation will have real impacts on the livelihoods of us citizens who actually live near and work on these lands. It will have a tremendous impact on outdoor sporting opportunities like hunting and target shooting as we have an example in central Arizona where the BLM has proposed to place an area within the Sonoran National Monument off limits to target shooting. The wishes of the people most affected by these types of designations are once again – being ignored.

We are disappointed in the Executive Branch's inability to use the Antiquities Act in a transparent and reasonable fashion. This proposed designation serves as the

latest example of why the Antiquities Act, first passed in 1906, is in serious need of updating.

These types of designations are top-down, big government land grabs that disenfranchise the concerned citizens that live, work and recreate in these areas. When we look at prior designated areas we see – the elimination and drastic reduction in livestock production, reduced opportunities for sportsmen and outdoor recreation, impacts on water rights and the overall reduction of our ability to manage challenges like wildfire limiting the ability of our first responders to react to these challenges. They become underfunded and neglected properties – this is the opposite of what we seek for these lands in Northern Arizona.

In closing, Congressman Gosar we implore you to carry forward with our message and we thank you for conducting this listening session as: When these areas are created without normal Congressional and local consensus, when they rob the people of a fair and open process stifling the input of the community – they become orphans once the Administration that designated them changes.

Note:

Attached are four slides which illuminate: 1) The vast area of federally controlled lands already in Arizona (and the west) in red; 2) A Map of Arizona demonstrating the location of an already existing 18 National Monuments and 2.5 million acres in Arizona; 3) Points highlighting the lack of transparency and resulting management impacts; and 4) a Conclusion of three key points.

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RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

September 21, 2016

The Honorable Lisa Murkowski, Chairman
U.S. Senate Energy and Natural Resources Committee
304 Dirksen Senate Building
Washington, D.C. 20510

Re: Testimony for the record for the September 22, 2016 Senate Energy and Natural Resources Committee Hearing: S. 3203, S. 3204, S. 3273

Dear Senator Murkowski:

The Resource Development Council for Alaska, Inc. (RDC) is writing to provide a written statement for the record in advance of the September 22, 2016 Senate Energy and Natural Resources Committee Hearing, which will include Senate bills S. 3203, S. 3204, S. 3273.

RDC is an Alaska-based business association comprised of individuals and companies from Alaska's oil and gas, mining, forest products, tourism and fisheries industries. RDC's membership includes Alaska Native Corporations, local communities, organized labor, and industry support firms. RDC's purpose is to encourage a strong, diversified private sector in Alaska and expand the state's economic base through the responsible development of our natural resources.

RDC writes to comment on the following legislation:

S. 3203, the Alaska Economic Development and Access to Resources Act

RDC thanks you for the introduction of S. 3203, Title I – Fill TAPS, Title II – Outer Continental Shelf, Title III – Federal Onshore, Title IV – Mining, and Title V – Forestry, and is on the record in support of sections of the bill already.

TITLE I – FILL TAPS

The Trans-Alaska Pipeline System (TAPS) has played a critical role in our nation's energy security, carrying more than 17 billion barrels of oil to West Coast markets. It is the economic lifeblood of Alaska's economy and a critical link to the nation's long-term energy security. One cannot overstate the importance of oil and gas to Alaska. Oil production and the spending of the state's oil revenues account for up to one half of the economic activity in Alaska. Oil revenues provide and fund thousands of private and public sector jobs, as well as critical public services and infrastructure. It's clear that Alaskans and our state's economy would benefit significantly from increased oil production. In fact, the very concept of Alaska's statehood is predicated on the development of natural resources.

121 West Fireweed Lane, Suite 250, Anchorage, Alaska 99503
907-276-0700 • resources@akrdc.org • akrdc.org

More than five decades ago when Alaska statehood was debated, many politicians in Washington, D.C. doubted this northern territory could build an economy and contribute to the union. Alaskans joined together to convince Congress that development of Alaska's vast resources could establish and sustain a strong private sector economy. Ultimately Congress admitted Alaska to the Union. We remind federal policy makers that Alaska was allowed to join the union because of the expectation that the development of our natural resources would sustain the economy. Now, Alaska's economic lifeline, TAPS, is starved for oil. It's not because Alaska has depleted its natural resources. In fact, there is more oil in place onshore and offshore the North Slope than what has been developed since statehood. The challenge is achieving access to the resource.

TITLE II – OUTER CONTINENTAL SHELF

The federal government estimates there are 23.6 billion barrels of technically recoverable oil and about 104.4 trillion cubic feet of technically recoverable natural gas in the Chukchi and Beaufort sea planning areas. The Chukchi Sea itself is considered the most promising undeveloped energy basin in America with only several areas in the world that may offer higher potential. The Alaska Arctic Outer Continental Shelf (OCS) likely constitutes the eighth largest oil reserve in the world, putting it above Nigeria, Libya, Russia, and Norway. In addition, it is estimated that economic activity from the development of conventional energy reserves beneath the Chukchi and Beaufort seas would create an annual average of 54,700 jobs nationwide (35,000 in Alaska) with a cumulative payroll of $154 billion over the next 50 years. Moreover, government revenues generated from Alaska OCS production could reach nearly $200 billion. It is imperative to move forward with exploration activities in the Alaska OCS. Development and production of Arctic energy resources will be needed to offset declining Lower 48 production projected to begin in the coming decades.

TITLE III – FEDERAL ONSHORE

The Federal onshore oil and gas resources will be vital to refilling TAPS and increasing our nation's energy security. The U.S. Geological Service estimates the National Petroleum Reserve – Alaska (NPR-A) contains 896 million barrels of oil, and 53 trillion cubic feet of undiscovered conventional natural gas within NPR-A and adjacent state waters.

Moreover, the coastal plain of the Arctic National Wildlife Refuge (ANWR) is estimated to contain about 10.5 billion barrels of oil.

TITLE IV – MINING

Previously, RDC went on the record expressing concerns with an often ignored provision of the Alaska National Interest Land Claims Act (ANILCA), the "no more" clause.

RDC is concerned Federal land managers have routinely ignored Section 1326(b), a key provision of ANILCA which states that "no further studies of federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit ... or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress." RDC believes S. 3203 TITLE IV – MINING, Section 403 ANILCA clarification: Limitation on land use designations, provides clarification and an expressed definition.

TITLE V - FORESTRY

RDC is also on record opposing the Roadless Rule in Alaska and encouraging a revitalized forest industry in the Southeast Alaska, including the establishment of a Tongass State Forest.

Specific to TITLE V – FORESTRY, Section 502. Alaska Mental Health Trust land exchange, RDC urges prompt passage.

For nearly a decade, the Alaska Mental Health Trust has been seeking to exchange with the U.S. Forest Service 17,341 acres of forested Trust lands near Ketchikan, Juneau, Petersburg, Wrangell, and Sitka in exchange for Forest Service lands of equal value in the Ketchikan Gateway Borough and on Prince of Wales Island.

The exchange would minimize or avoid potential impacts to nearby communities while helping to sustain what remains of the timber industry in Southeast Alaska by providing more timber lands that could be managed on a sustained yield basis. This timber is critical to providing industry a bridge in transitioning to young growth timber.

S. 3204, the King Cove Road Land Exchange Act

RDC joins the Alaska delegation, thousands of Alaskans, and many business and trade associations, including the ANCSA Regional Corporation CEO's Association in support of the King Cove Road exchange.

For more than 15 years RDC has urged approval of the King Cove land exchange. RDC strongly believes that a road corridor from King Cove to the all-weather airport at Cold Bay is in the public interest. This is a public safety and human rights issue, which should be given the highest priority.

S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016

RDC is compelled to support this bill as it contains provisions and policies that will benefit village and Regional Native corporations, and thousands of Alaska Native shareholders. It also enforces benefits and entitlements to Alaska Native Corporations expressly contained in the Alaska Native Claims Settlement Act when it was passed in 1971.

Conclusion

RDC applauds the introduction of S. 3203, S. 3204, and S. 3272 as key legislation to improve and enhance economic and community opportunities for Alaska and the nation.

Thank you for the opportunity to provide testimony on this important legislation.

Sincerely,

Marleanna Hall

Marleanna Hall
Executive Director

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Executive Director
Marleanna Hall

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RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

September 22, 2016

The Honorable Lisa Murkowski, Chairman
U.S. Senate Energy and Natural Resources Committee
304 Dirksen Senate Building
Washington, D.C. 20510

Re: Senate Bill 3203, Title V – Forestry, Section 502, the Alaska Mental Health Trust land exchange

Dear Senator Murkowski:

As a follow-up to written testimony on S. 3203, the Resource Development Council for Alaska, Inc. (RDC) is writing to provide additional comments urging the Senate to pass the Alaska Mental Health Trust land exchange.

RDC is an Alaska-based non-profit business association comprised of individuals and companies from Alaska's oil and gas, mining, forest products, fisheries and tourism industries. RDC's membership also includes Alaska Native corporations, local communities, organized labor and industry-support firms. RDC's purpose is to encourage a strong, diversified private sector in Alaska and expand the state's economic base through the responsible development of our natural resources.

In 1956, Congress passed the Alaska Mental Health Enabling Act, granting an entitlement of one million acres of federal land to the Territory of Alaska to generate revenues for the benefit of Alaskans with mental illness and other disorders. The Alaska Mental Health Trust Board has a fiduciary responsibility to maximize long-term revenue from Trust land and manage its lands prudently to support its programs and services on behalf of its clients.

For nearly a decade, the Trust has been seeking to exchange with the U.S. Forest Service 17,341 acres of forested Trust lands near Ketchikan, Juneau, Petersburg, Wrangell, and Sitka in exchange for Forest Service lands of equal value in the Ketchikan Gateway Borough and on Prince of Wales Island. From the perspective of Trust beneficiaries, the highest and best use of the 17,341 of Trust lands may be to harvest high-value timber lands and develop other lands for residential, commercial, or industrial purposes.

The exchange of the 17,341 acres of Trust lands for up to 20,580 acres of Forest Service lands would minimize or avoid potential impacts to nearby communities while helping to sustain what remains of the timber industry in Southeast Alaska by providing more timber lands that could be managed on a sustained yield basis.

Delays in the Forest Service timber sale planning efforts have caused serious concerns that there will not be enough timber available to support the timber industry in Southeast Alaska to allow it to transition to young-growth timber unless the State of Alaska and the Trust can provide bridge timber sales in the interim.

121 West Fireweed Lane, Suite 250, Anchorage, Alaska 99503
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The proposed legislation would provide Congressional authorization and direction for the exchange, which should expedite completion of the transfer so that timber lands could be transferred to the Trust within a year.

Further, the proposed Alaska Mental Health Trust land exchange is fair and responsible. It requires the exchange to be of equal value and directs environmental reviews to protect all species, cultural and historic resources, wetlands, and floodplains.

The Trust has worked with the affected municipal governments, communities, local environmental groups, the Tongass Futures Roundtable, the Nature Conservancy, and others to select lands with the least environmental impacts and to design the exchange to mitigate impacts to wildlife. The proposed exchange is clearly in the interest of Trust beneficiaries, local communities, and the Southeast Alaska economy.

RDC appreciates your support of the Alaska Mental Health Trust land exchange and strongly urges its timely enactment.

Sincerely,

Carl Portman
Deputy Director

Doug Rhodes
Box 268
Craig, Alaska 99921

Dear Members of the Senate Energy and Natural Resources Committee:

Reference: Senate Bill # 3203 and 3273 heard on 9/22/16

I am a commercial fisherman that lives on Prince of Wales Island in Southeast Alaska on the Tongass National Forest. I have been a commercial fisherman in Southeast Alaska for almost 50 years and have just learned about this Senate hearing on many bills regarding the area in which I live. I was told that I was supposed to have comments in by last Friday, but this is difficult for me as I am still fishing salmon, and have been out of town working for the past several months.

I am very concerned about a couple of pieces of legislation that your committee has been debating but am also concerned with any legislation that takes public National Forest land and puts it in private hands. That includes legislation that trades smaller tracts of private lands back to the Forest Service on Admiralty Island for larger tracts of National Forest lands on Prince of Wales Island.

As a resident of Prince of Wales Island, I am fed up with all of the logging, land trades and everything else that always affects us on this island. If the mental health lands or University of Alaska Land or State of Alaska land that has been selected near other communities in Southeast Alaska receive any opposition from those communities, then the compromise is always to trade that land for land on Prince of Wales Island. ALWAYS!!!! I am fed up with being the scapegoat island!

If this is all about keeping our relatively small timber industry alive, and keeping the one mill still active (which is on Prince of Wales Island), then ALL communities in Southeast Alaska should take a share of the timber harvest. Where is the land selected near Sitka or Juneau? I grew up in Sitka and it was a pulp mill town. Now you would never select lands for timber harvest near Sitka or you would raise the ire of the community. The same is true around Juneau, but we all keep selecting lands on Prince of Wales.

The Forest Service made timber plans and cuts over the years on Prince of Wales that allowed for wildlife corridors and had winter range areas for deer. These areas are now being selected by the state for timber harvest, and some may also be selected by native corporations as a result of some of the land trades that have been made or proposed. I am concerned that we are heading towards a habitat nightmare on this Island as we keep harvesting areas that were not intended to be harvested.

I could carry on for ever on this subject, but suffice it to say that I am unhappy with all of this legislation that is before your committee, and urge members to not give in to the timber

industry that says that we need all of this timber in order to keep our mill running. If you want to keep the mill running, the first step would be to eliminate the exportation of round logs and mill every stick of wood that comes out of the Tongass.

Thank you for listening to my input.

Respectfully.

Doug Rhodes
Craig, Alaska

Statement
U.S. Senator James E. Risch
Senate Energy and Natural Resources Committee
366 Dirksen Senate Office Building
September 22, 2016
9:30 AM

Chairman Murkowski and Ranking Member Cantwell, I speak today in opposition to a national monument designation in Idaho. No one understands the value of local land better than those in the communities surrounding it. The great majority of people in Idaho do not support a new national monument at this time, but the process for designation provides no method for them to voice those concerns. One-size-fits-all approaches from the federal government do a disservice to the communities they actually affect. National monuments need local input and buy in. Withdrawing land without consulting those that will be affected shows the clear lack of transparency in the designation process and only serves to foster resentment.

There are three bills before the committee today regarding monument designation. Idahoans are not alone in their concern about new monuments; it spreads across western states. Senator Murkowski's bill concentrates on many of the same issues addressed in similar legislation I have supported in the past. Including local officials in monument designations ensures the affected communities have the ability to comment. By also requiring Congressional approval, we prevent executive action that is more focused on creating a legacy than the affect it will have on the region the monument will actually be located.

This needs to be a collaborative process involving public input from communities, action by local officials, and limits on executive power. Gaining support on the local level is the only way to ensure action on public lands will be in the best interest for everyone.

Rye Patch
MINING US INC.
220 SOUTH ROCK BLVD., SUITE 9, RENO, NV 89502
Tel (775) 856-4900 Fax (775) 856-4911 bill@ryepatchgold.com

June 25, 2016

The Honorable Harry Reid
522 Hart Senate Office Building
Washington, DC 20510-2803

The Honorable Dean Heller
324 Hart Senate Office Building
Washington DC 201510-2805

The Honorable Mark Amodei
322 Cannon House Office Building
Washington, DC 20515-2802

RE: Pershing County Economic Development and Conservation Act

Dear Nevada Members of Congress:

As President of one of the largest mining interests in Pershing County, I am writing on behalf of Rye Patch Mining US Inc. to pledge its support for the Pershing County Development and Conservation Act. The enactment of this legislative Bill will help the economic development of Pershing County by allowing Rye Patch and others to successfully advance their mining projects faster, cheaper and with more certainty than under the current system.

Rye Patch has recently purchased the Florida Canyon and Standard gold mines, has two resource projects heading toward feasibility, and has an additional two advanced projects working toward resource development. The Pershing County Development and Conservation Act will allow these projects to move forward at an expedited pace, thus creating additional high-paying mining jobs, ancillary support service jobs and increased tax revenue.

In addition to the benefits to mining and ranching industries, the Pershing County Development and Conservation Act provides for wilderness areas that protect lands that will be preserved for future generations. The Pershing County Development and Conservation Act shows the power of working together to complete legislation that captures the needs of all Nevadans.

I would like to thank you and your respective staffs for helping to make the Pershing County Development and Conservation Act a reality and for your service to the great State of Nevada and our Country.

Sincerely,
RYE PATCH MINING US INC.

William C. (Bill) Howald
President

VALUES IN ACTION
SEALASKA

October 5, 2016

The Honorable Lisa Murkowski
Chair, Committee on Energy and Natural Resources
U.S. Senate
304 Dirksen Senate Building
Washington, DC 20510

RE: September 22, 2016 Hearing on Various Bills, Including S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016, and S. 3203, the Alaska Economic Development and Access to Resources Act.

Dear Chairman Murkowski and Ranking Member Cantwell:

On behalf of Sealaska Corporation, I am pleased to submit comments on the subject of the Committee's September 22, 2016 hearing on various bills, including S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016, and S. 3203, the Alaska Economic Development and Access to Resources Act of 2016.

Sealaska Corporation is one of 12 Alaska Native Regional Corporations established pursuant to the Alaska Native Claims Settlement Act (ANCSA). Our shareholders are descendants of the original inhabitants of Southeast Alaska – the Tlingit, Haida and Tsimshian people.

S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016

Section 5 – Shee Atiká Incorporated

Sealaska understands that Section 5 of the bill permits consideration received by Shee Atiká Incorporated for the purchase of Cube Cove land by the United States to be treated as the receipt of land or interest in land within the meaning of section 21(c) of ANCSA (43 U.S.C. 1620(c)) or as cash in order to equalize the values of properties exchanged under section 22(f) of ANCSA (43 U.S.C. 1621(f)).

The U.S. Forest Service and Shee Atiká Incorporated have entered into an agreement which allows the United States to purchase approximately 23,000 acres of surface estate in Cube Cove from Shee Atiká Incorporated. Sealaska Corporation is the subsurface owner of the Shee Atiká estate. However, Sealaska has not been directly involved in the negotiations between the Forest Service and Shee Atiká and Sealaska has a policy prohibiting the sale of ANCSA land.

Sealaska • One Sealaska Plaza, Suite 400, Juneau, Alaska 99801-1276 • Tel: 907.586.1512 • Fax: 907.586.2304

When the United States acquires Shee Atiká's surface estate interest on Admiralty Island, Sealaska will retain its rights to full enjoyment of the subsurface, including the right to develop rock and gravel and other mineral resources and the right to use the surface estate as necessary for the use of the subsurface. Sealaska would, however, prefer to avoid future conflicts in which Sealaska's legitimate interest in developing its subsurface resources interferes with the Forest Service's objectives in the purchase of this property, which we assume is for the purposes of conservation and public use and enjoyment. Sealaska's Board policy is not to sell land that it has acquired for the benefit of Alaska Natives under ANCSA. For this reason, Sealaska seeks to exchange its subsurface lands under Shee Atiká's surface estate interest on Admiralty Island for suitable lands elsewhere in Southeast Alaska. The proposed exchange is set forth in Section 6 of S. 3273.

Section 6 – Admiralty Island National Monument Land Exchange

For the reasons stated above, Sealaska seeks to exchange its subsurface lands under Shee Atiká's surface estate interest on Admiralty Island for suitable lands elsewhere in Southeast Alaska.

Our view is that ANCSA lands are an integral part of our tribal member shareholders' cultural and Native identity. Sealaska is not interested in selling the subsurface estate on Admiralty Island. Sealaska is willing to consider substituting subsurface interest on Admiralty Island for land elsewhere within the Tongass National Forest.

Section 6 would facilitate the exchange of the approximately 23,000 acres of Sealaska subsurface estate on Admiralty Island for approximately 8,872.5 acres of federal surface and subsurface estate as well as approximately 5,145 of federal surface estate located above Sealaska subsurface estate on Prince of Wales Island. This exchange would eliminate split-estates associated with the Sealaska lands on Prince of Wales Island, an objective the Forest Service has sought to achieve in the past.

The proposed exchange is consistent with the exchange mechanism set forth in Public Law 102-415, Section 17, which codified the Sealaska Corporation/United States Forest Service Split Estate Exchange Agreement of 1991 ("1991 Agreement"), wherein Sealaska transferred its interest in subsurface estate for other subsurface in the Tongass National Forest, as part of a transaction in which ANCSA surface estate held by another Alaska Native corporation was acquired by the United States. Pursuant to the 1991 Agreement, Sealaska received a "floating" subsurface entitlement to several thousand acres, which Sealaska has selected from within existing Forest Service designated and congressionally-approved, withdrawal areas on Prince of Wales Island. However, because the areas withdrawn for Sealaska floating subsurface selections are not large enough to facilitate the transfer of Sealaska's 23,000 acres of subsurface estate on Admiralty Island, additional lands are required to complete new selections. The U.S. Forest Service has expressed its desire to avoid "split" estate situations within the Tongass National Forest.

For this reason, Section 6 allows Sealaska to exchange its subsurface estate within Admiralty Island National Monument to acquire the surface estate above Sealaska subsurface estate that has been acquired pursuant to the 1991 Agreement with the Forest Service, and also to acquire surface and subsurface estate on lands adjacent to lands acquired by Sealaska pursuant to the 1991 Agreement, which would result in the elimination of split-estates and the conveyance of contiguous parcels of land to Sealaska.

The Forest Service testified that it "agrees with the goals of this legislation," but also suggested "this exchange should be completed using an equal value exchange." However, as the Forest Service is well aware, Section 1302(h) of ANILCA gives broad authority to the Secretary of Agriculture, "[n]otwithstanding any other provision of law," to exchange lands or interests therein with Alaska Native corporations for conservation purposes.

Section 22(f) of ANCSA, too, authorizes the Secretary of Agriculture to exchange lands or interests therein with Alaska Native corporations for the purpose of effecting land consolidations or to facilitate the management or development of the land, or for other public purposes.

Under both of these provisions, a land exchange may be completed on a basis other than equal value if the exchange is in the public interest.

Sealaska's subsurface estate within Admiralty Island National Monument has never been subject to extensive exploration for locatable minerals. However, the Greens Creek deposit, just 8 miles north of Sealaska subsurface estate, is one of the largest and lowest-cost primary silver mines in the world. The Greens Creek ore body also contains significant deposits of zinc, gold and lead.

Without significant exploratory work, an appraisal of the mineral potential of Sealaska's Admiralty Island subsurface estate will not provide the fair market value of the property. On the other hand, it is clear that the Forest Service has prioritized the acquisition of Native lands on Admiralty Island – currently, through the purchase of Shee Atiká's surface estate interest on Admiralty Island – for conservation purposes.

Our objective is to complete an exchange of lands that that will enable the Forest Service to successfully acquire full fee ownership of the 23,000 acres of land within Admiralty Island National Monument, while avoiding split estates and minimizing the conveyance of isolated tracts of land to Sealaska. Section 6 of S. 3273 achieves this outcome. We strongly support enactment of this provision or similar language to accomplish the goals of this provision.

Section 9 – Alaska Native Corporation Authorizations

Section 9 amends the National Historic Preservation Act (NHPA), Tribal Forest Protection Act (TFPA), and Native American Graves Protection and Repatriation Act (NAGPRA) to ensure that programs under these federal statutes benefit the Alaska Native community.

Multiple federal statutes define the term "Indian tribe" to include Alaska Native regional, village, urban and group corporations established pursuant to ANCSA. Such broad definitions are not used in federal statutes that narrowly regulate the government-to-government relationship of Indian tribes to the Federal Government. However, when the federal statute at issue addresses the treatment by the Federal Government of Native American lands and/or resources, Congress often extends the benefits or protections of the statute to Native corporations, including lands owned by Alaska Native corporations, which were designated by Congress to receive title to land – including sacred sites – in Alaska in settlement of Alaska Native land claims. In these circumstances, using a broader definition of the term "Indian tribe" or "Indian lands" empowers the Alaska Native community as a whole. These statutes do not undermine the role of Indian tribes as sovereigns; rather, they are designed to best serve the entire American Indian and Alaska Native community.

The amendments proposed in Section 9 of S. 3273 extend to Alaska Native corporations certain benefits of federal programs that are intended to benefit the entire American Indian and Alaska Native community. Alaska and our Native Land Claims and Tribal structures are unique. We have tribes that currently have minimal land holdings and Alaska Native Corporations that have significant land holdings through ANCSA. When laws and regulations are established for the benefit of Native people, they typically do not take into consideration the unique situation in Alaska, where our tribes are not generally within reservations and Native lands are held by the Native Corporations established under ANCSA. When a law or regulation is not useable or workable for Alaska because of our structure, we have asked for Alaska Native Corporations to be defined as "tribes" for a specific law or regulation. The provisions here again seek to ensure full Alaska Native participation and utilization of programs that are intended to benefit American Indians and Alaska Natives.

NAGPRA

NAGPRA requires that, upon the request of an Indian tribe, all human remains, funerary objects, sacred objects, or objects of cultural patrimony be returned to the applicable Indian tribe or Native Hawaiian organization expeditiously.

NAGPRA defines the term "Indian tribe" to mean "any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians."

In 1995, the Department of the Interior (DOI) adopted regulations for NAGPRA that defined Indian tribe to include, in addition to any Alaska Native village, any Alaska Native Corporation. Thus, Native Corporations were for many years treated as Indian tribes for purposes of NAGPRA implementation, and Native corporations (including Sealaska, through the Sealaska Heritage Institute) invested in and developed the

institutional capacity to effectively seek the return of cultural items to the appropriate tribe or clan.

In 2009 and 2010, the Government Accountability Office (GAO) conducted a performance audit of NAGPRA implementation among federal agencies. In its July 2010 report, the GAO recommended, among other things, that the NAGPRA Program, in conjunction with DOI's Office of the Solicitor, reassess whether any Native corporations should be considered as "eligible entities for purposes of carrying out NAGPRA . . ."

Following on the GAO report, DOI's Office of the Solicitor examined the legal basis for the regulations that included Native corporations as Indian tribes under NAGPRA. The Solicitor's Office found that in the Act, Congress did not adopt the same definition of Indian tribe as is used in the Indian Self-Determination and Education Assistance Act (ISDEAA), which defines the term "Indian tribe" to include Alaska Native regional and village corporations. Accordingly, the Solicitor's Office recommended that the regulatory definition of Indian tribe be changed to conform to the statutory definition. On June 11, 2014, DOI published a final rule eliminating Native corporations from the definition of Indian tribe in NAGPRA regulations.

The proposed legislative amendment to NAGPRA S. 3273 would allow Native corporations to once again participate in NAGPRA repatriation program with tribes and Native Hawaiian organizations. It does not displace the role of tribes under NAGPRA, but aims to support tribal efforts and to increase the resources available to pursue NAGPRA efforts so that more benefits can accrue to our clans, tribes and villages through the repatriation of sacred objects. Sealaska, through its cultural affiliate Sealaska Heritage Institute, hopes to utilize this provision only in cooperation with the tribes and clans in our region. Moreover, Sealaska supports this amendment only so long as there is tribal support for its enactment.

TFPA and NHPA

The TFPA and NHPA pose a somewhat different challenge, because both statutes already clearly define the term "Indian tribe" to include Alaska Native corporations.

The NHPA defines the term "Indian tribe" or "tribe" to mean "an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act [43 U.S.C. 1602] which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians."

The TFPA defines the term "Indian tribe" to have "the meaning given the term in section 450b of [title 25 of the U.S. Code] [the Indian Self Determination and Education Assistance Act], which also includes Alaska Native regional and village corporations.

Notwithstanding the definitions above, Alaska Native corporations generally cannot participate in federal programs under the NHPA and the TFPA because those statutes

limit the scope of the terms "tribal lands" and "Indian forest land or rangeland," respectively, to "Indian country". ANCSA lands do not qualify as Indian country, and therefore are not eligible to benefit from programs under either statute. We believe this makes no sense in Alaska, particularly given the broad objectives of the NHPA and TFPA to serve American Indian and Alaska Native landowners.

For example, the purpose of the TFPA was to direct the Departments of Agriculture and the Interior to work in partnership with Indian tribes to improve forest health on both agency and tribal lands. The TFPA authorizes the Secretaries of Agriculture and of the Interior to give special consideration to tribally-proposed projects on agency lands bordering or adjacent to Indian forest lands. If Sealaska lands qualified as "Indian forest land" under the TFPA, Sealaska and the Forest Service would be able to work together under the TFPA to treat or remove diseased trees on Forest Service lands adjacent to Sealaska lands, which in turn would protect Sealaska lands surrounding Alaska Native villages in the region. ANCSA lands should be included under the TFPA because—in Alaska—it is the Alaska Native corporations, not our tribes that generally own large tracts of Native forestlands adjacent to Forest Service lands. The proposed amendment does not otherwise displace the role of tribal governments under the TFPA.

The NHPA, too, defines the term "Indian tribe" to include Native corporations, but, under the NHPA, the term "tribal lands" does not include ANCSA lands. However, Native corporations own vast tracts of Alaska Native lands, often surrounding Alaska Native villages, which are deserving of the considerations given to tribal governments under the Act, including the ability to assume certain functions aimed at the preservation of historic properties. For example, under Section 14(h)(1) of ANCSA, Native corporations were permitted to select and receive conveyance of cemetery sites and historical places. Under the NHPA, these Alaska Native cemetery sites and historical places are not considered tribal lands, and Native corporations cannot participate in programs under the NHPA designed to help tribes protect such lands. A simple legislative amendment would enable Alaska Native corporations to participate in programs under the NHPA. The amendment does not undermine the role of tribal governments; rather, it recognizes that Alaska Native corporations play a unique role in Alaska as Native landowners.

The Department of the Interior, in testimony submitted to this Committee, states that it has "significant concerns with this legislated equivalency." These amendments do not in any way make Native corporations "equivalent" to Indian tribes as sovereign governments. The legislation simply establishes that Native corporations, as Alaska Native landowners, can participate is programs that designated by Congress to benefit the American Indian and Alaska Native community, including Native-owned lands. This is also nothing new, as many federal statutes related to American Indians have the same or similar provisions related to Alaska Native corporations.

Section 10 – Unrecognized Southeast Alaska Native Communities Recognition and Compensation

Section 10 of S. 3273 would amend the Alaska Native Claims Settlement Act of 1971 (ANCSA) to authorize the five Southeast Alaska Native communities of Haines,

Ketchikan, Pétersburg, Tenakee, and Wrangell to organize as urban corporations, entitling each, upon incorporation, to receive one township of land (23,040 acres) in Southeast Alaska from local areas of historical, cultural, traditional and economic importance.

We strongly support Section 10 of S. 3273. We also appreciate that the Committee's Subcommittee on Public Lands, Forests and Mining held a hearing on October 8, 2015 regarding S. 872, the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act, which, like S. 3273, would amend ANCSA to authorize the five landless Southeast Alaska Native communities to organize as urban corporations. More than forty years after the enactment of ANCSA, it is time to redress the inequity endured by the five unrecognized communities of Southeast Alaska.

Alaska Natives from each of the five unrecognized villages have strong historic, cultural and familial ties to their traditional homelands. As such, the five unrecognized villages are no different from other villages recognized in ANCSA, as was illustrated in a 1994 Report prepared at the direction of Congress by the Institute of Social and Economic Research at the University of Alaska - Anchorage.

The 3,425 Alaska Natives who originally enrolled to Haines, Ketchikan, Petersburg, Tenakee, and Wrangell comprised over 20 percent of the Native shareholders of Sealaska Corporation when Sealaska incorporated in 1972. Although these Sealaska shareholders have received revenue-sharing distributions from Sealaska pursuant to section 7(j) of ANCSA, they have not had the opportunity to enjoy the social, economic and cultural benefits of being shareholders in a Village, Urban, or Group Corporation, as did Sealaska's other shareholders. The Village and Urban Corporations in our region provide additional local economic development, employment and cultural benefits beyond that which Sealaska alone can provide. More importantly, Alaska Natives from the five villages have been wrongfully deprived of the significant cultural benefits of owning an interest in lands located within and around their traditional homelands.

Congress in 1971 gave no reason whatsoever for excluding the five Native villages listed in S. 872, which share the same histories and characteristics as the other Native villages in Southeast Alaska that were recognized. However, we think the exclusion of the five Native villages can be explained by reviewing literature that describes the economic and political realities of that time, as documented by Dr. Charles W. Smythe in, "A New Frontier: Managing the National Forests in Alaska, 1970-1995" (1995). Dr. Smythe describes the Tongass National Forest in the decades prior to the passage of ANCSA. Simply put, the Forest Service opposed the recognition of traditional Indian use and aboriginal title in much of the Tongass National Forest out of concern that Native land ownership would upset the timber industry in Southeast Alaska.

Whatever the reason that Congress excluded our villages from ANCSA in 1971, whether purposeful but undisclosed, or unintentional, Congress today can remedy the wrong.

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. This

important legislation will finalize the aboriginal land claims of the five unrecognized Native villages in our region.

Section 11 – Alaska Native Veterans Land Allotment Equity

Sealaska strongly supports Section 11 of S. 3273, which would amend ANCSA to provide for equitable allotment of land to Alaska Native Vietnam-era veterans.

Unfortunately, due to their service to the United States, many Native veterans did not have the opportunity to apply for a 160-acre allotment prior to the enactment of ANCSA, which repealed the Native Allotment Act. One of our Sealaska Board members, William "Bill" Thomas is a Vietnam Veteran, and we stand behind him and other Alaska Native veterans on this issue.

In 1998, Congress amended ANCSA to provide many Alaska Native Vietnam era veterans an opportunity to obtain an allotment of up to 160 acres of land under the Native Allotment Act. Unfortunately, several obstacles emerged that prevented many Native veterans from selecting and obtaining their allotments, including: 1) the land applied for must be "vacant, unappropriated and unreserved" when the applicant first began using the land; 2) an applicant could only apply if in active military duty between January 1, 1969 – December 31, 1971; and 3) the applicant must demonstrate continuous and independent use of the site for five or more years, which was not required for any other Alaska Native allotment applicants.

The first obstacle prohibited Native Veterans allotment selections in much of Alaska, and ALL of Southeast Alaska because of the creation of the Tongass National Forest in 1907. Thus, the 1998 amendment essentially created an empty right for Native veterans in many instances.

S. 3273 attempts to address two of those primary obstacles for potential Alaska Native Veteran allotment applicants. First, the bill aims to increase the available land for allotments by authorizing selection of any federally-owned vacant land. While there continues to be some limitations to protect conservation areas, this new language certainly provides more flexibility. Second, the legislation expands the military service dates to coincide with the entire Vietnam conflict, August 5, 1964 to May 7, 1975.

We appreciate your commitment to advancing this legislation, which addresses those issues left unresolved in the 1998 amendment to ANCSA and provides redress for a legislative oversight that unfairly marginalized our Alaska Native veterans. These Alaska Native veterans at least deserve this consideration for their tremendous service to this country.

Section 12 – 13th Regional Corporation

Sealaska supports Section 12 of S. 3273, which authorizes the establishment of a new 13th Regional Corporation under ANCSA for non-resident Alaska Natives. Previously, a

13th Regional Corporation was created under Alaska law, but that corporation no longer exists.

S. 3203, the Alaska Economic Development and Access to Resources Act

Sealaska also generally supports the provisions of S. 3203, which do not directly affect Sealaska, but are intended to facilitate resource development in the State of Alaska. In particular, some of these provisions attempt to ensure a viable timber industry in our home region. S. 3203 contains provisions to carry out a land exchange in Southeast Alaska to aid the Alaska Mental Health Trust and its timber program, to grant an exemption from the Inventoried Roadless Area rule for Alaska, to authorize a future state forest in Alaska, and to clarify limitations on the Executive Branch's authority to withdraw lands in Alaska as set forth within the Alaska National Interest Lands Conservation Act. We applaud Senator Murkowski's efforts to advance these important objectives to strengthen economic development opportunities in Southeast Alaska and throughout the State of Alaska.

Closing Remarks

On behalf of Sealaska Corporation and our more than 22,000 shareholders, we greatly appreciate the opportunity to submit testimony into the Record for S. 3273 and 3203. We would be open to further dialogue on any of the provisions identified above. If you have any questions or concerns, please do not hesitate to contact us.

Respectfully,

Sealaska Corporation



Anthony Mallott
President & CEO

Cc: Senator Maria Cantwell, Ranking Member
Senator Dan Sullivan
Congressman Don Young
Governor Bill Walker

Shell Oil Company

150 N Dairy Ashford
Houston, TX 77079
USA

September 26, 2016

The Honorable Lisa Murkowski
Chairman of the Energy Committee
United States Senate
Washington, DC 20510

Dear Chairman Murkowski,

On behalf of Shell, I am writing in strong support of your bill S. 3203, the Alaska Economic Development and Access to Resources Act. The bill includes a number of provisions that will promote the development of Alaska's oil and gas resources. Development of those resources would be an economic engine for Alaska and for the nation.

Oil and gas will remain critical sources of energy for decades to come. This is fact, because global energy demand, which is projected to double by 2050, cannot be met without oil and gas. In fact, we will need all sources of energy: hydrocarbons, alternatives, renewables, as well as significant progress in efficiency. Further, developing our own domestic resources is a win-win. It creates jobs, powers the economy, puts billions of dollars of royalties and tax revenue into dwindling government coffers, provides energy security, reduces imports and reduces our trade deficit. Further, by generating this economic value, the investment climate is better able to foster the next generation of technologies and energy solutions that will power the future.

The future of the Trans-Alaska Pipeline System (TAPS) also depends on developing additional resources in Alaska. TAPS is a critical national infrastructure. Since 1977, tens of billions of barrels of Alaska-produced oil has been transported through TAPS to the US and US refineries. At its height, TAPS supplied the nation with 2.1 million barrels of oil per day or about one-third of the nation's oil production. Today TAPS supplies 600,000 barrels per day, still a significant percentage of our domestic supply. The importance of the TAPS supply-line cannot be overstated. A temporary shutdown of TAPS in 2011 had an immediate impact on crude prices, jeopardized the continuity of the US West Coast refinery infrastructure, and resulted in a spike in US reliance on foreign crude supplies. Without new production, throughput in the pipeline will continue to decline; and TAPS will eventually be shut down. Policies to prevent this should be a priority.

Thank you for your leadership on these important energy policy matters. Please do not hesitate to contact me if I can be of assistance on this or other issues.

Sincerely,

Bruce Culpepper

Bruce Culpepper
President, Shell Oil Company

Fleurant, Susan (Energy)

Subject: FW: S3004/3273 ANCSA Improvement Act 9/22/2016

From: andrew thoms [mailto:andrew@sitkawild.org]
Sent: Wednesday, September 28, 2016 1:06 PM
To: fortherecord (Energy) <fortherecord @energy.senate.gov>
Subject: S3004/3273 ANCSA Improvement Act 9/22/2016

To Whom It May Concern,

On behalf of the 1000 members of the Sitka Conservation Society from Southeast Alaska, I would like to make the following comments on S3203 and S3273.

We oppose most of the elements of these bills. The elements of this legislation are unknown to most Southeast Alaskan residents because there have been no field hearings for this legislation in Southeast Alaskan communities. The elements in the legislation seem to be focused on the timber industry and corporations and generally are eroding the integrity of public lands. For us, it is obvious that field hearings have not been held regarding this legislation because the overwhelming opposition to the elements outlined in the legislation would show that the legislation has no place in Congress and should be withdrawn.

Some of our specific concerns regarding this legislation include:

Section 501: The Roadless rule in the Tongass is being implemented and is considered the law of the land in Southeast Alaska. It is working well and supported. In Sitka, Alaska, a hydroelectric project was successfully expanding in a roadless area demonstrating that the rule can be used to support development initiatives. This legislative effort is not needed and is detrimental.

Section 502: We do not support this legislation because the administrative process for this exchange is already underway. We have special concerns about legislating this exchange because it appears that the appraisal process does not account for the value of timber. As we understand it, the timber land is appraised for a set value as "timber-lands" without considering the value of timber in those lands or investments made in timber management such as road maintenance or pre-commercial thinning. In many cases, tens of thousands of dollars of tax-payer dollars were invested in some of the young growth stands that the Mental Health Land Trust seeks. The Mental Health Land Trust does not make this investment in their own lands. Further, some of the timber lands contain timber stands of exceptional value. In Southeast Alaska, timber stands vary from having virtually no timber value to having trees that have an extremely high value. This depends on specific landscape features such as soil types, geology, slope, etc. The appraisal system for ensuring a fair exchange needs to take into account the timber value of the stand and the investments made in the stands. We are also concerned about the removal of these timber stands from the Forest Service timber pool and its ability to supply timber. Much as was done in the Sealaska lands legislation, this exchange takes key Young Growth stands and Old Growth timber out of the Forest Service land holdings which then takes away their ability to offer timber sales. We are seeing a very disturbing trend where the Senator from Alaska that has introduced this legislation has long criticized the agency's ability to get out timber supply but at the same time is taking away their prime timber stands where they have invested hundreds of thousands of dollars in stand treatments and road maintenance. It seems that she is setting them up for failure to bolster her criticisms or worse.

Section 503: We oppose creating a 2 million acre state forest. This proposal is an affront to all the Americans who are owners of this land and trust the US Congress to be the stewards of public resources and public lands. This proposal would negatively affect the business interests of many of our members and should be considered an insult to Congress and the American public that it was even introduced to the Senate.

S3273: We oppose this legislation. There are so many problems with this legislation that it is hard for us to understand that we have to outline them and that everyone has to waste their time dealing with it. This committee should be taking on the issue of climate change and providing leadership for the American people rather than hearing legislation that is obviously meant to enrich corporate interests--- especially because the impacts of climate change are disproportionately affecting Native Alaskans. We are very concerned that issues of Native Alaskan land rights is cynically being used as a ploy to privatize public lands. It is an insult to Native Alaskans and seems to us as a tactic to silence opposition to initiatives that threatens public use and access to public lands. We know that the larger public is very hesitant to speak up because accusations of anti-native sentiment have been used to silence opposition to this type of legislation in the past. Here are some of our specific comments:

Section 6: We oppose a trade of subsurface lands from Admiralty Island for subsurface and surface land on Prince of Wales. If Shee Atika sells its surface lands for fair market value, then the subsurface lands should also be paid for at fair market value. The trade that Sealaska is looking for would trade subsurface land rights that have no value for high value timber lands and high value sub-surface rights in other places. This is a terribly unfair deal for the American public and represents a corporate give-away that hints at shady dealings that one would typically associate with some Banana Republic that is not a democracy and doesn't have checks and balances. The subsurface lands in this part of Admiralty Island are rock that has no value. There are not mining prospects there as evidenced by the lack of any exploration or development in the 30-plus years that Sealaska has owned the land. The lands they want to select for surface rights have high volume timber stands that have a high-proportion of Red Cedar trees which are market drivers for timber and are also exceedingly rare across the Tongass. This trade is like trading a bottle of dirty mud-puddle water for a bottle of the rarest and most expensive wine. The committee would have to be the world's greatest dupe to consider this a fair exchange. We feel insulted at our organization that this is even proposed.

Section 9: Native Corporations are corporations, not tribes. There is a very big difference with serious accountability issues (tribes are democracies with elected governing boards; corporations have boards with internal rules that keep board members in their seats for extended periods of time). It is an affront to tribal government and sovereignty to make corporations exist at the same status as tribes.

Section 10: We are opposed to the creation of 5 new native corporations. We are very uncertain about the validity of these claims---especially for the community of Tenakee. We are opposed to the conveyance of 23,040 acres of lands to each of these corporations because this same legislation has shown that this is a badly flawed tool and does not work: the fact that we are dealing with a Native Corporation selling their land in Section 6 and Section 5 after initially clear-cutting their lands and subsequently making no investment in the care for these lands or the timber they contain in long-term management but rather using them a as a tool for tax-write-offs clearly shows us that granting corporations land and asking them to make profit from those lands does not work and rather is an unfair scheme from the beginning. From the first round of native corporation experience it is clear that the benefits of native corporations does not trickle down and that the beneficiaries are a select few and not always native Alaskans. In the case of the corporation selling their lands back in Section 5 and Section 6 there is no land management activities but rather mutual fund investments overseen by a highly paid executive. If it is found that there is cause for new native corporations, we should not make the same mistakes of the past by giving lands but rather capitalize their formation with money and leave the public lands intact. We oppose this section because no hearings have been held in Southeast Alaska and it is unclear what lands they would be granted in this legislation and how that would affect existing communities, businesses, permittees, and other user groups.

We urge the committee to break up each of these sections and deal with them as separate legislation and also to hold hearings in the places that are most affected by this legislation in Alaska to allow for public input and comment.

Thank you,

Andrew Thoms

Executive Director
Sitka Conservation Society

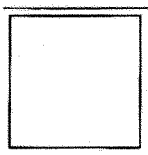
Andrew Thoms

Executive Director
Sitka Conservation Society
Box 6533 Sitka, Alaska 99835

SCS Office: Phone:(907)747 7509 Fax: (907)747 6105
email: andrew@sitkawild.org Web: www.sitkawild.org


Like us on Facebook!

Please, join or renew your membership today.
For over 45 years, Sitka Conservation Society has been protecting the Tongass and building more sustainable communities with the support of members like you.



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www.avast.com

SOLIDUS
RESOURCES LLC

June 20, 2016

The Honorable Dean Heller
324 Hart Senate Office Building
Washington DC 20510-2805

The Honorable Harry Reid
522 Hart Senate Office Building
Washington DC 20510-2803

The Honorable Mark Amodei
332 Cannon House Office Building
Washington DC 20515-2802

Dear Nevada Members of Congress:

We are writing to express our support for the *Pershing County Economic Development and Conservation Act* (the "Proposed Act") and to urge you to utilize all efforts possible to pass this Proposed Act into law.

As you are aware, the Proposed Act was **unanimously recommended** by the Pershing County Commission to ensure the future of the County's economic well-being while protecting vital wilderness areas in the region.

In addition, the Proposed Act is absolutely critical to the future of mining in Pershing County. The Proposed Act will give mining companies in the County, including Solidus Resources, LLC, the opportunity to purchase, at fair market value, the lands they currently hold under federal mining claims.

Privatization of mining lands will provide mining companies with increased ownership and regulatory certainty that will lead to greater investments, additional development and production from these lands. For Pershing County, the foregoing will translate into much needed economic development and employment creation in the region.

The State of Nevada, a national leader in mining regulation, will regulate and oversee the development and reclamation of these lands in the future, providing confidence to Nevadans that the lands will be developed and reclaimed in a responsible manner.

The proceeds from the privatization of the lands outlined for disposal in the Proposed Act will be distributed as follows:

- 10% of the proceeds will go directly back to the County and can be utilized for critical public functions—which are desperately needed;
- 5% of the proceeds will go back to the State of Nevada to be utilized for public education purposes across the State; and

- The remaining proceeds will be utilized by the Nevada BLM to mitigate for wild fire, sage grouse habitat restoration and drought mitigation. These revenues will also ensure both economic well-being and the future of conservation in Pershing County.

Lastly, we support the designation of public lands as wilderness under the *1964 Wilderness Act* to protect Pershing County's most important wild places. This wilderness proposal is truly a grass roots effort that has considered all users of these public lands with great attention given to grazing, mining, recreation, and conservation interests. Unprecedented cooperation among often-competing interests has produced a County lands bill that enjoys broad support from the citizens of Pershing County and unanimous support by the Pershing County Commissioners.

We appreciate your public service and look forward to working with you to enact the *Pershing County Economic Development and Conservation Act.*

Should you have any questions or concerns regarding the foregoing, please feel free to contact the undersigned at jack.mcmahon@elkominingroup.com.

Respectfully,

Solidus Resources, LLC
Jack McMahon
Authorized Signatory

Ripchensky, Darla (Energy)

From: goldy@sourdoughdru.com
Sent: Wednesday, September 28, 2016 7:17 AM
To: fortherecord (Energy)
Subject: LISA DOES NOT REPRESENT ME OR MY POSSE

"I STRONGLY OPPOSE ALL THE TONGASS-RELATED PROVISIONS- SENATOR MURKOWSKI ONLY LISTENS TO A FEW OF HER CONSTITUENTS. HER ACTIONS IGNORE WHAT MOST SOUTHEAST AND OTHER ALASKANS WANT AND NEED!
THE BILLS SHE IS PROPOSING FOR THIS AREA ARE BAD, BAD, BAD FOR ALASKA!"

DRU SORENSON
BOX 109
HOPE, AK. 99605

SOUTH DAKOTA DEPARTMENT OF
GAME, FISH AND PARKS
523 EAST CAPITOL AVENUE | PIERRE, SD 57501

September 19, 2016

U.S. Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Members of the Committee on Energy and Natural Resources,

I am writing in support of S. 3254, the Spearfish Canyon and Bismarck Lake Land Exchange Act. In January 2016, South Dakota Governor Dennis Daugaard announced a plan to provide for the establishment of a new state park in Spearfish Canyon. Governor Daugaard recognized the area's significance to South Dakota's heritage and saw the need and opportunity for future generations to have a memorable and quality experience in this part of the state. The legislation you introduced and cosponsored with Senator Mike Rounds, facilitating a federal-state land exchange, will be instrumental in providing access to the wonders of Spearfish Canyon, while preserving its natural, cultural and scenic qualities. Likewise, the incorporation of Bismarck Lake into the Custer State Park system will streamline operations and provide additional opportunities for visitors to this area. We sincerely thank you for your efforts in this matter.

The Department of Game, Fish and Parks (GFP) fully supports this land exchange and embraces the opportunity to provide effective and responsive management for some of the most renowned natural resources in the country. Both the Spearfish Canyon and Bismarck Lake areas are home to many South Dakotans, provide economic development to businesses and deliver memories to visitors from across the country and around the globe. We look forward to new and continued partnerships with local residents and business owners, working together to manage the resources for improved access and recreational opportunities for all visitors to the area.

The completion of this land exchange and the establishment of Spearfish Canyon State Park will be a significant success for residents of South Dakota, providing long term enjoyment and preservation of one of our most cherished natural resources. This part of the Black Hills can become both a true destination for visitors and a recreation center for local residents, while expanding and diversifying our tourism base. Incorporating both Spearfish Canyon and Bismarck Lake into the State Park system is an efficient and effective way to manage the resources, placed in the public trust, for maximum benefit.

Your proposed legislation aligns with the Department's strategic plan resources goal, with objectives focusing on managing park lands and facilities to optimize outdoor opportunities within social, fiscal and biological constraints; as well as managing GFP lands to preserve and protect cultural and historic resources. We would be happy to provide any additional support for this legislation and thank you for your continued leadership on these issues of importance to South Dakotans and our state's resources.

Sincerely,

Kelly R. Hepler
Cabinet Secretary

Southeast Alaska
Conservation Council

224 Gold Street
Juneau, AK 99801
www.seacc.org
907 586-6942

Sent via email (fortherecord@energy.senate.gov)

September 30, 2016

The Honorable Lisa A. Murkowski
Chairwoman
Committee on Energy and Natural Resources
709 Hart Senate Office Building
Washington, DC 20510-0203

The Honorable Maria Cantwell
Ranking Member
Committee on Energy and Natural Resources
511 Hart Senate Office Building
Washington, DC 20510-4705

re: Opposition to S. 3203 and S. 3273

Dear Chairwoman Murkowski and Ranking Member Cantwell:

On September 22, 2016, the Committee scheduled a hearing related to twenty-one proposed bills, including the Alaska Economic Development and Access to Resources Act (S.3203) and the Alaska Native Claims Settlement Improvement Act of 2016 (S.3273). The Southeast Alaska Conservation Council (SEACC) strongly opposes numerous provisions contained in both of these bills. We understand that typical Committee practice is to leave the hearing record open for at least 10 days following the hearing. We respectfully request you accept this testimony, add it to the official Committee record for S.3203 and S.3273, and share with all Committee members.

S.3203 -- The Alaska Economic Development and Access to Resources Act

This far-reaching bill poses serious threats to Alaska's lands, resources, and the Alaskans that depend upon their sustainable use, particularly our two largest National Forests, the Tongass and Chugach National Forests. Below, we identify the most alarming sections of this bill.

Section 402 -- *Valid Existing Claims*

We oppose this provision because it elevates mining above all uses of the forest by exempting all mining claims from existing Forest Service authority to regulate the surface use of National Forest lands.

Section 501 – *Roadless Area Conservation Exemption*

This section exempts both the Tongass and Chugach National Forests from Roadless Area Conservation Rule. We object to this provision because it is unnecessary and ignores the growing consensus across Southeast Alaska that roadless-area logging is economically impracticable and ecologically damaging.

Section 502 – *Alaska Mental Health Trust Land Exchange*

This section authorizes the exchange of about 20,000 acres of Tongass National Forest lands for timber development on Prince of Wales and Revilla Islands for over 18,000 acres of

Trust lands with substantial public safety concerns and high community use values. We oppose the Senator's fast-track approach because it substitutes a distant Congressional review process for the more broadly accessible and better-informed public NEPA review process.

Section 503 – *Tongass State Forest Facilitation*

First proposed in 1994, this ill-conceived scheme would give the State of Alaska 2 million acres of the Tongass National Forest for a state forest. The bill precludes the State from selecting land within Wilderness, Monuments, or National Parks but leaves all Legislated LUD II lands (like Naha, Anan, Kadashan & Trap Bay, Point Adolphus/Mud Bay, Upper Hoonah Sound, Salmon Bay, Calder-Holbrook, Nutkwa, and the Outside Islands) on the chopping block.[1] We strongly oppose any attempt to remove these valuable lands from the Tongass National Forest.

In 2003, the Alaska Legislature changed the primary purpose for state lands designated as "state forests" from "multiple use" to "timber management that provides for the production, utilization, and replenishment of timber resources while allowing other beneficial uses." *See* § 11 ch 153 SLA 2003, *codified at* AS 41.17.200(a). This statutory amendment further emphasized an unsustainable timber-first paradigm by directing state land managers "to provide for multiple uses [t]o the extent they are found to be compatible with the primary purpose of state forests [timber] under AS 41.17.200 . . . . " *See* § 13, ch 153, SLA 2003 *codified at* AS 41.17.230(a) (2009). This timber-first mandate under state law contrasts sharply with the balanced multiple use mandate imposed by Congress for the Tongass National Forest in the landmark Tongass Timber Reform Act of 1990. See Section 101 of the Tongass Timber Reform Act, Pub. L. 101-626, 104 STAT. 4426 (Nov. 28, 1990).

S. 2073 -- The Alaska Native Claims Settlement Improvement Act of 2016

Section 5 – *Reacquiring Cube Cove Surface Lands*

This provision permits Shee Atika to receive payment in cash or bid credits for acquiring federal surplus property from federal agencies for about 23,000 acres of land it clearcut on Admiralty Island. Twenty-five years ago, Congress encouraged the Forest Service to engage in negotiations aimed at completion of a voluntary exchange agreement between Shee Atika, Inc. and Sealaska Corporation in lands in the Lake Florence, Lake Kathleen, and Wards Creek drainages of Admiralty Island National Monument (the so-called "Cube Cove" lands).[2] Unfortunately, those efforts proved unsuccessful and these spectacular lands were clearcut. There are unquestionable benefits from returning these lands to Admiralty Island National Monument and letting the devastation heal. We also hope Congress recognizes the substantial cultural loss that resulted from the unsustainable wreckage of productive fish and wildlife habitat at Cube Cove and does not repeat the mistake by mandating for-profit development by corporations of lands historically, culturally, and traditionally important to the five communities identified in Section 10. *See infra* at 3-4.

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[1] *See supra*, text accompanying note 4 at p. 3.
[2] *See* Section 502 of the Tongass Timber Reform Act, Pub. L. 101-626, 104 Stat. 4426, 4434-35 (Nov. 28, 1990).

Section 6 – *Sealaska Subsurface Lands Exchange*

This provision authorizes the USFS to obtain Sealaska's subsurface estate at Cube Cove in exchange for the surface and subsurface estate to about 8,872.5 acre and the surface estate to another 5,145 acres of Tongass lands on Prince of Wales Island. We oppose this proposed exchange because it is of unequal value.

We asked the Forest Service for the information it used to value Sealaska's subsurface estate at Cube Cove and the proposed lands Sealaska sought on Prince of Wales Island in exchange. In response, we learned that "[it] was not involved in and is not aware of any valuation work performed on these lands and does not know the basis for equivalency of the land and estates referenced in the proposed legislation."[3]

As we understand it, the rule of thumb for exchange of subsurface property, without other evidence, is 10% of the value of the surface estate. In this case, the surface estate at Cube Cove should get less than 500 acres of old-growth forest in exchange for about 23,000 acres of subsurface estate at Cube Cove.

Section 7 -- *CIRI Land Entitlement*

This section allows the Cook Inlet Region, Inc. to select up to 43,000 acres from any federal lands outside the Cook Inlet Region, except National Monuments, National Parks, or Wilderness in Alaska. Inexplicably, Senator Murkowski exempts some congressionally designated lands from selection but leaves others at risk of destruction. Specifically, like Sections 10 and 11 below, this section lacks ironclad protection for the nearly 900,000 acres of Tongass Legislated LUD II roadless wildlands unanimously designated for perpetual protection by the U.S. Senate in the 1990 Tongass Timber Reform Act and the 2014 Sealaska Lands Bill.[4]

Section 10 – *New Native Corporations*

This section recognizes five new, urban Native Corporations for the communities of Ketchikan, Wrangell, Petersburg, Tenakee and Haines, and grants over 115,000 acres of public Tongass National Forest lands to for-profit Native Corporations. At a hearing before the SENR's Subcommittee on Public Lands, Forests and Mining on October 6, 2015, SEACC testified in opposition to an earlier version of this bill, S. 872. By this reference, we incorporate that testimony into the record for this hearing. Although Senator Murkowski introduced later versions of this legislation on May 26, 2016 (S.3004), and again on July 14, 2016 (S.3072), the only substantive change offered by the Senator was to make lands within Conservation System Units on

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[3] *See* Regional Forester Pendleton's Response to SEACC's FOIA Request (July 5, 2016)(submitted with this testimony for incorporation into the committee record for the September 22, 2016 SENR Hearing).

[4] *See* Section 201 of Tongass Timber Reform Act, P.L. 101-626, 104 STAT. 4426, 4428-29 (Nov. 28, 1990)(conference report agreed to by a Voice Vote of the Senate, 136 Cong. Rec. S 17995-999 (Oct. 24 1990)); Section 3002 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Public Law 113-291, 128 Stat. 3292, 3730-31 (Dec. 12, 2014).

the Tongass ineligible for selection by the new corporations. Unfortunately, such lands do not encompass roadless wildlands designated by Congress for protection in perpetuity as Legislated LUD II conservation lands in 1990 or 2014.[5] Senator Murkowski continues to refuse to provide ironclad protection for Legislated LUD II Tongass Wildlands.

This section creates more problems than it solves. First, it mandates economic development of lands no matter their importance for customary and traditional or historical uses. Second, history shows us that existing ANCSA corporations were unsuccessful in balancing revenue production for shareholders with those shareholders' desire to maintain long-established, place-based traditions and cultures. Third, by splitting ownership of surface and subsurface estates, local Native communities lose control over mining, drilling, and other subsurface development to the Regional Corporation, Sealaska.

Section 11 – *Native Veteran Allotments*

We find the reasons for this proposal puzzling. In both 1989 and 2000, Congress adopted bipartisan solutions for this issue. The proposed section does not explain why Congress must intervene today. Further, while we support excluding selections in units of the National Park System, National Preserves, or National Monuments, we object to leaving designated units of National Wilderness Preservation System and Legislated Land Use Designation II wildlands eligible for selection.

Conclusion

For all the above reasons, we oppose S. 3203 and S. 3273. We urge Senator Murkowski to withdraw these bills and schedule field hearings in Southeast Alaska this winter before taking any further legislative action that threatens Tongass National Forest lands.

Respectfully,

Meredith Trainor

Meredith Trainor
Executive Director

[5] *See supra* text, accompanying note 4.

USDA United States Department of Agriculture | Forest Service | Alaska Region | P.O. Box 21628 Juneau, AK 99802-1628

File Code: 6270
Date: July 5, 2016

Mr. Buck Lindekugel
SEACC
224 Gold Street
Juneau, AK 99801

Southeast Alaska Conservation Council
JUL 08 2016
224 Gold St.
Juneau, AK 99801

Dear Mr. Lindekugel:

This letter is in response to your request for records under the Freedom of Information Act (FOIA). You requested the formal appraisal for Shee Atiká's surface lands at Cube Cove.

Under the provisions of 5 U.S.C. §552(b) (5) (deliberative process privilege), the Shee Atiká appraisal is exempt from disclosure and is not provided. I have determined that the premature disclosure of the government's appraisal report may jeopardize the government's bargaining position with the surface landowner during the current, on-going negotiations. As the acquisition process is still on-going, the appraisal remains vital to the Agency's decisions relating to the potential acquisition of both the surface and subsurface estates.

In your FOIA request, you referred to Sections 5 and 6 of Senate Bill 3004, introduced by Senator Murkowski on May 26, 2016, and asked, "what basis did the USFS use to estimate the value of that estate and determine that it was equivalent to the value of approximately 8,972.5 acres of surface and subsurface estate and the surface estate of another parcel of about 5,145 acres surface acres (sic) on Prince of Wales?"

The Forest Service was not involved in and is not aware of any valuation work performed on these lands and does not know the basis for equivalency of the lands and estates referenced in the proposed legislation.

The FOIA provides you the right to appeal my decision to withhold information responsive to your request. Any appeal must be made in writing, within 45 days from the date of this letter, to the Chief, USDA's Forest Service:

1) by email to wo_foia@fs.fed.us;
2) by regular mail to Mail Stop 1143, 1400 Independence Avenue, SW, Washington, DC 20250-1143;
3) by Fed Ex or UPS to 1621 N Kent Street, ORMS-6th Floor RPE, Rosslyn, VA 22209 and telephone (202) 205-1542; or
4) by fax to (202) 260-3245.

The term "FOIA APPEAL" should be placed in capital letters on the subject line of the email or on the front of the envelope.

If you have any questions about your FOIA request, please contact William Crawford, Regional Appraiser, at (907) 743-9580.

Sincerely,

BETH G. PENDLETON
Regional Forester

cc: James King, Connie J Adams Johnson, William Crawford

Inspiring Personal Independence
SOUTHEAST ALASKA INDEPENDENT LIVING
3225 Hospital Dr, Suite 300, Juneau, Alaska 99801, 1-800-478-SAIL, ph/tty: 907-586-4920, fx: 907-586-4980

October 5, 2016

The Honorable Lisa Murkowski
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murkowski,

First, on behalf of the Southeast Alaska Independent Living (SAIL) staff and board, thanks again for the visit in September of your staff Chelsea, Annie and Silver. We very much appreciated the opportunity to discuss our work, our mission, the people we serve, and legislation that effects the lives of seniors and people with disabilities here in Southeast Alaska.

I am writing to you today to urge your support of the **Alaska Mental Health Trust Land Exchange** Legislation. As you know, the Alaska Mental Health Trust and the Trust Land Office have been working toward a land exchange for more than a decade. The process has included extensive public participation to identify the parcels proposed for exchange. This land swap will provide much needed resources to meet the obligation and fiscal responsibility of the Trust *to support some of our most vulnerable populations in Alaska: Trust Beneficiaries.* SAIL serves more than 1000 people with disabilities scattered in eighteen communities throughout the southeast region. Of these, more than 400 individuals are Trust beneficiaries.

Over the past two decades, SAIL has worked closely with the Alaska Mental Health Trust on a wide array of projects and initiatives. In just the last two years the Trust has provided 59 grants to organizations in Southeast, totaling more than $3 million. SAIL is proud to be one of these grantees. Beneficiaries in Southeast have been awarded mini grants from the Trust totaling over $482,000. SAIL and the Trust have also partnered on a number of initiatives such as the development of a comprehensive home assessment, Home Modifications for Aging in Place (HomeMAP), pre-employment supports for transition aged youth, and in the Haines Wellness Center, support for our new office, a roll-in shower, and an accessible kitchen with adjoining classroom.

As Alaska is facing our worst fiscal crisis in history, legislation is the best option to complete the exchange in a timely fashion. We need to ensure that the Trust can continue to provide revenue for comprehensive, integrated mental health services today and into the future. Without legislation we are putting our communities at risk. The exchange is of great benefit because it:

- Protects popular trails, view sheds, and iconic recreational sites along the Inside Passage
- Ensures watersheds are protected so that Southeast residents receive clean water
- Preserves old growth timber stands in the forest
- Ensures jobs stay in the SE communities by protecting the timber and tourism industries
- Protects mental health services by providing revenue to support the Trust's mission

In closing, please pass legislation in support of **Alaska Mental Health Trust Land Exchange.** We here at SAIL truly want to do what is right for the Southeast community and economy, and for all of the people that benefit from the Trust including those experiencing mental illness, developmental disabilities, chronic alcoholism, and Alzheimer's disease and related dementia.

Sincerely,

Joan O'Keefe, Executive Director

Southeast Alaska Landless Corporation (SALC)
Ketchikan-Petersburg-Wrangell-Haines-Tenakee

October 5, 2016

The Honorable Lisa Murkowski
Chairman, Committee on Energy and Natural Resources
U.S. Senate
304 Dirksen Senate Building
Washington, DC 20510

RE: September 22, 2016 Hearing on Various Bills, Including S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016

Dear Chairman Murkowski and Ranking Member Cantwell:

On behalf of the Southeast Alaska Landless Corporation (SALC), I am pleased to submit comments on the subject of the Committee's September 22, 2016 hearing on various bills, including S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016. Section 10 of S. 3273 would amend the Alaska Native Claims Settlement Act of 1971 (ANCSA) to authorize the five Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to organize as urban corporations, entitling each, upon incorporation, to receive one township of land (23,040 acres) in southeastern Alaska from local areas of historical, cultural, traditional and economic importance.

I have also attached a copy of testimony SALC submitted to this Committee as part of the Subcommittee on Public Lands, Forests and Mining October 8, 2015 hearing regarding S. 872, the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act, which, like S. 3273, would amend ANCSA to authorize the five landless Southeast Alaska Native communities to organize as urban corporations.

SALC represents Alaska Natives enrolled through the Alaska Native Claims Settlement Act of 1971 (ANCSA) to the Native villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell. ANCSA was designed to settle the aboriginal claims of Alaska Natives and authorized the transfer of roughly 45 million acres of land to twelve for-profit regional corporations and more than two hundred village corporations in the state. The legislation extinguished Alaska Native aboriginal land rights and, in doing so, sought to provide a "fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims."

While many villages throughout Alaska and Southeast Alaska were recognized and afforded the opportunity to establish Village or Urban Corporations and secure a Native land settlement, our five communities were uniquely denied these benefits of ANCSA. We have been fighting this injustice since ANCSA's passage.

The U.S. Forest Service, in its testimony regarding S. 3273, observes that "Congress specifically named the villages in the southeast that were to be recognized in ANCSA; these five communities were not among those named." The Forest Service also observes, without providing any context, that "[t]he five communities applied to receive benefits under ANCSA and were determined to be ineligible. Three of the five appealed their status and were denied."

In Section 11 of ANCSA, Congress set forth a general process for determining eligibility for each "Native village" in Alaska. Native villages throughout each region within the State of Alaska *except for Southeast Alaska* were listed in this section, and the Secretary of the Interior was charged with making determinations as to whether the listed villages met the eligibility requirements. The Southeast Alaska villages were afforded different treatment under ANCSA, due in part to a prior settlement between the Tlingit and Haida Indians of Alaska and the United States. Thus, Section 16 of ANCSA separately listed villages in Southeast Alaska, and authorized the conveyance of just one township of land to each Southeast Alaska Native village. Although Section 11 of ANCSA provided an appeal right for the non-Southeast Alaska villages left off of the list of eligible villages, Section 16 of ANCSA failed to provide any mechanism for Southeast villages to similarly appeal their eligibility. Thus, while three of our villages (Ketchikan, Haines and Tenakee) did appeal their eligibility to the Alaska Native Claims Appeal Board of the U.S. Department of the Interior, the appeals were rejected because Section 16 made no provision for administrative reconsideration of the eligibility of these villages. Thus, we must appeal directly to Congress for help.

As a matter of legislative history, this Committee must take into account that possibility that Southeast Alaska villages did not have an appeal right by virtue of a simple drafting error on the part of Congress. Congress clearly intended to treat Southeast Alaska differently than the rest of Alaska, but there's nothing in the legislative history that suggests Congress actually intended to deny the appeal right to the five Southeast Alaska villages. Some of the reasons for the different approach in Southeast Alaska were:

- A prior federal settlement with the Tlingit-Haida pursuant to a Court of Claims judgment. As noted above, Southeast villages received just one township of land in Southeast Alaska due to a prior settlement between the Tlingit and Haida Indians of Alaska and the United States. Also, Sealaska, the Native regional corporation, received only a small amount of land compared to other regional corporations, notwithstanding the fact that it had the largest shareholder base. Although Southeast Alaska Natives certainly received different treatment by Congress, nothing within the legislative history justifies a conclusion that Congress intended to leave out the five landless Native villages.

- A conflict between industry and Alaska Native interests in Tongass National Forest. Two large, 50-year contracts were in place for pulp mills at the time, and there were mills in most of the landless Native villages left out of ANCSA. The reality is that the forest industry at the time did not want Native land claims to hurt the industry. Again, however, nothing within the legislative history justifies a conclusion that Congress intended to leave out the five landless Native villages or prevent villages from appealing their eligibility under ANCSA.

- The significant non-Native populations of certain villages and "urban" areas. Alaska Natives have lived at Wrangell for as long as 10,000 years. However, Wrangell was settled early on by the Russians and then by Americans. Congress didn't give a reason for leaving Wrangell or any other landless Native village out of ANCSA. While it is certainly true that the landless villages each had significant non-Native populations in 1971, the urban nature of a town, or presence of non-Native residents, does not eviscerate the aboriginal claims of the Native peoples who have lived in this place for 10,000 years. And Congress did establish Native corporations for other urban areas, like Sitka and Juneau.

In short, S. 3273 would put our five villages on equal footing with every other Alaska Native village in the state with respect to the settlement of aboriginal title. Villages in every other region of the state were given the opportunity to appeal a failure by Congress to list them in ANCSA, and in fact several did successfully appeal.

The U.S. Forest Service also points out that "[m]embers of these five communities are at-large shareholders in Sealaska Regional Corporation . . . and as such, have received benefits from the original ANCSA settlement." This observation misses the point entirely. Over the years we have received revenue-sharing distributions from Sealaska pursuant to Section 7(j) of ANCSA, but have not enjoyed the social, economic and cultural benefits of owning shares in a Village, Urban, or Group Corporation.

In fact, many of the Village and Urban Corporations in the Southeast Alaska region have brought significant economic benefits to their communities. More to the point, the connection to our land is what defines us as Native people – not revenue "distributions". Our communities have been deprived of the significant cultural benefit of owning an interest in lands located within and around our traditional homelands.

Finally, the U.S. Forest Service claims that "[r]ecognition of these five communities as provided in the bill, despite the history and requirements of ANCSA, risks setting a precedent for other similar communities to seek to overturn administrative finality and re-open their status determinations."

In reality, this Administration has fully supported recognizing American Indian and Alaska Native communities, including tribes that were terminated during the so-called termination era, when this Nation ended the special relationship between many tribes and the federal government. In Alaska, Congress settled the land claims of Alaska Natives by allowing Alaska Natives to establish Native corporations. Congress has full authority to

recognize that our five landless Native communities also are eligible to establish Native corporations, just as Congress did for more than 200 other Alaska Native villages in 1971. Congress has on many occasions deemed it appropriate to amend ANCSA to address in an equitable manner mistakes and/or issues that were not anticipated by Congress when ANCSA passed in 1971. Congress, and no one else, has this plenary authority over Indian affairs, and the responsibility to right a clear wrong.

Fortunately, research has confirmed that the populations and percentage of Alaska Natives in each of our communities, as well as the historic use and occupation of our lands, were comparable to those Southeast Alaska Native villages recognized under ANCSA's original language. In 1993, Congress directed the Secretary of the Interior to prepare a report examining the reasons why the Unrecognized Communities had been denied eligibility to form Native Corporations under the Act. This report -- A Study of Five Southeast Alaska Communities (the ISER Report) -- strongly supports the conclusion that requirements for villages eligible to form Native Corporations were met by the Native villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell.

In summary, we are asking that Congress recognize our Alaska Native communities and give us a chance to form Native corporations for our people and for future generations. If you have any questions, please contact: Cecilia Tavoliero (cecitavoliero@gmail.com) or Leo Barlow (lhbarlow@aol.com).

Sincerely,

Southeast Alaska Landless Corporation

Cecilia Tavoliero
President

cc: Senator Maria Cantwell, Ranking Member
Senator Dan Sullivan
Congressman Don Young
Governor Bill Walker

TESTIMONY OF
LEO BARLOW
REPRESENTATIVE FOR THE
SOUTHEAST ALASKA LANDLESS CORPORATION

Before the

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS AND MINING

Regarding S. 872
The Unrecognized Southeast Alaska Native Communities
Recognition and Compensation Act

October 8, 2015

Good afternoon Chairman Barrasso, Ranking Member Wyden, Senator Murkowski, and Members of the Subcommittee. I have traveled here today from Alaska to provide testimony regarding S. 872, a bill to provide for the recognition of five communities in Southeast Alaska in the Alaska Native Claims Settlement Act (ANCSA). Thank you for this opportunity to testify on this important issue to several thousand Alaska Natives; and a special thank you to Chairwoman Murkowski and Senator Sullivan for introducing this much needed legislation, and for taking on our worthy cause.

My name is Leo Barlow, and I have the great honor and responsibility of serving as a representative for the community of Wrangell on the Southeast Alaska Landless Corporation (SALC), which represents Alaska Natives enrolled through ANCSA to the Native villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell. The people I represent today have suffered an injustice for more than 40 years; an injustice the legislation currently before this Subcommittee would address.

In 1971, Congress enacted ANCSA to recognize and settle the aboriginal claims of Alaska Natives to their traditional homelands. ANCSA provided for establishment of Native Corporations to receive and manage funds and lands awarded in settlement of the claims of all Alaska Natives. While many villages throughout Alaska and Southeast Alaska were recognized and afforded the opportunity to establish Village or Urban Corporations and secure a Native land settlement, our five communities were denied these benefits of ANCSA. We have been fighting this injustice since ANCSA's passage.

Under ANCSA, as Alaska Natives we enrolled to one of thirteen Regional Corporations and also to the villages where we lived or to which we had a

historic, cultural and familial tie. For example, I enrolled to the region for Southeast Alaska, and also to the village of Wrangell, my home town, where my ancestors have lived for many generations. A total of 747 Alaska Natives enrolled to the Native village of Wrangell. Other members of our Landless Corporation enrolled to the four villages of Haines, Petersburg, Tenakee and Ketchikan. Those of us who enrolled to these five communities during the ANCSA process did so because these are our homelands and places of origin. Our families and clans originated in these communities.

In section 11 of ANCSA, Congress set forth a general process for determining eligibility for each "Native village" in Alaska. Native villages throughout the State of Alaska were listed in this section, and the Secretary of the Interior was charged with making determinations as to whether the listed villages met the eligibility requirements. For a number of reasons, however, there was a different process created for determining eligibility of Southeast Alaska Native villages in section 16 of ANCSA. These reasons included the previous Tlingit and Haida Indian Claims cash settlement, the existence of the Tongass National Forest, the existence of large timber contracts secured by powerful pulp companies, and the significant non-Native populations of certain communities. I would note that at least one of our communities – Tenakee – was at one time excluded from the Tongass National Forest through an Executive Order by President Roosevelt for purposes of an Indian Settlement. Therefore, the differing treatment due to creation of the Tongass National Forest was not justified in all circumstances.

Another significant difference between Southeast and non-Southeast Alaska communities in ANCSA was the fact that Section 11 of ANCSA provided an appeal right for non-Southeast communities left off of the list of eligible villages, while Section 16 of ANCSA failed to provide the same appeal right to Southeast villages. Three of our Coalition's villages (Ketchikan, Haines and Tenakee) brought protests against this inequitable treatment to the Alaska Native Claims Appeal Board of the U.S. Department of the Interior through appeals in 1974 and 1977. The Appeals were rejected because Section 16 made no provision for administrative reconsideration of the eligibility of villages in Southeast Alaska. Thus, we must appeal directly to Congress for help. You are our only recourse.

Southeast Alaska was the first area of Alaska with significant settlement by non-Natives because of the inviting climate and abundant resources in our homelands. Although we welcome non-Natives who have chosen to live in Southeast Alaska, their presence does not make our homes any less "Native" than other villages in Southeast Alaska. Nonetheless, this was a significant factor in the exclusion of our five communities from the list of eligible Southeast Native villages in ANCSA. This occurred despite the clear evidence that each of these Communities has historic, cultural, and traditional Alaska Native characteristics.

The 3,425 Natives who originally enrolled to Haines, Ketchikan, Petersburg, Tenakee, and Wrangell comprised over 20 percent of the shareholders of Sealaska Corporation -- our Regional Corporation for Southeast Alaska -- in 1972. Over the years we have received revenue-sharing distributions from Sealaska pursuant to section 7(j) of ANCSA, but have not enjoyed the social, economic and cultural benefits of owning shares in a Village, Urban, or Group Corporation. Many of the Village or Urban Corporations in our Region have brought significant economic benefits to their communities. Additionally, we have been deprived of the significant cultural benefit of owning an interest in lands located within and around our traditional homelands.

Some opponents argue that we have already seen the benefits of ANCSA due to "at-large" distributions through section 7(j) of ANCSA, and, therefore, have been treated fairly in ANCSA. These arguments clearly do not understand or comprehend the value of Native land ownership to our Native people. The connection to our land is what defines us as Native people – not the distributions. Establishment of these new ANCSA Corporations and conveyance of Native lands will truly provide us with the benefits of ANCSA that we have been deprived of for so long.

The history I am telling today is not based only on the opinions and conclusions made by Landless Natives. In 1993, Congress directed the Secretary of the Interior to prepare a report examining the reasons why the Unrecognized Communities had been denied eligibility to form Native Corporations under the Act. This report -- A Study of Five Southeast Alaska Communities (the ISER Report) -- strongly supports the conclusion that requirements for villages eligible to form Native Corporations were met by the Native villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell. The ISER Report noted that, with the exception of Tenakee, our communities appeared on early versions of Native village lists, and the subsequent omission was never clearly explained in any provision of ANCSA or in the accompanying conference report.

The ISER Report also indicated that the populations and percentage of Natives in each of our communities, as well as the historic use and occupation of the lands, were comparable to those Southeast Alaska communities recognized under ANCSA's original language. Prior to passage of ANCSA, each of the Unrecognized Communities had been involved in advocating for the settlement of the aboriginal claims of that community.

In short, the ISER Report found no meaningful distinction between the Native communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell and other communities listed in sections 14 or 16 of ANCSA, and thus no

justification for omission from the list of communities eligible to form Urban or Group Corporations under ANCSA.

Based on the history set forth above, it is clear that those of us who enrolled to the five Unrecognized Communities -- and our heirs -- have been unjustly denied the financial and cultural benefits of enrollment in a Village, Urban or Group Corporation. The legislation before this Subcommittee today proposes simply to correct a forty-four year wrong, and grant rights that we, the Native communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell, should have been given in 1971.

In summary, we are Southeast Alaska Natives. These villages identified in S. 872 are our traditional homelands. All we are asking is that Congress recognize that fact and provide us with what we deserve under law and equity: a chance to form ANCSA Corporations for our people and for future generation with ties to our traditional communities. Sadly, many of the original shareholders enrolled to these five communities have passed on and will never see this injustice resolved. I hope that you will help those of us original landless shareholders and our descendants finally secure recognition under ANCSA. It is long overdue.

In closing, Chairman Barrasso, Ranking Member Wyden, and Members of the Subcommittee, on behalf of the Southeast Alaska villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell, I want to once again express our extreme gratitude for your consideration of this important legislation and we urge you to support our efforts to be included in the benefits that ANCSA has brought to other Alaska Natives. I hope that this Subcommittee and the Senate will act quickly to ensure that we finally receive the recognition we have deserved for more than forty-four years.

Gunalcheesh (Thank You).

Southeast Conference

Resolution 13-03

A RESOLUTION OF THE SOUTHEAST CONFERENCE IN SUPPORT OF ALASKA MENTAL HEALTH TRUST – U.S. FOREST SERVICE LAND EXCHANGE

WHEREAS, in 1956, Congress passed the Alaska Mental Health Enabling Act, entitling the Territory of Alaska to one million acres of federal land to be used for revenue generation to support mental health services in Alaska The Territory and State of Alaska selected land throughout the state under this entitlement, and

WHEREAS, the Alaska Mental Health Trust Authority is a state corporation that administers the Alaska Mental Health Trust, a perpetual trust established for the benefit of Alaskans with mental illness, developmental disabilities, chronic alcoholism, and Alzheimer's disease and related dementia. The Trust operates much like a private foundation, using its resources to team with the Alaska Legislature in funding the state's mental health program, and

WHEREAS, the Trust owns about 18,000 acres of land that are primarily timber lands in and around the Southeast Alaska cities, towns and villages of , Juneau, Wrangell, Petersburg, Sitka, Meyers Chuck and Ketchikan, and

WHEREAS, the Southeast Conference is aware of known conflicts between residents of said Southeast Alaska communities and the Trust's need to harvest timber on their land for revenue generation, and

WHEREAS, the Alaska Mental Health Trust is proposing a value for value land exchange with the U.S. Forest Service The Trust, Forest Service and other parties have identified approximately 2,000 acres of timber lands in the Tongass National Forest (TNF) near Naukati, and Hollis on Prince of Wales Island and Shelter Cove and Gravina Island near Ketchikan, and

WHEREAS, the proposed Alaska Mental Health Trust - U.S. Forest Service – Alaska Mental Health Trust Land Exchange, if successful will aid in the stable supply of timber to the Alaska Timber Industry,

THEREFORE BE IT RESOLVED, the Southeast Conference supports the proposed land exchange between the U.S. Forest Service and the Alaska Mental Health Trust as presented at the packet dated September 4, 2012.

ADOPTED BY THE SOUTHEAST CONFERENCE BOARD OF DIRECTORS ON March 18, 2013 and sunsets on March 18, 2014

Witness:

Timothy D. Rooney

Tim Rooney
President

Attest:

Shelly Wright

Shelly Wright
Executive Director

Spearfish Canyon Foundation
Box 512
Spearfish, SD 57783

September 20, 2016

U.S. Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Members of the Committee on Energy and Natural Resources,

On behalf of the Spearfish Canyon Foundation, I am writing in support of S. 3254, the Spearfish Canyon and Bismarck Lake Land Exchange Act.

The proposed land exchange between the State of South Dakota and the U.S. Forest Service will improve public use and enjoyment of our natural environment, preserve the scenic properties of Spearfish Canyon and serve the best interests of the general public.

The proposed land transfer will establish Spearfish Canyon State Park in one of the most beautiful natural areas in the country. South Dakota's state park system is among the finest in the country.

Along with preserving these natural wonders, the land exchange will allow for improved roads and campgrounds, new hiking trails and picnic areas, and more opportunities for families to spend time outdoors.

On behalf of the board of directors, this letter is in support of the proposed land exchange. We encourage your support as well.

Sincerely,

Susan M. Johnson, President

Spearfish Canyon Foundation Board of Directors: *Susan Johnson, President; Karl Burke, Vice President; Myles Kennedy, Treasurer; Dr. Robert Roberts, Secretary. Board Members: Jerry Krambeck and Brooks Hannah.*

srk consulting

SRK Consulting (U.S.), Inc.
5250 Neil Road, Suite 300
Reno, NV 89502

T: (775) 828-6800
F: (775) 828-6820
reno@srk.com
www.srk.com

21 September 2016

Attention: Senate Energy and Natural Resources Committee Hearing

Subject: S. 3102, the Pershing County Economic Development and Conservation Act

Dear Chairwoman Murkowski,

Please accept this letter in support of S. 3102, the *Pershing County Economic Development and Conservation Act* (the "**Act**").

SRK provides focused advice and solutions to mining clients world-wide. We have a strong presence in the State of Nevada, including Pershing County where we provide consulting services to several mining companies in the area. Our services extend from exploration to mine closure and we have extensive experience working with both federal and state processes.

The enactment of the Act would be beneficial for the mining industry generally because it would allow mining companies in Pershing County to transition from the federal to the state regulatory system. This change would also promote quicker economic growth and generate significant employment opportunities in the region and beyond.

I encourage the Energy and Natural Resources Committee to support the passing of this Act.

Sincerely,
SRK Consulting (U.S.), Inc.

Jeffrey V. Parshley, P.G., C.P.G., C.E.M.
Group Chairman and Corporate Consultant

U.S. Offices:
Anchorage 907.677.3520
Denver 303.985.1333
Elko 775.753.4151
Fort Collins 970.407.8302
Reno 775.828.6800
Tucson 520.544.3688

Canadian Offices:
Saskatoon 306.955.4778
Sudbury 705.682.3270
Toronto 416.601.1445
Vancouver 604.681.4196
Yellowknife 867.873.8670

Group Offices:
Africa
Asia
Australia
Europe
North America
South America

Ripchensky, Darla (Energy)

From: Brooke Elgie <sterngie@hotmail.com>
Sent: Tuesday, September 27, 2016 3:21 PM
To: fortherecord (Energy)
Subject: S3004/3273 ANCSA Improvement Act 9/23/2016

I would like to take this opportunity to speak about S3004/3273.
Before coming to live in Alaska 14 years ago I worked in Barrow for a short time. It was at that time that I learned of the Alaska Native Claims Settlement Act and its pivotal importance to the First Nations people of this state. Since those early years I have always, without question, supported this effort. It was a way of at least partially righting a great wrong; yet never did I imagine that in 2016 we would still be having the debate over land claims that would create new native corporations.
I now live full time in Tenakee Springs. This is a 22-mile inlet mostly intact wilderness that includes more than a dozen salmon bearing streams. This precious habitat supports subsistence and commercial use and should never be turned over to any for-profit corporation. Hundreds of people, native and non-native alike, fish and hunt for their food and work to harvest the resource for their income. This is a place to protect for everyone.
Please withdraw S3004/3273.
Sincerely,
Wendy Stern
PO Box 36
Tenakee Springs, AK 99841
Tenakee

Ripchensky, Darla (Energy)

From: Sarah Stewart <sarahbstewart@yahoo.com>
Sent: Sunday, September 25, 2016 9:21 PM
To: fortherecord (Energy)
Subject: Comments on S. 3203, the Alaska Economic Development and Access to Resources Act (hearing date 9/22/2016)

We are writing to comment on both on specific provisions to the different Tongass-related bills introduced by Senator Murkowski. But overall my family and I would like the Tongass National Forest lands to remain in public hands and be managed in the best interests of all Americans.

Specific Comments are as below:

S. 3203, the Alaska Economic Development and Access to Resources Act

- Sec. 402 – Valid Existing Claims – Elevates mining above all uses of the forest by restricting the USFS's authority to regulate surface use of National Forest lands. ***Our national forests must be managed for all users.***
- Sec. 503 -- Roadless Area Conservation Rule Exemption - Exempts both the Tongass and Chugach National Forests from Roadless Rule. ***The Roadless Rule makes sense fiscally and ecologically and should continue to be implemented in Alaska.***
- Sec. 502 -- Alaska Mental Health Trust Land Exchange -- Authorizes the exchange of about 20,000 acres of Tongass National Forest lands for timber development on Prince of Wales and Revilla Islands for over 18,000 acres of existing Mental Health Trust lands near Ketchikan and Petersburg. ***No logging should occur on the steep hillsides and popular recreation areas that the Alaska Mental Health Trust currently owns, but this issue can be resolved in Alaska; legislation is unnecessary.***
- Sec. 503 -- Tongass State Forest Facilitation – Allows selection of two million acres of the Tongass National Forest by the State of Alaska for a state forest, which would be managed for timber production first, not "multiple use." ***Alaska Fish and Wildlife habitat standards are less protective than federal standards.***

Thank you for your attention to our comments.
Sincerely, The Stewart Family. 1045 Highway 89 South, Gardiner, MT 59030

Ripchensky, Darla (Energy)

From: Sarah Stewart <sarahbstewart@yahoo.com>
Sent: Sunday, September 25, 2016 9:22 PM
To: fortherecord (Energy)
Subject: Comments of S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016 (hearing date 9/22/2016)

We are writing to comment on both on specific provisions to the different Tongass-related bills introduced by Senator Murkowski. But overall my family and I would like the Tongass National Forest lands to remain in public hands and be managed in the best interests of all Americans.

Specific Comments are as below:

S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016

- Sec. 5 – Reacquiring Cube Cove Surface Lands -- permits Shee Atika to elect to receive payment in cash or bid credits for acquiring federal surplus property from federal agencies for about 23,000 acres of land it clearcut on Admiralty Island. ***This is actually a little bit of good news; it would eventually make Admiralty Island National Monument "whole".***
- Sec. 6 -- Admiralty Island National Monument Land Exchange -- authorizes the USFS to obtain Sealaska's subsurface estate at Cube Cove in exchange for surface and subsurface estate to about 8,872 acres and the surface estate to approximately 5,145 acres of Tongass lands on Prince of Wales Island. ***This exchange is not for equal value. In a real "value for value" exchange, Sealaska would get less than 500 acres of old-growth forest in exchange for its 23,000 acres of subsurface estate at Cube Cove.***
- Sec. 10 – New Native Corporations -- authorizes Native residents of Haines, Ketchikan, Petersburg, Tenakee and Wrangell to organize Urban Corporations and receive 23,040 acres of Tongass lands each. ***Fails to provide protection for Tongass Legislated LUD II wildlands and perpetuates all the flaws of the ANCSA corporate model.***
- Sec. 11 -- Alaska Native Veterans Allotment Equity - reverses key compromises reached in 1998 and disrupts efforts to finalize entitlements under existing laws. ***This section causes more problems than it solves.***

Thank you for your attention to our comments.

Sincerely, The Stewart Family. 1045 Highway 89 South, Gardiner, MT 59030

Tanana Chiefs Conference

Chief Peter John Tribal Building
122 First Avenue, Suite 600
Fairbanks, Alaska 99701-4897
(907) 452-8251 Fax: (907) 459-3850

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Alatna
Allakaket
Evansville
Fairbanks
Hughes
Lake Minchumina
Manley Hot Springs
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Nenana
Rampart
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The Honorable Lisa Murkowski
Chairwoman
Committee on Energy & Natural Res.
709 Hart Senate Office Building
Washington, DC 20510-0203

The Honorable Maria Cantwell
Ranking Member
Committee on Energy & Natural Res.
511 Hart Senate Office Building
Washington, DC 20510-4705

September 20, 2016

Dear Chairwoman Murkowski and Ranking Member Cantwell:

We respectfully request that these written comments be included as part of the September 22, 2016 hearing record to voice our opposition to S. 3203. Our comments today are in opposition of S. 3203 and we ask that you do not move this bill forward, and if it does move forward that you strike Section 403 in its entirety.

The Salmon Fork ACEC was proposed by Alaska Native Tribes and Alaskan residents and was not imposed by the BLM. It is the fruit of a true grass roots effort, democracy in action. The Salmon Fork ACEC is result of a near-decade long effort of advocacy, cooperation, and resources that Tribes in Alaska devoted to the process in an effort to protect traditional homelands, clean drinking water, and invaluable subsistence resources.

We have learned that in your position as Chair of the Senate Energy and Natural Resources Committee (ENR) you have scheduled a Committee hearing that will include bill S. 3203 – Alaska Economic Development and Access to Resources Act. The witness list has not been released yet and we respectfully request that you include a tribally elected leader to testify on S. 3203. We believe it is imperative that a tribally-elected leader from our region to voice concerns in person regarding a bill that many tribal leaders believe would be detrimental to the health and welfare of tribal citizens and traditional tribal homelands. If requested, we would be happy to suggest to the ENR committee the names of a few well-informed Alaska Native tribally-elected leaders who would gladly offer in-person testimony.

Two provisions in S. 3203 are especially concerning to Tribal leadership. Section 403 would amend the Alaska National Interest Lands Conservation Act (ANILCA) to severely limit agencies' ability to manage public lands and protect tribal and subsistence resources. It states "(c) Limitation on land use designations" that designation of an area of critical environmental concern shall not be effective unless notice is provided to

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Congress as well as in the Federal Register, and the designation would terminate unless, not later than 1 year after the date on which notice of the action has been submitted to Congress, Congress passes a joint resolution of approval of the executive branch action. Additionally, subsection "(d) Revocation of designations of areas of critical environmental concern" would revoke any area of critical environmental concern in the State in effect on the date of enactment of this subsection.

An Area of Critical Environmental Concern (ACEC) is currently defined in section 103 of the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1702) as an area "within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards."

The ACEC is used as an important planning tool by the BLM to ensure that protections for critical areas are given priority. FLPMA section 202, 43 U.S.C. 1712 requires BLM give priority to identifying and designating ACECs in the course of developing a resource management plan. During the public scoping process the Chalkyitsik tribal government and others nominated 1,577,752 acres of the Draanjik River watershed (Salmon Fork) as an ACEC, encompassing 66% of BLM managed land within the Upper Draanjik River Subunit. The purpose of this nomination was to protect clean drinking water and unique and irreplaceable resources that are critical to our traditional and customary land use.

The BLM evaluated the proposal and determined that a portion of the area met the importance and relevance criteria (43 CFR 1610.7-2) that require special management attention. The BLM included 623,000 acres in the Salmon Fork ACEC in Alternative E of the recently published plan, a compromise from the nearly 1.6 million acres originally nominated. Chalkyitsik Village Council and the Gwichyaa Zhee Gwich'in Tribal Government, as cooperating agencies in the planning process, support this compromise and regard the designation of the Salmon Fork ACEC to be in the best interests of the Tribes. It is imperative that these special management considerations for this important area not removed.

The BLM is currently working on three different resource management plans as well as amendments to plans and sub-plans across Alaska. Numerous Tribes have nominated ACECs in their regions to protect unique and important natural resources. The management plans combined will impact nearly 100 Alaska Native Tribes. The needs of rural tribal communities must be considered. An ACEC is a necessary tool, not only for the BLM but also for citizens and Tribes to be meaningfully engaged in the planning

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Chief Peter John Tribal Building
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process for land management decisions that will impact Alaska Native traditional homelands for many years to come.

We recognize that through S. 3203 you hope to create opportunities for resource development in Alaska and we understand that the ACEC revocation was included to prevent the BLM from using the designation as a management tool to create more wilderness in Alaska in contravention to ANILCA's "no more" clause. However, the ACEC designation is not in violation of the "no more" clause because it does not operate to withdraw public lands and should not be equated with Conservation System Units and Wilderness Areas and it does not designate wilderness.

The Federal Lands Policy and Management Act of 1976 (FLPMA 102(j), 43 U.S.C. 1702(j)) defines the term "withdrawal" to mean "withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land, other than "property" governed by the Federal Property and Administrative Services Act, as amended from one department, bureau or agency to another department, bureau or agency." In applying the statute, the ACEC designation in itself does not trigger the ANILCA clause because it does not remove lands from the operation of public land laws. It simply allows BLM the ability to manage areas to protect specific values, like cultural and subsistence uses.

The BLM may recommend withdrawal by the Secretary of the Interior of lands within an ACEC from mineral entry. Simply making a recommendation in a Resource Management Plan doesn't trigger ANILCA's provision. The ANILCA provision would not be triggered until the Secretary acted on the recommendation and withdrew the land. Neither the designation of an ACEC by itself nor the recommendation for a withdrawal triggers ANILCA's clause because the BLM's associated management prescriptions do not remove lands from the operation of some or all public land laws. Applying the definition of "withdrawal" from FLPMA to trigger ANILCA's no-more provision, the agency must make land unavailable to private appropriation by removing it from operation of some or all of the general public and laws. Neither an ACEC designation nor a recommendation to withdraw land takes land out of the operation of public land laws. Neither action is a withdrawal; neither action triggers ANILCA's no-more provision.

S. 3203's Section 403 (c) amends ANILCA and puts ACECs into the "no more" category, which effectively removes ACEC nomination from the toolkit Tribes may use to participate in land management actions affecting them. The result will be to disempower Tribes by weakening their ability to protect traditional resources. Our Tribes have worked extremely hard over the past eight years to gain protection for the Salmon Fork through ACEC designation in the Eastern Interior plan. We have expended scarce

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resources and considerable staff and volunteer time on education and advocacy efforts. The provision in your bill that would strip Alaska of its current ACEC protections, disregards the value and work of tribally elected leaders, advocates, elders and traditional chiefs. Many of the elders and chiefs who participated in this planning process have dedicated their life's work to protecting the Draanjik region and have since passed away.

In conclusion, we respectfully request that the provision of S 3203 concerning ACECs in Alaska be reconsidered and rescinded. At the least, we ask this bill be tabled and that you provide an outreach effort to tribes. As written, the bill would usurp the government-to-government relationship and dishonor the trust responsibility the federal government owes to Tribes. It also directly erodes the Tribe's voice as cooperating agencies. Alaska Tribes should be consulted especially as this legislation directly impacts Tribes and critical protections needed to avoid exposing sacred traditional homelands and clean river water to potential environmental disaster.

Sincerely,

for Victor Joseph,
President

Tanana Chiefs Conference

Woodie Salmon,
First Chief

Chalkyitsik Village Council

Nancy James
First Chief

Gwichyaa Zhee Gwich'in Tribal Government

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Statement from Senator Jon Tester
Alex Diekmann Peak Designation Act (S. 3192)
Energy and Natural Resources Committee Legislative Hearing
September 22, 2016

MR. TESTER: Chairman Murkowski and Ranking Member Cantwell, thank you for including the bipartisan Alex Diekmann Peak Designation Act (S. 3192) in this legislative hearing. And thank you for allowing me this opportunity to make a few remarks on the bill.

This legislation would name a mountain peak in Montana's Madison Range after renowned conservationist Alex Diekmann. Alex passed away in February of this year after a courageous battle with cancer, leaving behind a loving wife, Lisa, and two sons, Logan and Liam.

Montana is a special place. Although he didn't grow up there, and Alex grasped the importance of the places he worked to protect as well as anybody. He is credited with conserving more than 100,000 acres of mountains, river valleys, wetlands, as well as working farms, ranches and forest lands in Montana and throughout the Northern Rockies Region. He built partnerships and helped protect diverse landscapes across the Crown of the Continent, from the world-famous Greater Yellowstone Ecosystem to Glacier National Park to the Cabinet-Yaak Ecosystem. His efforts have left a lasting impact on the landscape and countless people in Montana.

The peak to be named for Alex overlooks places he worked to protect in Montana's iconic Madison Valley. Thanks to his work in the valley, world class world-class fish and wildlife habitat will remain unfragmented, our kids and grandkids will have access to prized fly fishing spots, and the rural character of the area will be preserved. I can't think of a more fitting way to recognize his contribution to Montana than renaming this wild peak in his honor.

Alex's spirit of partnership brought people together to preserve our western heritage of hunting and fishing, farming and ranching, working in the woods, and a deep appreciation for the great outdoors. This bill has the support of the full Montana delegation, the Governor of Montana, Madison and Gallatin county commissions, numerous sportsmen's and conservation groups, individual landowners and many more.

Thank you again for including the Alex Diekmann Peak Designation Act in this hearing. I look forward to working with this Committee to advance and ultimately enact this legislation.

STATEMENT FOR THE RECORD

COMMITTEE ON ENERGY AND NATURAL RESOURCES

HEARING FOR S. 3254, THE SPEARFISH CANYON AND BISMARCK LAKE LAND EXCHANGE ACT

SEPTEMBER 22, 2016

SENATOR JOHN THUNE

Madam Chairwoman, thank you for holding a hearing today on S.3254 and other bills. I strongly support S.3254 which authorizes a land exchange between the State of South Dakota and the U.S. Forest Service (USFS).

I support this exchange because the State of South Dakota has a proven track record to be able to provide access and experiences that also preserve and protect these natural, cultural, and historical resources.

For example, South Dakota's Custer State Park in the Black Hills, which borders the Bismarck Lake portion of the exchange, is a shining example of how recreational land should be preserved, its cultural heritage remain intact, and access provided to the public. The proposed state park at Spearfish Canyon and the addition of Bismarck Lake area to Custer State Park will extend responsible stewardship to some of South Dakota's most treasured places.

Spearfish Canyon contains some of the most renowned natural, scenic and cultural resources in the country which makes it a scenic destination for recreationists and a valuable part of South Dakota's outdoor heritage. However, development has not kept up pace with the thousands of people that visit this area every year, and this is bringing problematic issues such as natural resource damage, congestion, and trespassing.

South Dakota will provide access and has the experience to preserve and protect all natural, cultural, and historical resources. A state park in Spearfish Canyon will be a popular destination for residents and visitors. It also provides the potential to operate a self-supporting unit of the state park system.

South Dakota will also extend responsible stewardship, the same stewardship which took place in preserving the natural resources at Roughlock Falls, at Spearfish Canyon. The Roughlock area was experiencing severe degradation as a result of increased visitation and lack of effective management. Immediately after the state acquired the property, improvements such as viewing platforms, connector trails and walkways were put in place to enhance the visitor experience all while preserving the natural and scenic properties of the falls.

South Dakota State Parks are efficient and effective ways to manage resources for long term public enjoyment and preservation. The concept of a new state park in Spearfish Canyon will achieve the goals of preservation and recreational opportunities.

Currently, Forest Road 222 is poorly maintained and could be considered a hazard. The state would improve the road's grading and asphalt the portion of the road starting at Spearfish Canyon and through the park portion of Little Spearfish Canyon. This would be accomplished

with consideration to methods of the most minimal impacts to the resources and view shed. Keeping travel speeds low and discouraging arterial development of the road will also be of primary concern. Master planning efforts include: Savoy Fishing Pond, Spearfish Falls, Roughlock Falls, Timon Campground, Rod and Gun Campground, Latchstring Inn and Restaurant, and hiking trail facilities.

Both Rod and Gun and Timon campgrounds could be reasonably expanded to include more sites than what exists today. While the opportunity for large scale expansion does not exist, it is anticipated that each site could at least be doubled in capacity without substantial impact to the resources.

An expanded trail system could connect Roughlock Falls with the Little Spearfish Trail System. This would provide for a trail system that would extend from the far west boundary of the park and connect the campgrounds, Roughlock Falls, Spearfish Falls, and Savoy Pond. This trail system could also be expanded or connect to other USFS trails outside of the proposed park boundary. Additional trailheads could also be considered within the park.

There is opportunity to provide for picnic areas and day-use areas within the park boundary to allow extended stay options and additional services to supplement existing facilities in the canyon. And this area has connectivity to the existing 350-mile snowmobile trail system, and has potential for expanded services making this a first class winter recreation destination.

The State of South Dakota would honor all existing contracts with no disruption, including the lease of Camp Bob Marshall to the Western Dakota 4-H Camp Association and overnight campgrounds that are leased to private entities.

Camp Bob Marshall which is located in the USFS Bismarck Lake parcel is widely used and leased from the USFS by the Western Dakota 4-H Camp Association. The camp has a dysfunctional sewer system which the USFS will not commit to repairing which jeopardizes future use. The State of South Dakota would repair the sewer system to meet federal and state environmental requirements.

Madam Chairwoman, I also submit several letters of support from state and private entities in support of this land exchange, and I look forward to a markup of this S. 3254 in the near future.

Spearfish
SOUTH DAKOTA

September 19, 2016

U.S. Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Members of the Committee on Energy and Natural Resources,

I am writing in support of S. 3254, the Spearfish Canyon and Bismarck Lake Land Exchange Act.

The proposed land exchange between the State of South Dakota and the U.S. Forest Service will improve public use and enjoyment of our natural environment, preserve the scenic properties of Spearfish Canyon and the Bismarck Lake area, and serve the best interests of the general public.

South Dakota's state park system is among the finest in the country, hosting millions of visitors each year. The proposed land transfer would allow South Dakota to establish Spearfish Canyon State Park, which would mean a positive economic impact on the city of Spearfish, as well as the businesses within Spearfish Canyon.

The proposed exchange will lead to many improvements to enhance how our citizens interact with nature, while preserving these scenic areas for generations to come. Along with preserving these natural wonders, the land exchange will allow for improved roads, more campgrounds, new hiking trails and picnic areas, and more opportunities for families to spend time outdoors.

Visit Spearfish strongly supports the proposed land exchange and encourages your support as well.

Sincerely,

Mistie Caldwell
Executive Director

VISIT SPEARFISH, INC.
603 NORTH MAIN STREET
SPEARFISH, SD 57783 • 605.717.9294
WWW.VISITSPEARFISH.COM

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OURS

Preserving Spearfish Canyon

With 1,000-foot cliffs, picturesque waterfalls and colorful foliage –especially in fall — Spearfish Canyon is one of the most beautiful in the entire nation. It wasn't until 1933 that a road was completed in the canyon and now it is a National Scenic Byway.

Although the canyon is surrounded by Black Hills National Forest, not all of the canyon is public land. Preserving its beauty for all time should be a priority.

Preservation of the canyon may get a significant boost if a proposed purchase of 73 acres in the canyon that includes Spearfish Falls goes through and the land is donated to state for a possible state park.

Homestake Mining Co. is currently in discussion with Spearfish Canyon Foundation and the state Game, Fish & Parks Department to sell more than 100 acres in the canyon that would be placed into public ownership.

Doug Hofer, director of the state Division of Parks and Recreation, said the Spearfish Canyon Foundation is negotiating with Homestake to buy 73 acres, which includes Spearfish Falls, that would be donated to the state GF&P.

The land would connect two parcels that the state bought from Homestake in 2004 at Roughlock Falls and Savoy, in the heart of Spearfish Canyon.

In addition, GF&P would purchase a second 33-acre tract that includes 3,200 feet of Spearfish Creek at Homestake's old Hydro 2 power plant. The department has enough money available to pay the appraised value of $430,000.

The Spearfish Falls tract has a much higher appraised value of $1,225,000, but Spearfish Foundation officials hope to purchase the property for less and then donate it to the state.

There is an existing trail from the Latchstring Inn to the falls, but it has been closed since the October 2013 blizzard. If the GF&P were to acquire the property, state resources could be used to reopen the trail and the falls to the public.

We hope that the deals to buy the Spearfish Canyon tracts can be made and that the land eventually becomes a state park.

We believe that a state park in Spearfish Canyon would be a very popular destination for residents and tourists. So much so that the potential for increased traffic and more parking would need to be addressed.

Spearfish Canyon is worth a drive any time of year, and with a state park as a possibility, a visit to the canyon could become a must-see item on anyone's list of Black Hills tour stops.

Today's topic

THE ISSUE: Homestake Mining Co. parcels in Spearfish Canyon could become a state park.

OUR VIEW: A state park in Spearfish Canyon would help protect the canyon's natural beauty for future generations.

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Bryan Bauer
Douglas

September 30, 2016

The Honorable John Thune
511 Dirksen Senate Office Building
United States Senate
Washington, DC 20510

Dear Senator Thune,

I am writing on behalf of the Associated School Boards of South Dakota to express our support for S. 3254 the Spearfish Canyon and Bismarck Lake Land Exchange Act. This legislation will not only provide South Dakota with another pristine state park but it will also improve funding for education.

State school trust lands comprise 1,920 acres of the 1,954 acres of state land involved in the exchange. These lands were set aside at statehood and placed under the Commissioner of School and Public Lands to provide funding for education. However, overtime these particular acres have become mostly surrounded and isolated by USDA Forest Service National Grasslands.

The trust lands are leased at public auction but because these acres are in National Grasslands permittee allotments there is not any competitive bidding. As a result the rental rates are much lower and funding for education is reduced.

S. 3254 will facilitate an exchange of these lands which fit better under federal management. The school trust fund will be compensated through state legislation at the appraised value of the land. This money will be invested as part of the school trust and generate more income. For example, a conservative earnings rate of just three percent will generate ten times the money that is currently generated from grazing leases on these parcels.

This legislation makes sense because it allows the State of South Dakota to transfer isolated state parcels and block up existing grasslands by allowing the Forest Service to acquire these in-holdings. It does this while increasing funding for education which is why we support the proposal.

Thank you for your support of S. 3254 the Spearfish Canyon and Bismarck Lake Land Exchange Act.

Sincerely,

Wade Pogany, Ed.D.
Executive Director
Associated School Boards of South Dakota

WP:kmb

PO Box 1059 • Pierre, South Dakota 57501

CITY OF Sturgis

September 19, 2016

U.S. Senate Committee on Energy and Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Members of the Committee on Energy and Natural Resources,

I am writing in support of S. 3254, the Spearfish Canyon and Bismarck Lake Land Exchange Act.

The proposed land exchange between the State of South Dakota and the U.S. Forest Service will improve public use and enjoyment of our natural environment, preserve the scenic properties of Spearfish Canyon and the Bismarck Lake area, and serve the best interests of the general public.

South Dakota's state park system is among the finest in the country, hosting millions of visitors each year. They are significant contributors to tourism in this region which is the State's second largest industry. The proposed land transfer would allow South Dakota to improve Custer State Park and establish Spearfish Canyon State Park, in one of the most beautiful natural areas in the country.

The proposed exchange will lead to many improvements to enhance how our citizens and visitors interact with nature, while preserving these scenic areas for generations to come. Along with preserving these natural wonders, the land exchange will allow for improved roads, more campgrounds, new hiking trails and picnic areas, and more opportunities for families to spend time outdoors.

The City of Sturgis strongly supports the proposed land exchange and encourages your support as well.

Sincerely,

Daniel Ainslie
City Manager, City of Sturgis

Sturgis City Manager
1040 Harley-Davidson Way, Sturgis, SD 57785 • (605) 347-4422 • Fax: (605) 347-4861
dainslie@sturgisgov.com www.sturgis-sd.gov www.facebook.com/cityofsturgis
"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, age, disability, religion, sex, familial status, sexual orientation, and reprisal. (Not all prohibited bases apply to all programs.)

School and Public Lands

Ryan Brunner, State Land Commissioner

September 19, 2016

The Honorable John Thune
511 Dirksen Senate Office Building
United States Senate
Washington, DC 20510

Dear Senator Thune,

I am writing to express my support for S. 3254 the Spearfish Canyon and Bismarck Lake Land Exchange Act. This legislation will not only provide South Dakota with another pristine state park but it will also improve funding for education.

My office is providing 1,920 acres of the 1,954 acres of state land involved in the exchange. These lands are state trust lands set aside at statehood and placed under my office to provide funding for education. However, overtime these particular acres have become mostly surrounded and isolated by USDA Forest Service National Grasslands.

Our lands are leased at public auction but because these acres are in National Grasslands permittee allotments there is not any competitive bidding. As a result our rental rates are much lower and funding for education is reduced.

S. 3254 will facilitate an exchange of these lands which fit better into federal management. The school trust fund under my office will be compensated through state legislation the appraised value of the land. This money will be invested as part of the school trust and for example a conservative earnings rate of just three percent will generate ten times the money that is currently generated from grazing leases.

This legislation makes sense because it allows the state of South Dakota to acquire and protect pristine lands in a state park, transfer isolated state parcels, and block up existing grasslands by allowing the forest service to acquire these in-holdings. It does all of this while increasing funding for education.

Thank you for your support of S. 3254 the Spearfish Canyon and Bismarck Lake Land Exchange Act.

Sincerely,

Ryan Brunner

Ryan Brunner
Commissioner

State Capitol ♦ 500 East Capitol ♦ Pierre, South Dakota ♦ 57501-5070
Phone: 605-773-3303 ♦ Fax: 605-773-5520 ♦ www.sdpubliclands.com
E-mail: spl@state.sd.us

KELLY TOWNSEND
1700 WEST WASHINGTON, SUITE H
PHOENIX, ARIZONA 85007-2844
CAPITOL PHONE: (602) 926-4467
CAPITOL FAX: (602) 417-3018
TOLL FREE: 1-800-352-8404
ktownsend@azleg.gov

DISTRICT 16

COMMITTEES:
FEDERALISM & STATES' RIGHTS, CHAIRMAN
CHILDREN & FAMILY AFFAIRS,
GOVERNMENT & HIGHER EDUCATION

JOINT LEGISLATIVE AUDIT COMMITTEE

Arizona House of Representatives
Phoenix, Arizona 85007

October 6, 2016

Senator Jeff Flake
Senate Russell Office Building 413
Washington, D.C. 20510

Dear Senator Flake,

As the chair of the Arizona House Federalism and States' Rights Committee, I would like to thank you for addressing the proposed Grand Canyon Watershed National Monument in Arizona.

Last year, our committee reviewed this issue and with overwhelming sentiment, we agreed that the priority should be returning federal lands to the states rather than designating more Arizona land as federally controlled areas. Arizona does not enjoy equal footing with the eastern states, and this reckless unilateral action will only put us at a further disadvantage.

Again, I thank you for raising this issue, and for communicating to the Senate Committee on Energy and Natural Resources that the people of Arizona support the passage of S. 437 and S. 1416.

Thank you,

Representative Kelly Townsend
Legislative District 16

KT:jw

TROUT UNLIMITED

April 25, 2016

Secretary Sally Jewell
Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

Chief Thomas Tidwell
U.S. Forest Service
1400 Independence Ave., SW
Washington, D.C. 20250-1111

Jim Peña, Regional Forester
Pacific Northwest Region (R6)
U.S. Forest Service
1220 SW 3rd Avenue
Portland, OR 97204-3440

Mike Williams
Forest Supervisor
Okanogan-Wenatchee National Forest
215 Melody Lane
Wenatchee, WA 98801

Re: Letter of Support to Withdrawal Lands from Mineral Entry in the Headwaters of the Methow River in the North Cascades of Washington State

Dear Secretary Jewell, Chief Tidwell, Regional Forester Peña, and Supervisor Williams,

Thank you for your dedication to responsible management of our National Forest lands and the critical fisheries resources that depend on them. Trout Unlimited is North America's largest conservation organization dedicated to the conservation, protection, and restoration of coldwater fish and their habitats. As such, our 150,000 members across the country—including the more than 4,700 who reside in the state of Washington—share your interest in ensuring our National Forest lands continue to support robust native fish populations for generations to come.

In keeping with this mission, we urge your support in protection of the Upper Methow Valley in the North Cascades from industrial-scale mining by withdrawing the National Forest lands in the upper valley from mineral entry and exploration (see www.methowheadwaters.org for map and details). The Methow River watershed provides key habitat for a myriad of native fish species, including three species of Endangered Species Act (ESA)–listed salmonid species: Upper Columbia spring Chinook, Upper Columbia steelhead trout, and bull trout. Salmon and steelhead must travel over 500 miles from the mouth of the Columbia River and navigate 9 dams to reach their spawning grounds in the Methow River and its tributaries.

Large-scale mining on Flagg Mountain and the headwaters of the Methow River watershed poses a serious threat to these fish species that are already on the brink of extinction, and it would undermine decades' worth of fisheries recovery efforts in this watershed. Tremendous demands on a pre-allocated and severely limited water supply; significant risk of ground- and surface-water contamination; and erosion and sedimentation impacts are just a few reasons why a large-scale mine in the headwaters of the Methow is an extremely risky proposition. Given the critical status of our native fish stocks in the

Methow River – not to mention the other ESA-listed wildlife species in the area – this is a risk we cannot afford to take.

The Methow River is one of Washington's most iconic rivers for fishing and other outdoor pursuits and it continues to be a Pacific Northwest mecca for hunters, anglers, recreationists, and conservationists. The Methow Valley's economy is driven by a tourist trade dependent on the preservation of the watershed's natural resource assets and intact habitats. The campaign to withdrawal the Upper Methow from mineral entry has amassed an impressive coalition – a large and diverse group partners, including over 100 local businesses and organizations, tribes, local and state elected officials, and numerous sportsmen and recreational organizations. The prospect of an industrial-scale mine on Flagg Mountain or anywhere else in the Upper Methow Valley represents a direct threat to the very values at the heart of success in the community and the quarter-billion-dollar investment private landowners, tribes, and state and federal agencies have made in conservation, restoration, and recreation efforts over the years.

We urge you to work together and move quickly to initiate the process of an administrative withdrawal of Flagg Mountain and appropriate surrounding National Forest lands in the Upper Methow Valley from mineral exploration and entry for as long as possible. Please let us know if there is anything we can do to help facilitate this request, including helping to raise the funding necessary to complete the withdrawal process. Thank you for your consideration of our request.

Sincerely,

Rosendo Guerrero
Chairman, Washington State
Council of Trout Unlimited
Phone: (253) 861-8964
Email: rosendo.tu@gmail.com

Crystal Elliot-Perez
Methow Valley Project Manager
Trout Unlimited
Phone: (509) 386-7768
Email: celliot@tu.org

Kate Miller
Government Affairs Director
Trout Unlimited
Phone: (703) 284-9426
Email: kmiller@tu.org

Cc: Senator Patty Murray, United States Senator
Senator Maria Cantwell, United States Senator
Representative Dan Newhouse, U.S. House of Representatives
Tom Vilsack, Secretary, Department of Agriculture
Neil Kornze, Director, U.S. Bureau of Land Management
Christy Goldfuss, Managing Director, White House Council on Environmental Quality
Jerome Perez, Washington and Oregon Office, U.S. Bureau of Land Management
Michael Liu, Methow Valley District Ranger, Okanogan-Wenatchee National Forest

TROUT UNLIMITED
Steve Moyer
Vice President of Government Affairs

September 22, 2016

The Honorable Lisa Murkowski, Chair
Senate Committee on Energy and Natural Resources
U.S. Senate, Washington, DC 20510

The Honorable Maria Cantwell, Ranking Member
Senate Committee on Energy and Natural Resources
U.S. Senate, Washington, DC 20510

RE: Senate ENR Committee Hearing to Receive Testimony on Various Bills (9/22/16).

Dear Chairman Murkowski and Ranking Member Cantwell,

I am writing on behalf of Trout Unlimited (TU), and our 160,000 members nationwide, to offer our views on the multiple legislative proposals listed for consideration during the Committee's September 22, 2016 Legislative hearing.

TU Supports:

- S. 346, the Southwestern Oregon Watershed and Salmon Protection Act of 2015.
- S. 2991, the Methow Headwaters Protection Act of 2016.

TU Opposes:

- S. 437, the Improved National Monument Designation Process Act.
- S. 1416, a bill to limit the authority to reserve water rights in designating a national monument.
- S. 3317, a bill to exempt Utah from the Antiquities Act.
- S. 3203, the Alaska Economic Development and Access to Resources Act.
- S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016.

We detail our comments in the attached packet of letters. Thank you for considering our views.

Sincerely,

Steven N. Moyer

Steve Moyer



September 22, 2016

Re: S. 346, the Southwestern Oregon Watershed and Salmon Protection Act of 2015.

The Smith River stitches its way across rugged country from its headwaters in southwestern Oregon to its mouth on the California coastline at Del Norte. Flowing out of our national forest lands, its waters are considered some of the cleanest and purest waters anywhere in the United States.

The cold, clean waters of the Smith's North Fork provide amazing habitat for salmon and steelhead. These iconic fish drive an economic engine critically important to southwest Oregon, the region, and the nation. Guides, hotels, restaurants, commercial fishermen and many other small businesses from Port Orford, Oregon, to northern California all depend on these waters being protected and used for the recreational values they provide.

The water quality and clarity of these rivers is exceptional and they're among the best wild salmon and steelhead strongholds outside Alaska. The river is considered perhaps the best wild steelhead angling water in California - so good in fact, the California Department of Fish and Wildlife identified the Smith one of two "irreplaceable" watersheds for salmonid population resiliency. This very unique and special watershed provides Oregonians, Californians and visitors in pursuit of legendary steelhead or unparalleled scenery with outstanding recreational opportunities that cannot be found anywhere else.

But the Smith is also a bullseye for foreign mining companies looking to extract nickel using strip mining techniques. Large mines have been proposed for years in the Rough and Ready Creek drainage and now a foreign mining corporation proposes test-drilling for nickel in the beautiful headwaters of Baldface Creek in the North Fork Smith River, and in the North Fork Pistol River and Hunter Creek watersheds in the Rogue River- Siskiyou National Forest. Test-drilling is the first step toward production that would include new roads, surface mines and slag heaps.

A big nickel mine would be an unwelcome game-changer for everyone downstream and would greatly imperil this treasured, sustainable natural resource.

The Smith River is too important as a wild steelhead fishery, and its clean, high-quality waters are too important for communities in the lower watershed to allow large-scale strip mining anywhere in this watershed. S. 346 / HR 682 will provide long-term protection from large mining projects through withdrawal of lands for new mining operations. Neither bill would affect valid existing rights. The bills will also provide long-overdue designations for regional rivers under the Wild and Scenic Rivers Act. Sections of the Chetco River would be designated as wild, scenic or recreational under the act,

providing protection from new mining claims and mineral leasing. These bills would ensure that the Chetco runs free and clear for all Oregonians to enjoy.

We thank Senators Wyden and Merkley – and Representatives DeFazio, Huffman and Blumenauer – for introducing legislation to protect the valuable cold, clean waters of the North Fork Smith River watershed. We strongly support S. 346 and stand ready to work with the bill's sponsors and members of the committee to help advance this legislation forward.

For questions related to these comments, please contact the following:

Dean Finnerty
SW Oregon Field Rep
Sportsmen's Conservation Project
dfinnerty@tu.org

Steve Moyer
VP of Government Affairs
smoyer@tu.org

Kate Miller
Director of Government Affairs
kmiller@tu.org



September 22, 2016

Re: Please oppose S. 3317; S. 1416 and S. 437

On behalf of Trout Unlimited's 160,000 members, I urge you to oppose S. 3317, S. 1416 and S. 437, three pieces of legislation would limit the conservation of public lands by curtailing the designation of new national monuments under the Antiquities Act. Thanks to the Antiquities Act, national monuments have conserved some of the world's best public hunting and fishing lands by conserving large and vitally important landscapes that otherwise may have been lost or diminished. Thanks to the Antiquities Act, future generations of hunters, anglers and American outdoorsmen can stalk elk in the Missouri Breaks of Montana, hunt blacktails and fish the headwaters of the mighty Eel River in the Berryessa Snow Mountain and catch wild trout in the rushing waters of Browns Canyon. These experiences are a priceless part of our national heritage – we strongly urge you to oppose these efforts to weaken one of America's more successful conservation laws.

S. 3317 and S. 1416

The Antiquities Act is unique among our nation's conservation laws in that it allows the president to proclaim parts of the public domain "protected," bypassing Congress entirely.[1] This authority is kept in check by public opinion and Congress' power to abolish or modify a national monument after designation. Congress also has the authority to establish monuments on its own.

Each Presidential proclamation that designates a national monument is different, and each proclamation must be evaluated on its own merits or lack thereof with the flexibility to include considerations unique to each designation. General legislation should not pre-determine the outcome of a particular National monument designation. S.3317 would take any and all alternatives off the table for an entire state or region (Utah); and S. 1416 would pre-determine the outcome of certain aspects designation, by restricting authority to reserve water rights in the designation even where the purpose of a particular National Monument may depend on its associated water resources.

Both of these proposals would create a dangerous precedent undermining the Antiquities Act by preventing the President from considering any designations for an entire state, regardless of merit, or from considering location-specifc needs during designation, such as water resources.

In addition to creating bad precedent, S. 1416 is also unnecessary. S. 1416 proposes to usurp a long-standing way of dealing with water and new federal land designations, replacing that process with a

[1] It is important to note that only existing federal public lands – not state or private property – can be considered for monument status.

new and untested approach that a state water resource agency may not be equipped to handle, that may generate unnecessary burdens on the state agency; and that will no doubt cause unnecessary, duplicative work on the part of federal and state agency staff.

S. 437

While each monument is unique, many share one commonality: Their designations were the result of the president using his authority only when faced with Congressional inaction. For example, two recent national monument designations, Browns Canyon in New Mexico and Rio Grande del Norte in New Mexico, both occurred in response to Congress' failure to act on legislation, despite overwhelming local support.

When Congress is unable or unwilling to take action on conservation initiatives, the Antiquities Act provides a vehicle to see these proposals through to fruition. This approach – using the Act to break congressional deadlock on conservation efforts – is part of the Act's design. S. 437 would effectively eliminate this vehicle by creating two new layers of legislative approval – requiring that, before declaring a national monument, both the U.S. Congress and the respective State Legislature must approve the proposal.

National Monuments established through the use of the Antiquities Act are public lands that offer all Americans world-class fishing, hunting, and outdoor recreation opportunities. The Antiquities Act is powerful tool for conservation, and it is important to keep this tool available for the right times and places for its use.

We urge you to oppose these bills and future attempts to undercut the Monument designation process.

For questions related to these comments, please contact the following:

Corey Fisher
Senior Policy Director
Sportsmen's Conservation Project
cfisher@tu.org

Steve Moyer
VP of Government Affairs
smoyer@tu.org

Kate Miller
Director of Government Affairs
kmiller@tu.org

TROUT UNLIMITED

September 22, 2016

Re: Trout Unlimited Supports S. 2991, the Methow Headwaters Protection Act of 2016

Trout Unlimited strongly supports S. 2991, the Methow Headwaters Protection Act of 2016, which protects specific lands within the Okanogan-Wenatchee National Forest from mining development.

The Methow River, which flows from its headwaters on Flagg Mountain to meet the Columbia 80 miles later, is one of Washington State's most iconic rivers and serves as a Pacific Northwest mecca for hunters, anglers, recreationists, and conservationists.

The Methow provides key habitat for a myriad of native fish species, including three species of Endangered Species Act (ESA)–listed salmonid species: Upper Columbia spring Chinook, Upper Columbia steelhead trout, and bull trout. The salmon and steelhead that return to this river must navigate past 9 dams and endure countless impacts through an over-stressed ecosystem in order to reach their spawning grounds. Trout Unlimited's Western Water and Habitat Program has invested millions of dollars and thousands of staff hours to work hand-in-hand with the community on projects to improve trout and salmon habitat throughout the Methow River watershed. On a larger scale, the Federal government has also invested hundreds of millions to repair and restore these populations–both in the Methow, and throughout the Columbia Basin. Protecting the Methow headwaters will safeguard these investments prevent the unavoidable damage to water resources associated with large-scale mining on Flagg Mountain.

The Methow Valley has built its economic success upon two main industries: Agriculture and Recreation - both of which rely heavily on healthy waters. A large-scale mine in the headwaters of the Methow River watershed would (1) pose an unacceptable risk to ESA-listed fish species that are already on the brink of extinction, (2) undermine millions in taxpayer dollars spent on fisheries recovery in this watershed, and (3) devastate the local recreation-based economy, which relies on sustained ecosystem health (and fisheries) in the Methow River watershed.

The campaign to withdrawal the Upper Methow from mineral entry has amassed an impressive coalition – a large and diverse group partners, including over 100 local businesses and organizations, tribes, local and state elected officials, and numerous sportsmen and recreational organizations. The prospect of an industrial-scale mine on Flagg Mountain or anywhere else in the Upper Methow Valley represents a direct threat to the very values at the heart of success in the community and the quarter-billion-dollar investment private landowners, tribes, and state and federal agencies have made in conservation, restoration, and recreation efforts over the years.

Simply put, industrial-scale mining would threaten all that is special about the Methow and devastate its local economy, natural environment, and quality of life. On behalf of our more than 160,000 members across the country—including the more than 4,700 who reside in the state of Washington—we sincerely thank Senators Murray and Cantwell for introducing this bill.

For questions related to these comments, please contact the following:

Crystal Elliot
Project Manager
WA Abandoned Mine Restoration
celliot@tu.org

Gregg Bafundo
Washington Field Coordinator
Sportsmen's Conservation
Project gbafundo@tu.org

Steve Moyer
VP of Government Affairs
smoyer@tu.org

Kate Miller
Director of Government Affairs
kmiller@tu.org

TROUT UNLIMITED

September 22, 2016

Re: Trout Unlimited Opposes S. 3203 and S. 3273

Trout Unlimited strongly opposes S. 3203 and S. 3273 because of their potentially severe impact to Alaska's world-class fisheries, fish and wildlife heritage, and Alaska's federally-owned public lands. Alaska is home to some of the most important and productive fish and wildlife habitat in the world. From the vast Tongass and Chugach National Forests to the hugely-popular Kenai National Wildlife Refuge to Katmai, Lake Clark, Wrangell St. Elias, Denali and beyond, these iconic places and their lesser-known counterparts support seemingly limitless populations of wild Pacific salmon, caribou, moose, deer, bear, bald eagle, and many, many other species. These fish and wildlife populations and the lands they inhabit are the underpinnings of Alaska's communities, economy and cultures, are the basis for Alaska's unmatched commercial fishing, tourism, outfitter and guide, and subsistence industries, and afford Alaska residents a quality of life that is unmatched around the globe.

Many of the most valuable and productive landscapes in Alaska remain accessible to a multitude of commercial, sport and subsistence users *because* they are federally owned. Turning Alaska's federal lands over to private interests or mandating vastly increased and irresponsible oil, gas, mineral and timber exploitation, as these bills would do, would forever alter the landscape, economy and people of Alaska, and commit Alaska to repeating many of the same mistakes made the world over. TU has the following significant concerns with these bills:

- **Transfers 2 Million Acres to the State for Logging (S. 3203)** – Two million acres would transfer out the Tongass National Forest to the State of Alaska to be managed for intensive resource development. Federal protections for important fish and wildlife habitat—such as 100-foot buffers along salmon streams where logging is prohibited, and requirements for environmental review and public notice—would no longer apply. Public access and commercial use by existing outfitters and guides or tourism businesses would not be guaranteed. The transferred lands could come from Congressionally-designated LUD II lands, Inventoried Roadless Areas, or nearly any other area outside of Wilderness, National Monuments, or National Park System lands.

- **Holds Millions of Acres Hostage to Increased Oil and Gas Production (S. 3203)** – This legislation would set the unreasonable and impossible-to-meet goal of increasing oil production from federal lands in Alaska by 500,000 barrels of oil per day by 2026. If the deadline for developing a plan to meet this goal is not met, the State of Alaska would gain new entitlements to 1 million acres of federal land for each year the deadline lapses. Meanwhile, the bill also eliminates important protections for sensitive fish and wildlife habitat, excludes public input from land management decisions, and effectively elevates oil and gas production over all other concerns.

- **Expands Mining Activity in Important Areas (S. 3203)** – The legislation dramatically expands mining rights by limiting federal regulation and allowing mineral activity in protected areas, such as National Parks, without environmental review or public participation in decision-making. Areas of Critical Environmental Concern, which are designations made by the Bureau of Land Management to protect subsistence and ecological values, would be revoked. Additionally, any federal designation of more than 5,000 acres of federal lands that in some way limits development activities would require approval by a joint resolution from Congress.

- **Circumvents the Alaska Native Claims Settlement Act (S. 3273)** – Just one year after the Sealaska Lands Bill was celebrated for "finalizing" all outstanding Alaska Native claims, this legislation would unravel the Alaska Native Claims Settlement Act (ANCSA) by opening unprecedented doors for the creation of entirely new for-profit ANCSA corporations, increasing the corporate land cap, and expanding corporate selection power. This bill would create five new ANCSA corporations with entitlement to more than 115,000 acres of the most valuable and productive timber lands in the Tongass. The Cook Inlet Regional Corporation could lay claim to 43,000 acres from nearly anywhere in Alaska—including from National Wildlife Refuges (all but the Arctic National Wildlife Refuge), National Petroleum Reserves, and on almost any federal lands in Alaska outside of Wilderness, National Monuments or National Parks System lands. Sealaska Corporation could trade nearly worthless subsurface rights on Admiralty Island for surface rights to lands on Prince of Wales Island with highly valuable timber resources. If this legislation passes, it will foreshadow how other ANCSA corporations will try to obtain similar sweetheart deals in the future and set the precedent for creating an untold number of entirely new ANCSA corporations with claims to federal lands throughout Alaska.

- **Reopens the Alaska Native Allotment Act (S. 3273)** – This bill reopens the 1906 Alaska Native Allotment Act for the third time, after Congress considered the matter final in 2000, and allows an estimated 2,800 individuals or their heirs to select and receive 160 acres each, for a

total of up to 460,000 acres. This would create a patchwork of inholdings across Alaska where the most valuable and important parcels become private and off limits to the public.

- **Exempts the Tongass and Chugach from the Roadless Rule (S. 3203)** – The 2001 Roadless Rule, which prohibits most commercial logging and road building within inventoried roadless areas, would no longer apply to National Forests in Alaska. This will put at risk millions of acres of important fish and wildlife habitat in the Tongass and Chugach National Forest and encourage a new era of highly-subsidized old-growth timber sales that return very little in economic gain while jeopardizing Alaska's valuable fishing and tourism economies, which in Southeast Alaska account for 24 percent of private-sector employment.

- **Mandates a Land Exchange with the Alaska Mental Health Trust (S. 3203)** – An existing and ongoing administrative land exchange between the State of Alaska and the U.S. Forest Service would be supplanted by a mandate for the U.S. Forest Service to trade valuable timber lands and geologically sensitive areas to the State of Alaska without adequate public or environmental review. Under this legislation, adjacent landowners and other stakeholders would lose the opportunity to participate in a decision that will impact their livelihoods.

While each of these bills threatens serious and permanent impact to Alaska's important fish and wildlife, taken as a whole they represent an attack on Alaska's federal lands and the irreplaceable fish and wildlife habitat they support. These bills would trade away the long-term foundation of Alaska's communities and economy for short-term gain by favored interests.

For questions related to these comments, please contact the following:

Austin Williams
Alaska Director of Law and Policy
awilliams@tu.org

Steve Moyer
VP of Government Affairs
smoyer@tu.org

Kate Miller
Director of Government Affairs
kmiller@tu.org

SUPPLEMENTAL TESTIMONY
October 18, 2016

UIC Response to BLM Testimony on S. 3273, Alaska Native Claims Settlement Improvement Act

The Ukpeagvik Inupiat Corporation ("UIC") wishes to supplement the testimony it provided to the Committee on September 22, 2016 and inform the Committee of UIC's ongoing efforts to resolve the concerns raised in the Bureau of Land Management's ("BLM") testimony on Section 3 of S. 3273, the Alaska Claims Settlement Improvement Act, before the Senate Energy and Natural Resources Committee.

UIC has long-demonstrated its consistent commitment to conserving the nesting sites and natural habitat of the Steller's Eider. The UIC Board of Directors has mandated that UIC take a multipronged approach to mitigate any potential impact which gravel extraction and community development might have on the Steller's Eider population on UIC lands surrounding Barrow, Alaska. Pursuant to this mandate, UIC has for more than a decade worked closely with the U.S. Fish and Wildlife Field Office in Fairbanks, Alaska, and with the Interior Department's Endangered Species Office in Fairbanks, as partners in protecting the Steller's Eider on UIC's lands.

In February 2004, UIC and Interior Department officials in Fairbanks developed a Draft Steller's Eider Conservation Plan ("2004 Draft Plan") that was designed to maintain and increase the number of breeding pairs of Steller's Eider in Barrow and to provide consistency and predictability for aspects of federal permitting related to Endangered Species Act ("ESA") when developing critical community infrastructure in Barrow. While the U.S. Interior Department never finalized and implemented the 2004 Draft Plan, UIC has continued to engage with Fish and Wildlife staff to shape more effective Steller's Eider habitat protection measures.

One of the key components of the 2004 Draft Plan required the Fish and Wildlife Field Office to purchase land from UIC to be held in perpetuity for the purpose of conserving the habitat of the Steller's Eider. But over time, it has become clear that the migratory nesting and brooding habits of the Steller's Eider may not be well-served by a fixed, conservation area. Instead, UIC has re-engaged with the Fairbanks Fish and Wildlife Field Office to update the 2004 Draft Plan to reflect UIC's existing multi-pronged approach to conservation.

To directly mitigate any impacts of its gravel extraction under Section 3 of S. 3273, UIC has collaborated with the Fairbanks Fish and Wildlife Field Office on an enhanced plan involving post-extraction gravel pit reclamation efforts that include the construction of a wetlands area designed with gradual side slopes and varying reclamation lake bottom depths to increase the functional utility of the wetlands and encourage high-use by waterfowl like the Steller's Eider.

Meanwhile, UIC will continue to ensure that all of its activity on its lands helps conserve the natural habitat of the Steller's Eider by embedding principles outlined in the 2004 Draft Plan in all of its operational plans. UIC's subsidiary, UMIAQ Environmental, LLC, which develops permit packages for development projects, has –

- cultivated positive working relationships with the Fairbanks Fish and Wildlife Field Office regarding Section 7 ESA consultation to conserve endangered and threatened species;

- provided the Fairbanks Fish and Wildlife Field Office a map of all of the potential development projects in Barrow in an effort to proactively ensure that the development goals of the City do not have an adverse impact on the Steller's Eider population; and
- developed a mitigation plan involving the removal of abandoned powerlines in the Barrow area that threaten the Steller's Eider. This mitigation plan is subject to the U.S. Corps of Engineers 404 permit process.

In addition, UIC is working on a plan to set aside 3,000 acres of its lands for the creation of a Wetland Mitigation Bank, which will further support Steller's Eider nesting habitats. UIC strategically chose the location of the Wetland Mitigation Bank by working collaboratively with the Fairbanks Fish and Wildlife Field Office to identify land that was near high use Steller's Eider nesting and brooding areas. These areas have been continuously dedicated by UIC since the 1940s to the long-term scientific study of tundra, soil, animals, and weather that cannot be replicated anywhere in the Arctic. UIC is determined to continue to protect these areas for future generations with a conservation easement tied to the 404 mitigation program with the Corps of Engineers.

UIC believes the concern stated in the Department's testimony is an indication of the Department's renewed commitment to collaborate with UIC in updating and strengthening UIC's ongoing Steller's Eider conservation plans. UIC would have no objection to the addition of Committee report language which would require UIC reclamation efforts after the conclusion of sand and gravel extraction operations to provide for enhancements to the Steller's Eider habitat.

Conclusion. UIC is pleased to report that the Interior Department's concerns are being resolved through active collaboration between UIC and Interior's field staff. UIC looks forward to working with the Department to finalize and implement its Steller's Eider conservation plan.

VETERANS OF FOREIGN WARS OF THE UNITED STATES
www.vfw.org | info@vfw.org

September 16, 2016

The Honorable Lisa Murkowski
United States Senate
709 Hart Senate Office Building
Washington, DC 20510

Dear Senator Murkowski:

On behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, I am pleased to offer our support for S. 3315, *Second Division Memorial Modification Act.* This important legislation would upgrade the Second Division Memorial by placing three benches at the memorial which honors those who have served in the Second Division.

The Second Division has a long history of service, and the memorial honors those who were killed in combat during the wars in Korea, Iraq, and Afghanistan. The Division led the breakout from the Pusan Perimeter during the Korean War, served alongside the United States Marine Corps in Iraq, and was the first to deploy Striker units in Afghanistan.

Today, the Division continues to serve on the frontlines in one of the most dangerous locations in the world. With nearly 10,000 soldiers serving on the Korean penisula, it conducts joint operations with more than 1,000 embedded Republic of Korea soldiers to ensure our strategic ally remains ready to maintain peace in the region.

The VFW applauds your effort to recognize those who have worn our nation's uniform. Your leadership on this issue is commendable. We look forward to working with you to pass this legislation.

Sincerely,

Raymond C. Kelley, Director
VFW National Legislative Service

Ripchensky, Darla (Energy)

From: Alex Vollmer <abvollmer@expertcivilengineer.com>
Sent: Friday, September 23, 2016 8:32 PM
To: fortherecord (Energy)
Subject: Tongass National Forest: S.3203 & S.3273; Hearing date: 9/22/16

Importance: High

S.3203:

Sect. 402. Our National Forests must be managed for ALL users, and NOT elevate mining interests above all users of the Forest

Sect. 503. The roadless Rule makes sense fiscally and ecologically and should continue to be implemented in Alaska.

Sect. 502. No logging should occur on the steep hillsides and popular recreation areas that the Alaska Mental Health Trust currently owns, but this issue can be resolved in Alaska, federal legislation is not necessary.

Sect. 503. Set-aside of acreage for timber production, not multiple use should not be allowed. Federal standards should be followed for a National Forest which belongs to ALL the people.

S.3273:

Sect. 6 Admiralty Land Exchange is not of equal value – 500 acres of old growth forest in exchange for 23,00 acres of subsurface real estate at Cube Cove is not an equal exchange.

Sect. 10. The wording in this section fails to provide protection for Tongass Legislated LUD II wildlands and perpetuates all the flaws of the ANCSA corporate model.

Sect 11. This Section causes more problems than it solves by reversing key compromises reached in 1998 and disrupts efforts to finalize entitlements under existing laws.

Thank you for your consideration of my thoughts.

Alex Vollmer
26 Narragansett Cove
San Rafael, CA 94901-4476
415-785-4949 (h)
415-454-9970 (c)
abv5@cornell.edu
If something's not to your liking, change your liking. R. Steves

Ripchensky, Darla (Energy)

From: Margo Waring <margowaring@gmail.com>
Sent: Friday, September 23, 2016 4:59 PM
To: fortherecord (Energy)
Subject: Protect the Tongass comments on S.3273 and S. 3203

I am a resident of Juneau, Alaska, a city within the Tongass National Forest. I have a stake both as an American who shares an interest in this forest and as a resident within it. I urge you to keep the Tongass in federal public hands and managed in the best interest of all Americans, instead of piecemeal giving it to private and state interests which received fair allocations decades ago.

Logging in the Tongass does not support jobs or communities. Fishing and tourism supports both. Climate disruption makes preservation of the Tongass more important than ever as an intact and, therefore, resilient, ecosystem.

S. 3203. Do not restrict USFS management of mining (Sec. 402) or exempt the Tongass from the Roadless Rule (Sec. 503).
Do not approve a land exchange with the Alaska Mental Health Trust or with state forests as neither protects environmental values as well as the USFS. (Sec. 503).

S. 3273 Stop the transfer of more than 23,000 acres to new Native corporations. (sec. 10).

Margo Waring
11380 N. Douglas Hwy.
Juneau, AK 99801

Washington Outdoor Alliance

Access Fund • American Alpine Club • American Whitewater • El Sendero Backcountry Ski and Snowshoe Club • Evergreen Mountain Bike Alliance • The Mountaineers • Washington Climbers Coalition • Washington Trails Association

February 22nd, 2016

Secretary Sally Jewell
Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

Chief Thomas Tidwell
U.S. Forest Service
1400 Independence Ave., SW
Washington, D.C. 20250-1111

Jim Peña, Regional Forester
Pacific Northwest Region (R6)
U.S. Forest Service
1220 SW 3rd Avenue
Portland, OR 97204-3440

Mike Williams
Forest Supervisor
Okanogan-Wenatchee National Forest
215 Melody Lane
Wenatchee, WA 98801

Re: *Letter of Support for Withdrawal of Lands from Mineral Entry in the Headwaters of the Methow River in the North Cascades of Washington State*

Dear Secretary Jewell, Chief Tidwell, Regional Forester Peña, and Supervisor Williams:

Washington Outdoor Alliance writes in support of protecting the Upper Methow Valley in the North Cascades from industrial-scale mining by administratively withdrawing the lands in the upper valley from mineral entry and exploration.

The Access Fund, American Alpine Club, American Whitewater, El Sendero Backcountry Ski and Snowshoe Club, Evergreen Mountain Bike Alliance, The Mountaineers, Washington Climbers Coalition, and Washington Trails Association—all human-powered recreation organizations in Washington State—come together as a coalition on issues relating to recreation, access and conservation. As Washington Outdoor Alliance, we represent more than 35,000 members who recreate on public lands. Many of our members who value the quality of life benefits and access to exceptional close-to-home recreation of the Methow Valley live in the communities within the Methow valley. For the rest of our members across the state and visitors from around the country, the Methow Valley is a popular destination for outdoor recreation of national significance. Due to the travel time to reach the Methow Valley, trips of a week or more are common with significant economic benefits to the local economy. Many of our local members are directly employed in the outdoor recreation industry.

The Methow Valley is one of the most important landscapes in the state of Washington and of national significance for outdoor recreation with a diversity of opportunities for the recreational pursuits our members enjoy. Dozens of Forest Service trails and the Pacific Crest Trail pass through the valley providing hiking and backpacking opportunities. Mountain bikers ride trails that include Slate Peak, Rendezvous Loop, and West Fork Methow, Yellow Jacket, Cutthroat, and Cedar Falls. They also ride the Methow Community trail which connects to other riding areas and the communities of Mazama and Winthrop. Nordic skiers have access to the most extensive network of groomed trails in North America with over 120 miles to choose from. Backcountry skiers explore nearly endless terrain on the east slope of the Cascades. Whitewater boaters enjoy the experiences on the Methow River and Chewuch that have easy access for day trips, while the Lost River offers one of the finest backcountry whitewater adventures in the North Cascades. Climbers have easy access to Goat Wall, Fun Rock, and Propsector Wall while winter adventures can include ice climbing at Goat Wall and Gate Creek. For mountaineers, Golden Horn is a trip deep in a Forest Service roadless area that provides spectacular views of the North Cascades. Some of the best alpine climbing in the United States is a short drive up Highway 20 to the iconic Liberty Bell Group and Burgundy Spires at Washington Pass. These alpine destinations, that also include classic backcountry ski terrain such as Silver Star, are within the North Cascades Scenic Highway Zone that is currently withdrawn from mineral entry.[1] This protection needs to be extended to include the rest of the nationally-significant outdoor recreation resources in the Methow Valley.

The national significance of the Methow Valley for outdoor recreation is due to the quality of all the opportunities described above that attract visitors from across the country and around the world. These high quality experiences for outdoor recreation are available throughout the year, in contrast to other outdoor recreation destinations that are more seasonal. An additional contributing factor to the national significance is the range of difficulty with some destinations challenging the nation's top experts while others are suitable for families and serve as perfect teaching venues for those just learning the activities we enjoy. The local community, including many of the members we represent, has successfully built an outdoor recreation economy around these experiences that would be threatened by the development of a large scale mine on Flagg Mountain at the headwaters of the Methow watershed.

Industrial scale mining in the headwaters is simply incompatible with the recreational activities our members enjoy and the significant local economic benefits they provide. Polluted waters, disturbed lands and viewsheds, lost recreational access, and noisy industrial activity would erase the very reasons our members choose the Methow Valley as a recreation destination. Large-scale surface mining would drastically alter this landscape forever through impacts to water quality and the health of the

[1] 75 FR 19999 - PUBLIC LAND ORDER NO. 7739; EXTENSION OF PUBLIC LAND ORDER NO. 6776; WASHINGTON

surrounding landscape. According to reports compiled by the Environmental Protection Agency, the metal mining industry is the largest toxic polluter in the nation.[2]

Given the mining threats that will undermine the significant community and regional investment in outdoor recreation in the Methow Valley, we request that you work together and move quickly to initiate the process to administratively withdraw Flagg Mountain and appropriate surrounding national forest lands in the Upper Methow Valley from mineral exploration and entry for as long as possible, and to secure any funding that may be necessary to complete the withdrawal process. This action is critical to protecting one of the most visited and beloved valleys in Washington state. Thank you for your consideration and leadership on this important issue.

Sincerely,

Joe Sambataro, Northwest Regional Director, Access Fund
Eddie Espinosa, Northwest Region Manager, American Alpine Club
Thomas O'Keefe, Pacific Northwest Stewardship Director, American Whitewater
Gus Bekker, President, El Sendero Backcountry Ski and Snowshoe Club
Yvonne Kraus, Executive Director, Evergreen Mountain Bike Alliance
Katherine Hollis, Conservation and Recreation Director, The Mountaineers
Matt Perkins, Washington Climbers Coalition
Andrea Imler, Advocacy Director, Washington Trails Association

Cc: Senator Patty Murray, United States Senator
Senator Maria Cantwell, United States Senator
Representative Dan Newhouse, U.S. House of Representatives
Tom Vilsack, Secretary, Department of Agriculture
Neil Kornze, Director, U.S. Bureau of Land Management
Christy Goldfuss, Managing Director, White House Council on Environmental Quality
Jerome Perez, Washington and Oregon Office, U.S. Bureau of Land Management
Michael Liu, Methow Valley District Ranger, Okanogan-Wenatchee National Forest

[2] http://www.epa.gov/toxics-release-inventory-tri-program/2013-tri-national-analysis-comparing-industry-sectors

Brent Goodrum
President, WSLCA
907-269-8625

Kathy J Opp
Executive Director, WSLCA
208-870-7407



204 N. Robinson St.
Suite 900
Oklahoma City, OK 73102
www.wslca.org

Excellence ~ Collaboration ~ Integrity ~ Stewardship

Testimony of the Western States Land Commissioners Association

Hearing on S. 3316, the Advancing Conservation and Education Act

Senate Energy and Natural Resources Committee

September 22, 2016

Chairwoman Murkowski, please accept for the official hearing record the written testimony of Brent Goodrum, Director, Division of Mining, Land and Water, Alaska Department of Natural Resources and President of the Western States Land Commissioners Association in support of S. 3316, the Advancing Conservation and Education Act of 2016 (ACE) sponsored by Senators Heinrich and Flake.

The Western States Land Commissioners Association ("WSLCA") is comprised of 23 Western, and some not so Western, states who share the common mandate of managing trust lands on behalf of school children in our states on a bi-partisan basis. Upon statehood, our member states were entrusted with hundreds of millions of acres of lands and minerals to be managed specifically to provide funding for public education and other state institutions. Today, our member states manage over 447 million acres of lands, submerged lands, and minerals. To put this in perspective, 447 million acres is roughly two and one half times the size of Texas. As a group, we are the second largest land manager in the nation, second only to the Federal Government. Since 1949, our Association has strived to improve the management of these lands on behalf of our beneficiaries. Currently, our combined trusts amount to over 271 billion dollars which generate over three billion dollars for public schools annually. Our members manage land and minerals for many purposes, including mineral and energy development, timber, agricultural production, commercial and residential development, open space, critical wildlife habitat, recreation, and a myriad of other uses that generate funds for public schools.

The vast majority of the 447 million acres of lands and minerals that our member states currently manage by the nature of our statehood acts are interspersed with federal lands throughout the West. During early settlement in the Midwest from 1803 to 1858, states were granted one section per township. In the arid West, between 1859 and 1890, states were provided with two sections per township, and in the really arid West, meaning Utah, Arizona, and New Mexico, these states were granted four sections per township. Within the 11 most Western states and Alaska where federal ownership is prevalent, these scattered sections are intertwined with lands managed by the Department of Interior and the U.S. Forest Service where land management mandates vary drastically from the legal mandates placed upon state land managers. Pursuant to our statehood acts and state constitutional mandates, states are obligated to manage these lands with a single purpose—to generate revenue for public schools and state institutions.

According to the U.S. Supreme Court in Andrus v. Utah, "the school land grant was a 'solemn agreement' which in some ways may be analogized to a contract between private parties. The United States agreed to cede some of its land to the State in exchange for a commitment by the State to use the revenues derived from the land to educate the citizenry." However, because the settlement and privatization of federal lands largely came to an end with the passage of the Taylor Grazing Act in 1934, millions of acres of trust lands remain trapped within federal ownership. For almost a century, Congress has made decisions to reclassify federal lands with a wide range of management and policy prescriptions. As the Park Service celebrates its 100th anniversary and as the country now appreciates over 50 years of designated Wilderness, the mandate for school trust lands has remained constant. Congressional actions and policy decisions over the decades have trapped millions of acres of school lands and minerals within National Parks, Wilderness areas, Wildlife Refuges, National Monuments and other federal designations. In order to keep the "solemn promise" to the school children of our states, S. 3316 represents an effective tool to move these trapped state trust land and minerals from within constrictive federal ownership into appropriate locations where the generation of income is appropriate and acceptable.

Existing administrative and legislative solutions are costly, complicated, unpredictable, and horribly time consuming. Administrative land exchanges with agencies within the Department of Interior or with the U.S. Forest Service are no longer a feasible tool to complete exchanges between states and the Federal Government. The Department of Interior has implemented policies and guidelines that have made administrative exchanges nearly impossible to complete in any reasonable time frame. Moreover, the Department has failed make the exchange process a priority and therefore funding has been woefully inadequate for years. Many of our member states can cite specific examples of administrative exchanges taking over a decade to complete. Frustrated with the administrative process, some states have turned to Congress to effectuate these exchanges. As the Committee is well aware, the congressional process is unpredictable, often expensive, and can still take years to complete even if there is broad support for a proposed



exchange. Lastly, funding to purchase state inholdings within federal conservation areas has essentially disappeared as budgets for these purposes have been reduced dramatically over recent decades. The bottom line is that our existing options for removing state lands from within federal conservation areas just do not work.

S. 3316 represents several years of work between WSLCA member states, Members of Congress, and outside groups to craft a proposal that we believe will be an effective tool to allow states to efficiently remove their lands from inside federal conservation areas and relocate these values to locations that are more appropriate for the generation of revenue for schools and state institutions. Additionally, S. 3316 will enhance federal conservation and management areas by eliminating the state owned inholdings. We believe we have built a broad spectrum of support for S. 3316 and we are now turning to this Committee to assist in moving this effort forward through the legislative process.

As a supplement to exchanges and purchases, S. 3316 utilizes authorities patterned after similar existing federal statutes (43 U.S.C. 851-852) that permit state "in lieu" selections of federal public lands. These statutes, originally codified as Revised Statutes 2275-2276, allow Western land grant states to select federal lands in lieu of lands originally granted to the states that ended up not being available due to preexisting conveyances or federal special purpose designations. By way of example, if the federal government had created an Indian reservation or issued a homestead patent before a state's title to a particular state parcel had vested, the state was entitled to select an equal amount of available federal land in lieu of the lands that were lost (in lieu selections are often synonymously referred to as "indemnity" selections).

By creating new conservation designations that have prevented states from utilizing school lands for their intended purposes, the United States has in a very real sense failed to live up to the promise of the statehood land grants. S. 3316 would help rectify this situation by confirming the right of the states to relinquish state trust lands within federal conservation designations to the United States, and select replacement federal lands outside such areas. This would allow the Federal Government to obtain unified ownership and management authority over areas deemed important for conservation management. It would also uphold the "bargain" struck by the United States and the Western states under which states would be given useable land for the support of public schools and other public institutions.

The mechanism of relinquishment and selection has been utilized previously by Congress, and should not be difficult to implement. Under S. 3316, individual states with lands within federal conservation designations would simply deed the lands back to the United States, subject to any valid existing rights. This conveyance would entitle the states to select replacement lands from the federal public lands that are not environmentally sensitive or designated lands as identified in the legislation. This will insure that economic development of state trust assets will occur in

appropriate regions of the state. Furthermore, the legislation insures that the original intent of protecting certain lands by Congress or the President is fulfilled.

S. 3316 guarantees that these transactions will be of equal value, permitting for expedited valuation of low value lands. Additionally, the legislation provides for National Environmental Policy Act (NEPA) compliance as well as providing the Secretary with sufficient discretion to protect against transactions that are not in the public interest. Lastly, the legislation protects valid existing rights, including respecting existing mining claims and grazing leases.

WSLCA has one very technical concern with the language provided for in Section 3(5)(B)(v) which indicates per the legislation that a state could not select into lands "within the boundary of an Indian reservation, pueblo, or rancheria." Under the terms of S. 3316, the Secretary cannot convey lands other than public lands as defined in section103 of FLPMA which would not include lands within a reservation, pueblo, or Rancheria if they are recognized by the Secretary. Moreover, the Secretary cannot convey lands which are held in trust on behalf of a tribe or is owned by a tribe under current law. We believe this language is duplicitous and unnecessary. The Secretary retains full discretion to reject a state proposal that attempts to select tribal lands. We request the language of Section 3(5)(B)(v) be deleted from the draft.

In conclusion, S. 3316 is a non-partisan effort to provide state trust managers with an additional tool to effectively carry out their fiduciary responsibilities of generating revenue from trust lands and minerals for the benefit of public education. We appreciate the hard work of Senators Heinrich and Flake, the Department of Interior, and our member states. We urge the Committee to enact S. 3316 as soon as practicable and we stand ready to assist in that effort.

Sincerely,

Brent Goodrum, President
Western States Land Commissioners Association
www.wslca.org

Ripchensky, Darla (Energy)

From: Ted Whitesell <ted.whitesell@gmail.com>
Sent: Friday, September 23, 2016 5:13 PM
To: fortherecord (Energy)
Subject: S. 3203, the Alaska Economic Development and Access to Resources Act, AND S. 3273, the Alaska Native Claims Settlement Improvement Act of 2016

Honorable Members of the Senate Energy and Natural Resources Committee:

As a former Alaska resident and a current resident of Washington state, I am deeply concerned about the referenced legislation. I know the Tongass National Forest very well, having worked professionally on fisheries research and forest conservation there for ten years, and I can say that the legislation introduced by Senator Murkowski would harm the interests of all U.S. citizens by compromising the multiple use and sustainability principles of our national forests. I urge you to vote down these harmful proposals, in the interest of protecting our public lands and resources for all current and future citizens of this country.

Thank you for considering my views.

Sincerely,

Edward A. Whitesell, Ph.D.
816 Plymouth St., SW
Olympia, WA 98502



September 22, 2016

TESTIMONY from Wild Rivers Wild Brews, Craft Brewers for Clean Water in support of the Southwestern Oregon Salmon and Watershed Protection Act (S. 346/ H.R. 682)

We the undersigned breweries of southwest Oregon are writing in support of the Southwestern Oregon Salmon and Watershed Protection Act (S. 346, H.R. 682.), which would permanently withdraw approximately 101,000 acres of Forest Service and Bureau of Land Management (BLM) land at the headwaters of some of the finest rivers in southwest Oregon from entry and location on under the mining laws of the United States. We make this request for the multitude of benefits that come from protected watersheds.

For starters, clean water is essential for making great tasting beer. Clean water also plays a critical role in providing drinking water for healthy communities, providing habitat for fish and wildlife and supporting local agriculture. Our coalition of breweries stands together to support protections that would keep the crystal clear, salmon-studded waters of the Kalmiopsis clean for our communities, fish and wildlife, and local businesses that depend on clean water.

The communities that surround the Smith, Illinois, and Pistol rivers and Hunter Creek have so much to gain from healthy, protected watersheds. Investment in sustainable industries and community infrastructure will add to the attractiveness of the region, bringing new businesses and residents alike. Craft brewing, tourism, and recreation based business ventures are growing industries and assets to Curry and Josephine counties and the surrounding areas of southwest Oregon. With the threat of destructive nickel strip mining, these natural treasures and related local industries of southwest Oregon are endangered.

We believe that clean water, fish and wildlife habitat, and recreational opportunities must be protected now, and preserved for future generations. These uses represent the highest and best use of our public lands and resources. The high quality of life in southwest Oregon attracts new residents and creates jobs that strengthen our small businesses and local communities.

We appreciate that our Senators Wyden and Merkley and Congressman DeFazio have introduced this bill that serves our communities so well and also helps to safeguard some of our nation's finest rivers and salmon runs in the lower 48, and we urge you to join them in supporting our communities' efforts to promote sustainable economic development in southwest Oregon's Wild Rivers Country.

Thank you for considering our testimony.

Sincerely,

James & Kristen Smith,
Head Brewer & Chief Operating Officer,
Arch Rock Brewing Co.
Gold Beach, OR

Mike Frederick & Alex Carr-Frederick
Owners & Brewers
Chetco Brewing Co.
Brookings, OR

Mark, Hanna and Matt Camarillo
Owners & Brewers
Misty Mountain Brewing Co.
Brookings, OR

Carmen Matthews & Annie Pollard
Co-owners & Brewers
7 Devils Brewing Co.
Coos Bay, OR

Jon Conner
Owner & Brewer
Conner Fields Brewing Co.
Grants Pass, OR

Rachel Koning
Common Block Brewing Co.
Medford, OR

Scott Saulsbury
Head Brewer
Southern Oregon Brewing Co.
Medford, OR

Nick Ellis
Owner & Brewer
Opposition Brewing Co.
Medford, OR

Cameron Litton
Head Brewer
Walkabout Brewpub
Medford, OR

Brandon Overstreet
Owner & Brewer
Swingtree Brewing Co.
Ashland, OR

Larry Chase
Head Brewer
Standing Stone Brewing Co.
Ashland, OR

Jim Mills
Owner
Caldera Brewing Co.
Ashland, OR



September 21, 2016

The Honorable Lisa Murkowski, Chairman
Senate Committee on Energy & Natural Resources
304 Dirksen Senate Building
Washington, DC 20510

The Honorable Maria Cantwell, Ranking Member
Senate Committee on Energy & Natural Resources
304 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Murkowski, Ranking Member Cantwell and members of the Committee:

On behalf of The Wilderness Society's 700,000 members and supporters from across the country, I write to express our views on some of the legislation being heard Thursday by the full Committee. Our views are divided into three categories: bills that undermine the Antiquities Act; bills that threaten Alaska's public lands and waters; and the remaining, largely place-based bills. I respectfully request that the following comments be included in the hearing record for September 22, 2016.

BILLS TO UNDERMINE THE ANTIQUITIES ACT

TWS is strongly opposed to any bills or amendments that would undermine the Antiquities Act, and we regret that the Committee will be devoting a significant portion of its scarce remaining time this session hearing no fewer than three such bills - none of which stand any chance of becoming law. For over 110 years, the Antiquities Act has proven to be one of our nation's most important and bipartisan conservation laws. Since it was first signed into law by President Theodore Roosevelt, the Antiquities Act has been used by 16 Presidents (8 Republicans and 8 Democrats) to protect some of our countries most iconic and priceless treasures, including nearly half of our national parks. All three of these dangerous bills would undermine this time-tested bi-partisan law. Specifically:

S. 437 - the Improved National Monument Designation Process Act (Senators Murkowski, Sullivan, Flake and McCain)

S. 437 would effectively render the Antiquities Act meaningless, entirely gutting the Act's intent. Congress originally passed the Antiquities Act to provide the President the authority to act swiftly for the public good to protect sensitive natural, historic, cultural, and scientific resources when Congress itself was unwilling or unable to do so. Subjecting Presidential action under the Antiquities Act to congressional approval renders the entire purpose of this law meaningless. Congress already retains the ability to act to protect public lands and waters as national parks,

monuments or other protective designations without needing to amend the Antiquities Act but time has shown the wisdom of providing the President this authority. A number of our most well-known places – including the Grand Canyon, Acadia and Olympic National Parks – were protected by forward thinking Presidents without clear congressional approval (and in these specific cases, with overt opposition).

In addition to requiring Congressional approval for any monument designation, the bill also requires state approval. Allowing a state legislature or Governor to essentially veto a decision that applies only to federal public lands is troubling and inappropriate. Granting state and local officials the ability to veto designations is entirely different than encouraging local input. Our federal lands are shared equally by all Americans and managed for the public good. Shifting the decision making authority of these public lands to a single state as proposed in S. 437 is wrong and counter to our nation's history of shared public lands.

S. 1416 - to limit the authority to reserve water rights in designating a national monument (Senator Flake, McCain, Lee and Hatch)

S. 1416 would undermine the potential protection of natural resources within future national monuments by prohibiting the proclamation from reserving federal water rights. It is exceedingly rare for a monument proclamation to reserve water rights. None of the 26 most recent national monument designations have reserved a federal water right. The blanket prohibition on reserving federal water rights proposed in S. 1416 is an over the top response to a nearly nonexistent issue. Recent proclamations have largely mirrored introduced legislation in boundaries and management, and of the two monument proposals in Arizona, both have legislative provisions specifically clarifying that the established monuments would not impact federal water rights by either creating or expanding new federal water rights.

While the vast majority of monument proclamations do not reserve water rights as a matter of federal law, there are a few instances—such as in Cascade-Siskiyou, Agua Fria and Carrizo Plain National Monuments—where a federal water right was reserved within the proclamation and where this is necessary for the protection and care of the objects for which the monument was designated. For example, providing enough water for protecting riparian habitat relied upon for objects of interest listed in the proclamation. While rare, in the cases where it has occurred, the authority to reserve water rights has been critical to caring for the resources protected by a national monument. Curtailing this authority could tie the hands of land managers to protect these resources and is an unnecessary attack on resource protections under the Antiquities Act.

S. 3317 - to exempt Utah from the Antiquities Act (Senators Lee and Hatch)

S. 3317 would essentially exempt all of the federal lands within one state from one of our nation's most important federal lands conservation statutes. Despite the Antiquities Act only applying to federal lands, this bill would block all new national monuments within Utah in perpetuity. Of Utah's "Mighty 5" National Parks – Arches, Capitol Reef, Canyonlands, Zion and Bryce Canyon – all but Canyonlands were originally protected via presidential use of the Antiquities Act. Even though they are now central to Utah's tourism industry, these designations weren't always celebrated by Utah's politicians. Asserting that there will never again be need for future Presidents to act to protect the priceless federal resources owned by all Americans within the boundaries of Utah – as this bill does -

would rob future generations of Americans and Utahans of one of the best tools available to protect special places.

S. 3317 is not only designed to undermine one of our nation's most vital conservation tools, it is also a direct attack on a historic tribally-led effort to protect sacred and ancestral lands. Five sovereign tribal nations – the Navajo, Hopi, Zuni, Ute Mountain Ute, and Uintah and Ouray Ute – have united to form a historic coalition to protect their sacred ancestral lands in the Bears Ears region of southern Utah as a national monument. This coalition and their proposal is further supported by another 21 tribes across the country as well as National Congress of American Indians, the largest and most representative American Indian and Alaska Native organization made up of the 250 tribes throughout Indian Country. This bill would block their historic efforts to protect their sacred sites and ancestral lands and undermine their sovereignty by removing their ability to petition directly to the President on a nation-to-nation basis.

We are disappointed that the Committee has taken up these three bills, and urge Members of the Committee to reject them.

BILLS THAT THREATEN THE INTEGRITY OF PUBLIC LANDS AND WATERS IN ALASKA

The Wilderness Society is also disappointed to see the Committee consider a collection of bills that, together, represent a frontal attack on Alaska's public lands and waters. Specifically, we urge the committee to reject the following legislation:

S. 3203 - Alaska Economic Development and Access to Resources Act (Senators Murkowski and Sullivan)

S. 3203 is a full assault on Alaska's federal public lands and waters and their conservation values. It aims to convert millions of acres of the wildest public lands into development areas for oil and gas, logging and mining; transfer millions of acres of federal land to the state of Alaska; and restrict future executive action to protect public lands. The impact of this bill touches vitally important habitat areas all across the state, from Alaska's Arctic, both on and off-shore, to interior and southcentral Alaska, down to the southern-most regions of the state in the Tongass National Forest. S. 3203 circumvents public input, undermines historical agreements and years of compromise, and ignores the fact that, at statehood, the state of Alaska received more acreage than any other state in the Union and benefitted enormously from these lands.[1]

[1] Congress granted Alaska at statehood the right to select 105 million acres of unreserved federal land to benefit the State. This is five times more acreage than any other state in the Union had received. This land entitlement provided the State enormous wealth and opportunity for economic development. Alaska chose lands that included some of Alaska's largest oil and gas reserves and other natural resource values. Alaska has prospered enormously economically as a result. In 1980, Alaska was able to abolish its individual income tax and there is no state sales tax in Alaska. Residents have benefitted from the lowest individual tax burden in the nation as well as from entitlements established from an oil reserve fund – the Alaska Permanent Dividend Fund.[1] Since development of the large Prudhoe Bay oil find, the majority of the State's budget has been funded by oil. Because oil prices are currently low and the state has not planned sufficiently for lean times, Alaska is struggling under its current budget framework.

By putting millions of acres of federal public lands on the chopping block, this bill attempts to maintain a business-as-usual approach in the state. This will do more harm than good for Alaska by compromising some of its greatest resources, namely wilderness and wildlife, that maintain Alaska's sustainable and renewable economies.

Title I – Fill TAPS
Title I mandates that the Federal government develop a plan to produce 500,000 barrels of oil / day from Federal land in Alaska by 2026, regardless of factors outside the federal government's control such as oil prices, oil company interest and other market forces, and state policy changes. If the production goal is not met, the federal government would be required to give the State of Alaska 1 million acres per year, starting in 2026, until the goal is met.

Title 1 is a stealth means to move lands from the Arctic National Wildlife Refuge and the National Petroleum Reserve – Alaska (NPR-A) to state control. The 500,000 barrels / day goal is unachievable without opening the Refuge and currently closed parts of the NPR-A to oil drilling and production. Each new oil development in the NPR-A currently costs approximately $1 billion to complete, and can take roughly ten years until production.[2] ConocoPhillips' CD-5 oil development, which began production this year, is expected to produce approximately 16,000 barrels / day at peak. Even if one such development opened each year through 2026 on federal lands, a highly optimistic assumption given that oil companies operating in Alaska have been cutting staff in recent years, oil production would be nowhere close to achieving the 500,000 barrels / day goal in Title 1.

Since current and future oil production trends on Federal land in Alaska cannot possibly achieve the Title I goal, it's clear that the intent of the bill is to open new Federal land to drilling and production by transferring Arctic National Wildlife Refuge and NPRA lands to the state.

Notably, Title 1's name, Fill TAPS, is highly misleading. As documented in our submission for the record, a state court decision between the pipeline owners and the state involving property taxes determined that TAPS is likely to operate 50 more years, i.e., until at least 2065, under current production trends and land ownership.[3]

Title II – Outer Continental Shelf
Title II contains two amendments to the Outer Continental Shelf Lands Act (OCSLA). S.3203's two amendments to OCSLA should not be considered by Congress in isolation without other potential OCSLA amendments.

The National Commission on the BP Deepwater Horizon These three important recommendations for OCSLA changes are:

1. "Significantly increase the liability cap and financial responsibility requirements for offshore facilities."[4] Pages 45-47 of the National Commission's Recommendations report provide a

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[2] See the ConocoPhillips graphic showing that the CD-5 development had preliminary engineering in 2005 and beginning production in 2016, http://www.conocophillipsalaska.com/ea/CD5Timeline/.

[3] *Judge pegs pipeline life at 50 more years,* Anchorage Daily News, January 5, 2012, http://www.adn.com/2012/01/04/2246015/pipeline-life-at-least-50-more.html

[4] National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Deep Water: The Gulf Oil Disaster and the Future of Offshore Drilling, Recommendations (January 2011), pp. 45-47.

good discussion of this issue including information on why the existing modest liability cap and financial responsibility requirements provide little incentive for companies to improve safety practices. Additionally, with such low liability and financial responsibility standards, a significant number of injuries, natural resource damages and government response costs could go uncompensated.

2. Protection for whistleblowers. The Recommendations report states that Congress should "[p]rovide protection for "whistleblowers" who notify authorities about lapses in safety…[by amending] the Outer Continental Shelf Lands Act or specific statutes to provide the same whistleblower protection that workers are guaranteed in other comparable settings."[5] The offshore industry clearly should have whistleblower protections comparable to those that exist in, for example, the pipeline industry.

3. Oversight funding. The Recommendations report states that Congress should "provide a mechanism…for adequate, stable, and secure funding to the key regulatory agencies – Interior, Coast Guard, and NOAA."[6] The National Commission goes on to say that this funding would ensure that agency personnel can perform their duties including expediting permits and reviews as needed, and hiring experienced engineers, inspectors, scientists, and first responders.

Congress needs to consider these types of critical amendments to OCSLA, not merely the isolated two contained S. 3203.

Section 201 allows for oil companies to suspend leases held in the Arctic Ocean – in effect extending the leases without either producing on them or rebidding on them in future lease sales. As required by the Outer Continental Shelf Lands Act, these leases were sold for initial terms of 10 years. At the end of each term, leases expire and revert back to the federal government, at which time a new decision must be made as to whether to lease again in those areas. Under specific circumstances, leases can be suspended by the Bureau of Safety and Environmental Enforcement (BSEE), pushing the expiration date beyond the initial 10-year term. Between 2003 and 2008, the oil and gas industry leased approximately 3.5 million acres in the Arctic's Beaufort and Chukchi Seas. Of those leases sold, only 1 current lease in the Chukchi Sea and 37 current leases in the Beaufort Sea remain today. Due in large part to self-inflicted mistakes and a lack of preparedness, companies that purchased leases in the Arctic Ocean have been unable to safely conduct drilling there, and many leaseholders have asked BSEE to exercise its authority and suspend the expiration of their leases. Allowing companies to keep leases longer than the standard 10 years is to the detriment of both the American taxpayer and the fragile environment of the Arctic, and this section is of significant environmental concern.

Section 202 undermines the well-established OCSLA lease sale process by mandating certain Alaska offshore lease sales, thereby undermining OCSLA's public involvement process. Specifically, Section 202 mandates two lease sales each in the next 5 year OCS drilling plan for the Beaufort (in 2017 and 2022), Cook Inlet (2017 and 2019) and Chukchi (2017 and 2019) planning areas. Considerable company failures (for example, Shell's disastrous 2012 drilling season), the harshness of the Arctic climate, and a 75% chance of a major oil spill in the Chukchi Sea if oil production

[5] *Id.*, p. 6.
[6] *Id.*, p. 8.

moves forward underscores why the Arctic is no place to drill. America's Arctic Ocean is also ground zero for the devastating impacts of climate change – warming at about twice the rate of the rest of the world – and offshore drilling will only exacerbate the problem. Legislating additional lease sales in the Arctic outside of the 5-year plan process and taking away the public's right to voice its concerns about Arctic drilling is of significant environmental concern.

Title III – Federal Onshore

Subtitle A – Authorizing Alaska Production

This Title opens the Arctic National Wildlife Refuge coastal plain to the full spectrum of oil and gas activities, from leasing, to exploration, to development, and strips the refuge coastal plain from the protections and restrictions to oil and gas development applied to the area in section 1003 of the Alaska National Interest Lands Conservation Act (ANILCA). Additionally, this Title deems oil and gas activities "compatible" with the purposes of the refuge identified in ANILCA, mandates that a future Legislative EIS results in a preferred alternative allowing oil and gas leasing, restricts any closures to oil and gas activities in the refuge's coastal plain and does away with restrictions to oil and gas activities on private, Kaktovik Inupiat Corporation and Arctic Slope Regional Corporation lands within the refuge coastal plain boundary. These lands were acquired by these private Native corporations in a former land exchange agreement without public input, and this action would once again circumvent public input and a full public process should it become law, allowing oil and gas development in the biological heart of refuge.

Additionally, Section 308 of this subtitle would trade over 500,000 acres of federal land and subsurface rights in the Refuge for adjacent state lands.

Section 309 would unilaterally decide a dispute over the western boundary of the Refuge that the BLM settled in the 1960s, but that the State has recently tried to revive. This provision would alter the western coastal boundary of the Arctic National Wildlife Refuge and provide to the state of Alaska additional lands for leasing and development.

The Arctic National Wildlife Refuge is the largest national wildlife refuge, which was expanded with the passage of ANILCA. The refuge is a vast, wilderness landscape of tundra plains, boreal forests, dramatic mountain peaks, and coastal lagoons situated in the nation's wildest, most northern edge. At 19.3 million acres, Wilderness opportunities abound, from wildlife watching and photography, to hiking, rafting and hunting. For thousands of years the area has been the homeland to Native Gwich'in and Inupiat communities and has sustained them physically and culturally. It has also provided a safe haven to great snowy owls, polar bears, more than 45 species of mammals, including wolves, Dall sheep, grizzly bears, and over 160 species of birds. Continued protection of its ecosystems will enable these species to adapt as the Arctic climate warms and will benefit all Americans. The Arctic Refuge is a wilderness refuge, and the crown jewel of our nation's National Wildlife Refuge System - an important part of our nation's heritage.

The coastal plain of the Arctic Refuge is widely recognized as the biological heart of the 19.3 million-acre refuge. It is also the subject of repeated efforts by oil industry advocates to develop oil and gas. No part of ANILCA has been more hotly debated than the provisions of Title X of ANILCA that pertain to the future of the approximately 1.5 million-acre coastal plain. Section 1003 of ANILCA states that, "[p]roduction of oil and gas from the Arctic National Wildlife Refuge is prohibited and no leasing or other development leading to production of oil and gas from

the range shall be undertaken until authorized by an Act of Congress." In the decades since passage of ANILCA and despite repeated attempts, Congress has not yet authorized such development. In July of 2015, the U.S. District Court of Alaska affirmed that the coastal plain of the Arctic National Wildlife Refuge is off limits to oil and gas exploration. The litigation was the result of repeated decisions by the US Fish and Wildlife Service and the US Department of Interior (DOI) to reject an effort by the State of Alaska to conduct seismic exploration in the coastal plain of the Arctic Refuge. The State had asked the federal court to overturn the DOI decision.

In February, 2015, the Obama administration recommended 12.28 million acres of the Arctic Refuge be designated wilderness. This recommendation came after a full scientific analysis and public process, and underscores the values of the Refuge, the critical role it will continue to play for sustaining Native cultures, the important benefits the Refuge provides to all Americans and its valuable role for wildlife species adaptation in our changing Arctic climate. The administration's wilderness recommendation was transmitted to Congress, emphasizing the need for legislative action. Clearly, the unparalleled intrinsic wilderness values of the Arctic Refuge far outweigh any short-term gains from oil and gas development within its boundary.

Subtitle B – National Petroleum Reserve – Alaska

This provision of S.3203 would mandate one or more area-wide lease sales in the western Arctic's National Petroleum Reserve – Alaska, removing the discretion and decision-making authority from the Interior Secretary regarding when and how to proceed with lease sales. In 2010, the US Geological Survey determined that the Reserve contains only about 10 percent of the oil than was previously thought (less than 1 billion barrels), based on an analysis of exploratory drilling, with much of the high-potential area in the northeastern corner, including the Teshekpuk Lake Special Area. There has been a low level of interest by the industry to purchase leases in the NPR-A in the past five years, and this is unlikely to change given the current price of oil and the high cost of operating in this remote, northern region.

In 2013, DOI finalized the first ever comprehensive landscape management plan for the western Arctic's 23 million acre National Petroleum Reserve-Alaska (NPR-A), which provides a model for planning in other areas where both potential energy leasing and conservation is appropriate. The final plan balances the needs of development and conservation in the western Arctic. Titled the NPR-A Integrated Activity Plan, the plan protects key wildlife, wilderness and subsistence habitat in the western Arctic while allowing for potential oil and gas development on 11.8 million acres - a little more than half of the NPR-A, containing 72 percent of the NPR-A's economically recoverable oil. Remaining lands in the NPR-A (approximately 11 million acres) are "unavailable for leasing." The plan is a tremendous step toward ensuring that key ecological areas in the western Arctic remain intact and that vital subsistence resources for Alaska Natives are preserved, while also providing for the potential of viable oil production.

During the planning process, the Bureau of Land Management (BLM) collaborated with state, federal, borough and Alaska Native entities, and considered thousands of additional comments from members of the public, NGO scientists, Alaska tribes and private interests. The public comments included resolutions representing approximately 90 subsistence-based communities urging protection of important caribou habitat, and scientific data regarding wildlife habitat and potential impacts to wildlife habitat from possible oil and gas development. Scientific research from NGOs and other governmental entities helped federal officials analyze wildlife distribution and uses of the

important habitat within the reserve, particularly caribou and waterfowl in the Teshekpuk Lake area. The plan is scientifically based.

The Reserve is located in the western Arctic - west of Prudhoe Bay - and borders the Arctic Ocean. It is an extraordinary and globally recognized ecological resource. BLM lands in the Reserve make up the largest single remaining unit of wild, public land in America -- 10 times larger than Yellowstone National Park, and nearly the size of Indiana.

The Reserve is home to polar bears, caribou, and millions of migratory birds that nest and breed on Alaska's northern coast. It also contains the largest wetlands complex in the circumpolar Arctic and some of the highest density shorebird nesting habitat known throughout the Arctic. The lakes and lagoons of the Reserve, such as iconic Teshekpuk Lake along the northern coast, are the birthplace of millions of birds that fly to five continents. The area also provides important calving and insect relief habitat for two of Alaska's largest caribou herds, with migrations that are reminiscent of the great bison herds.

Originally established in 1923 as a Naval Petroleum Reserve, Congress recognized the Reserve's extraordinary values in 1976 when it passed the Naval Petroleum Reserves Production Act and transferred management of these lands from the Navy to the BLM, directing BLM to study the resources of the area, including wilderness.

The Naval Petroleum Reserves Production Act provides for the Secretary of the Interior to determine whether and/or where to lease lands in the NPR-A for oil and gas, while it also directs BLM to establish Special Areas, protect special values and ensure the "maximum protection" of these areas identified by the Secretary as having "significant subsistence, recreational, fish and wildlife, or historical or scenic value." [42 USC § 6504] Since the transfer to BLM, the agency has established five Special Areas within the Reserve to protect their high ecological, subsistence and wilderness values. These Special Areas include the Teshekpuk Lake, Colville River, Utukok River Uplands, Kasegaluk Lagoon and Peard Bay Special Areas. Collectively, these areas include unparalleled caribou, waterfowl, shorebird, polar bear and marine mammal habitat and total more than 13 million acres.

This provision of S.3203 would ignore science and public input which favors a balanced management approach in the NPR-A, and would mandate one or more area-wide lease sales regardless of industry interest or cost to the federal government.

Title IV – Mining

Section 401 establishes a grant program within the Department of Energy that encourages the development and demonstration of "environmentally benign" rare earth element extraction and separation processes, along with techniques that produce rare earth salts. It requires at least $7.5 million be made available for the testing of green chemistry separation processes, and it also requires the construction of a pilot plan that uses molecular recognition technology to provide 'proof of concept' for element separation and processing. This section is of no conservation concern as written, and pilot projects resulting from the program would need to be evaluated on a case by case basis.

Section 402 would exclude certain mining claims, including unpatented hard rock and placer mining claims, located prior to any withdrawal from the scope of that withdrawal. Withdrawal is broadly

defined to include statutory and regulatory withdrawals, as well as other actions that withhold federal land from mining or mineral activity to protect other values. Section 402 also puts the burden on the government to disprove the validity of these mining claims. Perhaps most egregiously, Section 402 exempts these mining claims from any law or regulation. This provision has the potential to reopen protected areas, such as National Parks, to mining activities and to exempt those activities from environmental review, public process and agency oversight, and other environmental protections. This section is of significant environmental concern.

Section 403 amends ANILCA Section 1326 (16 U.S.C. 3213) by restricting the federal land managing agencies regarding establishing land use designations greater than 5,000 acres in Alaska, including designating wilderness study areas, National Wild and Scenic Rivers System units, critical habitat under the Endangered Species Act, and Areas of Critical Environmental Concern, or any other similar land use designations or management of federal public lands, unless these actions are noticed to Congress and approved by a joint resolution in Congress within one year from the date Congress is notified.

This section of the bill removes powers from the Executive branch to fulfill legal duties to manage and conserve federal public lands, removes scientific information and agency experts from management decisions, relegates land-management decisions to elected officials who may have no relevant expertise and ignores the significant values that land and water conservation provide to the American public.

Section (d) of this title revokes all areas designated as Areas of Critical Environmental Concern (ACEC) in the state of Alaska. An ACEC is defined as an "area . . . where special management attention is required . . . to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards."[7] ACEC's are important management tools for BLM to fulfill its legal mandate to manage the agency's public lands for multiple uses. In Alaska, BLM manages over 72 million surface acres and in fulfilling its multiple use mandate, the agency is required to include conservation as part of its management framework.

BLM in Alaska is and has been in the process of revising certain management plans. As part of these revisions, the agency has and is properly considering whether to establish Areas of Critical Environmental Concern, as required by FLPMA.[8] For example, BLM released the final Eastern Interior Resource Management Plan last month and did establish ACEC's as part of that plan. These ACEC's received widespread local support and Alaska tribes played a significant role in requesting and advocating for designating ACEC's. Lands that are designated as ACEC's within a BLM management area are not "withdrawn", do not take away any rights granted under public land laws and are not a violation of ANILCA. This section is of significant environmental concern.

Title V – Forestry

Section 501 would exempt the Tongass and Chugach national forests in Alaska from the Roadless Rule, encouraging increased clearcutting of our nation's largest national forests at a time when the U.S. Forest Service is trying to transition away from old-growth logging. Protection of high value

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[7] *Id.* at § 1702(a).

[8] FLPMA directs the Secretary to "give priority to the designation and protection of areas of critical environmental concern," 43 U.S.C. § 1712(c)(3).

roadless areas on both the Tongass and Chugach national forests is of local and national importance, particularly for wildlife and biodiversity, wilderness, recreation, and tourism.

The Tongass National Forest is one of the last remaining intact temperate rainforests on earth. Inventoried roadless areas make up 9.5 million acres (57 percent) of the Tongass National Forest and 5.4 million acres (99 percent) of the Chugach National Forest. The Roadless Rule prohibits most commercial logging and road building within inventoried roadless areas. Exempting the Tongass and Chugach National Forests from the Roadless Rule would encourage the forest Service to plan and offer new old-growth timber sales in pristine fish and wildlife habitat that is currently off-limits to logging. This section is of significant environmental concern.

Section 502 would override an on-going public process to exchange public lands from the Tongass National Forest for lands currently owned by the Alaska Mental Health Trust (the Trust). The exchange could allow up to 21,000 acres of environmentally sensitive National Forest System lands to be conveyed to the Trust for clear-cut logging. The public deserves to weigh in on this plan to concentrate logging in heavily impacted areas of Revillagigedo Island (Ketchikan) and Prince of Wales Island. This section is of significant environmental concern.

Section 503 would allow the state of Alaska to seize control of more than two million acres of public land from the Chugach and Tongass National Forests for clearcutting – equaling an area the size of Yellowstone National Park. Alaska already has more than nine times the amount of state-owned land than any other U.S. state, with the fourth smallest state population. Alaska's national forests provide benefits and resources in their natural state for sustainable industries, communities and the public at large.

Transferring these lands out of federal public management would have far-reaching impacts for the region's ecosystem and economy. Encompassing some of the largest remaining tracts of coastal temperate rainforest left on earth, the Tongass is a wealth of wildlife and scenic beauty. Handing these invaluable lands over to the state for intensive development would hurt the region's existing and thriving tourism and commercial fishing industries. These sustainable industries generate around $2 billion annually into the southeast Alaska economy, and they continue to grow because of the healthy fisheries, iconic American wildlife and scenic beauty of public lands. If enacted, this section would put southeast Alaska's remaining pristine old-growth forest, its wildlife and its sustainable economy in peril.

Most all of the provisions of this bill are of significant environmental concern and together represent a destructive and comprehensive assault on Alaska's federal public lands and waters. The actions proposed in the bill ignore the many benefits public lands and waters provide to the state of Alaska, including economic, scientific, cultural, recreational and subsistence-based. Many provisions in the bill have not received sufficient public input or scientific analysis and would circumvent environmental laws including ANILCA, NEPA, Wilderness Act, Antiquities Act, FLPMA and Refuge Improvement Act, among others.

Congress should reject this bill in its entirety.

S. 3204 – King Cove Road Land Exchange Act (Senators Murkowski and Sullivan)

S. 3204 would exchange congressionally designated wilderness lands in a sensitive wetlands corridor in Izembek National Wildlife Refuge with lesser-value state lands outside of the refuge, in order to build a road connecting the villages of King Cove and Cold Bay. The purpose of the land exchange and road is to provide an on-land transportation route between the villages to address health and safety concerns.

Study after study starting in the 1980s has concluded, however, that a road through Izembek's designated wilderness is not in the public's best interest, most recently in a 2013 U.S Fish and Wildlife Service environmental review. A U.S. Army Corps of Engineers report (2015) evaluated three alternative modes of emergency medical transportation for King Cove, and clearly demonstrated that there are viable alternatives to a road. The report estimated that the reliability of a marine ferry would exceed 99 percent.

The road would be a costly and ineffective use of federal dollars. Taxpayers have already spent more than $50 million to address King Cove's transportation needs. Total costs are estimated at more than $80 million for a road that would be unsafe or impassable during winter storms. In 1998, Congress provided $37.5 million of funding to upgrade the local medical clinic, develop dock facilities and a road to a dock, and purchase a $9 million all weather hovercraft. Thus Congress and American taxpayers have already provided a solution for King Cove.

At 417, 533 acres, Izembek National Wildlife Refuge is Alaska's smallest National Wildlife Refuge, but its wildlife and wilderness values are some of the greatest of any refuge in our nation. The refuge contains one of the largest eelgrass beds on the globe, making its habitat values some of the most significant on the planet. Izembek was the first wetland area in the United States to be designated as a Wetland of International Importance under the Ramsar Convention (1986). The proposed road would be incompatible with the purposes for which Izembek National Wildlife Refuge was established and would fragment the ecological heart of the Refuge.

Respected individuals and organizations have expressed their opposition to a road. The Association of Village Council Presidents, representing 56 Native villages in western Alaska, formally opposes the proposed road due to the impacts it would have on subsistence resources that they depend upon. The Former U.S. Indian Health Service medical director for the Eastern Aleutian Tribes has said the extreme weather, ice and avalanche conditions experienced in this specific area make it, "inconceivable that the proposed 27-mile road could be passable." And, Interior officials from the Bush, Clinton, Ford and Nixon administrations have stated their opposition to the proposed road noting it is one of the last places in the country that one would ever want to build a road.
The Wilderness Society testified at an April, 2016 Senate Energy and Natural Resources hearing on Izembek and provided the attached, comprehensive testimony for the record, which is hereby incorporated by reference.

This bill is of significant environmental concern and should be rejected by Congress.

S. 3273 – Alaska Native Claims Settlement Improvement Act of 2016 (Senators Murkowski and Sullivan)
This legislation's title implies that it will facilitate improvements to the Alaska Native Claims Settlement Act, but instead it circumvents the landmark 1971 law's important checks and balances. It opens unprecedented doors to create brand new for-profit Native corporations, expands land selections by existing for-profit Native corporations, proposes privatizing thousands of acres of

public lands throughout Alaska, and grants corporations unwarranted and new subsurface rights. Instead of facilitating the appropriate finalization of outstanding Native corporate land selections provided for in ANCSA, this legislation redefines the opportunities originally made available to Alaska Native corporations in ANCSA, such as allowing existing Native corporations to transfer lands back to the federal government that they have already logged and profited from, in exchange for new, unlogged parcels in the Tongass National Forest. This bill seeks to allow many new and existing Native corporations to acquire pristine, sensitive federal public lands throughout Alaska, including in conservation system units. Alaska Native corporations are designed to provide shares to shareholders and have historically sought to develop their lands through natural resource exploitation in order to generate profit. Analysis of specific sections of the bills follows:

Section 3 – Conveyance to Ukpeagvik Inupiat Corporation
Section 3 of S. 3273 would convey all right, title and interest held by the United States to sand and gravel deposits underlying the surface estate owned by Ukpeagvik Inupiat Corporation near the Barrow gas fields by circumventing environmental review and consultation or mitigation planning in accordance with the Endangered Species Act. This transfer would facilitate road development and gravel mining near important nesting habitat for Steller's eiders, a species listed as Threatened under the Endangered Species Act.
TWS is concerned that this provision of the bill includes insufficient information. The provision is vague and makes no attempt to ensure that mitigation planning for negative impacts to Steller's Eiders will be sufficient. This transfer should be subject to an environmental review process, not bypass a public process and ensure that appropriate mitigation measures would be in place that would meet the requirements of the Endangered Species Act. Without these assurances, this provision may result in significant environmental impacts.

Section 4 – Shishmaref Easement
Section 4 of S. 3273 would grant the Shishmaref Native Corporation, an Alaska Native Claims Settlement Act corporation, an easement of approximately 300 feet that crosses the Bering Land Bridge National Monument to permit a surface transportation route between the Village of Shishmaref and the general area of Ear Mountain, Alaska. This easement would circumvent applicable review and requirements as defined in ANILCA Title XI. Section 4 of S. 3273 is lacking specific information regarding the easement, including items such as: the purpose of the easement, its duration, and/or any restrictions that would apply to the easement. Additionally, the bill does not provide sufficient information to determine whether or not the easement is necessary at this time, and if the benefits would outweigh the costs. Without additional detail, it is difficult to understand how significant the environmental impacts or costs to the American public might be from this proposal. While this easement may be intended to help the community of Shishmaref as it addresses impacts to its community from climate change and potential future relocation, without additional information it is difficult for TWS to take a position or support this provision at this time. We recommend that the Committee seek additional clarity on the provision.

Section 5 – Shee Atika Incorporated
Section 5 S. 3273 would buy back the surface rights of 23,000 acres on Admiralty Island (referred to as Cube Cove Land), which was logged by the existing Shee Atika corporation, in exchange for cash payments or credits toward the purchase of other federal property. The U.S. Forest Service attempted to re-acquire this land prior to logging activities, but those negotiations failed.

Section 6 – Admiralty Island National Monument Land Exchange

Section 6 of S. 3273 would allow the Sealaska Corporation, the existing ANCSA regional corporation in southeast Alaska, to relinquish 23,000 acres of subsurface rights for the recently logged parcel of land referenced in Section 5 above on Admiralty Island within Admiralty Island National Monument to the federal government, which would buy these rights back and at the same time convey rights to both surface and subsurface rights to an 8,872.5 acre parcel and surface estate to approximately 5,145 acres of U.S. Forest Service land elsewhere in southeast Alaska. The lands Sealaska Corporation would acquire have not been logged.
In effect, Sections 5 and 6 provide attractive deals for existing Native corporations to divulge themselves of lands they no longer want in exchange for new, resource-rich lands or other compensation. For example, Sealaska Corporation would be able to trade lower value subsurface rights on Admiralty Island for surface rights to lands on Prince of Wales Island with highly valuable timber resources, and Shee Atika Corporation could rid itself of its Cube Cove lands on Admiralty Island, which it has clearcut logged, in exchange for additional compensation.
Sections 5 and 6 of the bill would circumvent public input and review of the proposed exchanges. These sections are of some environmental concern due to the additional logging within the Tongass National Forest that will undoubtedly result from these conveyances. The Tongass National Forest is one of the last remaining intact coastal temperate rainforests in the world.

Section 7 – CIRI Land Entitlement
Section 7 of S. 3273 would allow CIRI – an existing ANCSA regional corporation based in south central Alaska – the ability to select 43,000 acres of land in Alaska from an exceptionally broad pool of public lands across the entire state. All federal land managers except the National Park Service could be affected, and no prohibition exists for selecting lands within identified special areas, or numerous other areas protected because of historical, cultural, or ecological importance.

Congressionally designated wilderness areas would be off limits to CIRI selections, however. This provision of the bill specifically lists the National Petroleum Reserve – Alaska as an area where CIRI could make selections, and the provision would not restrict CIRI from selecting lands within NPR-A Special Areas, including the sensitive Teshekpuk Lake Special Area, which encompasses the largest wetlands complex in the entire circumpolar Arctic. Alaska National Wildlife Refuges are also identified as appropriate areas for CIRI selections.

Once conveyed to CIRI, extractive resource development activities would be near certain: This section is of significant environmental concern, as it would privatize currently public and protected lands – at one or more undisclosed locations, without a public process – and would likely subject those lands to extractive resource development.

Section 8 – Canyon Village, Kaktovik and Nagamut
Section 8(A) of S. 3273 would convey to Kian Tr'ee Corporation, for the Native Village of Canyon Village, the surface estate of lands not to exceed 6,400 acres within a remote area of the Arctic National Wildlife Refuge south of the Brooks Range, and to Doyon Regional Corporation, the subsurface estate of the same lands, should Doyon choose to acquire these lands. This provision seeks to privatize a remote parcel of land within the Arctic National Wildlife Refuge, that is included in a wilderness recommendation by the Obama administration. This land conveyance could result in natural resource development in an otherwise unaltered wilderness landscape. This provision is controversial and would circumvent public input and environmental review regarding one of the most protected and cherished National Wildlife Refuges that is part of our nation's system of public

lands. The provision is of environmental concern and should not be acted upon without additional information, a full environmental analysis and public review.

Section 8(B) would override Section 1302(h)(2) of ANILCA by requiring the Interior Secretary to convey land free of restrictions to Kaktovik within the Arctic National Wildlife Refuge coastal plain upon their application for the land. This provision is of significant environmental concern and threatens to open the door to oil and gas development in the refuge's sensitive coastal plain. It undermines former agreements, circumvents the protections in ANILCA of the Arctic National Wildlife Refuge coastal plain, and foregoes the checks and balances established in ANCSA and ANILCA.

Section 8 (C), the bill would convey to Nagamut – lands that were the original townships of the Native Village – within the National Wildlife Refuge System. This section is in need of more specificity and should not be enacted without additional information at this time.
Section 8 of S. 3273 should not be enacted without a full review and public process of all of the provisions included.

Section 9: Expanded Role of Native Corporations
This section would expand the role of Alaska Native corporations in the state, placing them on par with tribes in certain instances, including within the Forest Protection Act, the Native American Graves Protection and Reparation Act, and the National Historic Preservation Act. This section is controversial and should receive additional analysis and input prior to becoming law.

Section 10 - Unrecognized Southeast Alaska Native Communities Recognition and Compensation
Section 10 of S. 3273 establishes five new Alaska Native Corporations (Haines, Ketchikan, Petersburg, Tenakee and Wrangell) that would obtain title to more than 115,000 acres of the most valuable and productive timber lands on the Tongass. If an original offer of land by the Secretary is rejected by one of these corporations, there is no specificity regarding what a revised offer may contain. As we've seen in recent years, once transferred out of federal ownership these lands very likely would be clearcut logged for short-term gain without regard to long-term consequences. This section is of significant environmental concern.

Section 11 – Alaska Native Veterans Land Allotment Equity
Section 11 of S. 3273 reopens the 1906 Alaska Native Allotment Act for the third time, after Congress considered the matter final in 2000, and allows an estimated 2,500 + individuals or their heirs to select and receive 160 acres each, for a total of up to 460,000 acres. Selections would be restricted from units of the National Park System, National Preserves, or National Monuments, but would be allowed in designated wilderness and in National Wildlife Refuges. This would create a patchwork of inholdings across Alaska where some of the most valuable and important parcels of public land become private and off limits to the public. This section is of significant environmental concern.

Section 12 – 13th Regional Corporation
The 13th Regional Corporation was established to represent Alaska Natives who didn't reside in Alaska when ANCSA passed; it was dissolved in 2013 by the State of Alaska. This section would call for a meeting to elect a Board of Directors for the corporation, while providing notice to

shareholders. This section is controversial and should include more specificity, additional public input and review prior to becoming law.

Section 13. Chugach Alaska Corporation Land Exchange Pool Study.
Section 13 of S. 3273 would require the U.S. Department of Interior (DOI) to conduct a study to identify the impacts that federal law and federal and state land acquisitions since December 1980 have had on the value of land conveyed to the Chugach Alaska Corporation in south central Alaska. DOI would be required to study potential compensation for any land value changes, including financial compensation, easements or land exchanges, and then report to the Senate and House Natural Resources Committees on its recommendation. This section is of unknown environmental concern.

Many of the provisions of this bill are of significant environmental concern and/or are controversial and seek to privatize sensitive lands within conservation system units or within other federal public lands and waters in Alaska. The actions proposed do not allow for analysis of the costs and benefits of privatizing these public lands and thereby ignore the many benefits public lands and waters provide to the state of Alaska, including those that are economic, scientific, cultural, recreational and subsistence-based. Establishing new Native Corporations and allowing expanded selections by already existing ANCSA Corporations sets new and potentially dangerous precedent. The trades and proposals in this bill may be the beginning of a new era where other Native corporations could work to obtain similar deals in the future. TWS recommends members of the SENR Committee proceed cautiously and ensure that the provisions in S. 3273 are fully analyzed and assessed prior to becoming law. The provisions in the bill have not received sufficient public input or scientific analysis and would circumvent many environmental laws including ANILCA, ANCSA, NEPA, Wilderness Act, Antiquities Act, FLPMA and Refuge Improvement Act, among others.

TWS recommends that the Committee reject this bill in its entirety.

VIEWS ON OTHER LEGISLATION BEING HEARD

S. 346 - Southwestern Oregon Watershed and Salmon Protection Act of 2015 (Senators Wyden and Merkley)

The Wilderness Society supports S. 346, a bill to withdraw land in Curry County and Josephine County, Oregon, from mineral entry and exploration. Withdrawal of this unique, scenic, and exceptionally wild area in Southwest Oregon's Kalmiopsis region would protect the clean, free-flowing waters of the region and myriad ecological and recreational values that are the bedrock of the quality of life and economy of the region.

There is broad and diverse support for protecting this area from proposed nickel-strip mining, which would have deleterious impacts on the highest concentration of pristine, undeveloped wild rivers in the contiguous United States. These wildlands and rivers drive local economies, providing unparalleled outdoor experiences and sustaining thriving fisheries.

We urge the committee to advance this legislation. As the bill makes its way through Congress, TWS calls on the Bureau of Land Management to continue to advance an administrative withdrawal.

S. 2681 - San Juan County Settlement Implementation Act of 2016 (Senators Heinrich and Udall)

The Wilderness Society supports S. 2681, and urges the committee to advance it. The proposal is a win-win-win: protecting important scenic, scientific, and recreation resources as Wilderness, providing the Navajo Nation with alternative land selections to make up for cancelled selections, and authorizing fair market value for relinquishment of coal preference right leases. By clearing conflicting claims, S. 2681 would open the way to designate 7,242 acres of BLM land as the Ah-shi-sle-pah Wilderness and incorporate approximately 2,250 acres of specified federal land into the Bisti/De-Na-Zin Wilderness. These scenic badlands are clearly deserving of protection as Wilderness.

S. 2991 - Methow Headwaters Protection Act of 2016 (Senators Murray and Cantwell)

The Wilderness Society supports S. 2991, a bill to withdrawal 340,079 acres in the headwaters of the Methow watershed in the State of Washington from mineral entry and exploration, sponsored by Senator Patty Murray (D-WA) and co-sponsored by Senator Maria Cantwell (D-WA). The Methow watershed is one of the most extraordinary landscapes in the Pacific Northwest. It is an area of critical ecological importance, with its pristine headwaters and protected lands supporting a wide range of threatened and endangered species. The vast expanse of public lands also supports a strong recreation economy that contributes more than $150 million to rural Okanogan County. A current proposal to advance an industrial-scale copper mine jeopardizes this outstanding natural environment. It would profoundly undermine the quarter-billion-dollar federal and state investment made in salmon recovery, land protection, restoration, and recreation projects in this prized watershed.

The Wilderness Society supports S. 2991, and calls on the U.S. Forest Service and Department of the Interior to act swiftly to initiate the administrative withdrawal process by issuing a segregation notice by the end of this term to secure needed protections in the headwaters of the Methow Valley while legislation makes its way through Congress. Time is of the essence, and while we appreciate the Committee's work to advance this bill, it is unlikely to be signed into law in time to thwart a foreign mining company's pursuit of this mining project. For that reason, we call on the Administration to act immediately.

The Administration and Congress have the opportunity to obviate years of potential conflict and environmental degradation in this sensitive and ecologically critical place in the North Cascades. Support for this effort is nearly universal, with a broad-based coalition of community leaders, more than 135 local businesses, 2,000 citizens, conservation and recreation organizations, the Confederated Tribes of the Colville Reservation, the Confederated Tribes and Bands of the Yakama Nation, the Washington State Governor, and more standing strongly behind a mineral withdrawal for the Methow Headwaters.

We encourage the Committee to advance this legislation.

S. 3049 - Organ Mountains-Desert Peaks Conservation Act (Senators Udall and Heinrich)

The Wilderness Society supports S. 3049, the Organ Mountains-Desert Peaks Conservation Act. In response to the local community's longstanding support for conservation of the area, President Obama designated the Organ Mountains-Desert Peaks National Monument in 2014. However, as members of the Committee know, only Congress has the ability to designate wilderness. Doing so in these parts of the Monument would add the highest level of protection to places that are important to the local communities.

The Organ Mountains-Desert Peaks region, which encompasses the Organ, Sierra de las Uvas, Doña Ana and Potrillo mountain complexes, contains stunning biodiversity and traces of civilizations hundreds (and in some cases thousands) of years old. This area is also a treasure for outdoor recreationists, containing wildlands perfect for hiking, camping, hunting, wildlife-watching and much more.

The legislation would protect as wilderness the following areas:

- Aden Lava Flow Wilderness: offers one of the best American opportunities to view lava flows and the many unique shapes and structures created by them. Area wildlife is specially adapted to the lava.
- Broad Canyon Wilderness: is home to countless archeological sites and the most extensive record of previous Native American habitation within the Organ Mountains-Desert Peaks region.
- Cinder Cone Wilderness: features an extremely high concentration of undisturbed cinder cone mountains and rich wildlife habitat prized by hunters and non-hunters alike.
- Organ Mountains Wilderness: their rugged terrain forms one of the steepest mountain ranges in the western United States. They are the picturesque backdrop to New Mexico's second largest city, Las Cruces, were mentioned in the earliest Spanish journals, and are a sky island with unique biology.
- Potrillo Mountains Wilderness: Extinct volcanoes, black lava fields, and mile after mile of desert grassland combine to give the Potrillo mountains qualities found nowhere else in New Mexico.
- Robledo Mountains Wilderness: Named after Spanish colonist Pedro Robledo, these mountains sheltered both Billy the Kid and Geronimo in the late-19th century. They include the Paleozoic Trackways National Monument and are potential habitat for desert bighorn sheep reintroduction.
- Sierra de las Uvas Wilderness: This diverse mountain range is a hunting hot spot harboring three different quail species, desert mule deer and pronghorn antelope. Cultural riches also abound.
- Whitethorn Wilderness: owes its name to prevalent white-thorn acacia, a key year-round food source for quail and a summer food source for desert mule deer. Weathered lava shelters small and large wildlife, and views stretch hundreds of miles.

Hispanic leaders and organizations, small business owners and the Las Cruces Green Chamber of Commerce, sportsmen and ranchers, the Ysleta del Sur Pueblo and the All Pueblo Council of Governors, and local elected officials all support this legislation. The Wilderness Society adds it voice to this choir of support and encourages the Committee to advance this legislation without delay.

S. 3102 – The Pershing County Economic Development and Conservation Act (Senators Heller and Reid)

S. 3102, the Pershing County Economic Development and Conservation act, reflects years of effort and is the result of a locally-driven stakeholder process to improve land management in Pershing County, Nevada.

TWS supports Title III, which includes 136,000 acres of additions to the National Wilderness Preservation System. Cain Mountain, Bluewing, Selenite Peak, Mt. Limbo, North Sahwave, the Tobin Crest, and Fencemaker all contain outstanding natural, cultural, and recreational values, and are worthy additions to the National Wilderness Preservation System. These areas were identified through a collaborative, stakeholder-driven local process with carefully crafted boundaries that respect ongoing activities while preserving deserving lands.

TWS also supports the public purpose conveyance of the Unionville Cemetery in section 202. This conveyance will ensure that the community may continue uninterrupted use of this historic cemetery.

We support the resolution of checkerboard lands by facilitating sales and land exchanges of appropriate Federal lands for other lands with higher recreational, cultural, and ecological values. We believe that land consolidation will improve conservation and management of Federal lands, enhance recreational opportunities, and improve the local economy. However, we do not support the language in section 103(d)(1)(B)(ii), which authorizes acre-for-acre exchanges of Federal and non-Federal land. We believe that any land exchange authority should ensure that an exchange of Federal and non-Federal lands is of equal value. An acre-for-acre exchange risks conveying Federal lands for less than it is worth, thus resulting in a loss to the public.

We also have some concerns regarding the breadth of section 104, particularly the scope of some of the eligible uses of proceeds in the proposed Pershing County Special Account. We look forward to working with Senators Heller and Reid and the Committee to try to address those concerns as the legislation moves forward.

S. 3192 - Alex Diekmann Peak Designation Act of 2016 (Senators Daines and Tester)

The Wilderness Society enthusiastically supports the naming of Alex Diekmann Peak, which would honor the extraordinary conservation efforts of a man whom TWS staff held in the highest professional and personal regard. Located in the Madison Valley, this peak will provide a lasting tribute to Alex's conservation legacy across Montana. Alex passed away earlier this year after a heroic battle with cancer.

Alex's efforts were central to conserving some of the most significant, scenic outdoor recreation lands and fish and wildlife habitats in the Rocky Mountain region. Throughout his16-year career with the Trust for Public Land, he was a critical partner in the conservation of over 50 unique sites in Montana, Wyoming, and Idaho, securing more than 100,000 acres of iconic open spaces for future generations. Perhaps nowhere are the results of Alex's efforts to guarantee permanent conservation in Montana more evident than the Madison Valley, making the proposal to dedicate a currently unnamed mountain (known as Peak 9,765) south of Ennis as Alex Diekmann Peak a fitting tribute to his memory and contributions.

We urge the Committee to recognize Alex's legacy by advancing this legislation to name the Alex Diekmann Peak.

S. 3316 – The Advancing Conservation and Education Act of 2016 (Senators Heinrich and Flake)

TWS supports S. 3316, the Advancing Conservation and Education Act of 2016. S. 3316 is classic "win-win" legislation. It will preserve lands with outstanding ecological and recreational values, improve local economies, and provide new resources to states for the benefit of public schools. TWS supports this legislation and urges the committee to advance it.

S. 3316 presents a practical approach to expedite the exchange of state inholdings from Federal conservation areas for Federal lands with lower conservation value and higher economic development potential. By facilitating the exchange of inholdings for lands that have greater economic potential and more appropriate for economic development, S. 3316 will provide new sources of revenue for states, as well as providing new jobs and revenue to local economies. The state revenue will, in turn, benefit public schools and America's schoolkids.

S. 3316 will help to expedite the elimination of state inholdings in wilderness areas, national parks, and other Federal conservation areas. By removing state lands that are managed to maximize revenue production—not conservation—S. 3316 will help ensure that America's scenic treasures are well-protected and secure. This will benefit the American public who has come to rely on these special places for recreation, enjoyment, and relaxation.

S. 3316 will help prevent incompatible development within these America's parks, wilderness areas, and other conservation lands, afford new economic development opportunities for states, and provide new sources of revenue for schools. By benefiting conservation, state economies, and public schools, the approach is a classic win-win solution.

Thank you for considering our views on these bills.

Sincerely,

Alan Rowsome
Senior Director for Government Relations, Lands
The Wilderness Society

Trans-Alaska Pipeline System Throughput: Facts, Data, and their Implications

Throughput
The 800 mile Trans-Alaska Pipeline System (TAPS, operated by Alyeska Pipeline Service Company) began operation in 1977. At peak flow in 1988, the pipeline transported 2.1 million barrels of oil a day. Throughput in 2015 averaged approximately 508,000 barrels a day.

Implication: Pipelines are designed and operated to carry less than peak flow, so the fact that TAPS currently moves roughly ¼ of its oil capacity does not have great significance.

Ownership
The three largest owners of TAPS - BP, ConocoPhillips, and ExxonMobil - have a combined 99% ownership interest in TAPS and are expected to produce 88% of the oil in the pipeline through 2050.[1]

Implications: Because of the money they have invested in North Slope oil production and in keeping it going, BP, ConocoPhillips, and ExxonMobil each have an interest in TAPS operating as long as the production is profitable. Alyeska Pipeline and its owners are exploring multiple means to keep TAPS operating including adding heat along the pipeline, utilizing insulation, utilizing cleaning pigs more frequently, etc.

Projected Longevity
A state court decision between the pipeline owners and the state involving property taxes determined that the pipeline is likely to operate 50 more years, i.e., until at least 2065.[2] This decision was affirmed by the state Supreme Court. Similar arguments were made for later tax years, however the approach used by the state court was fully affirmed by the state Supreme Court in 2015.[3]

According to a study by economic consultants for the Natural Resources Defense Council from 2011, the life of TAPS can be extended at least three decades through modest improvements which would yield profits of over ten times the upgrade costs. The study's authors show the improvements would require $539-$721 million in investment but would result in $12 billion in additional profits and an equal amount to Alaska's state coffers in the form of added royalties and tax revenues.[4]

Implications: TAPS is in no danger of imminent operating problems or a shutdown due to low throughput. Existing and future production on state lands and waters is likely to keep TAPS operating for several decades. To say otherwise is merely a means to advocate for new drilling on environmentally-sensitive federal lands and waters in the Arctic National Wildlife Refuge, in all portions of the (poorly-named) National Petroleum Reserve – Alaska, and in the Arctic Ocean. ***The sky is not falling regarding TAPS throughput.***

Contact:
Lois Epstein, P.E., Engineer and Arctic Program Director (lois_epstein@tws.org, 907.272.9453)
The Wilderness Society, Anchorage, Alaska
Board President for the Pipeline Safety Trust (www.pstrust.org)

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[1] Case No. 3AN-06-8446 CI [Consolidated], p. 41.
[2] *Judge pegs pipeline life at 50 more years,* Anchorage Daily News, January 5, 2012, http://www.adn.com/2012/01/04/2246015/pipeline-life-at-least-50-more.html
[3] See http://www.courtrecords.alaska.gov/webdocs/opinions/ops/sp-7039.pdf
[4] *Is the Trans Alaska Pipeline System in Danger of Being Shut Down?*, Innovation & Information Consultants, Inc. Concord, MA, Orlando, FL, Sept. 2011, 30 pp., http://docs.nrdc.org/energy/files/ene_11092001a.pdf.



Statement of
Nicole Whittington-Evans
Alaska Regional Director, The Wilderness Society
before the
Senate Energy and Natural Resources Committee
Hearing to conduct oversight on options for addressing the continuing lack of
reliable emergency medical transportation for the isolated community of King Cove, Alaska

April 14, 2016
Washington, DC

Good Morning Chairman Murkowski, Ranking Member Cantwell and members of the Committee. I am Nicole Whittington-Evans, Alaska Regional Director of The Wilderness Society. I appreciate the opportunity to testify before the Committee today, April 14th, 2016, regarding options for reliable transportation for the village of King Cove, Alaska and the Izembek National Wildlife Refuge and Wilderness Area. The Wilderness Society has been a strong advocate of the National Wildlife Refuge System and Wilderness areas, including the Izembek National Wildlife Refuge. TWS supports the effort to find transportation solutions that meet the needs of King Cove while protecting the internationally significant wildlife and wilderness values of the refuge. I appreciate the opportunity to share some of our views with you here today.

I offer this testimony on behalf of The Wilderness Society (TWS), an organization with over 700,000 members and supporters, including members in Alaska who care deeply about how the Izembek National Wildlife Refuge and Wilderness Area is managed. I have worked for The Wilderness Society's Alaska office for over eighteen years, and have been engaged in the Izembek National Wildlife Refuge issue since 1998.

Thirteen conservation organizations sent a letter to this Committee this week stating opposition to a road and land exchange for the purposes of building a road between the two small communities of King Cove and Cold Bay. The letter has been submitted for the record and is attached to this testimony. Such a road would be incompatible with the purposes for which Izembek National Wildlife Refuge was established and would fragment the ecological heart of the Refuge, violating the very foundation of its congressionally designated Wilderness and placing at risk the integrity of its internationally vital wetlands habitat.

My testimony addresses the following topics: 1) Globally significant wetlands and wilderness values of the Izembek National Wildlife Refuge, 2) The 1964 Wilderness Act and Izembek's Wilderness designation, 3) The impacts of a road through designated Wilderness in the Izembek National Wildlife Refuge, and 4) Non – Road Alternatives.

I. Globally Significant Wetlands and Wilderness Values of the Izembek National Wildlife Refuge

Alaska's Izembek National Wildlife Refuge is a national treasure. Hundreds of thousands of migratory birds and waterfowl, seals, sea otters, caribou, wolves and grizzly bears depend on the wetlands, tundra, streams, and tidal areas to reproduce and feed. Almost the entire world's population of Pacific Black Brant depends on the refuge during their spring and fall migrations to rest and feed on the eelgrass beds.

In 1980, Congress established the Izembek National Wildlife Refuge and Wilderness as part of the Alaska National Interest Lands Conservation Act (ANILCA) to safeguard the refuge's extraordinary value. The Izembek refuge was established to protect the Pacific black brant and its habitat along with other migratory waterfowl and other birds.

At the center of the 417,533-acre Izembek National Wildlife Refuge are two lagoons, the Izembek and Kinzarof. These lagoons are separated by a narrow isthmus just three miles wide. The lagoons, their immediate watersheds, and the isthmus—the Lagoons Complex—are the ecological heart of the refuge. More than 200 species of wildlife and nine species of fish are found on the Refuge.

The Izembek/Kinzarof Lagoons Complex has been repeatedly recognized internationally for its global significance. Specifically, the refuge was:

- Identified under the RAMSAR Convention in 1986 and was the first wetlands area in North America added to the List of Wetlands of International Importance,
- Designated a Marine Protected Area in order to provide lasting protection for this Lagoon Complex,
- Recognized as an Important Bird Area (IBA) of global significance in 2001 by Birdlife International in partnership with National Audubon Society,
- Listed as a Sister Refuge with Russia's Kronotskiy State Biosphere Reserve in 1991 through a U.S. – Russian Governmental Agreement on Cooperation in Environmental Protection, and
- Celebrated as globally significant for its habitat value and role in biodiversity protection by World Wildlife Fund (WWF) and The Nature Conservancy (TNC).

The Refuge also qualifies as a Western Hemispheric Shorebird Reserve Network Site. Izembek National Wildlife Refuge is best renowned for its world-class waterfowl and shorebird habitat. The Lagoons Complex provides breeding, molting, nesting, refueling, staging and resting grounds for:

- virtually the entire world populations of Pacific black brant (~100,000) and Emperor geese (~55,000),
- a significant portion of the world's Steller's eiders (~ 80,00 – 100,000), including Alaska's population, estimated to contain 500 breeding adults (listed as threatened under the Endangered Species Act in 1997), and
- many other migratory and resident waterfowl, including Pacific golden plovers, rock sandpipers, dunlins, ruddy turnstones, semipalmated plovers, western sandpipers and Izembek tundra swans, which is the only essentially non-migratory breeding population in North America.

The Izembek/Kinzarof Lagoons Complex is important for this large number of bird species due to the availability of some of the largest eelgrass beds in the world. More than 98 percent of all Pacific black brant converge on Izembek Lagoon each year to feed on the eelgrass in preparation for their 3,300-mile, 55-hour non-stop flight to wintering grounds in Mexico. The brant feed on eelgrass for approximately eight weeks in order to make their long flight south that usually begins in early November. Brant fly back and forth between the lagoons to forage, and they use freshwater lakes on the isthmus. Emperor geese use Izembek and Kinzarof Lagoon while foraging in the upland tundra area for crowberries, and the endangered Steller's eiders also use Kinzarof Lagoon. Emperor and Canada geese rely on the eelgrass in the lagoons for nutrients, as do invertebrates and marine mammals. The narrow isthmus between Izembek and Kinzarof Lagoons is a crucial travel corridor—the only path between the east and west sides of the refuge—for wide-ranging species such as bears, caribou, and wolves. The Alaska Peninsula Caribou Herd, a population that declined from about 10,000 to fewer than 1,000 in the last 10 years and is now growing, uses the isthmus as the only migration corridor between calving and wintering grounds. The isthmus is also an important winter foraging area for these animals. Moreover, the caribou are known to spend the entire winter on the isthmus.

Some of the highest densities of brown bears on the Lower Alaska Peninsula are found in the Joshua Green River Valley of the Izembek refuge, an area within three miles of the isthmus and the proposed road corridor. Minimal human disturbance has helped maintain the high habitat value of this area for brown bears. Bears use the isthmus frequently to forage and roam in their search for food, as do other furbearers. Harbor seals, sea otters, Steller's sea lions, and whales frequent the productive waters within and surrounding the refuge. Sea otters, seals, and sea lions spend time along the coast and in the lagoons. Both sea otters and Steller's sea lions are listed as Threatened under the Endangered Species Act.

The Lagoon Complex comprises vital, high quality habitat for many species. Degradation or loss of this habitat complex cannot be mitigated by offering distant uplands or areas not used by these

species. Population declines would likely occur for many species that rely on this habitat complex. Such losses may be substantial.

As a long-time resident of Alaska, I have been fortunate to visit many of the special places that characterize the beautiful, wild landscapes and spectacular wildlife habitat of Alaska. I have been fortunate enough to spend time at the Izembek Refuge and see firsthand the lands and waters of this renowned wilderness landscape and internationally important wetland. I have walked in the wilderness and viewed the narrow peninsula where the proposed road would be constructed. From this vantage point, I have seen both the Izembek and Kinzarof Lagoons (the Lagoons Complex). Between these lagoons are rolling hills and valleys of soft, spongy and fragile tundra dotted by abundant marshes, lakes and pools of water. I also have been fortunate to fly twice over the refuge and the state and King Cove Corporation lands proposed for exchange that was analyzed in the U.S. Fish and Wildlife Service 2013 Final Environmental Impact Statement (FEIS).

While visiting Izembek Refuge, I witnessed the Lagoons crowded with Pacific black brant, Emperor geese, and the threatened Steller's eider. I have seen caribou and other wildlife in the refuge. A local expert described to me in vivid detail how the wildlife use the isthmus as a travel corridor, foraging area, and home. I could visualize the caribou, wolves, grizzly bears, fox, and other wildlife using the isthmus as a travel corridor, hunting zone, and home during winter or summer. I testify today that the Izembek National Wildlife Refuge is one of the most vital and extraordinary wildlife areas in the world.

II. The 1964 Wilderness Act and Izembek National Wildlife Refuge Designated Wilderness

The founders of The Wilderness Society came together in the 1930's because of their passion for wild landscapes and their growing concern over the potential loss of America's wildlands -- spurred on primarily by road construction and automobiles penetrating frontier country at that time. They brought together principles, credible science, bold advocacy and unswerving vision to develop conservation policy and in 1935 established a new conservation organization, The Wilderness Society. Their foresight, actions and determination launched a land protection movement that ultimately led to the passage of the 1964 Wilderness Act. Howard Zahniser, a Governing Council member of The Wilderness Society, was the principal author of the Wilderness Act. Passage of the Act designated 9 million acres of federal Wilderness and initiated a Wilderness Preservation System on federal lands that now encompasses 757 wilderness areas totaling nearly 110 million acres in 44 states.[1]

[1] http://www.wilderness.net/NWPS/stateViewStatic?state=ak&map=ak

Wilderness protected lands, as defined in the 1964 Wilderness Act, are afforded the highest level of protections of any lands in the nation, as no roads or industrial developments are allowed in designated wilderness areas. The Wilderness Act protects lands in their natural state, and the Act defines wilderness in the following way:

> *A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.*[2]

The very purpose of Wilderness designation is to ensure that important areas remain wild and intact - free of roads and industrial development.

The 1980 Alaska National Interest Lands Conservation Act provided some exceptions to designated Wilderness and the Wilderness Act. ANILCA allows for the continuation of human presence and certain activities within designated Wilderness Areas in Alaska, including certain structures and motorized uses, vital for Alaskan communities that practice a subsistence way of life[3]. With these exceptions, ANILCA Wilderness lands must comply with the Wilderness Act. Therefore, roads and other industrial development are not allowed in ANILCA Wilderness.

The Izembek National Wildlife Range, which identified the Izembek Lagoons Complex as a premier ecological reserve, was first established in 1960. In 1980, ANILCA re-designated it as the Izembek National Wildlife Refuge and also designated 300,000 acres of the refuge as Wilderness. ANILCA established the following purposes of the refuge:

> (i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl, shorebirds and other migratory birds, brown bears and salmonids;
>
> (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

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[2] http://www.wilderness.net/nwps/legisact#2, section, I.c.
[3] https://www.congress.gov/bill/96th-congress/house-bill/39

> (iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents, and
>
> (iv) to ensure, to the maximum extent practicable and in manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge." (94 Stat. 2391 P.L. 96-487 §303(3)(B))

The U.S. Fish and Wildlife Service is required to manage the Izembek refuge to maintain the fish and wildlife populations in their natural diversity, fulfill international fish and wildlife treaty obligations, provide for the continuation of subsistence uses by local residents, and ensure water quality and quantity within the refuge.

During one of my visits to the Izembek Refuge, I read the historical files that chronicled the extensive outreach during the 1970s to State officials and policymakers, the Alaska media, and the public. I reviewed many of the comments submitted regarding what was then proposed Wilderness. The files demonstrate overwhelming support for the Wilderness, including a letter from the Governor of Alaska. In total, 10 years transpired from the time the Izembek Wilderness was proposed to the time Congress granted Wilderness designation to the Refuge. That decade-long process included town meetings, hearings, debates, numerous editorials and opinion pieces, outreach to multiple Native organizations, and state, federal, and joint governmental proposals spanning several Congressional sessions. This extensive outreach and discussion provided ample time and opportunities for public discourse and final decisions that led to the passage of ANILCA. The decade of public debate and meetings held prior to the Congressional designation of these vital lands as Wilderness, ensured that qualified lands were added to the Wilderness Preservation System, important watersheds were permanently protected, and known conflicts were addressed and resolved.

Historical Context and Background:

The U.S. Fish and Wildlife Service has continually provided extensive, detailed information regarding a proposed road connecting the communities of King Cove and Cold Bay since the 1960's[4]. However, throughout the decade of public discussion leading up to the passage of ANILCA, interest in a road between King Cove and Cold Bay did not surface as a significant issue. The record shows that one person posed a question about a road at the Cold Bay wilderness hearing in 1970, which was cordially addressed by an official. Throughout the many House and Senate hearings leading to the passage of ANILCA, the road issue was not raised nor was it advocated by the members of the Alaska Congressional delegation. The first time a road was substantively discussed as a possible transportation link between the two towns occurred

[4] U.S. Fish and Wildlife Service, Record of Decision, Izembek National Wildlife Refuge, Land Exchange/Road Corridor, Final Environmental Impact Statement December 23rd, 2013.

during the 1985 Bristol Bay Cooperative Management Plan studies and planning sessions, circa 1982-83. The detailed analyses in that plan clearly showed that such a road would be incompatible with the purposes for which Izembek NWR had been established, adding that it would cause significant, long-term irreparable damage to important fish, wildlife, habitat and wilderness values of the refuge. That analysis and discussion was authored by several U.S. Fish and Wildlife Service biologists and approved and supported by the Alaska Regional Director. The compatibility determinations, descriptions and conclusions regarding the impacts of building a road between the two towns remain essentially unchanged. On many occasions and in many published and circulated documents, the FWS has consistently declared that any such road and its construction through the refuge is incompatible with the Refuge purposes and would be extremely damaging. There has been no change in those findings and conclusions to this day.

Congress also has directed more than once that a road not be built through the Izembek Lagoons Complex. When Congress initially designated Wilderness in the Izembek Refuge, Congress directed that the area remain wild and untrammeled. When the road issue was brought before Congress in 1997 and 1998, Congress determined that the road was not in the public interest and rejected the road. Instead, Congress passed the King Cove Health and Safety Act, which addressed King Cove residents' health and safety concerns by providing $37.5 million to upgrade King Cove's medical facilities, improve the airstrip in King Cove, purchase a hovercraft, construct marine terminals in King Cove and Cold Bay, and build an unpaved road between the town of King Cove and the connecting marine terminal.

The King Cove Health and Safety Act enacted by the Congress specifically disallowed a road through the Izembek Wilderness, and clarified this with the following language of the Act:

> *(a) . . .In no instance may any part of such road pass over any land within the Congressionally-designated wilderness . . .*
> *(d). . . All actions undertaken pursuant to this section must be in accordance with all other applicable laws.*[5]

III. The Impacts of a Road Through Designated Wilderness in the Izembek National Wildlife Refuge

A road through Izembek's designated Wilderness is incompatible with the purposes of the Izembek Refuge. It would be contrary to the 1964 Wilderness Act; 1980 Alaska National Interest Lands Conservation Act; 1989 King Cove Health and Safety Act; 1997 National Wildlife Refuge System Improvement Act,[6] which serves as the Organic Act for the National Wildlife Refuge System, and the 2009 Omnibus Public Lands Act, which required a detailed analysis and finding

[5] 1998 King Cove Health and Safety Act, Section 353.
[6] Public Law 105-57

of public interest by the Secretary of the Interior prior to allowing the road and land exchange to move forward. Many Administrations and Congresses have determined that a road would be incompatible with the purposes of this unique wildlife refuge and contrary to the public interest.

Impacts of the Road:
The proposed road would bisect the heart of the refuge – the Lagoons complex - bifurcate its designated Wilderness, and fragmenting habitat that is vitally important for wildlife. The proposed road would permanently diminish the value of the congressionally designated Wilderness area. Habitat that supports hundreds of thousands of migratory birds and terrestrial wildlife, such as brown bear and caribou, would be seriously harmed by a road. Impacts from the road would extend well beyond the road and affect the integrity of the entire Refuge. Huge numbers of birds and mammals that use the lagoons, isthmus wetlands, tundra, and tidal flats to nest, feed, transit, and forage would be hardest hit by road construction, maintenance, and traffic. In particular, Pacific brant, Steller's eiders, Emperor geese, caribou, tundra swans, and brown bears would be severely harmed from road-related ecological impacts and/or increased human access and traffic. Even marine life, such as sea otters, sea lions, seals, and whales could experience impacts from a road. A number of these affected species are rare, declining, and even listed as Threatened under the Endangered Species Act.

In August 1996, the FWS prepared the King Cove Briefing Report. This report affirmed of the 1980's conclusions of the USFWS in the Bristol Bay Cooperative Management Plan. It determined that the road alternative is contrary to the purposes of the Refuge and foresaw unacceptable environmental impacts if a road were constructed through the designated Wilderness area. The Service supported further study and consideration of other alternatives, such as a marine link, which would provide increased travel safety, economic growth and fewer ecological impacts. Other State and Federal studies of the same period also documented that the road is the most destructive and costly alternative and again favored the marine ferry concept.[7]

A June 2003 draft Environmental Impact Statement (EIS), conducted by the Army Corps of Engineers, examined the potential threats of the proposed road from King Cove to Cold Bay. The report stated that there is sufficient information available to conclude that the road alternative, "would not qualify as an environmentally preferable alternative."[8] The Corps of Engineers noted that their determination was based in part on the road having the largest footprint (287.0 acres) among all of the alternatives. The report documented the potential scope of the proposed construction, noting the need for 36.7 acres of placement of fill material in U.S. waters. These included wetlands, of which 2.09 acres are below the High Tide Line, and 254 stream and drainage crossings requiring 8 bridges and 19 culverts across fish bearing streams. The document indicated direct, indirect, and cumulative impacts of a road on the lands, and on wildlife, citing caribou, swans, bears, and wolves.

[7] U.S. Fish and Wildlife Service, Izembek National Wildlife Refuge, King Cove Briefing Report, March, 1996.
[8] U.S. Army Corps of Engineers, King Cove Access Project, Draft Environmental Impact Statement, July, 2003, p. 153.

The 2003 draft EIS also noted that of all alternatives evaluated, the proposed road would have the greatest potential to adversely affect subsistence harvest due to its potential to displace wildlife and would result in competition between sport and subsistence hunters for resources. The analysis indicated that increased access could lead to distributional changes in wildlife, such as waterfowl, caribou, brown bear, and wolves, which could lead to reduced availability of subsistence resources. Specifically, the draft EIS stated regarding the road that, ". . . due to increased competition for resources and potential significant impacts to subsistence resources, the impact could be adverse and significant."[9]. The final EIS referenced and incorporated the analysis and findings of the draft EIS.[10].

In 2009, the Omnibus Public Lands Act directed that the U.S. Fish and Wildlife Service undertake a National Environmental Policy Act analysis of a proposed land exchange and road, and that in order for the two to move forward, the Secretary of the Interior would have to make a determination that the road and land exchange are in the public interest.[11] In 2013, at the culmination of a several-year Environmental Impact Statement process, the Secretary made no such determination. Rather, the Department of the Interior supported the U.S. Fish and Wildlife Service's sound science and the professional recommendations of the agency again stating that the road would be incompatible with the purposed of the Refuge and Wilderness and would cause irreparable harm to sensitive wildlife habitat and important wetlands.[12] The Interior Department's final decision was challenged by road proponents in U.S. District Court, but the U.S. District Court upheld the Interior Department's decision in September 2015.[13] This court's decision has been appealed to the 9Th Circuit Court of Appeals.

The 2013 U.S. Fish and Wildlife Service, Land Exchange/Road Corridor, Final Environmental Impact Statement,[14] concluded that a road would result in significant degradation to irreplaceable ecological resources. The Final EIS documented that the uses of the habitat of the Refuge by the large number of species that are dependent on the isthmus would be irreversibly and irretrievably changed by a road. The Final EIS also concluded that a road would bring increased human traffic, noise, hydrological changes, damage to wetlands, run off, introduction of contaminants and invasive species to the sensitive wetlands complex. Increased human access and activity also would result from the presence of a road, including year-round, increased access radiating from the road by pedestrian traffic and all-terrain vehicles. Indeed, increased all-terrain vehicle use and habitat damage is already occurring since completion of the 17.2 mile road to the

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[9] Ibid., p. 454.
[10] U.S. Army Corps of Engineers, King Cove Access Project, Final Environmental Impact Statement, December, 2003, Executive Summary, p. FES-25
[11] https://www.govtrack.us/congress/bills/111/hr146, Subtitle E, Izembek National Wildlife Refuge Land Exchange, Sec. 6402, (d) (1).
[12] U.S. Department of the Interior, U.S. Fish and Wildlife Service, Record of Decision, Izembek National Wildlife Refuge, Land Exchange/Road Corridor, Final Environmental Impact Statement, December 23, 2013.
[13] http://www.adn.com/article/20150908/federal-judge-sides-interior-secretary-dispute-over-road-through-refuge-0
[14] U.S. Fish and Wildlife Service, Final Environmental Impact Statement, Izembek National Wildlife Refuge Land Exchange/Road Corridor, 2013

northeast corner of Cold Bay. The 2013 Final EIS documented that, since the 17.2 mile road to the northeast corner of Cold Bay became passable by all-terrain vehicles, increased, new all-terrain vehicle use and habitat-damaging trails have developed from the endpoint of that road.[15] These trails are of concern, and the agency concluded that the physical impacts caused by increased all-terrain vehicle use on wet soils will have profound and long-lasting adverse effects on wildlife use and habitats of the narrow isthmus. Increased activity associated with the road would also place a strain on Refuge management personnel while Refuge budgets and capacity are decreasing.

The 2013 final EIS indicated that a road would have major negative effects to Tundra Swans, Brant, Emperor geese, and brown bears. These species depend on the Izembek Lagoons complex, which provides critical subsistence resources. The Fish and Wildlife Service's analysis also indicated that increased human access, hunting pressure, and disturbance to birds would occur as a result of the road, causing displacement from feeding and nesting areas.[16] These findings are very significant for the following reasons: 1) Virtually the entire population of the Pacific brant feed and stage at Izembek before and after their long migrations to and from wintering grounds to the south. Brant are also highly sensitive to disturbance; 2) the Izembek Tundra swan population is the world's only non-migratory population, and Tundra swans use the isthmus for nesting and rearing young. They are also highly sensitive to disturbance; 3) Emperor geese, are highly dependent on the Izembek Lagoons complex in winter months, particularly when other feeding areas are frozen. Winter is a critical time that challenges their limited physical reserves, and disturbance from winter use of a road would significantly impact them. Izembek's Joshua Green watershed is an important brown bear natal area and supports the highest density of brown bears on the Southern Alaska Peninsula. Both habitat and remoteness of the watershed contribute to the high density, and increased access and hunting resulting from road access would significantly alter this key brown bear denning and natal area. The analysis concluded that the effects of a road to caribou and other large mammals would be at least moderate.

Legislating incompatible development in a refuge would set a negative precedent that undermines the 1997 National Wildlife Refuge System Improvement Act mandate to: "ensure that the biological integrity, diversity and environmental health of the System are maintained for the benefit of present and future generations of Americans."[17] Further, , a road would destroy the very premises and values associated with designated Wilderness. Designated Wilderness areas are maintained in their natural, untrammeled state. Any road developed that would bifurcate, fragment and otherwise harm the designated Wilderness of Izembek Refuge would have irreparable and extremely significant impacts to the Wilderness area, effectively destroying it and the intent of the Congress when it designated the area as Wilderness.

[15] Ibid., p. 4-137 and 4-205.
[16] Ibid. FEIS, p. 2-64

Costs of A Road:

In lieu of building a damaging road across the Izembek Refuge, the King Cove Health and Safety Act provided a total of $37.5 million to address King Cove's transportation and health and safety needs. It directed $20 million for a one-lane gravel road, a dock and marine facilities, and equipment; $15 million to improve the King Cove airport; and $2.5 million to upgrade the communities medical facilities. Just prior to the completion of a 2003 U.S. Army Corps of Engineers Environmental Impact Study of non-road transportation alternatives for King Cove, Alaska Senator Ted Stevens sponsored a rider on an appropriations bill that directed a 17-mile road be built from King Cove to a hovercraft terminal site in the northeast corner of Cold Bay.[18] Construction of this road began in March, 2004. Nine million of the $20 million dollars provided in the King Cove Health and Safety Act was used to purchase the Suna-X, a state-of-the-art hovercraft, which left $11 million remaining for the dock and one-lane gravel road. This amount was not sufficient to complete the 17.2-mile road that Senator Stevens had legislated, so the $15 million originally appropriated in the King Cove Health and Safety Act to upgrade the King Cove airport was redirected to help fund and build the 17.2-mile road. This resulted in using a total of $26 million of the $37.5 million provided in the King Cove Health Safety Act to construct the road. However, this amount was not sufficient to complete the road, and the road remained partially built but unfinished for a number of years. Between 2010 -2013, an additional $14.5 million was provided to finish the road through the Alaska's State Transportation Improvement Project. Thus, 90% ($13 million) of which came from federal funding, with the remaining funds coming from the State of Alaska.[19] An additional $2 million was received by King Cove for transportation from the 2009 American Recovery and Reinvestment Act.[20] The 17.2 mile road was finished in 2013. In total, approximately $40 million, or $2.29 million/mile, was spent to build the one-lane, 17.2-mile gravel road to the northeast corner of Cold Bay.

Extending the road through the Izembek Wilderness would cost many millions more tax dollars. Approximately 12.5 miles of new road would need to be built through Izembek Refuge designated Wilderness, and an additional 6 miles of road would need to be fully reconstructed to connect to the Outer Marker road that is maintained to the Cold Bay airport. Building a total of 18.5 miles of and fully reconstructed road, with the majority traversing challenging wetlands terrain with no local gravel source, would be a very significant expenditure for an outcome that likely would be dangerous and undependable in inclement weather, especially for transporting an ill or injured person requiring emergency treatment.

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[18] Section 115 of PL 108–137 (a 2003 appropriations act) says, "The Secretary of the Army, acting through the Chief of Engineers, shall direct construction of Alternative 1 (Northeast Corner) for the project authorized in section 353 of Public Law 105–277 notwithstanding any other provision of law."

[19] Alaska Department of Transportation and Public Facilities, 2010 – 2013 STIP, Revision 27 Incorporated, Amendment (Revision 27), Approved by FHWA & FTA, July 28, 2011, Alaska, "King Cove to Cold Bay Corridor,"

[20] http://www.recovery.gov/Transparency/RecoveryData/pages/RecipientProjectSummary508.aspx?AwardIdSur=95169&AwardType=Grants.

Congress already helped finance one of the most effective modes of transport between King Cove and Cold Bay—a specially designed marine hovercraft-ferry system – and taxpayers have already paid over $50 million to resolve King Cove's transportation problems and health and safety concerns. This is a considerable and disproportionate investment for a town of approximately 938 people[21]. If another 18.5 miles of road were built, it certainly would be an extraordinary expenditure to accommodate a small community.

Proposed Land Exchanges:
After passage of the King Cove Health and Safety Act, in 2006 a proposed land exchange and road proposal was presented by the Aleutians East Borough and the State of Alaska . Their proposal renewed efforts to construct the road. The proposed land exchange was offered as a means to compensate or mitigate for any loss of wetlands habitat and Wilderness resulting from the road. However, the lands offered in the exchange did not represent comparable wildlife habitat value, and still do not to this day.

The proposed land exchange would have added acreage to the Refuge, but not wildlife value. Further, the value of any exchange lands offered would be diminished if the ecological heart of the Refuge were severely degraded. The value of any exchange lands would be made *de minimus* if the negative impacts described by FWS biologists over the last 30 years become reality. The road would sever fragile refuge wetlands, and would harm significant ecological habitats. Construction, operation and maintenance activities would require filling wetlands, modifying drainages, potential spillages and pollution, dust, noise, on-land barriers and over-land turmoil and disruptions.

The two State townships (approximately 43,000 acres) proposed for exchange in H.R. 4371 for acquire land through the Izembek Refuge designated wilderness, were analyzed in the 2013 agency Final EIS. It concluded that the exchange lands would not provide comparable habitat or be able to compensate for the loss or sever degradation of the wetlands in the Lagoons Complex. Indeed, no amount of exchange lands can compensate for the irreversible impacts a road would have on these globally significant and unique wildlife habitat values. The southernmost state township is entirely uplands, with some bear denning habitat, but virtually no value for waterfowl. The more northern township has some wetlands with viable caribou and brown bear habitat, but is of little value for the many species of waterfowl that depend on the lagoons and isthmus wetlands complex. The state townships also have no current development threat, and offer minimal conservation benefit. They are located entirely outside the watershed of the Izembek National Wildlife Refuge and would be costly to inventory and administer due to access limitations. It appears as though King Cove Corporation owned lands on the east and west side of Cold Bay, including Mortensen Lagoon, and lands within the Kinzarof Lagoon, which were a part of the exchange proposal between 2006 – 2013, but are not included in the text of H.R.

[21] https://www.google.com/#q=population+of+King+Cove, 2010 U.S. Census data.

4371. Submitted along with this testimony is a TWS fact sheet that compares the proposed exchange lands offered in the 2009 Omnibus Lands Protection Act.

Alaska Native Stakeholders Oppose the Road
The potential damage to subsistence use is a primary reason that the Association of Village Council Presidents (AVCP), the recognized tribal organizations and nonprofit Alaska Native Regional Corporation for its 56 member indigenous Native villages within Western Alaska, has repeatedly opposed the King Cove Road. In 1998, the AVCP passed a resolution opposing the road. On October 17, 2007, I received a letter from Myron Naneng, President of the AVCP that reaffirmed their opposition and cited their interest and concern for the critical habitat of our Pacific black brant that use the area for staging and feeding during their long and treacherous spring and fall migrations. The Waterfowl Committee of the AVCP has reaffirmed their 1998 resolution twice during their spring meetings in 2013 and 2015. The resolution and other letters from AVCP regarding the proposed road are submitted with this testimony.

The AVCP resolution notes that "the people of the Y-K Delta are primary stakeholders of waterfowl, our customary, and traditional use of birds has long been used as part of our diet and culture and because of the destructive development and habitat loss conducted by those areas in the Pacific Flyway throughout the 1960's, 70s, and 80's significantly affect waterfowl populations resulting in curtailing our subsistence hunters and gatherer's practice."

In June of 2014, Mr. Naneng affirmed the AVCP's opposition to a road in the Alaska Dispatch News. That story can be found here, and is submitted with this testimony. Another Alaska Native organization, REDOIL (Resisting Environmental Destruction on Indigenous Lands), voted to support the AVCP opposition to the Izembek road in 2014.

Local Experts Have Opposed the Road Because of Safety and Maintenance Concerns:
Local experts, including two former Cold Bay Mayors, a former Cold Bay EMT and the former Medical Director for the Eastern Aleutians Tribes, have also pointed to maintenance and safety concerns that would be associated with the road. These individuals have previously provided written testimony to Congress in opposition to the road, citing the dangers of traveling on a road during Aleutian winter storm conditions and the challenges of keeping a road open in these conditions. The Cold Bay area and the isthmus where the proposed road would be located regularly experiences winter storms with gale force winds and ground blizzards. Please refer to the photo attached and submitted with this testimony that illustrates the challenges of keeping a road open during winter storm conditions. Dr. Peter Mjos wrote in a 2013 letter to the Secretary of the Interior about the safety and maintenance challenges of a road in winter storm conditions, stating:

> In such storms Cold Bay cannot maintain for even one hour the flat, paved 10,000 foot runway, much less the community gravel roads. It is inconceivable that the proposed 27

> mile road could be passable. Any vehicle or ambulance attempting transit or rescue in such conditions could be suicidal, rescue impossible, rescuers gravelly imperiled.

Submitted with this testimony are some of the letters and testimony from these local experts that convey some of the challenges of the proposed road for medical evacuations.

IV. Non-Road Alternatives

Marine Transportation Links:
Nine million dollars of the original 37.5 million of taxpayer dollars appropriated for King Cove's transportation needs was used to acquire and equip a modern hovercraft, a type of vehicle most often used by commercial and military operators in such conditions as ice floes, mudflats, beaches, and tundra. Unique to the hovercraft is its ability to land without a traditional dock or harbor.

The hovercraft operated between 2007 and 2010 and successfully performed at least 30[22] medical evacuations helping King Cove residents cross the 20 miles across Cold Bay to reach the Cold Bay airport. At that time, the hovercraft, powered by four MTU 2000 diesel engines, was the largest hovercraft ever built in the U.S. The craft seated 49 passengers and vehicles, and could accommodate a fully staffed ambulance. It traveled from Lenard Harbor on the southeast side of Cold Bay to Cold Bay in approximately 17 minutes[23].

U.S. Army Corps of Engineers Report:
The transportation options presented in the 2015 report by the Army Corps of Engineers demonstrate that there are viable alternatives to constructing a road through the Izembek National Wildlife Refuge and Wilderness. At the request of the Department of the Interior, the Army Corps of Engineers assessed three non-road alternatives for medical evacuation from King Cove. These transportation modes include: (1) ice-capable marine vessel, (2) fixed-wing aircraft/new airport, and (3) helicopter/heliport. For each transportation mode, the ACOE made a high-level assessment of the various locations, type of equipment, and facilities needed, along with the costs, risks and dependability of each. Each option was assigned a level of dependability, cost, and risk. The report determined that the marine vessel is the most dependable of the options (99.2% or better). The ACOE analysis is a high-level assessment that did not recommend one alternative over another and did not address many significant details of the various options.

[22] U.S. Army Corps of Engineers, King Cove – Cold Bay: Assessment of Non-Road Alternatives, July 2015, p. 6
[23] Ibid., p.6.

A summary Table from the ACOE Report follows, from page ii of the report:

Table ES-1. Summary of Costs and Operating Factors

	Marine *150-ft ice-capable monohull ferry*			Airport *New airport located NW of Mt. Dutton*		Helicopter *Leased helicopter and crew with dedicated heliport*			
	1a NE Cold Bay Ferry	1b Lenard Harbor Ferry	1c Direct Ferry (KC-CB)	2a 5,000-ft Runway (Learjet)	2b 3,500-ft Runway (King Air)	3a NE Cold Bay Heliport	3b Lenard Harbor Heliport	3c Peninsula Heliport	3d King Cove Heliport
Life-cycle Costs *(75 years)*									
Capital Cost *($ millions)*	41.8	29.9	39.0	84.0	47.0	2.8	2.8	28.3	2.8
Operations and Maintenance Cost ($)	872,300	925,600	1.14 M	674,700	223,300	2.34 M	2.25 M	2.28 M	2.19 M
Net Present Value *($ millions)*	65.7	56.7	71.9	97.0	49.3	78.3	75.3	99.1	73.6
Operating Factors									
Medevac Time *(hrs)*	3.5	3.7	5.0	2.4	3.0	3.1	2.6	2.7	2.1
Risk Score	2.4	2.4	2.5	2.5	2.6	2.5	2.5	2.5	2.2
Annual Dependability	99.9%	99.9%	99.6%	94.9%	94.9%	82.6%	67.5%	67.5%	70%

Notes:
All costs are shown in 2015 dollars. See main document for explanation of cost estimates.
Medevac time is the elapsed travel time between the City of King Cove and Ted Stevens Anchorage International Airport. See main document for further explanation.
Risk score compiles multiple risk factors on a 1–4 scale (1=low, 2=moderate, 3=serious, 4=high) and averages them. Risk assessment is qualitative. Scoring allows for deriving the average and is not meant to imply precision in quantifying risk. See main document for explanation of methods.
Dependability shown is based largely on wind data thresholds. Other factors affect dependability and may differ between modes of travel. See main document for explanation.

The alternatives to a road identified in the ACOE report, as well as other non-road alternatives, avoid many of the risks and problems associated with a road as discussed above .

A comparison of the travel times required for a med-evac patient to get from King Cove to Cold Bay by road or non-road options is informative. The July 2015 ACOE assessment indicates, that a ferry from Lenard Harbor would take approximately 1 hour and 20 minutes to Cold Bay, while helicopters and planes take only a matter of minutes. The taxpayer-funded hovercraft that operated between the two communities from 2007 – 2010 took approximately 17 minutes from Lenard Harbor to Cold Bay.[24] Traveling the entire proposed one-lane gravel road route from King Cove to Cold Bay - approximately 40.5 miles – would take between 90 minutes and two hours in good weather conditions.[25] In bad weather the road could be impassable or take many hours of dangerous travel. For true medical emergencies, safety of the passengers and the fastest travel times between the two communities are presumably the most desirable.

[24] U.S. Army Corps of Engineers, King Cove – Cold Bay: Assessment of Non-Road Alternatives, July 2015, p. 6
[25] U.S. Army Corps of Engineers, December 2003, and King Cove – Cold Bay: Assessment of Non-Road Alternatives, July 2015.

The analysis conducted by the Army Corps of Engineers confirms what The Wilderness Society, other conservation organizations, local experts and medical professionals familiar with this area have stated for decades, namely that there are viable alternatives to a road through the heart of fragile, congressionally-designated Wilderness that would provide safe and reliable, and in some cases more reliable, and efficient emergency transport for the people of King Cove, while maintaining the integrity of the globally significant Izembek National Wildlife Refuge.

Additional Considerations:
Many remote communities in Alaska struggle with issues similar to those of King Cove regarding transportation and medical services. It is not clear that King Cove residents are in any more danger than many other Alaskan communities that rely on air transportation. Additionally, King Cove is better equipped than many other remote Alaskan communities to handle medical emergencies because of their state-of-the-art-medical clinic and staff. While there has been much mention of the tragic fatalities resulting from airplane crashes near King Cove, thankfully there have not been any since February, 1990. More than 25 years have passed since the last aircraft fatality – a situation that TWS and the entire conservation community certainly hope will continue forever. The flight safety record of the past 25+ years is no doubt a testament to the skilled pilots and technical flight personnel in the region. Further, in reviewing wind and weather data from the many documents assembled about this issue, it is not clear that King Cove residents are in greater danger than other Alaskan communities that rely on air transportation."[26] While King Cove does not have a full-time physician, it does have a state-of-the-art medical clinic with telemedicine capabilities, a result of the King Cove Health and Safety Act. The medical clinic has a total of 17 staff, including a physician's assistant, making King Cove's clinic better equipped to handle medical emergencies than many of Alaska's remote communities, including Cold Bay.

Conclusion:
For all of the reasons stated above we appreciate the Department of Interior's commitment to find a non-road alternative, and, and we strongly support the Department's 2013 decision to reject a land exchange and road development through the Izembek National Wildlife Refuge and Wilderness area. The U.S. Army Corps of Engineers' 2015 Non-Road Assessment indicates that there are other viable, safer, more dependable and efficient alternatives for medical evacuation transport than the proposed road.

Thank you again for the opportunity to testify before the Senate Committee on Energy today.

[26] Wind and weather is available in the following sources: Alaska Department of Transportation and Public Facilities, King Cove – Cold Bay Access Assessment of Transportation Need, 1997; U.S. Army Corps of Engineers, King Cove Access Project, Final Environmental Impact Statement, December, 2003; and U.S. Army Corps of Engineers, King Cove – Cold Bay: Assessment of Non-Road Alternatives, July 2015.

Ripchensky, Darla (Energy)

From: James Woods <jwoods1945@yahoo.com>
Sent: Friday, September 23, 2016 11:41 PM
To: fortherecord (Energy)
Subject: Forwarded Email: SB 3204 Resend after failure notice

-----Original Message-----
From: James Woods - Email Address: jwoods1945@yahoo.com Sent On: 9/22/2016 21:34 Sent To: danaripchensky@energy.senate.gov - Email Address: danaripchensky@energy.senate.gov
subject: Forwarded Email: SB 3204 Resend after failure notice

-----Original Message-----
From: James Woods - Email Address: jwoods1945@yahoo.com Sent On: 9/22/2016 16:23 Sent To: fortherecord@senate.energy.gov - Email Address: fortherecord@senate.energy.gov
subject: SB 3204

From:
James Woods
PO Box 1837
20 Carrie Ann Lane
Penn Valley, CA 95946

jwoods1945@yahoo.com
Dear Sir:
Thank you for the chance to comment on the proposed road building project through the Izembek Wilderness Area in Alaska.

I strong request the proposed project be rejected. Dividing a wilderness into two segments separated by paved road with year-around twenty-four hour a day traffic will eliminate many wildlife species on a daily basis by inevitable road-kill mishap. Present intact wilderness characteristics will be lost forever. The road will function as a "Berlin Wall" barrier insurmountable by many wildlife. Thousands will die crossing it each and every year going forward beginning the moment the road is opened to traffic.

Most important of all . . . approving a road where non are allowed by law sets a terrible precedent. If OK to do this in Alaska why not everywhere across the nation within every designated wilderness? This highway project will destroy much more than this specific wilderness alone. Don't do it. Obey the law and let the Izembek wilderness be true wilderness as established under the Wilderness Act of 1964.

Thank you for reading my letter and carrying out my request. I appreciate your attention and work.

Sincerely,

James Woods

5 October 2016

The Honorable Lisa Murkowski
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Murkowski,

I am writing in support of the **Alaska Mental Health Trust Land Exchange** Legislation. The Alaska Mental Health Trust and the Trust Land Office have been working toward a land exchange for more than 10 years with extensive public participation while defining the exchange parcels. Thank you for your leadership in sponsoring this legislation.

Given that Alaska is facing the worst fiscal crisis in history, legislation is the best option to complete the exchange in a timely fashion. The Trust, on average, provides $20 million in grants to organizations across Alaska. We need to ensure that the Trust can continue to provide revenue for comprehensive, integrated mental health services in Alaska today and into the future.

The exchange is of great benefit because it:

- Protects popular trails, viewsheds, and iconic recreational sites along the Inside Passage
- Ensures watersheds are protected so that Southeast residents receive clean water
- Preserves old growth timber stands in the forest
- Ensures jobs stay in the Southeast communities by protecting the timber and tourism industries
- Protects mental health services by providing revenue to support the Trust's mission

I want to do what is right for the Southeast community and economy, and for all of the people that benefit from the Trust. It is not often we as Alaskans get to support something that does something good for so many, and I am pleased to provide my personal support of this exchange legislation.

Sincerely,

Kristina Woolston
16268 Noble Point Drive
Anchorage, AK 99516

TESTIMONY from Bob and Gloria Ziller, Obrien, Oregon in support of the Southwestern Oregon Salmon and Watershed Protection Act (S. 346/ H.R. 682) (Act).

We're residents of the Illinois River Valley in Southwest Oregon. Our property lies less than a mile from one of the areas subject to S. 346, which would permanently withdraw approximately 106,000 acres of Forest Service and Bureau of Land Management (BLM) land at the headwaters of some of the finest rivers in southwest Oregon from entry and location under the mining laws of the United States.

We live below one of the areas that has been proposed for nickel strip mining in the past and very close to where a smelter could be located on the Rough and Ready Creek Area of Critical Environmental Concern (ACEC). Along with many members of the local community we recreate on the ACEC and the adjacent US Forest Service Rough and Ready Creek Botanical Area.

In addition to providing priceless open space, that's available to all, and beloved swimming holes, these and surrounding areas within the proposed withdrawal area are host to the highest concentration of rare and endemic plants in Oregon.

In the 1990s, along with many of our neighbors, we formed the ad hoc Rough 'N Ready Neighbors to oppose the mining of Rough and Ready Creek and work for a permanent solution.

The sole drinking water source of most residents in the area are wells located on the unique and ancient Rough and Ready Creek flood plain. The exceptionally clean, clear water provided by Rough and Ready Creek and its tributaries on the federal public lands subject to the Southwestern Oregon Watershed and Salmon Projection Act are priceless.

Along with many of our neighbors, we live here because of the clean water and air and availability of the beautiful open spaces found on the National Forest and BLM-managed land to recreate. These uses represent the highest and best use of these public lands and resources. The amenities provided by lands subject to S. 346 help attract new residents and creates jobs strengthening our small businesses and local communities.

We appreciate that Senators Wyden and Merkley and Congressman DeFazio have introduced this bill, which serves our communities so well and also helps to safeguard some of the finest rivers and salmon runs in the lower 48 and the clean drinking water of thousands of residents of southwest Oregon and northwest California.

Thank you for considering our testimony.in support of S. 346

Bob and Gloria Ziller - Obrien, Oregon

