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S. HRG. 115–502

PENDING LEGISLATION

HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS, FORESTS, AND MINING

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

ON

S. 414/H.R. 1107	**S. 1219/H.R. 3392**	**S. 2206**
S. 441	**S. 1222**	**S. 2218**
S. 507	**S. 1481**	**S. 2249**
S. 612/H.R. 1547	**S. 1665/H.R. 2582**	**H.R. 995**
S. 1046	**S. 2062**	**H.R. 1404**

FEBRUARY 7, 2018

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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/2018/2/subcommittee 020718

PENDING LEGISLATION

WEDNESDAY, FEBRUARY 7, 2018

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:08 a.m. in Room SD–366, Dirksen Senate Office Building, Hon. Mike Lee, presiding.

OPENING STATEMENT OF HON. MIKE LEE, U.S. SENATOR FROM UTAH

Senator LEE [presiding]. The Subcommittee will come to order. This is the first legislative hearing of the Public Lands, Forests, and Mining Subcommittee in this Congress.

The purpose of today's hearing is to receive testimony on 19 bills pending before the Subcommittee.

Due to the number of bills pending before the Subcommittee today on the agenda, I am not going to go through all of them now. The complete agenda will be included in the record.

[The agenda referred to follows:]

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING

HEARING ANNOUNCEMENT AND AGENDA

This notice is to advise you of a legislative hearing before the Senate Committee on Energy and Natural Resources Subcommittee on Public Lands, Forests, and Mining. The hearing will be held on Wednesday, February 7, at 10:00 a.m. in Room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on the following bills:

- **S. 414/H.R. 1107**, the Pershing County Economic Development and Conservation Act.
- **S. 441**, the Organ Mountains-Desert Peaks Conservation Act.
- **S. 507**, the Blackfoot Clearwater Stewardship Act of 2017.
- **S. 612/H.R. 1547**, the Udall Park Land Exchange Completion Act.
- **S. 1046**, the Eastern Nevada Economic Development and Land Management Improvement Act.
- **S. 1219/H.R. 3392**, the Lake Bistineau Land Title Stability Act.
- **S. 1222**, the La Paz County Land Conveyance Act.
- **S. 1481**, the Alaska Native Claims Settlement Improvement Act.
- **S. 1665/H.R. 2582**, the Confirming State Land Grants for Education Act.
- **S. 2062**, the Oracle Cabins Conveyance Act of 2017.
- **S. 2206**, the Protect Public Use of Public Lands Act.
- **S. 2218**, the West Fork Fire Station Act of 2017.
- **S. 2249**, the Rio Puerco Watershed Management Program.
- **H.R. 995**, the 21st Century Respect Act.
- **H.R. 1404**, the Pascua Yaqui Tribe Land Conveyance Act.

Senator LEE. Some of the agenda items are new to the Subcommittee, at least for this Congress. Others we have heard before. For those we have heard before, we are going to update the record with today's hearing.

Many of the bills we are considering would correct errors made by the Federal Government and hold federal agencies accountable, as appropriate, for promises that have been made to the states and to indigenous peoples.

One such bill is the Confirming State Land Grants for Education Act, sponsored by my Utah colleague, Senator Hatch, and Representative Mia Love. This bill would overcome a technical legal hurdle that has prevented the Bureau of Land Management (BLM) from conveying around 500 acres to the State of Utah as promised in a land grant when Utah was admitted into the Union in 1896. This land grant would enable the Utah School and Institutional Trust Lands Administration to develop land responsibly in a fast-growing part of the state with the proceeds going to fund higher education. I support this bill, and I am happy to see the Administration's testimony in support of it.

Another bill that deals with land granted at statehood is S. 1219, Senator Cassidy's Lake Bistineau Land Title Stability Act. This bill would reaffirm the boundaries of an original land survey that was approved in 1842, resolving a title conflict for private property owners that has existed since a federal re-survey was conducted in 1969.

Chairman Murkowski is here to speak about her Alaska Native Claims Settlement Improvement Act, S. 1481, which would amend the ANCSA to settle outstanding aboriginal land claims.

These commonsense bills would hold the Federal Government accountable for promises that have been made to our constituents. I look forward to hearing from the BLM and the Forest Service about their plans to keep these promises.

With that, we will turn to Senator Heinrich for his remarks.

STATEMENT OF HON. MARTIN HEINRICH, U.S. SENATOR FROM NEW MEXICO

Senator HEINRICH. Thank you, Chairman.

I know we have a full slate this morning, so I just want to take a moment to highlight two bills affecting New Mexico's public lands on today's agenda.

I want to thank, in particular, my colleague from New Mexico, Senator Udall, for his superb leadership on these bills over the course of many years now.

First, the Organ Mountains-Desert Peaks Conservation Act would complete the community proposal for the region included in the Organ Mountains-Desert Peaks National Monument that was designated in 2014. This monument has been a tremendous success for Doña Ana County in just four years since its designation. But only Congress can complete the original vision for this area, accomplishing a number of things that cannot be done administratively, including improving operational flexibility for Customs and Border Patrol, protecting the important missions at Fort Bliss from encroachment by incompatible development, and designating wilderness in its backcountry.

Second, the Rio Puerco Watershed Management Program Reauthorization Act would permanently authorize this incredibly important program. The Rio Puerco was the largest contributor of sediment to the Rio Grande, and the Rio Puerco Management Committee coordinated by the BLM has done important work since 1996 to restore the natural hydrology of the river, control erosion, and restore natural vegetation. The current authorization expires next year, and this legislation would ensure that the program can continue to do this critical work to protect the quality of New Mexico's water.

I know that we have many bills before us today that are important to their sponsor's home states, and I look forward to hearing from our witnesses on each of them today.

Senator LEE. A couple of members have asked for the opportunity to speak about their bills.

We were going to begin with Chairman Murkowski, who is not here yet, so we will go next to Senator Cassidy.

STATEMENT OF HON. BILL CASSIDY, U.S. SENATOR FROM LOUISIANA

Senator CASSIDY. Thank you. Thank you, Senator Lee.

Our bill, S. 1219, the Lake Bistineau Land Title Stability Act, would void the 1967 survey of lands near Lake Bistineau and nullify the legal effect of any future land surveys of the affected areas. And just a background—

In 1838, the Federal Government did a survey of this. It was accepted in 1842. Using the results of this survey, the state outlined its ownership of land and transferred 7,000 acres of land around Lake Bistineau to the Commissioners of the Bossier Levy District in 1901, who three years later conveyed this to private ownership.

In 1967, BLM resurveyed the land and two additional islands and this survey presented a new boundary line based on what BLM thought the size of Lake Bistineau was in 1812. So it is 1967 and they are making an estimate of what was the effect in 1812, ignoring the survey in 1842. This resurvey was conducted more than a century after the original survey in an area subject to various changes in landscape. This resurvey would actually allege to be a corrected representation of a boundary from 155 years before.

Although the BLM published a notice in the Federal Register two years later stating that the new survey occurred, the agency did not notify affected landowners that the new survey served as a BLM claim to the land. Further, the agency did not file its claim on local property records or take any other action to claim title to the land. BLM notes that a Federal Register notice was published at a local post office, at the Bossier Parish Recorder of Deeds and in a local newspaper. However, according to legal counsel for selected landowners, this does not satisfy state law for a public records notice.

In September 2013, after inquiry from some private landowners, BLM responded that their survey appeared to be "still vested in the United States based on the results of the 1967 survey."

Since then, the Federal Government has been in dispute over the ownership of roughly 200 acres of land occupied by more than 100 private landowners. And according to legal counsel for some of

these landowners, the vast majority of owners are not aware of the BLM claim. In fact, private commerce continues in the area as if no federal claim had been made.

We hope to rectify this by allowing the original survey to be the basis for the United States claim and transfer the land to the private owners, who feel like they own the land.

Senator LEE. Thank you, Senator Cassidy.

Senator Cortez Masto.

STATEMENT OF HON. CATHERINE CORTEZ MASTO, U.S. SENATOR FROM NEVADA

Senator CORTEZ MASTO. Thank you, Mr. Chair, I appreciate the opportunity today and am very excited to be able to be on the Committee at the same time, introducing two bills that are going to have an impact on Nevada.

I thank my colleagues for ensuring that these bills are on the agenda. They are critical to the people of Northern Nevada: S. 414, which is the Pershing County Economic Development and Conservation Act; and S. 1046, the Eastern Nevada Economic Development and Land Management Improvement Act.

As this Committee knows well, the great State of Nevada has a proud history of strong bipartisan work on legislation pertaining to land management.

I am so proud of the community-led advocacy and support we have earned from the people of Nevada that has been reflected in the testimony and, excuse me, will be reflected in the testimony of my colleague, Senator Dean Heller, who is here today as well. Together, we have continued the proud legacy he fostered with Senator Reid on developing bipartisan land bills that prioritize local economic development, preserve lands for the benefit of future generations, and heed the voices and needs of local communities.

I would like to just take a quick moment to talk a little bit about the two bills.

S. 414, the Pershing County Economic Development and Conservation Act. This bipartisan bill aims to resolve a number of public lands issues in Pershing County, Nevada, while preserving and protecting seven new wilderness areas in some of the most remote and beautiful parts of Nevada. This legislation creates over 136,000 acres of wilderness within Pershing County, nearly 36,000 more than the current wilderness study area acreage. It also establishes a process for dealing with checkerboard land status and disposes of some mining lands.

In Pershing County, 75 percent of the land is federally-owned and this bill particularly reflects compromise among several interests. Pershing County has struggled with the checkerboard federal private land pattern, which impacts many of us in the West, that cuts through the county.

Much of the land ownership scheme created by the Pacific Railroad Act because of this checkerboard has created management inefficiencies for both federal and private land managers. What was then an innovative way to spark development has resulted in fractured ownership.

The bill will do three very specific things: aims to create more efficient land management; creates a checkerboard resolution pro-

gram that has a goal of prioritizing lands best suited for development along the Interstate 80 corridor in coordination with the Bureau of Land Management; and allows both local communities and federal agencies to work together. This way they are able to identify areas within the checkerboard that are better suited for federal management such as sage-grouse habitat, recreation areas, wildlife preservation areas, and other important public use purposes, and together consolidate public and private lands for exchange or restricted sale.

S. 414 identifies lands for potential sale to entities that hold mineral rights or are actively mining on those lands. These mining areas would be regulated by the State of Nevada and reclaimed under Nevada's state law, which is a nationwide model for mining regulation and reclamation. Under federal law, after the mining project is over, mining companies are required to restore the land back to a naturalized version. Unfortunately, this requirement creates challenges to the economic development of rural communities in Nevada. State law allows these industrial areas to be repurposed to continue harnessing America's energy future, allowing them to be transitioned at the end of their mining life span into renewable energy projects. And lastly, the bill designates nearly 140,000 acres of wilderness in seven areas throughout Pershing County to continue as wilderness study areas while allowing for the addition of new citizens' proposed areas that protect vast seas of sagebrush, magnificent antelope herds, and jagged, mountainous peaks. And let me just say, I understand there are some stakeholders that have particular issues with the legislation. I look forward to working with them to address those concerns.

And then S. 1046, the Eastern Nevada Economic Development and Land Management Improvement Act, makes crucial corrections and fixes to previously enacted legislation covering Lincoln and White Pine Counties. These improvements enable the Bureau of Land Management to better administer watersheds and wildlife habitat as well as diversify and expand the economy of Lincoln County.

The bill attempts to balance development and conservation needs within the impacted counties and allows BLM to more fully implement its Ely District Resource Area Management Plan, protect critical sage-grouse habitat, reduce hazardous fuel buildups, authorize rangeland and grassland restoration projects, and establish cooperative agreements between counties and the BLM.

The House companion to this bill passed with near unanimous support in the last Congress, and I hope it will enjoy that same level of support in the Senate. I look forward to working with the Senate Energy and Natural Resources Committee to move these bills forward.

Thank you very much.

Senator LEE. Thank you.

Senator Daines.

STATEMENT OF HON. STEVE DAINES,
U.S. SENATOR FROM MONTANA

Senator DAINES. Thank you, Chairman Lee.

I want to extend a warm welcome to Senator Tester. It is good to have two Montana Senators here in the same room.

[Laughter.]

Today we are going to hear testimony on two Montana bills. One is my bill, Senate bill 2206, the Protect Public Use of Public Lands Act, and the other is Senator Tester's bill, Senate bill 507, the Blackfoot Clearwater Stewardship Act. These are being considered separately on their own merits.

Let me speak to my bill first. As a fifth generation Montanan, an avid outdoorsman, someone who probably spent more time at wilderness areas in August than any other U.S. Senator, I know how important public lands are to Montanans.

Perhaps, just a moment of history. In 1977, Congress passed the Montana Wilderness Study Act—Jimmy Carter was President—and what it did, it created 973,000 acres and designated them as wilderness study areas (WSAs). The task was given to the Forest Service. They said, go look at these acreages and determine which are suitable for wilderness and which are not suitable for wilderness. Well, that study was completed. But here we are 40 years later in DC paralysis which has prevented more public access to our public lands. My bill will help unlock some of our public lands, those that have been deemed not suitable for wilderness, and return more access to public hands.

So let's get the facts. Since 1977 when these four service wilderness study areas were created, 1.8 million Montana acres had been designated as wilderness; however, only about 153,000 acres of wilderness study areas, and that includes both Forest Service study areas and BLM, have been released. And yet, 1.1 million Montana acres still remain locked up as wilderness study areas.

My bill only releases 449,500 acres covering five WSAs which leaves more than 640,000 acres of WSAs not in this bill at this time. In other words, it is proposing to release less than half. And that means even if we released all of Montana's WSAs that are not suitable for wilderness, and to be clear we are not addressing or touching those that are suitable for wilderness, these are lands that have been studied by the Forest Service and the BLM and determined not suitable for wilderness in their final plan. In other words, if we released all of them there would still be about twice as much wilderness designation since 1977 as those that would release if we released all of it.

I put these five WSAs in my bill for two simple reasons. First, they have strong, local support for release, on-the-ground grassroots support. As you can see behind me, that support spans tens of thousands of Montanans from local elected officials, every single county commission, the Montana State Legislature as well as recreation, sportsmen, and other groups.

Mr. Chairman, I ask unanimous consent to submit their statements for the record today.

Senator LEE. Without objection.

[The statements referred to follow:]

MONTANA SUPPORT FOR S. 2206, THE PROTECT PUBLIC USE OF PUBLIC LANDS ACT

SPEAKER OF THE MONTANA HOUSE OF REPRESENTATIVES, REPRESENTATIVE AUSTIN KNUDSEN (59 STATE REPRESENTATIVES)
MONTANA SENATE MAJORITY LEADER, SENATOR FRED THOMAS (31 STATE SENATORS)
MONTANA FARM BUREAU FEDERATION
MONTANA WOOLGROWERS ASSOCIATION
MONTANA OUTFITTERS AND GUIDES ASSOCIATION
MONTANA SHOOTING SPORTS ASSOCIATION
MONTANA SNOWMOBILE ASSOCIATION (20 LOCAL AFFILIATES)
MONTANA TRAIL VEHICLE RIDERS ASSOCIATION (14 LOCAL AFFILIATES)
CITIZENS FOR BALANCED USE
BACKCOUNTRY SLED PATRIOTS
TREASURE STATE RESOURCES ASSOCIATION
WESTERN MONTANA FISH AND GAME ASSOCIATION
MONTANA SPORTSMEN FOR FISH AND WILDLIFE
SOUTHWEST MONTANA MOUNTAIN BIKE ASSOCIATION
MONTANA ASSOCIATION OF COUNTIES

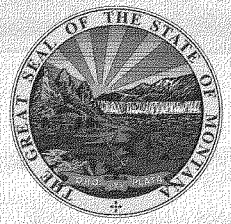
BLUEJOINT WILDERNESS STUDY AREA:
- STATE SENATOR FRED THOMAS
- STATE SENATOR PAT CONNELL
- STATE REPRESENTATIVE THERESA MANZELLA
- STATE REPRESENTATIVE NANCY BALANCE
- RAVALLI COUNTY COMMISSION
- BITTERROOT RIDGERUNNERS SNOWMOBILE CLUB
- RAVALLI COUNTY OFF-ROAD USER ASSOCIATION
- MISSOULA SNOWGOERS
- BITTERROOT BACKCOUNTRY CYCLISTS

SAPPHIRE WILDERNESS STUDY AREA:
- STATE SENATOR FRED THOMAS
- STATE SENATOR PAT CONNELL
- STATE REPRESENTATIVE THERESA MANZELLA
- STATE REPRESENTATIVE NANCY BALANCE
- RAVALLI COUNTY COMMISSION
- GRANITE COUNTY COMMISSION
- BITTERROOT RIDGERUNNERS SNOWMOBILE CLUB
- RAVALLI COUNTY OFF ROAD USER ASSOCIATION
- MISSOULA SNOWGOERS
- BITTERROOT BACKCOUNTRY CYCLISTS

BIG SNOWIES WILDERNESS STUDY AREA:
- STATE SENATOR RYAN OSMUNDSON
- STATE REPRESENTATIVE WYLIE GALT
- STATE REPRESENTATIVE DAN BARTEL
- FERGUS COUNTY COMMISSION
- GREAT FALLS TRAIL BIKE RIDERS ASSOCIATION
- GREAT FALLS BICYCLE CLUB
- C'MON 4X4 CLUB
- RUSSELL COUNTRY SPORTSMEN
- LITTLE BELT SNOWMOBILE CLUB

MIDDLE FORK JUDITH WILDERNESS STUDY AREA:
- STATE SENATOR RYAN OSMUNDSON
- STATE REPRESENTATIVE WYLIE GALT
- JUDITH BASIN COUNTY COMMISSION
- GREAT FALLS BICYCLE CLUB
- GREAT FALLS TRAIL BIKE RIDERS ASSOCIATION
- C'MON 4X4 CLUB
- RUSSELL COUNTRY SPORTSMEN
- GREAT FALLS SNOWMOBILE CLUB
- CAPITAL TRAIL VEHICLE ASSOCIATION

WEST PIONEER WILDERNESS STUDY AREA:
- STATE SENATOR JEFFREY WELBORN
- STATE REPRESENTATIVE TOM WELCH
- BEAVERHEAD COUNTY COMMISSION
- BEAVERHEAD SNOWRIDERS SNOWMOBILE CLUB
- BEAVERHEAD OUTDOOR ASSOCIATION



Senator Daines

Re: bill S2206

To Whom it may concern:

Backcountry Sled Patriots (BSP) supports Sen. Daines bill S2206 to repeal certain Wilderness Study Areas (WSA) established under the 1977 Montana Wilderness Study Act. (MWSA)

BSP is a **1,800** member organization of snowmobilers based in Missoula, Mt.. It's core mission is working to keep back country (off trail) snowmobile areas open.

The WSA's included in bill S2206 have been "studied" for 40 years to determine if they qualify for inclusion into the National Wilderness System. The original act passed by Congress allowed for uses to continue that existed in 1977. Over the years the Forest Service has "enhanced" the wilderness character by eliminating motorized access and managing these areas as designated Wilderness through Forest Planning Revisions. This has created a **de facto wilderness** designation for most of the WSA's.

Notwithstanding the fact that the Forest Service recommended to Congress in a time frame from 1982 to 1985 that these areas should **NOT BE MANAGED AS WILDERNESS**, political interference has reversed these recommendations to re-direct the Forest Service to "enhance" the wilderness character of these areas in order to eliminate multiple use in favor of one user group.

BSP recognizes that there are some primitive values in the WSA's included in bill S2206, however that does not preclude them from multiple recreational uses that existed in 1977....**as intended by Congress.**

Regards,

Stan Spencer

President,

Backcountry Sled Patriots.

PO Box 5504 • Missoula, MT 59806 • www.sledpatriots.com

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE NANCY BALLANCE
HOUSE DISTRICT 87

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COMMITTEES:
APPROPRIATIONS

January 2, 2018

Senator Steve Daines
320 Hart Senate Office Bldg.
Washington, D.C. 20510

Senator Jon Tester
311 Hart Senate Office Bldg.
Washington, D.C. 20510-2604

Cong. Greg Gianforte
1419 Longworth HOB
Washington, D.C. 20515

Dear Senator Daines, Senator Tester, and Congressman Gianforte:

During the 2017 session of the Montana Legislature, we passed widely supported legislation to release Wilderness Study Areas (WSA) in Montana. Unless Congress can confirm that a study area should be included in the National Wilderness Preservation System, we requested that it be released.

We also asked that if Congress finds that an area should be designated as Wilderness, or any other alternative designation, that they make this determination in a timely fashion. What should have been a five-year review process has turned into more than 35 years of denying access to hundreds of thousands of acres of public land in Montana while it awaits ultimate designation.

Our message to Congress was that it's time to fish or cut bait...a little less conversation, a lot more action...get moving. Until Congress takes action, WSAs are managed by government agencies as if they were already Wilderness Areas with most public access cut off completely or heavily restricted.

I would like to thank Senator Steve Daines for taking up this issue with his legislation to release five (out of 44) WSAs in Montana. Releasing these areas will provide certainty to land management agencies and will ensure that these public lands are maintained for the multiple benefits they provide the public.

Sincerely,

Nancy Ballance

Representative Nancy Ballance, House District 87, Hamilton

Beaverhead County Commissioners
2 South Pacific St., Ste. #4
Dillon, MT 59725-4000
Phone: (406)683-3750 Fax: (406)683-3772
trice@beaverheadcounty.org
mmcginley@beaverheadcounty.org
jjackson@beaverheadcounty.org

September 8, 2017

Senator Steve Daines
320 Hart Senate Office Building
Washington, DC 20510

Senator Daines,

Beaverhead County strongly supports legislation to finally deal with WSA's (wilderness study areas). Beaverhead County for years has been asking Congress and the federal agencies to address this critical land use issue. All of the WSAs in Beaverhead County have been studied by the BLM and Forest Service and we agree with and support their recommendations which are mentioned in this letter. The following part of this letter is nearly identical to the one we sent to our Congressional leaders in 2011. It is amazing how these issues are still important now, six years later.

In a call for public lands that have STRONG LOCAL support for permanent protection as wilderness under the Wilderness Act we argue that there are NO such areas in Beaverhead County. Agricultural interests, timber interests, mineral development interests, power transmission interests, communication interest, summer and winter motorized recreationists whom populate our County, as well as a small core of wilderness advocates agree with the BLM and Forest Service recommendations discussed in this letter. Thus, there are no areas that are not fully contested when

proposals are forwarded to remove lands from multiple-use management and add them to the acres managed as wilderness.

When reviewing lands within Beaverhead County being considered for future wilderness designation, of paramount importance to our residents, are the Wilderness Study Areas (WSAs) that have undergone analysis by the BLM and Forest Service with the analysis resulting in a finding of "Not Recommended for Wilderness." These areas are still Wilderness Study Areas not because they have outstanding wilderness characteristics, but because Congress has not acted and removed the WSA designation it imposed by legislation going on 30-40 years ago. Beaverhead County Commissioners would stridently advocate any future legislation from Congress dealing with or designating WSAs to recognize the areas listed below as "Not Recommended for Wilderness" by the BLM. Management prescriptions for these areas should be developed to address multiple uses including motorized recreation, grazing, timber, minerals, transmission lines, communication towers, as well as ecological services.

These areas are:

- Blacktail Mountains (south section) consisting of 6,893 acres
- East Fork of the Blacktail Deer Creek consisting of 6,230 acres
- Hidden Pasture Creek consisting of 15,509 acres
- Bell and Limekiln Canyons consisting of 9,650 acres
- Henneberry Ridge consisting of 9,806 acres
- Farlin Creek (west section) consisting of 529 acres
- Centennial Mountains consisting of 22,047 acres
- West Pioneer Mountains consisting of 148,150 acres

As for the three areas listed below that have been "Recommended for Wilderness," Beaverhead County Commissioners do not recognize any outstanding needs for representative ecological communities in the wilderness lands inventory that these areas would fill that are not currently well represented by lands already protected by wilderness designation. Our understanding of the wilderness lands inventory directive is one where simply adding acres or quantity is not an

analysis/decision criterion. Farlin Creek does not meet the 4,000 acre minimum size and as such should not be considered. Given the recommended wilderness and wilderness designations on neighboring/adjoining Forest Service managed lands, these areas appear to be Recommended Wilderness not due to outstanding wilderness character, but due to their locale and potential for creating large blocks of wilderness.

- Blacktail Mountains consisting of 10,586 acres
- Farlin Creek 610 acres
- Centennial Mountains 23,054 acres

Beaverhead County Commissioners believe these areas would best be managed as National Protection Areas as a means to preserve their wilderness characteristics and yet allow for utilitarian use of resources vital to Beaverhead County's and the nation's residents.

As the budget problems persist in D.C., Beaverhead County Commissioners would like to stress the importance of federal revenue sharing that comes from the non-preservationist management of federal lands. Economic potential of responsible, use-oriented resource utilization on public lands would greatly benefit our nation beginning with our local economy, extending to the many visitors who travel to Beaverhead County to recreate on these lands and hopefully federal agencies' budgets from permits, income, and fees.

In conclusion, the Beaverhead County Commissioners believe that the over 10 million acres of wilderness and national parks within one day's drive of Dillon are ample in meeting ecological, environmental, and human needs for wilderness in this region. We therefore urge the agencies to forego an agenda of adding acres to wilderness for the sake of adding acres to wilderness. As well as to manage remaining non-wilderness federal lands to allow the greatest degree of access to the widest spectrum of users, to provide the highest level of utilitarian-compatible multiple-uses, and to employ our knowledge of revenue generating methods for the benefit of Beaverhead County Citizens,

the visitors who come to see this northern Rocky Mountain landscape, and all of the people of the United States.

Sincerely,

C. Thomas Rice
Chairman

Michael J. McGinley
Commissioner

John Jackson
Commissioner

Bitterroot Backcountry Cyclists

923 Sleeping Child Rd
Hamilton , MT 59840
406 -381-4483
savemontanatrails@bitterrootbackcountrycylists.org

February 2, 2018

Senator Steve Daines
4321 First Street
Washington D.C.

Senator Daines,

Outdoor recreation is essential to the Montana lifestyle and the reason many of live here in the Bitterroot. Governor Bullock just proposed Office of Outdoor Recreation recognizing not only how critical outdoor recreation is our Montana lifestyle, but also our economy. Mountain Biking and outdoor recreation in our state generates $5.8 billion in consumer spending, $1.5 billion in wages and salaries, 64,000 direct jobs, and $403 million in state and local tax revenue annually. Outdoor recreation is the future of conservation. Those of who play outside have a vested interest in protecting the landscape in a sustainable manner. That is why the 50 plus members the Bitterroot Backcountry Cyclists (BBC) volunteer nearly 700 hours clearing and maintaining nearly 100 miles of trail annually.

Until two years ago many of the trails we maintained under an agreement with the Bitterroot National Forest were in the Sapphire and Blue Joint Wilderness Study Areas. Unfortunately two years the Bitterroot Travel Plan closed over 100 miles of trail in these areas to bicycles despite decades of quiet low impact use. As mandated by the Montana Wilderness Study Act of 1977, these areas were evaluated by the Forest Service and the Sapphire WSA did receive a recommendation for wilderness designation, and only the half of Blue Joint WSA north of Razorback mountain received a wilderness recommendation.

With the Forest Service now managing the lands as de-facto wilderness contrary to their own recommendations, the absurdity of "studying" these areas for close to 40 years is clear. The BBC supports Senator Daines bill (S.

2206) to release those WSAs, such as Sapphire and Blue Joint, that did not receive wilderness recommendation and have local support for this action. We understand that these areas will still be protected as Inventoried Roadless Areas which will restrict additional road building and logging. Having ridden and explored these areas we believe this will balance recreational access with preservation.

Sincerely,

Lance Pysher, President Bitterroot Backcountry Cyclists

PO Box 265, Hamilton, Montana 59840
www.ridgerunners.org

September 12, 2016

Senator Jon Tester
Senator Steve Daines
Representative Ryan Zinke

The Bitterroot Ridgerunners Snowmobile Club (BRR) is a group of about 350 citizens in Ravalli County who advocate for safe and enjoyable winter sports activities. With support from Montana FWP, BRR grooms about 80 miles of multi-use winter trails in the Bitterroot and Beaverhead-Deerlodge Forests. Many of our members also enjoy snowmobiling, hunting and fishing in the Helena-Lewis & Clark National Forest.

The purpose of this letter is to fully endorse the recommendation of the Russell County Sportsmen's Association to release certain WSAs in the Helena-Lewis & Clark National Forest for multiple use. These areas do not possess adequate characteristics to be designated by Congress as wilderness areas, but the H-L&C Forest Planning process is likely to manage them as wilderness anyway. BRR agrees with the Russell County Sportsmen's Association's position that the best way to deal with this egregious abuse of authority is through prompt and decisive legislative action.

Unfortunately, the H-L&C Forest WSAs are not the only example of undue influence exerted on the Forest Service by wealthy and frequently litigious out-of-state environmental groups. In the Bitterroot National Forest, the recently-released Travel Plan will create over 200,000 acres of defacto wilderness, much of which are WSAs or portions of WSAs that have repeatedly been determined to be unsuitable for wilderness designation. In the Bitterroot NF, the Sapphire WSA is 117,000 acres along the Sapphire divide. In their 1985 evaluation of the Sapphire WSA, the Bitterroot and B-D National Forests found that the entire WSA lacked sufficient wilderness characteristics to be designated as Wilderness. In spite of these professional and thorough evaluations, the BNF Travel Plan will ban all motorized and mechanized (mountain bike) travel in the Sapphire WSA. Also in the BNF, the Blue Joint WSA is 65,860 acres, a small portion of which lies in the Salmon-Challis National Forest. The joint 1985 report by the BNF and S-C Forests determined that only about half of the Blue Joint WSA was suitable for possible wilderness designation. The BNF Travel Plan will also ban all motorized and mechanized access to the entire Blue Joint WSA.

For snowmobiliers and snowmobile-assisted backcountry skiers, the closure of the Sapphire WSA is devastating. The portions of the Sapphire divide that can actually be approached by snowmobiles offers the best experience in the entire Forest. Without snowmobile assist, backcountry skiers and snowshoers will also be excluded from this remarkable alpine experience.

In 1776 the fledgling American colonies went to war with the most powerful nation on earth because distant Great Britain imposed unreasonable, misinformed and arbitrary taxes and restrictions on the colonists. The challenges we face with regard to how public lands in the West are managed are the result of distant, uncaring bureaucrats in Washington D.C. yielding to the influence of powerful "environmental" foundations. Congress created this WSA mess by failing to act in 1988. Now we challenge our current Congressional delegation to fix it!!

Respectfully,

Dennis Wessels

Dennis Wessels, President
Bitterroot Ridgerunners Snowmobile Club

CC Russell County Sportsmen's Association

CAPITAL TRAIL VEHICLE ASSOCIATION (CTVA)
P.O. Box 5295
Helena, MT 59604-5295

February 18, 2017

Senator Steve Daines
104 4th Street North, Suite 302
Great Falls, MT 59401

Re: Please rescind Montana Wilderness Study Act of 1977

Dear Senator Daines,

We enjoy riding our OHVs on primitive trails and roads in the Lewis and Clark National Forest. All multiple-use land managed by the Forest Service provides a significant source of these OHV recreational opportunities. We have observed that 97% of the visitors to our public lands are there to enjoy motorized access and motorized recreational opportunities. We are passionate about OHV recreation for the following reasons:

Enjoyment and Rewards of OHV Recreation

- Opportunity for a recreational experience for all types of people.
- Opportunity to strengthen family relationships.
- Opportunity to experience and respect the natural environment.
- Opportunity to participate in a healthy and enjoyable sport.
- Opportunity to experience a variety of opportunities and challenges.
- Camaraderie and exchange of experiences.
- We like to build and maintain trails for all users.
- For the adventure of it.

We want to bring a problem to your attention that is important to many outdoor recreationists. The problem involves two areas in the Lewis and Clark National Forest, Middle Fork of the Judith and the Big Snowies. These two areas are being held from the public by the Montana Wilderness Study Act of 1977 (MWSA 1977). The Middle Fork of the Judith in the Little Belts and the Big Snowies were designated wilderness study areas by a congressional act way back in the 1970's. The act clearly stated these areas were to be evaluated and designated as wilderness or returned to multiple-use (https://www.govtrack.us/congress/bills/95/s393/text). The law did not intend for these areas to remain in limbo for 40 years because of inaction but unfortunately that is what has happened.

The Lewis and Clark National Forest is one of the most popular areas for outdoor recreation in Montana. Two of the most popular and scenic areas within the forest is the Middle Fork of the Judith River and the Big Snowies south of Lewistown. Unfortunately, multiple use of both areas by the public has been severely restricted by the MWSA 1977. The Act has been a critical factor in the

Forest Service's inability to develop a reasonable forest plan for the area. Rescinding the MWSA 1977 designation would open the area for enjoyment by all of the public and allow the Forest Service to better manage the forest in these two areas.

The Forest Service has repeatedly stated these two areas should not be designated as wilderness and have recommended they be managed as non-wilderness lands as demonstrated by the following summary of land management actions:

- 1960- the Multiple Use-Sustained Yield Act directs our forests to be managed for multiple use

- 1972- RARE I Study- Middle Fork scores were not sufficient for wilderness designation

- Montana Wilderness Study Act (MWSA of 1977)- designated areas in Middle Fork of the Judith River (92,000 acres) and the Big Snowies (98,000 acres) as study areas.
    - June 1977 to January 1979, the FS RARE II study (1970's) recommended further study before a final wilderness recommendation could be made
    - In 1982, the FS completed the MWSA analysis and their Final Environmental Statement (FES) did not recommend the Middle Fork as a candidate for wilderness designation

- In 1986, the Forest Service the Forest Plan Record of Decision for the Lewis and Clark National Forest recommended "non-wilderness for both areas"

- In 2003, the Forest Service published the 'Judith Restoration Environmental Impact Statement" and did not recommend the Middle Fork of Judith for further study

- Motorized recreationists was asked to support the Rocky Mountain Heritage Act since the Act released wilderness study areas (WSA) designation in other areas of the Front
    - Motorized recreationists asked that removal of the WSA designation be included as part of the legislation
    - Our request was addressed by Senator Baucus's office

- In Montana, the wilderness experience already exists in many other places including:
    - 16 USFS Wilderness areas (3,606,715 acres)
    - 2 National Parks (3,233,113 acres),
    - 39 BLM managed lands (449,963 acres),
    - National Monuments,
    - National Wildlife Refuges, and
    - Conservation Management Areas

- These two areas have been "studied" since 1972 – over 44 years
    - Declaring these two areas as WSA's has restricted public use which was not supposed to happen per the original legislation unless they were officially designated as wilderness areas
    - Continued management as WSA's allows very limited management of the forest

- Removing this designation would facilitate Forest Service management of these areas and the forest surrounding them and allow the public much needed access and multiple-use opportunities

Congressional action on the MWSA of 1977 is the only way that this situation can be fixed. We are asking you to help remove the Wilderness Study Area classification from the Middle Fork of the Judith River and the Big Snowies and also direct the Forest Service to manage these areas as non-wilderness multiple-use areas as originally designated by congress in the Multiple-Use Act of 1960. We ask for your support to rescind the Montana Wilderness Study Act of 1977 and return the Middle Fork of the Judith and the Big Snowies to multiple-use management for the benefit of all of the public.

Thank you for considering our request.

Sincerely,

/s/ CTVA Action Committee on behalf of our 240 members and their families and friends

Capital Trail Vehicle Association (CTVA)[1]
P.O. Box 5295
Helena, MT 59604-5295

Contacts:

Doug Abelin, President	at (406) 461-4818	dabelin@live.com
Jody Loomis, VP	at (406) 459-8114	jloomis@mt.net

[1] CTVA is also a member of Montana Trail Vehicle Riders Association (mtvra.com), Blue Ribbon Coalition (sharetrails.org), and New Mexico Off highway Vehicle Alliance (nmohva.org),. Individual memberships in the American Motorcycle Association (ama-cycle.org), Citizens for Balanced Use (citizensforbalanceduse.com), Families for Outdoor Recreation (ffor.org), Montana 4X4 Association, Inc. (m4x4a.org), Montana Multiple Use Association (montanamua.org), Snowmobile Alliance of Western States (snowmobile-alliance.org), and United Four Wheel Drive Association (ufwda.org)

Citizens for Balanced Use
Box 606, Gallatin Gateway, Mt 59730
www.balanceduse.org
1-406-600-4228

TO: Senator Jon Tester
Senator Steve Daines
Congressman Ryan Zinke

Citizens for Balanced Use (CBU) is a grass roots organization representing more than 100,000 Montana citizens through our membership and supporting businesses and organizations. We advocate for multiple use recreation, active forest management, and responsible resource development on federally managed public lands in the west.

CBU supports the release of the North Fork of the Judith River in the Little Belt Mountains and the Big Snowy Mountains from Wilderness Study Area designation. These areas were placed under wilderness study in 1977 and were only to remain for a brief period of time and until a formal recommendation were to occur. Wilderness evaluations by the Forest Service have shown these areas as NOT suitable for wilderness designation yet Congress has not formally released them. CBU believes it is time these areas be released.

The management of these areas under current WSA designation severely restricts the majority of users of our public lands. The elderly and physically challenged that require motorized and mechanized transport for access are virtually locked out of enjoying these lands. Families with young children and grandparents wanting to spend time together on these lands are also not afforded this opportunity because of the WSA designation.

Access to and on our public lands and waters are so very important to all of us here in Montana. Many of our lands, nearly 2/3 of our public lands in Montana, are restricted in some way or another to multiple use access. Wilderness advocates continue to pressure Congress for more and more wilderness designation and CBU believes we have enough wilderness in Montana. User surveys conducted by both the Beaverhead Deerlodge and the Gallatin National Forests show that less than 3% of the public recreate in and on wilderness designated public lands.

After nearly 40 years since these areas were placed into wilderness study area designation it is time for Congress to release them for the greatest good and enjoyment of the public. Thank you for your consideration of this very important issue.

Sincerely,

Kerry White
Executive Director
CBU

C'MON 4X4 CLUB
8519 Maiden Road
Lewistown MT 59457

February 12, 2017

Senator Steve Daines
104 4th Street North, Ste 302
Great Falls MT 59401

Honorable Senator Daines:

We are the C'MON 4x4 Club and are a small (15) family oriented organization located in central Montana. We are proud and active members of our community, benefitting local charities and clubs as we are able. We believe in using our local land resources in a responsible way by caring for the land as ours personally.

In our area, there are two Wilderness Study Areas that have been there for over 40 years. Because of their being Wilderness Study Areas, the Forest Service is limited in opening them up for multiple use. The Forest Service has never wanted these as wilderness, so we are asking that these areas be eliminated as Wilderness Study Areas. Removal would allow the Forest Service to manage these areas with the rest of the forest where multiple-use can be an option.

Many of our club activities take place on our public lands, and we cherish and respect those lands. As a club we support the efforts to keep the roads/trails open to recreational use, and obviously open to multiple use by the public.

Please introduce a bill that will remove the Wilderness Study Area designations from the Big Snowies Mountain and the Middle Fork of the Judith River in the Little Belt Mountains.

Sincerely,

Becky Shepard

Becky Shepard, Secretary/Treasurer for
C'MON 4x4 Club, Lewistown MT

Montana State Senate

The Treasure State

SENATOR PATRICK "PAT" CONNELL
SENATE DISTRICT 43

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COMMITTEES:
BUSINESS, LABOR, AND ECONOMIC AFFAIRS
NATURAL RESOURCES
ENERGY AND TELECOMMUNICATIONS - VICE CHAIR
LEGISLATIVE ADMINISTRATION - VICE CHAIR

1 February 2018

Senator Steve Daines
320 Hart Senate Office Building
Washington DC 20510

Re: Senate Bill S2066

Dear Senator Daines:

I write to express my endorsement of your bill which will remove the "Wilderness Study Area" designation on 5 areas in Montana, with acknowledgement that two such areas, the Blue Joint and Sapphire areas comprise over 125,000 acres and are within my State Senate district.

The polemic "zero sum game" arguments that seems to be used by those opposing the lifting of the "Study Area" designation are deeply troubling to me. This bill does not "remove protection" from these lands, nor does it lead to a "sell off" of public lands. Rather, S 2066 is a thoughtful attempt to return these lands from a stasis that does not recognize the natural changing conditions within which we live and the risks our society faces..

These areas within your bill constitute headwater regions of Montana. They are, then, a good part of the source of Montana's most important asset: Water. We have come from the decade of the 70s when in fact, a looming "Ice Age" was anticipated until now, when climate change bespeaks of drier and hotter climates. Experts, including the Montana Climate Institute are predicting serious changes over the next 3 to 5 decades; chief amongst them is a shortage of late summer season water flows.

Backed both by empirical and analytical science, longer, hotter and drier summers ahead for Montana will cause severe risks for our agricultural and recreational economies. Over the past few years, between weather extremes, limited access, limited resources and a voluminous fuel loading, Montana's watersheds have been methodically burnt. The direct result has been earlier spring runoffs, and less late season water for irrigation, fishing or rafting.

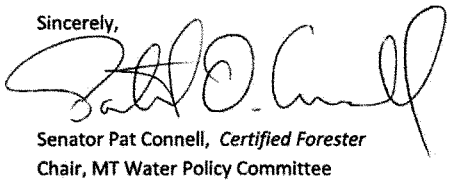
Since the Organic Act of 1897, and reaffirmed by the Supreme Court in *U.S. v New Mexico* in 1978, supplying water to downstream Senior Water Right holders is a primary responsibility of the National Forests. Its emphasis is even further elevated with the Forest Service entering into a Water Compact with Montana in 2007.

The various National Forests in Montana are either benignly neglecting, or actually avoiding management planning on these WSA, and as a consequence effectively ignoring their importance as a watershed's "hydrologic sponge" that an established, green and growing forest can provide for late season water release downstream. Dead standing forests, and fully burnt watersheds do not.

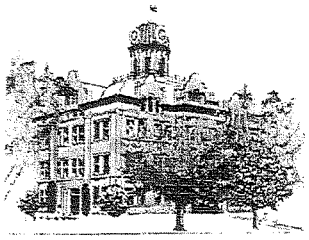
High, subalpine remote areas like these WSAs don't usually burn very often, or at high intensity, until weather or future climate changes magnifies the risks.

Montana watched this past summer's horrible wildfire season as the Forest Service concentrated its fire-fighting assets near Forests' boundaries, rather than to suppress fires in headwater drainages – in large part due to limited or no mechanical access along with some severe dead and down fuel loading. S 2066 will be a necessary first step to initiate the analytical effort for Forests in Montana to evaluate site specific accessibility, fuel conditions, and watershed importance for offsetting the predicted climate change we face.

Sincerely,



Senator Pat Connell, *Certified Forester*
Chair, MT Water Policy Committee



FERGUS COUNTY

Oct, 13 2016

Dear Senator Daines;

The Fergus County Commissioners are in support of the efforts to remove 98,000 acres from the Big Snowies Wilderness Study Area designation. We believe this area has languished under this designation long enough. It is time to allow the Forest service to integrate the management of these lands with the rest of the national forest lands.

The original intent of the WSA designation was to identify possible lands for a wilderness designation and study them to determine if they qualified. These lands have failed to qualify multiple times and need to be released for appropriate multiuse management strategies of our national forests. The continued WSA designation hinders responsible management of these public resources.

We appreciate the consideration afforded local government when making decisions that impact our community and our way of life. Please feel free to contact the Fergus County Commissioners with any questions or concerns you may have regarding our position on the removal of the WSA designation on these lands in Fergus County.

Sincerely,

Carl Seilstad | Sandra Youngbauer | Ross Butcher

Fergus County Commissioners
712 W. Main St., Suite 210
Lewistown, MT 59457

commissioners@co.fergus.mt.us

Ross Butcher, District 1
Sandy Youngbauer, District 2
Carl Seilstad, District 3

Office of
The Board of County Commissioners
Granite County

Post Office Box 925, Philipsburg, Montana 59858-0925
Telephone 406-859-7022 Assistant 406-859-7023 Fax 406-859-3817 Web Site www.co.granite.mt.us

Bill Slaughter, Chairperson
P O Box 96
Hall MT 59837

Barton C. Bonney, Commissioner
P O Box 701
Philipsburg MT 59858

Scott C. Adler, Commissioner
750 Frontage Road West
Drummond MT 59832

February 6, 2018

Re: Granite County, Montana; Letter of Support for Senate Bill 2206

Dear Honorable U.S. Senators Jon Tester and Steve Daines:

After hearing much public comment regarding the Sapphire Wilderness Study Area issues and associated issues from the residents of Granite county over the past few months, we strongly support Senator Daines' sponsored U.S. Senate Bill 2206 (SB 2206). We encourage all members of the U.S. Senate to support this bill as well. It is time to move forward and act for the people of Granite County.

Additionally, we have established an advisory committee, to be made up of Granite County residents, which will provide ongoing advice to us as a County Commission regarding SB2206, any future amendments to this SB2206, and regarding forest management in general. We also understand that once SB2206 is passed as currently proposed, that we would, along with the residents of Granite County, would have considerable input in the forest management plan regarding the Sapphire area within Granite County.

We appreciate your unyielding dedication and work on behalf of the people of Granite County and Montana. Thank you.

Sincerely,

Board of Granite County Commissioners

Bill Slaughter, Chairperson

Barton C. Bonney, Commissioner

Scott C. Adler, Commissioner

GREAT FALLS BICYCLE CLUB
220 WOODLAND ESTATES
GREAT FALLS, MONTANA 59404

The mission of the Great Falls Bicycle Club is to:

Provide safe, bicyclist-friendly routes for travel in and around Great Falls.

Sponsor recreational and competitive cycling activities.

Be a key player in transportation planning for Great Falls and vicinity.

Check us out on the world wide web at:

http://www.greatfallsbicycleclub.org

December 6, 2017

Senator Steve Daines
104 4th St N #302
Great Falls, MT 59401

Open Letter to Senator Steve Daines,

Members of the Great Falls Bicycle Club seek your influence to help temper the current USFS drive to create defacto Wilderness areas throughout Montana and specifically in the Big Snowy Mountains. USFS bureaucrats have usurped Congress's power to create Wilderness by inappropriately managing public land areas that they have selected as Recommended Wilderness Areas as if those lands had already been designated by Congress as federally protected Wilderness. USFS Region 1 guidelines (policies) effectively advocate for Wilderness and are therefore a gross overreach and abuse of the power we the people have entrusted to them.

The bureaucrats' Forest Planning efforts in the HLCNF seem designed to undo your commendable efforts to release the Wilderness Study Areas that Congress designated in 1977. The USFS would lock them up again in the current process as RWA's. In the HLCNF, the WSA in the Big Snowy Mountains has been targeted as a potential RWA in the current Forest Planning process. Bicyclists are very concerned about this alternative because the Snowys contain a regionally famous and well used mountain bike trail that would probably be closed to bicyclists if this area becomes an RWA so as to "maintain the area's Wilderness character".

At a recent local meeting, the HLCNF Forest Supervisor, Bill Avey, was asked if he intended to implement the USFS Region One "policy" to manage any new RWA's he creates in the HLCNF to preclude uses that may damage future Wilderness designation. He confirmed that this was his intention. That intention will ban bicycle riding in the Snowy Mountains and all trails in the RWA's unless Supervisor Avey chooses to allow our "non-conforming use" to continue as allowed in the 2012 Planning Rule. We fear he will kick us out, thus following in the footsteps of his predecessor, Spike Thompson, who kicked bicycles out of much of the Rocky Mountain Front in 2006 and was subsequently given a

Lifetime Achievement Award by the MWA and the Wilderness Society at his 2011 retirement party.

Further concern comes from the wording of the recent Public Comment Summary of the HLCNF Forest Plan Revision Scoping Document. Referring to bicyclist's comments as "Mechanized Use" is a typical Wilderness advocate's distortion of the intent of the Wilderness Act. The Act's original implementation language specifically prohibited "non-human powered vehicles", i.e. motorized vehicles. This implementation language was overturned in the early 1980's by powerful interest groups who selfishly strong armed the USFS to prohibit bicycles from Wilderness areas.

We believe that following this Region One guideline (policy) is inappropriate for several reasons. First, the Wilderness Act allowed Congress to create Wilderness, not federal agencies. This is a perfect example of the kind of agency overreach that our President is pushing back against. We have written to President Trump, asking that he examine this Region One unwritten policy. Please encourage the USFS to reconsider this policy/guideline at the regional and national level.

Second, there is no process to release these RWA's back to multiple use management once they are listed as RWA's. Congress should mandate a specific retirement period for all RWA's that are not protected by Congress as Wilderness. Please push for a reasonable retirement period.

Third, Region One of the USFS has not been challenged by bicyclists in court concerning this 10 year old unwritten policy (guideline) until now. The Bitterroot Backcountry Cyclists have joined with motorized groups to challenge this "policy" in the Bitterroot National Forest. A short summary of the current case status from one of the plaintiffs follows.
"We filed for summary judgement about two or three weeks ago and as part of that I submitted my declaration to demonstrate I had standing. Presumably the case will appear before the judge sometime in the first half of 2018. For what it is worth the lawyer is more confident about this case than others since the Bitterroot NF was especially flagrant in basing their decision based on Region 1 guidance, going as far as copy and pasting in text from the guidance into the EIS and ROD. This makes it appear that the guidance from Region 1 HQ was not guidance but policy. If so that would be a NEPA violation. If we can establish that the guidance is being used as policy it will hopefully make it harder for the Forest Plan to implement their RW restrictions. The lawyer is especially optimistic about getting the trail closures to bikes reversed at least unit the FS redoes a NEPA and closes them again."
Please stay abreast of this lawsuit and push the USFS to broadly implement any bicycling favorable rulings that may arise from this case.

Finally, the Wilderness groups have far too much sway in Montana's federal land management policies. For example, three of the MWA's 26 paid staffers met with GFBC representatives at the beginning of the HLCNF planning process. John Todd, Casey Perkins, and Mark Good, kindly offered to consider supporting continued bicycling in the Snowys provided we support all of thier other RWA recommendations in the HLCNF and if we would oppose the STC's bill to lift the blanket ban on bicycling in Wilderness areas. "Thanks, but no thanks!" Wilderness advocate's inappropriately powerful influence on USFS decisions is bad for Montana's outdoor economy and the health of our forests.

Thank you for pushing back against Wilderness advocates and their proxies in the USFS. The vast majority of Montanans are for multiple use of our National Forests, not more beetle infested, wildfire prone, expensive to manage, elitists only allowed, effective closures of our public lands.
Sincerely,

John Juras, President
Great Falls Bicycle Club

Jim Gold, Vice-President
Great Falls Bicycle Club

Frank Laliberty, Secretary Treasurer
Great Falls Bicycle Club

GFTBRA
GREAT FALLS TRAIL BIKE RIDERS ASSOCIATION
PO Box 602 Great Falls, Mt 59403

January 10 2017

TO: Senator Jon Tester
Senator Steve Daines
Representative Ryan Zinke

Dear Sirs:

The Great Falls Trail Bike Riders Association is a not for profit Montana corporation with several hundred members; individuals, family and business members who recreate on the National Forests in Montana. Our members ride motorcycles, ATV's, and ROV's. They hunt, fish, hike, view scenery, pick berries and generally just enjoy the great outdoors. The Lewis & Clark National Forest contains many of the premier motorized trails in the state, mainly because of agency decisions that we feel overlook our sport.

The Wilderness Study Act of 1977 designated 9 areas as Wilderness Study Areas. These areas were long time destinations for motorized recreation and the original bill recognized that, allowing continued motorized use of those areas. Over the following years, the perception from the agency and many groups have diverted the original use of those areas and we find they are no longer open for recreational use as the act provided.

Over the years these areas have not been recommended by the agency for designation, but they have remained in limbo. Currently there is a movement from other recreational user groups requesting the introduction of legislation to have the Wilderness Study designation removed from specific WSA's. While we applaud their effort, the Great Falls Trail Bike Riders Association supports the release of all 9 areas and returning them to management for multiple use.

The Great Falls Trail Bike Riders Association would appreciate any effort introducing legislation to release these areas.

Sincerely,

Ramona Ehnes
Secretart/Treasurer

Received: January 24, 2017

Judith Basin County Commission quote of support:

"The Judith County Commissioners would ask Congress to remove the Wilderness Study Area classification from the Middle Fork of the Judith River in the Little Belt Mountains and have the Forest Service manage the Area as non-wilderness."

Cody McDonald
Jim Moore
Don Hajenga

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE THERESA MANZELLA
HOUSE DISTRICT 85

HELENA ADDRESS:
CAPITOL BUILDING
PO BOX 200400
HELENA, MONTANA 59620-0400
PHONE: (406) 444-4800

HOME ADDRESS:
640 GOLD CREEK LOOP
HAMILTON, MT 59840
PHONE: (406) 546-9462
EMAIL: Rep.Theresa.Manzella.MT.GOV

COMMITTEES:
JUDICIARY
AGRICULTURE
NATURAL RESOURCES

1/30/18

I want to publicly and sincerely thank Senator Steve Daines for addressing Wilderness Study Areas in Montana that are not recommended for wilderness designation. The Protect Public Use of Public Land Act (text found here- https://www.congress.gov/bill/115th-congress/senate-bill/2206/text) is honoring the desires of the 65th Montana Legislature though the passage of our HJ9, which requested a decision from Congress on 7 Wilderness Study Areas. It's encouraging to have one of our Senators working in harmony with the state legislature to support the will of Montanans that support removing restrictions on lands not deemed suitable for Wilderness protections.

Congress passed the Montana Wilderness Study Act in 1977 which required the Secretary of Agriculture to review over 950k acres of land within 5 years to determine suitability for preservation as wilderness and report the findings to the President.

That was 40 years ago. We're now 35 years overdue, and still waiting for a final decision from Congress.

Currently, these lands are in legal limbo, the focus of many lawsuits and susceptible to restrictions that reduce a majority of users from accessing public land. This directive by perpetuity in areas not suitable for wilderness has resulted in a waste of forest assets, poor public planning, and a harmful reduction in forest road construction and multiple-use access improvements. The long-term sustainability of public lands depends on good stewardship and professional scientific site-specific management of forest resources. Montana's historic heritage, customs, and culture are linked to the proper stewardship and use of the state's natural resources.

The failure of Congress to remove designations in non suitable areas as determined by the Montana Wilderness Study Act of 1977 severely harms multiple-use interests and other forest users as well as Montana communities and Montana families economically supported by those activities. National forest lands released from wilderness study would still be subject to the National Forest Management Act, which requires extensive public involvement as the Forest Service agency develops and updates plans for the management and use of resources in each forest. Senator Daines bill would be a big and long overdue step in the right direction toward correction, and I urge your support.

Sincerely,

Rep Theresa Manzella

Rep Theresa Manzella
HD 85

Received: February 6, 2018

Montana Association of Counties quote of support:

"We urge Congress to take action on this long-overdue issue and release those lands determined through agency analysis as not suitable for wilderness designation. The studies have been done, the reports have been filed, and recommendations have gone unnoticed for years while a failure to act has crippled the Forest Service's ability to manage these public lands."

MACo Public Lands Committee Chairman, Greg Chilcott (Ravalli County Commissioner)

MONTANA
FARM BUREAU
FEDERATION

Senator Steve Daines
320 Hart Senate Office Building
120 Constitution Ave NE
Washington, DC 20002

November 6, 2017

Dear Senator Daines,

Public lands are a hot topic on the Federal level these days. Here in Montana we have many different types of public land and the members of the Montana Farm Bureau Federation continue to be interested in the management of these lands. Our members appreciate that there is a renewed focus on the management of federal lands, especially with regard to Wilderness Study Areas. MFBF supports the release of all Wilderness Study Areas (WSA) that have been designated as WSAs for more than five years but have failed to reach wilderness status.

As you know, there are around 40 Wilderness Study Areas in the state of Montana, many of which were designated as such more than forty years ago. Our members feel that five years is more than enough time for the agencies involved to properly "study" the validity of a wilderness designation. If Congress does not find that there is enough evidence supporting a full Wilderness designation after that period of time has elapsed, the land should be released from the "study" and returned to former management practices. Unfortunately, many WSAs have been under this designation for far longer than five years and as it currently stands, they are being managed very similarly to full-on Wilderness Areas, which inhibits the productivity of those lands, harming agriculture and other natural resource industries, as well as the small towns and communities that rely on those industries. Established wilderness criteria threaten multiple use areas by prohibiting the use of motorized tools and mechanized vehicles in watershed management, trail maintenance, noxious weed control, and fire protection, all of which are important to agriculture and have direct effects on adjoining land.

We appreciate you looking into this issue and considering agriculture's concerns.

Sincerely,

Hans McPherson
President

Office of the Speaker

MONTANA HOUSE OF REPRESENTATIVES

AUSTIN KNUDSEN
SPEAKER

The Honorable Steve Daines
U.S. Senator
320 Hart Office Building
Washington, D.C. 20510

Senator Steve Daines,

We write to you today to request that you and the rest of the Montana delegation introduce legislation similar to House Joint Resolution 9 (HJ 9), which was widely supported, and passed into law, by the Montana State Legislature in April of 2017 during the 65th Montana Legislature.

HJ 9 urges Congress to enact legislation that releases "all wilderness study areas (WSAs) identified and specified in the Montana Wilderness Study Act of 1977....unless Congress confirms a study area for inclusion in the National Wilderness Preservation System." **In the interest of providing certainty to land management agencies and to ensure these public lands are maintained for the multiple benefits they provide the citizens of Montana, the Montana State Legislature widely supports releasing seven WSAs totaling 663,000 acres of National Forest System lands.** Alternatively, Congress should confirm such an area be formally designated as Wilderness or any other alternative designation in a timely fashion.

The WSAs referenced in HJ 9 represent only seven of 44 designated WSAs in Montana. The Montana Wilderness Study Act of 1977 required the Secretary of Agriculture to review specified lands within five years to determine if their suitability warranted inclusion in the National Wilderness Preservation System, yet Congress has failed to determine the fate of these public lands 40 years later. With Montana's ownership and oversight split evenly between federal, state, and private, additional barriers due to an uncertain future designation only intensifies the complex challenges facing land managers. Congress can and should immediately address these barriers.

Additionally, HJ 9 states that Congress should "consider re-designating the WSAs as national recreation areas, national protection areas or national conservation areas" should traditional resource development, such as mineral development, timber harvest, or grazing be determined suitable for a particular landscape, making a certain level of protection appropriate. Such a determination simply should have been made in the last 40 years and it was not the intent of Congress to allow lands to sit in limbo without acting on a formal designation. Legislation signed into law that reflects the intent of HJ 9 will remove needless bureaucratic red tape on these lands. Moreover, future management plans resulting from a suitable determination will regulate permitted uses on the landscape as required by current law.

The Montana Legislature recognizes the different uses of our public lands. From resource production to motorized and non-motorized recreation to clean water and wildlife habitat, Montana's public lands provide multiple benefits to the diverse communities they serve.

HELENA ADDRESS: BOX 200400 HELENA, MONTANA 59620-0400 406-444-4815

Ensuring lands that are currently in WSA designation unnecessarily are removed, agencies will engage with the public in determining the future management of these areas, providing more opportunities for diverse use and the many benefits that Montanans expect from their public lands.

Thank you for your consideration of this request and we sincerely hope you will follow the bipartisan actions of the Montana State Legislature and support the conditional release of the Wilderness Study Areas on National Forest System land in Montana.

Sincerely,

Speaker Austin Knudsen

Supporting Members of the Montana House of Representatives:

Rep. Fred Anderson	Rep. Nancy Ballance	Rep. Dan Bartel
Rep. Becky Beard	Rep. Seth Berglee	Rep. Randy Brodehl
Rep. Bob Brown	Rep. Tom Burnett	Rep. Rob Cook
Rep. Mike Cuffe	Rep. Geraldine Custer	Rep. Alan Doane
Rep. Ron Ehli	Rep. Jeff Essmann	Rep. Ross Fitzgerald
Rep. Kelly Flynn	Rep. Wylie Galt	Rep. Frank Garner
Rep. Carl Glimm	Rep. Edward Greef	Rep. Bruce Grubbs
Rep. Steve Gunderson	Rep. Bradley Hamlett	Rep. Bill Harris
Rep. Greg Hertz	Rep. Adam Hertz	Rep. Kenneth Holmlund
Rep. Donald Jones	Rep. Jon Knokey	Rep. Casey Knudsen
Rep. Steve Lavin	Rep. Dennis Lenz	Rep. Denley Loge
Rep. Forrest Mandeville	Rep. Theresa Manzella	Rep. Wendy McKamey
Rep. Dale Mortensen	Rep. Mark Noland	Rep. James O'Hara
Rep. Jimmy Patelis	Rep. Gordon Pierson	Rep. Alan Redfield
Rep. Matt Regier	Rep. Vince Ricci	Rep. Adam Rosendale
Rep. Walt Sales	Rep. Ray Shaw	Rep Lola Sheldon-Galloway
Rep. Derek Skees	Rep. Scott Staffanson	Rep. Jeremy Trebas
Rep. Brad Tschida	Rep. Barry Usher	Rep. Sue Vinton
Rep. Kirk Wagoner	Rep. Peggy Webb	Rep. Tom Welch
Rep. Kerry White	Rep. Daniel Zolnikov	

Supporting members of the Montana Senate:

Sen. Duane Ankney	Sen. Mark Blasdel	Sen. Dee Brown
Sen. Edward Buttrey	Sen. Pat Connell	Sen. Jennifer Fielder
Sen. Steve Fitzpatrick	Sen. Terry Gauthier	Sen. Steve Hinebauch
Sen. Jedediah Hinkle	Sen. Brian Hoven	Sen. David Howard
Sen. Llew Jones	Sen. Doug Kary	Sen. Bob Keenan
Sen. Mike Lang	Sen. Eric Moore	Sen. Albert Olszewski
Sen. Ryan Osmundson	Sen. Keith Regier	Sen. Tom Richmond
Sen. Scott Sales	Sen. Daniel Salomon	Sen. Jason Small
Sen. Cary Smith	Sen. Nels Swandal	Sen. Gordon Vance
Sen. Chas Vincent	Sen. Gene Vuckovich	Sen. Roger Webb
Sen. Jeffery Welborn		

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE UNITED STATES CONGRESS TO RELEASE CERTAIN WILDERNESS STUDY AREAS IN MONTANA FROM CONSIDERATION FOR INCLUSION IN THE NATIONAL WILDERNESS PRESERVATION SYSTEM.

WHEREAS, the 95th Congress passed the Montana Wilderness Study Act of 1977; and

WHEREAS, the Montana Wilderness Study Act required the Secretary of Agriculture to review certain lands within 5 years to determine suitability for preservation as wilderness and report the findings to the President; and

WHEREAS, almost 663,000 acres of land in Montana are designated under the Montana Wilderness Study Act, including the:

(1) West Pioneer Wilderness Study Area comprising approximately 151,000 acres;

(2) Blue Joint Wilderness Study Area comprising approximately 61,000 acres;

(3) Sapphire Wilderness Study Area comprising approximately 94,000 acres;

(4) Ten Lakes Wilderness Study Area comprising approximately 34,000 acres;

(5) Middle Fork Judith Wilderness Study Area comprising approximately 81,000 acres;

(6) Big Snowies Wilderness Study Area comprising approximately 91,000 acres; and

(7) Hyalite-Porcupine-Buffalo Horn Wilderness Study Area comprising approximately 151,000 acres; and

WHEREAS, the 5-year period for review mandated by the Montana Wilderness Study Act expired in 1982; and

WHEREAS, the vast majority of Montana lands identified in the Montana Wilderness Study Act have never been formally recommended by the Secretary of Agriculture for inclusion in the National Wilderness Preservation System and no law has been signed by the President to designate these lands as wilderness; and

WHEREAS, these Montana lands are in legal limbo, a situation that causes extensive federal litigation as to what uses of the lands are appropriate and, in turn, places a burden on federal court resources; and

WHEREAS, uncertainty and wide swings in Executive Branch philosophy regarding the administration

of these lands are costing the public millions of dollars as forest assets burn and deteriorate and as investments in forest road construction and improvements are being deliberately destroyed; and

WHEREAS, administrative decisions and preservationist lawsuits have progressively reduced access to public lands for forest managers and the public; and

WHEREAS, the long-term sustainability of public lands depends on good stewardship and professional scientific site-specific management of forest resources; and

WHEREAS, Montana's historic heritage, customs, and culture are linked to the proper stewardship and use of the state's natural resources; and

WHEREAS, these lands are defacto wilderness in lieu of congressional action, a situation that has resulted in a waste of forest assets, no management of public forests, and a harmful reduction in forest road construction and multiple-use access improvements; and

WHEREAS, the failure by Congress to release the lands locked up by the Montana Wilderness Study Act of 1977 severely harms agriculture, timber harvesting, and multiple-use interests, as well as Montana communities and Montana families economically supported by those activities; and

WHEREAS, it is the consensus of the Montana Legislature that more than sufficient time has passed for the study of these lands as to their suitability for preservation as wilderness to be completed under the Montana Wilderness Study Act; and

WHEREAS, national forest lands released from wilderness study would still be subject to the National Forest Management Act, which requires extensive public involvement as the agency develops and updates plans for the management and use of resources in each forest; and

WHEREAS, the Montana Legislature on behalf of the citizens of the state assert that the time is ripe for final disposition of these lands.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislature supports scientific adaptive management to implement the multiple-use concept of public land use as mandated by the Multiple-Use Sustained Yield Act of 1960, to ensure the protection and improvement of forest health, and to maintain and improve the sustainability of federal forests located in Montana.

BE IT FURTHER RESOLVED, that the United States Congress enact legislation to release all wilderness study areas identified and specified in the Montana Wilderness Study Act of 1977 in order to secure the rights of Montana citizens to use these public lands for public purposes, including for purposes of multiple recreation

use, unless Congress confirms a study area for inclusion in the National Wilderness Preservation System.

BE IT FURTHER RESOLVED, that Congress:

(1) release all wilderness study areas and implement the concept of multiple use in order to fulfill the federal mandate as required by the Forest Management Act of 1897 to manage the national forests to "improve and protect the forest within the reservation, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States"; or

(2) consider redesignating the wilderness study areas as national recreation areas or national conservation areas.

BE IT FURTHER RESOLVED, that in its deliberations, Congress consider the land management alternatives in view of the Forest Management Act of 1897 in conjunction with the 2007 water compact between the state of Montana and the U.S. Department of Agriculture Forest Service since land management directly impacts the volume, quantity, and timing of water flows from watersheds in these wilderness study areas and impacts downstream water rights holders.

BE IT FURTHER RESOLVED, that the Legislature urges the Secretary of the Department of Agriculture to direct the Forest Service to immediately evaluate the impacts of the land management alternatives on the watersheds in the wilderness study areas and downstream water rights holders to help inform Congress in its deliberations.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the Governor of Montana, the Montana Congressional Delegation, the United States Secretary of the Interior, the United States Secretary of Agriculture, and the Chief of the United States Forest Service.

- END -

I hereby certify that the within joint resolution,

HJ 0009, originated in the House.

_____

Speaker of the House

Signed this _____ day

of _____, 2017.

_____

Chief Clerk of the House

_____

President of the Senate

Signed this _____ day

of _____, 2017.

HOUSE JOINT RESOLUTION NO. 9

INTRODUCED BY K. WHITE, C. VINCENT

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE UNITED STATES CONGRESS TO RELEASE CERTAIN WILDERNESS STUDY AREAS IN MONTANA FROM CONSIDERATION FOR INCLUSION IN THE NATIONAL WILDERNESS PRESERVATION SYSTEM.

Honorable Senator Steve Daines (MT)
320 Hart Office Building
Washington, D.C. 20510

Dear Senator Daines, February 1, 2018

The Montana Outfitters and Guides Association (MOGA) appreciates your effort to address several Wilderness Study Areas in Montana and supports the Protect Public Use of Public Land Act of 2017.

The Montana Wilderness Study Act passed Congress in 1977 and required the United States Forest Service to study certain landscapes and determine whether those lands were suitable for inclusion in the National Wilderness Preservation System. The Wilderness Study Areas included in S. 2206, including the Sapphire, West Pioneer, Big Snowies, Middle Fork Judith, and a portion of the Blue Joint were not recommended for inclusion as wilderness and should no longer be subject to the designation. Nearly 40 years later, Congress has not successfully removed these designations, resulting in insufficient planning for forest users and presenting challenges to land managers. Removing this designation will allow for these areas to be revisited within the forest planning process and move us forward toward a lasting resolution that could include everything from designated wilderness to general forest use.

MOGA strongly supports access for all user groups and sound management of our public lands. Ensuring these areas are removed from a management directive that is not compatible with what the Forest Service studies concluded nearly 40 years ago will allow a new process to determine future management of these areas. MOGA would continue to actively participate in forest planning to help influence future land use decisions in these areas to ensure they reflect the diverse interests that Montanans expect from our public land; including motorized, mechanized, and quiet forms of recreation which is critical to the small businesses that constitute most outfitters and guides throughout Montana. Without a predetermined outcome, all user groups will be presented with an opportunity to engage in the planning process, which will ensure proper engagement on behalf of the public and finally move us forward in determining appropriate uses on the ground.

Thank you for continuing to show leadership in reaching consensus on important public lands issues. From having successfully ushered the Rocky Mountain Front Heritage Act through the United States House of Representatives as a Congressman to now tackling long overdue wilderness study areas, Montana Outfitters and Guides Association appreciates your thoughtful approach to difficult public land issues.

Sincerely,

Mac Minard
Montana Outfitters and Guides Association

Montana Outfitters and Guides Association 5 Microwave Hill Road Montana City MT 59634

PETITION TO SUPPORT SEN. DAINES. "PROTECT PUBLIC USE OF PUBLIC LANDS ACT"

This bill would release BACK TO THE PUBLIC, approximately 500,000 acres of land in several Wilderness Study Areas (WSA) in Montana. The 1977 Montana Wilderness Study Act (MWSA) created (9) Wilderness Study Areas encompassing 972,000 acres to determine if they were suitable for inclusion into the National Wilderness System. The Act directed the Secretary of Agriculture to report its findings to Congress within (5) years. The Forest Service did an assessment and recommended that many of the WSA's or portions thereof were unsuitable for Wilderness and should be managed as NON-WILDERNESS. Congress has not acted on those recommendations...yet.
In the late 1980's the Forest service then started managing many of these areas as DE FACTO WILDERNESS, prohibiting many of the previous approved uses, including all motorized and bicycle access.

Sen Daines' bill is basically taking the long delayed decision process to Congress as intended by the MWSA. MOST MONTANAS FEEL THAT 40 YEARS IS FAR TOO LONG TO "STUDY" ANYTHING .

PUBLIC LAND SHOULD BE AVAILABLE TO ALL THE PUBLIC, NOT JUST SPECIAL INTEREST GROUPS.

I SUPPORT SEN. DAINES' "PROTECT PUBLIC USE OF PUBLIC LANDS" bill S. 2206

Al's Cycle

	PRINT NAME	SIGNATURE	STREET ADDRESS	CITY	STATE	ZIP
1	Dan Thompson	D. Thompson	219 Totem View	Victor	MT	59875
2	Karen Thompson	Karen S. Thompson	219 Totem View	Victor	MT	59875
3	BIAN ENGLUND	BIAN ENGLUND	619 US HWY 93 N	HAMILTON	MT	59840
4	Don Farnquist	[illegible]	438 Rippling Woods	Victor	MT	59875
5	Bryan Jones	[illegible]	95 Como Vista Lane	Hamilton	MT	59840
6	Justin Balch	[illegible]	925 West Pond Apt A	Hamilton	MT	59840
7	Mary Sparling	Mary Sparling	1661 Sutherland	Corvallis	MT	59828
8	Bill Sparling	[illegible]	1661 Sutherland	Corvallis	MT	59828
9	Curt Bates	[illegible]	329 Bull Run	Florence	MT	59833
10	Vincent Roth	[illegible]	2598 Little Sleeping Child Whiskey Jack	Hamilton	MT	59840
11	Bruce Foster	Bruce Foster	467 Gird Creek Rd.	Hamilton	MT	59840
12	Brenn Davis	[illegible]	21351 Polette Ct.	Florence	MT	59833
13	Lucas Anson	[illegible]	581 Skalkaho	Hamilton	MT	59840
14	Russ Englund	[illegible]	619 Hwy 93 N	Hamilton	MT	59840
15	LAMAR	STEIGERWALT	570 Coho Court	Corvallis	MT	59828
16	Carole	Steigerwalt	570 Coho Court	Corvallis	MT	59828
17	Steve Aheer	[illegible]	5715 Koch Ln	Florence	MT	59833
18	Daniel BRADSHAW	[illegible]	2117 35th Ave	Missoula	MT	59804
19	Ray Waliser	Ray Waliser	696 Foley Ln.	Hamilton	MT	59840
20	Chris Fillingham	[illegible]	2112 Bearbya Rd.	Hamilton	MT	59840

	PRINT NAME	SIGNATURE	STREET ADDRESS	CITY	STATE	ZIP
21	Kim Englund	[illegible]	619 Hwy 93 N.	Hamilton	MT	59840
22	Dave Wells	Dave Wells	299 Martin Rd	Corvallis	MT	59828
23	Ricci Brown	Ricci Brown	Po Box 25	Darby	MT	59829
24	Eric Shields	[illegible]	236 St. Joseph Ln	Stevensville	MT	59870
25	PHIL WINDER	[illegible]	109 ALMA LN	VICTOR	MT	59875
26	Tyler Jones	[illegible]	518 South 1st	Hamilton	MT	59840
27	Lynn Hoffaker	[illegible]	2486 Woodcock Butte Ln	Darby	MT	59829
28	Allen Lanz	[illegible]	246 Grouse Butte Ln	Darby	MT	59829
29	Thomas Reynolds	[illegible]	599 Harvey Ln	Corvallis	MT	59828
30	Jacqueline Aiuppa	[illegible]	1395 Brown Road	Corvallis	MT	59828
31	Janet Pruitt	[illegible]	657 Sweeney Creek Loop	Florence	MT	59833
32	Charles Orme	[illegible]	2112 Berry Ln Rd	Hamilton	MT	59840
33	Steve Moskauski	[illegible]	505 Hollister Rd	Corvallis	MT	59828
34	DENNIS WESCOTT	[illegible]	2055 DESPERADO TRAIL	CORVALLIS	MT	59828
35	Duncan Robertson	[illegible]	11000 Highway 12 W	Lolo	MT	59847
36	Scott Burlingham	[illegible]	255 Cooper Loop	Hamilton	MT	59840
37	Brian Henaut	[illegible]	485 W. Missoula Ave	Darby	MT	59829
38	Heidi Sanderson	[illegible]	655 Shepherds View	Corvallis	MT.	59828
39	Corinne Sanderson	[illegible]	655 Shepherds View	Corvallis	MT.	59828
40	KURT LOVE	[illegible]	209 Peaceful Dr.	Hamilton	MT.	59840
41	Bridger Wolczynski	[illegible]	997 Joy St	Corvallis	MT	59828
42	BRENT NELSON	[illegible]	345 Ryegate Rd	DARBY	MT	59829
43	BILLIE NELSON	[illegible]	345 Rye Gate Rd	Darby	MT	59829
44	Shawn Kind	[illegible]	70 Angel Ln	Hamilton	MT	59840
45	ZANE WATTS	[illegible]	97 TEAL	HAMILTON	MT	59840
46	TODD PAGE	[illegible]	1851 Sutherland Ln	Corvallis	MT	59828
47	Scott Ellis	[illegible]	808 Pondersosa	Hamilton	MT	59840
48	BRIAN BALDOCK	[illegible]	424 ERIE LN	CORVALLIS	MT	59828
49	Herman Hill	[illegible]	1054 Carolyn Ln	Corvallis	MT	59828
50	Gary Kosiba	[illegible]	333 Bitter Root Ro	Victor	MT	59875
51	Rick Wise	[illegible]	1721 Mt. View Orchard Rd	CORVALLIS	MT	59828
52	Maggi Liechty	Maggi Liechty	1003 S. East St	Corvallis	MT	59828

	PRINT NAME	SIGNATURE	STREET ADDRESS	CITY	STATE	ZIP
53	Jason Liechty		1003 S. East St	Corvallis	MT	59828
54	Isaiah Nelson		4527 Grizzly Way	Stevensville	MT	59870
55	Justin Blodgett		1244 Montana St	Missoula	MT	59801
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87	Jan King	Jan King	P.O. Box 2097	Hamilton	MT	59840
88	[illegible]	Dennis Tawbridge	Box 693	Darby	MT	59829
89	Jamie Imbery	[illegible]	543 Treece Gulch Rd	Stevensville	MT	59870
90	Tisa Imbery	[illegible]	543 Treece Gulch Rd	Stevensville	MT	59870
91	Megan McCluskey	[illegible]	359 Rye Way Corvallis	Corvallis	MT	59828
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Montana Shooting Sports Association, Inc.

P.O. Box 4924 • Missoula, Montana 59806 • (406) 549-1252
Website: http://www.mtssa.org • email: mssa@mtssa.org

Asserting the Rights of Gun Owners in Montana

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February 1, 2018

Senator Steve Daines
218 E. Front St., Suite 103
Missoula, Montana 59802

Dear Senator Daines,

The Montana Shooting Sports Association supports S. 2206. We believe that moving the included wilderness study areas back into standard Forest Service management will benefit Montana hunters, but especially hunters who are no longer young and fit but who still wish to hunt.

When we were younger, we could hike in five miles, shoot an elk, and with a struggle, pack it out. Many of us can no longer do that, because of age or infirmity. We are effectively excluded from the hunt because we cannot use motorized methods to get within a mile or so of the hunting opportunity.

These wilderness study areas are classic examples of public lands from which those who are not unusually fit are effectively excluded. We hope that having these areas returned to standard Forest Service management and multiple use will once again allow effective public access for all of the public, and for all hunters.

Sincerely yours,

Gary

Gary Marbut
President

Montana Sportsmen for Fish & Wildlife

P.O. Box 2243 http://www.mt-sfw.org/
Missoula, MT 59806 sfwmontana@gmail.com

February 4, 2018

RE: The Protect Public Use of Public Lands Act S.2066

Senator Steve Daines
320 Hart Senate Office Building
Washington DC 20510

Dear Senator Daines,

Montana Sportsmen for Fish and Wildlife (MTSFW) is grateful to you for sponsoring legislation (The Protect Public Use of Public Lands Act S.2206), to release wilderness study areas (WSA's) in Montana that have languished in limbo far too long.

As you know MTSFW's primary mission is to preserve hunting, trapping, and fishing rights while protecting Montana's rural heritage. Therefore S.2206 is the perfect public policy change that is central to our purpose and fortifies access for sportsmen.

This legislation brings much needed closure to an issue that should have been decided decades ago, and most importantly allows people with limited capabilities and assets to access our public lands.

S.2066 is crucial to sustain public access and multiple use to our public lands not suitable for wilderness designation and upholding Montana's customs and culture.

Releasing WSA's will help advance forest management projects such as fuel treatments that provide significant advantages for firefighting, enhancing forest health, and providing habitat improvement for wildlife.

We have been deliberating this issue into oblivion even though the evaluation conducted by the United States Forest Service (USFS) determined, in their report to Congress, that none of the Sapphire WSA was suitable for wilderness, and only a portion of the Blue Joint WSA was suitable for wilderness.

We urge you to continue supporting release of wilderness study areas for the benefit of all citizens.

It's time for special interests and anti-multiple use groups to stop imagining more wilderness has been created, where none exists.

JR Strand, President
Montana Sportsmen for Fish and Wildlife

MONTANA TRAIL VEHICLE RIDERS ASSOCIATION
Creating a positive future for off-highway vehicle recreation
P.O. Box 2884 Great Falls, MT 59403

U.S. Senator Steve Daines
Hart Senate Office Building 220,
Washington, D.C 20510

Re: Support for the Protect Public Use of Public Lands Act

Dear Senator Steve Daines,

The Montana Wilderness Study Act of 1977 required the Forest Service to study the suitability of 973,000 acres of National Forest System Lands in Montana and determine if they could meet the criteria for Wilderness designation. The Study was to last five years. Thirty-five later, the majority of acres remain in the Wilderness Study Area designation and many public land users are have lost and continue to lose access to places where they and their families have recreated for generations. Additionally, the majority of these acres have been studied and determined to **not** meet the criteria for inclusion in the National Wilderness Preservation System.

Removing this designation from areas that the Forest Service deemed not suitable for inclusion in the National Wilderness Preservation System will allow Montanans and the American public the opportunity to finally determine what uses are appropriate through the public planning processes.

Our organizations have requested action on WSAs for many years. Unfortunately, inaccurate information and pervasive rhetoric have prevented an honest conversation about releasing areas not recommended for wilderness areas by the US Forest Service.

Our organizations strongly support the Protect Public Use of Public Lands Act because all recreationists – including motorized, the disabled, the elderly, and more – should have the opportunity to engage in recreational activity on public land in areas that are deemed suitable for uses of their choice, through public processes, without the complication that Wilderness Study Areas present to land managers and the public at large. This act provides an opportunity for more public dialog about the use of these public lands and will allow everyone in the public to participate in the planning processes to determine which uses are suitable for a particular landscape.

Thank you for introducing legislation to remove the outdated 1977 Montana Wilderness Study Area designation from these five areas.

With Sincere gratitude,
Montana Trail Vehicle Riders Association, representing the attached list of member clubs.

Montana Trail Vehicle Riders Association,
Mike Jeffords, President

Russ Ehnes, Vice President

Ramona Ehnes, Secretary/Treasurer

William R. Black, Director at Large

Doug Abelin, Director at Large & President of Capital Trail Vehicle Assn

Nic Richardson, Director at Large

5 Rivers Trail Riders, Bozeman. Director/President Rich Winget

Billings Motorcycle Club, Billings. Director Charles D. Bonnett

Bitterroot Ridge Riders, Hamilton. Director Dan Thompson

Blackfoot Valley OHV Assn, Lincoln. Director Frank Malek

Cabinet Ridge Riders. Trout Creek. Director Jim Morkert

Capital Trail Vehicle Assn, Helena. Director Mike Sedlock

Gallatin Valley Dirt Riders, Bozeman. Director Jeff Holman

Great Falls Trail Bike Riders Assn, Great Falls. Director Mark Klemencic

Mining City Trail Riders, Butte. Director Benny Finnicum

Ranch Riders, Glendive. Director Marty Ulrich

Ravalli County Off Road Users Assn, Hamilton. Director Brent Nelson

Seeley-Swan ATV Club Inc., Seeley Lake. Director Dave Sharbano

Treasure State ATV Assn, Billings. Director Bruce Butler

Western Montana Trail Riders Assn, Missoula. Director Roger Tulbert

Received: December, 13 2017

Montana Wool Growers Association quote of support:

"The Montana Wool Growers Association lends its support to the Protect Public Use of Lands Act and thanks Montana Senator Steve Daines for his strong leadership on the same. This important bill is unique because it seeks to promote the use of public lands, as opposed to closing them off to public use – the latter being a trend all-too-often seen in recent years.

Montana's sheep industry has experienced first-hand and all too well the loss of public lands for multiple use, such as for grazing purposes, and the exploding growth of litigation resulting from Congress' 40 years of inaction on the Montana Wilderness Study Act of 1977.

As a result of the failure of Congress to act on public lands locked up by the Wilderness Study Act, for the last four decades, public lands in Montana have been treated like and have become de facto wilderness areas. This situation has resulted in the public being effectively blocked from using public lands that would otherwise be placed under the management directive of the U.S. Forest Service. It has also resulted in economic harm to the communities and industries that economically benefit from multiple use of public lands, such as the agriculture industry.

MWGA commends Senator Daines for affirmatively acting on the directive of the Montana Legislature by introducing federal legislation to bring these lands out of legal limbo and releasing the WSAs in accordance with the recommendations made long ago by the Forest Service to do so. Montana's sheep industry supported HJ 9 during the 2017 Montana legislative session because this agriculture industry knows it is well past time for Congress to complete the work that Congress was supposed to complete as far back as 1982."

Kevin Halverson, President, MWGA, Big Timber

MONTANA STATE SENATE

SENATOR ERIC MOORE
SENATE DISTRICT 19

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(406) 444-4800

HOME ADDRESS:
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MILES CITY, MT 59301
PHONE: (406) 234-3562

COMMITTEES:
FINANCE & CLAIMS
AGRICULTURE, LIVESTOCK & IRRIGATION
RULES
AUDIT

The Honorable Senator Steve Daines
320 Hart Senate Office Building
Washington, DC 20510

September 25, 2017

Dear Senator Daines,

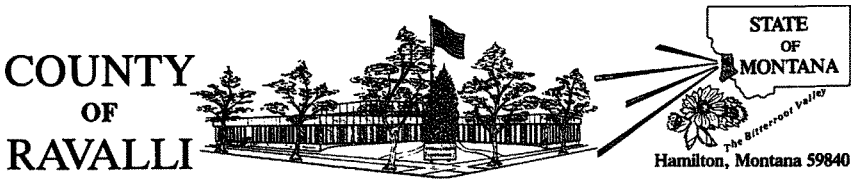
I am writing to express my appreciation for your work on reviewing certain Wilderness Study Areas for possible removal in accordance with HJ 9, passed by the 2017 Montana Legislature.

I would encourage you, during your deliberations, to give full consideration to WSAs in the eastern part of the state as well. As you are aware, the devastating Lodgepole complex fire started on a WSA. The rules preventing firefighters from promptly dealing with the blaze are to a certain degree responsible for the fire getting out of control and causing the destruction it did. Public lands under different classifications are more open to the public, provide better economic returns to the local community, and contribute less to Montana's wildfire hazard.

Thank you for your service to Montana and the nation, please do not hesitate to contact me should you have any questions.

Sincerely,

Frederick D. Moore
Montana Senate District 19



September 15, 2017

Senator Steve Daines
320 Hart Senate Office Building
Washington, DC 20510

Dear Senator Daines,

Ravalli County strongly supports legislation to finally address WSAs (Wilderness Study Areas). Ravalli County has been asking Congress and the Department of Agriculture to address this critical land use issue for years. The WSAs in Ravalli County have been studied by the Forest Service and we agree with, and support, their 1987 recommendation to release the Sapphire WSA. The Blue Joint WSA is 64,168 acres with 27,501 acres recommended for Wilderness in the 1987 Bitterroot Forest Plan (BFP). The Commission strongly opposes Wilderness designation of any of the Blue Joint WSA.

The Bitterroot National Forest (BNF) currently has 750,211 acres designated as Wilderness Area and two (2) Wilderness Study Areas (WSA) with a combined acreage of 101,974 acres. Additionally, there are 48,864 acres designated as Recommended Wilderness Areas (RWA). A number of the fractured Bitterroot RWA acres are adjacent

to private property and the Wildland-Urban Interface with the remainder attached to, and expanding, designated Wilderness Areas and, in the opinion of the Commissioners, do not possess significant wilderness characteristics. We believe that there are NO public lands, which are not currently designated as Wilderness Area, that have STRONG LOCAL SUPPORT for designation as Wilderness Area in Ravalli County. The overwhelming majority of Ravalli County citizens involved with agriculture, timber, mining, communication, motorized recreation and general outdoor recreation that live, work and recreate in our county support a reduction of public lands managed as Wilderness Area and increasing public lands managed for multiple-use.

When reviewing lands within Ravalli County being studied/considered for Wilderness Area designation, of paramount importance to our residents are the Wilderness Study Areas (WSAs). The analysis performed by the Bitterroot National Forest in 1987 found 74,473 acres of the 101,974 acres of WSA was "Not Recommended for Wilderness." These areas are still Wilderness Study Areas, not because they have outstanding wilderness characteristics, but because Congress has not acted to remove the WSA designation it imposed 40 years ago.

As the budget problems persist in Washington, D.C., Ravalli County Commissioners would like to stress the importance of federal revenue sharing that comes from the active management of federal lands. Recognizing and utilizing the economic potential of responsible resource utilization on public lands would greatly benefit our nation beginning with our local economy, extending to the many visitors who travel to Ravalli

County to recreate on these public lands and support federal agencies' budgets from permits, income, and fees.

Ravalli County is surrounded by millions of acres of Wilderness Area and National Parks that are located within a day's drive. These Wilderness Areas are, in many cases, the origin of catastrophic forest fires that burn tens of thousands of acres of National Forest, State Forest and private property every year. The Ravalli County Commissioners strongly support and encourage federal policy reform that requires active forest management rather than the current model that results in catastrophic fires, loss of life and property, economic impacts, loss of wildlife habitat and significant impacts to our citizen's health and safety from hazardous air quality. The Commissioners also strongly encourage Congress to release all WSAs and RWAs in Ravalli County from a Wilderness Area designation.

Sincerely,

Greg Chilcott, Chairman

Jeff Burrows, Member

Ray Hawk, Member

ABSENT
Doug Schallenberger, Member

Chris Hoffman, Member

Ravalli County Off Road User Association

Ravalli County Off Road User Association

P.O. Box 72, Hamilton, Montana 59840
www.ravalliofffroad.org

September 12, 2016

Senator Jon Tester
Senator Steve Daines
Representative Ryan Zinke

The Ravalli County Off Road User Association (RCORUA) is a group of about 400 citizens who advocate for public access to public land. Many of our members enjoy opportunities for motorized recreation, hunting, and fishing in the Helena-Lewis & Clark National Forest.

This letter enthusiastically supports the request from the Russell County Sportsmen's Association for Congressional legislation that would release certain WSAs in the Helena-Lewis & Clark NF that do not meet the criteria for designation as Wilderness Areas. We concur that the recent tendency, influenced by wealthy and litigous out-of-state environmental groups, to create defacto wilderness in areas of public land that do not meet the criteria for wilderness needs to be corrected by Congress. In our view, the current tendency of Federal land management agencies to create wilderness where wilderness does not exist and without designation from Congress is an unacceptable symptom of Federal overreach and it is in fact the duty of Congress to reign in these rogue agencies with legislative action.

There are other Forests and BLM areas in Montana that are similarly threatened by inappropriate designations of defacto wilderness. For example the Bitterroot National Forest (BNF) contains portions of two WSAs designated by the 1977 Montana WSA Act. The Sapphire WSA is 117,000 acres and straddles the boarder between the Bitterroot and Beaverhead-Deerlodge National Forests. The Blue Joint WSA is 65,860 acres and a small portion of this WSA lies in the Salmon-Challis National Forest. In their joint 1985 recommendation to Congress, these Forests concluded that none of the Sapphire WSA and about half of the Blue Joint WSA were inadequate candidates for wilderness designation. Disregarding these professional and thorough evaluations, the recent BNF Travel Plan arbitrarily closes those portions of the Sapphire and Blue Joint WSAs that lie within the boundary of the BNF to all motorized and mechanized (mountain bikes) travel. Those portions of the Sapphire and Blue Joint WSAs within the B-D and S-C National Forests will be managed for multiple uses, including motorized and mechanized travel.

The fact that most Montana citizens pursue their recreational interests outside Designated or defacto Wilderness areas is inescapable. Some forests such as the Bitterroot and Flathead Forests are already 50% Designated Wilderness but their wilderness visitation rates are 4% and 2% respectively. In Region 1, fewer than 4% of all forest visitors choose to access Wilderness Areas. Creating more defacto wilderness areas through the Forest Planning or Travel Planning processes crowds the overwhelming majority of citizens into increasingly

smaller and smaller areas. This concentration of uses has serious adverse consequences to our forest resources and wildlife and discourages citizens from pursuing healthy outdoor activities. Recreational activities on non-wilderness Federal lands provides hundreds of millions of dollars every year to local economies. Discouraging access to these lands will exacerbate the loss of income and jobs that Montana so desperately needs.

We whole-heartedly agree with the Russell County Sportsmen's Association that those portions of Montana's WSA which do not meet the requirements for wilderness should be released for multiple use. We hope that you will do so with a sense of urgency.

Respectfully,

Lisa Jessop, President
Ravalli County Off Road User Association

Cc Russell County Sportsmen's Association

Russell Country Sportsmen's Association

P.O. Box 282 • Great Falls, Montana 59403

September 20, 2016

TO: Senator Jon Tester
Senator Steve Daines
Representative Ryan Zinke

The members of Russell Country Sportsmen's Association respectfully ask you to introduce legislation to support the removal of the "Wilderness Study Area" (WSA) designation from the North Fork of the Judith River in the Little Belt Mountains and in the Big Snowy Mountains.

These areas were first identified as WSA's during the Roadless Area Review and Evaluation (RARE1) process in 1972 and in the Montana Wilderness Study Act of 1977. Formal Congressional designation as wilderness areas has never taken place. In fact, in every document since the designation, the Forest Service has time and again recommended it for non-wilderness management. For instance, their 1982 Final Environmental Statement (FES) published for the Montana Wilderness Study Act did **not** recommend either WSA as a candidate for wilderness designation. And in 1986, their Forest Plan Record of Decision for the Lewis & Clark National Forest recommended "*nonwilderness for both areas*".

Even though the research and science support non-wilderness for these areas, Congressional action is needed to remove these WSA designations.

For instance in the Middle Fork, having a WSA in the middle of a national forest that contains private inholdings and has a history of multiple-use, does not provide a wilderness experience and creates a patchwork of federal/private/wilderness land management.

The Helena-Lewis and Clark National Forest is currently undergoing a mandated forest planning process. Fixing this long delayed action by Congress will assist the Forest Service in this endeavor.

The Montana Wilderness Association and the Wilderness Society are actively pursuing the expansion of wilderness on our public lands. We believe the current inventory of wilderness on public land is sufficient for the needs of wilderness-oriented recreation in Montana. Continuing the WSA designation will have a huge impact on many outdoor groups, especially the handicapped and elderly in America and is contrary to the Congressional mandate for multiple-use of our forests.

In conclusion, these two areas are clearly not suited for wilderness designation and their status as a study area should be rescinded. Please introduce legislation that will do this at the earliest opportunity. We look forward to your response.

Thank You for Your Service to Montana,

George Golie
Vice President

Mike Babcock
Vice President

Steve Sem
Vice President

John Borgreen
Secretary/Treasurer

Dave VanTighem
Board Member

Ronald Reis
Board Member

Charles Marlen
Board Member

Jerry Borgreen
Board Member

Ron Litostansky
Board Member

SOUTHWEST MONTANA
MOUNTAIN BIKE
ASSOCIATION

SWMMBA Statement in Support of S.2206
Protect Public Use of Public Lands Act

The Southwest Montana Mountain Bike Association ("SWMMBA") supports the Protect our Public Lands Act (S.2206), introduced by Senator Steve Daines in December of 2017. SWMMBA is committed to both preserving and enhancing mountain bike access on our treasured public lands. S.2206 will release hundreds of thousands of acres of land in Montana encompassed in Wilderness Study Areas ("WSA") since 1977. The legislation which created these WSAs intended for a five (5) year window to determine the suitability for Wilderness status. To date, Congress has failed to take action as to a majority of that land. The result is that much of it is being managed as *de facto* Wilderness (and thereby prohibiting bicycle travel), despite the fact that Congress has never designated the land as Wilderness. S.2206 will immediately open this land to preexisting public uses, with much of the land designated as "inventoried roadless area," a designation which allows mountain bikes. Despite some public protestations to the contrary, the land will remain public, and very wild in feel.

For mountain bikers this Bill is important not only because it will lift the prohibition on mechanized travel in many of Montana's WSAs, but also because it will subject this land to visible and open Forest Service Planning and Travel Management processes. Those future processes will take place in the public forum with input from all local user and interest groups, including mountain bikers. SWMMBA and other like-minded groups will have an opportunity to advocate for appropriate mountain bike access. SWMMBA's recent participation in the Gallatin Forest Partnership, with a resulting agreed proposal recently submitted to the Forest Service, convinces SWMMBA that diverse interests can collaborate in the forest planning and management process. It is SWMMBAs hope that such collaboration will lead to great results not just for mountain bikers, but for all forest users and advocates.

The WSAs of Montana have remained in legal limbo for far too long. After nearly 40 years these lands deserve to be released from what was only intended to be a temporary WSA process.

On Behalf of SWMMBA's Board of Directors:

Ian Jones
President

PO BOX 1855, BOZEMAN, MT 59715 • SOUTHWESTMONTANAMBA.ORG

The Honorable Senator Steve Daniel
320 Hart Senate Office Building
Washington D.C. 20510

Dear Senator Daines

I appreciate your willingness to pursue legislation that finally looks at hard release of Wilderness Study Areas across Montana.
Being from Southwest Montana, I have seen firsthand the negative effects of cumbersome regulations, that are a result of these antiquated rules.

WSA designation makes it impossible for local land managers to apply best management practices, when making decisions on the ground, regarding water development, livestock grazing practices, fire suppression, travel plans, etc.

Please contact me with any questions, and again, many thanks for standing up for all the people in my district that feel this is long over due.

Respectfully

Senator Jeff Welborn
Montana's 36th District

RECEIVED
FEB - 9 2018

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE TOM WELCH
HOUSE DISTRICT 72

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607 HIGHLAND AVE
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PHONE: (406) 683-4811

January 29, 2018

The Honorable Senator Steve Daines
320 Hart Senate Office Building
Washington, DC 20510

Dear Senator Daines:

I write today in support of your Protect Public Use of Public Lands Act as it applies to the West Pioneer Wilderness Study Area (WSA). As you are aware, this specific area was included in Montana Legislative Resolution HJ 9 passed in the 2017 regular Montana Legislative session which I supported.

The West Pioneer WSA was first recommended for non-wilderness management in the 1981 Forest Plan. However, today use of portions of these approximately 151,000 acres remains restricted in some forms. Your efforts to have this issue revisited after nearly 40 years are welcomed. Properly designated and managed public lands often lead to broader use and improved economic returns to all stakeholders.

Thank you for your efforts.

Sincerely;

Tom Welch
Montana House District 72

Western Montana Fish and Game Association, Inc.
P.O. Box 4294 • Missoula, MT 59806 • www.wmfga.org
A Foundation for Montana's Hunting and Fishing Heritage and 2nd Amendment Rights

WMFGA

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Brad Stemple
2nd Vice President

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Membership Chair
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February 2, 2018

Senator Steve Daines
218 E. Front St., Suite 103
Missoula, Montana 59802

Dear Senator Daines,

The Western Montana Fish and Game Association (WMFGA) is Montana's oldest (founded in 1911) regional organization of sportsmen and women. Although we care about environmental values, our 3,000+ members are not environmentalists primarily, while attempting to disguise themselves as "sportsmen" for political effect. Rather, our members are dedicated gun owners and hunters.

The WMFGA supports S. 2206. We believe that Montana has enough wilderness, and that the public lands affected by S. 2206 need to be finally released from wilderness study areas into general Forest Service management for multiple use. We believe the public interest, the Montana economy, and good land stewardship would be best served by this release.

Thank you for your efforts with S. 2206.

Sincerely yours,

Randy G. Stemple

Randy Stemple
President

Senator DAINES. The second reason is that the Forest Service determined that they were not suitable for wilderness in their final plan, and I am pleased that the Forest Service supports this bill today.

But next, this bill will maintain public input in land uses. It is very much a bottoms-up approach. My bill means more public access. It means more public input, not less. And if there are other wilderness study areas across Montana that have local support as time goes on, I will include them in the bill because I have not included every acre that has been deemed not suitable for wilderness designation.

Finally, removing these WSA designations would not strip protections from the land, a very important point. Here are the facts. These acres are covered by the roadless rule which restricts uses like timber harvest and mining, and these lands will be governed according to existing forest and travel plan guidelines until an amendment process, a public process, ensues.

I also understand Senator Tester's Blackfoot Clearwater Stewardship Act is on the agenda today as well.

I want to welcome Mack and Connie Long, who came here from Montana. Legendary outfitters, they have been a very important part of this collaborative to putting this Act together.

I know this is an important bill that brings forth, truly, local collaborative agreement that has been agreed upon by timber stakeholders, wilderness advocates, and outfitters. I commend the hard work of this collaborative, and I look forward to exploring this measure further during the question and answer portion of today's hearing.

Thank you, Mr. Chairman.

Senator LEE. Thank you.

Senator Gardner.

STATEMENT OF HON. CORY GARDNER, U.S. SENATOR FROM COLORADO

Senator GARDNER. Thank you, Mr. Chairman, and thank you for having this hearing today.

In 2013, the West Fort Complex Fire burned more than 109,000 acres in the Rio Grande and San Juan National Forests in Colorado, as well as some private lands.

The potential for severe fire in much of Colorado's forests remain, due in large part to overgrowth and subsequent beetle kill epidemics. Western counties that contain or border federally managed forests need to ensure that they can provide protective services that naturally come from living in these areas like forest fires.

The Dolores County's West Fork fire area has typically received fire support from neighboring Montezuma County in an increasingly expensive and logistically complicated arrangement. Currently the Dolores Fire Station is located 26 miles away and many of those miles are mountain road miles, meaning you will not be able to do 50 miles per hour for much of it.

The purpose of the legislation that we have before us today is to convey a very small 3.61-acre parcel of Forest Service land that abuts an existing road allowing a fire station to be built in the area. This fire station will decrease response times for residents in

West Fork, solve a non-insurability issue that they have faced because of the lack of their proximity to a fire station, and provide a staging area much closer to potential fire outbreaks on the western edge of the San Juan National Forest. Dolores County has procured the fire equipment and trained firefighters. Additionally, through a generous donation from a resident in the area, the construction cost of the fire stations are sure to be met.

I would like to enter this letter, if I could with unanimous consent, of support from the Dolores County Board of County Commissioners for the record.

Senator LEE. It will be admitted without objection.

[The letter of support referred to follows:]

Board of County Commissioners
P.O. Box 608
Dove Creek, CO 81324

Phone: 970.677.2383
dcdolocnty@fone.net

13 November, 2017

West Fork Fire Station Act of 2017

Dear Honorable Senate and House of Representative Members:

The Dolores County Board of County Commissioners (DCBOCC) has been working diligently with the staff members of Senator Bennett and Representative Tipton, the US Forest Service, the Dolores Fire Protection District, and constituents from Dolores County to secure land for a fire station and the development of a fire department in the remote West Fork area of Dolores County. Dolores County, the citizens of the area, as well as surrounding emergency services providers, all recognize the immediate need for the fire station.

Historically, the Dolores Fire Protection District located in Montezuma County, has responded out of their service area to emergency calls in the West Fork area. The District firefighters as well as the tax payers of the Dolores Fire Protection District have shouldered the ever-increasing financial and logistic burden of those responses. While fire departments often provide service outside of district boundaries, they typically do so under the authority of a mutual aid agreement. The creation of a West Fork fire department and construction of a facility will allow for meaningful mutual aid in the area.

In addition to the benefits of meaningful mutual aid, the addition of the fire station will address insurability issues currently facing land owners in the area. Without local fire protection, some home owners are unable to secure insurance for their homes or even sell their property.

The DCBOCC has worked diligently with property owners and surrounding Fire Districts to procure necessary firefighting equipment. Additionally, surrounding fire districts have trained individuals living in the West Fork area to operate as firefighters. The West Fork Volunteer Fire Department, now with equipment and firefighters, need a fire station. With that need, the DCBOCC approached the Forest Service and their District Officer seeking a land conveyance to join the existing Road and Bridge Shop at Fish Creek in the West Fork area. The existing acreage at the site is not big enough to build a shop to house fire equipment and safely provide ingress and egress for emergency vehicles. The addition of the 4.43 acres of Forest Service land will provide the ability to build, improve the driveway for safety purposes, and clear up disputes the Forest Service has had over the years with existing mail boxes and driveway structures.

The West Fork Fire Station Act of 2017 will benefit the home owners of the West Fork by reducing response time from the Dolores Fire Station, which is 26 miles away, give the home

owners the ability to purchase fire insurance for their property and structures. Additionally, the facility will provide for a Forest Service staging area for response to forest fires, as well as equipment and trained fire fighters to be first responders in a very remote area. The structure to house equipment on site will benefit the citizens of West Fork, the Forest Service and surrounding fire districts.

Due to a gracious donation from an individual connected with Dunton Hot Springs Area of $100,000.00, the construction costs of the fire station will be met. Dolores County will provide in kind contributions of heavy equipment and operators to prepare the building site, as well as construction of a new driveway with culverts and signage. The County is further prepared to pay processing and transactions costs, as well as restrict the use of this land conveyance for a fire station, related infrastructure, and roads to facilitate access to and through the parcel.

We appreciate your support in this endeavor and kindly ask that you will pass the "West Fork Fire Station Act of 2017" to make this planning become a reality.

Sincerely,

DOLORES COUNTY BOARD OF COUNTY COMMISSIONERS

Julie R. Kibel, Chair	Steve Garchar	Floyd Cook

Senator GARDNER. This legislation is a mutually beneficial conveyance for both the Forest Service and Dolores County. I was proud to work with Senator Bennet, my colleague, and Congressman Tipton to introduce this legislation. I look forward to seeing this bill move through the legislative process.

Thank you, Mr. Chairman, for the opportunity to talk about this legislation today.

Senator LEE. Thank you, Senator Gardner.

Are there any other members of the Subcommittee wishing to make a short statement on legislation today?

If not, we will start hearing from some of our other members who are not on the Subcommittee but who have joined us today.

We will start with you, Senator Heller.

STATEMENT OF HON. DEAN HELLER, U.S. SENATOR FROM NEVADA

Senator HELLER. Chairman Lee, thank you, and to the Ranking Member, for holding this hearing today. I want to thank the Committee.

Most of you are very familiar with some of these land issues, and I am appreciative of that knowledge, but I also want to thank my colleague, also from Nevada, for her help and support in making this bipartisan legislation.

I am here to talk on the issues that she made mention to and that is the Pershing County Economic Development and Conservation Act, Senate bill 414, and the Eastern Nevada Economic Development and Land Management Improvement Act, Senate bill 1046.

Both of these bills are products of grassroots efforts to solve public lands issues in my state and both represent years of hard work by affected communities. For years residents of the Pershing County have worked to produce and develop this proposal to provide their community new opportunities for economic development and increase outdoor recreational activities and opportunities.

It builds on the efforts of the Pershing County Checkerboard Lands Committee. Yes, there is a Checkerboard Lands Committee in this particular county. It was initiated about a decade ago, and it was a community-driven process to solve these land management issues. And they were hashed out by a grassroot-driven public process, including the county officials, local residents, and stakeholders.

As most of you know, over 75 percent of the land within this county is administered by the Federal Government and much of the land is in a checkerboard pattern. A remnant of railroad construction of the 1800s, these checkerboard lands now represent and present a major land management problem: it is confusing for sportsmen and other outdoor recreationalists, it limits economic development opportunities along the I-80 corridor, it is a bureaucratic headache for BLM and private landowners, and resolving this mess in a commonsense manner will benefit all Nevadans.

First, it advances a sell and exchange plan for BLM lands in Pershing County already identified for disposal by the BLM resource management plans. And this process is modeled after the highly successful Southern Nevada Public Lands Management Act, SNPLMA, that has facilitated sustainable development in the Las Vegas Valley since its enactment. So together with the Pershing

County and the Department of the Interior, they will select lands and parcels to be sold through a competitive bidding process for no less than fair market value, ensuring a fair return for the American taxpayer. Responsibly facilitating these land sales and exchanges will increase the county's tax base and outdoor recreational opportunities, spur economic development, and improve land stewardship.

Second, it will facilitate the expansion and development of mining projects, existing mining projects, within Pershing County. The county has a wide variety of mineral resources, but silver, gold and tungsten have been mainstays for more than a century and a half. And this initiative will increase economic growth, yield millions of dollars in investments in the county and greatly improve the county's tax base.

Third, it will also allow Pershing County to acquire land in the Unionville Cemetery which was established in the 1870s. This cemetery is part of a historic, unincorporated mining town of Unionville, Nevada, where Mark Twain lived for a period of time. The land that comprises the cemetery was thought to have been on private grounds, but at some point it was discovered that the cemetery lies on BLM land and BLM now is prohibiting new burials there. By transferring this land to the county, the cemetery will be able to get back into use.

Finally, the bill resolves some longstanding land designations within the county. Five wilderness study areas within the county have been in limbo for nearly 30 years, all being managed as wilderness. These areas were looked at by the residents on the ground and boundaries were carefully designed. The resulting maps conserve important wildlife habitat ensuring existing road access into wilderness and resolves local rancher's issues with the current wilderness study area boundaries that will provide their operations more flexibility and stability moving forward. So you can see, this proposal in its entirety will yield major benefits, not only for Pershing County but also the American people.

It is important to note that this non-controversial legislation has unanimous support of Nevada's Congressional delegation. Companion legislation, H.R. 1107, introduced by my good friend, Congressman Mark Amodei, passed the House of Representatives by voice vote on January 16th. It has garnered a diverse group of stakeholders including the support of business groups like Nevada Mining Association, Nevada Farm Bureau Federation, Coalition of Nevada's Wildlife and even environmental groups like the Friends of the Nevada Wilderness. That support is indicative of the residents' hard work to develop a lands package that balances the opinions of diverse stakeholders.

I do also want to testify in support of my legislation, the Eastern Nevada Economic Development and Land Management Improvement Act, introduced alongside with my colleague, Senator Cortez Masto.

I can see, Mr. Chairman, that my time has run out.

Without giving you the details of this, I do want to share with you the importance of both of these pieces of legislation, and I am more than willing to work with this Subcommittee to make sure that we move both of these pieces of legislation forward.

Thank you.

Senator LEE. Thank you, Senator Heller.

Senator Tester.

STATEMENT OF HON. JON TESTER, U.S. SENATOR FROM MONTANA

Senator TESTER. Thank you, Chairman Lee and Ranking Member Heinrich, for holding this hearing on the Blackfoot Clearwater Stewardship Act. I know you have a full agenda today. I appreciate you taking time for this important piece of legislation.

It is an honor and a privilege to advocate for a made-in-Montana solution on our federal lands. I am going to tell you what this bill does right from the beginning here. It preserves one of the most unique landscapes in the country for future generations, for our kids and grandkids; it increases trail use and recreational opportunities for those who love our outdoors; it strengthens the local timber industry in Western Montana; and maybe most importantly, it provides a blueprint for breaking the gridlock that is plaguing our forests.

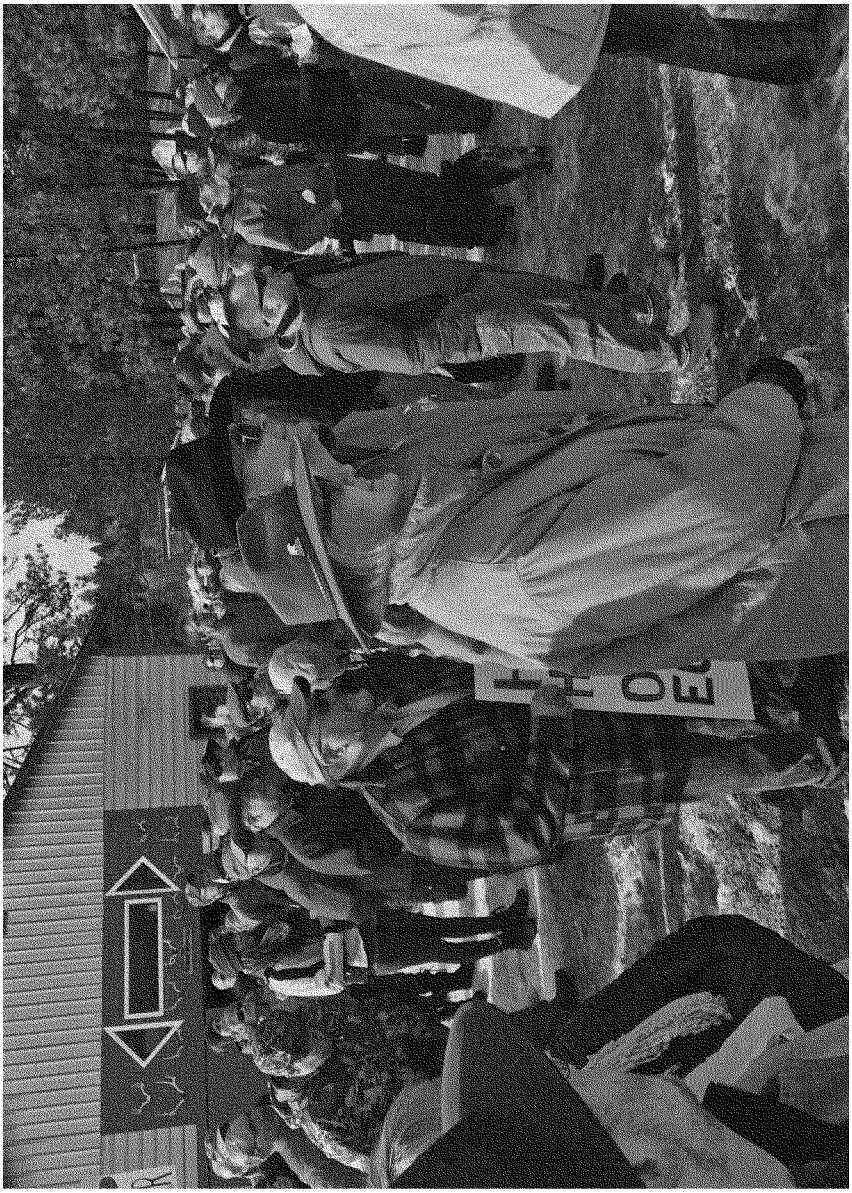
I am going to tell you this bill was not drafted in a back room in Washington, DC, influenced by DC lobbyists. This bill was started over ten years ago with folks, some are in the back of the room and I will introduce them in a bit, that worked with their neighbors. They worked with folks from the logging industry, from the environmentalists, from conservation, from recreation, and came to an agreement on a bill.

Now I am going to tell you for those of you that know the situation—ten years ago if you put a logger and a conservationist, an environmentalist and a recreationalist in the same room, at the same table, chances are somebody was not going to come out of that room. But these folks had the ability to sit down and compromise and come up with a made-in-Montana solution for a federal forest. I can tell you this, and I think we can all agree to this, DC can learn a lot from what these people have done.

So Mack and Connie and the rest of the folks from Montana, if you would stand up, we will give you the proper thank you for being here—we appreciate it, appreciate it very, very much.

There are some folks in the photo here that were also part of that compromise, and from that compromise we have seen $19 million flow into the region for forest restoration and timber harvest.

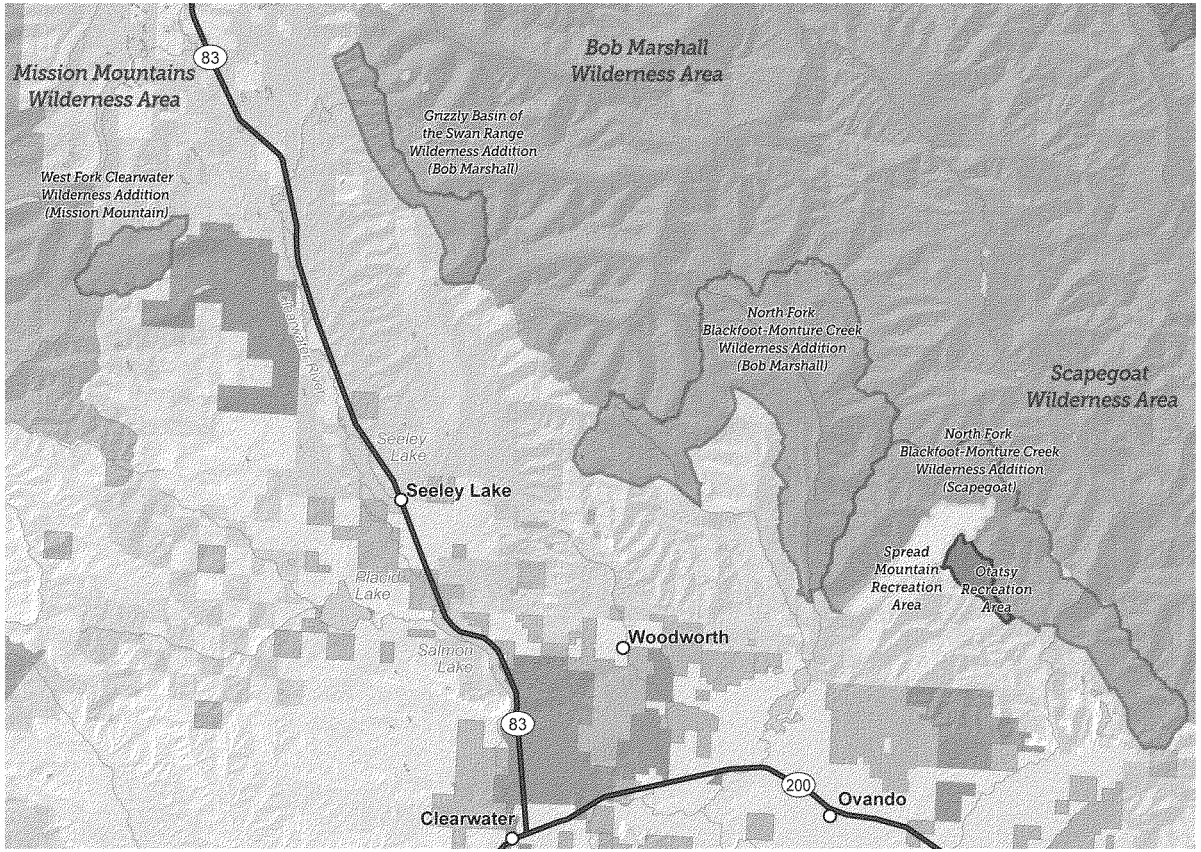
[The photo referred to follows:]



Senator TESTER. This investment has created and sustained more than 100 jobs and an additional $33 million in economic activity. With active forest management now done, it is time to fulfill the rest of this agreement and that is exactly what this bill does.

The Blackfoot Clearwater Stewardship Act, as you can see on the map behind me, protects 79,000 acres of wilderness for the next generation.

[The map referred to follows:]


Mission Mountains Wilderness Area
Bob Marshall Wilderness Area
Scapegoat Wilderness Area
Grizzly Basin of the Swan Range Wilderness Addition (Bob Marshall)
West Fork Clearwater Wilderness Addition (Mission Mountain)
North Fork Blackfoot-Monture Creek Wilderness Addition (Bob Marshall)
North Fork Blackfoot-Monture Creek Wilderness Addition (Scapegoat)
Spread Mountain Recreation Area
Otatsy Recreation Area
Placid Lake
Salmon Lake
Seeley Lake
Seeley Lake
Woodworth
Clearwater
Ovando
83
83
200

Senator TESTER. Why is this important? This is the same kind of area that powers a $7 billion economy in the State of Montana and 74,000 jobs. This pristine land is near the Continental Divide, the Crown of the Continent, home to grizzly bears, elk, moose, wolverines, deer, and beavers. Well, you get the idea, okay?

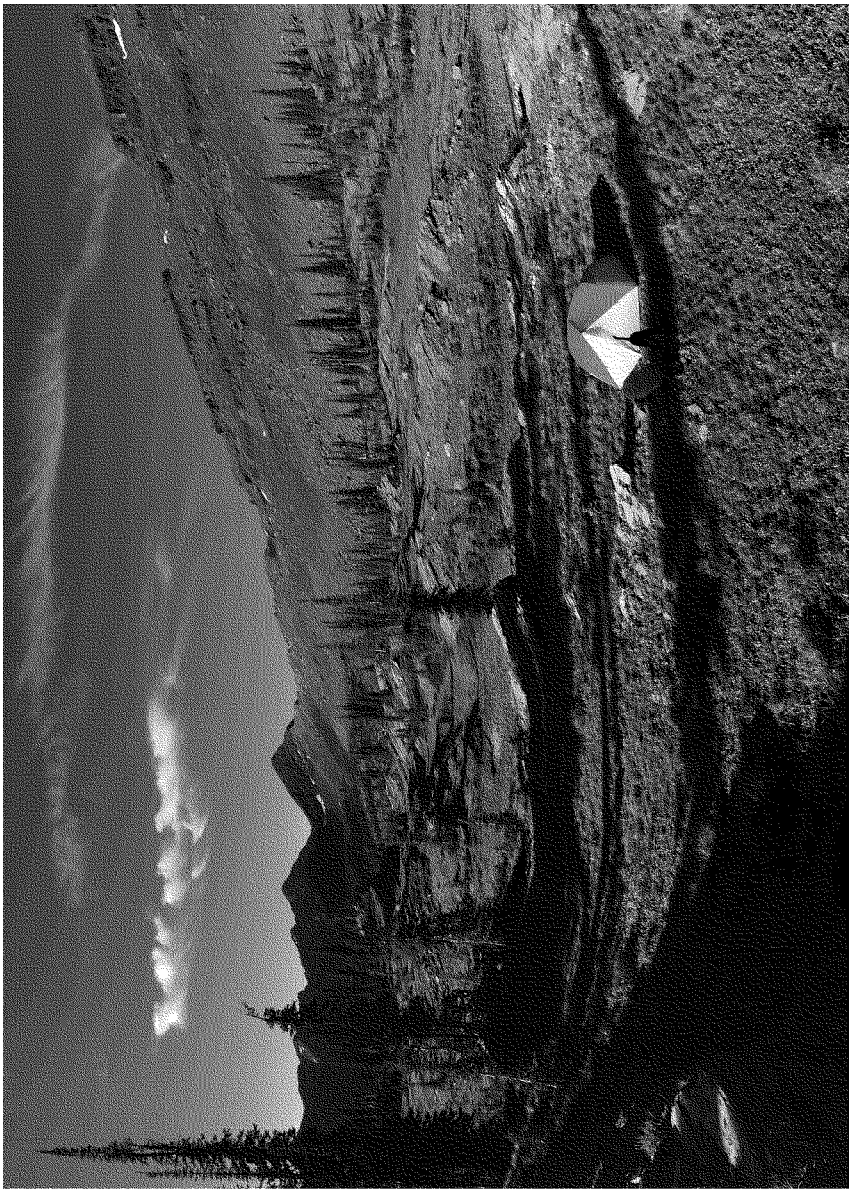
This bill also empowers a community to stay involved, moving forward on new recreational trail proposals for hikers, anglers, hunters, and anyone who wants to spend an afternoon breathing the fresh mountain air. It opens up 2,000 acres for snowmobiling and 38,000 acres for trail-based recreation, including mountain biking. It is a bill that everybody wins with. And most importantly, it builds a blueprint for future forest management compromises.

As you can see, the wilderness designation of this bill is added to existing wilderness like Bob Marshall, Scapegoat, and Mission Mountain Wilderness. Each year, thousands of folks flock to this region to experience some of the last untouched landscapes in this country and, absolutely, in the Lower 48. While they are here, they eat, they shop, they sleep, they drink, they spend their money at local businesses in Seeley Lake and Ovando.

And this isn't just a land management bill. For the folks that live here, it is a jobs bill.

This is what we are trying to protect.

[The photo referred to follows:]



Senator TESTER. Thousands of years ago, glaciers cut through this valley creating one of the most special places in this country. God doesn't make places like this anymore. And the folks who call this land home have decided that they want to protect it for their kids and their grandkids.

Again, Mr. Chair, Ranking Member, I want to thank you for holding this hearing today. This bill is a result of people working together to find solutions in our forests so everybody can win. There are no losers. Timber harvests are well underway. The trail maps are printed. Now we, Congress, this Committee, need to complete this local agreement and protect these landscapes for future generations.

Thank you, Mr. Chairman. Thank you, Ranking Member. I appreciate your time.

Senator LEE. Thank you, Senator Tester.

Senator Udall.

STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM NEW MEXICO

Senator UDALL. Thank you, Chairman Lee and Ranking Member Heinrich, for the opportunity to provide a statement to the Subcommittee in support of the Organ Mountains-Desert Peaks Conservation Act, S. 441, and the permanent reauthorization of the 20-year-old Rio Puerco Watershed Management Program, S. 2249. I appreciate the Administration's support for the goals of both pieces of legislation and look forward to working with them to get this enacted.

I will quickly speak to the Rio Puerco Watershed Management Program. This is a successful collaboration that has won the EPA's Environmental Excellence Award and the BLM's Legacy of the Land Award. It stems from erosion and what the U.S. Army Corps of Engineers classifies as the most eroded watershed in the country. I hope this Committee will continue to support their outstanding work and reauthorize the program.

I ask that my full statement be added to the record for S. 2249.

Senator LEE. Without objection.

[Senator Udall's statement on S. 2249 follows:]

S. 2249 - THE RIO PUERCO WATERSHED
MANAGEMENT PROGRAM REAUTHORIZATION ACT OF 2017

Mr. UDALL. Chairman Lee, thank you for allowing me to give a statement. I speak in support of S. 2249, permanently reauthorizing the 20 year old Rio Puerco Watershed Management Program.

I would like to compliment my co-sponsor, Senator Heinrich – a member of this subcommittee -- for his work to maintain this important program.

Senators Pete Domenici and Jeff Bingaman originally sponsored this watershed management program in 1995, and they sponsored the reauthorization in 2007. We are proud to continue the work of these great New Mexico Senators.

The Rio Puerco is the largest tributary to the Middle Rio Grande Basin. Its headwaters originate in Sandoval County, New Mexico, and the watershed encompasses approximately 4.7 million acres that flow into the Rio Grande. The Rio Puerco watershed is the primary source of undesirable fine sediment delivered to the Rio Grande system. According to the U.S. Geological Survey, on average, the Rio Puerco delivers 78 percent of the total suspended sediment load of the Rio Grande, although it drains only 26 percent of the Rio Grande Basin and provides only 4 percent of the runoff.

To help address this problem, Congress enacted Senators Domenici and Bingaman's legislation in 1996. And directed the Bureau of Land Management -- working with a committee of Federal and State agencies -- to establish a clearinghouse for research and information on management within the area, to establish an inventory of best management practices and related monitoring activities -- and through the Rio Puerco Management Committee -- to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin.

The Rio Puerco Management Committee is a collaboration of stakeholders with diverse cultural and political backgrounds who mission is to restore the Rio Puerco catchment. The committee "has focused on strengthening community resolve and capacity to reduce sediment, control erosion, and promote healthy vegetative communities." This community-based approach has brought Federal and State agencies, tribes, non-profits, and local citizens to work together on watershed management, share best practices, establish goals and objectives for the watershed, and foster community outreach. Continued monitoring of restoration efforts is absolutely necessary. And therefore the role of the Management Committee in restoring the Rio Puerco is imperative to successfully meet restoration goals and demonstrates the need for involvement of local communities.

The Committee has been widely recognized for its success and effectiveness. It has earned the EPA's Environmental Excellence Award and the BLM's Legacy of the Land Award, and has been recognized for its service in conservation. In 2003, the Committee was awarded an EPA Watershed Innovation Grant for its low-technology erosion control methods that use local materials.

Without reauthorization, the Rio Puerco Watershed Management Program's funding will expire on March 30, 2019.

The fiscal year 2018 Interior Appropriations bill includes language that supports the Watershed Committee.

The Middle Rio Grande Basin is critical for New Mexico scare water supplies. And the Rio Puerco Watershed Management Program is critical for reducing sediment load into that basin. I urge passage of S. 2249 so that we have a permanent structure in place to address these problems.

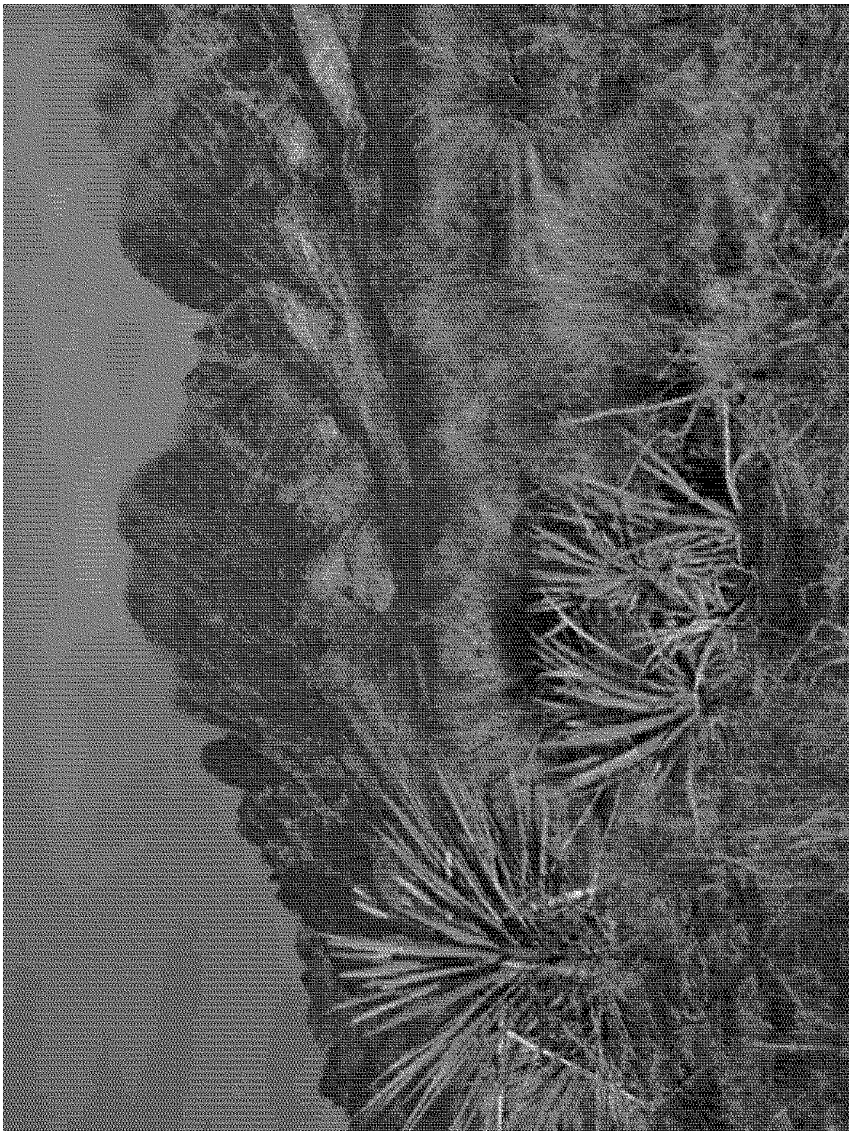
Thank you again for allowing me to appear before this subcommittee.

Senator UDALL. Thank you.

Turning to the Organ Mountains-Desert Peaks Conservation Area, I would like to thank my co-sponsor, Senator Heinrich, who is now in the role of the Ranking Member here. I know he is a valuable member of this Committee. He and his staff did a lot of the on-the-ground work, along with me and my staff. Our goal was to craft consensus legislation that addresses all stakeholders' needs and interests to the greatest extent possible. I firmly believe we have done that.

Protecting Organ Mountains-Desert Peaks is a grassroots effort that began a decade ago. This community support led to the first Congressional efforts in 2009 when Senator Jeff Bingaman and I introduced legislation to create wilderness in portions of this area. President Obama's 2014 designation of Organ Mountains-Desert Peaks National Monument had broad support in the local community and in New Mexico, especially in Doña Ana County, where the vast majority of the lands are located. And S. 441, which complements the designation and gives permanent protection to some of New Mexico's most special lands, has the same broad support.

[The information referred to follows:]



According to a 2016 poll, 78 percent of Doña Ana County voters support legislation making the wilderness study areas in Organ Mountains-Desert Peaks permanent wilderness. A wilderness designation will enhance recreational opportunities in these pristine areas for hiking as well as preserve traditional hunting and grazing uses and protect sensitive archeological sites from destruction.

National monument status brings important economic benefits as well, and the Organ Mountains-Desert Peaks is no exception.

From 2015 to 2016, visitors to the monument more than doubled. Increased tourism means increased spending at local restaurants, hotels, outdoor businesses, and arts and crafts shops, leading to an increase in our tax base.

The legislation before you has been modified since the original 2009 bill to address concerns raised by stakeholders. First, we worked closely with the U.S. Border Patrol to ensure the bill would not interfere with their responsibilities. S. 441 releases 30,000 acres of existing wilderness study area near the border to protect border security. It expands the buffer from the international border from one-third of a mile to five miles. The buffer would prohibit motorized off-road access by the general public for two miles. But the Border Patrol and other law enforcement may patrol and construct communication and surveillance infrastructure.

The wilderness boundary excludes specific sites used by Border Patrol for its Mobile Surveillance System and a communications tower that is critical to closing radio coverage gaps for Doña Ana County Sheriffs officers' safety and communication effectiveness.

The bill gives Border Patrol and other law enforcement special access to an East-West route in the Potrillo Mountains Wilderness to conduct border security operations. In addition, the bill reiterates that the Border Patrol can, in accordance with the Wilderness Act, enter these lands as necessary, such as when they are in pursuit of a suspect.

Former Customs and Border Patrol Commissioner Alan Bersin and Acting Commissioner Thomas Winkowski are on record that the bill's provisions "would significantly enhance the flexibility of U.S. Customs and Border Protection to operate in this border area."

I would like the rest of my statement to go fully into the record and really look forward to working with this Committee and working with Senator Heinrich and you, Chairman Lee, on getting this done.

Thank you very much for the opportunity to testify today.

Senator LEE. Without objection, your full statement will be admitted into the record.

Thank you, Senator Udall.

[Senator Udall's full statement follows:]

SENATE SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING LEGISLATIVE HEARING
S. 441 – THE ORGAN MOUNTAINS-DESERT PEAKS CONSERVATION ACT
February 7, 2018

OPENING REMARKS

Thank you Chairman Lee and Senator Heinrich for the opportunity to provide a statement to this subcommittee in support of The Organ Mountains-Desert Peaks Conservation Act, S. 441 and the permanent reauthorization of the 20 year old Rio Puerco Watershed Management Program, S. 2249.

I appreciate the administration's support for the goals of both pieces of legislation. And I look forward to working with them to get them enacted.

I will quickly speak to the Rio Puerco Watershed management program. This is a successful collaboration that has won the EPA's Environmental Excellence Award and the BLM's Legacy of the Land Award. It stems erosion in what the U.S. Army Corps of Engineers classifies as the most eroded watershed in the country.

I hope this committee will continue to support their outstanding work and reauthorize the program. I ask that my full statement on S. 2249 is added to the record.

Turning to the Organ Mountains-Desert Peaks Conservation Act, I would like to thank my cosponsor, Senator Heinrich, who is a valuable member of this committee. He and his staff did a lot of on-the-ground work along with my staff and me. Our goal was to craft consensus legislation that addresses all stakeholders' needs and interests to the greatest extent possible. I firmly believe we've done that.

Protecting Organ Mountains-Desert Peaks is a grassroots effort that began a decade ago. This community support led to the first congressional efforts – in 2009 -- when Senator Jeff Bingaman and I introduced legislation to create wilderness in portions of this area.

President Obama's 2014 designation of Organ Mountains-Desert Peaks National Monument had broad support in the local community and in New Mexico, and especially in Doña Ana County where the vast majority of the lands are located.

And S. 441 – which complements the designation and gives permanent protection to some of New Mexico's most special lands – has that same broad support.

According to a 2016 poll, 78 percent of Doña Ana County voters support legislation making the Wilderness Study Areas in Organ Mountains-Desert Peaks permanent wilderness.

Wilderness designation will enhance recreational opportunities in these pristine areas for hiking, as well as preserve traditional hunting and grazing uses and protect sensitive archaeological sites from destruction.

National monument status brings important economic benefits as well. And Organ Mountains-Desert Peaks is no exception. From 2015 to 2016, visitors to the monument more than doubled. Increased tourism means increased spending at local restaurants, hotels, outdoor businesses, and arts and crafts shops, leading to an increase in our tax base.

The legislation before you has been modified since the original 2009 bill to address concerns raised by stakeholders.

First, we worked closely with U.S. Border Patrol to ensure the bill would not interfere with their responsibilities. S. 441 releases 30,000 acres of existing Wilderness Study Area near the border to protect border security. It expands the buffer from the international border from one-third of a mile to five miles. The buffer would prohibit motorized off-road access by the general public for two miles. But Border Patrol and other law enforcement may patrol and construct communication and surveillance infrastructure.

The wilderness boundary excludes specific sites used by Border Patrol for its Mobile Surveillance System and a communications tower that is critical to closing radio cover gaps for the Doña Ana County Sheriff officers' safety and communication effectiveness.

The bill gives Border Patrol and other law enforcement special access to an east-west route within the Potrillo Mountains wilderness to conduct border security operations. In addition, the bill reiterates that the Border Patrol can, in accordance with the Wilderness Act, enter these lands, as necessary, such as when they are in pursuit of a suspect.

Former Customs and Border Patrol Commissioner Alan Bersin and Acting Commissioner Thomas Winkowski are on record that the bill's provisions "would significantly enhance the flexibility of U.S. Customs and Border Protection to operate in this border area."

I'd also like to offer for the record a joint letter from the Sheriffs of Doña Ana and Luna Counties. A small portion of the area is located within Luna County. These sheriffs wrote to Secretary Zinke last summer in support of keeping the national monument designation intact. They affirm that national monument status has not weakened their law enforcement authority.

Second, in accordance with discussions with the Army's Assistant Secretary for Installations, Energy and Environment, S. 441 respects the Army's preferences with respect to Fillmore Canyon -- much of which lies within the boundaries of Fort Bliss.

In previous versions of this bill, Fillmore Canyon was to be transferred to the Bureau of Land Management. But in this bill, Fillmore Canyon would stay with Fort Bliss unless the Secretary of the Army determines otherwise.

Third, S. 441 not affect or disturb the rights of existing grazing permittees. The bill requires BLM to allow existing grazing in the new wilderness areas. Under S. 441, BLM has authority to allow

permittees to use motorized vehicles and equipment for maintenance and existing roads leading to wells, troughs, and corrals remain open to motorized vehicles, as is allowed under the Wilderness Act.

If there are other modifications necessary for border security, law enforcement, or other issues, I stand ready to discuss and work through those issues with my colleagues and the administration.

It is critical, however, for my state that the areas designated in this bill receive protection as wilderness and we resolve these long-standing issues.

Thank you again Senator Lee and Senator Heinrich for the opportunity to come before this subcommittee.

Senator LEE. Thanks to each of you who have joined us this morning.

Senator UDALL. Senator Lee, we also had a letter that I would like to put in from the sheriffs in the area down there, with your permission.

Thank you.

Senator LEE. Wonderful. Those will be admitted without objection.

[The letters of support follow:]

KELLY GANNAWAY
SHERIFF

JOSE MARTINEZ
CAPTAIN

LUNA COUNTY SHERIFF'S DEPARTMENT
2462 J STREET, S.E.
DEMING, NEW MEXICO 88030
PH: (575) 546-2655 FAX: (575) 546-8533

July 6, 2017 .

Dear Secretary Zinke,

As law enforcement professionals responsible for protecting the citizens of Doña Ana and Luna County, we write in strong support of keeping the entire Organ Mountains-Desert Peaks National Monument intact, without any reductions. The monument's final boundaries were developed after a process of sustained collaboration with our offices and others, and the interests of law enforcement and public safety are well represented in the final product. As a result, the monument's designation in 2014 has not created new challenges for us, nor have local trends changed due to the monument.

The needs of law enforcement and border security were taken very seriously in the creation of the Organ Mountains-Desert Peaks National Monument. The proclamation language and map went through several rounds of major changes in order to best accommodate law enforcement needs.

Designation of the national monument has not weakened the authority or ability of the Border Patrol to do its job, and does not change the jurisdiction of local, state, or federal law enforcement agencies. Designation also allows for continued collaboration among law enforcement agencies.

National monument management has not affected any of our law enforcement tools. There is no new restriction on the use of motorized transportation or equipment. Existing road access remains for routine patrols. Off-road travel is not allowed on BLM lands in Doña Ana County, New Mexico regardless of land designation. However, off-road travel or use of aircraft or other tools by federal law enforcement in exigent circumstances is allowed by both the proclamation and the 2006 Memorandum of Understanding (MOU) between the Department of Homeland Security, Department of Agriculture, and Department of the Interior regarding *"Cooperative National Security and Counterterrorism Efforts on Federal Lands along the United States' Borders."* Page 6 of the proclamation makes clear that in emergencies, motor vehicle use in the monument shall be permitted off of designated roads and that additional roads or trails may be established if necessary for public safety.

Based on detailed discussions with law enforcement agencies, including discussions of law enforcement sensitive information, various parcels of land were removed from the original draft proposals and the final monument boundary. Areas of higher activity based on topography and existing infrastructure as well as strategic surveillance points were excluded from the monument. The Senators also significantly increased the buffer from the border. Based on discussions with Border Patrol and DHS headquarters, the monument begins approximately five miles from the border, whereas the existing Wilderness Study Area reaches to within a third of a mile of the border. Further, as a result of feedback from the Doña Ana County Sheriff's Office and others, the monument excludes land necessary for closing critical radio coverage gaps along the border. The required infrastructure has been built and has enhanced officer effectiveness and safety.

The Las Cruces District Office of the Bureau of Land Management hosts one of the most effective and collaborative Border Management Task Forces in the nation. The relationships between federal, state, and local law enforcement and land managers in the Organ Mountains-Desert Peaks area are strong. Furthermore, the Border Patrol has consistently reported to that group and congressional offices that the monument has had no impact on their operations or local border-crossing trends.

Three Commissioners of Customs and Border Protection wrote letters in support of the senators' previous legislation to protect these lands, upon which the monument boundaries were based. We lend our voices to that of our colleagues. As a result of law enforcement's in depth involvement, the monument designation has safeguarded our necessary law enforcement activities as well as our cultural and natural heritage.

Sincerely,

Kelly Gannaway
Sheriff, Luna County

I Concur
D.A. 7/27/17

Senator LEE. Okay.

We are now going to hear from two witnesses who we will call to the table at this point.

We have two witnesses providing testimony on behalf of the Administration today. The first is Mr. Glenn Casamassa, the Associate Deputy Chief of the U.S. Forest Service. The second is Mr. Brian Steed, the Deputy Director for Policy and Programs at the Bureau of Land Management.

At the end of their opening statements this morning, members will be allowed to ask questions. Your full written testimony will, of course, be made part of the official record of this hearing. Please keep your statements to five minutes so that we can have time for questions after you have made those statements.

We will start first with you, Mr. Casamassa.

STATEMENT OF GLENN CASAMASSA, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. CASAMASSA. Thank you, Chairman Lee, Ranking Member Heinrich, members of the Subcommittee, for inviting me here today to testify on behalf of the USDA and the Forest Service regarding the bills under consideration. My written testimony has been provided for the record.

To begin with, we appreciate the inclusion of Section 3 in Senate bill 1046, the Eastern Nevada Economic Development Act, which would meet several wilderness boundary adjustments on the Toiyabe National Forest. These adjustments will improve wilderness management and allow for appropriate non-wilderness uses to continue as intended by the original enabling legislation.

Senate bill 2218, the West Fork Fire Station Act, would convey a small parcel of land on the San Juan National Forest to Delores, Colorado, to facilitate construction of a fire station. We agree that this is a suitable location to provide improved emergency services in the rural area and look forward to working with Delores County to accomplish this conveyance.

Senate bill 507, the Blackfoot Clearwater Stewardship Act, seeks to implement a variety of restoration and recreation improvements and would designate additional wilderness on the Lolo National Forest in the State of Montana. We support the goals of this bill as well as the local collaborative process of which it is based, and we support the wilderness designation as they are consistent with the long-standing recommendations and management direction from our forest planning process. We look forward to continuing our work with the local collaborative and Senator Tester on specifics to realize successful implementation.

Senate bill 2206, the Protect Public Use of Public Lands Act, would release five wilderness study areas on National Forest lands in Montana from the requirements of the 1977 Wilderness Study Areas Act. We support this release as the areas have been studied under the provisions of the 1977 Act and, to date, none of the five designations have been recommended to Congress for wilderness designation. We note that these are all within inventoried roadless areas and subject to management requirements to maintain

roadless character as well as requirements under travel management planning, forest planning and other applicable law.

Senate bill 2062, the Oracle Cabins Conveyance Act, would convey these three parcels of land on the Coronado National Forest in Arizona to holders of permits for cabins being used as primary residence. The history of cabin use across the National Forest has created very challenging scenarios for managers and permit holders. We are sympathetic to this particular situation this bill is designed to address and hope to work with affected permittees and with Senator Flake and the Committee to pursue all administrative options currently available to resolve the situation.

Since both the BLM and the Forest Service are testifying on Senate bill 1481, the Alaska Native Settlement Claims Improvement Act, my comments focus on Section 5, which addresses the Forest Service purchase of land in Cube Cove from Shee Atika Incorporated, and Section 6, which directs a land exchange between Sealaska Corporation and the Forest Service.

The USDA 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 Senator Murkowski and the Committee.

I would also like to emphasize that the Forest Service is administratively moving forward with the purchase of this land. So far, we have purchased over half of the 23,000 acres of surface estate in Cube Cove from Shee Atika Incorporated. If the Land and Water Conservation Funds become available, we will purchase another four segments this year.

Section 6 directs the exchange of subsurface estate owned by Sealaska Corporation at Cube Cove for a mixture of subsurface and surface estate within the Tongass National Forest. Although the USDA agrees with the goals of this section, we believe the exchange should be completed using an equal value exchange following existing regulations and policies.

Finally, H.R. 995, the 21st Century Respect Act, would amend regulations affecting USDA's rural development agency to update terms of racial background and place of origin. USDA supports these changes.

Again, thank you for the opportunity to be here today and I look forward to answering any questions you may have.

[The prepared statements of Mr. Casamassa follow:]

Statement of Glenn Casamassa

Associate Deputy Chief, National Forest System

U.S. Forest Service, United States Department of Agriculture

Before the

Senate Committee on Energy and Natural Resources

Subcommittee on Public Lands, Forests and Mining

Concerning
S. 507 – Blackfoot Clearwater Stewardship Act of 2017

February 7, 2018

Chairman Lee, Ranking Member Wyden, members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 507 – Blackfoot Clearwater Stewardship Act of 2017. I am Glenn Casamassa, Associate Deputy Chief for the National Forest System (NFS), USDA Forest Service.

S. 507 is a multi-faceted bill affecting the Lolo National Forest (Lolo) in Montana. The bill directs the Secretary of Agriculture to develop a landscape assessment of watershed conditions and restoration needs on the Seeley Lake Ranger District within three years of enactment. It further directs the Secretary, in collaboration with interested parties, to develop a 10-year schedule of restoration projects as soon as practicable following the assessment. Restoration projects developed pursuant to the Act may be implemented using the authorities found in the Healthy Forests Restoration Act of 2003.

Additionally, the bill establishes a 2,013-acre Otatsy Recreation Management Area in which recreational motorized and mechanized uses and temporary roads are generally prohibited, and snowmobiles would be allowed during the winter, and as determined by the Secretary. S.507 also establishes a 3,835-acre Spread Mountain Recreation Area in which motorized use is generally prohibited, but mechanized use is allowed. It requires the Secretary to analyze, within three years of receipt, a collaboratively developed proposal to improve motorized and non-motorized recreational trail opportunities within the District, if such a proposal is submitted within five years of enactment. Finally, the bill designates an additional 79,060 acres to the National Wilderness Preservation System.

We recognize and appreciate that the bill is the product of a collaborative effort. The concepts embodied in this legislation—such as recognizing collaboratively developed landscape scale restoration and recreation proposals—are fundamentally sound. While we share Senator Tester's respect for and commitment to collaboration, we have concerns about implementation of certain provisions. In particular, USDA would like to work with the Subcommittee and Senator Tester to

ensure that implementation of the bill will not affect other Lolo priorities or affect priority work on other units in the Forest Service's Northern Region.

Our primary concerns pertain to Title II. Section 203 which would require the Forest Service to prepare a National Environmental Policy Act analysis for any collaboratively developed proposal to improve motorized and non-motorized recreational trail opportunities within the Ranger District within three years of receipt of the proposal. This requirement could affect the Lolo's ability to plan and prioritize work for efficient use of public resources in a dynamic work environment. The Lolo intends to initiate revision of its land and resource management plan in 2020. If passed in its current form, this bill could require recreation use allocation planning for site-specific portions of the Seeley Lake Ranger District ahead of the broader plan revision process, which would forestall the Lolo's ability to broadly inform land use allocations across the forest through the plan revision process.

Section 203 also may affect the Lolo's ability to respond quickly to unanticipated events. For example, some of the most significant Montana wildfires of the season occurred on the Lolo, and significant portions of the proposed Spread Mountain Recreation Area and Otatsy Recreation Management Area burned during the 2017 wildfire season. The Lolo is currently assessing resource conditions on existing trails to identify areas where high priority restoration is needed to prevent further damage to fisheries and watersheds. If enacted, the explicit timeframes currently contained in the bill could result in prioritizing the analysis of a collaboratively-developed proposal to expand the trail system over important post-fire restoration work.

We also have concerns about implementing section 202, which establishes the Spread Mountain Recreation Area for the apparent purpose of enhancing mountain biking opportunities. The Lolo's current land and resource management plan identifies this area as recommended wilderness. This area is characterized generally by steep topography, sensitive soils, and contains sensitive fish and wildlife habitat. Trail 166 is the main access into this area. This trail is not maintained, not passable by riders on horseback, and becomes difficult to locate after the first mile. While we acknowledge the interest in expanding opportunities for mountain biking on the Lolo, we are concerned that the site designated for the Spread Mountain Recreation Area is not well-suited for this use, and that this designation could create conflicts with wildlife and other recreation uses.

Two of the wilderness designations in Title III are consistent with the recommendations made in the existing Lolo National Forest land and resource management plan. Although the bill includes minor boundary adjustments to better accommodate topography or clarify intended uses, all three designations in S.507 have long been areas recognized as having wilderness potential and are the same areas recognized and supported by the public for designation.

In closing, USDA strongly appreciates Senator Tester's commitment to Montana's natural resources and public lands. We recognize that the proposed bill is the product of a collaborative effort, and we appreciate that this legislation would provide benefits to Montana's communities

and the Lolo National Forest. We look forward to working with the Committee and Senator Tester to develop modifications to the bill that could provide greater opportunities to foster healthy rural economies and accomplish the shared goals of increasing restoration and facilitating recreation on our public landscapes.

Thank you for the opportunity to provide our views on this bill. This concludes my prepared statement and I would be pleased to answer any questions you may have.

Statement of Glenn Casamassa

Associate Deputy Chief, National Forest System

U.S. Forest Service, United States Department of Agriculture

Before the

Senate Committee on Energy and Natural Resources

Subcommittee on Public Lands, Forests and Mining

Concerning

S. 1046 – Eastern Nevada Economic Development and Land Management Improvement Act of 2018

February 7, 2018

Chairman Lee, Ranking Member Wyden, members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 1046 – Eastern Nevada Economic Development and Land Management Improvement Act of 2018. I am Glenn Casamassa, Associate Deputy Chief for the National Forest System (NFS), USDA Forest Service.

Section 3 of S. 1046 affects National Forest System lands on the Humbolt-Toiyabe National Forest in the State of Nevada. USDA defers to the Department of the Interior for its views on the other provisions of S. 1046.

USDA supports section 3, which would adjust the boundaries of the Mt. Moriah Wilderness, High Schells Wilderness, and Arc Dome Wilderness on National Forest System lands to correct mapping errors associated with the original designations. We would like to work with the Committee to make technical changes to the bill to effectuate the boundary adjustments.

Thank you again for the opportunity to testify on this bill and I look forward to your questions at the appropriate time.

Statement of Glenn Casamassa

Associate Deputy Chief, National Forest System

U.S. Forest Service, United States Department of Agriculture

Before the

Senate Committee on Energy and Natural Resources

Subcommittee on Public Lands, Forests and Mining

Concerning

S. 1481 – Alaska Native Settlement Claims Improvement Act of 2017

February 7, 2018

Chairman Lee, Ranking Member Wyden, members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 1481 – Alaska Native Settlement Claims Improvement Act of 2017. I am Glenn Casamassa, Associate Deputy Chief for the National Forest System (NFS), USDA Forest Service.

This testimony addresses sections 5, 6 and 13 of S. 1481, which affect the Forest Service. USDA will work with the Department of the Interior to the extent that the Forest Service is affected by Sections 10 and 11 of the bill. We defer to Department of the Interior for its views on the remaining sections of the bill.

Section 5

USDA generally does not have concerns with section 5 of the bill. 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)). We have a technical issue with the assignment of responsibilities that we would like to discuss with the sponsor.

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. It allows 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 (2016-2020). Segments 1 through 6 (approximately half the acres or 52.6%) were purchased in two phases by the United States through the Land and Water Conservation Fund in FY2016 and FY2017. It is anticipated the land acquisition will be completed as funds become available, provided the contract terms and conditions 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. USDA supports continuing to pursue resolution of the split estate and land interests with Sealaska Corporation using our administrative processes.

Section 13

Section 13 requires the Secretary of Agriculture to conduct a study on the impacts to Chugach Alaska Corporation (CAC) land caused by changes in Federal law or Federal or State land acquisitions since December 1, 1980. The study would be required to include recommendations for a land exchange and to identify at least 500,000 acres of Federal land that could be conveyed to CAC in exchange for CAC lands. USDA would like to work with the sponsor and the Committee on clarifying this section.

Thank you for opportunity to provide information about this bill. This concludes my prepared statement and I would be pleased to answer any questions you may have.

Statement of Glenn Casamassa
Associate Deputy Chief, National Forest System
U.S. Forest Service, United States Department of Agriculture
Before the
Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining
Concerning
S. 2062 - Oracle Cabins Conveyance Act of 2017
February 7, 2018

Chairman Lee, Ranking Member Wyden, members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 2062 – Oracle Cabins Conveyance Act of 2017. I am Glenn Casamassa, Associate Deputy Chief for the National Forest System (NFS), USDA Forest Service.

S. 2062 would require the Secretary of Agriculture to convey three parcels of NFS land on the Coronado National Forest in Arizona totaling approximately 9.5 acres to persons, or their heirs, executors, or assigns, who hold valid permits for use of the properties.

The USDA Forest Service has attempted to determine the history of how these three cabins came to be built on the Coronado National Forest, but has been unable to definitively determine their origin. However, we can confirm they are not located within an area designated for recreational cabins, which would allow for long-term ownership of improvements and occupation on a seasonal basis only. Because they do not fall within the category of a recreational residence and because they are being used as full-time residences, the type of special use permit that has been issued for each of these three cabins are for "residence, privately owned building", with a current expiration date of 2028. We have explored a number of potential solutions within our existing authorities. However, each has downsides for either the permit holder or for balanced and equitable management of the National Forest System.

Consequently, we appreciate Senator Flake's concerns about this situation and his efforts to find a workable outcome for the individuals involved and the USDA Forest Service. The Forest Service is committed to finding a mutually agreeable solution and intends to continue working

with the individual owners toward that end, within the parameters of applicable agency policy and regulations.

Thank you again for the opportunity to testify on this bill and I look forward to your questions at the appropriate time.

Statement of Glenn Casamassa

Associate Deputy Chief, National Forest System

U.S. Forest Service, United States Department of Agriculture

Before the

Senate Committee on Energy and Natural Resources

Subcommittee on Public Lands, Forests and Mining

Concerning

S. 2206, Protect Public Use of Public Lands Act

February 7, 2018

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 2206, the Protect Public Use of Public Lands Act.

Under the Montana Wilderness Study Area Act of 1977, nine areas totaling 973,000 acres were identified as wilderness study areas to be evaluated for designation as wilderness in accordance with the Wilderness Act. As required by the 1977 Act, studies for each of the areas were completed in the early 1980s. The findings in those initial studies were carried forward in the first round of land management planning as either recommendations or non-recommendations for wilderness designation. In response to those recommendations, Congress has designated 171,000 acres as wilderness and released 139,000 acres from the Act. There are 663,000 acres that remain as wilderness study areas until Congress acts.

Since the initial study period, four National Forests in Montana with wilderness study area lands have recently finished or have begun a second study (evaluation) process as required by the Forest Service land management planning regulations. Based on current conditions and public engagement, some forests have proposed changes to the 1980-era recommendations for wilderness designations.

The Department supports S. 2206, as the Forest Service has not recommended that the five areas covered by the bill be designated as wilderness.

If this bill were to be enacted, the Forests would complete the appropriate administrative change for each affected land management plan to remove the wilderness study area designation and associated direction. Management for the released acres would then defer to the remaining applicable plan direction.

Thank you for the opportunity to testify and I would be happy to answer any questions.

Statement of Glenn Casamassa
Associate Deputy Chief, National Forest System
U.S. Forest Service, United States Department of Agriculture
Before the
Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining
Concerning
S. 2218 – West Fork Fire Station Act of 2017
February 7, 2018

Chairman Lee, Ranking Member Wyden, members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 2218 – West Fork Fire Station Act of 2017. I am Glenn Casamassa, Associate Deputy Chief for the National Forest System (NFS), USDA Forest Service.

S. 2218 would convey, without consideration, all right, title, and interest in approximately 3.61 acres of National Forest System land on the San Juan National Forest to Dolores County, Colorado for construction and operation of a fire station, associated infrastructure, and access roads.

USDA supports Dolores County in their efforts to provide improved emergency services to county residents and visitors. We agree that the parcel of land in question is in a practical location to provide these services and that there are not similarly situated non-federal lands of limited acreage available that provide the same locational benefits. However, we do note that Section 3(a) is inconsistent with longstanding federal policy that market value consideration should be paid to the United States for conveyance of federal lands owned by all Americans.

Thank you again for the opportunity to testify on this bill and I look forward to your questions at the appropriate time.

Statement of Glenn Casamassa
Associate Deputy Chief, National Forest System
U.S. Forest Service, United States Department of Agriculture
Before the
Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining
Concerning
H.R. 995 – 21st Century Respect Act
February 7, 2018

Chairman Lee, Ranking Member Wyden, members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding H.R. 995, the 21st Century Respect Act. I am Glenn Casamassa, Associate Deputy Chief for the National Forest System (NFS), USDA Forest Service.

H.R. 995 affects USDA's Rural Development agency. It would, in part, direct the Secretary of Agriculture to amend section 1901.202 of title 7, Code of Federal Regulations to change the terminology used to describe the racial background or place of origin of people in regulations concerning USDA programs for financing and insuring loans for properties in rural areas managed by USDA's Rural Development agency.

USDA supports H.R. 995. USDA strives to ensure that each and every employee and customer feels valued and respected and that everyone enjoys a positive experience whether working for or with USDA. These changes align with this effort, and our first strategic goal, to "ensure USDA programs are delivered efficiently, effectively, and with integrity and a focus on customer service".

We defer to Department of Interior for their views on pertinent sections of H.R. 995.

Thank you again for the opportunity to testify on this bill.

Senator LEE. Thank you, sir.
Mr. Steed.

STATEMENT OF BRIAN STEED, DEPUTY DIRECTOR FOR POLICY AND PROGRAMS, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Mr. STEED. Good morning, Chairman Lee and Ranking Member Heinrich and members of the Subcommittee. Thank you so much for the opportunity to be here today.

My name is Brian Steed. I'm the Deputy Director of Programs and Policy at BLM and, in light of the number of bills considered today, I will keep my time short to briefly summarize my written statements on the 10 bills related to BLM in so doing.

S. 1481 amends the Alaska Native Claims Settlement Act and other laws to provide specific Alaska Native Corporations and communities with resources administered by the National Park Service, Fish and Wildlife Service and the BLM. The Department supports S. 1481 and would like to work with the sponsors on minor modifications.

S. 1665 authorizes the State of Utah to select certain BLM-managed public lands in fulfillment of land grants made under the Utah Enabling Act of 1894 without further land use planning action necessary by the BLM. The Department has no objection with the state selection of these lands and supports the goals of S. 1665 to fulfill those specific land grants.

S. 612 would require the Department to convey at no cost the reversionary interest in a 173-acre parcel of the City of Tucson, Arizona. The Department supports the goals of conveying reversionary interests and could support the bill if amended to ensure a payment at fair market value for the interest as required under FLPMA. We also recognize that there may be circumstances, as determined by Congress, in which public benefits of a proposed transfer outweigh financial considerations.

S. 1222 would convey approximately 8,000 acres managed by the BLM to La Paz County, Arizona, for uses consistent with the Recreation and Public Purposes Act. The Department is concerned that the conveyance's large size and intended scope or intended purpose would ultimately be inconsistent with the R&PP Act. We support the overall objectives of the bill and would like to work with the sponsor on modifications that will meet the needs of La Paz County and benefit the American people.

S. 441 would designate eight new wilderness areas and includes direction for future management of additional public lands in Doña Ana County, New Mexico. While the Department supports Congressional action to resolve the status of wilderness study areas, we have concerns about the bill's impact on public access, recreation, and border security.

S. 414, Pershing County authorizes the public land sales, exchanges, and conveyances and designates seven new wilderness areas on BLM-managed public lands in Pershing County, Nevada. While the Secretary does not support widescale transfer or sale of federal lands, we are willing to work with the sponsors to draft language to resolve this issue. The Secretary appreciates the work of

Senator Heller on this bill and his efforts to promote multiple uses and foster economic development on BLM lands in Nevada.

S. 1046 authorizes funding for fuels reduction projects and wildfire prevention planning and other habitat enhancement projects in Lincoln County, Nevada. The bill also authorizes funding for various public infrastructure projects and related rights-of-way in White Pine County, Nevada, and requires the completion of a conveyance to White Pine County. The Department supports the goals of the bill and would like to work with the sponsors on a few minor modifications.

S. 1219 attempts to resolve land ownership conflicts around Lake Bistineau in Louisiana. The Department supports the goal of providing certainty to landowners and acknowledges the historical complexities associated with these lands. We also recognize Congress' authority to resolve title conflicts unique to local communities where the public benefit may outweigh financial considerations.

S. 2249 would permanently reauthorize the Rio Puerco Watershed Management Committee. The Department recognizes that the Committee has been a collaborative tool for addressing the health of the Rio Puerco Watershed and does not object to its reauthorization but would recommend a reauthorization of a 10-year period allowing for a periodic review from Congress.

H.R. 1404 would take a 40-acre parcel of land near Tucson, Arizona, into trust for the benefit of the Pascua Yaqui Tribe, if certain conditions are met, and authorizes the conveyance of approximately 40 acres of adjacent land to the Tucson Unified School District at fair market value. The Department supports H.R. 1404.

Thank you, again, to members of the Subcommittee for the opportunity to testify on this diverse set of lands bills. I'm happy to answer any questions you may have.

Thank you.

[The prepared statements of Mr. Steed follow:]

Statement of
Brian Steed
Deputy Director for Policy & Programs
Bureau of Land Management
U.S. Department of the Interior

Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests, & Mining
S. 414, Pershing County Economic Development and Conservation Act
February 7, 2018

Thank you for inviting the Department of the Interior (Department) to testify on S. 414, the Pershing County Economic Development and Conservation Act. This bill authorizes public land sales, exchanges, and conveyances in Pershing County, Nevada, and designates approximately 136,600 acres of public lands managed by the Bureau of Land Management (BLM) as seven new wilderness areas.

Background

Pershing County, located in northwestern Nevada, is home to nearly 7,000 people and encompasses just over 6,000 square miles. BLM-managed public lands in this part of Nevada provide opportunities for economic development and jobs, hunting and other forms of outdoor recreation, mineral development, livestock grazing, and conservation.

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 is directed to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations. The FLPMA also sets forth the BLM's multiple-use mission, directing that public lands be managed for a variety of uses, such as energy development, livestock grazing, conservation, mining, and recreation.

S. 414

S. 414 directs Federal land sales, exchanges, and conveyances in Pershing County, Nevada. The legislation also designates approximately 136,600 acres of public lands as seven wilderness areas and releases approximately 48,600 acres of BLM-managed WSAs from further study.

Public Land Sales & Exchanges (Titles I & II)

Title I of S. 414 directs the sale, at fair market value, or exchange of up to approximately 334,000 acres of BLM-managed public lands as specified on the legislative map and that have been identified as potentially suitable for disposal as part of the land use planning process. Title I requires that all lands authorized for sale or exchange be appraised en masse within one year of enactment and every five years thereafter. Any of these lands with an appraised value of less than $500 per acre may be exchanged on an acre-for-acre basis with private land in a Management Priority Area, as identified by the Secretary, within the area depicted on the legislative map. Land sales under Title I may not exceed 150,000 acres; exchanges are exempted from this limitation. 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 a sale postponement period requested by the county.

Title II of the bill directs the sale, at fair market value as determined by an appraisal, of up to approximately 102,000 acres of BLM-managed public lands identified on the legislative map to a "qualified entity," which is defined in the bill as the owner or authorized leaseholder of the mining claims, mill sites, or tunnel sites currently existing on any portion of the lands to be sold. The qualified entity would assume all costs of the sales, including survey and administrative costs.

Proceeds from the sales directed by Titles I and II of the bill would be disbursed to the State of Nevada, Pershing County, and a special account in the U.S. Treasury for a number of specific purposes, including reimbursing costs associated with preparing sales, habitat conservation and restoration, and securing public access to Federal lands, among others.

Wilderness (Title III)
Title III of S. 414 designates seven wilderness areas totaling approximately 136,600 acres. Of these lands, approximately 55,100 acres are within existing wilderness study areas (WSAs) and approximately 81,500 acres have not previously been identified as suitable for wilderness by the BLM. Title III also releases approximately 48,600 acres from WSA status, allowing these areas to be managed according to the existing BLM land use plans. The Department notes that the lands proposed for wilderness designation by S. 414 generally serve as habitat for a diversity of plant and animal life and provide important opportunities for hiking, hunting, rock climbing, camping, horsepacking, and other forms of outdoor recreation in the Nevada desert.

Only Congress can determine whether to designate WSAs as wilderness or to release them for other multiple uses. The WSAs included in the proposed wilderness designations have been pending final resolution by Congress since 1991.

Conclusion
As a matter of policy, the Department supports the completion of land exchanges and transfers that further the public interest, consolidate ownership of scattered tracts of land to make them more manageable, and advance public policy objectives. The Department strongly supports restoring full collaboration and coordination with local communities and making the Department a better neighbor.

In his confirmation hearing, Secretary Zinke stated to the Committee that he does not support the wide-scale sale or transfer of Federal lands. The Department has substantive as well as minor technical modifications to recommend, and we look forward to working with the sponsor and the Committee to resolve these issues. The Department appreciates the work of Senator Heller on S. 414 and his efforts to promote multiple uses and foster economic development on BLM lands in Nevada.

Statement of
Brian Steed
Deputy Director for Policy & Programs
Bureau of Land Management
U.S. Department of the Interior

Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests, & Mining
S. 441, Organ Mountains-Desert Peaks Conservation Act
February 7, 2018

Thank you for inviting the Department of the Interior (Department) to testify on S. 441, the Organ Mountains-Desert Peaks Conservation Act. The bill designates eight new wilderness areas and includes direction for future management on additional public lands managed by the Bureau of Land Management (BLM) in Doña Ana County, New Mexico.

Secretary Zinke, through Secretarial Order 3347, has pledged to expand access to America's public lands and increase hunting, fishing, and recreational opportunities nationwide. In addition, Secretary Zinke is focused on restoring full collaboration and coordination with local communities and making the Department a better neighbor. The Department supports the goals of S. 441 that are consistent with the Secretary's priorities and would like to work with Congress to make sure the Secretary's priorities are appropriately considered.

In addition, the Department supports Congressional action to resolve issues of wilderness designation and release of wilderness study areas (WSAs) on public lands across the West, and we welcome opportunities to further those efforts. However, we want to ensure that designating public lands outside of existing WSAs as wilderness is the most appropriate management tool and that it does not unnecessarily impede public access or limit outdoor recreational opportunities. Furthermore, the Department is concerned that the sponsor's language regarding our Nation's security needs along the southern border with Mexico does not adequately address the Administration's priority of making America safe through effective management of the borderlands. We recommend a number of important modifications to the bill to address these critical issues.

Background

Doña Ana County, New Mexico, covers just over 3,800 square miles and is home to Las Cruces, one of the fastest-growing cities in the country. BLM-managed public lands in this part of New Mexico provide significant opportunities for economic development and jobs, outdoor recreation, traditional uses, and conservation. 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. The Organ Mountains feature mixed desert shrubs and grasslands in the lowlands transitioning to pinyon and juniper woodlands, and finally to ponderosa pines at the highest elevations. These lands are an important 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 feature numerous mesas and buttes interspersed with deep canyons and arroyos and serve as habitat for mule deer, mountain lions, golden eagles, and other raptors. This area also provides varied dispersed recreational opportunities.

To the southwest of Las Cruces, near the Mexican border, is the Potrillo Mountains Complex, which is characterized by cinder cones, volcanic craters, basalt lava flows, and talus slopes. These lands are noted for their abundant wildlife and fossil resources. A well-preserved giant ground sloth skeleton, now housed at Yale University, was discovered in this area. The Potrillo Mountains offer excellent opportunities for hiking, hunting, photography, and other forms of outdoor recreation.

S. 441

S. 441 designates eight wilderness areas in Doña Ana County. The bill 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. 441 designates eight wilderness areas totaling approximately 242,000 acres. Of these lands, approximately 197,000 acres are within existing WSAs and approximately 45,000 acres have not previously been identified as suitable for wilderness by the BLM. This section also releases approximately 30,200 acres from WSA status. The Department notes that the lands proposed for wilderness designation by S. 441 generally serve as habitat for a diversity of plant and animal life and provide important opportunities for hiking, hunting, rock climbing, horseback riding, and other forms of outdoor recreation in the New Mexico desert near Las Cruces.

Only Congress can determine whether to designate WSAs as wilderness or to release them for other multiple uses. The WSAs included in the proposed wilderness designations have been pending final resolution by Congress since 1991. The Department, therefore, supports Congress settling the status of these lands, which would provide certainty to public land users in this part of Doña Ana County.

Pursuant to the priorities outlined by Secretary Zinke, we would like the opportunity to work with the sponsors and the Subcommittee to ensure that wilderness designation on public lands outside of existing WSAs is the most appropriate mechanism to adequately protect these areas. Alternative management approaches could conserve sensitive resources while still accommodating the full range of uses and activities permitted on other BLM-managed lands within the Monument.

In addition, we would like to work with the sponsors on minor and technical amendments to this section, including boundary modifications for enhanced manageability and to provide access to public trails and private inholdings. In addition, as currently drafted, we do not believe that the bill provision authorizing paragliding to continue in this area after wilderness designation would achieve what we understand to be the sponsors' intended objective. 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.

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. 441. The lands included in this potential wilderness contain a communications right-of-way. It is our understanding that it is the intention of the sponsors to allow the continued use of this site, which is important to the Elephant Butte Irrigation District, U.S. Border Patrol, New Mexico State Police, and others. However, in the event that the communications right-of-way were relinquished and the lands were reclaimed in the future, they would become part of the wilderness area. The Department does not necessarily object to this provision, but we believe there are alternative approaches that would preserve this important use.

Fillmore Canyon

Section 3(k)(4) of the bill authorizes hunting, hiking, wildlife viewing, camping, and other outdoor recreational activities on approximately 2,035 acres of land. This land is currently part of the Army's Fort Bliss and includes the 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 DOD would be required to transfer administrative jurisdiction of the area to the BLM. After such a transfer of jurisdiction, the bill immediately 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. The Department supports this section as it would improve access to an area popular with the public. We would, however, like to work with the sponsors and the Department of the Army on language that we believe would enhance implementation.

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. The larger 6,500-acre parcel, designated as "Parcel B," lies on the southern end of the Organ Mountains area of the Monument and provides a number of current uses, including oil and gas pipelines (mainly natural gas), fiber optic lines for telecommunications, and transportation (State Route 404). The Department also notes that the Sierra Vista National Recreation Trail traverses Parcel B and connects to the Franklin Mountains in Texas. We would

like the opportunity to work with the sponsors and the Subcommittee to ensure that withdrawal is the best mechanism for ensuring that these important uses continue. Alternative management approaches could protect recreational opportunities and conserve resources while still accommodating the full range of uses and activities permitted on other BLM-managed lands. Under the Federal Land Policy and Management Act (FLPMA), for example, the BLM currently manages public lands within the Monument for a variety of uses, such as conservation, watershed protection, hunting, fishing, and other forms of recreation, and livestock grazing. If Congress chooses to proceed with the proposed withdrawal, the Department would like to work with the sponsors on language accommodating potential maintenance of and improvements to State Route 404.

Border Security

The Department is strongly committed to securing our Nation's borders and promoting a safe and secure environment for the public, employees, and users of lands managed by the BLM, National Park Service, U.S. Fish and Wildlife Service, and Bureau of Indian Affairs. The BLM and other Department bureaus regularly coordinate and collaborate with local, State, Tribal, and Federal partner agencies on border safety, security, and environmental protection, including protecting public land resources from the impacts of crimes such as smuggling.

S. 441 includes a number of provisions regarding border security to provide flexibility to the Department of Homeland Security (DHS) and other law enforcement agencies. First, the legislation releases approximately 30,200 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, the bill keeps open for administrative and law enforcement uses an east-west route bisecting the proposed Potrillo Mountains Wilderness.

While the Department is encouraged to see the WSA release along the southern boundary of the Potrillo Mountains, we believe it is not the appropriate time to permanently encumber Federal borderlands with restrictive designations. The Department recommends that the entire Potrillo Mountains area be removed from WSA until such time as DHS has achieved operational control. Furthermore, the Department will coordinate with DHS and the Subcommittee to develop language that ensures access for the U.S. Border Patrol to conduct routine patrols, perform road maintenance, and position equipment to proactively deter illegal border crossings. The limitation to enter wilderness only during pursuit as described in the legislation, but already permitted by law, puts our Border Agents at a disadvantage in completing their statutory mission.

Monument Management Plan & 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. 441 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 within 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 Department appreciates the use of standard appraisal and equalization of values language, we believe that this section as currently drafted could inadvertently affect land exchanges elsewhere in New Mexico where significant biological, cultural, and recreational values are present. The Department 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 Department supports the goals of S. 441 that are consistent with the Secretary's priorities and would like to work with Congress to make sure the Secretary's goal of enhancing recreational opportunities on Federal lands is appropriately considered. The Department also supports Congressional action to resolve wilderness designation and WSA release issues, but would like to ensure that designating public lands outside of existing WSAs as wilderness is the most appropriate management tool. We recommend a number of important modifications to the bill to address these critical issues.

Statement of
Brian Steed
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Bureau of Land Management
U.S. Department of the Interior

Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests, & Mining
S. 612, Udall Park Land Exchange Completion Act
February 7, 2018

Thank you for inviting the Department of the Interior (Department) to testify on S. 612, the Udall Park Land Exchange Completion Act. The bill provides for the conveyance of the Federal government's reversionary interest in a 173-acre parcel of land known as Udall Park located in the City of Tucson, Arizona.

Under the Federal Land Policy and Management Act (FLPMA), the Bureau of Land Management (BLM) is authorized to convey a reversionary interest upon payment of fair market value determined by an appraisal. The Department supports the goal of conveying the reversionary interest to the City of Tucson and could support S. 612 if amended to ensure payment of fair market value for the reversionary interest.

We are mindful that legislated transfers of land and interests in land often promote varied public interest considerations that may not lend themselves readily to the standard appraisal process or to equal value exchanges in all cases. In these instances, the balancing of important public policy considerations, including ensuring a fair return for the American taxpayer, ultimately rests with Congress.

Background

The BLM regularly transfers public land to local governments and nonprofits for a variety of public purposes. These transfers are typically accomplished under the provisions of the Recreation and Public Purposes (R&PP) Act or through direction supplied through specific Acts of Congress. The R&PP Act is a statute frequently used by the BLM to help States, local communities, and nonprofit organizations obtain lands – at no or low cost – for important public purposes such as parks, schools, hospitals and other health facilities, fire and law enforcement facilities, courthouses, social services facilities, and public works. Because these public purpose lands are conveyed at far below market value, R&PP Act conveyances and many similar legislated conveyances include a reversionary clause requiring that lands be used for public purposes or revert to the Federal government. Over the years, the BLM has consistently required the payment of fair market value for the reversionary interest, in accordance with FLPMA's requirements for disposal of lands or interests in land.

Udall Park is a popular, heavily used urban recreation park located in the eastern part of the City of Tucson (City). The 173-acre park was established in 1980, when the City entered into an R&PP Act lease with the BLM. Udall Park then was transferred to the City in 1989, under an

R&PP Act patent. Both the lease and patent transferring title to the City included a clause requiring that the lands be used for public purposes.

Prior to the issuance of the 1989 R&PP Act patent, the City had expressed interest in acquiring the parcel through sale or exchange. Extensive discussions with the BLM about a potential exchange followed, although no appraisals of either the parcel or the land proposed for exchange were conducted at the time. The City elected to receive the parcel under an R&PP Act patent rather than as part of a land exchange. The City conveyed land to the BLM; however, no appraisal was conducted. The Department notes that the City's conveyance to the BLM and the BLM's issuance of an R&PP Act patent to the City, when taken together, do not constitute a land exchange. A land exchange would have required appraisals of the properties and equalization of values. The R&PP Act patent to the City contains the reversionary clause requiring that the lands be used for public purposes.

The BLM has authority under FLPMA to convey a reversionary interest retained by the Federal government under the R&PP Act at fair market value in accordance with uniform appraisal standards. In the Udall Park case, the BLM and the City have explored the possible conveyance of the reversionary interest at fair market value, enabling the City to allow commercial uses of the land such as the installation of a cellular tower.

S. 612

S. 612 would transfer the Federal reversionary interest in the Udall Park parcel to the City to facilitate economic development. All administrative costs associated with the conveyance would be the responsibility of the City.

FLPMA, which is the authority under which BLM generally disposes of public land or interests without limit, requires receipt of fair market value for public lands or interests transferred out of public ownership. This serves to ensure that taxpayers are fairly compensated for the removal of public lands or interests from Federal ownership. The Department supports the goal of conveying the reversionary interest outlined in this section. As with previous such proposals, we recommend amending S. 612 to ensure the payment of fair market value for the reversionary interest. However, the Department recognizes that there may be circumstances, as determined by Congress, in which the public benefits of a proposed transfer outweigh financial considerations.

Conclusion

Thank you for the opportunity to testify. We look forward to working with the sponsor and the Subcommittee to address the needs of the City of Tucson.

Statement of
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U.S. Department of the Interior

Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests, & Mining
S. 1046, Eastern Nevada Economic Development and Land Management Improvement Act
February 7, 2018

Thank you for the opportunity to present the views of the Department of the Interior (Department) on S. 1046, the Eastern Nevada Economic Development and Land Management Improvement Act. S. 1046 authorizes funding for the development and implementation of multi-jurisdictional hazardous fuels reduction projects and wildfire prevention planning (particularly for pinyon and juniper dominated landscapes) and other habitat enhancement projects in Lincoln County, Nevada, through the Lincoln County Land Act of 2000 (LCLA) and the Lincoln County Conservation, Recreation, and Development Act of 2004 (LCCRDA). The bill also adjusts the boundaries of several wilderness areas on land managed by U.S. Forest Service (USFS) in Nevada. In addition, S. 1046 authorizes funding for the development of various public infrastructure projects and the processing of related rights-of-way applications in White Pine County, Nevada, through the White Pine County Conservation, Recreation, and Development Act of 2006 (WPCCRDA). Finally, the bill requires the completion of a conveyance of certain public lands to White Pine County.

Consistent with Secretary Zinke's priority of serving the American family and being a good neighbor on public lands, the Department strongly supports the wildfire prevention planning, fuels management, and habitat enhancement goals of S. 1046. The Department also looks forward to working with the sponsors and the Subcommittee on the continued implementation of LCLA, LCCRDA, and WPCCRDA. We would, however, like the opportunity to work with the sponsors on a few modifications to address the concerns outlined below. The Department defers to the USFS on provisions exclusively affecting their lands.

Background

The Lincoln County Land Act of 2000 (LCLA, Public Law 106-298) provides for the disposal of approximately 13,500 acres of public land in Lincoln County, Nevada, with the proceeds paid to the State of Nevada (5 percent), Lincoln County (10 percent), and a special account in the U.S. Treasury (85 percent). Under the LCLA, revenue from the special account can be expended within Lincoln County by the Secretary of the Interior on archaeological resources activities; development of a Multi-Species Habitat Conservation Plan (MSHCP) in the County; acquisition of environmentally sensitive lands; and reimbursement of costs associated with land sales preparation, processing public land use authorizations, and rights-of-way stemming from the development of the conveyed lands.

The Lincoln County Conservation, Recreation, and Development Act of 2004 (LCCRDA, Public Law 108-424) provides for the disposal of up to 90,000 acres of public land in Lincoln County,

Nevada, with the proceeds paid to the State of Nevada (5 percent), Lincoln County (10 percent), and a special account in the U.S. Treasury (85 percent). Under the LCCRDA, revenue from the special account can be expended within Lincoln County by the Secretary on archeological resources activities; reimbursement of costs associated with preparing land sales; development and implementation of the Lincoln County MSHCP; processing and implementing the Silver State Off-Highway Vehicle (OHV) Trail management plan; and costs related to enforcement of designated wilderness areas. LCCRDA also directed a number of conveyances to the State of Nevada and Lincoln County.

The White Pine County Conservation, Recreation, and Development Act of 2006 (WPCCRDA, Division C, Title III of Public Law 109-432) provides for the disposal of up to 45,000 acres of public land in White Pine County, Nevada, with the proceeds paid to the State of Nevada (5 percent), White Pine County (10 percent), and a special account in the U.S. Treasury (85 percent). Under the WPCCRDA, revenue from the special account can be expended within White Pine County by the Secretary on archeological resources activities; conducting a study of routes and developing and implementing the management plan for the Silver State OHV Trail; wilderness protection and processing wilderness designations; reimbursement of costs associated with preparing land sales and taking land into trust for the benefit of various Tribes; carrying out a study to assess non-motorized recreational opportunities; and, if the Secretary determines necessary, developing and implementing conservation plans for endangered or at risk species. WPCCRDA also directed a number of conveyances to the State of Nevada and White Pine County.

As required by law, the Secretary, acting through the BLM, has used the funds in the special accounts to acquire sensitive lands for conservation, to complete development of the Lincoln County MSHCP, and to finalize management plans for wilderness areas and the Silver State OHV trail. The BLM has also undertaken archeological inventories on over 50,000 acres with the funding. Additional land sales of 296 acres under the LCCRDA and 431 acres under the WPCCRDA have been identified for 2018, in coordination with Lincoln and White Pine Counties, respectively.

S. 1046

Facilitation of Pinyon-Juniper Related Projects in Lincoln County (Section 2)

S. 1046 amends the Lincoln County Land Act of 2000 (LCLA) and the Lincoln County Conservation, Recreation, and Development Act of 2004 (LCCRDA) to allow funding from the Federal special accounts for those Acts to be used for hazardous fuels reduction projects and wildfire prevention planning (particularly in pinyon and juniper dominated landscapes) and other habitat enhancement projects. Under this section, the Secretary is authorized to establish cooperative agreements with Lincoln County for County-provided law enforcement and planning related activities for wilderness, cultural resources management, and land disposal and related land-use authorizations under the Acts, as well as for the Silver State OHV Trail designated by the LCCRDA. Finally, this section amends the land withdrawal in the LCCRDA for a utility corridor.

The Department shares the sponsors' strong interest in developing and implementing hazardous fuels reduction projects and wildfire prevention planning and other habitat enhancement projects.

In particular, the Department strongly supports the sponsors' efforts of treating rangelands that are seeing incredible rates of encroachment from pinyon and juniper trees. As part of the Secretary's priority to ensure working landscapes, the BLM's Ely District has identified treatment for more than 700,000 acres of pinyon and juniper woodlands – projects that would reduce the risk of resource damage from catastrophic wildfires and improve overall rangeland health.

The Department notes that the BLM works closely with Lincoln County on projects related to the LCLA and LCCRDA and has existing authorities to use cooperative agreements under the Federal Land Policy and Management Act (FLPMA) similar to the provisions (Section 2) in S. 1046 authorizing cooperative agreements for law enforcement and planning. As such, we would welcome the opportunity to work with the sponsors on the best way to foster greater coordination and cooperation with local governments while ensuring consistency with FLPMA. Finally, the Department supports the realignment of the utility corridor established under the LCCRDA and recommends a few technical edits to the modification language.

Wilderness Boundary Adjustments (Section 3)
The Department defers to the U.S. Forest Service on the bill's proposed adjustments to the boundaries of the Forest Service-managed Mt. Moriah, High Schells, and Arc Dome Wildernesses.

Implementation of White Pine County Conservation, Recreation, and Development Act (Section 4)
S. 1046 authorizes funding for the development of municipal water and sewer infrastructure, public electric transmission facilities, and public broadband infrastructure in White Pine County and the processing of rights-of-way applications relating to the development of any land conveyed to the County under the WPCCRDA. Finally, section 4 of the bill requires the completion of a conveyance of approximately 202 acres of public lands to White Pine County originally directed by WPCCRDA. The Department does not object to this amendment to WPCCRDA.

Conclusion
Thank you again for the opportunity to testify on S. 1046, the Eastern Nevada Economic Development and Land Management Improvement Act. We appreciate the sponsors' work on this legislation, and we look forward to working with Congress to meet the needs of Lincoln and White Pine Counties.

Statement of
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Bureau of Land Management
U.S. Department of the Interior

Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests, & Mining
S. 1219, Lake Bistineau Land Title Stability Act
February 7, 2018

The Department of the Interior (DOI) appreciates the opportunity to provide testimony on S.1219, which, as drafted, would direct the Secretary of the Interior to convey, through a formal Disclaimer of Interest, any Federal Interest in lands adjacent to Lake Bistineau in Section 30, Township 16 North, Range 10 West (Section 30) Louisiana, including Peggys and Hog Islands. S.1219 would eliminate the legal effect on the ownership of these lands of the Federal survey approved the Bureau of Land Management (BLM) in 1969 and reaffirm the original survey approved by the General Land Office (GLO) in 1842.

The Department of the Interior supports the goal of providing stability to current residents in Section 30 near Lake Bistineau by resolving their land title conflicts, and recognizes the Sponsor's commitment to working with the Department on a fair and equitable resolution. As a general matter, Secretary Zinke is opposed to the wide-scale sale or transfer of Federal lands. However, the Secretary will work with Congress on proposals of this nature that are unique to local communities and would help resolve longstanding title conflicts.

Federal Survey Authority

The Land Ordinance of 1785 provided original authority for the federal government to conduct public land surveys and provided the mechanism for the sale and transfer of public domain lands. This authority was historically exercised by the GLO under the Department of Treasury and under the Department of the Interior, later becoming part of the BLM's mission. In addition to being the official surveyor of our nation's public lands, the BLM has the authority to examine the accuracy of surveys of Federal interest land and to execute supplemental surveys of areas within the public domain which may have been "omitted" from an original survey. When appropriate, the BLM is responsible for correcting previous surveys of public lands. Surveys requiring corrections frequently involve cases with land that borders bodies of water.

Given this enormous responsibility, the DOI is acutely aware that the decisions we make and the actions we take can have long-lasting impacts on communities all across the country. As such, the Department is committed to being a good steward of the public land which requires us to be a good neighbor who is responsive and adaptive to local voices.

Lake Bistineau Boundary

Lake Bistineau is located in Bienville, Bossier, and Webster Parishes in Louisiana and was formed when the Red River became blocked by an accumulation of trees and other debris prior to Louisiana statehood in 1812. The debris was largely removed in 1845, causing Lake Bistineau to reach its normal level. Beginning in 1935, a dam was built which recreated an

artificial lake over much of the original (1812) lake bed. This lake is in place today.

Boundaries along water bodies are called riparian boundaries, which typically extend to the actual water and change with the water level. However, in the case of Lake Bistineau, the boundary line does not move with the water, because many of the changes that occurred over time occurred unnaturally, such as the physical removal of debris in 1845. Under the Equal Footing Doctrine, the states assume title, including mineral rights, to beds of navigable water bodies, in their natural condition, up to the Ordinary High Water Mark (OHWM). All parties agree that the Lake is navigable.

The State of Louisiana and the United States have managed the boundary of Lake Bistineau at the 148.6 contour line.

A Complicated History

In 1838, the GLO conducted the original subdivision survey of the township which includes a portion of the boundary of Lake Bistineau. This survey was officially approved in 1842. In 1967, the BLM received a Color-of-Title Application (process described in detail below) for lands that were omitted from the original 1838 survey in Section 30. In response, the BLM issued special instructions calling for the examination and survey of lands bordering Lake Bistineau in Section 30. After this review, the BLM determined that an area of land had been erroneously omitted from the original survey in 1838. These "omitted lands," which accounted for nearly 230 acres, were identified, surveyed, and platted as public lands, pending completion of a public comment period and official approval by the BLM of the changes.

On February 26, 1969, the BLM provided an opportunity for public engagement by publishing a notice of the plat filing from the 1967 resurvey in the *Federal Register*. The BLM also sent notice letters to several local and State entities and to individuals, including the original claimant, which are maintained in the BLM Easter States Office. The BLM did not receive any protests or comments during the 30-day public notification period. On March 31, 1969, the resurvey and extension to the 1838 survey line was officially filed.

A continuing title conflict between the current residents and the United States was created in 1901 when the state of Louisiana mistakenly conveyed the omitted public lands to Bossier Levee District, which subsequently conveyed the lands to private individuals. In recent years, local residents have raised concerns about this situation. The title conflict is further complicated by active oil and gas production in the Section 30 omitted lands.

In 2013, the BLM responded to a request for information regarding the status of the lands in this area from several of the individuals holding a title derived from the 1901 deed from the State. The BLM responded with an informational letter containing a brief summary of general laws and information contained in the BLM records. Three land holders filed an appeal with the Interior Board of Land Appeals (IBLA) based on the letter. On September 9, 2014, the IBLA dismissed the appeal on the basis that the letter was not a formal decision but rather a summary of the information contained in the BLM records. The appellants filed for reconsideration, and the IBLA issued an order upholding the dismissal on February 4, 2015.

Public Land Disposal Authority

Federal Land Policy and Management Act of 1976 (FLPMA)

A variety of statutes provide the BLM the authorities necessary to address issues and disputes in land ownership. Under FLPMA, the BLM is authorized to transfer or dispose of lands that have been identified as potentially suitable for disposal in an approved land use plan or through an amendment to an existing plan. Under FLPMA, lands may only be disposed of for no less than their appraised fair market value. Through these authorities, the BLM has been able to effectively manage and resolve many land use conflicts.

In limited cases, the DOI has the authority to issue a Recordable Disclaimer of Interest (RDI) to resolve title uncertainty. In these instance, the Department provides an official statement that the United States has no interest in the lands or mineral estate. A RDI does not grant, convey, transfer, remise, quitclaim, release or renounce any title or interest in the lands, nor does a disclaimer release or discharge any tax, mortgage, deed of trust, or other security interest in lands that are held by or for the benefit of the United States. Further, this administrative process is used where lands have not been surveyed by the BLM, and it cannot be used in areas where there is an existing Federal interest. The approval of the survey in 1969 formally identified the Federal interest in these lands; therefore, this process is not applicable to this case in the absence of specific legislation directing the Secretary to issue an RDI.

Color-of-Title Act

The Color-of-Title Act provides a statutory mechanism for the BLM to resolve certain private party claims on public land. Any individual, group, or corporation who presents evidence of having color of title – for example an instrument from a non-Federal source which erroneously purports to convey title to public lands – may file a color-of-title claim with the BLM. Accepted filings grant the applicant a patent conveying clear title to the lands upon payment of a fair and reasonable sale price which reflects the current market value of the lands, but may be discounted to account for improvements made on the land or previous property taxes paid.

The obligation to establish a valid color-of-title claim is upon the claimant and the BLM has encouraged the residents in the Lake Bistineau area to pursue color-of-title opportunities. The BLM has previously expressed interest in further discussions with those who hold title derived from the State to identify ways to streamline the color-of-title process wherever possible to minimize time and cost.

S.1219

S.1219 eliminates the legal effect on the ownership of the land described in the Federal resurvey approved in 1969, which identified omitted public lands near Lake Bistineau. S.1219 reaffirms the boundaries identified in the original survey that was approved in 1842. Finally, S.1219 directs the Secretary of the Interior to disclaim any Federal interest for those omitted lands.

The DOI shares the goal of providing legal certainty to those who hold title through the State in the approximately 230 acres outlined in S.1219. However, the Department is concerned that the bill transfers Federal lands and mineral estate out of Federal ownership without equitable compensation to U.S. Taxpayers. We are mindful that legislated transfers of land and interests in land often promote varied public interest considerations. In these instances, the balancing of

important public policy considerations, including ensuring a fair return for the American taxpayer, ultimately rests with Congress. The Department acknowledges the historical complexities associated with these lands and recognizes Congress' authority to resolve title conflicts unique to local communities where the public benefit may outweigh financial considerations.

We would also like to work with the sponsor on language to simplify the proposal in order to achieve the sponsor's goals.

Conclusion

Thank you for the opportunity to testify on S.1219. I will be glad to answer any questions.

Statement of
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U.S. Department of the Interior

Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests, & Mining
S. 1222, La Paz County Land Conveyance Act
February 7, 2018

Thank you for inviting the Department of the Interior (Department) to testify on S. 1222, the La Paz County Land Conveyance Act. The bill proposes to convey to La Paz County, Arizona, approximately 8,000 acres of public lands managed by the Bureau of Land Management (BLM). Secretary Zinke, through Secretarial Order 3347, has pledged to expand access to America's public lands and increase hunting, fishing, and recreational opportunities nationwide. In addition, the Secretary is focused on restoring full collaboration and coordination with local communities, working with partners to promote multiple use on public lands, and making the Department a better neighbor. While the Department supports the goals of S. 1222 that align with these important priorities, we have concerns with the legislation as drafted.

Background

La Paz County, located in western Arizona, is home to over 20,000 people and holds important recreational value because of its close proximity to the Colorado River; the Cibola, Bill Williams River, and Imperial National Wildlife Refuges; and a number of cultural and historic sites, including old mines and ghost towns.

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 Department generally supports appropriate legislative conveyances at nominal cost if the lands are to be used for purposes consistent with the R&PP Act, and if the conveyances have reversionary clauses to enforce this requirement.

It should be noted that Secretary Zinke is opposed to the wide-scale sale or transfer of Federal lands. That said, Secretary Zinke is interested in working with Congress on proposals that have the specific goal of preserving access and recreational opportunities for future generations while supporting local community needs.

S. 1222

S. 1222 directs the Secretary of the Interior to convey approximately 8,000 acres managed by the BLM to La Paz County for uses consistent with the R&PP Act and subject to valid existing rights. The bill also contains a reversionary clause that provides for the land to revert to the United States, at the discretion of the Secretary, if it ceases to be used for recreation and public

purposes. While the County would receive the land itself at no cost, the County would pay any administrative costs associated with the conveyance (e.g., cultural and cadastral surveys).

The County would also have the option under S. 1222 to acquire the Federal reversionary interest in these lands at fair market value, as determined by an appraisal. The bill further states that the County would be responsible for the costs associated with this appraisal and includes language releasing the United States from liability for any hazardous materials that may be present on the public lands before the date of conveyance.

As a matter of policy, the Department supports working with local governments to resolve land tenure issues that advance worthwhile public policy objectives. In general, the Department supports the proposed conveyance, if it is consistent with the existing R&PP authority. We are concerned, however, that the total acreage proposed for conveyance is significantly larger than what is normally authorized for public purposes under the R&PP Act, and we are concerned that this legislation, as currently drafted, would ultimately mandate conveyances that effectively authorize non-R&PP use. Our understanding is also that La Paz County ultimately intends to use the site for solar energy development, which would be inconsistent with the R&PP Act. We would like to work with the sponsor on amendments to the bill that more closely tailors it to the needs of La Paz County while ensuring that unnecessary acreage remains available for multiple uses.

The Department is also committed to continuing its adherence to the Uniform Appraisal Standards for Federal Land Acquisition and Uniform Standards of Professional Appraisal Practice, and appreciates the sponsor's including these provisions in the bill. We recommend the bill be modified to clarify that the appraisal process will be managed by DOI's Office of Valuation Services. The Office of Valuation Services provides credible, timely, and efficient valuation services to ensure public trust in Federal real property transactions.

Finally, we note that the lands proposed for conveyance have not been identified as potentially suitable for disposal in the Yuma Resource Management Plan, which the BLM completed in 2010.

Conclusion

Thank you for the opportunity to present the Department's views on S. 1222. We look forward to working with the sponsor and the Committee on modifications to the bill that will meet the needs of La Paz County and benefit the American people.

Statement of
Brian Steed
Deputy Director for Policy & Programs
Bureau of Land Management
U.S. Department of the Interior

Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests, & Mining
S. 1481, Alaska Native Claims Settlement Improvement Act
February 7, 2018

Thank you for the opportunity to present the views of the Department of the Interior (Department) on S. 1481, the Alaska Native Claims Settlement (ANCSA) Improvement Act. Among its measures, S. 1481 amends ANCSA and other laws concerning Alaska Native issues and Alaska Native communities, including: Ukpeagvik Inupiat Corporation; Shishmaref; Shee Atika Incorporated; Admiralty Island National Monument; CIRI (Cook Inlet Region, Inc.); Kaktovik, Canyon Village, and Nagamut; Unrecognized Southeast Alaska Native Communities Recognition and Compensation; Open Season for Certain Alaska Native Veterans for Allotments; a 13th Regional Corporation; Chugach Alaska Corporation; and reinstatement of a dissolved village or group. S. 1481 also includes a section on dividend exclusion increase for benefit calculations and on fractional shares.

The Department supports this legislation and looks forward to working with the sponsors and the Committee on technical modifications to specific sections. After the brief introduction below, a summary analysis of these sections follows.

The Department defers to U.S. Department of Agriculture (USDA) on Sections 5, 6 and 13 as they pertain to National Forest System issues.

Background

The Alaska Native Claims Settlement Act (ANCSA) of 1971 settled aboriginal land claims in Alaska and entitled Alaska Native communities to select and receive title to 46 million acres. ANCSA 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. For each Regional Corporation, ANCSA provided at least two acreage entitlements through which it could select and receive ownership of Federal lands. For Alaska Natives who were non-residents of the state at the time the Act was signed into law, ANCSA authorized a 13th Regional Corporation. In addition, ANCSA created more than 200 Alaska Native Village, Group, Urban, and Reserve 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 the transfer of lands to individual Alaska Natives under the Alaska Native Allotment

Act (1906 Act); implements the 46 million-acre transfer to Alaska Native communities under ANCSA; and is also responsible for conveying 104.5 million acres to the State of Alaska 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. 1481

Sec. 3. Ukpeagvik Inupiat Corporation (UIC) Sand & Gravel Resources

Sec. 3 of S. 1481 would transfer all right, title, and interest in sand and gravel deposits underlying the surface estate of land owned by the Ukpeagvik Inupiat Corporation (UIC) 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. The bill requires UIC to continue to mitigate negative impacts on the nesting sites of the Steller's eider, and to not blast or use explosives during the active nesting season of the Steller's eider.

The Department supports the goals of Sec. 3 and would like to work with the sponsors and the Committee on technical modifications concerning the Umiat Meridian, Alaska; the Barrow Gas Field Transfer Act of 1984; and clarification that the conveyance of sand and gravel resources to UIC fulfills its ANCSA 12(a) entitlement.

Sec. 4. Shishmaref Easement

Sec. 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 flooding and erosion from thawing permafrost, loss of coastal sea ice, and extreme weather events. 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.

The Department supports this provision and looks forward to working with the sponsors and the Committee on technical modifications to Sec. 4 concerning the specifications for the road.

Sec. 7. CIRI (Cook Inlet Region, Inc.) Land Entitlement

Sec. 7 authorizes Cook Inlet Region Inc. (CIRI) to fulfill its 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 resolve all issues relating to CIRI's entitlement, and BLM and CIRI are continuing to work together to resolve the remaining issues.

The Department supports the goals of Sec. 7 and looks forward to working with the sponsors and the Committee on technical modifications and any potential impact of this section to BLM's implementation of the Alaska Land Transfer Acceleration Act.

Sec. 8. Kaktovik and Canyon Village

Sec. 8 requires the Secretary of the Interior to make the following specific conveyances:

- Kaktovik: the surface estate in selected lands to Kaktovik Inupiat Corporation and the subsurface to Arctic Slope Regional Corporation.
- Canyon Village: the surface estate in selected lands to Kian Tr'ee Corporation for the Native Village of Canyon Village and the subsurface to Doyon, Limited, to fulfill ANCSA entitlements.

The Department strongly supports Sec. 8 for its potential to move toward equitable resolution of complex, longstanding issues. We would like to work with the sponsors on technical modifications pertaining to ANILCA and previous agreements.

Sec. 9. Nagamut

The State of Alaska holds patented title to certain lands in southwest Alaska under the Statehood Act. Nagamut and Calista Corporation selected certain lands close to the village's traditional hunting area in southwest Alaska in accordance with ANCSA. However, the State of Alaska continues to hold patented title to lands preferred by Nagamut village and no other lands are located close to the traditional hunting area. Sec. 9 directs the Secretary to pay compensation to Nagamut and to Calista Corporation, in lieu of conveying lands to Nagamut and subsurface to Calista Corporation, respectively, to settle ANCSA land claims entitlement of both Nagamut and Calista. The fair market value of these interests is to be determined by appraisals in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice and other standards.

The Department supports this section and would like to work with the sponsors and the Committee on essential technical modifications to ensure that the provisions in this legislation reach intended beneficiaries.

Sec. 10. Unrecognized Southeast Alaska Native Communities Recognition and Compensation
Sec. 10 amends 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".

The Department supports Sec. 10 and looks forward to working with the sponsors and the Committee on technical modifications including adding the Secretary of Agriculture for consultation and coordination on land selections resulting from implementation of the bill. In addition, we recommend that the word "township" be replaced with "23,040 acres" because some townships along the coast may be less than 23,040 acres.

Sec. 11. Open Season Alaska Native Veterans Land Allotment Equity
The highest priority of the BLM's Alaska Land Transfer program is to fulfill existing statutory mandates by completing title transfer to individual Alaska Natives that includes equitable opportunities for Alaska Native Veterans, as well as to fulfill remaining entitlements under ANCSA and the Statehood Act.

We appreciate the sponsors' continued interest in extending to Vietnam-era Alaska Native Veterans opportunities to apply for an individual allotment in recognition of their service to our country. The Department strongly supports the goals of Section 11 and will continue to work with the sponsors and the Committee to enhance the legislation and offer timely and efficient resolution of longstanding Native allotment processes.

Sec. 12. 13th Regional Corporation
Sec. 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 supports Sec. 12.

Sec. 13. Chugach Alaska Corporation Land Exchange Pool
Sec. 13 provides for a study of the exchange of lands between the Chugach Alaska Corporation and the Federal government to be conducted by the Secretary of Agriculture. There are more than 139,000 acres of Chugach Alaska lands within the boundaries of Wrangell-St. Elias National Park and Preserve and Kenai Fjords National Park. Potential land exchanges could benefit Wrangell-St. Elias by solving access issues. We look forward to future discussions with the Chugach Alaska Corporation and the Secretary of Agriculture.

Sec. 14. Dividend Exclusion Increase
Sec. 14 amends ANCSA to raise to $5,000 per year the dividend exclusion for Alaska Natives for program aid.

Sec. 15. Fractional Shares
Sec. 15 authorizes Alaska Native Corporations to convert fractional shares back into full shares of any class of stock, without consideration, to simplify the computation of annual shareholder dividend payments.

Sec. 16. Reinstatement of Dissolved Village or Group Corporations
Sec. 16 amends ANCSA to change the definition of "Village Corporation" so that if an original village corporation were involuntarily dissolved under Alaska state law, a successor corporation organized under the laws of the State of Alaska would be eligible for full ANCSA benefits.

The Department supports the goals of this section to address the needs of shareholders of ANCSA corporations now dissolved or those that may become dissolved, independent of action by the State of Alaska. We recommend that Sec. 16 be expanded to include all ANCSA entities that may face dissolution. We look forward to working with the sponsors and the Committee on technical modifications.

Conclusion
Thank you for the opportunity to testify on this bill. The Department is proud to support the efforts of the sponsors to bring about resolution of many issues facing Alaska Native communities.

Statement of
Brian Steed
Deputy Director for Policy & Programs
Bureau of Land Management
U.S. Department of the Interior

Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests, & Mining
S. 1665, Confirming State Land Grants for Education Act
February 7, 2018

Thank you for inviting the Department of the Interior (Department) to testify on S. 1665, the Confirming State Land Grants for Education Act. S. 1665 authorizes the State of Utah (State) to select certain public lands managed by the Bureau of Land Management (BLM) in fulfillment of the land grants made under the Utah Enabling Act of 1894 (28 Stat. 107) without further land use planning action by the BLM. S. 1665 is consistent with Secretary Zinke's priority of serving the American family by enhancing our relationships with States and local communities. The Department has no objection to the State's selection of these lands and supports the goals of S. 1665 to fulfill these specific land grants. We would like the opportunity to work with the sponsor and Subcommittee on a clarifying amendment.

Background

Under the Utah Enabling Act of 1894, the State is authorized to select certain lands for the support of common schools, the establishment and support of a state university and agricultural college, the establishment of permanent water reservoirs for irrigating purposes, and the establishment and support of various other state health institutions and schools.

In 1998, the State made an application for selection of approximately 440 acres of BLM-managed public lands in Utah County, Utah, for an agricultural college (Utah State University) in partial fulfillment of the grant authorized under the Utah Enabling Act of 1894. In 2004, the State amended its application to include an additional 80 acres of BLM-managed public lands in the County. In 2007, the BLM ultimately determined, based on a review of existing law and in consultation with the Department's Office of the Solicitor, that the lands in question were not available for State selection because they had been identified in the 1997 Pony Express Resource Management Plan (RMP) as potentially suitable for exchange, but not other forms of disposal. The Department notes that the Pony Express RMP would need to be amended to enable State selection of the lands in question.

S. 1665

S. 1665 is identical to H.R. 2582 as reported by the House Natural Resources Committee on September 12, 2017. S. 1665 authorizes the State to select certain BLM-managed public lands in Utah County, Utah, in fulfillment of the land grants made under sections 6, 8, and 12 of the Utah Enabling Act and as generally depicted on the legislative map. In addition, the bill exempts the lands authorized for selection from the exchange limitation in the Pony Express RMP making further land use planning by the BLM unnecessary. The State selections would be subject to valid existing rights.

The Department has no objection to the State's selection of these lands, which we understand correspond to the State's 1998 and 2004 applications and would be for the purpose of supporting Utah State University. The Department believes S. 1665 represents a creative solution to a complex issue. We recommend the inclusion of language further clarifying that the lands to be selected would be used for the support of Utah State University, as intended under the Utah Enabling Act of 1894.

In addition, the Department notes that the lands authorized for selection contain several inactive community rock pits, where the BLM could authorize the sale of landscape rock. These lands also contain a number of existing rights-of-way, including highways and roads, natural gas pipelines, fiber optic lines, and communication sites. Additionally, we note that there are a number of identified ancient petroglyph sites known to exist on some of the lands to be authorized for selection. The Department understands that the State would be required to work with the State Historic Preservation Office to ensure protection of these and other cultural resources that may be present on these lands. Finally, the Department notes that these lands are part of two grazing allotments. State selection of these parcels would reduce acreage in the allotments and the amount of forage available to two permittees.

Conclusion

Thank you again for the opportunity to testify in support of S. 1665, the Confirming State Land Grants for Education Act. We appreciate the work of Senator Hatch on this legislation, and we look forward to collaborating with him and the Subcommittee as the bill moves through the legislative process.

Statement of
Brian Steed
Deputy Director for Policy & Programs
Bureau of Land Management
U.S. Department of the Interior

Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests, & Mining
S. 2249, Rio Puerco Watershed Management Program Reauthorization Act
February 7, 2018

Thank you for the opportunity to present the views of the Department of the Interior (Department) on S. 2249, the Rio Puerco Watershed Management Program Reauthorization Act. The Rio Puerco Management Committee has been a historically important collaborative tool for supporting rural communities and traditional uses of the public lands. S. 2249 would permanently reauthorize the Rio Puerco Management Committee (RPMC) and the Rio Puerco Watershed Management Program. The Department recommends that the RPMC be reauthorized for a limited ten-year period.

Background

The Rio Puerco Watershed located in west central New Mexico contains the most significant tributary in the Middle Rio Grande Basin. Covering nearly 7,350 square miles, it includes 9 sub-watersheds that drain into portions of 7 counties west of the Rio Grande. Over the past half century, the Rio Puerco Watershed has become severely degraded because of accelerated erosion and high sediment loads. According to the U.S. Army Corps of Engineers, soil erosion within this watershed surpasses that of any other watershed in the country.

Established by the Omnibus Parks and Land Management Act of 1996 (Public Law 104-333) and reauthorized in 2009, the RPMC is a collaborative organization convened and facilitated by the Bureau of Land Management (BLM) that consists of State, Federal, and Tribal entities, soil and water conservation districts, representatives of county governments, residents from rural communities within the watershed, environmental and conservation groups, and the public. The purpose of the RPMC is to advise the Secretary of the Interior, acting through the BLM, on developing and implementing the Rio Puerco Management Program, also established by Public Law 104-333. As per the law, the Rio Puerco Management Program provides support to the RPMC as the RPMC collects data on the watershed, identifies best management practices, and monitors ongoing programs. Further, the RPMC acts as a forum for information about activities affecting the development and implementation of best management practices in the Rio Puerco Watershed.

Since the creation of the RMPC in 1996, the BLM has partnered with the many local groups that comprise the RMPC on projects that have improved the overall health of the watershed and have supported, educated, and even employed members of the local rural community. For example, in cooperation with the New Mexico State Highway and Transportation Department, the RPMC engaged in restoration activities that redirected the Rio Puerco from its unstable, channelized

path to a meandering, natural route. Through a grant provided by the New Mexico Environment Department, the RPMC worked with private landowners on erosion control, vegetation management, and grazing management projects to improve the water quality in two degraded tributaries of the Rio Puerco Watershed. Finally, the RPMC worked with chapters of the Eastern Navajo to train participants in a summer youth program to install structures that support grazing programs.

These are just a few examples of the many projects that the RPMC has made possible in partnership with the local community, and Federal agencies like the BLM, in support of responsible multiple uses on the public lands, working landscapes, and traditional uses such as grazing. Although no new projects have been funded since 2013, the RPMC has continued to meet approximately quarterly for the last five years. In the absence of project funding, the committee's primary focus has turned to regaining participation and momentum for on-the-ground project work focused on watershed improvement.

S. 2249, Rio Puerco Watershed Management Program Reauthorization Act

S. 2249 permanently reauthorizes the Rio Puerco Watershed Management Program and the RPMC. The bill also authorizes appropriations for fiscal year 2017 and each fiscal year thereafter. The RPMC was originally authorized for a ten-year period, and was reauthorized for an additional ten years in 2009. The BLM recommends that the sponsor and the Subcommittee consider reauthorizing the committee for a limited ten-year period in this instance as well.

The BLM has appreciated the opportunity to work closely with its partners in the local community on improving the health of the Rio Puerco watershed. Although projects undertaken by the Rio Puerco Watershed Committee have been funded primarily through appropriations in the past, the Department of the Interior is currently undertaking a review of grants and cooperative agreements with outside groups and agencies, and would like to carefully evaluate the work of the RPMC in the context of this review.

Conclusion

Thank you again for the opportunity to testify on S. 2249, Rio Puerco Watershed Management Program Reauthorization Act. We appreciate the work of the sponsor on this legislation, and we look forward to collaborating with him and the Subcommittee as the bill moves through the legislative process.

Statement of
Brian Steed
Deputy Director for Policy & Programs
Bureau of Land Management
U.S. Department of the Interior

Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests, &Mining
H.R. 1404, Pascua Yaqui Tribe Land Conveyance Act
February 7, 2018

Thank you for the opportunity to present the views of the Department of the Interior (Department) on H.R. 1404, the Pascua Yaqui Tribe Land Conveyance Act. Under H.R. 1404, the United States shall hold in trust approximately 40 acres of land in the Tucson, Arizona area for the benefit of the Pascua Yaqui Tribe (Tribe). The bill also authorizes the United States to convey approximately 13 acres of currently unencumbered public lands and a reversionary interest of approximately 27 acres to the Tucson Unified School District (District) at fair market value.

It should be generally noted that Secretary Zinke is opposed to the wide-scale sale or transfer of Federal lands; however, there are unique situations of this nature where limited land transfers may be appropriate. In this case, the Department supports H.R. 1404 because we recognize the Tribal and local community benefits that may result from the bill. We would, however, like the opportunity to work further with the sponsor and the Subcommittee regarding the survey provision.

Background

The Pascua Yaqui Tribe's lands are located in Pima County, near Tucson, Arizona, and include 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 Recreation and Public Purposes Act (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 that have been identified as potentially suitable for disposal in the current Phoenix District Resource Management Plan.

H.R. 1404

H.R. 1404 declares that approximately 40 acres of land, designated in the bill as "Parcel A" will be held in trust for the benefit of the Tribe, on the day after the District relinquishes all right, title, and interest in the 40 acres where the United States holds a reversionary interest. In addition, the bill authorizes the United States to convey to the District, at fair market value, approximately 13 unencumbered acres designated in the legislation as "Parcel B." The bill also authorizes the United States to convey to the District, at fair market value, its reversionary

interest in approximately 27 acres of land currently patented to the District under the R&PP Act and identified as "Parcel C." The United States could convey the reversionary interest in Parcel C if the District submits an offer to the Department to acquire it within a year after the Department completes its appraisal. Both conveyances to the District are subject to valid existing rights.

Under the bill, the United States will determine fair market value of Parcel B and the Federal reversionary interest in Parcel C in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice. The District would pay for all costs associated with the conveyances.

The Department supports holding Parcel A in trust for the benefit of the Tribe, and does not object to the two conveyances authorized by the bill at fair market value. The Department recommends that the Office of Valuation Services manage the appraisal process. The Office of Valuation Services provides credible, timely, and efficient valuation services to ensure public trust in Federal real property transactions.

Finally, the Department notes that Parcel B and C would require surveys prior to conveyance, and would like to work with the Subcommittee on the survey language.

Conclusion

H.R. 1404 provides an opportunity to improve land use for both the Tribe and the District on three tracts of land. Thank you for the opportunity to testify. I will be glad to answer any questions.

Senator LEE. Thank you very much, Mr. Steed, and it is always good to have you with us, a good Utahan in the room.

We are going to turn now to five-minute rounds of questions. I am going to hold my questions back until other members have had the chance to do so. We will start with Senator Heinrich.

Senator HEINRICH. Thank you, Chairman.

First I want to thank Mr. Steed for his willingness to work with Senator Udall and me on provisions of this bill to ensure that this spectacular landscape in Southern New Mexico is protected for generations to come.

I do have a few questions about your testimony, Mr. Steed. In particular, I have here a letter from Customs and Border Protection that says that this legislation would "significantly enhance the flexibility of U.S. Customs and Border Protection to operate in this border area."

[The letter referred to follows:]

U.S. Department of Homeland Security
Washington, DC 20229

U.S. Customs and
Border Protection

Commissioner

JUN 0 7 2016

The Honorable Tom Udall
United States Senate
Washington, DC 20510

Dear Senator Udall:

Thank you for your efforts to address border enforcement concerns in the Organ Mountains-Desert Peaks National Monument and vicinity. The provisions of the bill you propose would significantly enhance the flexibility of U.S. Customs and Border Protection (CBP) to operate in this border area.

The existing wilderness study area along the south boundary of the West Potrillo Mountains provides CBP with 1/3 of a mile in which to perform its activities. This bill would provide five miles between the U.S.-Mexico border and the area with full wilderness protections. Three miles of this zone would allow normal public access, and an additional two miles would allow restricted use by the public. Throughout the entire buffer zone, CBP could operate motor vehicles, build infrastructure, and carry out other activities as it would on any non-wilderness Bureau of Land Management land.

I also appreciate other security-focused portions of this bill, including:

- Explicit provisions to allow the East-West way, which will be closed to the public, to be accessible to CBP and other law enforcement personnel;
- Clarification that no provision of the bill would restrict CBP from pursuit of suspects within the wilderness area, including the use of motorized vehicles in hot pursuit; and
- Clarification that nothing prevents CBP from conducting low-level overflights above the wilderness area.

Again, thank you for your continual support of CBP's mission, and I look forward to a continued partnership with you on efforts to enhance border security.

Sincerely,

R. N. Kerlikowske

R. Gil Kerlikowske
Commissioner

Senator HEINRICH. We actually release over 30,000 acres of wilderness study area in order to make that flexibility possible.

So other than the obvious political changes here in Washington, DC, since this letter was written, what has changed in this section of the New Mexico border in the last 18 months that would make this legislation no longer a significant enhancement of flexibility for Border Patrol in the area?

Mr. STEED. As to the specifics in this area, Senator Heinrich, you know, I can't really say.

What I can say is that general practice, it's been our understanding that——

Senator HEINRICH. Your testimony makes assertions about this.

Mr. STEED. Correct.

Senator HEINRICH. So I would expect you to have an answer to that question.

Mr. STEED. Sure.

And as I was saying, in lands that are more restrictive in use, it's been our experience that it's more difficult to operate patrol and other enforcement on the border. It's been also our sad experience that cartels and other criminal elements are absolutely willing to exploit those.

Senator HEINRICH. Sure.

So, Mr. Steed, have you spent time on this section of the border?

Mr. STEED. I have not been to this area.

Senator HEINRICH. Well, I have spent a substantial amount of time on this section of the border with Border Patrol agents so that we could craft this proposal with their input, which is exactly why we created a buffer zone that releases these areas. It is exactly why we built the mobile surveillance sites into the legislation. So if you are going to make assertions that this would somehow create a more difficult operating situation on the ground, on the border, I would like to know what those assertions are based on.

Mr. STEED. Certainly.

Senator, the bill proposes a large amount of wilderness area in proximity to the border. Because of the restrictions associated with wilderness, especially those that withhold the ability for motorized patrol, I think it's very difficult to say that this enhances security.

Senator HEINRICH. Well, it actually creates a zone of motorized patrol between the border and the wilderness areas.

Mr. STEED. That's correct, although in other areas——

Senator HEINRICH. In addition, have you looked at the data on the El Paso sector as to where the most problems are and where the fewest problems are in terms of border crossings? Because one of the things that these roadless areas have effectively done is make it a lot harder for cartels and other people trying to move illegal contraband over the border to be able to move north and south, which has a very positive impact on our ability to actually apprehend illegal activity and illegal persons before they get to these areas.

Mr. STEED. Senator Heinrich, I appreciate your view on that. I can say that in other areas that's not been our experience and we're concerned.

I was on the phone last night with our law enforcement folks in Arizona. They were meeting with Border Patrol.

Senator HEINRICH. But this is not in Arizona. This is the El Paso sector. This is New Mexico.

Mr. STEED. No, I understand that, sir.

I'm saying that in similar areas——

Senator HEINRICH. I would just ask that you become more intimately familiar with this actual section of border and the challenges that we face along it before you make assertions.

Mr. STEED. Thank you, sir.

Senator LEE. Chairman Murkowski.

The CHAIRMAN. Mr. Chairman, thank you.

I will be brief this morning.

I want to thank Mr. Casamassa and Mr. Steed. Thank you for being here. Thank you for your comments.

I do not have any questions for you this morning, but I would just like to take a very quick moment to speak about S. 1481, which is the ANCSA Improvement Act, which modifies and improves the Alaska Native Claims Settlement Act (ANCSA).

This Committee has heard some of the history, but to repeat a little bit. Back in 1971, Congress passed ANCSA to settle the aboriginal land claims of Alaska Natives which cleared the way for Alaska Natives to receive 44 million acres of land and $962 million of compensation. The law also pioneered a new method for U.S. treatment of Native Americans through the establishment of corporations to provide a continuing stream of income to help improve the lives of Alaska Natives.

The ANCSA-derived land and money was distributed through 13 regional corporations and 220 village and urban corporations. While many of the promises under ANCSA have been met, there are a number of issues that have arisen that have prevented its intent from being realized. For example, the Act specifically established village corporations for any town that had 25 native residents in 1970 and that met other criteria, but for some unexplained reasons, we still don't know exactly why, five towns in Southeast Alaska—Ketchikan, Wrangell, Petersburg, Tenakee and Haines—were not allowed to form village or urban corporations. And while the history is complex, there is no question that all five of these communities met the historic criteria as native communities. So this legislation would allow those villages to become full urban corporations.

Another provision in the bill makes two fixes to 1998 legislation that awarded land to Alaska Natives who served in the military during the Vietnam War. The 1998 Act was supposed to ensure that Alaska Native Vietnam Vets who were disadvantaged because they were not present in the state to claim their allotment of land.

But unfortunately, that Act, the 1998 Act, left out the vast majority of Alaska Native vets that it was intended to help, effectively excluding all 300 Native veterans who lived in Southeastern Alaska and only including veterans who served during a certain three-year window, instead of any time during the conflict. In total, about 2,400 Alaska Natives who served during the Vietnam War were unable to qualify for their land.

My bill will solve that inequity by allowing those veterans to gain their rightful land while also protecting all federal lands. This is something that the Alaska delegation has been working on for

years now, for decades now. Secretary Zinke has been very favorable in his comments in our discussions. I appreciate that a great deal.

I have gone into detail on a couple of the provisions that are in the bill, but the bill also will resolve outstanding land conveyances and ensure that Alaska Natives can still qualify for federal aid. It will allow Shishmaref to protect themselves from coastal erosion. It will allow Utqiagvik to obtain gravel from its lands as intended by the legislation that was enacted back in 1984.

I have mentioned many times that this legislation is long overdue. It remedies, perfects, legislation that we passed 47 years ago. We have been waiting a long time to, kind of, get this right, do the cleanup, if you will.

So I would hope that my colleagues would join Senator Sullivan and me in supporting S. 1481 so we can finally fulfill the promises that Congress made to Alaska Natives all these years ago.

Again, Chairman Lee, thank you for including this bill in the hearing.

Gentlemen, thank you for your willingness to work with me and Senator Sullivan, Congressman Young, and those in the Department to accomplish these goals. I appreciate it.

Thank you, Mr. Chairman.

Senator LEE. Thank you.

Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you, Mr. Chairman, and let me thank both of you gentlemen for your willingness to work in support of Senate bill 414, the Pershing County Economic Development bill, and Senate bill 1046, the Eastern Nevada Economic Development bill.

I look forward to continuing the dialogue. I know there are some concerns; Mr. Steed, you pointed to those. But let me also thank, while I am at it, the many supporters and devoted local stakeholders that contributed to this discussion on both pieces of legislation.

I know there are still some technical concerns, and I think working together with you and the stakeholders, we can address these concerns.

Mr. Steed, I just have a couple of questions.

It is my understanding that all of the federal lands, and this is with respect to S. 414, but all of the federal lands identified in Title I of the Pershing County legislation which could be exchanged or sold under the prescriptions of our legislation have already been identified for disposal under the Winnemucca Resource Management Plan that was finalized in 2015. Is that correct?

Mr. STEED. They were identified for potential disposal. That isn't necessarily guaranteed disposal or even recommended disposal.

Senator CORTEZ MASTO. Yes. But it was part of the dialogue in the past that we have been having.

Mr. STEED. Correct.

Senator CORTEZ MASTO. Thank you.

And would you agree it would be helpful for land management purposes if the checkerboard issue was resolved?

Mr. STEED. Absolutely. And Senator, to that point, the Secretary is absolutely happy to work with locals in order to minimize the complexities therein.

Senator CORTEZ MASTO. Yes.

Mr. STEED. I mean, I'm from a Western state. I'm from Utah. We've dealt with these issues in Utah for a number of years as well.

However, I have to be clear. The Secretary and the President do not support the widescale sale or transfer of public lands which is what stands in the way of the outright transfers recommended in this bill.

Senator CORTEZ MASTO. Okay.

So I would like to have further discussion. I know you are open to that. I think there is a difference between wholesale transfer and wide transfer of land, but at the same time recognizing that 85 percent of the land in Nevada is owned by the Federal Government.

Mr. STEED. Yeah.

Senator CORTEZ MASTO. And there has to be an opportunity when local communities have made a decision that is going to benefit them. It is going to preserve the land. It is going to be for economic development. It is going to benefit the community. There has to be dialogue between the Federal Government and the local communities and the state to benefit the state and the people that live there. Wouldn't you agree?

Mr. STEED. Senator, I can tell you, absolutely the Secretary agrees and wants very much to work with you and local communities in resolving these longstanding disputes.

Senator CORTEZ MASTO. I appreciate that. Thank you.

One final question. Given that the Secretary would retain 85 percent of the proceeds of these sales of the land, is it not true that public recreation and conservation values would be better served by the Secretary utilizing these funds in a manner that increases recreation, conserves important landscapes, and protects wildlife habitats?

Mr. STEED. On that I can't say.

I will say the Secretary absolutely supports increased access for recreation opportunities on our public lands, and we are happy to work with you to accomplish that end.

Senator CORTEZ MASTO. Good. Thank you.

I appreciate both gentlemen and look forward to continued dialogue with not only you but stakeholders in Nevada as well.

Thank you.

Mr. STEED. Thank you.

Senator LEE. Senator Cassidy.

Senator CASSIDY. Gentlemen, thank you for being here.

Mr. Steed, I understand you are an advocate, okay. I see a little bit of tension in your advocacy because in your written testimony, speaking of Lake Bistineau, you speak of a complicated history. And in your written testimony you say a continuing title conflict between the current residents of the United States was created in 1901 when the State of Louisiana mistakenly conveyed the omitted public lands to Bossier Levy District. But really, it wasn't mistaken in 1901, correct? Because it was based upon the 1842 survey, an

agreement between the state and the Federal Government and then acting upon an agreement, that land was then conveyed. It is only that we say in 2017 that a mistake was made in 1901, but in 1901 it was correct, correct?

Mr. STEED. I can't weigh into that because I don't know the history well enough to specify. What I can say is that in 1967, based on the resurvey, it was determined that this was mistakenly left out of the original survey.

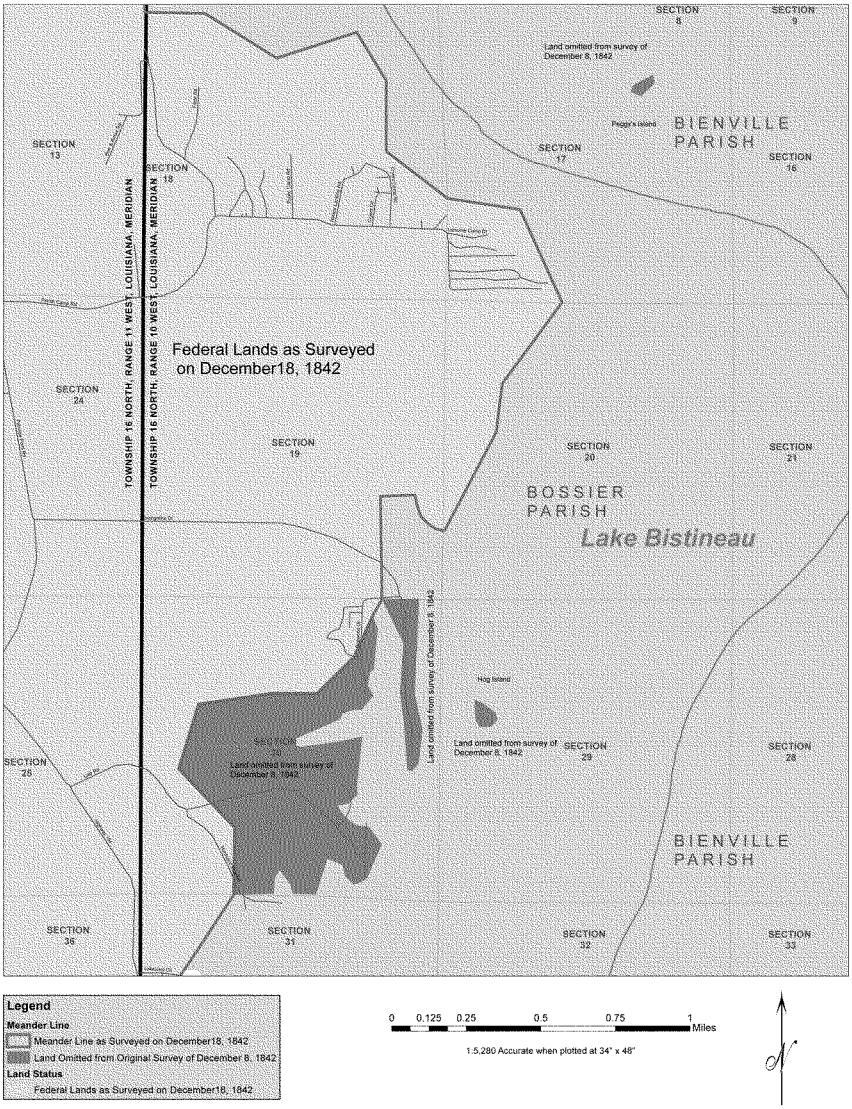
Senator CASSIDY. Can I stop you?

Mr. STEED. Absolutely.

Senator CASSIDY. So, then if we put up the 19—is this 1842? Put up the 1842 survey, please.

[The 1842 survey referred to follows:]

Lands as Delineated by Original Survey December 18, 1842
This map prepared at the request of Senator Bill Cassidy
February 5, 2018



Legend
Meander Line
Meander Line as Surveyed on December18, 1842
Land Omitted from Original Survey of December 8, 1842
Land Status
Federal Lands as Surveyed on December18, 1842

0 0.125 0.25 0.5 0.75 1 Miles

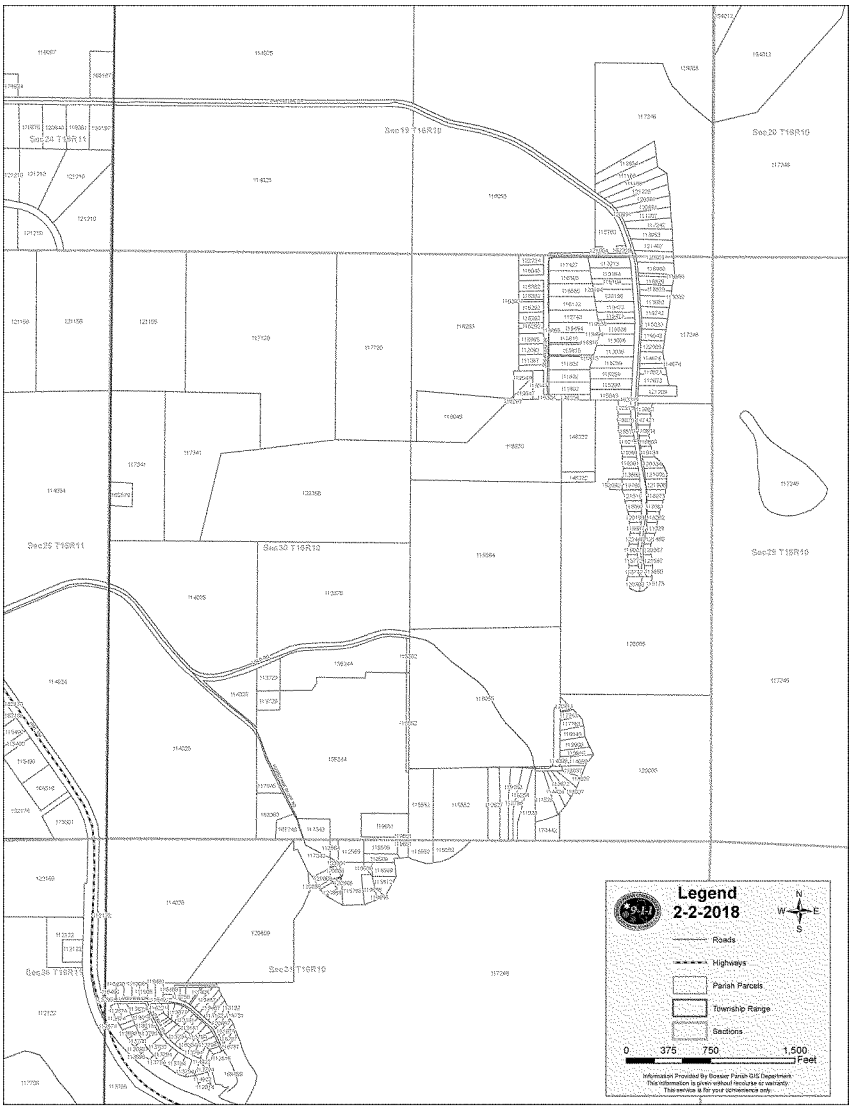
1:5,280 Accurate when plotted at 34" x 48"

N

Senator CASSIDY. My assistant will correct me if I am wrong, but in 1842 this was the land that was conveyed—in the green shading—to the state, based upon the 1842 survey. That is just a fact.

The next one?

[The information referred to follows:]


Sec19 T16R10
Sec20 T16R10
Sec24 T16R11
Sec25 T16R11
Sec30 T16R10
Sec29 T16R10
Sec36 T16R11
Sec31 T16R10
Legend
2-2-2018
N
W
E
S
Roads
Highways
Parish Parcels
Township Range
Sections
0
375
750
1,500
Feet
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Senator CASSIDY. I think the complication here that you referred to is that based upon that, the state conveyed it to the Bossier Parish Levy Board. Subsequently, they made some of this available for public commerce and all these lots are homes.

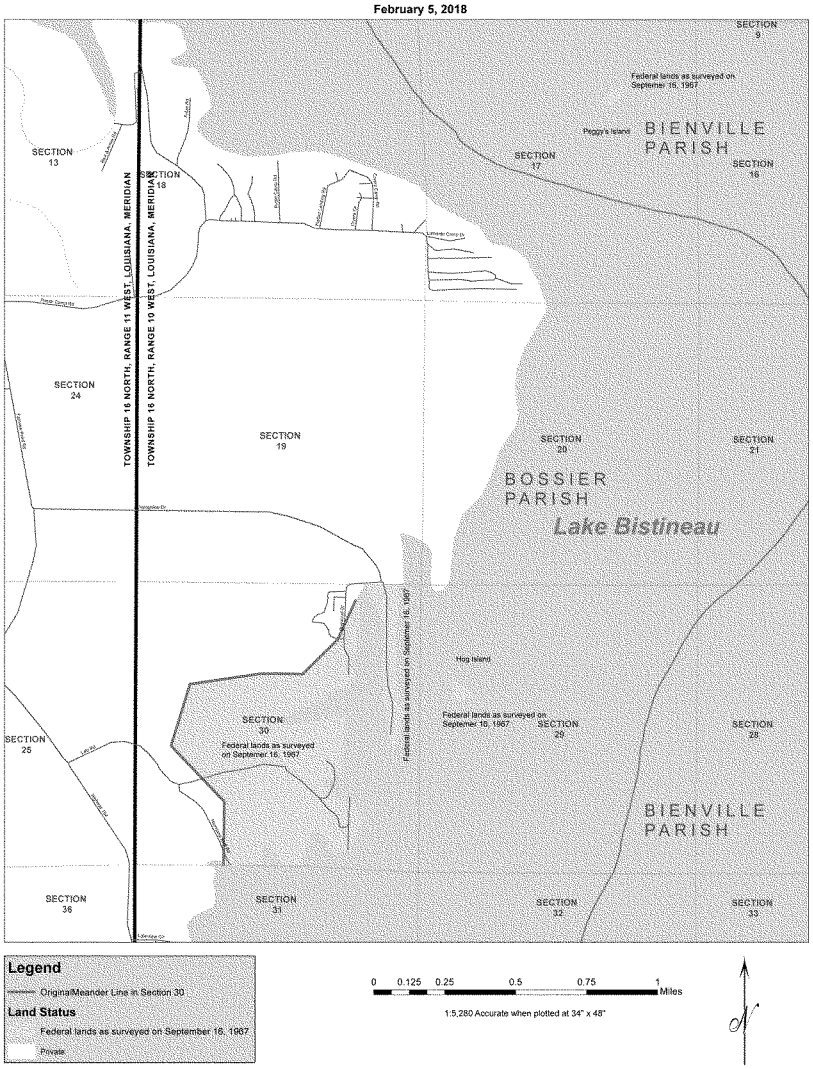
Now, here is the 1967 survey in which the Federal Government then conveyed or suggested it has ownership of land which in 1842 was given to the state.

[The 1967 survey referred to follows:]

Lands as Delineated by Survey on Septemer 16, 1967

This map prepared at the request of Senator Bill Cassidy

February 5, 2018



Legend

Original/Meander Line in Section 30

Land Status

Federal lands as surveyed on September 16, 1967

Private

0 0.125 0.25 0.5 0.75 1 Miles

1:5,280 Accurate when plotted at 34" x 48"

Senator CASSIDY. So it is complicated. But, at some point, the Federal Government has to be good to its word and cannot, 142 years later, say, oops, we have a mulligan. Because, obviously, we have all these people who have invested, perhaps life savings, in a home. Fair statement? I mean, you can speak as a human being, not as an attorney, if attorneys are allowed to speak as human beings.

Mr. STEED. Are they? I think it's a question.

[Laughter.]

No, I would say, that's one of the things that makes this so complicated. There's a human element here and, obviously, there's a fair amount of inhabitants of that area now that are facing a fair degree of uncertainty based on the findings of the 1967 survey.

And so, as I stated in the testimony and here today, I'm really looking forward to finding solutions here. We're not trying to be difficult. And Senator, I'm certainly not trying to quibble with you that this is a hard issue.

Senator CASSIDY. I understand.

Believe me, I want this to be civil because I think we all recognize and we're looking for a solution.

By the way, Mr. Chair, so I don't forget, I would like to enter for the record letters of support for this bill from the landowners, the Louisiana Attorney General, the Louisiana Landowners Association, the National Association of Royalty Owners, and testimony from Davis Powell, an attorney representing affected landowners.

Senator LEE. Those will be admitted without objection.

Senator CASSIDY. Thank you.

[The letters of support follow:]

June 16, 2017

Senator Bill Cassidy, M.D.
Attn: Blake Schindler
520 Hart Senate Office Building
Washington, DC 20510

Re: Letter of Support for Senate Bill 1219, 2017-2018 Congress, "To provide for stability of title to certain land in the State of Louisiana, and for other purposes"

Dear Senator Cassidy:

I am an affected private landowner presenting my support S. 1219 so that the effect of a Bureau of Land Management ("BLM") resurvey within Section 30, Township 16 North, Range 10 West, Bossier Parish, Louisiana does not divest my family of title to our lands.

In 1974 my father and mother purchased the land and minerals associated with our family's property in the subject section in Bossier Parish, Louisiana. The land has remained in our family ever since. When we discovered a potential claim by the federal government as to this land, it seemed to be a mistake since there were no contrary claims or clouds on the property's title.

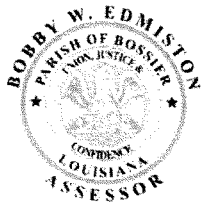
It is our hope that S. 1219 can address any effect the BLM's resurvey has on our title so that we may have the assurance of our private ownership of the lands in question. It is unfortunate that we, as citizens of the United States, can be forced to spend time and expense proving the ownership to our land when the contrary claim to that land was never communicated to us, or to our predecessors in title. However we cannot ignore the claim made by the BLM and allow our family's land to simply be taken, therefore we are encouraged to do all that we can to protect our ownership.

Our family supports S.1219 in order to protect our family's ownership of the property at issue, and to ensure we are not subject to further contrary claims of ownership by the federal government on these lands.

Sincerely,

Lee Ann Hollingsworth Barb, Trustee

Mrs. Lee Ann Hollingsworth Barb
As Trustee of the Hollingsworth
Family 1994 Trust



February 1, 2018

To Whom It May Concern:

The attached printouts represent all the assessed owners throught documentation recorded in the conveyance records in the Bossier Parish Clerk of Courts' Office through January 30, 2018 in Section 30, Township 16 North, Range 10 West.

This information is given without recourse or warranty.

Tonya Colvin, CLDA
Bossier Parish Deputy Assessor

204 Burt Blvd. • P. O. Box 325 • Benton, LA 71006-0325
Telephone (318) 965-2213 • Facsimile (318) 965-0274
E-mail BossierAssessor@bossierparish.org • www.bossierparishassessor.org

Find Results, Page 1 of 1

MAPPING NO	ASSESS NO	LNAME1	FNAME1	ROLL	LOCATION
16103010	122368	WYCHE	AYLMER M III	0	14
16103011A	113729	HILBURN	JANICE CAROL	0	14
16103011B	119651	RODGERS	CHARLES MARTIN	0	14
16103011C	119651	RODGERS	CHARLES MARTIN	0	14
16103011D	117343	MANGUM	JERALD WAYNE	0	14
16103011E1	113729	HILBURN	JANICE CAROL	0	14
16103011E2	117045	CULPEPPER	BILLY DAN	0	14
16103011E2B	163980	WELCH	TIMOTHY D	9	14
16103011E2B2	167749	COMMUNITY BANK OF LA		0	14
16103011E3	115552	LEWIS	THOMAS EUGENE	0	14
16103011E4	156244	VOGEL	DOZIER PITT	0	14
16103011E4-MH	161547	MARTIN	BRANDON	1	14
16103011F	113376	CUNNINGHAM	LARRY MONROE	0	14
16103011G	115552	LEWIS	THOMAS EUGENE	0	14
16103011H	156244	VOGEL	DOZIER PITT	0	14
16103012	114025	ELM GROVE PLANTATION INC		0	14
16103013A	120005	DEVON LOUISIANA CORP		0	14
16103013B1	148232	BOSSIER PARISH POLICE JURY		9	14
16103013B2	148232	BOSSIER PARISH POLICE JURY		9	14
16103013E	152092	BOWEN	LOWELL TRAVIS	0	14
16103014A	120005	DEVON LOUISIANA CORP		0	14
16103015A	115584	LEE ANN HOLLINGSWORTH TRUSTEE		0	14
16103015B	118570	JEFFERSON	HARRIS VERNON	0	14
16103016A	116055	BUTLER	DOROTHY M JEFFERSON	0	14
~~16103016B~~	~~170443~~	~~BLACKBURN~~	~~H W~~	~~13~~	~~14~~
16103016C	115552	LEWIS	THOMAS EUGENE	0	14
16103016D	115552	LEWIS	THOMAS EUGENE	0	14
16103016E1	111928	BOTICA	RONALD G	0	14
16103016E2	119258	BISKOBING	JEROME JOHN JR	0	14
16103016E3	119258	BISKOBING	JEROME JOHN JR	0	14
16103016E4	112627	LAWRASON	STEVEN LOUIS	0	14
16103016E5	113796	ANTLEY	EVELYN B	0	14
1610306A	117341	MANGUM	PAULINE ELIZABETH	0	14
1610306B	116046	JEFFERSON	ERNEST	0	14
1610306C1	116293	KILPATRICK	ELIZABETH ANNE	0	14
1610306C2	119547	WRIGHT	SHERYL ANN	0	14
1610306D	117341	MANGUM	PAULINE ELIZABETH	0	14
1610306D2	165579	PRICE	BARBARA MANGUM	0	14
1610306E1	117120	J & R LOE LLC		0	14
1610306E2A	131155	HENRY D THRASH FAMILY		0	14
1610306E2B	117120	J & R LOE LLC		0	14
1610307A	117246	RISINGER PROPERTIES LLC		0	14
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1610307B3B	116293	KILPATRICK	ELIZABETH ANNE	0	14
1610307D	121209	JOHNSON	KENNETH LAMAR JR	0	14

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MAPPING NO		ASSESS NO	LNAME1	FNAME1	ROLL	LOCATION
S328	0001	112873	CLINTON	RONALD DEAN	0	14
S328	0002A	114674	BREEDLOVE	JAMES VICTOR	0	14
S328	0002B	112873	CLINTON	RONALD DEAN	0	14
S328	0003	114674	BREEDLOVE	JAMES VICTOR	0	14
S328	0004	122005	PHIPPS	BILLY R	0	14
S328	0005	119043	PHIPPS	BILLY RAY	0	14
S328	0006	115033	POWDRILL	KIM K	0	14
S328	0007	119742	LEGENDRE	RENE HARDIE	0	14
S328	0008	113082	COOKSEY	KENNETH BRYAN	0	14
S328	0009A	118829	MITCHELL	GAYLA	0	14
S328	0009B	113082	COOKSEY	KENNETH BRYAN	0	14
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S328	0010B	118829	MITCHELL	GAYLA	0	14
S328	0011	118980	WELDON	GEORGE LEE	0	14
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S328	0013	121467	KELLY	FRANCIS STEPHEN IV	0	14
S328	0014	113953	KELLY	FRANCIS STEPHEN	0	14
S328	0015	117242	WILLIAM E LUDWIG, TRUSTEE		0	14
S328	0016	111207	HAYS	JIMMY LEE	0	14
S328	0017A	120691	HERMAN	DAVID BRIAN	0	14
S328	0017B	120691	HERMAN	DAVID BRIAN	0	14
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S328	0019	121225	MUSHKO	JONNATHAN DAVID	0	14
S328	0020	111168	HUMKE	MICHAEL W	0	14
S328	0021	111168	HUMKE	MICHAEL W	0	14
S328	0022	112854	CLEMENT	GEOFFREY C	0	14

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MAPPING NO		ASSESS NO	LNAME1	FNAME1	ROLL	LOCATION
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S328	0002A	114674	BREEDLOVE	JAMES VICTOR	O	14
S328	0002B	112873	CLINTON	RONALD DEAN	O	14
S328	0003	114674	BREEDLOVE	JAMES VICTOR	O	14
S328	0004	122005	PHIPPS	BILLY R	O	14
S328	0005	119043	PHIPPS	BILLY RAY	O	14
S328	0006	115033	POWDRILL	KIM K	O	14
S328	0007	119742	LEGENDRE	RENE HARDIE	O	14
S328	0008	113082	COOKSEY	KENNETH BRYAN	O	14
S328	0009A	118829	MITCHELL	GAYLA	O	14
S328	0009B	113082	COOKSEY	KENNETH BRYAN	O	14
S328	0010A	118980	WELDON	GEORGE LEE	O	14
S328	0010B	118829	MITCHELL	GAYLA	O	14
S328	0011	118980	WELDON	GEORGE LEE	O	14
S328	0012	120553	SMITH	RONALD RAY	O	14
S328	0013	121467	KELLY	FRANCIS STEPHEN IV	O	14
S328	0014	113953	KELLY	FRANCIS STEPHEN	O	14
S328	0015	117242	WILLIAM E LUDWIG, TRUSTEE		O	14
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S328	0020	111168	HUMKE	MICHAEL N	O	14
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S329	0001B	162313	EVANGELINE OAKS WATER		3	14
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S329	0004	118259	CRAWFORD	SARAH LEANN BOZEMAN	0	14
S329	0005	113036	UMPHRIES	JOSEPH	0	14
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S329	0007	119538	ROACH	GARY DELBERT	0	14
S329	0008A	119473	FEIBEL	MARK	0	14
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S329	0009	119473	FEIBEL	MARK	0	14
S329	0010	120196	CHANDLER	JAMIE ANDERSON	0	14
S329	0011A	119164	RICKE	PERRY GLENN	0	14
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S329	0013	113273	CRAWFORD	MILTON HINSON	0	14
S329	0014	117427	HOWELL	WILLIE MARLIN	0	14
S329	0015	116565	HOWELL	WILLIE MARLIN	0	14
S329	0016	116565	HOWELL	WILLIE MARLIN	0	14
S329	0017	116122	MOORE	MAX EDWARD	0	14
S329	0018	112743	CHEATHAM	MURPHY D	0	14
S329	0019	119494	RICKE	PERRY GLENN	0	14
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S329	0022B	115815	HUFFMAN	JEFFREY STEWART	0	14
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S330	0003	110804	ADAMS	BOBBY R SR	0	14
S330	0004	118689	OGLETREE	TROY LYNN	0	14
S330	0005	119134	POMEROY	LYNN R III	0	14
S230	0006	120334	BURNS	CHRISTOPHER A	0	14
S330	0007	121005	BURKHART	JAY M JR	0	14
S330	0008	121906	YOUNG	AL SETH	0	14
S330	0009	118073	MURPHREE	THOMAS GERALD	0	14
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S330	0012	111929	PERKINS	JOHN WAYNE	0	14
S330	0013	121466	FERRARA	SANTO III	0	14
S330	0014	120957	BLACKSHER	JORDAN STUART	0	14
S330	0015	121587	WADE	DALE WALTER SR	0	14
S330	0016	113680	DINKINS	DELMAR EDWARD	0	14
S330	0017	115175	HARLAN	THOMAS MICHAEL	0	14
S330	0018	120393	SMETANA	PATRICIA A	0	14
S330	0019	115772	HOLLAND	RICHARD HALL JR	0	14
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S330	0021	119007	EVERAGE	ISAAC CARTER	0	14
S330	0022	122446	OSBURNE	ERIC ALLEN	0	14
S330	0023	115687	GREEN	MICHAEL SCOTT	0	14
S330	0024	120193	SHOCKLEY	JIMMY R	0	14
S330	0025	116092	SMITHSON	JAMES REID	0	14
S330	0026	121510	BOWEN	LOWELL TRAVIS	0	14
S330	0027A	120149	WEBB	JOHN	0	14
S330	0027B	118760	OXLEY	TRUMAN DEWAYNE	0	14
S330	0028	113699	DIXON	TERRY LAMAR	0	14
S330	0029	119391	FRANKLIN	WILLIAM MICHAEL	0	14
S330	0030	119391	FRANKLIN	WILLIAM MICHAEL	0	14
S330	0031	119215	ADGATE	THOMAS M SR	0	14
S330	0032	118870	PARSONS	JAMES RONALD	0	14
S330	0033	118870	PARSONS	JAMES RONALD	0	14
S330	0034	122215	CLEMENT	JOHN KEVIN	0	14

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MAPPING NO		ASSESS NO	LNAME1	FNAME1	ROLL	LOCATION
S331	0001	122224	WINDHAM	MACK LELAND	0	14
S331	0002	116845	PIERCE	WILLIAM ATLAS	0	14
S331	0003	116382	SMITH	RUTH M	0	14
S331	0004A	116382	SMITH	RUTH M	0	14
S331	0004B	116382	SMITH	RUTH M	0	14
S331	0005	116292	KILPATRICK	ELIZABETH ANNE	0	14
S331	0006	116292	KILPATRICK	ELIZABETH ANNE	0	14
S331	0007A	116292	KILPATRICK	ELIZABETH ANNE	0	14
S331	0007B	118865	PARR	ROBERT A	0	14
S331	0008	118865	PARR	ROBERT A	0	14
S331	0009	112093	PARR	ROBERT ARTHUR	0	14
S331	0010	111387	BARTLETT	ORA E	0	14
S331	0011A	122346	WRIGHT	JUANITA HOLLAND	0	14
S331	0011B	119547	WRIGHT	SHERYL ANN	0	14

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MAPPING NO		ASSESS NO	LNAME1	FNAME1	ROLL	LOCATION
S803	0001	120611	SOCKRIDER	HERMAN FINLEY JR	0	14
S803	0002A	120611	SOCKRIDER	HERMAN FINLEY JR	0	14
S803	0002B	117763	DAVIS	PAUL C	0	14
S803	0003	117763	DAVIS	PAUL C	0	14
S803	0004	116640	KNOTTS	LANE	0	14
S803	0005	119909	BISTINEAU CAMP HOUSE LLC		0	14
S803	0006	119910	BISTINEAU CAMP HOUSE LLC		0	14
S803	0007A	114099	PEDDY	JOHN DARRELL	0	14
S803	0007B	114099	PEDDY	JOHN DARRELL	0	14

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MAPPING NO		ASSESS NO	LNAME1	FNAME1	ROLL	LOCATION
S804	0008	118037	HUBIER	KAMI DAWN	0	14
S804	0009	118037	HUBIER	KAMI DAWN	0	14
S804	0010	118037	HUBIER	KAMI DAWN	0	14
S804	0011	113672	DIGILORNO INVESTMENTS LLC		0	14

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MAPPING NO		ASSESS NO	LNAME1	FNAME1	ROLL	LOCATION
5805	0012	114424	RISNER	STEVE MARTIN	0	14
5805	0013	111525	BEGLEY	ROBERT MORRY	0	14

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Prior to the Resurvey

Correspondence from BLM Survey Group Number 49, Louisiana			
Page	**To whom letter was sent**	**Context**	**Date**
1- 3	Bureau of Land Management	Application for color of title claim from Roy L. Beard of Stagg, Cady, Johnson and Haygood	3/9/1964
4	Bureau of Land Management	Request for status of color of title application from Roy L. Beard of Stagg, Cady, Johnson and Haygood	7/7/1964
5	Roy L. Beard, Stagg Cady Johnson & Haygood, Shreveport, LA	Notice that a field investigation and possible survey is required before the BLM can process the color-of-title application. From BLM New Orleans Office	7/15/64
6	Bureau of Land Management	Request for status of color of title application from Representative Joe D. Waggonner, Jr.	5/2/67
7	Representative Joe D. Waggonner, Jr.	Response to 5/2/67 inquiry from the BLM Eastern States Office	5/9/67
8	Bureau of land Management, Eastern States Office	Request to be notified when field examination is to begin from Roy L. Beard of Stagg, Cady & Beard	5/19/67
9	Roy L. Beard, Stagg Cady & Beard, Shreveport, LA	Response to letter from 5/19/67. BLM informed the recipient that field examination had been performed and land was considered omitted	6/1/67
10	Bureau of Land Management	Request for status of the survey from Representative Joe D. Waggonner, Jr.	8/28/67
11	Representative Joe D. Waggonner, Jr.	Response to letter dated 8/28/67 stating the start date of the survey is unknown	8/30/67
12	Roy L. Beard, Stagg Cady & Beard, Shreveport, LA	Response to letter from 10/10/67, informing that survey work had commenced on 10/23/67 Incoming Letter of 10/10/67 not in file	10/26/67
13	Roy L. Beard, Stagg Cady & Beard, Shreveport, LA	Response to letter of 3/1/68 informed that field work for the survey had been completed; notes and plat of the survey were being prepared. Incoming 3/1/68 letter not in file	3/18/68
14	Roy L. Beard, Stagg Cady & Beard, Shreveport, LA	Response to letter of 6/7/68 field returns still being prepared, anticipated completion in 60 days. Incoming 6/7/68 letter not in file	6/18/68

15	Roy L. Beard, Stagg Cady & Beard, Shreveport, LA	Response to letter of 10/9/68 field returns were submitted and final approval pending. Incoming 10/9/68 letter not in file	11/12/68
16	Director of the Division of Federal Register, National Archives and Records Administration	Notice of Plat Filing	2/19/69
17	Honorable Joe D. Waggonner Jr. Representative to Congress	Response to letter dated 1/30/69 included copy of Federal Register notice. Incoming 1/30/69 letter not in file	2/19/69
18	James C. Love, Ruston, LA	Included copy of Federal Register notice and official plat	2/20/69
19	Gordon Lambert, Lambert Development Co., Shreveport, LA	Response to letter dated 1/24/69 and included a copy of Federal Register notice and official plat. Incoming 1/24/69 letter not in file	2/20/69
20	Roy L. Beard, Stagg Cady & Beard, Shreveport, LA	Response to letter dated 10/9/69 and included a copy of Federal Register notice and official plat. Incoming 10/9/69 letter not in file	2/20/69
21	Postmaster, Bossier City, LA	Request to post Federal Register notice for the public	2/20/69
22	Parish Recorder of Deeds, Bossier Parish	Request to post Federal Register notice for the public	2/20/69
23	Editor and Publisher, Bossier Press, Bossier City, LA	Request to publish Federal Register notice as item of interest to public	2/20/69
24	Department of Interior Eastern Division	Request for copy of maps showing corners of new survey from James Mohr & Associates, Shreveport, LA	3/24/69
25	James Mohr & Associates, Shreveport, LA	Response to letter and included instructions to obtain copies of the official plat	4/8/69
26	Register Louisiana State Land Office, Baton Rouge, LA	Transmittal of duplicate original plat and several copies of the duplicate field notes	6/27/69

Following the Resurbey

BLM - Correspondence to Parish and Individuals

Page	Name	Legal Land Description	Date
1	Bienville Parish Tax Assessor	Lot 1, Section 17, T. 16 N., R. 10 W.	11/7/1984
2	Bienville County Recorder	Lot 1, Section 17, T. 16 N., R. 10 W.	11/7/1984
3	Parish Recorder	Lot 9, Section 30, T. 16 N., R. 10 W.	6/14/1985
4	Tax Assessor	Lot 13, Section 30, T. 16 N., R. 10 W.	6/14/1985
5	Parish Recorder	Lot 13, Section 30, T. 16 N., R. 10 W.	6/14/1985
6	Parish Recorder	Lot 6, Section 30, T. 16 N., R. 10 W.	6/14/1985
7	Bossier Parish Recorder	Lot 1, Section 29, T. 16 N., R. 10 W.	6/14/1985
8	Bossier Parish Tax Assessor	Lot 1, Section 29, T. 16 N., R. 10 W.	6/14/1985
9	Tax Assessor	Lot 1, Section 17, T. 16 N., R. 10 W.	6/21/1985
10-11	Parish Recorder	Lot 1, Section 17, T. 16 N., R. 10 W.	6/21/1985
12	Parish Recorder	Lots 6-13, Section 30, T. 16 N., R. 10 W.; Lot 1 Section 17; Lot 1 Section 29	11/15/1985
13	Tax Assessor	Lot 1, Section 17, T. 16 N., R. 10 W.	4/12/1988
14	Bossier Parish Tax Assessor	Lot 1, Section 29, T. 16 N., R. 10 W.	7/25/1988
15	Tax Assessor	Lot 1, Section 17, T. 16 N., R. 10 W.	8/9/1988
16	Tax Assessor	Lot 1, Section 17, T. 16 N., R. 10 W.	10/18/1988
17	Bossier Parish Tax Assessor	Lot 9, Section 30, T. 16 N., R. 10 W.	2/2/1989
18	Bossier Parish Tax Assessor	Lot 11, Section 30, T. 16 N., R. 10 W.	2/2/1989
19	Bossier Parish Tax Assessor	Lot 13, Section 30, T. 16 N., R. 10 W.	2/2/1989
20	Bryan E. Connell	Lot 12, Section 30, T. 16 N., R. 10 W.	2/13/1989
21	Dominick Digilormo	Lot 12, Section 30, T. 16 N., R. 10 W.	2/13/1989
22	Robert Harry Begley	Lot 12, Section 30, T. 16 N., R. 10 W.	2/15/1989
23	Jared Y. Evans	Lot 12, Section 30, T. 16 N., R. 10 W.	2/15/1989
24	Jared Y. Evans	Lot 12, Section 30, T. 16 N., R. 10 W.	2/28/1989
25	R.C. Jefferson et. Al	Lot 11, Section 30, T. 16 N., R. 10 W.	4/13/1989
26	Bobby Freyou, DNR, LA	Section 30, T. 16 N., R. 10 W.	5/5/1989
27	Bossier Parish Tax Assessor	Lot 1, Section 29, T. 16 N., R. 10 W.	6/20/1994
28	Wilna Mabry	Lot 1, Section 29, T. 16 N., R. 10 W.	6/20/1994
29	Parish Tax Assessor	Lot 10, Section 30, T. 16 N., R. 10 W.	6/22/1994
30	Parish Tax Assessor	Lot 9, Section 30, T. 16 N., R. 10 W.	6/23/1994
31	Mary Lane Phillips Risinger	Lot 1, Section 29, T. 16 N., R. 10 W.	7/12/1994
32	Jane Phillips Lunan	Lot 1, Section 29, T. 16 N., R. 10 W.	7/12/1994
33-35	James Davis Powell	Lots 10-13, Section 30, T. 16 N., R. 10 W.	8/15/2014

Jeff Landry
Attorney General

State of Louisiana
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 94005
BATON ROUGE
70804-9005

July 13, 2017

Hon. Ryan Zinke
Secretary, U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Re: Lake Bistineau Land Claims by BLM

Dear Secretary Zinke:

I write to you today to request your assistance in a matter of utmost importance to the residents of northwest Louisiana that live along Lake Bistineau.

Louisiana acquired Lake Bistineau—a navigable waterbody—upon its entry into the Union on April 30, 1812. Based on United States surveys from the mid-1800s, the State of Louisiana relied on certain boundaries identified by the General Land Office as the shores of that Lake. Over time, as portions of Lake Bistineau dried, some of those dried lake beds were sold to private parties. Again, both the State and these private parties relied on the original federal surveys as the basis for their claims and titles.

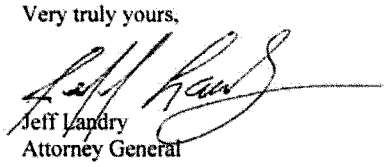
The Bureau of Land Management ("BLM") has recently decided that a 1960s resurvey of the same lands around Lake Bistineau that were granted to Louisiana in 1812 and are now in private ownership demonstrates that those lands were incorrectly identified as lake beds and have never actually been severed from federal ownership. With this decision, the BLM threatens the private titles that were created long ago by insisting that the good faith private parties are now effectively trespassing on federal property. Aside from being factually incorrect, this assertion threatens to upset over two hundred years' worth of title to many tracts of land in Louisiana and to evict private property owners from land that is rightfully theirs.

Louisiana Senator Bill Cassidy has introduced S. 1219 in an effort to legislatively remedy this attack on private title. While I am fully supportive of that legislation, I also ask that you consider changing your agency's erroneous position to avoid the need for that legislation.

Should you have any questions or concerns regarding this matter, please do not hesitate to contact me.

With best regards, I am,

Very truly yours,



Jeff Landry
Attorney General

cc: Hon. Bill Cassidy

July 8, 2017

Senator Bill Cassidy, M.D.
Attn: Blake Schindler
520 Hart Senate Office Building
Washington, DC 20510

Re: Letter of Support for Senate Bill 1219, 2017-2018 Congress, "To provide for stability of title to certain land in the State of Louisiana, and for other purposes"

Dear Senator Cassidy:

My wife and I submit this letter in support S. 1219 in order to prevent the Bureau of Land Management ("BLM") from claiming our property within Section 30, Township 16 North, Range 10 West, Bossier Parish, Louisiana.

Our family purchased our land, minerals and home in the subject section about 16-17 years ago. We have lived in our home on the land ever since. At the time we purchased the lands, there appeared to be no contrary claims or clouds on the title to the property. Had there been any issues with the title, then we would have been able to consider those issues prior to purchase.

Since the time of the BLM's indication in 2013 that they may claim the property, it has caused my family the uncertainty of not knowing whether their claim will truly affect our home and land. The claim also creates the uncertainty of not knowing whether we should invest in the betterment of our home and land until the BLM can disclaim ownership.

It is our hope that S.1219 can resolve the effects which the BLM's re-survey has on our title. In addition, it is upsetting to see that there does not appear to be any other notice provided by the BLM to the other affected land and home owners in the area whose title may also be clouded. The government should not be able to claim a citizen's property without notice.

We support S. 1219 in order to protect our family's ownership of the property at issue, and to ensure we are not subject to further contrary claims of ownership by the federal government.

Sincerely,

Mr. Thomas E. Lewis and Mrs. Linda Thorn-Lewis

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President
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Franklin, Louisiana

Gordon L. Wogan
New Orleans, Louisiana

Louisiana Landowners Association, Inc.

10705 Shoreline Drive
Baton Rouge, Louisiana 70809
Telephone: (225) 275-1591
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July 14, 2017

Senator Bill Cassidy, M.D.
Attn: Blake Schindler
520 Hart Senate Office Building
Washington, DC 20510

Re: Letter of Support for Senate Bill 1219, 2017-2018 Congress, "To provide for stability of title to certain land in the State of Louisiana, and for other purposes"

Dear Senator Cassidy:

I write as President to the Louisiana Landowners Association, Inc. ("LLA"). The LLA is a Louisiana non-profit corporation composed of over 200 landowners who, in the aggregate, hold title to over 2 million acres of land in Louisiana. The LLA represents large and small landowners from across the state, having diverse interests — including farmers, timber owners, developers, bankers, ranchers and others — all of whom are committed to work together to ensure the maximum productive use of Louisiana's rich land and mineral resources. The LLA's mission is to protect the rights of individuals to own, hold, use and dispose of land by channeling resources and concerns through a single, united voice.

The LLA fully supports S.1219, which is intended "[t]o provide for stability of title to certain lands in the State of Louisiana, and for other purposes". Upon reviewing the historical record that led to the introduction of this resolution, the LLA was disturbed to learn that the Federal Government, through its Bureau of Land Management ("BLM"), claims ownership of lands which have been held under private title for over a century. The BLM's claim is even more troubling due to what appears to be its failure to give proper notice of its intent to assert title to these lands to the private landowners of record who were clearly impacted by its decision. An endorsement of this tactic would allow the Federal Government to claim ownership of private land with nothing more than an obscure notice buried deep in the thousands of pages comprising the Federal Register.

The BLM's claim, and the procedure employed to assert it, will affect far more than just the private landowners of record having a stake in the outcome of this dispute. It will affect all private enterprises having an interest in these lands, interests which include a wide range of commercial and economic interests, including banking, retail, timber and mineral development.

The legislative solution proposed by S. 1219 provides the most cost-efficient solution to the issue presented and will avoid the time and expense of inevitable litigation if this dispute is not resolved by the passage of this resolution.

For these reasons, the LLA fully supports S. 1219.

Sincerely,

Gregory C. Lier, President

cc: Board of Directors
Louisiana Landowners Association

Mr. J. Davis Powell
Davidson Summers, APLC

June 27, 2017

Senator Bill Cassidy, M.D.
Attn: Blake Schindler
520 Hart Senate Office Building
Washington, DC 20510

Re: Letter of Support for Senate Bill 1219, 2017-2018 Congress, "To provide for stability of title to certain land in the State of Louisiana, and for other purposes"

Dear Senator Cassidy:

I write as Executive Director of the National Association of Royalty Owners ("NARO"). NARO represents mineral and royalty owners across the United States as well as within Louisiana through the local state chapter chartered by NARO. NARO is committed to providing education, political action and other resources to its members in order preserve and protect the private property mineral and royalty interests of its members.

NARO fully supports S. 1219, which is intended "[t]o provide for stability of title to certain lands in the State of Louisiana, and for other purposes". Upon reviewing the historical record that led to the introduction of this resolution, NARO was disturbed to learn that the Federal Government, through its Bureau of Land Management ("BLM"), claims ownership of mineral rights which have been held under private title for over a century. The BLM's claim is even more troubling due to what appears to be a failure to give proper notice of its intent to assert title to these interests to the private owners of record who were clearly impacted by its decision. An endorsement of this tactic would allow the Federal Government to claim ownership of private mineral and royalty interests with nothing more than an obscure notice buried deep in the thousands of pages comprising the Federal Register.

The BLM's claim, and the procedure employed to assert it, will affect far more than just the private owners of record having a stake in the outcome of this dispute. It will affect all private enterprises having an interest in these minerals. These interests include a wide range of commercial and economic interests such as banking and exploration companies.

The legislative solution proposed by S.1219 provides the most cost-efficient solution to the issue presented and will avoid the time and expense of inevitable litigation if this dispute is not resolved by the passage of this resolution. For these reasons, NARO fully supports. 1219.

Sincerely,

Jerry Simmons, Executive Director

15 W. 6th Street, Suite 2626 • Tulsa, OK 74119 • Office: (918) 794-1660 • Toll Free: (800) 558-0557 • Fax: (918) 794-1662

STATEMENT

Statement of Davis Powell, Attorney, Davidson Summers, APLC

Senate Energy and Natural Resources Committee
Subcommittee on Public Lands, Forests and Mining
Legislative Hearing on S. 1219 (Cassidy) / H.R. 3392 (Johnson),
the Lake Bistineau Land Title Stability Act.

February 7, 2018

Chairman Lee, Ranking Member Wyden, and members of the Sub-Committee, thank you for the opportunity to submit this statement for the record. I submit this statement in support of S. 1219, as counsel for the following land, home and mineral owners in 30, Township 16 North, Range 10 West, Bossier Parish, Louisiana: Mr. Dozier Pitt Vogel, Mrs. Theresa A. Vogel, Mr. Thomas E. Lewis, Mrs. Linda Thorn-Lewis and Mrs. Lee Ann Hollingsworth Barb as Trustee of the Hollingsworth Family 1994 Trust.

Each of my clients listed above has previously submitted their individual letters of support regarding S. 1219, and each owner's letter reflects the confusion and inequity resulting from the Bureau of Land Management's (the "BLM") suggestion that the privately-owned land and homes may be owned by the United States Government. I am presenting this letter to further elaborate on the legal issues related to the BLM's actions, in addition to the equitable concerns of the impacted citizens.

Background Summary:

The Federal Government created the official survey for this particular section of land in 1842. The State of Louisiana relied upon the Federal Government's 1842 survey when transferring the lands into private ownership around the turn of the twentieth century. In 1967, over 125 years later, the BLM chose to re-survey this single section of land. The BLM then claimed that this particular re-survey had the effect of establishing Federal ownership of about 220 acres of lands within the particular section. However, the BLM has taken no action to enforce or otherwise maintain its claim

based upon the re-survey. The subject lands at issue have been in private commerce for well over a century. In 2013, the BLM stated that it appeared that title to the subject lands was still vested in the United States.[1] Despite this tepid assertion in 2013, the BLM took no action toward the subject lands. My clients, the Vogel, Lewis and Hollingsworth families, continue to maintain their respective properties, pay taxes, and satisfy mortgages on the subject lands where the title has been clouded by the suggestions of ownership made by the BLM.

The Federal Government Did Not Properly Notify Owners At the Time of the Re-Survey:

The re-survey was approved by the BLM on January 15, 1969 and thereafter a short paragraph was filed within the Federal Register regarding the re-survey's existence.[2] The field staff conducting the re-survey had been charged with notifying all affected landowners by letter.[3] In the course of their review, the surveyors made note of the presence of neighborhoods and of over 100 registered private owners within the re-survey area;[4] however, no comprehensive notice was provided to the private owners of record at the time of the re-survey, or during the period when such re-survey could be contested. Recently, the BLM has attempted to justify this failure to properly notify the impacted owners by pointing to the brief paragraph in the Federal Register, and to certain correspondence the BLM sent to two (2) private owners who had previously inquired about a color of title application on 3.3 acres (out of the 220+ acres re-surveyed). The BLM has also pointed to the few instances in the 1980s and 1990s when the BLM sent correspondence to Bossier Parish officials, as well as to the State of Louisiana. However, at no time did the BLM cause its suggestion of a claim to be recorded in

---

1 The BLM's position in September 27, 2013 letter is summed up only in the statement that title to the affected lands "would appear to be still vested in the United States".

2 See Federal Register publication related to this re-survey from February 19, 1969, published on February 27, 1969, Volume 34, No. 39, p. 2677.

3 See p. 4 of *Special Instructions* letter, dated September 18, 1967 in the BLM records, providing directives to send notices, to all claimants or owners in the surveyed area or adjoining it, notifying each of the pendency of the survey so they may express any statement of claim. There is no record of these notices or of any efforts to notice the owners as instructed.

4 See p. 158 (22) from *Field Notes* for re-survey completed on November 24, 1967 in the BLM record, where the surveying party acknowledges over one hundred (100) registered landowners in re-survey area and the existence of affected neighborhoods and homeowners.

record title in the parish, and at no time did the BLM notify the private owners whose title would be affected by their actions.

Federal case law has long recognized that government agency actions may be set aside when such actions are taken in contravention of the procedures required by law. including the requirements of the Due Process Clause of the Fifth Amendment.[5] A Due Process analysis requires a determination that a liberty or property interest is at stake and also that sufficient notice and an opportunity to be heard was provided.[6]

The private owners within the re-survey area were not provided with sufficient notice of the re-survey and the effect of the government's unilateral determination. This lack of notice deprived the private owners of their right to be heard prior to the filing and acceptance of the re-survey and their rights to oppose the determinations made by the BLM which would have a direct effect on their title.

It is important to note that a re-survey, by itself, does not affect private ownership or title. Generally, it is only when a determination is made that an original survey was in "gross error" that the re-survey may affect the private ownership within its boundaries. The determination of an error's magnitude in this context depends upon the facts and circumstances of each situation. This re-survey was conducted over a century after the original federal survey, and in an area which was acknowledged to be subject to various changes to its landscape. The original survey from 1842 was used to address boundaries of state and federal ownership as of 1812 when Louisiana was admitted to the Union. Therefore, the re-survey would actually allege to be a corrected representation of a boundary ***from 155 years earlier***. Considering all of this, the lack of notice to the private owners is even more concerning, as each owner would have had the opportunity to question the re-survey and the tenuous background upon which the BLM made a unilateral determination of gross error. It is very telling that no owners submitted disputes, opposition or commentary to the BLM on the re-survey before it was finalized, although the purported effect of the re-survey would be to take their interests.

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5 *Metropolitan Water Dist. v. United States*, 628 F. Supp. 1018, 1023 (S.D. Cal. 1985), *remanded*, 830 F. 2d 139 (9th Cir. 1987), *affirmed by* 490 U.S. 920 (1989).

6 *Id.* at 1024, citing *Goss v. Lopez*, 419 U.S. 565, 579, 95 S.Ct. 729, 738, 42 L.Ed.2d 725 (1975). Also citing *Board of Regents v. Roth*, 408 U.S. 564, 570-71, 92 S.Ct. 2701, 2705-06, 33 L.Ed.2d 548 (1972).

Ensuring the Stability of Title for the Private Owners:

The BLM's failure to provide proper notice is evident by the fact that the lands within the re-survey have continued in private commerce as if no federal claim has ever been made. Since the time of the re-survey, homes have been built, the land and minerals have been repeatedly bought and sold, and Bossier Parish has constructed and maintained parish roads throughout. Many of the private transactions in the area are supported by title insurance and are financed by mortgages held by a number of different banks. Is it plausible that all of these private owners, their title insurers, their banks, and the attorneys working for each, have all looked past a contrary claim on their subject lands by the federal government? Certainly not. Rather, the private owners and the related entities have relied upon the existing title for these lands. It is the stability of this title that the legislation seeks to protect.

The private owners have paid valuable consideration for the land, minerals, and homes based on the unencumbered title to such as contained in the parish public records, only to have the Federal Government informally claim title to the same based on a surreptitiously-filed re-survey. The cloud of title resulting from the BLM's suggestion of claim has caused losses to my clients which continue to accrue. Without a legislative or administrative solution to the re-survey issue, each private owner would be forced to seek a judicial solution to protect their interest and to address the due process and takings issues which are present.

Legislation is Necessary to Properly Address This Issue:

The BLM has been approached regarding this issue and given the opportunity to address the issue long before any legislation was proposed, but has not provided an adequate solution to the issues related to this particular re-survey. In testimony related to prior versions of this legislation, the BLM has claimed that the Color of Title process would be a solution to the private owner's issues. This is not the case. The Color of Title process includes the following caveats, all of which the BLM has admitted:

1. The Color of Title process may take in excess of five (5) years for each affected owner.

2. At the end of the process, the owners would still be required to pay a value to the government for the lands they had previously purchased - essentially having to re-purchase their own lands and homes.

3. The BLM would seek to retain the mineral interests under Color of Title.

I am stating the obvious to say that a 5-year deferral of justice is clearly not a solution at all. To then require the re-purchase of the land, while still taking each citizen's mineral rights, would be plainly unconstitutional under our facts and would impose additional burdens on the private owners.

This is a very unique situation and S. 1219 seeks to address the effects of this particular re-survey in order to ensure the stability of title and the existing private ownership of the impacted lands. The legislation provides a clear and simple solution to the confusion and inequities which have resulted from the re-survey. Thank you for conducting a hearing on S.1219. Please contact me if I may be of service in regards to this legislation.

Sincerely,

J. Davis Powell

June 21, 2017

Senator Bill Cassidy, M.D.
Attn: Blake Schindler
520 Hart Senate Office Building
Washington, DC 20510

Re: Letter of Support for Senate Bill 1219, 2017-2018 Congress, "To provide for stability of title to certain land in the State of Louisiana, and for other purposes"

Dear Senator Cassidy:

Our family submits this letter in support S. 1219 so that the effect of a Bureau of Land Management ("BLM") re-survey within Section 30, Township 16 North, Range 10 West, Bossier Parish, Louisiana does not divest our family of title to our land.

Our family purchased our land, minerals and home in the subject section over 13 years ago after retiring. We have lived in our home on the land ever since. There were no contrary claims or clouds on the title to the property when we purchased it, therefore we were disturbed to discover that the government felt it had a claim to our title.

Just a few years ago, we had this property listed for sale. Once the suggested claim was made by the BLM in their 2013 letter, a potential contract on the property fell through. The title company had concerns about what the BLM stated in their 2013 letter. Therefore, the BLM's tepid assertion of a claim had the effect of clouding the title to our property.

It is our hope that S. 1219 can resolve the effects which the BLM's re-survey has on this section's title especially because we are not the only family living in the affected resurvey area. In fact, there is a neighborhood just up the road where a number of land and home owners would also be divested of title to all or part of their lands if the BLM was permitted to claim this property. Beyond the BLM's letter response in 2013, there does not appear to be any other notice provided by the BLM which would put the affected land and home owners in the area on notice of the BLM's claim. It does not seem right to allow the government to claim the lands when there was no prior communication by the BLM and no notice of their claim for an individual (or their title insurer) to consider when purchasing property. If the re-survey were allowed to stand, it could tie up the property of every affected owner who would essentially be prevented from selling their land due to the claim's effect on their title.

We support S. 1219 in order to protect our family's ownership of the property at issue, and to ensure we are not subject to further contrary claims of ownership by the federal government.

Sincerely,

Mr. Dozier Pitt Vogel and Mrs. Theresa A. Vogel

Senator CASSIDY. And then, let me ask. I am just curious, in addition to, are there any other areas in the country, any other states, in which there are similar claims that the BLM has made, but not maintained a claim to land? Are there examples in other states besides Louisiana of omitted land surveys?

Mr. STEED. There are similar cases and, Senator, I was hoping to be prepared to discuss those this morning. I'm happy to get back with you on those and discuss how they were resolved as well.

Senator CASSIDY. Do you know which states those are in?

Mr. STEED. I don't, unfortunately.

Senator CASSIDY. Okay.

And so, is it fair to say then that the question is, if BLM has asserted a claim we do not know whether or not the landowners were notified?

Mr. STEED. I mean, I think it's a fair and open question.

Senator CASSIDY. Okay.

And then, just for the record, I will emphasize what I said in my opening statement that these landowners were not notified in a sense that the State of Louisiana would claim, would need to be notified. Most landowners do not read the Federal Register at the dinner table to see whether or not their property has a claim asserted by BLM.

Mr. STEED. I think it's a fair assertion that most Americans don't read the Federal Register at the dinner table.

Senator CASSIDY. Going back to whether or not attorneys are humans.

Mr. STEED. Technically.

Senator CASSIDY. I know attorneys do, but I am not sure most humans do.

Knowing that my Chair is an attorney, I will stop making jokes about attorneys and will yield back the balance of my time.

Senator LEE. Most human beings are offended by the thought that attorneys would be in the same classification for them.

[Laughter.]

But as my late father used to say, it is a shame when you disparage an entire profession on the basis of only 800,000 or 900,000 bad apples.

[Laughter.]

We will go to the next non-attorney in the room, Senator Daines.

Senator DAINES. Thank you, Mr. Chairman.

Mr. Casamassa, I understand the Forest Service supports Senate bill 2206, the Protect Public Use of Public Lands Act, as these WSAs that are proposed for release are not recommended for wilderness. Can you confirm that?

Mr. CASAMASSA. Yes, Senator.

They have been studied and that the recommendation was through our work that they would be released or that they would not be considered.

Senator DAINES. Was there public input in that process?

Mr. CASAMASSA. Yes, there was, in terms of when that was done there was solicitation of public input as part of the process.

Senator DAINES. And what kind of public process would that typically be?

Mr. CASAMASSA. It would be through scoping of a proposed action as it relates to the National Environmental Policy Act process to, in order for us to analyze and disclose impacts, that's one of the things that's just part of what we do.

Senator DAINES. Some folks say and think that by removing a wilderness study area designation, we are removing all protections for the land and its resources.

Could you explain what safeguards remain in place for public land management and how these lands would be governed moving forward after a WSA designation is removed?

Mr. CASAMASSA. Senator, right now, if in fact this would be enacted into law, then the wilderness study areas that would be released, all of these areas are presently under the guise of the 2001 inventoried roadless area and that's how they would be governed with some prohibitions associated with any kinds of road building and limitations on the kinds of activities that could occur within the inventoried roadless area.

Senator DAINES. I am glad you mentioned the roadless rule.

If you were to hear some of the letters to the editor and the other things going on back home, you would think that the roadless rule would allow extensive timber cutting, some even saying large-scale mining could occur.

It is surprising to me, as many of our wood products groups have told me that these lands are not the most economical largely due to the roadless rule.

My question is, is it true that these lands could be logged, even with a roadless rule in place?

Mr. CASAMASSA. There's certain prohibitions on road building and there is some level of forest management that could occur with respect to improving habitats for endangered species and perhaps to improve the ecosystem composition and structure. But there are limitations on what kinds of forest management can occur within the inventoried roadless areas.

Senator DAINES. What about mining?

Mr. CASAMASSA. Based on the—there could be access that could be provided to leases that were issued prior to the roadless rule becoming a rule. So there is—and that's in 2001, so leases that were there prior to could be accessed and then potentially used. But there's very—there are limitations on any kind of mining activities as well.

Senator DAINES. Right.

And I understand part of the 2001 roadless rule, when that was put in place, was due to the fact there was very minimal mineral potential in these WSAs.

Mr. CASAMASSA. Generally speaking, across the country, the inventoried roadless areas have a limited potential for any kind of extraction, yes.

Senator DAINES. Thank you.

I know Montanans are interested in forming future use of these lands. Are there existing processes in place to update travel and forest plans?

Mr. CASAMASSA. And you know, Senator, and Senator Tester did state that, is that there are a number of collaboratives that are working diligently, place-based collaboratives across the State of

Montana, that are working on forest plan revisions, travel management plans and coming together and working through solutions to some complex issues on the National Forest System lands.

So, yes, there are processes in place and people are working right now through the forest plan——

Senator DAINES. And those are public processes?

Mr. CASAMASSA. Absolutely.

Senator DAINES. Grassroots, bottom-up kind of public processes?

Mr. CASAMASSA. Yes.

Senator DAINES. And what does a WSA release mean for flexibility in land planning and increasing more public recreation?

Mr. CASAMASSA. I think one of the things that it does is it provides for a shift in, potentially, what we could look at with respect to some outdoor experiences that now could be provided on the WSAs.

Senator DAINES. Okay.

And just in the remaining time, I want to talk about the Blackfoot Clearwater. One of the biggest reasons the local snowmobile clubs and mountain bike clubs support this bill is the designated recreation areas. Now they have done a great job over the last decade or so in a collaborative.

Could you expand on the Forest Service's concerns with those designations?

Mr. CASAMASSA. One of the things we'd like to take a look at and work with the collaboratives locally, as well as Senator Tester and this Committee, is that we want to know the extent of some of the proposals for what kinds of development would occur with respect to that trail system. And part of the concern that I have with it is that we take a longer view. We recognize that the outdoor industry is growing and expanding in a larger part of the economic drivers within each and every one of the states. And that not only do we want to lay out a very sustainable trail system throughout some of these areas, but we also want to take into consideration what kinds of ancillary improvements that are needed, such as trailheads, restroom facilities, signage and the like, as part of how we want to invest in these, in this infrastructure in the long-term.

Senator DAINES. Thank you, Mr. Casamassa.

Thanks, Mr. Chairman.

Senator LEE. Senator Flake.

Senator FLAKE. Thank you, Mr. Chairman, I appreciate you holding this hearing.

I introduced S. 2062, the Oracle Cabins Conveyance Act. It corrects an unfortunate situation that you mentioned, Mr. Casamassa.

The couples here purchased cabins on the edge of the National Forest through a program that allowed recreational cabins on forest lands. Then the Forest Service reclassified the homes without notifying the owners. Obviously, it makes it difficult for the owners to sell the cabins and, ultimately, will force them to demolish or to physically relocate their retirement homes.

I would like to submit for the record a statement from Mr. Dale Ortman, owner of one of the cabins.

Senator LEE. Without objection.

Senator FLAKE. Thank you.

[Dale Ortman's written statement follows:]

Dale Ortman
PO Box 1233
Oracle, AZ 85623

February 4, 2018

The Honorable Senator Mike Lee, Chairman
The Honorable Senator Ron Wyden, Ranking Member
Subcommittee on Public Lands, Forests, and Mining
Committee on Energy and Natural Resources
304 Dirksen Senate Building
Washington, DC 20510

RE: TESTIMONY IN FAVOR OF S.2060 - ORACLE CABINS CONVEYANCE ACT

Dear Senators Lee, Wyden, and Subcommittee Members,

My name is Dale Ortman, I and my wife Jaydene are one of the three retired couples in Arizona who are going to lose our homes to what Senator Flake calls "an egregious and unprecedented U.S. Forest Service order." The couples, all retirees of modest means, have homes in Oracle, Arizona on the edge of the Coronado National Forest north of Tucson. The Forest Service, for over 50 years, has permitted these homes under the Recreational Residence Program. Standard Recreational Residence permits limit occupancy to no more than 6 months per year; however, in what may be the only case nationwide, these houses have been, since permit inception, approved for 365 day/year occupancy; allowing their use as full-time homes. At the end of 2016 we discovered, when the Forest Service disallowed sale of our home, that since 2006, when the agency began revising its Management Plan, Forest line officers had been planning to phase-out our permit, but knowingly elected to hide their intent. The reason subsequently given is that the homes according to the Forest Service Manual (FSM) are not Recreational Residences as per FSM 2721.23, but Isolated Cabins as per FSM 2721.21 which directs the Forest to phase-out such permits.

At the time all couples acquired their homes and through subsequent permit renewals the Forest Service has represented them as Recreational Residences, and each couple agreed to the rules and restrictions regarding such properties. However, at the time of each purchase the properties were actually, under national Forest Service policy, Isolated Cabins and subject to a different set of rules.... specifically requiring they be phased-out. The Forest Service has consistently misrepresented the status of the cabins and has admitted that the term "Isolated

Cabin" does not appear in the permit for any of the homes. It is our contention that at the time each couple invested in their home the Forest Service knowingly misrepresented the status of the properties and that had the actual property status been disclosed none of the couples would have proceeded with the purchase. In essence, in what will become pertinent later in this discussion, each couple invested significant money based on an "erroneous land description" provided by the Coronado National Forest.

The couples involved are Jaydene and Dale Ortman, Susan and Robbie Kisling, and Nora and David Kelly. All are retired seniors who, if the Forest Service is allowed to proceed with its intended phase-out, will suffer the following:

(a) Be forced out of their primary residences,
(b) Lose all value in those residences, loses that will exceed $100,000 per couple, thereby severely inhibiting their ability to move as age or medical necessity may make rural life difficult, and
(c) Force the couples to absorb the additional cost of removing their homes from Forest land.

Regarding the financial loss and its impact on the ability to move, this has recently become of elevated personal interest as my wife, Jaydene, has been diagnosed with Parkinson's Disease and we are seeing the need at some time in the relatively near future to move nearer to our family for support. Our ability to independently finance such a move will be eliminated should the Forest proceed with the phase-out. In addition, Robbie Kisling has heart issues and his wife Susan is experiencing seizures, both of which are likely to encourage a future move which would be severely impacted by the financial harm of the Forest's action.

To this day, the Coronado National Forest, through the tenure of four Forest Supervisors, has in direct violation of agency policy made no proactive attempt to inform the people who will lose their homes of the Forest's pending action. Although requested, the Forest and the three Supervisors still in the Service's employ (Kerwin Dewberry, Coronado National Forest Supervisor; Jim Upchurch, Southwest Region Deputy Forester; and Reta Laford, Olympic National Forest Supervisor) have refused to explain why they chose to violate national Forest Service policy as stated in the Forest Service Manual (FSM 2721.23h - Cooperation and Issue Resolution). This policy directs the Forest whenever it takes an action significantly affecting a Recreational Residence permittee to engage the person in the review of the proposed action. More specifically, when the action is part of a Forest Plan revision it absolutely requires the Forest to, "seek full involvement of holders and their representatives in public involvement opportunities and activities. Encourage and solicit their input and comments." To this day the

Forest has made no proactive effort to inform, much less "seek full involvement" from the couples in jeopardy of losing their homes. The only reason we have found for the Forest hiding its intent is in an email written by retired ex-Forest Supervisor Jeanine Derby, who almost a decade ago in 2008 wrote in response to staff suggestions that she should tell the permittees what was going on:

> *We must consider when to alert the residents that these permits may not be renewed again, and then proceed strategically with NEPA to support removal, but* ***we need to do it without initiating a big public relations workload*** *for ourselves.*

The three properties in question are small, approximately 1 – 5 acres, located at the edge of Forest lands. They rely on no Forest Service resources other than the land itself as they are on county-maintained roads, and County property taxes paid on the improvements provide for services including fire and law enforcement. In addition, each property is associated with a community of similar rural homes on private property and is either contiguous with or within a very short distance of the private lands.

The couples have had continuing discussion with the Coronado National Forest from late 2016 until October of 2017 when the Forest Service formally declared its intent to proceed with the phase-out. During the discussions the Forest led the couples to believe it was interested in resolving the situation without harm, primarily by selling the land to them, however when pressed to finally make its intent known in writing the Forest offered no viable resolution; their stated options being a land exchange or for the couples to engage a contractor to move their homes off Forest land.

In regard to the land sale possibility, there are three ways to transfer ownership of Forest land: (1) Land Exchange, (2), sale under the Small Tracts Act, or (3) a legislatively directed sale. Although all parties agree a Land Exchange, being a lengthy and costly 64 step process, is wholly unreasonable for small noncontiguous parcels of relatively low value (Example: Using the Forest Service formula for determining our annual permit fee our parcel has a fair-market-value of approximately $17,000) it was the only ownership transfer process proposed by the Forest, however the other options do exist.

Senator Flake believes this situation can be easily resolved using the Small Tracts Act which authorizes the Secretary of Agriculture, at his discretion, to direct the sale of small parcels of Forest Service land, which are innocently occupied based on an "erroneous land description", but the Forest Service is unwilling to implement such a sale. Senator Flake recently sent a letter

to the Chief of the Forest Service demanding that he authorize sale of the parcels under the authority provided by the Small Tracts Act, or he instruct the Coronado National Forest to continue to permit the properties as Recreational Residences. However, regarding the possibility of continuing the past permitting practice, should the Forest elect to do this we would require an agreement to continue authorizing full-time occupancy for us and all subsequent permittees.

While Senator Flake believes the Forest Service can and should sell the couples their parcels under the authority of the Small Tracts Act he has also introduced the bill you have before you, S.2060 the Oracle Cabins Conveyance Act of 2017. On behalf of all of us who will lose their homes to the pending Forest action we would very much appreciate you giving due consideration to the merits of the bill as a rapid and effective way of helping us. I also suspect that if they were honest the Forest Service would very much like to see this bill passed into law as it would relieve them of the responsibility for visiting devastating harm on three senior retired couples in order to preserve their policy of phasing out Isolated Cabins.

Thank you for your time and consideration.

Sincerely,

Dale Ortman

Cc: Susan and Robbie Kisling
Nora and David Kelly

Senator FLAKE. It is clear that these families would not have invested their nest eggs in homes on federal land if they had known that policy changes would wipe out their investment. I think that is recognized by the Forest Service.

In a recent letter to the Forest Service, I suggested multiple ways the Forest Service could help the owners keep their homes using existing authority. I understand from your statement earlier that you are looking at that, and I hope you will continue to pursue those options. Do we have your commitment to do that?

Mr. CASAMASSA. Yes, Senator.

You know, we do recognize that it's a difficult situation. We want to provide assurity to the residents that, you know, like you had stated, that their nest egg would be protected and they could have some understanding and consideration for acquiring those lands.

And we think, based on the communications we've had with you, that some of the existing authorities do provide us with an opportunity to resolve this issue.

Senator FLAKE. Good, thank you. I will be following it closely; I appreciate it.

I also introduced S. 612, the Udall Park Land Exchange Completion Act, to address another long-standing land issue in Arizona. The City of Tucson acquired Udall Park about 30 years ago through an equal value land exchange with BLM. Unfortunately, the exchange was never fully completed and significant restrictions remain on Tucson's title to the park.

In recognition of the City's transfer of a $4 million partial to the BLM in 1989, S. 612 would finally allow the City of Tucson to use and develop the land as it originally intended.

I would like to submit a statement in support of the legislation from the City of Tucson.

Senator LEE. Without objection.

[City of Tucson letter and statement of support follow:]

JONATHAN ROTHSCHILD
MAYOR

CITY OF TUCSON
OFFICE OF THE MAYOR

255 WEST ALAMEDA ST.
P.O. BOX 27210
TUCSON, ARIZONA 85726-7210
PHONE: (520) 791-4201

February 5, 2018

The Honorable Mike Lee
Chairman
U.S. Senate
Senate Public Lands, Forests and
Mining Subcommittee
304 Dirksen Senate Office Building
Washington, DC 20510

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

Re: Senate Public Lands, Forests and Mining Subcommittee February 7, 2018 hearing on S. 612/H.R. 1547, the Udall Park Land Exchange Completion Act.

Dear Chairman Lee and Ranking Member Wyden:

I am writing on behalf of the Tucson City Council, and especially Councilmember Paul Cunningham, whose ward encompasses Udall Park, to thank you, Chairman Lee, and Ranking Member Wyden, for your consideration of S. 612/H.R. 1547, the Udall Park Land Exchange Completion Act. We are pleased to submit the enclosed expert testimony of Tucson City Manager Michael Ortega regarding this matter, on behalf of the City.

The Udall Park Land Exchange Completion Act resolves a historic land exchange agreement between the City of Tucson and the Bureau of Land Management (BLM) at Udall Park, a City-owned regional park in the northeast quadrant of the Tucson metropolitan area. It formally completes an agreement on land previously exchanged at fair market value for Udall Park in 1989. The Act directs conveyance of the Federal reversionary interest in Udall Park to the City, as the parties intended when the exchange was made.

Recent disputes with the BLM regarding what the City can and cannot do or approve in the Park caused the City to go back and research the nature of its current patent. This research uncovered the existence of the 1989 agreement and the fact that the agreement was signed and executed by all parties in 1989, but the last step of the process to ensure that the City received full title to the land was never completed. It has been 28 years since the agreement was executed and we deeply appreciate the current efforts to resolve the issue.

Over the years, the City has invested millions of dollars in developing Udall Park and associated facilities and plans to invest even more going into the future. Udall Park is a vibrant and active recreational space that is an asset to our community. The legislation will allow us to make continued improvements at Udall Park, restore the community's farmers market and approve other commercial activities that benefit the park.

Page Two
February 5, 2018

On behalf of the City of Tucson, I want to express my appreciation to Senator Jeff Flake, Senator John McCain, Rep. Martha McSally and the Arizona Congressional delegation for stepping in on behalf of Tucson to bring a final resolution to this issue. It will allow the City to move forward to enhance Tucson's recreational and economic future.

Sincerely,

Jonathan Rothschild
Mayor

Enclosure(s): as stated

Written Testimony of Michael Ortega
City Manager for the City of Tucson, Arizona
Before the United States Senate
Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests and Mining

Legislative Hearing on S.612/H.R. 1547
Udall Park Land Exchange Completion Act
February 7, 2018

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify in support of S. 612/H.R. 1547, the Udall Park Land Exchange Completion Act. I am writing to you today in my capacity as City Manager of the City of Tucson, Arizona, where Udall Park is located.

S. 612/H.R. 1547 formally completes a historic agreement regarding land previously exchanged between the City of Tucson (City) and the BLM in 1989. It eliminates the reverter clause from the City's patent for 173 acres at Udall Park, a City-owned regional park. The City received the patent from the BLM and the BLM was compensated for the fair market value of the reverter by the City, with unencumbered title to 297 acres of City owned land adjacent to Saguaro National Park on Freeman Road in Tucson. The Freeman Road property was valued at $4.2 million in 1989. The Act directs conveyance of the Federal reversionary interest in Udall Park to the City, as the parties intended when the exchange was made.

This legislation finally resolves an issue that has been unsettled for 28 years. The specific circumstances regarding lifting the reverter are unlike any other request being considered by the BLM or the Congress, since the BLM was actually compensated for the value of the reverter in 1989, when the exchange agreement was executed. Some have labeled this a transfer of Public Lands to the City of Tucson. That is not the case.

Background

Udall Park is a highly developed and very popular urban park, used by City and surrounding Pima County residents alike. The City has invested millions of dollars in park facilities, including construction of very large community recreation and senior centers, a large swimming pool, a walking track and multiple athletic fields and picnic areas. The City also has plans to enlarge the recreation development footprint in the park.

The existence of the reverter has directly impeded the City from taking advantage

of commercial opportunities to supplement park funding, approve certain community events or look to other commercial ventures on small portions of the park that would benefit the city in general.

On June 26, 1989, in furtherance of developing Udall Park and in pursuit of potential settlement of litigation between the BLM and a third party, the Mayor and Council of the City authorized and directed the City Manager by Resolution 1493 to enter negotiations with the BLM and any other necessary parties for the transfer of title to 297 acres of land recently purchased by the City for $4.2 million dollars, commonly known as the "Freeman Road Property".[1 2 3]

On September 5, 1989, as those negotiations were nearing completion, BLM State Director, Dean Bibles issued a letter to the Assistant City Attorney in regards to the anticipated signing of an "Agreement Between the City of Tucson and the Bureau of Land Management Regarding Udall Park and For Other Purposes", committing to "support legislative efforts [post-closing] to eliminate the reverter clause in the [to-be-issued] patent to the City of Tucson executed pursuant to that agreement."[4] In reliance on that letter, on October 4, 1989, the agreement was approved by Ordinance No. 7289 of the Tucson Mayor and Council, and executed by the parties effective on that date.[5]

In addition, at the time of the exchange, the City paid $135,000 to move a US Geodetic Survey facility from Udall Park to National Park Service lands and, at the request of the BLM, the City committed to resolving a long-standing sand and gravel trespass being committed by a third party on federal minerals adjacent to Udall Park. The trespass was valued at $324,000 and was the subject of litigation in US District Court. Execution of this agreement and a subsequent agreement between the City and the third party resolved the litigation, saving all the parties, including the BLM, considerable expense, uncertainty and time. The nature of the

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[1] Aerial photographs of the leased land after it was initially developed by the City and how it generally exists today are attached as Exhibit A.
[2] Aerial photographs of the Freeman Road Property as it existed in 1989 and as it generally exists today, are attached as Exhibit B.
[3] An aerial photograph of the eastern portion of the greater Tucson area showing the locations of both Udall Park and the Freeman Road Property is attached as Exhibit C.
[4] See, the letter from the State Director attached as Exhibit D.
[5] The Exchange Agreement, along with an Escrow Closing Statement is attached as Exhibit E.

situation, the content of the agreement and the commitments made were known by the Arizona Congressional Delegation and the BLM's Headquarters in Washington, DC at the time.

After the agreement was executed and lands were exchanged, the City drafted legislative language as requested to lift the reverter. The City provided this draft to all the parties.

Unfortunately, the legislative effort did not proceed due to departures of key individuals in the offices of the City, the BLM and the Senate. Over time as new staff arrived, the City and BLM forgot about the cloud on the title until recent disputes with the BLM regarding the City's use of and plans for a small commercial lease on the property arose. At the time of the disputes, the City researched the issue and discovered the long-ago agreement that was never fully completed, since the legislative solution was never achieved.

It should be noted that, while the City proceeded to develop Udall Park as intended, the BLM took a different path for the Freeman Road Property. The BLM occupied the house on the 297-acre parcel as its Tucson Office for several years. Then, in October of 1992, the BLM entered into a 3rd party land exchange. The BLM disposed of most of the Freeman Road Property. The exchange partners provided the BLM with a unique and sensitive parcel called the Kingman Ranch at the eastern end of Broadway Blvd, adjacent to Saguaro National Park and multiple scattered riparian parcels in the Empirita Ranch, which is now a Conservation Area in Pima County. The BLM occupied the house on the Kingman Ranch as its Tucson Field Office until a few years ago, when a new office was built near the Tucson International Airport.

Conclusion

Mr. Chairman, this is a unique situation, unlike any other being proposed anywhere on BLM administered lands. S.612/H.R. 1547 is needed to complete what should have been completed 28 years ago, to provide an enhanced recreational and economic future for the citizens of Tucson and its environs.

There is strong evidence that both the BLM and the City intended to eliminate the reverter clause. The City has long ago accomplished everything that BLM requested in the Exchange Agreement. The City transferred unrestricted title to a much larger tract of land worth at least $4.2 million in 1989 to the BLM, paid $135,000 to move the USGS facility from Udall Park and resolved a very costly and contentious sand and gravel trespass on adjacent federal minerals.

It was clearly understood that BLM would work with the City to remove the RPPA reverter in the patent for Udall Park. The City of Tucson provided the BLM with full, fair consideration through the Exchange Agreement. But, it never happened.

The City of Tucson is an urban community with limited resources. It simply cannot be held to pay twice for what it bargained for decades ago. The intent expressed by the parties before, within, and after that 1989 Exchange Agreement is finally given meaning by the Udall Park Land Exchange Completion Act.

The City has every intention of maintaining Udall Park as the vibrant community resource it has become but needs the certainty that clear title provides to find creative and compatible ways to take advantage of economic opportunities that have been denied by BLM regulation and oversight. The Mayor of Tucson and its elected officials are fully capable of making wise choices for their constituents regarding future management of Udall Park.

In closing, I want to thank U.S. Senator Jeff Flake and U.S. Senator John McCain for introducing this important bill in the U.S. Senate, and U.S. Representative Martha McSally and the Arizona Congressional Delegation for introducing companion legislation, H.R.1547 in the US House of Representatives. On October 2, 2017, H.R.1547 passed the House with a vote of 401 to 0. It should be noted that House Report 115-280 contains additional views from U.S. Representative Raul M. Grijalva of Arizona and other committee members from the minority that state "H.R.1547 honors the federal government's long forgotten commitment. The unique circumstances of Udall Park justify transferring the reversionary interest without further consideration or compensation."

This important bill brings resolution to the historic exchange and provides a way for the City of Tucson to expand the use of Udall Park. I appreciate, Mr. Chairman, your leadership and that of your subcommittee in your consideration of this important issue. Thank you for the opportunity to provide written testimony before your subcommittee, I welcome the chance to respond to any questions the subcommittee may have.

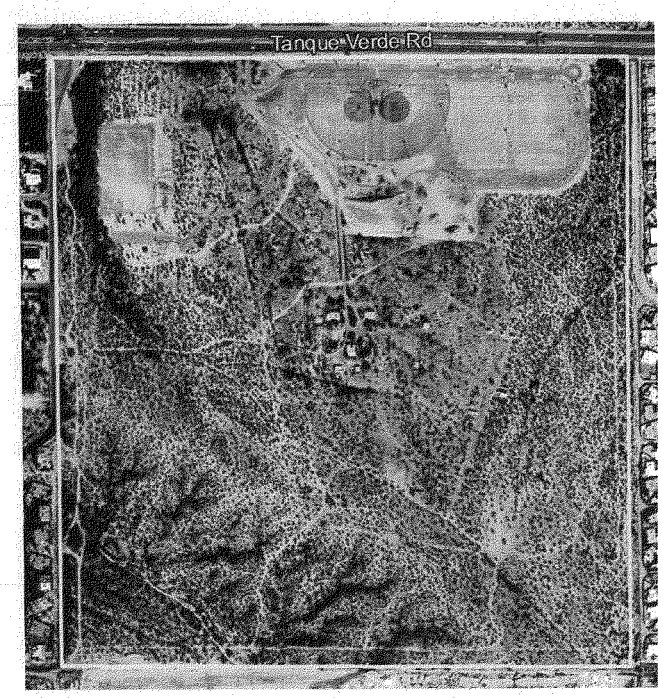
EXHIBIT A

AERIAL PHOTOGRAPHS
OF
MORRIS K. UDALL PARK

City of Tucson - BLM Land Exchange

Udall - 172.8 acres

2015



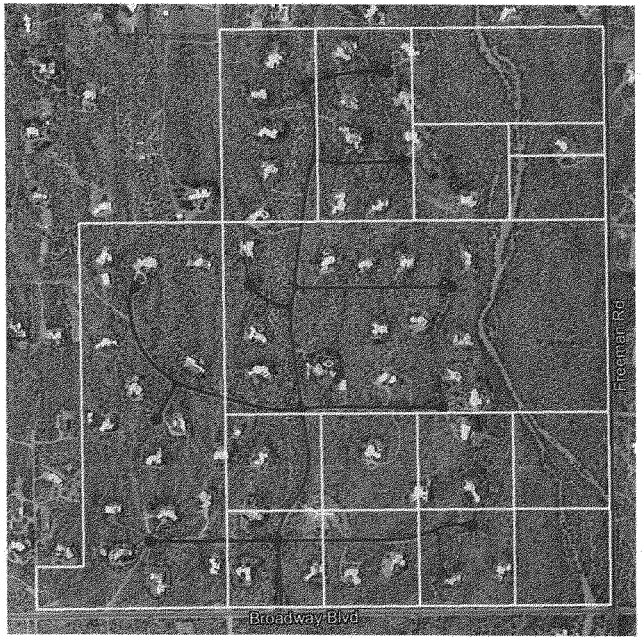
1989

EXHIBIT B

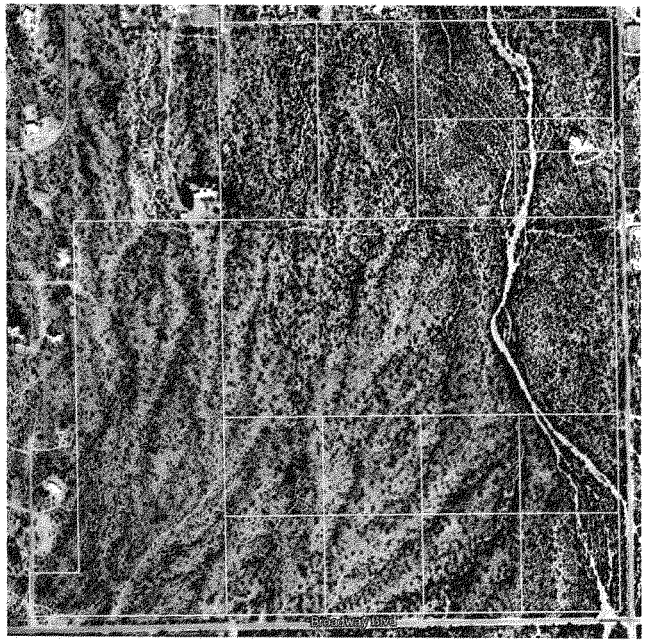
AERIAL PHOTOGRAPHS
OF
FREEMAN ROAD PROPERTY

City of Tucson - BLM Land Exchange

Freeman Road - 297 acres



2015



1989

EXHIBIT C

AERIAL PHOTOGRAPH
OF
MORRIS K. UDALL PARK
AND
FREEMAN ROAD PROPERTY LOCATIONS

City of Tucson - BLM Land Exchange

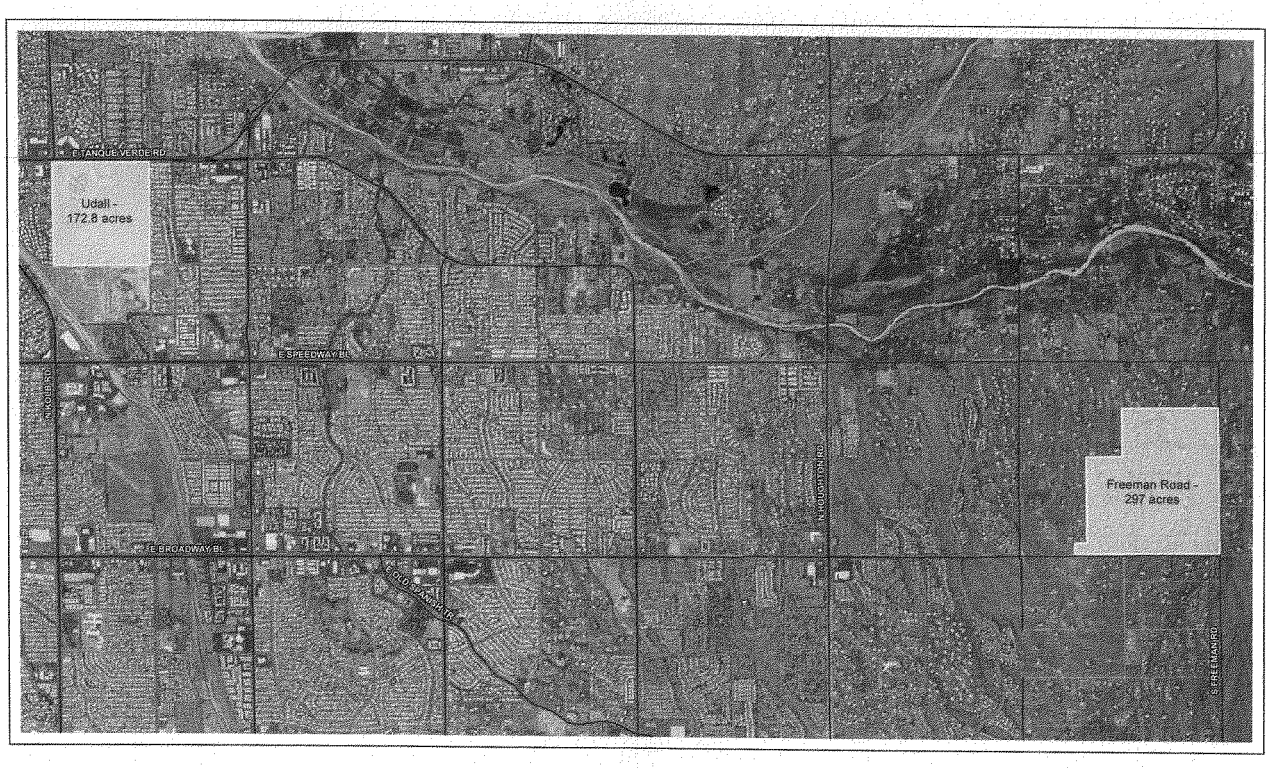


EXHIBIT D

SEPTEMBER 5, 1989
LETTER FROM
U.S. DEPARTMENT OF INTERIOR
TO THE CITY OF TUCSON

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ARIZONA STATE OFFICE
3707 N. 7TH STREET
P.O. BOX 16563
PHOENIX, ARIZONA 85011

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:
A 13143 01 (910)

September 5, 1989

Mr. George Bromley
Assistant City Attorney
City of Tucson
P.O. Box 27210
Tucson, Arizona 85726-7210

Dear Mr. Bromley:

Following the execution of the "Agreement Between the City of Tucson and the Bureau of Land Management Regarding Udall Park and For Other Purposes", BLM intends to support legislative efforts to eliminate the reverter clause in the patent to the City of Tucson executed pursuant to that agreement.

Sincerely,

D. Dean Bibles
State Director

Enclosures
Patent
Agreement

EXHIBIT E

EXCHANGE AGREEMENT AND ESCROW CLOSING STATEMENT

WHEN RECORDED MAIL TO:
Bureau of Land Management
Arizona State Office
P.O. Box 16563
Phoenix, Arizona 85011
Attention: Angela Nagel

EXHIBIT 5 TO ORDINANCE NO. 7889

AGREEMENT BETWEEN THE CITY OF TUCSON AND THE BUREAU OF LAND MANAGEMENT REGARDING UDALL PARK AND FOR OTHER PURPOSES

I RECITALS

1. WHEREAS, the City of Tucson, Arizona (hereinafter "Tucson") presently holds a 25 year lease for recreational purposes for a certain parcel of property within the boundaries of Tucson and commonly referred to and hereinafter understood to be Udall Park, from the Bureau of Land Management, U.S. Department of the Interior (hereinafter "BLM") constituting 172.8 acres, more or less, the title to which is in the United States of America, and

2. WHEREAS, Tucson is desirous of obtaining title to Udall Park from BLM, and

3. WHEREAS, Tucson is the owner of a certain parcel of land constituting 297 acres, more or less, commonly referred to and herein understood to be the Freeman Street parcel, and

4. WHEREAS, BLM is desirous of obtaining title from Tucson of the Freeman Street property,

5. WHEREAS, Tucson has examined the title evidence pertaining to Udall Park and understands that all mineral deposits underlying Udall Park are and will continue to be reserved to the United States, and

6. WHEREAS, BLM has examined the title evidence concerning the Freeman Street parcel as provided in title insurance policy No. 8908076 issued by Commonwealth Land Title Insurance Company, Philadelphia, Pennsylvania, current as of the date of this

Agreement, which, among other things, shows that all coal and other minerals in and under the property are reserved to the United Stated pursuant to the Act of October 5, 1962, 76 Stat. 743, and

7. WHEREAS, Tucson is desirous of obtaining from the United States all of the United States' right, title and interest of the United States' claims against Browne-Tankersley Trust, B. and R. Materials Corporation, an Arizona Corporation, Roland Browne and Judith Mae Browne, husband and wife, Ronald Tankersley and Jay Lynn Tankersley, husband and wife, Pioneer National Trust Company of Arizona, an Arizona Corporation in the case entitled, United States of America v. Browne-Tankersley Trust, B. and R. Materials Corporation, an Arizona Corporation, Roland Browne and Judith Mae Browne, husband and wife, Ronald Tankersley and Jay Lynn Tankersley, husband and wife, Pioneer National Trust Company of Arizona, an Arizona Corporation, Civ. 85-936 TUC-ACM, U.S. District Court for the District of Arizona, and

8. WHEREAS, the United States is agreeable to transfer title to Udall Park to Tucson under the provisions and limitations of 43 U.S.C. sec. 869 et seq. (1982 ed.) (commonly referred to as the "Recreation and Public Purposes Act"), reserving all mineral deposits in the lands and the right to mine and remove the same in the United States pursuant to requirements of 43 U.S.C. sec. 869-1 and with a limitation on the patent transferring title which provides, pursuant to 43 U.S.C. sec. 869-2, that if Tucson attempts to transfer title or control over

Udall Park to another or the lands are devoted to a use other than for park or public purposes, without the consent of the United States, title to the lands shall revert to the United States, and

9. WHEREAS the United States is agreeable to transfer to Tucson the United States' claims against the defendants in the case entitled, United States of America v. Browne-Tankersley Trust, B. and B. Materials Corporation, an Arizona Corporation, Roland Browne and Judith Mae Browne, husband and wife, Ronald Tankersley and Jay Lynn Tankersley, husband and wife, Pioneer National Trust Company of Arizona, and Arizona Corporation, Civ. 85-936 TUC-ACM, U.S. District Court for the District of Arizona, at such time as the United States receives a signed commitment by plaintiffs' to dismiss with prejudice the case entitled Browne-Tankersley Trust v. Donald P. Hodel, Secretary of the United States Department of the Interior, and the United States of America, Civ. 88-117 TUC-ACM, U.S. District Court for the District of Arizona,

II COVENANTS AND AGREEMENTS

NOW THEREFORE the United States of America and Tucson agree as follows:

10. Tucson conveys by warranty deed, receipt of which is acknowledged this date, a copy of which is attached hereto and made a part hereof, subject to the exceptions and exclusions stated in the title insurance policy No. 0908076 issued by Commonwealth Land Title Insurance Company, Philadelphia

Pennsylvania, to the United States of America all right title and interest in a certain parcel of land constituting 297 acres, more or less, commonly referred to and herein understood to be the Freeman Street parcel.

11. Tucson delivers to the United States title insurance issued by Commonwealth Land Title Insurance Company, in the amount of Four Million Dollars ($4,000,000.00) subject to the exceptions and exclusions stated in the title insurance policy No. 8908076, a copy of which is attached hereto and made a part hereof, previously paid for by Tucson, naming the United States beneficiary of said title insurance in the amount stated in said insurance policy.

12. The United States conveys by patent, receipt of which is acknowledged as of this date, a copy of which is attached hereto and made a part hereof, to Tucson all right, title and interest to a certain parcel commonly referred to as Udall park constituting 172.8 acres, more or less, under the provisions and limitations of 43 U.S.C. sec. 869 et seq. (1982 ed.) (commonly referred to as the "Recreation and Public Purposes Act") reserving all mineral deposits in the lands and the right to mine and remove the same in the United States pursuant to requirements of 43. U.S.C. sec. 869-1 and with a further limitation on the patent transferring title which provides, pursuant to 43 U.S.C. sec. 869-2, that if Tucson attempts to transfer title or control over Udall park to another of the lands are devoted to a use other than for park or public purposes, without the consent of

the United States, title to the lands shall revert to the United States.

15. The United States agrees to transfer to Tucson all of the United States' right, title and interest of the United States' claims against Browne-Tankersley Trust, B. and R. Materials Corporation, and Arizona Corporation, Roland Browne and Judith Mae Browne, husband and wife, Ronald Tankersley and Jay Lynn Tankersley, husband and wife, Pioneer National Trust Company of Arizona, an Arizona Corporation in the case entitled, United States of America v. Browne-Tankersley Trust, B. and R. Materials Corporation, an Arizona Corporation, Roland Browne and Judith Mae Browne, husband and wife, Ronald Tankersley and Jay Lynn Tankersley, husband and wife, Pioneer National Trust Company of Arizona, an Arizona Corporation, Civ. 85-936 TUC-ACM, U.S. District Court for the District of Arizona upon receipt of a signed commitment by plaintiffs' to dismiss the prejudice the case entitled Browne-Tankersley Trust v. Donald P. Hodel, Secretary of the United States Department of the Interior, and the United States of America, Civ. 88-317 TUC-ACM, U. S. District Court for the District of Arizona.

16. The United States agrees to execute all documents necessary to dismiss with prejudice the case entitled, United States of America v. Browne-Tankersley Trust, B. and R. Materials Corporation, an Arizona Corporation, Roland Browne and Judith Mae Browne, husband and wife, Ronald Tankersley and Jay Lynn Tankersley, husband and wife, Pioneer National Trust Company of

Arizona, an Arizona Corporation, Civ. 85-936 TUC-ACM, U.S. District Court for the District of Arizona, when so requested by Tucson upon receipt of a signed commitment by plaintiffs' to dismiss with prejudice the case entitled Browne-Tankersley Trust v. Donald P. Hodel, Secretary of the United States Department of the Interior, and the United States of America, Civ. 88-317 TUC-ACM, U. U.S. District Court for the District of Arizona.

15. Tucson agrees to pay to the U.S. Geological Service, U.S. Department of the Interior ("USGS"), one hundred and thirty-five thousand dollars ($135,000.00) to relocate the USGS Observatory from Udall Park. Tucson agrees to deliver to the USGS the subject $135,000.00 after the date of execution of this Agreement by both parties and the date of the transfer of the respective titles to Udall Park property and the Freeman Street property. Tucson and the United States agree that the date upon which the subject payment is to be made is the thirtieth day following a request from the USGS to Tucson for the payment of the subject $135,000.00.

16. The United States and Tucson agree that until such time as a replacement USGS observatory is operational and the measurements necessary to correlate magnetic data have been completed, USGS is entitled to continue full observation operations with all rights, included but not limited to ingress and egress over existing roads and ways, presently enjoyed at the current location in Udall Park. The United States and Tucson agree that Tucson will continue to abide by the conditions and

restrictions of the present lease, No. A-13143, except as hereinafter modified, refraining from any and all development and usages in the buffer zones which could adversely affect the collection of geomagnetic data. Except as hereinafter modified, the United States and Tucson agree that the USGS existing master plan controlling the development and usage of the Udall Park property will continue in full force and effect for a period of not to exceed 5 years from the date of the execution of this agreement and that any variation to the master plan must have the prior approval of the USGS. The United States promises that the USGS will use its best efforts to accommodate increased use by Tucson of the Udall Park property on the conditions that any increased use will not interfere with the operation of the existing observatory and will not impair the collection of magnetic data at that site. The United States and Tucson agree that the determination of any variation to the master plan permitting an increased use of the Udall Park property by Tucson, its assigns and successors in interest will be determined by the USGS through a scientific analysis performed in consultation with Tucson.

17. The United States and Tucson agree that the USGS will require up to two years of simultaneous operation of the existing observatory in Udall Park and the replacement observatory to complete correlation of data from the new site with historical data from the present site. The United States promises that when the new observatory site has been identified and the

aforementioned $135,000.00 has been transferred from Tucson to USGS, USGS will proceed with dispatch to establish and make operational the replacement observatory. The United States agrees that USGS will vacate the Udall Park observatory site on or before 5 years from the date of the execution of this Agreement, on the further condition that Tucson transfers to USGS the aforementioned $135,000.00 within thirty days of receipt of a request from USGS for the transfer of the subject $135,000.00.

18. The United States and Tucson agree that USGS will retain ownership of its real property improvements in Udall Park until USGS vacates the observatory site in Udall Park. The United States and Tucson agree that USGS will retain full rights to continue any and all rental agreements for housing and use permits that USGS presently has with other Federal, state, and county agencies. The United States agrees that all such agreements and permits will be terminated by the United States on or prior to the date the USGS finally vacates the observatory site in Udall Park.

19. The United States and Tucson agree that when the replacement observatory site has been operational for a sufficient time to permit the release of the existing observatory in Udall Park, the United States will transfer to Tucson, and Tucson agrees to accept full responsibility for, the structures, wells, elevated tank cement pads, cesspools, and other appurtenances in Udall Park. The United States certifies that during the USGS occupation of Udall Park, USGS has not used in

any of its operations nor has its disposed of or caused to be disposed of any hazardous materials at the subject observatory site. The United States and Tucson agree that the USGS will be permitted to remove all Government owned personal property. The United States and Tucson agree that any such USGS observatory property still remaining in Udall Park 30 days after site evacuation will be considered abandoned property and may be disposed of by Tucson.

20. The United States and Tucson agree that the promises and agreements contained in this Agreement are binding on themselves, their assigns and successors in interests and Tucson agrees that it will include in any such leases, sales, assignments or other devise of interests in the Udall Park property the conditions and promises it makes to the United States in this Agreement, unless the United States, by written document, releases Tucson from those promises or said promises are rendered inapplicable by the completion of the events described herein or by subsequent legislation.

21. The United States and Tucson agree that Tucson has the right, at no cost, to continue to use the building, within the Freeman Street property, located at 675 No. Freeman Road ("Freeman Road building"), for a period of time not to exceed one (1) year from the date of transfer of the Freeman Street property from Tucson to the United States. The United States and Tucson agree that Tucson may remove all of Tucson's personal property from the Freeman Road building. The United States and Tucson

agree that any such Tucson property still remaining in the Freeman Road building 30 days after site evacuation will be considered abandoned property and may be disposed of by the United States.

22. The covenants and agreements contained in paragraphs 10-21 above are mutual promises and the fulfillment of each such promise by one party is dependent on the fulfillment of each promise by the other party and the failure of a party to this agreement to fulfill one of the noted covenants and promises releases the other party from performing its agreements and promises contained in para. 10-21 inclusive.

Dated: ~~September 19, 1989~~ Oct 4, 1989

Signed: UNITED STATES OF AMERICA

Dated: ~~September 19, 1989~~ October 4, 1989

Signed: CITY OF TUCSON, ARIZONA

Approved as to form
9/19 1989
George W. Bromley
Asst. City Attorney

PIMA LAND
TITLE AGENCY

Address: 5855 E. Broadway #100
Tucson, AZ 85711

Phone: 602 .17 3636

Date October 2, 1989 Escrow No. 8908076-LF Escrow Officer Linda Foster

ESCROW STATEMENT

Proration Date None

ITEMS	DEBITS	CREDITS
FOR EXCHANGE of property owned by City of Tucson, Arizona, that certain property commonly referred to as Udall Park, AND property owned by Bureau of Land Management, US Dept. of the Interior, titled in the United States of America, that certain property commonly referred to as Freeman Street parcel, (in the amount of $4,000,000.00)		
Premium for Owners title insurance insuring property referred to as Udall Park	4,000.00	
Escrow Fee	2,000.00	
Recording Fees (Deed, Patent)	18.00	
BALANCE DUE from Tucson		6,018.00
TOTALS	6,018.00	6,018.00

THE UNDERSIGNED AGREE AS FOLLOWS: That all utility charges and any variance in taxes from those used for proration herein, will be settled between the parties hereto outside of this escrow; that the escrow agent may deliver a copy hereof to the mortgage lender if requested; and that the foregoing statement and any variance in its terms from the escrow instructions or sales agreement is hereby accepted and approved.

Mailing Address

SAVE FOR INCOME TAX PURPOSES

PLTA-020 (9/84)

Senator FLAKE. Also, thank you for including S. 1222 at this hearing as well. This bill would convey a small portion of federal land to La Paz County which only has about five percent private ownership. That is an extremely low amount, even by Arizona standards. The land, conveniently situated between large markets of Phoenix and Southern California, would provide the county an important opportunity to do responsible energy development.

I would also like to submit for the record, a statement in support of the bill from D.L. Wilson, Chairman of the Board of Supervisors at the La Paz County.

Senator LEE. Without objection.

[The prepared statement of support from D.L. Wilson follows:]

Written Statement of Supervisor D.L. Wilson, La Paz County, Arizona
In Support of S. 1222, La Paz County Land Conveyance Act
Legislative Hearing: Senate Energy and Natural Resources Subcommittee on Public Lands, Forests and Mining
February 7, 2018

I am D.L. Wilson, Chairman of the Board of Supervisors of La Paz County, Arizona. I appreciate the opportunity to submit a statement for the record in support of **S. 1222**, "La Paz County Land Conveyance Act." We appreciate Senator Flake's efforts championing this legislation, which provides for the sale of up to 8,800 acres of federal land at fair market value to La Paz County for economic development purposes. Our vision is to attract new industry, especially solar development to this strategic location to diversify our local economy, create quality jobs and increase the tax base so our rural County can adequately meet the growing needs of our citizens.

The County appreciates Senator Flake's support for changes to **S. 1222**. The County would like to amend the bill to require the Secretary to convey BLM land in phases to La Paz County through a directed sale for fair market value rather utilizing the Recreation and Public Purposes Act as a mechanism for conveyance. The County also supports a request by the Colorado River Indian Tribes to amend the bill to ensure cultural and historical artifacts will be protected as the County moves forward with its plans. These amendments were agreed to and adopted by the House Natural Resources Committee when it reported the House bill **(H.R. 2630)** in November. I request that the Senate Energy and Natural Resources committee make the same changes to **S. 1222**.

La Paz County was established in 1983 after voters approved separating from Yuma County, making us the only County to be established after Arizona became a state in 1912. Federal, State or Tribal governments own almost 95% of the land within La Paz County, with roughly 64% managed by the Bureau of Land Management. Our economy is based primarily on agriculture, fed by precious groundwater and tourism, especially during the winter months when we welcome thousands of snowbirds that flock to the banks of the Colorado River in their RVs and trailers. The County's permanent resident population is just under 21,000. The County's top priority is to attract the economic diversification that has occurred elsewhere in Arizona. Our unemployment rate is a full percent higher than the statewide average. Our population is aging with 38% over the age of 65, a 6% increase in just six years. Nearly 27% of our residents are Latino many of whom work on our farming operations. Over 18% are Native Americans and members of the Colorado River Indian Tribes. The County needs economic diversification to provide new higher paying jobs and a tax base to enable us to provide services to our vulnerable populations.

La Paz County is 4,500 square miles of desert, with less than 6% in private ownership. Several years ago the County began to pursue a strategic site where we might attract economic development, focusing on solar renewable energy generation. The concept is similar to the successful solar development park just outside of Boulder City, Nevada in the Eldorado valley to our north. We worked closely with the District and State officials from the Bureau of Land Management to identify the site that is identified in **S. 1222**.

Strategically located between Los Angeles and Phoenix, we believe the proposed conveyance has excellent potential. It is immediately south of Interstate 10; it is adjacent to existing and proposed electric transmission facilities, natural gas lines, and fiber optic routes. It is already relatively disturbed due to past infrastructure use. Our preliminary review shows that the property does not contain endangered species nor does it have any cultural or archeological significance. Its proximity to Interstate 10 would provide easy access to attract a workforce from within our jurisdiction. A renewable energy park development could provide solar power to both the Phoenix metro area and to southern California. The requested lands to be conveyed represent less than one-half of one percent of the Federally administered land in the County.

La Paz County believes we can develop the full site over a 20-year development plan through phased conveyances at fair market value as determined by the Department of the Interior's regulations. We actually hope to do it much faster than that! Enactment of **S. 1222** will provide

revenue to the federal treasury while enabling much needed economic diversification in our County. The Act will help our County achieve the goal to improve the lives of our residents. Again, the Board of Supervisors wishes to thank Senator Jeff Flake and Congressman Paul Gosar, who authored the House companion bill, for their leadership and efforts to promote jobs and economic development in rural areas like La Paz County. On behalf of the Board of Supervisors and the residents of La Paz County I thank you for holding a hearing on **S.1222**. Your support is greatly appreciated.

Senator FLAKE. Mr. Steed, I have certainly always advocated for fiscally responsible management of federal assets, but I agree with the City of Tucson and the Ranking Democratic Member of the House Resources Committee that making the City pay twice for the land is a bit absurd. What are your thoughts?

Mr. STEED. Senator, I appreciate the question and, as you know, it's a complicated issue there.

When the City took control of Udall Park they did so under the R&PP Act. As such, the Federal Government held a reversionary interest in that. Now, the City of Tucson is wanting to do more economic activity on that, specifically, a cell tower, to which they would need to buy that reversionary interest back.

I also understand there was a separate gift from the City of Freeman Road to the BLM. Unfortunately, the rules that govern us on FLPMA and others would require an appraisal on that parcel of land as well as that to be stated.

And so, Senator, not to quibble again with the City of Tucson or you, we welcome a legislative fix. We're just trying to confine ourselves to the law that we've been given.

Senator FLAKE. Okay. Well, thank you.

Hopefully this will be the fix.

With regard to the La Paz County Land Conveyance Act, if passed, Mr. Steed, would La Paz County pay fair market price for the land in question?

Mr. STEED. I'm sorry, what was the question again?

Senator FLAKE. With regard to the Land Conveyance Act, the La Paz County Land Conveyance Act, if it passes will La Paz County be required to pay fair market value?

Mr. STEED. Again, this goes through the R&PP Act, as currently established, which would mean there's a reversionary interest and they would have to pay the reversionary interest back.

Senator FLAKE. Right.

Mr. STEED. And again, sir, that goes to the assumption that this is within the realm of what the R&PP Act was established to do.

Senator FLAKE. And does the bill that we introduced affect BLM's requirement to follow all NEPA rules and regulations? Those are still there, right?

Mr. STEED. That's correct.

Senator FLAKE. Okay.

Does BLM commit to working with La Paz County to facilitate the responsible reversal of federal lands here?

Mr. STEED. Absolutely.

As stated in my testimony, we support the underlying goals. The mechanism, we may have a problem with, but we're absolutely happy to work with you and other interested parties to make sure we can get it done.

Senator FLAKE. Thank you.

Thank you, Mr. Chairman.

Senator LEE. As we are talking about reversionary interests, I started experiencing shell shock from a time during law school when all law students have to learn these things called future interests which include awful terms like fee simple determinable subject to a springing executory interest and you have to tell the dif-

ference between that and a fee tail, a fee simple absolute and so forth.

Senator HEINRICH. You wonder why attorneys have issues with the public.

Senator LEE. Yes, yes, exactly. Well, it is because of the PTSD we experience in the wake of that.

The reversionary interest here, when you talk about establishing the fair market value of the reversionary interest, can you just walk us through it, Mr. Steed? Tell us how one goes about, within the BLM, assessing what might be the fair market value for reversionary interest?

Mr. STEED. It's an interesting and complicated question, Senator. I have to admit that I wasn't hoping to get into a legal discussion with you today.

Short answer is, these go through the Office of Evaluation Services to determine what the value is of those reverters and that's what we're trying to accomplish here.

Senator LEE. Okay, but they have established protocols in place that look at the present and future potential value of the land and the likelihood of the reversionary interest springing whenever it is going to come up?

Mr. STEED. Correct.

Senator LEE. And I assume the BLM considered, in this context, other payments made to BLM by the City of Tucson when considering the need to make a fair market value payment?

Mr. STEED. Once again, Senator, it's a complicated legal question. Part of it goes to timing of when those transactions occurred. The gift happened before the R&PP occurred which creates some legal uncertainty as to whether that was actually a payment for. I've been advised by solicitors that it did not satisfy the legal requirements. That's where we stand.

Senator LEE. Okay, I appreciate that.

As I look across the panel today I will note that it is significant that all of us who are here now, virtually all of us who have been here at all today, are from one part of the country. We are from the Western United States.

It is noteworthy that in every state east of Colorado the Federal Government owns less than 15 percent of the land. In every state from Colorado and west, thereof, the Federal Government owns much more than that, often a lot more than that.

Senator Cortez Masto's state has the record with the Federal Government owning, basically, nine out of ten acres in her state. In my state, it is about two-thirds of the land, but in New Mexico, in Montana, in basically every Western state, the Federal Government is not just the largest landowner, but the largest landowner by far. There are special challenges that come with that.

I think everyone enjoys visiting things like national parks. I don't think you hear anyone, in any of our states, complaining about public land from the standpoint of a national park, but there are lots of other kinds of federal land that are neither national park nor military installation where the Federal Government is in charge. That land cannot be taxed by the local taxing authority, normally it would be a county. The Federal Government pays something under a program called Payment in Lieu of Taxes, or

PILT as it is commonly known. In most counties in Utah, counties receive pennies on the dollar compared to what they would receive if they could tax that land, even at the very lowest rate for the land in question. These are lands that are, nonetheless, under the responsibility of those counties which have to provide for search and rescue operations, police services, firefighting operations and so forth, even though they are not receiving any taxable value for that land.

There are schools that have to be built and operated. There are city officials who have to be paid. And very often, a significant part of an operating budget for a county comes through property taxes.

In addition to this, it is not just that they receive less in terms of property tax revenue, there are often economically challenging aspects of living in a public land state, or in a public land county, where there are a whole lot of things that would not require anywhere near the kind of government permitting that one has to go through when utilizing public land.

So that is one of the reasons why it is important that when we hold hearings like this, when we introduce legislation like many of the bills that we have been covering today, that you come here and that you are willing to listen to us and take into account that those we represent are often living at the mercy of local land managers.

Do I have your commitment that you will be willing to do that?

Mr. STEED. Absolutely, Senator.

Senator LEE. Okay.

Mr. Casamassa?

Mr. CASAMASSA. Oh, absolutely, Senator, yes.

Senator LEE. Thank you. I appreciate that.

Senator HEINRICH. Can I add a closing thought?

Senator LEE. Yes, please.

Senator HEINRICH. I just want to, sort of, fill in a little bit more perspective in terms of what the Chair was bringing up about public lands.

It is true that those of us here are all from the West and from public land states. I would not live anywhere but the West and the reason why I live in the West is because of those public lands.

As a former outfitter guide—in my state they generate almost $10 billion in economic activity, nearly 100,000 jobs—I have seen firsthand what it means to be a guide in a small town in rural frontier New Mexico spending money on services and food and gas and all the other things that go into that. I see the income that gets pumped into small rural communities in the middle of hunting season. I think we need to paint that picture with both sides of the ledger to truly understand these issues.

And I appreciate the work that our agencies do. We can always do it better. I have had to fill out a bunch of those permits, so I know we can do it better.

But we should have an honest and very balanced conversation about just what an incredible thing it is that our American citizens have these incredible public lands which, by the way, I do not think the government owns—I think the government manages on behalf of all of us and our constituents.

Senator LEE. Thank you, Senator Heinrich, very well said. I think all of us who live in the West share an enthusiasm for the

beauty that is found in our land and are grateful for the recreational and other opportunities that we have on those lands.

If there are no additional questions today, we will keep the record open for an additional two weeks so that members can submit questions in writing should they choose to do so.

I want to thank the witnesses for coming and answering our questions today.

This hearing is adjourned.

[Whereupon, at 11:30 a.m. the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, DC 20240

JAN - 9 2020

The Honorable Mike Lee
Chairman
Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining
United States House Senate
Washington, D.C. 20510

Dear Chairman Lee:

Enclosed are responses prepared by the BLM to the questions for the record submitted following the February 7, 2018, hearing before the Senate Committee on Energy and Natural Resources' Subcommittee on Public Lands, Forests, and Mining to consider pending legislation including *S. 1219, the Lake Bistineau Land Title Stability Act.*

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Ron Wyden, Ranking Member
Subcommittee on Public Lands, Forests, and Mining

Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining
February 7, 2018
Hearing Pending Legislation

Questions from Senator Cassidy

- **Mr. Steed, could you please identify other instances where property had been in private hands or State hands before the Federal Government made a claim that it owned the land?**
    - **If so, in which states and localities?**

- **Could you please provide the Committee with a complete list of information of every notification the agency has ever sent out regarding the re-survey of these lands including who the notification was sent to, the date it was sent, what type of notification it was (for example: whether a letter was sent to a landowner or it was listed in the Federal Register), whether the agency received any responses to any notifications, and any other relevant information.**
    - **What documents does BLM possess that verify individual landowners were individually notified? What documents does BLM possess that show that the offices that verify title to a property in the affected areas were notified so that title could be updated? Please provide these documents to the committee.**

- **Has BLM asserted its claim to theses omitted lands?**

- **Were these omitted lands previously private or state land?**

- **Did BLM use Color-of-Title to assert its claim?**

- **Are PILT payments now being made to these states for these specific areas?**

Response: As the Committee is aware, the legislation intended to provide stability to the underlying land title became law when President Trump signed the John D. Dingell, Jr. Conservation, Management, and Recreation Act on March 12, 2019. The lands identified in the Lake Bistineau Land Title Stability Act were purchased by the United States from France in 1803 and have not been conveyed out of Federal ownership. As such, the Federal lands near Lake Bistineau in Louisiana have never been in private or state hands, and are considered 'omitted lands.' While there is no formal method to track the exact number, the Bureau of Land Management (BLM)'s General Land Office Records website hosts images of and information about official survey records and is available to the public at glorecords.blm.gov; additional information, including correspondence with affected landowners, is kept by relevant BLM State Offices. Finally, PILT payments were made to the State of Louisiana for these parcels while they were in federal ownership.

Testimony of Julie Kitka
President, Alaska Federation of Natives
3000 A Street, Suite 210, Anchorage, Alaska 99503
To the Committee on Energy and Natural Resources
In support of Section 11,
Open Season for Certain Alaska Native Veterans for Allotments,
of S. 1481 of the
Alaska Native Claims Settlement Improvement Act of 2017

February 7, 2018

Good morning Chairwoman Murkowski, Ranking Member Cantwell, and members of the Committee, my name is Julie Kitka, President of the Alaska Federation of Natives (AFN). AFN is the largest statewide Native organization in Alaska. Our membership includes 186 federally recognized tribes, 177 village corporations, 12 regional corporations, and 12 regional nonprofit and tribal consortiums that contract and compact to run federal and state programs.

Thank you for the opportunity to provide written comments on S. 1481. My written comments will focus on Section 11 of the bill, to amend the Alaska Native Claims Settlement Act to provide for equitable allotment of land to Alaska Native veterans, which AFN strongly supports. I ask that my comments be incorporated into the legislative record.

History

Native Americans have a long and proud history of military service, serving in active duty in greater numbers on a per capita basis than any other ethnic group in the United States. More than 42,000 Native Americans served in the military during the Vietnam Era and over 2,800 of those service men and women were Alaska Native. Over 90% of those service members volunteered for service as opposed to being drafted.[1]More than 2,800 Alaska Natives served in the military during the Vietnam Era.[2]

While the Vietnam War was being fought, Alaska Native land rights were being settled by Congress. Section 18 of the Alaska Native Claims Settlement Act[3] (ANCSA) of 1971 extinguished the applicability of the Alaska Native Allotment Act of 1906, insofar as Alaska Natives are concerned. Some Alaska Native groups saw this change coming and worked by themselves or collaborated with Alaska Legal Services and AmeriCorps VISTA workers to get as many Alaska Natives as they could to apply for allotments before ANCSA became law, however, communication was a big challenge.

In 1967, remote communities in Alaska were served by 14 land radio stations that tied into 300 bush radios. Eighty-eight villages needed improved telephone service, seventy-two had only "bush" telephone service, and sixteen had no telephone service at all. By 1970, 141 of Alaska's

[1] http://www.bia.gov/WhoWeAre/BIA/OJS/ojs-careers/history/index.htm.
[2] AFN White Paper on Native Allotments on file with the author.
[3] 43 U.S.C. 1618

287 communities still had no satisfactory telecommunication ties. Of the 146 with those ties, 84 depended on White Alice or less sophisticated systems. Sixty-two were linked to the rest of the world by microwave or cable systems.[4] For example, in the village of Tuntutuliak, Alaska, there was one telephone that served more than 200 people who were living in the village at the time.

Further complicating matters was the fact that at the time there were twenty Alaska Native languages spoken around the state. Many of our people spoke little or no English. Translating complicated concepts like Western ideas of land ownership was difficult at best. For example, within the Yup'ik Society, land usership was an accepted and time-honored practice. Tuntutuliak is located along the Kinak River where certain tracts of land were used by the Pukkak family (Paul Andrew) from generation to generation for salmonberry harvesting. Other families outside of the Pukkak family respected this, and to honor the land usership practice, never used that tract of land to harvest berries unless they had a specific authorization issued by the Pukkak family.

Traditional land usership practices were strictly followed. In the late 1960s, when AmeriCorps VISTA workers brought up the subject of Native Allotments the Yup'ik people living at Tuntutuliak initially refused to apply. One of the main reasons they refused was because of the traditional practice of land usership that determined which family would use a specific area of land and other Yup'ik families respected and adhered to the practice.

According to Alaska Legal Services, although virtually all Alaska Native people were eligible to apply for land allotments that had been used by their families and relatives for subsistence purposes for generations, in the first 64 years of the Alaska Native Allotment Act of 1906, only 245 allotments were approved.[5]

Given the primitive state of communications in Alaska in the late 1960s and early 1970s, it was difficult for people to apply for Native allotments. It was logistically impossible for Native men and women serving in the military outside of the state to apply for allotments even though they were eligible. Some Alaska Native veterans of the Vietnam Era returned from deployment overseas to learn that they were no longer eligible to apply for Native Allotments because of Section 18 of ANCSA. The veterans who were left out of the allotment opportunity began pursuing ways of amending Section 18 so that veterans who had served in active duty during the Vietnam Era might regain their eligibility to apply for Native allotments.

In 1994, AFN began efforts to amend ANCSA so that the Alaska Native veterans of the Vietnam Era could regain their right to apply for Native Allotments. AFN, with the support of the late U.S. Senators Ted Stevens and Daniel K. Inouye, successfully lobbied Congress for the passage of the Alaska Native Veterans Land Allotment Equity Act of 1998.

Alaska Native Veterans Land Allotment Equity Act of 1998

In October 1998, just prior to the AFN Convention, Senator Stevens, then Chairman of the Senate Committee on Appropriations, amended the Department of Veterans Affairs' budget by

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[4] From the Alaska History and Cultural Studies Website, Chapter 4-13 Communications, available at http://www.akhistorycourse.org/articles/article.php?artID=178

[5] Excerpt from the statement of Nelson N. Angapak, Sr. Vice President, Alaska Federation of Natives, on H.R. 3350 November 14, 2007, in front of U. S. House Committee on Natural Resource

adding legislative language that amended Section 18 of ANCSA to allow Alaska Native veterans, who had served in active duty military between January 1, 1969 to December 31, 1971, and who were honorably discharged, to apply for Native Allotments. President Bill Clinton had pressed Senator Stevens to advance the Department of Veterans Affairs' budget as the American public at the time demanded better medical treatment for veterans.

The Alaska Native Veterans Land Allotment Equity Act of 1998 authorized Alaska Natives, who had served in active duty military for at least six months between 1969 and 1971, and who were honorably discharged, to apply for Native allotments within 18 months of the bill's passage. As a result, over eleven hundred Alaska Native veterans became eligible to apply for allotments.

Implementation of the Alaska Native Veterans Land Allotment Equity Act

A Bureau of Land Management lands record search revealed the following:

- 1,071 Alaska Native veterans of the Vietnam War applied for Native Allotments pursuant to the existing authority as authorized by the Alaska Native Vietnam Veterans Act, PL-105-276.[6] It is assumed many of the applicants applied for the maximum acreage authorized, 160 acres.

- Of those applications 432 were certified or approved by the Bureau of Land Management involving a total of 26,914.78 acres of land;[7] this averages to 62.30 acres per applicant.

The Bureau of Land Management rejected a total of 639 applications for Native Allotments by the Vietnam veterans representing a total of 69,176.29 acres of lands.[8] The following is a summary of the primary reasons for these rejections:

1. 175 applications were rejected because the cause of applicant's demise was other than those set out in the regulations.

2. 124 applications were rejected because lands were no longer under federal ownership. Those lands may have been transferred to the State of Alaska or ANCSA corporations.

3. 74 applications were rejected because the Lands were withdrawn for national conservations systems as follows: Tongass National Forest: 49; Chugach National Forest: 15; National Wildlife Refuges: 6; Annette Island Reserve: 3; and National Parks: 1.

4. 266 Native Allotment applications by the Alaska Native veterans of the Vietnam Era were rejected for other reasons.

136 of the Alaska Native veterans appealed the rejections of their applications;[9] the record seems to indicate that all the appeals were unsuccessful. P.L. 105-276 mandates that veterans can only apply for lands that are vacant, unappropriated, and unreserved. As you know, almost all of the

[6] Bureau of Land Management regarding PL 105-276.
[7] Id.
[8] Id.
[9] Id.

lands in Alaska are appropriated and reserved, so veterans were very limited on where they could select land.

One of the most startling findings of AFN regarding the implementation of the 1998 Native Allotment Statute was that **all the parcels of land applied for as Native Allotments by the Alaska Native veterans who became eligible under the 1998 statute in the following Alaska Native corporation regions were rejected: Sealaska, Cook Inlet, Chugach, and the Arctic Slope**.

In the Sealaska Region, the primary reason for the rejection of lands applied for as Native Allotments was because the creation of the Tongass National Forest predated the lands applied for as Native Allotments by Alaska Native veterans of the Vietnam War. America's largest national forest is the Tongass, which was created by President Theodore Roosevelt on September 10, 1907 by Presidential Proclamation.[10]

The Chugach National Forest was created as a national forest by Presidential Proclamation on July 23, 1907.[11] Almost all of the lands located in the Chugach and Cook Inlet regions of Alaska are owned privately or were selected during statehood by the State of Alaska. The primary reason for rejection of Native Allotments applications in those regions was because the creation of the Chugach National Forest preceded the applications received for Native allotments.

Similarly, in the Arctic Slope Region, the creation of the National Petroleum Reserve – Alaska (NPR-A), the Arctic National Wildlife Refuge (ANWR), and the Gates of the Arctic National Park and Preserve, predated veteran allotment applications. The NPR-A was created in 1923,[12] President Eisenhower established ANWR in 1960,[13] and the Gates of the Arctic was declared a National Park and Preserve under the Alaska National Interest Lands Conservation Act,[14] which became law in 1980.[15]

Another issue veterans faced in trying to apply for allotments under the 1998 Act was confusion in the Bureau of Indian Affairs. AFN heard from one veteran who drove 400 miles round-trip from his village to Anchorage to apply for an allotment and said the BIA did not know what he was talking about, so he never applied.

Section 11 of S. 1481, Open Season for Certain Alaska Native Veterans for Allotments

Section 11 of S. 1481 is substantially similar to S. 785, the Alaska Native Veterans Land Allotment Equity Act, with minor amendments. The amendments would authorize the following if enacted into law:

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[10] Retrieved from http://www.theodore-roosevelt.com/images/research/trproclamations/772.pdf.
[11] Retrieved from http://www.theodore-roosevelt.com/images/research/trproclamations/770.pdf.
[12] http://www.blm.gov/ak/st/en/prog/energy/oil_gas/npra.html.
[13] http://www.fws.gov/refuge/arctic/.
[14] Public Law 96-487.
[15] Retrieved from https://www.nps.gov/gaar/learn/management/upload/GAAR_FS_DRAFT%2012-16-09%20compressed.pdf

- Allows Alaska Native veterans who served in active duty military between August 5, 1964 and May 7, 1975, during the Vietnam Era, to apply for Native Allotments.
- Expands the land base that veterans can apply for Native Allotments to include vacant public lands.
- Authorizes the heirs of the fallen warriors to apply for a Native Allotment on behalf of such warrior.
- Legislative Approval, that is, if the application for a Native Allotment is done according to the rules and regulations promulgated for the statute, the application would be deemed approved.

In addition, this section includes provisions that would allow Alaska Native Corporations and the State of Alaska to voluntarily give land back to the federal government to transfer to a veteran as a Native allotment. If the State of Alaska and/or the ANCSA corporations voluntarily return the land to the federal government for allotments, they would be authorized to select an equal amount of land to replace the lands they returned.

The Alaska Native community stands united behind Section 11 of S. 1481, as demonstrated by the unanimous vote for passage of AFN Convention Resolution 17-19; a resolution that stated support for S. 785 by more than 4,200 delegates to the 2017 AFN Convention. The resolution is attached for reference.

Some of the Uses of Native Allotments

Land: land is more than just real estate for the Alaska Natives. Take the case of Ben Neely, Jr., a Vietnam veteran. Pursuant to the 1998 legislation, Mr. Neely applied for a Native Allotment totaling 160 acres; 40 acres of land he applied for as allotment was certified. Mr. Neely came back from the Vietnam War in 1972 with the ghosts of that war. He told AFN that when the ghosts of the Vietnam War began to haunt him, he'll go to his allotment and sit on "that rock" using his own words. When he sits on "that rock," he settles down. In other words, there is a spiritual connection between Mr. Neely and his Native Allotment. There are many other stories from the Vietnam War veterans that are similar to this one.

Other uses of Native Allotments include but are not limited to:

- Subsistence Campsite, berry harvesting, fall and spring camps used for the purposes of subsistence hunting and fishing.
- People in the village understood and respected that certain tracts of lands were the Native Allotments of other people and there was no encroachment and no trespass.
- Some Native Allotments include burial grounds.

Outreach to Other American Indian Organizations

AFN has reached out to other American Indian organizations such as the National Congress of American Indians, Council for Native Hawaiian Advancement, Trustees for Office of Hawaiian Affairs, and others seeking their support on Section 11 of S. 1481.

AFN also has reached out to the following seeking their support for Section 11 of S. 1481:

- All of the federally recognized tribes in the State of Washington,
- The Pueblo Council of Governors of New Mexico, and
- The Great Lakes Inter-Tribal Council Inc. of Wisconsin.

Conclusion

2018 marks the 43rd Anniversary of the end of the Vietnam War. Vietnam veterans are an aging population and many of them are dying or have died since they returned from their deployments, this includes the American Indians and Alaska Native veterans of that war. Some Alaska Native veterans who fought in the battlefield theaters of Southeast Asia are no longer with us and many will be gone before this year is over. Therefore, it is with urgency that we respectfully ask you to pass S. 1481 before the 115th Congress adjourns sine die.

If you have any questions regarding this written statement, please contact us. Thank you for giving me an opportunity to submit these written comments on behalf of AFN.

ALASKA FEDERATION OF NATIVES
2017 AFN CONVENTION
RESOLUTION 17-19

TITLE: SUPPORTING ALASKA NATIVE VETERANS LAND ALLOTMENT EQUITY ACT, HR 1867, AND S. 785

WHEREAS: The Alaska Federation of Natives (AFN) is the largest statewide Native organization in Alaska and its membership includes 185 federally recognized tribes, 177 village corporations, 12 regional corporations and 11 regional nonprofit 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 voice of the entire Alaska Native community; and

WHEREAS: Alaska Natives and Native Americans "have a long and proud history of military service, serving in greater numbers on a per capita basis than any other ethnic group in the United States of America;" and

WHEREAS: more than 42,000 Alaska Natives and Native Americans served in the military in the Vietnam Era, and over 90% of these service men and women enlisted as opposed to being drafted; and

WHEREAS: while the Vietnam War was being fought, our Alaska Native land rights were being settled by Congress, Section 18 of P. L. 92-203, Alaska Native Claims Settlement Act of 1971 (ANCSA), extinguished the applicability of the Alaska Native Allotment Act of 1906 as far as the Alaska Natives are concerned; and

WHEREAS: HR 1867 and S. 785, both entitled "the Alaska Native Veterans Land Allotment Equity Act," were introduced during the first session of the 115th Congress by Congressman Don Young in the U. S. House of Representatives, and by Senator Dan Sullivan, co-sponsored by Senator Lisa Murkowski, in the U. S. Senate, respectively; and

WHEREAS: these bills would authorize the Alaska Native veterans of the Vietnam War Era to apply for Native Allotments in Alaska.

NOW, THEREFORE, BE IT RESOLVED by the delegates of the 2017 Annual Convention of the Alaska Federation of Natives hereby urges the 115th Congress to enact HR 1867 and S. 785, the Alaska Native Veterans Land Allotment Equity Act, into law before the 115th Congress adjourns sine die.

Julie Kitka
President

SUBMITTED BY:	ALASKA NATIVE VETERANS COUNCIL
COMMITTEE ACTION:	COMMITTEE RECOMMENDED RESOLUTION BE SENT TO CONVENTION FOR CONSIDERATION
CONVENTION ACTION:	PASSED

ALASKA NATIVE VILLAGE
CORPORATION ASSOCIATION

Board of Directors
Chair
Nathan McCowan
President/CEO St. George
Tanaq Corp.

Vice-Chair
Jana Turvey
President/CEO
Leisnoi, Inc

Secretary
Nancy Andrew
President/CEO
St Mary's Native Corp.

Board Members
Tony Cange
President/CEO
Seldovia Native Assoc. Inc.

Curtis McQueen
President/CEO
Eklutna Inc.

Ron Philemonoff
Chairman/CEO
Tanadgusix Corp.
(TDX)

Loren Peterson
Chairman &
President/CEO
Azachorok Inc.

Charles W. Totemoff
President/CEO
Chenega Corporation

February 7, 2018

Senate Energy and Natural Resources Hearing
Subcommittee on Public Lands, Forests, and Mining
304 Dirksen Senate Building
Washington, DC 20510
Phone: (202) 224-4971
Fax: (202) 224-6163

Dear Members of the Committee:

On behalf of the Alaska Native Village Corporation Association Board of Directors, this is a written statement of support for S. 1481, the Alaska Native Claims Settlement Improvement Act of 2017.

The Alaska Native Village Corporation Association (ANVCA) is a 501(c)(6) non-profit organization that was established in 2007 under the supervision of The Kuskokwim Corporation. It has since moved to become its own independently-operating organization, whose mission is to promote the success of the existing 176 village corporations chartered under ANCSA, as well as the protection of our Native lands. ANVCA works to achieve this through education, outreach, advocacy, and working with village corporations to address sustainability issues.

The ANVCA Board of Directors passed a resolution in support of conveying the Canyon Village traditional lands back to the Kian Tr'ee Corporation. ANCSA of 1971 was meant to settle the land claims of our Native people through the creation of Alaska Native corporations to receive and manage lands and funds, as a means of providing economic self-determination for our people.

Under ANCSA, the community of Canyon Village was recognized as an eligible group for ANCSA land conveyances on the land that has been used habitually since 1958, but due to a legislative error that has not yet been fixed, Canyon Village lands have not yet been conveyed to an Alaska Native corporation. This poses a significant problem for the community of Canyon Village, because it creates an additional obstacle to economic and social development that was promised to Alaska Native peoples under ANCSA. ANVCA believes that ANCSA was created as a means to help traditional villages economically sustain themselves and their ways of life, and so we see Canyon Village land conveyances to Ki'an Tree Corporation as an important component of preserving the use of traditional lands for housing, gathering, and cultural perpetuation, for the success of both parties involved.

Therefore, as a leader organization in the ANCSA community, ANVCA would like to express firm support of the Canyon Village land conveyances to the Kian Tr'ee Corporation, and also urge Congress to pass S. 1481, for the benefit of Alaska Native corporations and the Alaska Native community. Quyanaa.

Respectfully,

Hallie L. Bissett, Executive Director

The Honorable Lisa A. Murkowski
Chairman
Committee on Energy and Natural Resources
522 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

January 31, 2018

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. 1481, which is scheduled for a hearing on February 7. 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.

Introduced in June 2017, this sweeping legislation purports to improve the 1971 Alaska Native Claims Settlement Act (ANCSA). Instead it contains numerous provisions that would circumvent this landmark law by removing important checks and balances, especially with regard to some of Alaska's most high-quality public lands within the Tongass National Forest and the National Wildlife Refuge System. As a whole, the bill would grant for-profit Native corporations unprecedented access to our nation's public lands by increasing the corporate land cap, expanding corporate selection power, creating new corporations, and granting unwarranted subsurface rights. Under this bill, an untold number of new and existing for-profit Native corporations would be granted the authority to stake claims to federal lands throughout Alaska for natural resource exploitation.

Below is an analysis of the how the most concerning provisions of S. 1481 would pose a significant and broad-ranging threat to public lands across Alaska:

Sections 5/6: Tongass National Forest Land Exchange and Buy-Back
These two sections of the bill would return surface and subsurface rights for a recently logged parcel of land on Admiralty Island to the federal government, which would buy these rights back and exchange the logged lands for currently intact forest. Under Section 5, the government would buy back the surface rights to 23,000 acres of land logged by the Shee Atika Corporation on Admiralty Island. The U.S. Forest Service had attempted to re-acquire this land prior to logging activities, but those negotiations failed. Section 6 would provide 8,800 acres of surface/subsurface ownership and 5,100 acres of surface rights to the Sealaska Corporation in an unlogged portion of the Tongass National Forest, in exchange for the 23,000 acres of subsurface rights under recently logged Shee Atika land referenced above. This trade would be expedited, and few signs indicate that – if appraised – this exchange would be in the public interest. Overall, these sections amount to a trade of stumps for trees, and a blatant give away of pristine national forest.

Section 7: CIRI Land Entitlement
This unprecedented provision 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 other areas protected because of historical, cultural, or ecological importance. The bill represents a potentially massive giveaway of public lands, one that places thousands of acres of National Wildlife Refuge lands in Alaska at risk of industrial development by private corporations. 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. Overall, this section would privatize currently protected public lands – with few restrictions and without a public process – and would likely subject those lands to extractive resource development.

Section 8: Native Corporation Land Conveyance –Kaktovik and Canyon Village
This section would convey lands to two Alaska Native corporations in the Arctic National Wildlife Refuge. First, it would require that lands selected by Kaktovik Inupiat Corporation (KIC) within the Arctic National Wildlife Refuge be conveyed to KIC and the subsurface to Arctic Slope Regional Corporation (ASRC). ASRC entered into a questionable land exchange in 1983 to gain title to the subsurface of KIC lands in the Arctic Refuge, despite provisions in the Alaska National Interest Lands Conservation Act (ANILCA) that prohibited such a land transfer. An investigation by the General Accounting Office later found that this land exchange was not in the public interest and Congress amended ANILCA to expressly state that the Secretary cannot exchange lands in the Arctic Refuge absent congressional approval. ASRC has made its interest in conducting oil and gas activities on these lands well known.

Second, the bill could convey the subsurface of up to 6,400 acres of lands to Doyon Regional Corporation of lands selected by the Native Village of Canyon Village in the southeast region of the Arctic National Wildlife Refuge – unless Doyon opts to select elsewhere. *Overall, this section would override a key provisions of ANILCA that ensures protection of the Coastal Plain of the Arctic Refuge. In addition, it grants Doyon additional subsurface lands within the Arctic Refuge.*

Section 10: Southeast Alaska – Five New Urban Corporations
This section would create five new 'urban corporations' in southeast Alaska. When ANCSA was originally passed, certain communities were deemed ineligible for village or urban corporation status and, as such, were given 'special status' as members of their regional corporation, receiving additional shares. Under this provision, these new corporations would each 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 new corporations would be driven by the same motive to provide economic returns to shareholders. Overall, this section would pave the way for extensive resources extraction on more than a hundred thousand acres of currently public lands in the Tongass National Forest.

Section 11: Alaska Native Vietnam Veteran Allotment Staking
This section would allow certain individuals to each select up to 160 acre allotments from a variety of federal lands across Alaska – or from Alaska Native corporation or state lands if the respective owners agree to the conveyance. While born out of good intentions, this provision overreaches, and would create thousands of private inholdings across Alaska's public lands, including within national forests, fish and wildlife refuges, and even congressionally designated wilderness areas. It would reopen the Alaska land entitlement process, disrupt precedent under existing law, and undermine the goal of finalizing land entitlements in the state. Unlike past allotment programs, standards related to personal use of a potential allotment are removed, and eligibility for the program is no longer tied to those who missed a previous allotment staking opportunity as a result of their military service during the Vietnam War.

This section would also allow Alaska Native corporations to offer corporate land to qualified individuals for allotments, and in turn make new selections of equal size from within public lands, seemingly without restrictions on location. This would essentially set up the opportunity for corporations to cherry-pick larger swaths of the best of the best public lands, including in national forests, and use these new selections for logging or other development.

If claims still exist from the original class of veterans who were overseas when the old program sunset in 1971, Congress could once again re-open the allotment process for Alaska Native Vietnam Veterans using the model of the 2000 allotment staking program. This would protect the integrity of public lands across Alaska, while working to ensure that no veteran who served in Vietnam missed an opportunity to make a land claim by the standards of the program at that time. Overall, this section has the potential to produce thousands of inholdings throughout Alaska's public lands, with few limitations to ensure the protection of the environmental, cultural or historical importance of these areas that are currently in the public trust. Additionally, the potential for regional corporations to make new selections may lead to the privatization of currently public lands throughout Alaska.

This bill provides a significant threat to hundreds of thousands of acres of public lands in Alaska, and 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 throughout the state. While individual pieces of S. 1481 are of minimal environmental concern, the legislation contains numerous pieces that transfer or place at unacceptable risk of 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.

Thank you for considering these comments,

Alaska Wilderness League
Audubon Alaska
Center for Biological Diversity
Defenders of Wildlife
Earthjustice
Environmental Protection Information Center
Eyak Preservation Council
Fairbanks Climate Action Coalition
Friends of Alaska National Wildlife Refuges
Geos Institute
Klamath Forest Alliance
National Audubon Society
National Wildlife Refuge Association
Native Conservancy
Northern Alaska Environmental Center
Sierra Club
Sitka Conservation Society
The Wilderness Society

Marian Allen, 907-738-1970
829 Pherson St
Sitka AK 99835
February 18, 2018

The Honorable Mike Lee
Subcmte Chairman
Subcmte on Public Lands, Forests and Mining
U.S. Senate Energy & Natural Resources Cmte
Washington, DC 20510

The Honorable Ron Wyden
Subcmte Ranking Member
Subcmte on Public Lands, Forests and Mining
U.S. Senate Energy & Natural Resources Cmte
Washington, DC 20510

Re: Testimony for the February 7, 2018 Subcommittee Meeting

Dear Chairman Lee and Ranking Member Wyden,

I am speaking to Sections 10, 11, 5 and 6 of S1481 Alaska Native Claims Settlement Improvement Act of 2017 but the general comments I make may apply to other parts of it as well. There are many reasons this is a bill that will harm the economic, spiritual and recreational life of SE Alaskans and American citizens, and it will hurt the planet. I want to make several points.

Point #1

No privatization of public lands! According to the Juneau Empire, February 19, 2016, "A 2006 estimate found the Tongass has the carbon equivalent of 8 percent of the Lower 48's national forests' carbon reserves put together. Now, that appears to be an underestimate. The Tongass, said U.S. Forest Service research soil scientist David D'Amore, has 'definitely some of the highest (carbon stores) in the world' per unit area. 'I hesitate to say 'the highest,' because there are some forests in Indonesia that are pretty high, but we are in the top five,' he said." I'd say the Tongass is a hugely valuable bank account if left to thrive as a forest.

Giving land to corporations that must make a profit results in massive clear-cut logging. That releases carbon into the atmosphere. It hurts our world. We can no longer put off taking action to mitigate climate change. In Alaska we see the ocean warming up; the "blob" (an area of warm water) off the coast of Southeast Alaska was a result of climate change; the ocean is becoming more acidic; the tundra is thawing; Arctic ice is no longer as thick or extensive as it was just a few years ago, and so villages have to move (and no funding for them to do that). We see climate change here. We cannot deny it if we are at all observant and thoughtful, and if we understand that weather does not equal climate.

Point #2
Public lands are available for all to use to support their culture, lifestyle, and spirituality. S1481, would privatize up to 175,000 acres of the Tongass. This land would go to private for-profit corporations whose legal mandate is to do their best to maximize profits to provide a dividend for their shareholders. In the Tongass that means cutting timber. Once the forest is gone, it negatively impacts the culture, lifestyle, and spiritualty of all of us,

Native and non-Native alike. It also takes away that land's ability to produce revenue until the regrowth is large enough for harvest again, a minimum of 60 years on the most productive land, but 100 or more years for most. In addition, this land will never regain the Old Growth characteristics needed for deer winter survival. In the long term, no one benefits when the old growth is gone and we local people can't access key areas of local use and subsistence. The American citizens who own this land cannot enjoy its pristine beauty and bounty either. On Mitkof Island, a friend recounted to me watching his favorite hunting places being clear cut in the late 1960s, and to this day they are no longer viable to hunt in. The north facing streams in upper Tenakee Inlet are critical for salmon reproduction because they are dark and the snow pack above them maintains a consistent water flow for salmon spawning. The health of salmon spawning areas is critical for the health of our rainforest and its ecosystems, our culture, and an important food source locally, nationally and internationally. Southeast Alaska is salmon country. Hoonah Sound, another area available for privatization under 1481, is an area used by many Sitkans for subsistence and recreational uses as well as by commercial fishermen and tour guides. The results of privatizing more of the Tongass are not a formula for sustained wellbeing of the people of SE Alaska, the ecosystems of Southeast Alaska or the planet.

Point #3
The economics of Southeast Alaska have moved into the 21st Century. Our primary economic drivers are tourism and commercial fishing, as well as subsistence activities, all of which are harmed by industrial scale logging. Fish streams are negatively impacted. Clear cut areas cannot be accessed for hunting and gathering or for hiking and are an eyesore for sightseers. The timber industry provides less than 1% of the revenue of the region. Industrial scale clear cut logging has always required subsidizing because of our geography. The only way that companies make any profit is by shipping logs out in the round, minimizing the economic benefit for local jobs and even US jobs as often they are sent to Asia. What is sustainable in our region are small "mom and pop" operations that provide local needs and value added processing. This is not what results from the Native for-profit corporations. The regional corporation, Sealaska, has been the worst steward of our land, hurting their very own shareholders' ability to provide their subsistence foods.

The economics of the Native corporations is also poor. The land that is their "bank account" disappears for a number of generations very quickly when they clear cut their timber. Many of the corporations have failed, and even at their best they have rewarded a small number of people disproportionately while leaving the majority of shareholders with little to show for the destruction of their traditional food sources. Sitka's corporation, Shee Atika, is included in sections 6 and 7 of this bill because the land they clear cut decades ago is now worthless for a very long time, if not forever. Their management has rewarded itself at the expense of their shareholders and now wants the government to buy back their land. Many shareholders are opposed to losing their land. Recently I saw a sign in a car window in downtown Sitka urging other shareholders to speak up to save their land. The corporate model has not worked in addressing the claims of Natives for land that was theirs for thousands of years before Contact. Perhaps addressing redress to the tribes rather than creating corporations would create a better solution.

Point #4
When ANCSA was signed into law not all communities were included. Those Natives who did not join one of the urban corporations still were shareholders in the regional corporation; for Southeast Alaska that is Sealaska. Due to their landless status, they receive higher dividends than members of urban corporations. That fact is one that should be taken into consideration in any kind of settlement.

One community included in the "Landless Claim" does not belong there. Studies have shown that there are no grounds for including Tenakee in the Landless group of communities. There is no history of a Native population with a settlement there, and that community has come out clearly opposing establishment of a corporation there. Not a single member of that corporation would reside in the town.

I do support some resolution for most of the communities left out, but what does not make sense is handing over many acres of land for corporations to destroy using a failed model. What makes more sense is to protect that land to allow the continuation of spiritual activities and traditional food harvesting, both central to the survival of these important cultures. This could be done by paying the monetary value of the land into a fund that would be managed to provide a yearly dividend to its shareholders or tribal members. The land would receive a designation that would protect it in perpetuity for traditional uses. It would remain public, but recognized as the land of that tribe. In the future, should carbon credits become a reality, the value of the land could greatly increase, but if the fund were managed well it would help support traditional lifestyles without that as well. This may not be the solution, but it is time to think creatively and resolve this issue in a non-destructive way, both to the environment and the people.

Point #5
Again, I oppose the privatization of public lands to give Native Vietnam Veterans their own parcels of land for several reasons. The principal one is that of the role that the Tongass plays in climate change as I discussed above. In addition, I ask, why are Native Vietnam Vets singled out for land and the non-Native Vietnam Vets not included? There are many non-Native Vets who are lifelong Alaskans and have not known another home. Just omit this provision altogether.

Summary
In general, my comment is that ANCSA was a final land settlement when it was passed in 1971. In 2014 Senator Murkowski said the bill she submitted to Congress, and which passed giving Sealaska more land, was the final resolution. Ms Murkowski just wants to keep chipping away at privatizing the public land in Southeast Alaska for resource extraction, which ignores the successful and, if managed correctly, sustainable economic drivers here today. Maintaining the Tongass in public ownership allows residents and all Americans to use it for many sustainable purposes, and it protects many ecosystems that help mitigate climate change.

American Bird Conservancy * Center for Biological Diversity * Conservatives for Responsible Stewardship
Environmental Protection Information Center * Friends of the Earth * Klamath Forest Alliance
League of Conservation Voters * Montana Conservation Voters Education Fund
Montana Wilderness Association * Natural Resources Defense Council * Southern Utah Wilderness Alliance
The Wilderness Society

February 7, 2018

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

The Honorable Maria Cantwell
Ranking Member
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

The Honorable Mike Lee
Chairman
Subcommittee on Public Lands, Forests, and Mining
United States Senate
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member
Subcommittee on Public Lands, Forests, and Mining
United States Senate
Washington, DC 20510

Dear Chairmen Murkowski and Lee and Ranking Members Cantwell and Wyden:

On behalf of our millions of members and supporters we write to express our opposition to S. 2206, the Protect Public Use of Public Lands Act, sponsored by Senator Daines, which will be heard by the Senate Energy and Natural Resources Subcommittee on Public Lands, Forests, and Mining on February 7, 2018.

We oppose S. 2206 because it would strip protections for nearly 450,000 acres of National Forest land in Montana without any consideration given to the important ecological, recreational, and watershed values of the forest lands affected. For 40 years the lands in this bill have been protected as wilderness study areas, but the one-size-fits-all, top-down approach in S. 2206 would leave these areas open to mining, energy development, road construction, and other activities that would adversely impact their existing values.

S. 2206 is an imbalanced, one-sided bill that picks winner and losers, depriving Americans from having a say on nearly a half-million acres of our wildest, most pristine public lands in Montana. Many of the lands released in this bill warrant permanent protections, yet S. 2206 is being proposed with little to no effort to solicit public input or develop a collaborative stakeholder process with the potential to balance wilderness protections and other multiple uses. Instead the bill relies on out-of-date Forest Service recommendations that do not reflect current values.

The nearly half-million acres of wilderness study areas that would be released in this bill contain habitat for a premier Montana elk herd, blue ribbon trout streams, watershed protections for nearby communities, and outstanding recreational opportunities, which help support local jobs and Montana's thriving outdoor recreation economy.

For these reasons, we urge you to oppose S. 2206. Thank you for considering our views.

Sincerely,

American Bird Conservancy
Center for Biological Diversity
Conservatives for Responsible Stewardship
Environmental Protection Information Center
Friends of the Earth
Klamath Forest Alliance
League of Conservation Voters
Montana Conservation Voters Education Fund
Montana Wilderness Association
Natural Resources Defense Council
Southern Utah Wilderness Alliance
The Wilderness Society

Letter for the Record

Americans for Responsible Recreational Access (ARRA)
American Council of Snowmobile Associations (ACSA)
American Sand Association (ASA)
Blue Ribbon Coalition (BRC)
Motorcycle Industry Council (MIC)
National Off-Highway Vehicle Conservation Council (NOHVCC)
Off-Road Business Association, Inc. (ORBA)
Recreational Off-Highway Vehicle Association (ROHVA)
Specialty Equipment Market Association (SEMA)
Specialty Vehicle Institute of America (SVIA)
United Four Wheel Drive Association

Subcommittee on Public Lands, Forests, and Mining Legislative Hearing

February 7, 2018

Chairman Lee, Ranking Member Wyden, and Distinguished Subcommittee Members,

As representatives of national motorized recreation organizations promoting responsible motorized recreation, we write to express our strong support for the "Protect Public Use of Public Lands Act" (S. 2206).

This common sense legislation introduced by Senator Steve Daines (R-MT) would enhance public access and use of Montana's public lands by releasing five Wilderness Study Areas (WSAs) in Montana that have been deemed unsuitable for Wilderness designation by the U.S. Forest Service.

The WSAs subject to release in S. 2206 were set aside under the Montana Wilderness Study Act of 1977 (MWSA). The Forest Service completed studies of the nine WSAs designated by the MWSA and determined that 608,700 acres of the original 973,000 acres were unsuitable for inclusion in the National Wilderness Preservation System. S. 2206 would finally act on the Forest Service's recommendations after 40 years of inaction from Congress.

Since completion of the Forest Service study, 171,000 acres of the land set aside under the MWSA have been designated as wilderness by Congress, leaving 663,000 acres of WSAs. Senator Daines' bill is an answer to the call from the Montana State legislature that passed House Joint Resolution 9 asking Congress to address the remaining seven WSAs. We believe land management decisions should be influenced by local input and support Senator Daines' requirement that WSA lands included in S. 2206 have strong local support for release, which is

why more than 647,000 acres of WSAs in Montana are not included in the legislation. Furthermore, S. 2206 would provide opportunities for public input through a robust planning process to develop appropriate land management plans.

Due to the fact that motorized and mechanized vehicle use is prohibited once an area is designated as Wilderness, land management agencies commonly implement restrictive land use policies for WSAs so as to not impair the wilderness characteristics of study areas. Restrictive WSA land access policies can negatively impact the significant economic footprint of the outdoor recreation industry, particularly in rural areas like Montana. The outdoor recreation industry is a major economic driver nationwide, and in Montana alone supports 71,000 direct jobs, $7.1 billion in consumer spending, $2.2 billion in wages and salaries, and $286 million in state and local tax revenue.

S. 2206 will implement an action that is long overdue by returning lands that have been locked-up for forty years back to the people of Montana and enables Montanans to engage in the land management process.

Thank you for your consideration. Please support S. 2206 to provide for multiple use of our National Forests and restore access to public lands.

Respectfully submitted on behalf of all the organizations listed:

Larry Smith
Executive Director
Americans for Responsible Recreational Access (ARRA)
1025 Connecticut Avenue, NW
Suite 1000
Washington, D.C. 20036
Phone: 202.336.5116

February 16, 2018
Lisa Murkowski, Chairman
Senate Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Maria Cantwell, Ranking Member
Senate Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Dear Chairman Murkowski and Ranking Member Cantwell:

I'm writing to you to ask for your **support on the Blackfoot Clearwater Stewardship Act** on behalf of the Back Country Horsemen of Montana, which consists of 1,059 members in 17 chapters throughout the state who have contributed $1,029,490 of trail and other maintenance work on our public lands last year in Montana alone. We are one of 27 states of what is known as the Back Country Horsemen of America (BCHA) consisting of 13,000 members.

Some of the work performed in Montana was on the Blackfoot Clearwater project which created the Act before you, so our comments come from experience gained by having boots on the ground. Many of our members have participated in what was one of the biggest collaborations, along with many other user groups and industry, to produce this Blackfoot Clearwater Act, so we ask you to do everything possible to support the successful conclusion of the collaborative effort in the form of the Blackfoot Clearwater Stewardship Act.

One of the many benefits of this Act is the creation of some additional wilderness. Wilderness is a concept unique to America. There are few places, if any, in the world where this level of protection and preservation exist. Once these areas have been trammeled by man they will forever be changed and will no longer be worthy of the wilderness designation given to them. Since only 3% of our public lands are protected as wilderness we feel it is imperative to protect the areas of this Act that meet the characteristics required for wilderness designation.

In closing, we ask you to recognize the efforts of this collaboration and to preserve these public lands for future generations of all Americans by supporting the Blackfoot Clearwater Stewardship Act.

Respectfully,
Brad Pollman
Chairman, Back Country Horsemen of Montana
2130 9th St. W. #109
Columbia Falls, MT 59912
Website: www.bchmt.org
Email: bchmt406@gmail.com

From: Teri and Dave Ball
To: fortherecord (Energy)
Subject: Opposition to S. 2206
Date: Friday, February 9, 2018 6:41:33 PM

Please record that I am in opposition to Senate Bill 2206, I am in support of the S 507 the Blackfoot Clearwater Stewardship Act. Senator Daines has not obtained input from the vast majority of people living in Montana. The majority of residents support Wilderness and don't want the Wilderness Study Areas to be opened up to dedicated motorized access and multiple-use management across Montana.

Teri Ball
2278 Riata Road
Bozeman, MT 59718

From: Grant
To: fortherecord (Energy)
Subject: S 2206
Date: Friday, February 9, 2018 6:39:29 PM

Since the 1960's when I first stayed overnight in the Middle Fork of the Judith River area in central Montana, I have cherished this beautiful, fantastic gem of public land. I have often wished it could be included as Wilderness to preserve it's character as a local destination for hunting, fishing, horseback riding, hiking, backpacking and other non motorized recreation. Fifty years later, it still gives me an unmatched experience in wild, untrammeled public land.
Public land deserves public input when changing status. Let's agree to NOT RELEASE these Wilderness Study Areas in S 2206 without proper public comment and collaborative input on these treasures of public land in Montana. Senator Daines is exaggerating and incorrect when he states that Montanans want to release WSA's without public input.

***Grant** Barnard*
406-425-0130
Red Lodge, MT 59068

From: Patty
To: fortherecord (Energy)
Subject: S. 2206
Date: Saturday, February 10, 2018 3:54:02 PM

Senate Committee on S. 2206. I am a resident of Montana and I am in opposition to the bill that Senator Steve Daines proposed for wilderness. He does not have my support for this bill. I am an avid hiker, skier & backpacker who enjoys my public lands and I think Senator Daines has gone behind the backs of the people of Montana with his proposed bill.
Sincerely,
Patricia Bartholomew
124 Aylsworth Ave.
Bozeman, MT 59715

406 599-5502

Sent from my iPad

DATE: February 7, 2018

TO: Ravalli County Commissioners, 215 S. 4th St., Hamilton, MT 59840

FROM: Bitterrooters for Planning, P.O. Box 505, Corvallis, MT 59828

James Rokosch, Executive Director Ph. 406-777-2511

RE: Public comment on reconsideration of commissioners' 9/15/17 letter to Senator Steve Daines regarding the release of Wilderness Study Areas and Recommended Wilderness Areas within the local jurisdictional boundary of Ravalli County from a national Wilderness Area designation.

Bitterrooters for Planning (BFP), with approximately 500 members, is a local 501(c3) non-profit public benefit corporation of citizens dedicated to planning for the wise use of natural land and water resources consistent with our constitutional responsibilities to maintain and improve a clean and healthful environment for present and future generations. As a local non-profit organization, BFP gives STRONG LOCAL SUPPORT to Wilderness Area designation for most, if not all, of the lands within the WSAs and RWAs within Ravalli County, and we support a robust, transparent, and inclusive public process that recognizes these national lands belong to all American citizens and considers each area for its broadest public benefits. BFP opposes SB 2206 being introduced today in the U.S. Senate, without such a public process, and without consideration of the public input being presented today. Frankly, both Senator Daines and this commission should issue public apologies for how the solicitation, drafting, and public notice of the September 15, 2017 letter was orchestrated, as it flies in the face of Montanan's constitutional right to the opportunity for meaningful public participation at all levels of government for all actions by government at all levels.

Please give due weight and consideration to the following information, including the information contained in the referenced documents and website links provided, as most of the facts and data provided herein does not support contentions made in your 9/15/17 letter, especially that these lands "...in the opinion of the Commissioners, do not possess significant wilderness characteristics.", and "The overwhelming majority of Ravalli County residents....support a reduction of public lands managed as Wilderness Area...." The information provided for your consideration below focuses on: 1) direct & indirect economic values of wilderness to confront the fallacy such lands are "Lands of No Use"; 2) the value of and need for high quality water in our headwaters to get 'delivered' to our valleys for agriculture, fisheries/wildlife, tourism/outdoor recreation, and fully-mitigated development; 3) our constitutional stewardship responsibilities to future generations of all peoples, especially to those of the indigenous tribal nations, and 4) the intrinsic values of wilderness beyond, but still linked to, monetary considerations.

Economic Considerations

Water and Wildlife Considerations

Stewardship Responsibilities

Intrinsic Values

Bitterrooters for Planning asks the commission to reconsider the content of your September 15, 2017 letter, consider the public input given at this February 7, 2018 meeting, and provide for a more inclusive public process with additional time for the public to provide additional substantive and meaningful information before you take further action on supporting SB 2206.

From: Dave & Donna Byerly
To: fortherecord (Energy)
Subject: Statement/Letter for the Record Feb. 7, 2018 - S2206
Date: Wednesday, February 21, 2018 1:48:22 PM

Senators and Staff
Senate Energy and Natural Resources Committee
Subcommittee on Public Lands, Forests and Mining Legislative Hearing
February 7, 2018

I am writing regarding S2206 presented by Sen. Daines of Montana at the Feb. 7 hearing.

While I like and have voted for Sen. Daines, I dispute his statement that there is "grassroots support" for his bill stripping WSA status (and protections) from five National Forest areas in Montana.

I am a Lewistown City Commissioner, coming off two years as chair of the commission. Lewistown is the county seat for Fergus County, and two of the WSAs are in our area. I do not speak for the city commission, as our city commission has not yet taken a position on Sen. Daines's bill.

The reason we haven't taken a position is that neither Sen. Daines nor anyone from his office contacted any city official prior to proposing his legislation. This is a real concern for us as well over half our county's population lives in Lewistown and the surrounding area, and all of us are dependent on the Snowies for the pure, clean water that we enjoy (the Snowies are protected by one of the WSA designations Sen. Daines's bill seeks to remove).

In fact, no public hearings or meetings were held, no listening sessions, no publicity of any sort. His bill came out of the blue.

"Grassroots support" does <u>not</u> mean contacting the executive directors of a few sympathetic organizations (mining and motorized recreation) and asking for a letter from a few county commissions. In Lewistown, we really wish Sen. Daines had visited with us before submitting his legislation. He would have heard a number of things, including but not limited to:

- The WSA status hasn't cost Fergus County one job nor has it been an issue or even discussed locally. It has presented us with no problems, and it has not hindered our economy.

- The aquifer that comes from the Snowies provides clean water (some of the best in the world!) for the city of Lewistown, for rural residents, farmers and ranchers, for the majority of the population of our county. Water is our second most precious resource,behind our people, and the Snowies are the reason for that. Changing the protection of the Snowies without engaging us in a discussion of the future of our water source is unacceptable.

- The Snowies are used currently for a wide variety of purposes. The WSA designation has precluded just a few uses. The idea that they are "locked up" is belied by the wide variety of people - locals and visitors - who enjoy a many activities in the Snowies.

- Preserving the Snowies as they are now is critical for our economic development and for attracting employers and especially workers to our area. I am involved extensively in economic development efforts in Central Montana. Our quality of life is one of our greatest strengths and assets when recruiting businesses and people, and the Snowies - as they currently are protected - are a big part of our quality of life.

I could go on, but I will save time by saying there is scant evidence of grassroots support in Central Montana for Sen. Daines's bill. Going forward, it would be appropriate to include the public in discussing what designation is best for the WSAs in Montana. Dictating from Washington, D.C., doesn't sit well with people here.

Thank you for your time and interest,

Dave Byerly
709 Entrance Avenue
Lewistown, Montana 59457
Cell: 406-366-0131
Email: byerlys@midrivers.com

Seldom seen Senator Daines is running in Montana and hiding in D.C. From his Beltway desk, like drone warfare, he remotely lobs Acts of destruction into Montana.

Daines recently introduced the "Protect Public Use of Public Lands Act", which proposes to abolish most Montana Wilderness Study Areas protected by the late Senator Lee Metcalf's Montana Wilderness Study Act. These areas are last best wildlands carefully vetted by Senator Metcalf, a far-sighted and much-loved statesman who recognized their value.

Daines hides behind reports of some local opposition to these wildlands, and ignores wide-spread local and national support for protection. In targeting the Blue Joint and Sapphire WSAs in the Bitterroot, Daines leans on the parochial opinions of Ravalli County Commissioners who advocate sacrificing these jewels. While focusing on the local Commissioners' myopic antipathy to these national public wildlands, Daines ignores the fact that Senator Lee Metcalf, the author of the Act, was a Bitterroot local. The WSAs are his legacy, established just before he died.

Even if Senator Daines does not value these special wild places, I would think he would respect Senatorial courtesy and the legacy of US Senator Metcalf at least as much as the business-as-usual attitude of Ravalli County Commissioners.

Larry Campbell
Darby, MT
821-3110

From: Larry Campbell
To: fortherecord (Energy)
Subject: comments on S 2206
Date: Thursday, February 8, 2018 2:47:14 PM
Attachments: MT WSAct history.pdf

Thank you for the opportunity to comment on Senator Daines' S 2206.
Since Senator Daines is seldom seen in Montana and has held no public hearings here regarding this Bill, I am grateful to have this venue for comment.
Given the years of scrupulous public involvement in Montana when the Montana Wilderness Study Act (S 393) was carried by Senator Lee Metcalf and passed by Congress in 1977, Senator Daines' Bill is stealth legislation at its worst. Senator Daines would summarily amputate the legacy of Senator Metcalf quietly, quickly and in the dark; such is the 'statesmanship' we have today from Sen Daines.
See attachment for the history of S 393 passage.
The US Forest Service has never been a friend of Wilderness designation, and that fact should put their testimony in perspective. The Sapphire Wilderness Study Area, in particular is very valuable as wildlife habitat for imperiled species and as a biological corridor connecting wildland habitat. Its north-south orientation and relatively cool high elevation gives it a premium value in this age of climate change.
Release of most of Montana's congressionally protected Wilderness Study Areas would cause irreversible harm.
At a meeting of Ravalli County Commissioners yesterday on the subject, over 200 people attended and about 75% objected to Senator Daines' Bill.
Please do not enable this stealth legislation to become law.
Thank you,
Larry Campbell
PO Box 204
Darby, MT 59829
(406)821-3110
lcampbell@bitterroot.net

Recommended Citation
Roholt, Christopher Marsh, "Montana Wilderness Study bill: A case history" (1977). *Theses, Dissertations, Professional Papers.* Paper 8541.

From: Larry Campbell
To: fortherecord (Energy)
Subject: re S 2206
Date: Friday, February 23, 2018 7:37:29 PM

Please enter this into the record for S 2206

Seldom-seen Senator Daines first introduced S2206 in Washington DC, proposing release of Montana Wilderness Study Areas, and is now trying to backfill an illusion of local public involvement with after-the-fact, selective meetings, artlessly dodging a large segment of local constituents. Daines is a top-down D.C. politician hiding from people back home.

Among those Daines selected to be correctly informed about the schedule of his rigged public meetings are Bitterroot Backcountry Cyclists and the Backcountry Sled [snowmobile]Patriots, who are working to reverse WSA protections through litigation. They would smash the pie to get a piece.

If WSAs are released, prevailing Roadless Rule and Forest Plan regulations would allow both logging and roadbuilding in much of the former WSA acreage. This would doom the "backcountry" these groups purportedly love.

When is enough pie not enough?

I consider myself an American patriot. I love and work to protect democracy and our 'motherland', not just figuratively but the land itself that sustains us. Wilderness is the gold standard of land protection; its protection embodies respect and humility as does true democracy.

Daines is betraying both democracy and wilderness; release Daines not WSAs.

Larry Campbell
Darby, MT
406-821-3110

875 Wyoming St #402
Missoula, MT
59801

Energy & Natural Resources
Committee Office
304 Dirksen Senate Bld.
Washington, DC 20510

Senator Alexander,
I understand that you are on the Subcommittee on Public Lands, Forests & Mining. I am writing from Montana to strongly urge you to support Senator Testers bill that will continue to protect our public lands.
I also strongly urge you to oppose Senator Daines bill that strips protection from five of our most pristine wilderness areas—
Thank you, Delia Campfield

Delia Campbell
875 Wyoming St #462
Missoula MT 59801

Energy and Natural
Resources Committee Office
304 Dirksen Senate Bldg
Washington, DC
20510

Senator Barrasso

I am not a Wyoming constituent, however I understand that you are on the subcommittee on Public Lands, Forests, & Mining. I live in the beautiful State of MT. I am writing to urge you to support Senator Testers Blackfoot Clearwater Stewardship Act which will allow our beautiful Wilderness areas to continue to be protected for us Americans to enjoy. I also strongly urge you to oppose Senator Daines' efforts to strip protection from five of our most pristine public Wilderness areas. If his bill passes, it would be the single biggest loss of protected Public lands in our history.

Delia Campbell

875 Wyoming St. B[illegible]
Mslo, MT 59801

Energy + Natural Resources
Committee Office
304 Dirksen Senate Blvd
Washington, DC
20510

Senator Cassidy

I understand that you are on the Public Lands, Forests + Mining Subcommittee. As a constituent of Montana I am writing to strongly urge you to support Senator Testers bill that will continue protection of our Public lands for all Americans to enjoy.

I also strongly urge you to oppose Senator Daines efforts to strip us of five of our most pristine Wilderness areas. This loss would be the bissest in our State's history!!

Thank you, Delia Campfield

875 Wyoming St #402
Missoula, MT 59801

Energy & Natural Resources
Committee Office
304 Dirksen Senate Blvd
Washington, DC
20510

Senator Flake,
I am not a constituent of Arizona however I understand you are on the subcommittee on Public Lands, Forests, and Mining. I am a constituent in the beautiful state of Montana and I'm writing to urge you to support Senator Tester's upcoming bill that will continue to protect our wilderness areas for all Americans to enjoy.
I also strongly urge you to oppose Senator Daines' efforts to strip protection from five of our most pristine public wilderness areas.
Thank you, Delia Campfield

Delia Campfield
875 W[illegible]
Missoula, MT

Energy and Natural
Resource Committee Office
304 Dirksen Senate Bldg
Washington, DC 20510

Dear Senator Lee, 2/2/18

I am not a Utah consistent; however I understand that you are on the sub-committee for Public Lands, Forest, & Mining. I live in the beautiful State of Montana and I am urging you to please protect our public lands by opposing the upcoming bill regarding the loss of Montana's protected public lands - Thank you -

Delia Campfield

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

The Honorable Mike Lee
Subcommittee Chairman
Subcommittee on Public Lands, Forests and Mining
U.S. Senate Energy & Natural Resources Committee Mining
Washington, DC 20510

The Honorable Ron Wyden
Subcommittee Ranking Member
U.S. Senate Energy & Natural Resources Committee
Subcommittee on Public Lands, Forests and Mining
Washington, DC 20510
re: Testimony for the February 7, 2018, Subcommittee Hearing

February, 13, 2018

Dear Chairman Lee and Ranking Member Wyden:

Enclosed is a 2016 letter from the City of Tenakee Springs about new native corporations. S 1481, the Alaska Native Claims Settlement Improvement Act, is identical to previously introduced legislation that we have consistently opposed. Please add the attached letter regarding previous iterations of this bill to the February 7 hearing record for S 1481. Our concerns are the same now as they have been.

Thank You,
Don Pegues
Vice Mayor
City of Tenakee Springs

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 26, 2016

Dear Senator Murkowski:

Please make this letter part of the Energy Committee hearing record for September 22, 2016.

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

CITY OF TENAKEE SPRINGS

other entity. Those watersheds -- and the salmon they provide -- are the core of this community.

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 the head of 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. Since very few Alaska Native people live in Tenakee, 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

Mitchell J. Krebs
President, Chief Executive Officer and Director

Testimony of Coeur Mining, Inc.
Senate Energy and Natural Resources Committee Hearing
S. 414, the Pershing County Economic Development and Conservation Act
February 7, 2018

Chairwoman Murkowski, on behalf of Coeur Mining, Inc., please accept for the official record the testimony of Mitchell J. Krebs, President and Chief Executive Officer, in support of S. 414, the Pershing County Economic Development and Conservation Act. We want to thank our sponsors, Senator Dean Heller and Senator Catherine Cortez Masto for their efforts, support, and dedication to this important legislation. We stand ready to provide additional information or answer any questions as the Committee desires, and urge the Committee to enact S. 414 this Congress for the future of Pershing County.

Coeur Mining, Inc.'s subsidiary, Coeur Rochester, Inc. owns and operates the Rochester Mine in Pershing County, Nevada. Coeur Mining, Inc. is the largest U.S. based primary silver producer and a proud corporate citizen of Pershing County providing jobs, tax revenues, and economic growth for Pershing County communities. Since Coeur Rochester, Inc.'s operations began in 1986, the Rochester Mine has been an important contributor to the Pershing County economy and community for over 30 years, 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.

Coeur has been a proud stakeholder participant in the process to craft, support, and we hope pass this vital legislation for the future of Pershing County, Nevada, its citizens, and its lands. Our support has not wavered from our testimony before this Committee in September of 2016 and our broad stakeholder support from all sectors remains strong. S. 414, as unanimously recommended by the Pershing County Commission, is critical to the future of mining in Pershing County, and will ensure the future of the County's economic and conservation future by addressing critical land tenure and federal land management issues. It is the lands of Pershing County that provide the economic drivers as well as the recreation and beauty its citizens enjoy.

The long-term future of the County will be secured through the rationalization of the checkerboard lands, the fair market sale of lands influenced by mining, conveyances for important public purposes, and the protection of environmentally important federal lands. Our company and others will have the opportunity to purchase at fair market value the lands Coeur Rochester, Inc. currently holds 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 economic development/jobs that are vitally important for Pershing

County and Nevada. The legislation will also return revenues to the County, the State of Nevada for education purposes, and assist in funding the conservation of sage-grouse habitat, drought mitigation, and wildfire prevention. Permitting and regulatory oversight of operations and closure will remain in effect by the State of Nevada.

The opportunity of mining companies to purchase at fair market value the lands they currently occupy through mining claims will add to the County's tax base and secure the long-term future of mining in Pershing County. While we understand the concerns raised by the Department of Interior in regard to the sale of public lands—the lands that are the subject of Title II of the legislation are only "public" in the sense that they are owned by the Federal Government. Our mining lands at Rochester, per BLM requirements, are fenced off and the public is not allowed to access these lands for safety reasons and they will be for years in the future. However, under the text of the legislation, 85% of the fair market sales revenues from these fair market sales transactions will be retained by the Secretary to purchase other lands where there exist real opportunities for enhanced recreation, wildlife habitat preservation, and more important landscapes. We would hope that the Secretary and the BLM will utilize these revenues wisely to enhance the public lands in Pershing County and there would be little net change in the federal ownership acreage.

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.

Sincerely,

Mitchell J. Krebs
CEO and President
Coeur Mining, Inc.
104 S. Michigan Avenue
Suite 900
Chicago, Illinois 60603
(312) 489-5907

Testimony of Chairman Dennis Patch
Colorado River Indian Tribes
Senate Energy and Natural Resources Committee, Subcommittee on Public Lands
Hearing on S. 1222, La Paz County Land Conveyance Act
February 7, 2018

Chairwoman Murkowski, Ranking Member Cantwell, Members of the Committee, thank you for the opportunity to offer written testimony today.

The Colorado River Indian Tribes (CRIT) is headquartered in Parker, Arizona, just east of the Colorado River in La Paz County. We support the County's effort to create new economic development opportunities, and appreciate the strong advocacy for our region from our Congressional delegation.

As introduced, the legislation would remove federal protections for tribal artifacts found on any land transferred to La Paz County. This was of great concern to many members of our Tribe, particularly those of Mohave decent whose ancestors have inhabited the region since time immemorial.

In Mohave Culture, we place great spiritual value on the physical remnants of our ancestors. We believe that the objects used in life retain the spirit of that individual, so it is critical that, whenever possible, these objects remain connected to the land. In our culture, disturbance, desecration, or removal of these items is tantamount to removing the history of our people from the land.

Tribal Leaders and Elders have worked for years with La Paz County to ensure that the indigenous footprint of the Mohave people is protected on county lands, so we saw the legislation as an opportunity to formalize, and modernize our working relationship.

On behalf of the Colorado River Indian Tribes, I urge this Committee to amend S. 1222 to reflect the changes that were made in the House Resources Committee. The tribe proposed adding additional protections for tribal artifacts on the land impacted by this legislation, which were supported by our partners at the County, and were subsequently incorporated as Section 3(c) of the legislation that was unanimously approved by the House Natural Resources Committee on November 30, 2017. While we acknowledge that the changes in Section 3(c) only impact a small portion of a single county, it is our hope that this cooperative model ensures that future development on other lands are also conducted in a culturally sensitive manner.

It is worth noting the stark contrast between the cooperative posture of Congress and La Paz County regarding the protection of cultural artifacts and that of the federal Bureau of Land Management, especially in the state of California. Sadly, the Bureau of Land Management has categorically refused CRIT's efforts to rebury cultural artifacts on site where and when they are discovered on federal lands within our historic homelands. Instead, BLM staff insists on removing the artifacts from the landscape and curating them in museums and archives, often

hundreds of miles away from where they were incidentally uncovered. This current BLM policy, which is derived from an archaic and counterproductive interpretation of the Archeological Resources Protection Act, virtually guarantees that tribes and tribal organizations will oppose developments on federal lands that are known to contain artifacts. As CRIT and other tribes continue work with BLM to revise its outdated policies, we welcome the positive precedent set by this legislation. We hope that the clear support of this Committee, and hopefully Congress as a whole, will result in improved federal-tribal relations when it comes to development on federal lands.

Once again, I would like to thank this committee for its action on this legislation. It is my hope that you will quickly act to amend the bill, as was done in the House last year, and enact it without delay.

Statement of Carol L. Cooper
Owner
Cooper Cattle Company
BLM Allotments #03015 and #03047
Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests & Mining
Concerning
S.441, the Organ Mountains Desert Peaks Conservation Act

Greetings:

I am Carol Cooper. Since the death of my husband Thomas S. Cooper in 2012, I have owned and operated Alamo Basin and Indian Springs Ranches. BLM Allotments #03015 and #03047 permit our cattle operation to run 595 mother cows year-long on 919 deeded acres, 4,909.36 acres leased to us by the State of New Mexico, and 38,651.64 acres included in our two BLM allotments, for a total of 44,480 acres or 69.5 sections of land. My son Gary Thurm, Jr. manages land-use projects to maximize the health of our natural resources (land, water, forage) and our cattle. In addition to my testimony, Gary will be providing you with his testimony, and I will be attaching testimony given by my husband in 2010. Eight years later, I think you will find the facts have not changed – 5000 contiguous acres of pristine wilderness do not exist on our ranches or any of the other ranches that would be affected by enactment of S.441.

Yesterday, I prepared the annual rendition of livestock and personal property for the Doña Ana County Tax Assessor. As a cattle producer, I pay more property tax than most citizens in Doña Ana County because I am basically paying tax on inventory. This year I will be paying more property tax because I purchased cattle and equipment to get greater production from the natural resources we control. Property taxes we pay enables our county (Dñna Ana County) to provide convenience, health, and safety services to our citizens. The US government makes payments to our county as well (Payments in lieu of Taxes-PILT), but I understand not consistently. ONLY 9.6% OF THE LAND MASS IN DOÑA ANA COUNTY IS PRIVATELY OWNED. The rest is government owned and controlled. That means that Doña Ana County residents and producers who pay property taxes bear a large share of the burden of providing services, and when the Federal government makes payments to our county, residents of New York, Pennsylvania, Indiana, Oklahoma-you get the picture-everyone who pays taxes to the Federal government pays for our county services as well.

I believe the percentage of State and Federal control of land in New Mexico is 62%, and ten other western states are similarly controlled. Coincidentally (?), we have high unemployment, poor educational performance, low retention of next generation citizens, etc. OUR STATE, OUR NATION MUST ENCOURAGE PRODUCTIVE USE OF OUR NATURAL RESOURCES-IF WE DON'T, WE FORFEIT THE NATURAL RESOURCE THAT HAS MADE AMERICA GREAT-HER PEOPLE!

"Wilderness" designation has not been appropriate for Doña Ana County for a very long time; wilderness areas are areas that tend not to be productive. People who settled New Mexico had to make the land productive; they had to eat, make clothes, build houses, create and build tools, etc. If the outcome desired is to empty NM of people, "return to wilderness" legislation might be appropriate, but if we want our citizenry to be strong and free, we need to use our natural resources wisely and productively. I oppose S.441!

Thank you for considering my testimony.

Sincerely,

Carol L. Cooper

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
Hearing on S.1689 – Las Cruces, New Mexico
February 15, 2010
Testimony Submitted by Tom Cooper

I wish to thank the Committee for holding this hearing, and for the invitation to participate.

None of the grazing allotments in the 500,000-acre Gila Wilderness are active today. Livestock and ranching families have been eliminated. If those families could have made it work, they would still be ranching, supporting their families and local communities, and providing beef for Americans. Their ranches were destroyed by the legislation and anti-grazing activism which followed. This scenario could be repeated in Dona Ana and Luna counties under S1689. Ranchers, employees, roundup crews, and suppliers would be out of work or otherwise severely impacted.

We participated with representatives of seven other groups, in "Regional Land Management: A Community Response", which was sponsored by the City and County. The Stakeholder Committee met twice weekly for three months. The announced purpose was to reach a consensus for the Citizens' Wilderness Proposal. That did not happen. In its final act, the 16 committee members voted for Wilderness on 55,550 acres (21%!) of the 259,050 acres of Wilderness now in S1689. In terms of acreages, withdrawal received more votes than Wilderness.

Later, in the Spring of 2007, we proposed an alternative plan to designate the 8 existing Wilderness Study Areas as Rangeland Preservation Areas, to withdraw the areas from disposal by sale or exchange, and from leasing for oil and gas or mining activity, similar to the Valle Vidal Act of 2006. That act was supported by Senator Bingaman and Representative Udall. Our proposal was prompted by the Valle Vidal Act and support for the withdrawal feature in the Stakeholder Committee.

Environmentalists state that Wilderness is the "gold standard" of preservation. In reality, preservation practices such as brush control, erosion control, flood control, and projects to improve water distribution and forage utilization for livestock and wildlife are prevented in Wilderness. BLM, NRCS, NM Assn. of Soil and Water Conservation Districts and the

ranchers are cooperating in a program to implement all of these practices. Through "Restore New Mexico", brush encroachment has been halted on hundreds of thousands of acres of NM rangelands. Those lands are again productive and beautiful! Sadly, brush encroachment with increased runoff and soil erosion will continue on the lands in S1689 subject to the "gold standard" of preservation!

Maps of the areas in S1689 provided to us reflect only the boundaries, and a few "cherry stems"! We had previously provided maps reflecting extensive improvements to congressional staff, as requested. We were told regarding the blank S1689 maps provided to us that we would need to get with BLM regarding improvements and access roads. It has been represented that we will have access to wells, troughs, and corrals. No specific representation has been made regarding frequency of access. In addition, roads along fence lines and roads to dirt tanks which we use to haul materials and check our cattle and deliver salt, mineral, and protein supplements, and other roads, are also essential to our operations. We have requested, but have not received detailed maps of S1689 or computer data files to allow us to produce detailed maps.

If Wilderness is to be designated, we ask that the legislation include complete maps reflecting roads and the improvements and wording allowing ranchers necessary access and frequency of use. Inclusion in the Act would also limit the expected challenges to ranchers' permit applications and to BLM's management decisions.

In response to a statement by a rancher that he needs to make the rounds of his pipelines and water facilities, make repairs, and check and feed his cattle 2 or 3 times weekly, and inquiring if that frequency will be allowed in Wilderness, BLM personnel stated that it might not be allowed weekly, perhaps not even every two weeks! BLM might well have added "Goodbye, ranchers"!

The huge Wilderness and NCA designations in S1689, the so-called Citizens' Proposal, came from organizations outside our area, the Wilderness Society and NM Wilderness Alliance. The Wilderness Society and some founding members of NMWA advocate removal of all livestock from public lands everywhere. A former board member of NMWA advised us that they view

Wilderness designations as the first step to eliminate the livestock and the ranchers.

Under S1689, I would be forced to operate my ranch under different management plans for 3 separate Wilderness areas, for the Desert Peaks NCA, and for areas remaining in multiple-use. The Hopkins Ranch in the Organ Mountains would be in similar circumstances, as would Williams Ranches in the Potrillo Mountains, and others. This would be a threat to the very existence of our ranches, and an administrative nightmare for BLM and the ranchers, requiring an inordinate amount of time creating and implementing management plans, dealing with ranchers' permit applications to make repairs or improvements, with public comment periods, responding to comments and legal challenges, etc.

None of my ranch was recommended for Wilderness in the 1991 Interior Department Record of Decision or by the Stakeholder Committee. Interior determined the Robledo and Las Uvas Mts Wilderness Study Areas, which lie partly on my ranch, are not suitable for Wilderness and recommended they be returned to multiple-use. The Broad Canyon area was found unsuitable for further study prior to 1991. Further, my entire ranch has strong potential for capture and conversion of flood waters to beneficial public use. S1689 would eliminate or severely diminish that potential.

The vote of the Stakeholder Committee and the thousands of employees and members of the 800 businesses and organizations which are members of the Coalition for Western Heritage and Open Space point to widespread opposition to S1689. We request that our community's serious concerns regarding grazing management, public access, national security, illegal immigration, human and drug smuggling, flood control and water capture be fully addressed before further consideration of this legislation.

Respectfully Submitted,

Tom Cooper

Tom Cooper, Rancher and former Chairman,
People for Preserving Our Western Heritage

Written Testimony before U.S. Senate
Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests, and Mining

S. 1481 "ANCSA Improvement Act"
February 7, 2018

Testimony on behalf of Council of Athabascan Tribal Governments
Submitted by Charleen Fisher, Executive Director

Hello. My name is Charleen Fisher. I am the executive director for the Council of Athabascan Tribal Governments. This is a written statement in support of the Canyon Village Land Conveyance Act.

The Council of Athabascan Tribal Governments (CATG) is a tribal consortium composed of the Arctic Village Council, Beaver Village Council, Birch Creek Village Council, Canyon Village Council, Chalkyitsik Village Council, Circle Village Council, Gwichyaa Zhee Gwich'in Tribal Government, Rampart Village Council, Stevens Village Council, and Venetie Village Council.

The purpose of the Council of Athabascan Tribal Governments is to conserve and protect tribal land and other resources; to encourage and support the exercise of tribal powers of self-governance; to aid and support economic development; to promote the general welfare of each member tribe and its respective individual members; and to preserve and maintain justice for all and to otherwise, exercise all powers granted by its member villages and purposes expressed in the preamble.

The Council of Athabascan Tribal Governments recognizes that 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. The purpose of ANCSA was to settle the land claims of Alaska Natives and to provide them with the means to pursue economic development for the benefit of Alaska's Native people.

The Alaska Native community of Canyon Village was recognized as a group under ANCSA but did not receive the land it was eligible to receive due, in part, to an error by the federal government. Canyon Village was qualified to receive the land it had used habitually since 1958. Canyon Village and its descendants support the ANCSA Improvement Act of 2016 to finalize land selection rights. The future success of this community and its descendants is predicated on the use of their traditional lands for housing, gathering and subsistence.

In conclusion, the Council of Athabascan Tribal Governments supports the efforts of the people of Canyon Village to authorize the final conveyance of Canyon Village traditional land selections to Kian Tr'ee, the village corporation established under ANCSA.

Council of Border Conservation Districts
c/o Deming SWCD, 405 E. Florida, Deming, NM 88030 (575) 546-9692

February 21, 2018

Senate Committee of Energy and Natural Resources
Subcommittee of Public Lands, Forests, and Mining

RE: S. 441, The Organ Mountains Desert Peaks Conservation Act

To Whom it Concerns:

CBCD, the Council of Border Conservation Districts, is an association of southern New Mexico soil and water conservation districts committed to addressing common resource issues impacting border districts, and, particularly, New Mexico border districts adjacent to the international border with Mexico. There are seven district members made up of San Francisco, Hidalgo, Deming, Dona Ana, Sierra, Caballo, and Otero SWCD, and, if passed, the impact of S. 441, The Organ Mountains Desert Peaks Conservation Act, will impact each of the member districts as well as the entire United States.

CBCD is extremely concerned with both the national security and the biosecurity aspects of any border wilderness area, and, particularly, the border area intended with S. 441. In both security concerns, the proximity to the urban complex of Juarez, Chihuahua, Mexico in combination with vast tracts of rural American and Mexican sovereign territory pose huge dangers.

In the matter of national security, illegal ingress and egress mirror the dangers of the Arizona smuggling corridors. In the matter of biosccurity, any unpatrolled areas where feral livestock with catastrophic disease conditions could be inadvertently or purposely introduced must be both eliminated and disallowed. This matter has national implications.

There remains also the matter of safety to land stewards who must maintain the pastoral pursuits of ranching. This body calls attention to the tragic death of rancher, Rob Krentz, whose murderer avoided authorities by accesses what at one time was the Slaughter Ranch and now administered by the USFWS as a national wildlife preserve. Those trailing the perpetrator were held up by entry protocol of the agency. The delay allowed the person of interest to escape back to Mexico before he was apprehended. That delay, that bureaucratic delay, is exactly the concern that will be heaped upon the nation of wilderness is designated on Dona Ana and Luna County lands adjacent to the border in S. 441. Simply, CBCD cannot support this bill or any bill that calls for border wilderness designation.

Sincerely,

Stephen L. Wilmeth, Chairman, CBCD

From: Polly Burke
To: fortherecord (Energy)
Subject: Opposition to S.2206
Date: Sunday, February 11, 2018 1:38:23 PM

Dear Members of the Committee:

I am personally familiar with all five of the Congressionally-mandated WSAs in Montana targeted for release by Senator Daines. I have hiked, backpacked, hunted, fished and introduced my children to the Great Outdoors in the Blue Joint, Sapphires, West Pioneers, Middle Fk Judith and Big Snowies. They are among the wildest most pristine public lands in the Northern Rockies.

Instead of a top down one size fits all mandate from Washington D.C. Congress should consider individual bills for Wilderness designation for all or part of each of the five WSAs. In other words, thoughtful careful consideration of each of these special wild lands as contemplated originally by Congress when the Montana Wilderness Study Act was first signed into law in 1977.

Upon request I would be happy to submit more site specific information about each of these WSAs.

Thank you for you consideration of my views. I ask that these comments be included in the public record.

Sincerely,

Bill Cunningham
308 3rd Avenue NE
Choteau, Montana 59422
(406) 466-5699

From: John D"Antuono
To: fortherecord (Energy)
Subject: I am opposed to Montana Senator Daines' bill S2206
Date: Thursday, February 22, 2018 11:48:57 AM

I am opposed to Senator Daines bill S2206. Mr. Daines is being very disingenuous regarding "local consensus and support". He is not attending or participating at local meeting, he just meets and greets then he is out the back door when the discussion begins. He does not see (nor does he want too) that the majority people are speaking out against this bill. He has made on his mind based on what he wants to do not what the community wants to do.

Most Montana's do like nor appreciate this bill. Mr. Daines you are in office to represent the people of Montana please take more care when representing this great state.

John M. D'Antuono
516 Wapiti Loop
Hamilton, MT 59840

From: Chandler Dayton
To: fortherecord (Energy)
Subject: Remove S.2206 from consideration
Date: Friday, February 23, 2018 3:01:34 PM

From: Chandler Dayton, 716 E. Peach St, Bozeman, MT 59715

RE: Oppose S.2206 which would remove 5 WSA from becoming wilderness

Dear Committee on Energy and Natural Resources,

S.2206 needs to be removed from consideration because it is not the proper vehicle for considering the management of the lands in question. Questions about the land use must involve public comment and a form that will allow stakeholders to come to mutual understanding and agreement about the land use.

The bill as it is simply paves the way for more giveaways to drilling, logging and mining operations. These areas are more valuable to Montanan's way of life than all the oil and gas on the planet, because they hold the promise of a sustainable future. For generations to come, these lands will generate tourism dollars. Montana is rich in wild areas, and this is the secret to a sustainable future. Don't let the politics of short term gain steal our greatest treasure, wilderness.

Chandler Dayton

February 21, 2018

Statement of Joe N. Delk

- Vice-Chair, Western Heritage Alliance, Las Cruces, New Mexico
- Former Chairman, Board of Supervisors, Doña Ana Soil and Water Conservation District Doña Ana County, New Mexico

To: Senate Committee on Energy & Natural Resources, Subcommittee on Public Lands, Forests & Mining concerning S. 441, the Organ Mountains Desert Peaks Conservation Act.

Members of the Committee:

I respectfully request that my testimony be made part of the official record and thank you for the opportunity to submit my thoughts.

I grew up in southwestern New Mexico not far from the Gila Wilderness within the Gila National Forest. My first time to visit the "Gila Wilderness" was on a fishing trip with my dad in 1957 when I was 9 years old. We rode horseback into the West Fork of Mogollon Creek on a fairly decent trail and spent two nights. Twenty-five years later, I took my three sons on a pack trip into the West Fork of the Mogollon, however, the trail was so overgrown and washed out, I couldn't risk taking my boys over what used to be a decent trail. The Forest Service used to manage and maintain the trails in the forest until it became impractical under wilderness designation restrictions.

I came to understand the harsh reality of "wilderness designation" where federal lands resources that were once cared for under the multiple use doctrine, through management of ranching operations and active trail maintenance by both the Forest Service and the ranchers that allowed safe access for everyone to use the forest resources for recreation, had become lands of restricted access and use by anyone. A truly sad situation.

S.441

Why is it, that Senators Udall and Heinrich are so adamant that 8 areas within the Organ Mountains Desert Peaks National Monument be designated as "wilderness areas"?

- Is it not enough that all of these areas have already been removed from disposal and will never be developed?

- Is it not enough that all of these areas will already fall under various levels of access and use restrictions once the monument management plan is completed?

- Is it not enough that the ranchers are already subjected to access and use restrictions in the management of their ranching operations?

- Is it not enough that recreational users are already subjected to vehicle access and use under monument designation?

- Is it not enough that access to the watersheds for stormwater management purposes already faces lengthy bureaucratic requirements for planning and implementation of flood control measures?

- Is it not enough that revenues from our State Trust Lands are already impacted under the monument designation?

- Is it not enough that the security of our border with Mexico is already in question due to access issues on the monument?

Why is it that Senators Udall and Heinrich need additional restricted access and use requirements added to the existing access and use restrictions currently existing within the Organ Mountains Desert-Peaks National Monument . . .?

. . . My guess is that they'll never be happy until there is no access and no use of these lands.

Please issue a "do not pass" recommendation to the full committee on S.441.

Sincerely,

Joe N. Delk

Joe N. Delk
PO Box 879
Mesilla Park, NM 88047
jdelk525@yahoo.com

From: Chas Dense
To: fortherecord (Energy)
Subject: Senate Bill 1481 Comment
Date: Friday, February 02, 2018 2:25:10 PM

Greetings,

PLEASE, remove from consideration Land Use Designation (LUD) II lands of the Tongass National Forest from selection by Alaska Native Corporations and certain Alaska Native Veterans. Although I understand and do not object to selections from the Tongass of LUD III and LUD IV lands, LUD II lands have been previously designated by Congress as roadless wild lands and Wilderness for permanent protection in the Alaska National Interest Lands Conservation Act of 1980, the Tongass Timber Reform Act of 1990, and the Sealaska Land Entitlement Finalization Act of 2014. S.1481 would require or encourage that selected lands be used for economic development purposes, regardless of their importance for customary and traditional or historical uses.

I see no legitimate reason to expand the current land eligibility requirements for land selection from the Tongass National Forest. LUD III and LUD IV lands are already specifically designated for economic development purposes. The public fought hard and Congress has repeatedly found a balance for protection of certain valuable socially and culturally important lands for protection with abundant LUD III and LUD IV lands left available for economic development. PLEASE do NOT change the rules that will permanently upset that balance.

Thank you for the opportunity to comment.

Chas Dense
427 West 11th Street
Juneau, Alaska 99801

From: michele dieterich
To: fortherecord (Energy)
Subject: S 2206 Comments
Date: Saturday, February 10, 2018 5:58:10 PM
Attachments: pastedImage.png

I am so relieved to have the opportunity to comment on S 2206. Senator Daines has not given us the chance to state our concerns about this bill.

S2206 is a bill that Senator Daines cooked up without really asking for the input of his base in Montana. It is ironic that the title alludes to more local control of the land, but the locals affected by the decision have had little to no input. For example, Ravalli County commissioners sent a letter supporting the bill which would release protections on two WSA's in our area. Nearly 250 people attended the meeting and there were more than 100 letters. 75% were against the bill, yet the commissioners stood by their decision to support the bill. How is this even possible in a democracy?

Montanans were highly involved in the passing of the wilderness bill. One of our own in Ravalli County Metcalf was a huge proponent of wilderness and protecting our wild lands. Locals were also paramount in creating these WSA's in order to pave the way for even more wilderness. Montana is known for its wild, untouched and somewhat rough areas. It is what gives us our character and it is what drives a huge tourism industry.

Pristine forests and healthy ecosystems protect our clean water supply. These WSA's should be given wilderness designations so that we can be assured clean water in perpetuity.

The Sapphire Wilderness Study Area, in particular is very valuable as wildlife habitat for imperiled species and as a biological corridor connecting wildland habitat. Its north-south orientation and relatively cool high elevation gives it a premium value in this age of climate change.

If you release these federally protected Wilderness Study Areas, it will cause irreparable damage to our heritage, our ecosystem and our water supply.

Please do not allow this legislation to become law.

Thank you for your consideration,

Michele Dieterich
2099 Silver Ridge Road
Hamilton, MT 59829
(406)363-7753
telechele@hotmail.com

DONA ANA COUNTY FARM & LIVESTOCK BUREAU
P.O. BOX 2246
LAS CRUCES, NEW MEXICO 88004

Statement of Myles C Culbertson
President
Dona Ana County Farm and Livestock Bureau
to the
Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests & Mining
concerning
S. 441, the Organ Mountains Desert Peaks Conservation Ac

February 20th,2018

The Dona Ana County Farm and Livestock Bureau represents agricultural producers in Southern New Mexico, a number of whom are now directly and adversely affected by the Organ Mountains - Desert Peaks Monument designation, and who stand to be further damaged by passage of S. 441. The tactics employed by proponents to create monuments for the protection of antiquities are now exposed for what they are, an augmentation of a long-standing agenda to remove those lands from normal access by most citizens. With that in mind I respectfully request that we turn attention for a moment to the human face of this half-million acre removal.

Since Spanish colonial times, the region in question has been managed and cared for by livestock raisers whose centuries old multigenerational culture remains its dominant personality and feature. Over the past many decades, experienced ranchers with a love for the land and a legacy of stewardship have cooperated with the Bureau of Land Management and other public agencies to protect the sensitive environment while optimizing its natural productive capacity because, in agriculture, good stewardship is good business. Their principles have sustained the environment, assured access by the public, and preserved a way of life for their children and grandchildren. The fencing, waterings, and multiple other improvements put into place, maintained, and paid for, by these ranchers have been what support the diverse natural forage and abundance of native wildlife.

Passage of S. 441 will further constrain and discourage the very people who have for decades protected, managed, and improved the land, maintaining the pristine character that became so desirable to the monument's proponents. The good job done by ranch families has sustained the prize now sought after by environmentalist organizations. It is important to recognize that, by their own rhetoric, and also by promotion of legislation to take a next agenda-driven step to designate a wilderness, they are conceding that this was never an historical protection initiative in the first place. Their desire remains the same, which is to move people and their enterprises off the public lands, and once again they are manipulating the public process to achieve that end.

Wilderness designation greatly increases such restrictions, not only for the families who derive their livelihood in the affected areas, but also all citizens who otherwise cannot hike, ride horseback, or operate hang gliders. In other words, S. 441 will effectively reserve a half million acres for the enjoyment of an elite few individuals, and remove it from access by all others.

The public lands ranchers who have, for generations, cared for these lands will be shoved aside with the passage of S. 441, as will most people who would otherwise be able to go into the Organ Mountain Desert Peak area for the beauty and peace it offers. For these reasons, and in the interest of the general public, we ask that you consider the everyday hard working folks who deserve your advocacy.

The Dona Ana County Farm and Livestock Bureau opposes passage of S. 441.

Respectfully,

Myles C. Culbertson, President
Dona Ana County Farm and Livestock Bureau

From: Mac Donofrio
To: fortherecord (Energy)
Subject: S. 2206
Date: Thursday, February 8, 2018 6:31:46 PM

Wednesday, February 8, 2018

Thank you for the opportunity to comment on Senator Daines' S 2206.

I write to let you know of my strong opposition to Daines's bill to release WSAs including the Sapphire and Blue Joint WSAs in S. 2206, the *Protect Public Use of Public Land act.*

Why do you think they call Montana The Last Best Place?

These Inventoried Roadless Areas are natural treasures, exponentially more valuable in their natural state. These WSA's are best left untrammeled by man. Their importance was not fully realized 30-40 years ago, and now they are of greater value than ever.
They should be kept unlogged, unroaded, and unmechanized. There are already thousands of square miles to legally recreate with dirt bikes, quads, snow machines, and bicycles.

These roadless lands continue to produce Clean Air, Cold Clean Water, Secure Water, Big Game, rare species of mammals, intact natural Vistas, non mechanized adventures and memories. They keep our spirits healthy just knowing these lands are there.

These roadless lands are not replaceable. They benefit all people, even the Ecologically illiterate people who do not value them in their present state.

When seen from a plane, it becomes much more clear what has been lost in the mountains of Montana. These roadless lands are small islands of stability in a wavy sea of clearcuts, logging roads, skid trails, weeds, and domestic overgrazed lands. But these chunks of country are some of the healthiest countryof what is left in the Western U.S. and they only make life for us all better when left intact, and protected.

Hamilton citizens have showed overwhelming support FOR continued protection of these WSAs.
Mac Donofrio

PO box 573
Hamilton, Mt 59840
(Mill Cr. Trail rd.)

LEADER in All We Do

Written Testimony before U.S. Senate Energy and Natural Resources
Subcommittee on Public Lands, Forests, and Mining

S. 1481 Alaska Native Claims Settlement Improvement Act of 2017
February 7, 2018

Testimony on behalf of Doyon, Limited
Submitted by Sarah Obed, Vice President of External Affairs

My name is Sarah Obed, and I am an Athabascan shareholder serving as the Vice President External Affairs of Doyon, Limited. On behalf of the Doyon, Limited Board of Directors, our 19,700 shareholders, and employees, this testimony is a statement of support for Senate Bill 1481, the Alaska Native Claims Settlement Improvement Act of 2017.

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 our 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, as outlined by Section 8 of the bill.

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.

1 Doyon Place, Suite 300 | Fairbanks, Alaska 99701-2941 | (907) 459-2000 WWW.DOYON.COM

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 Federal 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.

Senate Energy and Natural Resources Committee
Hearing Date: February 7, 2018
Subcommittee on Public Lands, Forests, and Mining Legislative Hearing
S. 2206

Statement for the Record
Submitted by:

Glenn W. Elison
91 Burly Beach Road
Lewistown, Montana 59457
406-535-5904

I oppose S. 2206, The Protect Public Use of Public Lands Act. S. 2206 would eliminate protection for five WSAs: West Pioneer, Blue Joint, Sapphire, Middle Fork Judith, and Big Snowies, which total almost a half million acres of high quality, wild public lands. If S. 2206 becomes law, it would be the biggest loss of protected public lands in Montana's history.

These WSAs provide habitat for a wide range of fish and wildlife including elk, mule deer, grizzly bears and trout. The WSAs protect wild places that are particularly important to Montana's thriving outdoor recreation economy, which provides thousands of jobs statewide and is especially important for rural communities.

S. 2206 is a top down driven piece of legislation that was formulated without a single public meeting or opportunity to discuss the bill before its introduction. The bill has been inaccurately characterized as having broad public support when in fact it lacks adequate public input, review and comment. This bill is an unequivocal rejection of a collaborative approach to public lands solutions. It is the very approach that members of Congress so often rail against when proposals originate in Washington, D.C. without local input.

I have extensive personal experience in the Snowy Mountains, one of the WSA impacted by S. 2206. The Snowy Mountains and its WSA are a vital recharge source for the aquifer, which provides the abundant, high quality drinking water the Central Montana community of Lewistown enjoys. It is also the primary source of Big Spring Creek, a blue-ribbon trout fishery, important recreational amenity, and a natural resource that would be the envy of almost any community. The current Snowy Mountains WSA protects a significant portion of the aquifer and should not be removed from this designation especially since we don't fully understand the recharge dynamics and potential impacts to the aquifer from prospective development and mechanized use.

The Wilderness Study Areas proposed for elimination provide important economic and amenity values for Montana residents and visitors. The hunting, fishing, hiking, skiing, camping, livestock grazing, and other uses are all important economically, recreationally, and improve Montana's quality of life.

Removal of the Wilderness Study Area designation opens these areas to radically increased motorized and off-road travel when most public lands in Montana are already open to these uses. Not every place needs or should be accessible by mechanized travel.

The Forest Service should be allowed to complete its public, deliberative process to formulate wilderness recommendations for the Snowy Mountains and other Wilderness Study Areas in Montana rather than having the public process preempted by the proposed legislation. Management decisions regarding any wilderness study area must involve a diverse group of stakeholders working together at the local level with a transparent, inclusive, and fact-based process towards agreement and mutual benefit.

If no decision by Congress is forthcoming in the near future, then leaving the decision and option for remnant untrammeled areas to endure is a good thing for this generation to pass on to the next.

Thank you for considering these comments.

From: Michael Enk
To: fortherecord (Energy)
Subject: Statement/Letter for the Record of Feb 7th, 2018
Date: Thursday, February 22, 2018 12:33:06 AM

Energy and Natural Resources Committee
Subcommittee on Public Lands, Forests, and Mining Legislative Hearing
S.2206 (removes Wilderness Study Area status on federal lands in Montana)
Hearing Feb 7th, 2018

I am a 38-year resident of Montana and am strongly opposed to S.2206. I recreate on most of the Wilderness Study Areas (WSAs) in Montana and especially on the Middle Fork Judith WSA and Big Snowies WSA. These areas are uniquely wild and beautiful places that deserve protection from increased motorized use and development. The high-quality wildlife habitats, pristine watersheds and solitude found in Montana's WSAs can never be recovered if their protections are dismantled.

Currently, the Helena-Lewis & Clark National Forest is revising its management plan and considering public comment on the wilderness suitability of both the Middle Fork Judith and Big Snowies WSAs. The Forest Service has already proposed recommending the Big Snowies WSA for wilderness designation. Similar planning efforts are underway on other National Forests in Montana for WSAs that would be affected by S.2206. However, S.2206 would pre-empt this planning and public involvement process by implementing a one-sided anti-wilderness solution without ANY public participation. S.2206 would strip away protections for all of these wildands without designating a single acre of wilderness or setting aside any portion of the WSAs for primitive recreation. This is unacceptable and flies in the face of ongoing efforts to seek collaborative solutions for appropriate management of these wildlands.

Senator Daines touts the economic benefits of opening WSAs to resource extraction, development and expanded motorized use, but he conveniently ignores the latest economic research out of Montana State University that quantifies the value of ecological services of undeveloped wildlands, especially clean water. These reserchers have also shown that public wildlands drive economic growth in surrounding communities by attracting entrepreneurs who highly value wildland recreation opportunites.

Michael Enk
PO Box 1408
Great Falls, MT 59403
406-453-6834
trouter@q.com

From: Dorothy Filson
To: fortherecord (Energy)
Subject: Comments on S2206
Date: Wednesday, February 14, 2018 4:36:01 PM

For the record, I oppose the effort to remove WSA for Blue Joint, Sapphire, West Pioneers, Big Snowies and Middle Fork Judith WSAS in Montana.
In Montana, we still have the rare opportunity to preserve these precious areas that are home to many native species.
Travel into these areas gives countless individuals, citizens and visitors from other countries the opportunity to experience something rare and wonderful.
When they are gone, they will be gone forever, so do all you can to provide protection for now and for future generations.
Please oppose S. 2206.
Thank you,
Dorothy Filson
PO Boz 553
Bozeman MT 59771

February 17, 2018

Please accept this testimony from:
Friends of the Bitterroot
PO Box 442
Hamilton, MT 59840

Larry Campbell, Conservation Director

Friends of the Bitterroot opposes S 2206.
Senator Lee Metcalf, who carried the Montana Wilderness Study Act (S 393) through Congress was from the Bitterroot.
We have worked for over 30 years to protect Montana Wilderness Study Areas. We have monitored and documented conditions and use of three WSAs (Sapphire WSA, Blue Joint WSA and West Pioneer WSA) for over 15 years. Senator Daines' S 2206 is a top down effort to undo what took years of public discourse and involvement to legislate. There was a tremendous amount of local and state-wide public involvement involved in passage of S 393, the Montana Wilderness Study Act. There has been virtually no such public involvement by Senator Daines in his effort to release WSA protection. There has been much misrepresentation by Senator Daines in his characterization of positions taken by Montanans regarding S 2206.
Please do not allow the anti-democratic S 2206 Bill to become law.

Montana Wilderness Study Act

Nine particularly important wildland areas of Montana were established as Wilderness Study Areas by Congress in 1977 by the Montana Wilderness Study Act (S. 393). Senator Lee Metcalf of Stevensville sponsored the Act. The late FOB steering committee member Clif Merritt, of Hamilton, was instrumental in identifying and selecting the nine areas based on their major importance for Wilderness designation, threats to their wilderness attributes, and substantial local support.

In testimony on S. 393, the late Bitterroot wildland advocate Doris Milner referenced salient facts that suggested the need for more Wilderness, including the decline in maximum size and quantity of the large areas (>100,000 acres) at the national level as well as the increasing rate of use of Wilderness areas. She answered opponents question "How much wilderness do we need?" by asking "How do we retain what little pristine remains?". Her answer was that S-393 was a partial solution.

The Act says, "[Montana's WSAs] shall, until Congress determines otherwise, be administered by the Secretary of Agriculture [USFS] so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System." The idea was to protect the wilderness quality of these special places before the incessant press to develop overtook the chance to fully protect them within the Wilderness System.

The Forest Service failed to maintain 1977 "existing wilderness character" as they failed to regulate the explosive increase of motorized recreational vehicle use on many of Montana's WSAs, including here on the Bitterroot National Forest (BNF) in the Blue Joint WSA and especially in the Sapphire WSA. For about twenty years FOB has monitored the Sapphire, Blue Joint and West Pioneer WSAs and documented damage caused by inappropriate and illegal motor vehicle use. In October 1996, FOB filed suit as a co-plaintiff in Montana Wilderness Association v. U.S. Forest Service, Case No. 96-152-M-DWM (D. Mont.), a case challenging the Forest Service's management of Montana's WSAs. After many years in Federal District Court and the Ninth Circuit Court, the case went clear to the US Supreme Court where in 2004 it was, in effect, dismissed without being ruled on. Since that time, several court cases involving failure to maintain wilderness character in specific WSAs have reinforced the clear mandate to maintain wilderness character. One court ruling that reinforced the need to limit levels of motorized use to that in 1977 also noted "Congress did not, however, mandate that motorized recreational levels be maintained.". Finally, in 2016 the BNF Travel Plan prohibited motorized and mechanized vehicles in the SWSA and BJWSA. (see article on Travel Plan)

Sapphire Wilderness Study Area

FOB believes the Sapphire WSA is one of the most biologically valuable areas in the Bitterroot. It is approximately 98,000 acres in size, about 25 miles long X 5 to 10 miles wide, ranging from 5,000 feet to 9,000 feet in elevation. It contains numerous lakes and large meadows. Adjacent to the Anaconda – Pintler Wilderness, it serves as a critical wildland link in the Sapphire crest regional wildland biological corridor, providing premium value in this age of climate change due to its cooler high elevation secure habitat and north-south orientation, offering a path for migration to the north. The corridor has proven itself. Grizzly bears have wandered back to the Bitterroot along the Sapphires. Whitebark pine on the crest and swaths of huckleberry bushes provide important food sources for bears. A dwindling mountain goat herd and imperiled wolverines live there.

Blue Joint Wilderness Study Area

The Blue Joint WSA near Painted Rocks Lake is 68,000 acres of prime wildlands, including over 65,000 acres on the Bitterroot NF, contiguous with the Frank Church - River of No Return Wilderness and the Selway – Bitterroot Wilderness. Elevations range from 4,900 feet to 8,600 feet. Slopes on over half the area exceed 60%. Whitebark pines, a valuable food source, grow at the higher elevations. The large Blue Joint meadows provide diversity of habitat. This WSA serves as a buffer between the Big Wilderness to the west and development from the east pushing in from the southern end of a fast-growing Bitterroot Valley. The BJWSA provides dependable clean water at the head of the Bitterroot River as well as habitat for wildland species.

Written Testimony of Friends of Nevada Wilderness for the U.S. Senate Subcommittee on Public Lands, Forests and Mining Hearing February 7, 2018

Testimony presented in support of:
S. 414 Pershing County Economic Development and Conservation Act.
S. 1046 Eastern Nevada Economic Development and Land Management Improvement Act.

Submitted by:
Friends of Nevada Wilderness
Shaaron Netherton, Executive Director
1360 Greg Street Suite 111
Sparks, Nevada 89431
(775) 324-7667

Friends of Nevada Wilderness has helped Nevada citizens work with their members of Congress to successfully enact a number of public land laws including Wilderness since 1985.

I would like to thank Senators Heller and Cortez Masto for supporting local efforts in Pershing County to resolve issues on public lands. Senator Heller has been very supportive with the Pershing County process and with the previous Pine Forest working group process in neighboring Humboldt County.

Since Nevada has a high percentage of public lands, we have found the county by county process has been very successful. Stakeholders work together to find solutions to local public lands issues, and we appreciate the past bipartisan efforts of Senator Heller and Senator Reid in resolving numerous public lands issues throughout Nevada.

Nevada has a broad spectrum of people that call Nevada home. Working together, county commissioners, ranchers, landowners, sportsmen, miners, wildlife enthusiasts, exploration geologists, recreationists and townspeople often find that while we all have differences, we share more in common than what divides us. In general, Nevadans care deeply about their public lands and in finding solutions to public lands issues.

The Pershing County Economic Development and Conservation Act is more than the sum of its parts. It was the product of many, many people working together for years to help resolve long standing public lands issues within a rural county that is struggling economically. Pershing County is very unique and the solutions in this bill are unique as well. Neither the limited acre-for-acre exchange authority nor the sale of land to the mining industry are solutions that would necessarily work anywhere else. Friends of Nevada Wilderness actively participated in every meeting in the county on this bill. Yes we were working to resolve the Wilderness issue but as the process went on we realized that other provisions in the bill could also make a big difference to the economic well-being of Pershing County. After all, isn't bringing people together how our democracy should work?

Title III Wilderness (some background)

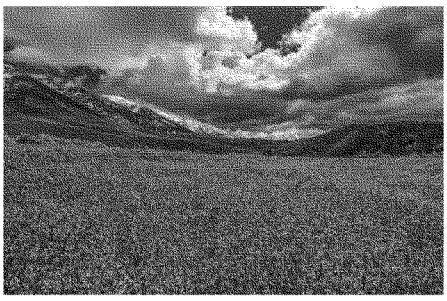
Setting the stage. Pershing County has a 40 mile swath of checkboard railroad land right through the middle of the county with alternating private and public sections. (See more description below.) In large part because of this land pattern, the BLM only identified five reasonably small wilderness study areas during the late 1970's and early 1980's. These were Selenite Mountains, Mt. Limbo, China Mountain, Tobin Range and the Augusta Mountains Wilderness Study Areas.

During 2004 through 2006 Friends of Nevada Wilderness participated with Pershing County and other stakeholders, including the Nevada Land and Resource Company (owners at that time of much of the private checkerboard in the county), in the Pershing County Checkerboard Committee process to look at potential wilderness designations and other lands issues, including how to resolve and consolidate the public-private checkerboard land ownership pattern along I-80. While this process didn't result in legislation, it did result in a good position for taking up the effort again in 2015.

Using those 2006 wilderness recommendations as a starting point, the Pershing County Commission, involving many stakeholders, initiated a process in 2015 to work on a Pershing County Public Lands Bill. With the support of the Nevada delegation, in 2016 various stakeholders continued meeting- both formally and informally, regarding wilderness, checkboard resolution and mining in Pershing County.

In order to create the strongest wilderness proposal possible, Friends of Nevada Wilderness reached out to the ranchers who had grazing permits within the wilderness proposals. This included multiple meetings at their ranches and coffee shops, field tours (driving, on foot and horseback riding) and then checking and rechecking maps to ensure the boundaries and access routes were correct as agreed upon.

One of the most beautiful of the proposed wilderness areas is the Tobin Crest. Many ranchers on both sides of the range depend on the water sources in this range. These ranchers helped draw the wilderness boundary for the Tobin Crest. The idea to re-name the Tobin Crest area to "Grandfathers' Wilderness" was brought forward by the ranchers we worked with. We fully support this name change as a way to honor their grandfathers who started ranching at the base of this mountain crest 100 years ago. The name also honors the lasting legacy and living heritage of the ranching way of life in Nevada. By preserving this area under the name of "Grandfathers' Wilderness" we also honor all of those who came before, living in the wide open spaces of Nevada.



The Pershing County Bill, S 414 would:

- Designate seven areas as wilderness, totaling about 136,000 acres. These wilderness areas would be managed under the provisions in the 1964 Wilderness Act. And the wilderness management language in the bill is the same that has been used in virtually all public lands and Wilderness bills in Nevada since 2000.
- Adjust boundaries of WSAs to resolve longstanding management and access concerns and other conflicts.
- Allow Pershing County the certainty to know what is and what isn't wilderness.

These seven areas represent a cross section of some of the most beautiful lands in Pershing County. They offer great wildlife habitat, breathtaking vistas of the expansive Nevada scenery and little known places to get away. As development continues in Pershing County, these wilderness areas will retain their wild character for future generations.

The Pershing County Bill, S 414 would also:

- Release about 48,600 acres of Wilderness Study Areas in portions of the Augusta Mountain, China Mountain, Mt. Limbo, Selenite Mountains, and Tobin Range wilderness study areas.
- Most of the acres to be released are on the lower slopes of the ranges where most of the cherrystem roads, range developments and weed infestations are located.
- The bill would eliminate lower value wilderness study area acres, reducing conflicts and management concerns and focusing protection on the higher value wilderness.
- The bill would offset the release of nearly 49,000 acres of wilderness study areas for the higher wilderness value areas of the Tobin Crest (Grandfathers' Wilderness) and the inclusion of North Sahwave, Bluewing, and Fencemaker, non-wilderness study areas identified for wilderness during the Pershing County Checkerboard Land Process.

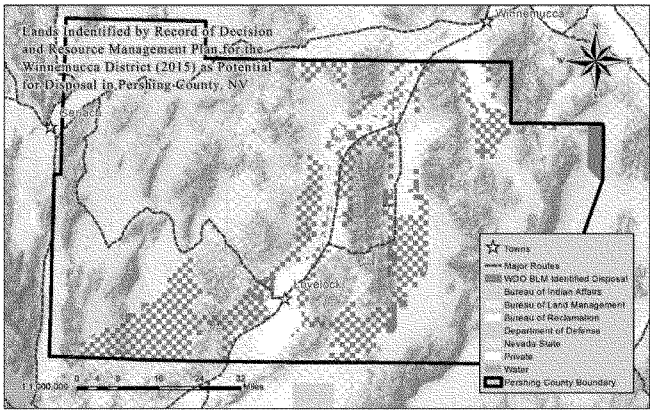
When the Winnemucca Bureau of Land Management began working on identifying resource inventory information as a part of the Winnemucca Resource Management Plan (RMP), the BLM included the four non-WSA areas identified by the Checkerboard Lands Committee as having wilderness values since they were identified through a public process sponsored by the Pershing County Commission. When the Winnemucca BLM RMP was finalized, North Sahwave, Bluewing, Fencemaker, and Tobin Crest (now Grandfathers') were included as part of the final Record of Decision for the management plan.

When the Pershing County lands bill process started up again in 2014, these recommendations were brought forward as the starting place for new discussions.

The end result is legislation that resolves longstanding land tenure issues, promotes economic development, enhances recreation, protects some of Pershing County's wildest lands, and preserves Nevada's rural way of life.

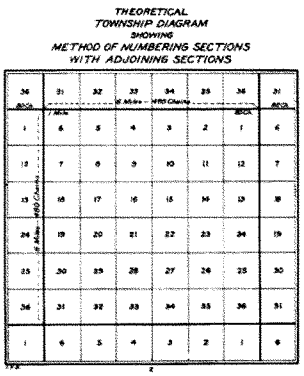
Title 1 Checkerboard Land Resolution

The purpose of this section of the legislation is to give Pershing County a stronger role in determining the county's priorities for sale or exchange of BLM managed lands. The intent is to allow the county to put more land on the local tax rolls and help resolve the awkward land pattern created by the alternating sections of private land and public land that has plagued the county for over 100 years.



- Give Pershing County a key role in nominating which BLM managed lands should be offered up for sale or exchange with the Pershing County Checkerboard Resolution Zone (20 miles on either side of the railroad). Lands eligible for sale or exchange would be those lands the Winnemucca BLM identified in the Record of Decision from their 2015 Resource Management Plan (RMP) as "lands suitable for disposal" within the Checkerboard resolution area. (Refer to map below.)
- Annually, Pershing County may nominate to the BLM specific parcels, subject to valid and existing rights and authorized uses, for sale or exchange. At the request of Pershing County, the BLM shall postpone or exclude certain parcels from sale. This allows Pershing County to stop a sale or exchange they feel is not in the best interest of the county at that point in time.

The term checkerboard lands may be confusing. Lands are surveyed in a grid pattern. Within a Township and Range grid there are 36 sections (one mile squares). This alternating pattern of private and public lands, called checkerboard lands can be seen in the map above. The diagram below shows how these sections are numbered.



Transcontinental railroads were very important for the growth of the nation. The Pacific Railroad Act of 1864 gave land grants to the railroad companies to compensate them for building the railroads. In order to encourage the construction of railroads across the nation, the federal government offered "checkerboard" land grants to railroad companies, consisting of alternate sections (the odd numbered sections) for twenty miles on each side of the railroad right-of-way. Additionally, the railroads were granted all of the mineral rights under those lands. This checkerboard land ownership pattern, established in the 1870's, still stretches across Nevada in a broad band on each side of the Southern Pacific Railroad. Over the years, some of the railroad lands were sold to individuals or other companies, but in Pershing County much of the original checkerboard pattern is still there and much of it is now owned by New Nevada Resources.

The alternating private and public land sections can make use of these challenging and difficult lands for both development and conservation.

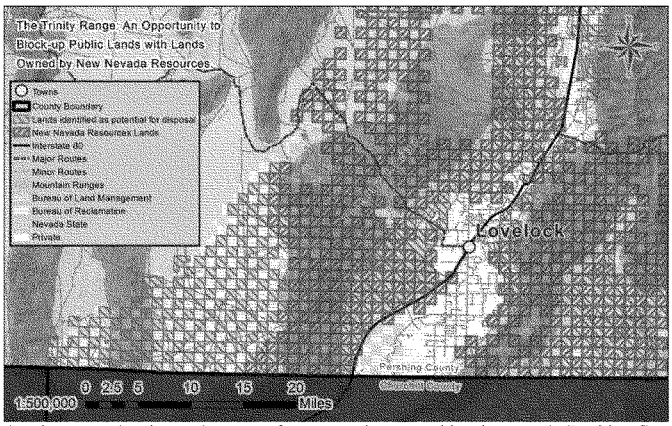
In reality, much of the land identified for disposal by the BLM in their Resource Management Plan within the checkerboard is without water rights, legal access and is valued below $100/acre. With few exception there is not a big market for this land since the Nevada Land and Resource Company (and now New Nevada Resources) have been actively trying to sell the private parcels in the checkerboard they acquired from the railroad for about two decades. It is unlikely that many buyers would be interested in buying these lands from the BLM when it would be much faster and easier to buy from New Nevada Resources.

Typical Checkerboard Lands in Pershing County along the Railroad and I-80 Corridor

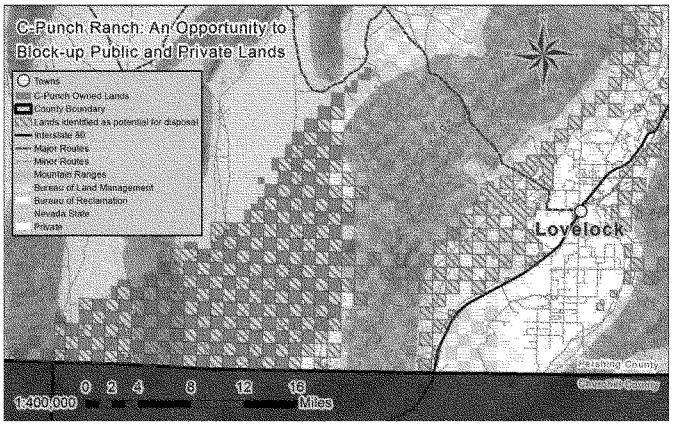
SEC. 103. SALE OR EXCHANGE OF ELIGIBLE LAND

This legislation gives Pershing County and the BLM some additional tools with very tight constraints in special cases to conduct acre for acres exchanges to help consolidate some of these lands into larger, more manageable blocks of private and public land. Some of the resulting consolidated lands would be for development, whereas blocks of public lands would be beneficial for recreation, wildlife, grazing, etc.

An example of where the acre-for-acre exchange could benefit public lands is in the Trinity Range where the BLM and New Nevada Resources own much of the alternating checkerboard lands. The BLM could block up lands higher in the Trinity Range for natural resource purposes and New Nevada Resources could block up the lower elevation lands with less resource value but potentially more ability to develop.



Another example where sale or acre-for-acre exchange could make sense in Pershing County is with the C Punch Ranch Holdings. The C Punch bought a large swath of the private checkboard that remains mixed with about 74,000 acres of BLM managed lands that were identified by the BLM for potential disposal. Again, this is an unmanageable land pattern that could be solved by provisions in this bill. BLM and private lands could be blocked in a manner that makes more sense for the resources and for the private land owner.



TITLE II—LAND CONVEYANCES AND TRANSFERS

The concept of selling public land to select mining companies who currently hold claims can benefit the mining company, Pershing County and possibly the BLM as well. Post mining, perhaps some of these lands, where appropriate, could continue to provide other economic benefits and jobs in an economically disadvantaged county.

Friends of Nevada Wilderness would like to share an excerpt from the opinion piece crafted by Shaaron Netherton, Debra Struhsacker from Pershing Gold Corporation, and Vance Vesco, owner of the Vesco Ranches. We believe this provides a good summary of why this locally-driven, stakeholder collaborative process used to develop the bill was so successful. This is truly a model process of democracy at work.

> "Getting to this point was not easy. Everyone had to compromise, and no one got everything they wanted. But the end product of this give-and-take has broad support and advances all of our interests.
>
> This is how the process is supposed to work. It's the Nevada way— a grassroots effort in which neighbors rolled up their sleeves and worked together to solve problems in a way that helps everyone."

S. 1046 Eastern Nevada Economic Development and Land Management Improvement Act.

Friends of Nevada Wilderness would also like to provide a brief supporting testimony for S. 1046 Eastern Nevada Economic Development and Land Management Improvement Act. This bill would provide "technical corrections" for a few very small-in-size-but-very-large-in-importance for people primarily in White Pine County.

Friends of Nevada Wilderness worked closely on the White Pine public lands bill which was enacted into law in 2006. Out of more than 600 new miles of exterior Wilderness boundaries, only a few miles of boundary were drawn incorrectly on the final maps of record. No one knows how this happened, but once we recognized this we tried to work with the Forest Service to have the Chief of the Forest Service issue an order to correct the maps and produce these maps for the record. The Chief ruled that only Congress could fix these boundaries and so we have been attempting to do that with this bill. Some of the specifics include:

- The boundary near the Girls Scout Camp in the High Schells Wilderness was a totally wrong. It was never intended to place the camp in designated Wilderness.
- The "Big Canyon" route in the Mt. Moriah Wilderness should never have been closed in the first place. This "fix" clarifies this longstanding access issue in a good and very clear way.
- The route up Mc Coy Creek in the High Schells Wilderness was wrongly shown going a mile deeper into the Wilderness. The real agreed upon boundary line was drawn a mile below at the creek crossing, a logical stopping point and site where the USFS put their trail head and turnaround parking area. By fixing this mis-mapping a small amount of acreage is actually added to the High Schells Wilderness;
- The fix in the Arc Dome Wilderness impacts a very small area on the very lower edge of the existing Wilderness Area. This "fix" is needed to allow motorized access and the regular use of heavy equipment by the Yomba Shoshone Tribe so they can repair major headgate and diversion facilities that had been "blown out" by heavy flooding. The waters are the rushing headwaters of the Reese River and provide vital benefits to the tribal members living on the Yomba Shoshone Indian Reservation.

In summary, Friends of Nevada Wilderness appreciates the opportunity to provide testimony in support of S. 414, the Pershing County Economic Development and Conservation Act as well as S. 1046 the Eastern Nevada Economic Development and Land Management Improvement Act. We look forward to these bills moving through the committee and passing the Senate. If there is anything we can do to help, we are at your service.

February 21, 2018

Energy and Natural Resources Committee
Subcommittee on Public Lands, Forests, and Mining Legislative Hearing
Hearing date: Feb, 7th, 2018

To whom it may concern;

Recently, a research ecologist (Travis Belote working for The Wilderness Society) included the Big Snowies in an extensive project to study and map ecosystems for wildland values. He concluded that the Big Snowies WSA is today "wilder and quieter than 95% of national parks with a wildlife community more intact and experiencing less light pollution than half of all national parks."

Over the past several years, the Helena Lewis and Clark National Forest has nearly completed a Revised Forest Plan. The Revised Forest Plan lists these attributes of the Big Snowies:

- The Big Snowies encompass 103,480 acres and are remote with excellent opportunities for solitude.
- The Northern ¾ is nonmotorized. Snowmobiling is permitted on west end.
- The Snowies has unique geology, with wolverine, peregrine, wild turkey, and Westslope cutthroat trout habitat.

The Forest Service has recommended the Big Snowies for designation as a Wilderness Area - with modifications to meet the needs of a diverse population of visitors.

If the Senate passes Bill 2206, the Forest Service Revised Forest Plan will become null and void. For the good of Central Montana now and in the future, we who live here must work to defeat this bill so the Forest Service can complete the Revised Forest Plan to protect the Big Snowy Mountains.

Mary Frieze

1116 West Evelyn Street
Lewistown, MT 59457
406-535-7380

From: stephenlindag
To: fortherecord (Energy)
Date: Thursday, February 15, 2018 2:28:31 PM

Dear Senators

I am contacting you to voice my opposition to Senator Daines bill that would strip wilderness consideration from 500,000 acres currently under WSA status. Outdoor recreation is the primary economic driver of the Montana economy and will become even more important as our state and national population increases. We need places where people can experience the outdoors as it naturally is. We need look no farther than the increase in visitation to our national parks to realize what an integral role nature plays in our lives.
I respectfully request that Senator Daines bill be rejected and that these areas be given serious consideration for wilderness status.
Thank you.

Stephen Gerdes
3300 E Graf St
Bozeman, Mt

From: Peter Guynn
To: fortherecord (Energy)
Subject: Senator Daines Bill, S2206
Date: Sunday, February 11, 2018 2:49:15 PM

Dear Sirs,

I am a registered voter in Montana in the Condon area.

Montana wilderness study areas must remain protected until all the issues surrounding them can be addressed by state-wide scale democratic process. Senator Daines Bill is un-american in that is like a decree or fiat that one would expect in a country like Russia or China.
Montana is unique in its wild outdoors legacy which is a firm value in our state.
Senator Daines is ignoring the views of Montanans to satisfy outsiders who do not share our values.
Solutions to our natural resource issues will come when everyone works together which has worked in the past, not when what defines us is ripped away from us.

Peter C Guynn
1868 Brueger Rd
Condon, Mt 59826

Gwich'in Steering Committee
122 First Avenue◆Fairbanks, AK 99701◆907.458.8264◆fax 907.457.8265

"In no case may a people be deprived of their own means of subsistence."
International Covenants on Human Rights

January 31, 2018

Dear Chairman Murkowski and Ranking Member Cantwell,

I write today to express concern with Section 8(a) in S. 1481, the Alaska Native Claims Settlement Improvement Act of 2017, which may facilitate oil and gas activities on the Coastal Plain of the Arctic National Wildlife Refuge.

The Gwich'in Steering Committee, founded in 1988, is the unified voice of the Gwich'in Nation speaking out to protect the Coastal Plain of the Arctic Refuge. We represent the communities of Arctic Village, Venetie, Fort Yukon, Beaver, Chalkyitsik, Birch Creek, Stevens Village, Circle, and Eagle Village in Alaska, and Old Crow, Fort McPherson, Tsiigehtchic, Aklavik, and Inuvik in Canada.

The Coastal Plain of the Arctic Refuge is vitally important to the Gwich'in people because it is "*Iizhik Gwats'an Gwandaii Goodlit*" — the Sacred Place Where Life Begins. Every year, the Porcupine Caribou Herd migrate hundreds of miles across Alaska and Canada, returning in the spring to the Coastal Plain to give birth. The Porcupine Caribou Herd has provided the sustenance for the Gwich'in People for thousands of years and our ancestral homelands follow the migratory route of the Porcupine Caribou Herd. Just as the Gwich'in rely upon the caribou, every Porcupine caribou member relies on the narrow strip of land that is the Coastal Plain of the Arctic Refuge to get its start in life.

The Gwich'in Steering Committee has worked for decades to protect the Coastal Plain from oil and gas activities. Protection of the birthing and nursing grounds on the Coastal Plain is a human rights issue to the Gwich'in Nation and is upheld by the U.N. Declaration on the Rights of Indigenous Peoples and its International Covenant on Civil and Political Rights, which states, "by no means shall a people be deprived of their own means of subsistence." This principle must be respected. We will continue to work to protect the Coastal Plain from oil and gas activities, including objecting to any legislation that may allow or facilitate such activities.

At the end of last year, Congress passed H.R. 1, the Tax Cuts and Jobs Act. Title II of this legislation authorized oil and gas activities on the Coastal Plain of the Arctic Refuge. The Gwich'in Steering Committee strongly opposed this legislation because oil and gas activities on the Coastal Plain are a threat to our survival.

Section 8(a) of S. 1481 may make it easier for Arctic Slope Regional Corporation (ASRC) to conduct oil and gas activities on corporation lands within the Coastal Plain. Caribou do not know boundaries between private and public lands, and the impacts of activities on private lands do not stay on private lands. For these reasons, the Gwich'in Steering Committee is concerned about the provision in the Alaska Native Claims Settlement Improvement Act that allows ASRC to obtain additional subsurface rights in the Arctic Refuge and validates the land exchange that allowed ASRC to obtain these lands.

Protecting the Coastal Plain of the Arctic Refuge is a human rights issue. For us, this is a matter of physical, spiritual, and cultural survival. We will oppose any and all efforts to allow oil and gas activities on the Coastal Plain.

Sincerely,

Bernadette Demientieff
Executive Director

From: Alan Hilden
To: fortherecord (Energy)
Subject: Please Vote NO on S. 2206
Date: Saturday, February 10, 2018 7:38:47 AM

As a Montanan I urge you to vote against S.2206.
Senator Daines bill does not have the support from Montana to release these wilderness study areas as proposed in this bill.
Please note an Our Land Our Legacy movement has sprung up in opposition and people are leaving Daines bill to support public lands.
Sincerely,
Alan Hilden

720 Judicial Ave.
Billings, MT 59105

From: Jackson Matthew
To: forthercord (Energy)
Subject: Public Comment on S.1481
Date: Friday, February 02, 2018 3:05:57 PM

The only "improvements" to ANCSA I support would be increases in federally designated roadless wilderness areas. I oppose Section 7, Section 10 and Section 11 of the act as written because they would open up more wilderness areas to development. Logging accounts for only a few dozen jobs in this region. By contrast, fishing and tourism are the largest employers, providing thousands of livelihoods across the region. Fishing and tourism both rely on an intact, wild Tongass. This is the best use of the Tongass, and to be frank, putting our tourism and fisheries industries at risk for the sake of a few dozen loggers is just plain stupid. Those loggers can go work on a fishing boat, there is a shortage of young fishermen in this region.
I hope that the committee takes the immense value of an intact and undeveloped Tongass National Forest into account as you try to "improve" ANCSA. An overwhelming majority of Southeast Alaskans, whether they be Alaska Natives, fishermen, tourism operators, democrats or republicans, like the Tongass just the way it is. We don't want any more land swaps or logging.

Sincerely,
Matthew Jackson
1403 Halibut Point Rd
Sitka, AK 99835

From: Karen and Van
To: fortherecord (Energy)
Cc: Karen and Van
Subject: S. 2206
Date: Sunday, February 11, 2018 3:06:31 PM

Dear Senators,

I respectfully request that S. 2206 be either dropped from consideration or be opposed. It is not what locals want. It is a top-down bill sponsored by Senator Daines who has never held a local meeting on the topic, nor has he visited either WSA nearby that would be impacted by his bill. Senator Daines may have the support of our county commissioners and special interest groups anxious to exploit the areas once protection is lost, but his bill lacks anything close to majority support here in the Bitterroot Valley.

I live in the Bitterroot, home to 2 of the 5 WSAs that 2206 would "release." I have explored the Sapphire and Blue Joint WSAs many dozens of times over the years. These areas have incredible hunting, hiking, horseback riding---as good as or better than nearby designated Wilderness. They are home to our cleanest water and have maybe the best wildlife diversity in our mountains. The Sapphire WSA has priceless Native American cultural sites including a spectacular medicine wheel. These WSAs truly are worthy of Wilderness designation. I collaborate frequently with the Bitterroot National Forest and have studied wilderness character and qualifying criteria: These WSAs meet the criteria for someday being approved as Wilderness. They are loved by wildlife enthusiasts, anglers, hunters, and others. This was made apparent during a recent Ravalli County Commission meeting on 2/7/2018 where S. 2206 was open for public comment. While our commission is strongly conservative—and our county's electorate likewise—there was overwhelming opposition to S. 2206 and the release of these WSAs. Over 200 citizens attended this meeting—probably the largest ever—and over 70% were opposed. Some 75 people provided verbal testimony. Likewise the vast majority of written comments opposed 2206.

The local people—who know and value these areas better than our commissioners and Senator Daines—spoke loud and clear. This came as a shock, and maybe an embarrassment, to our commissioners as they had unilaterally sent a letter of support for 2206 months before, claiming strong local support despite having no basis for this.
Incredibly, as our meeting was occurring, the relevant senate subcommittee was convening with Senator Daines simultaneously submitting our commissioners inaccurate "letter of support." How unfortunate and deceptive. Our commissioners refused to rescind their letter.

Releasing these WSAs is premature and not being handled justly. Our local national forest will be revising their forest plan and management direction for all areas on the Bitterroot. They will professionally re-examine these WSAs and see if they qualify for designated Wilderness. These 2 areas' wilderness characteristics have actually improved recently with new restrictions on types of travel allowed. Formerly motorized trails are "rewilding" themselves. They have wolverines, mountain goats, wolves, and other rare critters. They have superlative solitude and primitive recreational attributes.
They bring in countless dollars to our local economy through recreation, outfitting, hunting, fishing.

Please respect not only the known will of the people, but also allow us to constructively and fairly collaborate on this issue through the proper and just process. This should not be top-down politics played by a senator who's absent from local input, and from local politicians with an agenda who regrettably make false claims. The locals have spoken clearly. They want WSA status continued. They want a Congress to act by declaring them Wilderness, not releasing them to exploitation and myopic development.

Please include my comments as part of the public record.

Sincerely,
Van P. Keele
564 Wapiti Loop
Hamilton, MT 59840
406-363-0028

From: Karen and Van
To: fortherecord (Energy)
Subject: Comments on S2206
Date: Thursday, February 22, 2018 11:16:36 AM

Please accept my comments for the public record in opposition to S2206.
We live in the Bitterroot Valley of Montana, home to 2 of the WSAs that would be released under 2206. We and friends of ours hike, hunt, and ski in these WSAs. We visit priceless Native American cultural sites in the Sapphire WSA. We watch and hear moose, wolverine, elk and wolves. The area is worthy of Wilderness designation. If released there will be damaging road building (we already have 2200 miles of forest roads), logging, loss of wildlife, damage to municipal and agricultural water sources, and impacts to quiet recreation.
Senator Daines says he has 2 criteria for releasing these WSAs: One, that the Forest Service does not recommend them as Wilderness and two, that there is "consensus local support" for release. The second condition is clearly not achieved as consistently 75-80% of locals are in opposition to his bill. This has occurred through public comment both in testimony to the county commissioners and through written comments. It may have the support of our commissioners but not the people.
On the first condition, these WSAs have not been evaluated in many years for their wilderness suitability. They need to be reassessed. Their wilderness character has only improved over the last several years because of successful changes in National Forest management.
Senator Daines has never stepped foot in either WSA here in the Bitterroot. He's never had a public meeting. His self-expressed 2 criteria for release have not been met. This bill should not pass. It is not the will of the people, including many who actually voted for the senator.
Van P. Keele
Karen L. Savory
564 Wapiti Loop
Hamilton Montana
4063630028

Sent via email (fortherecord@energy.senate.gov)
Testimony for the February 7, 2018 Subcommittee Hearing on S 1481 "ANCSA Improvement Act"

Molly Kemp, 907-957-3079
Box 571
Tenakee Springs AK 99841
February 8, 2018

The Honorable Mike Lee
Subcmte Chairman
Subcmte on Public Lands, Forests and Mining
U.S. Senate Energy & Natural Resources Cmte
Washington, DC 20510

The Honorable Ron Wyden
Subcmte Ranking Member
Subcmte on Public Lands, Forests and Mining
U.S. Senate Energy & Natural Resources Cmte
Washington, DC 20510

re: Testimony for the February 7, 2018, Subcommittee Hearing

Dear Chairman Lee and Ranking Member Wyden:

Please accept my testimony for the record of yesterday's hearing. I am a resident of Tenakee Springs, a small community on Chichagof Island in the heart of the Tongass National forest. I am deeply concerned by the actions proposed by S 1481, the Alaska Native Claims Settlement Improvement Act, which would lead to the privatization and clearcutting of critically important watersheds.

Abundant salmon are the key to sustainability in Southeast Alaska. In the 42 years I've lived in this community I've seen firsthand how the boom-and-bust liquidation of old growth timber is the exact opposite of a sustainable economy, and caused irreparable harm to salmon-producing watersheds. We have returned to a stable fishing economy now, and the overwhelming majority of wage earners in our small town are either commercial permit holders, deckhands, guides or connected to support industries. Of course, everyone also depends directly on salmon for healthy food on the table.

I am especially concerned about the still-pristine streams of Upper Tenakee Inlet. Through observation of changes in weather and precipitation patterns over the course of four decades, I am convinced that geography and terrain makes those north facing streams particularly valuable to salmon threatened by rapid climate change.

Tenakee Inlet is a long narrow fjord, with numerous richly productive watersheds on the north-facing side. Upper Tenakee Inlet is cold and dark, as everyone who lives here knows. The deep snow pack at higher altitudes ensures adequate water in the richly productive salmon streams up the Inlet all summer long. Last April there was still four feet of snow on the beach at the head of Tenakee Inlet at the same time flowers were blooming in the lower Inlet.

I've seem alarming changes in formerly mighty rivers like Kadashan in lower Tenakee Inlet. These rivers also used to be supported by snow pack all summer, but that is no longer the case. Winter precipitation is more likely to fall as rain than snow, and what little snow pack builds up is gone by early June. Those rivers now depend solely on rainfall in the summer. When the weird periods of hot dry weather we've seen in the last decade coincide with salmon returning to spawn , those salmon are in trouble due to sheer lack of water and resulting low oxygen.

Please do not allow political pressure and the prospect of short term financial gain to damage streams like those in Upper Tenakee Inlet, that offer refuge to irreplaceable wild salmon stocks threatened by climate change.

Sincerely,

Molly Kemp

From: Ellen Knight
To: fortherecord (Energy)
Subject: Oppose S 2206, retain wilderness study areas.
Date: Friday, February 9, 2018 5:01:59 PM

Wild lands are a critical buffer for our technologically driven mechanical world. they are the places where an in tact world exists as it has for millennia. they are reminders of the glory of our world (literally) and our human good fortune to be able to touch it, and thus to touch our own glory. does this sound overly romantic? its not. its just and simply true.

so go ahead! be bold! Retain those wild areas for another 1000 years. everyone alive will thank you some time or other.

Yours for a healthy earth and for saving all the pieces.

Ellen Knight
5800 Rattlesnake
Missoula Mt 59802
406-549-5953

From: Phil Knight
To: fortherecord (Energy)
Cc: Clint Nagel; Phil Knight
Subject: Comment on S 2206
Date: Wednesday, February 14, 2018 11:26:02 AM

To the Senate Energy and Natural Resources Committee,

I am opposed to Senator Steve Daines' bill to release 5 Wilderness Study Areas in Montana from further study or protection. I have lived in Montana for nearly 32 years and have a strong connection to public lands. I don't think Senator Daines understands how important these places are and how easy it is to lose the qualities that make them special. Senator Daines has not bothered to hold any hearings in Montana on his bill nor has he help one public meeting since he got elected. Clearly he thinks he knows what Montanas want. He is wrong.

The Blue Joint, West Pioneers, Sapphire, Middle Fork Judith and Big Snowy Wilderness Study Areas all represent the best of Montana public lands. Protecting these lands in their wild and relatively undeveloped condition would benefit all Montanans and all US citizens, as well as the wildlife that depends on these lands. These places should be protected as designated Wilderness, the "gold standard" for public lands protection, not released to be abused by poor management and heavy handed recreation.

I like Wilderness for the chance to get away from the crazed pace of every day life, for the peace and quiet, for the lack of machinery, for the vast vistas and the opportunity to reconnect with the ancient natural world we all came from. My wife and I, my family and my friends all depend on these wild places to recharge and reconnect with one another.

I've spent quite a bit of time in the 148,150 acre West Pioneers WSA, backpacking to Bobcat Lakes, hiking the Pioneer Loop National Scenic Trail, and climbing several peaks. This area is already poorly managed by the Forest Service due to their failure to protect the wilderness quality of the area from motorized wreckreation. I took the attached photo which shows how Off Road Vehicles have damaged the wet meadows along the Pioneer Loop National Scenic Trail. This place needs more protection, not less.

The 98,000 acre Sapphires WSA provides excellent wildlife habitat due to its moderate elevation and is a very important north-south travel corridor for animals like elk and bears traveling between the Selway Bitterroot and Anaconda Pintler Wilderness areas. It is also very accessible for folks from Missoula or Hamilton looking for a wilderness experience and holds more than 20 scenic alpine lakes.

The 64,000 acre Blue Joint WSA encompasses two rugged canyons in the Bitterroot Mountains and shelters old growth forest with populations of Bighorn sheep, elk, deer, black bear and pine marten. It's a great place for hunters willing to leave their vehicles behind and hunt on foot or horseback.

The Middle Fork Judith WSA at 92,000 acres and the Big Snowies WSA at 91,000 acres represent some of the best of some of Montana's "Island Ranges" - mountain range surrounded by wide open prairie. You can find amazing gelogy like limestone canyons and ice caves, as well as some of the cleanest water in the world and healthy populations of native fish. These places are important to folks from Lewistown, Great Falls and White Sulphur Sporings who go there to enjoy the natural world

I would like to have the opportunity to visit all of the WSAs in question and experience them as they should be - wild and peaceful. Please do not pass this bill.

Phil Knight
PO Box 6151
Bozeman, MT 59771

From: wildheart@frontier.net
To: fortherecord (Energy)
Subject: S. 1481
Date: Tuesday, February 06, 2018 8:27:14 PM

PO Box 21836
Juneau, Alaska 99802
February 5, 2018

Subcommittee on Public Lands, Forests, and Mining
Senate Energy and Natural Resources Committee
U.S. Senate
Washington, DC

RE: S. 1481

Dear Senators Lee, Wyden, Murkowski and Cantwell:

Please make our opposition to the passage of S. 1481 a part of the bill's official hearing record.

~ I have lived and worked in Alaska over a span of more than 34 years and have endeavored to protect the prime wild salmon watersheds in the Tongass National Forest. I believe that safeguarding these wild salmon watersheds secures our special way of life and a lasting legacy for the lands, forests, waters, wildlife, fish, and people of this place I call home. ~

Instead of passing S. 1481, the Alaska Native Claims Settlement Improvement Act, the best way to improve the future of the Tongass for the people and lands of the region would be to clearly provide for iron-clad safeguards for all public lands in Alaska which have been protected over the decades by Acts of Congress. In order to do so, all Legislated LUD II lands designated by Congress in 1990 and in 2014 must be clearly off-limits to any possible selection or conveyance of Tongass National Forest lands. For whatever reason, this current legislation and previous versions of the so-called "Landless Natives" bill, have failed to provide for such important, reasonable and responsible protections.

I harbor a number of concerns about the substance of S.1481, the most troublesome issue being the fact that these Legislated LUD II world-class fish and wildlife areas are not granted the lasting protections they so truly deserve. Each time this type of legislation re-appears on Capitol Hill, the threat of losing a number of these key areas is very real. This reality is made even more painful by the fact that these special lands were to be protected "in perpetuity" under the 1990 Tongass Timber Reform Act.

Furthermore, it is particularly disconcerting that this legislation is a slap in the face to all the people who have spent their lives working to protect these places over many, many decades. These areas received their current designations because they had, and still have, a rock-solid track record of support for protection. Yet the Senate repeatedly fails to secure enduring safeguards. In 1990, the U.S. Senate voted 99-0 to enact the Tongass Timber Reform Act, which embraced these Legislated LUD II protections. Both U.S. Senator Ted Stevens and U.S. Senator Frank Murkowski voted for this measure. Further, the additional Legislated LUD II protections were established in 2014 by enactment of the Sealaska law. The Sealaska law was championed by Senator Lisa Murkowski as being the final resolution of issues related to the Alaska Native Claims Settlement Act. Now this same claim is being made for S. 1481.

If you pull out a Tongass National Forest map, or talk with people who live and work in Southeast Alaska, you'll quickly find out that these Legislated LUD II areas are among the finest wild salmon and wildlife and scenic watersheds in North America. These are legendary areas vitally important to the region's small local communities. Places like Point Adolphus, Kadashan, Trap Bay, Lisianski River, Anan Creek, Nutkwa Lagoon, Naha, and Honker Divide to only name a few. All are truly "all star areas".

It is amazing to us that as currently drafted, S. 1481 fails to provide lasting safeguards for these Legislated LUD II Areas. Section 10 of this measure is the most problematic. Section 10 continues down a rocky legislative road that has not resulted in a successful resolution of this issue in a way that works for all concerned.
There are many other options beyond those listed that should be considered and pursued. There are ways to honor the history and heritage of a Native Village without mandating the conveyance of large tracts of Tongass National Forest lands and the roads and clearcuts that will surely follow under this problematic model. It is also clear that Tenakee Springs does not qualify to be treated like a Village Corporation -- even Senator Murkowski stated this fact in the October 2015 Senate hearing on a previous version of this measure.

Sections 7 and 11 also pose serious threats to these special wild places. All of these sections need to be fixed before moving forward with any further discussions on this legislation.

I urge that all of the areas designated as Wilderness via the 1989 House-passed version of the Tongass Timber Reform Act be off limits to conveyance and being taken out of the Tongass National Forest. I further urge that the "Tongass 71" be off limits from any sort of conveyance as well (since the Tongass 77 was reduced to 71 due to protections of 6 high-value wild salmon watersheds by the Sealaska law of 2014).

I could go into a great deal of detail on this, but suffice it to say that I believe that before moving S. 1481 any further that Senator Murkowski hold a series of official field hearings in each of the communities listed in the bill, as well as in the cities of Ketchikan, Sitka and Juneau. She and all committee members should get out there and listen to what the longtime citizens think about this issue and the best way to resolve it. She did this re: the Sealaska bill process, and I think she should do it again. I must note that the Senate ENR Committee held official field hearings in Sitka and Ketchikan in 1989, a year before enacting the Tongass Timber Reform Act (TTRA). And the House Natural Resource Committee did an official tour and held public meetings in 1988 prior to passing their version of TTRA in 1989. It is unconscionable that a bill of such magnitude could be considered by the subcommittee without any hearings in Southeast Alaska communities to see and hear firsthand for yourselves what you are talking about!

Given all of the aforementioned, I strongly oppose this legislation as it stands today.

Thank you for the opportunity to comment,

Bart Koehler

From: wildheart@frontier.net
To: fortherecord (Energy)
Subject: S. 1481
Date: Tuesday, February 06, 2018 8:38:51 PM

PO Box 21836
Juneau, Alaska 99802
February 6, 2018

RE: Oppose S. 1481

Dear Senator Murkowski and members of the Subcommittee,

America – Land of the Free!

Tongass National Forest – specific and perfect example of the meaning of Land of the Free!

The public lands of the Tongass National Forest belong to EVERY person in Southeast Alaska and the U.S. – regardless of the person's color, race, religion, land of origin – that means it belongs to more than 300 million people. Privatizing ever more and more of the Tongass is an end to public land piece by piece by piece. Each privatized parcel will belong to one person, or one corporation, rather than to millions of Americans. There are already enough private parcels in the Tongass, particularly in southern Southeast Alaska.

The Tongass National Forest – Public Land = the ultimate in freedom! When I put my boat in the water in Juneau I can go anywhere I want – any cove, estuary, river, trail, beach, forest, or wetland and be able to camp, hike, or fish because they belong to me. No signs saying, "Private Property – Keep Out," that delineate where my freedom ends. No fences delineating where my freedom ends. No private owner whose permission I need to get (and may not get or would have to pay to get) if I want to access the land to hunt, fish, camp, or berry pick.

The value of this freedom, this ability to be self sufficient in gathering food, or this recreation is absolutely priceless. The economy of Southeast Alaska is doing just fine as things are right now. Please don't change that! Don't take this freedom away! Don't privatize the lands that were designated as Wilderness or as Legislated LUD II that were supposed to be protected in perpetuity by Acts of Congress – a promise to the American people and Southeast Alaskans! And don't privatize the currently unprotected lands either – they are just as valuable as the protected lands in all the same ways!

I urge every committee member to come visit the Tongass, to meet the people who live here, and to see for yourselves what the ultimate in freedom looks like. It will change your mind about privatizing this incredible place little by little each year with yet one more piece of supposedly "final" legislation and then another and another ....

I strongly oppose S. 1481.

Sincerely,

Juliet Koehler

From: kerrykrebill@aol.com
To: fortherecord (Energy)
Subject: I oppose Sen Daines" WSA bill
Date: Friday, February 9, 2018 4:39:43 PM

I oppose Sen Daines' bill S. 2206 stripping protection from the wilderness study areas Sapphire and Blue Joint, which comprise over a half-million acres of Montana's wildest public land areas. The introduction of off-road vehicles and the enabling of oil and gas development in this pristine area is unthinkable. Please do not enable the destruction of these iconic wilderness areas.
Sincerely,
Kerry Krebill

Kerry L. Krebill
Artistic Director, Musikanten (Bethesda MD) and Musikanten Montana (Helena MT)
General Director, Helena Choral Week and Montana Early Music Festival

8 Park Place
Clancy MT 59634-9759
406.933.5246 (h)
406.431.7462 (c)
www.musikantenmt.org

I GoodSearch for Musikanten!

Please accept this testimony from:
Bill LaCroix
822 Sweathouse Creek Rd.
Victor, MT, 59875

February 23, 2018

Please enter these comments in opposition to Sen. Daines' S 2206 into the record and consider taking them to heart:

To whom,

The Wilderness Act sought to retain in their natural state the last remnants of relatively-intact ecosystems that still existed on public lands in 1964. These lands included wilderness areas given immediate and permanent protection as well as what later became known as Wilderness Study Areas (WSAs). WSAs were given the same status of protection as designated wilderness areas in 1977 with the passage of the Montana Wilderness Study Act (S. 393), sponsored by the late Senator Lee Metcalf of Stevensville. These lands were to be managed by our federal agencies as wilderness until such time as an Act of Congress either included them into the permanent wilderness system (the original intent of the 1964 Wilderness Act) or deemed them fit for other uses.

Acts of Congress, by definition and common usage, are understood to be the result of Congress diligently ascertaining the will of the People and then acting on that will. Senator Daines, with his anti-democratic S 2206, and the Ravalli County Commissioners with their letter-in-support of that bill, are apparently unfamiliar with this democratic process. Senator Daines submitted S 2206 with almost no public input and the Ravalli County Commissioners, in the face of 70% opposition during the only adequately-noticed public meeting they held on the issue of their letter-in-support, defiantly followed Daines' suit. This is not democracy to say the least. It is, as you must suspect, something else, and these last remnants of once-vast landscapes that I spent my whole life fighting for deserve—and are legally-mandated to have—much more respect than this kind of backhanded, back-door approach.

The Sapphire, Blue Joint and West Pioneer WSAs contain the headwaters of much of our clean waters that not only support a multi-million-dollar-a-year sport fishing industry but are worthy of protection in their own right. Every acre of them deserves your considered respect as well as their full protection.

Thank you,

William LaCroix

Elected officials who support the release of magnificent wilderness study areas in exchange for short-term jobs and certain environmental destruction would do well to consider first implementing the "no-cut-and-run rule."

Implementing the no-cut-and-run rule is crucial, especially in light of the Ravalli County Commission's support of Sen. Daines and his misguided efforts to convert valuable public lands into private profit: Secure the logging jobs *first* before agreeing to give away public lands with incalculable intrinsic value.

The United States Forest Service has nothing to do with the lack of lumber production jobs in Ravalli County; those jobs were stolen from our county by greed and short-sighted economic gain, with no chance of ever returning.

At least one Bitterroot Valley mill owner notoriously walked out of the Bitterroot Valley taking every viable commercial lumber production job in Ravalli County with him. And with every one of those logging and mill jobs, which Sen. Daines seems to believe is the key to this area's economic vitality, went every penny of accumulated pension benefits owed those employees. In many instances, those same employees were forced to take out second mortgages to continue supporting their families.

If our Ravalli County Commissioners truly care for the long-term welfare of this county, instead of the corporate profits of those who would despoil public lands for their own short-term profit, they must first ask for something in return.

Sen. Daines's S 2206 is nothing but a pipe dream aimed at reviving a dead-and-gone industry. Please oppose it.

Brad Larkin
P.O.Box 982
Hamilton, MT

From: Russ Lawrence
To: fortherecord (Energy)
Subject: S 2206
Date: Friday, February 16, 2018 4:49:47 PM

Senators:

I am among the many Montanans who do not favor S 2206, Sen. Daines' Wilderness Release bill. The bill was developed without opportunities for public input, has had no hearings in the region, and slaps a one-size-fits-all solution on tracts of land with varying characteristics. I am a wilderness user, and know some of these areas to have strong wilderness character; I would be loathe to see them released for other uses without due consideration and public participation.

I urge the Senate Energy Committee not to advance S 2206.

Thank you for the opportunity to comment.

Yours,

Russ Lawrence
600 S. 5th ST
Hamilton, MT 59840-2754

2-21-18
Please find attached my Public Comment for:
Energy and Natural Resources Committee,
Feb, 7th, 2018 Hearing
Subcommittee on Public Lands, Forests, and Mining Legislative Hearing.

The Big Snowy Mountains are the most intact wild public lands in Central & Eastern Montana and they're now at risk because of **Senator Daines' proposed legislation S2206** to strip protection from Big Snowies & four other wilderness study areas --Blue Joint, Middle Fork Judith, Sapphire, West Pioneer; totalling almost half a million acres, If implemented, this would represent the single biggest loss of protected public lands in Montana's history.

As primary recharge area for Madison Aquifer, the Snowies are a vital and pristine source of drinking, irriigation & stock water. They provide recreational opportunities and feed our blue ribbon trout streams. Hunting, fishing, hiking, horseback riding, livestock grazing, skiing and camping are ALL ALLOWED in WSA's and wilderness areas.

These areas are an economic driver for Montana. For the first time in 2017, tourism/recreation exceeded agriculture as Montana's top economic driver, with $7.1B consumer spending, supporting 70,000 jobs and $286M state & local tax revenue (*Outdoor Industry Association)*.

Big Snowies remain an isolated refuge for wildlife & backcountry experience due to protections from WSA designation. Once wild places are developed, it's almost impossible to restore their wilderness character.

The Forest Service REVISED FOREST PLAN for management of the Helena-Lewis & Clark National Forest (including the Big Snowies) is nearly complete. USFS Draft Revised Forest Plan is 286 page documents, based on 3year exhaustive inventory and analysis draft recommendations and multiple public meetings. Draft recommendations are due for release in April 2018.

Daines' bill S 2206 is an end run around that process, introduced without any opportunity for public input.

Multi use and public access are important to all Montanans, but we don't need EVERY use in EVERY area. Public lands belong to all of us and we deserve the opportunity to work together on how they'll be managed.

Laurie Lohrer
466 Snowberry Lane
Lewistown MT 59457
406-380-0865

From: Michelle Long
To: fortherecord (Energy)
Subject: SB 2206
Date: Friday, February 9, 2018 9:09:27 AM

Dear Senators,

I very strongly oppose 2206. The bill treats all of the Wilderness Study Areas, and all portions within each, as if they are the same and have been managed in the same way. Much more study and collaboration is a better solution to moving forward in deciding the protection status of these lands. The areas in question and methods for evaluating their wilderness characteristics have changed since the original bill. I would like to see a new study, followed by a collaborative effort to decide what will happen to and within each of these Wilderness Study Areas. I agree that far too much time has passed since the original charge to determine their fate. But too much time has also passed to use old science today.

Thank you for your consideration,

Dr. Michelle Long
1701 Middle Burnt Fork Road
Stevensville, MT 59870

From: Julie Lue
To: fortherecord (Energy)
Subject: Montanan Opposed to SS 2206
Date: Monday, February 19, 2018 9:32:51 PM

Dear Senators,

For the record, I am a Montanan opposed to SS 2206, which is sponsored by Senator Steve Daines. Among others, the bill would strip protections from the Blue Joint and Sapphire Wilderness Study Areas. These WSAs protect important headwaters that produce clean and abundant water for all of us downstream. They also support healthy fisheries.

In Montana, these are not just environmental issues; they are economic issues. The Blue Joint and Sapphire WSAs feed two famous fly fishing waters: Rock Creek and the Bitterroot River. It seems reckless to delete these WSAs with just a stroke of the pen. The Bitterroot River also waters the whole Bitterroot Valley and feeds the aquifer that feeds my well. It may sound like a cliché, but this river really is our lifeblood. It's also part of my family's livelihood, as my husband is a fly fishing guide.

I hear that Senator Daines claims widespread support for this bill in Montana. That was certainly not the case at the Ravalli County Commissioner's meeting I attended on February 7; a significant majority spoke out against the bill. I urge you to oppose this bill and find a different way to revisit the issue. Perhaps a good place to start would be to tap into the knowledge of the wilderness experts at the University of Montana, who, I believe, had not been contacted by Senator Daines as of February 7.

Sincerely,

Julie Lue
407 Aspen Way
Florence, MT 59833
luejulieg@gmail.com

Sent from Mail for Windows 10

From: Bret Luedke
To: fortherecord (Energy)
Subject: (SENDER VALIDATION FAILED --- May not have originated from apparent sender) Opposition to Senate Bill - S. 2206
Date: Saturday, February 10, 2018 1:39:13 PM

To Whom It May Concern,

As a Montana native and resident of the state, I am writing in opposition to Senator Daines' bill S. 2206 for one simple reason - despite his claim, it doesn't represent the desires of the majority of Montanans. This bill is a top down, one size fits all "solution" that only takes into consideration the views of a few special interests. I agree the status of the Wilderness Study Areas (WSA) should to be reviewed, but this should be done from a grassroots approach. Bring all interested stakeholders to the table (timber, oil and gas, ranchers, mountain bikers, hikers/backpackers, wilderness advocates, general public, etc.) to develop an inclusive, collaborative agreement. The Blackfoot Clearwater Stewardship Act is a good example of how and what can be achieved at the local level. No one gets everything they want, but all get something and thus have a vested interest in seeing it through to a final outcome. Having a "solution" dictated by Washington D.C. is not the answer and Senator Daines should look to the process that produced the Blackfoot Clearwater Stewardship Act for a model of how to achieve a review and resolution of the WSAs.

Thank you for your time and consideration!

Sincerely,
Bret Luedke
520 Grouse Ridge Drive
Whitefish, MT 59937
Cell: 406-261-1638

MADISON COUNTY BOARD OF COMMISSIONERS
P.O. BOX 278
VIRGINIA CITY, MT 59755

Commissioners
Dan W. Allhands
Ronald E. Nye
James P. Hart

Phone: (406)843-4277
Fax: (406) 843-5517
e-mail: madco@madisoncountymt.gov
www.madisoncountymt.gov

February 20, 2018

The Honorable Senator Steve Daines
320 Hart Senate Office Building
Washington, DC 20510

Re: Wilderness Study Areas

Dear Senator Daines,

Madison County strongly supports legislation to address wilderness study areas (WSA's) in Montana.

We encourage that, during your deliberations, you give consideration to the WSA's in Madison County. Several areas in this County have been in WSA's for many years, such as the Snowcrests, the Ruby Mountains, and Axolotl Lakes. We urge you to request a determination on the wilderness status of these areas.

Leaving lands not suitable to become wilderness in a designated study area inhibits multiple use of this land that could be developed for recreation, timber harvesting, grazing, mineral exploration, transmission lines, communication towers, and other uses that could help enhance the local economy of Madison County.

Thank you for your consideration.

Sincerely,

Ronald E. Nye, Chairman
Board of Commissioners
Madison County

James P. Hart

Dan W. Allhands

Sent via email (fortherecord@energy.senate.gov)

Testimony for the February 7, 2018 Subcommittee Hearing on S 1481 "ANCSA Improvement Act"

Darius Mannino 907 736 2262
P.O. Box 3
Tenakee Springs AK 99841

February 9, 2018

The Honorable Mike Lee
Subcmte Chairman
Subcmte on Public Lands, Forests and Mining
U.S. Senate Energy & Natural Resources Cmte Mining
Washington, DC 20510

The Honorable Ron Wyden
Subcmte Ranking Member
U.S. Senate Energy & Natural Resources Cmte
Subcmte on Public Lands, Forests and Mining
Washington, DC 20510

re: Testimony for the February 7, 2018, Subcommittee Hearing

Dear Chairman Lee and Ranking Member Wyden:

Please accept my testimony for the record of hearing on S 1481.

My wife and I and our 7-year-old daughter have been full time residents of Tenakee Springs, AK for the past 6 years (after previously living in Tenakee Springs in the mid to late 1990's) and currently own and operate a bakery/café/local arts and crafts consignment shop that we operate in the summer and fall. We are very concerned about the negative effects on our business with the privatization of the public land in the Tongass National Forest. Many of our guests visit Tenakee to hunt and fish and access recreational areas in Tenakee Inlet. We have witnessed that much of the land transferred to native corporations has been clear-cut in order to provide revenue for shareholders. We have worked hard over the years to save the watersheds and fear that this legislation will open these pristine areas for logging. Since tourism is the fastest growing industry in Alaska, up 4% in 2016, and employs many Alaskans, it is logical to preserve the natural beauty and resources that attract the tourists and commercial fishermen that keep our small business going. Commercial fishing also provides income for many Tenakee residents and keeping the rivers productive and available should always be a high priority.

I urge the committee to consider another option for settlement of ANSCA concerns in Tenakee Inlet as stated by John Martin, Clan Leader for the Sockeye Clan, in his January 4, 2018 testimony, and request the Forest Service convey land in Corner Bay for a Tlingit cultural and language center. I also request that Senator Murkowski hold public hearings in Southeast Alaska about this important issue.

Thank you for this opportunity to testify,
Darius Mannino

January 4, 2018

The Honorable Lisa Murkowski
United States Senate
Washington, DC 20510

re: A different approach for the people of Tenakee

Dear Senator Murkowski:

My English name is John G. Martin, Sr.; my Lingít name is Keiheenouk'. I was born and raised in Tenakee, Alaska. I am the Clan Leader for the members of the Sockeye House. Our Clans occupied and utilized all of the traditional lands in the Tenakee/Latuya and Dry Bays/Angoon area until we were forced to move to Hoonah to enable the children to attend the Hoonah Territorial School. My traditional duty as House Master is to preserve and protect the language, *ut óow* ("regalia, songs, dance, and house screen") and our traditional clan boundaries (air, water, land).

On June 29, 2017, you introduced the Alaska Native Claims Settlement Improvement Act, S. 1481. As written, Section 10 of S.1481 creates new urban Native Corporations for five Southeast Alaska communities, including Tenakee Springs, and allows each to select 23,040 acres of lands from the surrounding Tongass National Forest, primarily for economic development, irrespective of how important they are for cultural, traditional, or historic values. Instead of reflecting the voices for sustainability from the villages, this bill prolongs ANCSA's shortsighted, top-heavy corporate model that smothers innovation in response to the challenges and opportunities facing us today.

I submitted testimony for the record of your committee hearing in October 2015 in opposition to S.872. I continue to object to S.1481 and incorporate that earlier testimony by this reference. *See* Pending Legislation, S. Hrg. 114-490 at 786-787 (Oct. 8, 2015)(email from John Martin, Sr.). Not only does S.1481 essentially limit rural development to destructive clearcut logging, it also lacks ironclad protections for the nearly 900,000 acres of Legislated LUD II roadless wildlands on the Tongass. I am particularly concerned about the risks to the Kadashan River and Trap Bay roadless wildlands in Tenakee Inlet.

I am the only private property owner in the Kadashan watershed. The federal government conveyed this 160-acre parcel to my grandfather in 1938 under the authority of the Alaska Native Allotment Act of 1906. Under this authority, my grandfather received this land after showing "substantially continuous use and occupancy of the land." My land is located at the head of this incredibly productive wild salmon watershed, Kadashan Bay. Providing ironclad protections for all Legislated LUD II wildlands will further my desire to manage my allotment to protect salmon habitat. I attach my letter from late last year to the Alaska Department of Natural Resources in support of critical reservations of water for salmon in the Kadashan River watershed for the hearing record.

At the October 8, 2015 hearing on S.872, you framed the issue you were trying to solve as follows:

> Well, and this is where I am trying to get. You have a limited number of communities in Southeast, all there in the Tongass. For whatever reason you had five of them, five of them, that all with the exception of Tenakee, met the criteria in terms of Native, non-Native, composition, the other criteria that were there, and they were excluded. Forty-four years later we are trying to figure out how we make sure that they are not left out. I think it is really difficult to argue that we cannot touch the Tongass. We have to keep the Tongass intact.
>
> These are the people who have been living in the Tongass, raising their families in the Tongass, educating their children in the Tongass, for time immemorial. So [sic] when I think about keeping the Tongass intact, I also remember the people of the Tongass and making sure that they have that access and that claim to their lands, their cultural heritage lands.[1]

Taking your comments to heart, I wish to propose a better option for Tenakee Inlet, and for all the members of my clan who share my desire to maintain the area's traditional cultural values and conserve all of Tenakee Inlets' exceptional indigenous habitat. This option would be for the USFS to convey the land around the existing Corner Bay Administrative Facility to the Sockeye Clan for their development of a cultural and language center. Such a center would allow those Lingit blood descendants to have a cultural village to keep our culture, language, songs and dance alive for our children and grandchildren. Such an option may also meet the need of Native people in Southeast Alaska for a language and healing center for those who are recovering from opioid addiction.

It is my understanding that the Forest Service wishes to decommission this facility and is working with the Hoonah Indian Association to arrange for the possible relocation of the facility to Hoonah to help provide elderly housing in that community. While I do not want to delay or complicate the Hoonah Indian Association obtaining this structure, the conveyance of this already developed site to the Sockeye House would still enable us to achieve our cultural objectives.

I have had a couple of difficult months recently health wise and I'm unable to come down to D.C. to talk with you. We recently learned that you are accompanying Chief Tooke of the Forest Service on his Alaska visit the last weekend of February 2018. I hope we can arrange a meeting with you both during your visit to discuss this "Tenakee" option.

---

[1] *See* S. Rep. No. 114-490, at 392 (2015); *see* also Archived Hearing Broadcast at 1:31:01 (available at: https://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=2dcb8874-5f31-44c7-84af-e63691dd5231).

Thank you in advance for trying to fit me into your busy schedule. I look forward to hearing from you soon.

Gunalchéesh

John G. Martin, Sr.

John G. Martin, Sr.
P.O. Box 20403
Juneau, AK 99802
(907) 723-3293
gbaymuffin@yahoo.com

sent via email Dec. 11, 2017

Kimberly Sager
Alaska Dept. Natural Resources
Kimberly.Sager@alaska.gov

re: Applications for Reservations of Water within the Kadashan River Watershed
Reach A, B, & C-LAS 238372, 2373, 28374; Hook Creek-LAS 28375; Tonalite Creek-LAS 28376

Dear Ms. Sager:

My English name is John Martin, Sr.; my Lingít name is Keiheenouk'. I was born and raised in Tenakee Springs, Alaska. I am the Clan leader for members of the Sockeye House.

I am the owner of the only private property in the Kadashan watershed. The federal government conveyed this 160-acre parcel to our family in 1938 under the authority of the Alaska Native Allotment Act of 1906. Under this authority, my grandfather received this land after showing "substantially continuous use and occupancy of the land." My land is located at the head of Kadashan Bay, adjacent to the mouth of this incredibly productive wild salmon watershed.

According to Application LAS 238372, "[t]he primary purpose of this proposed reservation is to protect fish habitat, migration and propagation within the Kadashan River and its watershed. . . . Water of sufficient quantity is need to sustain production of these valuable fisheries."

As the only private landowner in the Kadashan watershed, there is no conflict between any of the proposed instream reservations and my desire to manage the allotment to protect salmon habitat.

I applaud the proactive efforts of the Alaska Department of Fish and Game to reserve these minimum water flows and request the Department of Natural Resources timely approve all of these applications.

Gunalchéesh,

John Martin, Sr.

John Martin, Sr.

Sent via email (fortherecord@energy.senate.gov)

Testimony for the February 7, 2018 Subcommittee Hearing on S 1481 "ANCSA Improvement Act"

Samuel McBeen, 907-736-2245
Box 23
Tenakee Springs AK 99841
February 9, 2018

The Honorable Mike Lee
Subcmte Chairman
Subcmte on Public Lands, Forests and Mining
U.S. Senate Energy & Natural Resources Cmte Mining
Washington, DC 20510

The Honorable Ron Wyden
Subcmte Ranking Member
U.S. Senate Energy & Natural Resources Cmte
Subcmte on Public Lands, Forests and Mining
Washington, DC 20510

re: Testimony for the February 7, 2018, Subcommittee Hearing

Dear Chairman Lee and Ranking Member Wyden:

Please accept my testimony for the record of yesterday's hearing.

My wife and I have been full time residents of Tenakee Springs, AK for more than 41 years and over that time we have been the owner/operators of four commercial fishing boats, a small seafood processing business and a fishing lodge. All through our working years we saw first hand the negative impacts of large scale clearcut logging, both locally and over the region as a whole, on our business endeavors. While much of our immediate area is in relatively pristine condition, large parts of it would likely see irreparable damage to the land and water qualities that sustain our local economy and our way of life if the proposed legislation that is before you were to become law.We are retired now but we still depend on the unspoiled lands and water that surround us to provide our food, our recreation and our general well-being.

I am including here the entire text of the testimony from Molly Kemp (also from here in Tenakee Springs) because it so perfectly elucidates my views on the situation we are facing here right now.

"I am a resident of Tenakee Springs, a small community on Chichagof Island in the heart of the Tongass National forest. I am deeply concerned by the actions proposed by S 1481, the Alaska Native Claims Settlement Improvement Act, which would lead to the privatization and clearcutting of critically important watersheds.

Abundant salmon are the key to sustainability in Southeast Alaska. In the 42 years I've lived in this community I've seen firsthand how the boom-and-bust liquidation of old growth timber is the exact opposite of a sustainable economy, and caused irreparable harm to salmon-producing watersheds. We have returned to a stable fishing economy now, and the overwhelming majority of wage earners in our small town are either commercial permit holders, deckhands, guides or connected to support industries. Of course, everyone also depends directly on salmon for healthy food on the table.

I am especially concerned about the still-pristine streams of Upper Tenakee Inlet. Through observation of changes in weather and precipitation patterns over the course of four decades, I am convinced that geography and terrain makes those north facing streams particularly valuable to salmon threatened by rapid climate change.

Tenakee Inlet is a long narrow fjord, with numerous richly productive watersheds on the north-facing side. Upper Tenakee Inlet is cold and dark, as everyone who lives here knows. The deep snow pack at higher altitudes ensures adequate water in the richly productive salmon streams up the Inlet all summer long. Last April there was still four feet of snow on the beach at the head of Tenakee Inlet at the same time flowers were blooming in the lower Inlet.

I've seen alarming changes in formerly mighty rivers like Kadashan in lower Tenakee Inlet. These rivers also used to be supported by snow pack all summer, but that is no longer the case. Winter precipitation is more likely to fall as rain than now, and what little snow pack builds up is gone by early June. Those rivers now depend solely on rainfall in the summer. When the weird periods of hot dry weather we've seen in the last decade coincide with salmon returning to spawn , those salmon are in trouble due to sheer lack of water and resulting low oxygen.

Please do not allow political pressure and the prospect of short term financial gain to damage streams like those in Upper Tenakee Inlet, that offer refuge to irreplaceable wild salmon stocks threatened by climate change.

Sincerely,
Molly Kemp

Sincerely,
Samuel E. McBeen

U.S. Senate Committee on Energy and Natural Resources

Subcommittee on Public Lands, Forests, and Mining Legislative

Hearing , February 7, 2018, S. 2206, (Daines) *Protect Public Use of Public Lands Act*

Statement of: James E. McCollum, Great Falls, Montana

SUBJECT: Letter for the Record, Hearing on February 7, 2018

Dear Subcommittee Members,

My name is James McCollum. I live in Great Falls, Montana, and have been a user of the National Forests in Montana for over 50 years. I support the bill, S. 2206, that Senator Daines has introduced to release the wilderness study status of the Middle Fork Judith River area on the Helena-Lewis & Clark National Forest. There are a number of reasons that this action is appropriate.

1. As a result of the US Forest Service (FS) study of the area in the late 1970s - early 1980s, the Forest Service recommended against wilderness management of the area. That recommendation has been reinforced by subsequent statements of FS officials and by planning actions currently under way on the Helena-Lewis & Clark NF.

2. The administrative rules of the FS now require review of wilderness characteristics of forest lands in all new or updated Forest Plans. Areas which meet wilderness criteria are considered for recommendation to Congress for designation as wilderness areas. This new administrative procedure for recommending wilderness management on particular areas makes the current Wilderness Study Area designations obsolescent and the whole WSA process redundant to current planning processes.

3. Current management of WSAs by the FS results in a self-fulfilling action of making the areas more wilderness-like rather than the original mandate of maintaining the characteristics of the areas in their pre-WSA condition until Congressional action was taken to accept or reject the FS recommendations.

4. The restrictive management of WSAs in a special separate land status has resulted in confusion of the public. The result is that some of the public think these areas are a new permanent category of FS land management, that of ***Wilderness Study Area***, similar in status to other designations such as roadless areas, wilderness areas, wild and scenic rivers, etc., producing a result that I doubt that Congress intended in the original WSA legislation.

5. The alternative to release of these WSAs is to direct that they become part of the wilderness system. That action would greatly restrict the use of the areas by many recreational visitors. Studies have shown that 10 percent or less of forest visitors use the current wilderness areas. Through the years, I have used my pickup truck to access camp sites, bicycles and motorcycles for trail access, game carts to retrieve downed game, chainsaws to cut firewood, all of which are ruled out by wilderness status and all of which have been impacted by the restrictive management of the WSAs.

6. Release of these areas from WSA status will not result in development. Most of these areas lie within larger Roadless Area designations which restrict most development. Any activity that would affect forest resources of these areas would be required to go through the same public review process as such actions would on any other part of the forest.

7. A wide diversity of county commissions, organizations and individuals have expressed support for S. 2206. This is an indication that most citizens in Montana are supportive of maintaining wide-based public access to these WSAs and support for their release from wilderness study status. In opposition are a few wilderness oriented businesses and advocates for restricting access of the public.

Thank you for this opportunity to express my views on this issue.

Sincerely,

James E. McCollum

2828 Central Av W
Great Falls, MT
Ph. 406-750-7742

From: Jill McGlenn
To: fortherecord (Energy)
Subject: Sen. Daines bill, S. 2206
Date: Saturday, February 10, 2018 11:34:24 AM

Dear Committee,
I just want to let you know that I'm opposed to Sen Daines bill, S2206.

Sincerely,
Jill McGlenn
6279 Head Ln
Helena, MT 59602

From: Joan McKeown
To: fortherecord (Energy)
Subject: S2206.
Date: Saturday, February 10, 2018 11:08:52 AM

This bill proposed by Sen Daines is a tragic public land grab. I am opposed to this bill
Joan McKeown
Po Box 486
Joliet, Mt 59041
406-263-5677

Sent from my iPhone

From: Roxanna Mclaughlin
To: fortherecord (Energy)
Subject: comments on S2206
Date: Tuesday, February 13, 2018 12:49:15 PM

Hello!

I am writing today to tell you that I oppose the effort to remove WSA for Blue Joint, Sapphire, West Pioneers, Big Snowies and Middle Fork Judith WSAS in Montana. These are unique in that there is no possible way the wilderness can be created by man. Wilderness Study Areas were designated to study wilderness characteristics, and potentially designate an area as Wilderness, so that it can be protected.

As Montana's population increases, and pressures from the increased motorized recreationalists make it harder for our wildlife and native flora to survive, it is more important than ever to preserve the areas that we have left that are closest in character to what it was before it became "tamed". Our grizzly and wolverine, elk and other big game all need large territories to roam and breed and stay healthy.

People, too, need these areas for quiet recreation by foot or by horseback. Any day, the headlines are full of news of violence and war. Quiet recreation for veterans has been proven to be healing and restorative, and don't we owe it to our veterans to preserve such places where healing can begin? And ask anyone that hikes or does backcountry pack trips into our wilderness... they return calmer, and better able to handle the stress of everyday living. We are gentler and stronger after a wilderness journey. Travel by foot or horse are acceptable in wilderness areas.

I have healed from rape, as well as from caring for my husband during his journey with a broken leg, and then cancer, and more with my journeys into places or wilderness and wilderness character. We need more places protected and preserved that offer this, not less.

Do not make the mistake of opening our WSAs to be trampled, torn up, and sold off.

S2206 is a very very bad idea. The man that sponsored that bill does not represent Montana's interests. He represents his own greed for power.

Thank you,
Roxanna McLaughlin (Certified Montana Master Naturalist)
PO Box 11647
Bozeman MT 59719
4065397379

PS Thanks for your time and effort to protect Montana's wild areas.

Meagher County, Montana
WHITE SULPHUR SPRINGS

"The County with a Castle"

OFFICE OF
BOARD OF
COUNTY COMMISSIONERS

February 20, 2018

The Honorable Senator Steve Daines
320 Hart Senate Office Building
Washington, DC 20510

Dear Senator Daines,

We would like to express our appreciation for your work on reviewing certain Wilderness Study Areas for possible removal in accordance with HJ 9 passed by the Montana Legislature. Changing the status of the Middle Fork Judith WSA to allow aggressive initial response to any new wildland fires, helping reduce the chance of resources loss to our county. Status change would also allow for proper forest management, such as timber harvest and fuel reduction. The lack of forest management and current road obliteration of existing roads, which were used for timber management in the past, has increased the chance of uncontrollable wildland fires. Due to the increased risk to our firefighters and the volunteer fire departments, which our county heavily relies on, reducing usable roads to access and use for suppression lines needs to be stopped. Roads adjacent to the Middle Fork Judith WSA are in-line to be decommissioned in the future which would create hardship for those trying to contain any wildland fire.
Thank you again for your dedication to the people of Montana and the whole nation. Please do not hesitate to contact us if you have any questions.

Sincerely,

Vice Chairman, Ben Hurwitz

Commissioner, Herb Townsend

Mesilla Valley Sportsman's Alliance

February 21, 2018

Statement from Ralph Ramos
Co-Chair, Mesilla Valley Sportsman's Alliance
Las Cruces, NM

To: Senate Committee on Energy & Natural Resources, Subcommittee on Public Lands, Forests & Mining concerning S. 441, the Organ Mountains Desert Peaks Conservation Act.

Members of the Committee:

I respectfully request that the testimony from Mesilla Valley Sportsman's Alliance be made part of the official record. Thank you for the opportunity to comment.

The Mesilla Valley Sportsmen's Alliance represents a majority of families in this valley who could be described as your common, everyday folks who work in the agriculture industry, real estate development and construction, local, state and federal government, New Mexico State University, NASA and White Sands Missile Range or are retired. These families are the hard-working people of Doña Ana County who make this community tick.

These families also play hard. On any given weekend, you will find many of these folks have loaded up their assorted recreational necessities whether its horses, campers, RV's, ATV's Jeeps or pickups with the appropriate gear and they're off to their favorite public lands area to spend quality time with their families and friends. The key to these activities is ACCESS.

Now, Senators Udall and Heinrich desire to designate 8 areas within the Organ Mountains Desert Peaks National Monument as "wilderness areas" with their introduction of S.441. These families do not support the idea of "protecting these lands for future generations" by restricting access and use to only a few who are able to either walk or go horseback into a "wilderness area".

The monument designation already withdraws these lands from disposal and development and, with the development of the management plan by BLM, there will certainly be access and use restrictions to protect special objects within the monument.

Why designate 8 "wilderness areas" within the monument? In every family, there are family members who are either too old, too young or otherwise incapable of walking or riding horseback, that deserve to have access to recreate on these public lands yet, Senators Udall and Heinrich want to restrict access and use of these proposed "wilderness areas" to only those who are able to either walk or go horseback. This is just wrong!

Please recommend a "do not pass" to the full committee on S.441.

Sincerely,

/s/ Ralph Ramos, Co-Chairman
Mesilla Valley Sportsman's Alliance
Doña Ana County, New Mexico

February 7, 2018

Lisa Murkowski, Chairman
Senate Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Maria Cantwell, Ranking Member
Senate Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Dear Chairman Murkowski and Ranking Member Cantwell:

The Missoula Area Chamber of Commerce would like to express its support for the Blackfoot Clearwater Stewardship Act. This act has found support from a wide range of industry sectors and begins to address needed projects in our forests.

This Act would benefit the wood products industry by improving access to much needed timber. This sector of the economy provides many good paying jobs in our community. After a year with several large wildfires in the Missoula area, timber and forest restoration businesses are more important than ever. The Blackfoot Clearwater Stewardship Act is supported by the Chamber and its Forest Resources Committee.

The growing Outdoor Recreation sector of the Missoula economy would also benefit from the passage of this act. More area would be opened to snowmobilers, mountain bikers and many other types of activities. Outdoor recreation contributes significantly to the quality of life our members enjoy in and around Missoula. The ability to enjoy the outdoors helps businesses retain workers and attract new talent. It also helps the community attract new businesses looking to relocate.

The diversity of our landscape in Montana lends itself to different land management objectives in specific areas and each these different objectives are important to separate but intertwined segments of our economy in Western Montana. We believe timber harvest, recreation, and tourism can thrive simultaneously in our state.

We appreciate the collaboration that has taken place with the proponents of the Blackfoot-Clearwater Stewardship project. This collaboration has been a helpful tool for achieving forest restoration needs and providing raw material to Montana's wood processing facilities. This spirit of collaboration is our primary reason for supporting the proposal.

Sincerely,

Clint Burson
Director of Government Affairs
Missoula Area Chamber of Commerce

P.O. Box 7577 ▪ Missoula, MT 59807-7577 ▪ Phone: (406) 543-6623 ▪ Fax: (406) 543-6625
www.missoulachamber.com

MISSOULA COUNTY

Board of County Commissioners
Mailing Address: 200 West Broadway
Physical Address: 199 West Pine
Missoula, MT 59802-4292
(406) 258-4877
bcc@missoulacounty.us

BCC 2018-059
February 06, 2018

Lisa Murkowski, Chairman
Senate Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Dear Chairman Murkowski,

Over ten years in the making, the Blackfoot Clearwater Stewardship Project promises a better future for our timber and recreation economies by increasing the pace and scale of forest management, guaranteeing access to favorite backcountry areas and preserving our outdoor traditions for future generations. The Blackfoot Clearwater Stewardship Act stems from this collaborative working group including outfitters, wildlife advocates, community leaders, recreationists and timber industry representatives that promotes cooperative public-private stewardship across the southwestern Crown of the Continent.

As long-time champions of place-based collaboration, we have held the Blackfoot Clearwater Stewardship Project to a high standard and we intend to hold other public land legislation impacting our residents to a similarly high standard for collaboration and transparency. This includes legislation such as S2206, the Protect Public Use of Public Lands Act, which we are concerned was not developed through a transparent process that allowed for public input from interested stakeholders.

In Missoula County, it is a welcome opportunity when we can show support for a wide-ranging proposal backed by many diverse Montana communities. We are proud to reaffirm our endorsement of the Blackfoot Clearwater Stewardship Project through support of the Blackfoot Clearwater Stewardship Act, which aims to address multiple challenges and opportunities in a single place-based collaborative effort. Collaboration is not an end in and of itself. As a tool it has the opportunity to show the way toward better solutions for public land management.

We urge the Senate Energy and Natural Resources Committee to lend their support to the Blackfoot Clearwater Stewardship Act, an agreement that is ten years strong and stands on its own.

Thank you for considering our comment.

Sincerely,

BOARD OF COUNTY COMMISSIONERS

David Strohmaier, Chair

Jean Curtiss, Commissioner

Nicole Rowley, Commissioner

BCC/ac
CC: Senator Maria Cantwell
Senator Steve Daines
Senator Jon Tester

MISSOURI RIVER STEWARDS

"PROMOTING LANDOWNER INTERESTS IN THE MISSOURI BREAKS"

PO BOX 45

WINIFRED, MONTANA 59489

Phone 406-462-5359/5506 Email: grpoertner@gmail.com

December 22, 2017

Honorable Steve Daines
United States Senator
320 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Daines:

Your legislative initiative to identify wilderness study areas (WSA's) that are no longer suitable for wilderness is applauded and represents an effort that is long overdue in Montana. Thank you for taking up that important work.

Our purpose in writing to you is to recommend additional WSA's that exist in the Upper Missouri River Breaks National Monument (UMRBNM) for inclusion in the Protecting Public Use of Public Lands Act that you are sponsoring.

Presently, the UMRBNM contains six WSA's that are managed by the Bureau of Land Management (BLM): Cow Creek WSA (34,050 acres); Antelope Creek WSA (9,600 acres); Dog Creek South WSA (5,150 acres); Woodhawk WSA (8,100 acres); Stafford WSA (4,800 acres); and Ervin Ridge WSA (10,200 acres).

The BLM's final suitability study and environmental impact statement completed in 1987 identifies WSA's in the monument that are no longer suitable for wilderness and recommended in its December 2008 UMRBNM Record of Decision that four WSA's be removed from wilderness status and that two WSA's be reduced in size. Table 2.15 of the Record of Decision depicts the BLM's WSA recommendations and is provided at Enclosure 1.

Recommend you incorporate the BLM's WSA determinations as shown in Table 2.15 (Encl. 1) in your legislative proposal; i.e. remove Dog Creek South WSA, Ervin Ridge WSA, Stafford WSA, and Woodhawk WSA from wilderness and remove the 2,750 acres from the Antelope Creek WSA and the 12,460 acres from the Cow Creek WSA that no longer qualify for wilderness.

The following comments are provided in support of our recommendations:

- The 2001 UMRBNM designation will provide adequate protection of the lands previously associated with the WSA's. In fact, BLM supported the monument designation citing the need to include the WSA lands in the monument should Congress act to withdraw the WSA's from wilderness status at some future date.
- Because lands in WSA status are required to be managed just like wilderness, they become de facto wilderness in perpetuity thereby limiting public use of these lands.
- The WSA's in the monument represent 71,900 acres that are essentially off limits to the public as no mechanical or motorized use is permitted.
- The roadless mandate in the six WSA's contributes significantly to the public's frustration with the monument travel plan. For example, the 2001 monument designation resulted in the closure or seasonal restriction of nearly two-thirds of the public access roads. A substantial number of roads were needlessly closed during hunting season; off-road travel is precluded, even for game retrieval; and, camping is restricted to 50 feet from the road center.
- BLM touts the exceptional hunting opportunities in the monument, yet the imposed road closures and travel restrictions make access to those opportunities more difficult. In the WSA's, use of wheeled game carts is prohibited and the rugged terrain found in the WSA's often discourages hunters from taking big game animals where retrieval is problematic because of the roadless mandate.
- Removal of WSA status from some 40,000 acres represents a positive step toward enhancing public use of public land in the Missouri Breaks.

County commissioners with jurisdictions appurtenant to the WSA's listed above have reviewed this correspondence and concur with the recommendations.

Again, thank you Senator Daines for your effort to improve access to public lands. We hope to see the WSA recommendations outlined above included in your legislation.

Sincerely,

Ron Poertner
Secretary, Missouri River Stewards

COUNTY COMMISSIONER'S CONCURRENCES:

Blaine County	**Fergus County**	**Phillips County**	**Chouteau County**
Signed:_____	**Signed:** _____	**Signed:** _____	**Signed:** _____
Date:_____	**Date:** _____	**Date:** _____	**Date:** _____
County Commissioner	**County Commissioner**	**County Commissioner**	**County Commissioner**

Enclosure

From: Tom Mobley
To: fortherecord (Energy)
Subject: Organ Mountains Desert Peaks Conservation Act
Date: Wednesday, February 21, 2018 1:08:50 PM

Statement of Thomas N. Mobley, Jr.
Managing Member
Sierra Alta Ranch LLC
Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests & Mining
Concerning
S. 441, the Organ Mountains Desert Peaks Conservation Act

Sierra Alta Ranch LLC is a family owned partnership. It owns and operates 1160 acres of private land in the Sierra de Las Uvas, together with 560 acres of New Mexico State Trust Lands, and the Sierra Alta Grazing Allotment No. 0312 consisting of 6695 acres of federal land. Since 1936 this allotment has been held by only four families, one being my family and another being my wife's parents. I am pleased to advise you that today the grazing lands on this allotment are in excellent condition and are a tribute to over 80 years of sustainable range management practices.

A portion of the proposed Sierra de Las Uvas Wilderness Area in S. 441 falls within my ranch boundaries, even though the wilderness study reported in Record of Decision issued August 19,1991, pursuant to the requirements of the Federal Land Policy and Management Act (FLPMA), found the area not suitable for Wilderness designation.

The sponsors of the Organ Mountains Desert Peaks Conservation Act allege the lands they propose for Wilderness are unprotected, ignoring the protections provided by FLPMA and the multiple environmental protection laws that exist. In truth, the lands they chose for Wilderness are the most productive, most protected rangelands in Dona Ana County.

Over the course of the eighty years I have been granted to live on this Earth, I have observed a continuous strengthening of the bond between ranchers and the land for which we hold a huge obligation to protect so that it may continue to be productive. Unfortunately, I have also observed a movement by conservationists who place a higher value on recreation and entertainment. The result is a continuing flow of legislative proposals for federal land use designations, including wilderness, to marginalize ranching, energy producers, and timber companies.

I am asking that you recognize that Wilderness bills, such as S. 441 the Organ Mountains Desert Peaks Conservation Act, defeat the objectives of FLPMA in which all users of federal lands have equal standing. Accordingly, you will vote no on this legislation.

I respectfully request that this testimony be made a part of the official record.

Tom Mobley
Sierra Alta Ranch LLC
PO Box 417
Dona Ana, N.M 88032
Phone 575-526-2112
Cell 575-644-8841
Email tmobleyjr@comcast.net

MONTANA TROUT UNLIMITED
312 N. Higgins Ave, Suite. 200, Missoula, MT 59802 406) 543-0054

February 6, 2018

The Honorable Mike Lee
Chairman, Subcommittee on Public Lands, Forests and Mining
U.S. Senate Committee on Energy and Natural Resources
361A Russell Senate Office Building
Washington, D.C. 20510

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

Re: Blackfoot Clearwater Stewardship Act (S.507)

Dear Chairman Lee and Ranking Member Wyden:

Montana Trout Unlimited (MTU) works to conserve, protect and restore coldwater fisheries and their watersheds. With more than 4,200 members represented by thirteen local chapters around the state of Montana, our organization supports conservation projects that benefit fish, wildlife, and people. That's why MTU is proud to support the Blackfoot Clearwater Stewardship Project (BCSA).

Each year thousands of anglers come to Montana from across the country to fish some of the greatest trout streams in the world. Among those is the Blackfoot, an iconic river that is a model of what long-term restoration through collaborative processes looks like. MTU, along with our Big Blackfoot chapter, numerous other watershed groups, and over 200 landowners have worked together to put more than $15 million on the ground reconnecting tributaries, installing fish screens, and improving over 500 stream miles, all while improving agricultural and ranching use and boosting the local economy through job creation.

The BCSA adds to this legacy by protecting almost 80,000 acres of backcountry public lands containing pristine headwater streams. Places like the West Fork of the Clearwater River, Monture Creek, and North Fork of the Blackfoot River boast some of the highest quality fish habitat for native species like the westslope cutthroat trout and ESA threatened bull trout. Protecting headwater streams through the BSCA is one way to help recover and delist species, like bull trout. Moreover, many of our members spend time fishing these streams – just don't ask where.

Montanans know that when we work together, we can craft collaborative solutions that solve public land management challenges. The BCSA has resulted in positive impacts to the local economy through active forest and trail maintenance and the creation of over 180 jobs annually.

This legislation finds the balance between user groups on federal lands by creating recreation areas for winter motorized use and mountain biking while still allowing for the protection of backcountry hunting and fishing opportunities.

We urge you to support the Blackfoot Clearwater Stewardship Act as it will serve as a legislative model for the rest of our state and the country of how local collaboration can provide certainty for all stakeholders and succeed in truly benefitting both the environment and people. Thank you considering my organization's position and being part of this success story by helping to pass the Blackfoot Clearwater Stewardship Act.

Sincerely,

David Brooks
Executive Director
Montana Trout Unlimited

c. The Honorable Jon Tester

312 N. Higgins Ave, Suite. 200, Missoula, MT 59802 406) 543-0054

February 6, 2018

The Honorable Mike Lee
Chairman, Subcommittee on Public Lands, Forests and Mining
U.S. Senate Committee on Energy and Natural Resources
361A Russell Senate Office Building
Washington, D.C. 20510

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

RE: S. 2206, the Protect Public Use of Public Lands Act

Dear Chairman Lee and Ranking Member Wyden:

Montana Trout Unlimited represents more than 4,200 Montanans and 13 local chapters across the state who share our mission to conserve, protect and restore Montana's coldwater fisheries and their watersheds. Public lands are integral to this mission. Not only are the headwaters of our famed blue ribbon trout streams found on public lands, but so is over 60% of the remaining native trout habitat in our state. I am writing on behalf of Montana Trout Unlimited and the undersigned local chapters in opposition to S. 2206, the Protect Public Use of Public Lands Act.

Our interest in S. 2206 stems from the fact that the Wilderness Study Areas (WSA) that the legislation would release are home to populations of bull trout, a species listed as Threatened under the Endangered Species Act; sensitive populations of Westslope cutthroat trout, a native trout species designated by the State as Species of Concern; and serve as the headwaters of Montana's most famous trout rivers, including the Big Hole River, Beaverhead River, Rock Creek, Judith River and Spring Creek. Moreover, our members use these public lands for hunting, fishing and outdoor recreation. We are boots on the ground who intimately know and use these public lands.

The effects of land management quite literally flow downhill. Removing protections for 449,500 acres of WSAs could open up these public lands to road construction and extractive uses, resulting in deleterious impacts to important fisheries and wildlife habitat. Additionally, these extractive uses would alter the landscape and may not be compatible with backcountry recreation, hunting and fishing, which make a large portion of Montana's $7.1 billion outdoor industry.

Section 2(a)(6) of S. 2206 states that "sportsmen…support Congress acting to remove the land in the State described in subsection (c) to protect public use of public land." As an organization

representing 4200 Montana sportsmen with chapters in local communities located in the vicinity of the WSAs that would be released, we would like to take this opportunity to provide an alternative perspective. Not only do we not support the bill, but neither Montana Trout Unlimited or local chapters were approached about the legislation prior to introduction. The result is that the input and local expertise of our organization and members who intimately know these lands has not been meaningfully considered or incorporated into the legislation. While there may be some in Montana's sporting community who support the bill, there is not consensus support; to the contrary, numerous Montana-based sportsmen's organizations have come out in opposition to the bill.

We agree that there is a need to resolve long-standing issues with WSAs, and portions of these WSAs may very well be suitable for more active management and uses that are not compatible with Wilderness, but S. 2206 jumps the gun. The right path forward for determining the future management of these lands is to bring affected stakeholders together to work toward a collaborative, consensus solution.

This may include hard releases for a portion of the WSAs, but may also include recommendations for Wilderness, as well as recommendations for National Conservation Areas, National Recreation Areas or other non-Wilderness designations that also provide a degree of protection for sensitive fish and wildlife habitat and backcountry sporting opportunities. Until a process of this nature is undertaken, changing the status quo of these WSAs effectively aborts this collaborative process before it can start.

For these reasons, we urge you to table S. 2206 so that a bottom-up, locally driven process can be undertaken to determine the future of these public lands that are so important to Montana and our outdoor heritage. Thank you for the consideration of our perspective.

Sincerely,

David Brooks
Executive Director, Montana Trout Unlimited

And on behalf of the following local Trout Unlimited chapters:

Brian Neilsen, president of Missouri River Flyfishers chapter of TU, Great Falls, MT

Will Trimbath, president of Pat Barnes chapter of TU, Helena, MT

Greg Chester, president of Bitterroot River chapter of TU, Hamilton, MT

Mike Geary, president of Lewis & Clark chapter of TU, Twin Bridges, MT

c. The Honorable Steve Daines

MONTANA WILDERNESS ASSOCIATION

80 S. Warren, Helena, MT 59601 www.wildmontana.org

January 31, 2018

Lisa Murkowski, Chairman
Senate Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Maria Cantwell, Ranking Member
Senate Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Dear Chairman Murkowski and Ranking Member Cantwell:

We are a group of about 500 folks that love the out-of-doors and champion Montana's wild places. Inspired by Sacagawea and the Lewis and Clark expedition, our organization is called the Shining Mountain Chapter of the Montana Wilderness Association. Our diverse group includes a wide range of folks from students to business executives. We work and live near the public lands that will be enhanced by the Blackfoot Clearwater Stewardship Act (Senate bill 507). The Blackfoot Clearwater Stewardship Act was introduced by Senator Tester early in 2017 and will kindly be heard by your committee on February 7, 2018.

The effort and teamwork that has become the Blackfoot Clearwater Stewardship Act (BCSA) was born and raised in Montana, by Montanans. It began more than a decade ago when snowmobilers and wilderness advocates discovered that by working together they could make surprising progress. It is fueled by a collaboration of timber, recreation, sportsmen, snowmobilers, hikers, and business owners that believe by working together we can find a sweet spot that benefits all. Since 2010 the most important product of their collaboration has been the creation of the Southwestern Crown Collaborative. The Southwestern Crown Collaborative has injected $50 million into the local timber and restoration economy.

The Blackfoot Clearwater Stewardship Act continues to build upon that success by adding important wildlife habitat and corridors to the Bob Marshall Wilderness Area and the Mission Mountain Wilderness Area. Avalanche chutes on the Swan front that provide critical early season food for grizzlies will be protected. The West Fork of the Clearwater area includes an important wildlife corridor and a key bull trout stream. It, too, will be protected by the BCSA. These additions will help ensure we'll always have outstanding hunting and fishing, as well as wild places to roam and remember.

Now the largest industry in the state, outdoor recreation is a key to Montana's long-term prosperity. The BSCA provides two new recreation areas, one for mountain biking and one for snowmobiling. The enjoyment of hunting, hiking, and fishing will be enhanced thanks to habitat protections.

The Blackfoot Clearwater Stewardship Act is a great example of local folks working together to find ways to turn differences into enhancements. Maybe the most important thing to know about the BCSA is that it will help ensure our grandchildren can be inspired by wild places. We support the BSCA and hope the Senate Energy and Natural Resources Committee will move the legislation to the Senate floor for a vote.

Thank you for your consideration,

Daphne Herling

Daphne Herling
President, Shining Mountain Chapter
Montana Wilderness Association

MONTANA WILDERNESS ASSOCIATION

80 S. Warren, Helena, MT 59601 www.wildmontana.org

January 31, 2018

Lisa Murkowski, Chair Madame
Senate Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Marie Cantwell, Ranking Member
Senate Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Dear Chair Madame Murkowski and Ranking Member Cantwell;

We are a group of about 500 folks that love the out-of-doors and champion Montana's wild places. Inspired by Sacagawea and the Lewis and Clark expedition, our organization is called the Shining Mountain Chapter of the Montana Wilderness Association. Our diverse group includes a wide range of folks from students to business executives. We work and live near the public lands that would be irreparably harmed by the Protect Public Use of Public Lands Act (S 2206).

This bill would strip protection from nearly a half-million acres of our wildest and most pristine public lands without giving Montanans a chance to comment, including two Wilderness Study Areas within our chapter area: the Sapphire and Blue Joint. There have been no public meetings or a single town hall for Montanans to discuss. This is a terrible precedent for public land management.

For 40 years, these WSAs have protected community watersheds, allowed elk herds and trout populations to flourish, and safeguarded the revered places that are the bedrock of our outdoor recreation economy. We believe that it's time to decide on how these areas should be managed for the long-haul. But we believe that any management decisions regarding any wilderness study area must involve a diverse group of stakeholders working together at the local level towards agreement and mutual benefit.

Nearly a dozen past attempts have been made by Congress to resolve management of Montana's Forest Service Wilderness Study Areas, dating from 1983 through 2013, and each has included a common-sense package of WSA release, special management areas for motorized and mechanized recreation, and Wilderness

designation to benefit wildlife and traditional recreation. This legislation, S2206, makes no attempt at finding a lasting solution and instead encourages conflict.

There must be adequate public input for these WSAs before the Senate Energy and Natural Resources Committee should consider or move S2206 to the Senate floor.

Thank you in advance for your consideration,

Daphne Herling

Daphne Herling
President, Shining Mountain Chapter
Montana Wilderness Association (MWA)

MONTANA WILDERNESS ASSOCIATION

80 S. Warren, Helena, MT 59601 www.wildmontana.org

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

The Honorable Maria Cantwell, Ranking Member
522 Hart Senate Office Building
United States Senate
Washington, D.C. 20510

Dear Chairman Murkowski and Ranking Member Cantwell,

On behalf of the Montana Wilderness Association, and our more than 5500 members, thank you for the opportunity to submit this written testimony in support of S. 507, the Blackfoot Clearwater Stewardship Act.

About the Montana Wilderness Association
The mission of the Montana Wilderness Association (MWA) is to protect Montana's wilderness heritage, quiet beauty, and outdoor traditions, now and for future generations. MWA was founded 60 years ago by Montana hunters, conservationists and small business owners to prevent further loss of Montana's wilderness heritage. Our founders were instrumental in the passage of the Wilderness Act of 1964, and MWA subsequently led the fight to win designation for virtually every wilderness area in the state, including the Scapegoat, Absaroka-Beartooth, Rattlesnake, Lee Metcalf, Great Bear, and Welcome Creek, as well as Wild and Scenic designations for the Flathead and Missouri rivers.

Our members view Montana's remaining wild country as a public trust that should be managed so Montanans will always have access to certain values – great hunting, fishing, camping under the stars, and quiet mountain trails.

You can find these values high in Montana's wild Swan Range at the headwaters of Morrell Creek in a place called Grizzly Basin. Perched above Morrell Falls, Grizzly Basin is a crescent-shaped hanging valley guarded by the sheer ramparts of Matt and Crescent Mountains. True to its name, Grizzly Basin is home to a healthy population of the mighty bruins. Remarkably, this area is almost entirely surrounded by the Bob Marshall Wilderness and yet sits outside the Wilderness boundaries, unprotected.

That's why on February 22, 2017, Senator Jon Tester – surrounded by ranchers, outfitters, conservationists, timber mill operators, and about 50 middle school students – stood atop hay bales at the Rich family's Montana Guest Ranch near Seeley Lake and announced the introduction of the Blackfoot Clearwater Stewardship Act (BCSA). We would like to take this opportunity to thank Senator Tester and his staff for their hard work and support of this made-in-Montana legislation.

How it All Began
In 2001, snowmobilers and wilderness advocates in Seeley Lake struck an agreement that proposed new wilderness in exchange for establishing a winter recreation area. The occasion was momentous because

it broke years of contention and catalyzed a broader collaborative process that became the Blackfoot Clearwater Stewardship Project.

In 2005, a larger group of stakeholders, including snowmobilers, wilderness advocates, outfitters, timber industry representatives, and sportsmen decided to sit down and talk about their interests across the entire Seeley Lake Ranger District of the Lolo National Forest. After years of fighting over land use, these diverse stakeholders were inspired to try to find additional common ground and build on the 2001 winter recreation agreement.

The dialogue was facilitated by the Blackfoot Challenge, a nationally recognized collaborative group, and focused around shared interest in active forest restoration, increased recreational opportunities, and permanent protection for key lands.

In 2008, the stakeholders forged an agreement to protect priority lands as wilderness, support forest management through restoration funding, and designate permanent recreation sites on the forest. Eventually, the group coalesced into the Blackfoot Clearwater Stewardship Project (BCSP), and for the past ten years, this group has championed its made-in-Montana, landscape-scale proposal.

The story of the Blackfoot Clearwater Stewardship Project – a story of neighbors working together to find common ground – has become commonplace across the Northern Rockies in recent years. But the groundwork for innovative collaboration around the region was laid on the Seeley Lake Ranger District of the Lolo National Forest.

The members of the BCSP Steering Committee include:

- Smoke Elser - Retired Outfitter and Wilderness Educator
- Gordy Sanders - Pyramid Mountain Lumber
- Jack Rich - Rich Ranch Outfitting and Snowmobile Adventures
- Jon Haufler - Ecosystem Management Research Institute
- Bill Wall - Sustainability Inc.
- Lee Boman – Seeley Lake ROCKS
- Jim Stone - Rolling Stone Ranch
- Shannon Rich - Seeley Lake Driftriders Snowmobile Club
- Jordan Reeves - The Wilderness Society
- Mack Long - Bob Marshall Wilderness Outfitters
- Connie Long - Bob Marshall Wilderness Outfitters
- Addrien Marx – Seeley Lake Business Leader
- Tim Love - Retired, US Forest Service
- Zack Porter - Montana Wilderness Association
- Roger Marshall – Retired Forester

Our Vision for the Future

The Blackfoot Clearwater Stewardship Project promotes cooperative public-private stewardship across the southwestern Crown of the Continent and seeks to implement the existing 1986 Lolo Forest Plan. For this iconic part of Montana, that means restoring forests, promoting recreation opportunities, and forever protecting habitat for grizzly bears, westslope cutthroat trout, and the largest herd of mountain goats in the vicinity of the Bob Marshall Wilderness. S. 507 includes legal and financial support for forest stewardship and restoration, permanent Congressional designations for 80,000 acres of agency-Recommended Wilderness on the Lolo National Forest, and expanded snowmobile and mountain bike opportunities between Seeley Lake and Lincoln.

To date, many of our timber and recreation goals have been accomplished. The original 2001 agreement between the Seeley Lake Driftriders and Montana Wilderness Association legally opened the Elsina Bowls for cross-country snowmobile travel with a 2006 Lolo Forest Plan Amendment. Restoration and timber goals have been realized thanks to the Southwestern Crown Collaborative, one of ten pilot projects, nationwide, established by the Collaborative Forest Landscape Restoration Program (see details below).

However, the greatest unmet goal of the Blackfoot Clearwater Stewardship Project is Wilderness designation.

Steps to Success

In July 2009, Sen. Jon Tester stood in front of the Seeley Lake Chamber of Commerce and announced that he had selected our proposal as one of three he would wrap into a new bill to break the stalemate on Montana's public lands: the Forest Jobs and Recreation Act (FJRA). The Forest Jobs and Recreation Act was introduced in three successive sessions of Congress (2009, 2011, and 2013). That legislation passed out of the Senate Energy and Natural Resources Committee in 2013, with bipartisan support for the same Wilderness components in the Blackfoot Clearwater Stewardship Act. Unfortunately, the bill did not make it to the Senate floor for a vote.

Shortly after the introduction of FJRA in 2009, the collaborative achieved one of its primary goals – getting the Collaborative Forest Landscape Restoration Program (CFLR) passed through Congress. This program created funding opportunities for forest restoration and launched the Southwestern Crown of the Continent Collaborative (SWCC). To date, the SWCC has:

- created or maintained an average of 184 jobs, annually;
- supported $7.6 million in annual labor income;
- invested $23.4 million federal dollars, and led to overall investment of $47.4 million in the local economy;
- treated 16,563 acres in the Wildland Urban Interface for fire risk reduction;
- treated 50,828 acres for noxious weeds;
- sold 55.2 million board feet of timber volume to support regional mills;
- removed fish-blocking culverts and implemented other best management practices on 257 miles of Forest Service roads;
- re-constructed or maintained 2,446 trail miles for non-motorized and motorized recreation;
- restored 133 stream miles; and
- conducted wildlife habitat improvements on 31,958 acres.

The many successes of the Southwestern Crown Collaborative continue to demonstrate the power and longevity of the Blackfoot Clearwater Stewardship Project proposal. The trust and goodwill developed between BCSP partners has resulted in other tangible benefits. In 2012, after the Colt Summit Restoration Project was litigated (a project that was developed with the support of the Southwestern Crown Collaborative), BCSP partners rushed to defend the project in court as defendant intervenors and enlisted the help of Missoula County. As a result of our actions, the Colt Summit project continued, resulting in better fish and wildlife habitat while supporting the local timber and restoration economies.

Eleven Years Strong

Eleven years after residents of Seeley Lake and Ovando took the gamble of working together rather than against each other, the Blackfoot Clearwater Stewardship Project is stronger than ever and has become the gold standard for collaborative efforts in the West.

After completing revisions to the proposal in the fall of 2015, the Blackfoot Clearwater Stewardship Project earned renewed endorsements from all three impacted counties (Missoula, Powell, and Lewis and Clark). Additional endorsements include the Missoula and Seeley Lake Chambers of Commerce, the

Montana Outfitters and Guides Association, the Montana Association of Christians, Seeley Lake Community Council, Missoula Central Labor Council, and the Blue Ribbon Coalition.

In 2016, local members of the BCSP reached an agreement with the International Mountain Bicycling Association, the Montana Mountain Biking Alliance, and local mountain biking club MTB Missoula on the BCSP's legislative proposal. The agreement would ensure new backcountry cycling opportunities while continuing to protect secure habitat and free-flowing headwaters. All three of these mountain biking groups now endorse the BCSA.

The Missoulian and Helena Independent Record, have editorialized in support, and a 2016 University of Montana poll found Montanans favor the effort by 74%, including over 70% of self-identified Republicans and Democrats.

In all, 92 businesses, interest groups, collaborative organizations, and elected officials have endorsed this locally, grown effort.

Common sense Wilderness

The BCSA will add 80,000 acres to the Bob Marshall, Scapegoat, and Mission Mountains Wilderness Areas. Nearly all of these acres have been managed as wilderness by the Lolo National Forest since the completion of RARE I in 1972, and by default since long before that date.

The proposed Wilderness additions in the BCSA were first introduced for designation by Congress in 2009 as a part of Sen. Tester's Forest Jobs and Recreation Act. That bill was re-introduced in 2011 and again in 2013, when it also passed out of the SENR Committee. Prior to the Forest Jobs and Recreation Act, much of the lands proposed for addition to the Bob Marshall and Scapegoat Wilderness areas were previously introduced in at least a half-dozen House and Senate bills dating from 1984, 1986, 1988, 1992, 1994, and 1995. The 1988 legislation passed both the House and Senate by voice vote, only to be pocket vetoed by the President, to this day the only veto ever exercised to stop wilderness legislation.

With passage of the BCSA, Grizzly Basin and much of the Swan Range front would become part of the Bob Marshall, safeguarding some of the best grizzly and wolverine habitat in the lower-48. Monture Creek, the West Fork of the Clearwater River, the North Fork of the Blackfoot, and other critical bull trout tributaries that feed into the iconic Blackfoot River would also be permanently protected as Wilderness, providing a cold water insurance policy for the iconic Big Blackfoot River made famous by Norman Maclean's *A River Runs Through It*.

Bob Marshall and Scapegoat Wilderness Additions would also secure the habitat of the largest mountain goat herd in the Crown of the Continent ecosystem and safeguard the migration corridors and summer range of Blackfoot Valley elk, essential to maintaining the strength of the region's hunting economy.

Not a single motorized trail or over-snow vehicle area will be closed as a result of this legislation. In fact, the BCSA opens nearly 2,000 acres to snowmobiles in the Otatsy Recreation Management Area and also maintains access for mountain bikes in the Spread Mountain Recreation Area.

BCSA boundaries include those that closely follow the 1986 Lolo Forest Plan and others that have been updated to reflect current conditions, follow more definable features, and incorporate winter and summer recreation agreements.

The following are detailed descriptions of the current management direction and boundaries of proposed Wilderness additions.

West Fork Clearwater Proposed Addition to the Mission Mountains Wilderness
The BCSA proposes 4,460 acres at the headwaters of the West Fork of the Clearwater River for addition to the Mission Mountains Wilderness. The old-growth forests of the West Fork Clearwater protect one of the most important bull trout spawning areas in Western Montana, provide critical habitat for grizzly bears, and are an essential wildlife corridor between the Mission Mountains and the Swan Range/Bob Marshall Wilderness. The BCSP is further engaged in improving wildlife linkage by supporting the Colt Summit Project located in adjacent, lower elevation areas through the Southwestern Crown Collaborative, a program of the Collaborative Forest Landscape Restoration Act of 2009.

This area is currently managed as Management Area 20a (MA 20a), also commonly referred to as "grizzly core." It is non-motorized and outside of the suitable timber base. The Lolo Forest Plan describes this management area's direction as *"(t)hat portion of the Forest designated essential grizzly bear habitat managed to maintain and enhance grizzly bear habitat through vegetative manipulation; classified as unsuitable for timber production with prescribed fire employed as the primary tool to improve or maintain grizzly bear habitat."*

The West Fork Clearwater is the only BCSA Proposed Wilderness Addition that does not contain lands managed as Recommended Wilderness in the Lolo Forest Plan. However, this area was the *first to receive broad support for Wilderness designation* among the BCSP steering committee based on a 2001 agreement between the Seeley Lake Driftriders Snowmobile Club and the Montana Wilderness Association (in exchange, the Lolo Forest Plan was amended to allow snowmobile use in the Elsina Bowls west of Seeley Lake).

Because of the 2001 agreement, the area's exceptional Wilderness Character and wildlife values, and the connectivity to surrounding wildlands (including the Mission Mountains Wilderness and Tribal Wilderness), the BCSP Steering Committee unanimously supports designating the West Fork Clearwater Inclusion to the Mission Mountains Wilderness.

The boundaries for the West Fork Clearwater Proposed Addition encircle the entirety of the West Fork Clearwater River's upper basin on Lolo National Forest lands – following the watershed's topographical boundary, making for easier enforcement by the Forest Service. The West Fork Clearwater Proposed Addition borders the Flathead National Forest on the north, including the 74,597-acre Mission Mountains Wilderness and the Sunset Ridge Roadless area, proposed for Recommended Wilderness status in the Flathead's ongoing forest plan revision. On the west, the Proposed Inclusion borders the 91,778-acre Mission Mountains Tribal Wilderness, managed by the Confederated Salish and Kootenai Tribes. To the south, the area borders Lolo NF Inventoried Roadless lands managed as MA 20a "Grizzly Core" and outside of the suitable timber base. To the east, the area borders the 24,170-acre Marshall Creek Wildlife Management Area, managed by Montana Fish Wildlife and Parks.

Grizzly Basin Proposed Addition to the Bob Marshall Wilderness
The BCSA proposes 7,792 acres along the Swan Front and the headwaters of Morrell Creek for addition to the Bob Marshall Wilderness. This area, referred to as the Grizzly Basin Proposed Addition, falls entirely within Inventoried Roadless Area boundaries and is high-quality grizzly habitat. The management direction for this area can be broken down as follows:

a) Roughly half of this area, the entirety of the upper basin of Morrell Creek, is managed as MA 12 (described as "Proposed Wilderness" in the Lolo Forest Plan). MA 12 is to be managed in conjunction with the 1964 Wilderness Act and is therefore non-motorized and outside of the suitable timber base.
b) The other half of this area, along the Swan Front, is managed as MA 11 and matches Swan Front Recommended Wilderness in the 1986 Flathead Forest Plan. MA 11, commonly referred to as "non-motorized backcountry," is described in the Lolo Forest Plan as: *Large, roadless blocks of land*

distinguished primarily by their natural environmental character managed to provide for a wide variety of dispersed recreation activities in a near-natural setting and for old-growth dependent wildlife species; classified as unsuitable for timber production.

c) Less than 5% of the Grizzly Basin Proposed Addition, along its western edge, is classified as MA 20, described in the 1986 Lolo Forest Plan as *That portion of the Forest designated essential grizzly bear habitat managed to maintain and enhance grizzly bear habitat through vegetative manipulation; classified as suitable for timber production with timber harvest employed to improve or maintain grizzly bear habitat.* The portion of MA 20 in the Grizzly Basin Addition is entirely within the Inventoried Roadless boundaries, has never been logged, and largely consists of low-value timber at the base of steep avalanche chutes.

Although the portions described in (b) and (c), comprising approximately half of the Grizzly Basin Proposed Addition, are not Recommended for Wilderness in the 1986 Lolo Forest Plan, these areas are proposed Wilderness because:

- They are currently managed like Wilderness for most intents and purposes;
- They abut Swan Front Recommended Wilderness in the Flathead Forest Plan;
- They are entirely in Inventoried Roadless status and have never been roaded or logged;
- They retain exceptional Wilderness Character and wildlife values;
- Designation would not result in any loss of access or changes in recreation opportunity, and there are no system trails or roads;
- The BCSP Steering Committee unanimously agreed to recommend this area as Wilderness.

To the east, the Grizzly Basin Proposed Inclusion borders the Bob Marshall Wilderness. To the north, the area borders the Swan Front Recommended Wilderness (inclusion to the Bob Marshall) on the Flathead National Forest. To the west, the area borders Inventoried Roadless lands managed as MA 11 non-motorized and MA 20 grizzly bear habitat (see above for additional detail).

Monture Creek Proposed Addition to the Bob Marshall Wilderness

The BCSA proposes 40,072 acres at the headwaters of Monture Creek for addition to the Bob Marshall Wilderness. Monture Creek is a major roadless drainage; 16 miles from Monture trailhead to the current boundary of the Bob Marshall Wilderness. As such, Monture Creek is not only excellent habitat for bull trout and grizzlies (used by sows and cubs) but also one of the most important wildlife movement corridors anywhere in the Big Blackfoot watershed. The Monture Creek drainage connects the big wild country of the "Bob," with nearby state wildlife and private conservation lands. This area is also home to the largest herd of mountain goats in the vicinity of the Bob Marshall Complex. Trails in this vicinity – particularly along Monture Creek and Lodgepole Creek – are among the main portals into the Bob Marshall for pack and saddle stock. The watershed is an important cold-water reservoir for the legendary Blackfoot River, an insurance policy for outfitters and guides who depend on long and uninterrupted fishing seasons.

The Monture Creek Proposed Addition follows MA 12 Recommended Wilderness with the addition of 288 acres of MA 11 (non-motorized backcountry) to protect inventoried roadless lands within Monture Creek and 1,068 acres of MA 24 and MA 25 (suitable timber).

Small portions of MA 11 were included in S. 507 in the vicinity of Nome Point and Dunham Creek to extend protection to the Nome Point mountain goat herd, the largest in the Bob Marshall Complex. Those small portions of the Monture Creek Proposed Addition classed in 1986 as MA 24 and 25 fall within Inventoried Roadless Area that have never been logged. There is also no loss or change to motorized access as a result of including these small areas as part of the proposed Wilderness Addition.

These changes were included so that the boundary would follow natural topographic features rather than an arbitrary line splitting the wild Monture drainage. In 1986, Champion owned lands above the Monture Creek Trailhead that were subsequently acquired by the Forest Service, allowing the BCSA to improve the 1986 Recommended Wilderness boundary and strengthen protection of roadless Monture Creek by following Center Ridge.

Upon careful consideration, and with full support from Pyramid Lumber, the BCSP Steering Committee voted unanimously in support of the Monture Creek Proposed Addition.

The Center Ridge Trail has been excluded from the Proposed Wilderness from its origin at the Monture Guard Station to the junction with FS Road 4397. The BCSP Steering Committee modified the proposal in 2015 to exclude this portion of the Center Ridge Trail from the Proposed Wilderness due to a request by Seeley Lake mountain bikers. Excluding this trail from the Wilderness proposal leaves open a desirable 30-mile mountain bike trail loop opportunity.

The Monture Creek Proposed Addition borders the Bob Marshall Wilderness to the north, and the North Fork Blackfoot Proposed Addition to the Scapegoat Wilderness to the east (currently managed as MA 12 Proposed/Existing Wilderness). To the west and south, the area borders MA 20a grizzly core, MA 11 non-motorized backcountry, and some areas in the suitable timber base.

North Fork Blackfoot Proposed Addition to the Scapegoat Wilderness

The BCSA proposes 30,967 acres for addition to the Scapegoat Wilderness along the lower reaches of the North Fork Blackfoot River and surrounding areas. This area consists of exceptional fish and wildlife habitat for native trout and grizzly bears, among other species, and includes low-elevation landscapes that are underrepresented in the Bob Marshall Complex. With the input of community leaders, the boundaries of this Proposed Wilderness were intentionally drawn well to the north and east of Ovando to provide maximum fire management flexibility.

Nearly the entire North Fork Blackfoot Proposed Addition follows the MA 12 Recommended Wilderness boundary in the Lolo Forest Plan, and all of it is in Inventoried Roadless. Other than the portion that is currently managed as MA 12 Existing/Proposed Wilderness, the remaining 5% is managed as:

a) MA 11: non-motorized backcountry, unsuitable for timber harvest
b) MA 20: *That portion of the Forest designated essential grizzly bear habitat managed to maintain and enhance grizzly bear habitat through vegetative manipulation; classified as suitable for timber production with timber harvest employed to improve or maintain grizzly bear habitat* (Lolo Forest Plan).

Those portions that are MA 11 and MA 20 were included to protect the Wilderness Character and wildlife values present on those landscapes, and because those areas are managed in large part as Wilderness, today. Their inclusion will not change motorized access. The BCSP Steering Committee unanimously agreed to the North Fork Blackfoot Proposed Addition.

The North Fork Blackfoot Proposed Addition borders the Scapegoat Wilderness to the north and the Monture Creek Proposed Addition to the Bob Marshall Wilderness on the west. To the south of the area are MA 11 backcountry non-motorized, MA 20 grizzly habitat, and some small areas in the suitable timber base.

It's time to reward nearly two decades of place-based collaboration

2018 marks 17-years since the breakthrough agreement between the Montana Wilderness Association and Seeley Lake Driftriders Snowmobile Club. That agreement has helped to sustain nearly two decades of motorized winter recreation in Seeley Lake. But the handshake also included additions to the Mission

Mountains Wilderness for the West Fork of the Clearwater River, requiring an act of Congress. Of course, the Blackfoot Clearwater Stewardship Project proposal has broadened in scope to include more benefits for more Montanans, and enjoys the support of more than 90 local and regional businesses, organizations, and elected officials.

In the decade since the broader Blackfoot Clearwater Stewardship Project proposal was first agreed to with unanimous consent, the components of the agreement have been fully vetted. The first well-publicized hearings were held in the winter/spring of 2008-2009, before introduction of the Forest Jobs and Recreation Act, with over 200 people attending between two different meetings in Seeley Lake and Missoula. Our commitment to transparency has never wavered, and we have held numerous public meetings since. Local and regional support has remained strong from the beginning.

The Blackfoot Clearwater Stewardship Project has stood the test of time. But if Congress does not act soon, this common-sense legislation may fail to make it across the finish line in time to be celebrated by core members of our steering committee. From day one, we have acted in good faith by setting aside our differences in order to seek mutually beneficial solutions. Nobody gets everything they want in this proposal. But we all get a lot. That's why MWA supports S. 507 and urges the Committee to approve this legislation and send it to the floor for consideration by the Senate.

The Montana Wilderness Association appreciates the time and consideration of the members and staff of the Senate Energy and Natural Resources Committee and we welcome your communication.

Sincerely,

Ben Gabriel
Executive Director
Montana Wilderness Association
80 S. Warren
Helena, MT 59601

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

The Honorable Maria Cantwell, Ranking Member
522 Hart Senate Office Building
United States Senate
Washington, D.C. 20510

Dear Chair Murkowski and Ranking Member Cantwell,

On behalf of our 5,500 members and over 15,000 supporters, thank you for the opportunity to submit this written testimony in opposition to S. 2206, the "Protect Public Use of Public Lands Act."

The mission of the Montana Wilderness Association is to protect Montana's wilderness heritage, quiet beauty, and outdoor traditions, now and for future generations. Founded in 1958 by Montana hunters, conservationists and small business owners, the Montana Wilderness Association was established to prevent further loss of Montana's wilderness heritage. Our founders were instrumental in the passage of the Wilderness Act of 1964, and the Montana Wilderness Association subsequently led the fight to win designation for virtually every wilderness area in the state, including the Scapegoat, Absaroka-Beartooth, Rattlesnake, Lee Metcalf, Great Bear, and Welcome Creek, as well as Wild and Scenic designations for the Flathead and Missouri rivers.

Our members were also intimately involved in the multi-year, collaborative process that resulted in the creation and passage of the Montana Wilderness Study Area Act of 1977, sponsored by longtime Montana Senator and conservation champion Lee Metcalf, which has protected the five areas contained in S. 2206 for the past 40 years.

Our members view Montana's remaining wildlands as a public trust that should be managed so Montanans will always have access to great hunting, fishing, camping under the stars, and quiet, mountain trails.

We oppose this legislation because it is an imbalanced, one-sided bill that depriving Montanans from having a say on nearly a half-million acres of wilderness study areas (WSAs) - some of our wildest, most pristine public lands. Many of the landscapes in this bill deserve permanent protection, yet S. 2206 was introduced with little effort to solicit public input or rely on a collaborative process with diverse stakeholders to balance wilderness protection with other uses. Instead, S. 2206 relies on out-of-date Forest Service recommendations that do not reflect current values, ignores 40 years of community-based proposals, and undermines ongoing land management planning processes.

S. 2206 undermines 40 years of collaborative efforts
S. 2206 advances a one-size-fits-all legislative solution that would dramatically change how nearly half a million acres of public land in Montana are managed. This bill prioritizes the views of a small segment of user groups and extractive industries to the detriment of all other public land users.

S. 2206 undermines many local, collaborative efforts that have successfully contributed to public land management decisions in Montana and will continue to do so in accordance with the wishes of a wide range of business, landowner, and recreational interests. Montana Wilderness Association is committed to working with diverse users – from loggers to snowmobilers to horsemen and hikers – to make sure families can maintain their outdoor traditions, business owners can make a living, and hunters can put food in their freezers.

Importantly, we're committed to doing this work thoughtfully and in a collaborative manner that gives different viewpoints equal consideration, including decisions around designation of wilderness study areas. We believe that calling for the elimination of these five wilderness study areas is as imbalanced as demanding that every acre of them be designated as wilderness. We stand opposed to either such action.

This divisive bill has already had a chilling effect on collaborative groups and has eroded trust between partners that has taken decades to build.

Montana Wilderness Association remains willing to support the resolution of wilderness study areas as part of a balanced legislative proposal involving public input from diverse interests. Wholesale elimination of these protections before local collaborative efforts can reach agreement, however, would risk taking permanent wilderness designation off the table for any portion of these WSAs, pulling the rug out from under years of negotiations and good-faith planning efforts.

S. 2206 ignores decades of Congressional action
The finding stated in Section 2(a)(4) of the bill, that "Congress has failed to act on the recommendations of the Chief of the Forest Service with respect to the remaining 7 wilderness study areas" is incorrect.

Montana's USFS WSAs include:

- West Pioneer, Beaverhead-Deerlodge National Forest (148,150 acres)
- Blue Joint, Bitterroot National Forest (61,400 acres)
- Sapphire, Bitterroot and Beaverhead-Deerlodge National Forests (98,000 acres)
- Ten Lakes, Kootenai National Forest (34,000 acres)
- Middle Fork Judith, Helena-Lewis and Clark National Forest (82,000 acres)
- Big Snowy Mountains, Helena-Lewis and Clark National Forest (91,000 acres)
- Hyalite-Porcupine-Buffalo Horn, Custer-Gallatin National Forest (155,000 acres)

Since 1983, the citizens of Montana lead by Montana's Congressional delegation have repeatedly sought to address the remaining seven WSAs. Legislation was introduced in 1984, 1986, 1988, 1992, 1994, and 1995 that would have released portions of wilderness study areas, while protecting other portions of these areas. Each of these bills represented a compromise that reflected the input of Montanans across the state. In 1988 both the Senate and the House passed a comprehensive bill to designate both new acres of wilderness while also releasing some wilderness study areas in Montana. Unfortunately, President Reagan chose not to sign the measure, so it never became law as Congress intended.

There have also been more recent efforts to seek a permanent management solution for the seven remaining WSAs on national forest land. In 2006, a federal judge ruled in favor of a travel plan for the Big Snowy Mountains that Montana Wilderness Association negotiated with the Montana Snowmobile Association. In his ruling, the judge said, "In effect, [this] winter recreation agreement embodies the balanced use envisioned by the Congress under the Montana Wilderness Study Act."

In 2009, Montana Wilderness Association worked with the timber industry, outfitters, sportsmen, and snowmobilers across the state to introduce the Forest Jobs and Recreation Act, which would have partially protected and partially released two wilderness study areas on USFS land in southwest Montana: the Sapphires and West Pioneers. This bill also would have released seven WSAs on BLM land. The forest jobs bill, which was reintroduced in 2011 and 2013, earned bipartisan support from Sen. Frank Risch (R-WY) and Sen. Lamar Alexander (R- TN). It was passed out of the Senate Natural Resources Committee in 2014 but never received a full Senate vote.

S. 2206 will impact the management of these lands without public input
Wilderness values are rare, fragile, and easily lost. The remaining seven wilderness candidate areas protected by the Montana Wilderness Study Act of 1977 enjoy different and significantly stronger legal protection than most other forest lands, including inventoried roadless areas. This legislative language was written by Senator Metcalf to ensure that both wilderness character and potential for future designation would not be lost.

According to the 2001 Roadless Rule, roadless area management is not equivalent to the current statutory protection given to WSAs. Mining, oil and gas leasing, commercial timber harvest, and off road vehicle use could all be considered in inventoried roadless areas. More importantly, the Roadless Rule does not require the U.S. Forest Service to maintain the opportunity for solitude, primitive recreation, and natural integrity as the Montana Wilderness Study Act does today.

While all future management changes would be subject to environmental review, these processes are limited in their ability to ensure that the wilderness values of these areas

remain protected. The National Environmental Policy Act imposes procedural requirements for environmental analysis, but does not impose any substantive prohibitions on environmental degradation. It is also worth noting that future management proposals that would entail such degradation would now be supported by the Congressional intent of S. 2206, to remove existing protection *without* providing any alternative statutory protections or direction for wilderness and primitive outdoor recreation.

S. 2206 lacks the diverse support Montana's public lands deserve
In the 2018 Conservation in the West poll by Colorado College, 68% of Westerners and 66% of Montanans said that "rollbacks of laws that protect our land, water, and wildlife" is a serious problem.

S. 2206 represents the views of a small segment of user groups to the detriment of all other public land stakeholders. Not a single public meeting was held in Montana to discuss this bill prior to introduction. The four Montana counties that have endorsed the bill similarly failed to provide adequate opportunity for the public to comment on the public lands in their own backyards prior to offering their support. Three of these counties offered their support for the bill without properly noticing a discussion and vote on this issue at a public meeting; a clear violation of Montana's Constitution which states, "The public has the right to expect governmental agencies to afford such *reasonable opportunity for citizen participation* in the operation of the agencies prior to the final decision as may be provided by law."

Ravalli County, home to the western portion of the Sapphires and the Blue Joint WSAs, held a public meeting on this bill on February 7, 2018. Over 200 people attended, with 55 speaking in opposition to this bill and 20 speaking in favor. The Ravalli County Commissioners also stated that 78 people had emailed them in opposition and 31 had emailed them in support of S. 2206. This meeting clearly demonstrates both the lack of local consensus on S. 2206 and the high amount of local interest and desire for input that exists in communities closest to the WSAs proposed for release.

S. 2206 is also inconsistent with HJ9, a resolution passed by the 2017 Montana State Legislature, by failing to designate any wilderness or to consider alternative designations such as national recreation area or national conservation areas. After a loud, public outcry in response to this resolution, these options were included to provide a balanced approach to Montana's WSAs. Speaking from the House floor in Helena, Representative Kerry White, the sponsor of HJ9, is on record supporting these changes stating, "(T)hank you members of the committee. A couple of additions that the Senate put on, they added that if they were going to decide what to do with these Wilderness Study Areas ... that they could consider putting them into the National Wilderness Preservation System along with being national recreation areas or national conservation areas. I think those additions that were made to this resolution are very well thought out." S. 2206 does not reflect the

Montana Legislature's intent for Congress to consider solutions that would designate as well as release these areas.

S. 2206 is bad for wildlife habitat, clean water, and Montana's outdoor recreation economy

Congress acted to protect these areas as wilderness study areas for a reason: they encompass some of Big Sky Country's most stunning landscapes. They elevate our quality of life while contributing to our local economies. They provide important habitat for big game and other wildlife, support vital fisheries for blue-ribbon streams, and offer world-class recreation opportunities. They are also critical sources of clean water for many nearby communities.

Because these areas are widely used by sportsmen, horsemen, mountain bikers, motorized and non-motorized users alike and because they represent some of Montana's finest wildlife habitat and critical water sources, we believe they should be carefully evaluated on an individual basis with input from local communities.

According to the Outdoor Industry Association, outdoor recreation is now the largest sector of Montana's economy, generating over $7 billion per year in consumer spending and supporting over 70,000 jobs that pay more than $2 billion worth of wages. A 2013 study by Headwaters Economics showed that average per capita income was higher in Western rural counties relative to the amount of protected public lands within their boundaries.

S. 2206 relies on out-of-date recommendations and undermines forest management plan revisions

S. 2206 relies on studies conducted by the U.S. Forest Service from 1979-1986. It is hard to imagine Congress taking action on any other report or information so egregiously outdated. We agree that Congress is overdue to resolve these areas. However, legislative action should not be based upon outdated analysis. While several National Forests in Montana have recently completed or begun the process of re-evaluating WSAs, not one of the WSAs in S. 2206 has been considered for recommended wilderness by the U.S. Forest Service in over 30 years.

The 2009 Beaverhead-Deerlodge forest plan revision evaluated 51 roadless areas for wilderness but excluded the West Pioneers WSA and the Beaverhead-Deerlodge portion of the Sapphires WSA. Five forest plan alternatives were evaluated including Alternative 3, which recommended 20 wild areas totaling 703,000 acres for wilderness. No alternative considered the West Pioneers WSA or Sapphires WSA for wilderness.

New data, new agency priorities, and new input from the public are sure to alter how these places will be evaluated for wilderness potential and suitability today.

In fact, the Helena-Lewis and Clark National Forest, home to the Big Snowies and Middle

Fork Judith WSAs, is now over three years into its forest management plan revision process and is currently proposing to recommend nearly 100,000 acres of the Big Snowies for wilderness. The collaborative planning process for the Helena-Lewis and Clark National Forest, prescribed by the 2012 Planning Rule, has so far included four comment periods and over 30 public meetings in order to develop the current proposal. S. 2206 undermines this ongoing public process by relying on a 1982 study and subsequent 1986 forest management plan in order to show that the Big Snowies are not a good wilderness candidate while ignoring all new information and public input to the contrary.

S. 2206 ignores existing multiple uses of Montana's wilderness study areas
Contrary to claims that Montana's wilderness study areas do not provide public access, the Montana Wilderness Study Act allows some uses prohibited in wilderness by instructing the Department of Agriculture to preserve their "presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System." Portions of four of the five WSA areas are currently open to mountain biking and both summer and winter motorized use. Two of the WSA areas have existing mine activity. All of these areas are open to foot and stock use, hunting, fishing, outfitting and livestock grazing.

Reject S. 2206
Montana Wilderness Association appreciates the time and consideration from the members and staff of the Senate Energy and Natural Resources Committee of these comments.

Montanans know how to work together, and we need decision makers to support locally-driven solutions to resolve Montana's WSAs. S. 2206 proposes dramatic changes to Montana's public lands, and our outdoor way of life, without considering local viewpoints or the unique values within these special landscapes. We strongly encourage both the sponsor and the Senate Energy and Natural Resources Committee to abandon this one-sided approach.

Sincerely,

Ben Gabriel
Executive Director
Montana Wilderness Association
80 S. Warren
Helena, MT 59601

Protecting Montana's wildlife, land, waters and hunting & fishing heritage for future generations.

January 29, 2018

The Hon. Lisa Murkowski
Chair
Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

The Hon. Maria Cantwell
Ranking Member
Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Re: Blackfoot Clearwater Stewardship Act (S. 507)

Dear Chairwoman Murkowski and Ranking Member Cantwell,

The Montana Wildlife Federation (MWF) is Montana's oldest and largest sportsmen-wildlife conservation organization. We work to protect Montana's public lands, clean waters, and abundant fish and wildlife for the benefit of the hundreds of thousands of Montanans and people all over the nation who hunt, fish, and value Montana's outdoor heritage.

MWF strongly supports the Blackfoot Clearwater Stewardship Act (S. 507). This bill represents over a decade of collaboration on national forest management practices that have resulted in positive impacts for communities, fish and wildlife, and the local economy in Western Montana.

S. 507 would complete implementation of a collaborative proposal that has been developed by a variety of stakeholder groups in Montana including sportsmen, ranchers, snowmobilers, mountain bikers, guides and outfitters, timber industry professionals, and business owners. The Blackfoot Clearwater Stewardship Project improves forest management, protects wildlife habitat, and supports economic activity in the timber and recreation sectors.

Through the timber and restoration components of the Blackfoot Clearwater Stewardship Project, local communities have already seen millions of dollars invested and more than 130 jobs created and maintained. S. 507 would complete implementation of the project through expedited forest management, the designation of recreation areas for mountain biking and snowmobiling, and the protection of approximately 80,000 acres of high quality fish and wildlife habitat by designating additions to the Bob Marshall, Mission Mountains and Scapegoat Wilderness Areas.

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Protecting the additional wilderness lands in the Blackfoot Clearwater Stewardship Project area is essential to not only the fish and wildlife that thrive there, but to Montana's $7.1 billion outdoor recreation economy. For the tens of thousands of hunters and anglers who rely on quality hunting and fishing experiences in Western Montana each year, the BCSA ensures that these interests will be protected for future generations.

Determining how federal land management practices can work for all stakeholders is a complex process that can sometimes pit different interests against each other. The BCSA is an example to the rest of the nation of how constant collaboration between different users can lead to a project that benefits everyone.

We urge you and the members of the Energy and Natural Resources Committee to support the Blackfoot Clearwater Stewardship Act (S.507).

Sincerely,

Dave Chadwick
Executive Director

Protecting Montana's wildlife, land, waters and hunting & fishing heritage for future generations.

February 6, 2018

The Hon. Lisa Murkowski
Chair
Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

The Hon. Maria Cantwell
Ranking Member
Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Re: "Protect Public Use of Public Lands Act" (S. 2206)

Dear Chairwoman Murkowski and Ranking Member Cantwell,

The Montana Wildlife Federation (MWF) is Montana's oldest and largest sportsmen-wildlife conservation organization. We work to protect Montana's public lands, clean waters, and abundant fish and wildlife for the benefit of the hundreds of thousands of Montanans and people all over the nation who hunt, fish, and value Montana's outdoor heritage.

MWF opposes the Protect Public Use of Public Lands Act (S. 2206). This bill would impact wildlife and habitat across large swaths of Montana's landscape and reduce public opportunity to hunt, fish, and enjoy public lands. In addition, it would fuel conflict among public land stakeholders by shortcutting public input and ongoing public land planning activities.

As you know, wilderness study areas are public lands that have been identified as suitable for permanent protection under the Wilderness Act and await congressional decision. These areas are identified through public land planning processes and by congressional action. In 1977, Congress designated nine areas of national forest land in Montana as wilderness study areas. Seven of these congressionally-designated areas remain today, with two having been designated as wilderness. Under current law, the Forest Service is required to manage the several remaining wilderness study areas "so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System." S. 2206 would repeal this requirement for five wilderness study areas totaling about 450,000 acres.

The wilderness study areas that are targeted in S. 2206 provide habitat for fish and wildlife and opportunity for hunters, anglers, and wildlife watchers. Decades of scientific data show that large areas of intact habitat are crucial for deer, elk and other big game. Numerous peer-

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reviewed scientific papers have demonstrated that vehicle use displaces elk. These secure areas are essential to maintaining Montana's six-week archery hunting season and five-week rifle season, the longest hunting seasons in the West. While thousands of hunters do hunt in the wilderness study areas targeted by S. 2206, many who hunt in other areas also benefit from them. Elk, deer and other big game spend the summer and early fall months in many of these areas, then migrate to lower elevations as snow pushes them down. These secure habitat areas are crucial for big game, and benefit all Montanans who love wildlife. Protecting them should be a priority for sound wildlife management.

The proper resolution for wilderness study areas is for Congress to evaluate them through a transparent public process and to determine which lands deserve designation and which do not. Under your leadership, the Senate has acted in a bipartisan way to designate and release wilderness in specific landscapes several times in the last few Congresses, including the Sawtooth National Recreation Area and Jerry Peak Wilderness Additions Act of 2016 (S. 583/P.L. 114-46), the Hermosa Creek Watershed Protection Act of 2013 (S. 841/P.L. 113-291), the Pine Forest Range Recreation Enhancement Act of 2013 (S. 342/P.L. 113-291).

By working together, local stakeholders can find ways to address wilderness management and balance many uses on public lands. We have seen this approach work in Montana, and you have seen it work across the nation. Listening to these stakeholders and honoring their agreements is the most effective way for Congress to continue to find bipartisan solutions and make progress in protecting public lands for all interests.

We urge you and the members of the Energy and Natural Resources Committee to reject the Protect Public Use of Public Land Act (2. 2206) and instead support collaborative, locally-driven efforts to resolve wilderness issues.

Sincerely,

Dave Chadwick
Executive Director

From: justin moody
To: fortherecord (Energy)
Cc: Brooks, David (Energy)
Subject: Comments for S 1481 "ANSA improvement act"
Date: Wednesday, February 14, 2018 9:17:14 PM

Sent via email to fortherecord@energy.senate.gov,
Testimony for the February 7, 2018 subcommittee hearing on S 1481 "ANSA improvement act"
Justin Moody
Box 564
Tenakee springs, ak
99841
2/12/18

To Whom it May Concern,
My name is Justin Moody and I am a resident of Tenakee's Springs, Ak. I am opposed to the proposed S 1481 Alaska Native Claims Act.
I make 100 percent of my income as a hunting guide here in alaska. I guide in Tenakee inlet(where I live fulltime), as well as Seymour canal, prince of wales island, and the mainland of Southeast Alaska. When not guiding, my wife and I live a subsistence lifestyle, relying heavily on hunting, gathering, and fishing from our local lands and waters.
We depend on public lands for all of these things. The native claims act has the potential to severely affect my income and lifestyle in a negative way.
Sincerely,
Justin Moody

From: Megan Moody
To: fortherecord (Energy); Brooks, David (Energy)
Subject: Public Comment on S 1481
Date: Wednesday, February 14, 2018 9:38:25 PM

Sent via email to fortherecord@energy.senate.gov,
Testimony for the February 7, 2018 subcommittee hearing on S 1481 "ANSA improvement act"

Megan Moody
Box 564
Tenakee springs, ak
99841
2/12/18

Dear Committee Members,

My name is Megan Moody and I am a resident of Tenakee Springs, Alaska. Please accept my testimony for February 7th's subcommittee hearing on S 1481 "ANSA improvement act."

I am writing to express my opposition for S 1481, especially as it relates to Tenakee Inlet, where I live and work. My husband and I are young, working members of this small island community. We moved to Tenakee two years ago because we were looking for a rich environment and community. The natural resources--especially fishing and hunting--are what brought us to Tenakee, and the reason we have stayed. I now run Tenakee's school, and my husband works as a hunting guide in the inlet. Our neighbors are mainly commercial fisherman. All of us depend--both financially and holistically--on the health of this area, and on Tenakee Inlet remaining in public hands.

My husband and I plan to stay in Tenakee, and start a family. Please help be a part of keeping this area healthy and wild, for the sake of future generations.

Thank you for your time.
Sincerely,
Megan Moody

Sincerely,
Justin Moody

From: Christopher Moore
To: fortherecord (Energy)
Subject: S. 2206
Date: Monday, February 12, 2018 9:09:31 AM

Please know that we oppose Sen. Daines' bill, S. 2206. It's not good for the environment, Montana, or the rest of the country. Daines purports to represent Montana but apparently fails to recognize (or just plain ignores) that his bill is not supported by the vast majority of his constituents. Please do not pass this bill out of committee.

Chris Moore
Jan Jackson-Moore
12513 Rainbow Drive
Bigfork, MT 59911

Statement of the Natural Resources Defense Council on S. 1481, for the Record of the Legislative Hearing of February 7, 2018 Before the Subcommittee on Public Lands, Forests, and Mining of the Senate Committee on Energy and Natural Resources.

The Natural Resources Defense Council (NRDC) has strong concerns about S. 1481, known as the Alaska Native Claims Settlement Improvement Act. The bill would make numerous changes to provisions of the Alaska Native Claims Settlement Act of 1971 (ANCSA), 43 U.S.C. § 1601 et seq. ANCSA was adopted to accomplish a very serious public purpose, to settle Alaska Native sovereignty claims against the federal government, and to do so "rapidly" and "with certainty." 43 U.S.C. § 1601(b).

NRDC is concerned that S. 1481 would defeat that goal and damage important public resources. Like any broadly applicable law, ANCSA reflects legislative judgments about how much to sacrifice the clarity, predictability, and administrability of generally applicable principles by including exceptions and special provisions to account for individual circumstances. The certainty, however, about rights and ownership that is a central purpose of ANCSA cannot be achieved if the decisions it embodies are serially subject to reopening because after the fact someone has a better idea about one legislative detail or another. It is possible, of course, that ANCSA's text incorporates an error so significant as to justify revisiting the statute. But the bar to editing ANCSA at this late date, nearly a half century after enactment, should be high indeed. Anything less would invite perpetual rounds of congressional wrangling and end all hope of achieving the statute's express purpose of resolving sovereignty claims, rapidly and with certainty.

Among NRDC's gravest concerns regarding S. 1481 are that it would or could privatize lands long since confirmed as public—owned by all Americans including Alaska Natives—that harbor important conservation values. National parks, preserves, refuges, monuments, wildernesses, forests, and other protected lands should not now be diminished or harmed through new entitlements over and above those included in ANCSA.

We specially highlight provisions that could result in further loss of, or harm to, lands that are part of the Tongass National Forest, in Southeast Alaska. NRDC took no position on the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act, introduced by Senator Murkowski as S. 340 and passed in 2014 as part of the National Defense Authorization Act. That bill—among other things—changed where Sealaska Corporation could select lands from within the Tongass. It was promoted as a one-time revision of ANCSA rights and specifically not was not to serve as a precedent for any future adjustments. Senator Murkowski herself heralded its adoption by stating that under its provisions "the federal government will finally finish paying the debt we owe Natives for the settlement of their aboriginal land claims." It is our view that, following that enactment

and rationale, Senator Murkowski should not be promoting, and Congress should not approve, bills that violate this premise by again reopening ANCSA to the detriment of public values in protected federal lands like the Tongass.

One of America's unique and world-famous public reserves, the Tongass, for all that it boasts more native forest, more undisturbed watersheds, healthier fish runs, and more robust wildlife populations than any other national forest, has already seen an extraordinary amount of destructive logging and road construction. Nearly a half million acres of the original forest have been clearcut by the federal government, as were a similar number that were transferred from the Tongass into State and Native corporation hands. Just within the remaining federal lands, a million and a half acres are classed as roaded and developed, more than any other national forest up and down the West Coast. The resulting impacts have seriously degraded customary and traditional uses of the land, including subsistence hunting and fishing, raised questions about endangered species listing for Tongass wildlife, and spoiled large stretches of the unique scenic beauty that is so renowned, so beloved, and so integral to Southeast Alaska's thriving recreation and tourism sector. Today, the U.S. Forest Service struggles to find places for economically viable timber sales in the Tongass, even without any further privatization of its forestlands.

Several provisions of S. 1481 threaten to worsen this damage, very unwisely. Section 10 would create five new urban Native corporations in Southeast Alaska, each entitled to select up to 23,040 acres of Tongass old growth forest and thereafter to log it. It responds to concerns that in some communities federal malfeasance may have contributed to insufficient registration of Native Alaskans as residents to qualify for creation of a village or urban corporation entitled to ANCSA land selections. What happened in the registration process is not possible to resolve with confidence at this point. But what is clear is that Alaska Natives who were not registered to urban or village corporations received additional "at-large" shares in a regional corporation, shares not available to village or urban corporation shareholders that over time have generated substantially larger total dividends than shares in many urban and village corporations. In short, ANCSA expressly contemplated that not all Alaska Natives would be enrolled in urban or village corporations and provided additive benefits for those who were not. Reopening that decision now is not justified by the facts. Nor could it be undertaken without inviting a cascade of further efforts for one reason or another to second-guess and re-legislate ANCSA's judgments about how and where to transfer parts of the federal estate to settle—once and for all—a series of claims.

NRDC also has concerns about section 11, which would reopen the allotment process ANCSA sunsetted that allowed certain Alaska Natives, based on their personal use and occupancy history, to select up to 160 acres apiece from acreage that otherwise would go to

Native regional corporations. Good cause may very well exist to create another "staking" opportunity for Vietnam veterans whose service to this country interfered with their taking advantage of the allotment process ANCSA created, or for their heirs. We would not oppose a provision modeled on prior legislation aimed at remedying staking problems that Vietnam veterans experienced, either while serving in Vietnam or later when staking was first re-opened by Congress. We oppose section 11 as drafted because several of its provisions do not address prior obstacles faced by veterans otherwise eligible for allotments under ANCSA. Instead, they would re-open ANCSA decisions and threaten important conversation values in ways ANCSA did not permit. More specifically, section 11 would expand eligibility far beyond those whose active duty in Vietnam interfered with participation in the final window for allotment sign-up that ANCSA closed. It would, unlike ANCSA, allow selections from within national forests, and waive qualifications related to use and occupancy of selected lands.

Similarly, section 7 expands ANCSA eligibility in ways that threaten important public conservation lands. It would allow selection by Cook Inlet Region, Inc. (CIRI) of 43,000 acres outside of its ANCSA regional boundaries but within public lands that harbor special conservation values. CIRI has prospered from the right to select federal assets from outside its region—and indeed outside of Alaska—as the result of admirably persistent and vigorous advocacy that led to passage of legislation in 1976 modifying its entitlements under ANCSA, in the so-called "Terms and Conditions" bill that codified a legal settlement agreement. And, its website reports, it has "pressed for and secured subsequent federal legislation that modified (and greatly improved) the terms of the settlement." CIRI has the right, under that existing legislation to additional lands, and it is desirable that it complete those its selections. Section 7 of S. 1481, however, would allow it to do so in national wildlife refuges, national forests, and national petroleum reserves where privatizing public lands would predictably degrade already hard-pressed public values through commercial development. NRDC has not seen a rationale presented that would justify Congress one again re-opening SIRI's entitlement at the expense of those values.

NRDC appreciates the opportunity to comment on S. 1481. We understand that it raises complex and sensitive issues and hope and trust that Congress will take our views on them into account in evaluating and/or voting on its provisions.

Niel Lawrence
Alaska Director and Senior Attorney
Natural Resources Defense Council
3723 Holiday Drive SE
Olympia WA 98501
360-534-9900

Statement of Tom Sidwell
President
New Mexico Cattle Growers' Association
Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests & Mining
Concerning
S. 441, the Organ Mountains Desert Peaks Conservation Act

On behalf of the membership of the New Mexico Cattle Growers' Association (NMCGA), with members in all 33 of the state's counties as well as 19 other states, we appreciate the opportunity to submit this statement.

We will confine our comments to livestock grazing in wilderness, the "where established" language with respect to livestock grazing, and the health and safety of our members and their families ranching in proximity to the border with Mexico.

Livestock Grazing In Wilderness

The problems with livestock grazing in wilderness areas have been well documented, leading to Congress issuing the *Grazing Guidelines (House report No. 101-405).* Our concern is that these guidelines were written when most wilderness areas existed in the high country where the allotments had natural waters and were seasonal in nature. The lands affected by this legislation occur in a desert ecosystem where the resource and ranching needs are far different. For instance, the "occasional use" of motorized vehicles may be sufficient for high country, seasonally grazed allotments. It is not sufficient for desert, year around grazed allotments where pipelines and other water facilities must be checked on a regular basis. We request that Congress or an independent entity conduct a thorough review of the guidelines applicability to desert allotments and make recommendations for any warranted changes. We further request Congress refrain from designating any desert ecosystems where livestock grazing occurs as wilderness until such time as the review is completed and revisions considered.

Language Questions

In addition we have some questions on the "where established" language with respect to livestock grazing. Is this applied on an allotment by allotment basis, on an acreage basis or some other criteria? What impact does the "where established" language have on permitted numbers of livestock? Can permitted numbers be increased in a Wilderness Area under this language? In other words, we are seeking a clear enunciation of Congressional intent with respect to the "where established" language and we hope the Committee will provide answers.

Border Security

The health and safety of ranching families and other rural residents is also an issue of tremendous concern to us.

The prohibited uses section of the Wilderness Act is problematic. The prohibition on motorized vehicles and mechanical equipment will place severe limitations on the Border Patrol and therefore threaten the safety of residents in the area. It defies common sense to create a "no law enforcement zone" in this border country. The few, minor exceptions in S. 441 attempting to address this issue do not address the central issue, i.e. the Border Patrol will not be able to conduct regular patrols in the area.

Finally, we question the need for Wilderness designation for these areas. By Presidential Proclamation they are withdrawn from all forms of disposal, just like Wilderness. By that same proclamation they are withdrawn from all forms of mineral entry, just like Wilderness. There can be no new roads built, just like Wilderness. So we ask why impose this additional regulatory burden on the users of these lands? We see no need for Wilderness designations to protect these lands and oppose this legislation as currently drafted.

Thank you for the opportunity to comment on these important issues.

Statement of John "Punk" Cooper
President
New Mexico Wool Growers, Inc.
Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests & Mining
Concerning
S. 441, the Organ Mountains Desert Peaks Conservation Act

On behalf of New Mexico Wool Growers Inc., the state's oldest livestock trade organization, we appreciate the opportunity to submit this statement.

We will confine our comments to livestock grazing in wilderness, the "where established" language with respect to livestock grazing, and the health and safety of our members and their families ranching in proximity to the border with Mexico.

Livestock Grazing In Wilderness

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Thank you for the opportunity to comment on these important issues.

Testimony of New Nevada Lands, LLC and New Nevada Resources, LLC
Senate Energy and Natural Resources Committee Hearing
S. 414, the Pershing County Economic Development and Conservation Act
February 7, 2018

Chairwoman Murkowski, on behalf of New Nevada Lands, LLC and New Nevada Resources, LLC, ("New Nevada"), please accept for the official record the testimony of Heath Rushing, CEO and Co-Founder of New Nevada, in support of S. 414, the Pershing County Economic Development and Conservation Act. We want to thank the Nevada Congressional Delegation and especially Senator Dean Heller and Senator Catherine Cortez Masto for their efforts, support, and dedication to this important legislation. We stand ready to provide additional information or answer any questions as the Committee desires, and urge the Committee to enact S. 414 this Congress for the future of Pershing County. We believe the combination of preservation of public lands under the Wilderness Act as well as the opportunity to rationalize land ownership patterns in Pershing County, Nevada make this legislation a rare opportunity to do what is right for public lands, wildlife, the people, and the economic future of Pershing County and Nevada. Founded in 2011, New Nevada is one of the largest private landowners in the State of Nevada. New Nevada owns approximately 208,703 acres of land and 445,055 acres of mineral rights/royalties in Pershing County. All of the land is located no more than 20 miles either side of the Union Pacific Railroad which stretches across Nevada from California to Utah through Washoe, Lyon, Storey, Churchill, Pershing, Humboldt, Lander, Eureka, and Elko counties. Most notably, New Nevada is the largest private landowner impacted by S. 414, the Pershing County Economic Development and Conservation Act within the checkerboard land area of Pershing County.

As the largest private owner within the checkerboard area of Pershing County, we can attest to the complications this land ownership pattern creates for private owners and the Bureau of Land Management. Indeed, it is this ownership pattern that prompted Pershing County leaders to pursue solutions to these issues over two decades ago to rationalize land tenure patterns along the I-80 and railroad corridor that has made it difficult to promote economic growth within Pershing County and the Lovelock, Nevada area. New Nevada understands as well as anyone that the BLM's land exchange and land sale processes are broken and simply are not viable tools to rationalize the land ownership patterns, especially when the land values in this area are relatively low. This legislation and the opportunity to block up federal and private lands within Pershing County are important to both the Bureau of Land Management and to private land owners. This is a chance to fulfill the goals of often opposite interests.

Title I of S. 414 directs the sale or exchange of BLM lands identified as the "Checkerboard Lands Resolution Area" and that have been identified as suitable for disposal in the Winnemucca Resource Management Plan completed in 2015, or in any subsequent land use plan amendment or revision for the planning area. Title I also limits the number of acres which could ever be sold to 150,000 acres. Furthermore, any lands to be exchanged or sold under this authority must be jointly selected by Pershing County and the Secretary—insuring that both federal and local government concerns and conflicts can be resolved. The proceeds from these transactions will be distributed via an established formula and special account per the following: 1) 85% going back to the BLM in Nevada to be used for willing seller land purchases, drought mitigation, protection of sage grouse habitat, wildfire suppression,

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Phone: 850-424-3240 | Fax: 850-424-3242

and other appropriate functions of the BLM; 2) 10% going to Pershing County to be utilized by the County; and 3) 5% to the State of Nevada general education per current law.

New Nevada expects to take advantage of the Title I provisions more than any other single owner. It is our desire to block up our holdings in areas suitable for development along the I-80 and railroad corridor and in return, convey our holdings to the BLM in sensitive areas more suitable for federal ownership. For example, we are the largest private owner in the Trinity Range located west of Lovelock. The conservation community has identified this range of mountains as an area that could greatly benefit from Title I exchanges. New Nevada would certainly be willing to work with the BLM, the conservation community and other stakeholders to conduct transactions under the Title I authority to block up federal ownership where conservation is the highest and best use of these lands. The current ownership pattern within the Trinity Range makes it impossible for the BLM to manage these lands for conservation or recreation purposes given that at every mile, you come across private land ownership. The valuation and exchange provisions within Title I to accelerate these land transactions are critical to the success of the Pershing County legislation. The vast majority of the lands within the checkerboard area are low in value. None of them are near major population areas, there few if any trees, no known oil or gas resources, and few leasable minerals but there are locatable minerals in the area. The bulk of the checkerboard area is currently being utilized as low value grazing lands. The vast majority of these lands would be valued at well below $500 per acre. The usual yellow book appraisal process as normally required is expensive and cumbersome and will greatly deter the transaction of these low value lands. The acre for acre provision for these low value land exchanges is the key to successful transactions. All of the lands identified within Title I for sale or exchange have already been identified for disposal under the BLM's 2015 management plan. The value of these lands simply does not justify a multi-year process mandated by typical appraisal procedures by the BLM. The acre-for-acre provisions will allow efficient transactions to occur, will insure there is no net loss in federal ownership, and pose little or no risk that either party, private owners or the BLM, will not receive a fair return during these transactions. Indeed, the Secretary continues to hold full discretion to reject any of these transactions if it is determined that these exchanges are not of approximate equal value.

Lastly, we cannot stress enough the nature of the broad stakeholder engagement conducted by the Pershing County Commission and the Nevada Delegation to bring this legislation forward. Years of meetings, field visits, negotiations, and compromise have resulted in legislation that is truly supported by conservation, development, recreation, off-road enthusiasts, the mining industry, and of course local, state, and federal elected officials from Nevada. We urge the Committee to favorably report the legislation to the full Senate and request your efforts to enact this legislation this year. Thank you.

Heath Rushing, CEO and Co-Founder
New Nevada Lands, LLC
New Nevada Resources, LLC

4405 Commons Drive East, Suite 301 | Destin, Florida 32541
Phone: 850-424-3240 | Fax: 850-424-3242

From: Amy Olson
To: fortherecord (Energy)
Cc: Amy Olson
Subject: MT Resident Disproves S. 2206
Date: Friday, February 9, 2018 6:10:13 PM

Senate Energy and Natural Resources Committee,

I'm writing to express my disapproval of S. 2206. Senator Daines does NOT have my support for this one-size-fits-all bill. I do not support opening pristine wilderness, our last refuge, to oil and gas exploration/development nor to off-road vehicle use.

Montana is special because of our wildlands and wildlife and our ability to work together for the good of our state in all of its diversity. Our untrammeled public lands set Montana apart from other states. They also reflect the shared public lands legacy that defines us as a people and makes us proud to live here.

That legacy has endured thanks to the protection we've given our most untamed lands, especially those we've managed as wilderness study areas.

We agree that it's time to decide how these areas should be managed in the long-term. But we believe that any management decisions regarding any wilderness study area must involve a diverse group of stakeholders working together at the local level towards agreement and mutual benefit.

Senator Daines' legislation, S. 2206, fails that simple test.

To live simply is to live gently, keeping in mind always the needs of the planet, other creatures, and the generations to come. In doing this we lose nothing, because the interests of the whole naturally include our own. —Eknath Easwaran

We believe legislation to resolve our wilderness study areas must:

· Include public input gathered from communities closest to the areas at issue in the proposal, while recognizing these public lands belong to all Americans.

· Be fair, transparent, inclusive, and fact-based so as to produce outcomes that are implementable and durable.

· Begin with a clear, bi-partisan commitment to getting results in Washington D.C.

· Be the outcome of a collaborative process that includes various stakeholders, and not force a one-size-fits all solution.

· Recognize the history of collaborative dialogue in Montana and past legislative compromise.

Sapphires, Blue Joint, and other wilderness study areas across our state, represent the best of Montana in all its diversity, as do the wildlife, fish, water and outdoor recreation economy that rely on these cherished places.

Thank you for your time and attention,

Amy Olson
33 Castner St
Belt, MT 59412
amyolson55@gmail.com

From: Patricia Peebles
To: fortherecord (Energy)
Subject: Senator Daine"s bill S.2206
Date: Friday, February 9, 2018 4:53:20 PM

Dear members of the Senate Energy and National Resource Committee

I am sending this email to express my opposition for Senator Daine's bill S.2206

I am a registered republican and live in the state of Montana. We must protect our lands and resources for our children and generations to come. Please do not allow these precious areas be opened to gas and oil development and off road use. Once done these lands will never again be the beautiful wild areas they are now. These lands belong to all Americans & all future Americans, please kepp them safe and vote against this bill!

Thank you

Patricia B Peebles
278 Eagle Bend Dr
Bigfork Montana 59911
trishlocation@yahoo.com

Pershing County Economic Development and Conservation Act

S. 414

Senate Energy and Natural Resources Committee

Testimony of Pershing Gold Corporation

Steve Alfers

Executive Chairman, President and Chief Executive Officer

February 7, 2018

Chairwoman Murkowski, please accept, for the record, the testimony of Pershing Gold Corporation in support of S. 414, the Pershing County Economic Development and Conservation
Act sponsored by our Senate Delegation, Senator Dean Heller and Senator Catherine Cortez Masto. Pershing Gold is a publicly traded U.S. company listed on the NASDAQ (PGLC) and the Toronto Stock Exchange (PGLC). Our flagship asset is in Pershing County, where we control over 25,000 acres of land, some of which is included in S. 414.

Pershing Gold's Relief Canyon Mine located in Pershing County is in the process of being placed back into production since the previous owners shut the mine down. Since acquiring the mine in 2011, we have spent over $75 million to explore and develop this asset. All of the necessary federal and state permits to begin mining and mineral processing have been issued. We anticipate mining will start in 2018, at which time we will provide approximately 220 direct jobs at the mine.

Pershing Gold is proud to be one of the many stakeholders who helped craft this bi-partisan, grassroots-led effort. We worked with the Pershing County Commissioners and Pershing County residents to develop a consensus-based proposal for managing some of the County's public lands. This community dialogue was the foundation for the Pershing County Development and Conservation Act. This collaborative process, which involved people from all walks of life in the community, is emblematic of the way the democratic process is supposed to work.

Everyone who participated in the numerous town hall meetings to work on the bill had a voice, opportunities to look at maps, provide comments, and ultimately shape this bill. During these meetings area ranchers, miners, sportsmen, outfitters, conservationists, prospectors, mineral exploration professionals, landowners, and local business owners took the podium to offer their perspectives. This stakeholder-driven process was not easy. Everyone had to compromise, and

no one got everything they wanted. But the resulting bill has broad support and advances a wide range of community interests.

Some of the many benefits that will occur if the Pershing County Development and Conservation Act is enacted include:

- Ending the 30-year old stalemate over Wilderness Study Areas (WSAs) by designating some areas as wilderness and restoring the multiple use management status to WSAs that do not have wilderness characteristics;

- Protecting and enhancing important habitat, including Greater Sage-grouse habitat, and creating funding for habitat enhancement, drought mitigation, and wildfire suppression;

- Preserving existing road access into newly designated wilderness areas so these areas remain accessible to sportsmen, conservationists, and ranchers;

- Creating a process for the County Commissioners and the Secretary of the Interior to allow qualified buyers to purchase or exchange public land sections in the public-private checkerboard to result in consolidated blocks of public and private lands that are easier to manage;

- Giving qualified mining claim owners an opportunity to pay fair market value for the lands where their operations are located, which will expedite mine expansion and reclamation and bring good jobs and tax revenues to Pershing County;

- Facilitate post-mining re-purposing of mined lands to achieve long-term sustainable development that will continue to provide jobs and tax revenues once mining has ceased; and

- Authorizing Pershing County to purchase the Unionville Cemetery so people can continue to bury their loved ones in this historic graveyard.

For over two decades, Pershing County residents have sought to resolve the difficult problem of finding productive uses for the County's checkerboard lands. This checkerboard consists of alternating sections of public and private lands extending for 20-miles on both sides of the railroad (roughly paralleling Interstate 80) across the length of Pershing County. S. 414 is the solution to this problem.

Using the process described in Title I of S. 414, Pershing County Commissioners and the Secretary of the Interior can nominate public lands in the checkerboard for sale or exchange to qualified purchasers to consolidate lands into more manageable contiguous blocks of public and

private land. The land sales will bring new jobs and economic development to Pershing County, expand the County's private-property tax base, and produce much needed tax revenue.

Title II of H.R. 414 would authorize Pershing Gold and other mining companies to purchase our mining claims. Immediately following enactment of this bill, Pershing Gold would start the process to purchase at fair market value the claims where our Relief Canyon mine and mineral processing facilities are located. Owning this land will enhance the value of our assets. We also believe that passage of this bill would make Pershing County one of the most attractive mining investment targets in Nevada. The sale of these lands will immediately increase Pershing County's private land tax base and provide the Bureau of Land Management (BLM) with funding for wildlife habitat enhancement, drought mitigation, and other important land management activities.

In FLPMA, Congress has directed the Secretary to maintain public lands in federal ownership unless the land planning process has designated lands as suitable for disposal, in which case the land sales and exchange provisions in FLPMA can be used to implement BLM's land management decisions. This bill facilitates the sale and exchange processes for lands that BLM has already designated as suitable for disposal and lands being used for mining where public access must be restricted for safety reasons.

In light of FLPMA's directives, we certainly appreciate the Secretary's opposition to the wholesale selling of public lands. However, S. 414 does not propose widespread sales or exchanges. Rather, this bill promotes the surgical sale and exchange of lands that BLM has already identified for disposal, and mining lands that are currently off limits to the public for safety reasons.

We believe S. 414 will result in the acquisition of truly public lands with little or no loss of net federal acreage. The lands that are the subject of Title II of the legislation are only "public" in the sense that they are owned by the Federal Government. Public access to mining lands is restricted, per BLM regulations that require us to erect fences or other barriers and provide security personnel to restrict public access. These restrictions on public access will last for many years during active mining and reclamation.

Moreover, even after these lands are fully reclaimed pursuant to federal and state laws, they will not provide the type of high-value public recreation, habitat or scenic resources that the public demands from our federal lands. However, under the text of the legislation, 85% of the fair market sales revenues from these fair market sales transactions will be retained by the Secretary to purchase other lands where there exist real opportunities for enhanced recreation, wildlife habitat preservation and enhancement, protection of important cultural resources, and access to

landscapes that are more important to the public. We hope the Secretary and the BLM will utilize these revenues wisely to enhance the public lands in Pershing County and there would be little net change in the federal ownership acreage.

The way we build, operate, and reclaim the Relief Canyon Mine would not change once we own the land. The same environmental protection standards, monitoring and reporting requirements, and financial assurance (bonding) calculations would govern our operation as those in effect today. For example, BLM and the Nevada Division of Environmental Protection/Bureau of Mining Regulation and Reclamation (NDEP) currently require Pershing Gold to provide $ 12.2 million in financial assurance for the Relief Canyon Mine and mineral processing facilities. The required amount of financial assurance would not change when we become the landowner and will continue to increase with future mine expansions. The future financial assurance requirements for any mine expansions would be calculated in exactly the same way regardless of land ownership.

Privatizing the Title Il mining lands holds great promise for facilitating future redevelopment of these lands into new projects that could become a long-term source ofjobs and tax revenue for Pershing County. The U.S. Mining Law restricts the use of mining claims to mineral exploration and development purposes. Once mining is completed, federal regulations require mine operators to reclaim the mine site and remove the entire project infrastructure like roads, power lines, buildings, and water distribution facilities. This valuable infrastructure could remain in place on private lands and be re-purposed for other uses. The Relief Canyon Mine and some of the other Title Il mining operations are close enough to Interstate 80 and major power transmission lines that they could be attractive sites for future industrial uses or renewable energy projects. S. 414 would enable sustainable redevelopment of these mine sites, essentially leveraging the mining companies' investments in project infrastructure as a foundation for the county's future economic well-being.

The Pershing County Economic Development and Conservation Act is a visionary concept for the future whose benefits could extend far beyond Pershing County. The stakeholder process that produced this bill could be used as a model for other western rural counties that seek to solve the difficult challenges associated with rationalizing public and private land ownership patterns, ending the decades-long deadlock over the WSAs, and paving the way for sustainable development and economic prosperity in the rural west.

I applaud the Pershing County Commissioners' and the work and dedication of Senators Heller and Cortez Masto and their leadership in developing the Pershing County Economic Development and Conservation Act. S. 414 is a win-win for everybody. I urge this committee to give this bill your full consideration and pass it as soon as possible.

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Statement of John Gilroy, Director, U.S. Public Lands Conservation
The Pew Charitable Trusts
Regarding S. 414, S. 441, S. 507, S. 1481, and S. 2206
Submitted to the Subcommittee on Public Lands, Forests, and Mining
Senate Committee on Energy and Natural Resources
For the Record of the hearing held on February 7, 2018

The Pew Charitable Trusts seeks to preserve ecologically and culturally diverse U.S. public lands through Congressionally-designated wilderness, the establishment of national monuments, administrative protections, and restoring America's National Parks System. To accomplish these goals, we work closely with conservation groups, recreation organizations, local businesses, local governments, and other stakeholders to develop collaborative proposals for public lands protection.

S. 414 – Pershing County Economic Development and Conservation Act

Pew supports the goals of the Pershing County Economic Development and Conservation Act (S. 414), sponsored by Senators Dean Heller (R-NV) and Catherine Cortez-Masto (D-NV). The bill represents a balanced, bipartisan approach to conservation that has emanated from a locally driven process where diverse parties were able to advance their viewpoints and come to a result that will improve conservation, land management, and the local economy. S. 414 would designate new wilderness areas, consolidate checkerboard lands, and resolve other longstanding public lands issues in Pershing County, protecting areas of significant ecological value while providing new opportunities for economic development. This legislation's recent passage in the House of Representatives is an important step forward toward achieving important conservation gains with comprehensive and balanced legislation at a county-wide scale. We look forward to working with the Committee to resolve outstanding issues.

S. 414 would provide wilderness designations for approximately 136,000 acres of land in Nevada's Great Basin desert, conserving critical wildlife habitat, dramatic landscapes, geologic wonders, and magnificent outdoor recreation opportunities. These seven new wilderness areas will permanently protect magnificent high desert landscapes with pinyon-juniper forests, sagebrush valleys, rugged canyons, and dramatic mountains that are home to a variety of wildlife such as sage grouse, pronghorn, mule deer, and bighorn sheep.

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 (WSAs), permitting development to take place on lands that are currently managed for their conservation values. Section 103(f)(1)(B) would make 150,000 acres of federal land available for sale. That land, along with land

conveyed elsewhere under Section 201 could result in an increase in industrial development. While Pew would not support these changes in land management or ownership on their own merits, we recognize and appreciate that these provisions 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 which is more commonly used for the exchange of federal and non-federal land. 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 provides some protection for taxpayer interests by placing a cap on the value of the federal land to be exchanged, and includes additional restrictions to help ensure that the federal government receives land that will assist the Bureau of Land Management in implementing public-interest management goals, including conservation and recreation. However, we feel that this portion of the bill could be improved, and we look forward to working with the Committee to address these concerns.

S. 441 – The Organ Mountains-Desert Peaks Conservation Act

The Pew Charitable Trusts supports S. 441, the Organ Mountains-Desert Peaks Conservation Act, sponsored by Senators Tom Udall and Martin Heinrich. This legislation would designate approximately 241,786 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 help ensure local families and visitors will continue to be able to hike, hunt, and learn from the thousands of significant historic sites throughout the area for generations to come.

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. 507 – Blackfoot Clearwater Stewardship Act of 2017

The Pew Charitable Trusts supports S. 507, the Blackfoot Clearwater Stewardship Act of 2017, sponsored by Senator Jon Tester. This legislation is the result of more than a decade of on-the-ground collaboration among a wide variety of stakeholders, including timber companies, ranchers, small businesses, outfitters, hunters, anglers, recreation enthusiasts, and conservationists. The bill will protect ecologically sensitive areas as wilderness, expand opportunities for outdoor recreation and tourism, promote forest and habitat restoration, and boost the number of local timber jobs.

S. 507 would add 79,060 acres to the Bob Marshall, Scapegoat, and Mission Mountain wilderness areas, securing vital habitat for elk, deer, grizzly bears, bull trout, and other sensitive species. This region, adjacent to the iconic Bob Marshall Wilderness Complex, is frequented by hikers, campers, cross-country skiers, hunters, and anglers. S. 507's proposed Otatsy Recreation Management Area will

open 2,013 acres of public land to high-quality snowmobiling near Ovando and preserve prized mountain bike access to Spread Mountain, Center Ridge and Camp Pass.

S. 1481 – The Alaska Native Claims Settlement Improvement Act

Pew supports S. 1481's goal of making good on prior promises made to Vietnam veterans. However, Pew cannot support the bill as currently drafted because it would result in the disposal of public land that Congress or the Administration has already expressly reserved for some other public purpose, potentially undermining bedrock conservation statutes like the Wilderness Act.

The exclusions placed on the types of federal land that veterans are eligible to select under Section 11 are insufficient to protect public land that has already been reserved by Congress or the executive branch for conservation purposes. While the bill excludes land within a National Park, National Preserve, National Monument, or a right-of-way of the TransAlaska Pipeline from disposal, it would permit the selection of land that is contained within a Wilderness Area, a Wilderness Study Area, a Wild and Scenic River Corridor, an Inventoried Roadless Area, a National Recreation Area, a National Wildlife Refuge, or a BLM Area of Critical Environmental Concern. It would also permit the selection of land that is currently managed for conservation, recreation or other purposes – such as the White Mountains National Recreation Area, the Steese Conservation Area, or the Lake Todatonten Pingos Research Natural Area, to name a few examples – potentially undermining the management goals contained in the relevant resource management plan. We look forward to working with the Committee to address these issues.

S. 2206 – Protect Public Use of Public Lands Act

S. 2206 would remove protection from 449,500 acres of public land in five Wilderness Study Areas (WSAs) in Montana. These lands are actively used by citizens with a wide variety of interests. Congress created these WSAs in 1977 when it passed the Montana Wilderness Study Act (S. 393), which established a total of nine WSAs on 973,000 acres of National Forest. Since that time, there have been a number of efforts by members of the Montana congressional delegation to seek a permanent management solution that addresses the status of these WSAs. The Lee Metcalf Wilderness and Management Act of 1983 addressed two of these WSAs when it became law in 1983, releasing one WSA entirely while partially releasing the other and designating approximately 259,000 acres of Wilderness.

Congress has repeatedly attempted to address the seven remaining WSAs. Members of Montana's congressional delegation introduced legislation in 1984, 1986, 1988 (which passed both House and Senate but was not signed into law), 1992, 1994, and 1995 that would have balanced the release of significant WSA acreage with permanent protection for the highest-quality areas. More recently, the Forest Jobs and Recreation Act, introduced in 2009, 2011, and 2013, would have partially protected and partially released two WSAs (the Sapphires and West Pioneers) that are included in S. 2206. Each of these previous bills represented a compromise that reflected the input and interests of local Montana communities and a good-faith attempt to balance the interests of all public lands users.

Pew would welcome a similar broad-based stakeholder-driven discussion regarding these remaining WSAs that features conservation as a key part of a larger vision for the future of these landscapes. However, we cannot support any legislation, including S. 2206, which eliminates WSA protections without also addressing the need to conserve Montana's wild places. We would welcome a conversation on a way forward for finding a permanent resolution to these ongoing public land management challenges.

We appreciate the opportunity to submit these views for the Committee's consideration. For additional information, please contact John Seebach at (202) 540-6509 or jseebach@pewtrusts.org.

Dear Senate Committee on Energy and Natural Resources Members:

My name is Doug Rhodes and I live on Prince of Wales Island in Southeast Alaska and have lived here for 37 years. I grew up in Sitka and have commercial fished, trapped and hunted in the Tongass National Forest from Sitka to the south end of Prince of Wales Island for the past 50 years. I love where I live and I wouldn't want to live anywhere else in the world.

Why do I love this place so much? One of the reasons is that the Tongass is multiple use public land and is not a checkerboard of private land holders. When I travel to the lower 48 I am always blown away by all of the private land and trying to find a place to recreate on public land. In Southeast Alaska, you can travel by boat for hours and not see another town, let alone a private property sign. This will change if certain legislation that is before you is passed into law.

I am writing this letter in opposition to Senator Murkowski's bill numbers S.1491 and S.1481 dealing with ANCSA. These bills, and there are others as well, are nothing more than an attempt to privatize the Tongass National Forest, bring back large scale logging to the area and make it easier for mines to operate as well. This is all being done under the disguise of calling it the Alaska Native Land Claims **Improvement** Act of 2017 and unrecognized community Landless Natives! Who can argue with titles that include the words improvement and unrecognized and Natives- and so we are now turning conservation of public lands into a racial issue which is sad.

I would like to give you my version of what has happened to the Tongass in just my life time. It might help to show how much I believe the Tongass National Forest has been eroded and why I think it needs to stop.

The Tongass Timber Act of 1947 (I wasn't born yet) awarded large timber contracts to pulp and timber mills in the Tongass. In the 1950's and on into the 1980's the USFS provided timber to these large mills and by the end of the 1900's, much of the good timber had been harvested, and removed from the Tongass National Forest. In addition, such poor logging techniques were used that we are still repairing salmon streams and spawning habitat throughout the Tongass.

I'm not going to go into a lengthy account of what ANCSA did and did not do except to say that it was supposed to "extinguish aboriginal claims" in Alaska in 1971. This created the largest private property holders in Alaska but more importantly, in this case it created the largest private property holders in Southeast Alaska by removing that land from the Tongass National Forest.

Then the State of Alaska, Mental Health and the University of Alaska got to start selecting land, and of course, much of it was selected from the Tongass National Forest. The goal of the State of Alaska is to "add 2 million acres of National Forest System lands from the Tongass National Forest to the Southeast State Forest". Once this land is logged, and most of it will be, then it will be potentially auctioned off as private property.

We have already seen new communities develop in remote areas without thinking about what the impacts will be on Southeast Alaska overall. In Southeast Alaska we all live close together in small towns scattered along the coast, but with big areas of no residences in between. You might live close together, but a 10 minute skiff ride will put you in a remote area. This is conducive to trapping, fishing and subsistence hunting. Now we are seeing these new private land sales in remote areas, and what once were remote hunting grounds are now sprinkled with private homes or lodges built to have even more people come into the area. Conflicts are developing in areas between sport and commercial fishermen, sewage outfalls are impacting other areas, and there just seem to be a lot of collateral issues that weren't thought of at the time.

And now we come to these new bills introduced by Senator Murkowski. These bills will be, in my opinion, the start of the final undoing of the Tongass National Forest. More private land means more impact on the resources, less productive salmon streams, less control over development, and since the logs will be allowed to be exported in the round, these bills won't even help the local mills in the Tongass!

I urge the committee members to vote against these bills! Too many people have worked so hard over the past 40 years to try and make the Tongass a true multiple use forest with something for everyone. Private citizens have spent countless time working with the Forest Service, serving on committees and working with other agencies to help shape the type of Tongass we want to live in.

Sincerely,

Doug Rhodes
Box 268
Craig, Alaska 99921

From: Gail Richardson
To: fortherecord (Energy)
Subject: Oppose Daines" S. 2206
Date: Friday, February 9, 2018 7:27:15 PM

We have lived, worked and recreated in MT for almost 40 years. We are conservationists who value our precious wild public lands and our native wildlife as our national and natural heritage. Preserving our shared biodiversity is very important to us, to most Montanans, indeed, to most Americans. MT's wilderness study areas (WSAs) include some of our finest roadless lands that we value for their clean water, air, wildlife habitat and for opportunities for solitude and silence. We have explored by foot in many of these landscapes over the years, the Pioneers, the Sapphires, the Big Snowies. Wild country defines who we are as Montanans. Tourism and recreation are our #1 economic driver. People come here to experience our wild places. These lands set us apart; they are our identity. Do not allow their destruction.

Sen. Daines has not listened to people like us; he has only listened to those who want to industrialize our public lands and to the motorized use crowd, which can already drive almost everywhere. What about the rest of us. The senator won't even face his constituents! Shame on him. Please just say no to this egregious bill. Stand up for our treasured wild public lands so that future generations can experience the best of Montana and America.

Sincerely,

Gail and John Richardson
5263 Cimmeron Drive
Bozeman, MT 59715

February 21, 2018

The Honorable Mike Lee
Chairman, Committee on Energy & Natural Resources
Subcommittee on Public Lands and Forests
U.S. Senate
304 Dirksen Senate Office Building
Washington, DC 20510

RE: February 7, 2018 Legislative Hearing on Various Bills, Including S. 1481, the Alaska Native Claims Settlement Improvement Act of 2017

Dear Chairman Lee:

I am submitting my comments on the subject of the Subcommittee's February 7, 2018 hearing on S. 1481, the Alaska Native Claims Settlement Improvement Act of 2017.

Section 10 of S. 1481would 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 Alaska Native 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.

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 claims 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." I am a Sealaska At Large Shareholder from Wrangell which means we never had a Village Corporation and as such we are considered LANDLESS.

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 community in Wrangell we were uniquely denied these benefits of ANCSA. We have been fighting this injustice since ANCSA's passage.

We were pleased to see the Trump Administration express its support for the Unrecognized Communities. Specifically, Mr. Brian Steed, Deputy Director for Policy & Programs at the Bureau of Land Management, made the following statement in his written testimony:

> The Department supports Sec. 10 and looks forward to working with the sponsors and the Committee on technical modifications including adding the Secretary of Agriculture for consultation and coordination on land selections resulting from implementation of the bill. In addition, we recommend that the word "township" be

> replaced with "23,040 acres" because some townships along the coast may be less than 23,040 acres."

However, various groups including, at times, the U.S. Forest Service, have raised concerns about the legislation. I will address these concerns here.

Concern #1 – Congress specifically named the villages in the southeast Alaska that were to be recognized in ANCSA; these five communities were not among those named.

Naysayers have observed, without providing any context whatsoever, 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." This statement suggests the five unrecognized communities had some process available to them to fairly adjudicate their claims. In fact, they did not.

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. This was not a "land" settlement, but a "cash" settlement that did not adequately compensate the Alaska Natives of southeast Alaska for the lands taken by the federal government. Nonetheless, Section 16 – not Section 11 – separately listed each of ten villages in Southeast Alaska. Section 16(b) of ANCSA authorized the conveyance of just one township of land to each Southeast Alaska Native village. In other regions of Alaska, each "Native village … which the Secretary finds is qualified for land" was authorized to receive between three and seven townships of land depending on the population of the village. In Section 16(c) of ANCSA, Congress explained why each qualified Southeast village would receive just one township each:

> The funds appropriated by the Act of July 9, 1968 (82 Stat. 307), to pay the judgment of the Court of Claims in the case of *The Tlingit and Haida Indians of Alaska, et al. against The United States*, numbered 47,900, and distributed to the Tlingit and Haida Indians pursuant to the Act of July 13, 1970 (84 Stat. 431), are in lieu of the additional acreage to be conveyed to qualified villages listed in [Section 11 of ANCSA].

Section 11 of ANCSA provided an appeal right to any Native village not listed in that section to determine whether such village was eligible to receive for land. However, because Section 11 does not apply to Southeast Alaska, the five unrecognized communities were later denied the right to appeal pursuant to that authority.

Section 16 of ANCSA failed to provide any mechanism for Southeast villages to 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. It is for this reason that we must appeal directly to Congress for help.

As a matter of legislative history – or lack thereof – this Subcommittee must take into account that possibility that Southeast Alaska villages did not have an appeal right by virtue of a simple error on the part of Congress. Congress clearly intended to treat Southeast Alaska differently than the rest of Alaska, but there is nothing in the legislative history that suggests Congress actually intended to deny the appeal right to the five Southeast Alaska villages. Congress did explain that the Tlingit and Haida Settlement – a small settlement of $7.5 million – would be considered made "in lieu of the additional acreage to be conveyed to qualified villages," but Congress did not suggest within the legislation or otherwise that the five unrecognized villages should not "qualify" for recognition and compensation as a consequence of that Settlement, or that they should be denied due process.

Concern #2 – Members of the five communities are "at large" shareholders in Sealaska Regional Corporation ... and as such, have already received benefits from the ANCSA settlement.

ANCSA directed the Secretary of the Interior to prepare a roll showing "among other things, the region and the village or other place in which [each Alaska Native] resided on the date of the 1970 census enumeration, and he [each Alaska Native] shall be enrolled according to such residence."

Thus, for Alaska Native individuals born prior to the passage of ANCSA were enrolled both to their village – although those of us petitioning Congress here were enrolled to one of five "unrecognized" villages – and to our region, Southeast Alaska. The Regional Corporation for Southeast Alaska is Sealaska Corporation, and those of us enrolled in the Southeast region became "at large" shareholders in Sealaska Corporation that is what I am considered; I call it LANDLESS.

Those of us who were enrolled to the Southeast region have in fact received revenue-sharing distributions from Sealaska pursuant to Section 7(j) of ANCSA,[1] but we have not enjoyed any of

[1] Section 7(i) of ANCSA provides for the sharing among Native regional corporations of 70 percent of the revenue derived from timber or subsurface resources on ANCSA lands:

> Seventy per centum of all revenues received by each Regional Corporation from the timber resources and subsurface estate patented to it pursuant to this Act shall be divided annually by the Regional Corporation among all twelve Regional Corporations organized pursuant to this section according to the number of Natives enrolled in each region pursuant to section 5.

Section 7(j) of ANCSA provided additionally for the further distribution of 50 percent of funds received by a regional corporation "among the Village Corporations in the region and the class of stockholders who are not residents of those Villages."

benefits of owning shares in a Village or Urban Corporation, and many of those benefits are tied to or the result of land ownership. In fact, many of the Village and Urban Corporations in the Southeast Alaska region have brought significant economic benefits to their communities. Our communities also have been deprived of the significant cultural benefit of owning an interest in lands located within and around our traditional homelands. Cash distributions will never be adequate compensation for lack of land ownership for our Native people. We have been on this land since time immemorial.

Concern #3 – 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 reopen their status determinations.

Most modern Administrations – whether Republican or Democratic – support the recognition of American Indian and Alaska Native communities, including tribes that were terminated during the so-called termination era, when this Nation ended its special relationship between many tribes and the federal government. Under ANCSA, Congress extinguished Alaska Native aboriginal land claims; but it did so within the context of attempting to provide "fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims."

Congress settled the land claims of Alaska Natives by allowing Alaska Natives to enroll to their Native village and allowing Alaska Natives within each of those villages 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 listed in ANCSA 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—strongly supports the conclusion that the eligibility requirements set forth in ANCSA for Native villages to receive lands and incorporate were met by the five Native villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell.

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.[2]

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.[3]

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.[4]

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[2] the ShtaX'heen Kwaan of the Tlingit of Southeast Alaska: A Literature Review presented to Richard Dauenhauer Phd by Joshua T. Ream Fall 2010.
[3] Rosita Worl, Introduction to the Tlingit Culture and Repatriation.
http://www.pbs.org/harriman/explog/lectures/worl.html:
[4] 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

In summary, I am asking that Congress recognize our Alaska Native communities and give us a chance to form Native corporations for our people and for future generations. Please help restore our sacred connection to our land so we will no longer be known as the LANDLESS. Thank you for the opportunity to provide testimony on this important matter to the Alaska Native people that enrolled to the Native villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell.

Sincerely,

Richard Rinehart
Landless Shareholder from Wrangell
Current address:
1511 NW 204th Street
Shoreline, WA 98177

From: Barbara Ross
To: fortherecord (Energy)
Subject: S.2206
Date: Saturday, February 17, 2018 6:15:05 PM

To:
U.S. Senate Energy and Natural Resources Committee
Subcommittee on Public Lands, Forests and Mining
Re:
Sen. Steve Daines' bill

S.2206 - Protect Public Use of Public Lands Act

Date of hearing: Feb. 7, 2018

U.S. Sen. Steve Daines' S. 2206 would remove protections on nearly half a million acres of public lands in Montana, established through the work of Sen. Lee Metcalf. Sen. Metcalf introduced the Montana Wilderness Study Act, with the foresight that these wildlands managed by the Forest Service needed to be protected. Proposed without public comment Daines' bill would remove protections from some of the most beautiful, pristine and dramatic backcountry. The title is misleading or shall we say, downright deceptive: "Protect Public Use of Public Lands Act". Daines' bill opens the door for potential oil and gas development on hundreds of thousands of acres of public lands, threatening local businesses that contribute to a $7.1 billion outdoor economy. The amount of wilderness left in the US is miniscule and once 'developed' is gone forever. These study areas are a source of pure water and important wildlife habitat, and once altered, can never be restored.

Barbara Ross
309 Whitaker Dr.
Missoula, MT 59803
406 552-0500

SUBJECT: Statement/Letter for the Record
DATE OF HEARING: February 7, 2018

Dear Subcommittee Members,

The Russell Country Sportsmen's Association is a group of Central Montana outdoor men and women who have advocated for access to private and public lands for over 50 years. We strongly recommend passage of the ***Protect Public Use of Public Lands*** *(*S.2206*) for the following reasons:*

RECOMMENDATIONS: The Forest Service is our expert on how to manage public forest lands. They have recommended on several occasions that these WSA's be released. If these 5 areas had so many wilderness characteristics, they would have been included in the Montana Natural Resources Protection and Utilization act of 1988 or the Montana Wilderness Act of 1994, but they weren't. Congress hasn't acted on the Forest Service recommendations, yet Forest Service officials continue to support their release.

PUBLIC SUPPORT: This bill was the result of many Montanans and outdoor recreation clubs from all over the state who, as the public, want to use these areas that they have been locked out of for more than 40 years. The 2017 Montana legislature passed a resolution supporting release.

CHANGE IN FOREST MANAGEMENT: All of the 5 WSA's are within national forest areas that are Inventoried Roadless Areas. If the WSA designation is removed, these areas would revert to the same management processes as the forest surrounding them. As a result, they would be part of the Forest Service's Roadless Inventory process, and according to the 2001 Roadless Area Rule "motorized and mechanical uses" would still be restricted. In addition, if a mineral exploration company or other developer wanted to develop them, they would be required to conform to the Roadless Inventory management process, to include public hearings and a comment period.

PUBLIC INPUT: Public meetings and comment periods were a part of the original 1977 WSA designation process and have been part of several Forest Plan revisions and travel plan revisions since. This issue has recently been widely reported in the press and the public has had ample opportunity to convey to public officials their opinions regarding the release proposal. When S.2206 is passed (and under the Roadless Rule), any development or motorized use would have to conform to the Roadless Inventory management process, to include public hearings and a public comment period.

MULTIPLE USE OF OUR PUBLIC LANDS: The Multiple Use-Sustained Yield Act of 1960 directs that our publicly owned forests be managed for multiple use. In Montana, there are over 7 million acres of designated public land where one can enjoy the wilderness experience (designated wilderness, national parks and monuments). Everyone appreciates the wealth of wilderness we have in Montana, but many like the very young, the aged or handicapped aren't able to physically make it to these areas. With all the public land here, areas where these folks can recreate are getting smaller every year. More wilderness is not the answer.

ECONOMIC IMPACT: There is no doubt that Montana's economy benefits from existing designated wilderness. However, by keeping some areas open to multiple use, it's obvious that more jobs and increased revenue will result. Businesses like ATV and UTV dealers, snowmobile dealers, sporting goods stores, gasoline dealers and lodging businesses will all benefit. Wilderness designation prohibits these considerations as part of the travel planning process.

DEVELOPMENT: When released, these WSA's will revert to general forest planning and management. The release of the designation will not result in developers building condominiums or mining companies stripping the land. These lands will be managed just like the national forest roadless areas surrounding them in a way that "best meets the needs of the American people" (Multiple Use-Sustained Yield Act of 1960). As stated above, that process requires public hearings and a public comment period.

USE OF PUBLIC LANDS: According to user surveys done by the Lewis & Clark National Forest a few years ago, only about 10% of the annual forest visits were to designated wilderness. A similar survey done by the Beaverhead-Deerlodge National Forest reported an even smaller percent of user visits. We do not believe that Congress should set aside even more of our public land for less than 10% of its users.

We respectfully request that you pass S.2206 and send it to the Senate for approval.

Very Respectfully,

Ron Litostansky, Acting President
Russell Country Sportsmen's Association
P.O. Box 282
Great Falls, MT 59403
Phone: (406) 761-2459

From: Christin Rzasa
To: fortherecord (Energy)
Subject: S2206
Date: Friday, February 9, 2018 6:12:59 PM

To the Committee:

I am writing to add my voice to those of my friends and neighbors who appreciate the wilderness we have here in Montana and to say how most of Senator Daines constituents are opposed to this bill he has proposed. I doubt he's ever even visited any of the wilderness study areas he plans to open up to the devastation that resource extraction can do to these pristine places. I have. I've spent the majority of my life here in western Montana, hiking, skiing, fishing and just immersing myself in the solitude these amazing places provide. Humans NEED wilderness, no matter what Mr. Daines thinks. I've also worked in the tourist industry and live in a valley where a majority of the businesses depend on tourist dollars, and I can tell you that all of us who live here are well-aware that tourists don't come to see clear cuts or open-pit mines or rivers ruined by mining waste. We've had enough of that here in Montana to know. Please listen to the voices of the people of Montana, not just the man who claims to know our views - he doesn't. He hasn't spent enough time here to know them, and he refuses to show his face here in open public meetings to listen to us. He sits there in DC and only listens to the extractive-industry lobbyists who fatten his coffers. Please reject this terrible bill - it's BAD for Montana and it's BAD for the American people, all of whom share in the ownership of these amazing wild places and who ought to be able to enjoy them, not see them devastated for short-term jobs and to line the pockets of extractive-industry CEOs. Thank you.

Sincerely,

Christin Rzasa
2711 Snyder Rd.
Stevensville, MT 59870
(406)777-1566

From: Rebecca Schmitz
To: fortherecord (Energy)
Subject: Comments on Sen. Steve Daines" S2206
Date: Wednesday, February 14, 2018 5:09:56 PM

Thank you for giving me this opportunity to provide comment on Senator Steve Daines' proposed S2206, a bill to release certain wilderness study areas in Montana. I am one of his constituents; I live in Missoula, Montana. These WSAs were first proposed by our Senator Lee Metcalf in 1977 after he held extensive public hearings right here at home. Their designation received strong local support. They've been included in various wilderness bills over the years. Each time, these bills were vetoed for specifically partisan reasons, such as President Ronald Reagan's pocket veto of the comprehensive 1988 wilderness bill. This was done so Senator Conrad Burns, in his first run for office that year, could keep using them as a divisive election issue.

Rather than continue Senator Lee Metcalf's tradition of citizen input, Senator Daines has introduced S2206 without a single public meeting about it anywhere in the state of Montana. This is a shabby treatment of his constituents--and Metcalf's legacy. The Energy and Natural Resources Committee should require Mr. Daines to return to Montana and hold open public hearings about his bill. As you may know from other comments to the Committee on this bill, Mr. Daines has never held an in-person open public meeting about anything in his six years of elected office. Such an opportunity to address our concerns face to face is a basic courtesy to Montanans. Mr. Daines claims he has our broad support, yet elected officials and citizens in Fergus, Ravalli, and Beaverhead Counties--areas in which the potentially released WSAs are located--have protested his bill in newspapers across the state and at their local county commission meetings. Senator Steve Daines should come home now and talk to us. For not doing the basic requirements of his job as a public servant the Committee should vote no on S2206.

Thank you for taking the time to read my comments.

Sincerely,

Rebecca Schmitz
104 Westview Dr
Missoula, MT 59803
406-829-8215
schmitzrebecca@yahoo.com

From: Nancy
To: fortherecord (Energy)
Subject: S2206
Date: Wednesday, February 14, 2018 4:20:40 PM

Senate **Subcommittee on Public Lands, Forests, and Mining**

Please read in preparation for S2206 presentation by Senator Daines'
Sen. Steve Daines' (R-Mont.) bill, **S. 2206**, which targets removing five wilderness study areas in Montana covering nearly 450,000 acres managed by the Forest Service is not supported by most Montanans. . If it passed, it would represent the largest rollback of protected public lands in our state's 130-year history Put together overnight with zero opportunity for public input, much less good-faith collaboration, Sen. Daines bill is not how we do business in Montana

Here is who supports Senator Daines Bill

Special-interest groups who want motorized recreational access and corporations that want commercial extraction of minerals, energy or timber.

Here is what Montanans support; healthy, vibrant, public lands

96% consider outdoor recreation is important to the economy, this includes camping, hiking, canoeing, kayaking

92% visited public lands in the last year

66% think that rollbacks of laws that protect public lands and other natural resources are a serious problem

87% consider themselves recreation enthusiasts

82% consider themselves conservationists

Here are some statements about the WSAs in S2206

The **West Pioneers** are the largest remaining roadless area in southwest Montana. A forested wilderness of rolling terrain and rich wildlife habitat, The West Pioneers are the largest remaining roadless area in southwest Montana. There are abundant populations of bighorn sheep, elk, deer, pine marten, and black bear.

The **Sapphires** form the biological heartland of this diverse mountain ecosystem, a lush wildland that enriches the rocks and ice of the Pintler Range. More than 20 lovely lakes nestle in steep cirques just below the Sapphires' undulating crest. To the west, creeks feed the trout fisheries of the Bitterroot River. To the east, the Sapphires are the watershed from which Rock Creek, a blue-ribbon trout stream, springs.

Middle Fork of the Judith WSA-The study area contains over 29 miles of rivers and tributaries loaded with native cutthroat and rainbow trout. The proposed boundaries will maintain excellent wildlife habitat, primitive recreation, and hunting opportunities in an area of otherwise heavily impacted national forest land.

These areas are too important to lose

Senator Daines says that time has run out and we need to take action now

But action has been taken; Congress introduced at least nine balanced, common sense bills between 1983 and 2013 to address the WSAs created by the Montana Wilderness Study Act of 1977. In 1988 wilderness study areas were designated Wilderness by both houses of Congress; this bill was pocket vetoed for petty electoral gain.

Senator Daines says Montanans are shut out of WSAs - We are not

The public has been using these WSAs for years. The University of Montana has done field studies in the 5 WSAs in Senator Daines bill, and the field measures show high public use - the public is not being shut out of these WSAs. To suggest they are not providing for public use is absurd. Anyone with a pair of sneakers can "use" these lands.

Senator Daines gives away incredibly important lands and will open them up to extractive industries which will forever alter these public lands.

Removal of the WSA designation will negatively impact the ecosystem, wildlife and the human experience. Senator Daines did not hold hearings across the state and facilitate a transparent process to gather input from people who know these places best and care about them most.

Senator Daines bill is anti-jobs and counter to the future of Montana

Outdoor recreation as well as the attractiveness of unexploited landscapes are important reasons people come to Montana, and this adds 7.1 billion dollars to the state's economy, including $2.2 billion in wages and salaries and supports 71,000 jobs.
Protecting our public lands is not only an investment in our economy but in our way of life.
Please say no to S2206.
Thank you for accepting my testimony
Nancy Schultz
420 N 10th Ave
Bozeman, MT 597125

February 21, 2018

The Honorable Mike Lee
Chairman, Committee on Energy & Natural Resources
Subcommittee on Public Lands and Forests
U.S. Senate
304 Dirksen Senate Office Building
Washington, DC 20510

RE: February 7, 2018 Legislative Hearing on Various Bills, Including S. 1481, the Alaska Native Claims Settlement Improvement Act of 2017

Dear Chairman Lee:

On behalf of Sealaska Corporation, I am pleased to submit to you comments on the subject of the Subcommittee's February 7, 2018 hearing on S. 1481, the Alaska Native Claims Settlement Improvement Act of 2017.

Sealaska is one of 12 Alaska Native Regional Corporations established pursuant to the Alaska Native Claims Settlement Act (ANCSA) of 1971. Our shareholders are descendants of the original Native inhabitants of Southeast Alaska – the Tlingit, Haida and Tsimshian people. There are various sections of this legislation that are of interest to Sealaska Corporation and on which we will comment below.

Section 5 – Shee Atika Incorporated

Sealaska understands that Section 5 of the bill permits consideration received by Shee Atika 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 Atika have entered into an agreement which allows the United States to purchase approximately 23,000 acres of surface estate in Cube Cove from Shee Atika. Sealaska is the subsurface owner of the Shee Atika estate. However, Sealaska has not been directly involved in the negotiations between the Forest Service and Shee Atika. Sealaska policy prohibits the sale of ANCSA land.

Although the United States is acquiring Shee Atika's surface estate interest on Admiralty Island, Sealaska retains its rights to full enjoyment of the subsurface, including the right to develop rock

Sealaska • One Sealaska Plaza, Suite 400, Juneau, Alaska 99801-1276 • Tel: 907.586.1512 • Fax: 907.586.2304

and gravel and other mineral resources and the right to use the surface estate as necessary for the use of the subsurface. However, Sealaska would 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 Atika'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. 1481, and described below.

Section 6 – Admiralty Island National Monument Land Exchange

For the reasons stated above, Sealaska seeks to exchange its subsurface lands under Shee Atika'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 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. Sealaska already owns split-estate interests elsewhere in the Tongass National Forest, and the Forest Service and Sealaska both have indicated they are interested in eliminating split estates throughout the Tongass.

Congress, in 1992, (Section 17 of Pub. L. No. 102-415) ratified the Sealaska Corporation/United States Forest Service Split Estate Land Exchange Agreement ("Split Estate Agreement"), an agreement that allowed Sealaska to relocate subsurface estate that it owns and in a manner that eliminates split estates created as a consequence of the Goldbelt Admiralty Island Exchange of 1979, and the Haida Exchange Act of 1986 and its amendments. Specifically, the Split Estate Agreement establishes a "land bank" on Prince of Wales Island, within which Sealaska is authorized to select subsurface lands in exchange for Sealaska subsurface lands relinquished elsewhere in the Tongass National Forest. Under the Split Estate Agreement, Sealaska owns approximately 5,145 acres of subsurface estate on Prince of Wales Island.

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 the Sealaska subsurface estate on Prince of Wales Island (acquired pursuant to the Split Estate Agreement, described above). This exchange would eliminate split-estates associated with the Sealaska lands on Prince of Wales Island.

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." This is not practical. Without significant exploratory work, including drilling, an appraisal of the mineral potential of Sealaska's Admiralty Island subsurface estate will not provide a reliable fair market value of the

property.[1] It is clear, however, that the Forest Service has prioritized the acquisition of Native lands on Admiralty Island – currently, through the purchase of Shee Atika's surface estate interest on Admiralty Island – for conservation purposes.

As the Forest Service is well aware, Section 1302(h) of the Alaska National Interest Lands Conservation Act (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.*

Our objective is to complete an exchange of lands 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. 1481 achieves this outcome. We strongly support enactment of this provision or similar language to accomplish the goals of this provision.

Section 10 – Unrecognized Southeast Alaska Native Communities Recognition and Compensation

Your Subcommittee has jurisdiction over legislation that would resolve the outstanding aboriginal land entitlement of five Alaska Native communities. We have submitted testimony on multiple occasions in support of our five landless communities; our comments here attempt to provide some sense of the historical context that gave rise to the need for this legislation.

In 1907, President Theodore Roosevelt established the Tongass National Forest, which, along with Glacier Bay National Park, now covers most of Southeast Alaska. The creation of the Tongass, named somewhat ironically for the Tongass Tlingit people, was in effect an act of legal confiscation.

Two documents attached to this written testimony present an historical perspective on the long struggle to return lands in the Tongass to Native people: (1) the draft document funded by the Forest Service and authored by Dr. Charles W. Smythe, "A New Frontier: Managing the National Forests in Alaska, 1970-1995" (1995) ("A New Frontier"); and (2) a paper by Walter R.

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[1] 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's property, 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.

Echo-Hawk, "A Context for Setting Modern Congressional Indian Policy in Native Southeast Alaska ("Indian Policy in Southeast Alaska").

The brief findings and observations summarized below are derived from the work of Dr. Smythe and Mr. Echo-Hawk. For the sake of brevity, we have summarized or paraphrased these findings and observations.

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

- By the time the Tongass National Forest was created the Tlingit and Haida Indians had been marginalized. As white settlers and commercial interests moved into the Alaska territory, they utilized the resources as they found them, often taking over key areas for cannery sites, fish traps, logging, and mining.

- The Act of 1884, which created civil government in the Alaska territory, also extended the first land laws to the region, and in combination with legislation in 1903, settlers were given the ability to claim exclusively areas for canneries, mining claims, townsites, and homesteads, and to obtain legal title to such tracts. Since the Indians were not recognized as citizens, they did not have corresponding rights (to hold title to land, to vote, etc.) to protect their interests.

- For decades prior to the passage of ANCSA, the Forest Service opposed the recognition of traditional Indian use and aboriginal title in the Tongass National Forest. The efforts by the Department of the Interior in the 1930s and 1940s to establish reservations in Southeast Alaska greatly alarmed the Forest Service – which at the time opposed the principle of aboriginal rights and its serious conflict with Forest Service plans for a pulpwood industry in Alaska. As late as 1954, the Forest Service formally recommended that all Indian claims to the Tongass be extinguished because of continuing uncertainty affecting the timber industry in Southeast Alaska.

Walter Echo Hawk's paper, "Indian Policy in Southeast Alaska", recalls:

- Tlingit leader and attorney William Paul won a (short-lived) legal victory in the Ninth Circuit Court of Appeals in *Miller v. United States*, 159 F. 2d 997 (9th Cir. 1947), which ruled that lands could not be seized by the government without the consent of the Tlingit landowners and without paying just compensation. To combat this decision, Congress passed a Joint Resolution authorizing the Secretary of Agriculture to sell timber and land within the Tongass National Forest "notwithstanding any claim of possessory rights" based upon "aboriginal occupancy or title." This action ultimately resulted in the *Tee-Hit-Ton Indians v. United States* decision, in which the U.S. Supreme Court held that Indian land rights are subject to the doctrines of discovery and conquest, and "conquest gives a title which the Courts of the Conqueror cannot deny." 348 U.S. 272, 280 (1955). The Court concluded that American Indians and Alaska Natives do not have 5th Amendment rights to

> aboriginal property and the Congress, in its sole discretion, must decide whether there is to be any compensation whatsoever for lands taken.

Starting in the 1930s, the Tlingits and Haidas of Southeast Alaska led the fight for the land that had been taken from the Alaska Native people. In 1935, the Tlingit and Haida successfully persuaded Congress to direct the U.S. Court of Claims to adjudicate the claims of the Tlingit and Haida people against the United States, "including compensation owed both for land and other tribal property rights in southeastern Alaska expropriated by the United States and for the failure of, and refusal by, the United States to protect those property rights from usurpation by non-Indians."

On October 7, 1959, the U.S. Court of Claims held that the Tlingit and Haida had established their claims of aboriginal Indian title to the land in Southeast Alaska and were entitled to recover compensation for the uncompensated taking of their lands, and for the failure to protect their hunting and fishing rights. On January 19, 1968, after cutting the settlement by more than half, the U.S. Court of Claims found that the Tlingit and Haida Indians were entitled to recover just $7,546,053.80. The payment was ultimately distributed to the Tlingit and Haida Indians pursuant to the Act of July 13, 1970 (84 Stat. 431).

In 1971, just one year after Congress authorize a payment of $7.5 million to the Tlingit and Haida Indians, Congress, in ANCSA, authorized the distribution of approximately $1 billion and 44 million acres of land to Alaska Natives and provided for the establishment of 12 Regional Native Corporations and more than 200 Village Corporations to receive and manage the funds and land to meet the cultural, social, and economic needs of Native shareholders. The Tlingits and Haidas were included in the settlement, but because the Tlingit and Haida people had received a limited settlement one year earlier, however miniscule in relation to the lands taken by the federal government, the Southeast region of Alaska was dealt with by Congress in a strikingly different manner.

Sealaska – the Regional Corporation for Southeast Alaska – ultimately would be permitted to recover just 365,000 acres of land under ANCSA (less than 1 percent of the settlement acreage). However, under ANCSA, the Secretary of the Interior was not immediately able to withdraw any land in the Tongass for selection by and conveyance to Sealaska. The only lands available for selection by Sealaska in 1971 were slated to become part of the Wrangell-St. Elias National Park or consisted essentially of mountain tops. The Tlingit and Haida people – this time as Sealaska Corporation – were thus forced to return again to Congress to request an amendment to ANCSA to permit Sealaska to select lands in Southeast Alaska located near their villages. In 1976, Congress authorized Sealaska to make its selections from within the 10 withdrawal boxes established under ANCSA for the 10 Southeast Native villages listed by that Act. Even then, 44 percent of the ten withdrawal areas were actually comprised of salt water. No other Regional Corporation was treated in this manner under ANCSA. In 2014, Congress finally authorized Sealaska to move the final 70,000 acres of its selection rights to areas outside of those 10 withdrawal boxes.

With a shareholder population that represented more than 20 percent of Alaska's Native population in 1971, Sealaska ultimately would receive title to less than 1 percent of land returned to Alaska Natives under ANCSA. The Tlingit and Haida people thus led the fight for Native land claims, and Congress, in turn, handed the Tlingit and Haida people a grossly inequitable settlement under ANCSA as a reward for their persistence in seeking justice well before ANCSA.

Section 10 of S. 1481 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 Southeast Alaska from local areas of historical, cultural, traditional and economic importance.

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 unrecognized Southeast Alaska villages, which share the same histories and characteristics as the other Native villages in the region that were recognized.

Whatever the reason that Congress excluded these five 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. 1481, 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. 1481 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. 1481, 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. Without a land base, the 13th Regional Corporation did not have an asset base from which to grow and provide opportunities for their shareholders.

Sec. 14. Dividend Exclusion Increase.

Section 14 raises the amount of the ANCSA dividend excluded from consideration when determining the eligibility of Alaska Native individuals for need-based programs from $2000 to $5000, and indexes that level every 5 years based on inflation. This is important given that there are ANCSA distributions that might be rejected by shareholders so that they do not lose eligibility for important benefits that they might otherwise be entitled to in a given year. The current limit has not been increased since its initial adoption 30 years ago in the 1991 Amendments to ANCSA. *See* Pub. L. No. 100-241, § 15, 101 Stat. 1788, 1812 (1988).

Sec. 15. Fractional Shares.

Section 15 authorizes Alaska Native corporations to convert fractional shares back into full shares of any class of stock. While Sealaska Corporation does not allow fractional shares, we support the efforts of other Native corporations to consolidate fractional shares into full shares of stock.

General Comment

In addition to the specific comments above, Sealaska also supports inclusion of any clarifying language to ensure that the land exchanges contemplated in S. 1481 are considered to be land exchanges pursuant to ANCSA, and therefore subject to the ANCSA 7(i) revenue sharing requirements.

Thank you for this opportunity submit testimony on this important legislation on behalf of Sealaska Corporation and its more than 22,000 shareholders. If you have any questions about any of this testimony or the attachments, please contact Jaeleen Kookesh at 907-586-9130 or jaeleen.kookesh@sealaska.com.

Respectfully,
SEALASKA CORPORATION

Anthony Mallott
President & CEO

CC: Chair Lisa Murkowski
Ranking Member Maria Cantwell
Senator Daniel Sullivan
Congressman Don Young
Governor Bill Walker

Attachments

A New Frontier

Managing the National Forests in Alaska, 1970-1995

by Robert D. Baker, Charles W. Smythe and Henry C. Dethloff

Intaglio, Inc

1995

DRAFT

Funding was provided by the U.S. Forest Service for the research and preparation of this draft manuscript. As a draft, this manuscript may contain errors of fact, typographical errors, and reference errors and may not be directly quoted.

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INTRODUCTION

In no other Region of the USDA Forest Service are the affairs and resources of the National Forests so intertwined with the daily lives and welfare of the people. The Chugach and Tongass National Forests account for six percent the total land area of Alaska. Within those areas the peoples of Alaska historically depended upon the resources associated with those forested areas for their livelihood. That dependence is still very significant. Regional Forester Michael Barton put it succinctly: "The National Forests are dominant in the lives of the people who live within or adjacent to them." Paul Brewster, Assistant Director of the Division of Recreation, Heritage and Wilderness Management in Region 10, commented in a similar vein: "Nowhere have I been where anything approaches the tie or closeness of the people to the land, as is true in Alaska." The greater dependence of the people on the land and resources of the forests is only one of the many features distinguishing Region 10, Alaska, from the other Forest Service Regions in the United States.

One of the distinctive characteristics of Alaska is that it is considered by many inside and outside of the State to be the nation's last frontier. In the American mind a frontier suggests rugged individualism, nature, wilderness, and opportunity. Alaska is the nation's largest state with the smallest population per square mile. The two National Forests in Alaska, the Tongass and Chugach, are respectively the largest and second largest in the National Forest System. The Tongass, occupying most of the southeastern region of Alaska, contains 16.9 million acres including the Admiralty Island and Misty Fiords National Monuments, and the state capitol, Juneau. The Chugach, with 5.7 million acres, covers much of the southcentral coastal region. It once included the site of the City of Anchorage. The two Alaska forests comprise about ten percent of the total acreage administered by the USDA Forest Service.

Forest management has changed since statehood from a largely custodial/inventory function to an active "conflict management" role involving the allocation of resources among many diverse and changing uses. The social and economic context in which management decisions are made has changed. The legislative guidelines are markedly different. Interestingly, what has changed least in the National Forests are the forests themselves, and the fish and the wildlife, and even the people themselves who live within and adjacent to the forests. Therein lies a good part of the problem of managing finite and renewable resources in times of rapid change.

The National Forests in Alaska are often the focus of a very large and diverse external constituency. They variously champion conservation, environmental, wilderness, wildlife, tourist, timber, mining, fishing, hunting, subsistence, and recreation interests, among others. Much of the history of Alaska has been determined by "outside" influences. As the "last frontier" Alaska represents economic opportunity on the one hand, and a pristine and sensitive environment on the other. Thus, Kimberly Bown, Acting Director of Public Services and formerly Regional Director of Recreation, Heritage and Wilderness Resources, characterizes Region 10 as being "at the cutting edge of political intervention." The Alaska Forests have become the legislative and ideological battleground for clashes between preservation and developmental partisans. These conflicts markedly affect forest resource use and management.

The Alaska National Forests are unique in several respects. They are the home of a very large native American population who have historically subsisted on the resources of the lands in the National Forests and its tributaries and adjoining waters. Moreover, many new nonnative communities have been formed who also consider themselves very close to the land and practice a new subsistence lifestyle modelled on that of the older native communities. The interests of the Native Americans and the new subsistence communities affect the allocation and use of National Forest resources in Alaska. The Statehood Act of 1959, the Alaska Native Claims Settlement Act of 1971, the Alaska National Interest Lands Conservation Act of 1980, the Tongass Timber Reform Act, court cases, and environmental legislation have made it so. This study necessarily focuses on this unique management environment.

Another distinctive characteristic of the Alaska National Forests are that they can best be described as wild, wilderness, or roadless areas. Over one-third of the Tongass National Forest is designated Wilderness or National Monument area. The Chugach National Forest is variously coastal lands and islands, and inland glacier and arctic type tundra. It adjoins the Kenai National Wildlife Refuge administered by the Fish and Wildlife Service, and the Chugach State Park administered by the State of Alaska. Large portions of the Chugach and Tongass National Forests are roadless, and generally accessible only by boat, foot, or aircraft. They are, moreover, generally remote from the nation's large metropolitan areas and heavy concentrations of population.

The climate and geography of the Alaska forests are different. The Tongass National Forest is a "rain forest" with average annual rainfall of almost 100 inches. The Tongass is essentially a "marine" forest, a forest on "mountains in the sea" in that its lands are either surrounded by or generally adjoin the sea and inland waterways. The Chugach is geographically two forests, one a "marine" forest, and the other an inland and essentially alpine or near-arctic forest with large areas of ice and tundra. Annual mean temperatures are lower on the two Alaskan forests than other national forest areas. Employment, and activity, tends to be much more seasonal.

The regional economy, until contemporary times, has been heavily extractive and has focused on furs, fishing, mining and timber. Since World War II, government employment, tourism, and petroleum are becoming leading sectors for economic growth. But the traditional industries, and subsistence, account for the occupation and welfare of a large portion of those who live within and adjacent to the National Forests.

Petroleum, which is not produced on any national forest lands, has only since 1970 come to dominate the state's revenues and affects the welfare of all the people—and indirectly the management policies and practices in the National Forests. Because of its petroleum-based revenues, the State of Alaska has created a more substantial infrastructure and bureaucracy, prominently in the areas of forestry, fisheries, wildlife and tourism, which are at once both complimentary to the work of the USDA Forest Service, but also sometimes competitive.

Today, instead of timber and fishing being the leading employers in Alaska, the local, state and federal governments are collectively the largest employers. Many of those state and federal employees, along with the traditional timber, fishing, and mining industries, use resources in the lands and waters related to the Chugach and Tongass National Forests. Subsistence users, including a large portion of the Native Americans and a large population of non-Native Americans, are directly dependent on National Forest resources. The nature and the mix of the uses of forest resources have changed markedly since World War II.

Tourism and recreation are the most rapidly growing sectors of the state economy and are primary uses of National Forest scenic and recreational resources. Recreation and tourism have, within the past three decades, generated considerable expansion in the retail trades and services industries. Most of the hotel, motel and restaurant accommodations in Alaska were not there two or three decades earlier. A host of cottage industries, ranging from Bed and Breakfast establishments to sport fishing, boating, kayaking, packing, hunting, and wilderness guide and outfitting operations have come into being only within the past twenty-five years. Home-based craft industries, both Native and non-Native, support the burgeoning tourist and recreation sectors of the Alaska economy. All of these things comprise what is now collectively referred to as the "visitor industry." The National Forests are critical to the developing visitor industry and it with the more traditional timber, fishing and mining industries, affect management decisions and the administration of the National Forests.

Until 1960 professional foresters in the USDA Forest Service were almost exclusively responsible for forest management policies and resource utilization. Each Region exercised considerable autonomy. "Although the Forest Service had a unified and dynamic national program, it early delegated most administrative authority for the Alaska program to the Regional Forester." Within each Region Forest Supervisors and their staff were responsible for the implementation of rather broadly constructed policies and guidelines. District Rangers frequently had almost exclusive jurisdiction and exercised considerable license in the management of the Ranger District. In recent times management policies have become more narrowly defined. Management decisions increasingly have been elevated from the District to the Forest, and from the Forest to the Region, from the Region to the Chief, and from the Chief, USDA Forest Service to the Office of the Secretary of Agriculture, then to Congress and the courts.

In 1954, the Forest Service began operating under the first of several "long-term" timber contracts, in part as a mechanism to assure the survival and welfare of Alaska communities whose traditional dependence on fishing was being threatened by declining harvests and foreign competition. These contracts have been significant factors in the regional economy and continue to affect management decisions in the Region. Beginning in 1959, a number of important developments wholly external to the National Forests, began to impact upon the long-term timber contracts, the use of forest resources, and the very nature of

forest management and planning. The long-term timber contracts are a continuing part of this study of forest resource management.

Awarded statehood only in 1959, the State of Alaska has since that time increasingly influenced the determination of National Forest management policies. Alaska statehood, which coincided with the beginning of a new era of Congressional mandates affecting forest management, precipitated almost revolutionary changes in the way Alaska forest resources were used and administered. The state obtained rights to 103 million acres of federal land, including 400,000 acres of land formerly a part of the Chugach and Tongass National Forests. The state assumed control over wildlife management on the National Forests, entered into cooperative agreements with the Forest Service, and developed a governmental infrastructure that both cooperated and conflicted with federal management systems.

The Multiple Use-Sustained Yield Act approved by Congress in 1960 required that forest managers must sustain renewable resources and make just or equitable allocations of the use of forest resources among the diverse users including timber, recreation, camping, hunting, grazing, fishing or other uses. The Wilderness Act of 1964 mandated the designation of appropriate portions of National Forests as Wilderness areas where humans should leave no permanent imprint of their passage. The National Wild and Scenic Rivers Act (1968) supplemented the Wilderness Act by requiring that certain (to be) designated rivers remain in their "free-flowing" natural state.

Finally, in 1969, the National Environmental Policy Act (NEPA) required the Forest Service to assess potential damage or change to the forest environment that might be caused by any significant federal actions such as road building, timber-cutting, water impoundments or drainage systems (usually elements of timber sales)—or anything that might change or disturb the existing environment. In Alaska, NEPA had a more substantial impact on forest management than in the "lower 48," since National Forest lands existed, for the most part, in their natural pristine condition. NEPA criteria discouraged altering that environment moreso than was true in the second growth, more used, forests of the other states. By 1970, forest management, which only a decade earlier had been largely the responsibility of the Region, its administrative divisions and staff, had become subject to Congressional directives and a host of diverse and often divergent interest groups who used the legislation and courts to challenge, monitor, and implement policies affecting national forest management by the Forest Service managers. In this, Region 10 was no different than those in the lower forty-eight states.

Legislation approved by Congress after 1970, however, created policies and directives that applied only to Alaska. The Alaska Native Claims Settlement Act (ANCSA) conveyed title to approximately 44 million acres of federal land in Alaska (including 550,000 acres of land in the National Forests) and $962 million to Alaska's native peoples organized into corporations, rather than reservations. The Act also set in motion the processes for decisions on the use and ownership of much of Alaska's remaining 375 million acres of land by mandating the reservation of large conservation areas on Federal lands which comprised 59% of the total land area. ANCSA sought to determine issues of aboriginal titles to land in Alaska that had remained unresolved since the Alaska purchase in 1867. It was the first major land legislation following statehood. It created, among other things, the "ANCSA corporation," which allowed native communities for the first time to enter into commercial timber sales and operations. The ANCSA settlement was precipitated by industry, and state and federal interests anxious to facilitate petroleum exploration and other commercial development. ANCSA and subsequent amending legislation, land transfers, and exchange acts created an institutional framework that transformed Alaska, and the administration of the National Forests.

The Forest and Rangeland Renewable Resources Planning Act (RPA or Resources Planning Act of 1974) initiated comprehensive studies leading to long-range forest planning. The Act imposed more constraints on timber harvest and gave greater importance to recreation and watershed uses. The Sikes Act of 1960, amended in 1974, established cooperative programs between National Forest managers and state authority relating to wildlife management on the National Forests. The National Forest Management Act of 1976 amended the 1974 Planning Act and established additional criteria and definitions for multi-use management policies. Region 10's major management products and efforts of the 1970s, relating to this legislation, included the Tongass Forest Management Plan (1979) and the Chugach Forest Management Plan completed in 1981.

Those plans immediately became subject to the revisions imposed by ANILCA, the Alaska National Interest Lands Conservation Act (December 2, 1980). ANILCA evolved directly out of ANCSA, which authorized the federal government to set aside 80 million acres of Alaska's land for study and potential selection as "National Interest Lands" (referred to as "d-2" lands). Federal and state agencies, under the authority of the Secretary of the Interior, established a joint Federal/State Land Use Planning Commission to make recommendations on the allocation and use of the undesignated "d-2" lands. Those studies engaged Region 10 personnel in intensive evaluation, surveys and negotiation for much of the decade between 1970 and 1980. Indeed, the studies and relevant land transfers are still an on-going part of Forest Service business in the 1990s.

ANILCA established fourteen Wilderness areas totaling 5.4 million acres in the Tongass National Forest. The Act also changed the proscriptions on the use of Wilderness. In the Alaska Region, unlike in Wilderness areas of the lower forty-eight states, wilderness users could under certain conditions build shelters and use motorized vehicles. ANILCA added 1.4 million acres to the Alaska National Forests. On December 1, 1978, in an executive action related to pending ANILCA legislation, President Jimmy Carter created the Admiralty Island and Misty Fiords National Monuments. ANILCA prescribed a new maximum production level (4.5 billion board feet per decade) for timber harvests.

ANILCA recognized one particularly unique use of some National Forest resources (and resources on other federal lands) in Alaska. The Act allowed subsistence use on the National Forests for both Native peoples and all rural residents. Subsistence is defined as:

> the customary and traditional uses by rural Alaska residents of wild renewable resources for direct, personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of inedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade.

Subsistence meant that rural Alaskans might continue to enjoy the customary and traditional non-commercial uses of the forests such as hunting, fishing, and gathering. These rights were, in some cases, anterior to other uses and allocations of forest resources. But, insofar as ANILCA subsistence rights applied to rural residents, the Act conflicted somewhat with the Alaska State Constitution which reserved fish, wildlife, and waters for the common use of all the people—rural and urban. In any event, the recognition of subsistence rights by ANILCA, with the earlier ANCSA and NEPA provisions, made forest resource management considerably different in Alaska as compared to other Regions of the National Forest System.

Many Region 10 foresters expected approval of ANILCA in 1980 to mark the final stage of the land allocation process which had begun with the Statehood Act of 1958 and the ANCSA legislation of 1971. Rather, the Act led to oversight hearings, revision of the basic forest land management plans, and new legislation affecting land uses and allocations. Oversight hearings on ANILCA initiated in 1985 led to legislation introduced in Congress in 1986 and yet another amendment to ANCSA/ANILCA legislation. The Tongass Timber Reform Act of 1990, recognized land use designations (LUD's) unique to the Alaska National Forests, legislated buffer zones for timber harvest areas, created six new wilderness areas and reformed the long-term timber contracts. The Act removed the specified maximum annual board feet limit for timber production while stating that the Forest Service "should seek to provide a supply of timber which meets market demand...."

ANCSA, ANILCA, and the Tongass Timber Reform Act are legislative packages that affect forest management practices only in Alaska. The legislation recognizes the unique environment of Alaska, the cultural distinctiveness of its Native peoples, and the special qualities of life for all peoples on the last frontier. Since 1970, much of the business of the USDA Forest Service in Region 10 has evolved around ANCSA, ANILCA and the Tongass Timber Reform Act. Although the Alaska Constitution of 1959 provided the initial parameters for collaboration, cooperation, and sometimes competition between the State of Alaska and the National Forests, since 1970 the relationships have been redefined largely because of the new federal legislation and the rapidly developing Alaska economy and state governmental infrastructure made possible by revenues from Alaska's oil discoveries.

Thus, for the twenty-five years, 1970 to 1995, Alaska's two National Forests, the Tongass and Chugach, have

been significant elements in the rapidly changing social, political and economic order within Alaska as they have been in the past. During those same twenty-five years Alaska's National Forests have become an ideological battleground for developmental and anti-developmental interests at the local, state, and national levels.

But there are many gradients among those who might support commercial development and expansion, and among those who would leave the forests largely untouched by humankind. The traditional users of Alaska forest resources, the timber, mining, and fishing industries believe that the value of the National Forests lies in their consumptive uses. On the other hand, some wilderness advocates and environmentalists may object to timber cutting or mining because it might impair a scenic view. Others may not want the timber cut because it might impair a view believed vital to the tourist trade. Thus their interest, like that of the timber industry, is equally commercial. Others would preserve the natural forest environment in order to protect recreational uses that may also have a strong commercial context as in sport fishing and hunting, packing and kayaking. Other recreation advocates may wish to strip timber from certain areas and build lodgings for ski slopes, or cabins for wildlife viewers. Ironically, many of those who supported or initiated the organic legislation creating the National Forest system at the turn of the century, did so for the same reasons: that the resources might be conserved or preserved for use by future generations.

Native Alaskans are similarly divided over corporate versus traditional use of forest resources and vary as to the degree of their support for policies that would basically conserve and those that would facilitate the development and utilization of forest resources. Natives tend to oppose timber sales on National Forest lands in the interest of protecting their own subsistence rights. Until recently, Natives have shown little disposition to curb timber sales from Native-owned lands. Alaskans who advocate commercial expansion and development, native and newcomers, often tend to view federal regulatory policies as restrictive if not stifling. Those who seek subsistence rights on National Forest lands have sometimes collaborated with larger out-of-state environmental constituencies to influence federal legislation affecting their interests in the use of Alaska forest resources. The National Forests have traditionally provided the subsistence, timber, mining, fishing and recreational and other opportunities associated with the livelihood of many users.

Multiple-use management largely involves the allocation of resources among competitive interests under guidelines established in contemporary times, by Congress and the USDA Forest Service. The business of managing the National Forests has changed since statehood, and more markedly since 1970 under the influence of ANCSA, ANILCA and the Tongass Timber Reform Act.

The study entitled A New Frontier: Managing the National Forests in Alaska, 1970-1995, examines the history and dynamics affecting forest management in Region 10 over the past quarter-century. It attempts to do so, however, within the context of the previous sixty-five years of USDA-Forest Service administrative history, and in the context of the historical experiences of the people of Alaska. ANCSA and ANILCA have created a definitive imprint on forest management since 1970, thus the authors have emphasized resource management in the context of this legislation and Alaska Native populations and cultures and the developing economy.

Fundamental changes are occurring in the economy of Alaska and in its social and governmental structures. The inception of the state, and especially the development of state government since 1970 are important elements in the administration of federal forest resources. There have been dramatic changes in relevant Federal legislation. There have been significant changes in public attitudes and in the public's understanding of conservation and ecosystem management. This study seeks to define the issues and to profile the conservation, ecology, mining, subsistence, fishing, hunting, outfitting, visitor, recreation, timber, petroleum and other industries that are so much a part of the dynamics of resource management in Region 10.

Multiple use resource management is as much a matter of managing social and economic change as it is managing renewable and non-renewable resources. The dynamics of forest management go far beyond growing or harvesting timber, providing wildlife habitat, or wilderness, or recreational environs. The dynamics are a microcosm of a people, a state, and a nation. In some respects the Tongass and Chugach National Forests have been at the vortex of changes that are both Alaskan and national in scope. This then is a very contemporary history of change and the impact of change on the Alaska Region, USDA Forest Service.

The authors hope that this history will provide insight and a better understanding of the events and issues confronting forest managers, and environmental, business, and cultural groups who use or have an interest in the use of National Forest resources—in Alaska and elsewhere.

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The authors conducted approximately sixty interviews ranging from about thirty-minutes to several hours each with Forest Service personnel and retirees located variously in Juneau, Anchorage, Petersburg, Ketchikan, and Sitka. Without exception each was very helpful and responsive. Their time and contributions are greatly appreciated. Their names are listed in the bibliographic essay. We were very privileged to include Governor Walter J. Hickel among those interviewed.

Chapter I

The Alaska National Forests: The Land And Its Peoples

"Nowhere have I been where anything approaches the tie or closeness of the people to the land, as is true in Alaska," commented Paul Brewster, a forest manager with the USDA Forest Service, Alaska Region. That interdependence of the land and the peoples of Alaska has shaped the history of Alaska. That closeness continues to affect the management of the National Forests in Alaska in very distinctive ways. Alaska statehood, approved by Congress in 1959, markedly affected the administration of National Forest resources in Alaska. So too has passage of what might be termed the "environmental" legislation of the 1960s, including the Multiple Use Sustained Yield Act (1960), the Wilderness Act (1964), the National Wild and Scenic Rivers Act (1968), and not least, NEPA, the National Environmental Policy Act approved in 1969. Statehood, and certainly the legislation of the sixties, provided new directions for forest resource use and management.

The Forest Service began to implement the new policies of the sixties through practical management programs prescribed by Congressional enabling legislation in the 1970s. The Forest and Rangeland Renewable Resources Planning Act (Resources Planning Act or RPA, 1974) initiated comprehensive studies leading to long-range forest planning. The Act imposed more constraints on timber harvest and gave greater importance to recreation and watershed uses. The Sikes Act, also approved in 1974, established cooperative programs between National Forest managers and state authorities relating to wildlife management on the National Forests. The National Forest Management Act of 1976 amended the 1974 Resource Planning Act and established additional criteria and definitions for multiple-use management policies.

But no federal legislation has created such a distinctive management environment as has ANCSA, the Alaska Native Claims Settlement Act, approved by Congress on December 18, 1971. That Act, and related acts including the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), and most recently, the Tongass Timber Reform Act (1990), have created a management environment that is unique to the Alaska Region. While Alaska may be considered the nation's "last frontier," the Alaska National Forests comprise a "new frontier" in resource management.

ANCSA sought to determine and settle issues of aboriginal title to land in Alaska that had remained unresolved since the Alaska purchase in 1867. ANCSA and ANILCA incorporate the history of the Native peoples of Alaska and their traditional resource uses with Alaska's contemporary populations and forest resource uses. Alaska's past has been legislatively commingled with the present. Thus, the more ancient history of the land and the people of Alaska are a necessary precurser to understanding this new frontier of National Forest management that has emerged since 1970.

The Organization of the National Forests

Curiously, the first federal forest legislation relating to Alaska had to do with fishing rather than forests. In response to visibly declining salmon populations in the late 1880s, the U.S. Commission of Fish and Fisheries sponsored a research study of salmon and salmon fisheries on Kodiak and Afognak Islands. The researchers observed fish traps and set nets erected so as to prevent the ascent of every returning fish upriver, and beach seining methods that completely obstructed the mouths of salmon streams, that were commonly carried out by commercial fishing enterprises in Alaska. They visited Afognak River at the mouth of which two canneries were operating, and reported a Native village of about 40 dwellings located on the stream. Conditions here were ideal for the establishment of a fish reserve: unobstructed streams with all five species of Pacific salmon, a mild climate, absence of development (mines, sawmills or railroads) or private holdings, sufficient timber for construction purposes, and a Native village nearby that could provide a labor force. Drawing a comparison with the passing of the buffalo on the plains and the Indian of California, the investigator suggested that the salmon, too, were helpless before the "white man's advancing civilization," as well as fishermen's greed.[1]

At the request of the fish commission, President Harrison created the Afognak Forest and Fish Culture Reserve by executive proclamation on Dec. 24, 1892. Thus, as Lawrence W. Rakestraw explains in his *History of the United States Forest Service in Alaska*, the very birth of the national forest system in Alaska is connected with the need for conservation of one of Alaska's principal resources in the face of development pressures, and with the inter-connectedness among Alaska's resources, in this case forest and fishery resources.[2] This beginning prefigures the more modern management concept of multiple use.

It is perhaps ironic that the 1891 legislation that gave to the executive branch the powers to establish fish culture stations on Kodiak and Afognak Islands was also that which permitted new townsites to be surveyed and

conveyed, and extended the Trade and Manufacturing Act to Alaska which authorized the transfer of numerous sites used for commercial mining, fishing and logging, to the new white settlers in Alaska. The legislation also stated that the Natives of Alaska shall not be disturbed in their use and possession of occupied land until future legislation is passed. The dynamics between white settlement and aboriginal title remained unresolved until the 1970s.

Creation of the Tongass National Forest, 1902-1909
Between 1902 and 1909, President Roosevelt issued several proclamations establishing the Tongass National Forest in southeast Alaska. The first of these reservations, created on August 20, 1902, and entitled the Alexander Archipelago Forest Reserve, was completely insular. It encompassed the Prince of Wales (and associated islands to seaward), Zarembo, Kuiu, Kupreanof, and Chichagof Islands (also with associated islands to seaward). The second reservation encompassed the mainland of southeast Alaska from the southern border north to Lynn Canal and Skagway; it was made on September 10, 1907, and named the Tongass National Forest. On July 1, 1908, the Reserve and the Forest were consolidated into a single national forest, the Tongass, with a total area of 6,756,362 acres. The largest withdrawal occurred in the proclamation of February 16, 1909, when the mainland area near Yakutat (from Dry Bay to Yakutat Bay), the Chilkat Peninsula (on the western side of Lynn Canal) and the remaining islands (including Admiralty, Baranof, Etolin and Wrangell Islands) added another 8,724,000 acres to the Tongass National Forest.[3] The existing mostly caucasian towns and cities were excluded from the forest.

The first forest reserve was made upon the recommendation of Lt. G.T. Emmons, whom the President asked to prepare a report on possible forests in Alaska.[4] Emmons found that the best timber was on the islands, where it was not affected by the colder climate associated with the glaciers found on the mainland, and he selected the more sparsely populated islands. The principal inhabitants were about 800 Tlingit Indians in villages on Kuiu Island, in the village of Kake on Kupreanof Island and the villages of Hoonah and Tenakee on Chichagof Island. The largest of these was Kake, with a population of about 500. There were also small sawmills located at Howkan, Shakan, Kasaan Bay, and Hetta Inlet, and a few canneries in the area; Zarembo Island was uninhabited.[5]

Among the protestors to this action was the Rev. Henry Corser, the Presbyterian minister to the Tlingit and Haida Indians in Wrangell, near Zarembo Island. He wrote that the restrictions on logging would force the Indians to "revert to primitive conditions or else starve," since they were "loggers by occupation."[6] After the demise of fur-bearing animals and the subsequent collapse of the fur trade, the Wrangell Indians had very limited means and access to cash income. At the turn of the century, they derived a substantial portion of their cash from the occasional, but regular, sale of logs to Wrangell residents to be used as firewood. The provision of firewood had been a common pursuit of local Indians since the arrival of white settlers in Wrangell. Furthermore, the operator of the then recently-established Wrangell cannery preferred to import white and Chinese labor rather than employ local Natives, and the sawmill likewise did not hire Natives. Thus, as Corser knew, the newer economic opportunities were not available to the Indians in Wrangell. Corser also objected on the grounds that the reservation was an immoral confiscation of Indian property, since the Indians considered the land to be theirs by the prior right of occupation and ownership.[7] As described below, Tlingit and Haida property rights in southeast Alaska were eventually upheld by the U.S. Court of Claims in Alaska's first Native land claims settlement in 1951.

The white population in the reserve was mainly engaged in mining and fishing, and there was need for timber in both industries. At this time, loggers were unrestricted and cut trees anywhere that was convenient. Rakestraw has noted that "the standard procedure was for the logger to go where he pleased and cut whatever he wanted, without getting permission from anyone and without notifying any official of the action."[8] Non-reserve land was managed by the Department of the Interior's General Land Office, and in lieu of holding timber sales loggers were routinely assessed minor fines for "trespass" based on self-reported footage (until 1903, when the General Land Office initiated a sale policy). Proposing that Forest Service management would bring in more revenue than the GLO and also serve to protect the land from speculative development, the Forest Supervisor for Alaska, Langille, concluded that an additional reserve of two million acres on the mainland near Ketchikan should be made.

There were a few small sawmills in the area, but the largest mills were located at Juneau, Douglas, Wrangell and Ketchikan outside the reserve. According to Rakestraw, the owners of these large sawmills "wanted more reserves created in order to tap the potential export market." In 1907, the Forest Service proposed the area located on the mainland to be withdrawn as

the Tongass National Forest, and it was favorably acted upon by President Roosevelt. The final acreage was smaller than that suggested in the Service's initial report. The Ketchikan Power Company supported the proposal for another reserve because it would provide them with export timber. According to Rakestraw, "Its original creation was ... as a timber reservoir for the Ketchikan lumber industry and to curb Canadian log theft across the Portland Canal."[9]

The policy decision to create another national forest at this time was partly in response to a movement within Congress to curb the president's power to establish reserves by executive order. In 1909, the Forest Service made another recommendation for a reserve near Yakutat, which also included the remaining islands in the Alexander Archipelago, and another presidential proclamation putting 8.7 million additional acres into the Tongass National Forest was the result.[10]

Authorized by the Antiquities Act of 1906, the president was also empowered to set aside areas containing natural wonders or historic and prehistoric sites. Shortly thereafter, the Forest Service played a role in the creation of three such areas in southeastern Alaska. In 1910, the Sitka National Monument was created by the president at the urging of the Secretary of Agriculture, who submitted the proposal for such to the Secretary of Interior for the president's approval. Local Forest Service personnel assisted the Sitka Arctic Brotherhood with a petition to request better protection for the historic Sitka Indian Village and fort, the site of the 1804 battle with Baranof, from vandalism. Earlier, Olmsted had submitted recommendations for the preservation of totem poles and community houses at the former Tlingit and Haida villages of Tuxekan and Old Kasaan, and these were acted upon favorably within the decade.[11]

Creation of the Chugach National Forest, 1904-1909
Like the Tongass, the Chugach National Forest was the product of several executive actions by President Roosevelt, in this case between 1907 and 1909. The initial proclamation creating the Chugach National Forest was issued on July 23, 1907. Comprising 4.96 million acres, it extended westward from the Copper River to the Kenai Peninsula, encompassing Prince William Sound and the islands such as Montague, Hitchinbrook, Hawkins, and Latouche Islands.[12] President Roosevelt added the Afognak Fish Culture and Forest Reserve to the Chugach by executive order on July 2, 1908; it remained under joint management of the Forest Service and the U.S. Fish Commission. Further additions were made to the Chugach by presidential proclamation on February 23, 1909, when areas in the west (most of the timberland on the Kenai Peninsula, Turnagain Arm and Knik Arm) and the east (from the Copper River to Cape Suckling) increased the total region to 11,280,640 acres.

Prince William Sound and the Kenai Peninsula was first examined by Langille in 1904. The proposal to reserve the Prince William Sound area came about in 1907 when, as described above, the Forest Service grew concerned about a movement within Congress to restrict the president's ability to create reserves by executive order. In response, the Service moved to create both the Chugach and Tongass National Forests. The timber in the Chugach was mainly Sitka spruce, black spruce and hemlock, and the most valuable trees were on the islands. As in the Tongass, mining and fishing were the principal economic activities of the new white settlers in Prince William Sound, and copper mining was paramount. In 1907, there were active mines at four locations: Landlocked Bay, Boulder Bay, Ellamar and Latouche Island; and the great copper mine at Kennecott was soon to be developed. Commercial salmon fishing was mainly confined to the east, near Orca by Cordova and eastward at Katalla in Controller Bay, and on Wingham Island. In 1907, there was only one mill operating in the region, at Valdez; most of the lumber used in the region was imported from Puget Sound. But local trees provided logs for railroad ties, piling and mining tunnel supports.[13] Shortly after the forest was created, 82,000 acres were eliminated in Valdez Arm as pre-existing mining interests.

Various syndicates were engaged in developing railroads during the first decade of this century at Seward, Valdez, Cordova, and Katalla (which was abandoned in favor of the Cordova route). The railroad boom brought abuses, which was a principal factor in Forest Service recommendations to make additions to the Chugach. Wasteful cutting by the Alaska Central Railroad along Turnagain Arm in the Rainbow, Indian, Bird and Glacier Creek areas was noted by Langille in 1907; the railroad was responsible for cutting three million board feet which had been left in the woods to decay between 1905 and 1907.[14] The timber resources were seen as necessary for the development of railroads, which in turn were needed to develop the coal resources, and to support gold placer mining; the additional reserve would provide a system of forest production that would save the timber from overexploitation by larger interests at the expense of the individual. In a report of his inspection in 1907, Langille wrote of the need to protect the rights of the individual and to encourage small-scale

efforts to develop minerals against the "unscrupulous" mining and industrial interests "who seek by every known method of extortion to obstruct and hinder every enterprise undertaken."[15]

Similar waste occurred east of Prince William Sound around Controller Bay, near Katalla, where two million board feet were left on the ground to rot by one of the railroad syndicates competing for a route to the Kennecott field. Most of this eastern block was under fraudulent coal mining claims since 1904 or 1905. This area, as well as the western area around the Kenai Peninsula and Turnagain and Knik Arms, was added to the Chugach in 1909. In 1913, several mining (coal) claims in this eastern area, which were known as the Cunningham claims, were cancelled by the Department of Interior, after investigations determined that their true purpose was to acquire the timber, rather than being legitimate mining pursuits.[16]

In 1904-05, Langille observed that there was an influx of wasteful white game hunters into the Kenai Peninsula, and as result of their influence the Tanaina Indians had become less mindful of their traditional conservation practices of animal populations. Langille observed that the white sports "stayed for a short time, killed as many good heads as they saw, and then took out the best." He explains, "Traders also hired Indians to kill trophy-sized heads for sale to sportsmen."[17] Langille identified an area of the Kenai Peninsula suitable for a national forest, and he suggested that a portion of the forest region ought to be set aside as a game preserve, to protect the natural populations of bear, mountain sheep, moose and caribou from overharvesting.[18] He provided cursory reports of the human population centers, estimating 200 permanent residents at Seward (mostly connected with the railroad), 200 at Kenai and 100 at Hope, with additional settlements in the interior and fishing villages along the coast (such as Homer).[19] He also reported that, in the vicinity of the Knik River, there were several Dena' ina villages and one trading post inhabited by four white men. He observed that the coming of the railroad would likely encourage market hunting among these Indians, much as had occurred on the Kenai, and would degrade the indigenous cultural practices and traditions.[20]

Other Alaskan Proposals

The proposed Norton Bay area forest reserve was withdrawn in 1903, but was restored to the public domain in 1907 after Langille investigated and recommended against its creation. Following investigations in the Cook Inlet area in 1905, Langille recommended a Talkeetna National Forest of 10.3 million acres, encompassing the drainages of the Talkeetna, Yentna, Susitna, and the Matanuska rivers. No action was taken regarding this recommendation.

Peoples Of The Forests Before The Establishiment Of National Forests In Alaska

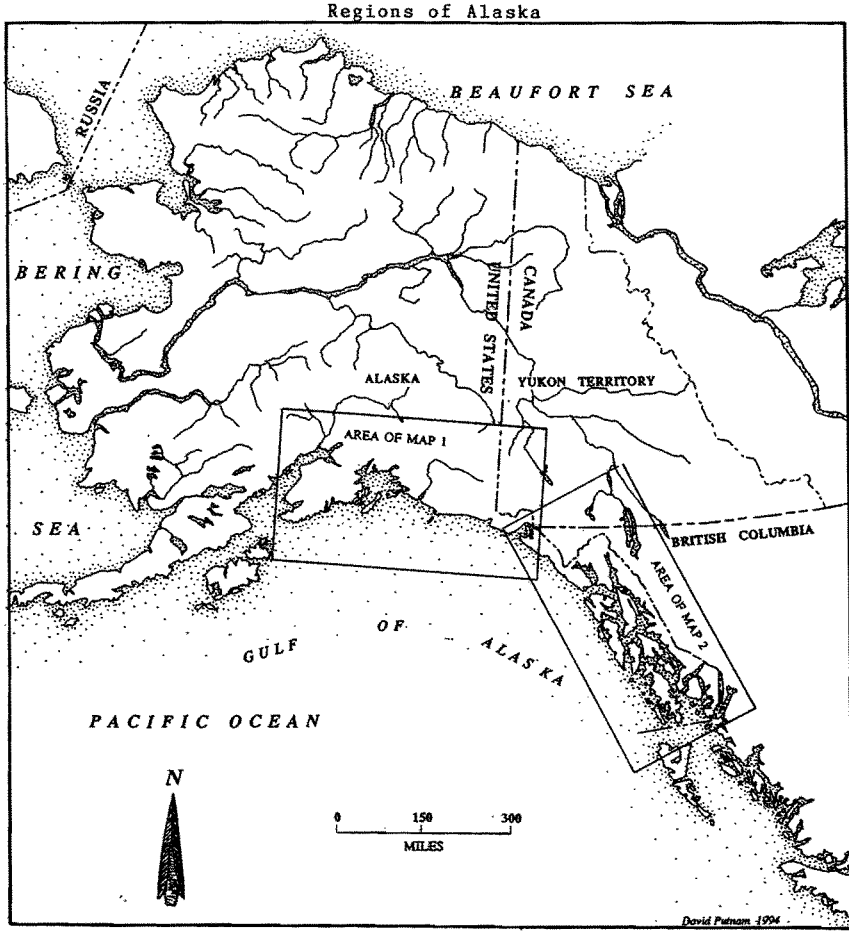
Chugach Region

The boundaries and dimensions of the Chugach National Forest have changed since 1909, when its 11.2 million acres covered the vast south central coastal region of Alaska from the Copper River to the southern tip of the Kenai Peninsula. Although most of the Kenai Peninsula, the interior, and the eastern extremities are no longer part of the Chugach National Forest, the central coastal core of the original forest is the modern Chugach. The Chugach National Forest encompasses all of Prince William Sound and extends inland into the Chugach range. The forest boundary extends from Cape Suckling, east of Prince William Sound, to the north and west through the sound to northeastern Kenai Peninsula as far as the Russian River, and to Hope on Turnagain Arm. A short distance southeast of Cape Suckling is Yakutat Bay, which marks the start of the Tongass National Forest in southeast Alaska. The 5.8 million acres of the Chugach is the second largest forest in the United States. The coastal margin and islands of Prince William Sound are covered with stands of spruce and hemlock supported by the substantial rainfall in the region, but proximity to glaciers in the mountains of the Chugach range brings lower temperatures and inhibits the growth on the mainland, as compared to the islands. Enormous wetlands on the Copper River Delta to the east serve as the nesting, staging and feeding grounds for over 20 million birds each year. To the west, on the Kenai Peninsula, the spruce forest is outside of the rainbelt. The beautiful scenery and abundant fish and wildlife attracts substantial recreation, wildlife viewing, sport and commercial use in the region. These lands and fisheries were used by the ancestors of contemporary Native Alaskans in pre-historic times.

Prehistory of the Chugach Alutiiq (Pacific Eskimo) People

Information on the early prehistory of the Chugach region is derived from assumed associations with trends in nearby coastal areas since there have been only two major excavations in the region, the older of which shows human occupation at about 4400 years ago.[21] Judging from the prehistory of adjacent regions to the west and southeast, the first inhabitants of the Chugach region could have arrived as long as 11,000 years ago when late Pleistocene glaciers receded from

PLATE I. The Chugach (Map 1) and the Tôngass (Map 2) Regions of Alaska



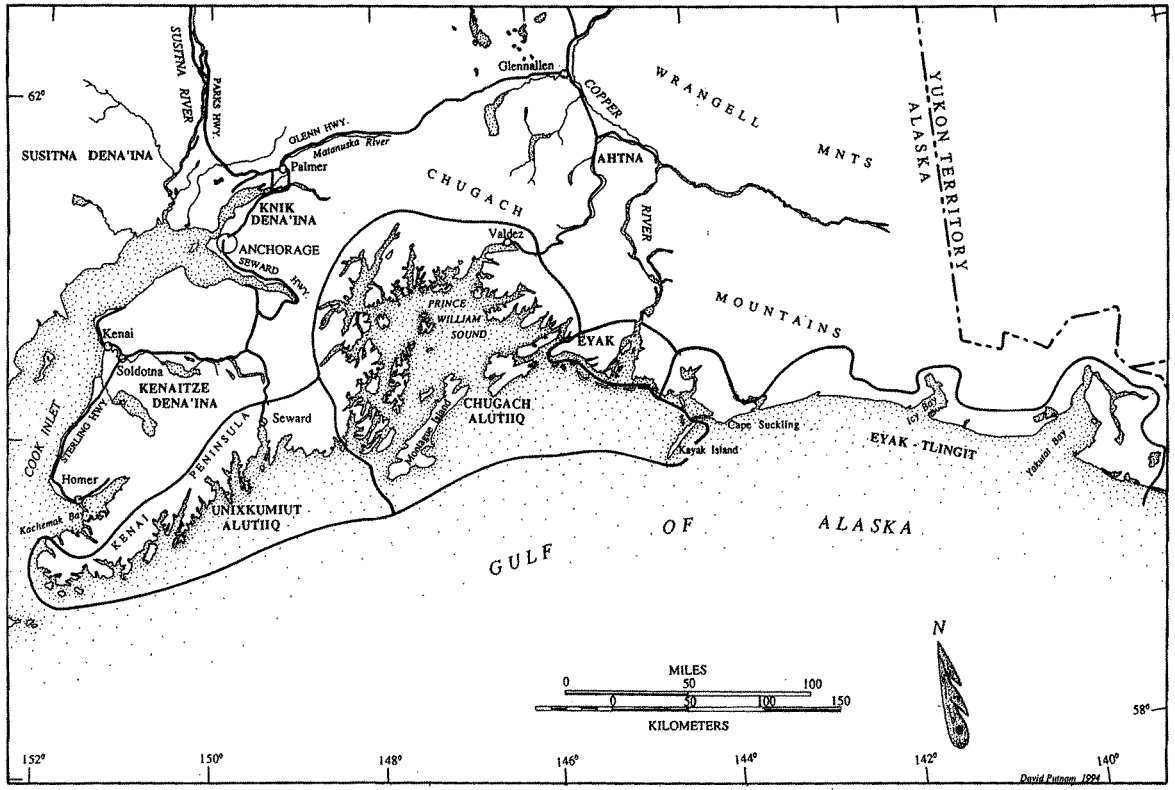
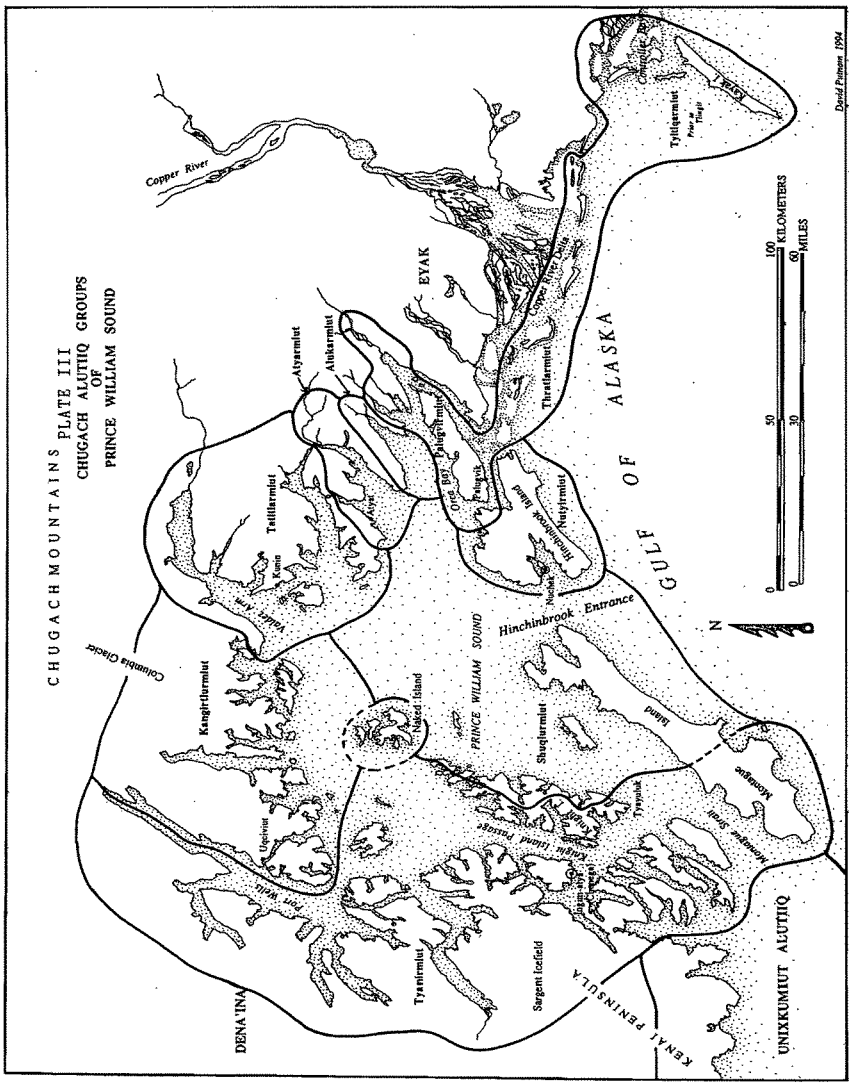


PLATE II. The Chugach Alutiiq (Pacific Eskimo) and People of the Chugach Region


CHUGACH MOUNTAINS
PLATE III
CHUGACH ALUTIIQ GROUPS
OF
PRINCE WILLIAM SOUND
Copper River
EYAK
Copper River Delta
Atyarmiut
Alukarmiut
Tatitlarmiut
Kunia
Valdez Arm
Columbia Glacier
Kangirtlurmiut
Port Wells
Ugciviut
Tyanirmiut
Sargent Icefield
DENA'INA
Naked Island
PRINCE WILLIAM SOUND
Shuqiurmiut
Knight Island Passage
Knight
Tyayuhik
Montague Strait
Montague Island
Hinchinbrook Entrance
Hinchinbrook Island
Nuchek
Nutyirmiut
Palugvik
Orca Bay
Palugvirmiut
Thratlarmiut
GULF OF ALASKA
KENAI PENINSULA
UNIXKUMIUT ALUTIIQ
Tyitiqarmiut
Kayak I.
Controller Bay
N
0 50 100 KILOMETERS
0 30 60 MILES
David Putnam 1994

the area.[22] Specialized maritime hunters and fishers were living on Kodiak Island and on the adjacent Alaska Peninsula by 7,000 years ago. A modified form of this culture, called the Ocean Bay tradition, probably extended to the Chugach region including the southern Kenai Peninsula and Prince William Sound. These people exploited salmon runs during the summer while residing in fish camps, and pursued sea mammals (seals, sea lions, sea otters, porpoises and whales), ocean fish, birds, land animals and shellfish at other seasons.

The production of ground stone (slate) implements commenced about 4500-4000 years ago, introducing a new phase in the Ocean Bay tradition in the Kodiak and Alaska Peninsula area which lasted until about 3500-3000 years ago. This overlaps with the earliest known human habitation in Prince William Sound which occurred between about 4400 and 3300 years ago and which the Yarboroughs call the Uqciuvit phase based on their work at the site of that name.[23] They report that very little is known about these people, "except that they hunted sea mammals, used red ocher, and were familiar with slate grinding." From 3200 to 2500 years ago a glacier advance probably drove the inhabitants of the inner sound out of the area, but there is evidence that the outer areas, such as at Knight Island, were occupied at this time.[24] By about 2400 years ago, Uqciuvit was reoccupied and Palugvik (on Hawkins Island on the eastern sound) was first inhabited. These two sites provide the substance of the more recent prehistory for the sound.

Starting about 3500 years ago, a new culture — the Kachemak tradition — appeared in the Alutiiq region. Although centered in lower Cook Inlet, evidence for this culture has also been found in sites on Kodiak Island, the Alaska Peninsula, and at Palugvik in Prince William Sound. This culture, also based on a maritime economy, became progressively more elaborated until about 1000 years ago when it reached an apex.[25] There is some association between the late Kachemak culture and the early Palugvik occupation during the second or third century A.D. at Palugvik, where people lived in houses constructed of timbers. A change to a later cultural form at Palugvik, which occurred a few centuries later, may have been associated with the development of conifer forest communities in the sound that became established during this millennium.[26] At Uqciuvit, on the other hand, the assemblage does not reflect a Kachemak association and an in situ development can be seen from its reoccupation to the protohistoric or early historic period (Chugach phase).[27] Further, a continuity in lithic technology is noted at both sites, suggesting there was more independent development and stability in the Sound, more of an outlier of the Katchemak culture, within prehistoric Alutiiq traditions. Residents of both sites relied heavily on marine resources, particularly mammals; but there was more dependence on fish at Uqciuvit than at Palugvik indicating there was a larger supply of other resources at Palugvik.[28]

The formation of historic Alutiiq Eskimo culture is traced to the last centuries of the first millennium A.D., for the earlier traditions (the Norton and Kachemak) cease to exist as distinct assemblages by about 1000 A.D. In the west (Alaska Peninsula and Kodiak Island), this shift is associated with assimilation and then partial rejection of elements of a new northern Eskimo culture (Thule), before the formation of the Koniag phase on Kodiak Island, while in Prince William Sound there was a more gradual change incorporating localized antecendants and new artifacts.[29] Modern Alutiiq culture is associated with the simultaneous appearance of Koniag (Kodiak Island) and the Chugach (Prince William Sound) phases, as well as with related communities on the Alaska Peninsula and southern Kenai Peninsula. The modern Chugach had close cultural, linguistic and archaeological ties with the Koniag, but they also showed great similarities with many traits of Yakutat archaeology, including recent trends in the use of copper and woodworking tools, as well as traits that are very much older.[30]

The Aboriginal Cultures of the Chugach Region

At the time of the arrival of the first European explorers, the Chugach region was inhabited by members of three groups: Chugach Alutiiq Eskimo, Eyak and Tanaina Athapaskan. The Chugach Eskimo occupied all the coast and islands of Prince William Sound, and a closely related group lived on the southern Kenai Peninsula. The Eyak were living along the coast from the mouth of the Copper River at Cordova east to Cape Suckling and beyond, where they had become intermixed significantly with the northernmost Tlingit. The Tanaina Athapaskan people appeared in the upper Kenai Peninsula area, supplanting the prehistoric Eskimo culture in this area, sometime before the first arrival of Europeans. There is substantial ethnographic and archaeological information showing elements of a north Pacific maritime culture shared by Aleut, Alutiiq, Eyak and Tlingit (Northwest Coast) peoples. The Chugach culture is essentially an Eskimo culture, but it is highly modified by influences from the Northwest Coast, and to a lesser extent from the interior of Alaska. The Eyak language is distantly related to the interior Athapaskan, but their culture is maritime with character-

istics of Northwest Coast and Chugach societies.

Chugach Eskimo

The Chugach are the easternmost of the Alutiiq-speaking Eskimo people.[31] They occupied the coast and islands of Prince William Sound, extending east nearly to Cordova, and at one time also the mainland farther to the east as far as Controller Bay. In the eighteenth century, they occupied Kayak, Wingham and Middleton Islands, while the area between Cordova and Point Martin belonged to the Eyak, a different cultural group with distant linguistic affinities with the Athapaskan Indians of the interior. After the advent of the Russians, who enforced peace between the Chugach and the Eyak, the latter extended their hunting area northwest into Prince William Sound to Port Gravina and as far as Ellamar. To the southeast, Tlingitized Eyak drove the Chugach from Controller Bay in the nineteenth century when, under the influence of Russian settlement, the eastern Chugach concentrated at the village of Nuchek on Hitchinbrook Island.[32] A related Alutiiq group, called "unixkumiut" by the Chugach, inhabited the area on the south shore of the Kenai Peninsula from Puget Bay (near Seward) to Cook Inlet.

There were numerous settlements in the region, although the overall numbers of the Chugach did not approach those of the Koniag to the west, or the Tlingit to the east. Veniaminov counted 471 Chugach in the 1830s, after the smallpox epidemic of 1834-36 had taken its toll. The Chugach were divided into eight local groups comprised of one or more permanent villages, and seasonal camps. These groups were geographical divisions named after the principal village or some other locality in their territory (see Plate III). Each group had its own customary hunting grounds, but there were no sharp boundaries between them and families did not claim exclusive use of certain areas, although villages would chase away intruders from their salmon or trapping places.

Each village, or perhaps a few villages in common, had a head chief and a chief assistant. He directed the scheduling of hunting activity, led hunting expeditions, sent people whaling, and decided when to put up fish or undertake military excursions. He presided over meetings in the village and was considered to be the richest man in the village. However, a rich man was not made chief just because of his wealth; the Chugach chief served as the node in a redistribution network. The Chugach chiefs owned slaves who were captives in wars with the Koniag, or were purchased from the Eyak and Yakutat Tlingit.

Chugach villages were always located close to the sea. The settlement pattern was adjusted to the seasonal requirements of the subsistence economy, with some dispersal to hunting and fishing camps depending upon the availability of resources. Some villages were inhabited on a year-round basis. People would congregate in winter villages with more permanent structures that housed several families. Chugach houses were rectangular with sprucewood plank walls and roofs and sleeping rooms along the sides. The houses were semi-subterranean, with walls ascending to about 3-4 feet above ground, and a steam bath was always attached. Summer houses were similar in construction, but were above ground and were used as smokehouses.

Hunting and fishing was the basis of the Chugach economy. Sea mammals, salmon and, on the mainland, mountain goat, were mainstays of the diet, and small rodents and birds were regularly pursued. Sea mammals (fur and spotted seal, whale (humpback, fin and minke), sea lion, porpoise, and sea otter), salmon (all five species, depending upon availability), ducks and geese, salt water fish (cod, halibut and sculpin), land mammals (mountain goat, black and brown bear, squirrel and marmot), eulachon, herring, shellfish, berries and roots were taken for food. Berries, plants and vegetable products played a part in the Chugach diet that far exceeded that of other Eskimo societies, according to Birket-Smith.[33]

There were sub-regional variations in this general subsistence pattern depending upon local availability of resources. For example, the Nuchek people, inhabiting the west coast of Hitchinbrook Island, had the best sea otter grounds in the sound, as well as abundant whales and salmon, while the neighboring Sheep Bay people of Port Gravina were poorer and fewer in number, and utilized mountain goat heavily.

The natural resources used as food, as well as stone and copper, also provided raw materials for tools, weapons, clothing, boats, and trade. The Eyak served as middlemen in trade between the Chugach and the Ahtna Athapaskans, and the Chugach also traded with the Tanaina, Koniag and Aleut, but less so with the Tlingit with whom they were more often at war. The Chugach hunted and travelled by one- and two-hatch kayaks, dugout canoes and umiaks. A portage from Passage Canal to Turnagain Arm on Cook Inlet provided access across the foot of the Kenai Peninsula.

Eyak

The Eyak culture represents an older form of Northwest

Coast culture and suggests what may have been characteristic in northern Tlingit territory before historical changes occurred, particularly influences from more southerly Tlingit cultures.[34] In the eighteenth century, the Eyak territory extended along the coast of the Gulf of Alaska between the Chugach Eskimo in Prince William Sound and the Tlingit-Athapaskan people of Dry Bay. Many place names from Cordova to Cape Suckling are Chugach in origin, while those further east are often Eyak or Tlingit translations, which suggests prehistoric cultural distributions. In the early nineteenth century, much Tlingit influence was spread westward from Dry Bay and a more Tlingitized Eyak occupied the coast from Yakutat to Controller Bay, while a more traditional Eyak population had already pushed deeper into Chugach territory to the Copper River and as far as Eyak village near the present town of Cordova.

In the nineteenth century, the Eyak formed four regional groups that were geographical, not tribal or political, sub-divisions: those living in the Cordova-Copper River area, in Controller Bay, near Cape Yakataga and around Yakutat Bay. Each of these groups was associated with one or more villages. The Eyak of Cordova were the more purely Eyak and inhabited their own village ("Eyak"), while those in Yakutat have become completely Tlingitized. Within this area, 47 sites have been identified that were at one time occupied by the Eyak.[35] The Eyak language is related to the proto-Athapaskan family; there is only one speaker presently alive.

Salmon (five species) was the most important food in the Eyak economy. They also caught halibut, sand sharks, trout, whitefish, and eulachon, and gathered shellfish. Seal and sea otter were the only sea mammals hunted; they hunted harbor and hair seals but were afraid of fur seals. Mountain goat and bear (brown and black) were the most valuable land animals hunted by the Eyak. They took beaver, fox, lynx, mink, martin, muskrat, weasel and ermine, as well as ptarmigan, grouse, swan, and several species of ducks and geese. The Eyak built wooden dugout canoes: small ones were used for sea otter hunting, fishing, and hunting seals, while larger craft were used exclusively for transportation. They also purchased kayaks from the Chugach for use in sea otter hunting, while under Russian influence.

The Eyak had a similar concept of territorial rights as the Chugach, that is, hunting and fishing places were not used or claimed exclusively by any one group. There were no exclusive family, moiety or village rights over fish camps and streams, although in a few instances individual families did claim certain places for setting salmon or seal nets. The Eyak lived in rectangular houses built of hemlock planks laid in a structure of four corner houses posts, with two more on either side of the door, and roofing planks laid over a structure of poles and covered in bark. They had both single family and communal houses.

Each village also had two ceremonial potlatch houses, one for each moiety. All the Eyak potlatch houses had names (such as "Goose House," "Raven House," "Skeleton House"), most of which correspond with Tlingit names for houses in southeast Alaska. The potlatch was primarily a moiety ceremony; and the principal activities were feasting and distribution of gifts. Potlatches were held on four occasions: to dedicate a new house, to mourn those slain in battle, to commemorate a death, and to honor visitors.

The Eyak are divided into two exogamous, matrilineal moieties, the Eagles and the Ravens, but there was no formal subdivision of the moiety into smaller groups such as clans or house groups.[36] Both moieties were represented in each village. Each moiety was headed by a chief; one of them was also recognized as the head of the village or group while the other was a moiety leader. Below the head chief was a sub-chief in each moiety. The chief commanded war parties, led hunting parties, and was regarded as the richest and strongest man in the village. Eyak society was divided into three strata: chiefs and their families, commoners and slaves. Slaves were captives taken in war, or offspring of the same. Most of the Eyak wars were with the Chugach; and all of the slaves of the Eyak were Chugach.

Kenaitze Dena'ina Athapaskan

In the upper Kenai Peninsula, archaeological sites on the Kenai River and in Turnagain Arm show affinities with both earlier and later Eskimo traditions, and indicate that this area was part of the prehistoric Alutiiq culture area for two thousand years, at least until the fourteenth century A.D. However, by the time of the earliest contact with westerners in the eighteenth century, the upper Kenai Peninsula area was settled by Dena'ina Athapaskan Indians. The traditional history recounts that the Dena'ina migrated from the east, in the direction of Copper River.[37] On the northern Kenai Peninsula, they inhabited the coastal area at the mouths of rivers in the west during the summer, where they pursued salmon and marine resources, but during the winter they moved inland in search of caribou and small land mammals.

The Dena'ina are sub-divided into seven geographical

groups across their territory, which extends from Seldovia on southwestern Kenai Peninsula north and westward around the drainages of Cook Inlet and includes Lake Clark and the western half of the Lake Iliamna area. Of interest here is the Kenaitze subdivision, which inhabited the western portion of the Kenai Peninsula north of Kachemak Bay as far as Turnagain Arm, including the interior country of Tustumena, Skilak and Kenai Lakes and the Kenai and Russian Rivers. Mountain passes provided passage from the Kenaitze area to the country of the Chugach Eskimo in the Seward area, betweem whom there was considerable trade. There was also extensive visiting and some intermarriage between the Kachemak subdivision and the Alutiiq of the southern Kenai Peninsula and western Prince William Sound. The Dena'ina were frequently at war with the Koniag Alutiiq.

The Dena'ina regional groups were comprised of several villages, with at least one recognized as the principal village. In 1805, when Lisiansky visited Cook Inlet, he noted there were 14 settlements and about 3,000 inhabitants in the area.[38] The principal Kenaitze Dena'ina settlement was at Kenai; other villages were located at Anchor Point, Ninilchik, Kasilof, Skittok (near Kenai), Chinila (also near Kenai), Skilak (south side of Skilak Lake), Titukilsk (near Nikishka), Nikishka, and Kultuk (near Nikishka). Townsend identifies 17 former Dena'ina communities in the Kenai region.[39] Their settlements were located both inland and along the shores of Cook Inlet on or near the outlets of rivers.

During the winter, the Kenaitze Dena'ina collected themselves into villages located in the forest away from the coast. Villages ranged in size from one to 10 or more communal houses, each comprised of about four or five families. They were semi-subterranean structures with walls of whole or split spruce logs and roofs of split logs covered with moss, sod and dirt. Sleeping compartments were built adjoining and a bath house was attached to the main room. In the spring, summer and fall, when the Kenaitze relocated to fish camps along the shores and rivers of the western Kenai Peninsula, the Dena'ina inhabited their smoke houses. Temporary shelters used in hunting expeditions are made from lashing together of alders covered with bark or skins. The Indians constructed small birch bark canoes, and also adopted the kayak and umiak from the Eskimo. Dugouts were used for transporting dried food from fish camps and log rafts for crossing rivers.

The Kenaitze are adapted to the land environment. Salmon was the most important component of their economy, and land mammals were also fundamental especially during the winter season. They harvested all five species of salmon, as well as trout, herring, catfish, eulachon and tomcod. Land mammals were also significant, including caribou, moose, mountain sheep, black and brown bear, beaver, porcupine, rabbit, marmot, lynx, fox, ermine, marten, mink, tree squirrel, land otter and wolverine. Birds included species of duck, goose, swan, loon, ptarmigan, grouse, eagle and owl, as well as bird eggs. Clams and crabs were taken from the beach; the only sea mammals were hair (harbor) seals and beluga whales, which were hunted in the rivers. Berries, inner bark and other plant and vegetable foods were also part of the diet.

The Dena'ina are divided into exogamous, matrilineal moieties that are unnamed. These are further divided into about 15 named matrilineal clans.[40] Each village had one or more rich men who were also the most prestigious persons in their lineage and considered to be the headman of their respective kin group. Apparently the most prominent headman was considered village chief. The headman functioned as the center of a redistributive system, providing support to the aged and orphaned, care for the welfare of the group, significant ability in subsistence and war expeditions, and general counsel and advice, and receiving in exchange assistance in hunting, fishing, trapping and manufacture of trade goods. The society consisted of two strata: wealthy families and those of little wealth and prestige who were attached to their more wealthy relatives. Slaves were obtained by rich men in trade or acquired in battles. Dena' ina potlatches are essentially moiety ceremonies given to honor recently deceased individuals. These are characterized by feasting, the distribution of gifts, and the repayment of mortuary workers. Smaller feasts were given to honor living persons. There is conflicting evidence with regard to the non-exclusivity of individual, clan or moiety hunting territories and fishing sites.

Tongass Region

The Tongass National Forest extends the full length of the southeast region, 500 miles from Yakutat Bay in the north to Dixon Entrance in the south. This region lies at the northern end of the traditional Northwest Coast culture area, one of the most developed maritime cultures of the American coast. Heavily forested with hemlock, spruce and cedar, the coastal fringe and islands of this archipelago is truly a rain forest: the average annual rainfall in most communities is over 120 inches per year (Ketchikan, the highest, has 162). There are nearly 11,000 miles of shoreline among the coast and islands, and in most areas majestic mountains rise from the tidewater. On the mainland, in

addition to steep slopes, three large rivers, numerous glaciers, and icefields dominate the landscape. Rich and varied wildlife and fish resources are found throughout the region, and they are accessible only by boat or plane except in localized areas. Tourism, recreation, logging, sport and commercial fishing and hunting, and subsistence hunting, fishing and gathering are among the uses of the forest.

Prehistory of the Tlingit People

There are two major maritime cultural traditions associated with the Tongass region. The earliest culture, which Stanley D. Davis (*Handbook of North American Indians*) calls the Paleomarine tradition, existed from 11000 to 6500 years ago, while the second, which is related to the traditional Northwest Coast cultural pattern, was present from about 5000 years ago to contact with Europeans and the historic period. Davis identifies a transitional stage between the two, dating from 6500-5000 years ago, whereas Arndt et al. argue that the archeological data is insufficient to conclude that the transition was a gradual development or a more sudden cultural shift from the early to the late culture period.[41]

Although the oldest documented sites are from 10,000 years ago, it is possible that the first peopling of the coast occurred 12-13,000 years ago when the environment was free of ice; the evidence of earliest human occupation is believed to be destroyed by fluctuating sea levels. The Paleomarine culture was a well-developed microblade and core tradition that also included cobble tools and cores, and an economic strategy focused on coastal and marine resources. The principal sites for this distinctive microblade industry are the Ground Hog Bay 2 site on the mainland shore of Icy Strait, the Hidden Falls site on Baranof Island, Chuck Lake and Rice Creek on Heceta Island, and the Irish Creek site on the west side of Kupreanof Island. This tradition corresponds with a similar lithic assemblage documented for the northern coastal region of British Columbia. Evidence of marine mammal, fish, shellfish, waterfowl and land mammal resources are associated at some of the sites, indicating a coastal-marine adaptation.

Between 6500 and 5000 years ago, the region underwent climatic change, and the new culture that emerged by the latter date reflects an adaptation to new and more stable environmental conditions, particularly stabilization of shorelines and river drainages, that were conducive to an increase in the productivity of salmon runs associated with the classic traditional Northwest Coast way of life. The emergence of larger, winter villages resulted in massive midden accumulations which clearly distinguish sites of the later period from earlier stages. A corresponding change in technology to ground stone (slate) and bone, complex human burials, specialized subsistence camps and fortifications also characterize this period. Davis, who calls this the Developmental Northwest Coast Stage, identifies early, middle and late phases of this period. The late phase, from A.D. 1000 to European contact, is characterized by a move to larger structures associated with winter villages, sites used for defensive purposes, and use of native copper and other materials for items of technology as well as personal adornment (such as bracelets, necklaces, pendants, pins and beads). This sequence seems to correspond with de Laguna's impression, based on extensive prehistoric and historic excavations in Angoon and Yakutat, "that a good deal of Northwest Coast culture is of relatively recent growth and elaboration."[42]

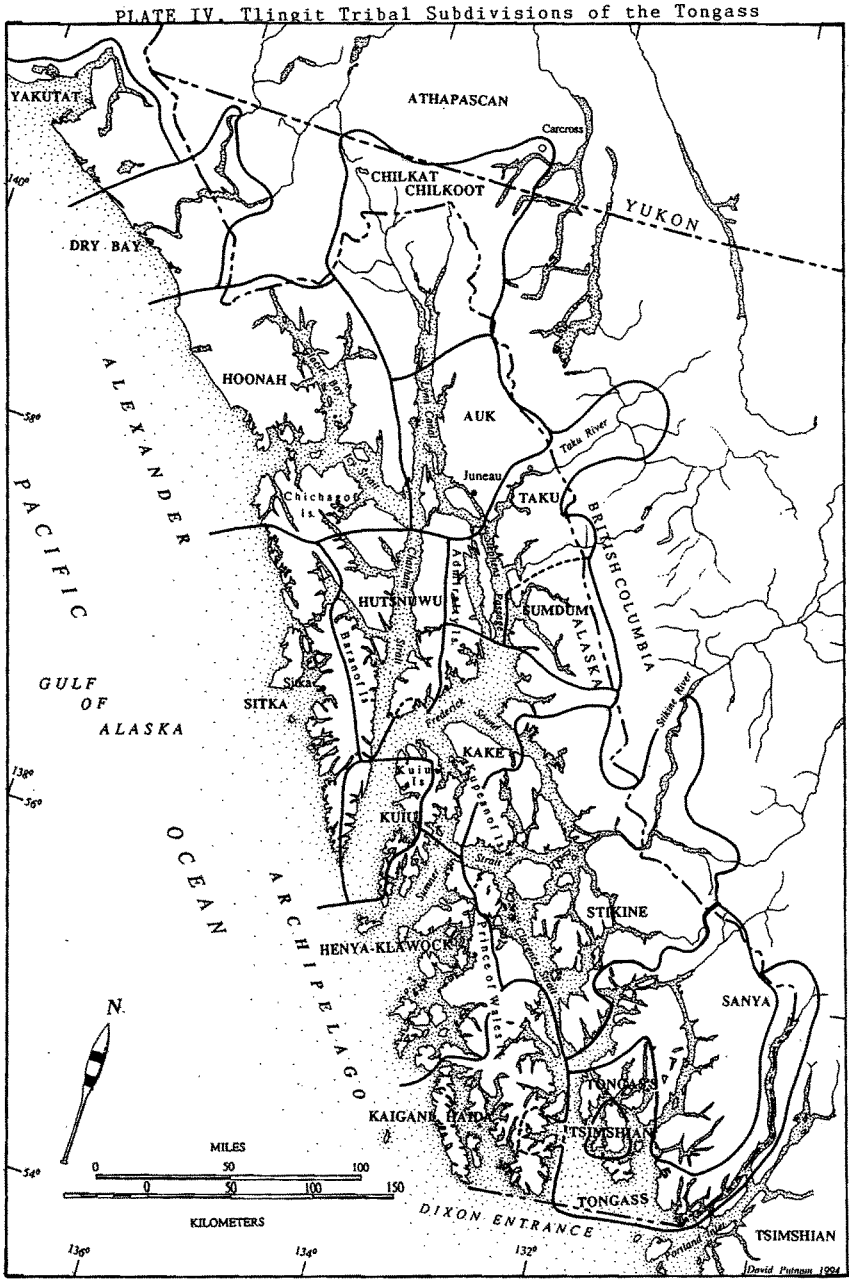
The Aboriginal Cultures of the Tongass Region

Tlingit Indians

At the time of the arrival of white settlers, the Tlingit Indians were divided into fourteen tribal subdivisions, or kwan. From the north, these divisions are the Yakutat, Chilkat/Chilkoot, Hoonah, Auk, Taku, Sumdum, Hutsnuwu, Sitka, Kake, Kuiu, Stikine, Henya, Sanya and Tongass (see map). There were 10-15,000 Tlingit at the time of contact. Together with the Kaigani Haida, who pushed their way into the southern Tlingit area in the eighteenth century, these kwan used and occupied all of the southeastern region, with the exception of the steeper mountain slopes and tops, at the time of first contacts with whites.[43] The aboriginal possession of the lands and waters of southeast Alaska, including trade routes into the interior across the Canadian border, were recognized by the U.S. Court of Claims in 1959 (discussed below).[44]

The Tlingit kwan are geographical groupings of smaller political divisions, or clans, which lived together in a common area, intermarried, and cooperated for defensive purposes. De Laguna identifies 74 clans of the Tlingit kwan.[45] In the nineteenth century, members of the kwan would congregate in larger communities for the winter season. Each kwan is associated with one or more principal villages that contained large clan houses constructed of hand-hewn spruce planks. These traditional villages were often located on a shoreline with houses arranged in a line facing a landing area for canoes. During the spring, summer and

PLATE IV. Tlingit Tribal Subdivisions of the Tongass



fall, community members would usually disperse to smaller villages, hunting and fish camps depending upon the availability of resources and clan relationships.

Annual runs of salmon were the primary determinant of the pattern of transhumance; all five species of salmon were harvested, as well as eulachon, herring, halibut, cod, trout and several types of shellfish. The most important sea mammals in the diet were seals (harbor and fur), but sea lion, sea otter, and porpoise were also taken. Bear, the most important land mammal, were hunted along with deer, mountain goat and sheep; small animals and fur-bearers such as rabbits, porcupine, marmots, mink, muskrat, and marten were also acquired, along with birds (including species of duck, geese, and grouse). Berries, roots and bark and other vegetable foods were gathered.

The Tlingit are divided into two exogamous moieties, Raven and Eagle (called Wolf in the south), that functioned as reciprocal social and ceremonial groupings. The fundamental unit was the matrilineal clan, which was the political, land-owning and property-holding group of the tribe. Each village was comprised of two or more clans representing opposite moieties; each clan was usually subdivided into clan segments (lineages) or house-groups. Tlingit society was comprised of nobles (wealthy and influential families), commoners and slaves; and social rank was very important. The named house groups or lineages and clans in each village differed by wealth and status, and within the village the leader of the leading house of each clan was considered the head of the clan. The heads of the houses and clans were stewards of their group's property, which included crests, ceremonial regalia, songs, names, stories, trade routes, and hunting and fishing sites. These individuals often decided when to hunt and fish, embark on trading expeditions or raids, exact payment or retribution for a wrong, or host an elaborate and expensive ceremony in honor of deceased maternal ancestors.

The coastal Tlingit engaged in voluminous trade with neighboring tribes including the Eyak, Athapaskan, Tsimshian and Haida. The northern Chilkat and Chilkoot built and maintained trails to the interior Athapaskans and the Yakutat Bay Tlingit, and similar networks with the interior were developed by the Taku and Stikine subdivisions. Large canoes constructed or acquired in trade were used for extensive marine travel and interchange among coastal groups from the Chilkat to the north to the southern Tlingit, Haida, and Tsimshian groups; Tsimshian carvings and slaves were among the most prized goods acquired in trade or captured in war. European trade stimulated the development of Tlingit culture and art after the introduction of iron and steel carving tools and copper sheeting. Several Tlingit Kwan, particularly the Chilkat and the Stikine, became large, powerful and wealthy in the nineteenth century through their monopolistic control of lucrative trade with the interior Athapaskan groups.

The Tlingit are known for their elaborate ceremonies or feasts which are given at funerals and memorials to the dead. Structured by moiety and clan affiliations among related persons, the potlatch could go on for four to eight days; it involved feasts, songs and dances, the recitation of clan names and stories, the distribution of food and gifts to members of the opposite moiety (in payment for funeral services and contributions), and the use of clan heirlooms including crest hats, blankets, vests and ceremonial items such as speakers' staffs, drums and dancing poles. Such ceremonies also increased the prestige of the living, and might be associated with the construction and dedication of a new house. The display of crests and other clan property, including the recitation of names and clan histories, entailed payments to members of the opposite moiety who served as witnesses validating the right to hold and use the property.

The clan owned the most important property including hunting territory, fishing grounds, salmon streams, clan crests, ceremonial clothing and artifacts, shamanistic practices, names, songs, stories, and trading routes. A well-developed system of property rights and inheritance identified which family groups owned specific sites and tracts of land and who had access to clan land and property. This property was adminstered by the chief on behalf of the clan; he was the steward and responsible for its protection, use and upkeep. The clan chief, in consultation with the council, would decide when salmon streams could be used or when to hold the complex, competitive memorial feasts at which the clan's crests and other ceremonial property would be displayed. They would organize war parties to defend against incursions into clan territory, and launch attacks against other groups. Often the chief would trade on behalf of the clan.[46]

Kaigani Haida

In the early eighteenth century a group of Haida apparently emigrated from the Dedans area of Graham Island (northernmost island of the Queen Charlotte Islands) to southern Prince of Wales Island, displacing the Tlingit residing there. This branch of the Haida is known as the Kaigani Haida, or simply Kaigani, to the early traders in the area. To the casual observer there

was little outward difference between the Tlingit and the Kaigani Haida, for the latter adapted to the different mix and availability of salmon and other fish, sea and land mammals, and forest resources characteristic of the southern Alexander Archipelago. The Kaigani Haida were also heavily influenced by Tlingit culture after the invasion, articularly in aspects of the social system. In one aspect the Haida appear to be unique on the Northwest Coast—their language has no demonstrable genetic relationships to any other language.[46]

The Wetalth (Tsetsaut)
The Wetalth were a band of Athapascan Indians occupying the Unuk River drainage and the landmass between Portland Canal and Behm Canal in southern Southeast Alaska. Numbering some 500 in the early nineteenth century, their population was seriously reduced in the later 1800s by feuds with the neighboring Tlingit, with whom they had previously been on good terms. Quite possibly they were the victims of Tlingit population shifts ultimately caused by the Haida occupation of southern Prince of Wales Island. By the early twentieth century the Wetalth merged with the Tsimshian and effectively ceased to exist as a separate cultural entity.[48]

Wetalth economy differed sharply from that of the neighboring Tlingit: while eulachon and salmon were taken in season, the mainstay of the food economy was land mammals, particularly bear, mountain goat, porcupine, and marmot. Most articles of clothing were fashioned from marmot or mountain goat hide.[49]

Dwellings were temporary in nature, consisting of an A-frame of poles propped near the base of a large tree; the poles were covered with bark. Entrance was through a side door, or through the smoke hole when the winter snows became too deep. Chief modes of transportation were snowshoes and cedar bark canoes.[50]

The Arrival of White Settlers (Explorers, Traders, Miners and Fishermen) and Development of New Towns in the Chugach and Tongass Regions

The Russian Period: 1741-1867
The first landfall by Europeans in Alaska occurred in July 1741. Crewmen from Vitus Bering's Russian ship, the St. Peter, went ashore on Kayak and Wingham Islands east of Prince William Sound, and others from Chirikov's Saint Paul landed on Chichagof Island north of present Sitka, Alaska. Evidence of human use and occupation, including homes, storehouses, and the remains of a meal and warm cooking stones, were discovered indicating that the inhabitants fled at their approach. These were Chugach Eskimo.[51] Russian claims to the discovery and ownership of Alaska are based principally on the results of this expedition.

The sea otter skins brought back by the survivors of the voyages (Bering himself perished on the journey) lured the fur-hungry Russians into American waters beginning as early as 1743. The taking of hostages, enforcement of tribute, and outrages against the Aleuts became customary in the expansion of the *promyshleniki* and traders into the northwestern Pacific country. By 1760, the Russians reached Unalaska, and by 1763, the first Russian expedition landed at Kodiak.

Other European exploration and trading expeditions to Alaska commenced in 1775 in response to the expanding Russian activity in the northern Pacific. In that year, the Spaniards in Mexico organized the first European expedition to southeast Alaska during which Mt. Edgecumbe was first given a Spanish name. This expedition brought the first of western diseases — smallpox —to the Tlingit; this factor (epidemics of infectious diseases introduced by Europeans) was the primary cause of the decimation of Native populations through the next 150 years, as high as 50 percent in many areas, and probably caused more disruption to traditional Native social systems than any other influence.

In 1778, the English Capt. James Cook journeyed through southeast Alaska, giving Mt. Edgecumbe its current English name. He entered Prince William Sound which he also named. Cook remained there eight days and encountered Chugach Eskimo in Port Etches (Hinchinbrook Island) and Snug Corner Cove (Port Fidalgo).[52] He sailed on to Cook Inlet where he met both Alutiiq and Kenaitze people.[53] A second Spanish expedition to Alaska in 1779 resulted in further exploration in Prince William Sound, during which Bodega Y Quadra also visited Port Etches (Nuchek) and surmised the existence of a large river in the eastern region of the sound.

The mouth of this large river was discovered in 1783 by a Russian trading expedition under Zaikov, which explored Prince William Sound and the waters near Kayak Island after Zaikov learned of Cook's discovery of the Sound.[54] On Kayak Island, Zaikov met a Chugach hunting party from Nuchek, and his men communicated with another group of Nuchek residents at the mouth of the Copper River who informed them of

other tribes in the larger area including the Koniag, Kenaitze, Ahtna Athapaskan, Eyak and the Tlingit. While Zaikov was spared, the Chugach retaliated against the leader of a sister Russian ship for robbing them of furs and debauching their women, by killing him and some of his men. The Russians found that the Chugach were more warlike and prone to defend their property rights than the western Natives (Koniag and Aleut).[55]

Meanwhile in 1783, another Russian company under Shelikov forcibly established the first permanent settlement in Alaska on Kodiak Island at Three Saints Bay. Two years later, Shelikov sent a party of *promyshleniki* together with Aleut and Koniag hunters to Cook Inlet and Prince William Sound to prospect for sea otter and attempt to establish good relationships with the inhabitants; and they returned with 20 hostages from Cook Inlet as insurance. In the following year, Shelikov established a fortified trading settlement at English Bay, named Alexandrovsk. In 1788, another group of *promyshleniki* and Native hunters from Three Saints Bay under Ismailov visited Kayak Island and the vicinity, before proceeding on to Yakutat Bay, in search of sea otter. This party reported the Eyak living near the mouth of the Copper River. By this time, the Russians were feeling the effects of new competition with British ships in Prince William Sound and Cook Inlet.

The successful transport and trade of Alaskan furs (particularly sea otter) to China (Macao) in 1779 by Cook's surviving officers opened the door to the lucrative Oriental fur market for British and American trading ships, where previously an overland route through Siberia controlled exclusively by the Russians was the exclusive channel. Soon, English ships from India and Great Britain, and American ships from the United States, launched fur trading expeditions to the Pacific northwest coast. In 1786, four British ships sailed to Prince William Sound from India; one of these was forced to overwinter in the Sound near the village of Tatitlek. In the same year, Capts. Dixon and Portlock sailed from England to the Sound, where in the following year Dixon gave much needed supplies to one of the overwintering ships from India under the condition that it leave the area promptly.

By this time, the fur trade was in decline in the Cook Inlet area and the Tanaina were acting as middlemen in the European trade, obtaining furs of land animals from the interior.[56] Dixon proceeded southeast to Yakutat Bay and then to Sitka Sound for more trade, this time with Tlingit Indians, while Portlock (who named Port Etches while he stayed at Nuchek) traded in Prince William Sound and Cook Inlet for the month of July before following, sailing to the west coast of Chichagof Island to barter with the Tlingit in what became known as Portlock Harbor. In 1788, William Douglas of the Hudson's Bay Company also sailed to Cook Inlet and Prince William Sound, and then on to Cross Sound, on a trading expedition.

Other nationalities were also beginning to enter the area. A French vessel under LaPerouse anchored in Lituya Bay for the month of July in 1786 where he traded and bartered with the Tlingit, whom he observed to be shrewd traders and the crafters of very fine art. Another French ship landed in Sitka Sound in 1791. French accounts describe the rapidity with which European trade goods had become dispersed among the tribes, resulting in a higher and more specialized demand for trade goods. The scarcity of furs was by this time affecting the profitability of trade as the Indians were demanding (and receiving) higher prices than previously.

The United States of America, having just won recognition in the Treaty of Paris in 1783, will very soon become a factor in North Pacific trade. The first Americans began to appear in the northwest in 1789, when two ships journeyed to coastal regions untouched by the Europeans. American presence in the region would not become significant until the next century. The Spanish government sent three more expeditions in quick succession into the northern area (Prince William Sound and Kodiak) in 1788, '90 and '91 to press its territorial claims, but they were politely rebuffed by the Russians.

In 1792, after ordering the relocation of the principal Shelikov company settlement to the present site of Kodiak City, Baranof made his first venture east to Prince William Sound and to Nuchek Island, where he came under attack by a raiding party of Eyak and Yakutat Tlingit. Two years later, Baranof sent another party to the Copper River, where they discovered a large Eyak village (perhaps Alaganik, according to de Laguna).[57] Baranof also established a shipyard in 1792 at Voskressenski, or Sunday Harbor, in Resurrection Bay for building, repairing and launching vessels. He hired an English ship-builder and a total of three ships were built in this yard with Alaskan timber.

During this period, the rival Lebedev Company was also operating in Cook Inlet and Prince William Sound. The company established three posts in Cook Inlet: in 1786 at Kasilof, called St. George; in 1891 on the Kenai River, named St. Nicholas; and the third higher up in

the inlet on the western shore. In 1793, the company opened a station in Prince William Sound on Nuchek Island at Port Etches, named Fort Constantine.

Authority over the Cook Inlet posts was assumed by Baranof in 1794, when he was able to smooth over a planned uprising against the Russians organized by the Kenaitze from Skilak Lake in response to offenses against their people by employees of the Lebedev company. The effrontery and crimes of the rival company had so incensed the Kenaitze Dena'ina that the Skilak Lake group was reportedly forming a union with the western Cook Inlet Tanaina bands and the Chugach to drive the Russians from the Kenai. 1794 was also the year that Vancouver visited Prince William Sound, determined that Cook Inlet was not a river, and documented the portage from Turnagain Arm to Resurrection Bay (Seward). Visiting Nuchek in 1796, on his return from Yakutat, Baranof succeeded in persuading the majority of the Lebedev Company's employees to work for the Shelikov Company.[58]

The elimination of Baranof's competition was sanctioned by the Russian government in 1799, when the Russian-American Company (formerly the Shelikov Company) was granted a complete monopoly over all Russian enterprises in Alaska for 20 years. The decree authorized the company to conscript Aleut for three years of service to the company, and the Natives of Cook Inlet and Prince William Sound were required to submit a yearly tribute in animal skins. Nuchek became the principal Chugach community in the sound, when it was the sea otter hunting and trading center for the region until after the Alaskan purchase in 1867. The Russians maintained the post at Nuchek until it was taken over by an American trader following the American purchase of the territory. However, the focus of their subsequent mercantile activity was in southeast Alaska, where there was greater opportunity.[59]

Under orders from Baranof, the Russians first took their Aleut and Koniag hunters, nearly 1500 strong, to Yakutat Bay in 1794 and '95 and where, in 1796, Baranof established a convict colony called "New Russia." The Russianized hunters took three thousand sea otter pelts from the Yakutat and Lituya Bays in these three years. Leading another party of Aleut hunters in 1799 on an expedition of further expansion into southeast Alaska, Baranof was attacked by the Tlingit in Controller Bay as he was making his way to Yakutat, when bad weather forced him to the beach. He travelled on to Sitka Sound, where he bartered successfully for the right to establish a fortified trading post among the Sitka Tlingit. The Tlingit soon grew dissatisfied with the arrangement, particularly with the efficiency with which the Aleut hunters killed the sea otter, seal and other fur-bearing animals in Tlingit territory. In 1801, the Sitka kwan were joined by allies from Yakutat, Chilkat, Angoon and Sitka and they attacked the Russian post, Fort St. Michael, killing 150 and burning the fort and a ship. Encouraged by the success of their countrymen at Sitka, the Yakutat Tlingit attacked an Aleut hunting party and the Russian manager of the colony, and Indians from Kake and Kuiu villages ambushed an Aleut hunting expedition of 90 baidarkas in Keku Straits and killed all but the Russian leader (Urbanof) and 20 Aleuts.[60]

With the company's recently granted monopoly at stake, the decline of fur-bearing animals in the northern Alutiiq region, and the need to establish a settlement in southeast Alaska to justify Russian possessory claims against competition from European and American traders, Baranof moved in retaliation against the Tlingit. In 1804, he set out for Sitka in several ships and, along the way, razed and burned villages of the Kake and Kuiu people as punishment for their attack on Urbanof's party. Baranof was wounded in the ensuing fight at Sitka, and he prevailed only with the assistance of the Russian ship *Neva* which bombarded the newly constructed Tlingit fort and caused the warriors to flee across the island by night.[61]

According to a Native account of the battle, the Tlingit decided to withdraw only after they discovered their supplies of gunpowder were exhausted, and a lucky cannon shot destroyed a war canoe filled with their ablest warriors, leaving no survivors. Baranof erected a new stockade, which he named New Archangel, and several years later in 1808 moved the company headquarters from Kodiak. The Tlingit built a new fort at Point Craven, where the residents numbered between 1,300 and 1,400. In 1806, 2,000 Tlingit gathered in 400 boats to re-take Sitka, including members of the Sitka, Chilkat, Auk, and Stikine kwan, but the battle was forestalled by a negotiated peace with the Chilkat chief, and others who followed his example.[62]

Sitka subsequently developed as the principal land-based trading center in Alaska. After the sea otter reached near extinction in the 1820s, the Russian colony grew dependent upon the Tlingit as a source of land mammal furs that replaced the sea otter trade, as well as a source of supplies.[63] A market grew up in Sitka through which the Tlingit supplied many of the needs of the fort and provided them with trade goods. The ready access to trade goods through this market freed the local Tlingit to trade furs with the European

and American ships that regularly plied the waters of conscripts, on the one hand, and the Tlingit kwan was never guaranteed, and the Russians remained in need of protection of their stockade for nearly their entire tenure. In 1852, for example, after the Stikine were attacked by the Sitka kwan during a peace ceremony, the Stikines destroyed the Russian hospital at the hot springs south of town in retaliation, since the Russians had made no effort to warn them or prevent the attack. There was an outbreak of armed conflict between the Russians and Tlingit in 1855, and the Sitka kwan took possession of a church erected for their use outside the stockade from which they fired on the Russian fort. The Tlingit lost 60 men before they laid down their arms. Outside of Sitka, the Russians rarely ventured beyond the safety of their ships. They operated a post at Wrangell from 1834-1839, after which it was turned over to the Hudson's Bay Company until 1849, at which time the British withdrew in part due to continuing hostility from the Stikine.[65] The Chilkat likewise forcibly protected their trade monopoly, destroying a newly established Hudson's Bay Company post along their interior trade route in Canada on the Pelly River (Fort Selkirk) in 1852. Another post was briefly established on Tongass Island, which the Russians hoped would serve to demarcate the southward extension of the Russian-American territory, and the Hudson's Bay Company also had a post on the Taku Harbor, for a time.

Although the first Russian priests appeared in the colony as early as 1794, there was little activity east of the Alaska Peninsula until the early 1830s, when Baron von Wrangell brought Father Veniaminov from Unalaska to Sitka. The smallpox epidemic which swept through Alaska between 1835 and '39, and claimed about half of the Tlingit population in Sitka, left the inoculated Russians untouched. This occurrence greatly increased the stature of the Russian Orthodox priest in Sitka and aided the missionization process, which proceeded more slowly in outlying areas. The first ing villages; in 1860 the Russian Orthodox Church estimated there were 456 Christians among the Chugach, which may have been their entire population in the sound (as compared with only 447 Tlingit in southeast).[68] Under this influence, the Chugach became more peaceful, and the Eyak and their more Tlingitized relatives moved into what was formerly Chugach territory along the mainland from Controller Bay into eastern Prince William Sound, as described previously. Petroff reported in 1880 Nuchek continued to serve as an important trading center that was visited by Tlingit and Ahtna Athapaskan Indians, and the Russian chapel there was supported by donations from surrounding villages. He also observed the Russian church and missionary that was active in Kenai at this time.[69]

The American Period: 1867-1910

At the time of the transfer of Alaska to the United States, there were at least 35-40 Tlingit and Haida villages and towns in southeast Alaska. In 1838, Veniaminov listed a population of about 6,000 for the Tlingit, which he enumerated after the smallpox epidemic of 1833, and reported that the figure was 10,000 prior to that event. U.S. census figures from 1880-1910 indicate a decrease from 6,431 to 4,458 in the Indian population in southeast during this period; there was also a decline in the number of traditional Tlingit villages and towns, and the beginning of a significant migration trend from Indian villages to newly established white towns.[70]

In the Chugach region, Veniaminov reported 471 Chugach, 150 Eyak and 1628 Tanaina Athapaskan. In 1880, the federal census reported there were 500 Chugach in four villages in the sound: Chenega, Kaniklik, Tatitlek and Nuchek. The Eyak had two main villages, Eyak (near Cordova) and Alaganik (about 20 miles east on the Copper River delta), which in the

1880s had a total population of about 200. The mixed Eyak and Tlingit village of Chilkat in Controller Bay had about 100 inhabitants. Petroff also reported 12 Kenaitze villages.[71]

Following the purchase of Russian-America by the United States, there was no provision for civil government. As in one of the western territories in the contiguous states, the U.S. Army was sent to maintain law and order and protect American citizens from the Indian and Eskimo, whom military authorities believed might rise up in opposition to the new settlers expected to come into the territory. To this end, Army forts were established at Sitka, Wrangell, and Tongass in southeast, and at Kenai and Kodiak in southcentral Alaska, within a year or two of acquisition. These garrisons, with the exception of Sitka, were withdrawn by 1870 to fight Indian wars in the west.

Headquartered in Sitka, the Army was not shy about teaching the Natives a lesson. In demonstrations of military might and determination to enforce American law, two Native villages —Wrangell and Kake — were bombarded in 1869.[72] These instances impressed upon the Tlingit people the power of the military to impose civil authority in specific cases. However, aside from these occurrences, the period of military administration (1867-84) has been characterized as an 'era of neglect' during which, at least in the first ten years after the purchase, there was negligible impact on the Tlingit and Haida Indians' use and possession of southeastern Alaska.[73]

Beginning in Wrangell in the mid-1870s, the influx of white settlers into Alaska substantially altered the political landscape and settlement patterns by which the Indian and Eskimo had lived for centuries. The principal cause of this migration of settlers was economic: the availability of gold and other minerals, rich salmon stocks and extensive timber stands brought thousands of whites into southeastern Alaska and other regions. They established new towns, canneries, mines and industrial sites at many locations. In the 1870s, the rush for gold in Canada up the Stikine River brought more than a thousand miners, traders, merchants and laborers through Wrangell, and their effects on the local Indian community also attracted the first American missionaries to the state (1877). The first gold camp in Alaska was established in Alaska at Sumdum in 1878, and in the same year, the first salmon canneries were built at Klawock and Sitka. Two years later, the discovery of gold at Juneau resulted in the founding of the town of that name, and another discovery in 1887 across the channel led to the establishment of the city of Douglas. The small community at Deishu (later renamed Haines), which began as a trading post and mission to the Chilkat and Chilkoot Indians in 1881, shifted among several canneries which operated in the area after 1884, became stabilized as a trade and support center for the Klondike stampede in 1897. Skagway also traces its beginning to this gold rush. The white town of Ketchikan places its start with fish saltery and cannery operations at the mouth of Ketchikan Creek starting in 1886-7. The incipient town of Petersburg was constructed as a fish cannery and sawmill which opened for operation in 1900. The town of Craig was similarly initiated as the site of a commercial saltery and cannery in about 1910-11.[74]

Thousands of white miners were working the hard-rock gold deposits in Juneau and Douglas (Treadwell) in the 1880s and '90s. The mines became an employment opportunity that attracted Tlingit from the northern region. In Wrangell, the first sawmill began production in about 1890, and the Alaska Packers Association opened a cannery in 1893 using mainly imported labor. These industries were the economic mainstay of the white business community for many years. A large cannery and sawmill was erected in Ketchikan before the turn of the century, and by 1910-11, a rival cannery located at Loring (also operated by the Alaska Packers Association) had exhausted the massive run of pink salmon returning to Ketchikan Creek, the original impetus for white settlement at the town, with a fish trap anchored off the mouth of the creek. By the 1920s and '30s, Ketchikan became the hub of regional economic activity that centered on fishing and timber extraction. Petersburg also became the center of a localized commercial fishing industry during this period, and it was supported by the available timber supply. The fishery in the Haines area had declined in significance by the 1920s due to overfishing, but this community persisted as a supply and support center for the regional Native population as well as the Army post that had been established in the town.

The initial movements of Indians into the new communities took place as group movements. They occurred principally for economic reasons, although in some cases they were the result of the force of missionary and school personalities, and the desire to escape the constraints of tradition. Rogers has described these new communities as "non-indigenous" towns which, since their formation between 1804 (Sitka) and 1910, have become the principal towns and cities of the southeast region associated with the massive growth of the non-Native population in the region.[75] He uses census data to show the reorientation of Tlingit kwan to

these communities from traditional villages and seasonal settlements: the Sitka Indians becoming citizens of the white town of Sitka, the Stikine moving to Wrangell, the residents of Auk settlements moving to Juneau, Taku people to Douglas, the Tongass and Cape Fox people to Ketchikan and the Chilkat dividing themselves between Klukwan and Haines.

Although located in or near the site of Indian settlements, the towns that grew up at these locations were essentially white towns. The first legislation providing for a civil government in the territory, the Acts of 1884 and 1890, provided for the protection of areas used, occupied or claimed by Native Alaskans, but did not entail the legal rights of ownership to the aboriginal residents because they were not recognized as citizens.[76] Non-Natives were able to file for town and industrial sites without restriction and thereby acquire legal ownership of lands used for exploiting the mineral, fish and timber resources, or settled as villages and towns in service to these industries. Indians lost control of their land and resources and, as the settler population and industry grew, often found themselves excluded from their customary settlement, fishing and hunting areas. The new competition for valued resources severely restricted their traditional economy at these towns. The new towns were later organized formally with townsites and municipal governments, which occurred with little or no political participation by the local Indian residents. Alaska Natives did not gain citizenship until the mid-1920s, and their aboriginal title was not freely acknowledged until the Alaska Native Claims Settlement Act was passed in 1971, as described in the following chapters.

A few new Indian communities were also formed during this time at the urging of missionaries and school authorities. In 1887, the Tsimshians moved under the direction of the missionary William Duncan in a large group (800 strong) to Annette Island from Old Metlakatla in British Columbia, and in 1891 this land was set aside by Congress as a reservation. Saxman was a new community formed through the encouragement of the Presbyterian church and territorial school authorities in 1897; it was settled initially by the Cape Fox (Sanya) kwan. The first missionary was a Tsimshian minister and discontented former adherent of William Duncan. There was a consolidation of Haida communities into the new communities at Craig, Hydaburg and Ketchikan, and a movement from Old to New Kasaan. Hydaburg was a new settlement organized specifically for the Prince of Wales Island communities of Howkan and Klinquan by educational authorities; it was established by the Bureau of Education by 1911.[77]

During this period, there was a significant Indian population which chose to remain in traditional villages at or near their original locations, including the communities of Yakutat, Klukwan, Hoonah, Angoon, Kake, Klawock and Kasaan. A cannery was started in Klawock in 1878, which attracted a Tlingit Indian population from traditional villages, principally Tuxekan, in the neaby area. A whaling station, which was soon converted to a factory manufacturing herring oil and fish guano, operated at Killisnoo, near the village of Angoon. When it ceased operation, the inhabitants returned to the village of Angoon.[77]

There was a similar pattern of change in Prince William Sound and the Kenai Peninsula, except that it was delayed by a decade or two. After the transfer, the Russian post at Nuchek was taken over by an American trader, a small trading post was established at Katalla in Controller Bay, and Norwegians at Kayak Island and Chenega continued to offer local trading opportunities.[79] In 1889, four American salmon canneries were established, marking the first intensive contact of the Eyak with western culture: two were on Eyak Lake where Old Town (Cordova) would be founded (one of which was moved to Orca in 1895), and two were on Wingham Island in Controller Bay (one of these was moved to the Copper River delta in 1891). By 1900, the two principal Eyak villages were abandoned, the inhabitants destroyed by epidemics and degraded by the cannery experience, and the few remaining Eyak (about 60) lived at Old Town.[80]

The four Chugach communities had a population of 317 Chugach, 54 creoles (of mixed European and Native ancestry), and nine whites in 1890.[81] The hunting and trapping of fur-bearing animals, and the sale of fish (in Tatitlek and Chenega) provided the only source of revenue for these communities. In comparison, the 1890 cannery population totalled 423, which were mainly white and Chinese seasonal employees; the largest groups were at Odiak (Cordova) (273) and Wingham Island (150). By the end of the century, Kaniklik was abandoned and Chenega had become "the most important native settlement on the sound."[82] Nuchek was left behind in the winter of 1929-30, after the old chief died and his survivors moved to Cordova.[83]

Several white mining, fishing and railroad towns developed in the Chugach region shortly before and after the turn of the century. The Pacific Steam Whaling Company operated a cannery at Orca Inlet, near Cordova, in the 1890s, and others were located on Wingham Island

and in Controller Bay. Use of dynamite and other methods soon had a disastrous effect on the returning fish stocks near Cape Suckling.

Valdez had its start in 1897 as the terminus of a route to the interior gold fields in the Yukon (Klondike) and later the Fairbanks area, and the U.S. Army erected a post (Fort Liscum) before the turn of the century to serve in the construction of the overland telegraph to Nome and a trail, and later road, to Fairbanks that followed an Indian trail. Valdez was a participant in the early railroad speculations that occurred in the first decade of this century. By 1910, Valdez had a population of 810 while the surrounding district held nearly 5,000 inhabitants, mostly connected with the proposed railroad. The copper mining town of Ellamar, located near Tatitlek, was built on the site of a Native village in 1900.

In 1906, Cordova was chosen as the terminus and construction headquarters of a railroad from the Kennecott copper mine, and two years later the white town of Cordova was founded which grew to a population of more than a thousand in 1910.[84] Katalla, the site of coal mining claims and a competing railroad terminus to the Copper River (which lasted until a storm washed away an expensive breakwater), had first developed as a commercial salmon fishing site: there were 188 residents reported in the village, and 623 in the Kayak Island district as a whole, in 1910. This can be compared with 210 in the Prince William Sound district.

To the west, at the future town of Seward, another group of capitalists began construction of the Alaska Central Railroad in 1903, on a route to the Matanuska coal fields. This project was not successful until after the federal government authorized funding for its construction in the second "organic act" for Alaska passed in 1912. In 1910, there were 534 people reported living in Seward village.

Alutiiq villages of the Unegkurmiut group were formerly located in Day Harbor, Resurrection Bay (including one at or near the present town of Seward), Ayalik Bay, Two Arm Bay, Nuka Bay, Yalik Bay, Port Dick, and Rocky Bay.[85] According to Johnson, people from this region, as well as Prince William Sound communities at Tatitlek and Nuchek, had been migrating to English Bay since the early 1800s under the influence of Russian priests and fur traders.[86] Yalik, which had 32 Alutiiq residents in the 1880 census, was abandoned by 1890 at the encouragement of the Russian Orthodox missionary at Kenai, and the inhabitants migrated to Alexandrovsk (English Bay) on Cook Inlet.[87] In 1890, the only inhabitants of this region were a whiteman and his Native wife, living in Resurrection Bay.

In Cook Inlet, a small Army garrison was stationed at Kenai from 1868-70. The Alaska Commercial Company took over the Russian post at Kenai after the Alaskan purchase, and in the 1870s and '80s began supplying miners and prospectors coming to the area. In 1880, the eight Kenai Dena'ina communities had a total population of 218 (Laida, Kassilof, Chkituk, Cherila, Skilak, Titukilsk, Nikishka, and Kultuk), while two creole communities (Ninilchik and Kenai) had 105 residents.[88] The upper Kenai River area was the traditional winter residence of the Kenaitze. They occupied the area in 1880 and continued there for the next 10-20 years, after which they maintained seasonal use of the area until about 1920. In the 1880s, one of the early prospectors set up a post on the Kenai River later known as Cooper Landing, where he traded with the Tanaina living in the area. In 1893, the first gold claims were filed on creeks flowing into Turnagain Arm near Hope, and in 1896 2000-2500 people came to work placer claims. After a drop off the following year, a secondary rush occurred in 1898 that brought 7-10,000 people to the Turnagain area.[89]

Salmon canneries were established on the peninsula in the 1880s; the Tanaina sold fish to the canneries, but cannery work was not available to them until about 1915.[90] Kenai was the site of a large cannery employing about 50 whites and 80 Chinese; about 100 Tanaina (including residents of the former villages of Chkituk and Nikishka) and 50 creoles lived in Kenai and two small villages nearby in 1890. The Dena'ina hunted and trapped for revenue, but in 1890 they were severely hampered by the demise of the fur-bearing animal populations.[91] The influx of white sport hunters and the hiring of Kenaitze as trophy hunters in support of this new activity provided some alternative opportunity to the decline in trapping after turn of the century, but this activity had an impact on the caribou, moose and bear populations and was another factor in the movement of the Dena'ina off the land and into the settlement at Kenai. The Kenaitze apparently established permanent residence at Kenai by 1900, although use of the upper Kenai area as a hunting and trapping area probably continued into the first or second decade of this century.[92]

By the time the Tongass National Forest was created by executive order of the president, the Tlingit and Haida Indians were becoming a marginalized people forced into a second-class socioeconomic status by the new white settlers and the legal and governmental institutions they brought with them. As white settlers and commercial interests moved into the territory, they

utilized the resources as they found them, often taking over key areas for cannery sites, fish traps, logging, mining and prospecting activities. The loss of control over their land and resources to the new settlers left the Indians with little to fall back upon. The Act of 1884 , which created civil government in the territory, also extended the first land laws to the region, and in combination with subsequent legislation in 1903, new settlers were given the ability to demarcate and claim exclusively areas for canneries, mining claims, townsites, and homesteads, and obtain legal title to such tracts. Since the Indians were not recognized as citizens, they did not have corresponding rights (to hold title to land, to vote, etc.) to protect their interests.

Reference Notes

[1] See Lawrence W. Rakestraw, *A History of the United States Forest Service in Alaska*, Anchorage: Alaska Historical Society and Region 10, United States Department of Agriculture Forest Service, 1981, pp. 8-9. It is possible that this investigator, Livingston Stone, had come in contact with one of the formulators of the conservation ethic that was forming in America at this time —John Muir, who on his Alaska trips in 1879-80 experienced first hand the wildness that was found no longer in the lower 48 states, and observed that just as the coming of the white man spelled the dissolution of that wildness, so it led to the demise of what is best in Indian culture (see *Letters from Alaska*, John Muir, ed. by Robert Engberg and Bruce Merrell, Madison: University of Wisconsin Press, 1993).

[2] *Ibid.*, pp. 8-10.

[3] *Ibid.*, pp. 15-24. Another other major land reservation in the region was made subsequently for Glacier Bay National Park, which was originally withdrawn as a monument.

[4] Emmons, who served in the U.S. Navy at the head of Lynn Canal in the 1880s and '90s, after the Chilkat were persuaded to open their country to miners and prospectors, had become an authority on Alaska and, in particular, the Tlingit people and culture. During his tour of duty, he was frequently called upon to serve as mediator between the Chilkat and Chilkoot people and the white settlers and transients who brought rapid changes to Tlingit territorial rights, economy and social organization.

[5] *Ibid.*, pp. 15-17

[6] *Ibid.*, p. 17

[7] *Ibid.*, p. 17. Corser also thought that the reserve would injure the small timber operators in Alaska, and would only benefit the monopolistic lumber interests in Puget Sound.

[8] *Ibid.*, p. 22

[9] *Ibid.*, p. 163; K. A. Soderberg and Jackie DuRette, *Alaska Forestry Under Attack* (Bellevue: The Free Enterprise Press, 1988), p. 101.

[10] *Ibid.*, p. 43, 49

[11] *Ibid.*, pp. 29-30

[12] *Ibid.*, p. 44

[13] *Ibid.*, p. 44-45

[14] *Ibid.*, p. 47

[15] *Ibid.*, p. 45

[16] *Ibid.*, p. 51-54.

[17] *Ibid.*, p. 38

[18] *Ibid.*, p. 38

[19] *Ibid.*, p. 37

[20] *Ibid.*, p. 40

[21] It has been generally believed that earlier sites in Prince William Sound were destroyed by the rise in sea level following glacial retreat, but significant inventories of newly discovered sites will likely provide important information on Chugach cultural precedents and prehistoric relationships. Numerous sites have been reported following extensive historical site and cultural resource surveys of the Prince William Sound region carried out by BIA, NPS, and Chugach Alaska Corporation seeking to identify and protect historical sites under ANCSA provisions, as well as by organizations and groups involved in the cleanup, damage assessment, and restoration efforts following the *Exxon Valdez* oil spill in March of 1989. For example, the Forest Service sponsored a major excavation of Uqciuvit in 1988, the first in the region since de Laguna's pioneering work at Palugvik in 1933, in order to fulfill site protection responsibilities required by the National Historic Preservation Act of 1966. John F.C. Johnson, of Chugach Alaska Corporation, documented numerous sites in the region during the 1980s. Exxon's cultural resource program staff identified 271 new sites, and augmented data for 238 previously-known sites, in 1989 and 62 new sites were recorded in 1990, in the Prince William Sound, outer Kenai Peninsula, Kodiak Archipelago, and Alaska Peninsula areas. See Michael R. and Linda F. Yarborough, *Uqciuvit: A Multicomponent Site in Northwestern Prince William Sound, Alaska* (Final Report for USDA Forest Service Contract Number 53-0114-7-00132, 1994); James C. Haggarty, Christopher B. Wooley, Jon M. Erlandson and Aron Crowell, *The 1990 Exxon Cultural Resource Program: Site Protection and Maritime Cultural Ecology in Prince William Sound and the Gulf of Alaska* (Anchorage: Exxon Shipping Company and Exxon Company, USA, 1991), pp. 4-13.

[22] Donald W. Clark, "Prehistory of the Pacific Eskimo Region" (*Handbook of North American Indians*, Vol. 5: Arctic, Washington, D.C.: Smithsonian Institution, 1984), p. 137. This earlier culture, called the Paleoarctic tradition, has been identified by some archaeologists as including elements of a coastal-marine tradition. It is associated with the subsidence of Beringea and the rise in sea-levels following the last major glaciation; and it is found in southwestern Alaska and across the north pacific rim. The cultural pattern is related to a similar microblade tradition from the same time period in southeast Alaska, which has been called the Paleomarine tradition, as discussed below. See also Haggarty et al. 1991, op.cit., pp. 115-119.

[23] Michael R. Yarborough and Linda Finn Yarborough, "Regional Overview of Prince William Sound and the Pacific Coast of the Kenai Peninsula, Paper prepared for the International Seminar on the Origins, Development, and Spread of Prehistoric North Pacific-Bering Sea Maritime Cultures, Honolulu, June 1993, p.6

[24] *Ibid.*

[25] During the first millennium B.C., for example, the Kachemak people began to practice more complex burial customs that were characteristic of their descendants. Later assemblages of Kachemak culture included better-finished tools and hunting implements, a large variety of adornment artifacts (such as beads, pendants, figurines, labrets and ornamental pins), heavy stone lamps carved with human and animal figures, as well as evidence of very elaborate funeral practices. Clark op.cit., p.140

[26] Yarborough and Yarborough op.cit., p. 6

[27] *Ibid.*

[28] *Ibid.*, pp.7-8

[29] Clark, op.cit. (1984), pp.145-46

[30] See Yarborough and Yarborough, p.9. Since de Laguna's Yakutat archeology is largely that of the Eyak, this statement indicates the degree of similarity with the Eyak culture as well as the Tlingit.

[31] The Alutiiq are the southernmost of Alaska's Eskimo cultural groups. They are also referred to as the Pacific Eskimo or Pacific Yupik, and are distinguished from the Yupik, Siberian Yupik and the Inupiaq-speaking peoples in western and northern Alaska. These are the four major language and cultural divisions of the Arctic Eskimo people represented in Alaska. This discussion of the Chugach is derived principally from the following sources: Kaj Birket-Smith, *The Chugach Eskimo*, Nationalmuseets Skrifter, Ethnografisk Raekke VI, Copenhagen, 1953; Donald W. Clark, "Pacific Eskimo: Historical Ethnography," *Handbook of North American Indians*, Vol. 5: Arctic, Washington, D.C.: Smithsonian Institution, 1984; and Frederica de Laguna, *Chugach Prehistory: The Archaeology of Prince William Sound, Alaska*, Seattle: University of Washington Press, 1956, and "Eyak," *Handbook of North American Indians*, Vol. 7: Northwest Coast, Washington, D.C.: Smithsonian Institution, 1990.

[32] de Laguna suggests that the easternmost Chugach band may not have permanently occupied the mainland east of the Copper River and specifically the village named "Chilkat" on the Bering River at the head of Controller Bay, after which the band was named. She argues that there was probably earlier (prehistoric) Eyak occupation because of the tradition that an Eyak clan obtained their beaver crest in the vicinity, and that the name of the village is itself Tlingit in origin.

[33] See Kaj Birket-Smith, *The Chugach Eskimo*, Nationalmuseets Skrifter, Ethnografisk Raekke VI, Copenhagen, 1953.

[34] The principal sources on the Eyak are Kaj Birket-Smith and Frederica de Laguna, *The Eyak Indians of the Copper River Delta, Alaska*, Copenhagen: Levin and Munksgaard, 1938; and Frederica de Laguna, "Eyak," *Handbook of North American Indians*, Vol. 7: Northwest Coast, Washington, D.C.: Smithsonian Institution, 1990.

[35] Frederica de Laguna, "Eyak," *Handbook of North American Indians*, Vol. 7: Northwest Coast, Washington, D.C.: Smithsonian Institution, 1990, p.189

[36] However, there were two groups that each formed somewhat separate social groups within their respective moieties, and who referred to themselves as 'the Wolf People' and 'the Bark House People.' According to de Laguna, these groups were originally Tlingit groups who migrated from Katalla, the nearest Tlingit village, and were adopted into the respective Eyak moieties.

[37] The principal sources for this discussion are Cornelius Osgood, *The Ethnography of the Tanaina*, Yale University Publications in Anthropology Number 16, New Haven: The Human Relations Area Files, 1976 (1937) and Joan B. Townsend, "Tanaina," *Handbook of North American Indians*, Vol. 6: Subarctic, Washington, D.C.: Smithsonian Institution, 1981.

[38] Cornelius Osgood, *The Ethnography of the Tanaina*, Yale University Publications in Anthropology Number 16, New Haven: The Human Relations Area Files, 1976 (1937), p. 19

[39] Osgood considers the Kachemak Bay Tanaina (Seldovia area) to be a separate subregional group from the Kenai Tanaina, while Townsend includes all of Kenai Peninsula Tanaina within the Kenai Society, with the exception of the coast of Turnagain Arm (and the village at Point Possession) which is put in with the Susitna Society. Townsend divides the Kenai Peninsula Tanaina into the following subregional variants: East Foreland Tanaina, Kenai River Tanaina, Kenai Mountain Tanaina, and Seldovia Tanaina. See Joan B. Townsend, "Tanaina," *Handbook of North American Indians*, Vol. 6: Subarctic, Washington, D.C.: Smithsonian Institution, 1981, p.625.

[40] Osgood listed 10 clans in one moiety and five in the other, while Townsend (p.631) states there were between 11 and 18 clans.

[41] The principal sources for this discussion are Stanley D. Davis, "Prehistory of Southeastern Alaska," *Handbook of North American Indians*, Vol. 7: Northwest Coast, Washington, D.C.: Smithsonian Institution, 1990, and Katherine L. Arndt, Russell H. Sackett and James A. Ketz, *A Cultural Resource Overview of the Tongass National Forest, Alaska*, Part 1: Overview, Juneau: Tongass National Forest Region 10, 1987, pp. 54-84

[42] Katherine L. Arndt, Russell H. Sackett and James A. Ketz, *A Cultural Resource Overview of the Tongass National Forest, Alaska*, Part 1: Overview, Juneau: Tongass National Forest Region 10, 1987, p. 84

[43] The Tsimshian Indians of the Ketchikan area

originated in British Columbia and moved to Annette Island in 1887 under the influence of the missionary William Duncan; in the twentieth century this group formed the largest component of the Native community in Ketchikan.

[44] Walter R. Goldschmidt and Theodore H. Haas, *Possessory Rights of the Natives of Southeastern Alaska*, A Report to the Commissioner of Indian Affairs, Chicago: Office of Indian Affairs, 1946. The primary sources for this section are Frederica de Laguna, "Tlingit," *Handbook of North American Indians*, Vol. 7: Northwest Coast, Washington, D.C.: Smithsonian Institution, 1990, George Thorton Emmons, *The Tlingit Indians*, edited and additions by Frederica de Laguna, Seattle: University of Washington Press, 1991, and Kalvero Oberg, *The Social Economy of the Tlingit Indians*, Seattle: University of Washington Press, 1973.

[45] Frederica de Laguna, "Tlingit," *Handbook of North American Indians*, Vol. 7: Northwest Coast, Washington, D.C.: Smithsonian Institution, 1990, p. 227

[46] This complex system of property rights was acknowledged and described in the judgement of the Tlingit and Haida claims (*Tlingit and Haida Indians of Alaska v. United States*, Ct. Cls. 1959, Opinion pp. 4-5, 49-52.)

[47] Margaret B. Blackman, "Haida: Traditional Culture," in *Handbook of North American Indians*, v. 7, Northwest Coast (Washington, D.C.: Smithsonian Institution, 1999), pp.240-260.

[48] See George T. Emmons, *The Tahltan Indians*, Anthropological Publications, Vol. IV, No. 1, University of Pennsylvania Museum, 1911; Franz Boas, Fifth Report on the Indians of Canada: the Northwestern Tribes of Canada, in Report of the British Association for the Advancement of Science, Vol. 34, London, 1895, pp. 552-569; and W.H. Collison, In the Wake of the War Canoe (New York: E.P. Dutton and Company, 1915).

[49] *Ibid.*

[50] *Ibid.*

[51] Later, another Russian party obtained a Chugach account of this encounter, which confirmed that the people fled when the Europeans came to land; see Hubert Howe Bancroft, *History of Alaska*, San Francisco: A.L. Bancroft and Co., 1884, pp.80-81; Kaj Birket-Smith and Frederica de Laguna, *The Eyak Indians of the Copper River Delta, Alaska*, Copenhagen: Levin and Munksgaard, 1938, pp.345-49. This section is drawn from many sources, including Katherine L. Arndt, Russell H. Sackett and James A. Ketz, *A Cultural Resource Overview of the Tongass National Forest, Alaska*, Part 1: Overview, Juneau: Tongass National Forest Region 10, 1987; Hubert Howe Bancroft, *History of Alaska*, San Francisco: A.L. Bancroft and Co., 1884; Kaj Birket-Smith, *The Chugach Eskimo*, Nationalmuseets Skrifter, Ethnografisk Raekke VI, Copenhagen, 1953; Kaj Birket-Smith and Frederica de Laguna, *The Eyak Indians of the Copper River Delta, Alaska*, Copenhagen: Levin and Munksgaard, 1938; Aurel Krause, *The Tlingit Indians*, Seattle: University of Washington Press, 1979 (1956); Charles W. Smythe, *A Study of Five Communities*, Appendix A: History of Occupation and Use, Report prepared for the U.S.D.A. Forest Service and U.S.D.O.I. Bureaus of Land Management and Indian Affairs by Institute of Social and Economic Research University of Alaska (Lee Gorsuch and Steve Colt), Charles W. Smythe and Bart K. Garber, 1994

[51] He noted their umiat (skin boats) and two-holed kayaks, and also blue glass trade beads and iron in their possession which indicated to him that contact with European traders had already taken place; see Kaj Birket-Smith, *The Chugach Eskimo*, Nationalmuseets Skrifter, Ethnografisk Raekke VI, Copenhagen, 1953, p.9

[52] Cook noted the use of the Aleut-style double-bladed kayak paddle, which suggests that the Eskimo were sent by the Russians to this area in search of sea otter. Cook explored the inlet believing it was the outlet of a large river; and it was first named Cook's River on his charts. After sending boats to explore Knik River and Turnagain Arm, from which the latter derives its name, the disappointed Cook was forced to turn back. He then proceeded past Kodiak Island down the Alaska Peninsula into country in Russian possession, and sailed through Unimak Pass into the Bering Sea where he continued his search along the coast for the northwest passage. Hubert Howe Bancroft, *History of Alaska*, San Francisco: A.L. Bancroft and Co., 1884, pp. 206-208

[53] By 1783, the fur-bearing populations of the Aleutians and the Alaska Peninsula were disappearing due to over-hunting. Hubert Howe Bancroft, *History of Alaska*, San Francisco: A.L. Bancroft and Co., 1884, p. 187

[54] See Hubert Howe Bancroft, *History of Alaska*, San Francisco: A.L. Bancroft and Co., 1884, pp. 186-191 and Kaj Birket-Smith and Frederica de Laguna, *The Eyak Indians of the Copper River Delta, Alaska*, Copenhagen: Levin and Munksgaard, 1938, p.356. In addition, the loss of half of Zaikof's men (to scurvy) while overwintering at Montague Island discouraged further Russian expansion into the region for several years. The focus of this Russian company's activity soon shifted to the Pribilof Islands, which were discovered in 1786, and the harvesting of pelts from the fur seal colony found there.

[55] Hubert Howe Bancroft, *History of Alaska*, San Francisco: A.L. Bancroft and Co., 1884, p. 240, 251. It

was probably during this period, under the influence of European trade, that residents of the formerly more numerous settlements in Cook Inlet converged at fewer locations, and the headmen of Tanaina bands accumulated unprecedented wealth.

[56] Kaj Birket-Smith and Frederica de Laguna, *The Eyak Indians of the Copper River Delta, Alaska*, Copenhagen: Levin and Munksgaard, 1938, p.358

[57] Hubert Howe Bancroft, *History of Alaska*, San Francisco: A.L. Bancroft and Co., 1884, pp. 227-30, 320-21, 334-45. The effrontery and crimes of the rival company had so incensed the Kenai Tanaina that the Skilak Lake group was reportedly forming a union with the western Cook Inlet Tanaina bands and the Chugach to drive the Russians from the Kenai.

[58] The Russians made several attempts at exploration of the Copper River between 1796 and 1847, some of which were massacred by Ahtna, and no further expeditions were made until the Americans resumed exploration in 1884 and '85 when it was proven that the Copper River did not provide a practical route to the interior. Kaj Birket-Smith and Frederica de Laguna, *The Eyak Indians of the Copper River Delta, Alaska*, Copenhagen: Levin and Munksgaard, 1938, p.360

[59] Hubert Howe Bancroft, *History of Alaska*, San Francisco: A.L. Bancroft and Co., 1884, pp. 401-413

[60] *Ibid.*

[61] *Ibid.*

[62] Russian profits were affected both by the decline of the sea otter population and by the success of the British and American ships that travelled in southeast Alaska. After 1800, the decline in sea otter in Alaska began to seriously reduce the profits of the Company; and sea otter were nearly extinct in southeast Alaska by about 1825. The Russians were also hampered in their competition with British and American traders because their prices were fixed below adequate levels by headquarters in St. Petersburg.

[63] The Tlingit supplied halibut, porpoise, whale blubber, bark (to cover sheds and barracks), bird eggs, birds, roots and grasses, berries, deer, mountain sheep, crabs, shellfish, and handicrafts (hats, blankets, masks, pipes, etc.), and received tobacco, iron pots, axes, glassware, linen, potatoes, flour, and from the company woolen blankets & copper pots.

[64] In 1834, the Russians established a small station on Wrangell Island to forestall the establishment of a British post up the Stikine River, and they backed up the Stikine Tlingit who stated they would resort to warfare to defend their control of the Stikine River trade route against the Hudson's Bay Company. After a diplomatic resolution of these differences, the Russians agreed to lease the littoral area of southeast Alaska to the Hudson's Bay Company, and in 1839 the British replaced the Russians at Wrangell. However, the Britons returned to trading by ship after five years, and another settlement was not established at Wrangell until the first gold rush of the 1860s.

[65] Joan B. Townsend, "Tanaina," *Handbook of North American Indians*, Vol. 6: Subarctic, Washington, D.C.: Smithsonian Institution, 1981, p.636; Aurel Krause, *The Tlingit Indians*, Seattle: University of Washington Press, 1979 (1956), p.13

[66] Ivan Petroff, *Report on the Population, Industries, and Resources of Alaska*, Department of the Interior Census Office, Washington: Government Printing Office, 1884, p. 26-29; see Kaj Birket-Smith, The Chugach Eskimo, Nationalmuseets Srifter, Ethnografisk Raekke VI, Copenhagen, 1953, p. 11.

[67] Census figures from the annual report of the holy synod of the Russian Orthodox Church, "as furnished by the priests and missionaries stationed in the colonies," and, according to Petroff, "including nearly all the Natives under immediate control of the company." Ivan Petroff, *Report on the Population, Industries, and Resources of Alaska*, Department of the Interior Census Office, Washington: Government Printing Office, 1884, p. 38

[68] Petroff, *Report*, pp. 26-29.

[69] The U.S. Court of Claims identified 32 villages as of 1867, while Swanton, based on fieldwork conducted in 1904, enumerated 40 Tlingit towns, "ancient and modern," which he said was an incomplete listing. A map prepared by Lt. Emmons for the Alaska Boundary Tribunal shortly after the turn of the century provides a similar figure.

[70] *Ibid.*

[71] Angoon was likewise bombarded by the Navy in 1882. In these cases, the Tlingit had killed, or demanded payment from, a white person as compensation for the wrongful death of one of their own tribe; and in doing so they had acted according to Tlingit laws which sanctioned and required retaliation in kind or payment in lieu of human sacrifice.

[72] U.S. Court of Claims, The Tlingit and Haida Indians of Alaska *v.* The United States, Opinion and Findings of Facts, Case No. 47900, Decided October 7, 1959; George Thornton Emmons, A Report on the Condition and Needs of the Natives of Alaska, 58th Congress, 3rd Session, Senate Document No. 106, January 19, 1905; Ernest Gruening, *The State of Alaska*, New York: Random House, 1954

[73] These settlement trends are discussed in George W. Rogers, *Alaska in Transition: The Southeast Region*, Baltimore: Johns Hopkins University Press, 1960, pp. 198-214

[74] *Ibid.*

[75] The Act of 1884 included the first provisions for a

civil government for the Territory of Alaska, including a judicial branch for the administration of American law, which ended the period of military administration.

[76] See Rogers, *Alaska in Transition*, pp. 198-214.

[77] *Ibid.*

[78] Another American established the first and only trading post at the Eyak village of Alaganik, probably in 1899. B-S & de Laguna p. 360-61, Porter 1890:66-67

[79] Aurel Krause, *The Tlingit Indians*, Seattle: University of Washington Press, 1979 (1956), pp. 13-14

[80] In 1890, Nuchek had a population of 120 Chugach Eskimo, 18 creoles (mixed with Russian ancestry) and seven whites; the village of Tatitlek had 53 Chugach and about 36 creoles; Kaniklik was inhabited by 73 Chugach; and there were 71 Chugach resident at Chenega, which was also the location of a fishing station for one of the Cordova canneries. Porter

[81] Frederica de Laguna, *Chugach Prehistory: The Archaeology of Prince William Sound, Alaska*, Seattle: University of Washington Press, 1956, p. 28

[82] Frederica de Laguna, *Chugach Prehistory: The Archaeology of Prince William Sound, Alaska*, Seattle: University of Washington Press, 1956, p. 12

[83] The railroad was the Copper River and Northwestern Railroad. The first shipment of copper ore from the Kennecott-Bonanza Mine took place in 1911; and for the period from 1915-24 the production generally exceeded 50 million pounds per year. After 1924, the output of copper declined rapidly, and the Kennecott mines closed down for the first time in 1932. David T. Kresge, Thomas A. Morehouse and George W. Rogers, *Issues in Alaska Development*, University of Alaska-Anchorage, Institute of Social and Economic Development, Seattle: University of Washington Press, 1977, p. 27

[84] Frederica de Laguna, *Chugach Prehistory: The Archaeology of Prince William Sound, Alaska*, Seattle: University of Washington Press, 1956, p. 35-6

[85] John F.C. Johnson, *Chugach Legends: Stories and Photographs of the Chugach Region*, Anchorage: Chugach Alaska Corporation, 1984, p. vii

[86] Robert P. Porter, *Report on Population and Resources of Alaska at the Eleventh Census: 1890*, Department of the Interior Census Office, Washington, D.C.: Government Printing Office, 1890, p.68

[87] Ivan Petroff, *Report on the Population, Industries, and Resources of Alaska*, Department of the Interior Census Office, Washington: Government Printing Office, 1884, p.29

[88] Craig Mischler, "Tanaina Ethnohistory on the Northern Kenai Peninsula," *Progress Report Project F-021-2(15)/(A09812) Sterling Highway Archaeological Mitigation: Phase I Excavations at Four Sites on the Kenai Peninsula*, ed. by Charles E. Holmes, Report Prepared by Division of Geological and Geophysical Surveys for Alaska Department of Transportation and Public Facilities, 1985, pp. 55-56

[89] Joan B. Townsend, "Tanaina," *Handbook of North American Indians*, Vol. 6: Subarctic, Washington, D.C.: Smithsonian Institution, 1981, p. 637

[90] Robert P. Porter, *Report on Population and Resources of Alaska at the Eleventh Census: 1890*, Department of the Interior Census Office, Washington, D.C.: Government Printing Office, 1890, pp. 69-70

[91] Craig Mischler, "Tanaina Ethnohistory on the Northern Kenai Peninsula," *Progress Report Project F-021-2(15)/(A09812) Sterling Highway Archaeological Mitigation: Phase I Excavations at Four Sites on the Kenai Peninsula*, ed. by Charles E. Holmes, Report Prepared by Division of Geological and Geophysical Surveys for Alaska Department of Transportation and Public Facilities, 1985, pp.45-47, 52-53

Chapter II

Prelude to ANCSA: Acknowledgement of Native Property Rights

The southeast Indians first expressed their objections to the sale of Alaska and what they viewed as a usurpation of their territorial and political sovereignty as early as 1867, when they first met with representatives of the American government that had purchased Alaska without their consent. But the subsequent actions of the new settlers, the authority of the new government (which was backed up by the force of military weaponry), and the ideology of missionaries and teachers all worked against them. In 1898, for example, the leaders of several Indian groups from Wrangell, Juneau, Douglas and Hoonah were rebuffed by the Governor of Alaska, when they expressed their hope of recovering their land, or being paid for it, and retaining their rights and access to the resources that were being devastated by the onslaught of new settlers and commercial enterprises:

> ... By and by they began to build canneries and take the creeks away from us, where they make salmon and when we told them these creeks belong to us, they would not pay attention to us and said all this country belonged to President, the big chief at Washington. We have places where we used to trap furs; now the white man get up on these grounds. They tell us that they are hunting for gold ... There are animals and fish at places where they make homes. ... We make this complaint because we are very poor now. The time will come when we will not have anything left. The money and everything else in this country will be the property of the white man, and our people will have nothing. We meet here tonight for the purpose for you to write to the chief at Washington and to let him know our complaint. We also ask him to return our creeks and the hunting grounds that white people have taken away from us.[1]

These meetings were cited in the 1959 decision recognizing Tlingit and Haida land claims to southeast Alaska, which held that the Indians had not voluntarily given up their aboriginal property rights during the period of American occupation.

The Tlingit and Haida Land Claims Settlement in Southeast Alaska, 1935-1968

The history of the Tlingit and Haida land claims begins with the Alaska Native Brotherhood (ANB) and Sisterhood (ANS). The ANB is a civic organization of the Indians of southeast Alaska started with encouragement from the Bureau of Education (the forerunner of the Bureau of Indian Affairs) and missionaries of the Sheldon Jackson School and Russian Orthodox Church in Sitka; its first meeting was in Juneau in 1912. Its purpose was the improvement of the socioeconomic status of Indians, and initially the organization espoused cultural assimilation and abandonment of traditional practices as the methods to acheive their goal. But by 1920, under the influence of Louis and William Paul, a more activist approach was adopted which became the hallmark of the organization: the pursuit of specific issues through the court system by bringing test cases to trial, funded through contributions from members. The organization became more focused on ending discrimination and achieving basic civil rights (such as the right to vote, freedom of education, non-discrimination in employment opportunities, etc.). In the 1920s, all the southeastern communities formed local chapters of both the ANB and the ANS, and went to court challenging the denial of the Indian vote and attendance at publicly funded, all-white schools.

The idea to pursue Indian claims for the loss of lands and property rights in Alaska is attributed to one of the founders of ANB, a Tsimshian named Peter Simpson, who first posed the question, "Whose land is this?" and urged the Native leaders to take action. The noted Tlingit attorney, William L. Paul, Sr., initiated the process in Haines at the 1929 annual ANB convention. Paul invited Judge James Wickersham to address the convention, and Wickersham called upon the ANB to pursue Congressional action to redress the loss of land and the timber on it. He read a list of Indian communities that should participate in this action together: Angoon, Douglas, Haines, Hoonah, Hydaburg, Juneau, Kake, Kasaan, Ketchikan, Klukwan, Petersburg, Sitka and Wrangell.[2] The impetus for the lawsuit was not confined to land rights. William Paul has said that he brought the land claims idea to the convention because he felt that the Natives were not winning the fight against industry-supported fish traps.[3]

So in 1929, the ANB made an historic decision to pursue federal standing to bring a claims action against the United States government for the loss of tribal property, and of its use and possession, in Alaska.[4] Working with the Territorial Congressional delegate, members of the ANB helped draft and introduce legislation, and in 1935 Anthony Dimond succeeded in achieving passage of the special jurisdictional act granting authority to the Tlingit and Haida Indians of Alaska to pursue these claims. Later that year, the first organizational meeting of the Tlingit and Haida Indians of Alaska took place in Wrangell, concurrently with the ANB annual convention. After a series of delays, a BIA-approved contract was signed with attorneys selected

by the Tlingit and Haida Indians and the case was filed on October 1, 1947. There were 18 communities represented in the case. In 1954, descendants of traditional Tlingit and Haida tribes, who were recognized as chiefs or active leaders of Tlingit and Haida clans, intervened as parties plaintiff in the suit; and the following tribes were represented: Chilkat, Auk, Taku, Hoonah, Yakutat, Lituya, Sitka, Angoon, Kake, Kuiu, Henya, Stikine, Tongass, Sanya, and Kaigani (Haida). A comparable lawsuit was also filed before the Indian Claims Commission with corresponding plaintiffs in the 1950s.

On October 7, 1959, the U.S. Court of Claims held that the Tlingit and Haida Indians had established their claims of aboriginal Indian title to the land in Southeast Alaska and were entitled to recover compensation for the uncompensated taking of their lands by the United States, and for the failure or refusal of the United States to protect the interest of the Indians in their lands or their hunting and fishing rights. The court held that the Tlingit and Haida Indians exclusively used and occupied a large area of Southeast Alaska at the time of purchase of Alaska in 1867, and that the land had not been abandoned by the Indians prior to the dates of taking.

The court found that some of the land and water used and occupied by the Indians in 1867 were subsequently taken outright by the Government, including the various areas set aside for the Tongass National Forest and Glacier Bay National Monument, and the Annette Islands reserve. The court also held that part of the land and water rights was subsequently lost through the failure of the United States to exempt such property from the operation of the general land laws in Alaska and from the failure of the Government to enforce such minimum protection as was authorized in the laws (particularly section 8 of the Organic Act of Alaska). This included areas lost to homesteads, mineral leases, mining and industrial sites, and townsites established by white settlers.[5]

A second trial followed this one which established the value of the possessory rights lost and for which compensation was made by the federal government. On January 19, 1968, the U.S. Court of Claims decided that the Tlingit and Haida Indians were entitled to recover $7,546,053.80 for the loss of their land. In this case, the Court established standards of valuation for Indian title lands and determined the acreage to which such values applied, including townsites, mineral lands and timber lands in areas of Indian title land taken or patented by the United States. This included the recognition of Indian title in the townsites that were established by white settlers (Douglas, Haines, Juneau, Ketchikan, Petersburg, Sitka, Skagway and Wrangell), as well as the town of Metlakatla on the Annette Island Reserve. The Court also determined the value of the lost Indian fishing rights ($8,388,315); however, the Court disallowed compensation for the Indians' lost fishing rights. These rights were subsequently pursued through the pending property claims action before the Indian Claims Commission, originally filed in 1954, but there was no decision on the merits by the time of the passage of the Alaska Native Claims Settlement Act (ANCSA) in December of 1971. The Commission subsequently ruled that ANCSA extinguished all such claims and the proceeding became a moot issue.

The Tlingit and Haida settlement established aboriginal Indian title to nearly all of Southeast Alaska, and determined that the land had not been abandoned at the time of taking by the federal government. Although the southeast Indians received compensation for the national forest, national park, townsite, and other lands that were taken from them, this did not constitute all of the Indian owned land in the southeast region. There were 2,628,207 acres of land in southeast Alaska that remained in aboriginal Indian title and belonged to the Tlingit and Haida Indians, as identified in the 1959 court decision. These other lands became the basis for the participation of the southeast Indians in the subsequent statewide Alaska Native land claims settlement in 1971. In the 1960s, the Central Council of the Tlingit and Haida Indians was reconstituted with expanded authority granted by Congress as a regional tribal organization overseeing the distribution and use of the claims compensation. With the transfer of contracting authority by the Bureau of Indian Affairs, the Central Council assumed its current role as the major tribal governmental services organization in southeast Alaska.[6]

Aboriginal Claims, and the Development of the Pulpwood Industry in Southeast Alaska

The Forest Service first offered acreage in the Tongass for a pulpwood sale in 1913, recognizing that the pulp industry would be the best use of the forest (hemlock comprised about 55 percent of the potential timber resources in the forest).[7] The sale was not completed because the applicant could not obtain financing, and a subsequent offering in 1917 had similar results. Forest Service officials pursued efforts to establish a pulp industry in the Tongass and, by the early 1920s, had identified 14 areas of potential timber sales with mill sites. Forest Service Chief Greeley had a deep personal interest in the development of a pulp program in

Alaska, and industrialists were taken around to view potential sites on the Forest Service boat.[8] But pulp sales in the 1920s and '30s were unproductive, although one pulp mill operated at Speel River about 30 miles south of Juneau in 1922-23. Forest Service efforts succeeded under the leadership of B. Frank Heintzleman who first came to Alaska with the service in 1918 and served as Regional Forester from 1937-53, after which he replaced Ernest Gruening as Governor of the Territory of Alaska. Heintzleman's major interest was to recruit and promote a pulp industry in Alaska, which would help Alaska develop and advance the welfare of the region.[9] His efforts were consistent with established Forest Service policy to support and encourage the settlement and development of Alaska. The early Forest Service policy towards development of the Tongass was to encourage the industrial use of forest resources as an aid to community settlement and economic stability. In 1926, the following "Statement of Priorities" was prepared for the Tongass:

> All policies and practices should be developed in such a manner as will contribute in the largest possible way to the welfare and prosperity of the individuals and communities which will eventually constitute a State of the Union, so far as this can be done without defeating the fundamental purposes for which National Forests are established...
>
> Encourage in every possible manner compatible with the best interests of the Forest Service and the public in general, the development of a timber and paper manufacturing industry in Alaska which will utilize timber growth up to the full sustained yield basis in coordination with possible ater powers naturally available.[10]

Tongass Timber Act of 1947

In the mid-1940s, Heintzleman revived a Ketchikan area pulpwood timber sale which first failed in 1927, while Senator Magnuson of Washington and Delegate Bartlett of Alaska played a major part in the development of the Tongass Timber Act of 1947. This act allowed for long-term timber sales and enabled the Forest Service to enter into long-term contracts with pulp mill developers. A single bid was accepted in 1948 for the Ketchikan sale, and following negotiation of a 50-year timber purchase agreement, the Forest Service awarded a contract to the Ketchikan Pulp Company in 1951. In the agreement, the Forest Service stated objectives that were unchanged since the 1920s: the Forest Service was "deeply interested in encouraging and bringing about the industrial development of Alaska."[11] At this time, new national security goals that arose after World War II were to be served by the settlement and development in Alaska.

The Ketchikan Pulp Company agreed to establish a pulp mill and develop water supplies and other facilities for the enterprise and, in return for the unusual risks and long-term investment associated with the "pioneering undertaking," the Forest Service agreed to afford the opportunity to purchase supplies of timber for permanent operation of the enterprise through sustained yield management of the Tongass National Forest.[12] A second 50-year contract within the Tongass was awarded in 1957 to the Japanese-owned Alaska Pulp Company in Sitka. This agreement served as an element of the post-war redevelopment efforts of the Japanese economy on the part of the United States.

These commercial objectives of the Forest Service were also congruent with local sentiment supporting statehood, community settlement and development of Alaska's resources for the benefit of its permanent residents. The development of the pulp industry had strong support from Alaska's governor, who saw the significance of this enterprise in terms of creating stable employment on a year-round basis in a region that had been dominated by the canned salmon industry, which only provided seasonal opportunities filled largely by non-residents who left the state at the end of the fishing period. The salmon fishing industry was long the principal component in the regional economy of southeast Alaska, and the reckless exploitation of the salmon stocks engendered by the commercial use of fish traps threatened the very resource on which it was based.

Development of the pulp industry was also expected to benefit the Indians of southeast Alaska, whose principal economic activity — commercial seine fishing — was significantly affected by the decline in fish stocks in the 1940s and the subsequent crash in the 1950s. The future economic well-being of the Native population was associated with the expected employment opportunities in the new pulp timber industry that was developing in Ketchikan and Sitka.[13] While the development of the pulp industry in Ketchikan prompted a substantial migration of Tlingit and Haida Indians from Prince of Wales communities into that city, the principal economic benefits accruing to the Indians resulted from employment in construction and other positions associated with the development of the community, rather than direct employment in the pulp industry itself.[14]

The Tongass Timber Act also included a provision regarding unresolved Indian claims to the Tongass which potentially undermined the ability of the Forest

Service to enter into the long-term contracts necessary for the development of a pulpwood industry. The legislation stipulated that the receipts from the long-term timber sales would be placed in a special escrow fund until the outstanding claims of aboriginal Indian title to the forest were settled.[15] The law also clearly entailed no Congressional recognition of such rights: nothing in the act either affirmed or denied the validity of native claims, but in the event that such claims were found to be valid, it provided that the funds would be allocated to the payment of compensation.

The escrow provision was proposed as a compromise measure by the Department of Interior in response to the "unmitigated chaos in land titles and land claims" in southeast Alaska, which included Forest Service opposition to the recognition of traditional Indian use and aboriginal title.[16] If Rakestraw's treatment of the Indian possessory rights issue is revealing of the attitude within the Forest Service during the first half of this century, Indian land use and title were seen as a persistent problem of management on the Tongass that came to a head in the 1940s. At that juncture, he writes, Heintzleman's "ambition to establish a pulp industry in Alaska was badly complicated by the question of Native claims and possessory rights."[17] DOI efforts supporting such claims, such as backing passage of the 1935 jurisdictional act on behalf of the Tlingit and Haida Indians and moving to create large land and fisheries reserves in southeast, seriously conflicted with Forest Service plans for a pulpwood industry in Alaska.

Proposed Reservations in the Tongass

The New Deal policy of the Roosevelt administration, with Harold Ickes as Interior Secretary, was to recognize aboriginal rights to land and fisheries in Alaska and, founded on an acknowledgement of these rights, to support efforts to provide a land and resource base to Native communities for their economic benefit. The institutional and economic development of Indian reservations was the cornerstone of a new national Indian policy that empowered tribal groups to form governments and corporations to manage their communities and utilize the resources on their reservations, and that was codified in the Wheeler-Howard Act, or Indian Reorganization Act (IRA), of 1934 with support from the Department of the Interior. As discussed above, the Department of the Interior also supported the special jurisdictional act of 1935 under which the Tlingit and Haida Indian Tribes of Alaska were authorized to bring their land and fishery claims in court against the United States. William Paul was instrumental in this effort, with the full backing of the Alaska Native Brotherhood.

Because there was only one reservation in Alaska, many of the provisions did not apply in the territory. With key support from William Paul and the Secretary of the Interior, the Alaskan delegate succeeded in acquiring passage of IRA amendments in 1936 extending provisions of the act to Alaska. These amendments included granting authority to the Interior Secretary to create reservations in Alaska, a power he did not have in the lower 48 states. The efforts by the Interior Department to establish reservations in southeast Alaska over the next 15 years greatly alarmed the Forest Service, which opposed the principle of aboriginal rights.[18]

Following passage of the 1936 legislation extending the IRA to Alaska, the Department of the Interior conducted an investigation of the conditions and needs of Indian communities in southeast Alaska, which recommended the creation of reservations in the Tongass National Forest.[19] In 1937, an Interior solicitor gave the opinion that the Secretarial authority to establish reservations in Alaska extended to fisheries reserves over submerged lands under navigable waters adjacent to lands occupied by Alaska Natives, and in 1938 Interior proposed Alaska's first IRA corporation at Hydaburg including a reservation that extended over nearby waters. In 1942, Interior issued a second opinion, known as the Margate opinion, which stated that Indian fishing rights were violated by the operation of traps by and allocation of trap sites to non-Indians within reservations. The Margate opinion affirmed "that original occupancy establishes possessory rights in Alaskan waters and submerged lands, and that such rights have not been extinguished by any treaty, statute or administrative action."[20] The issue was over three non-Native fish traps that were located within the proposed Hydaburg reservation. The conclusion that aboriginal fishing rights are violated by the operation of fish traps by non-Natives in waters reserved for Indians prompted strong opposition on the part of the salmon packing industry, which objected strenuously to proposals for the establishment of fisheries reserves. As a result public hearings on aboriginal fishing rights scheduled for that year were delayed.

In 1944, hearings were held on the aboriginal claims related to the protection of fisheries in the communities of Hydaburg, Klawock and Kake. The hearing officer concluded that exclusive aboriginal possession of the waters (aboriginal fishing rights) had been abandoned, but he upheld rights to land based on occupancy and recommended the DOI investigate aboriginal claims throughout southeast so that Congress could compensate for losses, or so DOI could set aside reservations if

Congress did not compensate for them. Upon appeal to the Secretary, Ickes affirmed the loss of fishing rights but sustained rights to land, and he established an amount of land to be set aside for the three village reservations:

Hydaburg - 101,000 acres
Klawock - 95,000 acres
Kake - 77,000 acres

Prior to this time, the Department of the Interior had identified three options to protect fishing rights: 1) a legislative remedy offering financial compensation for deprivation of fishing rights; 2) an administrative action protecting rights through regulations such as gear and harvest limits; or 3) a secretarial order establishing reservations. But as a result of these fishery decisions, by 1945 the DOI was moving towards the third option for the resolution of aboriginal possessory claims. In 1946, the DOI sponsored an investigation of claims in the remaining villages in southeast, which was published in a report entitled *Possessory Rights of the Indians of Southeast Alaska*.[20] Subsequent investigations were expected for the remainder of the state. However, there was a change in administration in 1946 when Truman was elected President, Ickes was replaced by John A. Krug, and the Interior policy on aboriginal rights softened substantially after Ickes resigned.

The concept of Indian rights was challenged on several fronts during 1947, the year that the Tongass Timber Act became law. A decision in a case involving the federal condemnation of Indian-owned tidelands in Juneau (*Miller* v. *United States*, 159 F. 2d 997) held that aboriginal rights were extinguished by the Alaskan purchase, but they were compensable as individual interests because such were explicitly recognized in the 1884 Organic Act. There was substantial opposition to reservations expressed to Congressmen by representatives of the salmon packing industry, as well as by Governor Gruening and Delegate Bartlett. In chapter 25 of his history of the State of Alaska, Gruening describes the reservation policy as another instance of "federal overlords" mismanaging Alaska, and particularly singles out "the confusion created by Secretary Ickes's arbitrary and disingenuous efforts of impose his reactionary concepts upon the people of Alaska."[22] But Gruening and Bartlett both advocated for speedy resolution of aboriginal claims by the federal government either through granting land in fee simple or monetary compensation. Ironically, their position on reservations put them on the same side of the issue as the salmon canning industry, which they normally attacked fiercely for its economic and political domination of Alaskan affairs. It should also be noted that reservations were not unanimously supported within the Native community in southeast Alaska; several villages and the ANB had expressed their concerns over reservations which were viewed as a return to the past when they did not have citizenship rights to own property in fee simple, and were forced into a segregated school system. Finally in 1947, the Senate passed a resolution (Senate Joint Resolution No. 162) repealing the Secretary of Interior's authority to establish reservations in Alaska, but no corresponding action was taken in the House.

Secretarial authority to create reservations in Alaska was upheld in a 1949 supreme court decision over the validity of the Karluk reservation ordered in 1943.[23] In 1949, over the opposition of Gruening and Bartlett, Secretary Krug signed a secretarial order establishing a Hydaburg reservation of 100,000 acres, which was approved by referendum of Hydaburg residents in 1950.[24] This order included nearby waters, and the DOI sought the transfer of commercial fish traps within the reserve to the Indians of Hydaburg. When the operator, Libby, McNeil, and Libby, refused to turn over their traps, the federal government brought suit to enjoin the company from operating the traps inside the reservation. In a 1952 decision, the court held that the order creating the Hydaburg reservation was invalid and ruled in favor of the operator. The judge in this case, Mr. Folta, was the same person who ruled in 1947 that the Treaty of Cession extinguished aboriginal title in Alaska (*Miller* v. *United States*) and concluded that aboriginal fishing rights had been abandoned in the waters of southeast Alaska after the 1944 Interior hearings. The government chose not to appeal this decision, and after this ruling it abandoned efforts to establish reservations in Alaska. According to Naske, this was the outcome of a compromise over the Senate's resolution to repeal the Secretary of Interior's authority to establish reservations in Alaska: no further reservations would be created in Alaska until after statehood was achieved.[25]

Forest Service Opposition to Traditional Land Use and Aboriginal Rights

The Forest Service was deeply opposed to the recognition of aboriginal title to large areas of southeast Alaska and did not give credence to claims based on traditional land use and Indian occupancy for hunting, fishing and gathering activities. The Service preferred to delimit prior occupancy and aboriginal title based on physical evidence of actual use, such as garden sites, graves, fish houses, and smoke houses. The denial of Native land claims based on traditional use and occupancy, that is, using areas for hunting, fishing and gathering

activities, was also a common practice among other federal agencies in Alaska. For example, the Bureau of Land Management, the federal agency having custody of unreserved lands in Alaska, rejected hunting and fishing activities as proof of use and occupancy in applications for Native allotments under the 1906 Alaska Native Allotment Act. "Partly for this reason, only 101 allotments had been made in Alaska in the 56 years since the act had been adopted in Congress."[26]

According to Rakestraw, this policy applied in the way that the Forest Service carried out the provisions of the Forest Homestead Act of 1906, which was the first land law that enabled Indians to take up land in the Tongass, and it also characterized their response to the 1906 Alaska Native Allotment Act, which authorized the Secretary of Interior to allocate up to 160 acres of land to Indian family heads. However, the available evidence indicates that this policy developed first in practice, as it was not until the late 1940s and early 1950s that it begins to appear in written form in internal memos, correspondence and Congressional testimony. It continued in practice in the 1960s.

Although Rakestraw reports only one dispute between the Forest Service and Indians seeking to use the Tongass in a customary and traditional manner, conflicts were common since Forest Service personnel sought to protect the forest for specified public and private uses, while Tlingit Indians sought to continue their use of the coastal region for hunting, fishing and gathering.[27] Tlingit residents reported that during first half of this century, it was a common practice for Forest Service personnel to burn Indian cabins, trolling poles, and smokehouses to discourage Indians from entering upon and using land within the Tongass National Forest. According to statements by K.J. Metcalf, this continued in the 1960s, when "it was unofficial policy to remove as many smokehouses and what they would call abandoned structures as possible to eliminate land-use problems" by burning them down:

> The Forest Service had an unwritten policy that they did not want land to be transferred out of public ownership. And the way to ensure this was that whenever they could they would remove any cabins or smokehouses that appeared to be abandoned. ... It was a very common practice. People talked about it all the time. People would come in from the field and say they found an old smokehouse and burned it down or a cabin and burned it down. In fact, there was a concerted effort by people who were going into the field to remove these structures.[28]

John Sandor, however, who served his first tour in the Region from 1953 to 1962, and as Kasaan District Ranger from 1957-58 recalls no written or unwritten policy to burn Indian Allotment smokehouses or other structures. Abandoned structures that were unsafe to use and a potential nuisance were cleared and sometimes burned, which he thought contributed to the incorrect perception that there was a "policy" to clear Indian allotments.

This practice probably had a significant impact on the progress of approval of Indian allotments under the 1906 legislation, which remained in effect until the passage of ANCSA in 1971. Congressional review of the program in 1956 showed that a total of only 79 allotments had been made in Alaska in the 50 years since the law was enacted, leading to a judicial conclusion that there has been "minimal implementation" of the program.[29] Rakestraw does not describe the effects on Indian use of the numerous leases of forest lands granted to non-Natives for fox farms, one of the approved uses of the Tongass.

The Forest Service policy on Indian occupancy mirrors the findings of the court in the Miller decision from 1947, discussed above, which stated that for aboriginal use and occupancy to be compensable, it "must be notorious, exclusive and continuous and of such a nature as to leave visible evidence thereof, so as to put strangers upon notice that the land is in the use or occupancy of another, and the extent thereof must be readily apparent."[30] It also coincides with the position of Senator Butler who in 1948, with the support of the Department of Agriculture, proposed a Senate Resolution rescinding all orders of the Secretary of Interior establishing reservations in Alaska, and the authority under which they were issued, replacing it with authority for the Secretary to issue patents to Native "tribes and villages or individuals for town sites, villages, smokehouses, gardens, burial grounds, or missionary stations."[31]

There was an inevitable contradiction between western concepts of land use, measured in terms of a built environment and according to the agricultural origins of the homestead and allotment legislation, and the customary and traditional Indian practice of land occupancy characterized by flexibility and seasonal use of large expanses of territory with minimal physical impact on the environment. But underlying the Service's practices was a basic conflict of interest between its institutional mission and the traditional Indian occupancy and use, including subsistence, of land and water.

In the 1940s, Heintzleman was on the side of the salmon cannery industry which was equally threatened by the IRA reservation proposals and had mounted a major lobbying and public information program in opposition to DOI administrative policy and actions to recognize aboriginal claims and establish reservations. The Congressional lobbyist for the salmon canning interests continually used the aboriginal rights issue in arguments against statehood, in warnings about the confusion which would result from the land claims and criticizing the DOI for its erratic policies. In July of 1944, at about the time DOI announced it would hold hearings on the fishing rights issue in Hydaburg, Klawock and Kake, Heintzleman arranged a meeting between a Juneau attorney representing the salmon cannery interests and the Chief of the Forest Service, Mr. Watts, and his assistant, Mr. Grainger. The parties exchanged confidences and spent about two hours discussing the matter of Indian reservations and ancestral rights, which was reported in a letter by the attorney to the Alaska Packers Association:

> They [Watts, Grainger and Heintzleman] are very much concerned, and Mr. Watts says that it is the most serious thing facing Alaska. They are particularly concerned because of their efforts to get capital in here to develop the paper making industry. ...
> I am giving Mr. Grainger a copy of my Brief which I used here last summer in the argument on the Demurer as this goes into all phases of the question of ancestral rights ...
> I think these gentlemen will put up considerable opposition to any claims of the Indians which are backed by [Felix] Cohen's theories.
> P.S. Please treat as confidential what I have said about the Forest Service officials as I know they do not want to be quoted now.[32]

Unfortunately for the Forest Service, their views were not kept confidential. A letter from Heintzleman expounding this position was published in the *Yale Forest School News* in January of 1945, causing embarrassment to the Forest Service. As reported by Rakestraw,

> The judgements of the Department of Interior were alarming to the Forest Service. If Ickes's views were realized, the whole timber industry in southeast Alaska would be jeopardized. Pulp companies would be discouraged from making investments, since the right of the Forest Service to make timber sales would be in doubt. Heintzleman expounded his views in a letter to Harold Lutz. The effort to give Indians title to southeast Alaska, he wrote, was "under the theory that they are the owners of all the lands and resources through their heredity of aboriginal rights and that these rights have never been extinguished by the federal government." Heintzleman blamed the Department of Interior for the matter, particularly Secretary Ickes. "With the assistance of the Interior Department, and on the basis of some legal opinion given by the Secretary of Interior by the Solicitor's office of that department," he wrote, "each village, as S.E. Alaska has never had a tribal organization, has made application for hundreds of thousands of acres of land and tidewater fishing areas that blanket all the fishing sites and large areas of trolling grounds." He went on to summarize the existing laws under which the Indians could acquire land. He concluded, "The thought is often expressed by private citizens that the move to set up vast Indian reservations in S.E. Alaska is based, in large part, on a desire to eliminate the National Forests in Alaska."[33]

The establishment of reservations may have been seen by Forest Service officials as part of a DOI strategy to takeover the Forest Service: elsewhere Rakestraw reports that the Secretary of the Interior "was at this time deeply committed to transferring the Forest Service to the Interior Department."[34] However, the passage of the Tongass Timber Act in 1947 preserved the National Forests, established the framework for the development of the pulpwood industry, and deferred the question of aboriginal possessory rights to timber and land in southeast Alaska.

During this period, the Forest Service consistently advocated for the needs of the pulp and paper industry over the uses of Natives. In testifying on behalf of timber sales within the Tongass National Forest in 1947, a Forest Service official declared that the industry's needs required cutting areas important to Indians. After a representative of the DOI explained that berry-picking, hunting, trapping, and "a little log cutting for their own use" might support Native claims to about 10-15 percent of the forest, a Forest Service official asserted that "we cannot possibly stay out of the 10 percent."[35] In 1948, the Department of Agriculture expressed its agreement with the Senate's efforts to repeal the Interior Secretary's authority to establish reservations in Alaska, proposing instead a much more limited authority "to establish small Indian reservations covering areas in actual use for such purposes as villages, burial grounds, smoke houses, gardens, and missionary stations."[36] Similarly, in 1954 the Forest Service recommended that all Indian claims to the forest be

extinguished because of continuing uncertainty affecting the pulpwood industry: the agency explained to a Congressional committee that Indian claims "based largely on hunting, trapping, berry picking, fishing, firewood cutting, or other highly transitory and nomadic use by the Indians or their forebears inject a large amount of uncertainty into the prospective development of the pulp and paper industry in southeastern Alaska based on national forest timber."[37]

The commitment of the Forest Service to timber harvest objectives during this period later brought its actions into conflict the wider purposes of multiple use management. In a review of past Forest Service practices in the Tongass, Senators Metzenbaum and Tsongas provided this commentary in the following statement:

> Since the early 1950s ... the management of the Tongass National Forest has stressed logging to the virtual exclusion of all other values with resultant adverse impacts on fisheries, wildlife habitat, and wilderness. The primary goal of the Forest Service in the late '40s and '50s was to eventually cut most of the Tongass timber for pulp. At that time, the old growth forest was thought to be good for pulp production only.[38]

The Tee-Hit-Ton Case

In 1951, the Forest Service contracted for the sale of timber in the Wrangell area under the Tongass Timber Act. The sale area included 350,000 acres of land and 150 square miles of water which was the traditional territory belonging to the Tee-Hit-Ton Indians, a Tlingit clan from the community of Wrangell. The Tee-Hit-Ton, with their chief William Paul as the single witness, brought suit in the Court of Claims for compensation for the taking of timber by the United States from these lands. The Court of Claims ruled that the Indians did indeed hold the land according to original Indian title and right of occupancy prior to 1867, but it found that aboriginal title was an insufficient basis to grant compensation because there had been no government recognition of Indian occupancy after 1867.

The Tee-Hit-Ton appealed this decision to the Supreme Court, which upheld the finding in 1955 (348 U.S. 272). The Supreme Court did not deny the Tee-Hit-Ton claims of possession based on occupancy, thus repudiating the finding in the Miller case that the purchase of Alaska extinguished aboriginal title, but it awarded no compensation for the taking of timber since their occupancy had not been specifically recognized by congressional action or authority. The court stated that Indian occupancy was not a property right protected under the Fifth Amendment, but it is a right of occupancy granted by permission of the United States after conquest. In order for compensation to be awarded to Indian claimants, there must be a clear intent by Congress to recognize their *permanent* possessory rights in the lands occupied by them, not merely 'permissive occupation.' Such recognition was explicit in the decision of the 1959 Tlingit and Haida land claims lawsuit, authorized by the 1935 jurisdictional act, and in 1971 with the passage of ANCSA legislation.

The Tee-Hit-Ton asserted that the early land laws in Alaska sufficiently recognized the clan's possessory rights to the land in question, and referred to provisions in the Organic Act of 1884 and the Act of June 6, 1890, which command that Indians and certain other persons "shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them." The court examined these statutes and legislative history and did not find support for the contention, and decided that what was intended was to retain the *status quo* until further Congressional or judicial action was taken.

But three justices, including the chief justice, dissented, finding otherwise both in the language and legislative history of the 1884 Organic Act. Writing for the minority, Douglas reported that the act's intent was clearly stated in the record of the debates, to protect to the fullest extent of the law the rights of the Indians and the residents who had settled there and not to diminish the rights of the Indians in any way. This intent was acknowledged in statements on the record by Senator Plumb of Kansas, who introduced the words, "or now claimed by them," even though he also facetiously suggested that the language "actually in their use or occupation" might be construed as no larger than two by six feet [that is, the body space for each Native person]. In the words of Justice Douglas, "Senator Harrison replied that it was the intention of the committee "to save from all possible invasion the rights of the Indian residents of Alaska." Harrison gave emphasis to the point by adding:

> It was the object of the committee absolutely to save the rights of all occupying Indians in that Territory until the report which is provided for in another section of the bill could be made, when the Secretary of the Interior could ascertain what their claims were and could definitely define any reservations that were necessary to be set apart for their use. We did not intend to allow any invasion of the territory by which private rights could be acquired by any person except in so far as it was necessary

> in order to establish title to mining claims in the Territory. Believing that that would occupy but the smallest portion of the territory here and there, isolated and detached and small quantities of ground, we thought the reservation of lands occupied by the Indians or by anybody else was a sufficient guard against any serious invasion of their rights.[39]

Of these words, Douglas wrote, "The conclusion seems clear that Congress in the 1884 Act recognized the claims of these Indians to their Alaskan lands." It is interesting to note that Secretary of the Interior Ickes also referred to this provision in departmental testimony in favor of the 1936 IRA amendments conferring secretarial authority to establish reservations in Alaska, which he argued would enable the United States to fulfill its obligation to Indians under the 1884 act.

The Tongass Timber Act of 1947, Tlingit and Haida land settlements, and Alaskan Statehood achieved in 1959, are all integral parts of the Alaska Native Claims Settlement Act of 1971 (ANCSA), and its sequel, the Alaska National Interest Lands Conservation Act in 1980 (ANILCA). The Alaska Native land claims settlements, statehood, and multiple-use, environmental, and wilderness legislation approved by Congress in the 1960s markedly changed the policies, practices, and procedures for National Forest Management in the nineteen seventies and beyond.

Reference Notes

[1] Statement by Chief Kadishan of Wrangell to Governor John G. Brady, December 14, 1898, in "The Canoe Rocks — We Do Not Know What Will Become of Us," The Complete Transcript of a Meeting Between Governor John Green Brady of Alaska and a Group of Tlingit Chiefs, Juneau, December 14, 1898, ed. by Ted C. Hinckley, The Western Historical Quarterly, July 1970, pp. 270-71

[2] Judson Brown, 1993, personal communication; Paul, William L., Sr., Letter to Conrad Mather, 1946

[3] Peter M. Metcalfe, *The Central Council 50 Years: A Historical Profile of the Central Council and the Tlingit and Haida People*, Juneau: The Central Council of the Tlingit and Haida Tribes, 1985, pp. 14-15

[4] A Native group or tribe cannot sue the federal government without its permission, and so before a court action can be brought the group must first be granted recognition and the right to bring a claim before the federal court.

[5] U.S. Court of Claims, The Tlingit and Haida Indians of Alaska *v.* The United States. Opinion and Findings of Facts, Case No. 47900, decided October 7, 1959

[6] Charles W. Smythe, "Tlingit and Haida Tribal Status," A Report of the Central Council of the Tlingit and Haida Indians Tribes of Alaska, Juneau: Central Council, 1989; Charles W. Smythe, *A Study of Five Communities*, Chapter 3: The Tlingit and Haida Settlement, Report prepared for the U.S.D.A. Forest Service and U.S.D.O.I. Bureaus of Land Management and Indian Affairs by Institute of Social and Economic Research University of Alaska (Lee Gorsuch and Steve Colt), Charles W. Smythe and Bart K. Garber, 1994

[7] The proposed sale was on the Stikine River. K.A. Soderberg and Jackie DuRette, *People of the Tongass: Alaska Forestry under Attack*, Bellevue: The Free Enterprise Press, 1988, pp. 214-15

[8] Lawrence W. Rakestraw, *A History of the United States Forest Service in Alaska*, Anchorage: Alaska Historical Society and Region 10, United States Department of Agriculture Forest Service, 1981, pp. 109-110

[9] *Ibid.*, p.119; K.A. Soderberg and Jackie DuRette, *People of the Tongass: Alaska Forestry under Attack*, Bellevue: The Free Enterprise Press, 1988, p. 33

[10] K.A. Soderberg and Jackie DuRette, *People of the Tongass: Alaska Forestry under Attack*, Bellevue: The Free Enterprise Press, 1988, pp. 216-17

[11] *Ibid.*, p. 223

[12] *Ibid.*, p. 222-23

[13] George W. Rogers, *Alaska in Transition: The Southeast Region*, Baltimore: Johns Hopkins University Press, 1960, pp. 214-219

[14] Charles W. Smythe, *A Study of Five Communities*, Appendix A: History of Occupation and Use for Ketchikan, Anchorage: Report prepared for the U.S.D.A. Forest Service and U.S.D.O.I. Bureaus of Land Management and Indian Affairs by Institute of Social and Economic Research University of Alaska (Lee Gorsuch and Steve Colt), Charles W. Smythe and Bart K. Garber, 1994

[15] The Tlingit and Haida Indians of Alaska brought suit in 1947 against the United States in the Court of Claims over their pre-existing land and water property rights in southeast Alaska, and sought compensation for the unlawful taking of such lands by the United States and its citizens. This action was authorized by the special jurisdictional act of 1935, granting the Indians the right to bring suit against the United States, as described above.

[16] Ernest Gruening, *The State of Alaska*, New York: Random House, 1954, p. 372

[17] *Ibid.*, pp. 126-27

[18] For valuable discussions of the IRA as applied in Alaska, and the forces against the establishment of reservations, see Robert E. Price, *The Great Father in Alaska: The Case of the Tlingit and Haida Salmon Fishery*, Douglas: The First Street Press, 1990, pp. 103-137, and Ernest Gruening, *The State of Alaska*, New York: Random House, 1954, pp. 364-381

[19] Oscar H. Lipps, *The Indian Tribes of Southeast Alaska. A Report on their Location, Village Organization and their Social and Economic Conditions*, Chicago: Office of Indian Affairs, 1937.

[20] Ernest Gruening, *The State of Alaska*, New York: Random House, 1954, p. 368

[21] Walter R. Goldschmidt and Theodore H. Haas, *Possessory Rights of the Natives of Southeast Alaska*. A Report to the Commissioner of Indian Affairs. (Mimeographed.) Chicago: Office of Indian Affairs, 1946

[22] Ernest Gruening, *The State of Alaska*, New York: Random House, 1954, p. 381

[23] The case was *Hynes* v. *Grimes Packing Company* (337 U.S. 86).

[24] The Secretary also signed orders for reservations at Barrow and Shungnak in 1949, but they were not approved in local elections.

[25] The compromise prompted "howls of protest" from the National Civil Liberties Clearing House, the National Congress of the American Indians, the president of the Association of American Indians, the previous Secretary of Interior Harold Ickes, and the *Nation*, all of whom maintained that this action denied Native property rights. Claus-M. Naske, *A History of Alaska Statehood*, Lanham: University Press of America, 1985 (1973), p.143-44.

[26] Lawrence W. Rakestraw, *A History of the United States Forest Service in Alaska*, Anchorage: Alaska Historical Society and Region 10, United States Depart-

ment of Agriculture Forest Service, 1981, pp. 125; Robert D. Arnold, *Alaska Native Land Claims* (Anchorage: Alaska Native Foundation, 1978), p. 98.

[27] In 1921, a fur farmer sought protection from the Forest Service of his lease from use by Indians, and the Forest Service first suggested he post no trespassing signs. Upon investigation, the Service found that some 2,000 Indians used the area as a fishing site and had 20 buildings there, and the lease was subsequently cancelled by the Forest Service. He reports one other case, but in this one the claims of Indian possession were being used by a white man seeking a federal injunction in 1916 to prevent construction of a dam in an area of a pulpwood sale near Ketchikan, based on Indian use of the drainage for hunting and fishing the rights to which the white man had purportedly acquired from the Indians (the injunction was eventually denied in 1932). Lawrence W. Rakestraw, *A History of the United States Forest Service in Alaska*, Anchorage: Alaska Historical Society and Region 10, United States Department of Agriculture Forest Service, 1981, p. 110, 125

[28] *United States of America* v. *George Jim, Senior*, U.S. Department of the Interior Office of Hearings and Appeals, Transcript of Proceedings, Docket No. AA-6561, June 8, 1993, pp. 158-59

[29] *Shields* v. *United States*, 698 F.2d 987, 1983, p. 990

[30] Ernest Gruening, *The State of Alaska*, New York: Random House, 1954, p. 374

[31] Claus-M. Naske, *A History of Alaska Statehood*, Lanham: University Press of America, 1985 (1973), pp. 143

[32] Letter from H.L. Faulkner to Alaska Packers Association dated July 31, 1944 (available in the Alaska Packers Association records in the Alaska Historical Library, Microfilm MS Reel 8, Data Concerning Activities Which the Alaska Packers Association Considered Detrimental to their Fishery Operation), quoted in Robert E. Price, *The Great Father in Alaska: The Case of the Tlingit and Haida Salmon Fishery*, Douglas: The First Street Press, 1990, p. 112

[33] Lawrence W. Rakestraw, *A History of the United States Forest Service in Alaska*, Anchorage: Alaska Historical Society and Region 10, United States Department of Agriculture Forest Service, 1981, p. 127

[34] Lawrence W. Rakestraw, *A History of the United States Forest Service in Alaska*, Anchorage: Alaska Historical Society and Region 10, United States Department of Agriculture Forest Service, 1981, p.119

[35] *Hanlon* v. *United States*, quoting from *Hearings before the Committee on Agriculture, House of Representatives on H.J. Resolution 205, to Authorize the Secretary of Agriculture to Sell Timber Within the Tongass National Forest*, 80th Cong., 1st Sess. (1947), p. 9

[36] Repeal Act authorizing Secretary of Interior to Create Indian Reservations in Alaska, Hearings on S. 2037 and S. J. Res. 162 Before the Subcommittee of the Committee on Interior and Insular Affairs, 80th Cong., 2nd Sess. (1948), cited in Robert E. Price, *The Great Father in Alaska: The Case of the Tlingit and Haida Salmon Fishery*, Douglas: The First Street Press, 1990, p. 123

[37] Arguments in *Hanlon* v. *United States*, quoting from Letter from E.T. Benson, Secretary of Agriculture, to A.L. Miller, Chairman, House Interior and Insular Affairs Committee, January 11, 1954, reprinted in *Staff of House Interior and Insular Affairs Committee, 83rd Cong., 2nd Sess., Reports of the Departments of Interior, Agriculture, and Justice on H.R. 1921, A Bill to Settle Possessory Claims in Alaska*, pp. 6-7

[38] Senate Report No. 96-413, 96th Cong., 1st Sess., 1979, p. 393. Cited in *Hanlon* v. *United States*, p. 5-6

[39] Justice Douglas, Dissenting, *Tee-Hit-Ton Indians* v. *United States*, Opinion of the Court, 348 U.S. 272, p. 293-94

Chapter III

Statehood To ANILCA: State, National and Native Interests

Prior to statehood, the federal government owned about 99 percent of Alaska's land. The Statehood Act of 1958 gave the new state authority to select 103.5 million acres from "vacant, unappropriated and unreserved" lands of Alaska. The statehood act also reserved the right of the Congress to recognize prior aboriginal title to lands that the state might select. Alaska Natives protested to the government when the state started to select lands that conflicted with their traditional areas of use and occupancy, and the Secretary of Interior imposed a freeze on further state selections until Congress passed legislation clearing title to Alaska's lands. Following the discovery of oil on the North Slope, the Natives gained an important ally in their quest for recognition of land rights—the petroleum industry—which needed prompt resolution of aboriginal title before the oil could be brought to market.

The passage of the Alaska Native Claims Settlement Act in 1971 recognized aboriginal claims to Alaska and authorized the transfer of 44 million acres and nearly one billion dollars to Alaska Native corporations in a land settlement and compensation package. Another provision of the act authorized the Secretary of Interior to withdraw up to 80 million acres of federal land for inclusion in existing and new units of federal land management systems (national parks, forests, wildlife refuges and wild and scenic rivers). As these systems entailed restrictions on the development of natural resources, this provision was intended to preserve a portion of Alaska's land from development by the state and Native corporations. Thus, ANCSA had two major parts to it: besides transferring a large amount of Alaska's land to private ownership by Native corporations, ANCSA also protected national interests in Alaska's lands for purposes of conservation and protection of the environment. The Alaska National Interest Lands Conservation Act of 1980 carried out the imperatives of the second part of ANCSA. It created new units of federal land management systems, and modified existing ones. It also addressed outstanding subsistence issues that were not resolved as intended by the drafters of ANCSA.

In a sense, ANCSA is an extension of the Statehood Act, which transferred a large portion of federal lands in Alaska to the new state but reserved federal authority to resolve aboriginal claims on the lands. The principal aim of ANCSA was to clear up unresolved issues of aboriginal title, which was accomplished by extending the benefits of land ownership and development opportunities to the Natives of the state. ANILCA is the outcome of another part of ANCSA, which asserted federal authority over additional public land areas designed to serve the national interest in conservation. But the federal authority to accomplish this end was likewise originally reserved in the Statehood Act.

Alaska Statehood (1959)

Although Territorial Delegate James Wickersham introduced the first Alaska statehood bill to Congress in 1916, momentum for the initiative was weak until after World War II when the growth in Alaska's population and economy, and more concerted action by Alaska's territorial governor (Greuning) and Congressional delegate (Bartlett), led to a new drive for statehood. Until 1940, the regional economy of Alaska was colonial in nature: non-resident commercial interests—chiefly canned salmon, mining, and marine transportation—controlled the means of production. The labor force, seasonal in nature, was non-resident as well.[1] The land and resources were controlled by the federal government while Alaska's representation in Congress was limited to one non-voting territorial delegate in the House of Representatives. The severity of federal mismanagement, particularly of the fishery (salmon) resources, was one of the principal causes of statehood proponents. Another issue was that practically no federal revenues derived from the local resource industries were paid back to the territory to develop and maintain the territorial government and provide services for the local population.

In good measure, statehood was motivated by a desire among the citizens of Alaska to gain local control over Alaska's land and resources in a region that had seen a significant growth in population and infrastructure development associated with military activities during World War II. But economic and political control was maintained by "outside" interests.[2] In 1945, the Territorial Legislature enacted a pro-statehood resolution, and a group of citizens formed the Alaska Statehood Association which commissioned a study of the pros and cons of statehood. The report predicted that with statehood federal land would become available for settlement and the extraction of resources, and recommended that Alaskans ask the federal government for lands in the Chugach and Tongass national forests for settlement and economic development.[3] These land provisions eventually became law. Later, in 1946, Alaska held a statehood referendum with 9,630 voting for statehood and 6,822 against. This was considered a good showing, since there was strong opposition by the absentee interests. Congressional hearings on statehood bills began in 1947, and the House Committee on Public Lands unanimously approved a revised statehood statute early in the next year.[4]

In 1949, the territorial legislature enacted a comprehensive revenue system (including a property and income tax) in part to demonstrate that the people of Alaska could support themselves with statehood. The legislature also appropriated $80,000 in that year to create the Alaska Statehood Committee to work on behalf of statehood. In 1955-56, 55 elected delegates met and developed a state constitution to provide self-govemment and end "American colonialism" in Alaska. The constitution was approved by better than a 2-to-1 majority in a referendum held in April of 1956, when voters also approved the election of shadow representatives (two senators and a representative) to go to Congress and work for statehood, following the "Tennessee plan" for achieving statehood. Seven Alaska statehood bills were introduced during the 85th Congress in 1957; and on May 28, 1958 the House passed one of these (H.R. 7999) introduced by Congressman O'Brien of New York. The Senate passed the House bill without amendments on June 30, and President Dwight D. Eisenhower signed the Statehood Act (P.L. 85-508) on July 1, 1958. Alaskans ratified the Act by 83 percent of the vote in a referendum held on August 26, 1958, and Alaska officially became a state of the Union on January 3, 1959, with the signing of a presidential proclamation.[5]

Governors at a Glance

Here is a list of Alaska's governors since statehood, along with their political affiliations and years served:
- William A. Egan, Democrat, 1959 - 1966
- Walter J. Hickel, Republican, 1966 - 1969
- Keith H. Miller, Republican, 1969 - 1970
- William A. Egan, Democrat, 1970 - 1974
- Jay S. Hammond, Republican, 1974 - 1982
- Bill Sheffield, Democrat, 1982 - 1986
- Steve Cowqper, Democrat, 1986 - 1990
- Walter J. Hickel, AIP then Republican, 1990 - 1994
- Tony Knowles, Democrat, 1994 - ?

Source: *Juneau Empire*, December 6, 1994

The Constitutional Mandate

The Alaska state constitution provided a broad mandate for the settlement of Alaska's lands and the development of its resources for the use and benefit of its citizens. In anticipation of 100 million acres from the federal domain, and cognizant of the dangers of overexploitation and control by outside interests, the drafters wrote a natural resources article which established the state's goals of resource development and use:

> to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest ...[and] ... to provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

In addition to surface land, Alaska received title to submerged land in contiguous waters and under navigable waters, all mineral resources on or under its land, and control over fish and wildlife resources. The constitution stipulated that land and resources will be used for community and economic development, but this will be done responsibly, in the public interest and according to conservation principles "for the maximum benefit" of Alaska's people. The constitution included these special stipulations regarding the management of resources:

> Wherever occurring in the natural state, fish, wildlife and waters are reserved to the people for common use ... Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on a sustained yield principle, subject to preferences among beneficial uses.[6]

This "common use" provision became significant after the passage of ANILCA, which included a provision recognizing a rural preference on all federal lands for hunting, fishing, gathering and barter of wild resources that was in conflict with this constitutional stipulation. In the late 1980s the federal govemment took over management of fish and game on public lands to ensure that subsistence uses were protected after the state was unable to come up with a resolution of this conflict.

The constitution also granted specific authorities to the legislature to provide for the selection of lands granted to the state by the federal government, for the sale or grant of these lands to citizens, and for the acquisition of areas of natural beauty or with recreational, historic, cultural or scientific value for the use and enjoyment of the people. It guaranteed free access to navigable waters of the state to any citizen of the United States or Alaska. In response to the past domination by the commercial fishing industry and the consequences of unregulated use of fish traps, the constitution expressly stated that "No exclusive right or special privilege of fishery shall be created or authorized in the natural

waters of the State." These provisions cleared away "the ambivalence of past federal management policy, which fluctuated between controlled sustained yield harvesting and loose exploitation, and between resident and nonresident orientation in its basic objectives."[7]

The Alaska Statehood Act - 1958

Alaska officially became a state in 1959 when the President signed a proclamation of statehood, which followed an election in Alaska ratifying the 1958 Alaska Statehood Act. The beneficial objectives of Alaska statehood, as reported by the House Committee on Interior and Insular Affairs, were to reverse the pre-existing federal domination of Alaska affairs, to "open up many of the resources of Alaska" and to provide continuous representation in Congress to sustain efforts to revise federal policy "necessary to further the economic growth of Alaska."[8] Entitlement to Alaska's lands and natural resources was the key to the future development and settlement of Alaska, goals which were enshrined in the constitution and conveyed in the statehood act. Special provisions regarding access to and control over these lands and resources were included in the statehood act in recognition that, during territorial days, the federal government owned over 99 percent of Alaska's land and withdrew:

> from public use many of the more valuable resources of the Territory through creation of tremendous Federal reservations for the furtherance of the programs of the various Federal agencies. Thus, approximately 95 million acres — more than one-fourth of the total area of Alaska — is today enclosed within various types of Federal withdrawals or reservations. Much of the remaining area of Alaska is covered by glacier, mountains, and worthless tundra. Thus it appeared to the committee that this tremendous acreage of withdrawals might well embrace a preponderance of the more valuable resources needed by the new State to develop flourishing industries with which to support itself and its people.[9]

In contrast with other states, the historical federal control and management of Alaska's land and resource base was a special condition, one which established the foundation for the singular and distinctive land provisions in the Alaska statehood act.

The principal land provisions in the statehood act were federal land grants to the new state including 800,000 acres for community development and expansion and 102.55 million acres for general selection by the state. This left about 60 percent of Alaska's lands in federal hands. The purpose of the land grants was to provide for a viable economy in the new state.[10]

To ensure that lands of value were granted to the state, the statehood act gave the state the right to select lands of known mineral character, specifically including areas under federal lease for coal, oil or gas development, including the first rights to reserved coal lands that may be restored to the public domain in the future. Other provisions ensured the state would receive significant portions of the revenues from federal mineral leases, including 90 percent of profits from the operation of government coal mines and 52.5 percent of net proceeds realized from coal, phosphates, oil, oil shale and sodium on the public domain. Finally, the House committee offered the opinion that the state and federal government should conduct a "vigorous program of restudying of the needs of the various federal agencies for land in Alaska."[11]

State Selections from National Forests

Of the 800,000 acres of federal land made available to the state for community expansion under the statehood act, 400,000 were designated to come from the Chugach and Tongass National Forests.[12] This land was made available for the purposes of furthering the expansion of existing communities, the development of prospective communities, and community recreation needs, in the regions that were withdrawn and reserved as national forests in the beginning of the century. The national forest selections are commonly referred to as National Forest Community Grant (NFCG) lands. The statehood act granted 25 years to the state to complete selections, but with the passage of ANCSA, which gave Native regional and village corporations rights to selections within the forests and authorized substantial additional federal withdrawals in the national interest, the time limit was extended 10 years in ANILCA to allow additional time for resolution of disputes over multiple and overlapping selections.[13] The state's final land selections were due by January 2, 1994.

The state's selection activity proceeded very slowly until 1977, when 250,000 acres were selected. Based on their interpretation of the purposes for such land selections as specified in the statehood act, the Forest Service disapproved of over 50,000 acres of the state's selections which resulted in litigation with the state. The litigation was finally settled in early 1988. The state selected another 57,000 acres in 1982 and completed the remaining selections in 1989. These efforts "represent the state's last major opportunity to influence land ownership patterns within the national forests."[14]

To gain Forest Service approval, state selections had to be 1) adjacent to established communities; 2) suitable for community centers; or 3) suitable for prospective community recreation areas. These criteria were upheld by the courts, and selections were not approved for other purposes, such as timber harvest, mineral extraction, or as the site of a fish hatchery or log transfer facility. Selections were intended "to satisfy the long-range needs and goals of Alaskans residing within or adjacent to national forests and to encourage a rational pattern of recreation, settlement and growth."[15]

State selections were held in check by the freeze on all withdrawals imposed by the Secretary of Interior in 1966, after Alaska Natives began to file extensive protests against the state's selections that covered areas of traditional use for subsistence and trapping activities. The freeze remained in effect until the passage of the Alaska Native Claims Settlement Act in 1971. However, state selections were also affected by another provision of ANCSA, Section 17(d)(2), which authorized the Secretary to withdraw 83 million acres of public domain land for future selection in the national interest. These "d-2" lands were later added to existing federal land management systems in the Alaska National Interest Lands and Conservation Act of 1980.

Statehood and Aboriginal Title

The Alaska Statehood Act included a disclaimer to property rights, held either by the United States or by Indians, Eskimos or Aleuts, which were to remain under federal jurisdiction until disposed of by the government or by Congress. This provision was included in the Compact with United States (Section 4 of the Act, as amended):

> As a compact with the United States said State and its people do agree and declare that they forever disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under the authority of this Act, the right or title to which is held by the United States or is subject to disposition by the United States, and to any lands or other property (including fishing rights), the right or title to which may be held by any Indians, Eskimos, or Aleuts (hereinafter called natives) or is held by the United States in trust for said natives; that all such lands or other property (including fishing rights), the right or title to which may be held by said natives or is held by the United States in trust for said natives, shall be and remain under the absolute jurisdiction and control of the United States until disposed of under its authority, except to such extent as the Congress has prescribed or may hereafter prescribe, and except when held by individual natives in fee without restrictions on alienation....

The section also specified that the clause in no way affects any existing claim against the United States (such as the Tlingit and Haida land claims suit proceeding at this time) and exempted from taxation any lands or property that may belong to Natives or is held in trust for them.

The intent of this clause was to leave unimpaired the rights of Alaska Natives to compensation from the United States for their land and possessory claims, which may be decided at some time in the future. The legislative history of the statehood act does not identify a Congressional intent underlying its treatment of Native use and occupancy, which suggests that Congress chose to bypass the question in this legislation because Congress was principally concerned with achieving statehood rather than resolving Native land claims. But the statehood act is important insofar as it is a significant part of the background of ANCSA and contributes to an understanding of legislative intent in the settlement act.[16]

The disclaimer clause regarding Native claims was first proposed in 1947 by the Acting Secretary for the Interior Warner W. Gardner, who objected that Native rights were not protected in draft statehood legislation. He proposed that the state and its people forever disclaim both the right and the title to all land ... owned or held by Natives or Native "tribes, the right or title to which shall have been acquired through or from the United States or any prior sovereignty...." Until the United States either disposed of or extinguished title to such land, it would remain within the exclusive jurisdiction of the federal government and not be taxable by the state.[17] This guarantee of Native rights was also sought by James Curry, the lawyer for the Alaska Native Brotherhood and who also represented the Tlingit and Haida Indian Tribes of Alaska in their land claims against the United States. These land provisions were opposed by various federal agencies and national conservation groups, but statehood proponents did not object.

In 1950, the Senate expanded the language defining property rights to include "any lands or other property (including fishing rights)" but deleted reference to rights or titles which had been acquired from "any prior sovereignty." This change probably shows the influence of the Miller decision, discussed in the previous chapter, which held that the Treaty of Cession had transferred

title to Alaska lands from the Russian to the United States government, with the exception of individual holdings.[18] Thus, as the language was eventually adopted in the statehood act, Congress reserved for itself the right to recognize Native claims to lands they used and occupied at the time of the transfer, and placed this condition within the terms of the statehood act.

The issue of Native land rights was brought to the Alaska constitutional convention by M.R. Marston, wartime organizer of the original Eskimo National Guard. He believed that the new state should, based on moral values, recognize aboriginal rights to areas Natives were using and occupying for fishing, hunting and trapping. He proposed a constitutional amendment to instruct the future state legislature to "translate" into 160-acre homesteads or land grants the traditional land rights of Alaska Natives. Although a disclaimer regarding Native lands was adopted, Marston's amendment was rejected.

Marston had firm supporters who agreed that the convention must do justice to the Alaska Natives. Others, however, expressed concern about interfering with the federal responsibility for safeguarding and compensating aboriginal rights and raised doubts about the state's ability to implement the intent of the Marston amendment. Various delegates also objected to language, to the amount of land involved, and to the special treatment proposed for one class of Alaskans. It was also noted that since 1906, Alaska Natives had by federal statute been entitled to 160-acre allotments, and that their occupancy could be taken care of under existing law.[19]

The measure was rejected after undergoing successive revisions from the floor, which put it into an unrecognizable form. Writing about this debate, Fischer concluded, "Thus, the proposal for granting land rights to Alaska Natives went down to defeat without ever coming to a direct vote on the basic issues involved."[20] As in this instance, subsequent state proposals to protect Native land rights were frequently impeded by the realization that the ultimate authority for settling the issue was reserved by Congress. On the other hand, early efforts by the newly established state to select lands without regard for the traditional use and occupancy of Alaska Natives prompted events that led the federal government to step in and protect Native interests in lands until Congress enacted a Native claims land settlement in 1971.

The Alaska Native Claims Settlement Act of 1971

> *Congress finds and declares that (a) there is an immediate need for a fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims; (b) the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives in decisions affecting their rights and property... (ANCSA, Section 2(b))*

ANCSA was the largest and most innovative aboriginal land claims settlement in American history. The incentive behind ANCSA had most to do with petroleum development on Alaska's North Slope. As a result of this settlement Alaska Natives received title to 44 million acres of land — more than all other American Indian reservations combined — and $962.5 million in compensation — nearly four times the total amount awarded by the Indian Claims Commission over its 25-year lifetime — for their claims to the remaining area. Congress devised a new vehicle for the granting of title to land in the form of corporations: land and monetary distributions were to be managed as corporate assets. Alaska Natives were enrolled as stockholders in these corporations.

As Justice Berger has written, "By its terms, Alaska Natives would have land, capital, corporations and opportunities to enter the business world."[21] The corporate mechanism for the settlement was both a rejection of past models — reservations and tribal governments — and an attempt to improve the social and economic conditions of Alaskan villages by providing a means for Native people to go into business and participate actively in the economic development of Alaska. While Congress recognized the necessity of land as a base for the Native subsistence economy, it regarded as paramount the use of the land as a resource base for economic development:

> In determining the amount of land to be granted to the Natives, the Committee took into consideration the land needed for ordinary village sites and village expansion, the land needed for a subsistence hunting and fishing economy by many of the Natives, and the land needed by the Natives as a form of capital for economic development. The acreage occupied by villages and needed for normal village expansion is less than 1,000,000

acres. While some of the remaining 39,000,000 acres may be selected by the Natives because of its subsistence use, most of it will be selected for its economic potential.[22]

There are inherent contradictions between the land requirements of the subsistence economy in Alaska Native villages and the capital, resource-development needs of profit-making Native corporations.[23] Also, since the Native subsistence economy was dependent upon a larger land base than that transferred under ANCSA, the act did not adequately protect Native hunting, fishing and gathering rights from encroachment. This subsistence question, which was a major concern of the regional Native associations seeking recognition of land claims, was deferred to subsequent legislation, the Alaska National Interest Lands Conservation Act of 1980 (ANILCA).

In addition to the settlement of aboriginal land claims, ANCSA also revived the issue of federal entitlement to Alaska lands. Section 17 created a joint Federal-State planning commission to determine the use of 80 million acres of land withdrawn from the public domain for consideration as national parks, wildlife refuges, national forests, or wild and scenic rivers. These proposed areas became known as D(2) lands. The identification of these lands, and their allocation among different purposes under the management of different federal agencies, occurred in legislation passed in 1980, the ANILCA, and are discussed in later chapters. The impact of statehood, ANCSA, and ANILCA on national forest management is a continually unfolding story.

Events Leading Up to ANCSA

Shortly after statehood, encroachments upon traditional areas used by Alaska Natives for their hunting, fishing and gathering economy stimulated protests and the development of regional Native associations to pursue protection of their land and subsistence rights and the improvement of social and economic conditions in their villages. In the mid-1960s, a statewide Native organization was formed that carried these objectives forward at a state and national level. At about the same time, the Department of Interior imposed a land freeze on state land selections until the issues of aboriginal claims could be settled. Following the discovery of vast oil deposits in Prudhoe Bay on Alaska's North Slope in 1968, the interests of the oil industry coincided with those of Alaska Natives seeking a timely solution to their claims. The Nixon Republican administration was receptive to these interests and assisted in pursuing a legislative remedy, which ultimately resulted in the passage of the ANCSA in December of 1971.

In 1960, Inupiat Eskimos in Barrow protested the arrest of a fellow Inupiaq state representative for taking a duck out of season, a season established by an international migratory bird treaty that included no acknowledgement of customary and traditional practices of Alaska's Native peoples. Known as the Barrow "Duck-In," 138 other men presented themselves for arrest to federal game wardens. All charges were subsequently dropped with warnings against future violations. Not far away near the Inupiaq village of Point Hope, the U.S. Atomic Energy Commission once planned to detonate a nuclear device to create a harbor for the shipment of minerals and other resources from the area, in an experiment named Project Chariot. Residents of nearby villages expressed concern for their health and that of the animals and plants upon which they depended for their livelihood.[24] These events led to the formation of the first regional Native association in Alaska (the Inupiat Paitot, the People's Heritage) since the establishment in 1912 of the Alaska Native Brotherhood in southeast Alaska. Membership in Inupiat Paitot was comprised of village representatives from northern and northwestern Alaska.

In central Alaska, another protest developed in 1961 over one of the state's land selections under the statehood act. The state wanted to develop the area near the Athapaskan village of Minto as a recreation area, to put in a road for Fairbanks residents and visiting sports hunters, and ultimately to develop the area for its oil and gas potential. The village of Minto filed a protest over this selection with the Department of Interior, since it conflicted with their hunting, fishing and trapping activities. By 1963, 24 villages in the Yukon River delta, Bristol Bay, Aleutian Islands, and Alaska Peninsula regions voiced similar concerns, and sent a petition to the Interior Secretary requesting a land freeze on selections near their villages until Native land rights could be confirmed. At this same time, proposed federal land withdrawals also provoked protests. Most notable was the Rampart Dam project on the Yukon River, which would have created electric power and a recreation area but would have flooded numerous Athapaskan villages and a large area used for hunting, fishing and traplines.

A Department of Interior (DOI) report, completed by the three-member Alaska Task Force on Native Affairs, recognized aboriginal land rights and concluded that Congress should remedy the failure of successive Congresses to carry out the expectations of the Organic Act of 1884, which left to future legislation the establish-

ment of the means by which Natives could obtain title to land. In another arena, national figures and groups urged President Kennedy to propose legislation to settle aboriginal land claims and halt transfers of land until such action was completed. The legislative solution had the support of Native groups in Alaska, who regarded existing mechanisms —reserves, allotments and homesites — as wholly inadequate to protect their land rights. This position was also supported by conclusions drawn from the experience of the Tlingit and Haida settlement, which showed that a court settlement took too long and resulted in insufficient compensation (in this case, based on land values in 1907, the time the Tongass National Forest was established). Furthermore, the fact that courts were not able to grant title to land was also a fundamental concern.

Besides the need to protect the subsistence economy, Native leaders also expressed concerns over the poor social and economic conditions in Native villages including inferior health care, substandard housing, lack of water and sewer systems, inadequate educational programs, incidents of discrimination, and lack of employment opportunities for Natives. They reasoned that a land settlement would assist them to improve these socioeconomic conditions. Regional Alaska Native organizations continued to form throughout the early 1960s, and there were incipient discussions of a statewide Native association. During this period, organizational work in villages was furthered through funding from President Johnson's Office of Economic Opportunity to the state's community action program, which sent representatives to the villages.

In early 1966, the Arctic Slope Native Organization made a claim to all land on Alaska's North Slope, 58 million acres, based on aboriginal use and occupancy. By 1967, 39 protests had been filed with DOI for a total of 380 million acres, more than the total area of the state due to overlapping claims.[25] In October of 1966, seventeen Native organizations met and agreed to establish a statewide organization that later adopted the name of the Alaska Federation of Natives (AFN). The organization's land claims committee recommended that a land freeze be established on all federal lands until Native claims were resolved, that Congress enact legislation to settle claims, and that hearings and consultations be established with Natives immediately.

Before the end of 1966, Interior Secretary Udall imposed a freeze on the transfer to the state of lands claimed by Natives until Congress could act on the issue. In response to Governor Hickel's objection that the stoppage denied the state its rights to select lands under the statehood act, the Secretary pointed out that both the statehood compact and the Organic Act of 1884 recognized the existence of Native land rights, and that state selections could not continue until Congress enacted a settlement. He felt that to do otherwise would allow title to pass into non-Native possession, which would violate the 1884 federal guarantee that Alaska Natives shall not be disturbed in their use and occupation of lands.[26] The state then filed a lawsuit to require the Secretary to transfer lands to the state. This suit was put to rest in 1970 when the Supreme Court refused to review a lower court's adverse ruling against the state.

In the following year, the state convened a Land Claims Task Force, comprised of state and AFN representatives, which in 1968 recommended the basic form which was eventually adopted in the ensuing settlement: the Natives would receive land and money, and the settlement would be carried out by village and regional business corporations.[27] Alaska's Senator Gruening introduced this proposed bill into Congress and held hearings in Anchorage. Before leaving office after the 1968 election of Nixon's republican administration, Secretary Udall issued an order making the land freeze permanent. However, Governor Hickel, having been nominated as the new Secretary of Interior, pledged to undo this order. After intensive Congressional lobbying by AFN which threatened Hickel's confirmation hearings, the organization was able to extract a promise from the nominee to maintain the land freeze until the end of 1970, in exchange for their endorsement.

In 1968, Congress initiated its own study of Native land claims and protests, entitled *Alaska Natives and the Land*. The validity of land claims was supported by the conclusions of this study. Moreover, the researchers reported that Alaska Natives used all of the biological resources of Alaska's land and contiguous waters, confirming the aboriginal use and occupancy of nearly the entire state. They also wrote that the specific land legislation passed for Alaska Natives — the Alaska Native Allotment Act of 1906 and the Townsite Act of 1926 — failed to meet their land needs.[28] But the report emphasized that economic development was a central issue in the resolution of Native protests, since the form of the settlement would be crucial to the future development of the state as a whole. In proposing a solution, it considered the probable effects on the economic status of Alaska Natives and on Alaska's general economic development.

For elements of the settlement, the Congressional report emphasized the necessity of land for present

Native use and occupancy, including subsistence use, as well as compensation in the form of money, land and interests in land (including participation in future revenues from land or resources). It acknowledged two approaches in protecting Native assets and the public interest — reservations and Native development corporations — that had been presented in bills before Congress. The study recommendations became the basis of a bill introduced in 1969 by Senator Henry Jackson of Washington state, with provisions for land and monetary compensation without reservations. The land allocation (10 million acres) was meager; however, the proposed cash settlement approached one billion dollars. Later in the year, further impetus for a substantial financial settlement was received from the state's oil lease sale for the Prudhoe Bay region, which reaped the state over $900 million.

The draft legislation did not move forward in 1970, but three bills were introduced in the 1971 session which proposed differing amounts of land and money. Fearing an unsuitable version might pass, the AFN approached the White House directly for support of a more favorable measure. Their efforts held the interest of the oil industry, which was facing delays in gaining DOI permits to proceed with the construction of an oil pipeline from Prudhoe Bay to a shipping terminus in Valdez in Prince William Sound. With the assistance of these oil interests, associated businesses and Alaska's Republican Senator Stevens, AFN representatives succeeded in convincing the administration to introduce another settlement proposal to Congress. This proposal became the basis of a final bill which was approved by Congress in December. Following a referendum approved by 511 of 567 AFN delegates, with North Slope representatives in dissent, President Nixon signed ANCSA into law on December 18, 1971.

The ANCSA Settlement

ANCSA provided for the transfer of 44 million acres, or about ten percent, of Alaska's land and payment of $962.5 million to Alaska Native corporations in the settlement of claims of aboriginal title to Alaska's land and water areas. The law called for the creation of regional and village corporations to manage the settlement lands and money as corporate assets. To receive benefits of the act, Alaska Natives were enrolled as stockholders in these corporations. As of 1985, 80,000 Natives were enrolled under the act, as amended. Twelve regional and over 200 village Native corporations were established in Alaska, and provision was made for a 13th regional corporation comprised of out-of-state residents.

The act declared that aboriginal title to prior conveyances of federal land and water areas, including tentative approvals under the statehood act, was extinguished. All claims of aboriginal title in Alaska based on use and occupancy of land and water areas, including aboriginal hunting and fishing rights, were also extinguished. ANCSA also extinguished all aboriginal claims against federal and state governments, and individuals, including those pending before the courts or the Indian Claims Commission (such was the case with Tlingit and Haida claims to fishing rights in southeast Alaskan waters). Finally, the act terminated Native allotment legislation and revoked all reservations in Alaska with the exception of the Metlakatla Reserve on Annette Island in southeast Alaska.

The act authorized the Secretary of Interior to withdraw public lands surrounding the listed villages, and lands of similar character from the nearest available area if such contiguous lands were insufficient to meet the corporate entitlements, and to make these lands available for selection by Native corporations. This provision applied to lands available for selection under the statehood act; only lands already in the National Park System or reserved for national defense purposes were excepted. The Secretary was entitled to withdraw up to three times the "deficiency," the difference between a village corporation's entitlement and what was available in contiguous townships, from other available tracts of public land. The complexities that arose over corporation selections, combined with subsequent provisions such as that allowing both corporations and the state to "overselect" lands, are partly the reason that corporations have not, more that 20 years after passage of the act, received their full land entitlement.

The Corporation Vehicle

All eligible Natives became stockholders in one or two Native corporations, which received and managed nearly all of the settlement land and money. Persons of at least one-quarter Alaska Eskimo, Indian or Aleut blood quantum who were alive on December 18, 1971, were qualified to enroll and receive 100 shares of stock in the Native corporations. Enrollment was also according to geographical location, which was based on residency defined as where persons were living at the time of the federal census in 1970, or where their ancestral family home was, or where they intended to have their principal residence if they were temporarily away from home.

Alaska Natives were enrolled both to their local village corporation and to the regional corporation established

for the region in which the village was located. Individuals who were living outside the region, or outside the state, were entitled to enroll back to their region. Natives who elected not to be enrolled in a village, or who were enrolled to a place that was not eligible for land and monetary benefits as a village, were enrolled as "at-large" shareholders in the regional corporation. These individuals received their proportionate share of the monetary distributions (from the cash settlement and from regional corporation stock dividends) in the form of direct payments, but they did not receive benefits of village corporation shareholders (such as stock, dividends, land grants, or other distributions). About one-third of ANCSA enrollees are at-large. Members of the 13th region were entitled to cash benefits, but did not receive land.

Title to 22 million acres was received by more than 200 village corporations; the land was divided up proportionally among the corporations based on population. Another 16 million acres were distributed among six regional corporations according to a complex formula based on population and area; the Sealaska region was excepted from this distribution in recognition of the prior Tlingit and Haida land settlement in that region. Up to two million acres were set aside for specific purposes such as cemetery sites and historical places, conveyances to Native groups, four Native groups residing in Sitka, Juneau, Kodiak and Kenai (which later formed the third type of Native corporation known as "urban"), and Native allotments, with the remainder to be allocated among all 12 regional corporations. Finally, about four million acres were conveyed to six villages which elected to receive title to the lands of their former reserves in lieu of other ANCSA benefits (including cash distributions).

The cash settlement was derived from federal and state sources. $462 million was to be paid out over the 11 years from the federal treasury, while $500 million would be procured from a two percent annual royalty on mineral leases on state and federal lands. Payments of settlement funds were made to regional corporations, which were required to pass on to village corporations at least 45 percent (later raised to 50 percent) after allowing for payments to "at-large" shareholders. Regional corporations were to follow a similar procedure in distributing any payments received from regional corporation profit-sharing provisions (called "7(i)" distributions) to the village corporations in their region.

Several special provisions differentiate ANCSA corporations from other business corporations in the state. Natives were to be the only voting shareholders in these corporations for 20 years, a provision that was subsequently extended indefinitely (unless and until a majority of shareholders decide otherwise).[29] Village corporations received only the surface title to their lands. Regional corporations were granted the subsurface estate to 40 million acres, including the lands of their village corporations, as well as the surface rights to their own land. The five former reserve villages received both surface and sub-surface rights in their lands, but no additional lands. The section 7(i) provision requires each regional corporation to share 70 percent of their profits generated by development of mineral and timber resources on their lands among all regional corporations, including itself, on a per capita basis. The regional corporations are, in turn, required to distribute at least 50 percent of these revenues to the village corporations and at-large shareholders in their region. The intent of this provision was to remedy inequities arising from the differential distribution of natural resources throughout the various regions of the state.

The ANCSA Settlement and the Alaska Forests

National forests currently are located in three regions that correspond with Native regional corporations. The Tongass National Forest spans the region of southeast Alaska, or Sealaska Corporation, identified with the Tlingit, Haida and Tsimshian Indians. The Chugach National Forest is associated with the region of the Chugach Eskimo, who organized Chugach Natives, Inc., later changed to Chugach Alaska Corporation, and with the Cook Inlet Region, Inc. (CIRI), on the Kenai Peninsula. These regional corporations, and the villages within their regions, were entitled to select lands from the public domain, subject to prior rights such as lands patented to others, certain federal holdings, mining claims and lands under navigable waters. Villages were authorized to select areas on the basis of population, starting with a minimum amount of 69,120 acres for villages with a population between 25 and 99, and up to 161,280 acres with a population of 600 or more. National Forest lands were available for selection by Native corporations, although there were certain restrictions that applied in each region as described below.

In addition to specific provisions regarding land selections that applied in the Tongass and Chugach regions, there were other sections pertaining to National Forest System lands in Alaska. ANCSA provided authority for the modification of timber sale contracts affected by

conveyances to Native corporations (section 15). The act allowed the Secretary of Agriculture to accommodate such conveyances by substituting timber on other National Forest lands approximately equal in volume, species, grade and accessibility. Concerns over the continued availability of commercial timber lands, which arose with respect to Forest Service commitments under the long-term timber sale agreements, led to a provision in ANILCA that required the Forest Service to study and report on the feasibility of buying back harvested timberlands from the Native corporations.[30]

Section 22(k) required that for lands conveyed to Native corporations from within national forests, any sale of timber shall be under the same timber export restrictions as are applicable to national forests in Alaska for five years. The section also commanded that such lands shall be managed under sustained yield and environmental quality standards no less stringent than those practiced on national forests for a period of 12 years. According to Knapp, these provisions were never enforced, in practice, because ANCSA did not clearly assign implementation authority among federal agencies and because the authorized time periods had expired before the lands were developed.[31]

This latter provision was no doubt included with an understanding of the development process characteristic of private corporations. It is interesting to observe that the issue of commercial development of timberland at the expense of multiple use management objectives was described as one of the economic consequences of land grants to Native corporations prior to the passage of ANCSA, in the 1969 Congressional report on land claims. But the study also identifies corresponding benefits that would accrue to the corporations and their shareholders:

> On balance, ownership by Native corporations, like private ownership in general, would probably result in a more rapid rate of development and a greater concern for maximizing the economic returns from the land resources than would management by government agencies. For instance, Native corporations would probably not require primary processing of extractive products or "sustained-yield" timber management except where they were clearly justified in dollar terms. Native corporations in attempting to maximize their net incomes from the land would pursue a multiple-use policy, and in doing so would probably be able to resolve conflicts among competing *commercial* land uses more economically and more satisfactorily than would government. On the other hand, to the extent their policies reflected a single-minded concern with the commercial revenues of the land, they might be less concerned than would government with such nonmonetary and collective values as those of wilderness and scenery.
>
> ... Grants of commercially valuable land managed for its income by Native corporations could be expected to provide an income flow to individual families and to provide a source of capital which Native enterprise could invest in other lines of business and capital for community improvements. It would also provide openings for the development of Native managerial talent.[32]

Looking back with the benefit of hindsight some twenty years after the passage of ANCSA, the general supposition that ANCSA corporations would create a significant income flow to Native families has proven to be a hypothesis that was not born out by subsequent events. For example, for shareholders of regional corporations, cumulative real dividends (with the high and low amount removed to indicate the more general trend) have ranged from $60 to $2,500 each, depending on the region.[33]

The Tongass

Sealaska was the largest of the regional corporations in the number of shareholders: 15,782 were enrolled at the end of 1985, about 20 percent of total Alaska Native enrollment.[34] More than half of these live in southeastern Alaska. In addition to the regional corporation, twelve community Native corporations (10 village and 2 urban) were organized. At the first stockholders meeting of Sealaska, a prominent figure in the land claims struggle and the President of the Tlingit and Haida Central Council, John Borbridge, Jr., was elected president. The location of the corporate headquarters is Juneau, the state capital.

Sealaska Corporation received a small amount of land, relative to other regions, in recognition of the benefits received by Tlingit and Haida Indians under the Tlingit and Haida settlement. Sealaska was excluded from the principal distribution of 16 million acres of land among regional corporations (Section 12(b)), but it was entitled to select land for cemetery sites and historical places. It also received a proportionate allocation, based on population, of lands remaining from the 2 million acre set-aside that were to be conveyed to regional corporations under Section 14(h)(8).

ANCSA recognized ten southeastern villages that were eligible to form corporations and select lands in the

region (see Table 1). One of these, Klukwan, initially elected to receive transfer of its reservation lands in fee simple (surface and sub-surface) in lieu of selecting land for the village corporation as in the remaining nine villages. But later, when it was realized that non-resident shareholders were not entitled to royalties generated from the former reserve lands since they accrued only to members of the village IRA, the corporation was permitted by amendment to make selections as other villages in return for transferring the former reserve lands back to the village IRA. Members enrolled to the village of Metlakatla are not entitled to any ANCSA benefits because their reserve was expressly sustained by ANCSA. The Annette Island Reserve was exempted from the provision revoking reservations in Alaska, and in consequence it remains as the only Indian reservation in the state.

The ten southeast villages were recognized in a specific section of ANCSA distinct from the other Alaskan villages. Section 16 listed the southeastern villages and declared that they each were entitled to an allocation of 23,040 acres (one township), in contrast to other villages which were authorized to select larger areas on the basis of population. Section 16 acknowledged the favorable land claims judgement of the Tlingit and Haida Indians against the United States in the Court of Claims, and explained that the compensation already received was "in lieu" of a larger share of the lands in the region. To the extent possible, these selections were to be in areas within or contiguous to townships in which the villages were located. Because there were no such lands of any value available in the vicinity of Klukwan, the village corporation, Klukwan, Inc., was later exempted from the restriction, enabling the village to select lands elsewhere.

Two other southeast communities were able to form village corporations and select lands under a special provision, Section 14(h)(3), which authorized the conveyance of land in an equal amount (23,040 acres) to the Native residents of Sitka, Juneau, Kenai and Kodiak. The two corporations in Juneau and Sitka, known as "urban" corporations, increased to 13 the number of community Native corporations in southeast Alaska. The apparent intent of this stipulation was to recognize the special circumstances of some Native communities that were originally located on the site of an historical Native settlement, but had become circumscribed by the growth and development of a large "modern and urban" community in which Natives were in the minority.[35]

The thirteen Native corporations in southeast Alaska were entitled to select about 540,000 acres from the Tongass National Forest.[43]

Table III.1: Southeast Alaska

Community	Original Corporation Name	Shareholders[36]	ANCSA Land Entitlement[37]
Angoon	Kootznoowoo, Inc.	629	34,000[38] (acres)
Craig	Shaan-Seet, Inc.	317	23,040
Hoonah	Huna Totem, Inc.	876	23,040
Hydaburg	Haida Corporation	565	17,836[39]
Kake	Kake Tribal Corp.	558	23,040
Kasaan	Kavilco, Inc.	120	23,040
Klawock	Klawock Heenya Corp.	508	23,040
Klukwan	Klukwan, Inc.	253	23,040
Saxman Cape	Fox Corporation	196	23,040
Yakutat Yak-Tat	Kwaan, Inc.	342	23,040
Total Village Corps.:		4,364	236,156
Juneau	Goldbelt, Inc.	2,722	26,070[40]
Sitka	Shee Atika, Inc.	1,863	31,316[41]
Total Urban Corporations:		4,585	57,386
Region Sealaska Corporation		15,782[42]	310,692

In 1993, Congress directed the Secretary of the Interior to study the eligibility status of five other southeastern communities with Native residents—Haines, Ketchikan, Petersburg, Tenakee, and Wrangell—and to compile nformation about whether Congress had inadvertently denied village recognition under ANCSA.[44] These "modern and urban" villages located on or near historical Native settlements, were not listed in ANCSA as eligible to form corporations and select ands in the region. Depending on the outcome of the efforts by members of these communities to gain recognition under ANCSA, there may be additional villages in the southeast region with rights to select lands from within the Tongass National Forest.

The Chugach

More than half of the region of the Chugach Alaska Corp. lies within the Chugach National Forest. There are five recognized villages in the region, including three which are situated within the Chugach National Forest: Eyak (Cordova), Tatitlek and Chenega Bay (see Table Two). Chugach shareholders also live in Valdez, Seward, Anchorage and out-of-state. The four Native corporations (one regional and three village) will eventually receive about 650-700,000 acres from the Chugach National Forest.[45] There were 1,908 stockholders enrolled in Chugach Alaska Corporation in

1985. One of the region's leading proponents of aboriginal rights, Cecil Barnes, was elected as the corporation's first president. The corporate offices are located in Anchorage.

Table III.2: Chugach Region ANCSA Corporations

Community	Original Corporation Name	Shareholders[46]	ANCSA Land Entitlement[47]	
Inside the Chugach National Forest Boundaries:			Sec. 12a	Sec. 12b
Chenega Bay	Chenega Corporation	69	69,120	6,973
Eyak	Eyak, Inc.	326	115,200	33,530
Tatitlek	Tatitlek Corporation	215	115,200	22,046
Outside the Chugach National Forest Boundaries:				
Nanwalek	Nanwalek Corporation	716	9,120	7,280
Port Graham	Port Graham Corporation	190	92,1601	9,482
Region	Chugach Alaska Corp.	1,908[48]	338,665	38,887

Note: as described above, there were limitations to the number of acres that village corporations located within the Chugach National Forest were able to select from the forest. ChugachAlaska Corp. entitlements were under Sec. 12c and 14(h)8.

One of the ANCSA selection limitations was that a village may not select more than 69,120 acres from within a national forest (Section 12 (a) (1)). While this did not affect villages in southeast Alaska, due to the provisions acknowledging the Tlingit and Haida settlement, it applied to Chugach villages. For example, Eyak Corporation was entitled to select five townships, or 115,200 acres.[49] Eyak selected all the land available to it within the core township, as it was required to do, as well as nearby townships. Because it lies within the boundaries of the Chugach National Forest, and its selections exceeded the allowable limits for selections within national forests, it had to choose two of its townships from so-called deficiency lands (federal lands set aside for Native conveyance outside the lands available near communities) outside the forest.

Limitations on land selections within the national forests ultimately led to a dispute between the Forest Service and the Chugach Alaska Natives, who felt that they were denied lands they used traditionally and were restricted to glaciers and mountain tops that were not suitable for development purposes as envisioned under the act. Working through Congressional channels, a provision was included in ANILCA which called for a study of this issue. A cooperative project involving the Forest Service, State of Alaska, USDOI, and Chugach Natives, Inc. was carried out, and in 1982 representatives of the groups signed the Chugach Natives' Settlement Agreement which addressed the problem.

Unresolved Problems: Subsistence

On the face of it, ANCSA declared that all aboriginal titles, including hunting and fishing rights, are extinguished.[50] But the legislative history reveals that the protection of subsistence rights was a component of earlier bills, and although the provision was dropped from the final version, the conference committee report referred specifically to the authority of the Secretary of Interior to ensure such protection. When neither the state nor the federal government acted on the promise, the Alaska Native leadership took advantage of the opportunity entailed in Section 17(d)(2) to remedy this shortcoming. Through a political compromise with the environmental lobby, they were able to garner enough support for the inclusion of a subsistence provision in ANILCA that further protects Native subsistence rights. The legislative history of ANCSA documents that the protection of subsistence was a key element in the land claims settlement throughout the legislative process. The first AFN draft bill emphasized subsistence protection, and the final Senate land claims bill (S. 35) included "elaborate" provisions protecting Native subsistence.[51]

Protection of the Native subsistence economy, of the resources used in "the indigenous economy" and of Native access to these stocks are all salient points discussed in the Congressional study of land claims, *Alaska Natives and the Land.* Indeed, the first of three proposed elements of the settlement is "the grant or protection of lands and land rights now used by Alaska Natives for townsites, hunting and fishing camps, and subsistence hunting, fishing and other food and fuel gathering areas," and lands for subsistence use were considered separately from lands occupied as villages and camp sites.[52]

The words of the conference committee report that accompanied the claims act disclose the intent of Congress to reserve the authority "to protect the subsistence needs of the Native." Case writes that the report "makes it clear that Congress viewed neither the purported extinguishment of hunting and fishing rights nor the absence of specific subsistence provisions as the end of Alaska Native subsistence interests."[53] The report states:

> The Conference Committee after careful consideration believes that all Native interests in subsistence resource land can and will be protected by the Secretary through the exercise of his existing

> withdrawal authority. The Secretary could, for example, withdraw appropriate lands and classify them in a manner which would protect Native subsistence needs and requirements by closing appropriate lands to entry by nonresidents when subsistence resources for these lands are in short supply or otherwise threatened. *The Conference Committee expects both the Secretary and the State to take any action necessary to protect the subsistence needs of the Native.*[54]

To some Natives knowledgeable of the land claims process, according to Langdon, these words carry the weight of "an implicit contract between Alaskan Natives and Congress to protect subsistence rights and deal with them more fully in future legislation. ... This is taken to mean that Congressional intent was *to reserve Alaskan Natives subsistence rights and transfer the responsibility for the protection of those rights to the State.*"[55]

State and federal governments did little to provide protection for subsistence after the passage of ANCSA, and in recognition of the need for further protection, the Alaska Native leadership sought additional measures in ANILCA and in state subsistence legislation.[56] They were encouraged by former Secretary of Interior Stewart Udall, who advised AFN in 1978 that adequate protection would only be achieved if "Congress uses its power under the U.S. Constitution and grants such rights to the Alaska Natives."[57] Although the state had developed a policy and, by 1978, enacted a law providing a preference for subsistence use on state lands, the Alaska governor also supported Congressional action to establish a priority for subsistence use on federal lands.

Title 8 of ANILCA — Subsistence Management and Use —provided that all rural Alaskans, Native and non-Native, would have a priority for the subsistence use of fish and wildlife and all other renewable resources on public lands. In its findings (Section 801), Congress recognized the significance of subsistence uses to both Natives and non-Natives, declaring that continued subsistence opportunities are "essential to Native physical, economic, traditional and cultural existence and to non-Native physical, economic, traditional and social existence." The distinction between Native and non-Native claims is explained further in subsection (4), which refers to the unfinished purposes of ANCSA and the fiduciary or trust responsibility of the United States to protect the subsistence rights of Alaska Natives:

> in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and its constitutional authority under the property clause and the commerce clause to protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents.

ANILCA fulfills the intention of Congress in ANCSA that was expressed in the conference committee report with regard to the protection of subsistence rights. Earlier versions of the bill provided explicit management authority to the federal government including setting seasons and bag limits, but this provision was later removed at the insistence of Senator Stevens, who argued that the Statehood Act granted to the state control of fish and wildlife management (as was common with other states), and that to do otherwise at this point would reinstate federal management of the state's resources, a battle that had been won with statehood.[58]

Another area of continuity between ANCSA and ANILCA is the matter of the federal "trust" responsibility to Native Americans, the source of which is the commerce clause referred to in ANILCA (cited above). As Langdon points out, "Only Native Americans have such a relationship with the United States government therefore this section is interpreted as confirmation of the federal government's responsibility to protect rural Alaskan Natives' rights to subsistence."[59] He makes the point that the fiduciary or trust basis for Native rights in Alaska is also supported by Section 2(c) of ANCSA, which declares that:

> no provision of this Act shall replace or diminish any right, privilege or obligation of Natives as citizens of the United States or of Alaska, or relieve, replace or diminish any obligation of the United States or of the State of Alaska to protect and promote the rights or welfare of Natives as citizens of the United States or Alaska.

He concludes, "The fiduciary responsibility for Alaska Native welfare in general is supported by ANCSA and for rural subsistence in particular by ANILCA." The federal responsibility to ensure the adequate protection of rural Native subsistence uses is ongoing, notwithstanding the declaration of extinguishment in ANCSA.

The ANILCA subsistence provisions have had a substantial influence on the administrative procedures of federal agencies. For the Forest Service, this is particularly true with regard to the Section 810 requirement for the protection of habitat necessary for subsistence,

which mandates the evaluation of all agency activities for their effect on subsistence. These issues will be discussed more fully below in the context of Forest Service administrative policies and practices.

Unresolved Problems: Land Selections
Almost all of the land selected by the southeast Native corporations was from within the Tongass National Forest. While seven villages corporations selected lands in proximity to the villages pursuant to ANCSA provisions, five community corporations and Sealaska were involved in land exchanges that resulted from ANCSA amendments or special legislation. Kootznoowoo, Inc., and Goldbelt were allowed to select additional acreage above their standard allocation in other areas of the forest in exchange for relinquishing their selections on Admiralty Island after it was declared a National Monument by President Carter (Shee Atika stayed on Admiralty Island but moved from its original selection). Klukwan, Inc. exchanged their reservation land for other lands within the Tongass National Forest after a 1976 amendment to ANCSA. The Haida Land Exchange Act of 1986 permitted the Haida Corporation to exchange some of their lands, much of which had low potential for economic eturns, for more valuable lands with marketable timber and additional cash compensation. The latter action resulted in a reduction of their land entitlement by about 5,000 acres. Further exchanges are possible as new circumstances and proposals arise; and on the other hand the Forest Service may propose to buy back some of the Native corporation lands (Knapp study). ANCSA (and later ANILCA) permitted land exchanges with Native corporations when the public interest might be best served. ANCSA was amended in 1976 to eliminate some of the limitations placed on Regional Native Corporation entitlements on National Forests.

There were also exchanges and new selections made in the Chugach region. As previously discussed, the land available for selection in the vicinity of the Chugach villages was largely mountain top and glacier, and not comparable in economic value to lands generally available to Native villages. Consequently, the regional corporation asked Congress for authority to increase its selections from within the National Forest. In 1982, an agreement between the Chugach Natives, the State, the Department of Interior, and the Forest Service established new procedures which provided for additional selections within the forest. From the beginning, State and Native land selections affected long-term timber sales, boundary definitions, and overall management of the Alaska National Forests.

Unresolved Problems: Other Issues
There are numerous issues relating to the operation of the corporations, such as taxation, profit-sharing, mergers, boundary questions, and other concerns, that gave rise to amendments to the settlement act. As the year 1991 approached, there was apprehension in the Native community over the scheduled termination of a ban against the sale of stock in Native corporations to non-Natives. ANCSA provided such prohibition for 20 years, after which stock would be available for sale at the discretion of the shareholder. The Native community feared for the loss of their settlement land and assets through stock alienation, and asked Congress for amendments extending the ban. The so-called "1991 amendments," the ANCSA Amendments of 1987, extended such prohibitions indefinitely until a majority of shareholders voted in favor of permitting such sales.

Other issues addressed in the 1991 amendments included the concern for those Natives born after December 18, 1971, who were not eligible for enrollment to Native corporations or to receive benefits under the act. Provisions were made to allow corporations, at their discretion, to issue additional shares of stock to certain classes of people including younger Native persons, which included numerous optional rights and limitations on the stock. The 20-year exemption on taxation of undeveloped Native lands from property taxes was made permanent rather than ending in 1991. An ANILCA provision regarding settlement trusts was made automatic: timber lands placed in a settlement trust will remain free of taxation for as long as they are undeveloped, and they will be taxed only while they are actively being harvested, returning to undeveloped non-taxable status at the termination of harvest activity.

Section 17 of ANCSA: Comprehensive Planning and New Federal Withdrawals

In addition to authorizing Alaska Natives to select 44 million acres of land, ANCSA included a provision for the Secretary of the Interior to withdraw from appropriation up to 80 million acres for possible additions to the four federal land management systems: National Forests, National Parks, National Wildlife Refuges and Wild and Scenic Rivers. The Secretary had nine months in which to withdraw the lands, two years to make recommendations to Congress, and up to five years to maintain such withdrawals until Congress could act on the recommendation. Congressional inaction at the end of this termination period impelled the Secretary to maintain the withdrawals in the national interest until December 2, 1980, when the Alaska National Interest Lands Conservation Act (ANILCA)

was eventually passed by Congress. Prior to passage of ANILCA President Jimmy Carter used the authority of the Antiquities Act to designate portions of the Tongass as National Monuments, thus precluding state and Native selections from these lands.

As discussed in later chapters, these "d-2" withdrawals also reduced the land base from which timber harvests and mineral exploration might be allowed. The withdrawals also precipitated a major effort within land management agencies to study and make recommendations for additions and new units in their respective systems. This provision was of major significance to the State, since land selections under the Statehood Act were precluded from areas so withdrawn. Selections by regional Native corporations were also prohibited in these areas, although village selections were not affected. Under the federal systems, the development of natural resources on the withdrawals would be prohibited or restricted to some degree, which created conflicts in areas that would otherwise have been chosen by State or Native interests. The State unsuccessfully brought suit to protest the action. ANILCA was passed before its appeals were completed. However, the State's selection period was extended by ten years in ANILCA.

Joint Federal-State Land Use Planning Commission
ANCSA established a new and comprehensive planning regime to review and recommend Alaska land management proposals to the President and Governor. Section 17 created the Joint Federal-State Land Use Planning Commission and directed each agency to furnish the Commission with any information it needed to carry out its mandate.

The Commission was empowered to conduct a public process of land-use planning and making recommendations in a number of areas including land areas to be reserved for federal ownership in parks, refuges, etc., uses of lands to remain in federal and state ownership, lands to be selected by the State and Native corporations, existing federal withdrawals, and federal and state land management programs and budgets. Citizen participation was mandated through an advisory committee comprised of representatives of different land user groups. The Commission was to advise and assist in the development and review of land use plans for lands selected by Native corporations and the State, as well as to make recommendations to ensure that economic growth and development "is orderly, planned and compatible with State and national environmental objectives, the public interest in the public lands, parks, forests, and wildlife refuges in Alaska, and the economic and social well-being of the Native people and other residents of Alaska." It was also charged with recommending ways to avoid conflict between the State and Native people in the selection of public lands.

The Forest Service established the Alaska Planning Team to fulfill its responsibilities under this section and to develop its own review and recommendations for new National Forest proposals. In the 1970s Region 10 planned "New National Forests for Alaska," and much more. Timber sales, once negligible, became central to the work of the Forest Service in Alaska because of unique long-term timber contracts negotiated in the 1950s. Work on State and Native land selections and conveyances became more demanding as time passed. The Forest Service wrestled with a veritable deluge of new federal environmental and forest management legislation enacted in the decades of the Sixties and Seventies. And if these demands were not enough, the National Forests began to adjust to the economic growth and development of Alaska, and to the changing uses by the public of forest resources.

Reference Notes

[1] David T. Kresge, Thomas A. Morehouse and George W. Rogers, *Issues in Alaska Development*, University of Alaska-Anchorage, Institute of Social and Economic Development, Seattle: University of Washington Press, 1977, pp. 22-35

[2] See Ernest S. Gruening, *The Battle for Alaska Statehood*, College: The University of Alaska Press, 1967, and *The State of Alaska*, New York: Random House, 1968

[3] Claus-M. Naske, *A History of Alaska Statehood*, Lanham: University Press of America, 1985 (1973), pp. 102-103

[4] Ernest S. Gruening, *The Battle for Alaska Statehood*, College: The University of Alaska Press, 1967, p. 2; Claus-M. Naske, *A History of Alaska Statehood*, Lanham: University Press of America, 1985 (1973), pp. 103-115

[5] *Ibid.*

[6] *The Constitution of the State of Alaska, as amended 1970*, p.25-26

[7] David T. Kresge, Thomas A. Morehouse and George W. Rogers, *Issues in Alaska Development*, University of Alaska-Anchorage, Institute of Social and Economic Development, Seattle: University of Washington Press, 1977, pp. 48

[8] "Providing for the Admission of the State of Alaska into the Union," Committee on Interior and Insular Affairs, House of Representatives, 85th, 1st, Report No. 624 (to accompany H.R. 7999), June 25, 1957, p.23

[9] Ibid., pp. 18-19

[10] Subsequent litigation has provided the following clarification of this issue: "The purpose of land grants under the Alaska Statehood Act is to serve Alaska's overall economic and social well-being. Some of the lands so selected will probably be used to protect mineral deposits. Others will safeguard wildlife. Still others will be used to protect domestic water supplies. Udall v. Kalerak, 396 F.2d 746 (9th Cir.1968) ... This section authorized the state to select 102,500 acres from public lands that were "vacant, unappropriated, and unreserved at the time of their selection." The intent of Congress was, of course, to provide the new state with a solid economic foundation. United States v. Atlantic Richfield Co., 435 F. Supp. 1009 (D. Alas. 1977). Alaska Statutes, Alaska Statehood Act, Notes to Decisions, Juneau: Department of Law, 1983, p. 87.

[11] *Ibid.*, p.21. The 52.5% figure was later raised to 90% of proceeds on minerals from public lands.

[12] Section 6(a) of the Alaska Statehood Act. The Act provided for up to 400,000 acres from the National Forests. In later practice this came to be viewed as an entitlement of 400,000 acres.

[13] ANILCA also allowed the state a 25 percent overselection of its remaining entitlement for the same reason, and to replace withdrawn lands that were filed on by the state (such as military bases or the Trans Alaska Pipeline Carridor) in the event the state is unable to obtain them.

[14] *State Land Selections from Tongass and Chugach National Forests*, Anchorage: Alaska Department of Natural Resources, June, 1989, p. 2

[15] *Ibid.*, p. 3

[16] Alaska Statehood Act, Notes to Decisions, in *Alaska Statutes*, p. 77

[17] Claus-M. Naske, *A History of Alaska Statehood*, Lanham: University Press of America, 1985 (1973), p.107

[18] *Ibid.*, p. 143

[19] Victor Fischer, *Alaska's Constitutional Convention*, National Municipal League State Constitutional Convention Studies Number Nine, Fairbanks: University of Alaska Press, 1975, pp. 137-39

[20] *Ibid.*

[21] Thomas R. Berger, *Village Journey*, New York: Hill and Wang, 1985, p. 20

[22] House report accompanying the final version of ANCSA, quoted in Berger, p. 21

[23] see Steve J. Langdon, "Contradictions in Alaskan Native Economy and Society" in *Contemporary Alaskan Native Economies*, ed. by Steve J. Langdon, Lanham: University Press of America, 1986

[24] The concerns of residents of the area are being investigated, as we write (1994), by the federal government: the burial of nuclear wastes in underground dumps, and the use of Inupiat in experiments to disclose the effects of exposure to nuclear radiation, have been recently acknowledged by the government and are the subject of ongoing investigations.

[25] Robert D. Arnold, *Alaska Native Land Claims*, Anchorage: The Alaska Native Foundation, 1978, p. 119. A report prepared for Congress, *Alaska Natives and the Land*, stated similar findings based on information provided by DOI as of June, 1968: "Alaska Native groups and associations have claimed and filed protests to the transfer of almost the entire state. The claims and protests are based on aboriginal use of the lands." See pp. 454-514 for a discussion by region of the status of land ownership and control, as well as the petitions, claims and protests made by Alaska Natives.

[26] Robert D. Arnold, *Alaska Native Land Claims*, Anchorage: The Alaska Native Foundation, 1978, p.118

[27] A statewide corporation was also suggested.

[28] Robert D. Arnold, *Alaska Native Land Claims*, Anchorage: The Alaska Native Foundation, 1978, p. 129

[29] For a critical review of ANCSA and its implementa-

tion, and of the failed expectations of its "promise" for social and economic equity, see Thomas R. Berger, *Village Journey: The Report of the Alaska Native Review Commission*, New York: Hill and Wang, 1984

[30] See Gunnar Knapp, *Native Timber Harvests in Southeast Alaska*, USDA Forest Service, Pacific Northwest Research Station, General Technical Report PNW-GTR-284, 1992, p.5.

[31] *Ibid.*, p. 5

[32] Esther C. Wunnicke, Robert D. Arnold, David M. Hickok, Douglas N. Jones and Arlon R. Tussing, *Alaska Natives and the Land*, a report on Alaska Native land claims by the Federal Field Committee for Development Planning in Alaska, Anchorage, Alaska, 1968, p. 530

[33] Cumulative real dividends per shareholder ranged from zero (Koniag) to nearly $10,500 (CIRI). Real net corporate income received per shareholder varied from $44,000 for CIRI to a negative $7,000 for Calista and Bering Straits. The other corporations had income received that ranged from negative $2,000 to $12,000 per shareholder. The regional corporations as a group suffered net losses in seven out of 17 years. Only four corporations produced positive cumulative net income on business ventures from 1974-90. See Steve Colt, "Financial Performance of Native Regional Corporations," *Review of Social and Economic Conditions*, Vol. XXVIII, No. 2, Anchorage: University of Alaska, Institute of Social and Economic Research, December, 1991. There has been very little research into this topic. For a general treatment, see Thomas R. Berger, *Village Journey: The Report of the Alaska Native Review Commission*, New York: Hill and Wang, 1984. For an examination of benefits received by shareholders in village corporations in southeast Alaska, see the chapter by Steve Colt in *A Study of Five Southeast Alaska Communities*, Appendix A: History of Occupation and Use, Report prepared for the U.S.D.A. Forest Service and U.S.D.O.I. Bureaus of Land Management and Indian Affairs by Institute of Social and Economic Research University of Alaska (Lee Gorsuch and Steve Colt), Charles W. Smythe and Bart K. Garber, 1994

[34] Alaska Native Roll, Bureau of Indian Affairs, total as of 12/31/85.

[35] See in *A Study of Five Southeast Communities*, Institute for Social and Economic Research (Lee Gorsuch and Steve Colt), by Charles W. Smythe and Bart K. Garber, Chapter 2, pp. 17-19 (1994); and personal communcation, Bart K. Garber to Charles W. Smythe, 1993.

[36] Source: U.S.D.O.I Bureau of Indian Affairs, Alaska Native Roll, Dec. 31, 1985. The actual number of shareholders is larger today, as some stock has been transferred through inheritance and other means.

[37] *A Study of Five Southeast Alaska Communities*, Report prepared for the U.S.D.A. Forest Service and U.S.D.O.I. Bureaus of Land Management and Indian Affairs by Institute of Social and Economic Research University of Alaska (Lee Gorsuch and Steve Colt), Charles W. Smythe and Bart K. Garber, Anchorage: University of Alaska, 1994, p.92, from statistics provided by the U.S.D.A. Forest Service, Region 10, as of July 19, 1991.

[38] ANILCA Section 506(a)(3-6) provided additional land to Kootznoowoo.

[39] The Haida Exchange Act (1986) authorized the Haida Corp. to relinquish village corporation land to the United States in return for money and alternative lands, which resulted in the conveyance of about 5,000 acres to the government (some of which was added to the Tongass National Forest).

[40] Goldbelt and Shee Atika were initially entitled to 23,040 acres, but subsequent negotiations and land trades resulted in additional lands in exchange for relinquishing claims to Admiralty Island.

[41] See Note 5.

[42] This figure includes shareholders enrolled to other villages and towns in southeast Alaska and at-large shareholders, in addition to village and urban corporation shareholders.

[43] Gunnar Knapp, *Native Timber Harvests in Southeast Alaska*, U.S.D.A. Forest Service, Pacific Northwest Research Station, General Technical Report PNW-GTR-284, 1992

[44] *A Study of Five Southeast Alaska Communities*, Report prepared for the U.S.D.A. Forest Service and U.S.D.O.I. Bureaus of Land Management and Indian Affairs by Institute of Social and Economic Research University of Alaska (Lee Gorsuch and Steve Colt), Charles W. Smythe and Bart K. Garber, Anchorage: University of Alaska, 1994

[45] Leo Keeler, Chugach National Forest, Personal Communication, February 8, 1994

[46] Source: U.S.D.O.I Bureau of Indian Affairs, Alaska Native Roll, Dec. 31, 1985. The actual number of shareholders is larger today, as some stock has been transferred through inheritance and other means.

[47] *A Study of Five Southeast Alaska Communities*, Report prepared for the U.S.D.A. Forest Service and U.S.D.O.I. Bureaus of Land Management and Indian Affairs by Institute of Social and Economic Research University of Alaska (Lee Gorsuch and Steve Colt), Charles W. Smythe and Bart K. Garber, Anchorage: University of Alaska, 1994, p.92, from statistics provided by the U.S.D.A. Forest Service, Region 10, as of July 19, 1991.

[48] This figure includes shareholders enrolled to other villages and towns in the Chugach region and at-large shareholders, in addition to village corporation shareholders.

[49] Robert D. Arnold, *Alaska Native Land Claims*, Anchorage: The Alaska Native Foundation, 1978, p. 246

[50] ANCSA, Section 4(b)

[51] David S. Case, *Alaska Natives and American Laws*, Fairbanks: University of Alaska Press, 1984, p. 294

[52] *Alaska Natives and the Land*, p. 539-40

[53] David S. Case, *Alaska Natives and American Laws*, Fairbanks: University of Alaska Press, 1984, p. 295

[54] Senate Report 92-581, 92nd Cong.; 1st Sess., December 14, 1971, p. 37; cited in Ibid. p. 295: emphasis added

[55] Steve J. Langdon, "Alaska Native Subsistence: Current Regulatory Regimes and Issues, Paper prepared for the Alaska Native Review Commission Roundtable on Subsistence, Anchorage: Inuit Circumpolar Conference, 1984, pp. 11-12

[56] The state constitution, which prescribes the development and common use of all natural resources including fish and wildlife, did not ultimately afford an assurance of protection of Native or rural subsistence. In 1978 the State passed a subsistence law giving priority to subsistence users over all other fish and game uses. The State of Alaska's adherence to its constitution conflicts with ANILCA provisions, and this led to the Federal federal government asserting control over fish and wildlife resources on federal lands; this issue is currently under litigation.

[57] David S. Case, *Alaska Natives and American Laws*, Fairbanks: University of Alaska Press, 1984, p. 297

[58] *Katie John, Doris Charles, and Mentasta Village Council, and The State of Alaska* v. *The United States of America*, Case no. A90-484 Civ, State's Motion for Partial Summary Judgement

[59] Steve J. Langdon, "Alaska Native Subsistence: Current Regulatory Regimes and Issues, Paper prepared for the Alaska Native Review Commission Roundtable on Subsistence, Anchorage: Inuit Circumpolar Conference, 1984, p. 12

A Context for Setting Modern Congressional Indian Policy in Native Southeast Alaska

By Walter R. Echo-Hawk[1]

THE TLINGIT PEOPLE WERE MIGRATING downstream, searching for a better life. Following the banks of a mountain stream, they came upon a glacier! The vast field of ice blocked their trek. Seemingly impassable, it was too steep to climb and too far to go around. Yet, the river flowed beneath the deep crevasses, so the People decided to build a raft and sail underneath the glacier. Once the vessel was built, they asked, "Who will go?" Two elderly women volunteered. "We have lived a long life. We will go." The pair boldly floated into the mountain of ice and disappeared.

When they emerged on the other side, the elders discovered a wondrous land! It was an immense temperate rainforest beside the sea, a maritime paradise teeming with awesome creatures, edible plants of all kinds, and bountiful waterways in one of the most beautiful places in the world. This terra nullius *was a Garden of Eden, located right on the shores of Native North America. The People identified this spectacular place as* Haa Aaní *(Our Land), the Land of the Tlingits.*

—A Tlingit Migration Story told by Walter A. Soboleff in 2006.[2]

In 2009, Congress will conduct hearings on Native land entitlement and other pressing indigenous issues in southeast Alaska, a land called ***Haa Aaní*** by the Tlingit Indians. A useful background context for those hearings may help guide the formulation of meaningful Congressional action for the twenty-first century. Several overarching questions inform the hearings. After thirty-eight years, how well has the Alaska Native Claims Settlement Act of 1971 (ANCSA) worked in southeast Alaska?[3] What impacts has federal law and policy had upon the well-being, subsistence, and cultural integrity of the indigenous inhabitants of America's largest rainforest? The treatment of these rainforest tribes, as federal protectorates under the Indian trust doctrine, stands as a barometer in the post-colonial world. On a larger level, it marks how our modern industrialized nation comports itself with Mankind's last remaining hunting, fishing, and gathering cultures that still live in the natural world, as well as the last remaining vestiges of the natural world itself.

The fate and well-being of marginalized Indigenous Peoples are pressing domestic and international concerns in the world today. During the twentieth century, many tribes in other lands went extinct.[4] The goal is to protect those who remain, especially after witnessing the tragic, reoccurring outbreaks of genocide throughout the twentieth century. This shift in public opinion

is seen in the approval of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007.[5] That historic measure breaks sharply from colonialism and its urge toward subjugation, dispossession, and exploitation. As an international guideline, the UNDRIP replaces oppressive policies from that era—which are still found in some former colonies—with minimum standards for each modern nation to protect the dignity, survival, and the cultural, economic, social, and political well-being of the world's Indigenous Peoples. Although the Bush Administration voted against the UNDRIP—along with three other dissenting nations—there are several reasons why the United States will not be the last to embrace the UN standards. Since 1970, federal Indian affairs have been guided by the cornerstone Indian self-determination policy. That is a precedent-setting and enlightened indigenous policy that sets a high standard for any nation and it is also the centerpiece of the UNDRIP. The Indian self-determination policy is strengthened in the United States by the law. First is the long-standing federal Indian trust doctrine, which was first articulated by Chief Justice John Marshall in *Cherokee Nation v. Georgia* (1831); and, second, for almost two hundred years, our law treats Indian tribes as "domestic dependant nations"—that is, sovereigns which are described in *Worcester v. Georgia* (1832) as "protectorates" of the United States.[6] Finally, in the international arena, our nation is often a human rights champion. Americans eschew oppression. This combination of factors provides the heritage, history, and values to fully safeguard the well-being of Indigenous Peoples in the United States. The Bush Administration's vote against the UNDRIP does not wash away that heritage, nor bar in any way our stride toward a more just society in the post-colonial world. Consequently, Native Americans can realistically look forward with optimism that their political, cultural, and property rights as Indigenous People will be justly safeguarded in the United States during the twenty-first century.

This paper is an educational tool. It provides an indigenous perspective for setting congressional policy in Native southeast Alaska. That context is sorely needed. Native American aspirations, needs, and concerns are not well known by most Americans, including policymakers. This is especially true for the Tlingit, Haida, and Tsimshian for several reasons. First, they live in remote southeast Alaska. Most Americans have never set foot in their maritime homeland. Second, these tribal hunters, fishers, and gatherers continue to live in their indigenous aboriginal habitats. Their cosmology in the natural world is vastly different from that of most Americans who are more familiar with the Westernized way of looking at the world. By contrast, the tribal cosmology in southeast Alaska arises from primal ties to the natural world. As such, those indigenous cultures are still imbued with the age-old values of hunters, fishers, and gatherers that were instilled into our species during our long evolution as humans spread across the planet. This is reflected in the remarkable art, dress, dance, songs, language, architecture, social organization, and customs of the Pacific Northwest tribes that comprise their subsistence way of life, which are absolutely unique in the world

today. That way of life is similar, however, to all hunting, fishing, and gathering cultures around the world; and it depends upon cooperation with the animals and plants to ensure their renewal, not the conquest of nature. Those primal cosmologies contain valuable teachings about human relations with the animal and plant world. Unfortunately, that indigenous knowledge and value system is long forgotten by most Westerners living in industrialized landscapes, dismissed as an inferior way of looking at the world, or worse yet, demonized and stamped out in many colonized lands.

It is important that policymakers grasp and incorporate the unique needs, aspirations, and concerns of the Tongass rainforest tribes when setting Indian policy in the post-colonial world. In those nations where policy is set in derogation of indigenous needs, human rights violations are often found. Tlingit, Haida, and Tsimshian congressional testimony will document the indigenous aspirations, needs, and concerns for Native southeast Alaska. It will also address the overarching questions posed above, and make recommendations to Congress. This paper provides a context for evaluating that record. It presents several points that help inform modern federal Indian policy in Southeast Alaska.

We shall examine the history of colonization in southeast Alaska and scrutinize the forces at work. Prior to the creation of the Tongass National Forest ("TNF") in 1908, the land was owned, occupied, and in use by the aboriginal Tlingit, Haida, and Tsimshian peoples according to the laws and customs of those indigenous nations. In 1908, President Theodore Roosevelt issued an executive order to create the national forest. This summary action was done unilaterally at the zenith of the Age of Imperialism, when the United States administered a large colonial empire comprised of American colonies around the world, including Cuba, the Philippines, Puerto Rico, Panama, the Virgin Islands, Micronesia, Guam, the Wake Islands, Midway Island, San Domingo, and the territories of Hawaii and Alaska. In addition, the legal climate of this period under *Lone Wolf v. Hitchcock* (1902), treated American Indian reservations like colonies subject to the plenary power of Congress, that is, absolute power over Indian tribes as wards of the government without a right of judicial review.[7] The edict simply established the vast TNF *in the middle of the Indians' aboriginal homeland* where the tribes lived, hunted, fished, and gathered since times immemorial—a time span long before the Forest Service arrived to assume hegemony over its new fiefdom. Nearly every inch of the new federal enclave was already owned by the Tlingit clans, and their Haida and Tsimshian neighbors. This action was undoubtedly unbeknownst to most of the Indian inhabitants. Protests did come from missionaries on behalf of the Tlingit and Haida Indians "as an immoral confiscation of their property."[8]

On paper, the TNF was established subject to existing property rights. The executive order stated that nothing shall be construed "to deprive any person of any valid right" secured by the Treaty with Russia or by any federal law pertaining to Alaska. However, this nicety was all but

ignored on the ground, when it came to tribal land rights. No effort at all was made for several decades to acknowledge and determine Native land rights. In the meantime, the agency occupied the land and ran roughshod over the Native peoples. For most of the twentieth century—until Congress began to curb the powers of the agency in the modern era of federal Indian law (*circa* 1970-present)—the U.S. Forest Service history presents a classic case of colonialism. As will be seen, the occupation, usurpation, and destruction of the land and its bounty, and the marginalization of the indigenous peoples and ways of life are a microcosm of Manifest Destiny. That history will be summarized here based upon U.S. Forest Service documents and the official U.S. Forest history written by Lawrence Rakestraw, entitled *A History of the United States Forest Service in Alaska* (Tongass Centennial Special Edition, 2002) (Reprinted by USDA Forest Service). It will include the Native protests against the creation of the TNF and efforts to protect their rainforest homeland in the face of dispossession and destruction by the Forest Service's relentless drive to turn the rainforest into a paper and pulp mill industry.

That battle led to the infamous Supreme Court decision in *Tee-Hit-Ton Indians v. United States* (1955).[9] In one of the worst decisions ever handed down, the court held that the aboriginal land of the Tongass tribes could be confiscated by the United States government without compensating the owners. This novel doctrine of confiscation was justified by Justice Stanley F. Reed by raw conquest. He tersely explained:

> *Every American schoolboy knows that the savage tribes of this continent were deprived of their ancestral ranges by force and that, even when the Indians ceded millions of acres by treaty in return for blankets, food and trinkets, its was not a sale but the conqueror's will that deprived them of their land.*[10]

The frightening decision dispensed with aboriginal land rights and allowed the government to freely seize an entire tribal homeland *despite the Bill of Rights* which guarantees to all other landowners that no person shall be deprived of property "without due process of law . . . nor shall private property be taken for public use without just compensation."[11]

This paper will examine the events leading to the *Tee-Hit-Ton* doctrine of confiscation and its grave impacts upon the Tongass tribes. It will highlight the dispossession of Native land rights as the indigenous way of life was brushed aside, and tribal efforts to protect "indigenous habitat" in their ancestral territory needed to support hunting, fishing, and gathering ways of life. As used here, the term "indigenous habitat" refers to the land, waters, animals, and plants in ancestral homelands traditionally occupied by indigenous tribes, and used by them to support their aboriginal cultures and ways of life—that is, vital habitat in the natural world without which aboriginal cultures and ways of life cannot survive.

The paper will also examine the impacts of the closely-related Supreme Court decision in *Organized Village of Kake v. Egan* (1962) on the indigenous way of life, Native subsistence, and the present-day economy of the villages. As will be seen, today villagers ironically live in an abundance of natural resources in a place that might as well be a desert, because so little is actually accessible under federal law and policy.[12] In *Kake*, the court placed aboriginal Tlingit fishing rights in TNF waters by tribal communities who were entirely dependent upon salmon under state regulation. State control of rights vital to the tribes' way of life was granted, even though Alaska's Statehood Act "disclaimed all right and title to and the United States retained 'absolute jurisdiction and control' over, inter alia, 'any lands or other property (including fishing rights), the right or title to which may be held by any Indians, Eskimos, or Aleuts . . . or is held by the United States in trust for said natives."[13] In retrospect, it is not hard to imagine what became of the tribal subsistence economy and way of life, once aboriginal fishing rights were safely tucked under the control of the new settler state.

As will be seen, these potent factors jeopardized the survival and well-being of one of the world's last remaining hunting, fishing, and gathering cultures, and certainly one of the last primal cosmologies in the United States. Why is a twentieth century history of colonialism, confiscation, and subjugation relevant to modern policymakers in the twenty-first century? We cannot "unring the bell," but history does provide the context for charting the future as a nation. Many countries have a legacy of colonialism. That heritage must be soberly confronted as a starting place for reform. As used here, "colonialism" is defined by law professor Robert Clinton as "the involuntary exploitation of or annexation of lands and resources previously belonging to another people, often of a different race or ethnicity, or the involuntary expansion of political hegemony over them, often displacing, partially or completely, their prior political organization."[14]

During the Colonial Era (*circa* 1492-1960), the indigenous nations of Africa, the Western Hemisphere, Australia, the Circumpolar World, Oceania, India, and most of Asia were colonized by Westerners. "Indigenous peoples" are defined as non-European populations who resided in lands colonized by Westerners before the colonists arrived. For them, colonization was invariably a harsh, life-altering experience as the colonization process usually included the invasion and involuntary occupation of their land; the outright appropriation of their property and natural resources; political subjugation and marginalization; stamping out their traditional religions, languages, ways of life and subsistence; warfare; and sometimes genocide. These destructive processes were "legalized" in nearly every colony according to the laws of the colonizers.

Colonization of Native land is invariably accompanied by destroying the habitat that supports the tribal way of life. Colonies displace the Natives, extract natural resources from the land, and remake the natural world for agriculturists and manufacturers. Thus, conquest of nature often accompanies the settlement of Native territory. In *The Conquest of Paradise*, historian Kirkpatrick

Sale examined the astounding level of environmental degradation that accompanied European colonization of the New World.[15] In 1823, Chief Justice John Marshall described the ebb and flow of colonization in the United States:

> *As the white population advanced, that of the Indians necessarily receded. The country in the immediate neighborhood of agriculturalists became unfit for them. The game fled into thicker and more unbroken forests, and the Indians followed. The soil . . . being no longer occupied by its ancient inhabitants, was parceled out according to the will of the sovereign power.*[16]

In just a few short decades, for example, the Plains Indian habitat was virtually destroyed as countless millions buffalo and wolves were slaughtered and steel plows were pulled through native plant communities. When Native peoples resisted, the law invariably supported the destruction of their indigenous habitat, often with harsh, life-altering results. The depopulation of American Indians and destruction of their cultures following European contact has been attributed, in part, to the accompanying destruction of indigenous habitats.[17] Simply put, deforestation, dewatering, and destruction of the wild animal and plants that sustained Indian tribes, led to their collapse. Many went extinct following the conquest of nature in North and South America since 1492.

The age of colonialism ended after World War II, with the emerging independence of former colonies around the world. Although colonialism was ultimately rejected by the international community several decades ago, that system remains embedded in the laws and social policies of some former colonies as a cornerstone for dealing with Indigenous Peoples. Their paramount challenge in the twenty-first century is to identify and root out the "dark side" of those laws and policies and strike a more just balance for the rights, relationships, and responsibilities between Indigenous and non-indigenous peoples.

As will be shown, southeast Alaska is one place where this familiar history occurred. The region was colonized as a *de facto* Forest Service colony for most of the twentieth century; and the aboriginal nations that reside in the TNF live under that legacy today. The challenge for Native southeast Alaska is to repudiate, not prolong, that legacy and restore the well-being of the indigenous peoples to the fullest extent possible, at least until the minimum UN standards are achieved. The moral call to rebuild and restore colonized areas can be likened to the enormous American efforts normally undertaken to voluntarily restore the lands and infrastructure of nations defeated in war by the United States. This is almost always done in the national interest where our nation has, in effect, made a destructive mess and cannot in good conscience leave a devastated people without rebuilding and restoring their nation—that is, by putting them back on their feet. That same good moral conscience and national interest should obtain with even stronger force at home for America's indigenous nations living in colonized areas as protectorates of the United States. It is hoped that the congressional hearings will point the way toward that healing process in Native southeast Alaska.

1. Why *Tee-Hit-Ton* and *Kake* Deserve the Attention of Policymakers.

The ***Haa Aaní*** story deserves telling. It is a classic tale of colonization, the degradation of indigenous habitat, and cosmological conflict between different worldviews. It tells how ***Haa Aaní*** was colonized by the Forest Service (*circa* 1908-1955). The courts played a prominent role. They legitimized the outright confiscation of aboriginal property used for hunting, fishing, and gathering with the air of legitimacy in the *Tee-Hit-Ton* case; and the courts placed the indigenous subsistence way of life under the control of settlers in the *Kake* litigation.

By the 1950's and early 1960's when *Tee-Hit-Ton* and *Kake* were decided, Native America had slumped to its nadir. This was a time before the advent of the modern era of federal Indian law, when most Indians were living in abject poverty as marginalized persons upon the fringes of a nation bent on stamping out all vestiges of tribal culture during the Termination Policy era.[18] During this period, judges could dispense with niceties in Indian cases and simply "tell it like it is." A reading of the unvarnished *Tee-Hit-Ton* opinion does just that—in hard-edged, bone-chilling words; and it was easy to brush aside an ancient way of life in a colonized land by the *Kake* Court without realizing the enormous human and cultural costs at stake.

In that era, the legal climate recognized few Native American rights in the waning years before the advent of the modern era of federal Indian law (*circa* 1970-present). In 1954, the United States Supreme Court desegregated America in *Brown v. Board of Education* (1954) under the leadership of Chief Justice Earl Warren, but it was not ready to reverse doctrines of conquest and discovery in Indian cases.[19] Instead, the court was still bent on conquering America in 1955, if we take Justice Reed at his words in the *Tee-Hit-Ton* opinion, written just ten months after *Brown* was handed down. That opinion brings the Law of Colonialism into a harsh, modern-day context. It illustrates how easily the manifestly unjust confiscation of Native land can be justified by leading jurists as the law of the land.

The *Tee-Hit-Ton* case, with its misplaced notions of conquest, has never been reversed.[20] It raises several sobering questions that are critical to the cultural survival of Indian tribes and their aboriginal way of life in modern-day America.

The ruling holds that Indian tribes cannot rely upon the Fifth Amendment or aboriginal property rights to protect themselves against government seizure, and on another level leaves them helpless to protect "indigenous habitat" from destruction at the hands of the government. Today discussion of aboriginal title is largely a moot point, since most aboriginal property rights were extinguished long ago by voluntary treaty cessions, myriad government takings, or

outright confiscation as legalized in *Tee-Hit-Ton.* To be sure, some Indian owners were eventually compensated for takings by various congressional remedies in laws like the Alaska Native Claims Settlement Act ("ANCSA") or Indian Claims Commission Act ("ICCA").[21] However, monetary compensation for damages does not protect a way of life. That shortcoming raises the paramount question facing indigenous hunting, fishing, and gathering cultures in the world today: *How can Native Americans meaningfully protect "indigenous habitat" in ancestral homelands from destruction when that habitat remains vital to their hunting, fishing, and gathering existence?* Few Indian treaties in the lower 48 States reserved off-reservation hunting, fishing, and gathering rights in ceded land, and those that did often left those rights vulnerable to later invasions by "development." None of those treaties expressly reserved water needed to support hunting, fishing, and gathering in ceded habitat or other protection from environmental harm. Those treaty rights have recently been implied by the courts in a nascent, but important body of growing law. Unfortunately, the alarming rate of indigenous habitat degradation has quickly outpaced the development of this body of law, leaving many hunting, fishing, and gathering cultures in the Pacific Northwest vulnerable to extinction. In Alaska, no treaties were made at all.

In this cultural crisis, federal Indian law offers few realistic protections for the last remaining "indigenous habitat" in ancestral territory that is no longer owned or controlled by Indian tribes. The *Tee-Hit-Ton* decision and judicial mindset illustrates the practical difficulties encountered in the courts when tribes attempt to protect a vulnerable way of life that is dependent upon aboriginal habitats. Today, most remaining land owned by Native communities is held under treaties, executive orders, or statutes. Although some Indian land includes "indigenous habitat," most of that habitat is no longer tribally owned or controlled by Indian tribes or Alaska Natives after their aboriginal title was extinguished. Nevertheless, many Indian and Alaska Native tribes still struggle to maintain their traditional hunting, fishing, and gathering way of life, especially in the Pacific Northwest, which spans from the Yuroks in Northern California to the northern reaches of Tlingit country above Glacier National Park. Much of the critical habitat that produces fish, animal and plant populations necessary for that way of life is now federal land, or lies in navigable streams, riparian zones, and ocean waters beyond the outer continental shelf. Thus, the last remaining hunting, fishing, and gathering cultures have largely been divested of habitat critical to their survival. American law offers little protection for that habitat or way of life.

Why should we care? After all, the United States "mostly" paid the Indians for their ceded or confiscated territories. Huston Smith, the religion scholar, describes the ties to indigenous habitat in religious terms. One distinguishing feature of primal religion is "embeddedness" in nature. That occurs, according to Smith, to such a degree that we think "not of primal peoples as embedded in nature, but of nature . . . extending itself to enter deeply into them, infusing them in order to be

fathomed by them."[22] For them, the sanctity of nature is taken seriously. They venerate ancestral habitat through the world renewal ceremonies and belief systems found in Native America that transcend our lineal conception of time.[23] This "ensoulment" of nature, as described by Professor Gregory Cajete (Tewa), is the result of long human experience with the natural world by people who have interacted with a particular landscape so long that their identity is inseparable from the land.[24] This helps explain why Native People lament loss of ancestral land, removal, or destruction of tribal habitat, for this amounts to "a loss of part of themselves."[25]

> *Relationships between Native peoples and their environments became so deep that separation by forced relocation in the last century constituted, literally, the loss of part of an entire generation's soul. Indian people had been joined with their lands with such intensity that many of those who were forced to live on reservations suffered a form of "soul death." The major consequence was the loss of a sense of home and the expression of profound homesickness with all its accompanying psychological and physical maladies. They withered like mountain flowers pulled from their mother soil...*[26]

On another level, a larger, deeper cosmological battle took place in the struggle to colonize the Tongass. Government colonization of ***Haa Aaní*** pitted two conflicting cosmologies. Simply put, the way that indigenous tribes look at animals and plants in natural habitats—as the world's remaining hunting, fishing, and gathering cultures—is vastly different from the way settlers view colonized land. As will be explained, at one time, all humans were hunters, fishers, and gatherers who lived in the natural world and depended upon cooperation with nature to survive. Their cosmology universally respected life and revered the animals and plants found in human habitats. This worldview is still carried on by traditional Indigenous Peoples embedded in ancestral habitats. Some ten thousand years ago, an opposing cosmology began to emerge among those humans who began domesticating animals and plants in agrarian societies. Agriculturalists had to combat the natural world, control the plants, and dominate domesticated and wild animals to survive. They evolved a new cosmology that sanctifies domination of the land and the conquest of nature. The two ways of life would collide in ***Haa Aaní*** and compete for control of the rainforest. In *Kake*, the Supreme Court empowered the State of Alaska to determine the fate of Indians' hunting, fishing, and gathering existence by placing the exercise of their aboriginal fishing rights under state control.

As a result of *Tee-Hit-Ton* and *Kake*, the Tongass tribes would not only lose control of their lands, indigenous habitat, but also the exercise of rights vital to their way of life in this harsh colonial setting. Thus, as the Alaskan struggle spilled into the federal courts in those cases more than fifty years ago, it raised what has now become a crucial question facing the human family in the twenty-first century: *Can a hunting, fishing, and gathering way of life derived from tribal habitats survive in the colonized lands of modern nations?*

The way that we answer that question as a nation in the twenty-first century will tell much about our national character. Many dismiss the primal way of life as "inferior" or "primitive." Environmentalists doubt whether indigenous habitats in the natural world, or the natural world itself can survive in modern nations. Thus, a core question which confronts Congress is: ***How modern society should comport itself toward the world's last remaining hunting, fishing, and gathering cultures.*** Do these endangered human cultures have a right to exist? If so, what laws and policies need to be sharpened for that purpose? For governance, what is the best political model for federal control of minority cultures in the post-colonial world: abject domination, accommodation, cultural self-determination, or some other model that can assure their survival, well-being, and co-existence? Given the wide cosmological gulf that exists between agrarian and primal cultures, answers will test the tolerance of settler-state societies and the limits of their legal systems, and will reveal the character of our modern society.

The national interest insists upon just answers to these questions. Today most Americans appreciate the Native American cultures and want them preserved, as a result of changing values in a mature nation. Law and policy should keep pace with that social change in attitude. The UNDRIP standards may shine the way toward a more just culture in the post-colonial world. As we strive to find a just balance of rights, relationships, and responsibilities in the twenty-first century, the fate of the few surviving cultures that depend upon the integrity of indigenous habitat hangs in the balance. The world now insists that these questions be addressed and answered by each nation. The UNDRIP specifies that Indigenous Peoples must be given the right to own, control, and use ancestral territories and be provided effective means to protect the environmental integrity of indigenous habitat.[27] These UN standards seek to protect the well-being, dignity, and human rights of hunters, fishers, and gatherers who carry on the oldest way of life of the human race.

The struggle to achieve those standards affect raises some of the gravest matters ever expressed by international institutions. After all, "genocide" is defined by the United Nations as the deliberate destruction of a racial, ethnic or cultural group; and genocidal acts include "inflicting conditions of life calculated to bring about a group's destruction in whole or part."[28] Where indigenous peoples are concerned, some researchers interpret such acts to include "destruction of the habitats utilized by indigenous peoples."[29] As mentioned earlier, the challenge is to protect surviving indigenous groups. Today, most people deplore clear-cutting the world's remaining rainforests. We know that destruction of the Amazon rainforest, for example, will destroy the Indian tribes who live there; and public opinion insists that those cultures be preserved. Yet few realize that rainforest tribes exist ***in our nation*** and their way of life also depends upon healthy indigenous habitats. They inhabit the Pacific Northwest, from Yurok country in northwest California to Tlingit villages on the Chilkat River and Yakutat Bay. Their dignity, well-being, and survival are important national and

international questions that can not be decided solely by local politicians guided by parochialism, or by self-interest groups driven by narrow ideologies and interests.

2. The Cosmological Conflict over the way Humans View Animals and Plants.

There is a pronounced cosmological tension in Native southeast Alaska. To bring regional issues into perspective, policymakers must consider humanity's two age-old, often competing, ways of life and the conflicting cosmologies that arise from those worldviews. As used here, "cosmology" is the foundation for how a culture understands the natural order of the universe and the world around us, as derived from its religious, social, and political orders. From that vantage point, the fundamental interests at stake in the struggle to colonize ***Haa Aaní*** during the twentieth century emerge from the misty mountains, fjords, and bays of the temperate rainforest. As will be seen, when spurred by the forces of colonialism, the Western agrarian-based cosmology aggressively dominates the natural world, including the peoples who live there. This driving force ultimately produced the Supreme Court's *Tee-Hit-Ton* and *Kake* decisions, which jeopardized tribal property rights, indigenous habitat, and the way of life of the aboriginal tribes indigenous to ***Haa Aaní***. As we chart our course for the future, it is necessary to harmonize human cosmology in the region to strike a better balance and bring out the best in both worldviews.

The underlying cosmological tension in *Tee-Hit-Ton* and *Kake* was over the way humans view animals and plants. The timber sale in *Tee-Hit-Ton* would reduce a rainforest homeland to pulp and paper. This would devastate occupants who "were in a hunting and fishing stage of civilization," according to the Supreme Court.[50] The vital tribal area contained their burial grounds, towns, houses, smokehouses, and hunting camps. The Indians used the land "for fishing salmon and for hunting beaver, deer, and mink," and gathering "wild products of the earth."[51] In contrast, the Government was determined to establish timber-processing operations for the manufacture of pulp and paper. According to the Forest Service, protecting the Indians' way of life would "seriously delay, if not prevent, the development so earnestly desired by Alaskans" (meaning everyone except the aboriginal people who lived in Alaska for millennia).[52] Under the *Kake* decision, the tension between these worldviews would be resolved solely by the newcomers. *Kake* places the exercise of aboriginal fishing rights in TNF firmly under the control of the newly-formed State of Alaska. In so doing, the courts put the fate of the aboriginal cultures into the hands of strangers with an alien cosmology. The different way their worldview treats the natural world placed the tribal people in a vulnerable

position familiar in many colonies during that era.

How a society views animals and plants in the natural world defines its character, culture, and reveals innermost feelings about the living world around us. As explained in much more detail below, human "cosmology" can be divided for purposes of this paper into two venerated ways of life: (1) The hunting, fishing, and gathering existence is the oldest way of life followed by humans since the dawn of our existence. It gave rise to primal cultures that dominated human evolution for hundreds of thousands of years and although endangered today, this lifeway continues to prevail in a few isolated tribal habitats around the world. (2) The agricultural way of life emerged about ten thousand years ago. Over time, agriculturalists swept the planet, except for isolated pockets of hunting, fishing, and gathering cultures. Their cosmology now informs the mindset for viewing nature in modern societies. The two outlooks differ significantly: To inhabit a natural world, primal people must cooperate with animals and plants and encourage natural processes to survive, while agriculturalists living in a man-made world must control and dominate nature to survive. These differences account for much atrocity, discrimination, and conflict found in human history during the conquest of nature; and they were very much at play in the twentieth century struggle to colonize ***Haa Aaní***. A brief overview of these competing cosmologies follows.

A. THE ANIMAL-PEOPLES' COSMOLOGY.

The Indians of the TNF are a race of hunters, fishers, and gatherers. That is made abundantly clear from a government report issued in 1946 by Walter R. Goldschmidt and Theodore H. Hass, entitled *Haa Aaní: Our Land: Tlingit and Haida Land Rights and Use* (1946).[53] For all of human evolution and most of our history, the entire human population subsisted as hunters, fishers, and gatherers.[54] For 160,000 years, this way of life dominated our species. As we spread across the planet, life in this lengthy period instilled gut instincts that shaped our biology, minds, and spirit. The relationships formed with animals during this period wired the human spirit. The habits of animal behavior and plant knowledge were instilled in people. Ancient humans amassed in-depth traditional ecological knowledge about the Natural World that parallels modern man's fascination with Western science. Appropriate conduct for living with them guided human behavior. Hunting brought us into the wild and awakened our awe of animals, beings with remarkable attributes and powers. That awe may have inspired the first religions and art—as suggested by the animal spirits drawn in caves 20,000 years ago.

Spiritually, human hunters were animistic. People believed animals are endowed with spirits and souls. As animal spirits "gave" or "offered" themselves to humans, harvesting and eating them

required hunters to reciprocate by making offerings to them to ensure their return the following year. As illustrated by Native American beliefs, protection and reciprocity came from a sacred "covenant" forged between humans and the animals in mythic times, in which animal relatives willingly "gave" themselves to people in exchange for our prayers, reverence, and respect. We pledged to thank the animals, to respect them through song, dance, art, and story, and to call upon their spirits and seek their eternal return through ceremonies.[35] Those beliefs and practices sanctified our relationship with mystical animals and plants as hunters, fishers, and gatherers and legitimized our presence in their world.

Pockets of this belief system remain in Africa, North America, South America, Asia, and Oceania. One of the largest concentrations of these surviving cultures is in North America. They survived long enough to be studied by anthropologists.[36] Information gleaned from the Yup'ik, Inupiat, Cree, Bella Bella, Tsimshian, Kwakiutl, Nootka, Quileute, Quinault, Makah, Tlingit, Haida, Yurok, Hoopa, Klamath, Salmon Tribes of Puget Sound, Columbia River Tribes, Southwestern Dine, Apache, and Pueblo tribes, and hunter-gathers of the Northern Plains tells us much about Mankind's earliest existence. These contemporary hunters, fishers, and gatherers provide a glimpse of human existence in its earliest mode. Their way of understanding the world is a human legacy. Unfortunately, this cosmology has been forgotten, dismissed, and sometimes demonized by the modern world.

Those Native American cultures named above uniformly derive from a hunting, fishing, and gathering way of life. It produced indigenous cosmologies well-described by Gregory Cajete (Tewa) in *Native Science: Natural Laws of Interdependence.*[37] That worldview revels in Mother Earth's remarkable ability to support life. It proclaims Mother Earth as the foundation for human culture. That is, ethics, morals, religion, art, politics, and economics derive from the cycles of nature, behavior of animals, growth of plants, and human interdependence with all things endowed with a spirit of their own.

The people of ***Haa Aaní*** are traditional gatherers whose robust aboriginal economy was based, in large part, upon the abundant berries, roots, herbs, fruits, medicines, and other natural products found in the verdant rainforest.[38] And much of their culture was made of wood. In the cosmology of Native American gatherers, plants hold an esteemed place of honor as the staff of life and foundation for human and animal life. The plant world, for example, is called "Toharu" in Pawnee, which is a sacred concept for the "living covering" of Mother Earth.[39] Across North America, plants are venerated in creation stories that tell us who we are, why we are here, and what is our place in the world. They are honored in ceremony, song, art, lore, and religion as foods, medicines, and materials. As explained in many tribal traditions and ethnologies, plants have "talked" to people in Native North America and sometimes become their guardians. Accordingly, gatherers approach wild roots, berries,

peyote, corn, tobaccos, cedar, sage, and other medicines in a ritual way, just like humans have done throughout evolution. The prayers, ritual preparation, and pilgrimages that accompany gathering make subsistence profound. They place restraints upon gatherers in their use of plants and govern conduct in the plant world.

The women of the Columbia River tribes remember the covenant with plants. They know that plants came first and took pity upon humans. They hold Longhouse ceremonies to honor plant relatives before the first roots can be dug or the first berries can be picked. Unlike shopping at the corner grocery store, plants are sacred food with spirits of their own that cannot be approached without the proper ritual preparation. Though illogical to Western minds, for the women of these tribes gathering demands a respectful participation with plants as spiritual beings in a natural environment; and it is carried out on a distinctly spiritual plane.

Similarly, the Native American perception of animals mirrors hunting cultures around the world. Hunting is an ancient way of life in North America—a tradition much older than the 10,000 year-old Clovis Site. This tradition evolved songs, dances, ceremonies, art forms, and a spiritual reverence for animals. It produced an elaborate cultural context for hunting and a worldview that explains how humans should conduct themselves with animals.

As noted by scholars Smith, Eliade, and Cajete, the wall that separates humans and animals in the primal world is thin. Like most hunting cultures, the widespread kinship with animals found in Native America was established through covenants, dreams, visions, and lore. Through those means, many animals endowed with power communicated with humans and shaped their cultures. The "conversation of death" between hunter and prey, in the words of author Barry Lopez, which takes place in this context, takes on a primal meaning; and meat thus acquired becomes "sacred meat."[40] Today, Indian hunters often put a pinch of tobacco in the mouths of their kill to assist it on its spirit journey. It is part of the covenant made in mythic times. One Santee Dakota explained: "The animals long ago agreed to sacrifice their lives for ours, when we are in need of food or of skins for garments, but we are forbidden to kill for sport alone."[41]

The Pawnee tribe provides one example of the pervasive animal-influence in tribal cultures in North America. Animals predominate in Pawnee names, stories, songs, ceremonies, hunting, and in the tribal social order itself.[42] In mythic times, early Pawnees gained wisdom and knowledge about the spiritual world from the animals. As Eagle Chief (Pawnee) explained in 1907:

> *In the beginning of all things, wisdom and knowledge were with the animals, for* Tirawa, *the One Above, did not speak directly to people. He spoke to people through his works, the stars, the sun and moon, the beasts, and the plants. For all things tell of* Tirawa. *When people sought to know how they should live, they went into solitude and prayed until in a vision some animal brought wisdom to them.*

> *It was* Tirawa *who sent his message through the animal. He never spoke to people himself, but gave his command to beast or bird, which came to some chosen person and taught him holy things. So it was in the beginning.*[43]

At birth, every child came under the influence of a particular animal which became its guardian in life. That tie could also arise when kindly humans took pity on helpless animals—like bear cubs, puppies, and orphaned horses—who returned kindness with animal-powers. Animal spirits are said to dwell in medicine lodges. Their councils could take pity on deserving humans, teach them secrets, and give them power or protection. Birds are also helpers who mediate between humans and *Tirawaahat.* In mythic times, there was a world without birds, only animals and people; however, some families turned into the birds we see today.[44] Among them, hawks are guardians of warriors and messengers for the Morning Star; and the crows, eagles, magpies, owls, bluebirds, meadow larks, and roadrunners carry messages from the beyond. The mystical power of messenger birds is illustrated in a Pawnee family tale:

> *A youth accompanied a war party a long ways from home on his first raid, when he was wounded by an arrow and left for dead. Before he collapsed several days later, he prayed for help from the Creator* (Atius Tirawaahat), *then fell into unconsciousness. As he came to, an eagle stood before him and said, "I am from* Tirawaahat, *who has taken pity upon your prayer, so I am here to help you." The messenger bird told the youth, "Nearby you will find a buffalo carcass. Though it is old and filled with maggots, it will not make you sick. Eat and remember the blessings of* Tirawaahat, *be sincere in your prayers, and from now on you and your descendants will not get sick from food that you eat." After the eagle flew away, everything he said came true. The people were surprised and thankful when the boy returned home, for they thought he was dead, killed upon the prairie.*[45]

Even clams are regarded as wonderful beings in the Pawnee worldview. They have a cleanly nature, though they live in the mud.

Animal-human relations in Native America are intimate on many levels, as illustrated, again, by Pawnee society. In many stories, Pawnees marry buffalo or other animals, and transformation between humans and them often occurs. The stories teach that humans are closely related to the animals who voluntarily offer themselves to people as food. Thus, entire societies can be shaped by the animals in tribal habitats. Pawnee social fabric consisted of societies that originated from animals in visions. It was a society built upon the Crow Lances, Horse Society, Deer Society, Crazy Dogs, Brave Raven Lance, Young Dog, Otter Lance, and Iruska Society. The Pawnee received many tribal religious ceremonies from the Plains animals, such as the Bear, Buffalo, Horse, White Beaver, and Young Dog Dances. Even medicine came from the animal beings who formed bonds with Indian

doctors and taught humans their medical secrets, how to heal, and gave deserving doctors special powers. Through these many avenues, the traditional Pawnee way of understanding the world is heavily influenced by the spirits of animals.

In short, in tribal cosmology, animals help hunters, fishers, and gatherers become fully human and they are regarded as holy. Identification with revered animals runs deep on many levels. For example, the Pawnee admire the wolf, imitated its ways, and "became" wolves when scouting or at war. For this kinship, they are called "Wolf People" by neighboring tribes. Similarly, many tribes, bands, and clans are named after animals that shaped their cultures. They include Salmon People, Buffalo Nations, Snakes, Crows, Wolf-People, Crayfish Eaters, Whaling People, and the Tlingit Eagles, Ravens, and Wolves.

They are the Animal-people of Native North America. Because they walk in the tracks left by our ancestral hunters, their cosmology remembers and understands human interdependence with animals and plants as the natural order of the universe. As hunters, fishers and gatherers, they are still related to a living world where everything has a spirit. The worldview of Animal-people strongly encourages natural processes so that animals and plants can flourish and will return to habitats shared with humans. As such, their values and lifeways are still imbued with Mankind's ancient conservation ethic. That ecological ethic is evident in nearly every tribal habitat in North America, because those places *teemed* with animal and plant life, even after thousands of years of occupation by hunters, fishers, and gatherers.

B. THE AGRICULTURALISTS' COSMOLOGY.

The Western view of the world and how we should live in it is based upon a ten-thousand-year-old agrarian culture. Agriculture was a major revolution in human history. As used here, "agriculture" is a farming culture that tames, domesticates, and breeds plants and animals; reorders natural features; and controls natural processes to make nature more productive and beneficial to humans. Over time, Western farming civilizations underwent industrial, scientific, and technological revolutions. But they still retained an agriculturalist cosmology. The pervasive effect of agriculture on modern society is described by Jim Mason, an American authority on animal-human relations:

> *For nearly 10,000 years people of the West have farmed—that is manipulated nature for human benefit. Ponder for a moment this long human experience and how deeply it influences our thinking and culture. This is a hundred centuries of controlling, shaping, and battling plants, animals, and natural processes—all things of the world around us that we put under the word* nature. *Controlling—and ultimately battling—nature is a very old way of life to us. It is a stance with nature so*

deeply ingrained in us that we are rarely conscious of it. Controlling nature is second nature to us. We are people of an agrarian culture, and we have the eyes, ears, hearts, and minds of agriculturalists. Whether or not you have ever been a farmer, or even a visitor at a farm, if you are a Westerner you are imbued with the culture of the farmer and it determines virtually everything you know and think about the living world around you.[46]

Agriculturalists must control the natural world to survive. It is impossible to farm virgin land or breed untamed animals for food. So land must be significantly altered to produce crops. Natural hydrology must be reordered for irrigation. Local wildlife must be suppressed, because insects, birds, predators, pests, and vermin kill farm animals or eat crops. Native plant communities must be destroyed to make way for crops grown by man. In the end, nature is conquered.

At its heart, the genius of agriculture is animal husbandry and mass crop production. This requires utter domination of plants and animals. Their biological processes, genetics, behavior, and lives are altered. Strict control is necessary to tame, domesticate, breed, and cultivate them. In this regime, animals and plants lose their stature. They become property with a slavish existence for Man's benefit. This form of enslavement is at odds with the animal-human relation in hunting cultures, as seen in Standing Bear's (Lakota) remarks:

The animals had rights: the right of man's protection, the right to live, the right to multiply, the right to freedom, the right to man's gratitude. In recognition of these rights, people never enslaved the animals, and spared all life that was not needed for food and clothing.[47]

Because agriculturalists must constantly battle the living world to sustain their way of life, their cosmology must support, rationalize, and romanticize the conquest of nature; and it must exalt human domination of all other forms of life. That cosmology is described by Mason as a God-given domination of the natural world.[48] He coined the term "dominionism" to describe the exercise of human supremacy over all living things.[49]

This way of thinking has deep religious and intellectual roots in the Western world. Our exalted place in the world is a foundational religious principle of early agrarian cultures. It was strengthened by secular thinkers during the industrial, scientific, and technological revolutions, as Western civilizations morphed into modern societies. Animal-human relations in modern society were summed-up by Sigmund Freud in 1917:

In the course of his development towards culture man acquired a dominating position over his fellow-creatures in the animal kingdom. Not content with this supremacy, however, he began to place a gulf between his nature and theirs. He denied the possession of reason to them, and to himself he attributed an immortal soul, and made claims of divine descent which permitted him to annihilate the bonds of community between him and the animal kingdom.[50]

Freud described our supposed supremacy as "human megalomania."[51]

In the Book of Genesis, biblical scribes wrote down the religious traditions of Judaism and Christianity in the early agrarian societies of the Middle East. In the foundation myth of Western civilization, the Creation Story of Genesis tells agriculturalists why they are here. After creating the world, plants, and animals, God made humans in his own image and granted them "domination over the fish of the sea, and over the fowl of the air, and over the cattle, and over all the earth, and over every creeping thing that creepeth upon the earth."[52] God ordered humans to multiply and "have domination over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth."[53] God gave these early agricultural people all living things—the herbs, trees, fruits, seeds, beasts, fowl, and crawling creatures. In turn, animals would "fear" and "dread" humans, as the natural order of things:

> *And the fear of you and the dread of you shall be upon every beast of the earth, and upon every fowl of the air, upon all that moveth upon the earth, and upon all the fishes of the sea.*[54]

In Genesis, there is no religious restraint in man's relation to animals and plants. Rather, it is God's will that humans should own, rule over, and exploit all living things. This divine mandate, according to Mason, "tells the sacred story of how we came to have dominion over all of nature."[55]

Over the ages, the Western Intelligentsia contributed to the biblical version of domination. A long-line of thinkers—beginning with Aristotle through Roman thinkers, to St. Augustine and St. Thomas Aquinas—heartily endorsed the theme.[56] Aquinas taught that animals have no souls. He departed sharply from hunter-thinking.[57] Western science helped pave the way for the conquest of nature. In the 1600's, Sir Francis Bacon said nature is a slave to man and can be conquered by science. Rene Descartes classified animals as dumb, unfeeling beasts that are incapable of thought, sensation, speech, or communication, animated only by machine-like reflexes. This idea freed us from moral guilt in our dealings with animals, since they are lowly, mindless beings without a soul. It severed any lingering human connection with animals and detached us from their world. As the only sentient spiritual beings on the planet, humans can treat animals and plants as they see fit. According to Mason, this opened the door for unbridled exploitation:

> *Descartes's decoupling from, and desensitizing of, nature blew away any remains of timidity or remorse a person might have in carrying out the ruthless, often violent deeds of nature conquest.*[58]

Thus, science "freed" Westerners from kinship with other living things. They could now dominate life on earth without moral restraint. Absolute human control of the living world, then, rests upon a solid religious, scientific, and philosophical foundation in Western cosmology. As Cajete observed, Western culture "disconnected itself from the natural world in order to conquer it."[59]

Carried to its logical conclusion, "dominionism" creates a "Brave New World" for animals and plants. They live in bondage, subject to the "dark side" of agriculture. We dare not think about the abject cruelty involved in mass animal husbandry, with the stomach-turning treatment of food animals in factory farms, or how untold millions of them are killed in mechanized slaughterhouses.[60] Hidden away from public view, these nightmarish animal factories are haunting places where Man's ruthless application of technology has outpaced our current ethical horizon.[61] Unlike hunter-fishers-gatherers, we are totally estranged from our food supply. Monstrous treatment of non-human life is second nature to people anesthetized by a cosmology that safely distances humans from animals and plants. We cope by thinking, "That's alright, they're only animals—*this is the natural order of things.*" This outlook assaults wild animals and plants with even less compunction; and we do not hesitate to destroy their habitat, so long as it benefits a human interest. Governor Sarah Palin chanted that mantra in 2008, when she told the American public: "You bet we will drill, baby, drill. And we will mine, baby, mine."[62]

Unfortunately, "dominionism" does not stop at animal-human relations.[63] It sometimes spills over into human relations. *If we can enslave or exploit animals, why not people?* When people view others as "animals," racism quickly surfaces. Discrimination, dispossession, and violence usually engulf vilified people who are branded as sub-human "vermin," "monkeys," "savage beasts," "pigs," "baboons," "vipers," "curs," "cockroaches," or "insects"—especially when these animal-stereotypes are reinforced by scientific racism.[64] That climate breeds injustice—racism, intolerance, and colonialism—and fosters socially-acceptable violence normally reserved for pests. In this context, animal exploitation leads to exploitation of people. It provides a mental analogue for injustice.

"Dominionism" in human relations becomes strident when fueled by the forces of colonialism. As Europe colonized the world, its notions of racial, cultural, and religious superiority joined forces with its long tradition of dominating the living world. That potent combination of forces produced one of the most destructive cosmologies in human history. It set in motion a "perfect storm" that engulfed Indigenous Peoples and the natural world. The modern legal systems of those aggressive societies have the capacity to produce manifestly unjust cases, like *Tee-Hit-Ton.*

In retrospect, we can only regret the historical aggression and great harm done to tribal peoples and habitats around the world, as human cosmologies collided during the conquest of nature in the past five hundred years. In that wake, ancient ways of life and the habitats upon which they depend are nearly extinct today. Human and biological diversity in the modern world depends upon curbing the excesses found in those legal regimes and recapturing the values, relationships, and cosmologies of the hunters, fishers, and gatherers who live in ancestral habitats. Unless the avowed goal of the modern world is to eradicate our oldest way of life, the law in each nation should justly mediate between those differences so that all of human culture can survive and co-exist. Today there

is hope that this can be achieved, because many now admire, not despise, the world's remaining hunting, fishing, and gathering cultures. Even hardened city dwellers find walks in the woods to be therapeutic. People grow lawns and gardens not because they need food, but because it somehow feels good and reconnects them, and animals bring out the humanity in autistic children when all other forms of therapy fail. Those urges promote human wellbeing and assist in recovering balance in our lives. Thus, the inbred connection to the natural world is not entirely dead, even in urban dwellers living in an industrialized land. After all, in our heart we are still Animal-people as a result of our biological upbringing, though it may dimly beat in the modern world.

To preserve the hunting, fishing, and gathering cultures, the unwarranted excesses found in agrarian societies that threaten the existence of hunters, fishers, and gatherers must be curbed by policymakers who are in a position to do so. Society must identify those excesses, reconcile differences that separate farmers from hunter-gatherers, and protect the best in both worldviews. This path offers the best hope for rekindling human spirituality after colonialism has run its course and the spiritual wells that fueled the conquest of nature have run dry. Indeed, this may be the *only* path to a more just culture in a mature nation that joins Indigenous and non-Indigenous people together for peaceable co-existence on the same planet. Against this general backdrop of the world's competing cosmologies, we journey next into in the remarkable land of the Tongass Indian tribal nations.

3. The Aboriginal Inhabitants, Cultures, and Natural Resources of *Haa Aaní.*

The Tlingit, Haida, and Tsimshian nations are rainforest tribes who reside in the great Pacific Northwest. After ten thousand years, these aboriginal hunters, fishers, and gatherers merged closely with ***Haa Aaní*** and evolved a striking culture that mirrors their habitat. In mythic times, little difference existed between early humans and the animals and fish that inhabited ***Haa Aaní***, except in form. In those days, spirits freely transformed from animal to human, and back. This metaphysical kinship relationship shaped tribal society. For example, crossing the line that sometimes divides humans from animals, the Tlingit called themselves Eagles or Ravens, and they still do. The Animal-Fish people organized into clans respectfully named after exalted animals or fish who took pity upon early humans, such as, the Killer Whale, Dog Salmon, Wolf, Frog, and Bear Clans. Together, the clans make up present-day Tlingit society and provide identity for the People.

The Tongass tribes inhabit America's largest rainforest—an area about the size of West Virginia. Tribal villages dot shorelines along the islands, bays, rivers, and fjords of southeast Alaska. This homeland forms one of richest environments on earth. It is a remarkable place inhabited by whales, salmon, moose, deer, bears, eagles, and many other creatures. Berries of all kinds grow along the streams; and the beaches provide a breadbasket of seafood. This amazing habitat produced an astounding aboriginal culture. Tsimshian fishermen, who fish in waters on and off the coast of their Annette Island Indian Reservation, set the tone for that aboriginal Pacific Northwest Coast seafaring culture. These islanders migrated to the island from nearby British Columbia in 1887 to inhabit what is the only federally recognized "Indian reservation" in Alaska, recognized by Congress in 1891. The Haida and Tlingit migrated into ***Haa Aaní*** in the earlier mists of time, perhaps 10,000 years ago. Tlingit art, architecture, dance, music, spirituality, technology, and the subsistence way of life arose from the rainforest, rivers, and sea; and they comprise a culture that reflects the rich coastal habitat nestled against snow-covered mountain peaks.

In addition to land and sea, these tribal societies are heavily influenced by the animals and plants of southeast Alaska. This influence is evident in the abstract Tlingit art forms, such as carvings, totem poles, masks, and painting style. This beautiful, animistic art is surreal, as if produced from another world. It is at once imbued with a powerful spirituality deeply-rooted in the natural world. Similarly, the hunting, fishing, and gathering way of life of Tongass tribes are also based upon the same spirituality. Tribal ties to indigenous habitat run deep, because the two are one in the same.

In 2006, the author visited ***Haa Aaní*** to see the land and visit the people involved in the *Tee-Hit-Ton* and *Kake* litigations. The trip to this enchanting place is almost impossible to describe on

paper. The waterfalls, glaciers, immense mountains, and water bodies defy description. Whales steam across the horizon, while large-sized brown bears gallop through the tidelands, among crowds of eagles feasting on salmon, not to mention the marine life that congregates along the shorelines. Here, humans talk to the trees. "The trees are alive," explained one Tlingit attorney, "you cannot cut them without asking permission before they can be used for any purpose." Even to this day, Sealaska—the Native corporation created by federal law for Southeast Alaska—holds an annual Tree Ceremony to give thanks to the spirits of the trees. I experienced Nirvana in the Chilkat River Valley, a home to every known race of salmon. In Klukwan, Tlingit women hunt moose in the bush and lead rich traditional lives, while artists carve spellbinding animals in wood. In this land, Eagles and Ravens imitate animals as they dance; and humans are engulfed by the Natural World.

4. The U.S. Forest Service's Administration of *Haa Aaní* (1908-1955).

The TNF was carved out of Indian land. In 1908, nearly every inch was owned by Tlingit clans, and their Haida and Tsimshian neighbors. Today they comprise eighteen federally-recognized Indian tribes who live within TNF boundaries. As mentioned earlier, the TNF was created subject to any existing property rights.[65] However, Indian land rights were ignored as the Forest Service began its operations. Indian rights, if any, could be determined later.

In the early years from 1908 to 1920, the major agency tasks in Alaska were to finalize national forest boundaries, reconnoiter the natural resources, and map possible dam sites, mill sites, and pulpwood possibilities.[66] A young forester, B. Frank Heintzleman (1888-1963) came to Alaska in 1918 to help inventory the forests. He would later be promoted to Regional Forester and work to limit aboriginal property rights. Ultimately, Heintlzleman became the Governor of the Territory of Alaska from 1953 to 1957.

In 1920, twenty million board feet of timber was cut, primarily along Alaskan shores.[67] President Harding called for the development of a pulp industry in Alaska.[68] The "Roaring Twenties" saw agency growth and flourishing timber sales. Visiting industrialists eyed the pulp possibilities of ***Haa Aaní***, after two staggering sales of 1.6 billion feet of timber caught their attention in 1927.[69] They wanted "a piece of the pie" before all the trees were gone.

During this period, one Tlingit man belonging to the Raven People, named William Paul (1885-1977), emerged as a prominent attorney and indigenous political leader. He brought *Tee-Hit-Ton* as a test case.[70] He was born in 1885 at Tongass Village, Alaska, into the Tee-Hit-Ton Clan. He became a charismatic orator with many accomplishments, supporters, enemies, victories, and defeats. During the 1920's, this interesting Tlingit lawyer emerged as a force. He attacked school segregation in ***Haa Aaní***; won citizenship for his people; secured the right to vote; and fought to protect salmon fishing. He helped build the Alaska Native Brotherhood ("ANB")—founded in 1912 as the nation's first Native American civil rights organization—into a potent political voice. He launched a newspaper in 1923 to press the ANB political agenda; and, in the same year, Paul was elected to the territorial legislature as the first Native legislator. These victories set the stage for a long and distinguished career in the face of great adversity.

Despite the controversy that surrounded his work, William Paul was a real hero. His many feats are all the more remarkable, because they were accomplished before the 1924 Indian Citizenship Act, at a time when Native Americans were a subjugated and demoralized race. In 1929, Paul confronted the biggest challenge of his day: The fight for Native land rights in ***Haa Aaní***. At an ANB

convention, he urged the people to fight for their land. During the 1930's, Paul lobbied for legislation authorizing land claim litigation in the Court of Claims to secure compensation for the taking of aboriginal land. A law was passed in 1935, but it required suit by a central body representative of Tlingit and Haida Indians, even though *clans* are the landowners in Tlingit society. This proviso created internal debate over the best litigation approach. At last, in the 1940's as the debate continued, Paul began filing cases to test his theory that the clans are the proper parties to litigate land rights, instead of the intertribal organization designated in the claims statute. By that time, the controversial litigator had been disbarred from the practice of law in Alaska, but he guided land rights litigation conducted by his two sons, attorneys William Paul, Jr. and Fredrick Paul.

Thus, in the 1940's a formidable Tlingit Raven emerged. William Paul would challenge Forest Service destruction of ***Haa Aaní*** and litigate to protect his way of life. Early victories sent shockwaves to agencies that were disturbing the use and possession of Tlingit land.[71] With the help of his sons, he would fight-on as the architect and star witness in the *Tee-Hit-Ton* test case, which was filed by the Paul litigation team in 1951. They would face adversity in the courts as they confronted the Forest Service managers.

In 1929, when William Paul issued the battle-cry to protect aboriginal land rights, the Forest Service frenzy to extract natural resources from ***Haa Aaní*** was at full-cry. The frantic pace slowed somewhat during the Great Depression, but quickly resumed and was in full force by the 1940s, as Regional Forester Heintzleman marched toward an empire made of pulp. By then, the agency governed a vast fiefdom. It exercised unquestioned power in the TNF to parcel out water rights, homesteads, special use permits for mines, canneries, fox farms, and to build reservoirs, pipelines, and tunnels, like an omnipotent ruler.[72]

The clash with the Indians was inevitable, as rangers made destructive sweeps into the forest from the 1930's to the 1950's to burn or destroy Native subsistence camps and remove their structures from the land. Foresters, loggers, and homesteaders often treated Indians "as trespassers on their own lands as if these lands had been abandoned or ceded."[73] In 1946, Tlingit people complained about "instances of violent confrontation" and a pattern of "being driven out due to intimidation or competition."[74] As ***Haa Aaní*** became a *de facto* colony of the Forest Service, "Government appropriation and restrictive regulation of traditional Native lands [were] a source of tension."[75] A 1944 memorandum describes timber sale procedures:

> *Exterior boundary of area is surveyed and blazed. Strips are then run through the area and a ten to twenty percent sample of the timber is cruised. Any improvements of importance on the area are readily seen, and special clauses are inserted in timber sale contracts which state measures to be used in protecting these improvements.*

Disruption of Native subsistence, land use, and occupancy was unavoidable in the rip and run operations that clear-cut into, among, and around homesites, villages, burial grounds, subsistence camps, and gardens. During the 1940's, the Tlingit Indians were still living on the land attempting to subsist.

During Regional Forester Heintzleman's Administration (1937-1953), the pitched battle began. In 1944, the Department of Interior woke up and began developing protections for aboriginal land and subsistence rights in ***Haa Aaní***. Following various petitions and hearings, Secretary of the Interior Harold Ickes issued a 1945 decision that recognized significant aboriginal land claims, together with hunting, fishing, trapping, and gathering rights, in the TNF and adjacent waters.[76] The Department resolved to establish Indian reservations on those aboriginal lands within the TNF. This proposal shocked foresters who vigorously opposed the creation of Indian reservations in their fiefdom.[77]

The Heintlzeman Administration fought to protect the agency's regime. Agency documents from this period show efforts to rally administrative, political, and public opposition against aboriginal rights, and to lobby in Washington against recognition of those rights.[78] Sounding the alarm, Heintzleman warned, "with not less than 18 Indian groups in the National Forest . . . very substantial portions of the National Forest would be split off for Indian use"—besides, aboriginal land is the best in the TNF and the rest "would hardly be worth retaining."[79] The agency argued it is "extremely improbable" that Congress would subordinate "non-Indian rights, equities and interests."[80] It opposed any relief that would disrupt progress or the "industrial possibilities" of the TNF.[81] The interdepartmental squabbling between the Interior and Agriculture Departments produced a standoff. This allowed the Regional Forester to continue timber sales in aboriginal areas in 1946 and ignore the Interior Department's determination until ordered otherwise by Congress.[82]

By 1947, the Natives were in open revolt. The ANB defiantly charged the Forest Service and pulp corporations with trespass on aboriginal lands. Even more alarming to agency big-wigs, several villages threatened the regime's timber monopoly by negotiating *Indian* contracts to sell timber on aboriginal land. The revolt caused the besieged foresters to retaliate by sending spies into the villages, interrogating the Indians, and threatening villagers with trespass actions to curtail the subversive sales.[83] In turn, the Indians *dared* the Forest Service to arrest them for exercising their property rights.[84] The tug-of-war between the Forest Service, Interior Department, ANB, and the tribal villages, scared away bewildered pulp paper companies. The Forest Service scrambled to quell the revolt which lasted into the 1950's.

In the midst of this turmoil, Paul scored a stunning legal victory in *Miller v. United States* (1947) that stopped the confiscatory rule of ***Haa Aaní*** in its tracks.[85] The Ninth Circuit's *Miller* decision affirmed the existence of congressionally-recognized aboriginal land in ***Haa Aaní*** and

ruled that it cannot be seized by the Government against the consent of Tlingit landowners without paying just compensation.[86] Unfortunately, the *Miller* rule was short-lived. It produced backlash just five months later, when Congress enacted a classic settler-state law. To combat the *Miller* decision, the lawmakers passed a Joint Resolution that authorized the Secretary of Agriculture to sell timber and land within the TNF "notwithstanding any claim of possessory rights" based upon "aboriginal occupancy or title."[87] Thus, the agency could sell aboriginal timber and land, so long as the receipts were maintained in a special account "until the rights to the land and timber are finally determined." Though it took no position on the validity of Indian land rights, the ramrod measure authorized the immediate sale of their property—the involuntary sale of ***Haa Aaní***. The "final ownership determination" provision in this law was a cruel and meaningless gesture, since there would be little practical hope of recovering alienated land after the fact, much less restoring habitat destroyed by industrialists. Thus, despite tribal opposition to the 1947 act, the Forest Service succeeded in side-stepping the *Miller* decision by simply changing the rules, an easy feat for insiders in a colonized land.[88] The Supreme Court would later describe the law as a "congressionally approved taking of land."[89] This is a euphemism for confiscation. The 1947 law amounted to theft. In short, this rainforest was stolen in 1947 in a classic tale of North American colonialism.

5. The Tlingit Bring Suit in the Courts of the Confiscators.

Under the authority of the 1947 act, the agency sold 60 million board feet in 1950.[90] Pulp investors formed the Ketchikan Pulp Company and, in 1951, won a contract to buy 1.5 billion cubic feet of timber at bargain-basement prices to manufacture pulp over a fifty-year period.[91] The sweetheart deal was a long-awaited triumph. At last, Forest Service dreams of a pulpwood industry would come true.[92] The sale of all the merchantable timber would destroy an immense area in the vicinity of Wrangell, Alaska, the aboriginal homeland of William Paul and the Tee-Hit-Ton Clan. They would resist confiscation of their property by filing *Tee-Hit-Ton v. United States* to test the nature and extent of Tlingit land rights in Alaska.

The early 1950's were bad times for Indian test cases. Those years marked the low point in Native American life, when Indian tribes faced a legal, social, economic, political, and cultural nadir.[93] At this time, the national Indian policy worked to terminate federal Indian trust responsibilities, extend state power over Indian reservations, and assimilate Indians into mainstream society. The last thing on Washington's mind was to protect a divergent way of life, much less aboriginal property rights in far-away ***Haa Aaní***. The Supreme Court began the twentieth century with the Law of Colonialism, in cases like *Lone Wolf v. Hitchcock* (1903) and *United States v. Sandoval* (1913).[94] In 1955, the Supreme Court could hardly be expected to row against the tide. Justice Stanley Forman Reed wrote the *Tee-Hit-Ton* opinion. His views reflected the times. In 1946, he wrote that Indians who occupy their aboriginal homes, without definite congressional recognition of their right to do so, are like "paleface squatters on public lands without compensable rights if they are evicted."[95]

The Supreme Court took the case to resolve two conflicting decisions concerning Tlingit land rights. The decision in the court below held that no rights exist because Congress has not recognized aboriginal land rights in Alaska, whereas *Miller* held several laws confirm such rights.

In the Supreme Court, the Indians advanced two arguments. First, they claimed absolute ownership of the land by virtue of aboriginal occupation since time immemorial. This original Indian title in Alaska is just like ordinary real estate owned by white people, despite the doctrines in *Johnson v. M'Intosh* (1823) and its progeny that espouse inferior Indian land rights. They argued that *Johnson's* doctrines of discovery and conquest are inapplicable in Alaska, because the historical, political, and legal background in Alaska is fundamentally different from that of the lower forty-eight states. After all, Russia never "conquered" any Alaska tribes; and the Tlingit possess a highly-developed culture and well-defined system of land ownership. Alternatively, the litigators claimed Tlingit land rights under two federal laws pertaining to Alaska that confirm aboriginal possessory interests in land, as

recognized by the Ninth Circuit in the *Miller* case.[96] A congressionally-recognized possessory right to the land arises under the Alaska Organic Act of 1884:

> *Indians . . . shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them [with title to be acquired in a manner prescribed by] future legislation by Congress.*[97]

Similarly, the Act of June 6, 1900 reads: "Indians . . . shall not be disturbed in the possession of any lands now actually in their possession."[98] Under either theory of land ownership, William Paul's team argued that Tlingit property may not be taken against their will without just compensation; and, thus, the sale of timber from Tlingit land is an unconstitutional taking. The Government denied all of the Indians' contentions.

The Supreme Court rejected the Tlingit arguments. It went to great lengths to extend the usual apologies about injustice and avoid blame that are commonly found in unjust decisions. First, the opinion repeats *Johnson*'s excuse: "Conquest gives a title which the Courts of the Conqueror cannot deny."[99] To avoid blame for injustice under the doctrine of conquest, the Court hid behind a presumption of good faith:

> *It is to be presumed that in this matter the United States would be governed by such considerations of justice as would control a Christian people in their treatment of an ignorant and dependent race.*[100]

In any event, justice is irrelevant and immaterial, because "the propriety or justice of their action towards the Indians with respect to their lands is a question of governmental policy and thus is not a matter open to discussion."[101] Even though justice and morality are beyond the pale when it comes to dispossessing Indians, we should not be alarmed for "American people have compassion for the descendants of those Indians who were deprived of their homes and hunting grounds by the drive of civilization" and they would like to "share the benefits of our society" with Indians.[102] (That good will, however, does not "allow the tribes to recover for wrongs." It is extended only as "a matter of grace, not because of legal liability."[103]) After the Court upheld the outright confiscation of Tlingit property, it defended its ruling with a bald claim that, "Our conclusion does not uphold harshness as against tenderness toward the Indians."[104] Despite his platitudes, it is hard to hide manifest injustice.

The Court held that Indian land rights are subject to the doctrines of discovery and conquest. Under those doctrines, those rights disappear "after the coming of the white man" and thereafter Indians can inhabit land only with "permission from the whites."[105] Justice Reed equated discovery with conquest. He reasoned that (1) conquest is a legitimate means to extinguish aboriginal title; (2) the Government conquered all Indian tribes, as a matter of fact—either through warfare or by forcing treaties upon Indians involuntarily; and therefore (3) all aboriginal title in the United States

had been extinguished by conquest prior to the *Tee-Hit-Ton* case, with the sole exception of any lands that Congress had chosen to grant back to the Indians.[106] The opinion states:

> *Every American schoolboy knows that the savage tribes of this continent were deprived of their ancestral ranges by force and that, even when the Indians ceded millions of acres by treaty in return for blankets, food, and trinkets, it was not a sale but the conqueror's will that deprived them of their land.*[107]

Under this rationale, conquerors do not have to compensate Indian tribes when they seize aboriginal land, because "original Indian title" is not a property right in a conquered land; and any Indian occupancy of aboriginal homelands that is "not specifically recognized as ownership by action of Congress, may be extinguished by the Government without compensation."[108] The Court rejected the argument that these nefarious legal doctrines do not apply in Alaska.[109] In addition, contrary to the holding in *Miller*, the *Tee-Hit-Ton* Court found "nothing to indicate any intention by Congress to grant to the Indians any permanent rights in the lands of Alaska occupied by them by permission of Congress."[110] Consequently, Tlingit property rights "may be extinguished by the Government without compensation" just like Indians in the lower forty-eight states.[111] Relief for the Indians, if any, must come from Congress, not the courts—"no other course would meet the problem of growth of the United States."[112]

Federal Indian law hit rock bottom with the 1955 decision. It sanctioned one of the greatest land heists in twentieth century American legal history. In the eyes of the law, outright confiscation of land is normally considered abhorrent, because it is prohibited by the Bill of Rights. Consequently, legal principles that sanction outright confiscation are suspect, as they come from the bottom of the barrel infected with nefarious notions of raw conquest and abject colonialism.

In the wake of *Tee-Hit-Ton*, the Forest Service stepped-up timber sales in the TNF. In 1959, a second pulp mill opened in Sitka, Alaska. The decision unleashed habitat destruction throughout ***Haa Aani*** by the Government with impunity. The way of life of Tlingit hunters, fishers, and gatherers was placed into jeopardy as the dispossessed Indians helplessly watched their homeland being turned into paper and pulpwood. Public concern mounted in the ensuing decades as clear-cutting began to injure the habitat and the salmon runs.[113]

In the midst of this dispossession and environmental destruction, the Tongass tribes lost control over the exercise of rights vital to their tribal hunting, fishing, and gathering existence. In the 1962 *Kake* decision, the Supreme Court held that the exercise of those aboriginal rights would be controlled by the state. The newcomer became owners and stewards of the land, as well as the regulators of the Indian way of life. Colonization of ***Haa Aani*** was complete.

6. Efforts to Overcome the Impacts of *Tee-Hit-Ton* and *Kake.*

Several vital challenges lay ahead for the Tongass tribes during the modern era of federal Indian law. First, the Indians were determined to obtain damages for the taking of their property. Second, they needed to establish a land base in their homeland. Third, they needed legal protections for their hunting, fishing, and gathering existence and to regain self-government in ***Haa Aaní***. Fourth, the tribes needed to protect indigenous habitat in the TNF. Finally, these primal cultures needed to secure a reliable body of law to protect their right to exist as distinct cultures in a modern-day settler state, as a matter of cultural survival. This would be a tall order for tribal leaders who followed in William Paul's footsteps.

Compensation for taking ***Haa Aaní*** came from two sources. In 1968, the Tlingit and Haida received $7,546,053.80 in damages in *Tlingit and Haida Indians v. United States* (1968), as compensation for aboriginal land "taken from them by the United States without payment of any compensation therefore."[114] This action was filed under the 1935 act mentioned earlier, obtained by William Paul, which gave the Court of Claims authority to award damages for Tlingit and Haida land claims.[115] In 1971, Congress contributed additional millions in compensation, as part of an elaborate settlement of all aboriginal land claims and hunting and fishing rights in Alaska. Congress extinguished those rights in the Alaska Native Claims Settlement Act of 1971 (ANCSA) in exchange for $962.5 million and forty-five million acres distributed to Native corporations.[116] The Tongass tribes received their share of these assets, and over a half-million acres of their ANCSA lands came from the TNF.[117] The implementation issues and current concerns surrounding Native land entitlements under federal law some thirty-eight years later will be detailed at the upcoming congressional hearings.

Furthermore, the Indians of ***Haa Aaní*** would be governed by their federally recognized tribes and villages, with a village and regional corporate structure created by ANCSA. The rule of ***Haa Aaní*** as a *de facto* Forest Service colony came to an end, though many Native Alaskan challenges remain to protect tribal existence in a land where aboriginal natural resources are mostly owned and controlled by others under the *Kake* decision and its progeny.[118] Governance and control over natural resources which are vital to the these cultures may also be detailed in the congressional hearings.

The 1962 *Kake* decision turned control over aboriginal hunting, fishing, and gathering rights to the State of Alaska. ANCSA extinguished those aboriginal rights in Alaska altogether. However, at the same time Congress expected the Secretary of the Interior to protect traditional hunting and fishing practices.[119] In 1980, a statutory scheme for protecting traditional Native subsistence

practices on public lands—including the TNF—was created by the Alaska National Interest Lands Conservation Act (ANILCA).[120] As a result of these statutory protections, the Tongass tribes are able to exercise some measure of their aboriginal existence and practice cultural self-determination in our modern society, as a positive first step in achieving the UNDRIP standards set in 2007. To some degree, the federal statute permits the Indians continue to hunt, fish, and gather, but it may fall short of preserving an ancient, but endangered indigenous subsistence lifestyle and cosmology that is under any measure a living treasure, because it provides a rare link to the human past in a modern-day world. The barriers and impediments to the exercise of rights vital to the survival of these cultures will be detailed by their representatives in the Congressional hearings.

ANICLA also curbed rampant timber sales in the TNF that were destroying indigenous habitat. The law created fourteen wilderness areas in the national forest, totaling over 5 million acres. Vital TNF habitat protection increased in 1990, when the Tongass Timber Reform Act designated five additional wilderness areas and several roadless areas in order to retain the wilderness characteristics of the TNF. The last pulp mill closed in 1997. By 2001, employment in the timber industry had fallen to just 780 jobs. Today, 13.2 million acres of the 16.8 million acre TNF are in a protected, non-development status. In the end, the Forest Service dream built upon "rip and run" clear-cutting operations failed.

Any logging done today on Native land in TNF borders is carried out by Native villages or corporations at a pace of development controlled by the Native peoples themselves, and it is done commensurate with the oldest way of life known to the human race, for the indigenous habitat of ***Haa Aaní*** maintains viable populations of fish, wildlife, and plants necessary to support the Tlingit way.[121] Today, traditional food obtained from tribal habitat remains at the center of Tlingit culture. However, challenges remain in accessing those resources and protecting the habitat necessary to produce them.

These significant successes since the *Tee-Hit-Ton* and *Kake* decision would not have been possible without intervention by Congress. As interpreted by Justice Reed, the doctrines of federal Indian law lacked sufficient vitality to protect a lifeway dependent upon tribal habitat in ***Haa Aaní***. To their credit, lawmakers filled the void with statutory protections. Some of that intervention was prompted by the need to resolve aboriginal claims in Alaska and to protect the environment of a magnificent region by a nation that is still searching for a land ethic to co-exist peacefully with the natural world. The Endangered Species Act ("ESA") represents a major shift in "dominionist" thinking, described above. The ESA is the most comprehensive law for the preservation of endangered species ever enacted. It provides effective means to conserve critical ecosystems needed by endangered or threatened species to survive.[122] Unfortunately, this watershed statute is not triggered until a species falters on the brink of extinction, and then it acts to place them on a life-support system; whereas, the hunting, fishing, and gathering way of life in the Pacific Northwest

depends upon healthy habitats that produce viable animal and plant populations. However, American law and social policy may be evolving in that direction. Significantly, federal law now recognizes that the "[m]ajor cause of extinction is destruction of natural habitat;" that animals and plants have intrinsic, incalculable value; and that the preservation of endangered species from extinction is more important than the projects of man.[123] It is but a short step for our society to protect animals and plants in their natural habitats *before* they become endangered, just like the hunting, fishing, and gathering cultures have done since the dawn of time. At that point, our human family will come full circle with life on earth.

This is not simply an environmental issue; and environmental groups are not the new "landlords" in ***Haa Aaní***, even though their voice is a constructive force in southeast Alaska. The effort to protect indigenous habitat in ***Haa Aaní*** so that the Native cultures will continue to exist and thrive raises much larger human rights, cultural, and anthropological issues; and it will require Congressional attention to save the endangered tribal cosmologies, worldviews that will be critical to our nation in forming a real American land ethic necessary to protect the blessings of Mother Earth. The need for Congress to protect indigenous habitat is made clear by the UNDRIP. The UN asks each modern nation to protect that habitat when Native people depend upon it to carry on their way of life. Article 26 provides: "Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired" and it requires legal protections for those lands, territories, and resources. Article 28 asks nations to affirmatively help Indigenous Peoples to conserve and protect that habitat. While not legally binding on the United States, the historic declaration suggests that our nation has an obligation to strengthen laws to protect indigenous habitat in ancestral areas that are presently outside of tribal control. International tribunals and the high courts in other countries are already beginning to recognize and extend similar habitat protection. For example, in *Awas Tingini v. Nicaragua* (2001), the Inter-American Court of Human Rights held that Nicaragua violated tribal property rights by granting a logging concession to a foreign company to log traditional lands.[124] The court held that there is an international human right of Indigenous peoples "to the protection of their customary land and resource tenure."[125] In *Maya Indigenous Community of Toledo District v. Belize* (2000), the Inter-American Commission of Human Rights recommended that logging and oil concessions on traditional tribal land be suspended to protect Mayan land rights.[126] It determined that Belize failed to protect that habitat. These international developments suggest that the *Tee-Hit-Ton* and *Kake* mindsets are outmoded and Congress much uplift federal Indian law to comport with the United Nations' minimum standards.

7. Conclusion.

The conquest of Alaska has run its course. Most Americans seek not to look at the land in the twenty-first century like colonists bent upon exploitation and dispossession, but rather as a society that has joined indigenous and non-indigenous peoples together in a more just culture. With the passage of federal legislation during the modern era of federal Indian law, we can glimpse the hopes of the next generation—Alaskans at peace with the Natural World and all of its inhabitants. Given the hardships imposed by *Tee-Hit-Ton* and *Kake*, we are fortunate that the rainforest tribes of ***Haa Aaní*** managed to persist, and not wink out of existence like so many other tribal cultures in the world during the twentieth century. ***Haa Aaní*** is still inhabited by Eagles and Ravens. Everyone can celebrate the struggle to protect America's greatest rainforest. Today there are millions who love the land and admire the hunting, fishing, and gathering ideals of the Pacific Northwest Indians. Their way of life is everyone's legacy. Let us arise, take stock of the federal laws and social policies that impact Native southeast Alaska, and chart our course for the future.

Endnotes

1 Walter R. Echo-Hawk is an attorney with the Crowe & Dunlevy law firm of Oklahoma and a Justice on the Supreme Court of the Pawnee Nation. Previously, he served as a staff attorney for thirty-five years for the Native American Rights Fund (NARF) with a wide range of federal Indian law experience.

2 Personal Communication with the author. Walter A. Soboleff is a venerated Tlingit elder who turned 100 years old on November 14, 2008.

3 Alaska Native Claims Settlement Act of 1971, 43 U.S.C. §§ 1602-1628.

4 *See, generally*, Eugene Linden, "Lost Tribes, Lost Knowledge," *Time Magazine* (Sept. 23, 1991), pp. 46-56. Linden was deeply concerned about the "cultural holocaust" confronting the world's tribes, because when these cultures die, "vast archives of knowledge and expertise are spilling into oblivion, leaving humanity in danger of losing its past." *Id.* at 46.

5 United Nations Declaration on the Rights of Indigenous Peoples ("UNDRIP"), U.N.G.A. Res. 61/295, U.N. H.R.C., 61st Sess., Annex, Agenda Item 68, U.N. Doc. A/RES/61/295 (2007). The UNDRIP is reproduced at: www.narf.org/events/07/declaration.pdf. *See also*, "United Nations Adopts Historic Declaration On The Rights Of Indigenous Peoples," NARF L. Rev., V. 32, No. 2 (Summer/Fall 2007), pp. 1-17. Article 43 provides: "The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world."

6 *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831); *Worcester v. Georgia*, 31 U.S. 515 (1832).

7 *Lone Wolf v. Hitchcock*, 187 U.S. 553 (1903). *See also*, Blue Clark, *Lone Wolf v. Hitchcock*: Treaty Rights & Indian Law at the End of the Nineteenth Century (Lincoln & London: University of Nebraska Press, 1999); "Symposium: *Lone Wolf v. Hitchcock*: One Hundred Years Later," 38 Tulsa L. Rev. 1 (2002).

8 Lawrence Rakestraw, *A History of the United States Forest Service in Alaska* (USDA Forest Service, 2002) at 17 (citing missionary correspondence to the Secretary of the Interior).

9 *Tee-Hit-Ton v. United States*, 348 U.S. 272 (1955).

10 *Id.* at 289-290.

11 U.S. Const., Fifth Amendment.

12 *Organized Village of Kake v. Egan*, 369 U.S. 60 (1962).

13 *Id.* at 64.

14 Robert N. Clinton, "Redressing the Legacy of Conquest: A Vision Quest for a Decolonized Federal Indian Law," 46 Arkansas L. Rev. 77, 86 (1993).

15 Kirkpatrick Sale, *The Conquest of Paradise: Christopher Columbus and the Columbian Legacy* (New York: Alfred A. Knopf, 1990).

16 *Johnson v. M'Intosh*, 21 U.S. 543, 590-591 (1823).

17 Walter Echo-Hawk, "Genocide and Ethnocide in Native North America," in John Hartwell Moore (ed. in chief), *Encyclopedia of Race and Racism, Vol. 2, g-r* (Thompson Gale, 2007), p. 48; Russell Thornton, *American Indian Holocaust and Survival: A Population History Since 1492* (Norman: University of Oklahoma Press, 1987).

18 *See, generally*, Charles Wilkinson, *Blood Struggle: The Rise of Modern Indian Nations* (London, New York: W. W. Norton & Co., 2005).

19 *Brown v. Board of Education*, 347 U.S. 483 (1954).

20 It was most recently cited with approval by the *Supreme Court in Idaho v. United States*, 533 U.S. 262, 277 (2001).

21 Alaska Native Claims Settlement Act, 43 U.S.C. §§ 1603 *et seq.* ("ANCSA") (extinguishing all Aboriginal land claims in Alaska in exchange for various forms of compensation); Indian Claims Commission Act of 1946, 62 Stat. 683 ("ICCA") (creating a special commission to hear native claims against the United States.)

22 Huston Smith, *The World's Religions: Our Great Wisdom Traditions* (HarperSanFranscico, 1991) at 376. This book contains a great discussion on the nature of primal religion.

23 Mircea Eliade, *The Myth of the Eternal Return* (Princeton Univ. Press, 1971) (trans. by Willard R. Trask).

24 Gregory Cajete, *Native Science: Natural Laws of Interdependence* (Santa Fe: Clear Light Publishers, 2000).

25 *Id.* at 94.

26 *Id.* at 188 (citations omitted).

27 *See*, Articles 18-20, 24-29, 31-32, 38-40, UNDRIP.

28 *See*, United Nation's Convention on the Prevention of and Punishment of the Crime of Genocide (1948).

29 Robert Hitchcock and Tara Tweed, "Physical and Cultural Genocide of Various Indigenous Peoples," in Samuel Totten, et al (eds.), *Century of Genocide: Eyewitness Accounts and Critical Views* (New York: Garland Publishing, 1997), p. 378.

30 *Tee-Hit-Ton*, 348 U.S. at 287.

31 *Id.* at 286.

32 Letter from Claude R. Wichard, Secretary of Agriculture to Secretary of the Interior (February, 5, 1944), p. 2 (author's files).

33 Walter R. Goldschmidt and Theodore H. Haas, *Haa Aaní: Tlingit and Haida Land Rights and Use* (1946, reprinted by University of Washington Press, Seattle and London, Sealaska Heritage Foundation: Juneau, 2000), Thomas F. Thornton, ed. See also, Thomas R. Berger, *Village Journey: The Report of the Alaska Review Commission* (Hill and Wang: New York, 1985); Richard G. Newton and Madonna L. Moss (eds.), *Haa Atxaayi Haa Kusteeyix Sitee, Our Food Is Our Tlingit Way of Life: Excerpts From Oral Interviews* (USDA Forest Service, 2005).

34 Richard B. Lee and Irven DeVore (eds.), *Man The Hunter* (Chicago:Aldine Atherton, 1966).

35 *See, e.g.*, William S. Laughlin, "Hunting: An Integrating Biobehavior System and Its Evolutionary Importance," in Lee and DeVore (1966) at 305; Barry Lopez, *Of Wolves And Men* (New York, London, Toronto, Sydney: Scribner, 1978) at 90-97; Smith (1991) at 372-377; Eliade (1971); Cajete (2000) at 156-165.

36 Lee and Devor (1966).

37 *See* note 24, *supra*.

38 Goldschmidt and Haas ((2000) at 19-26.

39 "Toharu" possess supernatural power in the Pawnee belief system. They play several ceremonial roles in Pawnee ceremonies, such as the Pipe Dance, Kitkahaki Dance, and Young Dog Dance. The plant world is one of the powers who make life possible, and plants helped early humans understand the meaning of sacred things. *See, e.g.*, Alice C. Fletcher, *The Hako: Song, Pipe, and Unity in a Pawnee Calumet Ceremony* (Lincoln and London: University of Nebraska Press, (1904) 1996), p. 31.

40 Lopez (1978) at 90-95.

41 Quoted in Paul Goble, *All Our Relatives: Traditional Native American Thoughts about Nature* (Bloomington, Indiana: World Wisdom, Inc., 2005).

42 *See*, George A. Dorsey, *The Pawnee Mythology* (Lincoln and London: Bison Books Edition, (1906) 1997) (based on turn-of-the century interviews with Pawnee elders); James R. Murie, *Ceremonies of the Pawnee* (Lincoln and London: University of Nebraska Press, 1981), Douglas Parks (ed.); George Bird Grinnell, *Pawnee Hero Stories and Folk Tales* (Lincoln: University of Nebraska Press, (1889) 1961).

43 Quoted in Goble (2005).

44 "Death of the Flint-Monster: Origin of Birds," told by Curly-Head between 1899-1902 in George A. Dorsey (ed.), *Traditions of the Skidi Pawnee* (Boston and New York: American Folklore Society, 1904), pp. 24-30.

45 Told by the author's uncle, Myron Echo Hawk, and recorded by Roger Echo-Hawk.

46 Jim Mason, *An Unnatural Order: Uncovering the Roots of Our Domination of Nature and Each Other* (New York, London, Toronto, Sydney, Tokyo, Singapore: Simon & Schuster, 1993), 21-22.

47 Quoted in Goble (2005).

48 Mason (1993) at 21-22.

49 *Id.* at 25.

50 Cited by Charles Patterson, *Eternal Treblinka: Our Treatment of Animals and the Holocaust* (New York: Lantern Books, 2002), p. 3 (quoting Sigmund Freud, "A Difficulty in the Path of Psycho-Analysis," (1979) in *The Standard Edition of the Complete Psychological Works of Sigmund Freud* (London: Hogarth Press, 1955), Vol. XVII, 130 (James Strachey, trans.)).

51 *Id.* (quoting Sigmund Freud, "Fixation to Traumas—The Unconscious" in Introductory Lectures on Psychoanalysis—Part III (1916-1917), Lecture XVIII, *Complete Works*, Vol. XVI, 285).

52 Genesis (1:26).

53 Genesis (1:28).

54 Genesis (9:2).

55 Mason (1993) at 28.

56 *Id.* at 33-49; Lopez (1978) at 147.

57 North America hunters believe animals have souls. In 1918, Bear-With-Paws (Lakota) stated: "The bear has a soul like ours, and his soul talks to mine in my sleep and tells me what to do." Pete Catches (Lakota) explained: "All animals have power, because the Great Spirit dwells in all of them, even a tiny ant, a butterfly, a tree, a flower, a rock." Thus, the Sioux say, "Do not harm your weaker brothers, for even a little squirrel may be the bearer of good fortune." *See*, quotes in Goble (2005).

58 Mason (1993) at 38.

59 Cajete (2000) at 211.

60 Patterson (2002).

61 *See*, Jim Mason and Peter Singer, *Animal Factories: The Mass Production of Animals for Food and How it Affects the Lives of Consumers, Farmers, and the Animals Themselves* (New York: Crown Publishers, 1980)

62 Scott Sonner (Associated Press Writer), "Palin Appeals to Nevadans to Help Swing Election," San Jose Mercury News (Nov. 4, 2008) (http://www.mercurynews.com/news/ci_10893972).

63 Patterson (2002).

64 *Id.* at 25-50.

65 The proclamation establishing the TNF provided that nothing shall be construed "to deprive any person of any valid right" secured by the Treaty with Russia or any federal law pertaining to Alaska.

66 Rakestraw (2002) at 70, 77.

67 *Id.* at 74.

68 *Id.* 83.

69 *Id.* at 112.

70 Stephen Haycox, "*Tee-Hit-Ton* and Alaska Native Rights," in *Law for the Elephant, Law for the Beaver: Essays in the Legal History of the North American West* (Canadian Plains Research Center, University of Regina and Ninth Judicial Circuit Historical Society, 1992), p. 128-143. Paul's bibliography is published in Nora Marks Dauenhauer and Richard Dauenhauer (eds.), *Haa Kusteeyi, Our Culture: Tlingit Life Stories* (Seattle, London, Juneau: University of Washington Press and Sealaska Heritage Foundation, 1994), pp. 503-524.

71 See, *Miller v. United States*, 159 F.2d 997 (9th Cir. 1947) and discussion *infra*.

72 The agency asserted the authority of the Regional Forester to do all these things. *See, e.g.*, Regional Forester Memorandum, C. M. Archbold, October 9, 1953 (Author's files). *See also*, Rakestraw (2002).

73 Goldschmidt and Haas (1998) at xvii-xviii.

74 *Id.*

75 *Id.*

76 "Claims of the Natives of Hydaburg, Klawock, and Kake, Alaska," (Department of the Interior, July 27, 1945) (author's files).

77 *See, e.g.*, Letter from Secretary of Agriculture Claude R. Wickard to Secretary of the Interior Harold L. Ickes (Feb. 5, 1945) (author's files); Memorandum from Lyle F. Watts, Chief, Forest Service to Secretary of Agriculture (Dec. 11, 1944) (author's files), p. 2.

78 *See, e.g.* Memorandum from B. Frank Heintzleman, Regional Forester, to Chief, Forest Service (June 11, 1946) (relaying territorial opposition to aboriginal rights in the TNF and legislative efforts to extinguish those rights); Memorandum from B. Frank Heintzleman, Regional Forester, to Chief, Forest Service (Oct. 30, 1946) (author's files) (passing along helpful political information about local opposition to aboriginal rights in the TNF); Letter from B. Frank Heintzleman to Region 10 (May 27, 1947) (author's files) (Complaining about Tlingit opposition at a congressional hearing to H.R. 204, which would authorize timber sales in the TNF regardless of any aboriginal property right claims);

79 Memorandum from Regional Forester B. Frank Heintzleman to Chief, Forest Service (Nov. 5, 1945) (author's files); Memorandum from Regional Forester B. Frank Heintzleman to Chief, Forest Service (Oct. 17, 1947) (author's files) (aboriginal land is located in "the most commercially useful zone of the forest.");

80 Letter from Secretary of Agriculture Claude R. Wickard to Secretary of the Interior Harold L. Ickes (Feb. 5, 1945) (author's files), p. 3.

81 *Id.*

82 Memorandum from B. Frank Hentzleman, Regional Forester, to Chief, Forest Service (June 25, 1946) (author's files) (calling attention to Indian protects to a timber sale in aboriginal land recognized by the Interior Department: "We can expect frequent protests . . . until the whole question is finally settled by Congressional action," but in the meantime "it would be inadvisable to try to compromise with the Interior Department in any of these cases at this time."); Memorandum from B. Frank Hentzleman, Regional Forester, to Division Supervisors, Southern and Petersburg (June 12, 1946) (author's files) ("I cannot see that we are justified in suspending any form of Forest Service administration while awaiting a higher decision in the matter."); Confidential Memorandum of C.M. Archbold, Division Supervisor (July 1, 1946) and attachments (passing along confidential orders from Hentzleman to be more careful when awarding special use permits that affect Indian structures, but continue making timber sales in designated areas); Letter from Don C. Foster, General Superintendent, to William A. Brophy, Commissioner of Indian Affairs (June 21, 1946) (author's files) (complaining that the Forest Service sold 1,300,000 feet of timber in an area set aside by the Secretary of the Interior for the aboriginal uses of the Kake community.)

83 Memorandum from B. Frank Hentzleman, Regional Forester, to Division Supervisors (Oct. 20, 1947) (author's files) (ordering the Supervisors to investigate any Indian timber sale as a high priority for possible trespass actions); Confidential and Personal Letter from "Arch" (presumably C.M. Archbold, Division Supervisor) to "Frank" (presumably Hentlzeman) (Oct. 17, 1947) (author's files) ("We will try to stop such cutting [at Kake and Klawock] by trespass proceedings."); Memorandum from C. M. Archbold,

Division Supervisor, to Regional Forester (Dec. 9, 1947) (author's files) (reporting on timber cutting contract between the Kaasan community and the Timber Development Corp.); Memorandum from A. W. Hodgman, Forest Manager, to C. M. Archbold, Division Supervisor (Dec. 8, 1947) (author's files) (reporting investigation on a possible Tlingit sale of timber on aboriginal land claimed by the Kaasan Village); Letter from Lyle F. Watts, Chief, to Georgia Hardwood Timber Company (Dec. 10, 1947) (author's files) (asserting "the Indians have no authority to sell the timber on the national forest land.").

84 Statement of Thomas L. Jackson, Timber Committeeman of the Kake Indian Village (undated) (author's files).

85 *Miller v. United States*, 159 F.2d 997 (9th Cir. 1947).

86 *Miller* held the government is liable for taking Tlingit tidelands. It reached this result in a round-about way. The court first recognized aboriginal title, then ruled that the Russia Treaty extinguished it. Nonetheless, the court still awarded damages, because it determined that Congress has repeatedly recognized and protected a Tlingit right to possess traditional lands. For example, the Alaska Organic Act of 1884 provides that Indians "shall not be disturbed in the possession of any lands actually in their use or occupancy." *Miller* sent shockwaves to the Forest Service, because the disturbance of Tlingit land use and possession was at the core of its administration of the TNF.

87 Joint Resolution, 61 Stat. 920 (August 8, 1947).

88 Heintlzeman's letter to Region 10 (May 27, 1947) (author's files) (Reporting on the congressional hearing on the bill and complaining about Tlingit opposition) suggests that he went to Washington D.C. to lobby for the measure.

89 *Tee-Hit-Ton*, 348 U.S. at 275.

90 Rakestraw (2002) at 127.

91 *Id.*

92 Timber-hungry Japanese would establish a second pulp mill at Sitka in 1959. *Id.* at 128.

93 Wilkinson (2005).

94 *Lone Wolf v. Hitchcock*, 187 U.S. 553 (1903); *United States v. Sandoval*, 231 U.S. 28 (1913).

95 *United States v. Alcea Band of Tillamooks et al.*, 329 U.S. 40, 58 (1946) (Reed, J., dissenting).

96 The Tlingit brief in the Supreme Court is reproduced at 1954 WL 72830.

97 Sec. 8, Organic Act for Alaska of May 17, 1884, 23 Stat. 24.

98 Sec. 27, Act of June 6, 1900, 31 Stat. 321, 330.

99 *Tee-Hit-Ton*, 348 U.S. at 280.

100 *Id.* at 281 (quoting *Beecher v. Wetherby*, 95 U.S. 517, 525).

101 *Id.* (quoting *Beecher*).

102 *Id.*

103 *Id.* at 282.

104 *Id.* at 290-291.

105 *Id.* at 279.

106 Newton (1980) at 1241-1242.

107 *Tee-Hit-Ton*, 348 U.S. at 289-90.

108 *Id.* at 288-289.

109 *Id.* at 278. The Court took the "all-Indians-are-alike" approach, even though the Tlingit lived in major permanent communities and enforced sanctions for violating their property rights and extended them to the early settlers.

110 *Id.* at 288.

111 *Id.* at 289.

112 *Id.* at 290.

113 Rakestraw (2002), pp. 139-145, 155-176.

114 *Tlingit and Haida Indians v. United States*, 389 F.2d 778, 791 (Court of Claims, 1968).

115 49 Stat. 388.

116 43 U.S.C. §§ 1601 et seq. The complex statutory settlement scheme is described in *Cohen's Handbook of Federal Indian Law* (Lexis Nexis, 2005 ed.), § 4.07[3].

117 Rakestraw (2002), pp. 159-160.

118 For example, the Tlingits are still implementing their land entitlements under ANCSA, nearly 30 years later. In addition, they must now contend with some environmentalists who consider ***Haa Aaní*** their new fiefdom, as well as Forest Service hold-outs who harbor old notions of conquest and dominionism. However, the days of absolute rule of ***Haa Aaní*** by the Forest Service as a *de facto* colony are gone.

119 *Cohen's* (2005 ed.), § 4.07[3][a]. The extinguishment of aboriginal hunting, fishing, and gathering rights by ANCSA was preceded by the Supreme Court decision in *Organized Village of Kake v. Egan*, 369 U.S. 60 (1962), which subjected Tlingit trap fishing to state regulation.

120 16 U.S.C. §§ 3101 *et seq.* That complex scheme and the enormous on-going efforts to implement it are described in *Cohen's*, *supra*, § 4.07[3][c].

121 Record of Decision entered by Regional Forester Dennis E. Bschor (Feb. 24, 2003), pp. 19, 26.

122 *See*, *Tennessee Valley Authority v. Hill*, 437 U.S. 154, 180 (1978).

123 *Palila v. Hawaii Dept. of Land and Natural Resources*, 471 F. Supp. 985, 994995 (D. Haw. 1979). *See*, *Tennessee Valley Authority v. Hill*, 437 U.S. at 168-169 (the social and scientific costs attributable to the disappearance of a species cannot be calculated); *Kandra v. United States*, *supra* (extinction is the *ultimate harm*); *State of Ohio v. U.S. Dept. of the Interior*, 880 F.2d 432 (D.C. Cir. 1989) (animals have value that cannot be captured by their monetary worth); *Palila v. Hawaii Dept. of Land and Natural Resources*, *supra* (endangered species are of the utmost importance to mankind); *Rio Grande Silvery Minnow v. Keys*, 333 F.3d 1109 (10th Cir. 2003) (Endangered species take precedence over the "primary mission" of federal agencies.)

124 *Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, [2001] IACHR Petition No. 11 577.

125 *Id.*

126 *Maya Indigenous Community of the Toledo District v. Belize*, Case No. 12.053, Report No. 40/04, Inter-Am. C.H.R. OEA/Ser.L/V/II.122 Doc. 5 rev, 1 at 727 (2004), ¶ 1, (http://www1.umnn.edu/humanrts/cases/40-04.html).

221 29th Ave NE
Great Falls, MT 59404
February 14, 2018

SUBJECT: Statement for the Record
DATE OF HEARING: February 7, 2018

Dear Members of the Subcommittee,

I strongly urge you to pass the Protect Public Use of Public Lands (S.2206) bill and send it on to the senate.

Senator Daines drafted and introduced the bill at the request of many individuals and outdoor clubs here in Montana.

These 5 Wilderness Study Areas have been "studied" for over 40 years. Our forest managers, the US Forest Service, has recommended on several occasions that the designation be removed and the areas be managed with the surrounding forest.

Over the last 40 years, there have been many opportunities for public comment and the Forest Service has not changed their position. They still recommend non wilderness.

All 5 of these areas are surrounded by forests that have been designated as Roadless under the 2001 Roadless Area Rule, so development of resources or constructing new roads would be nearly impossible, and not without considerable study and public input.

As a frequent user of public lands, I deeply appreciate having wilderness; however, I am seeing a slow, constant erosion of multiple use public land in our state. Since public lands are a zero-sum exercise, more wilderness means less multiple use acreage. Passage of this bill will help restore the balance that we need on our public lands.

It is time to break the 40+ year congressional gridlock on these areas. Please pass S.2206.

Steve Sem
Phone: (406) 454-2020

Sent via email (fortherecord@energy.senate.gov)
Testimony for the February 7, 2018 Subcommittee Hearing on S 1481 "ANCSA Improvement Act"

Leon Shaul, 907-723-4223
1316 3rd Street
Douglas, AK 99824
February 11, 2018

The Honorable Mike Lee
Subcmte Chairman
Subcmte on Public Lands, Forests and Mining
U.S. Senate Energy & Natural Resources
Washington, DC 20510

The Honorable Ron Wyden
Subcmte Ranking Member
Subcmte on Public Lands, Forests and Mining
Cmte U.S. Senate Energy & Natural Resources Cmte
Washington, DC 20510

re: Testimony for the February 7, 2018, Subcommittee Hearing

Dear Chairman Lee and Ranking Member Wyden:

Please accept my testimony for the record of the February 7 hearing. I am a resident of Southeast Alaska and a frequent user of the public land in this region for food harvesting and personal recreation. As such, I am deeply concerned about by the actions proposed by S 1481 (the Alaska Native Claims Settlement Improvement Act) that would lead to widespread loss of public access to privatization of federal lands that belong to all Americans in the Tongass National Forest, and to loss of federal protections for fish and wildlife habitat on those lands.

Like many Alaskans and Americans, my family has a strong, vested interest in having public lands that we use and enjoy stay public, that what we have left of land in this region that belongs to all Americans remains that way. S 1481, along with related bills propose sweeping divestiture of public land in the interest of "improving" an act that has long been settled law. Many people in communities throughout this region have worked diligently to insure that lands nearby and important to them remain productive and available for all of their uses, whether commercial tourism, small-scale timber, commercial fishing, or personal hunting, fishing and trapping. It is established science (and easily obvious to someone who enters a forest that was cut a century before) that clear-cut logging of mature multi-aged temperate rainforest has detrimental impacts on species like deer that last for centuries. Thick new single-age stands that replace centuries-old forests do not recover their understory that supports deer and other wildlife for 150–300 years after logging, while resulting immature forests with small crowns provide little shelter from snow for what little forage exists.

It would be patently unfair to open areas that have been cherished and cared for to private withdrawal and associated lock-up and degradation -- lands that have long been used and protected by communities and for all residents, Alaskans and Americans. We have seen the same pattern repeatedly -- first all economic timber value is extracted from corporate land under methods far less protective than U. S. Forest Service standards, and then it is closed to general public access and or to specific uses like deer hunting by non-shareholders, often because hunting success declines (in some cases catastrophically, as on heavily logged land near Hoonah a decade ago) . The Alaska Native Claims Settlement Act should not be re-opened to subject Alaskans and Americans to a private land rush. I ask that you act to protect the public land heritage of all Alaskans and Americans.

Sincerely,

Leon D. Shaul

Leon D. Shaul

From: Lee and Nancy Silliman
To: fortherecord (Energy)
Subject: SB 2206
Date: Friday, February 9, 2018 6:39:21 PM

Dear Committee,

1. I am against Montana Senator Daines bill 2206.

2. I am in favor of Montana Senator Testers Blackfoot Clearwater Heritage bill.

Please make note of my opinion.

Thank you,

Lee Silliman
2753 Bel Vue
Missoula, MT 59801

John Sisk
4435 North Douglas Hwy
Juneau, AK 99801

Sent via email to: fortherecord@energy.senate.gov

The Honorable Mike Lee
Subcommittee Chairman

The Honorable Ron Wyden
Subcommittee Ranking Member

Subcommittee on Public Lands, Forests and Mining
U.S. Senate Committee on Energy and Natural Resources
Washington, D.C. 20510

February 16, 2018

Dear Chairman Lee and Ranking Member Wyden:

Please accept this testimony and enter it into the record of the subcommittee hearing held in Washington, D.C. on February 7, 2018, for S. 1481, the Alaska Native Claims Settlement Improvement Act.

For the past 35 years I have lived in southeast Alaska and worked in the private, government and non-profit sectors. As a biologist, forester, wilderness guide, policy advisor, conservation advocate, and business owner I have traveled throughout the Tongass National Forest and have visited nearly every community in the region. Our family includes commercial fishermen and hunters who depend on the Tongass. We have a cabin in Tenakee Inlet and enjoy the many recreation opportunities the Tongass offers to all who live in and visit this part of Alaska.

I oppose any transfers of land out of the Tongass National Forest at this time. S. 1481 as written would lead to the transfer of a minimum of 115,000 acres of prime timber and other lands out of the Tongass; the amount would likely be a great deal more. The location of these transfers is uncertain: there are no maps of the locations of lands to be removed from the Tongass and there is no process for public information about or review of the lands removed. This legislation would have significant effects on the lands, rivers, wildlife and fish of the Tongass and could impose significant challenges to communities, businesses that operate on the forest, and other Tongass users. Therefore, before advancing S. 1481, I recommend respectfully that Congress clarify where the lands referenced in section 10 of the bill are located or would be likely to be selected, as well as the scope and scale of the lands likely to be conveyed under Section 11. I also request that public hearings be held in southeast Alaska to learn from a cross section of Alaskans about the likely effects of the proposed legislation and what changes to the Tongass, if any, they might support. In addition, Congress might consider reasonable alternatives to proposed land transfers. Actions along these lines would better inform Alaskans and Members of Congress in support of prudent, equitable management of the Tongass National Forest.

I also want to acknowledge that what we now call the Tongass National Forest was Alaska Native land before the Russians arrived and before the purchase of Russian Alaska in 1867 by the United States. The establishment of the Tongass Forest, and the pulp mill contracts that dominated its management from 1954 to nearly the year 2000, did not include consultation with or permission from Native people. The Tlingit and Haida land claims litigation, and related lawsuits, led to a federal court ruling in 1968 that rejected monetary compensation to Native people for their loss of the salmon fisheries of the region, even though traditional ownership was well documented. The settlement provided only modest compensation for the land that became the Tongass. The Alaska Native Claims Settlement Act (ANCSA) of 1971 sought to address these inequities by providing for land selections, additional monetary compensation and the establishment of for-profit Alaska Native corporations (ANCs). More recently, the federal government recognized Tribes as legitimate governments; today Tribes have the ability to own land in trust. The Alaska National Interest Lands Conservation Act (ANILCA 1980) and the Tongass Timber Reform Act (TTRA 1990) included provisions that protected important wildlands and fish & wildlife habitat areas and elevated the importance of traditional subsistence use of federal land including the Tongass. I offer these selections from history not because I am expert but because I seek to understand what has happened, what it means for people today, and how it relates to the legislation of concern and the future of the Tongass.

The Tongass is, at a fundamental level, a Native forest. Today southeast Alaska is also home to many people, of many cultures and backgrounds, who value and depend on the Tongass. It is also a national forest for all Americans. And, the Tongass is one of the most prolific, most valuable, producers of wild Pacific salmon. Our shared challenge is to sustain the bounty of the region's salmon streams, forests and wildlife in ways that respect and include the people of southeast Alaska. There are and will be problems and conflicts that must be addressed, however Tongass stewardship can be an endeavor that connects people who care about the forest and contributes to our mutual understanding and well-being.

With regard to S. 1481 I have the following specific questions, concerns and recommendations.

Section 7. This section appears to allow Cook Inlet Region, Inc. (CIRI) to make land selections from federal land in the Tongass National Forest in southeast Alaska. There is already so much pressure on the Tongass that it would be preferable if CIRI selections were limited to its regional boundaries, consistent the other regional corporations and the intent of ANCSA.

Section 10. This section would establish new private, for-profit, Urban Native Corporations in five communities. Those corporations would then select 23,000 acres of Tongass land for primarily commercial purposes. I am most familiar with Tenakee Springs and Tenakee Inlet. The residents of this area depend upon salmon rivers and marine waters for food and employment in the fishing industry. In most families, someone hunts deer for food and some people rely on trapping to supplement their subsistence lifestyle. Game and furbearing animals need old growth forest habitat to survive and flourish. At the same time a successful sawmill sells lumber to local residents. Several tourism and wildlife viewing businesses operate in the Inlet. After a significant amount of logging in the 1970s and 1980s cut much of the best timber in Tenakee Inlet, the community advocated that key salmon watersheds be left in an intact forest condition for local use and benefit. Kadashan, Trap Bay, Goose Flats, Upper Tenakee and other watersheds were identified in that regard. In the TTRA,

Congress acted to protect Kadashan and Trap Bay as un-roaded, un-logged watersheds and identified them as Congressional Land Use Designation (LUD) II Roadless Areas. The TTRA also requires a minimum 100 foot buffer strips of uncut timber along both sides of all salmon streams.

I urge the subcommittee, and Congress generally, to recognize the importance of intact salmon watersheds to Tenakee Springs. Please maintain the Congressional LUD II protective status for Kadashan and Trap Bay, and please also make sure that the other salmon watersheds in Tenakee Inlet remain part of the Tongass. It is vitally important to Tenakee residents that these watersheds remain intact, productive, and accessible to local residents.

The TTRA also designated LUD II watersheds throughout the Tongass. The Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act of 2013 made additional LUD II designations. These areas were protected at the request of local communities and businesses and organizations – they should all remain as part of the Tongass and should remain in Congressional LUD II status. In addition to Kadashan and Trap Bay, they are: Anan Creek, Berners Bay, Lisianski River/Upper Hoonah Sound, Mt. Calder/Mt. Holbrook, Naha, Outside Islands, Point Adolphus/Mud Bay, Salmon Bay, Yakutat Forelands, Bay of Pillars, Kushneahin Creek, Northern Prince of Wales, Western Kosciusko, Eastern Kosciusko, Sarkar Lakes, Honker Divide, and Eek Lake and Sukkwan Island. These LUD II Areas, along with Congressionally designated National Monuments and Wilderness Areas, are part of the conservation and stewardship foundation for sustainability in southeast Alaska.

Section 11. This section is titled "Open Season for Certain Alaska Native Veterans for Allotments." Congress has already passed two pieces of legislation that sought to address the problems faced by Alaska natives who missed the deadline for applying for Native Allotments due to their service in the military during the Vietnam War. It is not clear to me why is it now necessary to enact a third law. I am also puzzled by a new provision that seems to allow the regional ANCSA corporation, Sealaska, to exchange lands with allotment applicants. It is hard to understand purpose and effect in this section. Also, as written, allotment selection would be excluded from units of the National Park System, a National Preserve, or a National Monument. I request that this exclusion be expanded to include units of the National Wilderness Preservation System as well as Congressionally designated LUD II areas.

Thank you very much for your consideration and attention.

John B. Sisk

John Sisk

Sitka Conservation Society
Box 6533
Sitka, Alaska 99835
(907) 747-7509
info@sitkawild.org
www.sitkawild.org

"Protecting the natural environment of the Tongass while supporting the development of sustainable communities in Southeast Alaska – since 1967."

February 19th, 2018

Dear Members of the Senate Subcommittee on Public Lands:

We would like to submit this letter as testimony for S1481 which was recently heard in your committee. This letter is being submitted on behalf of the Sitka Conservation Society which is head-quartered in Sitka, Alaska—in the heart of the Tongass National Forest. The Sitka Conservation Society was formed in 1967 and is dedicated to protected the natural environment of the Tongass region and working to develop socially, economically, and environmentally sustainable communities in Southeast Alaska. We are a registered non-profit organization and we have over 1200 members and supporters throughout Southeast Alaska and the United States.

We are opposed to S1481 as written. We feel that is has many ambiguities and flaws that need to be corrected. We will offer some of those here as per our ability to work in the legal framework and complexities of the legislative language.

1. Regarding Section 10, Unrecognized Southeast Alaska Native Communities Recognition and Compensation
    a. According to the report commissioned by Congress in 1993 to the University of Alaska's Institute for Social and Economic Research titled "A Study of 5 Southeast Alaska Communities," there is not a valid claim for Tenakee Springs to be considered a Native village as it lacks a native majority and does not meet further village criteria stipulated by ANCSA. We oppose the continued efforts to create a native corporation in Tenakee Springs.
    b. It is unclear if corporations could select LUDII lands, as they are not specifically defined as 'conservation system units' that are protected from land selection in Sec 43(2b)(iii). We oppose the selection of LUD II lands and consider those part of the ANILCA Conservation System lands with the expanded Congressional intentions of the Tongass Timber Reform Act. We urge the amendment of S1481 Sec 43(2b)(iii) to include LUD II designated lands.
    c. We do not believe the system of creating village and urban corporations has had the greatest benefit or is a model for solving historic issues with native communities. In some cases, corporations have had favorable results and are creating opportunities. In other cases, they have not. Locally, we have seen the Sitka corporation completely log their land selections and then take almost no subsequent land management investment or activities. Land holdings have not proven to be a long-term income generator. In fact, this same legislation seeks to buy-back corporate land holdings. Given the low timber land values remaining after pulp mills, Sealaska land selections, Mental Health Trust land trades, and current land uses, we urge this committee to seek other avenues for compensating valid native claims. The land selection model will not work for long-term benefit but will only create an economic imperative for

short-term resource extraction and high conflict with existing users and uses. A discussion of this topic has been initiated in the article in the Alaska Law Review specific to this previous (yet identical) iterations of this legislation titled A TRIBAL ADVOCATE'S CRITIQUE OF PROPOSED ANCSA AMENDMENTS and can be found at this link: https://scholarship.law.duke.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1518&context=alr

2. Section 5, Shee Atika Incorporated:
    a. Shee Atika selected land on Admiralty Island. They logged the entire acreage. They were then compensated with special tax law that allowed them to sell operating losses. Now they wish to sell this land back to the US Government.
    b. We applaud the intentions of making the Admiralty National Monument whole, but given the fact that the habitat on the land has been severely impacted by clear-cut logging, logging right up to the banks of salmon streams and lakes, and that refuge/garbage/materials are left on-site would create the scenario where these lands may be a liability to the public. We would request that any exchange in value take into consideration those costs and liabilities of restoring habitat, removing garbage and potentially hazardous materials, and any mitigation needed to bring the lands to the state needed to be integrated into the larger Wilderness Monument.
    c. There has been a great deal of discussion and contention from within the Shee Atika Corporation shareholders in Sitka related to this land sale. That discussion has not been reflected in Corporate board action. We would request a specific hearing in a local venue to give a chance for local shareholders to give input on this proposed legislation as they feel they have not been represented by their corporate officers.
3. Section 6, Admiralty Island National Monument Land Exchange:
    a. It is unclear to us how the exact acreage of land was calculated. Without an assessment of the land values, this exchange of those acreage seems arbitrary. For a similar exchange with the Alaska Mental Health Land Trust, a process for assessing the values and creating a value-for-value exchange was undertaken.
    b. As per our understanding of the subsurface value of the land in Cube Cove, there is little mineral value or value for mineral development. However, the lands being selected have potential mineral value and also have a very high timber values—including high value of standing Red Cedar timber. It would seem to follow normal operating procedures for land exchanges that those exact values were documented and disclosed to the public. If a situation occurred where subsurface rights for low-value quarry rock were exchanged for very high value red cedar forests and subsurface rights for potential mineral development of high grade ore bodies, all parties involved could come under public scrutiny that would not be in the best interests of long term goals for Southeast Alaska.

We are unable to comment on other sections of the bill at this point. We are concerned about any potential precedents created by the above sections or other sections of this bill that could impact the current boundaries and land holdings of the Tongass National Forest.

Thank you for the opportunity to comment.

Andrew Thoms
Executive Director
Sitka Conservation Society

From: Kirah Solomon
To: fortherecord (Energy)
Subject: Comments on S2206
Date: Thursday, February 15, 2018 3:40:53 PM

I oppose the effort to remove WSA for Blue Joint, Sapphire, West Pioneers, Big Snowies, and Middle Fork Judith WSAS in Montana. As someone who travels to many states to visit and recreate in wilderness areas, I value Montana for its amazing wilderness and breadth of recreation. I lead backpacking trips into wilderness as well as appreciate trails that allow stock and packing trips. Montana has a wealth of wilderness areas that I don't want to see dissolved.

Kirah Solomon
205 Saint Moritz Strasse
Park City, UT 84098

Southeast Alaska
Conservation Council

224 Gold Street
Juneau, AK 99801
(907) 586-6942
www.seacc.org

Sent via email (fortherecord@energy.senate.gov)

February 7, 2018

The Honorable Mike Lee
Subcmte Chairman
Subcmte on Public Lands, Forests and Mining
U.S. Senate Energy & Natural Resources Cmte
Washington, DC 20510

The Honorable Ron Wyden
Subcmte Ranking Member
Subcmte on Public Lands, Forests and Mining
U.S. Senate Energy & Natural Resources Cmte
Washington, DC 20510

re: Testimony for the February 7, 2018, Subcmte Hearing

Dear Chairman Lee and Ranking Member Wyden:

Please accept this testimony on behalf of the Southeast Alaska Conservation Council (SEACC) on S. 1481, the Alaska Native Claims Settlement Improvement Act. Founded in 1970, SEACC is a grassroots organization with members who live across Southeast Alaska, from Hydaburg on Prince of Wales Island to Yakutat, at the foot of the St. Elias Mountains, the highest coastal mountain range on earth.

SEACC's individual members include commercial fishers, Native Alaskans, small timber operators and value-added wood manufacturers, tourism and recreation business owners, hunters and guides, and Alaskans from all walks of life. SEACC is dedicated to preserving the integrity of Southeast Alaska's unsurpassed natural environment while providing for balanced, sustainable use of our region's resources. We recognize that Southeast Alaska's greatest economic opportunities now lie in preserving Tongass old-growth rainforest, and the invaluable contribution it makes to the region's thriving fishing and tourism-based economy, as well as recreational, customary, and traditional practices of local communities. As one of the most intact, carbon-dense temperate rainforests left on earth, Tongass old-growth forest serves as a "carbon life-raft" for storing carbon and maintaining America's resilience in the face of climate change.

As currently drafted, S.1481 fails to "improve" the Alaska Native Claims Settlement Act (ANCSA) and empower Alaska Natives to reconnect with the traditional lands important to their communities. Instead, it perpetuates the ill-suited Western corporate model imposed on Alaska Natives by ANCSA, which has forced Alaska Natives to emphasize short-term resource extraction policies regardless of the cost to historical, cultural, and traditional values.

Rather than holding another hearing far from Southeast Alaska and without local involvement, we urge the Senator to hold public hearings throughout Southeast Alaska and learn about the local efforts by communities to explore innovative pathways that better meet their needs in today's world.

Despite a host of issues with many of the sections, our biggest fear it the threat this bill poses to lands previously designated by Congress for perpetual protection in the Alaska National Interest Lands Conservation Act of 1980, the Tongass Timber Reform Act of 1990,[1] and the Sealaska Land Entitlement Finalization Act of 2014.[2] The nearly 900,000 acres of Legislated LUD II roadless wildlands designated by Congress for perpetual protection in 1990 and 2014 include special watersheds like Berners Bay in Lynn Canal, Kadashan River and Trap Bay in Tenakee Inlet, Anan Creek near Wrangell, Kushneahin Creek west of Petersburg, the Naha River near Ketchikan, or Nutkwa Lagoon, Eek Lake, the Honker Divide, Calder-Holbrook and Salmon Bay on Prince of Wales Island.

Specifically:

Section 7, allows Cook Inlet Region, Inc., the Alaska Native regional corporation based in south central Alaska, to select 43,000 acres of federal lands outside the boundaries of the Cook Inlet Region. These lands may come from within a unit of the National Wildlife Refuge System in the State (other than the Arctic National Wildlife Refuge) and Legislated Land Use Designation (LUD) II roadless wildlands on the Tongass National Forest.

Section 10 establishes new "urban" Native Corporations in Southeast Alaska for Alaska Native residents from the communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell. Once "recognized," these for-profit corporations can select 23,040 acres of high value, "local," public lands from the Tongass. As drafted, Section 10:

- 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;
- Although Tongass lands designated as Monuments or Wilderness are off limits, S. 1481 fails to safeguard roadless wildlands previously protected by Congress in perpetuity as Legislated LUD II lands.

Section 11, Opens Season for Certain Alaska Native Veterans for 160-acre Allotments, changes the previous bipartisan solution on this issue in 1998 and 2000. The section makes all lands on the Tongass National Forest, other than National Monuments, available for allotments, including previously designated Wilderness and Legislated LUD II lands. In the past, SEACC supported equitable treatment for Alaska Native Veterans, who missed the opportunity to obtain an allotment due to their service in the Vietnam War. Section 11,

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[1] Section 201, P.L. 101-626, 104 Stat. 4428-29 (1990); *see also* H. Conf. Rep. No. 101-931, at 16-17 (1990), *reprinted in* 1991 U.S.C.C.A.N. 6270-71 (Joint Explanatory Statement of the Committee of Conference on LUD II Management Areas). Key excerpts from this official explanation are attached.
[2] Section 3002(f) of Public Law No. 113-291, 128 Stat. 3730-31

however, essentially establishes a new land entitlement on the Tongass instead of correcting for a missed opportunity.

Section 11 also authorizes compensatory acreage for Native Corporations that voluntarily relinquish lands selected in order to make such lands available for Veteran allotments. Such compensation is unnecessary under existing law. Like lands approved for allotments within four years of ANCSA' enactment, all lands approved for allotments now should be deducted from the pool of lands available for selection by the regional corporations. To the extent this legislation is intended to reopen Native allotment applications pending on the date of ANCSA's enactment in 1971, it makes no sense to treat regional corporate lands differently now.

A true "improvement" to ANCSA would guarantee current levels of protection for designated Tongass lands, acknowledge the connection of Alaska Natives to their ancestral lands, and provide support and funding to let these communities develop innovative solutions for rural development that preserve and protect the places all of us love and addresses their long-term needs.

Respectfully,

Meredith Trainor
Executive Director

Final Version — Tongass Timber Reform Act

101st CONGRESS 2d Session | HOUSE OF REPRESENTATIVES | REPORT 101-964

TONGASS TIMBER REFORM ACT

OCTOBER 23, 1990.—Ordered to be printed

Mr. UDALL, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 987]

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

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

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

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND DEFINITION.

(a) SHORT TITLE.—This Act may be cited as the "Tongass Timber Reform Act".

TITLE I—FOREST MANAGEMENT PROVISIONS

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

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

"SEC. 705. (a) Subject to appropriations, other applicable law, and the requirements of the National Forest Management Act of 1976 (Public Law 94-588), except as provided in subsection (d) of this section, the Secretary shall, to the extent consistent with provid-

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

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

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

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

SECTION 1. SHORT TITLE AND DEFINITIONS

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

TITLE I—FOREST MANAGEMENT PROVISIONS

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

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

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

The Conference substitute generally adopts the format of the Senate amendment, but adds the qualification that the Secretary shall "seek to meet" market demand for timber "to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources." The phrase "renewable forest re-

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

TITLE II—TONGASS NATIONAL FOREST LANDS PROTECTION

[redacted]

Title II of the Senate amendment adds a new section 508 to ANILCA to provide that 12 areas of the Tongass, comprising approximately 673,000 acres, are to be managed in perpetuity in accordance with Land Use Designation II ("LUD II"). The 12 areas were [redacted] The specific management criteria for LUD II areas, as defined in the Tongass Land Management Plan, completed March, 1979, and amended Winter 1985–1986 (pp. 8–9) are as follows:

"(1) Purpose: Areas allocated to LUD II are [redacted] but this would permit wildlife and fish habitat improvement and primitive recreational facility development.

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

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

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

"Roads will not be built except to serve authorized activities such as mining, power and water developments, aquaculture developments, transportation needs determined by the State of Alaska, and vital Forest transportation system linkages.[1]

"Mineral Development is subject to existing laws and regulations.

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

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

"Major concentrated recreational facilities will generally be excluded."

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

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

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

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

1. Yakutat Forelands (137,947 acres) (VCUs 378 (partial), 379, 382-384, 386-389);
2. Berners Bay (46,000 acres) (partial VCUs 12, 13, 16, and all of 17);
3. Anan Creek (33,415 acres) (VCU 522);
4. Kadashan (33,641 acres) (VCU 235);
5. Lisianski River/Upper Hoonah Sound (137,538 acres) (VCUs 247-249, 250-252, 262, 282, 283, 285, 286);
6. Mt. Calder/Mt. Holbrook (64,040 acres) (partial VCUs 416, 417, 528, 531, 536, 541, 542, 547, 549, and all of 548);
7. Nutkwa (28,118 acres) (VCU 685 (1/3) and 686);
8. Outside Islands (75,017 acres) (VCUs 567-569);
9. Trap Bay (6,646 acres) (VCU 237);
10. Point Adolphus/Mud Bay (113,326 acres) (VCUs 189-192, 193 (1/2), 194 (1/2), and 195 (3/4);
11. Naha (31,794 acres) (VCU 742);
12. Salmon Bay (10,000 acres) (partial VCV 534).

Section 202. Wilderness designation

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

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

Section 203. Kadashan study

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

The House bill designates Kadashan as wilderness.

The Conference substitute provides for LUD II designation for Kadashan and requires the Secretary, as part of the TLMP revision process, to prepare a report for Congress on the fish and wildlife

Southeast Alaska Landless Corporation (SALC)
Ketchikan-Petersburg-Wrangell-Haines-Tenakee

February 21, 2018

The Honorable Mike Lee
Chairman, Committee on Energy & Natural Resources
Subcommittee on Public Lands and Forests
U.S. Senate
304 Dirksen Senate Office Building
Washington, DC 20510

RE: February 7, 2018 Legislative Hearing on Various Bills, Including S. 1481, the Alaska Native Claims Settlement Improvement Act of 2017

Dear Chairman Lee:

On behalf of the Southeast Alaska Landless Corporation (SALC), I am pleased to submit comments on the subject of the Subcommittee's February 7, 2018 hearing on S. 1481, the Alaska Native Claims Settlement Improvement Act of 2017.

Section 10 of S. 1481would 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 Alaska Native 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.

SALC represents Alaska Natives enrolled through 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 claims 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.

We were pleased to see the Trump Administration express its support for the Unrecognized Communities. Specifically, Mr. Brian Steed, Deputy Director for Policy & Programs at the Bureau of Land Management, made the following statement in his written testimony:

> The Department supports Sec. 10 and looks forward to working with the sponsors and the Committee on technical modifications including adding the Secretary of Agriculture for consultation and coordination on land selections resulting from implementation of the bill. In addition, we recommend that the word "township" be replaced with "23,040 acres" because some townships along the coast may be less than 23,040 acres."

However, various groups including, at times, the U.S. Forest Service, have raised concerns about the legislation. We address these concerns here.

Concern #1 – Congress specifically named the villages in the southeast Alaska that were to be recognized in ANCSA; these five communities were not among those named.

Naysayers have observed, without providing any context whatsoever, 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." This statement suggests the five unrecognized communities had some process available to them to fairly adjudicate their claims. In fact, they did not.

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. This was not a "land" settlement, but a "cash" settlement that did not adequately compensate the Alaska Natives of southeast Alaska for the lands taken by the federal government. Nonetheless, Section 16 – not Section 11 – separately listed each of ten villages in Southeast Alaska. Section 16(b) of ANCSA authorized the conveyance of just one township of land to each Southeast Alaska Native village. In other regions of Alaska, each "Native village … which the Secretary finds is qualified for land" was authorized to receive between three and seven townships of land depending on the population of the village. In Section 16(c) of ANCSA, Congress explained why each qualified Southeast village would receive just one township each:

> The funds appropriated by the Act of July 9, 1968 (82 Stat. 307), to pay the judgment of the Court of Claims in the case of *The Tlingit and Haida Indians of Alaska, et al. against The United States*, numbered 47,900, and distributed to the Tlingit and Haida Indians pursuant to the Act of July 13, 1970 (84 Stat. 431), are in lieu of the additional acreage to be conveyed to qualified villages listed in [Section 11 of ANCSA].

Section 11 of ANCSA provided an appeal right to any Native village not listed in that section to determine whether such village was eligible to receive for land. However, because Section 11 does not apply to Southeast Alaska, the five unrecognized communities were later denied the right to appeal pursuant to that authority.

Section 16 of ANCSA failed to provide any mechanism for Southeast villages to 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. It is for this reason that we must appeal directly to Congress for help.

As a matter of legislative history – or lack thereof – this Subcommittee must take into account that possibility that Southeast Alaska villages did not have an appeal right by virtue of a simple error on the part of Congress. Congress clearly intended to treat Southeast Alaska differently than the rest of Alaska, but there is nothing in the legislative history that suggests Congress actually intended to deny the appeal right to the five Southeast Alaska villages. Congress did explain that the Tlingit and Haida Settlement – a small settlement of $7.5 million – would be considered made "in lieu of the additional acreage to be conveyed to qualified villages," but Congress did not suggest within the legislation or otherwise that the five unrecognized villages should not "qualify" for recognition and compensation as a consequence of that Settlement, or that they should be denied due process.

Concern #2 – Members of the five communities are "at large" shareholders in Sealaska Regional Corporation ... and as such, have already received benefits from the ANCSA settlement.

ANCSA directed the Secretary of the Interior to prepare a roll showing "among other things, the region and the village or other place in which [each Alaska Native] resided on the date of the 1970 census enumeration, and he [each Alaska Native] shall be enrolled according to such residence."

Thus, Alaska Native individuals born prior to the passage of ANCSA were enrolled both to their village – although those of us petitioning Congress here were enrolled to one of five "unrecognized" villages – and to our region, Southeast Alaska. The Regional Corporation for Southeast Alaska is Sealaska Corporation, and those of us enrolled in the Southeast region became "at large" shareholders in Sealaska Corporation.

Those of us who were enrolled to the Southeast region have in fact received revenue-sharing distributions from Sealaska pursuant to Section 7(j) of ANCSA,[1] but we have not enjoyed any of

[1] Section 7(i) of ANCSA provides for the sharing among Native regional corporations of 70 percent of the revenue derived from timber or subsurface resources on ANCSA lands:

> Seventy per centum of all revenues received by each Regional Corporation from the timber resources and subsurface estate patented to it pursuant to this Act shall be divided annually by the Regional Corporation among all twelve Regional Corporations organized pursuant to this section according to the number of Natives enrolled in each region pursuant to section 5.

benefits of owning shares in a Village or Urban Corporation, and many of those benefits are tied to or the result of land ownership. In fact, many of the Village and Urban Corporations in the Southeast Alaska region have brought significant economic and other benefits to their communities. Those benefits include but are not limited to: local employment opportunities; infrastructure development; educational benefits (scholarships/internships); cultural and subsistence access to lands and resources; heritage foundations; economic and political influence within the community and state; and dividends that are not tied to ANCSA 7(i)/7(j) revenue sharing. More importantly, our communities have been deprived of the significant cultural benefit of owning an interest in lands located within and around our traditional homelands. Cash distributions as at-large shareholders will never be adequate compensation for lack of land ownership for our Native people.

Concern #3 – 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 reopen their status determinations.

Most modern Administrations – whether Republican or Democratic – support the recognition of American Indian and Alaska Native communities, including tribes that were terminated during the so-called termination era, when this Nation ended its special relationship between many tribes and the federal government. Under ANCSA, Congress extinguished Alaska Native aboriginal land claims; but it did so within the context of attempting to provide "fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims."

Congress settled the land claims of Alaska Natives by allowing Alaska Natives to enroll to their Native village and allowing Alaska Natives within each of those villages 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 listed in ANCSA 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—strongly supports the conclusion that the eligibility requirements set forth in ANCSA for Native

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Section 7(j) of ANCSA provided additionally for the further distribution of 50 percent of funds received by a regional corporation "among the Village Corporations in the region and the class of stockholders who are not residents of those Villages."

villages to receive lands and incorporate were met by the five 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. Thank you for the opportunity to provide testimony on this important matter to the Alaska Native people that enrolled to the Native villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell.

If you have any questions, please contact representatives for the Southeast Alaska Landless Corporation: Cecilia Tavoliero (cecitavoliero@gmail.com), who is enrolled to the village of Petersburg, or Leo Barlow (lhbarlow@aol.com), who is enrolled to the village of Wrangell.

Sincerely,

Southeast Alaska Landless Corporation

Leo Barlow
Vice-President

Cc: Senator Lisa Murkowski, Chair, Committee on Energy and Natural Resources
Senator Maria Cantwell, Ranking Member, Committee on Energy and Natural Resources
Senator Dan Sullivan
Congressman Don Young
Governor Bill Walker

Southwest Grazing Association
11850 Uras Valley Rd NE
Deming, New Mexico 88030
575-546-3160

February 20, 2018

As a 5th generation cattle rancher, with the 6th and 7th generations also living on our family-owned and operated ranch, we continue to improve and protect the land we live on without the need of more special designations.

I am a Citizen of the Potawatomi Nation.
I have served on the Las Cruces District of the BLM Resource Advisory Council (RAC) for 6 years.
I have serve on the NM Cattle Growers Assn Board of Directors.
I am past president of the Southwest Grazing Association and current Board of Director.
I currently sit on the New Mexico Farm Credit Association Board of Directors.

I am deeply rooted in the area and feel obligated to do my best to keep the customs and culture of ranching alive. I want to pass it on to my son and grandsons and others who might be interested in carrying on the ranching way of life providing safe beef for consumers.

The Southwest Grazing Association stands in opposition to the wilderness designation in S.441 because such designations would limit range improvement projects and negatively impact wildlife and livestock. A wilderness designation affects rancher's day to day activities such as feeding, water distribution, care of livestock, as well as access and maintenance to existing roads.

This would put the improvements and infrastructures in jeopardy, drastically reducing the allotment value. At this point, no one knows what private land values will be that are inside the boundaries of a wilderness area. Now banks are expressing concerns over equity values. This falls under the appropriate use of the federal lands and the effects on surrounding lands and communities. And it also negatively effects property beyond the wilderness boundaries.

We truly appreciate your interest in this important matter. I would welcome any communication with you or your staff if I can be of any help.

Respectfully,

Jim T. Hyatt

Jim T. Hyatt

From: Frank Stewart
To: fortherecord (Energy)
Subject: comments on S2206
Date: Wednesday, February 14, 2018 9:28:23 AM

Dear Energy and Natural Resources Committee:

Please be advised that I am strongly opposed to removal of five Wilderness Study Areas in Montana from Wilderness consideration.

As a longtime Montana resident, I believe we need to be protecting any potential wilderness lands from future development.

I do not understand why there has been no public comment period of this issue.

Sincerely,

Frank Stewart
3250 Prairie Smoke Rd
Bozeman, MT 59715

fstewart@latmt.com
phone: 406-586-0790
cell: 406-539-0954

Post Office Box 32712
Juneau, Alaska 99803

February 11, 2018

The Honorable Mike Lee
Subcommittee Chairman
Subcommittee on Public Lands, Forests and Mining
U.S. Senate Energy & Natural Resources Committee
Washington, DC 20510

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

Dear Senators Lee and Wyden:

The Territorial Sportsmen, Inc. (TSI), a long-standing outdoors issues advocacy group of about 1500 members based in Juneau, Alaska wishes to register its opposition to the suite of proposals comprising S.1481, which could combine to privatize up to 600,000 acres of public lands in Alaska. Without getting into details about the merits of allowing private corporations to trade low value already-logged lands for mature forest habitat elsewhere, or granting lands to people without a direct personal link to such lands, TSI would state that the removal of any lands from the public domain is problematic for users of our commonly-held natural resources, especially since strategically selected lands tend to control access to a much larger footprint. As people who enjoy and harvest Alaska's fish, wildlife, and other natural resources we ask that you not pursue further privatization of our public lands in Southeast Alaska.

Respectfully,

Matthew H. Robus, President

Sportsmen Promoting Conservation of Alaska's Fish and Wildlife Since 1945

Statement of Gary E. Thurm, Jr., P.E.
Manager
Cooper Cattle Company
BLM Allotments #03015 and #03047
Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests & Mining
Concerning
S. 441, the Organ Mountains Desert Peaks Conservation Act

February 21, 2018

There are 41 grazing allotments within Doña Ana County and the Organ Mountains Desert Peaks National Monument (OMDPNM) boundary, each of which is operated for a profit, contributes to the tax base within the county, provides jobs and a sense of place and home in New Mexico, and produces food for the United States of America and her people. The 40 stewards (we operate 2 allotments) along with their employees (cowboys) maintain the health of the land, always giving priority to land health over economic gain, at little to no cost to the taxpayer for their efforts.

The establishment of any wilderness areas within the monument surrounding the Robledo Mountains and the Sierra De Las Uvas, as well as the areas to the south, north and south of the I-10 corridor, west of Las Cruces will eventually destroy the cattle operations within those boundaries, and indirectly affect other small farmers and ranchers at the perimeter. While the text of most wilderness bills state that grazing can continue as it did prior to the establishment of the act, I would disagree. True wilderness does not allow for mechanized equipment to be used within the boundaries. If an earthen dam were to breach or needs to be cleaned out, bringing in heavy equipment is the only way to repair or clean the tank out. If not allowed, then no repairs will be made and maintaining adequate water supply for the livestock and wildlife may not be possible.

Border security in this region is weak as there are many routes through our ranch and adjacent ranches that face illegal immigrants and drug smugglers. Wilderness designations in this area will only hamper efforts by Border Patrol agents if the letter of the law regarding wilderness without motorized vehicles is adhered to. If we bend the rules and make allowances for certain motorized vehicles, then why create these wilderness areas in the first place? We are good stewards of the land, are the primary managers of the land, and never inhibit the use and enjoyment of the federal and state lands by keeping gates unlocked (in some cases through private property) and maintaining roads that get utilized by vehicles and suffer damage from heavy precipitation events.

There are 8 Wilderness Study Areas (WSA's) that are within the OMDPNM boundary, 6 of which did not meet or barely met the criteria for Wilderness designation, 4 of which did not. These WSA's vary in size and with the current monument designation have restrictions that will help protect these lands whether they met the guidelines to be wilderness or not. On August 19, 1991, then Secretary of the Interior, Manuel Lujan made a record of decision after a 10-year study of over 50 WSA's within the State of New Mexico. That decision was a recommendation to release 420,400 acres from study within 39 of the study areas. The release was never done.

I would like to see current operations in agriculture and the future prospects for ranching to continue in Doña Ana County, New Mexico, strengthened by incorporating the following recommendations in proposed legislation as soon as possible:

1. As recommended by the Secretary of Interior in 1991, release the following 4 WSA's from the study which was completed 27 years ago and eliminate them from the National Wilderness Preservation System:

    1) Aden Lava Flow 25,287 acres 2) Sierra De Las Uvas Mountains 11,067 acres 3) Robledo Mountains 12,946 acres, and 4) Peña Blanca 4,444 acres

2. Extend permit terms on all grazing allotments within the OMDPNM boundary from the current 10-year permit term to a 20-year permit term.

3. Make no policy or regulation which requires additional environmental assessment under the National Environmental Protection Act on grazing allotments that change hands due to sale or inheritance by the next-generation stewards.

4. Do not create any new wilderness within the OMDPNM boundary or on our allotments, specifically, the proposed Broad Canyon Wilderness which occupies over half of our Alamo Basin Ranch, the Sierra De Las Uvas Wilderness Study Area which occupies 10% of Alamo Basin, and the Robledo Mountain Wilderness Study Area occupies approximately 40% of our Indian Springs Ranch. There is not a swath of land on our 2 ranches that is greater than 5000 acres (part of the criteria to evaluate whether the area could be wilderness) that has not been developed for support of cattle grazing, as we have improvements throughout these ranches that are documented and have been ongoing since the early part of the 20th century.

5. Eliminate the Potrillo Mountain Complex from the OMDPNM boundary in its entirety and eliminate the West Potrillo Mountain Wilderness Study Area from the National Wilderness Preservation System.

6. Reduce the boundary of the Desert Peaks Complex such that Valles Canyon and Broad Canyon (canyon bottom and cliff walls), Robledo Mountains, and the Dona Ana Mountains are the highlight of the monument (not including private lands, state lands, primary grazing areas, and any other lands not mentioned above as part of the national monument).

7. Reduce the boundary of the Organ Mountains Complex such that the upper elevations with true wilderness characteristics are included (not including private lands, state lands, primary grazing areas, and any other lands not mentioned above as part of the national monument). For reference, see Rep. Stevan Pearce's proposal for the Organ Mountains complex.

The latest text of S.441 describes the removal of parcel 'A' within the Potrillo Mountain Complex from the OMDPNM boundary and is a good start, but this monument is too large and is a genuine disregard for private rights and grazing preferences as well as the state's rights inherent in its charter. Each of the areas that are designated as WSA's or proposed for wilderness could be converted to Rangeland Preservation Areas (RPA's) as the entire footprint of the OMDPNM is comprised of grazing allotments. This proposal for RPA's is not new and was proposed by the stakeholders group, People for Preserving our Western Heritage (members included Tom Cooper (deceased), Carol Cooper, Jerry Shickedanz, Tom Mobley, Frank DuBois, Dudley Williams, Steve Wilmeth, and Joe Delk), when the wilderness areas were proposed under S.1689. Afterall, if the primary use in the 500,000+ acre monument is grazing, why not make it a priority to preserve the rangeland? There are stewards in place (the ranchers, allotment holders) that make it a priority every day as their economic success depends on the sustainability over long periods of time. The recommendations above place protections and conservation measures on the primary objects identified within the monument, while keeping the size limited to the smallest area possible for proper protection. The area we are proposing for protection and preservation is closer to 60,000 acres and is confined to federal (public) lands rather than having our private and state lands locked up and bound by wilderness or a national monument designation in perpetuity.

Again, We object to any new wilderness areas, and request that the existing wilderness study areas be released from further study and return them to historic multiple use management with grazing as the primary use. If we remain productive as a nation when it comes to food, fiber, energy, and harvesting sources for infrastructure materials for civil uses as well as military and border patrol and security needs, we will have the money and resources to recreate on these lands, whether, hunting,

fishing, hiking, exploring horseback on existing dirt roads or entering these lands using mechanized vehicles. If we as a people and country are not economically stable and sound, recreation will naturally take a back seat. Not having wilderness designations on our Ranches will allow us to maintain roads, waterways, earthen reservoirs, grow hay, cultivating both Alfalfa and native grasses, such as black grama, blue grama, tobosa, and dropseed, implementing conservation measures to reduce invasive weeds as well as brush treatment where necessary. We will focus on eliminating woody plants that can become invasive, that don't utilize available water resources as well, those that starve out native grasses when it comes to water and nutrients. Too high of a population of woody plants do not allow native grasses and forbes to flourish. Water resources that have been developed on these ranches help the state of New Mexico protect their water rights by showing beneficial use (we manage 69 sections of land and have developed water wells or man-made storage every 2 miles throughout - for cattle and wildlife watering alike, enhancing and increasing local flora populations - in other words, we maintain water availability for cattle and wildlife in approximate 2600 acre units - most of the 14 pastures on our two ranches are between 3 and 6 sections - the upper elevations along the base of the Sierra De las Uvas Mountains are usually without cattle from September through April and in non-drought years there is water still available throughout in the higher elevations).

Having multiple wilderness area designations which would be so close to our southern border jeopardizes our cowboys, their families, and the people of the United States of America. Humans and drugs are smuggled across this borderland and find corridors through these desert ranches,from Mexico. Border patrol should not be restricted in pursuit, nor should they be restricted in patrol. Sen. Udall's latest attempt to allow for pursuit of illegals in a wilderness area is in contradiction to the wilderness ideal and the act itself. Why bend the law? Why allow lawlessness?

We believe that the rancher is the top steward of these lands and that maintaining a strong working relationship with the State Land Office and the BLM at the local level is key to sustained production with conservation and land health always our priority. The farmers and ranchers here in Dona Ana County, New Mexico are not only producers, but also stewards of limited yet sustainable resources. We don't need more restrictive land designations, honestly we need less. We need to first secure our border with Mexico and to get our fiscal house back on track, the order of everything else will follow.

I can be reached at (775) 691-8002. My Mom, Carol Cooper (allotment permittee and ranch owner) can be reached at (575) 644-1790.

Sincerely,

Gary E. Thurm, Jr., P.E.
Lands Manager, Cooper Cattle Company
Alamo Basin Ranch and Indian Springs Ranch, New Mexico
BLM Allotments #03015 and #03047

From: Kit Tilly
To: fortherecord (Energy)
Subject: SB2206
Date: Monday, February 12, 2018 10:42:40 AM

We are writing to express our distress at SB 2206, releasing Montana Wilderness Study areas from consideration for designated wilderness protection. We and many other Ravalli County citizens feel that there should be more designated wilderness in Ravalli County, as demonstrated by testimony at a recent meeting of the Ravalli County Commissioners, which was 90% in favor of protecting the Blue Joint and Sapphire Crest Wilderness Study areas. We and most of our friends feel that any lands with wilderness value should be preserved as such. We have been through both the Blue Joint and Sapphire WSAs and feel that they are both gorgeous and have outstanding wilderness value. Less than 3% of our great country has been designated as Wilderness or Wilderness Study Areas and as much as possible of that land should be protected. We are avid back country users and often fly our airplane, ride bicycles, ski, drive snow machines, and hike in the National Forests near here. We are happy to forgo further motorized and mechanized activities in the Blue Joint and Sapphire Crest WSAs, plus the other WSAs in Montana, so that they can be protected further. Please realize that we and many others of your constituents feel this way. Building additional bicycle trails in non-Wilderness areas of the National Forests would be a better endeavor than degrading unspoiled parts.

Wilderness areas provide significant value to the citizens of Montana and the rest of the country. They attract back country travelers, including hikers, hunters, fishermen, and horse packers, which bring more sustainable economic benefit to the state than degrading these lands by mining, logging, or motorized and mechanized use. They also protect the headwaters of rivers that are important for recreation in the valley and ensure clean water that benefits us all.

We also think that it is important to allow wildfires to burn in as much of the forest as possible, and increasing designated Wilderness will help this aim. Restoring the natural fire cycle as much as possible will help to mitigate the catastrophic wildfires that are becoming common as a consequence of human contributions to climate change.

We hope that you will honor our concerns by withdrawing SB2206.

Sincerely,

Kathryn Tilly and Joe Rimensberger
444 Lost Horse Road
Hamilton, Montana 59840
kitilly281@gmail.com
406-375-9526

Statement of the
U.S. Department of the Interior

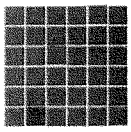
Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests & Mining
H.R. 995, the 21st Century Respect Act
February 7, 2018

The Department of the Interior (Department) is pleased to provide the views of the Department on H.R. 995, the 21st Century Respect Act. H.R. 995 directs the Secretary of the Interior (Secretary) to amend certain regulations to replace racially inappropriate terms. While the Department supports the goals of the legislation, for the reasons described below, we defer to the General Services Administration (GSA) for a position on the legislation.

H.R. 995 directs the Secretary to amend regulations promulgated to regulate the activities of the Pennsylvania Avenue Development Corporation (PADC), a wholly owned instrumentality of the United States that was established by the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578, 86 Stat. 1266). The PADC led a major redevelopment effort from the 1970s to the 1990s that shaped the design and character of Pennsylvania Avenue and the surrounding neighborhood.

In 1996, Congress dissolved the PADC in Public Law 104-99, and provided that "any regulations prescribed by the [Pennsylvania Avenue Development] Corporation in connection with the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 1101-1109) shall continue in effect until suspended by regulations prescribed by the Administrator of the General Services Administration." While the National Park Service retained some functions under that 1996 Act, authority over the regulations was placed with the GSA.

For these reasons, the Department recommends the legislation be amended to replace "Secretary of the Interior" with "Administrator of the General Services Administration" and we defer to the General Services Administration for a position on H.R. 995.



State of Utah
School & Institutional
Trust Lands Administration

Gary R. Herbert
Governor

Spencer J. Cox
Lieutenant Governor

David Ure
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Statement of John W. Andrews
Associate Director
Utah School and Institutional Trust Lands Administration

Senate Energy and Natural Resources Committee
Subcommittee on Public Lands, Forests, and Mining

Hearing on

S. 1665
Confirming State Land Grants for Education Act

February 7, 2018

Introduction

On behalf of the Utah School and Institutional Trust Lands Administration, I thank Chair Murkowski, ranking member Cantwell, and all of the Subcommittee members for the opportunity to provide this statement in support of S. 1665. I also wish to thank Utah Senator Orrin Hatch for sponsoring S. 1665, and Senator Mike Lee for his co-sponsorship. Finally, we also appreciate Utah Congresswoman Mia Love for her sponsorship of the House counterpart, H.R. 2582, which passed the House of Representatives unanimously late last year.

S. 1665 will resolve a lingering impasse between the federal government and the State of Utah over statehood era land grants, in a way that promotes rational land management while providing financial support for Utah's public universities and schools.

About SITLA

The School and Institutional Trust Lands Administration ("SITLA") is an independent, non-partisan state agency established to manage lands granted by Congress to the State of Utah at statehood for the financial support of K-12 public education and other state institutions. In addition to public schools, beneficiaries of Utah's trust lands grants include the University of Utah, Utah State University, a hospital that provides healthcare to disabled miners, and the state schools for the blind and deaf.

SITLA manages approximately 3.3 million acres of state trust lands, and an additional million acres of mineral estate. Revenue from trust lands – most of which comes from mineral and real estate development - is deposited in a permanent endowment maintained for each trust beneficiary. Investment income from these endowments is distributed annually to each beneficiary.

Background

The Utah Enabling Act[1] granted Utah the right to select public lands for the support and benefit of state institutions of higher education, in addition to the more familiar school trust land grants. Lands granted to Utah under the Enabling Act were originally managed by the Utah State Land Board, and since 1994 have been entrusted by state law to SITLA.

Section 8 of the Utah Enabling Act originally granted 200,000 acres to Utah for the support of an agricultural college (subsequently established as Utah State University). Of the original 200,000 acre land grant, less than two thousand acres of unfulfilled selection rights are currently outstanding. In 1998, SITLA filed an application with the U.S. Bureau of Land Management (BLM) to select 444.05 acres of BLM lands near the City of Eagle Mountain in Utah County for the benefit of the Utah State University land trust. This selection application was subsequently modified to add an additional 80 acres near the City of Saratoga Springs.

BLM worked for several years processing this application, and SITLA incurred significant expenses in obtaining necessary archaeological clearances for the selection. However, in 2007, BLM determined that the applicable federal land management plan did not allow BLM to proceed with the selections. The basis for this decision was that, although the subject lands were classified in the land management plan for disposal by land exchange, the disposal language did not expressly refer to state selections, so selections (as opposed to a land exchange) could not be processed.

SITLA believes that under applicable legal authority state selections are in fact authorized under the land management plan, but BLM has continued to disagree. SITLA also requested that BLM consider a plan amendment to authorize the proposed selections, but BLM formally declined to do so in 2015, due to inadequate staff and funding to process a site-specific plan amendment.

The Subject Lands

The subject lands are located approximately 15 miles west of Provo, Utah, in the foothills of the Lake Mountains. The communities where the lands are located – Eagle Mountain and Saratoga Springs – are among the most rapidly urbanizing municipalities in the entire United States. The 444.05 acre tract in Eagle Mountain, Utah is located on a sloping hillside east of the Eagle Mountain town center. It is adjacent to an existing municipal water tank, and was selected by SITLA for future real estate development as the local community expands. The 80 acre parcel in Saratoga Springs, Utah connects two existing state trust lands parcels. Its control by the state will facilitate remediation of historic clay mining activities in the area, and the construction of a future foothill transportation corridor.

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[1] Act of July 16, 1894, ch. 138, 28 Stat. 107.

No known environmental issues are associated with the two parcels. The parcels have been surveyed for archaeological resources and cleared, and no wildlife, wilderness, or other similar issues have been identified. As noted below, after passage of S. 1665, BLM would still be required to complete National Environmental Policy Act (NEPA) analysis of the proposed selections before completion of the transaction. After conveyance, future real estate development of the parcels would be coordinated through the local planning and zoning process.

Need for S. 1665

Although BLM has classified the subject lands as available for land exchange in its existing land use plan (the Pony Express Resource Management Plan), it has determined that the absence of any reference in the plan to conveyances by state selection precludes it from approving the selections without a plan amendment. However, the local office of BLM has declined to process a plan amendment due to lack of available resources.

S. 1665 solves this Catch-22 by confirming that BLM may process the current selections, and future state selections in the immediate area (outlined in yellow on the attached map), without further land use planning. The legislation would simply put state selections on an equal footing with land exchanges – currently allowed - in the existing land use plans.

The proposed legislation does not affect BLM's obligation to comply with any applicable BLM procedures, including the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), and other applicable laws and regulations, in processing state selections in the designated area. These statues and regulations are part of the normal BLM process for processing state selections under 43 C.F.R. Parts 2621-2622, and would be applied in BLM's process for considering the State of Utah's selection applications. As noted above, this administrative process was well along at the time when BLM changed its position, and determined that the Pony Express RMP did not allow it to approve the State's selections.

The Enabling Act land grants were reflections of Congress' intent, at the time that western states entered the Union, that resources be made available to support public education, including higher education. S. 1665 will allow one of those educational beneficiaries – Utah State University – to receive the full benefit of its land grant, by removing an administrative technicality that has prevented an otherwise valid selection from moving forward.

Conclusion

SITLA appreciates the efforts of Chair Murkowski, the Subcommittee, and Senator Hatch in holding a hearing on S. 1665. We respectfully ask that it be passed out of committee favorably at the earliest possible time. Thank you.

DATED THIS 6th day of February, 2018

John W. Andrews, Associate Director

From: DYRCK VAN HYNING
To: fortherecord (Energy)
Subject: comments on S2206
Date: Thursday, February 15, 2018 11:29:46 AM
Attachments: Why WSA Are Important.pdf

DO NOT VOTE FOR S2206, LEAVE OUR WILDERNESS STUDY AREAS AS THEY ARE.

Why Wilderness Study Areas (WSAs) are important

●The five study areas (West Pioneer, Blue Joint, Sapphire, Middle Fork Judith and Big Snowies) are ½ of 1% of Montana land mass (497,550/92,306,919 acres). Surely ½ of 1% of Montana Land can be used by its one million citizens for peace and quiet from motorized vehicle noise, oil on trail from 2 cycle engines, clear timber cuts and how the country looked and felt before roads everywhere.

●Landsat 8 imagery (collect images using nine spectral bands in different wavelengths of visible, near-infrared, and shortwave light) provided the digital imagery to evaluate wilderness areas, national parks and private lands vegetation. Researchers have determined:

1. The wilderness qualities
2. Quality of the vegetative communities
3. The wildlife connectivity values of these
4. The wildlife connectivity values of these
5. Wilderness Study Areas are significantly greater than many of our National Parks, which are widely considered to be the most wild, pristine landscape in the United States

●WSAs are critical for water quality, wildlife and Montana's outdoor recreation economy.

●The wildest, untrammeled/pristine habitats enable species to be more resilient and support all species that should be in the ecosystem.

● Looking at a US map, roads are everywhere so roadless areas (WSAs) need to be elevated in their importance for biodiversity.

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February 10, 2018

Tony Tooke
Chief- USDA Forest Service
USDA Forest Service
Sidney R. Yates Federal Building
201 14th Street, SW
Washington, DC 20024

US Postal Service Mailing Address:
1400 Independence Ave, SW
Washington, DC 20250-1111
(800) 832-1355
Subj: Montana Wilderness Study Areas-Managed by Forest Service

Dear Chief Tooke:

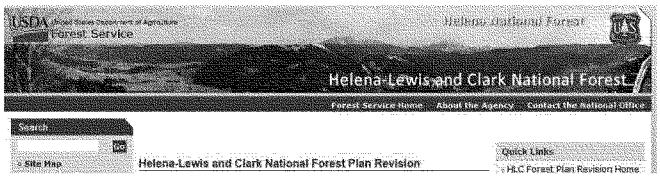
I am asking for your assistance in correcting the Senate record, Committee on Energy and Natural Records, Subcommittee on Public Lands, Forest and Mining statement of February 7, 2018 by Glenn Casamassa, Associate Deputy Chief, National Forest System. I am asking for your help correcting the record submitted in S-2206.

Let me introduce myself, I am a retired food broker and Marine Corps officer Vietnam 8/66 to 12/69. Our family operated a farm and ranch in the foothills of the Snowy Mountains. As the summers were short, we picnicked a short distance from our farm at Crystal Lake, a summer vacation area in the Snowy Mountains. I led a number of Montana Wilderness hikes in later years to the Ice Caves in the Snowy Mountains.

In 1980 the Forest Service designated this 98,000 acres a Wilderness Study Area. On Nov 3, 1988 President Reagan vetoed legislation that would protect 1.4 million acres in Montana, included the Snowy Mountains, to promote a Republican Senate candidate over the current Democratic Senator. As a result, the entire 5.4 million acres remains so until Congress acts and the President signs a new bill designation how it should be used (Attachment B). Attachment C is Daines' S-2206

"The Department supports S-2206, as the Forest Service has not recommended that the five areas covered by the bill be designated as wilderness." (Attachment A)

The Helena-Lewis and Clark National Forest plan revised
https://www.fs.usda.gov/detail/helena/landmanagement/planning/?cid=stelprd3798801

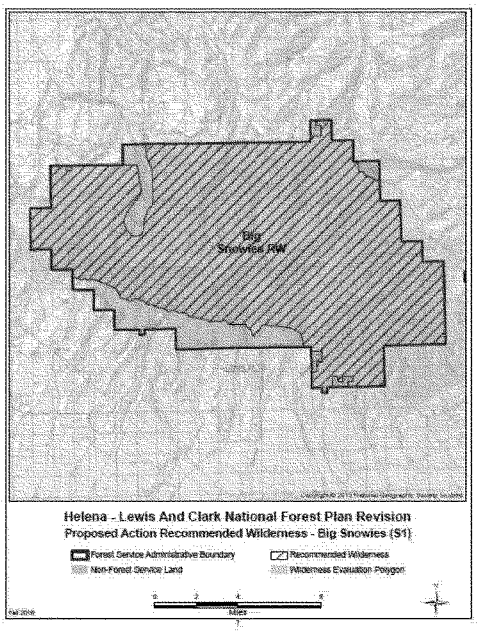


The Helena-Lewis and Clark National Forest Plan revision proposed action in the Revised Forest Plan does call for the Big Snowies as a wilderness area.

Detailed Maps of the Nine Proposed Recommended Wilderness (RW) Areas

This document was prepared in response to public requests that were received shortly after the Proposed Action was released. Appendix F of the Proposed Action identified nine areas to be carried forward as recommended wilderness areas (see tables 2 and 3 in appendix F). These were displayed in Appendix B on the designated area maps for each geographic area. Some publics wanted to see these recommended wilderness areas at a more detailed scale rather than at the geographic area scale.

Map	Page Number
Big Log (BB1)	3
Mount Baldy (BB7)	4
Blackfoot Meadows (D3)	5
Deep Creek (LB1)	6
Big Snowies (S1)	7
Dearborn Silverking (UB1)	8
Red Mountain (UB2a) and Arrastra Creek (UB2b)	9
Nevada Mountain (UB10)	10



The Senate Committee Chairman Mike Lee, Utah of Energy and Natural Resources: Subcommittee on Public Lands, Forests, and Mining has given two weeks to correct the record. I am requesting the Forest Service correct the statement Associate Deputy Chief Glenn Cassamassa made on February 7, 2018,"The Department supports S-2206, as the Forest Service has NOT recommended that the five areas covered by the bill be designated as wilderness." (Attachment A). On the contrary, the Forest Service HAS recommended that the Big Snowies be wilderness.

Sincerely,

Dyrck Van Hyning

Attachment A: Statement of Glenn Casamassa
Attachment B: New York Times article Nov 3, 1988 Reagan Vetoes Bill
Attachment C: S-2206

STATEMENT OF Garett Reppenhagen
OF Vet Voice Foundation
On The *America's Natural Treasures of Immeasurable Quality Unite, Inspire, and Together Improve the Economies of States* (ANTIQUITIES) Act of 2018

Energy and Natural Resources Committee
Feb, 7th, 2018
Subcommittee on Public Lands, Forests, and Mining Legislative Hearing

To the esteemed members of the committee, I am submitting this statement to the committee on behalf of the Vet Voice Foundation. The Vet Voice Foundation mobilizes veterans to become leaders in our nation's democracy through participation in the civic process. VVF offers veterans the opportunity to continue serving their communities by finding a new mission in domestic and foreign policy campaigns that are important to America.

On behalf of the over 500,000 veterans, military families and civilian supporters we represent, we urge you to pass the ANTIQUITIES Act out of committee, and send it to the floor of the Senate for immediate consideration.

American veterans have long relied on our public lands and monuments, to seek healing from the mental wounds and stresses of war, after our return home. We call it "walking off the war." Preservation of our natural wonders has been a priority of veterans, going back to Republican Teddy Roosevelt.

That is why the largest rollback of public lands protections in American history, just enacted by Donald Trump, represents a huge loss for veterans, both now in the future. Once these lands are lost, they do not grow back – they are gone forever.

Not only was the rollback immoral and irresponsible – it was illegal. Only Congress has the power to rollback those protections.

For all these reasons, we strongly support immediate enactment of the ANTIQUITIES Act. The act extends protections for monument designations made by presidents of both parties and reasserts the fact that only Congress has the ability to roll back those protections.

The bill also expands protection for the Bears Ears National Monument to over 1.9 million acres, protects over 249,000 acres of federal public lands in New Mexico as wilderness, and adds over 111,000 acres of wilderness in southern Nevada, building upon the monument protections in these states.

In this way, the ANTIQUITIES Act protects the lands that our veterans rely on, and that we must protect for future generations of veterans.

In every way, this is a pro-veterans piece of legislation, not just one aimed at historical and ecological protection, and deserves strong bipartisan support.

ATTACHED is a list of over 1200 Vet Voice Foundation members from California, New Mexico and Nevada who express gratitude to **U.S. Senator Udall (D-N.M.)** and cosponsors **U.S. Senators Richard Durbin (D-Ill.), Richard Blumenthal (D-Conn.), Ron Wyden (D-Ore.), Martin Heinrich (D-N.M.), Dianne Feinstein (D-Calif.), Brian Schatz (D-Hawaii), Kamala Harris (D-Calif.), Catherine Cortez Masto (D-Nev.), Tammy Duckworth (D-Ill.), Kirsten Gillibrand (D-N.Y.), Mazie Hirono (D-Hawaii), Jeff Merkley (D-Ore.), Ben Cardin (D-Md.), Cory Booker (D-N.J.), Chris Van Hollen (D-Md.), Tina Smith (D-Minn.), and Michael Bennet (D-Colo.).**

Thank you for showing a commitment to our public lands, the lands-of-the-free,

First Name	Last Name	City	State	Zip
Inez	Abeyta	El Cerrito	CA	94530
Joan	Abrahamson	Inglewood	CA	90303
Susan	Acosta	Moreno Valley	CA	92551
Lereta	Adkisson	El Cajon	CA	92020
Jack	Adler	Menlo Park	CA	94025
Will	Agee	Berkeley	CA	94702
Kate	Ague	San Francisco	CA	94131
Paula	Aiello	Mountain View	CA	94043
Virginia	Aime	Santa Barbara	CA	93101
Kelley	Akin	El Sobrante	CA	94820
Keil	Albert	Los Angeles	CA	90032
Dennis	Allen	San Diego	CA	92111
Margaret	Allsebrook	Los Angeles	CA	90025
Rich	Alvidrez	Auburn	CA	95603
Linda	Alwardt	Apple Valley	CA	92308
Gloriamarie	Amalfitano	Sacramento	CA	95864
Radia	Amari	Paso Robles	CA	93446
Carmel	Ammon-Mulloli	San Pedro	CA	90731
Della	Amparan	Orange	CA	92869
Clifford	Anderson	Topanga	CA	90290
Clinton	Anderson	Rescue	CA	95672
David	Anderson	Willits	CA	95490
Frank B.	Anderson	Palo Alto	CA	94303
Kathleen	Anderson	San Jose	CA	95135
Joan	Andersson	Oceanside	CA	92057
J	Angell	Berkeley	CA	94702
Scott	Angell	California City	CA	93505
Marie	Anthony	Redwood City	CA	94061
Robert	Applebaum	Marina del Rey	CA	90292
Marylucia	Arace	Modesto	CA	95358
A	Archer	El Sobrante	CA	94803
Sara	Armstrong	Sebastopol	CA	95473
Kenneth	Aronson	Topanga	CA	90290
Reevyn	Aronson	Oakland	CA	94610
Robert	Aronson	San Diego	CA	92116
Martha	Arreguin	Bakersfield	CA	93314
Siria	Arteaga	Berkeley	CA	94704
Jay	Atkinson	San Francisco	CA	94121
Kim	Atkinson	Camptonville	CA	95922
Jane	August	El Granada	CA	94018
Francesca	Austin	La Canada Flintridge	CA	91011
Wes	B	Los Osos	CA	93402
Norita	B.	Santa Ana	CA	92705
David	Bacon	San Rafael	CA	94901
L.	Bagley	Sunnyvale	CA	94087
Rolla	Bailey	San Jose	CA	95129
Patti	Bailley	San Jose	CA	95112
Arlene	Baker	San Diego	CA	92122
Joy	Baker	Petaluma	CA	94952
Catherine	Balan	Palos Verdes Peninsula	CA	90274
Donald	Baldwin	La Mesa	CA	91942
Dale	Ball	San Dimas	CA	91773
Susan	Balthasar	San Diego	CA	92102
Marybeth	Bangert	Pasadena	CA	91103
Anne	Barker	Placerville	CA	95667
Scott	Barlow	Redlands	CA	92373
William	Barmettler	Joshua Tree	CA	92252

Dianne	Barnes	Nevada City	CA	95959
Tim	Barrington	Oakland	CA	94610
Sheilah	Barry	Lancaster	CA	93536
Janice	Bartlett	Boonville	CA	95415
Gerri	Battistessa	Palo Alto	CA	94301
Alwen	Bauer	San Rafael	CA	94901
Carolyn	Baun	Albany	CA	94706
Mary	Baville	Visalia	CA	93277
Donald	Bean	Mountain View	CA	94040
Catherine	Beauchamp	Portola Valley	CA	94028
Diane	Beaulaurier	Pittsburg	CA	94565
Paul	Bechtel	Soquel	CA	95073
Pauline	Bedford	San Francisco	CA	94107
Ted	Beedy	Truckee	CA	96161
Ken	Benau	Irvine	CA	92602
Kae	Bender	San Diego	CA	92103
Richard	Bennett	Castro Valley	CA	94552
Barbara	Bennigson	San Diego	CA	92104
Parker	Berg	Oakland	CA	94601
Elmer	Berger	Berkeley	CA	94708
John	Bergmann	Berkeley	CA	94707
Edward	Bergtholdt	Altadena	CA	91001
Caroline	Bering	Richmond	CA	94804
Bruce	Beron	Tuolumne	CA	95379
Bobbe	Besold	Sacramento	CA	95823
Maureen	Bestick	Rancho Santa Margarita	CA	92688
Alex	Bettesworth	Redwood Valley	CA	95470
Char	Biddle	Redlands	CA	92374
Davidson	Bidwell-Waite	San Francisco	CA	94114
Sondra	Birkenes	San Francisco	CA	94110
Brooke	Bishop	Capitola	CA	95010
Leora	Bishop	San Diego	CA	92115
Mary	Bissell	Lompoc	CA	93436
Jeri	Black	Los Altos	CA	94022
Marion	Black	Lake Forest	CA	92630
Pat	Blackwell-Marchant	Concord	CA	94518
Linda	Blakely	Piedmont	CA	94611
Terri	Blakley	Palm Springs	CA	92264
Michael	Blodgett	Burbank	CA	91504
Robert	Blomberg	El Cerrito	CA	94530
Diana	Bohn	San Diego	CA	92123
Andrea	Bonnett	West Hollywood	CA	90069
Doug	Bourquin	Berkeley	CA	94707
Dolores	Boutin	North Hollywood	CA	91602
Jason	Bowman	Atascadero	CA	93422
Kathleen	Boyer	Palo Alto	CA	94303
Roxanne	Boyle	San Ramon	CA	94582
Raquel	Brac	Pomona	CA	91766
Kimyn	Braithwaite	Santee	CA	92071
Chris	Brazis	Rohnert Park	CA	94928
Roberta	Bristol	Tahoe City	CA	96145
Joanne	Britton	Calistoga	CA	94515
E	Brooks	El Verano	CA	95433
Jennifer	Brooks	Glendora	CA	91740
Froda	Brotematrkle	San Diego	CA	92123
Mikki	Broughton	San Jose	CA	95132
Charles	Brown	Van Nuys	CA	91401
Linda	Brown	Campbell	CA	95008

Max	Brown	Winnetka	CA	91306
Sandra	Brown	Rancho Mirage	CA	92270
Deirdre	Brownell	Toluca Lake	CA	91610
Sarah	Brownrigg	San Diego	CA	92131
Edie	Bruce	Hydesville	CA	95547
Gary	Bruce	Azusa	CA	91702
Jessica	Bryant	Dutch Flat	CA	95714
Pamela	Bryant	Oceanside	CA	92054
Melissa	Buchanan	Berkeley	CA	94708
Veronique	Bucherre-Frazier	Castro Valley	CA	94546
Laurie	Buckley	San Luis Obispo	CA	93401
Sandra	Buck-Moyer	Oakland	CA	94611
Friederike Buelow	Buelow	Santa Monica	CA	90404
Joe	Buhowsky	San Francisco	CA	94104
Donald	Burg	Eureka	CA	95503
Jens	Burkhart	Capitola	CA	95010
Susan	Burlison	West Covina	CA	91790
Ann	Burnham	Monterey	CA	93942
David	Burtis	Quincy	CA	95971
Keith	Busch	Morgan Hill	CA	95038
Dottie	Butler	San Diego	CA	92105
Vicki	Butler	Vacaville	CA	95688
Steven	Byrd	Folsom	CA	95630
Leslie	Byrnes	Los Angeles	CA	90038
Stephen	Caldwell	San Francisco	CA	94118
Monica	Camarillo	San Francisco	CA	94118
Allan	Campbell	Camarillo	CA	93012
Dudley And Candace	Campbell	San Diego	CA	92104
Norma	Campbell	Encinitas	CA	92024
Nora	Canales	San Francisco	CA	94109
Maria	Candelaria	Calabasas	CA	91302
Dan	Cantor	Burbank	CA	91505
Mark	Cappetta	Placerville	CA	95667
Razzaq	Capra	San Diego	CA	92101
Ellen	Caprio	San Diego	CA	92104
Sylvia	Cardella	La Jolla	CA	92037
Maria	Cardenas	Galt	CA	95632
Neil	Cardew-Fanning	Palo Alto	CA	94306
Rachel	Carey	Martinez	CA	94553
Karen	Carkhuff	San Francisco	CA	94107
Shanna	Carlson	Palm Desert	CA	92260
Milton	Carrigan	Topanga	CA	90290
Kathy	Carroll	Pasadena	CA	91107
Janet D	Carter	Crescent City	CA	95531
Michelle	Carter	Idyllwild	CA	92549
Regina	Case	San Dimas	CA	91773
Brian	Cassidy	Sylmar	CA	91342
Manuel	Castaneda	San Mateo	CA	94403
Arina	Caster	Cardiff by the Sea	CA	92007
Jill	Casty	Ontario	CA	91764
Janna	Caughron	Carlsbad	CA	92008
Paul	Cavanaugh	Bell Gardens	CA	90201
G	Caviglia	Santa Monica	CA	90402
William	Cawthra	San Francisco	CA	94110
Becky	Cecena	Cathedral City	CA	92234
Jerry	Cecere	Los Angeles	CA	90057
Sarah	Champlin	Garden Grove	CA	92841
R.	Chapek	Sunnyvale	CA	94089

S.	Chapek	Long Beach	CA	90804
Antony	Chapman	Alameda	CA	94502
Dan	Charfauros	Jamul	CA	91935
Elizabeth	Charles	Merced	CA	95348
Michele	Checchia	Anza	CA	92539
Melvin D.	Cheitlin	Santa Barbara	CA	93101
Brian	Chesnut	Paso Robles	CA	93446
Sandra	Christopher	Santa Rosa	CA	95404
Philip	Ciaffa	Sunnyvale	CA	94087
Carla	Cicchi	San Francisco	CA	94110
John	Clark	Pleasanton	CA	94566
Pam	Clark	Woodacre	CA	94973
Roxane	Clark-Murphy	San Jose	CA	95132
Marc	Cockerill	Sherman Oaks	CA	91403
Rosalba	Cofer	Piedmont	CA	94611
Howard	Cohen	Oceanside	CA	92054
Katie	Colbert	Lakewood	CA	90712
Steven	Collins	Huntington Beach	CA	92647
Joe	Colton	Oakland	CA	94610
P	Colvig	Nevada City	CA	95959
Julia	Conklin	San Pedro	CA	90732
Cherie	Connick	Playa del Rey	CA	90293
Arthur	Connor	Palm Desert	CA	92211
Homer	Connor	Benicia	CA	94510
Barbara	Consbruck	Huntington Beach	CA	92647
Carol	Cook	San Francisco	CA	94121
Elizabeth	Cook	Healdsburg	CA	95448
Anita	Coolidge	Willow Creek	CA	95573
Denyse	Copeland	Simi Valley	CA	93065
Jan	Corneilson	Mammoth Lakes	CA	93546
Lecia	Cornett	Long Beach	CA	90806
Harry	Corona	Palm Springs	CA	92262
Edward	Costello	Capitola	CA	95010
Lori	Covell Troncoso	Palo Alto	CA	94306
Elynn	Cowden	Garden Grove	CA	92840
Mike	Crahan	Adelanto	CA	92301
Phillip	Cripps	Folsom	CA	95630
Chip	Croft	Berkeley	CA	94707
John	Cronin	Clovis	CA	93612
Penelope	Crouse	Monterey Park	CA	91754
Kurt	Cruger	San Francisco	CA	94111
Bill	Crum	El Cerrito	CA	94530
Edward	Cruz	Poway	CA	92064
Marian	Cruz	La Quinta	CA	92253
Jane	Culp Finkelstein	Santa Cruz	CA	95062
Bob	Cunningham	El Centro	CA	92243
Dennis	Curry	Big Bear Lake	CA	92315
Linda	Curry	San Francisco	CA	94109
Douglas	Daetz	Fairfax	CA	94930
Beverly	Dahlen	Laguna Beach	CA	92651
Susan	Dailey	Berkeley	CA	94707
Roseann	Dal Bello	Garberville	CA	95542
John	Dalla	Santa Maria	CA	93455
Larry	Daniell	Woodacre	CA	94973
Courtney	Daniels	La Quinta	CA	92253
Sandy	D'Annunzio	Northridge	CA	91325
Cindy	Davenport	Fairfield	CA	94534
Robert Davenport	Davenport	Santa Barbara	CA	93110

Lari	Davis	San Francisco	CA	94117
Patricia	Davis	Glendale	CA	91207
Richard	Davis	Westlake Village	CA	91361
Matt	Davison	Santa Monica	CA	90405
Chris	Dawson	Long Beach	CA	90815
Rebecca	Day	Sacramento	CA	95841
Dominic	De Bellis	Independence	CA	93526
Sacha	De Nijs	Woodland Hills	CA	91367
Vic	Deangelo	Yuba City	CA	95991
Pamela	Deas	Albany	CA	94706
Denise	Debellis	Cupertino	CA	95014
Kathryn	Debra	Madera	CA	93637
Don	Deck	Cool	CA	95614
Suzanne	Deerlyjohnson	Long Beach	CA	90803
Vito	Degrigoli	Oakland	CA	94610
Nancy	Dejarlais	Riverside	CA	92506
John	Delibos	Santa Maria	CA	93455
Edgar	Demeo	Los Altos	CA	94022
Billie	Dennis	San Juan Capistrano	CA	92675
Carolyn	Dennison	Mountain View	CA	94041
Floyd	Detering	Rohnert Park	CA	94928
Joanne	Devine	San Diego	CA	92101
Joyce & Jan	Devries	Lompoc	CA	93436
Mary Ann	Di Flaviano	Oceanside	CA	92056
Maria	Diaz	Hemet	CA	92545
Susan	Diaz	Alameda	CA	94501
James	Dicarlo	Los Alamitos	CA	90720
Helen	Dickey	San Jose	CA	95132
Barbara	Diederichs	Santa Barbara	CA	93109
Joseph	Difrancesco	Santa Rosa	CA	95403
James	Dinsmore	La Canada Flintridge	CA	91011
Anisa	Divine	Orinda	CA	94563
Mary	Dobis	Berkeley	CA	94702
David	Doering	Morro Bay	CA	93442
Bruce	Donals	North Hollywood	CA	91602
Lily	Doris	Sebastopol	CA	95472
Patricia	Dorsey	Petaluma	CA	94954
Christine	Doyka	Saint Helena	CA	94574
Mary	Drabbs	Canoga Park	CA	91303
Yvette	Dube'	Oakland	CA	94605
C	Ducey	Hayward	CA	94541
David	Dufault	Santa Barbara	CA	93105
Donna	Duran	San Jose	CA	95135
Samuel	Durkin	Long Beach	CA	90803
John	Dutton	Vallejo	CA	94591
Madeline	Duva	Soquel	CA	95073
Elizabeth	Duvall	Palm Springs	CA	92264
B.	E.	Long Beach	CA	90813
Beverli	Eagan	Fremont	CA	94536
Lee	Eames	Smartsville	CA	95977
Geoffrey	Eargle	Alameda	CA	94501
Brett	Eastham	San Francisco	CA	94121
David	Ebmeier	San Diego	CA	92128
Iris	Edinger	Sacramento	CA	95818
Arlene	Edwards	Berkeley	CA	94710
Nancy	Eichler	Big Bear City	CA	92314
Peter	Eidenbach	Los Angeles	CA	90024
John	Eilts	Novato	CA	94947

Kathy	Eisele	Lakewood	CA	90713
Bobby	Eisenberg	Kensington	CA	94707
J	Eiser	Walnut Creek	CA	94598
W.	Elahdab	Roseville	CA	95678
Thomas	Elkins	Napa	CA	94558
Hank	Eng	Santa Monica	CA	90403
I. Engle	Engle	Los Angeles	CA	90036
Larry	Ensler	Paramount	CA	90723
Christine	Esch	Tarzana	CA	91356
Eh	Estes	Hawaiian Gardens	CA	90716
Connie	Evans	Oakland	CA	94602
Donald	Evans	Redding	CA	96003
Donald	Evans	Moorpark	CA	93021
Douglas Evans	Evans	Highland	CA	92346
Rani	Falconer	Hayward	CA	94557
Roxanne	Fand	McKinleyville	CA	95519
Jerry	Farm	Granada Hills	CA	91344
Joan	Farnsworth	Los Altos	CA	94022
Lorna	Farnum	Panorama City	CA	91402
David	Farwell	San Jose	CA	95126
Tracey	Fedor	Apple Valley	CA	92308
Marla	Feierabend	Sunnyvale	CA	94086
Paul	Feiertag	El Dorado Hills	CA	95762
Tom	Feldman	Los Angeles	CA	90066
Kathy	Fernbacher	Los Angeles	CA	90066
Asano	Fertig	San Diego	CA	92115
Linda	Fidell	Pasadena	CA	91107
D	Figus	Fairfax	CA	94930
Glenn Finch	Finch	Glendale	CA	91202
Patti	Fink	Los Angeles	CA	90067
Bunnie	Finkelstein	Sunnyvale	CA	94089
Tobie	Finkelstein	Santa Rosa	CA	95402
Arlene	Fisher	Mission Hills	CA	91345
Gregory	Fite	Atascadero	CA	93422
Joel	Fithian	Port Hueneme	CA	93041
Stan	Fitzgerald	San Diego	CA	92131
Eve	Foist	San Francisco	CA	94110
Edwin	Fong	Sonora	CA	95370
Paulette	Forest	North Hollywood	CA	91601
Jerry	Foshee	Berkeley	CA	94702
Ann	Fosso	Fremont	CA	94539
Dawn	Foster	Pasadena	CA	91107
James V	Foti	Belmont	CA	94002
Nicole	Fountain	Nevada City	CA	95959
Alan	Fowler	Beverly Hills	CA	90209
Janie	Fox	Elk Grove	CA	95758
Robert	Fralick	Fresno	CA	93720
Buffy	Francisco	Los Angeles	CA	90066
Karla	Frandson	Tahoe City	CA	96145
Lynn	Franks	Pasadena	CA	91104
Ellen	Franzen	Novato	CA	94949
Nancy	Freedland	La Mesa	CA	91941
Lawrence	Freedman	Santa Rosa	CA	95407
Adrian	Fried	Hillsborough	CA	94010
Andrea	Friedenthal	Lewiston	CA	96052
Dagmar	Friedman	Temecula	CA	92592
Marie	Fuentes	Placerville	CA	95667
Julia	Fuller	Point Arena	CA	95468

Melissa	Funk	Los Angeles	CA	90064
Elen	G	San Francisco	CA	94172
Allen	Gaarden	Inyokern	CA	93527
Craig	Galloway	Moss Beach	CA	94038
Glenda	Ganis	Elk Grove	CA	95758
Armando A.	Garcia	Castaic	CA	91384
Arthur	Garcia	Temecula	CA	92592
Erin	Garcia	Mill Valley	CA	94941
Evette	Garcia	Ridgecrest	CA	93555
Roman	Garcia	Granada Hills	CA	91344
Dr A	Gardner	Sunnyvale	CA	94086
Roger	Gardner	Buena Park	CA	90620
John	Gay	Santa Barbara	CA	93101
Dave	Gedmin	Castaic	CA	91384
Jay Gehrke	Gehrke	West Covina	CA	91790
Martin	Gelbaum	Castroville	CA	95012
Robert	Gelder	Long Beach	CA	90814
Shelagh	Geoghegan	Hermosa Beach	CA	90254
Raymond	George	Santa Cruz	CA	95060
Inna	Gergel	Claremont	CA	91711
Reeta	Gheewala	Santa Monica	CA	90402
Pamela	Gibberman	Willows	CA	95988
Trebor	Gibson	San Jose	CA	95132
John	Gilbert	Oxnard	CA	93030
Allen	Gildard	Beverly Hills	CA	90210
Linda	Gillaspy	Garden Grove	CA	92843
Elizabeth	Gioumousis	Ben Lomond	CA	95005
Mary	Glaser	Willits	CA	95490
Mark And Susan	Glasser	Santa Monica	CA	90403
Don	Gleicher	Mendocino	CA	95460
Ingeborg	Glier	San Francisco	CA	94121
Dr. Prisca	Gloor	San Francisco	CA	94118
James	Goethel	San Francisco	CA	94117
Frances	Goff	Corona	CA	92881
Carol	Gold	Oakland	CA	94602
Susan	Goldberg	Walnut Creek	CA	94595
Jerry	Goldstein	Laguna Niguel	CA	92677
Kurt	Gollhardt	San Jose	CA	95117
Armando	Gomez	Valley Village	CA	91607
Miguel	Gomez	Livermore	CA	94551
Marilyn	Gong	San Jose	CA	95132
Tara	Gonzales	Guerneville	CA	95446
Al	Gonzalez	Poway	CA	92064
Gretchen	Gonzalez	San Diego	CA	92117
Maureen	Gonzalez	Santa Clara	CA	95051
Marc	Gordon	Berkeley	CA	94705
Amanda	Graham	Newbury Park	CA	91320
Fred	Granlund	Laguna Woods	CA	92637
Caryn	Graves	Mill Valley	CA	94941
Ed	Green	Los Angeles	CA	90045
Gary	Green	Garden Grove	CA	92845
June	Green	Laguna Niguel	CA	92677
Stephen	Greenberg	Los Angeles	CA	90025
Chilton	Gregory	Ventura	CA	93001
Marc	Gregory	Rancho Cucamonga	CA	91737
Ramsey	Gregory	Little River	CA	95456
Tony	Greiner	Costa Mesa	CA	92627
Mercy	Grieco	Los Angeles	CA	90018

Susan	Grieder	Sacramento	CA	95825
Carroll	Griesedieck	Walnut Creek	CA	94598
Barbara	Griffin	Pioneer	CA	95666
Peter	Grimm	La Honda	CA	94020
Linsey	Grinder	Hanford	CA	93230
Steve	Gross	Glendale	CA	91202
Deborah	Grossberg	Manhattan Beach	CA	90266
Lorna	Groundwater	San Bernardino	CA	92404
Milly	Guill	Sonoma	CA	95476
Rod	Guinn	Santa Cruz	CA	95060
Karen	Gundel	Newport Beach	CA	92660
Charles	Guthrie	Sacramento	CA	95811
Derek	Gutierrez	Diamond Bar	CA	91765
Jeff	Gyving	Los Altos Hills	CA	94022
Melissa	Haddad	Quincy	CA	95971
Theresa	Hadden-Martinez	El Segundo	CA	90245
Ian	Haddow	San Francisco	CA	94133
Marlayna	Hadley	Encinitas	CA	92024
Linda	Haechler	Perris	CA	92570
Wadane	Haleu	San Diego	CA	92176
Jim	Haley	Tujunga	CA	91042
Deborah L.	Hall	Santa Monica	CA	90405
Holly	Hall	Venice	CA	90291
Terry Hall	Hall	Cerritos	CA	90703
Jon	Halversom	Macdoel	CA	96058
Marcia	Hammerberg	West Hills	CA	91307
Lisa	Hammermeister	Santa Rosa	CA	95404
Nadine	Hammond	Riverside	CA	92506
Janet	Hana	Quincy	CA	95971
Rose	Hand	Boulder Creek	CA	95006
Phil	Haney	San Diego	CA	92116
Ron	Hansel	Avila Beach	CA	93424
Barbara	Harper	Sunnyvale	CA	94087
Diane	Harper	Cloverdale	CA	95425
Roger H.	Harrell	Sherman Oaks	CA	91423
Joan	Harrington	Chico	CA	95928
Lois	Harris	Davis	CA	95616
Mary	Harrison	Fortuna	CA	95540
James	Hartung	Winnetka	CA	91306
Stephanie	Harvey	Albany	CA	94706
Jeremy	Haupt	Pacific Palisades	CA	90272
Beth	Havens	Laguna Beach	CA	92651
Barbara	Hayes	San Diego	CA	92128
Kris	Head	San Diego	CA	92107
Judith	Hedstrom	Saint Helena	CA	94574
Daryl	Heimsness	Stockton	CA	95204
Janet	Heinle	Fontana	CA	92336
Liz	Helenchild	Santa Rosa	CA	95409
Tana	Hemingway	Taylorsville	CA	95983
Mali	Henigman	La Jolla	CA	92037
Huntley	Hennessy	San Francisco	CA	94109
Mike	Herberth	Santa Monica	CA	90403
Pamela	Herlich	Los Angeles	CA	90042
Birgit	Hermann	Sacramento	CA	95817
Thomas	Hernandez	Richmond	CA	94804
Jo Ann	Herr	Palos Verdes Peninsula	CA	90274
Bill	Herrera	Santa Cruz	CA	95060
Pablo	Herrero	Santa Cruz	CA	95062

Randall	Herz	Escondido	CA	92026
Dave	Herzog	Yorba Linda	CA	92886
Marty	Herzog	Lake Elsinore	CA	92532
Gary	Hesler	Coronado	CA	92118
Gary	Hestrom	Mission Viejo	CA	92692
Pamela	Hettinger	San Rafael	CA	94913
Joyce	Heyn	Oakland	CA	94619
Scarlett	Higgins	Santa Barbara	CA	93109
Phil	Hinkle	San Diego	CA	92103
Susan	Hinton	San Francisco	CA	94117
Chrissy	Hoffman	San Francisco	CA	94122
Greg	Hokana	Fresno	CA	93710
Gary	Holcomb	El Segundo	CA	90245
Paula	Hollie	Marina del Rey	CA	90292
Chandra	Holsten	Auburn	CA	95603
Armelle	Holt	Cathedral City	CA	92234
Samantha	Honowitz	Santa Clara	CA	95050
Janet	Hoover	Millbrae	CA	94030
Beth	Hornbein	La Verne	CA	91750
Michael	Horvath	McKinleyville	CA	95519
Christy	Hoverder	Irvine	CA	92612
Richard	Howell	San Francisco	CA	94132
Angela	Hoyes	Stevenson Ranch	CA	91381
Richard	Hubacek	San Diego	CA	92122
Benjamin	Hubbard	San Jose	CA	95117
James	Hubbard	Santa Barbara	CA	93111
Richard	Hughes	Redwood City	CA	94062
Laurel	Hull	Lake Forest	CA	92630
Lesley	Hunt	Oakland	CA	94602
Linda	Hunter	Los Altos	CA	94022
Linda	Huntimer	Pacific Grove	CA	93950
Leon	Huntsman	Rialto	CA	92376
Stephen	Hutchinson	San Diego	CA	92109
Mike	Huwe	Stevenson Ranch	CA	91381
Dorothy	Ireland	Oceanside	CA	92057
Gil	Ireland-Ashley	San Francisco	CA	94131
Carolyn Trupti Israel	Israel	Davis	CA	95618
Steve	Iverson	Soquel	CA	95073
Karen	Jacques	Menlo Park	CA	94025
Terry	Janke	San Diego	CA	92122
Jeffrey	Jenkins	San Anselmo	CA	94979
Jill	Jensen	Topanga	CA	90290
David	Johns	Pacifica	CA	94044
Elaine And Jeremiah	Johnson	San Luis Obispo	CA	93405
Robert	Johnson	Fairfield	CA	94533
Sage	Johnson	Turlock	CA	95380
Shawn	Johnson	Long Beach	CA	90808
Tyrone	Johnson	El Cerrito	CA	94530
Michael A.	Johnston	Burbank	CA	91504
Rodney	Jojnson	Escondido	CA	92026
Amelia	Jones	Valencia	CA	91355
Evey	Jones	Cathedral City	CA	92234
Karen	Jones	San Francisco	CA	94118
Laura	Jones	San Francisco	CA	94110
Loch	Jones	Benicia	CA	94510
Mike	Jones	Chula Vista	CA	91913
Rev. Allan B.	Jones	Fiddletown	CA	95629
Roslyn	Jones	San Leandro	CA	94577

Timothy V	Jones	Palm Springs	CA	92262
Walter B.	Jones	Santa Rosa	CA	95403
Doug	Jones95006	Los Angeles	CA	90019
Laura	Jones-Bedel	Long Beach	CA	90807
Shawn	Jones-Bunn	San Francisco	CA	94102
Robert	Josephs	Los Angeles	CA	90057
Yvonne	Jue	Mountain View	CA	94041
Elizabeth	Juvet	Nipomo	CA	93444
Pamela	Kafton	Santa Monica	CA	90404
Kathy	Kaiser	Novato	CA	94945
David	Kane	Los Angeles	CA	90066
Elaine	Kane	Eureka	CA	95501
Eileen	Kang	Napa	CA	94559
Allen	Kanner	Oceanside	CA	92054
Mavin	Kaphan	Sugarloaf	CA	92386
Adam	Kaplan	Sacramento	CA	95831
Pieter	Kark	San Rafael	CA	94903
Janice	Karr	Carmichael	CA	95608
Claudia	Kasehagen	Berkeley	CA	94710
Vicki & Rod	Kastlie	San Francisco	CA	94109
Ron	Katz	Los Angeles	CA	90024
Tedd	Kawakami	Yucca Valley	CA	92286
James	Kawamura	San Diego	CA	92128
"Jean"	Keding	Oakland	CA	94612
Janice	Keiserman	Pacific Grove	CA	93950
Gordon	Keller	Twentynine Palms	CA	92277
Colleen	Kelley	Red Bluff	CA	96080
Ron	Kelley	San Anselmo	CA	94960
Gerald	Kelly	Long Beach	CA	90803
Jim	Kelly	Newbury Park	CA	91320
Rev. J. Patrick	Kelly	Simi Valley	CA	93065
Ballinger	Kemp	Los Angeles	CA	90065
Alicia	Kern	Mount Shasta	CA	96067
Sheryl	Kern-Jones	Pasadena	CA	91101
Christopher	Kessler	San Leandro	CA	94579
Kathleen	Kester	Arroyo Grande	CA	93420
Lizann	Keyes	Agoura Hills	CA	91301
Jim	Kilby	Petaluma	CA	94954
Norman	Kindig	Walnut Creek	CA	94595
Dr. Major	King	Sherman Oaks	CA	91423
Frank	King	Claremont	CA	91711
Nancy	Kingston	Chula Vista	CA	91915
Tal	Kinnersly	Los Angeles	CA	90024
Evelyn	Kirby	Arnold	CA	95223
John	Kirk	San Diego	CA	92128
Tom	Kirkman	Weed	CA	96094
Karen	Kirschling	Oakland	CA	94605
Betty	Kissilove	San Francisco	CA	94134
Robert	Kittredge	Valencia	CA	91354
Linda	Klein	Los Altos	CA	94024
Renee	Klein	San Diego	CA	92104
Randy	Kliewer	Mammoth Lakes	CA	93546
George F.	Klipfel Ii, Cls	West Sacramento	CA	95605
Deanna	Knickerbocker	Sherman Oaks	CA	91403
Kendra	Knight	Santa Rosa	CA	95402
Ray	Knight	San Francisco	CA	94102
Karl	Koessel	El Dorado Hills	CA	95762
Mike	Konopa	Sebastopol	CA	95472

Blanche	Korfmacher	Los Angeles	CA	90016
Martha	Krainin	Anaheim	CA	92808
Diane	Krell-Bates	Berkeley	CA	94705
Jeff	Kroeber	Berkeley	CA	94705
Karen	Krulevitch	Ukiah	CA	95482
Mike	Kubiak	Garden Grove	CA	92840
Kathleen	Kuczynski	Creston	CA	93432
Carol	Kuelper	San Francisco	CA	94118
Roger	Kulp	Bakersfield	CA	93306
Tatiana	Kurakin	El Cerrito	CA	94530
Rebecca	Kurtz	Riverside	CA	92505
Susan	Kutz	Aliso Viejo	CA	92656
Carol	Kuzdenyi	Rio Nido	CA	95471
Judy	L.	Rio Nido	CA	95471
Anne	La Lopa	Descanso	CA	91916
Pamela	Lacey	Berkeley	CA	94709
Nick	Laffen	Pacific Palisades	CA	90272
J. Spencer	Lake	Lake Forest	CA	92630
Herman	Lancaster	San Jacinto	CA	92583
Ron	Landsel	San Carlos	CA	94070
Gary	Lanford	Palm Springs	CA	92264
Ziv	Lang	Concord	CA	94521
Kathryn	Langford-Edwards	Ojai	CA	93023
Erica	Lann-Clark	North Highlands	CA	95660
Dolores	Lantrip	Placerville	CA	95667
Glenn	Lanum	Boonville	CA	95415
Joann	Lapolla	Vallejo	CA	94591
Marianne	Lappin	Lakewood	CA	90715
Larry	Lapuyade	San Mateo	CA	94403
Dan	Larson	Corona	CA	92882
Frances	Larson	San Diego	CA	92128
Ronald	Larson	Rancho Cucamonga	CA	91701
Sharon	Larson	San Diego	CA	92104
Wendy	Larson	Sacramento	CA	95811
Pamela	Larue	San Luis Obispo	CA	93401
J	Lasahn	Camarillo	CA	93010
Scott	Laster	Rio Vista	CA	94571
Lynne	Lau	Thousand Oaks	CA	91362
Debra	Lauer	Berkeley	CA	94705
Vance	Lausmann	Eureka	CA	95503
Michael	Lawler	Modesto	CA	95355
Rob	Lawrence	San Leandro	CA	94579
Sherrill	Lawrence	Pasadena	CA	91105
Julie	Lawyer	Santa Monica	CA	90404
Victoria	Lea+Chapman	Santa Rosa	CA	95404
Dennis	Ledden	Mission Viejo	CA	92691
Kay	Lee	Loyalton	CA	96118
Susan	Lemaster	Newport Beach	CA	92660
Nicholas	Lenchner	Nevada City	CA	95959
Nanci	Leonard	Santa Cruz	CA	95060
Donna	Leslie-Dennis	Costa Mesa	CA	92627
Laura	Lessly	Stockton	CA	95207
Roger	Levin	Santa Cruz	CA	95060
Ira	Levine	Oakland	CA	94602
Marilyn	Levine	Truckee	CA	96161
Gael	Levings	San Jose	CA	95126
Nora	Lewis	Novato	CA	94949
Ray	Lewis	Oxnard	CA	93033

Dorothy	Li Calzi	Palo Alto	CA	94306
Russell	Lichter	Ojai	CA	93023
Andrea	Lieberman	Portola	CA	96122
Edmund	Light	Carlsbad	CA	92009
Ginger	Lilleberg	San Mateo	CA	94404
Linda	Lillow	Hayward	CA	94541
James	Lin	Laguna Woods	CA	92637
Robert	Lind	Encinitas	CA	92024
Linda	Linda	Palmdale	CA	93551
Vicki	Linkin	La Canada Flintridge	CA	91011
Suzan	Lins	Oakland	CA	94611
Judith	Lippincott	Venice	CA	90291
Christopher	Lish	San Jose	CA	95118
Jacek	Lisiewicz	Hercules	CA	94547
Jack	Litewka	La Mesa	CA	91941
Natalie	Lloyd	Glendale	CA	91201
Arline	Lohli	Atascadero	CA	93422
Wendy	Lohman	North Hollywood	CA	91601
Deirdre	Lomon	Chula Vista	CA	91910
Robert	Lonnquist	Oakland	CA	94605
Kristen	Loomis	San Francisco	CA	94127
Mary	Looram	Ben Lomond	CA	95005
Dixie	Lopez	Greenbrae	CA	94904
Michael	Lopez	Yuba City	CA	95991
Peggy	Lopez	Fresno	CA	93711
Catherine	Loudis	Riverside	CA	92517
Luis	Lozano	Dana Point	CA	92629
Ellen	Lubic	Los Angeles	CA	90066
Robert	Lucero	West Hills	CA	91307
E	Luckring	Redway	CA	95560
Marlene	Ludlow	Los Angeles	CA	90042
Brent	Lund	San Francisco	CA	94115
Paul	Lusk	San Jose	CA	95136
Thomas	Lux	Altadena	CA	91001
Catherine	Lynch	San Diego	CA	92126
Ronald	Lyons	Kings Beach	CA	96143
Roslyn	Mac	Irvine	CA	92612
Ingeborg	Mackay	Fairfield	CA	94534
Diane And Tom	Mader	Santa Monica	CA	90403
C Maese	Maese	Vista	CA	92084
Beverly	Magid	Los Angeles	CA	90049
John	Maher	Santa Cruz	CA	95063
Dineo	Maine	Encino	CA	91316
Janet	Maker	Orangevale	CA	95662
Stephen	Malmberg	Arcata	CA	95521
Marjorie	Maloney	Los Gatos	CA	95033
Tom	Mangan	Fair Oaks	CA	95628
Jim	Manger	San Francisco	CA	94122
Claudia	Mansfield	Palm Springs	CA	92262
Linda	Marble	Porterville	CA	93257
Lorretta	Marcel	Vista	CA	92084
Vern	Maresh	Idyllwild	CA	92549
Michael	Margulis	Concord	CA	94518
Pat	Marriott	Yorkville	CA	95494
Judith	Martin	Santa Ana	CA	92707
Tobe	Martin	Escondido	CA	92025
C.	Martinez	Los Angeles	CA	90068
Mario	Martinez	Clearlake	CA	95422

Priscilla	Martinez	Yorba Linda	CA	92886
Meryl	Martino	Upland	CA	91784
Steve	Marvin	Los Angeles	CA	90034
Lauren	Mason	Santa Barbara	CA	93101
Chance	Massaro	Torrance	CA	90503
Douglas	Massey	Belvedere Tiburon	CA	94920
Joan	Matson	Oxnard	CA	93035
Bill	Matthes	Pomona	CA	91767
Robert	Mattison	Burbank	CA	91506
Tamara	Matz	Palm Springs	CA	92262
Tim	Maurer	Sylmar	CA	91342
Tony	Mauro	Los Angeles	CA	90064
Sally	Maxwell	Berkeley	CA	94705
Tim	Maxwell	San Miguel	CA	93451
Dana	May	Sonoma	CA	95476
Geraldine	May	San Rafael	CA	94903
Steven And Susan	Mayes	Cazadero	CA	95421
Esther	Mc Egan	Wildomar	CA	92595
Daniel	Mc Laughlin	Santa Barbara	CA	93110
Marilyn W.	Mcclenahan	Claremont	CA	91711
John	Mccomas	Brentwood	CA	94513
Paul	Mcdaniel	Monrovia	CA	91016
Pamela	Mcdonald	Ramona	CA	92065
Robert	Mcdonnell	Fountain Valley	CA	92708
Scott	Mcdowell	San Diego	CA	92105
Timothy	Mcdowell	Westwood	CA	96137
Duncan D. Mcfetridge	Mcfetridge	San Francisco	CA	94107
Mary	Mcgann	Cambria	CA	93428
Maureen	Mcgee	Northridge	CA	91324
James	Mcintosh	Pasadena	CA	91103
Judy	Mcintyre	El Cajon	CA	92020
John	Mckee	Los Angeles	CA	90049
Suzi	Mckee	Los Angeles	CA	90025
Kevin	Mckelvie	Pacific Grove	CA	93950
Donna	Mckeown	Vallejo	CA	94590
Monica	Mckeown-Gallicho	Culver City	CA	90230
Diane	Mclaughlin	Claremont	CA	91711
Nelda	Mclaughlin	Alameda	CA	94501
Eileen	Mcleod	La Puente	CA	91746
Carol	Mcmahon	Riverside	CA	92503
Cynthia	Mcmath	Orangevale	CA	95662
Marilyn	Mcmullen	Oakland	CA	94619
Shirley	Mcnall	Pine Mountain Club	CA	93222
Patrick	Mcnulty	Santa Rosa	CA	95404
M'Chel	Mcqueen-Martinez	San Francisco	CA	94117
Suzanne	Mead	Sebastopol	CA	95472
Terrence	Mealy	Los Angeles	CA	90020
Darryl	Medders	Alameda	CA	94501
John	Melcher	San Diego	CA	92104
Mika	Menasco	Mi Wuk Village	CA	95346
Arlene	Mendibles	Arcata	CA	95521
Lee	Mendoza	Chico	CA	95926
Suzanne	Menne	Alameda	CA	94501
Suzanne	Meredith	Los Angeles	CA	90042
James	Merrin	Palm Springs	CA	92264
Arlene	Merryman	Concord	CA	94519
Jen	Messina	Castro Valley	CA	94546
Diane	Mettam	Palo Alto	CA	94303

Clifford	Meyer	Encino	CA	91436
Donald	Meyer	Costa Mesa	CA	92626
Theresa	Meyers	Panorama City	CA	91402
Mishka	Michon	Stockton	CA	95219
A	Miller	Mariposa	CA	95338
Bob	Miller	Canoga Park	CA	91303
Bobby	Miller	San Francisco	CA	94114
Jamesjim	Miller	Roseville	CA	95747
Janet	Miller	Castro Valley	CA	94546
John	Miller	Berkeley	CA	94703
Richard	Miller	Orange	CA	92865
Bonnie	Milrod	Oceanside	CA	92056
Jill	Miotke	Fresno	CA	93704
Paulette	Mirfield	Orange	CA	92868
Anne	Mitchell	San Francisco	CA	94109
Valory	Mitchell	El Sobrante	CA	94803
Neal	Mock	Gilroy	CA	95020
Peter	Moen	Placerville	CA	95667
Doris	Mohr	Bellflower	CA	90706
Mark	Moise	Cambria	CA	93428
Maya	Moiseyev	Quincy	CA	95971
Caryn	Molinelli	Huntington Beach	CA	92648
Dorothy	Moloney	Temecula	CA	92592
Malcolm	Moore	San Francisco	CA	94102
Norma	Moore	Dana Point	CA	92629
Linda	Morgan	Palo Alto	CA	94306
Eli	Morowitz	Macdoel	CA	96058
Sharon	Morris	Mount Shasta	CA	96067
Jean	Morse	Los Angeles	CA	90067
Joyce/Henry	Moser	West Hollywood	CA	90069
Marcina	Motter	Fullerton	CA	92833
Gene	Mucciolo	San Leandro	CA	94577
Jennifer	Muir	Encinitas	CA	92024
James	Murray	Long Beach	CA	90815
Vasu	Murti	Los Angeles	CA	90034
Robert	Mutascio	Santa Cruz	CA	95060
Paul	Myer	Sacramento	CA	95819
Paula Jean	Myers	Menlo Park	CA	94025
Christine	Nadeau	Corte Madera	CA	94925
Eleanor	Nadler	San Jose	CA	95126
J	Nasella	Glendale	CA	91208
George	Nauful	San Carlos	CA	94070
Jody	Neal-Post, Esq.	Los Angeles	CA	90086
Dennis	Nelson	Sacramento	CA	95842
Julie	Nelson	Santa Rosa	CA	95407
Steve	Netti	Roseville	CA	95747
Tim	Nichols	Fair Oaks	CA	95628
Jeffrey	Nigh	Los Angeles	CA	90001
K.	Nilsen	Carmel	CA	93923
Dorothy	Nirenstein	Bakersfield	CA	93313
Fred	Nolan	Gilroy	CA	95020
Zeb	Nole	Laguna Woods	CA	92637
Margaret	Nordstrom	Davis	CA	95616
Nancy	Novak	Beverly Hills	CA	90212
Tom	Nulty Jr	Calexico	CA	92232
Norunn	Nygard	San Francisco	CA	94116
John	Oberle	Coronado	CA	92118
Fran	Oberman	Kenwood	CA	95452

Kathy	Obrien	San Mateo	CA	94401
Tim	O'Brien	Redwood City	CA	94063
Chemen	Ochoa	Oakland	CA	94609
John	Oda	San Francisco	CA	94131
Ken	Odom	Fullerton	CA	92835
Gregg	Oelker	Fairfield	CA	94533
Daniel	Ogas	San Luis Obispo	CA	93401
Beverly	Ohline	Berkeley	CA	94704
Meghan	O'Leary	Santa Cruz	CA	95062
David	Olinger	Newark	CA	94560
Bill	Oliver	Mission Viejo	CA	92691
Diane	Olson	San Rafael	CA	94903
Jeffery	Olson	Corona del Mar	CA	92625
Tom	Ong	San Leandro	CA	94577
Shawn	Orgel-Olson	Half Moon Bay	CA	94019
Richard	Orona	Alameda	CA	94501
Jerrold	Osborn	Santa Rosa	CA	95403
Susan	Ostlie	Arcadia	CA	91006
Hillary	Ostrow	Boulder Creek	CA	95006
Cyndi	Otero	Long Beach	CA	90808
Brian	Otto	El Cerrito	CA	94530
Ann	Owen	Berkeley	CA	94708
Anthony	Owen	Santa Cruz	CA	95065
Christina	Owen	Malibu	CA	90265
Cindy	Owens	Carmel by the Sea	CA	93921
Rhonda	Oxley	San Diego	CA	92109
Michael	Pacheco	Anaheim	CA	92802
Anne	Padilla	Gualala	CA	95445
Pat	Padilla	Sun Valley	CA	91352
Trisha	Pahmeier	Studio City	CA	91604
Jim	Palmer	Laguna Beach	CA	92651
Sandy	Parbury	Fresno	CA	93726
Sandy	Parker	Berkeley	CA	94708
Virginia	Partridge	Sacramento	CA	95819
John	Pasqua	Bayside	CA	95524
Lynne	Pateman	Huntington Beach	CA	92646
Lori	Patotzka	Claremont	CA	91711
Laura	Patrick	Trinidad	CA	95570
Christine	Pauken	Santa Rosa	CA	95405
Gayle	Pearson	Camarillo	CA	93010
Sierra	Pecheur	Sierra Madre	CA	91024
Anna	Pedotti	Sebastopol	CA	95472
David	Peha	Woodland Hills	CA	91367
Beverly	Pena	Irvine	CA	92617
Maree	Penhart	Los Angeles	CA	90068
Marilyn	Peppin	Berkeley	CA	94703
Amanda	Percy	San Diego	CA	92110
Dan	Perdios	Sacramento	CA	95831
Margarita	Perez	San Rafael	CA	94912
Dominique	Perkins	Half Moon Bay	CA	94019
Janet	Perlman	Oceanside	CA	92056
Martin	Perlman	Encino	CA	91436
Joyce	Perreira	San Francisco	CA	94114
Righard	Peters	Mountain View	CA	94040
E. Blake	Peterson	Piedmont	CA	94611
Linda	Petrulias	Los Angeles	CA	90064
Shirley K. Petrus	Petrus	Milpitas	CA	95035
Martha	Peyton	Berkeley	CA	94708

Janet	Pielke	Davis	CA	95618
Amy	Pierce	Three Rivers	CA	93271
Edwin	Pinson	Cathedral City	CA	92234
Michael	Piotrowski	Aptos	CA	95003
Charlotte	Pirch	Berkeley	CA	94701
Mary F	Platter-Rieger	Sherman Oaks	CA	91423
Charles	Plopper	Covina	CA	91724
Alice	Polesky	Santa Clara	CA	95051
Richard	Pop	Elk Grove	CA	95757
Ann	Pope	Ukiah	CA	95482
Donn	Poppe	Claremont	CA	91711
Susan	Porter	Oceanside	CA	92054
Nancy	Porter-Steele	San Diego	CA	92104
Rick	Posten	Walnut Creek	CA	94598
Meredith	Potter	Orangevale	CA	95662
David C	Powell	Oakley	CA	94561
Kathleen	Powell	Benicia	CA	94510
Larry	Powell	Aliso Viejo	CA	92656
Rebecca	Procter	Oakland	CA	94612
Leonard	Pronko	Shingle Springs	CA	95682
Lois	Pryor	Sacramento	CA	95823
Dianne	Punkay	Costa Mesa	CA	92626
Barbara	Purvis	Westminster	CA	92683
Christopher	Purvis	Citrus Heights	CA	95610
Ron	Pyle	Los Angeles	CA	90066
Susan	Queen	Thousand Oaks	CA	91360
Jo	Quinlivan	Thousand Oaks	CA	91360
Laurel	Quinn	Napa	CA	94558
Carla	Quinones	San Francisco	CA	94118
K	R	Agoura Hills	CA	91301
Katy	R.	Long Beach	CA	90802
Rudene	Rachiele	Clayton	CA	94517
Maria	Raders	Wilmington	CA	90744
Jack	Rafferty	Kelseyville	CA	95451
Cecil	Ralph	Mill Valley	CA	94941
Valerie	Ralston	Morgan Hill	CA	95037
Rudy	Ramp	Sebastopol	CA	95472
Betty	Ramsey	Penn Valley	CA	95946
George	Ramsey	Livermore	CA	94550
Dee	Randolph	Alameda	CA	94501
Sandy	Rasich	San Francisco	CA	94107
Nicholas	Ratto	Buena Park	CA	90620
Mark	Reback	San Francisco	CA	94116
Maryellen	Redish	San Jose	CA	95127
Casey	Reed	Van Nuys	CA	91404
Michelle	Reed	Burbank	CA	91505
David	Rees	Eureka	CA	95501
James	Rees	Davis	CA	95616
Timothy	Reeves	Valley Center	CA	92082
Trudi	Reinhardt	Novato	CA	94949
Emil	Reisman	Los Angeles	CA	90045
F. Carlene	Reuscher	San Juan Capistrano	CA	92675
Roberto	Reyes	Moreno Valley	CA	92555
Susan	Reynolds	Menlo Park	CA	94025
Natalie	Rhoan	San Francisco	CA	94133
Kenny	Rich	San Francisco	CA	94111
Gladys	Richardson	San Rafael	CA	94903
Dan	Richman	Grass Valley	CA	95945

Gloria	Richmond	Los Angeles	CA	90041
Gerard	Ridella	Sacramento	CA	95823
Katherine	Rinne	Los Angeles	CA	90025
Ernestina	Ripberger	Clearlake	CA	95422
Michael	Ristig	Santa Monica	CA	90402
Patricia	Robb	Sacramento	CA	95819
Les	Roberts	Bayside	CA	95524
Eileen	Robinson	Emeryville	CA	94608
Jan	Robinson	Soledad	CA	93960
Patricia	Roca	Los Gatos	CA	95033
Peter	Roche	San Mateo	CA	94401
David	Rockwell	Hemet	CA	92543
Ernest	Rodgers	Garberville	CA	95542
Jim	Rogers	Goleta	CA	93117
Mike	Rolbeck	Monterey	CA	93940
Sharon	Rollins	Pacific Grove	CA	93950
Richard	Romanus	Canyon Country	CA	91351
Valerie	Romero	San Francisco	CA	94110
Bonnie	Roncayolo	Anaheim	CA	92805
Scott	Roney	Orange	CA	92867
Van	Rookhuyzen	Huntington Beach	CA	92646
Cynthia	Roper	Anaheim	CA	92805
Robert	Rosas	Claremont	CA	91711
Stephen	Rosasco	El Cerrito	CA	94530
Barry	Rose	San Jose	CA	95123
Rebecca	Rose	Oakland	CA	94611
Sarah	Rose	Newport Beach	CA	92663
Ernest	Rosenberg	San Francisco	CA	94117
Kristin	Rosenqvist	Diablo	CA	94528
Carolyn And Richard	Rosenstein	Laguna Beach	CA	92651
Mark	Rosin	San Francisco	CA	94134
Blanca Luz	Ross	Santa Clarita	CA	91350
Gregory	Ross	Berkeley	CA	94703
J.	Ross	San Francisco	CA	94117
Kathleen	Ross	Santa Cruz	CA	95060
P.	Ross	San Anselmo	CA	94960
Gary	Roswell	Tulelake	CA	96134
Isabel	Roth	Pinole	CA	94564
Diana	Rothman	Thousand Oaks	CA	91362
Emily	Rothman	Pasadena	CA	91103
Tom	Rowe	Fresno	CA	93704
Vickie	Rozell	Los Angeles	CA	90036
Michael	Rubin	Roseville	CA	95678
Ellen	Rudy	Berkeley	CA	94702
Dennis	Ruffcorn	Oakland	CA	94610
George	Ruiz	Riverside	CA	92506
Mabel	Ruiz	Westminster	CA	92683
Sylvia	Ruiz	La Quinta	CA	92253
Blake	Russell	Helendale	CA	92342
Marilynn	Russell	Concord	CA	94519
Ron	S.	Santa Monica	CA	90405
Kathy	Sabatini	South San Francisco	CA	94080
Ruth	Sabiers	Los Angeles	CA	90048
Donye	Sacco	Santa Barbara	CA	93160
Marilyn	Safir Phd	Rancho Palos Verdes	CA	90275
Lawrence	Sager	Berkeley	CA	94707
Maxine	Saine	San Francisco	CA	94122
Josephine	Salazar	Aptos	CA	95003

Roidina	Salisbury	Fremont	CA	94538
Joan	Sallee	Poway	CA	92064
Leanore	Saltz	Rancho Cordova	CA	95670
Warren	Salyer	Fremont	CA	94536
Barbara	Samii	Laguna Beach	CA	92651
Jill	Sanoff	Berkeley	CA	94709
Claire	Sapiro	Castro Valley	CA	94546
Cinda	Sarber	Vacaville	CA	95688
Susan	Sargis	Apple Valley	CA	92308
Adele	Satterfield	Long Beach	CA	90808
Richard	Saunders	Chula Vista	CA	91910
Carol	Savary	Gustine	CA	95322
Gary	Sawyer	Victorville	CA	92392
Patti	Scarpa	Pacifica	CA	94044
David	Schaechtel	Inglewood	CA	90301
Lynda	Schartle	San Francisco	CA	94124
Spencer	Schatz	Poway	CA	92064
W J	Schechter	Los Angeles	CA	90004
Barbara	Scheinman	Sherman Oaks	CA	91423
Laura	Schepps	Redondo Beach	CA	90278
Coleen	Scherf-Ghara	Borrego Springs	CA	92004
Henry	Schock	Oakland	CA	94601
David	Schorr	Simi Valley	CA	93065
Dale	Schultz	Sylmar	CA	91342
Jean	Schulz	San Francisco	CA	94132
Deed	Scott	Arcadia	CA	91006
Joan	Scott	Chico	CA	95927
Pamela	Scott	West Covina	CA	91792
Stanley	Seeman	San Francisco	CA	94131
Lorraine	Seiji	Sutter Creek	CA	95685
Fredrick	Seil	Berkeley	CA	94709
Dan	Selby	Rio Vista	CA	94571
Rob	Seltzer	Oakland	CA	94618
Ralph	Senensky	Merced	CA	95340
Jon	Senour	Lemon Grove	CA	91945
Christine	Sepulveda	Los Alamitos	CA	90720
Del	Serrano	Bolinas	CA	94924
Carol	Severe	Monterey Park	CA	91755
Susan	Shaddick	Murrieta	CA	92562
Gerald	Shaia	Pismo Beach	CA	93449
Nicky	Shane	Rosamond	CA	93560
Andrew	Shannon	Bloomington	CA	92316
B	Shapiro	Santa Monica	CA	90409
Nancy	Sharmer	Inverness	CA	94937
Stephen	Sharnoff	Benicia	CA	94510
Karen	Sharp	San Francisco	CA	94129
Chip	Sharpe	Long Beach	CA	90803
Mokhtar	Shawky	Santa Rosa	CA	95409
Richard	Shepard	El Cerrito	CA	94530
Marilyn	Shepherd	Graton	CA	95444
David	Sherman	Boulder	CO	80301
Rebecca	Sherry	Fort Collins	CO	80528
Lois	Shubert	Eustis	FL	32726
Dave And Anna	Shuck	Griffin	GA	30223
Marguerite	Shuster	Kansas City	MO	64152
Julie	Sicaud	Hendersonville	NC	28791
Cindi	Siebe	Holman	NM	87723
Alfred	Sils	Cerrillos	NM	87010

Victoria	Silver	Abiquiu	NM	87510
Marc	Silverman	Santa Fe	NM	87505
David	Silverstein	Albuquerque	NM	87114
Katie	Simas	Santa Fe	NM	87501
Gregory	Simon	Albuquerque	NM	87108
Philip	Simon	Albuquerque	NM	87109
Claire	Simonich	Ribera	NM	87560
Anita	Simons	Tijeras	NM	87059
Joan	Sitnick	Santa Fe	NM	87505
Brian	Skaggs	Placitas	NM	87043
Irma	Skelton	Santa Fe	NM	87507
Norma	Skinner	Rio Rancho	NM	87124
Kate	Skolnick	Rio Rancho	NM	87144
Nancy	Slanger	Santa Fe	NM	87507
Wayne	Slattery	Roswell	NM	88203
Susan	Sloan	Silver City	NM	88061
John	Slovak	Valdez	NM	87580
Benita	Smith	Albuquerque	NM	87114
Dennis	Smith	Cedar Crest	NM	87008
Judith	Smith	Albuquerque	NM	87111
Lori	Smith	Rio Rancho	NM	87124
Margaret	Smith	Albuquerque	NM	87121
Gar	Smith-Mahabir	Albuquerque	NM	87120
Michele	Smolen	Santa Fe	NM	87508
Irene	Snavely	Albuquerque	NM	87114
Marnie	Snow	Albuquerque	NM	87123
Diane	Sobodash	Rio Rancho	NM	87144
Nancy	Solzman	Albuquerque	NM	87120
Adele	Sommers	Anthony	NM	88021
Robert	Spaccarotelli	Albuquerque	NM	87107
Linda	Spanski	Albuquerque	NM	87109
Richard	Spas	High Rolls Mountain Park	NM	88325
D R	Spencer	Tularosa	NM	88352
Mike	Spinato	Albuquerque	NM	87111
Larry	Spizzirri	Albuquerque	NM	87111
Robert	Spotts	Albuquerque	NM	87110
Simone	St Clare	Magdalena	NM	87825
Lois	St. John	Placitas	NM	87043
Mari	Stachenfeld	Albuquerque	NM	87123
Madeline	Stacy	Albuquerque	NM	87108
Jamed	Standlee	Rio Rancho	NM	87124
Edh	Stanley	Rio Rancho	NM	87124
Richard	Star	Santa Fe	NM	87502
Jan	Stark	Tijeras	NM	87059
Jason	Steadmon	Velarde	NM	87582
Dee	Steele	Espanola	NM	87532
Richard	Steele	Albuquerque	NM	87111
Rick	Stegner	Santa Fe	NM	87505
Beth	Stein	Albuquerque	NM	87108
Cindy	Stein	Albuquerque	NM	87106
Ken	Stein	Albuquerque	NM	87110
William	Steinhart	El Prado	NM	87529
Rebecca	Steinschriber	Albuquerque	NM	87122
David	Sternberg	Placitas	NM	87043
Allen	Stevens	Albuquerque	NM	87121
Emory	Stevens	El Prado	NM	87529
Paul	Stevens	Las Cruces	NM	88004
Michael	Stevenson	Los Lunas	NM	87031

Hollis	Stewart	Albuquerque	NM	87110
Jackie	Stewart	Albuquerque	NM	87106
Mary	Stewart	Albuquerque	NM	87111
Dr. John D.	Stickle, D.C.	Santa Fe	NM	87501
John	Stickney	Jemez Springs	NM	87025
Doug	Stiebler	Placitas	NM	87043
Wanda	Stiles	Placitas	NM	87043
Lorrie	Stillings	Santa Fe	NM	87505
Helga	Strauss	Prewitt	NM	87045
Kathleen	Streeter	Albuquerque	NM	87108
Marjorie	Streeter	Silver City	NM	88061
Rachel	Strickland	Las Cruces	NM	88012
P. Sturm	Sturm	Albuquerque	NM	87199
Rene	Suarez	Rio Rancho	NM	87124
Edward	Sullivan	Cloudcroft	NM	88317
Kathleen	Sullivan	Las Cruces	NM	88011
Anita	Sunseri	Albuquerque	NM	87112
Peter	Supersano	Santa Fe	NM	87507
Mark	Sussek	Albuquerque	NM	87111
Julie	Svendsen	Albuquerque	NM	87105
Don	Swall	Albuquerque	NM	87111
Jean	Swenson	Santa Fe	NM	87505
William	Swinney	Rio Rancho	NM	87124
Bill	Swisher	Albuquerque	NM	87105
Teresa	Sylvain	Corona	NM	88318
Joseph	Szabo	Albuquerque	NM	87110
Barbara And Steve	Szemenyei	Santa Fe	NM	87506
Sheila	T.	Albuquerque	NM	87108
Carol	Taggart	Albuquerque	NM	87123
Dick	Talbott	Albuquerque	NM	87120
John	Tansley	Albuquerque	NM	87123
Eveline	Tapp	Santa Fe	NM	87508
Barry	Taranto	Rio Rancho	NM	87144
Edward	Taylor	Albuquerque	NM	87109
Maureen	Taylor	Silver City	NM	88061
Melvin	Taylor	Albuquerque	NM	87109
R	Taylor	Farmington	NM	87401
Robert	Taylor	Aztec	NM	87410
Michael	Terry	Alto	NM	88312
Patricia	Tescher	Santa Fe	NM	87501
Rev. Glen	Thamert	Holman	NM	87723
John R	Thayer	Los Lunas	NM	87031
Dennis	Therry	Santa Fe	NM	87501
Kimberly	Thompson	Albuquerque	NM	87176
Maureen	Thompson	Albuquerque	NM	87106
Sally-Alice	Thompson	Santa Fe	NM	87508
Vonza	Thompson	Corrales	NM	87048
Barbara	Thomson	Deming	NM	88030
Penni	Thorpe	Albuquerque	NM	87107
Michael	Threadgill	Albuquerque	NM	87112
Michael	Thuot	Las Cruces	NM	88011
Eliot	Tigerlily	Los Alamos	NM	87544
Gail	Tinsley	Albuquerque	NM	87110
John	Tischhauser	Santa Fe	NM	87508
Jeffrey	Tischler	Santa Fe	NM	87505
Roy	Torres	Albuquerque	NM	87106
Melinda	Tossani	Ruidoso	NM	88355
Jessica	Towns	Santa Fe	NM	87507

Alan	Townsend	Los Ranchos	NM	87107
Mary	Trujillo	Hurley	NM	88043
Debra	Trumbo	Farmington	NM	87402
Yoshiko	Tsunehara	Albuquerque	NM	87106
Marlene	Tucay	Los Lunas	NM	87031
Laurel	Tucker	Santa Fe	NM	87507
Anne	Tuddenham	Placitas	NM	87043
Nolan	Turner	Truth or Consequences	NM	87901
Patrick	Twomey	Ribera	NM	87560
Joanne	Tyler	Albuquerque	NM	87108
Janet	Uffer	Las Cruces	NM	88011
Karen	Ulring	Las Cruces	NM	88011
Kathleen	Urbelis	Las Cruces	NM	88011
William C.	Valaika	Albuquerque	NM	87110
Leon	Van Steen	Las Cruces	NM	88007
Lesley	Vennero	Santa Fe	NM	87592
Paul	Vesper	Cerrillos	NM	87010
Doris	Vician	Ruidoso	NM	88355
Carol	Vigil	Espanola	NM	87532
Lery	Vigil	Albuquerque	NM	87110
William	Visscher	Albuquerque	NM	87114
Gil	Vogel	Albuquerque	NM	87114
Roger	Vortman	Las Cruces	NM	88001
Jessie	Vosti	Rio Rancho	NM	87124
Herman	Waetjen	Los Alamos	NM	87544
Patricia	Waldygo	Santa Fe	NM	87592
Marcia	Walker	Taos	NM	87571
Josephine	Wall	Belen	NM	87002
W G	Wallin	Albuquerque	NM	87123
Janet	Walls	Las Cruces	NM	88007
Susan	Walp	Las Cruces	NM	88007
Leslie	Waltzer	Albuquerque	NM	87108
Terry	Warkentine	Albuquerque	NM	87123
Britt	Warren	Albuquerque	NM	87123
Deryn	Warren	Santa Fe	NM	87508
Ann	Wasgatt	Jemez Springs	NM	87025
Martin	Washington	Buena Vista	NM	87712
Tommi	Watson	Albuquerque	NM	87108
Susan	Watts	Albuquerque	NM	87108
Martin	Wauson	Albuquerque	NM	87111
Carole	Wayne	Santa Fe	NM	87502
Henry	Weaver	Rio Rancho	NM	87174
D	Webster	Albuquerque	NM	87114
Eric	Weinstein	Espanola	NM	87532
Philip	Weise	Albuquerque	NM	87121
Lynne	Weiske	Ranchos de Taos	NM	87557
Roberta	Weissglass	Glorieta	NM	87535
Mark	Weissman	Santa Fe	NM	87501
Nic	Wellington	Albuquerque	NM	87110
William	Werle	Taos	NM	87571
Margaret	Wessels	Santa Fe	NM	87508
R.A.L.	West	Albuquerque	NM	87105
Carolyn	Wheeler	Pecos	NM	87552
Linda	Whetstine	Magdalena	NM	87825
Howard	Whitaker	Albuquerque	NM	87108
Joe D	Whitaker	Albuquerque	NM	87120
Jusef	White	Carson	NM	87517
Margaret	White	Las Cruces	NM	88011

Helene	Whitson	Minden	NV	89423
John	Wiesner	Henderson	NV	89044
Wayne	Wigmore	Ely	NV	89301
Jenny	Wilder	Henderson	NV	89015
Jane	Wilken	Las Vegas	NV	89104
Daniel	Wilkinson	Reno	NV	89503
John	Will	Las Vegas	NV	89108
Aimee	Williams	Reno	NV	89511
Greg	Williams	Las Vegas	NV	89134
Janet	Williams	Reno	NV	89523
Martha	Williams	Pahrump	NV	89048
Kent	Williamson	Las Vegas	NV	89142
Charlie	Willis	Las Vegas	NV	89109
Charles	Wilmoth	Las Vegas	NV	89139
Jacob	Wilson	North Las Vegas	NV	89031
Tim	Wilson	Reno	NV	89506
Teresa	Winchester	North Las Vegas	NV	89084
Ken	Windrum	Montello	NV	89830
Joie	Winnick	Las Vegas	NV	89122
Leslie	Winston	Pahrump	NV	89048
Harold	Withers	Las Vegas	NV	89130
Patrice	Woeppel	Las Vegas	NV	89129
Elmer	Wolf	Henderson	NV	89074
Mera	Wolf	Silver Springs	NV	89429
Charles	Wolfe	Carson City	NV	89706
Rhoda	Wolfe	Sparks	NV	89431
Tracey	Wolfert	Sparks	NV	89434
Linda	Wolff	Las Vegas	NV	89123
Pat	Wolff	Las Vegas	NV	89129
James	Wolske	Las Vegas	NV	89147
Samuel	Wong	Las Vegas	NV	89134
David	Wood	Reno	NV	89506
Jud	Woodard	Las Vegas	NV	89123
Charlene	Woodcock	Reno	NV	89511
Susan	Worden	Las Vegas	NV	89156
Armin	Wright	Las Vegas	NV	89161
Garth	Wright	Reno	NV	89509
Darlene	Wyatt	Las Vegas	NV	89135
Eleanor	Wyckoff	Las Vegas	NV	89129
Joyce	Wyels	Henderson	NV	89074
Lance	Wyeth	Las Vegas	NV	89123
Maria Elena	Yepes	Reno	NV	89523
Constance	Youens	Caliente	NV	89008
Dennis	Young	Las Vegas	NV	89118
Kyle	Young	Boulder City	NV	89005
Leslie	Young	Carson City	NV	89706
J	Yudell	Las Vegas	NV	89107
David	Yusem	Reno	NV	89506
Rudy	Zeller	Reno	NV	89523
David	Zielke	Pahrump	NV	89041
John	Zimmermann	Minden	NV	89423
Joseph	Zondlo	Las Vegas	NV	89145

Statement of
Jerry G. Schickedanz
Chairman, Western Heritage Alliance
5851 Leasburg Drive
Las Cruces, New Mexico, 88007

Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests & Mining
S. 441, Organ Mountains-Desert Peaks Conservation Act
February 20, 2017

Thank you for inviting comments on S. 441. The Western Heritage Alliance is an alliance of business, organizations and professionals in Dona Ana County, New Mexico, who are concerned with the impacts of approximately 242,000 acres of wilderness designation in this bill.

We are opposed to the passage of S. 441 as currently written because of the highly limited access that it imposes and the resulting negative effects on our community.

Public and user access is impacted by current withdrawals of 500,000 acres under the Organ Mountains-Desert Peaks National Monument (OMDPNM) and with the additional restrictions on surface management imposed by Wilderness designations, the impact will be even more dramatic. We feel this is in direct contrast of Secretary Ryan Zinke's Secretarial Order 3347, where he pledged to expand access to public land. In Dona Ana County, New Mexico, this will impact approximately one fourth of the land area in the county that has previously been open to multiple use access.

We have in the past supported permanent protection for the Organ Mountain's footprint of approximately 50,000 acres, but have opposed wilderness designation on the remaining Wilderness Study Area (WSA) designations. These lands are already included in the OMDPNM and do not need further restrictive management.

S. 441 wilderness designations includes areas that were studied by the Bureau of Land Management (BLM) in the 1980s and did not rate high enough to be included as a WSA for further study. They are BROAD CANYON WILDERNESS 13,902 acres; CINDER CONE WILDERNESS 16,935 acres; and WHITETHORN WILDERNESS, 9,616 acres. The S.441 designations also include areas that BLM recommended in their 1992 Record of Decision to the President be returned to multiple use management as they do not meet Wilderness Criteria as specified in the 1964 Wilderness Act. They are SIERRA DE LAS UVAS WILDERNESS 11,114 acres and the ROBLEDO MOUNTAIN WILDERNESS 16,776 acres. The bill also tries to include in the ROBLEDO MOUNTAIN WILDERNESS, Potential Wilderness of 100 acres that was "Cherry Stemmed" out of consideration for wilderness in the 1980's BLM WSA study report.

Guaranteed access to livestock and ranch improvements are not spelled out clearly in S. 441. The references to section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(D)(4)) and the guidelines set forth in

Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101-405) does little to guarantee access to improvements. The local BLM District Manager would not commit to how "occasional" access is defined. He was certain that the permittees would not have daily or even weekly access for maintaining water developments. This is unacceptable in the hot dry desert environment of Dona Ana County.

Finally, the issue of Border Security is of upmost importance to the citizens of this area. There are many concerns about the restrictions on all forms of law enforcement in Wilderness areas, and the language in S. 441 does not adequately address those concerns.

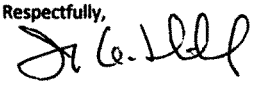
For instance, the language in Section 4 stating nothing in this legislation prevents the "Secretary of Homeland Defense from undertaking law enforcement and border security activities" accomplishes nothing, since those activities must be "in accordance with Section 4(c) of the Wilderness Act." That of course is the prohibited uses section containing the language which creates the problem in the first place: the prohibition of motorized vehicles and mechanical equipment.

Section 4 also mentions the use of the 1996 Memorandum of Understanding between USDI, USDA and Homeland Security on protecting the border. The MOU, however, has not been effective. In Congressional testimony given just a few weeks ago, the President of the National Border Patrol Council said certain provisions in the MOU are "completely and utterly absurd" and allows "agency bureaucrats in Washington to prioritize possible impacts on the environment over the safety of the men and women of the Border Patrol."

Victor Manjarrez is the Project Director of the Center for Law and Human Behavior at the University of Texas, El Paso. He is also the former Sector Chief of both the Tucson and El Paso sectors of the Border Patrol. In a March 1, 2017 letter to Congressman Steve Pearce, Manjarrez says, "Where large rural expanses of lands occur with conditional or restricted access, cross border illicit entry will pose a real and constant danger." We believe it would be foolhardy to create just such an area by enacting the Wilderness provisions of S. 441.

I request that this letter be made part of the permanent hearing record.

Respectfully,



Jerry G. Schickedanz, Chairman
Western Heritage Alliance

From: Gordon Whirry
To: fortherecord (Energy)
Subject: Statement/Letter for the Record Feb, 7th, 2018
Date: Wednesday, February 14, 2018 5:56:01 PM

Statement/Letter for the Record Feb, 7th, 2018

Energy and Natural Resources Committee

Subcommittee on Public Lands, Forests, and Mining Legislative Hearing

Senator Daines' bill, S. 2206, to withdraw Wilderness Study Areas, is a slap in the face to thousands of Montanans who have worked tirelessly for years to protect the few remaining wildlands that have not been motorized.

These 450,000 WSA acres represent only 1.7% of the 27 million acres of Federal land in Montana. They provide unique value as wildlife habitat, fisheries, clean watersheds, solitude, scenery and non-motorized recreation. A vast majority of public lands are already available for motorized use.

Daines' statement that these lands are not suitable for wilderness status is incorrect. They are part of ongoing Forest Service planning efforts, using exhaustive public input. Many are currently being recommended for wilderness, including one of my favorites, the Big Snowies. These beloved areas should not be opened up to oil/gas/mineral development or motorized use.

Montanans, especially in Central Montana which has no designated wilderness, deserve the opportunity to experience unspoiled wildlands and quiet refuges. Many cannot afford a $15K snowmobile, but enjoy hiking, snowshoeing, fishing and hunting in a nearby unroaded area. Wildlife habitat and fisheries provided by the WSA's are treasures to be protected. These few remaining wildlands help make Montana a special place. They contribute to our $7.1 billion outdoor recreational economy and provide a priceless heritage for our children.

Gordon Whirry

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February 5, 2018

The Honorable Lisa Murkowski
Chairman
Committee on Energy and Natural Resources
United States Senate
522 Hart Senate Office Building
Washington D.C. 20002

The Honorable Maria Cantwell
Ranking Member
Committee on Energy and Natural Resources
United States Senate
511 Hart Senate Office Building
Washington D.C. 20002

The Honorable Mike Lee
Chairman
Public Lands, Forests, and Mining
United States Senate
361A Russell Senate Office Building
Washington D.C. 20510

The Honorable Ron Wyden
Ranking Member
Public Lands, Forests, and Mining
United States Senate
221 Dirksen Senate Office Building
Washington D.C. 20510

Dear Chairman Murkowski, Ranking Member Cantwell, Chairman Lee, and Ranking Member Wyden,

The Wilderness Society (TWS) writes to express views on the legislation being heard Wednesday in the Subcommittee on Public Lands, Forests, and Mining, and we respectfully request that this letter be included in the February 7, 2018 hearing record for the Subcommittee.

S. 414/H.R. 1107– The Pershing County Economic Development and Conservation Act

S. 414 and H.R. 1107, the Pershing County Economic Development and Conservation Act, reflects years of effort and is the result of 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 can improve conservation and management of Federal lands, enhance recreational opportunities, and improve the local economy.

However, as currently drafted, we do not believe the legislation's land disposal and exchange provisions meet these goals and they raise significant concerns for The Wilderness Society. In particular, we look forward to working with the Committee on these issues of greatest concern:

1. Land Disposal Authorization: Sec. 102(1)(A)(ii) authorizes the disposal of lands identified in "any subsequent amendment or revision to the [Winnemucca] management plan.". Permitting disposal of lands that are not yet identified and open to unlimited expansion indefinitely into the future leaves the public with considerable uncertainty as to which lands may be disposed, unable to assess the values of those lands, and subject to potential abuse. This is exacerbated by the fact that section 103(a) authorizes disposal notwithstanding governing sections of FLPMA that provide key measures of process and policy limiting abuse. The current resource management plan authorizes disposal of more than twice the amount of land authorized for disposal in the legislation. This should be more than sufficient.

   Recommendation: Delete section 102(1)(A)(ii), thus limiting land disposal to those lands identified for disposal in the current resource management plan (along with those lands identified in section 102(1)(B)), and modify section 103(a) to ensure compliance with applicable laws to ensure fair market value, historic and cultural lands, and other public values are protected.

2. Acre-for-Acre Land Exchanges: Section 103(d)(1)(B)(ii) authorizes the exchange of certain Federal lands on an acre-for-acre basis with eligible private lands. We strongly oppose acre-for-acre land exchanges, even as limited here, because of the likelihood of conveying lands for less—potentially dramatically less—than their fair market value. The result of such an exchange would be, in effect, the giving away of public resources. We believe that all land exchanges should be based on equal value, consistent with other land exchanges approved by Congress.

   Recommendation: Delete sections 103(d)(1)(B)(ii), (2), (3), and related conforming changes.

3. Disposition of proceeds: Section 104(a)(3) authorizes spending the proceeds from the sale of public lands on a variety of projects that may or may not occur on, or even benefit, public land. Proceeds from the sale of public land owned by the American people should be reinvested in the acquisition of priority lands to benefit the American public. Failing that, the proceeds should at least be reinvested for the good of the American public through projects that expand, benefit, or improve the conservation of the public's land. Subparagraph (C) and the reference to "presuppression" in (D) are a

particularly objectionable example of authority that not only could be used in a way that would have no public benefit, but also could be used to the significant detriment of the public good.

Recommendations: Dedicate all federal proceeds to (or at least a priority preference for) the acquisition of federal land (or interests in land) within or adjacent to currently-designated sage grouse priority habitat. Any remainder could be dedicated to priority land acquisition elsewhere in the State. Failing that, at least require that expenditures be limited to land acquisition and conservation projects carried out on federal public lands. Make existing list more conservation-focused by deleting subsection 104(a)(3)(C), and deleting wildfire pre-suppression from subsection 104(a)(3)(D). Delete (G): surveys typically aren't conducted unless a particular project requires it.

4. Retaining Management Priority Areas: Sec. 103(d)(4) requires the Secretary to establish Management Priority Areas within the Checkerboard Lands Resolution Area. The Management Priority Areas are to contain high value lands that should be retained. However, sections 103(a), (f)(1), and (f)(2) authorize disposal of specified lands within the Checkerboard Lands Resolution Area. This could lead to the disposal of the Management Priority Areas.

   Recommendation: Modify the definition of eligible land in sec. 102(1) to exclude the Management Priority Areas established by the Secretary, along with conforming changes to sec. 103(d)(4).

5. Protecting the public interest in land disposal. TWS has significant concerns with section 201, especially if the proceeds are not dedicated to land acquisition. Title II requires the sale of tens of thousands of acres of public lands to mining companies. These lands include, for example, Greater Sage-Grouse habitat, numerous sites eligible for the National Register of Historic Places, cultural resources, and a portion of the California National Historic Trail and viewshed. Lands must be offered for sale to the companies regardless of whether there is active mining or even a valid mining claim. The Secretary is left with no ability to protect important public values as part of the transaction. And the fair public value of the lands is likely to be dramatically discounted because of the way the bills define "fair market value", resulting in major losses to the public. These concerns are exacerbated to the extent that the proceeds are not dedicated to land acquisition, as mentioned in our concerns on disposition of proceeds from sale of land owned by the American people above.

   Recommendation: Modify section 201(a)(3) and (b) to give the Secretary authority and discretion to retain lands and interests in lands necessary to protect the public interest, to ensure that the public gets full market value for the sold land, and to dedicate proceeds to acquisition of priority lands.

S. 441 - Organ Mountains-Desert Peaks Conservation Act

The Wilderness Society supports S. 441, 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 subcommittee know, only Congress can 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 subcommittee to advance this legislation without delay.

S. 507 – Blackfoot Clearwater Stewardship Act

The Wilderness Society supports S. 507, the Blackfoot Clearwater Stewardship Act by Senator Tester. This legislation, over a decade in the making, is a made-in-Montana proposal that balances forest restoration, conservation, and recreation.

This proposal began in 2006 around a simple premise: that people of good faith could work together to solve land management problems in a way that works for everyone. For years, conservationists, sportsmen, outfitters and guides, recreation groups, and timber interests carried on this proud Montana tradition and hashed out a proposal that benefits conservation, restoration, and recreation. The result is the Blackfoot Clearwater Stewardship Act.

Conservation
The Blackfoot Clearwater Stewardship Act would permanently protect the North Fork of the Blackfoot River, Monture Creek, the Swan Front, Grizzly Basin, and the West Fork of the Clearwater by adding these lands to the Bob Marshall, Scapegoat and Mission Mountains wilderness areas. These iconic Montana lands contain outstanding habitat for grizzlies, elk, wolverine, and other species, and provide clean, cold water for the Big Blackfoot River, made famous by Norman Maclean's A River Runs Through It. These lands are an important reason why Montana is still recognized as the "Last Best Place." They deserve permanent protection.

Recreation
Montana's fastest growing economic sector is tourism and outdoor recreation, and the Blackfoot and Clearwater valleys have long been a favorite destination. The Blackfoot Clearwater Stewardship Act will help ensure this corner of Montana remains a world-class place to live and visit by providing a dazzling array of recreational opportunities.
The Otatsy Recreation Management Area would open 2,000 acres to high-quality snowmobiling near Ovando. The Spread Mountain Recreation Area will preserve prized mountain bike opportunities and create new riding opportunities outside the wilderness. The wilderness designations protect some of Montana's highest quality hunting habitat, as well as world-class opportunities for hiking, camping, fishing, and horseback riding. Finally, the proposal supports collaborative efforts based in Seeley Lake to develop and implement new trail-based recreational opportunities for motorized and non-motorized recreationists.

Forest Restoration
A key component of the collaborative stakeholder agreement that formed the basis for S. 507 is forest restoration. In 2010, the collaborative partners of the Blackfoot Clearwater Stewardship Project, with the support of Senator Tester, helped to establish the Southwestern Crown of the Continent Collaborative. To date, this project has created or maintained an average of 184 jobs

per year, resulting in investments of over $47 million in the local economy. The project has restored over 25,000 acres of forest, treated 50,000 acres for noxious weeds, restored 130 miles of stream, and maintained 2,000 miles of multiple use trails.

The Blackfoot Clearwater Stewardship Act advances this collaborative forest restoration by expediting the environmental review of collaboratively-developed forest restoration projects and requiring the Forest Service to develop and implement a landscape assessment to identify restoration priorities, as well as a ten-year schedule of restoration projects.

Public Support
The Blackfoot Clearwater Stewardship Act enjoys overwhelming support among key stakeholders and the public. Each affected county, as well as key timber, sportsmen, outfitters and guides, equestrians, mountain bikers, motorized recreation interests, and conservation groups all support the proposal. A recent public opinion survey found that Montana voters support the proposal by 4-1 margin, including three-quarters of Republicans and independents. For these reasons, The Wilderness Society is proud to support S. 507, the Blackfoot Clearwater Stewardship Act, and we urge the subcommittee to advance this important legislation.

S. 612/H.R. 1547 - Udall Park Land Exchange Completion Act

TWS is sympathetic to some of the concerns expressed by the City of Tucson regarding denials of potential public uses of Udall Park. However, we are concerned that the bill as currently written provides no assurance that a future City Council cannot authorize heavy commercial development or some other use that would be antithetical to the public purposes for which the land was originally conveyed. Udall Park is cherished by the local community for the open space, outdoor recreation, and community engagement that it provides. We urge the subcommittee to add language to safeguard the public's future enjoyment of Udall Park as a place of public recreation, community engagement, and open space.

S. 1222 - La Paz County Land Conveyance Act

TWS appreciates La Paz County's desire to develop commercial-scale solar generation projects on the land that would be conveyed by this bill. The land's proximity to Interstate-10 and the proposed Ten West Link transmission line makes that an endeavor worthy of further consideration.

We do have concerns about the bill, however. The acreage to be conveyed is significant and likely much more than would be necessary for the County's reported purpose of solar energy generation. Further, that purpose is not defined by the bill and consequently any type of future development might be possible. This concern is compounded by a full, rather than phased, conveyance of the acreage.

We believe the bill should be amended to ensure that the interest of the American public that

owns these lands is protected. Any proceeds from the conveyance should be used to acquire parcels of conservation interest by the BLM in Arizona (for example, inholdings in National Monuments, Wilderness Areas, or Areas of Critical Environmental Concern). The bill should be clear that the environmental impacts and benefits of the County's proposed use should be evaluated in compliance with the National Environmental Policy Act, and any negative environmental impacts should be mitigated through conservation measures on the larger landscape. Adding language to address other concerns related to increased solar energy generation and electrical transmission infrastructure in the region would also make this bill stronger.

S. 2206 – Protect Public Use of Public Lands Act

The Wilderness Society opposes S. 2206, the Protect Public Use of Public Lands Act, which proposes to strip existing protections for 450,000 acres of National Forest land in Montana. These lands contain important values, many of which warrant permanent protection. From habitat for a premier Montana elk herd to blue ribbon trout streams, these forests provide essential habitat to fish and wildlife. Several of the areas, including the Big Snowy Mountains, protect the water quality of downstream communities and provide clean, cold, drinking water. Each of the areas also provides outstanding recreational opportunities, including great opportunities for hunting, fishing, hiking, camping, and just getting away from it all.

Despite these important values, S. 2206 would strip existing protections for these areas, leaving them open to mining, energy development, road construction, and other activities that would adversely impact their important ecological, watershed, and recreational values. These values are simply too important to lose. Further, with such a small fraction of Montana's public lands permanently protected, it is not appropriate to remove existing protections for areas protected by Federal legislation for more than 40 years.

While The Wilderness Society supports resolving the status of these and other wilderness study areas, we strongly disagree with the one-size-fits-all, top-down approach used in S. 2206. As opposed to the Blackfoot Clearwater Stewardship Act, which was developed through an open, transparent, and inclusive collaborative process, S. 2206 was developed with little to no public input or collaboration. Many stakeholders were not consulted at all.

To date, even though this legislation would affect nearly a half-million acres of valuable Montana forest land, there have been no public meetings in Montana on the proposal. This is the wrong way to develop public lands legislation, and the one-sidedness of S. 2206 reflects the flawed process used to develop the legislation.

Further, S. 2206 is imbalanced. The legislation does nothing to protect the important ecological, recreational, and watershed values of the forest lands affected, nor does the legislation advance the interests of those seeking conservation, habitat conservation, or quiet forms of outdoor recreation. Unlike other Montana legislation, like the 1988 Montana Wilderness Act

that would have protected wilderness while releasing roadless areas, S. 2206 is a one-sided bill that picks winners and losers. That is not the Montana way and is an important reason that the legislation is opposed by conservation organizations, sportsmen, equestrians, businesses, and elected officials across the state.

S. 2206 is based on recommendations made by the Forest Service nearly four decades ago. Public values, as well as the values and management priorities of the Forest Service have changed significantly since the 1980s. These changes have been noted as far back as 1992:

> *Forest Service line officers today are less inclined than they were a decade ago to favor commodity resource outputs from national forests, such as timber and livestock forage, and they are more inclined to favor increased non-commodity uses of national forest resources such as recreation. Line officers today also express a significantly greater degree of environmental concern than 10 years ago.*[1]

This was reported 26 years ago, and does not reflect the changes in values since then. Some of these changes are reflected in recent forest plan revisions that recommend wilderness designation for one wilderness study area affected by S. 2206. Forty years ago, very little was known about the effects of climate change, the importance of ecosystem management, and the values of healthy watersheds. Basing legislation on 40-year old agency recommendations simply does not reflect the change in values or new understanding of the importance of these lands today.

As a sign of further imbalance in S. 2206, the legislation ignores the nearly one million acres of agency-recommended Forest Service wilderness in Montana. These recommendations date back to the 1980s and many have been updated in recent forest plan revisions. Worse, S. 2206 releases the two-thirds of the Blue Joint Wilderness Study Area that was not recommended for wilderness while failing to designate the remaining third that was recommended for wilderness. This is bad public policy and reflects the unbalanced nature of S. 2206.

For the above reasons, The Wilderness Society opposes S. 2206 and urges the subcommittee to reject this unbalanced legislation.

S. 2249 – The Rio Puerco Watershed Management Program Reauthorization Act of 2017

TWS supports S. 2249, the Rio Puerco Watershed Management Program Reauthorization Act of 2017. The program supports collaborative watershed restoration of this critical watershed in New Mexico, and has produced substantial positive results since its inception. The Wilderness Society supports the continued collaborative restoration that the program provides

[1] Greg Brown & Charles C. Harris, *The United States Forest Service: Changing of the Guard*, 32 Natural Resources Journal 449 (1992).

S. 1481 – Alaska Native Claims Settlement Improvement Act of 2017

The Wilderness Society strongly opposes S. 1481. This legislation's title implies that it will facilitate improvements to the Alaska Native Claims Settlement Act, but instead it would circumvent the landmark 1971 law's important checks and balances and privatize hundreds of thousands of acres, including acres in the coastal plain of the Arctic National Wildlife Refuge. Since our founding The Wilderness Society has advocated for a wilderness designation for the coastal plain and we oppose any legislation that would facilitate its industrialization, including S. 1481.

The bill opens unprecedented doors to create new for-profit native corporations, expands land selections by existing for-profit Native corporations, proposes privatizing 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 national wildlife refuges, national forests, designated wilderness lands and other 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, and thus this bill poses very significant threats to Alaska's public lands.

Analysis of specific sections of the bills follows:

Section 3 – Conveyance to Ukpeagvik Inupiat Corporation
Section 3 of S. 1481 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.

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 should 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. 1481 would grant the Shishmaref Native Corporation, an Alaska Native Claims Settlement Act corporation, a perpetual 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. 1481 is unclear about the purpose of the easement, its duration, and/or any restrictions that would apply to the easement. It is therefore impossible to determine whether or not the easement is necessary at this time, or if the benefits would outweigh the costs. 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 of S. 1481 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. 1481 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.

The Tongass National Forest is one of the last remaining intact coastal temperate rainforests in the world. Allowing a corporation to trade acres in this forest that it has clearcut for acres with some of the oldest trees in America –which it would have authority to further clearcut – is clearly not in the public interest and violates the balance, intent and spirit of ANSCA.

Section 7 – CIRI Land Entitlement

Section 7 of S. 1481 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.

This section is of significant environmental concern therefore, 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 –Kaktovik and Canyon Village

Section 8(a) of S. 1481 seeks to "maximize federal revenues", remove clouds to title and clarify land ownership patterns in the Arctic National Wildlife Refuge coastal plain by conveying to Kaktovik Inupiat Corporation surface estate of lands described in Public Land Order 69592 as agreed to in 19933 to fulfill KIC's entitlement under section 12 of ANCSA,4 and to Arctic Slope Regional Corporation the remaining subsurface estate ASRC is entitled to under ANCSA5 as per the August 9th, 1983 controversial agreement between ASRC and the federal government, known as the, "Chandler Lake Exchange". The Chandler Lake Exchange violated restrictions in ANILCA regarding Native Corporation land selections within the Arctic National Wildlife Refuge, and was found not to be in the public interest in a 1989 GAO report.6 Overall, Section 8(a) of S.1481 would increase the amount of lands held privately within the coastal plain of the Arctic National Wildlife Refuge, an area recommended for wilderness designation by the Fish and Wildlife Service, Department of the Interior, and President Obama, leaving the refuge at greater

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[2] 58 Federal Register 14323

[3] Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, effective January 22, 1993.

[4] 43 U.S.C. 1611

[5] Ibid.

[6] U.S. General Accounting Office, October 1989, Chandler Lake Land Exchange not in the Government's best interest, Report to the Chairman, Subcommittee on Water and Power Resources, Committee on Interior and Insular Affairs, House of Representatives, GAO/RCED-90-5. The GAO Report is available at http://archive.gao.gov/t2pbat12/140067.pdf. Among other things, the GAO determined that the in-holdings acquired by the government in the land exchange were valued at $5.1 million while those it gave up in the Arctic Refuge were valued at over $250 million. ASRC itself believed that its land in Gates of the Arctic National Park were "of little resource potential." ASRC, 1984, Annual Report.

risk of development and habitat fragmentation. In combination with the recently pass tax bill's provisions to open the Refuge's coastal plain to drilling, this bill could speed industrial oil and gas development that threatens these sensitive lands and eliminate protective safeguards that would otherwise apply to federal lands and minerals.

Section 8(b) of S. 1481 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, either the subsurface estate of the same lands or an alternate, equal acreage selection of subsurface lands withdrawn under ANCSA, depending on Doyon, Limited's preference. Should Doyon, Limited choose to acquire the subsurface estate beneath Kian Tr'ee Corporation's conveyance, this provision would result in the privatization of a remote parcel of land within the Arctic National Wildlife Refuge, that is included in the agency's most recent wilderness recommendation. This land conveyance could result in natural resource development in an otherwise unaltered wilderness landscape.

Both Section 8 (a) and (b) would endanger one of the nation's most iconic and cherished National Wildlife Refuges that is part of our nation's system of public lands. The provision is of significant environmental concern and should not be advanced.

Section 10 - Unrecognized Southeast Alaska Native Communities Recognition and Compensation
Section 10 of S. 1481 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. Once transferred out of federal ownership these lands very likely would be clearcut logged for short-term gain. This section is of significant environmental concern.

Section 11 – Alaska Native Veterans Land Allotment Equity
Section 11 of S. 1481 reopens the 1906 Alaska Native Allotment Act for the third time, after Congress considered the matter final in 2000, and allows eligible Alaska Native Vietnam war vets to select up to 160-acre allotments from a variety of federal lands across Alaska, or from Alaska Native corporation land or state land if the current owner agrees to the conveyance. While we have in the past and continue to support eligible Alaska Native veterans' in acquiring allotments, as have historically been offered, we are concerned that this provision contains few restrictions regarding the areas from which selections may occur, and may result in important conservation system units and ecological areas being traded out of public ownership and ultimately fragmented. For example, this provision would allow lands to be selected from within national wildlife refuges, national forests, and Bureau of Land Management lands, including Wilderness and inventoried Roadless areas. Selections would be restricted from units of the National Park System, National Preserves, or National Monuments. If an Alaska Native corporation agrees to give up lands for a selected native allotment, that corporation may select

replacement lands of similar size. Finally, the bill increases the ability of an heir to select an allotment if the eligible individual has passed away.

Section 11 of S. 1481 is of significant environmental concern, as it has the potential to produce thousands of inholdings in conservation units, with few limitations that protect environmentally, culturally or historically important areas that are currently in the public trust. Additionally, the potential for regional corporations to make new selections will likely expose current public lands to extractive resource development.

Section 13. Chugach Alaska Corporation Land Exchange Pool Study
Section 13 of S. 1481 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, to make recommendations for a land exchange and identify 500,000 acres or more of economically viable federal agency land within or outside of Alaska for an exchange. 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

Conclusion:
Many of the provisions of this bill are of significant environmental concern. The bill would 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, 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 precedents. Many 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, FLPMA and the Refuge Improvement Act, among others.

TWS recommends that the subcommittee reject this bill in its entirety.

H.R. 995, the 21st Century Respect Act

The Wilderness Society urges swift passage of H.R. 995, a common-sense bill that would provide for long overdue changes to make language about race in the federal code more appropriate and respectful.

Thank you for considering The Wilderness Society's views on the bills being heard by the subcommittee.

Sincerely,

Drew McConnville
Senior Managing Director for Government Relations
The Wilderness Society

February 15, 2018

Lisa Murkowski, Chairman
Senate Energy and Natural Resources
Committee
United States Senate
Washington, D.C. 20510

Maria Cantwell, Ranking Member
Senate Energy and Natural Resources
Committee
United States Senate
Washington, D.C. 20510

Dear Chairwoman Murkowski and Ranking Member Cantwell,

Winter Wildlands Alliance and its members would like to express support for the Blackfoot Clearwater Stewardship Act of 2017. Winter Wildlands Alliance is a national advocacy organization representing the interests of cross-country and backcountry skiers, snowboarders, snowshoers and quiet winter enthusiasts. Based in Boise, ID, Winter Wildlands Alliance has 39 grassroots groups in 16 states with a collective membership of more than 50,000. Our organization has three Montana-based grassroots groups - Montana Wilderness Association, Montana Backcountry Alliance, and Beartooth Recreational Trails Association - and a Montana-based staff member.

The Blackfoot Clearwater Stewardship Act is a balanced proposal for public lands management that protects important wildlands, supports a diversity of recreation opportunities, and supports the local timber industry through forest restoration projects. This legislation was developed by local, grassroots, stakeholders and has gained national support because it is a well thought out and inclusive proposal that protects wildlands and promotes both the outdoor recreation and timber economies.

Winter Wildlands Alliance champions public land management solutions that balance protections for human-powered winter recreation opportunities and winter wildlands with opportunities for other forms of winter recreation. This legislation does just that. It protects non-motorized winter recreation opportunities and winter wildlands by adding 80,000 acres to the Bob Marshall, Scapegoat, and Mission Mountains Wilderness areas and it improves motorized winter recreation opportunities by establishing the Otatsy Recreation Management Area, opening 2,000 acres of Forest Service land for motorized winter recreation.

In our increasingly polarized world it's refreshing to see a diverse group of local stakeholders collaboratively develop a public land management solution that works for their community and benefits a broad diversity of interests. We hope that your committee, and eventually Congress, will do justice to the Blackfoot Clearwater Stewardship Act and vote to pass this legislation.

Sincerely,

Hilary Eisen
Policy Director

PO Box 631 Bozeman, Montana 59771
(208) 629-1986 | heisen@winterwildlands.org
www.winterwildlands.org

From: Marilyn Wolff
To: fortherecord (Energy)
Subject: SB 2206 by Senator Steve Daines, MT Hearing scheduled 2/7/2018
Date: Wednesday, January 31, 2018 6:32:11 PM
Attachments: Bitterroot Star Opinion Letter Jan 2018.docx

Senator Lisa Murkowski, Chair, Energy and Natural Resource Committee
Senator Maria Cantwell, Ranking Member
and all Committee Members

Dear Senators:

I am writing to you in hopes of having you seriously question Senator Daines bill 2206. This bill would be the biggest land grab of special public land, Wilderness Study Areas (WSAs) in Montana's history and without one public meeting for Montanans to weigh in. Senator Daines innocently named his bill, Protect Public Use of Public Lands Act, but this bill is primarily for commercial exploitation of these lands. To give you all the back story, I am attaching a letter I wrote to a local weekly newspaper and I live in Ravalli County where two of the WSAs are impacted, Blue Joint and Sapphires WSAs. I'm also attaching another article regarding the issue. The Bozeman Chronicle, Daines hometown paper, did a poll and 69% of respondents were against this proposal. I am asking you to stop this legislation unless there are proper public meetings and comment periods available to Montana citizens. Thank you.

Sincerely,
Marilyn Wolff
300 Aspen Trail, Stevensville MT 59870
406-529-3018

https://www.missoulacurrent.com/opinion/2018/01/ravalli-county-commissioners/

January 12, 2018

Editor

Bitterroot Star

115W 3rd St #108

Stevensville MT 59870

RE: Opinion Letter on Daines' Senate Bill 2206 – A Case for Montana Wilderness Study Areas (WSAs)

Dear Editor:

January 10, 2018 brought out the special interest opinion pieces in your paper claiming the release of five WSAs is good for Montanans to "enjoy these lands". Who are these special interests? They were the Montana Mining Association (let's have more taxpayer funded mining reclamations when the mines go bust), the Montana Snowmobile Association (they can't get into enough protected areas where wildlife can have some winter peace and quiet), the Montana Farm Bureau Federation (more grazing land at a bargain, my guess), Ravalli County Off Road User Association, and several partisan county commissions including Ravalli's. There was absolutely NO PUBLIC comment periods or meetings to discuss this proposed bill. Not surprising since Mr. Daines dodges public meetings with his constituents; he prefers teleconferences with pre-selected questions. So Steve moves his bill ahead with special interests support to usurp almost 500,000 acres of specially protected public land. Daines' bill isn't really about public recreation which already is allowed but degradation of these pristine areas that Stevensville-born Senator Lee Metcalf identified in the 1970s.

A recent poll by the Bozeman Chronicle asked for opinions on Daines' bill. Respondents were 69% opposed to it. Steve, born in Van Nuys, California, likes to boast he's a fifth generation Montanan but I question his Montana values. In my opinion Senate Bill 2206, falsely named The Protect Public Use of Public Lands Act is stealth theft of high value public lands. Here's why we should question this bill:

1. The Bitterroot National Forest Plan May 2016 "designates 2,246 miles of road and trails open to motorized use, nearly the driving distance between Hamilton and New York City. The plan also permits motorized over-snow use (snowmobiles) on 543,840 acres, one third of the National Forest." The forest website posts this information. There is plenty of snowmobiling and ATV use without adding two WSAs.
2. Introduce biking and ATVs in lands managed for wilderness values you can expect noxious weed introduction on their knobby tires, trail erosion, unauthorized trails, wildlife negatively affected, and trail conflicts between users. Hikers, horses, bikes and ATVs are a challenging mix. Add in cows if grazing is allowed.
3. Let me list the WSAs that will lose their designation and some of their values:
   West Pioneers: 151,000 acres. Southwest Montana's last remaining roadless area. High peaks with tributaries running both to the Wise River and Big Hole River, both outstanding fisheries. Elk habitat is excellent.

Blue Joint: 32,500 acres with beautiful forests and meadows, whitebark pine at high elevations and wildlife is abundant.
Big Snowies: 91,000 acres. Lewistown is said to have the best water in the state from the Snowies and their resulting springs. Big Springs is said to have the purest water in the nation. Wilderness features are excellent. Lewistown takes great pride in this area.
Sapphires: 94,000 acres offer lush wildlands, 20 some lakes and the creeks run to the Bitterroot River and Rock Creek, again excellent fisheries.
Middle Fork Judith: 81,000 acres near Great Falls in the Little Belt Mountains. River canyons offer nearly 30 miles of streams full of native cutthroat and rainbow trout. Again there is great wildlife habitat.

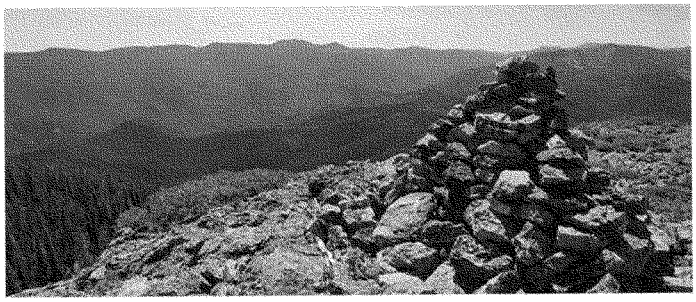
There is a strong, fierce pride held by Montanans for our beautiful state which brought in 3.29 billion dollars from 12.2 million nonresident visitors in 2017, numbers courtesy of itrr.umt.edu. Tourists are coming to Big Sky Country for a reason and WSAs exemplify the values we want to protect. Over and over you hear "keep public lands in public hands". WSAs are truly special and a decision on their status should have been made by Congress long ago but partisan politics locked them into a limbo. These five WSAs should continue **as is** until there is extensive public input. Daines' bill, if passed, will be Montana's greatest historical loss of exceptional public land. Please call his office and let him know your opinion, 202-224-2651. Vote in 2018 and 2020 because we need local, state, and congressional candidates who will protect and value our public lands that bring in big tourism dollars and candidates that respect public opinion.

M. Wolff

Stevensville MT

Ravalli County residents say commissioners violated open meeting law with anti-wilderness decision

BY DOUG LORAIN JANUARY 30, 2018



Ravalli County residents say there is significant public interest in the Sapphire-Blue Joint Wilderness Study Area and its protection. (Zack Porter/Montana Wilderness Association)

I and six other residents of Ravalli County submitted a letter Monday (Jan. 29) to the Ravalli County Commission informing the commission that it may not have adhered to Montana's open meetings laws when it supported federal legislation removing existing protections of Montana's wilderness study areas.

Sen. Steve Daines referenced this support when he introduced the "Protect Public Use of Public Lands Act" (S. 2206). This bill would remove protection of the Blue Joint and Sapphire Wilderness Study Areas, as well as three other wilderness study areas in the state. The Blue Joint and Sapphire WSAs lie within Ravalli County.

At a September 15 meeting held in the middle of the day with only two members of the public present, the Ravalli County Commission voted to support legislation removing wilderness study area protections for the Blue Joint and Sapphire wilderness study areas. After this meeting, the commission sent a letter to Senator Steve Daines advocating for the removal of wilderness study area status for these areas.

We contend the Ravalli County Commission did not provide the public with sufficient opportunity to comment, as required by the Montana State Constitution and state open meeting laws.

We are therefore asking the commission to rescind its letter to Sen. Daines supporting wilderness study area legislation. We are also asking the commission to schedule a well-publicized public hearing at a convenient time and location that will enable the public to comment on the management of Ravalli County's wilderness study areas.

1. 2206 would remove protection from five landscapes in Montana currently managed as wilderness study areas – Big Snowies, Middle Fork Judith, West Pioneers, Blue Joint, and Sapphire. In total, these areas amount to nearly 500,000 acres. This bill will receive a hearing on February 7 in the Senate Energy and Natural Resources Committee

We are taking this action because we believe that residents of Ravalli County should have a reasonable say about how the Blue Joint and Sapphire wilderness study areas are managed and that all Montanans should have the opportunity to weigh in on how nearly a half-million acres of our wildest, most pristine public lands are managed.

We too believe it's time to decide how these areas should be managed for the long haul. Personally, I am one of what I presume to be only a small number of Montanans who has actually hiked, backpacked, and explored in all of the WSAs directly impacted by this legislation (as well as many others). In my view, some clearly deserve full protection as wilderness, while others could be managed in other ways that allowed for example, mountain bike and snowmobile use.

The point is that not all of these lands are the same and management decisions regarding Montana's public lands must be an open process that involves a diverse group of stakeholders – an approach that has been successfully accomplished elsewhere in the state (such as on the Rocky Mountain Front and the Blackfoot-Clearwater area).

A top-down, one-size-fits-all bill that imposes one side's solution but leaves everyday Montanans out of the equation, such as Sen. Daines' bill, is an affront to those who use and cherish these lands.

Doug Lorain, Hamilton

Here is the group's full letter to the Ravalli County commissioners:

January 29, 2018

The Honorable Greg Chilcott

The Honorable Ray Hawk

The Honorable Chris Hoffman

The Honorable Jeff Burrows

The Honorable Doug Schallenberger

Ravalli County Commission

215 S. Fourth St., Suite A

Hamilton, MT 59840

Dear Commissioners:

We write to call your attention to an important issue related to Montana's public lands and to request that you take immediate action regarding your position on Ravalli County's wilderness study areas.

At its September 15 meeting, held at 11 AM on a weekday with only two members of the public

in attendance, the Ravalli County Commission voted to support legislation removing wilderness study area protections for the Blue Joint and Sapphire wilderness study areas. After this meeting, the commission sent a letter to Senator Steve Daines advocating for the removal of wilderness study area status for these areas.

By making such a decision at a poorly publicized and poorly attended daytime meeting, the Ravalli County Commission did not provide the public with sufficient opportunity to comment, as required by the Montana State Constitution and state open meeting laws.

We are also concerned that the Commissioner's decision to endorse S. 2206 was made without any consultation of the Ravalli County Collaborative, a group that the Commissioners created to advise the County on natural resource management decisions by providing a forum for thoughtful analysis and careful deliberation. In addition, another long-standing collaborative group with a proven track record of finding common ground for management decisions, the Bitterroot Restoration Committee, was also not informed or consulted.

We therefore request that the Ravalli County Commission immediately rescind its September 15 letter and schedule a well-publicized hearing during a convenient hour to consider public views on the county's wilderness study areas.

Montana's Open Meeting and Public Participation Laws Require that the Ravalli County Commission Provide Sufficient Opportunity for Public Input

Montana's open meeting and public participation laws are based on two fundamental rights contained in the Montana Constitution: right to know and right of public participation.

Montana's State Constitution provides that, The public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law.

State law requires the Ravalli County Commission to develop procedures for "permitting and encouraging the public to participate" in decisions that are "of significant interest to the public."

Further, procedures for assisting public participation must include a method of affording interested persons reasonable opportunity to submit data, views, or arguments, orally or in written form, prior to making a final decision that is of significant interest to the public.

The amount of notice required "should increase with the relative significance of the decision to be made," with the goal of encouraging and assisting citizen participation.

The Management of Ravalli County's Wilderness Study Areas is the Subject of Significant Public Interest

Management of the Blue Joint and Sapphire wilderness study areas is of intense interest to the public. Dating back to the 1970s, these areas have been proposed for wilderness and in 1987 the Forest Service recommended a portion of the Blue Joint area for wilderness.

In 1988, legislation designating portions of the Sapphire and Blue Joint wilderness study areas Wilderness passed both houses of Congress. Since 1983, Montana's Congressional delegation has repeatedly sought to address the seven remaining WSAs created by the Montana Wilderness Study Act. Legislation was introduced in 1984, 1986, 1987, 1988, 1990, 1992, 1994, 1995, 2009, 2011, and 2013 that proposed balanced legislative solutions for Montana's wilderness study areas.

Today, there is still intense public interest in the management of the Blue Joint and Sapphire wilderness study areas, and the areas are still popular among hunters, hikers, and others.6

Despite this intense public interest in Ravalli County's wilderness study areas, the Ravalli County Commission took action advocating for the elimination of these areas at a poorly publicized and poorly attended meeting. Taking such an important position on the county's wilderness study areas surely deserves more attention than a morning meeting with only two members of the public present.

As described above, Montana state law requires county commissions to provide sufficient opportunities for public input. It appears that the commission failed to do so here.

Request for Remedy

Based on the above, we respectfully request that the Ravalli County Commission, within ten days of the receipt of this letter, undertake the following actions:

- Rescind the September 15, 2017 letter from the commission regarding legislation advocating for removal of wilderness study area designation for the Blue Joint and Sapphire Wilderness Study Area;
- Schedule a well-publicized public hearing at a convenient time and location to permit the public to comment on the management of Ravalli County's wilderness study areas.

Thank you for your consideration.

Sincerely,

Doug Lorain

Taylor Orr

Kathy Hundley

Joe Hundley

Dale Burk

Pat Tucker

Bruce Weide

From: Marilyn Wolff
To: fortherecord (Energy)
Subject: Comment on SB 507, Blackfoot Clearwater Stewartship Act and SB 2206, Protect Public Use of Public Lands
Date: Thursday, February 8, 2018 1:27:06 PM

Dear Members of the Energy and Natural Resource Committee:

I am writing today to support Senator Tester's bill 507. The Bill is the result of a collaborative process of all land users over ten years with public comment and I support it fully. The Senator did a great job.

Senator Daines held no public hearings or comment periods and went silently to several partisan County Commissions for support letters of his bill 2206. These commissions also did not hold public meetings. There is no way these commissioners represent all of their constituents.

I live in Ravalli County, MT where two WSAs are under the gun, the Sapphires and Blue Joint WSAs. Yesterday, 2/7/18, the county commissioners (five very conservative Republicans) finally held a public meeting after a lot of upset county residents requested one. I was one of the speakers at the meeting which had to be relocated due to the crowd size. I oppose Daines' bill and of the 300 people that attended the meeting only 19 spoke in favor. I was in the front row keeping tabs. 2206 should be tabled until the Senator does the right thing, first hold well announced public meetings in Montana and particularly in the areas involved with those WSAs being threatened and then of note is some of these areas haven't been studied in over 30 or more years but have been managed as wilderness. That seems like stale data. So yesterday Montanans in Hamilton MT demanded public input and science to determine releasing any of these wildlands.

Thank you,
Marilyn Wolff
300 Aspen Trail
Stevensville MT 59870
406-529-3018

Virus-free. www.avast.com

From: Marilyn Wolff
To: fortherecord (Energy)
Subject: S. 2206
Date: Thursday, February 22, 2018 12:13:27 PM

Senate Energy and Natural Resource Committee Members

Dear Senators:

Senator Steve Daines came back to Montana to promote S2206. He scheduled with less than 24 hour notice four meetings 2/21/18 in western Montana but cancelled the fourth in Superior MT where there are no WSAs. The other three were held in private businesses, not a public location, with a few of his motorized vehicle supporters who want five Montana WSAs released for timber harvest, mining, gas and oil exploration, and motorized travel. Daines claims these lands need timber cuts to stop wildfires even though not one of them had a fire in 2017.
Daines first meeting was in Philipsburg, MT in a brewery that turned waiting citizens away before 8 am because "Senator Daines was getting a private brewery tour." Daines then went to a local snowmobile shop where two citizens managed to get in but when they questioned the senator on when he's going to offer public meetings, Daines insulted them saying they were with green decoy groups and refused to hear them out.
Next Daines drove early to another brewery in Missoula. He left the brewery well before his scheduled meeting time and ignored constituents gathering and waiting in the frigid cold to talk with him about his bill. One lady approached his vehicle and shouted, "aren't you going to meet with us?" That is caught on a YouTube video.
A friend and I plus some 50 people were waiting in the cold at the next private location, Al's Cycling near Hamilton, MT. Without any notice of Daines being early at his meetings we found out he was already inside doing a tv interview. He left through the back door of the business, got in his waiting SUV, and drove off. None of us were able to talk with him. Daines says he is running an "open, dynamic process" and needs civil discourse but likens those who oppose his bill as far left. He refuses to meet face-to-face with his constituents. He claims tens of thousands of Montanans support his bill; that is not the case. Most Montanans oppose his bill. Daines needs to return to Montana for properly noticed meetings in public locations before this bill should be considered by your Committee. Daines refuses to support Senator Tester's bill which followed the right process and the light of day and has full support of diverse groups of Montanans. This shouldn't be about one acre of wilderness for one acre of land opened to damaging land uses when the WSAs have been protected as wilderness. This is how Daines sees it; his land values are upside down and so is his legislative process. He should start with the public at large and not round up divisive groups in a back room deal.
Please stop this terrible bill. Thank you.

Sincerely,
Marilyn Wolff
300 Aspen Trail, Stevensville MT 59870
406-529-3018

From: Charlene Woodcock
To: fortherecord (Energy)
Subject: NO to Senator Daines" outrageous S.2206
Date: Friday, February 9, 2018 7:19:47 PM

Dear Senate Energy Committee members:

Please reject S.2206 to open up wilderness study areas to oil and gas development, at a time when we know it is the mining, transport, and burning of fossil fuels that drive climate change.

Mr. Daines is betraying his constituents, for the sake of facilitating gas and oil industry profits. This beautiful small planet is being ravaged by the fossil fuel industry. It is unacceptable that they should be supported in their drive for ever more profits by a man elected to represent the people of Montana, who only lose when fossil fuel developments takes place—the ugly oil spill in the Yellowstone River, or toxic coal dust spread across the land, air, and water by the incessant coal trains, that also block free passage of traffic including emergency vehicles through towns large and small, for example.

Please consider the consequences to future generations of this extremely short-sighted bill.

Sincerely,

Charlene M. Woodcock
2355 Virginia Street
Berkeley CA 94709
37 West Main Street,
Bozeman, MT 59715

From: efd@3rivers.net
To: fortherecord (Energy)
Cc: Sen. Steve Daines (Daines)
Subject: Senate Bill 2206
Date: Friday, February 9, 2018 11:50:26 PM
Attachments: untitled-[2].html

Dear Senate Energy and Natural Resources Committee:

I am writing to strongly encourage you to table SB 2206. Senator Daines introduced this bill without soliciting any public input in Montana, and that is not how we do business here. Our public lands are extremely important to our state, both economically and as our recreation destinations. This legislation could potentially result in big changes to these wilderness study areas. Please table this bill and instruct Senator Daines to go home and get input from his constituents. Montana has a strong history of working collaboratively on public land issues. This top-down legislation should not move forward.

Sincerely-

Dave Yerk
PO Box 746
Choteau, MT USA