AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 116–382

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 SIXTEENTH CONGRESS

SECOND SESSION

ON

H.R. 823/S. 241	**S. 4215**	**S. 4616**
S. 1695	**S. 4569**	**S. 4625**
S. 2804	**S. 4599**	**S. 4696**
S. 2875	**S. 4603**	**S. 4889**
S. 3492		

NOVEMBER 18, 2020

Printed for the use of the
Committee on Energy and Natural Resources

PENDING LEGISLATION

S. HRG. 116–382

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 SIXTEENTH CONGRESS

SECOND SESSION

ON

H.R. 823/S. 241	**S. 4215**	**S. 4616**
S. 1695	**S. 4569**	**S. 4625**
S. 2804	**S. 4599**	**S. 4696**
S. 2875	**S. 4603**	**S. 4889**
S. 3492		

NOVEMBER 18, 2020

Printed for the use of the
Committee on Energy and Natural Resources

Available via the World Wide Web: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

42–592 WASHINGTON : 2022

COMMITTEE ON ENERGY AND NATURAL RESOURCES

LISA MURKOWSKI, Alaska, *Chairman*

JOHN BARRASSO, Wyoming
JAMES E. RISCH, Idaho
MIKE LEE, Utah
STEVE DAINES, Montana
BILL CASSIDY, Louisiana
CORY GARDNER, Colorado
CINDY HYDE-SMITH, Mississippi
MARTHA MCSALLY, Arizona
LAMAR ALEXANDER, Tennessee
JOHN HOEVEN, North Dakota
JOE MANCHIN III, West Virginia
RON WYDEN, Oregon
MARIA CANTWELL, Washington
BERNARD SANDERS, Vermont
DEBBIE STABENOW, Michigan
MARTIN HEINRICH, New Mexico
MAZIE K. HIRONO, Hawaii
ANGUS S. KING, JR., Maine
CATHERINE CORTEZ MASTO, Nevada

SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING

MIKE LEE, *Chairman*

JOHN BARRASSO
JAMES E. RISCH
STEVE DAINES
BILL CASSIDY
CORY GARDNER
CINDY HYDE-SMITH
MARTHA MCSALLY
JOHN HOEVEN
RON WYDEN
MARIA CANTWELL
DEBBIE STABENOW
MARTIN HEINRICH
MAZIE K. HIRONO
ANGUS S. KING, JR.
CATHERINE CORTEZ MASTO

BRIAN HUGHES, *Staff Director*
LUCY MURFITT, *Chief Counsel*
NICK MATIELLA, *Senior Professional Staff Member*
ANNIE HOEFLER, *Senior Professional Staff Member*
RENAE BLACK, *Democratic Staff Director*
SAM E. FOWLER, *Democratic Chief Counsel*
DAVID BROOKS, *Democratic General Counsel*
BRYAN PETIT, *Democratic Senior Professional Staff Member*
DARLA RIPCHENSKY, *Chief Clerk*

CONTENTS

OPENING STATEMENTS

Page

Lee, Hon. Mike, Subcommittee Chairman and a U.S. Senator from Utah 1
Wyden, Hon. Ron, Subcommittee Ranking Member and a U.S. Senator from Oregon 4
Murkowski, Hon. Lisa, Chairman and a U.S. Senator from Alaska 6
Cortez Masto, Hon. Catherine, a U.S. Senator from Nevada 17
Heinrich, Hon. Martin, a U.S. Senator from New Mexico 18

WITNESSES

French, Chris, Deputy Chief, USDA Forest Service 19
Nedd, Michael, Deputy Director for Operations, Bureau of Land Management, U.S. Department of the Interior 51
Babbott, Hon. Art, Supervisor-District 1, Coconino County, Arizona, Board of Supervisors 83
Brown, Susan Jane M., Wildlands Program Director and Staff Attorney, Western Environmental Law Center 88

ALPHABETICAL LISTING AND APPENDIX MATERIAL SUBMITTED

Agenda 2
Ala Kahakai Trail Association, et al.:
Letter for the Record 182
Alaska Federation of Natives:
Letter for the Record 186
Resolution 19-42 188
Resolution 19-43 190
Resolution 19-45 192
Alaska Native Brotherhood Camp 1 Sitka, Alaska:
Letter for the Record 194
Alaska Native Village Corporation Association:
Letter for the Record 9
Alaska Natives Without Land:
Petition of Support and Signatories 195
Allen, Marian:
Comment for the Record 209
Alliance of Nurses for Healthy Environments, et al.:
Letter for the Record 210
American Exploration & Mining Association:
Letter for the Record 218
American Whitewater:
Letter for the Record regarding S. 2875 220
Letter for the Record regarding S. 2875 and S. 241/H.R. 823 222
Americas Gold & Silver Corporation, Pershing Gold Corporation, and Gold Acquisition Corp.:
Statement for the Record 224
Association of Public & Land-grant Universities:
Letter for the Record 7
Aurora Water:
Letter for the Record 152
Babbott, Hon. Art:
Opening Statement 83
Written Testimony 85

Page

Back Country Horsemen of America:
Letter for the Record 229
Barnes, Beret:
Letter for the Record 231
Beebe, David:
Letter for the Record 232
Bennet, Hon. Michael:
Statement for the Record 237
Bernstein, Mary-Claire:
Letter for the Record 241
Berry, Anissa:
Letter for the Record 242
BikeFlights.com:
Letter for the Record 96
Bishop, Gretchen H.:
Letter for the Record 243
Bonneville Shoreline Trail Committee:
Letter for the Record dated 3/10/20 97
Letter for the Record regarding S. 4215 244
Brakel, Judith:
Comment for the Record 246
Brown, Susan Jane M.:
Opening Statement 88
Written Testimony 91
Brown, Dr. Zach:
Letter for the Record 248
Cabuag, Jr., Jacob KM:
Letter for the Record 249
Cache Trails Alliance:
Letter for the Record 98
Central Council of Tlingit and Haida Indian Tribes of Alaska:
Letter for the Record 250
Chichagof Conservation Council:
Letter for the Record 251
City and Borough of Wrangell, Alaska:
Letter for the Record 253
City of Craig, Alaska:
Letter for the Record 255
City of Tenakee Springs, Alaska:
Letter for the Record 257
Clayton, Lee E.:
Letter for the Record 259
(The) Coalition to Protect America's National Parks:
Statement for the Record 260
Coeur Mining, Inc.:
Statement for the Record 265
Colorado Department of Natural Resources:
Statement for the Record 267
Colorado Springs Utilities:
Letter for the Record 281
Colorado Wool Growers Association:
Letter for the Record 162
(The) Confederated Tribes of the Colville Reservation:
Statement for the Record 288
Contender Bicycles Inc.:
Letter for the Record 100
Cortez Masto, Hon. Catherine:
Opening Statement 17
Crandall, A.J.:
Comment for the Record 292
Crapella, Jai:
Letter for the Record 293
Culp, Wanda J.:
Letter for the Record 294
Davis County, Utah:
Letter for the Record 101

Page

Doyon, Limited:
Statement for the Record 10
Draper City, Utah:
Letter for the Record 102
Dunleavy, Hon. Michael J.:
Letter for the Record 12
Earthjustice, et al.:
Letter for the Record 297
Edgmon, Hon. Bryce:
Letter for the Record 298
Elko Mining Group LLC:
Statement for the Record 299
Farnell, Richard M.:
Letter for the Record 301
French, Chris:
Opening Statement 19
Written Testimony 22
Responses to Questions for the Record 171
Gardner, Hon. Cory:
Statement for the Record 302
Giessel, Hon. Cathy:
Letter for the Record 14
Harold, Stephanie:
Letter for the Record 303
Heacox, Melanie:
Letter for the Record 305
Heinrich, Hon. Martin:
Opening Statement 18
Hemenway, Deborah:
Letter for the Record 306
Hemenway, Matthew:
Letter for the Record 307
Hemenway, Steven:
Letter for the Record 308
Herbert, Hon. Gary R.:
Letter for the Record 103
Herriman Trails Committee:
Letter for the Record 104
Howell, Wayne:
Letter for the Record 309
Intermountain Forest Association:
Letter for the Record 163
International Mountain Bicycling Association:
Letter for the Record addressed to Rep. John Curtis regarding the Bonneville Shoreline Trail 105
Letter for the Record regarding S. 4215 107
Letter for the Record regarding S. 241 311
Jenson USA:
Letter for the Record 111
(The) John Muir Project:
Letter for the Record 314
Kane, Dr. Emily:
Statement for the Record 322
Kennedy, Terry:
Letter for the Record 323
Ketchikan Indian Community:
Letter for the Record 324
Knight, Kyle:
Statement for the Record 325
Knight, Rebecca:
Letter and Comments with supporting attachments for the Record 327
Letter and Supplemental Comments with supporting attachments for the Record 347
Koehler, Bart:
Letter for the Record 357
Kona Bicycle Company:
Letter for the Record 112

Page

KS Wild:
Letter for the Record 360
Küat Racks:
Letter for the Record 113
Lee, Hon. Mike:
Opening Statement 1
Levy, Abe:
Comment for the Record 361
Lewis, Stephen:
Letter for the Record 362
Link-New, Virgene:
Letter for the Record 365
Loberti, Joe:
Letter for the Record 366
Mackovjak, Ann:
Letter for the Record 367
Mackovjak, James:
Letter for the Record 368
Mapes, Craig:
Letter for the Record 369
McBeen, Joan:
Letter for the Record 370
McBeen, Samuel:
Letter for the Record 371
McCarthy, Kathrin W.:
Letter for the Record 372
Mecham, Aaron:
Letter for the Record 114
Miller, Jr., Billy Joe:
Letter for the Record 373
Mineral County (Colorado) Board of County Commissioners:
Resolution No. 2019-11 for the Record 165
Monson, Dr. Michael E. and Kris:
Letter for the Record 115
Moody, Megan:
Letter for the Record 374
Moore, Frank L.:
Letter for the Record 377
Moore, Kathleen Dean:
Letter for the Record 378
Mountain Trails Foundation:
Letter for the Record 118
Murkowski, Hon. Lisa:
Opening Statement 6
National Congress of American Indians:
Letter for the Record 379
National Park Service, U.S. Department of the Interior:
Statement for the Record 81
Nedd, Michael:
Opening Statement 51
Written Testimony 53
Responses to Questions for the Record 174
Niner Bikes:
Letter for the Record 119
Orbea USA:
Letter for the Record 120
Orr, Christopher Ryan:
Statement for the Record 381
Outdoor Alliance:
Letter for the Record dated 7/15/20 regarding the Bonneville Shoreline Trail Advancement Act 121
Letter for the Record dated 11/17/20 regarding various bills 382
Owens, Shelley:
Letter for the Record 391
Parker, Steven:
Letter for the Record 392

Page

Paul, Ben:
Letter for the Record 393
PeopleForBikes:
Letter for the Record 125
Pershing County (NV) Board of County Commissioners:
Letter for the Record 398
Petersburg Borough (Alaska) Assembly:
Letter for the Record 400
(The) Pew Charitable Trusts:
Statement for the Record 402
Pivot Cycles:
Letter for the Record 127
Richards, Elizabeth:
Letter for the Record 407
Rinehart, Richard "Tashee":
Letter for the Record 408
Rivera, Kim and Tracy:
Letter for the Record 419
Romney, Hon. Mitt:
Statement for the Record 128
Salt Lake Valley Trails Society:
Letter for the Record 129
Sandy City, Utah:
Letter for the Record 131
Save Our Canyons:
Letter for the Record 421
Save Our Canyons, et al.:
Letter for the Record 468
Schlichting, Sally:
Letter for the Record 470
Sealaska Corporation:
Statement for the Record 471
Sebastian, Joe:
Statement for the Record 580
SG Interests VII, Ltd.:
Statement for the Record 167
Sisk, John:
Statement for the Record 581
Skullcandy:
Letter for the Record 132
Smith River Alliance:
Letter for the Record 584
Southeast Alaska Conservation Council:
Letter for the Record 585
Southeast Alaska Landless Native Communities:
Statement for the Record 586
SRAM LLC:
Letter for the Record 133
Stansbury, Colleen and Bruce Smith:
Letter for the Record 614
Stewart, Sarah:
Statement for the Record 615
Stokes, Richard:
Letter for the Record 616
Streveler, Greg:
Letter for the Record 617
Sustainable Trails Coalition:
Letter for the Record 618
Svancara, Theresa:
Letter for the Record 624
Swope, Rod and Gaile:
Letter for the Record 625
Tavoliero, Cecilia:
Statement for the Record 626
Taylor, Mike:
Letter for the Record 627

Page

Territorial Sportsmen, Inc.:
Letter for the Record 628
Trails Foundation Northern Utah:
Letter for the Record 134
Trails Utah:
Letter for the Record. 136
Trout Unlimited:
Letter for the Record dated 11/16/20 regarding S. 4889 630
Letter for the Record dated 11/18/20 regarding various bills 632
(The) Trust for Public Land:
Letter for the Record 138
University of Alaska Board of Regents:
Letter for the Record 15
Utah High School Cycling League:
Letter for the Record 139
Wells, Ralph:
Letter for the Record 638
Western Landowners Alliance:
Statement for the Record 639
Western Spirit Cycling Adventures:
Letter for the Record 140
Wheeler, Marc:
Letter for the Record 656
(The) Wilderness Society:
Letter for the Record dated 11/18/20 regarding various bills 658
Letter for the Record dated 12/3/20 regarding S. 2875 665
Wilson, Jeff and Karen:
Letter for the Record 666
Wisenbaugh, Vicki:
Letter for the Record 667
Wrangell Cooperative Association:
Letter for the Record 668
Wyatt, Cindy:
Statement for the Record 670
Wyden, Hon. Ron:
Opening Statement 4

The text for each of the bills which were addressed in this hearing can be found on the committees website at: https://www.energy.senate.gov/hearings/2020/11/subcommittee-on-public-lands-forests-and-mining-legislative-hearing

PENDING LEGISLATION

WEDNESDAY, NOVEMBER 18, 2020

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 2:30 p.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]. Good afternoon, everyone. The Subcommittee will come to order.

Today the Senate Subcommittee on Public Lands, Forests, and Mining will hold a hearing on various pieces of pending legislation. The purpose of the hearing is to receive testimony from the Forest Service and from the Department of the Interior on a total of 13 bills. These bills cover a pretty wide range of issues from considerations of land use and rural economic development to protecting our forests and rural communities from destructive and deadly wildfires.

The complete agenda will be included in the record.

[The complete agenda for today's meeting follows:]

UNITED STATES SENATE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Subcommittee on Public Lands, Forests, and Mining

Wednesday, November 18, 2020

AGENDA

- H.R. 823/S. 241, Colorado Outdoor Recreation and Economy Act (Neguse/Bennet);
- S. 1695, Human-Powered Travel in Wilderness Areas Act (Lee);
- S. 2804, Pershing County Economic Development and Conservation Act (Cortez Masto);
- S. 2875, Smith River National Recreation Area Expansion Act (Merkley);
- S. 3492, Elko National Cemetery Act (Cortez Masto);
- S. 4215, Bonneville Shoreline Trail Advancement Act (Romney);
- S. 4569, Sunset Crater Volcano National Monument Boundary Adjustment Act (McSally);
- S. 4599, Pecos Watershed Protection Act (Heinrich);
- S. 4603, Forest Health and Biomass Energy Act (McSally);
- S. 4616, Gilt Edge Mine Conveyance Act (Thune);
- S. 4625, National Prescribed Fire Act of 2000 (Wyden);
- S. 4696, University of Alaska Fiscal Foundation Act (Murkowski); and
- S. 4889, Alaska Native Claims Settlement Act Fulfillment Act of 2020.

Senator LEE. I was excited to see provisions of the University of Alaska Fiscal Foundation Act addressing promises made to the University multiple times, including in the Enabling Act for the State of Alaska. Agreements struck in a state's Enabling Act are especially and unusually important. They need to be honored. I would say that these are somewhat sacred commitments that are made. When a territory enters into the Union as a state, it does so with specific considerations, carefully negotiated and devised. I am sure the State of Alaska and the university are very excited to see this promise fulfilled.

The State of Utah has its own Enabling Act which promises that land shall be sold by the United States subsequent to the admission of said state into the Union. Similar language can be found in Enabling Acts for Missouri and South Dakota, and many other states ended up being honored over time. Almost all of the federally-owned land in those states was transferred to the state or sold decades ago, but Congress has not honored that promise to sell federal land in Utah. But it should, and this is not something that we should disregard. It does not mean every scrap of federal land, but certainly those pieces of federal land, at least those that don't amount to either national parks or declared wilderness or something of that sort. There is no reason why the default should be that two-thirds of the land inside of a sovereign state's boundaries ought to be held in perpetuity by the Federal Government and fighting back to make sure Congress keeps that promise and to mitigate the damage the Federal Government is inflicting on rural communities in the meantime. That damage is not limited to the economic harm. It also includes significant environmental harm, as resulted from the fact that we simply got too much land under federal ownership.

Now I want to take a minute to talk about the two wildfire enforced management bills that we have on the agenda. We have Senator Wyden's National Prescribed Fire Act of 2020. It proposes to expand the use of prescribed fire across federal, state, tribal, local and private lands. The other bill is Senator McSally's Forest Health and Biomass Energy Act. This bill proposes federal assistance to cover the cost of hauling low value biomass out of forest restoration projects for energy production. We had an active and very deadly fire season this year, so it is especially critical that we expand our efforts to effectively and actively manage our forests using all the tools in our tool box and to expand that tool box whenever possible. I would note that although prescribed fire is an important component of forest management, it is not a substitute for mechanical thinning that often must occur first. Management can bring about an effective means of prevention, and prevention is worth a whole lot of cure.

I also want to highlight two bills on the agenda that are important to the people of my home State of Utah: S. 4215, the Bonneville Shoreline Trail Advancement Act; and S. 1695, the Human-Powered Travel in Wilderness Areas Act. Both bills deal with the issue of trail use in federal wilderness areas. An estimated 40 million Americans engage in mountain biking every year. It is the second most popular trail activity in the United States, and Utah's diverse terrain and scenery makes it a world-class biking destination.

Although mountain biking is allowed on most public lands in Utah and across the nation, it is restricted inside federally-designated wilderness and federally-managed wilderness study areas. The Wilderness Act of 1964 prohibits motorized or mechanized transport in wilderness. The Forest Service's first regulations for wilderness were issued in 1966 and they banned only those devices powered by a "non-living power source," thus allowing for human-powered transport, like bicycles. It was not until the 1970s that the Forest Service changed its regulations to prohibit bikes in wilderness. The Department of the Interior has had a similar story.

My bill, S. 1695, would address this issue by amending the Wilderness Act to ensure that the rules restricting mechanical transport do not include forms of human-powered, non-motorized travel. Additionally, the bill would grant federal land managers at the local level the authority to determine whether, where and when to allow non-motorized travel over particular existing routes. The Bonneville Shoreline Trail Advancement Act, S. 4215, on which I was an original co-sponsor, would advance a locally-driven initiative to complete the Bonneville Shoreline Trail. The bill would adjust the boundary of wilderness to exclude segments of the trail in Salt Lake County where 75 percent of the population resides. Utahans are asking Congress to act because they cherish the trails and want them open to more recreation areas including mountain biking. As our nation continues to fight the spread of COVID–19 and support our economic recovery, Congress must ensure that we continue to promote families and friends safely participating in activities that allow for social distancing. Outdoor recreational activities like biking are some examples of that activity, and I hope that we can advance these two bills in order to support it.

Another component of our recovery is to ensure the United States does not rely on supply chains, particularly critical minerals, from foreign adversaries. We should be looking to streamline regulations that promote responsible energy development on public lands and to unlock domestic mineral resources wherever possible. I would say to my colleagues that it would be a grievous mistake to undo what we and what the current Administration have accomplished over the last 4 years, especially during a global pandemic. Energy jobs in the West contribute significantly to America's energy independence and now, more than ever, American families are depending on a return to the soaring economy that preceded COVID–19. I look forward to hearing testimony from today's witnesses on the legislation pending before the Subcommittee.

I will now turn the time over to Ranking Member Wyden for his opening statement.

Senator Wyden.

STATEMENT OF HON. RON WYDEN,
U.S. SENATOR FROM OREGON

Senator WYDEN. Thank you, Chairman Lee.

Thank you for agreeing to hold this hearing. We have 14 bills that our colleagues feel very strongly about, and I just want to make one comment before I go to my prepared remarks with respect to the Chairman's assessment about the role of prescribed fire. The reason that I am—and the Ranking Member, Senator

Manchin, and Senator Cantwell, have come together on the prescribed fire bill that I have introduced, S. 4625, is that we think prescribed fire is a horribly underfunded tool in the forest management tool box. The way, I think, I would describe it is that in the forest management tool box we want to look at a variety of different approaches. I think responsible mechanical treatment certainly should be one of those tools in the tool box. The reason we introduced our legislation is because we do think that it does not serve our communities well to have prescribed fires so woefully underfunded, and that has really been our position.

As I mentioned, I do want to thank my colleagues, our Ranking Member, Senator Manchin, and Senator Cantwell, for working with me to put together a bill that elevates the importance of prescribed fire as one of the tools in this forest management tool box. The increasing severity of fires that we have seen in the West make it clear the reality that we are dealing with, that our forests are burning. They have been burning for a millennia and land managers have been lucky over the last 100 years that they have been able to suppress them quickly. Due to changing climate, suppressing every fire is nearly an insurmountable challenge, so much so that the question now is not if an acre will burn, but when. The wildland firefighters I have spoken with would rather have that acre burn in the cooler, wetter months with firefighters at the ready rather than scrambling to fight a wildfire that ignites on the hottest, driest, windiest days of the year in the backyard of our rural neighbors. Controlled burns are an effective, science-based way to reduce hazardous fuel loading on forested land and ultimately reduce fire risk to homes and businesses.

I would also point out that controlled burns are cheaper than mechanical treatments. They are essential at restoring the long-term health and resiliency of forests and cost much less, roughly one-fifth of the cost of a wildfire. In 2018 the Forest Service determined that 234 million acres of forest are at high risk of dangerous wildfire, yet the federal agencies treated only three million acres annually during the last decade which means that federal land managers will never get ahead of the problem unless there is a substantial increase in resources. S. 4625 takes a fundamentally different approach to forest management with new tools, incentives, and workforce to do large-scale, proactive, hazardous fuels reduction. The bill establishes two funds dedicated specifically for controlled burns: one at the Forest Service and one at the Department of the Interior, designed to increase the pace and scale of controlled burns. The bill creates a new collaborative controlled burn program so people on the ground have a say in when and where they take place and establishes several workforce development programs to increase the number of prescribed fire practitioners, people who really understand what the science is all about. Finally, the bill works within the Clean Air Act to get states more flexibility for extending their burn windows to increase the number of large-scale, controlled burns that can happen during the winter.

Another bill on the agenda is S. 2875, the Smith River National Recreation Expansion Act, introduced by Senator Merkley and myself. The bill has strong bipartisan support, local support and would expand the existing Smith River NRA by roughly 55,000

acres and would designate roughly 80 miles of wild and scenic river. I hope that we will be able to consider both of these bills as soon as possible when we have our next markup.

Thank you again, Mr. Chairman, and I appreciate the courtesy.

Senator LEE. Thank you very much, Senator Wyden.

It is now time for us to hear from our witnesses. We have two witnesses joining us in person today.

I am so sorry. We are going to have member statements right now. Sorry about that. I went off script here.

Chairman Murkowski.

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

The CHAIRMAN. Thank you, Chairman Lee. I appreciate that, and I will try to keep my comments brief because we do have a good number of bills on the agenda this afternoon. Mr. French, Mr. Nedd, thank you for being here to provide testimony. A couple of the bills, as you know, are pretty important to me and the State of Alaska. I want to acknowledge Senator Sullivan's support and co-sponsorship of both of these bills as well as Congressman Young, who could partner on these issues.

The first bill on today's agenda relating to Alaska is S. 4696 which would help the University of Alaska receive its long, outstanding land endowment. It is a pretty long and complicated and a very frustrating history, but to sum it up, the largest state with more than 365 million acres of land has a land grant university with a land grant of only about 110,000 acres which is smaller than just about every other land grant university in every other state. By comparison, New Mexico has the largest land grant at 1.3 million acres, followed by Oklahoma at over 1 million acres. We have a significant need right now and, quite honestly, up to this point, our university is facing some difficult economic headwinds within our state. What I am hoping is that my colleagues can appreciate that this bill brings the State of Alaska and the Federal Government together to cooperatively execute a program to fulfill the university's land entitlement.

The lands in question will come from the pool that is already selected by the state for receipt under its statehood entitlement, and that will be counted against the state's entitlement. So there is no net loss of land to the Federal Government. The university would receive an additional 360,000 acres of land, equal to just .001 percent of all the land in the state, and these are lands that are already heading there now but will be dedicated to supporting higher education. The measure is supported by our Governor, the university, and many more in Alaska who want to see a thriving education system to support our young people. I have a letter that I am going to be submitting for the record from the Association of Public and Land-grant Universities for the record.

[Letter from the Association of Public & Land-grant Universities follows:]

ASSOCIATION OF PUBLIC & LAND-GRANT UNIVERSITIES

November 16, 2020

The Honorable Lisa Murkoswki
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

The Honorable Joe Manchin
Ranking Member
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Manchin:

As president of the Association of Public and Land-grant Universities (APLU), a membership association of 246 public research universities, land-grant institutions, state university systems, and affiliated organizations, I write in support of S.4696, the University of Alaska Fiscal Foundation Act.

Founded in 1887, APLU is North America's oldest higher education association with member institutions in all 50 U.S. states, the District of Columbia, four U.S. territories, as well as Canada, and Mexico. APLU's membership includes the 79 U.S. land-grant institutions, which includes the University of Alaska. These universities have their roots in the legislation signed by President Lincoln in 1862 that provided federal lands to support the financial needs of colleges of agriculture and mechanical arts.

Due to a series of events, the University of Alaska has yet to receive its fair share of land to support its teaching, research and public service missions. S.4696 seeks to remedy this 103-year-old inequity by establishing a voluntary program through which the University, the State of Alaska and the Department of Interior can identify and convey lands to make up the deficit. The nature of this federal and state partnership proposed in this bill is symbolic of the legislation that established the land-grant university system in 1862.

Thank you for your consideration of S.4696 as it advances through the committee process.

Sincerely,

Peter McPherson
President
Association of Public and Land-grant Universities

1307 New York Avenue, NW, Suite 400, Washington, DC 20005-4722 • 202.478.6040 • fax 202.478.6046 • www.aplu.org

The CHAIRMAN. The second bill on the agenda, S. 4889, addresses a number of outstanding issues related to ANCSA, the Alaska Native Claims Settlement Act of 1971. We include two provisions to ensure that Alaska Native shareholders and elders who are beneficiaries of ANCSA settlement trusts are not rendered ineligible for federal needs-based programs because of increases in payments from the resolution of their indigenous land claims and birthrights. The exemption level for small dividends and needs-based calculations has not been updated since 1988. It is not indexed for inflation, but these provisions would be helpful in combating some of the poverty and health care challenges for many who in live remote and rural areas.

This bill also includes provisions that would finalize the ANCSA land entitlements for two communities, Canyon Village and Katovich. They have been frustrated by significant administrative delays, Congressional restrictions, and federal land patterns that have found layer on top of lands that they have lived on and stewarded for thousands of years. The bill would also end a requirement that the village corporations, created by ANCSA, convey lands into trust to the State of Alaska that could then theoretically be transferred to future municipal and local governments. The last time this authority was used was 1995 which shows that this kind of a local government formation just does not fit small, remote communities in the state. So it is time to wind this program down for communities that have no expectation for using it or needing it.

Finally, the bill would remedy a half century injustice where five communities in Southeastern Alaska—the communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell—were omitted from ANCSA's authorizations to form urban corporations and thus have not received land entitlements. The bill allows formation of these long-delayed corporations and specifies parcels that they would receive. It also includes a number of conditions to ensure that public access, recreation, and hunting can continue without impediment. I would just ask colleagues to listen to those Alaska Native leaders whose parents pushed for the passage of ANCSA decades ago when they were children and who are now passing the torch to their own children because the omission still has not been resolved. This is a critical matter for members to understand and to work with those of us in the Alaska delegation so that we can move this through the legislative process.

Mr. Chairman, thank you again for holding the hearing. I am glad that we could hear additional legislation before the end of the year and determine what it is that we can accomplish. Thank you for your leadership and commitment on the Committee.

Senator LEE. Thank you very much. Thanks for your patience with my poor attention to detail and protocol in almost skipping over you.

The CHAIRMAN. I do have letters for the record that I will have you submit.

Senator LEE. Those will be admitted without objection.

[Submissions for the record from Chairman Murkowski follow:]

Board of Directors
Chair
Nathan McCowan
President/CEO St. George Tanaq Corp.

Vice-Chair
Jana Turvey
President/CEO
Lesnoi

Treasurer
Chuck Totemoff
President/CEO
Chenega Corporation

Secretary
Nancy Andrew
CEO
St Mary's Native Corp.

Board Members
Melissa Kookesh
Chairwoman
Kootznoowoo Inc.

Cameron Poindexter
President/CEO
Choggiung Inc.

Dorothy Shockley
President/CEO
Bean Ridge Native Corp.

Dena Sommer-Pedebone
President/CEO
Gana-A'Yoo Ltd.

Anne Thomas
President
Chitina Native Corp.

November 17, 2020

TO: Honorable Senator Lisa Murkowski, Senate Energy and Natural Resources Committee Chair, and Honorable Senator Joe Manchin, Senate Natural Resources Committee Ranking Member
RE: S. 4889 Alaska Native Claims Settlement Act Fulfillment Act of 2020
[Sent via email]

Honorable Senator Murkowski Chair, and Ranking Member Senator Manchin,

The Alaska Native Village Corporation Association (ANVCA) represents the 176 remaining Alaska Native Village Corporations created under The Alaska Native Claims Settlement Act (ANCSA). These organizations – created by Congress – represent over 130,000 Alaska Native People and their families. In 2021 it will have been 50 years since the passage of ANCSA, over which time the Act has been amended several times.

We write to you in support of **S. 4889**, a bill that rectifies several long-standing issues that have been top priority for this organization for many years. ANVCA has been advocating to lift the requirement in ANCSA 14 (C) (3) that resulted in Alaska Native Village Corporations having to give up to 1280 acres of their settlement land for an eventual municipality or borough. There has not been a new municipality or borough created in Alaska in over 25 years, this requirement is outdated and unnecessary.

The bill also creates 5 new Village Corporations in Southeast Alaska and 1 in Interior Alaska and awards them lands that should have been given to these communities at the original passage of ANCSA. ANVCA views this issue as long overdue and we are in full support of the creation of these new entities.

ANVCA supports the exemption for distributions from Alaska Native Settlement Trusts for purposes of qualifying for other Federal programs. This provision is especially important to our Elders who may be on a fixed income.

ANVCA is not supportive of section 5 of this bill as written. We look forward to working with your staff and the committee to remedy this issue.

Respectfully,

Hallie L. Bissett
Executive Director
ANVCA is a 501 (c) 6 nonprofit organization.
Our federal tax id is: 26-1698277

Written Testimony before U.S. Senate Committee on Energy and Natural Resources,
Subcommittee on Public Lands, Forests, and Mining

S. 4889, Alaska Native Claims Settlement Act Fulfillment Act of 2020
November 17, 2020

Testimony on behalf of Doyon, Limited
Submitted by Sarah Obed, Senior Vice President of External Affairs

My name is Sarah Obed, and I am an Athabascan shareholder serving as the Senior Vice President of External Affairs of Doyon, Limited. On behalf of the Doyon, Limited Board of Directors, our 20,100 shareholders, and our employees, this testimony is a statement of support for Senate Bill 4889, the Alaska Native Claims Settlement Act Fulfillment Act of 2020.

Doyon is one of the twelve 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 long overdue conveyance of these lands to the Native people of Canyon Village, as outlined by Section 4 of the bill. Doyon also supports Section 2 of the bill providing for a Dividend Exclusion Increase and Section 3 providing for Eligibility for Certain Programs.

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

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

land selection with the Bureau of Land Management (BLM) pursuant to section 14(h)(2) of ANCSA for conveyance to the Native group.

Regrettably, due to a series of events outside of their control, for 40 years now the Athabascan people of Canyon Village have been denied the benefit of the settlement of aboriginal land claims provided for by ANCSA. First, in 1965, BLM withdrew the aboriginal lands in and around Canyon Village as part of a powersite classification for the then-proposed Rampart Dam project on the Yukon River. Then in 1980, the Alaska National Interest Lands Conservation Act (ANILCA) expanded the boundary of the Arctic National Wildlife Refuge (ANWR) to include the land surrounding Canyon Village. Although the dam project was abandoned well before 1980, the federal government's delay in formally revoking the withdrawal for that project (which did not happen until 1990) prevented the completion of conveyance in the intervening years before the lands were included in ANWR.

Furthermore, the unauthorized and mistaken relinquishment in 1977 by the 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.

STATE CAPITOL
P.O. Box 110001
Juneau, AK 99811-0001
907-465-3500

550 West Seventh Avenue, Suite 1700
Anchorage, AK 99501
907-269-7450

Governor Michael J. Dunleavy
STATE OF ALASKA

November 18, 2020

The Honorable Lisa Murkowski
Chairman
United States Senate Committee on Energy and Natural Resources
304 Dirksen Senate Building
Washington, D.C. 20510

The Honorable Joe Manchin
Ranking Member
United States Senate Committee on Energy and Natural Resources
304 Dirksen Senate Building
Washington, D.C. 20510

Dear Chairman Murkowski and Ranking Member Manchin:

The three initiatives you have proposed in legislation to address: fulfilling the University of Alaska's land grant; closing the Alaska Municipal Land Trust (AMLT) program; and, recognizing Alaska Native communities left out of the Alaska Native Claims and Settlement Act (ANCSA) have a state/federal nexus, and have my Administration's cooperation in resolving each one.

The University of Alaska Fiscal Foundation Act proposes to fulfill of the University of Alaska's long-standing land grants. For the University to productively manage these lands is a substantial step towards meeting my commitments to getting Alaskans back to work, reviving our state's diverse economy, and enhancing and developing our abundant natural resources. As envisioned over 100 years ago, the land grants would provide for the continuation of higher education by placing productive lands into active management to generate recurring revenues, significantly supporting the University of Alaska.

The AMLT was outlined in ANCSA in 1971 and fully executed in the Alaska National Interest Lands and Conservation Act (ANILCA) of 1980. Since 1980, the State of Alaska (SOA) has taken Alaska Native lands into trust and facilitated the creation of municipal governments where desired. In the past decade, interest in additional city incorporation has waned, and Alaska Native Village corporations are interested in other uses for the land in the AMLT. Federal legislation must recognize the AMLT land that has been utilized by the SOA for infrastructure

such as roads, airports, water and sewer systems, and other similar facilities that will likely continue to be operated by the SOA.

Finally, Alaska Natives in Haines, Ketchikan, Petersburg, Tenakee, and Wrangell were unable to enroll in ANCSA village corporations, and your proposal aims to rectify this omission. The SOA has existing rights-of-way (ROW) near, and sometimes on, the land envisioned for transfer, and my administration supports legislation that recognizes and protects those ROW.

Thank you for your continued dedication to our great State.

If you have any questions, please contact Kip Knudson, State/Federal Relations Director, at kip.knudson@alaska.gov.

Sincerely,

Mike Dunleavy
Governor

cc: The Honorable Dan Sullivan, United States Senate
The Honorable Don Young, United States Congress

Alaska State Legislature

Office of the Senate President

November 17, 2020

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

The Honorable Joe Manchin
Ranking Member
United States Senate Energy and
Natural Resources Committee
306 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Manchin:

As the Senate President of the Alaska State Legislature, I urge you and your colleagues to support and pass S.4696, *the University of Alaska Fiscal Foundation Act*.

The University of Alaska is Alaska's only system for public higher-education, serving an area that makes up one-fifth the landmass of the United States. It provides educational opportunities ranging from vocational and technical certificates to graduate degrees, and its cutting edge research is vital to our national interests in this part of the world. Graduates from the University go on to contribute to U.S. workforce through various vocations, and some go on to public service roles like me and several of my colleagues in the Alaska legislature.

Alaska's fiscal climate is all too real for many in the state, and the University of Alaska has certainly felt its share of the consequences. The legislature has had to make tough choices and will continue to do so when addressing budgetary shortfalls. If passed, S. 4696 would provide an opportunity for the University to establish a program that would contribute to long-term financial stability. This stability would aid the University's mission of education, research and public service to Alaska and to the nation.

I extend my appreciation to the Alaska Congressional Delegation and I urge the U.S. Committee on Energy and Natural Resources for passage of the *University of Alaska Fiscal Foundation Act*.

Sincerely,

Cathy Giessel

Senator Cathy Giessel
Alaska Senate President
The Alaska State Legislature

Alaska State Capitol, Room 111 Juneau, AK 99801

Board of Regents' Office
Phone: (907) 450-8010
Fax: (907) 450-8012
EMAIL: ua-bor@alaska.edu
www.alaska.edu/bor/

202 Butrovich Building
2025 Yukon Drive
P.O. Box 755300
Fairbanks, AK 99775-5300

November 17, 2020

The Honorable Lisa Murkowski
Chairman
United States Senate Energy and Resources Committee
522 Hart Senate Office Building
Washington, DC 20510

The Honorable Joe Manchin
Ranking Member
United States Senate Energy Natural and Natural Resources Committee
306 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Manchin:

On behalf of the University of Alaska's Board of Regents, students, faculty and staff, I write in strong support of S.4696, *the University of Alaska Fiscal Foundation Act*.

The University of Alaska, although a land-grant institution, is *land poor* due to historical anomalies that prevented it from receiving the full benefit of lands that Congress and the Alaska Territorial Legislature intended for it to receive. Despite Alaska's status as the geographically largest state in the U.S., all but one state (Delaware) received more federal land grants for their universities than did the University of Alaska.

Several attempts through the Alaska Legislature and various legal proceedings have not yielded a path forward for this 62-year-old dilemma. The legislation, *S. 4696,* seeks to remedy this by creating a voluntary program to identify lands for conveyance. Working with the Department of Interior, the State of Alaska and the University of Alaska, candidate lands would be identified from the State of Alaska's selection through the Alaska Statehood Act.

Governor Michael Dunleavy's administration has been instrumental in the crafting of this legislation, and the state is supportive of the university securing lands that would contribute to its long-term financial stability. The University of Alaska, like many other public institutions of higher education, has experienced a severe decline in financial support. The university's operating budget has been reduced by $120 million since 2014, and under the current budgetary environment, will be reduced by an additional $20 million next fiscal year. Additionally, the university faces a projected $16 million loss of revenue of due to COVID-19.

As Alaska's only system for public higher-education, the University of Alaska has one of the most unique roles among its peers -- three separately accredited, four-year institutions that award baccalaureate to doctoral degrees. Additionally, the university has 13 community colleges that award certificates and associates degrees from aviation maintenance to welding and metal fabrication. The university serves the entire state, and is physically dispersed across a landscape of nearly 1,300 miles, roughly the distance between the U.S. Capitol and Wichita, Kansas. Additionally, eight out of the sixteen campuses are inaccessible by road.

Despite these enormous geographic and financial challenges, the University of Alaska is, and will always be, the key to Alaska's economic recovery from COVID-19 and to the state's overall economic prosperity. It is estimated that for every dollar invested in the university, $3 of economic activity is generated.

This bill, as the title implies, will lay to groundwork for a *fiscal foundation* for which the university can use to continue to grow its mission of inspiring learning, and advancing and disseminating knowledge through teaching, research, and public service.

We urge you to act to support and implement S.4696, *the University of Alaska Fiscal Foundation Act*.

Sincerely,

Sheri Buretta

Sheri Buretta
Chair, Board of Regents
University of Alaska

cc: Interim President Pitney, University of Alaska
Dustin Bryant, University of Alaska Director of Federal Relations

Senator LEE. Ranking Member Manchin would go next if he is on. Any other members present who want to make a member statement at the outset?

Okay, Senator Cortez Masto.

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

Senator CORTEZ MASTO. Thank you. Thank you, Chairman Lee and Ranking Member Wyden, for holding today's Subcommittee hearing. I want to thank my colleagues on the Committee for also ensuring that two bills critical to the people of Northern Nevada are included on today's agenda, and I want to talk a little bit about those: S. 2804, the Pershing County Economic Development and Conservation Act; and S. 3492, the Elko National Cemetery Act. As this Committee well knows, the State of Nevada has a proud, long history of coming together in a bipartisan fashion on legislation pertaining to land management, and I am grateful for the community-led advocacy and support we have earned from the people of Nevada on these two bills. So let me just take a moment to talk about them.

S. 2804, the Pershing County Economic Development and Conservation Act. This bill is a bipartisan bill that primarily aims to resolve a number of public land management issues in Pershing County, Nevada, while preserving and protecting 136,000 acres of land in seven new wilderness areas in some of the most remote, beautiful parts of Nevada. In Pershing County, 75 percent of the land is federally-owned and this bill particularly reflects compromise and collaboration among a diverse group of stakeholders. It also establishes a process for resolving the problematic checkerboard that encompasses much of this rural county. The Pacific Railroad Act of 1862 granting the Union Pacific Railroad alternating sections of public land along several proposed railroad corridors worked to encourage construction of the Trans-Pacific Railroad nearly 200 years ago. Much of the land ownership created by the Pacific Railroad Act has created management inefficiencies for both local land managers and private landowners. What was then an innovative way to spark development has resulted in fractured ownership that hinders economic development, and it stifles advancement toward needed conservation efforts. The bill does a number of things, but let me just highlight three of them.

It would create more efficient land management; it creates a checkerboard resolution program that allows the local communities and federal agencies to work together 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 purposes, and together consolidate public and private lands through exchange or a limited sale. The goal is not to get rid of public land, but rather generate both funding and policy initiative to make it easier to block up public land within the county for better land management purposes. This effort is unlikely to result in a net loss of public lands but rather it incentivizes a net public land management benefit.

The second thing it does is it provides for sustained economic growth in a rural economy with limited economic opportunity. It al-

lows for the conveyance of land to interested entities that currently hold mineral rights or are actively mining on those lands for fair market value. This keeps our rural economies going, potentially creating green jobs and attracting new investments while keeping our land productive. Equally important is that the bill requires any result in proceeds from those sales to be used to purchase lands important for acquisition of environmentally sensitive wildlife habitat and lands that enhance public access and recreation.

Finally, the bill designates wilderness, preserving the Northern Nevada desert landscape. It designates nearly 140,000 acres of wilderness across seven areas in the county. Preservation of these areas are crucial to Nevada's thriving outdoor economy, and they enjoy the support from local ranchers, from private landowners, from conservation advocates, from wildlife groups, hunters, miners, and many other stakeholders committed to preserving Pershing County's natural heritage for generations to come.

Then finally, let me do this very quickly, talk about S. 3492 which is the Elko National Cemetery Act. This bill on today's agenda would authorize an interagency transfer of 15 acres from the BLM to the Department of Veterans Affairs for use as a national cemetery for veterans. This bill facilitates a legislative request from the VA's annual budget request. Fiscal Year 2021 was the fifth consecutive budget proposal that included this proposed legislative priority, and it also facilitates further action on the VA's rural initiative to establish national cemeteries in rural areas where the veteran population is less than 25,000 people within a 75-mile service area. I very much appreciate the correspondence that I received from the BLM on July 20th expressing their support for this effort. I have also had recent conversations with the VA Undersecretary for Memorial Affairs, Randy Reeves, and he shares my commitment to establish this cemetery for our veterans in rural northern Nevada, and we have an agreement to work together to see its completion. Today's hearing is just another step toward closing, finally and hopefully, this effort.

In conclusion, I would just like to thank all the devoted stakeholders that have contributed to these important bills in Nevada, and I look forward to working with my colleagues as well as the federal agencies to move these bills forward.

Thank you, Mr. Chairman.

Senator LEE. Thank you, Senator Cortez Masto.

Senator Heinrich, you are next.

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

Senator HEINRICH. Thank you very much, Mr. Chair.

S. 4599, the Pecos Watershed Protection Act is, I think, a reflection of the fact that in New Mexico, while we do not have a great deal of water, we understand the value of water and there is literally no commodity, no substance, which is more important to our state culturally or to our state economically. The Pecos Watershed is one of those special places where the community has come together and said that the river at the heart of this valley and at the heart of this community is literally the most important thing we can protect and pass on to our heirs, so this legislation reflects the

fact that this is a community that has come together—local leaders, county commissioners, acequia members, tribes, farmers, all sorts of community interest, recreational, and others—and said this is the heart of our community and we need to see it protected.

This legislation reflects that desire, reflects an enormous and broad coalition that has been working to protect the Pecos River and the Upper Pecos Watershed, and I look forward to working with members on this Committee to refine this legislation and move it forward.

Senator LEE. Are there any other members wanting to make a member statement at the outset of the hearing?

If not, we will now proceed to hear from our witnesses.

We have two witnesses here joining us in person today. The first is Chris French, the Deputy Chief of the U.S. Forest Service. The second is Michael Nedd, the Deputy Director for Operations at the Bureau of Land Management, U.S. Department of the Interior.

And joining us virtually are two witnesses. Mr. Art Babbott, a member of the Coconino Board of Supervisors, is here to testify on S. 4603, the Forest Health and Biomass Energy Act. Finally, Ms. Susan Jane Brown, a staff attorney at the Western Environmental Law Center, who will testify on S. 4625, the National Prescribed Fire Act of 2020.

At the end of the witness testimonies, members will be able to ask questions. Your full written testimony will be made part of the official hearing record. Please keep your statements to 5 minutes so that we can have time for questions. I look forward to hearing testimony from each one of you.

Mr. French, you are first. Please proceed.

STATEMENT OF CHRIS FRENCH, DEPUTY CHIEF, USDA FOREST SERVICE

Mr. FRENCH. Thank you.

Chairman Lee, Ranking Member Wyden, members of the Subcommittee, thank you for the opportunity to appear before you today. I'd like to thank the Subcommittee for their support during this unprecedented and devastating fire year. We've seen nearly 50,000 fires that have burned 8.7 million acres across all jurisdictions. That's more than two million acres than an average year. In addition to communities, homes and property lost or damaged, these fires have taken lives, including those of wildland firefighters, who have paid the ultimate sacrifice in serving their country.

As I shared with the Subcommittee in September, the Forest Service is committed to working with our partners to change the wildland fire trend that is our new reality. We must embrace a paradigm shift in our approach. The scale of our actions must match the scale of our problem. We know that we need to treat two to three times more per acres per year than our current efforts, and they need to be in the right places. We look forward to continuing to work with the Subcommittee to find solutions that match this great challenge together.

Given the challenges that we had this year, the Forest Service has found new and unprecedented ways to provide customer service, natural resource management and engagement with commu-

nities. To that end, I am pleased to share that the Forest Service has finalized modest but valuable updates to our NEPA implementing regulations. Based on extensive public comment and scientific review, the final rule looks considerably different from the proposed rule we published in 2019. For the most part, the update streamline administrative actions, special use permitting, recreation and focus vegetation restoration projects. It allows us to better leverage previous analysis, if and when appropriate. This update is key to our strategy for successful ramping up capacity to implement the Great American Outdoors Act and will allow us to more effectively staff our large landscape restoration and fuels projects.

Given that need for restoration, we support the objective of the National Prescribed Fire Act of 2020 to substantially increase the acres of prescribed burning across all lands, especially in Western states. USDA agrees that more prescribed fire will help mitigate the risk of unplanned wildfire and help in the restoration of our forests. We look forward to working with the Committee and the bill sponsors to address some of the implementation challenges associated in this bill to ensure it realizes its intended objectives.

The Alaska Native Claims Settlement Act Fulfillment Act amends the Alaska Native Claims Settlement Act to authorize the Southeast Alaska Native communities to organize as urban corporation. USDA recognizes the special relationship that Alaska Natives have to the lands of Southeast Alaska. The Tongass National Forest plays a significant role in the economic health of local Southeast Alaska communities. The USDA looks forward to working with the sponsor of the bill to address the legislation's impact on the Tongass National Forest's recreation, permitting and timber sale programs.

The Colorado Outdoor Recreation and Economy Act includes provisions that pertain to the management of national forests in Colorado. Generally, we support the provisions of this legislation that are consistent with applicable forest plans and have broad based local support. However, as a whole, the Administration opposes the bill given concerns related to imposing broad land restrictions and reducing areas open for motorized recreation.

The Human Power Travel in Wilderness Act amends the Wilderness Act of 1964 to create an exception to the current prohibition on mechanical transport in Congressionally-designated wilderness. The USDA supports increased access to the National Forest System lands and thus supports the bill's intent. We'd like to work with the Committee to work through concerns we anticipate in implementing the bill.

The Smith River National Recreation Expansion Act includes additions to the Smith River National Recreation Area and designates certain wild rivers in the State of Oregon. We look forward to working with the Subcommittee and sponsors of the bill to address the concerns that are outlined in my written statement.

The Bonneville Shoreline Trail Advancement Act designates parcels of forest service lands in Utah as wilderness and also makes boundary adjustments to remove acres from the National Wilderness Preservation System. We look forward to working with the Subcommittee and bill sponsors as this bill progresses.

We support the Sunset Crater Volcano National Monument Boundary Adjustment Act and also support the Gilt Edge Mine Conveyance Act.

The Administration opposes the proposed withdrawal contained in the Pecos Watershed Protection Act as it does not support the President's vision to balance conservation strategies and policies with the need to produce minerals that benefit the American economy.

Finally, the Forest Health and Biomass Energy Act of 2020 encourages the removal of an increased amount of biomass from National Forest System lands. We agree that forest biomass has great potential as a renewable energy source and look forward to working with the bill sponsor and Committee to consider technical and scope changes to the bill.

Thank you for the chance to testify and this concludes my remarks.

[The prepared statements of Mr. French follow:]

Statement of Chris French

Deputy Chief, National Forest System

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

Before the

Senate Energy and Natural Resources Committee

Subcommittee on Public Lands, Forests and Mining

Concerning

H.R. 823 / S. 241, "The Colorado Outdoor Recreation and Economy Act"

November 18, 2020

Chairman Lee, Ranking Member Wyden and members of the Subcommittee, thank you for the opportunity to provide the views of the Department of Agriculture on H.R. 823 and S. 241, the "Colorado Outdoor Recreation and Economy Act," as introduced in both chambers.

This bill includes provisions that pertain to the management of the National Forests in Colorado including the designation of new Wilderness areas, establishment of recreation management areas, designation of wildlife conservation areas, mineral withdrawals, boundary modifications, transfer of National Forest land, and other administrative provisions.

USDA does not support S.241, the Colorado Outdoor Recreation and Economy Act as drafted. This bill would impose land restrictions on nearly 400,000 acres of land in Colorado, and would reduce areas open for motorized recreation. The Administration has pledged to expand access to America's public lands to increase hunting, fishing, and recreational opportunities nationwide, and to enhance conservation stewardship. S.241, however, would not achieve these goals in a balanced way and would designate areas for wilderness that were not identified in the Forest Service's Forest Planning process. USDA does not support this bill as currently drafted but would like to work with the committee to improve it.

TITLE I—CONTINENTAL DIVIDE

Title I designates six Wilderness area additions, two Wildlife Conservation Areas, one Recreation Management Area, and the first of its kind National Historic Landscape. These areas are located on the White River National Forest, the most visited forest in the country. The landscapes are generally high elevation and attract millions of visitors wanting to enjoy the views and recreate as hunters, anglers, hikers, mountain bikers, skiers, and off-road riders. These areas also support sensitive ecosystems and diverse wildlife.

The proposed designations would permanently withdraw, subject to valid existing rights, all the National Forest System lands within these areas on the White River National Forest from entry, appropriation, or disposal under the public land laws; location, entry, and patent under the mining laws; and operation under the mineral leasing and geothermal leasing laws.

The Ptarmigan Peak Wilderness Additions

Section 102(a)(1) designates 6,876 acres of the White River National Forest, currently depicted as the "Proposed Ptarmigan Peak Wilderness", for incorporation into and management as part of the existing -Ptarmigan Peak Wilderness designated by section 2(a)(18) of Public Law 103-77.

The Ptarmigan Peak Wilderness lies on the western flank of the Williams Fork Mountain Range three miles east of Silverthorne, Colorado, on the White River National Forest. The four proposed Wilderness additions encompass approximately 6,876 acres of National Forest System lands adjacent to the existing Wilderness. These additions include Ute Pass, Acorn Creek, Straight Creek, and Ptarmigan.

The Forest Plan recommends Wilderness designation for the 1,998 acre proposed Ute Pass Wilderness Addition and 838 acre proposed Acorn Creek Wilderness Addition. The Act proposes designation of an additional 862 acres to the Ute Pass Wilderness Addition and 301 acres of the Acorn Creek Addition; both areas are currently being managed for wildlife habitat.

The Forest Plan does not recommend either the proposed Ptarmigan Wilderness Addition or the Proposed Straight Creek Wilderness Addition for Wilderness designation. Wilderness designation in the Proposed Ptarmigan Wilderness Addition will limit management of wildlife habitat using motorized equipment, mechanical transport and installations. The configuration of the proposed Straight Creek Addition may also present management challenges in the future. As a result, USDA does not support the proposed addition of the Ptarmigan Addition or Straight Creek Wilderness Addition.

The Holy Cross Wilderness Addition

Section 102(a)(2) also designates 3,902 acres of the White River National Forest, currently depicted as the "Proposed Megan Dickie Wilderness Addition" for incorporation into the existing Holy Cross Wilderness designated by section 102(a)(5) of Public Law 96-560.

The Holy Cross Wilderness lies astride the Sawatch Mountain Range, six miles southwest of Vail, Colorado, on the White River and San Isabel National Forests.

The Forest Service has a unique concern regarding this area, as the area has a high probability of containing unexploded ordinance from the nearby WWII training site at Camp Hale. Mitigation of potential unexploded ordinance commonly requires motorized or mechanized equipment; and a Wilderness designation would potentially restrict this capability.

The Proposed Megan Dickie Wilderness Addition is a single parcel, encompassing approximately 3,902 acres of National Forest System lands adjacent to the existing Wilderness. The Forest Plan does not recommend any of this area for Wilderness designation given there are remnants of past timber harvests as well as the likelihood of unexploded ordinances in the area. As a result, USDA does not support the proposed addition of the Proposed Megan Dickie Wilderness Addition.

The Proposed Hoosier Ridge Wilderness

Section 102(a)(2) designates approximately 5,235 acres of the White River National Forest to be named the "Hoosier Ridge Wilderness" as depicted on the "proposed Tenmile Wilderness" map.

The Proposed Hoosier Ridge Wilderness would be located on the northwestern slope of the Continental Divide three miles south of Breckenridge. None of this area was recommended for Wilderness designation in the Forest Plan. However, 328 acres were set aside as a Research Natural Area (RNA) and contain unique plants that contribute to the regional and national RNA system. Of the remaining area, 4,910 acres are currently managed for non-motorized backcountry recreation year-round; 3 acres are currently managed for motorized backcountry recreation year-round; and 12 acres of a private inholding. No mechanized recreation opportunities would be affected. The designation is largely consistent with current management. We would like to work with the bill sponsor and the committee to avoid future conflicts regarding access to private lands.

The Proposed Tenmile Wilderness

Section 102(a)(2) also designates approximately 7,606 acres of the White River National Forest to be named the "Tenmile Wilderness", as depicted on the "proposed Tenmile Wilderness" map.

The proposed Tenmile Wilderness is located astride the Tenmile Mountain Range, 3 miles southwest of the town of Breckenridge on the White River National Forest. Currently the Forest Service manages this landscape through a variety of strategies including 3,788 acres for backcountry non-motorized recreation, 2,127 acres as a special interest area for protection of high elevation tundra plant communities, 99 acres in backcountry year-round motorized recreation, and 1,509 acres in generally undeveloped recreation which allows for some potential motorized use. Although these area designations may allow for the possibility of motorized or mechanized use, this Wilderness proposal does not include any areas where motorized or mechanized use are currently allowed under the Forest's travel management plan. Seventy-three acres are private or designated for other management in this area.

The Forest Service is concerned about manageability of the proposed southern Wilderness boundary. The 14,000-foot-tall Quandary Peak, just outside the proposed southern boundary, sees over 21,000 hikers annually. While the top of the peak is not within the proposed Wilderness boundary, the landing sites for helicopters which are needed for rescues several times a year do fall within the proposed boundary. The drainage to the north of Quandary Peak is McCullough Gulch, home to some spectacular geology and water features, and over 14,000 visitors annually. While the lower portions of the trail are not within the proposed Wilderness designation, the upper one and a half miles are. To the north, the drainage containing Spruce and Mohawk Lakes receives over 22,000 annual visitors. The current proposed Wilderness includes three high use trails that will not meet visitors' expectations and agency standards for Wilderness.

USDA does not support the proposed addition as it is currently written. The department would like to work with the committee and bill sponsor to consider boundary adjustments to provide improved and consistent manageability for thousands of visitors.

The Eagles Nest Wilderness Additions

Section 102(a)(2) designates 9,419 acres of the White River National Forest, depicted as the "Proposed Freeman Creek Wilderness Addition" and the "Proposed Spraddle Creek Wilderness Addition", to be incorporated into and managed as part of the "Eagles Nest Wilderness" designated by Public Law 94-352.

The Eagles Nest Wilderness lies astride the Gore Mountain Range just to the north of Vail, Colorado, and to the east of Silverthorne, Colorado, on the White River National Forest.

The Act would designate two separate parcels on the west side of the existing Wilderness area. The proposed designation would largely be consistent with current management.

The proposed Freeman Creek Wilderness Addition encompasses 1,144 acres of National Forest System lands. In the Forest Plan, 290 acres of the proposed addition are recommended for Wilderness designation. The remaining 850 acres are currently managed for non-motorized recreation opportunities and the four remaining acres are private lands. The Forest Service supports the addition of the 290 acres recommended for Wilderness in the Forest Plan. Further Wilderness designations in the proposed area present access issues including to private structures.

The proposed Spraddle Creek Wilderness Addition encompasses 8,362 acres. Of those, 872 acres are recommended for Wilderness designation under the Forest Plan. USDA supports the addition of the 872 acres recommended for Wilderness. USDA does not support adding the remaining 7,490 acres as remnants from past forest management exist, along with continued access to a developed ski hut, which could impact the Wilderness character of the area. These areas also include forest and rangeland habitats that are actively managed for a variety of forest product and forest health purposes. Adding these areas will also remove 4,156 acres from consideration for commercial timber harvest and active forest management.

The Proposed Williams Fork Wilderness

Section 103 designates approximately 8,192 acres of the White River National Forest, depicted as the "Proposed Williams Fork Wilderness" as a potential Wilderness area. The Act also directs the Secretary to publish a determination regarding whether to authorize livestock grazing on vacant grazing allotments known as, the Big Hole Allotment and the Blue Ridge Allotment.

The Proposed Williams Fork Wilderness is 14 miles north of Silverthorne on the western slope of the Williams Mountain Range. None of this area was proposed for Wilderness designation in the Forest Plan given the presence of roads in the area. As a result, USDA does not support the proposed addition of the proposed Williams Fork Wilderness.

The Proposed Tenmile Recreation Management Area

Section 104 designates approximately 16,996 acres of the White River National Forest, as the Tenmile Recreation Management Area to conserve, protect and enhance recreational, scenic, watershed, habitat and ecological resources. The proposed Tenmile Recreation Management Area borders the Proposed Tenmile Wilderness area on three sides. This area is located immediately south of Frisco, Colorado, and straddles the Tenmile Mountain Range

The lands in the northern part of the Tenmile Recreation Management Area have historically been actively managed for a variety of uses, including timber harvest. This proposal would remove 3,479 acres from commercial timber harvest consideration. Otherwise, the designation is largely consistent with other current management of the area. USDA does not support this section as written. We would like to work with the committee and bill sponsor to ensure that the area will remain available for commercial timber harvest and fuel reduction activities.

The Proposed Porcupine Gulch Wildlife Conservation Area

Section 105 designates approximately 8,176 acres of the White River National Forest as the Porcupine Gulch Wildlife Conservation Area, specifically to conserve, protect and enhance wildlife habitat and migration corridors primarily for lynx.

The proposed conservation area is located three miles east of Dillon, Colorado, extending to the Continental Divide. The proposed designation is consistent with the Forest wildlife landscape linkage, non-motorized backcountry recreation and special interest area designations in the 2002 Forest Plan.

The Proposed Williams Fork Wildlife Conservation Area

Section 106 designates approximately 3,492 acres of the White River National Forest as the Williams Fork Wildlife Conservation Area, specifically to conserve, protect and enhance wildlife habitat and migration corridors.

The proposed Conservation Area is located 19 miles north of Silverthorne, Colorado, on the lower flank of Williams Peak. The proposed designation is consistent with the wildlife management emphasis in the 2002 Forest Plan. The use of bicycles would continue to be allowed on designated trails and roadways.

The Proposed Camp Hale National Historic Landscape

Section 107 designates approximately 28,728 acres of the White River National Forest as the Camp Hale National Historic Landscape, to preserve and interpret historic events, structure and artifacts while also providing increased recreational opportunities.

This area is located 10 miles south of Vail, Colorado, in the Eagle River Valley.

Camp Hale has been listed on the National Register of Historic Places since April 1992 and is currently under evaluation by the National Park Service for a National Historic District designation.

If designated, Camp Hale would become the nation's first National Historic Landscape. The Act directs the Secretary to prepare a management plan within five years of enactment to enhance recreational activities, conserve historic values, create trails and road systems, improve watershed conditions and remove unexploded ordinance. Per Section 107, the Forest is required to coordinate with the U.S. Army Corps of Engineers, the Colorado Department of Public Health and Safety, the National Forest Foundation, the Colorado State Historic Preservation Office, the Camp Hale-Eagle River Headwaters Collaborative Group, and other units of government and organizations to develop and implement this plan.

The proposed designation is generally consistent with current Forest Plan management direction. The suitable timber base in the Camp Hale designation area is not planned for harvest in the foreseeable future because of the potential for unexploded ordinances. We would like to work with the committee and bill sponsor to clarify that commercial timber harvesting and fuels treatments will be allowed in the designated area where these activities can occur safely.

White River National Forest Boundary Modification

Section 108 modifies the White River National Forest boundary by approximately 120 acres, and the Arapaho National Forest by 92.95 acres. USDA does not object to this boundary adjustment to the National Forest System.

Arapaho National Forest Boundary Adjustment

Section 110 adjusts the boundary of the Arapaho National Forest to incorporate approximately 93 acres following written permission from the owners of the lots within the adjusted boundaries. Similar provisions were adopted in the John D. Dingell, Jr. Conservation, Management and Recreation Act (S. 47) signed by the President on March 12, 2019.

Bolts Ditch Access and Use

Section 111 requires the Secretary to permit by special use authorization nonmotorized access and use of the Bolts Ditch headgate and the Bolts Ditch within the Holy Cross Wilderness for the purposes of water diversion and use, maintenance and repair of the ditch. Similar provisions were adopted as part of Public Law 116-9.

TITLE II—SAN JUAN MOUNTAINS

Section 203 would designate several parcels of the Grand Mesa, Uncompahgre, and Gunnison National Forests totaling approximately 22,841 acres as Wilderness under the National Wilderness Preservation System. These parcels would be additions to the existing Lizard Head and Mount Sneffels Wilderness areas.

Section 204 would also designate the Sheep Mountain and Liberty Bell East areas as Special Management Areas to be managed to maintain or improve the area's existing Wilderness character for potential inclusion in the National Wilderness Preservation System.

Additionally, Section 206(g) would permanently withdraw these designated lands as well as 6,590 acres of National Forest System lands in Naturita Canyon on the Uncompahgre National

Forest from entry, appropriation, or disposal under the public land laws; location, entry, and patent under the mining laws; and operation under the mineral leasing and geothermal leasing laws.

USDA defers to the Department of the Interior regarding the proposal in section 203 to designate approximately 8,884 acres of Bureau of Land Management (BLM) lands as the McKenna Peak Wilderness and the release of the Dominguez Canyon Wilderness Study Area in section 205.

The Grand Mesa, Uncompahgre, and Gunnison National Forests are currently revising their Forest Plan. During the plan revision process, the Forest is working with the public to identify lands that may be suitable for inclusion in the National Wilderness Preservation System and determine whether to recommend any areas for Wilderness designation. The Forest initiated its Wilderness review process in January 2018. The draft Wilderness evaluation report and supporting materials were published on August 6, 2018. The draft environmental impact statement is scheduled to be released in the summer of 2021 with a draft decision on the Forest Plan, including analysis of areas for potential recommendations for Wilderness designation. A final decision will be made after the resolution of objections and is expected in 2022.

Due to this ongoing public process, USDA believes a formal position on Wilderness designations would be premature at this time. Specific considerations regarding the current management situation for the Wilderness additions and special management areas are as follows.

Lizard Head Wilderness Additions

The Lizard Head Wilderness lies astride the San Miguel Mountains, 10 miles southwest of Telluride on the Uncompahgre and San Juan National Forests. The proposed Wilderness additions include five parcels, encompassing approximately 3,141 acres of National Forest System lands adjacent to the existing Wilderness. The Forest Plan, completed in 1983, does not recommend any of the areas for Wilderness designation. However, Wilderness designation would not be inconsistent with the current management of the area. No summer motorized recreation is currently allowed and effects to winter motorized recreation would be minimal as there is little snowmobile use of the area.

Mount Sneffels Wilderness Additions

The Mount Sneffels Wilderness comprises more than 16,500 acres on the Uncompahgre National Forest between the communities of Telluride and Ouray. The proposed Wilderness additions include four parcels that encompass approximately 19,700 acres of National Forest System lands adjacent to the existing Wilderness. As with the Lizard Head Additions, the Forest Plan does not recommend any of the areas for Wilderness designation. However, the designation is generally aligned with Forest Plan direction.

Liberty Bell East Special Management Area

Section 204 would designate 792 acres of National Forest System lands located north of the town of Telluride as a special management area on the Grand Mesa, Uncompahgre, and Gunnison National Forests.

We would like to work with the sponsor and the subcommittee to address some technical aspects of the bill regarding language to maintain the suitability of the area for potential inclusion in the National Wilderness Preservation System while still providing for uses such as helicopter access for recreation and the use of bicycles, in the special management area.

Sheep Mountain Special Management Area

Section 204 also would designate 21,663 acres of National Forest System lands located south of the town of Ophir as a special management area. About 10,930 acres are within the Uncompahgre National Forest and 10,733 acres are within the San Juan National Forest. This area contains some lands purchased recently with funds provided by Congress as part of the Ophir Valley Land and Water Conservation Fund project. Currently the Forest Plan identifies half of the area to be managed for semi-primitive non-motorized recreation and the other half for other recreation purposes.

Naturita Canyon Mineral Withdrawal

National Forest System lands that would be withdrawn are within Naturita Canyon on the Uncompahgre National Forest, about five miles south of the community of Norwood. Naturita Canyon is relatively low-elevation river drainage (7,000 feet elevation) with steep canyon walls 1,000 feet in height.

USDA supports domestic energy and mineral production, including critical minerals, as important uses of the NFS. Presidential Executive Orders (EO) 13817, A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals, issued on December 20, 2017 and EO 13783, Promoting Energy Independence and Economic Growth, issued on March 28, 2017 reinvigorate USDA's responsibility to provide access and remove barriers to energy and locatable mineral development, including critical mineral commodities.

USDA's Forest Service stands ready to provide environmental, social, and economic analysis as Congress weighs the important considerations and consequences of permanent withdrawal.

TITLE III—Thompson Divide

Section 303 withdraws approximately 187,00 acres found on the Gunnison National Forest from operation of the public land, mining, mineral leasing, mineral materials, and geothermal leasing laws, subject to valid existing rights. The Forest currently operates grazing permits, outfitter and guide permits, and mineral leases in the area consistent with the Grand Mesa, Uncompahgre, and Gunnison NFs Forest Plan.

USDA supports domestic energy and mineral production as an important use of National Forest System Lands. We oppose the proposed withdrawal as it would have adverse effects on current lease holders and would not be consistent with the current Forest plan. In addition, the Forest is working with the public to identify lands that may be open to oil, gas and coal development as part of the Forest plan revision process. Due to this ongoing public process, USDA does not support a withdrawal at this time. USDA defers to the Department of Interior (DOI) for their views on the bill as it affects the public lands under their jurisdiction.

TITLE IV—Curecanti National Recreation Area

Section 402 establishes the Curecanti National Recreation Area consisting of approximately 50,667 acres in Colorado. Further, this section allows the DOI to enter into management agreements, or modify existing agreements, relating to the authorities of several DOI bureaus as well as the Forest Service to manage Federal land within the National Recreation Area (NRA). Section 403 transfers the jurisdiction of approximately 2,560 acres of the Gunnison National Forest to the National Park Service as part of the NRA.

The National Forest System (NFS) lands proposed for transfer are currently managed under the Grand Mesa, Uncompahgre, and Gunnison National Forests Forest Plan. Current activities in these areas include timber harvesting, grazing and recreation. Although there are no current timber sales, the area is a part of the suitable timber base. In addition, currently there are ongoing mechanical treatments for fuels treatments to increase forage production consistent with winter range objectives in portions of the proposed area.

In 2017, the Forest Service entered into an Interagency Agreement with the Curecanti National Recreation Area (NRA) to manage 710 acres of National Forest Systems (NFS) land. These two parcels were withdrawn from public entry when the Bureau of Reclamation created the NRA in 1958. Since 1966, the National Park Service has managed these acres under an interagency agreement awaiting further boundary adjustments. The Interagency Agreement was established for appropriate management of NFS lands incorporated within the current NRA boundaries.

The Forest Service has an interest in resolving the two parcels which were removed from public access during the creation of the NRA. However, the additional acres to the north of West Elk Creek and Soap Creek currently allow for active management, including timber harvest and fuels reduction activities, under the existing Forest plan. USDA supports continued effort to establish the NRA boundary by incorporating the historical 710 acres of inholdings, consistent with current management practices, but does not support the additional transfer of NFS land.

Thank you for the opportunity to testify on this bill, and I welcome any questions.

Statement of Chris French

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. 1695 – Human-Powered Travel in Wilderness Areas Act

November 18, 2020

Chairman Lee, Ranking Member Wyden, members of the Subcommittee, thank you for the opportunity to appear before you today to present the views of the USDA Forest Service regarding S. 1695 – the Human-Powered Travel in Wilderness Act. My testimony pertains only to provisions affecting the Forest Service and National Forest System lands.

S. 1695 would amend the Wilderness Act of 1964 to create an exception to the current prohibition on mechanical transport in congressionally designated wilderness by requiring local officials to seek to accommodate all forms of non-motorized travel, including bicycles.

The Forest Service manages wilderness as an enduring resource and as one of the multiple uses of National Forest System (NFS) lands. Wilderness areas under the Department's jurisdiction are found in 39 states and Puerto Rico. The 36.6 million acres of wilderness that the Forest Service manages in 448 wilderness units constitute 19.2 percent of the 193 million acres of the National Forest System. There are just over 32,000 miles of NFS trail within Forest Service wilderness units. Outside of designated wilderness areas, the Forest Service authorizes bicycle use on 120,660 miles (76%) of the NFS trail system.

Section 2: Returning Human-Powered Travel to Wilderness Areas

Section 2 would replace several provisions of section 4(c) of the Wilderness Act (16 U.S.C. 1133(c)) to permit the use of bicycles within congressionally designated wilderness areas. The bill does so by, among other things, adding the term "nonmotorized travel" to the Wilderness Act, which the bill defines as "a method of human travel that does not use a propulsive internal or external motor with a nonliving power source." This term covers several methods of transport currently prohibited by the Wilderness Act, including bicycles. Specifically, S. 1695 would modify section 4(c)'s prohibition on "other form[s] of mechanical transport" by adding a clause that creates an exception for any form of "nonmotorized travel."

In addition, Section 2 would require local officials within the wilderness-managing Federal agencies—Bureau of Land Management, U.S. Fish and Wildlife Service, National Park Service,

and USDA Forest Service—to determine within two years of S. 1695's enactment all permissible forms of nonmotorized travel over any permitted route in wilderness. Failure to make that determination for any wilderness within that timeframe would result in allowing any form of nonmotorized travel on permitted routes in that wilderness. Section 2 also requires local line officers to seek to accommodate all forms of nonmotorized travel in wilderness to the maximum extent practicable.

The Department supports expanding recreational access on National Forest System lands in a manner that preserves the ecological, cultural, and historical integrity of the landscape and supports the social and economic needs of adjacent communities. We welcome the opportunity to work with the bill sponsor and subcommittee members to explore ways to enhance nonmotorized travel opportunities, including building upon the existing network of high-quality mountain biking trails in non-wilderness settings throughout the National Forest System and promoting electric bicycle use on National Forest System trails where bicycles are allowed, consistent with applicable law.

Conclusion

S. 1695 would provide greater access and recreational opportunities in wilderness areas managed on Department lands across the Nation. The USDA supports increased access to National Forest System lands, and thus supports the bill's intent. We have concerns regarding implementation of the bill and would like to work with the Committee to address those concerns.

Thank you for the opportunity to testify on this bill. I welcome any questions.

Statement of Chris French

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. 2875 – The Smith River National Recreation Area Expansion Act

November 18, 2020

Chairman Lee, Ranking Member Wyden, and members of the Subcommittee, thank you for the opportunity to appear before you today to present the views of the U.S. Department of (USDA) Forest Service regarding S. 2875, the "Smith River National Recreation Area Expansion Act." My testimony only pertains to provisions affecting the Forest Service and National Forest System (NFS) lands.

The Smith River National Recreation Area Expansion Act would amend the Smith River National Recreation Area Act and the Wild and Scenic Rivers Act to include certain additions to the Smith River National Recreation Area and to designate certain wild rivers in the State of Oregon. Enactment of this bill would result in the Smith River National Scenic Area being expanded from northern California to encompass the North Fork of the Smith River Watershed in Southwestern Oregon and managed for recreational access, special scenic value, natural diversity, cultural and historical attributes, wilderness, wildlife, and fisheries. Additionally, 74 miles of the North Fork of the Smith River and its source tributaries would be designated and managed as Wild and Scenic Rivers.

Section 2: Additions to the Smith River National Recreation Area

Section 2(d) of this bill would require a study of the affected area within five years of the bill's enactment, and upon completion of the study, would require modifications to existing land management plans. No impacts to vegetation or wildfire management are noted in the bill and nothing in the bill affects the application of the Northwest Forest Plan or Roadless Rule in the State of Oregon. Section 2(h) of this bill would require the Secretary of Agriculture to enter into a Memorandum of Understanding with applicable Indian Tribes to preserve and protect tribal rights and to ensure access. Further, the bill requires that interpretive materials regarding the Tribes be developed and made publicly available.

In addition, this bill expands land acquisition authority by directing the Secretary of Agriculture to acquire a 555 acre area of state-owned land known as the Cedar Creek Parcel, pending availability of funding and approval by the State Land Board of Oregon.

The USDA does not support the acquisition of the identified parcel at this time as acquisition of additional non-federal lands would divert resources from ongoing work on other complex legislated exchanges and acquisition currently being adjudicated in the State. However, we would like to work with the Subcommittee on technical changes to the legislation to permit potential acquisition in the future. The USDA supports expanding recreational access in a manner that preserves the ecological, cultural, and historical integrity of a landscape and that supports the social and economic needs of adjacent communities.

Section 3: Wild and Scenic River Designations

Section 3(a)(2) designates 23 segments across roughly 74 miles of the North Fork of the Smith River and its source tributaries as Wild and Scenic Rivers. The USDA supports designation of Wild and Scenic Rivers that have been analyzed and found eligible and suitable for such designation through the land management planning process and through public input. The USDA does not support this section as none of these segments have been found suitable based on current Agency records, although some of the segments have been found eligible for future designation.

Any new designations will need to be properly integrated into the National Wild and Scenic Rivers System with time to develop comprehensive river management plans and to establish detailed boundaries in cooperation with members of the interested public. The Agency requests exemption from the required timeframes identified under Section 3(d) to allow the river management plans for any new designations to align with future scheduled revisions of land and resource management plans of the applicable national forests. We would be interested in working with the Subcommittee and bill sponsor to explore options and possible clarifications on how the user capacities requirements under Section 3(d) of the Wild and Scenic Rivers Act can be satisfied for these designations.

Conclusion

The USDA Forest Service embraces its mission to steward and safeguard free flowing Wild and Scenic Rivers with their outstandingly remarkable values and provide recreational access to the American people. We are committed to working with Congress, Tribes, and members of the interested public to identify and propose appropriate parcels of land and segments of river within the National Forest System for designation as Wild and Scenic Rivers and National Recreation Areas and to manage those parcels responsibly when designated. S.2875 sets forth similar objectives and we look forward to working with the Subcommittee and sponsors of this bill to address the concerns outlined above.

Thank you for the opportunity to testify on this bill, and I welcome any questions.

STATEMENT OF CHRIS FRENCH
DEPUTY CHIEF, NATIONAL FOREST SYSTEM
U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE
Before the
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING

Regarding

S.4215 – BONNEVILLE SHORELINE TRAIL ADVANCEMENT ACT

November 18, 2020

Chairman Lee, Ranking Member Wyden, members of the Subcommittee, thank you for the opportunity to appear before you today to present the views of the U.S. Department of Agriculture (USDA) Forest Service regarding S. 4215, the "Bonneville Shoreline Trail Advancement Act."

S. 4215 would designate parcels of National Forest System lands on the Uinta-Wasatch-Cache National Forest (Forest) in Utah as components of the National Wilderness Preservation System; the bill also makes boundary adjustments to existing wilderness areas on the Forest, thereby removing these components from the National Wilderness Preservation System.

Section 2 of the bill would add approximately 334.16 acres of National Forest System lands to the Mount Olympus Wilderness. While USDA supports designation of wilderness areas if they have been recommended for designation through the agency's land management planning process, including local engagement and public input, the acres included in the proposed wilderness additions to the Mount Olympus Wilderness have not yet been evaluated for wilderness characteristics through the land management planning process.

Section 3 of S. 4215 makes boundary adjustments to existing wilderness components on the Forest, identifying approximately 334.16 acres for removal from the National Wilderness Preservation System. The bill stipulates that acres removed from the National Wilderness Preservation System shall be managed as part of the Forest. As depicted on the "Bonneville Shoreline Trail Legislative Map" dated June 23, 2020, the bill makes the following adjustments: approximately 9.8 acres are removed from the Twin Peaks Wilderness; approximately 107.9 acres of the Lone Peak Wilderness; approximately 19.06 acres are removed from the Mount Naomi Wilderness; and approximately 197.4 acres from the Mount Olympus Wilderness.

The proposed removal of the parcels from the National Wilderness Preservation System will advance completion of the Bonneville Shoreline Trail. While the Department does not oppose the adjustments to the National Wilderness Preservation System, USDA does have concerns that area removed from the Mount Naomi Wilderness contains an existing unauthorized user-constructed trail and the Lone Peak Wilderness area contains terrain that will pose significant challenges during construction and use of the proposed trail.

The Forest Service is committed to collaborating with Congress, Tribes, and all members of the interested public during our land management planning process to identify and propose appropriate acres of land within the National Forest System in Utah for designation or removal from wilderness, and to manage those parcels responsibly as designated. We look forward to working with the Subcommittee and bill sponsors to address the concerns outlined above.

That concludes my testimony, Mr. Chairman. I would be happy to answer any questions you or the other members have for me.

STATEMENT OF CHRIS FRENCH
DEPUTY CHIEF, NATIONAL FOREST SYSTEM
U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE
Before the
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING
Regarding
S. 4569 – SUNSET CRATER VOLCANO NATIONAL MONUMENT BOUNDARY ADJUSTMENT ACT

November 18, 2020

Chairman Lee, Ranking Member Wyden and Members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 4569, the "Sunset Crater Volcano National Monument Boundary Adjustment Act."

This bill modifies the boundary of the Sunset Crater Volcano National Monument in Arizona to include approximately 97.71 acres of identified National Forest System land immediately adjacent to the Monument. The bill transfers administrative jurisdiction over the land from the U.S. Department of Agriculture's Forest Service, Coconino National Forest to the Department of the Interior, National Park Service. The bill directs that the National Park Service shall administer the land as part of the monument.

The Coconino National Forest's forest plan allows for boundary adjustments such as that proposed, and includes management approaches to partner with the National Park Service to study, protect, and monitor heritage resource sites, and to manage recreation near the Sunset Crater Volcano National Monument. Furthermore, the Revised Forest Plan Final Environmental Impact Statement noted the continued need for coordination or potential interagency land transfers in the future. The Forest will continue to work, coordinate, and partner with the National Park Service on all desired conditions including threatened and endangered species habitat, archeological resources, wetlands and riparian areas and key recreation access points.

The adjustment includes an administrative area that contains maintenance facilities and park housing, a National Park Service visitor center, and a section of road that connects the entrance kiosk and the administrative area to the national monument.

While no existing recorded special uses would be impacted, the agency looks forward to working with the Committee to ensure that multiple uses would not be affected by the proposed boundary adjustment.

The National Park Service currently operates under an Interagency Agreement whereby any ground disturbing activity in the administrative area requires prior approval by the Forest Service. The proposed boundary adjustment would allow elimination of this requirement and thus remove a significant bureaucratic compliance burden for both agencies.

The U.S. Department of Agriculture's Forest Service supports the proposed boundary adjustment from the Coconino National Forest to Sunset Crater Volcano National Monument. The adjustment will allow better management of natural resources and topographic features that pertain to the Monument; provide clear jurisdiction to better serve the public; and, provide a stronger basis for cooperation between the two agencies.

STATEMENT OF CHRIS FRENCH
DEPUTY CHIEF, NATIONAL FOREST SYSTEM
U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE
Before the
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING
Regarding
S. 4599 – PECOS WATERSHED PROTECTION ACT

November 18, 2020

Chairman Lee, Ranking Member Wyden and Members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 4599, the "Pecos Watershed Protection Act."

This bill withdraws identified federal land in the Pecos River watershed in New Mexico from entry, appropriation, or disposal under the public land laws; location, entry, and patent under the mining laws; and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials. The area proposed for withdrawal includes approximately 165,000 acres of USDA Forest Service National Forest System land, as well as approximately 1,600 acres of Department of Interior Bureau of Land Management land, and approximately 611 acres of privately owned land. This proposed withdrawal constitutes 66 percent of the 253,343 acres of watershed depicted outside of the Pecos Wilderness, Santa Fe National Forest.

The proposed withdrawal would be subject to valid existing rights, meaning mining and associated activities can continue within the withdrawn area as long as valid rights were established at or prior to the time of the withdrawal. The respective federal agencies would need to conduct any necessary reviews to verify valid rights exist.

Under the current 1987 Forest Plan, just over 80% (~135,000 acres) of the proposed withdrawal area has limited surface use (no surface occupancy or seasonal restrictions) for leasable minerals, 18% (~29,000 acres) has no leasing restrictions, and the Pecos Wild and Scenic River wild classified segment (about 67 acres) is already withdrawn from leasing. The area is also composed of 8 Inventoried Roadless Areas (27,000 acres) and the Pecos Wild and Scenic River recreational classified segment (~1,500 acres) although these areas have no leasing restrictions in and of themselves. The Forest is currently revising their Forest Plan and expects to have a Final Plan and Environmental Impact Statement along with a draft Record of Decision in spring 2021.

The Forest Service acknowledges the deep tribal connection to this land and is committed to collaborating with Congress, Tribes, acequias, local communities, and watershed partners who value the Pecos Canyon watershed to balance our multiple-use mission and bolster resilient landscapes and watersheds. This is evidenced by ongoing tribal consultation and site visits to enhance communication, collaboration and share local knowledge.

The Administration opposes the proposed withdrawal in S. 4599, in support of the President's vision to balance conservation strategies and polices with the need to produce minerals that benefit the American economy by providing families with good paying jobs, businesses with economic opportunity, and manufacturers with raw materials that are produced at home. We would be happy to work with the bill sponsor to find a balance between preservation and economic opportunity.

Thank you for the opportunity to testify on this bill, and I welcome any questions.

Statement of Chris French

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. 4603 – Forest Health and Biomass Energy Act of 2020

November 18, 2020

Chairman Lee, Ranking Member Wyden, members of the Subcommittee, thank you for the opportunity to appear before you today to present the views of the U.S. Department of Agriculture (USDA) Forest Service regarding S. 4603, "Forest Health and Biomass Energy Act of 2020." My testimony only pertains to provisions affecting the Forest Service and National Forest System (NFS) lands.

Section 4 & 5: Designation of High Hazard Areas and Classification of Timber as No-Value

Section 4 requires the Secretary of Agriculture (Secretary) to designate high hazard areas of NFS land. High hazard areas encompass Federal land or non-Federal land located in an area in which a project is carried out under the Collaborative Forest Landscape Restoration Program (CFLRP) or a Good Neighbor Agreement (GNA) and drought, tree mortality, insects or disease pose an imminent wildfire risk, and the project is west of the 100th meridian. The high-hazard area designations are to be retained for no less than 15 years unless the Secretary of Agriculture, in consultation with the governor of a State, determines the designation is no longer warranted.

Section 5 proscribes the Secretary from charging a stumpage rate or assigning any value to timber removed through a CFLRP or GNA project in a high hazard area. This proscription is specifies such no-value classification for a tree less than 12 inches in diameter cut to reduce a fire hazard and make a forest stand more resilient, and to any forest processing residue or byproduct of forest restoration (such as tree tops) or large dead trees not suitable for higher-valued wood products.

USDA acknowledges that removal of low value material is a challenge and we appreciate the Subcommittee's focus on this issue. We are addressing this issue administratively through

updating our Forest Management directives to give greater flexibility to Regional Foresters to encourage treatment where there is little or no economic value.

USDA has some technical concerns with language in these sections. Under the 2018 Farm Bill good neighbor authority, States use their contracts to implement timber sales on NFS lands. This legislation would limit the State's revenue, which may limit their interest in future GNA projects. USDA is also concerned that the definition of high hazard areas is too restrictive. By limiting the definition to areas where CFLR or GNA projects can be carried out, we are missing opportunities to treat additional low value material through other contracting instruments.

Section 6: Assessment of Federal Land for Wood Biomass Energy Potential

Section 6 requires the Secretary of Energy, in coordination with the Secretary of the Interior and the Secretary of Agriculture, to produce a comprehensive assessment of the potential to produce biomass energy on Federal land, subject to certain exceptions. The assessment shall include an inventory to distinguish among live, dead or salvage trees, supplies prone to drought, insect or disease, mill residues; and trees that may be harvested. Further, the assessment shall evaluate whether biomass supplies listed in the inventory are sources of logging waste, unmerchantable timber, trees and fuels removed as part of restoration efforts, among other potential wood biomass sources. The assessment is also to consider the availability, potential, and distribution of forest biomass supplies, the infrastructure that supports the existing wood products and biomass energy production on Federal land, and existing and projected consumption of forest biomass energy in the United States. Finally, the assessment is to estimate 5- and 10-year supplies of biomass energy as well as the costs of transporting and processing those supplies for use as energy. The assessment as well as the supply estimates are to be reported by the Secretary of Energy to the relevant committees in Congress 1-year post enactment.

USDA agrees that bioenergy development needs to be based on a robust inventory of available forest biomass. We believe the assessment under Section 6 should be broadened to include opportunities for all renewable energy including heating, cooling, combined heat and power, and cellulosic biofuels. Further, the supply inventory under Section 6 should not be limited to mill residues, but any forest products manufacturing residues. USDA also believes the assessment should consider key market barriers (e.g., low fossil fuel prices, transportation costs, etc.) as well as recommendations for addressing them.

Section 7: Wood Biomass Targets

Section 7 requires the President, in the annual budget submission, to include annual performance metrics, established by the Secretary, for the harvest of wood biomass material in green tons made available to the bioenergy market.

USDA values the biomass market for low value timber and would like to enable use of as much material as possible as we strive to reduce hazardous fuels on NFS lands. The Agency currently has the ability to track the number of green tons sold through timber sales and stewardship contracts. USDA would support a performance metric for green tons offered.

Section 8: High Hazard Area Wood Biomass Fund

Section 8 establishes a "High Hazard Area Wood Biomass Fund" (Fund) in the U.S. Treasury whereby the Secretary may transfer a percentage of the revenue generated from base stumpage rates of timber sales from NFS lands. Revenue into the Fund does not include deposits under 16 U.S.C. 576b, 16 U.S.C. 500, or 43 U.S.C. 2621 and does not affect the amount of payments under the Secure Rural Schools and Community Self-Determination Act (16 U.S.C. 7101). Amounts in the Fund can be used to assist with the collection, harvest, storage and transportation of biomass material removed from NFS land in high hazard areas with a priority to providing assistance to electricity generation that converts from coal to a majority of biomass power operations.

USDA understands that transportation of biomass to power facilities is often cost prohibitive and would like to work with the Subcommittee to address technical considerations and explore options for addressing this concern.

Conclusion

USDA supports the goals of S. 4603 to encourage the removal of an increased amount of biomass from NFS land particularly for hazardous fuels reduction. We look forward to working with the bill sponsor and Subcommittee to consider technical changes to the bill.

Thank you for the opportunity to testify on this bill, and I welcome any questions.

STATEMENT OF CHRIS FRENCH
DEPUTY CHIEF, NATIONAL FOREST SYSTEM
U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE
Before the
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING
Regarding
S. 4616 —GILT EDGE MINE CONVEYANCE ACT

November 18, 2020

Chairman Lee, Ranking Member Wyden, and members of the Subcommittee, thank you for inviting me to present the views of the U.S. Department of Agriculture on S. 4616, the Gilt Edge Mine Conveyance Act.

S. 4616 would convey approximately 266 acres of National Forest System lands administered by the Black Hills National Forest within the Gilt Edge Mine Superfund site boundary to the state of South Dakota. The Gilt Edge Mine is in Lawrence County, South Dakota within the boundary of the Black Hills National Forest. The mine is an inactive gold mine.

The U.S. Department of Agriculture supports the purpose of S. 4616 to consolidate the ownership in and around the Gilt Edge Mine. Currently the mine encompasses a patchwork of National Forest System lands and lands owned by the state of South Dakota. The state of South Dakota has jurisdiction and oversight of the Superfund site to implement actions to remediate the site and provide long term monitoring. Consolidating the entire land ownership of the Gilt Edge Mine to the state of South Dakota will make it easier for the State to fulfill their obligation for remediation of the site.

S. 4616 requires the state of South Dakota to conduct an appraisal of the property following uniform appraisal standards for Federal land acquisitions and conform to uniform standards of professional appraisal practices. The state of South Dakota will pay to the Secretary of Agriculture an amount equal to the fair market value of the land to be conveyed. The cost of conveyance will be paid by the state of South Dakota including the cost of the appraisal and the survey. Proceeds from the sale of the 266 acres will be used for the maintenance and improvement of land or administrative facilities on the Black Hills National Forest within the state of South Dakota.

Conclusion

The conveyance of approximately 266 acres of National Forest System lands would simplify the remediation of the Superfund site by consolidating land ownership to the state of South Dakota who has jurisdiction and oversight. Thank you for the opportunity to testify on this bill, and I welcome any questions.

STATEMENT OF CHRIS FRENCH
DEPUTY CHIEF, NATIONAL FOREST SYSTEM
U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE
Before the
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING
Regarding
S. 4625 – THE NATIONAL PRESCRIBED FIRE ACT OF 2020

November 18, 2020

Chairman Lee, Ranking Member Wyden and Members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 4625, the "National Prescribed Fire Act of 2020."

The objective of the bill is to substantially increase the number of acres of prescribed burning across all lands, especially in the western states. This would provide much needed help to reduce wildfire risk to communities and improve forest health. Many sections of the bill build upon existing USDA Forest Service programs. The bill addresses many of the agency's concerns regarding expansion of the use of prescribed fire. The bill proposes a broad range of actions and incentives over a ten-year period that would promote and increase the use of prescribed fire on federal, state, and private lands. By increasing the use of prescribed fire, we may curtail some of the devastation to communities and natural resources from extreme wildfire behavior. We would like to work with the Committee and bill sponsors to address numerous sections that may be revised in order to achieve the bill's intended purpose.

TITLE I—USE OF FUNDS

Sec 101. PRESCRIBED FIRE ACCOUNTS - This section establishes a new Prescribed Fire account within the Wildland Fire Management appropriation for both USDA's Forest Service and Department of the Interior that is separate from the existing Hazardous Fuels appropriation. The new Prescribed Fire Account for the Department of Agriculture is authorized for appropriation of up to $300 million and could be used to increase the total amount of prescribed burning done on both Federal and State lands. The intent would be to prioritize prescribed burning on large contiguous areas that cross jurisdictional boundaries and address the wildfire risk to communities and essential infrastructure.

USDA is committed to collaboratively working at larger scales with our Federal, Tribal, State and local government partners, as well as all members of the public in an effort to collectively and proactively use our resources to create resilient landscapes. These are also the goals of the program established in Section 101; however, the provision duplicates the existing Hazardous Fuels program. We would like to work with the Committee and bill sponsors to address this issue while still meeting the objectives of the section.

Sec 102. POLICIES AND PRACTICES – This section creates minimum and maximum accomplishments to adhere to funding associated with the Prescribed Fire Accounts. USDA agrees there is a significant need to increase the amount of prescribed burning and ensure it is completed on the highest priority areas. Requiring at least one prescribed burn on each unit that has a minimum of 100 acres in Fire Regimes I, II, or III and has not already burned over by wildfire does not completely align with this principle. USDA would value the opportunity to work with the Committee to discuss these existing prioritization strategies.

Sec 103. COLLABORATIVE PRESCRIBED FIRE PROGRAM – This section establishes a collaborative prescribed fire program within the Department of the Interior without a clear role for USDA. USDA would like to ensure that the establishment of this program compliments and enhances existing programs inside USDA and Department of the Interior. We would value working with the Committee to better understand how this can be accomplished.

Sec. 104. LARGE CROSS-BOUNDARY PRESCRIBED FIRE INCENTIVE PROGRAM - This section creates an incentive program to encourage the implementation of cross boundary landscape level prescribed burning. USDA strongly believes it is essential to partner with State and county entities so we can all collectively do our part in managing all lands and create greater wildfire resilience.

USDA would like to have a better understanding of the details of Section 104 and how the incentive program would function or incur financial impacts. USDA is committed to working with the Committee on program specifics and ensure any incentives created would fulfill programmatic objectives.

TITLE II- FACILITATING IMPLEMENTATION AND OUTREACH

Sec 201. COOPERATIVE AGREEMENTS AND CONTRACTS – This section enables Federal agencies to enter into cooperative agreements and contracts with States and local entities to conduct prescribed burning on Federal lands. USDA supports strong collaborations with State and local entities and appreciates any efforts to create capacity to achieve wildfire resilience. The provisions in the section may duplicate and contradict existing USDA authorities and non-Federal financial assistance transactions resulting in potential interpretation challenges. We commit to working with the Committee to address these concerns.

Sec. 202. HUMAN RESOURCES – This section provides increased budget authority to hire additional personnel into permanent or permanent seasonal positions as prescribed fire practitioners, including: veterans, qualified applicants, the conversion of temporary employees to permanent positions, hiring of Job Corps qualified candidates, and employment of formerly incarcerated individuals. This section also describes additional training for prescribed fire practitioners and additional budget authority to fund overtime and other pay entitlements. The section also grants indemnity to Federal employees conducting prescribed burning. USDA believes some of these provisions warrant further consideration and we look forward to working with the bill sponsors and the Committee to consider adjustments to our firefighting workforce into the future.

Sec 203. LIABILITY OF CERTIFIED PRESCRIBED FIRE MANAGERS – This section encourages states to establish a covered law. USDA supports working with Governors on this important issue.

Sec 204. ENVIRONMENTAL REVIEW – This section would provide significant support for smoke management issues the Agency has identified. It recognizes the key challenge of managing smoke while increasing prescribed fire activities to reduce the risk of wildfire on National Forest System and adjacent lands. The goal is to manage smoke from prescribed fire and balance air quality and land management objectives. This section recognizes existing challenges in managing smoke from current levels of prescribed fire as well as issues imposed by the Clean Air Act and subsequent regulations. The proposed provisions provide a framework for more prescribed fire to occur at a meaningful scale while balancing the need for smoke management and maintenance of good air quality. Based on the spate of wildfires and the heavy smoke impacts on millions of people in 2020, the increased use of prescribed fire would allow for more effective smoke management practices to improve undesirable, long duration smoke impacts of wildfire to the public. To better meet the intent of Section 204(b), USDA would like to work with the committee to more closely align the requirements of this subsection with the guidance provided by the Council on Environmental Quality for the development of Categorical Exclusions.

Sec 205. PRESCRIBED FIRE EDUCATION PROGRAM – This section is an expansion of public information under the "Burner Bob" program. USDA supports the expansion of this important program.

TITLE III—REPORTING; 14 TERMINATION

No Comments.

Conclusion

USDA agrees that more prescribed fire can help mitigate the risk of unplanned wildfire and looks forward to working with the Committee and bill sponsors to identify tools that help accomplish this goal.

Thank you for the opportunity to testify on this bill, and I welcome any questions.

Statement of Chris French

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. 4889 – ALASKA NATIVE CLAIMS SETTLEMENT ACT FULFILLMENT ACT OF 2020''

November 18, 2020

Thank you for the opportunity to present the U.S. Department of Agriculture's views on S.4889, Alaska Native Claims Settlement Act Fulfillment Act of 2020. USDA recognizes the special relationship that Alaska Natives have to the lands of southeast Alaska, which are the traditional homelands of the Tlingit, Haida, and Tsimshian people. We also acknowledge the important role that the resources we steward within the Tongass National Forest play in the customary and traditional use as well as contribute to the economic health of the region's communities.

This testimony addresses the effect of section 7, Recognition and Compensation of Unrecognized Native Communities in Southeast Alaska, on the Forest Service management of the Tongass National Forest. We defer to the Department of Interior for its views on the remainder of the bill.

Section 7 would amend the Alaska Native Claims Settlement Act of 1971 (ANCSA) to authorize Alaska Natives enrolled in the Southeast Alaska communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to form urban corporations. The legislation authorizes the conveyance, to each corporation, of 23,040 acres of surface estate selected from areas in the Tongass National Forest. Sec. 7 also conveys the subsurface estate of these parcels to the Sealaska Regional Corporation.

Background

The Alaska Native Claims Settlement Act effected a final settlement of the aboriginal claims in Alaska through payment of $962.5 million and conveyances of more than 44 million acres of Federal land. There was a distinction made in ANCSA between the villages in the southeast and those located elsewhere. Prior to the passage of ANCSA, Alaska Natives in the southeast received payments from the United States pursuant to court cases in the 1950s and late 1960s, for the taking of their aboriginal lands. Because Alaska Natives in the Sealaska region benefitted from an additional cash settlement under ANCSA, the eligible communities received less acreage than their counterparts elsewhere in Alaska.

Congress named the villages in the southeast that were to be recognized in ANCSA. The communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell – the five communities addressed in S.4889 – were not among those listed.

Alaska Natives living in the five communities applied to receive benefits under ANCSA and were subsequently determined to be ineligible. Three of the five appealed their status and were denied. Notwithstanding the determination of ineligibility of some communities for corporate status under ANCSA at the time, Alaska Natives in these five communities were enrolled as at-large shareholders in the Sealaska Corporation. The enrolled members of the five communities comprise more than 20 percent of the enrolled membership of the Sealaska Corporation.

Analysis and Effect on Forest Service Management of the Tongass National Forest

S.4889, section 7, identifies approximately 115,201 acres of National Forest System lands selected in 56 named parcels, including some that are split into distinct parts or include adjacent islands. The parcels range in size from 38 to 9,106 acres and are located across seven Forest Service Ranger Districts. Although the total acreage proposed for transfer to new urban corporations is a small portion of the National Forest System lands within southeast Alaska, due to the high value of these lands for forest management activities and public use, the Forest Service anticipates that these selections could adversely impact the implementation and viability of the 2016 Forest Plan broadly across program areas. In my testimony today, I will focus on our initial analysis and the anticipated effects on the timber and recreation programs.

USDA anticipates the proposed conveyance will affect delivery of the Tongass National Forest timber program. Based on an initial review of the parcels, the proposed selection acreage will decrease the Tongass National Forest land base suitable for timber by nearly 37,000 acres, or 10 percent. This includes approximately 22,500 acres of old growth timber and 14,400 acres of young-growth timber. The selections include nearly 9,000 acres that are subject to the 2020 Alaska Roadless Rule direction to modify the timber land suitability and become available for timber harvesting. These 9,000 acres may be considered a nearly 50 percent addition to the estimated 18,650 acres that were projected to be harvested in roadless areas under the Alaska Roadless Rule. Also, the selections include about 40,500 acres of land designated by the Forest Plan as Old Growth Habitat, over 21,200 acres of land designated as Scenic Viewshed, and some 2,850 acres designated as Semi-Remote Recreation.

The proposed selections would impact three timber harvest projects currently in planning – Central Tongass Project, South Revilla Integrated Resource Project, and the Twin Mountain II Timber Sale. The highest impact would be to the Central Tongass Project; approximately 17 percent of harvest acres in this project are proposed for selection. Certain selected parcels bisect portions of the Central Tongass project area which could make accessing harvest units and other resources more challenging. The proposed selections include approximately 5.2 percent and 2.5 percent of the harvest acres in South Revilla and Twin Mountain II Timber Sale projects. While not large percentages of the overall projects, the inclusion of selections within the three project areas is likely to impact the Forest Service's ability to complete a timely review under the National Environmental Policy Act, issue decisions on schedule, and offer timber in fiscal years 2021 and 2022.

Additionally, USDA anticipates the proposed conveyance of the lands will affect the Tongass National Forest's delivery of its recreation program. Based on an initial review of the mapped selections, the Forest Service has identified that the following are located within the boundaries of the parcels: 13 developed recreation sites (3 camping sites, 7 public use cabins, 1 picnic site, 1 shelter, 1 trailhead), 3.5 miles of hiking trail, 26.5 miles of designated Off Highway Vehicle trails, 90.9 miles of open roads, and an estimated 12 marine access facilities. The agency's initial review also identified that outfitter/guide activity is authorized under special use permits within or adjacent to more than half of the selected parcels.

Conclusion

USDA looks forward to working with sponsor of the bill to consider technical changes to address the legislation's impact on the Tongass National Forest's program of work.

Thank you for the opportunity to testify on this bill, and I welcome any questions.

Senator LEE. Mr. Nedd, you are next.
Thank you.

STATEMENT OF MICHAEL NEDD, DEPUTY DIRECTOR FOR OPERATIONS, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Mr. NEDD. Thank you, Chairman Lee, Ranking Member Wyden, and members of the Committee. Thank you for the opportunity to be here today. I am Michael Nedd, the Deputy Director of Operations at the Bureau of Land Management. I will briefly summarize our written statement concerning the nine bills on today's agenda related to the Department of Interior.

S. 241 would provide direction for the future management of certain federal lands in Southwestern Colorado including the designation of new wilderness and withdrawal of certain federal lands, including Thompson Divide from the public land and mining law. The bill also requires the BLM to inventory and capture certain coal methane, mine methane emissions. The Department supports Congressional action to resolve wilderness issues on public land across the West; however, S. 241 would not achieve these goals in a balanced way and the Department oppose it as currently drafted.

S. 1695 would amend the Wilderness Act to authorize the use of non-motorized travel and designate a wilderness area. The Administration has placed a high priority on increasing public use and enjoyment of our federal land. S. 1695 aligns with this priority by providing great access and recreational opportunities on public land and the Department supports the bill.

S. 2804 authorizes public land sales and conveyance in Pershing County, Nevada. The bill also designates over 136,000 acres of wilderness and release nearly 49,000 acres of wilderness study area. The Department remains concerned with the broad scope of the proposed land disposal that the bill could decrease public access and limit outdoor recreational opportunities.

S. 3492 transfers the administrative jurisdictional approximately 15 acres of BLM-managed public land to the Department of Veterans Affairs for the establishment of a national veteran cemetery in Elko, Nevada. The Department supports this bill as it would honor our nation's veterans and their families.

S. 4599 would withdraw approximately 166,600—600,000 acres of federal land located near Pecos, New Mexico, from the public lands and mining law. The Administration is concerned that S. 4599 would limit the potential development of important mineral sources and, therefore, cannot support the bill.

S. 45—4625 directs the expanded use of prescribed fire on lands managed by the Department and the Forest Service. The Department has taken bold action to reduce wildfire by using a variety of management tools to reduce hazardous fuels and enhance wildfire resiliency. The Department supports the goal of S. 45—S. 4625 and would like to work with the sponsor to expand the bill to ensure hazardous fuel reduction measures and management flexibility is provided to reduce wildfire risk.

S. 4696 requires the Department to establish a program to identify and convey selected lands to the University of Alaska for the use and support in the operation and maintenance of the Univer-

sity system. The Department has no objection to S. 4696 and would like to work with the sponsor on some technical modification.

S. 4889 amends the Alaska Native Claims Settlement Act of 1971 concerning various Alaska Native issues including certain land conveyance to Alaska Native communities, revision of lands to village corporations, an authorization for five native communities in Southeast Alaska to organize as urban corporation. The Department supports this legislation and looks forward to working the with sponsor on some technical modification.

Finally, the National Park Service has submitted its statement for the record on S. 4569 concerning the Sunset Crater Volcano National Monument in Arizona.

Thank you, Mr. Chairman. I look forward to the opportunity to answer your questions.

[The prepared statements of Mr. Nedd and the National Park Service follow:]

Statement of
Michael Nedd
Deputy Director, Operations
Bureau of Land Management
U.S. Department of the Interior

Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests, & Mining
S. 241, Colorado Outdoor Recreation and Economy Act

November 18, 2020

Thank you for the opportunity to testify on S. 241, the Colorado Outdoor Recreation and Economy Act, which provides direction for the future management of certain Federal lands in southwestern Colorado. S. 241 designates the McKenna Peak Wilderness on lands managed by the Bureau of Land Management (BLM) and releases the remainder of the Dominguez Canyon Wilderness Study Area (WSA) from further wilderness study under section 603(c) of the Federal Land Policy and Management Act of 1976 (FLPMA), thereby making these lands available for other multiple uses.

In addition, the bill withdraws approximately 244,500 acres of Federal lands near Carbondale and east of Paonia, Colorado — including Thompson Divide — from operation of the public land, mining, and mineral leasing laws, subject to valid existing rights, and provides for the relinquishment of certain mineral leases within this area. The bill further requires the BLM to inventory coal mine methane emissions from coal mines, and creates a commercial coal mine methane emission capture program.

The bill also establishes a legislative boundary for the existing Curecanti National Recreation Area managed by the National Park Service (NPS), expands the area to encompass a total of approximately 50,700 acres, directs the transfer of certain lands currently managed by the BLM and Bureau of Reclamation (BOR) to the NPS for inclusion into this area, and adjusts the potential wilderness area boundary of the NPS-managed Rocky Mountain National Park.

Finally, the bill designates one new recreation area comprising approximately 17,000 acres, two new wildlife conservation areas comprising approximately 11,700 acres, two new special management areas comprising approximately 22,500 acres, and creates or expands seven wilderness areas by approximately 55,900 acres on lands managed by the U.S. Forest Service (USFS).

The Department of the Interior (Department) has pledged to expand access to America's public lands, to increase hunting, fishing, and recreational opportunities nationwide, and to enhance conservation stewardship through Secretarial Orders 3347, 3356, 3366, and 3373. S. 241, however, would not achieve these goals in a balanced way, and the Administration opposes it as currently drafted.

We would like the opportunity to work with the sponsor and the Subcommittee to determine if wilderness, withdrawal, and special management designations are the best mechanism for managing these important resources and uses in this part of Colorado. The Department defers to the Department of Agriculture regarding provisions in the bill concerning the lands and interests administered by the USFS.

Background

Southwestern Colorado is characterized by high mountain ranges, scenic valleys, and arid, slick rock canyon country. Energy development, agriculture, and recreation drive the local economy, as well as world-famous resort areas like Aspen and Telluride. The public lands managed by the BLM and NPS in this region serve as popular destinations for outdoor enthusiasts, including off-highway vehicle users, hikers, mountain bikers, rock climbers, hunters, and fishers. BLM-managed public lands in these areas also provide important opportunities for grazing, energy development and jobs, and other important commercial activities.

McKenna Peak WSA
The McKenna Peak WSA covers nearly 20,000 acres of BLM-managed public lands in San Miguel and Dolores Counties in southwestern Colorado. The Department notes that this area generally serves as habitat for a diversity of plant and animal life, including mule deer, elk, pronghorn antelope, mountain lions, and bald and golden eagles. The WSA also provides important opportunities for hunting, hiking, horseback riding, snowshoeing, and cross-country skiing.

Thompson Divide
Thompson Divide and the North Fork Valley connect the Elk Mountains and Grand Mesa. These rugged areas of Colorado are near the mountain resort communities of Aspen and Glenwood Springs. The North Fork Valley is also home to a more than century-old coal mining area, as well as an emerging organic farming movement centered in Paonia. This area of Colorado is characterized by steep, forested terrain and large areas of congressionally designated wilderness, including the Raggeds and West Elk wildernesses. Higher elevations include big game habitat, particularly mule deer and elk, while lower elevations are primarily used for agriculture, including vineyards, orchards, and ranching. Oil and gas development has occurred in the Thompson Divide and North Fork Valley for decades. In addition, the Thompson Divide includes a natural gas storage unit, where natural gas stored for later use in nearby communities.

Curecanti National Recreation Area
The NPS-managed Curecanti National Recreation Area includes a series of three BOR reservoirs along the Gunnison River. The reservoirs that make up Curecanti today are a destination for water-based recreation high in the Rocky Mountains. Best known for kokanee salmon and lake trout fishing, Curecanti also offers opportunities for hiking, boating, camping, and bird watching. BLM-managed public lands border Curecanti at lower elevations, with National Forest Lands in higher elevations.

S. 241

Title I — Continental Divide
Section 109 would provide for the maintenance and use of the Trail River Ranch in Rocky Mountain National Park by excluding approximately a 15.5-acre area from the Rocky Mountain National Park Wilderness. This area is currently part of the park and managed as potential wilderness in accordance with the Omnibus Public Land Management Act of 2009 (Public Law 111-11). By policy, areas listed as potential wilderness are managed as wilderness until a final determination can be made. This tract contains a historic ranch consisting of a home, guest cabin and outbuildings. The ranch is dedicated to unique environmental educational programs currently run by partner groups, The Friends of Trail River Ranch and Rocky Mountain Conservancy.

Stakeholders believe the area can be used as a more robust education center, accommodating year-round programs while expanding visitor opportunities on the west side of the Park. In order to accomplish this, several repairs and upgrades are needed to the existing facilities, as well as repairs to the bridge used to access the area. The necessary upgrades and improved educational uses for the Trail River Ranch are not feasible while the tract is being managed as wilderness. In 2015, the park conducted public scoping to gather input on the future vision of Trail River Ranch. The park received 119 pieces of correspondence which demonstrated overwhelming support for the outdoor education center and the requisite change to non-wilderness status. By removing the Trail River Ranch from the potential wilderness designation, the NPS can upgrade the facilities, and allow for year-round educational uses supported by the partner groups, community and local stakeholders. The Department supports this removal.

Title II — San Juan Mountains
Section 203 of the bill designates approximately 8,900 acres of the existing BLM-managed McKenna Peak WSA as wilderness. Only Congress can determine whether to designate WSAs as wilderness or to release them for other multiple uses. The McKenna Peak WSA has been pending final resolution by Congress since October 1991. The Department supports Congressional action to settle the status of these lands, which would provide certainty to public land users in Colorado.

We note, however, that section 203 covers only those areas of the WSA in San Miguel County. The other almost 11,000 acres of the WSA in Dolores County are not addressed in the legislation. These acres would remain in WSA status, pending Congressional action. The Department recommends that the sponsor and the Subcommittee consider addressing this portion of the WSA as well. Based on the Department's 1991 Colorado Statewide Wilderness Study Report, we recommend that this area be released from WSA status. In addition, we would like to work with the sponsor on certain modifications to this section, including adjusting the boundary to follow existing natural resource and topographical features instead of the county line, which would enhance manageability.

Section 205 of S. 241 provides for the release from WSA status of those portions of the Dominguez Canyon WSA that were not designated as wilderness under Title II, Subtitle E of Public Law 111-11, the Omnibus Public Land Management Act of 2009. Section 2403 of that Act designated the Dominguez Canyon Wilderness Area. However, small portions of the

underlying WSA totaling approximately 3,035 acres were neither designated wilderness nor released from WSA status. This release would benefit the BLM's ongoing management by removing narrow strips and scattered tracts of remaining WSA. These areas remain within the Dominguez-Escalante National Conservation Area (NCA), also designated by Public Law 111-11, and would be managed consistent with the rest of the NCA.

In addition to this needed WSA release, the Department recommends that the sponsor consider releasing other small WSAs and Instant Study Areas (ISAs) in Colorado that were not included in previous wilderness designations, including the Black Ridge Canyons, Bill Hare Gulch, North Sand Hills, Needle Rock, and High Mesa Grassland areas. Each of these areas are challenging for the BLM to manage because of their small size and proximity to existing development. Release of these areas would provide additional opportunities for multiple uses and recreational access, including hunting and fishing, hiking, camping, and horseback riding, among others.

Title III — Thompson Divide

Section 303 of the bill withdraws approximately 244,500 acres of Federal land near Carbondale and east of Paonia, Colorado, from operation of the public land, mining, mineral leasing, mineral materials, and geothermal leasing laws, subject to valid existing rights. This area is locally known as the Thompson Divide. The surface of these lands is managed by the USFS (approximately 187,900 acres) and the BLM (approximately 15,200 acres), with the remainder of the surface managed by the State of Colorado and the Bureau of Reclamation or in private ownership.

Under the current BLM and USFS land use plans, some of the lands proposed for withdrawal — which range from very low to very high oil and gas potential — are currently open to oil, gas, and coal development. The lands overlap with four existing BLM oil and gas units. The Thompson Divide proposed withdrawal largely avoids the historic North Fork Valley coal mine development area, although some coal reserves would be withdrawn.

Finally, under section 305 of the bill, the Department would be required to complete, within one year of enactment, a coal mine methane inventory. This inventory would include an assessment of methane emissions from active, inactive, and abandoned coal mines in the Lower North Fork Valley. Section 305 also requires the Department to develop a program to offer for lease Federal methane from active, inactive, and abandoned coal mines, subject to valid existing rights. In addition, section 305 requires the Department to establish a program to facilitate the sale and delivery of methane from such coal mines to a power provider within 100 miles of Paonia, Colorado, to generate electricity.

The Department would like the opportunity to work with the sponsor and the Subcommittee on the best mechanism for managing the resources within the Thompson Divide and the upper North Fork Valley. 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 FLPMA, for example, the BLM currently manages public lands within this area for a variety of uses, such as conservation, watershed protection, hunting, fishing, and other forms of recreation, livestock grazing, and oil and gas development. While much of the withdrawal area proposed by section 303 is open to development of oil, gas, and

coal resources, the BLM minimizes impacts through lease stipulations and conditions of approval that protect wildlife habitat, water quality, and visual impacts.

If Congress chooses to proceed with the proposed withdrawal, the Department would like to work with the sponsor on a number of modifications, including language clarifying the status of the Wolf Creek Storage Unit and the State of Colorado's share of all Federal revenue from the leasing process.

In addition, the Department is concerned with some aspects of the technical feasibility posed by the methane inventory required by section 305, which could make it difficult to complete within one year. For example, methane emissions occur naturally in many areas like the North Fork Valley, making identifying coal mine emissions more challenging. As such, it may be difficult to determine whether a particular emission is associated with an active, inactive, or legacy coal mine. As a result, other State or Federal regulatory agencies may be more appropriate to inventory and evaluate coal mine methane emissions from abandoned coal mines since the BLM does not regulate air quality.

Finally, the Department's understanding is that methane from non-operating coal mines within the Lower North Fork Valley may not comprise a commercially viable energy source, largely because of its composition (less than 50 percent methane and greater than 30 percent nitrogen). As such, the Department recommends that the sponsor consider authorizing a study to determine the market viability of waste methane electricity generation in this area before establishing the leasing program proposed in section 305.

Title IV— Curecanti National Recreation Area

Curecanti National Recreation Area is located in southwestern Colorado, stretching approximately 40 miles along the Gunnison River basin in Gunnison and Montrose counties. Curecanti is one of the few units of the National Park System that does not have a legislated boundary.

In cooperation with the BOR, the NPS manages Curecanti National Recreation Area under Section 8 of the Colorado River Storage Project Act of 1956 and a 1965 Memorandum of Agreement (MOA) between the BOR and the NPS. At Curecanti, the BOR manages three reservoirs, including the dams, power plants, access roads, and other related facilities; while the NPS manages the natural and cultural resources, as well as visitor recreation and associated visitor facilities. Additionally, the NPS maintains cooperative agreements with the BLM and with USFS for various program areas at Curecanti. The Department notes that the BLM and the NPS currently have cooperative agreements in place for multiple program areas, including invasive species management, BLM management of NPS's remaining grazing leases, and Gunnison Sage-Grouse inventory and monitoring, among others.

P.L. 106-76, enacted in 1999, required the NPS to conduct a study and make recommendations to Congress for alternatives that would better conserve the natural, cultural, recreational and scenic resources within and surrounding Curecanti National Recreation Area. The NPS, with the BOR as a cooperating agency, conducted the study, which included preparing an Environmental Impact Statement.

The study, which was transmitted in 2009, recommended that Congress legislatively establish Curecanti as a National Recreation Area (NRA) unit within the National Park System with a legislated boundary, and that the 1965 MOA between the BOR and the NPS be revised accordingly. Title IV of S. 241 addresses the recommendations of the 2009 report in several ways. First, the bill transfers administrative jurisdiction of lands withdrawn or acquired by the BOR to the NPS within one year of the enactment of the bill, while allowing the BOR to retain lands and all necessary access required for reclamation purposes. The bill also requires that a Memorandum of Understanding governing this access be entered into between the NPS and BOR within one year of enactment. Additionally, the bill transfers approximately 2,560 acres of USFS land and approximately 5,040 acres of BLM land to the NPS, and provides authority to acquire additional land within the boundary by donation, purchase from willing sellers, transfer from a Federal agency, or exchange. The legislation requires that any existing grazing leases on BLM lands will be honored after transfer to NPS. Furthermore, hunting and fishing opportunities would be allowed on these lands after inclusion in the recreation area. Additionally, the bill transfers 800 acres currently managed by the BOR to the BLM. These Gunnison County parcels include the 6-site Gateview campground, which lies at the north end of recreation lands currently managed by the BLM's Gunnison Field Office.

The report further recommended that the NPS expand efforts to support conservation of the natural, cultural, recreational and scenic resources on lands, both within and surrounding Curecanti NRA. Specifically, the report recommended that Congress authorize the NPS to work in partnership with adjacent landowners to implement a variety of tools that would enhance the long-term conservation of natural, cultural, recreational, and scenic resources. These recommendations are addressed in Section 402(c), paragraphs (3), (4), and (5); authorizing new or modified management agreements between Federal agencies and State agencies for management of the NRA, allowing recreation access including boating, hunting, and fishing within the NRA, and authorizing landowner assistance and partnership efforts with private landowners located within 3 miles of the NRA boundary.

Section 402(c), paragraphs (7), (8), and (9) maintains existing grazing rights, existing water rights, and existing fishing easement access and programs, while Section 404 requires that the NPS prepare a General Management Plan for the NRA, in consultation with the Commissioner of Reclamation, within 3 years of funds being provided for the purpose.

Conclusion

Thank you for the opportunity to testify. The Department looks forward to continuing to work with the sponsor and the Subcommittee as this bill moves forward through the legislative process. The Department is committed to managing public lands as a good neighbor to the local communities and to the Americans who live and work in close proximity to them. Rural communities have raised concerns about the land-use restrictions included in S. 241. The Department, therefore, opposes S. 241 in its current form, but is willing to work with Congress to improve it if the bill is considered further.

Statement for the Record
U.S. Department of the Interior

Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests, & Mining
S. 1695, Human-Powered Travel in Wilderness Areas Act
November 18, 2020

Chairman Lee, Ranking Member Wyden, and members of the Subcommittee, thank you for the opportunity to provide the Department of the Interior's views on S. 1695, a bill to amend the Wilderness Act to allow local Federal officials to determine the manner in which nonmotorized uses may be permitted in wilderness areas, and for other purposes.

As discussed below, the Department supports S. 1695, which aligns with important and longstanding Department and Administration priorities.

Expanding Public Access

The lands managed by the Department have value for recreation only when people can fully access those lands and, as a result, the Trump Administration has placed a high priority on increasing public use and enjoyment of our federal lands. Secretary Bernhardt has responded by opening access to a historic amount of land managed by our bureaus for hunting, fishing, and other recreation opportunities – and by providing free access to the iconic and treasured lands we manage to additional groups of citizens, including Gold Star families, military veterans, and fifth grade students.

These efforts not only bring economic benefits to small, often remote, rural communities, but the activities support conservation actions, promote and expand our cultural heritage, and provide opportunities for increased physical and mental health benefits. Such efforts have long enjoyed bipartisan support.

Previous efforts to increase recreational access in lands the Department manages include an effort, led by the National Park Service (NPS) during the Obama Administration, which culminated in a rule change in 2012 that allowed individual park superintendents to designate biking routes as appropriate in areas under their jurisdiction, lifting a ban on bikes in most park areas.

In the final regulation implementing this change, the NPS noted that it had considered the issue of impacts to natural resources, and reviewed studies that gauged the environmental impacts of bicycling noting that impacts to soils, vegetation, and wildlife from bicycles are similar to impacts from hiking and less than impacts from horseback riding or motorized vehicle use (77 FR 39927 (2012)).

NPS also made clear that the new rule did not mandate the opening of park lands to bikes, but instead gave park superintendents greater flexibility to determine where bikes can be allowed in a park. While that regulation did not apply to designated wilderness areas, it provided a way to open more areas to bicycling while ensuring visitor and resource protection in those areas to which it applied.

More recently, Secretary's Order 3376, Increasing Recreational Opportunities through the Use of Electric Bikes, called on Department bureaus to develop policies and regulations to allow for electric bike (e-bike) use where traditional bicycles are allowed and to bring federal land e-bike experience more in line with state rules. Just last month, in keeping with this direction, the Department announced that it had finalized e-bike regulations that, similarly, pave the way for federal land managers at the NPS, Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (FWS), and Bureau of Reclamation (BOR) to allow more people, especially older Americans and those with physical limitations, to experience bicycling on lands managed by those bureaus. Like the NPS bike regulation changes before it, this rule does not apply to wilderness, but is yet another example of how the Department has made bicycling more accessible while continuing to protect visitors and resources.

S. 1695, the Human-Powered Travel in Wilderness Areas Act

Generally, S. 1695 would amend the Wilderness Act to authorize the use of nonmotorized travel over permitted routes in designated wilderness areas.

The Wilderness Act of 1964 established the National Wilderness Preservation System, a national network of more than 800 federally designated wilderness areas. These wilderness areas, totaling over 111 million acres, are managed by the NPS, FWS, and BLM, all within the Department of the Interior, and the U.S. Forest Service in the Department of Agriculture. Wilderness areas under the Department's jurisdiction are found in 44 states, with the NPS managing 61 designated wilderness areas totaling 43.4 million acres, the FWS managing 75 designated wilderness areas totaling 20.7 million acres, and the BLM managing 260 designated wilderness areas totaling 9.97 million acres.

Except for limited uses related to the administration of a wilderness area, the Wilderness Act prohibits the use of motor vehicles, motorized equipment, motorboats, and other forms of mechanical transport.

S. 1695 would provide authority for federal land managers to determine allowable forms of nonmotorized, human-powered travel over permitted routes in the units under their jurisdiction. Generally, it would define nonmotorized travel as human travel that "does not use a propulsive internal or external motor with a nonliving power source," subject to the appropriate determination of local officials of the NPS, FWS, BLM and the U.S. Forest Service.

Similar to the rules on bicycles in national parks and e-bikes on our public lands, S. 1695 would not mandate that nonmotorized travel must be allowed in these areas. Rather, S. 1695 would require the local federal land managers to use their discretion to make and condition access determinations in a manner that will reduce, eliminate, or prevent environmental impacts or undue conflicts between members of travel user groups. These local land managers, with knowledge of the lands they manage, are in the best position to determine how to manage these lands, provide appropriate access to the public, and protect the wilderness values of these lands.

S. 1695 would provide greater access and recreational opportunities in wilderness areas managed by Department lands across the Nation. For this reason, it is consistent with the Administration's goals, and the Department's ongoing efforts, to expand public access to our federal lands.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions you or other members of the Subcommittee may have.

Statement of
Michael Nedd
Deputy Director, Operations
Bureau of Land Management
U.S. Department of the Interior

Senate Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining
S. 2804, Pershing County Economic Development and Conservation Act
November 18, 2020

Thank you for inviting the Department of the Interior (Department) to testify on S. 2804, 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.

The Department has pledged to expand access to America's public lands, to increase hunting, fishing, and other recreational opportunities nationwide, and to enhance conservation stewardship through Secretary's Orders 3347, 3356, 3366, and 3373. To advance those goals, we are focusing on restoring full collaboration and coordination with local communities and ensuring the Department is a better neighbor.

Secretary Bernhardt is committed to ensuring that public access for outdoor recreation is adequately weighed when determining the appropriateness of the disposal or exchange of public lands, which is why Secretary's Order 3373 was one of his first orders signed as Secretary. The Order helps ensure that before the BLM exchanges or disposes of any lands, they must consider what impact it will have on the public's access for outdoor recreation, including existing access, potential increased access from an exchange, and access managed by other federal, state, and county agencies. While the Department supports the goals of S. 2804 that align with this important priority, we are concerned that the broad scope of the proposed land disposals as currently written could ultimately decrease public access and limit outdoor recreational opportunities.

S. 2804
S. 2804 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 (Title I)
Title I of S. 2804 directs the sale, at fair market value, or equal value exchange of up to approximately 334,000 acres of BLM-managed public lands 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 using mass appraisal methodology within one year of enactment and every five years thereafter. The bill requires that the Secretary offer to exchange all eligible land within one year.

Title I of the bill directs the sale, at fair market value as determined by an appraisal, of select public lands that are currently encumbered by a mining claim, millsite, or tunnel site 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, appraisal, and administrative costs.

Proceeds from the sales directed by 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.

The Department is committed to increasing access to America's public lands and is concerned with the broad scope of the sales and transfers contemplated by Title I. We would welcome the opportunity to work with the sponsors to develop a legislative map to be referenced in the bill and any necessary boundary modifications to ensure that the proposed sales and transfers yield a fair return to the American taxpayer and do not inadvertently decrease public access or recreational opportunities in Pershing County.

Wilderness (Title II)

Title II of S. 2804 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 II also releases approximately 48,600 acres from WSA status, allowing these areas to be managed according to the existing BLM land use plans. 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 they were established in 1991.

The Department notes that the lands proposed for wilderness designation by S. 2804 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.

As a matter of policy, the Department supports Congressional action to resolve wilderness designation and WSA release issues on public lands across the West, and we welcome opportunities to further those efforts. However, we also want to ensure that designating new wilderness areas on public lands outside of existing WSAs is the most appropriate land management tool, and that such designations would not unnecessarily impede public access or limit outdoor recreational opportunities. The Department believes that alternative management approaches could conserve sensitive resources while still accommodating the full range of uses and activities permitted on other BLM-managed public lands.

If Congress opts to proceed with designation of these lands as wilderness, we would like to work with the sponsors on minor and technical amendments to this section, including the use of

standard wilderness designation language, boundary modifications for enhanced manageability and consistency with the Wilderness Act, and clarifying language related to telecommunications and climatological data collection devices and noxious weed treatments.

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 has substantive as well as minor technical modifications to recommend, and we look forward to working with the sponsors and the committee to resolve these issues.

Statement of
Michael Nedd
Deputy Director, Operations
Bureau of Land Management
U.S. Department of the Interior

Senate Energy and Natural Resources Committee
Subcommittee on Public Lands, Forests, and Mining
S. 3492, Elko National Cemetery Act
November 18, 2020

Thank you for the opportunity to testify on S. 3492, the Elko National Cemetery Act. The bill transfers administrative jurisdiction of approximately 15 acres of public land currently managed by the Bureau of Land Management (BLM) to the Department of Veterans Affairs' (VA) National Cemetery Administration (NCA) for use as a national cemetery in Elko, Nevada. The Department of the Interior supports S. 3492. This proposal aligns with the Administration's priority to restore trust with local communities and be a good neighbor by providing veterans in rural Nevada with a national cemetery near their homes.

Background

The city of Elko, Nevada, is the county seat with a population of approximately 21,000 people and an additional 15,000 living in the immediate area. Located in northeastern Nevada, Elko is the largest city within a 130-mile radius. Like many communities in Nevada, Elko is situated amidst BLM-managed public lands.

S. 3492, Elko National Cemetery Act

S. 3492 directs the Secretary of the Interior to transfer administrative jurisdiction of approximately 15 acres of public land to the Secretary of Veterans Affairs for use as a national cemetery, subject to valid existing rights. The Secretary of Veterans Affairs would be required to reimburse the Secretary of the Interior for all costs associated with processing the transfer. The Federal land to be transferred would be withdrawn from all forms of appropriation under the public land laws, including the mining, mineral leasing, and geothermal leasing laws.

The Department of the Interior supports S. 3492 and the transfer of administrative jurisdiction. Serving our nation's veterans by ensuring burial access and the opportunity to choose a cemetery near home is important. This remains a priority for the Administration per the President's Fiscal Year 2021 U.S. Department of Veterans Affairs budget request to create a cemetery in Elko, Nevada. The proposed National Veterans Cemetery in Elko would serve to honor our veterans and their families in Nevada on behalf of a grateful nation. The BLM would also like the opportunity to work with the sponsors to address technical issues including clarifying the legal description to minimize potential resource conflicts, providing technical modifications to streamline transfer of jurisdiction, and updating the legislative map referenced in the S.3492.

Conclusion

Thank you again for the opportunity to testify today. The BLM looks forward to working further with the sponsors of S. 3492 as the legislation moves forward. I would welcome any questions you may have.

Statement of
Michael Nedd
Deputy Director, Operations
Bureau of Land Management
U.S. Department of the Interior

Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests, and Mining
S. 4599, Pecos Watershed Protection Act

November 18, 2020

Thank you for the opportunity to testify on S. 4599, the Pecos Watershed Protection Act, which would withdraw approximately 166,600 acres of Federal land located near Pecos, New Mexico, from the operation of public land and mining laws, and all laws pertaining to mineral and geothermal leasing or mineral materials.

The lands proposed for withdrawal include approximately 165,000 acres of Federal lands managed by the U.S. Forest Service (Forest Service) and approximately 1,600 acres of public land managed by the Bureau of Land Management (BLM). While the BLM manages the subsurface Federal mineral estate, the BLM defers to surface managing agencies regarding potential development activities on Federal lands not managed by the BLM.

Under the leadership of President Trump and Secretary Bernhardt, the BLM has made environmentally responsible development of domestic minerals a priority. In communities across the country, mineral development of important commodities supports jobs, the American economy, and national security interests. The Administration is concerned that the bill would limit the management and potential development of important mineral sources – and therefore cannot support the proposed withdrawal in S. 4599.

Background

The BLM manages approximately 245 million acres of surface land and over 700 million acres of subsurface mineral estate on behalf of the American people. The BLM's mission is to sustain the health, diversity, and productivity of the public lands for multiple uses – including conventional and renewable energy development; livestock grazing; conservation; mining; and hunting, fishing, and other forms of recreation. This multiple use, sustained yield mission, mandated in the Federal Land Policy and Management Act, enables the BLM to contribute to economic growth, job creation, and domestic energy production, generating revenues for Federal and state treasuries and local economies.

Mineral Operations on Public Lands

Non-energy mineral development on Federal lands is essential to the American economy. The BLM manages three major categories of non-energy minerals on Federal lands: locatable, saleable, and leasable. Locatable minerals are subject to the Mining Law of 1872 and typically include gold, silver, copper, and other hardrock minerals. Saleable minerals, such as sand and

gravel, are subject to the Materials Act of 1947. Lastly, non-energy leasable minerals are typically subject to the Mineral Leasing Act and include minerals such as phosphate, sodium, potassium, and sulfur.

It is the BLM's policy to make these materials available to the public and local governmental agencies whenever possible, and where their development can be done economically and in an environmentally responsible manner.

Executive Order 13817 & 13953

Recognizing the national importance of reliable access to critical minerals, President Trump signed Executive Order 13817, *A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals*, on December 20, 2017. Pursuant to this Order, the Secretary conducted a review with the assistance of other executive departments and agencies that identified 35 minerals that 1) are "essential to the economic and national security of the United States;" 2) have supply chains that are "vulnerable to disruption;" and 3) serve "an essential function in the manufacturing of a product, the absence of which would have significant consequences for our economy or our national security."

In response to the review by the Department of the Interior and other agencies, on September 30, 2020, President Trump issued Executive Order 13953, *Addressing the Threat to the Domestic Supply Chain from Reliance on Critical Minerals from Foreign Adversaries.* In addition to addressing critical minerals, the Order finds that the United States must broadly enhance its mining and processing capacity, including for minerals not identified as critical minerals. Additional domestic capacity will reduce U.S. and global dependence on minerals produced in countries that do not endorse and pursue appropriate minerals supply chain standards, leading to human rights violations, forced and child labor, violent conflict, and health and environmental damage. In light of these findings, the Order directs the Department to use, as appropriate and consistent with applicable law, all available authorities to accelerate the issuance of permits and the completion of projects in connection with expanding and protecting the domestic supply chain for minerals.

S. 4599

Subject to valid existing rights, S. 4599 would withdraw approximately 165,000 acres of Forest Service-managed lands and approximately 1,600 acres of BLM-managed lands from operation of the public land and mining laws, and all laws pertaining to mineral and geothermal leasing or mineral materials. The lands proposed for withdrawal surround Pecos, New Mexico, and are within and adjacent to the Forest Service's Santa Fe National Forest. Based on a 1988 United States Geological Survey (USGS) evaluation of the general area, these lands contain potential for a variety of minerals, including zinc, lead, copper, silver, and gold.

The Administration does not believe that the withdrawal provided by the bill is the appropriate mechanism for managing the resources in the area. The BLM's existing multiple use management approach can protect high value resources on BLM-managed lands while still accommodating the full range of uses and activities permitted under the Federal Land Policy and Management Act and other authorities. If the bill is to move forward, the BLM would welcome the opportunity to work with the sponsor to make a technical correction to the map referenced in

the bill, and to create an official BLM land status map that includes the BLM-managed surface acres proposed for withdrawal.

Conclusion

Thank you again for the opportunity to provide testimony on S. 4599.

Statement for the Record
U.S. Department of the Interior

Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests, & Mining
S. 4625, the National Prescribed Fire Act of 2020
November 18, 2020

Chairman Murkowski, Ranking Member Manchin, and members of the Committee, thank you for the opportunity to provide testimony on S. 4625, the National Prescribed Fire Act, which aims to expand the use of prescribed fire on lands managed by the Department of the Interior (DOI) and the U.S. Forest Service. The Department supports S. 4625 and we look forward to working with the Committee on adjustments to the bill to facilitate the use of prescribed fire and other hazardous fuels reduction measures, increase agency accountability, and systematically enhance cross-border and landscape level collaboration among Federal agencies, states, tribes, and other landowners.

The DOI recognizes the importance of collaboration with partners to achieve the goals of the National Cohesive Wildland Fire Management Strategy (Cohesive Strategy), which are to restore and maintain fire-resilient landscapes; create fire-adapted communities; and safely and effectively respond to wildfires. We emphasize that this collaboration is critical to implementing prescribed fire in a systematic manner to reduce wildfire risk. Partnerships are key to DOI's land stewardship responsibilities, including the application of prescribed fire in the suite of tools that are available to help reduce wildfire risk; protect communities, infrastructure and watersheds; promote post-fire rehabilitation to help restore landscapes; and apply the fire science that provides information needed for fire practitioners and decision makers.

The majority of issues in wildland fire management arise from the ground up, and most are managed first at the local or landscape level, across ownerships and among interested stakeholders. The Cohesive Strategy provides the foundation for this important local cooperation. The Prescribed Fire Act would further the collaboration embodied by the Cohesive Strategy, beginning with neighboring landowners.

2020 Wildfire Status and Fuels Accomplishments

So far this year, more than 47,000 wildfires have burned over 8.5 million acres of land. Record heat, extended drought, widespread concurrent lightning ignitions, and several wind events have fueled wildfires across the West. Human-caused wildfires on average comprise 87 percent of all wildfires and most of these fires can be prevented. The Nation spent 49 days at the highest level of wildfire preparedness and a record 32,727 firefighters were deployed at one time this summer to support firefighting efforts. Mutually beneficial agreements facilitated international support from Canada and Mexico. Federal and state firefighting efforts were aided by state National Guard and active duty military that were deployed to wildfires in California and other places in the West.

The cumulative impacts of drought, invasive species, and climate variability created a landscape more susceptible to devastating wildland fires. Long and severe drought and a combination of stressors impacted wildland vegetation across nearly the entire western U.S. in 2020. As the grasses matured and dried, they readily spread fire to the woody vegetation impacted by drought. These impacts and declining forest health were exacerbated by an ever-expanding wildland urban interface, and the inherent complexities and dangers of fighting wildfire in and around these growing communities. We continue to be impacted by escalating emergency responses and increasingly dangerous and costly wildfire response operations.

Under President Trump's leadership, the DOI has led the way in taking bold action to address the overabundance and accumulation of excessive vegetation. In December 2018, the President signed Executive Order (E.O.) 13855 focused on active management and reducing wildfire risk. The Secretary of the Interior also addressed wildfire risk under Secretary's Order (S.O.) 3372, emphasizing hazardous fuel reduction, mitigating fire risk, and ensuring the safety and stability of local communities through active management of forests and rangelands. As a result, the DOI is taking aggressive steps to protect communities, watersheds, and infrastructure from the threats of wildfires. This past year, the DOI completed over 1.5 million acres of fuels management treatments on DOI and Tribal lands. This is a 25 percent increase over last year's accomplishments and builds on four consecutive years of increasing treatments totaling more than 5 million acres. It is also the largest number of acres treated over the past decade. Fuels management treatments are proven to have a critical role in influencing wildfire behavior, enhancing the safety and effectiveness of wildfire response, reducing wildfire risk, and safeguarding our communities.

Our partnerships with other Federal agencies, Tribes, states and local governments, and other stakeholders are increasingly important as we implement the E.O. and the S.O., and an integrated Wildland Fire Management program (WFM). By focusing on collaborative landscape-level treatments that remove excessively stocked forests and woodlands, maintaining previous treatments through the use of prescribed fire, and allowing fire to occur at the appropriate intervals and intensities, we can better protect the health of the landscape and the safety of the public and our firefighters. We believe that over the long-term this strategic approach will help us to better manage wildland fire and post-fire rehabilitation. We further believe that our efforts are consistent with the goals and direction of S. 4625.

Collaboration and Coordination in Wildland Fire Management

The Wildfire Leadership Council (WFLC) promotes cooperation between Federal, state, local and Tribal partners on key wildland fire management issues. The mission of WFLC is to guide the consistent implementation of wildland fire policies, goals, and management activities. WFLC provides a structure to facilitate these objectives in support of fire-adapted communities and resilient landscapes. However, it is not an advisory board, and any change to its governance as potentially envisioned by S. 4625 requires adherence to the Federal Advisory Committee Act.

Wildfires throughout the western United States have had a devastating impact in terms of loss of life, loss of homes and businesses, and damage to infrastructure, forests, and rangelands. This past year, the smoke impacts from wildfires were some of the greatest and most prolonged that

we have seen for at least many decades, as individual fires and burned areas in several states were the greatest in any period of record. While review of epidemiological data on the human health impacts of wildfires in 2020 have not been completed, we know that smoke has significantly impacted wildfire suppression operations, public health, recreational uses, and both vehicular and aircraft transportation.

Current actions will help WFLC focus on the benefits of prescribed fire. DOI is collaborating with the USFS and the Environmental Protection Agency on comparative assessments of smoke from wildfires and prescribed fires in multiple regions of the country to better characterize their effects in various types of vegetation. Building on these analyses, DOI and the USFS are working with the Centers for Disease Control and Prevention on a health impact assessment that will quantify the public health tradeoffs of smoke from wildfire and prescribed fires, including the social, economic and ecological impacts that will be drawn from the EPA analyses. This work is expected to be completed in 2021.

Under E.O. 13855, the Secretary of the Interior, in conjunction with the Administrator of the Environmental Protection Agency, are working to identify areas to reduce interagency regulatory barriers and eliminate redundant policies in order to promote efficiencies in implementing the Clean Air Act and reduce wildfire risk. As a result, the agencies have made significant progress in defining common ground for the use of prescribed fire, and in defining areas that merit further scientific clarity to support a basis for increasing implementation of prescribed fires on the landscape.

S. 4625, the National Prescribed Fire Act

Many provisions of the National Prescribed Fire Act are consistent with efforts underway at DOI. However, for too many years we have witnessed ever-larger wildfires, particularly in many western states. While we have made considerable progress in addressing fuels management on Federal lands, the trajectory that we have been on for the past century requires meaningful revision, including expanding the use of the tools that we have, improved coordination with our partners, and flexibility in the use and implementation of Federal programs and resources.

Prescribed Fire Accounts

Section 101 of the bill establishes a Prescribed Fire Account, which may be helpful, but the specific implementation and use of this account could be simplified. If it is the intent of the Committee to leave the mechanics of the account to the agencies and the Office of Management and Budget, then such direction to the Secretary may be sufficient. However, the Department notes that implementation of the proposed structure of the accounts presents significant accounting and tracking challenges. The Department would like to work with the Committee to simplify these requirements while preserving accountability and the spirit and intent of the bill.

Notably, the official system of record for DOI prescribed fire and other fuel treatments data is the National Fire Plan Operations Reporting System (NFPORS), rather than the data maintained

by the National Interagency Fire Center (NIFC). The record system at NIFC was designed to inform day-to-day resource commitments for wildfire suppression; as such, the system was not meant to be used to track prescribed fire use by other agencies or the public. While it does include data from many state agencies, it has also varied significantly over time in its comprehensiveness. The system is, therefore, useful to inform mobilization of wildfire suppression resources, but is not a perfect tool for tracking the comprehensive use of prescribed fire. The Federal wildland fire management agencies do not rely on the system for prescribed fire use because of these inherent limitations.

The National Wildfire Coordinating Group has chartered working groups that foster cooperation among the Federal agencies, states, Tribal, and local partners. States are represented on these working groups, which set data standards for wildfire incidents. These standards allow for the seamless integration of Federal, state, and local data to permit interoperable online collaborative geographic information systems. This type of collaboration can be used to improve the reporting of prescribed fire use in real time, and to more systematically and more consistently incorporate prescribed fire use data from our state, local, and Tribal partners.

The DOI supports development of an improved system, but strongly recommends that the federal agencies and the states collaboratively develop the most accurate and nimble system in the most cost-effective manner. This may not necessarily be an enhanced NIFC system, which would duplicate other DOI and USFS data systems.

Policies and Practices

Section 102 of the bill requires that the Secretaries significantly increase the number and size of prescribed fires on Federal lands. The bill establishes a criterion for large cross-boundary prescribed fires at 50,000 acres per year, which is unrealistic in many ecosystems. The DOI strongly affirms that the use of prescribed fire should be, and can be, significantly increased. However, it requests continued flexibility in determining how best to use the tool for treatments.

Prescribed fire is needed for the germination of some pine and brush seeds, the rejuvenation and sprouting on many brush and grass species, and the restoration and maintenance of habitat of a multitude of species. Prescribed fires release nutrients that can benefit plant growth and thins the understory of many tree species, including Ponderosa pine (*Pinus ponderosa*) and Giant Sequoia (*Sequoia sempervirens*). Without this natural thinning, thick understory vegetation and debris accumulate, resulting in fuels that produce higher intensity fires and can kill native vegetation. The sheer magnitude of our vegetation and fuels accumulation across various vegetation types necessitates the use of every available tool. Prescribed fire is often the most cost-effective tool available and can mimic natural ecological processes.

At the same time, our resource managers understand that not all lands need to see the equivalent increase in the use of prescribed fire. Some specific vegetation types, historical land uses, and current drought conditions dictate the amount and frequency of prescribed fire that can be, or should be, used to manage these lands. Under natural fire cycles, or with native American uses of fire, large areas formerly burned lightly every few years, while others burned every 200 years or less often. These areas should therefore not be burned with prescribed fire uniformly, to the

same extent and at the same frequency. In many of these areas, mechanical treatments must first be completed before prescribed fire can be implemented.

The DOI also recognizes that some small and some vast landscapes have invasive plant species that cannot be burned without greatly increasing the spatial coverage of those invasive species. These species include cheatgrass (*Bromus tectorum*) that occupies an increasing extent of our Great Basin sagebrush steppe ecosystem. The use of prescribed fire on some lands may not be compatible with some land use designations or may result in risks to resource values. Limitations may also exist in some wildland urban interface areas during drought, adverse weather, or other situations in sensitive areas.

In Section 102(d), the DOI believes that more flexibility is warranted. There are areas that have a fire return frequency of longer than 35 years, where fire risk may be very high. Areas in a mixed fire regime, with a fire return interval of 35 to 100 years may present significant social and environmental risks, as we witnessed in northwest Oregon this past summer. Prescribed fire treatments of less than 100 acres might have helped particularly significant resources within larger burned areas. The DOI welcomes a further discussion of details of the bill with the Committee to ensure flexibility where it is needed.

Collaboration and Cross-Boundary Programs

Sections 103 and 104 of the bill focus on facilitating cooperation and training to enhance prescribed fire activities. The DOI supports these sections but would like to note that the Federal agencies currently provide substantial technical assistance to the states, and prescribed fire implementation frequently involves the sharing of resources in both directions. Contingency resources very commonly support each other. In a very real sense, cooperation in prescribed burning is similar to the level of cooperation we have seen in wildfire suppression. Qualifications, training, and standards for prescribed fire are shared across agencies as in wildfire suppression. As we increase the use of prescribed fire, the need for cooperation and collaboration will only increase for us to be successful. The DOI would like to work with the Committee to look for ways to leverage existing programs and agreements to facilitate additional prescribed fire treatments.

Environmental Reviews

The DOI would like to work with the Committee to ensure that environmental reviews do not become overly burdensome, time consuming, and diminish windows of opportunities to complete critical prescribed fire treatments while continuing to protect communities, infrastructure and watersheds. Some uses of prescribed fire are covered by categorical exclusions, which are a type of environmental compliance, not an exemption from the National Environmental Policy Act (NEPA). If we hope to significantly expand the use of prescribed fire, we need to rely on planning, modelling, and monitoring of both implementation and fire effects. The Administration has submitted proposed legislation, in the form of legislative NEPA categorical exclusions, as part of the President's Budget for fiscal years 2020 and 2021. There is considerable overlap between the Administration's proposal and the provisions included in Section 204. The Department would welcome an opportunity to work with the Committee to combine this section with the proposal, and to get all of the Administration's wildland fire proposals enacted.

Human Resources
The DOI supports the workforce and human resource provisions included in Sections 201 and 202 of the bill to support prescribed fire. Direct hire, employment of formerly incarcerated individuals and underrepresented employees can all be human resource avenues to increase our qualified workforce. Some recruitment efforts can be modeled after our efforts to increase veterans in our workforce. The Department remains a leader in providing training and job opportunities for veterans who wish to continue their service to our country. We will continue our efforts to emphasize the hiring of veterans to fill the ranks of our wildland fire management resources and would benefit from expanding these efforts to other groups.

Notably, the fiscal year 2021 President's Budget request includes a $50 million increase to begin this workforce transformation. The increase in funding will allow DOI to add 601 full time equivalent firefighters through a mix of converting temporary-seasonal firefighters into permanent positions and hiring some new permanent positions. This will facilitate overall improved firefighting capabilities and provide the support that is needed to more aggressively implement fuels management treatments on a year-round basis. Career appointments also provide stability to the workforce; reduce recruitment, on-boarding, and training expenses; increase morale; and help build the next generation of DOI wildland fire managers.

The DOI also recognizes the contributions of the Prescribed Fire Training Center in Tallahassee, Florida, in developing expertise within the interagency wildland firefighting community. The current center's location is ideal for prescribed fire training, as wildland fire personnel are available for prescribed fire training in the fall, winter, and early spring months. The level of cooperation between Federal and state agencies and private organizations has been outstanding. Training opportunities with the center extend to several surrounding states and include international participants as well, providing nearly year-round opportunities to apply and develop skills. In addition, we would like to work with the committee on ways to expand the reach of prescribed fire training by leveraging existing workshops and academies to facilitate continuing education elsewhere in the West. The DOI suggests that the existing prescribed fire training program, Women-in-Fire Prescribed Fire Training Exchange (WTREX) held in California, also extends its capacity beyond the center in Florida, for Federal agencies, states, Tribes, and external partners.

There are a number of issues that the Department would like to work on with the Committee, such as workforce flexibilities, which would help with overall employment, recruitment, and retention across the wildland fire management program, as well as ensuring that technical details of Section 202 can be implemented to achieve the goals of the Act.

Conclusion

The DOI would welcome the opportunity to collaborate on some of the specific language of the draft legislation to enhance the intended benefits of the legislation, and to avoid some of the potential unintended consequences. These changes would increase the probability of implementing the very useful concepts in the most constructive manner. The DOI agrees with the premise that more prescribed fire use can be highly beneficial but it is not the sole key to

reducing wildfire impacts, and is very willing to work with the Committee to ensure an outcome that will benefit current communities, wildlife, airsheds and future generations.

Statement of
Michael Nedd
Deputy Director, Operations
Bureau of Land Management
U.S. Department of the Interior

Senate Energy and Natural Resources Committee
Subcommittee on Public Lands, Forests, and Mining
S. 4696, University of Alaska Fiscal Foundation Act
November 18, 2020

Thank you for the opportunity to testify on S. 4696, the University of Alaska Fiscal Foundation Act. S. 4696 directs the Department to establish a program within the Bureau of Land Management (BLM) to identify and convey land to the University of Alaska to support higher education.

The Department is focusing on restoring full collaboration and coordination with local communities to make the Department a better neighbor. We look forward to working with the sponsors and the Committee on technical modifications.

Background

While the State of Alaska is the largest state in the nation, it has the second smallest land grant – approximately 110,000 acres – for higher education. Previous attempts to provide a land grant to the University of Alaska include a reservation made by Congress in 1915 of approximately 268,000 acres of public domain in the then-Territory of Alaska for what would become the University of Alaska. In 1929, Congress provided for an additional grant of 100,000 acres of the territory to the college. Upon admission as a state in 1959, portions of the 1915 reservation of land were eliminated, and no federal land grant for higher education was provided in the Alaska Statehood Act.

As the Secretary of the Interior's designated survey and land transfer agent, the BLM is the federal agency responsible for adjudicating land claims, conducting and finalizing cadastral land surveys, and transferring legal title of federal lands. The BLM's Alaska Land Transfer Program administers the transfer of lands to individual Alaska Natives under the Alaska Native Allotment Act; implements the 46 million-acre transfer to Alaska Native Corporations under the Alaska Native Claims Settlement Act of 1971 (ANCSA); and is also responsible for conveying 104.5 million acres to the State of Alaska under the Alaska Statehood Act. The BLM has completed over 90 percent of the ANCSA survey work. When the survey and conveyance work under the Alaska Native Allotment Act, the Alaska Statehood Act, and ANCSA is completed, over 150 million acres, approximately 42 percent of the land area in Alaska, will have been transferred from federal to State and private ownership.

S. 4696

S. 4696 requires the Department to establish a program within the BLM to identify and convey available State of Alaska selected lands to the University of Alaska for use in supporting the operation and maintenance of the University system. The State of Alaska and the University are to identify not more than 500,000 acres of available State land for inclusion in the program established by the Department and eventual conveyance to the University. Of those 500,000 acres, a maximum of 360,000 acres may be conveyed to the University. Prior to the conveyance of land, the State and the University must agree regarding the lands to be conveyed, and this agreement must be provided in writing to the Department. The total acreage of all land conveyed under this bill will be charged against the remaining entitlement of the State under the Alaska Statehood Act.

Under Article IV, Section 3, Clause 2 of the Constitution Congress has the "power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States", and we respect Congress's role in this regard. As a result, the Department has no objection to S. 4696.

However, given the unique circumstances and legal requirements of this conveyance, the BLM would like to work with the sponsor to clarify its responsibilities under this legislation. For example, the lands available for selection under S. 4696 include "top-filed" lands – lands that are currently unavailable for selection but may become available at some future date. As currently worded, the language seems to allow the University to select lands that are not available to the State of Alaska. Additionally, allowing selection of top-filed lands that may one day become available for selection and conveyance, raises procedural questions. For instance, if the State and the University top-file the same lands, there may be uncertainty as to which entity has the preference right to the lands if they become available. Clarifying what would happen if top-filed lands are chosen would help the BLM fulfill its obligation as the bureau responsible for adjudicating land claims for the federal government.

Conclusion

Thank you for the opportunity to testify on this bill. The Department looks forward to working further with the sponsor and the Committee on this legislation.

Statement of
Michael Nedd
Deputy Director, Operations
Bureau of Land Management
U.S. Department of the Interior

Senate Energy and Natural Resources Committee
Subcommittee on Public Lands, Forests, and Mining
S. 4889, Alaska Native Claims Settlement Act Fulfillment Act
November 18, 2020

Thank you for the opportunity to present the views of the Department of the Interior (Department) on S. 4889, the Alaska Native Claims Settlement Act Fulfillment Act. S. 4889 amends the Alaska Native Claims Settlement Act (ANCSA) of 1971 concerning various Alaska Native issues, including certain land conveyances to Alaska Native communities, reversion of lands to Village Corporations, and authorization for five Native communities in Southeast Alaska to organize as Urban Corporations.

The Department supports this legislation and looks forward to working with the sponsors and the Committee on some technical modifications. The Department defers to the U.S. Department of Agriculture (USDA) on the parts of Section 7 that pertain to the National Forest System.

Background

ANCSA provided the framework to settle aboriginal land claims in Alaska and entitled Alaska Native communities to select and receive title to 46 million acres of Federal land. The Act established a corporate structure for Native land ownership in Alaska under which Alaska Natives would become shareholders in one of over 200 private, land-owning Alaska Native Village, Group, Urban, and Reserve Corporations and/or one of 12 private, for-profit, land-owning Regional Corporations. Most Alaska Natives are enrolled in two corporations; the corporation representing the community where they lived in 1971 and a Regional Corporation. Each Regional Corporation encompasses a specific geographic area and is associated with Alaska Natives who had traditionally lived in the area. For each Corporation, whether Village or Regional, ANCSA provided at least two potential 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 non-landowning 13th Regional Corporation.

As the Secretary of the Interior's designated survey and land conveyance agent, the Bureau of Land Management (BLM) is the Federal agency tasked with transferring to Alaska Native Corporations title to the 46 million acres to which they are entitled. The BLM's Alaska Land Transfer program administers the transfer of lands to individual Alaska Natives under the Alaska Native Allotment Act, the transfer of 46 million acres to Alaska Native communities under ANCSA, and the conveyance of 104.5 million acres to the State of Alaska under the Alaska

Statehood Act. When the survey and conveyance work under the Alaska Native Allotment Act, ANCSA, and the Alaska Statehood Act is completed, more than 150 million acres, consisting of approximately 42 percent of the surface area in Alaska, will have been transferred from Federal to state and private ownership.

S. 4889

Following is a review of the provisions of S.4889 of interest to the Department of the Interior.

Sec. 4. Canyon Village

Section 4 of the bill would direct the Secretary to convey the surface estate for selected lands to Kian Tr'ee Corporation for the Native village of Canyon Village. The section also directs the Secretary to convey the subsurface rights for the selected lands to Doyon, Limited, an Alaska Native regional corporation or, at Doyon's choice, alternative subsurface estate, to fulfill its ANCSA entitlements. The Department supports this section.

Sec. 5. Kaktovik Inupiat Corporation

Section 5 directs the Secretary of the Interior to convey surface estate for selected lands to Kaktovik Inupiat Corporation and the subsurface to Arctic Slope Regional Corporation. The Department supports this section for its potential to move toward equitable resolution of complex, longstanding issues.

Sec. 6. Reversion of Municipal Trust Lands to Village Corporations

Under Section 6, Village Corporations would no longer be required to convey any land in trust to the State of Alaska for the establishment of a Municipal Corporation. Any land that was previously conveyed in trust by a Village Corporation to the State of Alaska for establishment of a Municipal Corporation that has not yet been created by the date of enactment of this bill would revert back to the Village Corporation. The Department supports this section and would like to work with the sponsors and the Committee on minor technical modifications.

Sec. 7. Recognition and Compensation of Unrecognized Native Communities in Southeast Alaska

This section would amend ANCSA to authorize the Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to organize as Urban Corporations, and providing each with land in the surface estate comprising of approximately 23,040 acres in southeastern Alaska upon incorporation. The Department defers to the Forest Service on issues related to the land selected to be transferred in the bill, as the selected lands are all on the Tongass National Forest.

Conclusion

Thank you for the opportunity to testify on S.4889. The Department is proud to support the efforts of the sponsors to bring resolution to these issues facing Alaska Native communities.

STATEMENT FOR THE RECORD, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON NATIONAL PARKS, REGARDING S. 4569, A BILL TO MODIFY THE BOUNDARY OF SUNSET CRATER VOLCANO NATIONAL MONUMENT IN THE STATE OF ARIZONA, AND FOR OTHER PURPOSES.

November 18, 2020

Chairman Daines, Ranking Member King, and members of the Subcommittee, thank you for the opportunity to provide the Department of the Interior's views on S. 4569, a bill to modify the boundary of Sunset Crater Volcano National Monument in the State of Arizona, and for other purposes.

The Department supports S. 4569.

S. 4569 would transfer to the National Park Service (NPS) administrative jurisdiction over approximately 97.71 acres of land currently administered by the U.S. Forest Service and revise the boundary of Sunset Crater Volcano National Monument to include this land. The land that would be added to the monument is currently part of the Coconino National Forest and includes an NPS visitor center, park administrative facilities, and a section of Forest Service Road 545 which connects the NPS entrance kiosk and the administrative area to the Monument. At present, the NPS operates these facilities and maintains Forest Service Road 545 through an interagency agreement with the U.S. Forest Service.

Sunset Crater Volcano National Monument protects approximately 3,040 acres containing the youngest, least-eroded cinder cone in the San Francisco Volcanic Field at the site of the Colorado Plateau's most recent volcanic eruption which occurred 900 years ago. This dormant volcano, and its relatively undeveloped landscape, provide a unique opportunity to study plant succession and ecological change in an arid volcanic landscape.

Sunset Crater National Monument was established by President Herbert Hoover by Presidential Proclamation 1911 on May 26, 1930, in order to protect the area's unique geologic formations. The monument, created from and surrounded by the Coconino National Forest, was administered by the. U.S. Forest Service for three years until it was transferred to the NPS in 1933. In 1990, with the passage of Public Law 101-612, the monument was redesignated as Sunset Crater Volcano National Monument.

This legislation would provide for an increase in efficiency by removing administrative burdens stemming from the need to operate NPS facilities under an interagency agreement. The NPS has used this land to support the management of the monument for decades. Currently, administration of the area is complicated for both agencies. For example, any ground disturbing activity within the area requires compliance efforts and approval by both agencies. This change in land administration is supported locally among city and county officials.

The Department recommends some technical amendments to the bill, which we would be willing to provide to the Committee.

Thank you for the opportunity to provide this statement for the record.

Senator LEE. Thank you, Mr. Nedd.
Mr. Babbott, please proceed.

STATEMENT OF HON. ART BABBOTT, SUPERVISOR-DISTRICT 1, COCONINO COUNTY, ARIZONA, BOARD OF SUPERVISORS

Mr. BABBOTT. Good afternoon, Subcommittee Chairman Lee, Ranking Member Wyden and distinguished Subcommittee members. Thank you for holding today's hearing to discuss Senator McSally's proposed bill, Senate bill 4603, the Forest Health and Biomass Energy Act of 2020. My name is Art Babbott, and I'm a Coconino County Supervisor in Coconino County, Arizona.

Catastrophic wildfire and post-fire flooding are the number one public health and safety issues and risks facing Coconino County and our communities. I have been privileged to serve as a Chair of the 4FRI for forest restoration initiative, the ambitious 2.4 million-acre, landscape scale restoration effort spanning four forests across eastern and northern Arizona. Coconino County is the second largest county in the contiguous United States, and just 12 percent of our total land mass is privately owned. We are home to the largest ponderosa pine forest in the world and, like so many Western communities, northern Arizona has increasingly seen destructive wildfire playing out in our communities, costing federal, state and local entities hundreds of millions of dollars in suppression and recovery costs.

Landscape scale forest restoration cannot succeed without viable private sector forest industry partners. The lack of industry capacity for biomass disposal has created severe impediments to the successful implementation of the 4FRI program. The Forest Health and Biomass Energy Act addresses, arguably, the most critical bottleneck in moving landscape scale restoration efforts forward. That is, how do we deal with the millions of tons of no to negative value biomass and slash that must be removed to serve our restoration goals and objectives? To put this in perspective, an average of 30 tons of negative to no value biomass comes off every restored acre in Northern Arizona. If we do not have strategies to deal with the tens of millions of tons of biomass and fuel loads on the forest service lands, we will not reduce the threats of catastrophic fire and the subsequent ecological sterilization of millions of acres of public land. This bill is an important step to changing the narrative that plays out in the front pages of newspapers each fire season and in our communities every year as well.

Senate bill 4603 provides a critical vehicle for moving the conversation on the biomass bottleneck forward. We should not get sidetracked by whether or not 12 inches, 14 inches or 10 inches is the correct dimension for no value designation because the big picture approach that needs to be supported at this point, not every last detail of the proposal. The fact is, there is a broad consensus among diverse stakeholders that we must make progress on the biomass question if we are to make progress on reducing the threat of catastrophic fire in our communities. At its core, the Forest Health and Biomass Energy Act recognizes that unless we deal with the reality that the majority of timber in Arizona forests have negative to no value, forest industry cannot play their pivotal role.

As one forest service assessment showed, just 25 percent of forested acres in 4FRI's first phase had any positive economic value.

We cannot expect the private sector to carve value out of a no value product without some action on our part. Expanding biomass energy opportunities serves in reducing carbon emissions, protecting public safety and infrastructure and puts into action the understanding that prevention is a far more fiscally responsible strategy than paying for fire suppression and post-fire cleanup. We are—we know we are going to have to pay to manage these threats of catastrophic wildfire. It's a question of when we pay and whether we pay in a manner where we have some ability to control the cost. We are not going to solve the biomass bottleneck using tools and strategies of the past. We are going to have to give something to get something. This bill opens the window to a discussion that is not tangential but integral to protecting our communities, our public lands and our economies. It does this while thoughtfully supporting viable forest industries in and the economies of rural America.

I want to express my deep appreciation to Senator McSally for introducing S. 4603 and thank each of you for taking the time to hear our comments, and I look forward to questions after testimony, if you have them.

Thank you so much, Mr. Chairman.

[The prepared statement of Mr. Babbott follows:]

Supervisor Art Babbott, District 1
Coconino County, Arizona

Testimony before the Public Lands, Forests and Mining Subcommittee of the Senate Committee on Energy and Natural Resource
S. 4603 – Forest Health and Biomass Act (McSally)

Subcommittee Chairman Lee, Ranking Member Wyden and distinguished members of the subcommittee, thank you for holding today's hearing to discuss S. 4603, Forest Health and Biomass Energy Act, and for inviting me to testify on behalf of the critical need for biomass energy to support forest health across the Western United States. On behalf of Coconino County, I want to express my thanks to Senator McSally for working with the County to introduce S. 4603 and the subcommittee for highlighting this critical issue.

My name is Art Babbott, County Supervisor from Coconino County. During my time on the Board of Supervisors, forest restoration has been one of the top policy priorities for the County as catastrophic wildfire and flood represent the number one public health and safety risk for the County. As part of that priority, I have been honored to serve as Chair of the Four Forest Restoration Initiative (4FRI), which I will discuss later.

Coconino County, the second largest county in the contiguous United States, consisting of 18,661 square miles of land, 27 percent, or over three million acres, of which are owned and managed by the U.S. Forest Service. We are home to the largest Ponderosa Pine forest in the world, making healthy forests one of our top interests and priorities as we work to protect lives and communities from the impacts of catastrophic wildfires and post-wildfire flooding.

In the past ten years, Coconino County has experienced four major wildfires on federal land that has negatively impacted us through the tragic loss of life, homes and businesses, decreased property values as well as social and economic burdens on our communities. Just one year ago in my district, the Museum Fire, which burned less than 2,000 acres, cost the U.S. Forest Service over $11 million to suppress and rehabilitate and cost Coconino County nearly $2 million in response to the post-wildfire flooding threat to the City of Flagstaff.

While forest restoration has been on the hearts and minds of our citizens for years, we are currently in the eighth year of a ten-year landscape scale restoration project called the Four Forest Restoration Initiative or 4FRI, an effort to restore 300,000 acres of forest over 10 years. In those eight years, the contractor has only been successful at treating 14,000 acres. While there are many factors that have played into the small amount of acres being treated, the lack of a market for the biomass (non-merchantable trees, limbs and tops) that is created from forest restoration treatments continues to be the bottleneck.. This is quite evident by the fact that a mere 125 miles away, where a bioenergy plant is located in Snowflake, Arizona, industry has been able to treat over SIX TIMES as many acres in the same timeframe precisely because there is a market for biomass. Support for biomass energy facilities as well as the "High Hazard Area Wood Biomass Fund" in S. 4603 to fund the processing, removal and hauling of biomass to end markets that can be hundreds of miles away from the source, is critical for increasing the pace and scale of forest restoration on federal lands.

Supervisor Art Babbott, District 1
Coconino County, Arizona

In the early 1990's, much of Arizona's forest industry "left town" due to increasing litigation on federal timber sales. Add to that the Forest Service policy to put every forest fire out, we have created conditions where the forest is overstocked with trees and is a virtual tinderbox waiting to combust. Northern Arizona University's Ecological Restoration Institute cites that pre-1900, tree densities in Arizona's forests averaged around 24 trees per acre due to the frequent lightning caused fires naturally thinning the forest. However, that average today has skyrocketed to well over 1,200 trees per acre. The goal of forest restoration is to reduce the tree density to a healthy average of 80 trees per acre, allowing for the re-introduction of wildfire back into our fire adapted ecosystem. Attempting to do that work primarily through prescribed fire is too risky and not feasible based on the current density of trees. However, mechanical thinning treatments brings a multitude of benefits, although success depends on markets being made available for the forest products and biomass. One of the greatest benefits of mechanized thinning operations, aside from creating a healthy, fire-resistant forest, is the creation of well-paying jobs in some of the most rural areas of the country where they are desperately needed.

Biomass energy plays a significant role in the success rate of forest restoration in Arizona and yet has struggled to get support from state and federal lawmakers. Biomass energy is the only viable option, at this time, in our efforts to thin 30,000 to 50,000 acres per year for the next twenty years as we work diligently to improve forest health and reduce the threat of catastrophic wildfires across the West. We often look only at the cost of bioenergy when determining its viability and knowing that it has a higher cost than green energy systems like solar and wind. Therefore, it often gets overlooked. However, we must not forget that the ecosystem benefits resulting from forest restoration treatments that supply the biomass for energy, is creating healthy forests and watersheds, improved wildlife habitat, protecting communities and lives from catastrophic wildfires and the negative air quality impacts, as well as recreational and economic opportunities within our national forest lands. S. 4603 is critical for support of biomass removal from federal lands and biomass energy to reduce the amount of carbon emissions from wildfire, open-burning fire and prescribed fire. In addition, the financial impact from forest restoration, made possible by having biomass energy as an end market for forest by-products, is the reduction of catastrophic wildfires that have cost the federal government nearly $3.4 billion in suppression costs alone in 2020, according to the National Interagency Fire Center. Furthermore, it is estimated that the total economic impact from wildfires in 2020 will reach between $130 to $150 billion in losses.

The facts on the ground in our region prove out the need for biomass as a tool to dispose of the forest products in our area. Senator McSally's legislation, S. 4603, is a critical step towards creating this policy goal and funding that will plant the seeds for biomass utilization in forest restoration efforts in Arizona and elsewhere across the West.

In Arizona, where we have only one 30 MW bioenergy plant, there is a need for an additional 90 MW of biomass energy to consume the biomass residue that will be produced from the Four Forest Restoration Initiative. Over the last several years, the bioenergy facility captured over 98 percent of the particulate matter (PM) 2.5 created by burning biomass for energy. The EPA has published that "Wildland fires now account for 40 percent of the total PM emitted in the country, making it a major source of the pollutant, which causes lung and health problems." Consider that

Supervisor Art Babbott, District 1
Coconino County, Arizona

against all particulate matter emitted from vehicles, power generation, industrial facilities, etc. forest fire represents 40 percent of the PM emitted.

In conclusion, it is critical that the federal government upholds its responsibility to the American people in supporting the most viable and economic way to dispose of the millions of tons of small diameter trees, limbs and tops (biomass) that result from forest restoration projects across the West and more specifically in Arizona, where there are no other industry markets available, allowing for more acres to be treated each year. Without your support, we will continue to see catastrophic wildfires ravage the landscape and watersheds, turning once beautiful forests into a desolate wasteland of ash and dust. I applaud the subcommittee for holding this important hearing today and urge you to pass S. 4603 to protect our fragile forest ecosystem in the West.

Senator LEE. Thank you, sir.
We will now hear from Ms. Brown.
Ms. Brown, proceed.

STATEMENT OF SUSAN JANE M. BROWN, WILDLANDS PROGRAM DIRECTOR AND STAFF ATTORNEY, WESTERN ENVIRONMENTAL LAW CENTER

Ms. BROWN. Chairman Lee, Ranking Member Wyden and members of the Subcommittee, thank you for the opportunity to join you today to discuss S. 4625, the National Prescribed Fire Act of 2020, introduced by Senator Ron Wyden and co-sponsored by Senator Manchin and Senator Cantwell. My name is Susan Jane Brown, and I am the Wildlands Program Director and Staff Attorney for the Western Environmental Law Center, or WELC. I use she/hers pronouns, and I am joining you from my office on the banks of the Willamette and Columbia Rivers on the lands of the Klamath and Paiute people.

The Western Environmental Law Center is based in Eugene, Oregon, with offices in Portland and Bend, Oregon; Seattle, Washington; Taos and Santa Fe, New Mexico; and, Helena, Montana. WELC uses the power of the law to defend and protect the America's West treasured landscapes, iconic wildlife, and rural communities. We combine our legal skills with sound conservation biology and environmental science to address major environmental issues in the West in the most strategic and effective manner. WELC is also deeply engaged in collaborative forest conservation in Oregon, working closely with the Blue Mountain's forest partners on the Malheur National Forest in Eastern Oregon as well as other forest collaboratives on the Ochoco, Deschutes, Umatilla, and Wallowa-Whitman National Forests. WELC's work with these forest collaboratives, our service on Oregon Governor Brown's Council on Wildfire Response, and dialogue with forest and fire ecology experts and land managers has informed our position on S. 4625 and has led to our support for this much needed legislation.

One of the most respected researchers working on wildfire today, Dr. Paul Hessburg with the Forest Service's Pacific Northwest Research Station, gives a TED talk called "Wildfires have gotten worse and what we can do about it." In it, Dr. Hessburg talks about and asks his audience, "How do you want your fire? How do you want your smoke?" Dr. Hessburg advises that for many reasons, while there is no future without more fire and more smoke in our Western landscapes, we do have the ability to influence how fire and smoke affect the landscapes and communities we care about. S. 4625 answers Dr. Hessburg's challenge.

The National Prescribed Fire Act of 2020 directs federal land managers to dramatically increase the use of prescribed fire to achieve management objectives, including reducing hazardous fuels. The legislation dramatically increases funding for the Forest Service and Department of the Interior to carry out prescribed fire on public lands and would incentivize cross-boundary work for all lands-controlled burning. S. 4625 adds to the Fire Corps by increasing training opportunities for federal and non-federal burners and would allow seasonal firefighters to become permanent employees with off-season fire responsibilities which will help increase the

amount of controlled fire on the landscape. The National Prescribed Fire Act also facilitates the recruitment and increases our attention on under-represented persons in fire, particularly women. Importantly, S. 4625 amends the civil liability standard for federal prescribed burns, establishing a gross negligent standard of care for federal employees to facilitate an increase in fire use. The legislation also directs federal land managers to utilize the exceptional events procedures currently within the Clean Air Act for large prescribed fires, provided that burners follow a strict process approved by State and Federal officials.

The best available science tells us that using fire to fight fire is one of the best, most cost-effective tools we have to reduce future fire risk. S. 4625 addresses critical gaps in existing law and policy and would have a meaningful impact on the ground. As I mentioned in my introduction, I work closely with the Blue Mountain forest partners, a forest collaborative of diverse stakeholders including conservationists, elected officials, and timber industry representatives on the Malheur National Forest in eastern Oregon. Working with our Forest Service partners, we've collaboratively developed science-driven, large landscape forest restoration treatments on well more than half of the 1.2 million acres that comprise Malheur National Forest, all without a single forest management-related lawsuit since 2003 or any streamlining of environmental laws. All of our restoration projects include a substantial acreage of prescribed fire. We aim to burn about three-quarters of each of our 30,000 to 40,000 acre planning areas.

Despite the success, we still struggle to fulfill our restoration vision. For example, we have between 160,000 and 200,000 acres of NEPA-ready, prescribed fire acres ready to burn today. In the next four years we will have an additional 400,000 acres that are NEPA-approved and ready to burn. All, I might add, without a single NEPA or Endangered Species Act waiver or efficiency. Let me say that again, hundreds of thousands of NEPA-ready acres with full environmental review and public comment, without environmental waivers and without a single lawsuit. Despite these numbers, in Fiscal Year 2020 which closed September 30, the Malheur only burned 274 acres. So far in Fiscal Year 2021, which began October 1, the Malheur has burned more than 6,000 acres. What explains this inconsistency?

In some ways, life—the COVID–19 pandemic, weddings, children, schools—these things take personnel away from positions in fire. But other reasons—lack of funding, narrow burn windows, not enough trained personnel, liability risk aversion and community reluctance to burn—would be addressed by enactment of S. 4625. The National Prescribed Fire Act of 2020 is an important step forward in achieving the vision of the cohesive wildfire strategy. By increasing the amount of fire on the landscape on our terms, we can make important progress on safely and effectively restoring degraded landscapes, better protect homes and communities, and ensure that when we must, that we are able to suppress the most threatening wildfires because 4625 addresses these needs and enjoys broad support from myriad stakeholders including forest collaboratives, fire protection associations, conservationists, forest product companies, restoration contractors, tribes, and members of the Oregon State

Legislature, among others. I, therefore, urge the Subcommittee to report out this legislation.

Thank you for the opportunity to share my thoughts and experiences with you, and I would be pleased to answer any questions that you have.

[The prepared statement of Ms. Brown follows:]

Testimony of Susan Jane M. Brown, Western Environmental Law Center

**Senate Environment and Natural Resources Committee,
Subcommittee on Public Lands, Forests, and Mining**

Legislative Hearing on S. 4625, National Prescribed Fire Act of 2020 (Wyden)

November 18, 2020

Chairman Lee, Ranking Member Wyden, and members of the subcommittee, thank you for the opportunity to join you today to discuss S. 4625, the National Prescribed Fire Act of 2020, introduced by Senator Ron Wyden (D-OR) and co-sponsored by Senator Manchin (D-WV) and Senator Cantwell (D-WA).

My name is Susan Jane M. Brown, and I am the Wildlands Program Director and staff attorney for the Western Environmental Law Center (WELC). We are based in Eugene, Oregon, with offices in Portland and Bend, Oregon; Seattle, Washington; Taos and Santa Fe, New Mexico; and Helena, Montana. WELC uses the power of the law to defend and protect the American West's treasured landscapes, iconic wildlife, and rural communities. We combine our legal skills with sound conservation biology and environmental science to address major environmental issues in the West in the most strategic and effective manner. WELC works at the national, regional, state, and local levels and in all three branches of government. We integrate national policies and regional perspective with the local knowledge of our 150+ partner groups to implement smart and appropriate place-based solutions.

WELC is also deeply engaged in collaborative forest conservation in Oregon, working closely with the Blue Mountains Forest Partners on the Malheur National Forest in eastern Oregon, the Ochoco Forest Collaborative on the Ochoco National Forest, the Deschutes Collaborative Forest Project on the Deschutes National Forest, and the Northern Blues Forest Collaborative on the Wallowa-Whitman and Umatilla National Forests. WELC's work with these forest collaboratives, our service on Oregon Governor Brown's Council on Wildfire Response, and dialogue with forest and fire ecology experts and land managers, has informed our position on S. 4625 and led to our support for this much-needed legislation.

This year, my home state of Oregon experienced yet another record-setting wildfire season. Dry conditions exacerbated by the effects of global climate change, along with strong east winds, combined to fan the flames of dozens of wildfires that eventually consumed more than a million acres of forestland, thousands of residences and structures, and unfortunately, too many lives. Our bluebird Oregon skies were orange for weeks, causing severe health concerns for a population already struggling with the global COVID-19 respiratory pandemic. Urban centers of Talent and Phoenix, Oregon made national news as they burned, causing terrified residents to chaotically flee. While managers are still assessing the damage and the causes of these fires are under investigation, it appears that several of the most destructive blazes were sparked by powerlines and other anthropogenic sources.

Experts tell us that the era of megafires is here, and that we should begin to expect "gigafires," blazes that burn more than a million acres. California is no stranger to large conflagrations, and I fear Oregon and other western states must also come to terms with this "new normal."

And yet, it need not be this way.

In 2009, Congress enacted the Federal Land Assistance, Management, and Enhancement Act (FLAME Act), which directed the Department of Agriculture (USDA) and the Department of the Interior (DOI) to develop a national cohesive wildland fire management strategy to comprehensively address wildland fire management across all lands in the United States. In 2010, the intergovernmental Wildland Fire Leadership Council initiated the National Cohesive Wildland Fire Management Strategy (Cohesive Strategy)[1] effort, which focuses on achieving three essential national goals: 1) **restore and maintain landscapes** so that landscapes across all jurisdictions are resilient to fire-related disturbances; 2) **create fire-adapted communities** so that human populations and infrastructure can withstand a wildfire without loss of life and property; and 3) **ensure a safe, effective, and efficient risk-based wildfire response** across all jurisdictions.

The Cohesive Strategy thus establishes a national vision "to safely and effectively extinguish fire, when needed; use fire where allowable; manage our natural resources; and as a Nation, live with wildland fire."[2] In order to achieve this vision, decision makers must address all three prongs of the Cohesive Strategy. Failing this, the West will continue to burn and change cherished landscapes in ways that society cannot tolerate.

Senator Wyden, joined by Senators Manchin and Cantwell, understands this dynamic. S. 4625 focuses on two important Cohesive Strategy elements: restoring and maintaining landscapes, and ensuring a safe and effective wildfire response. The Cohesive Strategy identifies the use of prescribed wildland fire and managed wildfire as one of the most effective, and least costly, methods of reducing hazardous fuels and reintroducing fire into fire-dependent ecosystems, thus restoring and maintaining landscapes. Similarly, the Cohesive Strategy identifies the use of prescribed and natural fire as a tool to assist land managers in fighting future wildfires: although perhaps counterintuitive, experts tell us that we can – and must – use fire to fight fire.[3]

---

[1] Wildland Fire Leadership Council, *National Cohesive Wildland Fire Management Strategy*, available at https://www.forestsandrangelands.gov/strategy/index.shtml (last visited Nov. 14, 2020).

[2] *Id.*

[3] CNN, *Her tribe tamed wildfires for generations. Their method might surprise you* (Oct. 29, 2020), available at https://www.cnn.com/videos/us/2020/10/29/california-wildfires-native-americans-prescribed-burn-eg-orig.cnn (last visited Nov. 14, 2020); Amanda Monthei, *Land Managers Can't Burn the West Fast Enough*, THE ATLANTIC (Oct. 28, 2020), available at https://www.theatlantic.com/science/archive/2020/10/prescribed-burns-are-failing/-616889/?utm_source=feed (last visited Nov. 14, 2020); Anna M. Phillips, *As wildfires explode in the West, Forest Service can't afford prevention efforts*, LOS ANGELES TIMES (Oct. 21, 2020), available at https://www.latimes.com/politics/story/2020-10-21/amid-worsening-wildfires-the-forest-service-is-short-of-funds-and-delaying-fire-prevention-work (last visited Nov. 14, 2020);

S. 4625 directs the federal land managers at the United States Forest Service (Forest Service) and Department of the Interior to dramatically increase the number and size of prescribed fires conducted on federal lands, increases the federal and nonfederal workforce trained to utilize prescribed fire as a management tool, modernizes prescribed fire training programs, creates programs to incentivize and collaboratively implement prescribed fire on federal and nonfederal lands, and importantly creates a public education program regarding the benefits of and reasons for prescribed fire use.[4]

The legislation also amends the civil liability standard for federal prescribed burners, establishing a "gross negligence" standard of care to facilitate an increase in fire use. Research has shown that higher standards of care, while well-meaning, effectively preclude prescribed fire in many states.[5] Where adopted, a gross negligence liability standard has been shown to work to protect both burners and private property owners.

S. 4625 addresses another barrier to increased prescribed fire use: compliance with the Clean Air Act, which generally prohibits anthropogenic "exceedances" (i.e., temporary violations) of air quality standards. As an initial matter, WELC is a staunch supporter of our federal bedrock environmental laws; and as someone who has traveled internationally to places without air quality controls, I can definitively testify that our Clean Air Act is a law that should be celebrated for the clean air it provides for our nation.

However, as someone who lived through this summer's wildfires – where the air quality in Portland, Oregon temporarily ranked as the worst in the world – I can also testify that if the increased use of prescribed fire can reduce the likelihood of future summers with orange skies and catastrophically unhealthy air, then we must allow for the production of more "good smoke" in service of creating more resilient landscapes for the future. S. 4625 meets this need by directing the agencies to utilize the "exceptional events" procedures currently within the Clean Air Act for large prescribed fires, provided that burners follow a strict process approved by state

---

Philip Connors, *We Made Wildfire an Enemy for 110 Years. It Could Have Been an Ally*, NEW YORK TIMES (Sept. 20, 2020), available at https://www.nytimes.com/-2020/09/22/us/forest-fires-fighting-history.html (last visited Nov. 14, 2020).

[4] A relevant criticism of S. 4625 is that it utilizes an existing "mascot" for a prescribed burner program named "Burner Bob." *See*, Title II, Section 205. Because such mascots can be highly effective in government-sponsored public education programs, it is important to utilize such opportunities to address social inequities where appropriate. Given that the land management agencies, and the Forest Service in particular, struggle with appealing to women and people of color – especially in fire-related programs and positions – WELC strongly recommends that the identity of the public education campaign mascot should be "Burner Betty" to better advance gender equity within the federal land management agencies.

[5] *See*, Schultz et al., *Prescribed Fire Policy Barriers and Opportunities: A Diversity of Challenges and Strategies Across the West* (Summer 2018), available at https://ewp.uoregon.-edu/sites/ewp.uoregon.edu/files/WP_86.pdf (last visited Nov. 14, 2020).

and federal officials. WELC believes that this process is sufficiently protective of air quality and public health, while also balancing ecological and public safety needs.[6]

Relatedly, WELC tentatively supports the creation in S. 4625 of *administrative* categorical exclusions to facilitate the use of prescribed fire. We do not support the creation of *legislative* categorical exclusions that seek to avoid full compliance with the National Environmental Policy Act, as many legislative proposals do. However, the rulemaking required by S. 4625 compels the land management agencies to base prescribed fire categorical exclusions on prior analyses and monitoring results, and requires the use of extraordinary circumstances to effectively rule out instances when a categorical exclusion would not be appropriate for use. Requiring a transparent rulemaking process consistent with the Administrative Procedure Act, which allows for public comment and environmental review, protects the public's interest in an informed administrative process and decisionmaking.

The National Prescribed Fire Act of 2020 is an important step forward in achieving the vision of the Cohesive Strategy. By increasing the amount of fire on the landscape on our terms, we can make important progress on safely and effectively restore degraded landscapes, better protect homes and communities, and ensure that when we must, that we are able to suppress the most threatening wildfires. Because S. 4625 addresses these needs, it enjoys broad support from myriad stakeholders, including forest collaboratives, fire protection associations, conservationists, forest products companies, restoration contractors, tribes, and members of the Oregon State Legislature, among many others. I urge the Subcommittee to report out this legislation.

Thank you for the opportunity to share my thoughts and experiences with you.

Sincerely,

Susan Jane M. Brown, Wildlands Program Director & Staff Attorney
Western Environmental Law Center
Ph: 503-914-1323
Cell: 503-680-5513
brown@westernlaw.org
www.westernlaw.org

[6] Other legislative proposals such as S. 2882, the Wildfire Defense Act (Harris), nicely compliment S. 4625. S. 2882 creates a grant program for communities to address not only the health effects of smoke, but also assists communities in undertaking community protection (i.e., "home hardening") efforts. The Subcommittee should consider combining these two legislative proposals at a future mark-up.

Senator LEE. Thanks to all of you for your opening statements. Those were very helpful. We are now going to proceed to questions from the Committee. We will alternate, going back and forth between Democrats and Republicans on the Subcommittee. I am up to bat first, so I will begin now.

I want to start by talking a little bit about the Bonneville Shoreline Trail Advancement Act, S. 4215, and I am going to raise this with Mr. French. As I mentioned, Mr. French, in my opening statement the purpose of this particular bill is to complete and also expand the use of the Bonneville Shoreline Trail, or BST. The BST is a non-federal, mixed-use trail, and most of it runs along urban development in Salt Lake County inside of four wilderness areas. The bill would subtract about 20 parcels that together total 344.16 acres from wilderness in the Uinta-Wasatch-Cache National Forest areas; about 19.06 acres in the Mount Naomi Wilderness; approximately 197.4 acres in the Mount Olympus Wilderness Area; 9.8 acres in the Twin Peaks Wilderness Area; and, 107.9 acres in the Lone Peak Wilderness Area. The bill also would add the same amount of land as one contiguous parcel to the existing Mount Olympus Wilderness Area to create a one-to-one swap. These lands were selected through research and discussion among local trail supporters and conservationists, and I would like to ask unanimous consent that written statements from BST Trail Advocates endorsing S. 4215 be added to the hearing record and those will be admitted into the record without objection.

[Statements from BST Trail Advocates follow:]

Dear Congressman John Curtis,

On behalf of BikeFlights.com, a bicycle shipping service for cyclists, I'd like to express our enthusiastic support for the Bonneville Shoreline Trail Advancement Act.

BikeFlights.com started shipping bikes in 2009 to help fellow cyclists adventure with their bikes. In our first year, we shipped just a handful of bikes. Eleven years later, we've helped over 723,000 cyclists ship their bikes, wheels and gear around the country and around the world. We currently partner with over 20 Utah bike shops and collaborate with a half dozen major bike events in Utah. We also have many customers and several staff members who live and work in Utah.

If approved, the Bonneville Shoreline Trail Advancement Act would facilitate completion of the Bonneville Shoreline Trail (BST). BST is currently an incomplete long-distance multi-use trail that is the central spine of many trail master plans across the Wasatch Front. The trail is incomplete because it enters three federally designated Wilderness Areas (Mt Olympus, Twin Peaks and Lone Peak). The Bonneville Shoreline Trail Advancement Act would minimally move the Wilderness Area boundaries to align with the BST sections that currently enter into the federally designated areas.

The Bonneville Shoreline Trail Advancement Act will foster and create a consistent management approach of the BST across the federal estate (USFS). This will drive more attention to trail building and streamline efforts to fundraise for new development. The expansion of this trail will incentivize more individuals to get out and ride, which will benefit local communities and bike businesses.

We appreciate your support for outdoor recreation in Utah and encourage you to introduce the Bonneville Shoreline Trail Advancement Act.

Sincerely,

William Alcorn
President
BikeFlights.com
8316 N Lombard St #35
Portland, OR 97217
(814) 769-6156
william.alcorn@bikeflights.com

WILLIAM ALCORN | PRESIDENT
BikeFlights.com
M: 814.769.6156
E: william.alcorn@bikeflights.com

#NeverLeaveYourBikeAtHome
#PackShipRide

March 10, 2020

Congressman John Curtis
U.S. House of Representatives (UT-03)
3549 North University Avenue
Yorktown Building, Suite #275
Provo, UT 84604

Dear Representative Curtis,

The Bonneville Shoreline Trail Committee is in full support of the Bonneville Shoreline Trail Advancement Act.

The vision of the BST is a non-motorized trail that serves as an interface between the urban area and public lands along the Wasatch Front and provides trail users with a recreational experience at a distance from motorized activities that is both safe and aesthetically pleasing. This vision includes the BST being a shared use trail which is open to mountain biking for its entire length.

Unfortunately loss of eminent domain for recreation trails in Utah and private property parcels that extend up to the wilderness boundary on USFS land stand in the way of this vision. The Mountain Accord for the Central Wasatch includes moving the wilderness boundary to allow biking on the entire BST by way of the CWNCRA legislation. However that legislation is not moving forward due to the failure of the proposed ski resort land exchange provisions and lack of approved actions for improving the mountain transportation system.

Therefore, we support the Bonneville Shoreline Trail Advancement Act to advance the vision of the BST being a shared use trail open to mountain biking by moving the wilderness boundary to above the BST now.

Sincerely,

John Knoblock, Bonneville Shoreline Trail Committee

PHONE (801) 884-8987
E-MAIL bonnevilleshorelinetrail@gmail.com
WEB SITE www.bonnevilleshorelinetrail.org

CACHE TRAILS
ALLIANCE

Monday, July 13, 2020

The Honorable John Curtis
125 Cannon Office Building
Washington, DC 20515
Sent via email to aaron.clark@imba.com

RE: Letter of Support for the Bonneville Shoreline Trail Advancement Act (BSTAA)

Dear Representative Curtis,:

As founding members of Cache Trails Alliance (CTA), we have considered the basic information expected to be contained in the Bonneville Shoreline Trail Advancement Act (BSTAA), a bill that would remove parts of Birch Canyon from wilderness designation, thereby allowing mountain biking on a trail that currently exists in the canyon. We heartily endorse this bill.

The Birch Canyon trail minimally encroaches into current wilderness and is therefore technically off-limits to biking according to a strict reading of current wilderness rules. To provide perspective, if the trail varies further than one-hundred (100) feet from the center-line of an existing motorized vehicle road in Birch Canyon, it encroaches into designated wilderness. At some points, the trail varies nominally further than the prescribed one-hundred feet; there-in lies the rub.

Our ideal situation is to align the oversight role of the US Forest Service (USFS) with the goals, hopes, and usage of our local trail community. Our experience is that the local branch of the USFS is entrenched, prescriptive, and inflexible, making alignment between the user community and the USFS difficult. This is especially true when dealing with the trail in Birch Canyon, because of the wilderness issue and because the USFS is frustrated with the way the trail was built. While the BSTAA will not address systemic issues within the USFS, it does represent a continued momentum shift toward the reality that the mountain biking community is an important and growing stakeholder among those who recreate on public lands. As a local trail community, CTA recognizes the importance of encouraging multiple stakeholders to “Get out there!” and

recreate on public lands, regardless of the mode of recreation. We expect that removing obstacles like the wilderness designation in Birch Canyon will further accomplish this objective.

Since inception, CTA has rallied our local trail community around adopting and caring for our local trails. Our members are passionate about our stewardship for our local trails. We have formally (and informally) adopted and cared for many of our local trails and have logged thousands of volunteer hours working on these trails. Additionally, CTA members have purchased land along the historic Bonneville Shoreline Trail (BST) with the intent of developing the BST and preserving this trail system as a legacy for our community. The BST runs along the east bench of Cache Valley and ties together many of our canyon trails including Birch Canyon. As such, we endorse the Bonneville Shoreline Trail Advancement Act (BSTAA), which will remove parts of Birch Canyon from wilderness such that the trail can be used by our local mountain biking community and be more fully integrated into our local BST trail system.

Thank you for considering our endorsement of this bill. Kind regards,

Paul Gibbons, Paul Richins, Brent Thomas
Founders and Trail Stewards, Cache Trails Alliance

CONTENDER
BICYCLES

Congressman John Curtis
U.S. House of Representatives (UT-03)
125 Cannon Office Building
Washington, DC 20515

Dear Congressman John Curtis,

On behalf of Contender Bicycles Inc., a retail bicycle establishment with locations in Salt Lake, I'd like to express our enthusiast support for the Bonneville Shoreline Trail Advancement Act.

Contender employees nearly forty employees and plays an important role in helping keep our community healthy and sane. With a growing population, access and improvement to trails is important for our community. It is also important to businesses like Contender. On several occasions our staff have performed trail maintenance days on portions of the Bonneville Shoreline Trail (BST). There is pride and ownership amongst the community for this trail. The trail is is frequented by people enjoying all sorts of activities. It is an awesome resource that has potential.

If approved, the Bonneville Shoreline Trail Advancement Act would facilitate completion of the Bonneville Shoreline Trail (BST). BST is currently a long distance multi-use trail that is the central spine of many trail master plans Wasatch Front. The trail is incomplete because it enters three federally designated Wilderness Areas (Mt Olympus, Twin Peaks and Lone Peak). The Bonneville Shoreline Trail Advancement Act would minimally move the Wilderness Area boundaries for the BST sections that currently enter into the federally designated areas.

The Bonneville Shoreline Trail Advancement Act will foster and create a co-management approach of the BST across the federal estate (USFS). This attention to trail building and streamlined efforts to fundraise for new development and expansion of this trail will incentivize more individuals to get out and ride, benefiting local communities and bike businesses.

We appreciate your support for outdoor recreation in Utah and encourage you to introduce Shoreline Trail Advancement Act.

Sincerely,

Ryan Littlefield
Owner, Contender Bicycles

Community and Economic Development

Davis County Administration Building, 61 South Main Street, P.O. Box 618,
Suite 304, Farmington Utah 84025
Telephone: (801) 451-3279 - Fax: (801) 451-3281

Davis COUNTY

Kent G. Andersen
Director

March 9, 2020

Congressman John Curtis
U.S. House of Representatives (UT-03)
3549 North University Ave.
Yorktown Building Suite #275
Provo, Utah 84604

Dear Representative Curtis:

This letter is in regards to the Congressman's **Bonneville Shoreline Trails Advancement Act.** The Bonneville Shoreline Trail is a 150 mile plus trail system that runs along the foothills of the Wasatch Front. It is arguably the most significant unpaved trail in northern Utah. The trail has been in development for many years. I have personally been involved with the planning of this trail for over a decade. 50 miles of the trail are situated in Davis County. As a county we have struggled, just like Salt Lake County, to connect the trail through some private properties. Any efforts that would allow the trail to be connected through difficult obstacles would be appreciated. Your current effort to move a wilderness boundary to allow for trail development would benefit many recreational users.

Davis County supports Congressman Curtis's efforts for the Bonneville Shoreline Trails Advancement Act.

Regards,

Jeff Oyler
Planning Manager
Davis County

DRAPER CITY

February 6, 2020

Congressman John Curtis
U.S. House of Representatives (UT-03)
3549 North University Ave.
Yorktown Building Suite #275
Provo, UT 84604

To Whom It May Concern:

This letter is regarding Congressman John Curtis's **Bonneville Shoreline Trail Completion Act**.

Many cities have been working for years to provide interconnected sections of the Bonneville Shoreline Trail. Draper City currently has over 9 miles of the Bonneville Shoreline Trail with connections into Sandy City. We are planning another 5 miles this year, which will connect into Lehi City.

Draper City has improved and expanded the trail system in Corner Canyon and Utah County. We now have 4800 acres of dedicated open space and 116 miles of trail. The Bonneville Shoreline Trail is a major arterial trail throughout the Wasatch Front foothills which, when completed will be a major asset for all trail users and communities.

Draper City supports Congressman Curtis's efforts for the **Bonneville Shoreline Trail Completion Act**.

Sincerely,

Mayor Troy K. Walker

Draper City Mayor

STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

SPENCER J. COX
LIEUTENANT GOVERNOR

July 10, 202

The Honorable John Curtis
125 Cannon House Office Building
Washington, D.C. 20515

Dear Representative Curtis,

Thank you for your good work representing Utah's third district and particularly your efforts to help amplify to your constituents the most important messages from public health officials during this pandemic.

As I look beyond COVID-19 and to what opportunities and challenges lie ahead for Utah, I believe we will return to the extraordinary growth that characterized Utah prior to the pandemic. That growth will continue to drive both opportunities and challenges. We certainly can't stop people from moving to Utah, and wouldn't want to even if we could, but we can wisely take actions that will preserve for our children the standard of living that we currently enjoy.

That conversation includes a more holistic approach to transportation and land use policy, efforts to improve our air quality, and solutions to our scarce water resources. It also includes looking for opportunities to create and preserve more open space and recreational opportunities along the Wasatch Front.

To that end, I was happy to learn of your effort to help complete the Bonneville Shoreline Trail. As you surely know, the trail is a decades long project with both recreational and historical significance. It has the potential to be both a beautiful recreational asset for Utah residents and a tool for teaching us about ancient Lake Bonneville and Utah's fascinating geologic history.

For the past 30 years, numerous Utah political jurisdictions, businesses, recreational users, and private landowners have played a role in securing portions of the trail. Much remains to be done, but your bill, the Bonneville Shoreline Trail Advancement Act, is a next step in that process. It would release 326 acres of wilderness from the Mount Olympus, Mount Naomi, Twin Peaks, and Lone Peaks Wilderness Areas, allowing the development of the trail in those areas.

Again, thank you for your leadership. I support the effort and stand ready to help advance the legislation however necessary.

Sincerely,

Gary R. Herbert
Governor

March 19, 2020

Congressman John Curtis
U.S. House of Representatives (UT-03)
3549 North University Avenue
Yorktown Building, Suite 275
Provo, UT 84604

Dear Congressman Curtis,

About 14,000 years ago a large, majestic lake covered what is now northern Utah. The evidence of this ancient Lake Bonneville extends throughout Salt Lake, Utah, Weber, and Cache counties. We have the opportunity to pay homage to our geologic beginnings while also looking toward the future by completing the Bonneville Shoreline Trail.
The Bonneville Shoreline Trail has the potential to be a destination trail. Much like the Pacific Crest Trail, the John Muir Trail, or the Appalachian Trail. A trail so extensive and connected that people will want to travel to Utah, just to hike or mountain bike, the entire trail. However, unlike those other extensive trails, it can also be used everyday by the surrounding communities as a true urban interface trail. A trail that people will walk their dogs on daily. A trail that will allow for a quick trail run after work, or as an alternative mountain bike commuter trail for people that work downtown or students who want to mountain bike to the University of Utah. We have the opportunity to make this one of the great multi-regional trails.

Herriman City built their first section of the Bonneville Shoreline Trail in 2018. Traversing the Herriman Hills, the Bonneville Shoreline Trail in Herriman connects neighborhoods and serves as the main artery of the Herriman Trail System. Now the trail serves women's weekly hiking groups, the high school mountain bike and cross-country teams, and lots of active citizens just wanting to get outside for a breath of fresh air. Trail runners can get in several miles of dirt right from their homes, and children can mountain bike to their friends' homes in different neighborhoods without ever having to touch pavement. The Bonneville Shoreline Trail truly adds to the vitality and health of our community, both physical and mental.

To have a trail that connects several counties, as well as provides an east/west corridor for trail users should be of the utmost priority as we plan for the future of Salt Lake Valley. As our population continues to explode, we need to provide access to nature and wilderness areas by means of true urban interface trails like the Bonneville Shoreline Trail. I feel the best way to 'save our canyons' is to get people to take ownership of them, by providing an easy pathway for humans to get outside. Trails provide this pathway, while simultaneously conserving open space. Please push for the realignment of wilderness area to facilitate the building of the Bonneville Shoreline Trail. Thank you.

Sincerely,

Jo Darton
Chair, Herriman Trails Committee

INTERNATIONAL MOUNTAIN BICYCLING ASSOCIATION

Congressman John Curtis
U.S. House of Representatives (UT-03)
125 Cannon Office Building
Washington, DC 20515

Dear Congressman John Curtis,

On behalf of the International Mountain Bicycling Association (IMBA), we commend you for taking an interest in the Bonneville Shoreline Trail (BST) and better mountain biking connectivity in the Salt Lake Valley. We fully support and encourage the introduction of the Bonneville Shoreline Trail Advancement Act (BSTAA).

IMBA is a 501(c)3 non-profit educational association whose mission is to create, enhance and protect great places to ride mountain bikes. Founded in 1988, IMBA leads the national and worldwide mountain bicycling communities through a network of 140,000 individual supporters, subscribers and affiliate groups and members. Each year, Mountain bikers are estimated to contribute more than 100,000 hours annually valued at more than $2 million in volunteer trail stewardship on America's public lands. Mountain bikers are some of the best assistants to federal, state, and local land managers when it comes to trail maintenance, trail planning, design and building. IMBA's members and mountain bike trail organizations nationwide have relied on federal lands for sustainable and thoughtful shared access to trails in their communities and this bill will further advance a key regional trail asset for all types of trail enthusiasts. This bill will also leverage new interest in advancing the BST toward completion and will drive resources and volunteer hours to the area as it becomes available to bicyclists.

If passed, the BSTAA would assist local communities and volunteer efforts in completing the iconic BST. The BST is currently an incomplete long distance multi-use trail that is the central spine of many trail master plans for municipalities across the Wasatch Front. The trail is currently incomplete due, in part, to it entering three federally designated Wilderness Areas (Mount Olympus, Twin Peaks and Lone Peak), making trail building difficult, interrupting continuous multi-use access, and as a result, discouraging diverse investment and volunteerism into these sections. As an incremental solution, the BSTAA would minimally move the current Wilderness Area boundaries where this overlap exists in order to align with the existing or future BST sections. This simple and appropriate solution would facilitate the advancement of building those sections and making them available for multi-use non-motorized recreation as originally envisioned for this regional asset.

As mentioned, trail building in this geographical location is challenging and requires mechanical equipment not authorized in federal Wilderness Areas. This bill will alleviate that complexity. Wildfires along the Wasatch Front are a continuous threat along the wildland urban interface. According to the Forest Service, "existing or newly constructed forest trails can be effective firebreaks if properly maintained." If utilizing the BST as an access point, a firebreak, and a defensive feature are all possible, having its entirety out of federal Wilderness Areas will streamline management and ensure the quick response that's critical for firefighting crews.

The BSTAA will also help foster a consistent management approach of the BST across the forest service lands it traverses, which will drive more attention to trail building and streamline efforts to fundraise for

INTERNATIONAL MOUNTAIN BICYCLING ASSOCIATION

new development. The expansion of this trail will incentivize more individuals to get out and ride, which will benefit local communities and serve as an economic draw.

In Utah and across the country, IMBA works and relies on strong relationships with our local on-the-ground partners. Therefore, while it is not necessary to do so, we appreciate the recognition of the importance to our local partners in having an offset of new Wilderness for the Wilderness acres removed for the BST. We believe the parcel identified northeast, up Mill Creek Canyon, is a perfect property to be added to the Mt. Olympus Wilderness and adequately replaces the Wilderness acres removed. In fact, doing so will amount to a 2:1 ratio offset and will replace the removed acres with an aesthetically and environmentally higher quality parcel. This is a balanced solution that IMBA and our locals can stand by, defend, and fully support.

A version of this proposal was formerly included as one component in the Central Wasatch National Conservation and Recreation Area Act in 2016. The critical support behind the complex Central Wasatch Proposal has since dissolved, and as we understand it, has no future path forward in sight. Additionally, while the BST adjustment component was included in that proposal, it was often plagued by threats of removal by some parties when concerns were raised about the efficacy of the bill language in achieving the intended goal. This gave us pause in continuing down the path of remaining connected to the Central Wasatch proposal. While the Central Wasatch proposal mentioned above is outside the scope of IMBA's mission, we acknowledge the importance it holds for our local partners, many of whom want to see the issues involved sorted out and the support regained. That proposal is complex and fraught with technical challenges that are well beyond our expertise and resources. Therefore, we appreciate the independent support for the BST component of that package and the recognition that we must get it right in order to advance the completion of the BST. The BST must continue forward as the Salt Lake Valley population continues to grow and the demand for trail connectivity follows. This will help make that happen for the people of Utah.

Thank you for your support of outdoor recreation in Utah by sponsoring the Bonneville Shoreline Trail Advancement Act.

Sincerely,

David Wiens, Executive Director
International Mountain Bicycling Association

PO Box 20280
Boulder, CO 80308
Office: 303.545.9011
Fax: 303.545.9026
www.IMBA.com

Testimony on S. 4215 –
Bonneville Shoreline Trail Advancement Act

Submitted to the
Senate Energy & Natural Resources Committee
Subcommittee on Public Lands, Forests, and Mining

November 18, 2020

The Honorable Mike Lee
Chairman, Subcommittee on Public Lands, Forests, and Mining
Energy & Natural Resources Committee
U.S. Senate

The Honorable Ron Wyden
Ranking Member, Subcommittee on Public Lands, Forests, and Mining
Energy & Natural Resources Committee
U.S. Senate

Dear Chairman Lee and Ranking Member Wyden,

On behalf of the International Mountain Bicycling Association (IMBA), we want to urge the Committee to support the common sense approach made in the Bonneville Shoreline Trail Advancement Act (BSTAA). IMBA enthusiastically supports this bill which provides a balanced solution to better mountain biking connectivity in the Salt Lake Valley with respectful and minor adjustments to Wilderness and by designating equal and worthy replacement acres.

IMBA is a 501(c)3 non-profit educational association whose mission is to create, enhance and protect great places to ride mountain bikes. Founded in 1988, IMBA leads the national and worldwide mountain bicycling communities through a network of 140,000 individual supporters, subscribers and affiliate groups and members. Each year, Mountain bikers are estimated to contribute more than 100,000 hours annually valued at more than $2 million in volunteer trail stewardship on America's public lands. Mountain bikers are some of the best assistants to federal, state, and local land managers when it comes to trail maintenance, trail planning, design and building. IMBA's members and mountain bike trail organizations nationwide have relied on federal lands for sustainable and thoughtful shared access to trails in their communities and this bill will further advance a key regional trail asset for all types of trail enthusiasts. This bill will also leverage new interest in advancing the Bonneville Shoreline Trail (BST) toward completion and will drive resources and volunteer hours to the area as it becomes available to bicyclists.

PO Box 20280
Boulder, CO 80308
Office: 303.545.9011
Fax: 303.545.9026
www.IMBA.com

If passed, the BSTAA would assist local communities and volunteer efforts in completing the iconic BST. The BST is currently an incomplete long distance multi-use trail that is the central spine of many trail master plans for municipalities across the Wasatch Front. The trail is currently incomplete due, in part, to it entering three federally designated Wilderness Areas (Mount Olympus, Twin Peaks and Lone Peak), making trail building difficult, interrupting continuous multi-use access, and as a result, discouraging diverse investment and volunteerism into these sections. As an incremental solution, the BSTAA would minimally move the current Wilderness Area boundaries where this overlap exists in order to align with the existing or future BST sections. This simple, respectful and appropriate solution would facilitate the advancement of building those sections and making them available for multi-use and bicycle recreation as originally envisioned for this regional asset.

As mentioned, trail building in this geographical location is challenging and requires mechanical equipment not authorized in federal Wilderness Areas. This bill will alleviate that complexity. Wildfires along the Wasatch Front are a continuous threat along the wildland urban interface. According to the Forest Service, “existing or newly constructed forest trails can be effective firebreaks if properly maintained.” If utilizing the BST as an access point, a firebreak, and a defensive feature are all possible, having its entirety out of federal Wilderness Areas will streamline management and ensure the quick response that’s critical for firefighting crews.

The BSTAA will also help foster a consistent management approach of the BST across the Forest Service lands it traverses, which will drive more attention to trail building and streamline efforts to fundraise for new development. The expansion of this trail will incentivize more individuals to get out and ride, which will benefit local communities and serve as an economic draw.

No net loss of Wilderness
In Utah and across the country, IMBA works and relies on strong relationships with our local on-the-ground partners. Therefore, we appreciate and highlight the bill’s recognition of the importance to our local partners in having an offset of new Wilderness for the Wilderness acres removed for the BST. We believe the parcel identified northeast, up Mill Creek Canyon, is a perfect property to be added to the Mt. Olympus Wilderness and adequately replaces the Wilderness acres removed. In fact, doing so will amount to a 1:1 ratio offset and will replace the removed acres with an aesthetically and environmentally higher quality parcel. This parcel has two existing forest trails within it that are already managed as Wilderness trails as they pass through the parcel and enter the Mt Olympus Wilderness above bringing greater protection to these community assets for hikers. This is a balanced solution that IMBA and our locals can stand by, defend, and fully support.

It is important to note the previous 2016 testimony made by the USFS specifically on the BST adjustments now included in the 2020 BSTAA bill. Referencing this past agency testimony is not to suggest that the USFS has the same position, rather it points out the actions taken since 2016 to address the issues raised in that testimony. After initially stating qualified support for that former bill pending technical edits, the USFS testimony in 2016 continues on to discuss the BST adjustments in detail that are now included in the BSTAA before you today. The mian point was to ensure that the adjustments were ground truthed to ensure effectiveness.

PO Box 20280
Boulder, CO 80308
Office: 303.545.9011
Fax: 303.545.9026
www.IMBA.com

United States Forest Service 2016 Testimony- Glenn Casamassa- Former Associate Deputy Chief.
"The Department of Agriculture generally supports H.R. 5718, with some technical edits."

"The legislation would adjust existing wilderness boundaries to accommodate the Bonneville Shoreline Trail and future transportation improvements."

"While the Forest Service typically does not support a decrease in wilderness areas, roughly 120 acres of ***boundary adjustments reducing existing wilderness are needed to accommodate existing and proposed mountain bike trails.****(emphasis added)*

The Forest Service recommends that boundaries for wilderness areas, and other special designations, be mapped to identify features on the ground to assist the public and land managers in recognizing different designations. We also recommend that proposed boundaries be vetted at the field level to confirm practicality of the management of these special designations, in accordance with legislative intent.

Since this testimony was submitted in 2016, the USFS staff at the local district level have walked the BST alignment to address the concerns raised in the above testimony and to ensure that the adjustments now included in the BSTAA bill in 2020 are effective. The 2020 BSTAA bill before you today has resolved these concerns and we can ensure that the adjustments are adequately vetted.

As mentioned above, similar language to this legislation was formerly included as a minor component in the much larger Central Wasatch National Conservation and Recreation Area Act in 2016, H.R.5718. The difference was that the BST adjustments in that package were limited to Salt Lake County as that was the scope of the Mountain Accord agreement. Today's bill, the BSTAA, includes a small set of critical adjustments in Cache Co, and Utah County directly adjacent to Salt Lake County adjustments and still within the Lone Peak Wilderness. We believe the need to address all the necessary adjustments in one piece of legislation, not a piecemeal approach that leaves known barriers to completion unaddressed.

It should be noted that support for the concept of adjusting Wilderness for the BST in the former 2016 bill was strong. Unfortunately there exists a small amount of opposition to the BSTAA largely centered on a false premise that advancing the BST adjustments separately will undermine the Central Wasatch Proposal as a whole. While we remain committed to the Central Wasatch process, there has been significant erosion in support for the original legislation. Consequently, Central Wasatch legislation has not been introduced in neither the Senate nor the House during the 116th Congress. Ski areas have withdrawn their support for land swaps, the US Forest Service has stated the proposed swaps were not of adequate value, and the Utah Department of Transportation is still studying the efficacy of the transportation elements. It is for these reasons we feel the time is now to move forward with the Bonneville Shoreline Trail Advancement Act, and hope this collaboration leads to new and positive momentum and bi-partisanship working towards a solution on the larger Central Wasatch proposal.

PO Box 20280
Boulder, CO 80308
Office: 303.545.9011
Fax: 303.545.9026
www.IMBA.com

While the Central Wasatch proposal mentioned above is outside the scope of IMBA's mission, we again acknowledge the importance it holds for many of our local partners, many of whom want to see the vision of so many stakeholders come to fruition.

Thank you for your consideration of this bill and its role in supporting outdoor recreation in Utah. Please advance the Bonneville Shoreline Trail Advancement Act.

Sincerely,

David Wiens, Executive Director
International Mountain Bicycling Association

April 10, 2020

Congressman John Curtis
U.S. House of Representatives (UT-03)
125 Cannon Office Building
Washington, DC 20515

Dear Congressman John Curtis:

On behalf of Jenson USA, an online retailer of bicycles, parts and accessories, I'd like to express our enthusiastic support for the Bonneville Shoreline Trail Advancement Act.

Jenson USA is headquartered in Riverside, CA and employs over 100 full time employees in four states. We supply over 200,000 active cyclists per year across the United States and actively support programs and initiatives that expand access to, safety of, and infrastructure necessary to protect cycling nationwide. In addition to the thousands of orders that we ship to Utah annually, many of our customers from other states travel to Utah for access to their biking trails on vacations.

If approved, the Bonneville Shoreline Trail Advancement Act would facilitate completion of the Bonneville Shoreline Trail (BST). BST is currently an incomplete long-distance multi-use trail that is the central spine of many trail master plans across the Wasatch Front. The trail is incomplete because it enters three federally designated Wilderness Areas (Mt Olympus, Twin Peaks and Lone Peak). The Bonneville Shoreline Trail Advancement Act would minimally move the Wilderness Area boundaries to align with the BST sections that currently enter into the federally designated areas.

The Bonneville Shoreline Trail Advancement Act will foster and create a consistent management approach of the BST across the federal estate (USFS). This will drive more attention to trail building and streamline efforts to fundraise for new development. The expansion of this trail will incentivize more individuals to get out and ride, which will benefit local communities and bike businesses.

We appreciate your support for outdoor recreation in Utah and encourage you to introduce the Bonneville Shoreline Trail Advancement Act.

Sincerely,

Michael V. Cachat

Michael Cachat
President/CEO
Jenson USA

mcachat@jensonusa.com

Congressman John Curtis
U.S. House of Representatives (UT-03)
125 Cannon Office Building
Washington, DC 20515

Dear Congressman John Curtis,

On behalf of the Kona Bicycle Company, I'd like to express our enthusiasm for the Bonneville Shoreline Trail Advancement Act.

Kona Bicycles, founded in 1988, supplies bicycles to over 400 dealers thro U.S. and employs 50 staff members at our world headquarters in Ferndale 22 of our independent retail and rental customers do business in the state which is widely known as one of the premiere mountain biking destination world. Our company was founded in the same year as the International Mountain Bicycling Association and have been a strong supporter of their organization since.

As we understand it, the Bonneville Shoreline Trail Advancement Act would facilitate completion of the Bonneville Shoreline Trail (BST). BST is currently a long distance multi-use trail that is the central spine of many trail master plans Wasatch Front. The trail is incomplete because it enters three federally designated Wilderness Areas (Mt Olympus, Twin Peaks and Lone Peak). The Bonneville Shoreline Trail Advancement Act would minimally move the Wilderness Area boundaries for the BST sections that currently enter into the federally designated areas.

The Bonneville Shoreline Trail Advancement Act will foster and create a co-management approach of the BST across the federal estate (USFS). This attention to trail building and streamlined efforts to fundraise for new development and expansion of this trail will incentivize more individuals to get out and ride, benefiting local communities and bike businesses.

We appreciate your support for outdoor recreation in Utah and encourage passage of the BSTAA.

2455 Salashan
Ferndale, Washington 98248
360-366-0951
www.konaworld.com

küat®

Congressman John Curtis
U.S. House of Representatives (UT-03)
125 Cannon Office Building
Washington, DC 20515

Dear Congressman John Curtis,

On behalf of Küat Racks, I'd like to express our enthusiastic support for the Bonneville Shoreline Trail Advancement Act.

If approved, the Bonneville Shoreline Trail Advancement Act would facilitate completion of the Bonneville Shoreline Trail (BST). BST is currently an incomplete long-distance multi-use trail that is the central spine of many trail master plans across the Wasatch Front. The trail is incomplete because it enters three federally designated Wilderness Areas (Mt Olympus, Twin Peaks and Lone Peak). The Bonneville Shoreline Trail Advancement Act would minimally move the Wilderness Area boundaries to align with the BST sections that currently enter into the federally designated areas.

The Bonneville Shoreline Trail Advancement Act will foster and create a consistent management approach of the BST across the federal estate (USFS). This will drive more attention to trail building and streamline efforts to fundraise for new development. The expansion of this trail will incentivize more individuals to get out and ride, which will benefit local communities and bike businesses.

Küat Racks supplies products to more than 700 bicycle retailers throughout the United States with over forty of those retailers located in Utah. In 2015 we partnered with The National Forest Foundation to help plant over 350,000 trees, most of which have been planted in fire-damaged National Forests within the US. We also support numerous cycling initiatives nationwide.

We appreciate your support for outdoor recreation in Utah and encourage you to introduce the Bonneville Shoreline Trail Advancement Act.

Sincerely,
Luke Kuschmeader
President
Küat Racks
2240 North Alliance Blvd.
Springfield, MO 65803
luke@kuatinnovations.com

July 13, 2020

The Honorable John Curtis
125 Cannon Office Building
Washington, DC 20515

Dear Representative Curtis,

I manage Speed Mountain, a small bike shop in Logan, Utah. I've worked at a few different bikes shops, one other in Logan and one in Ogden. In Ogden, I saw how much additional accessible trails influenced people to travel to ride and get outside. I experienced first hand how a few extra miles of the Bonneville Shoreline Trail helped create an influx in business among the 4 bike shops in Ogden.

I also have helped with the high school mountain biking league here in Utah. It's great to see kids get out on their bikes and focus their attention on their health. One issue though is that with an increase in users it has made it somewhat difficult to find trails to practice on without overwhelming other users. We really need more trails that are accessible from the valley. Birch Creek Canyon is a great trail that allows people to climb the road and work on their fitness then descend the singletrack. It's a perfect trail for allowing high school teams to practice without overwhelming the area or other users.

I fully support having wild lands. I believe some protections need to be in place to keep people from permanently influencing the area. I do feel that Birch Creek Canyon doesn't effectively convey what wilderness is. With the motorized access visible from anywhere in the canyon, I fully support a boundary realignment via Bonneville Shoreline Trail Advancement Act (BSTAA). I especially support a fair trade for wilderness elsewhere that would benefit more from the protection.

Sincerely,

Aaron Mecham
Manager, *Speed Mountain*
437 North 100 West
Logan, UT 84321
435-535-1113

Representative John Curtis
U.S. House of Representatives (UT-03) 3549 North University Ave.
Yorktown Building Suite #275
Provo, UT 84604

Dear Representative Curtis,

Several of us are writing as citizens of the community and leaders within our organizations in support of removing small parts of Birch Creek Canyon from wilderness status. As a high school principal, I applaud students that have learned to apply themselves to academics in the classroom, participate in extracurricular activities, and still find the time to enjoy life outside of the school. I often see several of my students out running or biking on the road or trails, and enjoying our beautiful Smithfield and Birch Creek Canyons.

Over the past few years at Sky View High School, there has been a growing increase in the number of students participating in our mountain biking program, which all four of the Cache County High Schools are involved in. I have seen them constantly looking for trails that they can use closer to home. There are several good trails in Logan Canyon, but those require transportation and a great deal of time to access.

There is a plethora of research that shows the connection of participation in physical activities and performance in the classroom. I often try to schedule a student that may be struggling in a subject following a physical education class. I have personally witnessed many high school students enjoying the Birch Creek Canyon area. Beyond the physical activity, I see the opportunity to educate young people on the environment, care for our resources, land use impact, the processes of government, and that recreational activities in the right context can respect nature and environment. My experience is that teenagers will be respectful if given parameters to work within.

Mike Monson

As a member of the Smithfield City Council for 16 years, one of my assignments was to organize and chair the Trails Committee and help

sponsor and produce local road and trail races. Being an avid trail runner and beginning mountain biker, I know the value of our beautiful Birch Creek trail. I helped develop and produce the Sixteen Crossings Trail Race, which runs directly up Birch Creek Canyon on the single track road. This year we were told the boundary was half a mile over the wilderness boundary and we had to change the length of the race even though it was still on the same single track we had run for many years. A USFS person was sent up to inspect the race course during the race to make sure we didn't encroach on that newly "discovered" wilderness.

People love this canyon and are frustrated that not only are they not allowed to use the trail (which was originally a cattle trail and is still used by grazing longhorns on occasion), but that local landowners are gating off portions of the canyon that are being encroached on, because people are just trying to find somewhere to ride and run. Isn't that what Forest Service Land is supposed to be used for? If we can make the Birch Creek trail accessible, I believe the local land-owners will see a decrease in the encroachment of their private property, making landowner and trail user much happier.

The county is aware of the poor condition of the 2.5 mile public road that leads up to the trail head and it was inspected by Craig Buttar, the county executive and his assistant this spring. They have made a commitment to study and develop a plan on how to improve the road. I believe that if Birch Creek can be returned to use as a bike trail, the county will also commit to cleaning up the road in a more timely manner, which will then have a domino effect for local landowners who have experienced encroachment as bikes, runners and vehicles try to negotiate the huge mud holes and car-swallowing gullies over the years.

We were also told by the USFS that if we provided a trail head, they would be more willing to work with us to re-open the trail. I met with Smithfield City Manager, Craig Giles and he granted us a trailhead at Mack Park. So now we have a trailhead, a possible road repair, groups of volunteers ready and willing to build bridges, maintain a trail and even oversee activity on the trail. Now we just need to pull small portions out of wilderness status.

Kris Monson

For the reasons of supporting out high school students, our community mountain bikers, runners and hikers, and for our personal desire to use the canyon, we support efforts being made to swap wilderness land in 1:1 trade to allow previously designed trails in Birch Creek Canyon.

--

Michael E. Monson PhD
Principal, Sky View High School

Kris Monson
Former Smithfield City Council Member 2002-2017

BOARD OF DIRECTORS
Carol Agle
Chair
Claire Brown
Co-Chair
Cory McNeely
Treasurer
Charlie Butler
Secretary
Adam Strachan
Attorney
Katie Wilking Clinard
Roanne Mayer
Steve Perkins
Todd Henneman
Tom Peek
Will Hodgman

STAFF
Charlie Sturgis, Executive Director
[Charlie@MountainTrails.org]
Lora Smith, Development Director
[Lora@MountainTrails.org]
Rick Fournier, Field Manager
[Rick@MountainTrails.org]
Ginger Ries, Events Director
[Ginger@MountainTrails.org]
Clay Karz, Sponsor Liaison
[Clay@MountainTrails.org]

ADVISORY BOARD
Jan Wilking
Mountain Trails Founder
Andy Beerman
Park City Mayor
Chris Erkkila
Deer Valley Resort
John Sale
Park City Resort
Scott Dudevoir
Cole Sport
Hank Keil
Jans/White Pine Touring
Herb Lepley, FNP, MSN
Race Series Medical Coordinator

www.MountainTrails.org
PO Box 754
Park City, UT 84060

MOUNTAIN TRAILS
FOUNDATION
PARK CITY, UTAH

March 10, 2020

Congressman John Curtis
U.S. House of Representatives (UT-03)
3549 North University Avenue
Yorktown Building, Suite #275
Provo, UT 84604

Dear Representative Curtis,

I am writing you today in regard to the Bonneville Shoreline Trail Advancement Act. The Bonneville Shoreline Trail is an outstanding recreational resource for communities all along the Wasatch Front and a significant contributor to the active, healthy lifestyle that Utah is famous for. This trail is arguably the most important regional trail in northern Utah and needs all the help it can get where it traverses the western slope of the Wasatch through Salt Lake County.

As the Executive Director of the Mountain Trails Foundation in Park City, I have seen the explosive growth in the popularity of trail-based outdoor recreation over my tenure here. Trails, especially those that are easily accessible from neighborhoods and workplaces, have helped to shape our community, make it a truly vibrant place to live and increased property values. Our trail systems are not only valued by our residents but also by thousands of tourists who visit annually to hike and mountain bike in our area, adding substantially to both our local and state economies.

A final consideration, from my perspective as someone actively involved in managing and maintaining trails, is that mechanized methods of trail building and maintenance are extremely important in creating and maintaining natural surface trails. It is also important to have a consistent management program in place along the length of the trail to ensure trails can be properly cared for and provide a seamless recreational experience for the user.

The Mountain Trails Foundation supports your efforts to adjust wilderness boundaries to allow for a shared use Bonneville Shoreline Trail in Salt Lake County and we encourage you to move forward with The Bonneville Shoreline Trail Advancement Act.

Regards,

Charlie Sturgis
Executive Director
Mountain Trails Foundation

Congressman John Curtis
U.S. House of Representatives (UT-03)
125 Cannon Office Building
Washington, DC 20515

Dear Congressman John Curtis,

On behalf of **Niner Bikes, a manufacture of mountain bikes**, I'd like to express our enthusiastic support for the Bonneville Shoreline Trail Advancement Act.

If approved, the Bonneville Shoreline Trail Advancement Act would facilitate completion of the
Bonneville Shoreline Trail (BST). BST is currently an incomplete long-distance multi-use trail that is the central spine of many trail master plans across the Wasatch Front. The trail is incomplete because it enters three federally designated Wilderness Areas (Mt Olympus, Twin Peaks and Lone Peak). The Bonneville Shoreline Trail Advancement Act would minimally move the Wilderness Area boundaries to align with the BST sections that currently enter into the federally designated areas.

The Bonneville Shoreline Trail Advancement Act will foster and create a consistent management approach of the BST across the federal estate (USFS). This will drive more attention to trail building and streamline efforts to fundraise for new development. The expansion of this trail will incentivize more individuals to get out and ride, which will benefit local communities and bike businesses.

We appreciate your support for outdoor recreation in Utah and encourage you to introduce the Bonneville Shoreline Trail Advancement Act.

Sincerely,

Chris Sugai
President

Niner Bikes • 2330 Prospect Road • Fort Collins, CO 80525
T 1.877.646.3792 • www.ninerbikes.com

ORBEA

Orbea USA
700 W Broadway St. Suite 1 North Little Rock, AR 72114
Tel: 501-280-9700 · Fax: 501-325-1142
orbeausa@orbea.com· www.orbea.com

Congressman John Curtis
U.S. House of Representatives (UT-03)
125 Cannon Office Building
Washington, DC 20515

Dear Congressman John Curtis,

On behalf of Orbea and as a long-time resident of the state of Utah and both Salt Lake and Wasatch Counties, I'd like to express my enthusiastic support for the Bonneville Shoreline Trail Advancement Act.

Orbea is bicycle company headquarted in Spain, selling bikes into 23 countries including the United States. And while we are interested in growing access in all parts of the world, Utah is of particular business interest. Because of the outdoor lifestyle that Utah residents value so fiercely and abundant access to public recreation lands, Orbea's Utah sales rank consistently in our top-three states, with almost $1M annual turnover. By partnering with best-in-class, neighborhood anchor retailers like Contender Bicycles in Salt Lake (9th and 9th), Biker's Edge in Kaysville and Poison Spider Bicycles in Moab, we've established a lasting home for our business here.

It's this same access to recreation that encouraged me to make Utah my home again almost 20 years ago. After living here twice previously - as a student at Utah State University and much earlier as a 5th grader at Burton Elementary in Fruit Heights, I fell in love with the mountains, the deserts and the trails. More recently, while living in Salt Lake City for 15 years, I got to know not only the BST, but some of the folks on the board responsible for trail upkeep. I attended several trail maintenance sessions repairing water damage, improving access points and talking with trail users. I learned first-hand how many runners, riders, hikers, students, seniors, kids and dogs of every size consider the BST an invaluable recreation asset - not just a trail but a symbol for the reasons we live in Utah.

If approved, the Bonneville Shoreline Trail Advancement Act would facilitate completion of the
Bonneville Shoreline Trail (BST). BST is currently an incomplete long-distance multi-use trail that is the central spine of many trail master plans across the Wasatch Front. The trail is incomplete because it enters three federally designated Wilderness Areas (Mt Olympus, Twin Peaks and Lone Peak). The Bonneville Shoreline Trail Advancement Act would minimally move the Wilderness Area boundaries to align with the BST sections that currently enter into the federally designated areas.

The Bonneville Shoreline Trail Advancement Act will foster and create a consistent management approach of the BST across the federal estate (USFS). This will drive more attention to trail building and streamline efforts to fundraise for new development. The expansion of this trail will incentivize more individuals to get out and ride, which will benefit local communities and bike businesses.

I deeply appreciate your support for outdoor recreation in Utah and encourage you to introduce the Bonneville Shoreline Trail Advancement Act. I am at your disposal if you wish to contact me.

Sincerely,

Jordan Hukee
Orbea S. CoOp
Creative Director
Area Marketing Manager for US, UK and CANADA
+1 310 980 4613

OUTDOOR ALLIANCE

July 15, 2020

Sen. Mitt Romney
124 Russell Senate Office Building
Washington, DC 20510

Rep. John Curtis
125 Cannon House Office Building
Washington, DC 20515

Re: Outdoor recreation community support for the Bonneville Shoreline Trail Advancement Act

Dear Senator Romney and Representative Curtis:

On behalf of the human powered outdoor recreation community, we write to express our support and gratitude for your efforts to introduce the Bonneville Shoreline Trail Advancement Act (BSTAA).

Outdoor Alliance is a coalition of ten member-based organizations representing the human powered outdoor recreation community. The coalition includes Access Fund, American Canoe Association, American Whitewater, International Mountain Bicycling Association, Winter Wildlands Alliance, The Mountaineers, the American Alpine Club, the Mazamas, Colorado Mountain Club, and Surfrider Foundation and represents the interests of the millions of Americans who climb, paddle, mountain bike, backcountry ski and snowshoe, and enjoy coastal recreation on our nation's public lands, waters, and snowscapes.

The BSTAA will help facilitate completion of the multiple-use 280-mile Bonneville Shoreline Trail (BST). The proposed boundary adjustments will remove 326.27 acres from Wilderness management across 19 carefully drawn areas, and these adjustments will be offset by the addition of an equal area of new Wilderness protection in Mill Creek Canyon. These adjustments will ensure bicycle access on the BST and allow for work on the trail to proceed using tools impermissible under Wilderness management. In addition to the direct benefits of the trail itself, the BST

OUTDOOR ALLIANCE

is a central component for trail planning efforts for jurisdictions across the Wasatch Front.

The outdoor recreation community strongly supports the Wilderness Act. An outgrowth of that support and our fundamental commitment to protection of Wilderness includes a sensitivity to the need to maintain strong public support for Wilderness protections. We believe that goal of maintaining broad public support is advanced by an openness to judicious adjustments to existing Wilderness in carefully considered settings. Common sense, modest adjustments, offset by new Wilderness additions, can be an important tool for ensuring that existing boundaries do not create insurmountable obstacles to sustainable recreation in places where relatively minor adjustments can be made without undercutting the values that animate the Wilderness Act. We believe that these conditions are met here.

Additionally, Outdoor Alliance and the outdoor recreation community remain committed to the success of the Central Wasatch Commission (CWC) and Mountain Accord process. Wilderness boundary adjustment to facilitate completion of the Bonneville Shoreline Trail has been at times a component of the CWC process, and we would like to reiterate our commitment to seeing the goals of the CWC realized. Specifically, we strongly support sustainable solutions to the area's transportation needs and legislation to protect conservation values through new Wilderness designations; protect valued backcountry ski terrain from encroachment by ski area development through land exchanges; facilitate conservation of the watershed; and support sustainable access and maintenance of recreation infrastructure for dispersed human-powered outdoor recreation.

We very much appreciate Rep. Curtis's statements of support for the CWC process, and our support for the BSTAA is grounded in our belief that this bill represents a step forward in realizing a broader vision for conservation and sustainable outdoor recreation in the Wasatch.

OUTDOOR ALLIANCE

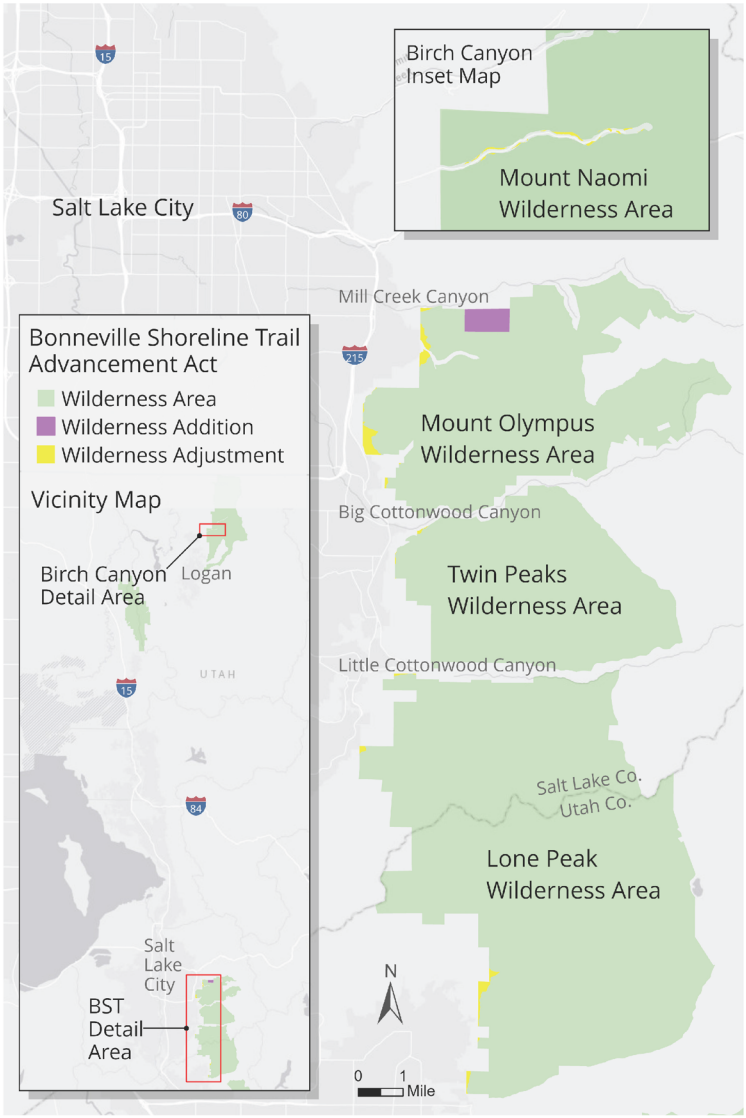
Thank you again for your leadership in this effort, and we look forward to continuing to work with you to pass the BSTAA.

Best regards,

Louis Geltman
Policy Director
Outdoor Alliance

cc: Adam Cramer, Executive Director, Outdoor Alliance
Chris Winter, Executive Director, Access Fund
Beth Spilman, Interim Executive Director, American Canoe Association
Mark Singleton, Executive Director, American Whitewater
Kent McNeill, CEO, International Mountain Bicycling Association
Todd Walton, Executive Director, Winter Wildlands Alliance
Tom Vogl, Chief Executive Officer, The Mountaineers
Phil Powers, Chief Executive Officer, American Alpine Club
Mitsu Iwasaki, Executive Director, the Mazamas
Keegan Young, Executive Director, Colorado Mountain Club
Chad Nelson, Chief Executive Officer, Surfrider Foundation

OUTDOOR ALLIANCE



peopleforbikes
P.O. BOX 2359 BOULDER, CO 80306
PeopleForBikes.org | 303.449.4893

Congressman John Curtis
U.S. House of Representatives (UT-03)
3549 N. University Avenue
Yorktown Building Suite #275
Provo, UT 84604

Dear Congressman John Curtis,

On behalf of PeopleForBikes, I encourage the introduction of the Bonneville Shoreline Trail Advancement Act.

PeopleForBikes is the national advocacy group and trade association that works for better policies and infrastructure for bike riding. Our coalition includes companies that manufacture or sell bicycles and related products and we represent more than 500 bike businesses and 10,000 individual supporters in Utah.

If approved, the Bonneville Shoreline Trail Advancement Act would facilitate completion of the Bonneville Shoreline Trail (BST). BST is currently an incomplete long distance multi-use trail that is the central spine of many trail master plans across the Wasatch Front. The trail is incomplete because it enters three federally designated Wilderness Areas (Mt Olympus, Twin Peaks and Lone Peak). The Bonneville Shoreline Trail Advancement Act would minimally move the Wilderness Area boundaries to align with the BST sections that currently enter into the federally designated areas.

The Bonneville Shoreline Trail Advancement Act will foster and create a consistent management approach of the BST across the federal estate (USFS). This will drive more attention to trail building and streamline efforts to fundraise for new development. The expansion of this trail will incentivize more individuals to get out and ride, which will benefit local communities and bike businesses.

Please support outdoor recreation in Utah by endorsing the Bonneville Shoreline Trail Advancement Act.

Sincerely,

Morgan Lommele
Director of State + Local Policy
PeopleForBikes
morgan@peopleforbikes.org

Listed below are bike retailers and manufacturers that support this issue and the reasons why they believe its introduction would benefit their business.

Chile Pepper Bike Shop
702 S Main St.
Moab, UT 84532-2129

ENVE Composites
508 W. Stockman Way
Ogden, UT 84401

Mad Dog Cycles
360 E 800 S
Orem, UT 84097

Electrify Bike Company
50 West Broadway
Salt Lake City, UT 84103

Infinite Cycles
3818 W 13400 S
Riverton, UT 84065

Reasons why the Bonneville Shoreline Trail (BST) Advancement Act would benefit bike businesses:

- Families regularly use the BST and connections would make the trail more accessible.
- The completion of the BST would support mountain biking in Utah. This benefits my business and the local economy through the creation of jobs, increased tax revenue, increased tourism and providing greater opportunities for cyclists who are interested in exploring the entire Wasatch front.
- Many trails on the Wasatch Front are closed during cold weather. The expansion of the BST would improve riding opportunities throughout the year and incentivize more individuals to get out and ride.

PIVOT CYCLES

Congressman John Curtis
U.S. House of Representatives (UT-03)
125 Cannon Office Building
Washington, DC 20515

Dear Congressman John Curtis,

On behalf of Pivot Cycles, a leading domestic mountain bike manufacturer and Tempe, Arizona employer, I'd like to express our enthusiastic support for the Bonneville Shoreline Trail Advancement Act.

Pivot Cycles has long believed in community investment, with particular dedication to the development of youth cycling in the state of Utah. As a platinum level sponsor of the Utah High School Interscholastic Cycling Association, we have helped the league achieve year over year 25% participation growth in student athletes, and 40% participation growth in coaches. We provide bikes, ambassadors, post-ride food, and general event support, and have observed firsthand the growing youth mountain biking movement in Utah. Cycling infrastructure in Utah directly benefits the High School League, and offers young people access to programs founded upon sportsmanship, community, health, and trail stewardship.

If approved, the Bonneville Shoreline Trail Advancement Act would facilitate completion of the Bonneville Shoreline Trail (BST). BST is currently an incomplete long-distance multi-use trail that is the central spine of many trail master plans across the Wasatch Front. The trail is incomplete because it enters three federally designated Wilderness Areas (Mt Olympus, Twin Peaks and Lone Peak). The Bonneville Shoreline Trail Advancement Act would minimally move the Wilderness Area boundaries to align with the BST sections that currently enter into the federally designated areas.

The Bonneville Shoreline Trail Advancement Act will foster and create a consistent management approach of the BST across the federal estate (USFS). This will drive more attention to trail building and streamline efforts to fundraise for new development. The expansion of this trail will incentivize more individuals to get out and ride, which will benefit local communities and bike businesses.

We appreciate your support for outdoor recreation in Utah and encourage you to introduce the Bonneville Shoreline Trail Advancement Act.

Sincerely,

Chris Cocalis
Founder & CEO
Pivot Cycles
1807 West Drake Drive
Tempe, Arizona USA 85283
480-467-2920
chris@pivotcycles.com

Statement of Senator Mitt Romney

Before the
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING

Regarding
S.4215 – BONNEVILLE SHORELINE TRAIL ADVANCEMENT ACT

November 18, 2020

I want to thank Chairman Lee and Ranking Member Wyden for holding today's hearing and considering the Bonneville Shoreline Trail Advancement Act. In my home state of Utah, the Bonneville Shoreline Trail provides outstanding outdoor recreational opportunities, but right now several wilderness-designated areas along the trail are hampering full use and development of the trail.

Earlier this year, Representative John Curtis and I, along with Chairman Lee, introduced the Bonneville Shoreline Trail Advancement Act, bicameral legislation which would resolve boundary disputes and enable construction of high priority sections of the Bonneville Shoreline Trail. This solution would enhance recreation by adjusting the boundaries without increasing or decreasing wilderness designated areas, to ensure that the trail can be completed and fully accessible.

Our bill would release a total of 334 acres of land to be used for the construction of the trail in Salt Lake County, Utah County, and Cache County, all areas with a high demand for additional recreational opportunities. At the same time, it would designate 334 acres of U.S. Forest Service land in Mill Creek Canyon, which was formerly a Boy Scout camp, to be included in the Mount Olympus wilderness area.

Our solution is good policy, good for forest management, good for recreationists, and good for our state. I thank the committee for taking it under consideration today, and I implore the committee to vote to advance this important legislation.

Educating about, promoting, developing and maintaining bike trails in the Greater Salt Lake Valley.
12288 S. 900 E., Draper, UT 84020

To: Honorable John Curtis, Representative UT 3rd Congressional District

Re: Bonneville Shoreline Trail Advancement Act

Date: February 28, 2020

Congressman Curtis-

I am the director of the Salt Lake Valley Trails Society, Salt Lake County's mountain bike trails group. We are a non-profit that builds and maintains trails throughout the County on public lands for hikers, climbers, equestrians and MTBers. Specifically, we represent the County's 80,000 mountain bike enthusiasts and, in 2019, staged over 40 volunteer trail work projects, utilizing nearly 600 volunteers to accomplish thousands of hours of trail maintenance and building. First, let me thank you for efforts on behalf of recreational trails, especially the legislation that you recently introduced to boost funding. As confirmed in 2012 and 2017 studies, trails are the number recreation amenity desired by SLCo residents and your work to improve funding is greatly appreciated.

Along those lines, I understand that you have developed legislation to help complete the Bonneville Shoreline Trail (BST). Statutorily designated as Utah's Millennium Legacy Trail, UCA §79- 5-503, the BST is the primary trail resource for the vast majority of the Salt Lake Valley's 1.1 million residents. A cherished trail by residents across the Wasatch front, the BST is intended as a multi-use trail (see, BST Trail Design Memorandum of Understanding) serving fire protection, hikers, cyclists and equestrians. However, its functionality as a multi-use trail is interrupted by Federally designated Wilderness, as it skirts the edges of the Mt. Olympus, Twin Peaks and Lone Peak Wilderness Areas. The boundary adjustments required to accommodate the BST multi-uses are well considered, carefully defined and would have no impact on the

characteristics of the land or its wildness, as much of it is within in eyesight of I-215, roads and area residences, and would remain under National Forest Service protection. These small removals would connect existing sections of the BST, making for better access and fulfilling the promise of those who worked across dozens of jurisdiction to envision Utah's Millennium Legacy Trail.

Your efforts to advance the BST at this time is sorely needed as the CWCNCRAA process is stalled and SLCo continues to grow and develop. On behalf of the hundreds of thousands of trail enthusiasts in Salt Lake County, I would like to encourage you to develop and promote legislation that advances the Bonneville Shoreline Trail. Thanks for your consideration and support of outdoor recreation along the Wasatch Front!

Kevin Dwyer

Executive Director, Salt Lake Valley Trails Society

SANDY CITY ADMINISTRATION

KURT BRADBURN
MAYOR

MATTHEW HUISH
CHIEF ADMINISTRATIVE OFFICER

July 13th, 2020

Congressman John Curtis
U.S. House of Representatives (UT-03)
3549 North University Ave.
Yorktown Building Suite #275
Provo, UT 84604

To Whom It May Concern:

I am writing today to express the support of Sandy City for Congressman John Curtis's Bonneville Shoreline Trail Advancement Act.

Outdoor recreation and a close proximity to the beautiful Wasatch Mountains makes Sandy City a desirable location to live. Sandy City's taxpayers have long prioritized the investment in trails which provide access for all outdoor enthusiasts.

The Bonneville Shoreline trail is the crown jewel of Sandy's interconnected trail system. This trail once completed will connect hundreds of miles of pristine Utah open space and serve as a tremendous asset to the community.

We encourage members of Congress to support Congressman John Curtis's efforts in regard to the Bonneville Shoreline Trail Advancement Act.

Sincerely,

Mayor Kurt Bradburn

Skullcandy

Congressman John Curtis
U.S. House of Representatives (UT-03)
125 Cannon Office Building
Washington, DC 20515

Dear Congressman John Curtis,

On behalf of Skullcandy, the global lifestyle audio brand based in Park City, UT, I'd like to express our enthusiastic support for the Bonneville Shoreline Trail Advancement Act.

Skullcandy is the #2 personal audio brand in the United States in market share, just behind Apple. We are distributed at 80,000 retailers globally and sell through everything from mass market retailers to independent specialty shops, many of whom are based in the Salt Lake area. We employ approximately 150 associates in Park City, UT who are extremely passionate about outdoor recreation. We contribute to local non-profits such as Mountain Trails Foundation and the National Ability Center in support of access to outdoor recreation. We leverage the accessibility to outdoor recreation in Salt Lake and the surrounding area as a recruiting tool and as part of our culture. In fact, I spoke about this at the Governor's Utah Economic Summit last year.

If approved, the Bonneville Shoreline Trail Advancement Act would facilitate completion of the Bonneville Shoreline Trail (BST). BST is currently an incomplete long-distance multi-use trail that is the central spine of many trail master plans across the Wasatch Front. The trail is incomplete because it enters three federally designated Wilderness Areas (Mt Olympus, Twin Peaks and Lone Peak). The Bonneville Shoreline Trail Advancement Act would minimally move the Wilderness Area boundaries to align with the BST sections that currently enter into the federally designated areas.

The Bonneville Shoreline Trail Advancement Act will foster and create a consistent management approach of the BST across the federal estate (USFS). This will drive more attention to trail building and streamline efforts to fundraise for new development. The expansion of this trail will incentivize more individuals to get out and ride, which will benefit local communities and bike businesses.

We appreciate your support for outdoor recreation in Utah and encourage you to introduce the Bonneville Shoreline Trail Advancement Act.

Sincerely,

Jessica Klodnicki,
Chief Marketing Officer, Skullcandy – 6301 N. Landmark Drive, Park City, UT 84098
Board Member, Park City Chamber & Visitor's Bureau
831-325-4399
Jessica.klodnicki@skullcandy.com

Congressman John Curtis
U.S. House of Representatives (UT-03)
125 Cannon Office Building
Washington, DC 20515

April 29, 2020

Dear Congressman John Curtis,

On behalf of SRAM LLC, a global manufacturer of innovative bicycle components , I'd like to express our enthusiastic support for the Bonneville Shoreline Trail Advancement Act.

SRAM components can be found on mountain bikes at all bicycle retailers and tourism operators in Utah. We are proud of our role in the $750 million annual revenues from cycling in Utah.

If approved, the Bonneville Shoreline Trail Advancement Act would facilitate completion of the Bonneville Shoreline Trail (BST). BST is currently an incomplete long-distance multi-use trail that is the central spine of many trail master plans across the Wasatch Front. The trail is incomplete because it enters three federally designated Wilderness Areas (Mt Olympus, Twin Peaks and Lone Peak). The Bonneville Shoreline Trail Advancement Act would minimally move the Wilderness Area boundaries to align with the BST sections that currently enter into the federally designated areas.

The Bonneville Shoreline Trail Advancement Act will foster and create a consistent management approach of the BST across the federal estate (USFS). This will drive more attention to trail building and streamline efforts to fundraise for new development. The expansion of this trail will incentivize more individuals to get out and ride, which will benefit local communities and bike businesses.

We appreciate your support for outdoor recreation in Utah and encourage you to introduce the Bonneville Shoreline Trail Advancement Act.

Sincerely,

Kenneth D Lousberg

Ken Lousberg CEO

SRAM LLC
1000 W Fulton Market, 4th Floor
Chicago, IL 60607
312-664-8800
klousberg@sram.com

TRAILS FOUNDATION NORTHERN UTAH

PO Box 972 | Ogden, Utah 84402 | 801-393-2304 | email: tfnu@tfnu.org | www.tfnu.org

EXECUTIVE COMMITTEE

Ron Thornburg, *Chair*
Mike Appleby *Vice Chair*
Lisa Hopkins, *Treasurer*
MJ Munger, *Secretary*
Alane White, *At Large*
Dan Spark, *At Large*
Melia Harrison, *At Large*
Holin Wilbanks, *Advisor*
Richard White, *Advisor*

BOARD OF TRUSTEES

Mark Bunker
Dann Byck
Elizabeth Dewitte
Korry Green
Therese Grijalva
Mike McConvill
Miranda Menzies
Becky Senekjian
Jim Skaggs
Jeff Stuart
Carey Van Wagoner
Alan Wheelwright
Richard White
Holin Wilbanks
Brian Wilcox

AD HOC MEMBERS

Eric Bauman, *Executive Director, GOAL*
Mike Caldwell, *Mayor, Ogden City*
Zach Chatelain, *Owner, Bikers Edge*
Sandy Crosland, *Founder*
Bryan Dorsey, *Weber State University*
Geoff Ellis, *Landscape Architect*
Gage Froerer, *Weber County Commissioner, WAGOG Rep*
John Harrison, *Back Country Horsemen of Utah*
Jim Harvey, *Weber County Commissioner*
Travis Olsen, *Weber Morgan Health Dept.*
Pam Kramer, *Div. of Wildlife Resources*
Jay Lowder, *Public Services Director, Ogden City*
Scott Lyons, *Box Elder County*
Zach Maughan, *USFS, Ogden Dist.*
Greg Sneddon, *IT Specialist*

STAFF

Mark Benign. *Executive Director*
Aric W. Manning, Assistant ED
Julia Heavirland, *Project Manager*

March 2, 2020

Representative John Curtis
U.S. House of Representatives (UT-03)
3549 North University Ave.
Yorktown Building Suite #275
Provo, UT 84604

Correction to letter dated February 28, 2020

Dear Representative Curtis,

I am writing in support for the Bonneville Shoreline Trail Advancement Act (BSTAA). As the Executive Director of a nonprofit, NGO, trail building organization that has constructed and maintained a large portion of the 26 miles of the BST in Weber County, I can share some insights on the benefits the BSTAA will bring.

The BST is Northern Utah's most important regional trail. To date almost 90 miles of the BST have been constructed on the perimeter of our densely populated northern valleys. Another 23 miles have been approved and ready for construction. Currently, a 45-mile corridor is in the USFS Salt Lake Ranger's queue to issue a Decision Memo for the construction and reconstruction of the BST covering the entire length of Davis County.

Hundreds more miles of trail link directly to the BST as it has become the organizing centerpiece of local trail systems along the Wasatch Front and beyond. The BST is incorporated into recreation master plans for numerous municipalities and counties. In some areas, private property constraints and terrain impediments have forced the trail into Wilderness areas in several locations.

<u>Use of mechanized equipment in construction</u>

Trails Foundation has observed the public use of the existing trails has increased exponentially over the last several years. The users include hikers, bikers and equestrians. Many of the trails In Weber County and the surrounding areas were constructed with manual methods and more primitive trail building techniques. Over time, trail builders have improved their techniques and rely more heavily on mechanized equipment to construct trails that can sustain the increasing number and types of users.

Additionally, the newer techniques and mechanized equipment are being used to decrease the incidents of water-caused erosion. The changing weather patterns are bringing longer dry periods, so the trail surface becomes pulverized from use. The

less frequent rainstorms are heavier than the past. The increased water flows cause greater movement of the pulverized soil. Unfortunately, proposed or existing trails in Wilderness cannot be built or maintained using mechanized equipment which will lead to quicker wear of the trails and a degradation of the user's experience.

Management of mountain bike use

A secondary concern is that muscle-powered bicycles are not permitted in Wilderness areas. In Weber County, there are sections of the BST constructed on an approved easement on private property. It is permissible to use electric assisted mountain bike on this section. This section of trail seamlessly enters US Forest Service land where electric assisted mountain bikes are currently not permitted. It is difficult for a trail user to know when the property lines are crossed. Yes, the boundary can be signed, but enforcement is very difficult.

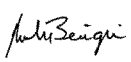
A similar situation will occur for muscle-powered mountain bike riders on sections where the BST seamlessly enter a designated wilderness area. Adjusting the Wilderness boundaries will eliminate the management and enforcement issue with muscle-powered bike users.

Offset to potential loss of Wilderness acreage

We believe the writers of the BSTAA are being responsible in considering the impact of the boundary adjustment by requiring the addition of Wilderness acreage equal to or greater than that which is lost.

In conclusion, I am asking for your support for stand-alone Federal legislation that will adjust these boundaries in Salt Lake County. Minor boundary retractions where Wilderness extends down to private property and busy roadways will help create a corridor for human movement, a consistent management paradigm for public land managers, and a seamless trail experience for those who participate in the increasingly popular sport of mountain biking. Perhaps most importantly, these boundary adjustments will help create an outstanding recreational resource away from congested canyons and more sensitive high alpine and watershed areas.

Respectfully,



Mark Benigni
Executive Director

March 10, 2020

Representative John Curtis
U.S. House of Representatives (UT-03)
3549 North University Avenue
Yorktown Building Suite #275
Provo, UT 84604

Dear Representative Curtis,

I am writing to you to express our strong support for your efforts to secure a future for the **Bonneville Shoreline Trail** as a mixed-use recreational resource here along the Wasatch Front. As you know, the Central Wasatch National Conservation and Recreation Act (CWNCRA), a large and exceedingly complex bill, was originally introduced in 2016 but has since stalled and is now in disarray. Needed wilderness boundary adjustments to achieve a multi-use Bonneville Shoreline Trail (BST) in Salt Lake County that were also included in the bill have recently taken on new life as the Bonneville Shoreline Trail Advancement Act (BSTAA) at your behest. For this we are incredibly grateful.

Originally conceived of as a "shared-use" mountain bike friendly trail, the BST is Northern Utah's most important regional trail and was identified in 1999 as one of sixteen Millennium Legacy Trails nationwide. To date almost 90 miles of the BST have been constructed around the perimeter of our densely populated northern valleys and another 23 miles have been approved and ready for construction. Hundreds more miles of trail link directly to the BST as it has become the organizing centerpiece of local trail systems along the Wasatch Front and beyond. The BST is incorporated into recreation master plans for numerous municipalities and counties and will continue to serve as one of our most heavily used and best-loved recreational amenities here in the state of Utah.

The unfortunate situation where private property constraints and terrain impediments have forced the trail into several wilderness areas where bikes are legally prohibited in Salt Lake County is unique to the entire length of the BST. This means that trails cannot be built or maintained using mechanized equipment and are off limits to organized events of any kind. The BST, like many other trails that exist in the open spaces immediately adjacent to neighborhoods and developed areas are now important elements wildfire response planning. Moving the wilderness boundary along the western slope of the Wasatch will allow for rapid deployment of fire fighters in these critical areas and allow them to use mechanized gas-powered equipment to quickly clear fire breaks and put down potentially destructive wildfires. Adjusting these boundaries in Salt Lake County so the BST can exist as a shared-use recreational trail open to mountain bikes as it was originally conceived, will accommodate the largest number of users, and cement the BST as the crown jewel among Utah's regional trails. It will also help land managers to better maintain trails and help keep nearby neighborhoods safe from the increasing threat of summer wildfires.

We feel strongly that the BST wilderness boundary adjustment is a minor piece of the larger CWCNRA bill that can and should move forward independently without affecting the other goals, objectives, and

agreements of the legislation. Minor boundary retractions where wilderness extends down to private property and busy roadways will help create a corridor for human movement, a consistent management paradigm for public land managers, and a seamless trail experience for those who participate in the increasingly popular sport of mountain biking. Perhaps most importantly, these boundary adjustments will help create an outstanding recreational resource away from congested canyons and more sensitive high alpine and watershed areas.

We believe it is also important to include provisions in the BSTAA bill that will permanently protect any of the lands removed from wilderness from future development of any kind. This includes locating any future utility infrastructure on these properties. The addition of such a provision will help us work with our partners in the conservation community who are resistant to seeing the loss of any wilderness acres and have regrettably declared their opposition to the BSTAA.

Trails Utah (TU) is wholly in support of the Bonneville Shoreline Trail Advancement Act and the possibility for realizing the goals originally set forth in Mountain Accord and CWNCRA for the BST. We feel it is important that there is no net loss of wilderness in the bill and can only support it with added wilderness acres to achieve an offset. The 550 acre parcel formerly belonging to the Boy Scouts of America's (BSA) Camp Tracy not previously included in the Grandeur Peak Wilderness proposal has excellent suitability for Wilderness designation as it is surrounded on three sides by the Mt. Olympus Wilderness Area. These secluded acres are comprised of an old-growth conifer forest that cloaks an area known as Green Gulch, a far cry from the dry, noisy acres above I-215 where wilderness currently exists.

The Bonneville Shoreline Trail Advancement Act is good for the people of Salt Lake County and can help secure an outstanding trail experience along the foothills, close to where people live and work, reducing car trips and impacts to our canyons and watersheds. Your sponsorship of this bill is deeply appreciated by the trail advocacy community and trail users everywhere.

Thank you so very much for your time and support for trails!

Sincerely,

Sarah L. Bennett
Executive Director, Trails Utah

THE TRUST FOR PUBLIC LAND

100 M St. SE
Suite 700
Washington, DC
20003

Creating parks and protecting land for people

www.tpl.org

March 13, 2020

The Honorable John Curtis
125 Cannon House office Building
Washington, D.C. 20515

Representative Curtis,

The Trust for Public Land is pleased to support the ***Bonneville Shoreline Trail Advancement Act***. The Trust for Public Land's mission is to create parks, protect public land for people, and to provide equitable access to the outdoors. Getting people outside, connecting with nature, and enjoying our shared public lands helps to ensure healthy, livable communities for generations to come. Since 1991, the Trust for Public Land has worked to protect land along the foothills of the Wasatch Front, to complete the Bonneville Shoreline Trail, and to ensure public recreational access to our shared public lands. Together with our local partners we are working towards achieving the vision of a 280-mile long Bonneville Shoreline Trail stretching from the Idaho border in the north, to Nephi in the heart of Utah.

In particular, the legislation will designate as wilderness the USFS land around Boy Scouts of America's Camp Tracy, in Mill Creek Canyon. The proposed wilderness parcels were originally protected in 2016 when the Trust for Public Land utilized the Land and Water Conservation Fund (LWCF) to add the nearly 850 acres to the Uinta-Wasatch-Cache National Forest. Mill Creek Canyon is one of seven major canyons listed in Salt Lake City's Watershed Management Plan. The property contains a portion of Mill Creek -- a tributary to the Jordan River -- in addition to a number of gulches and smaller streams. Mill Creek Canyon is a major recreational destination for hiking, biking, snowshoeing, cross country skiing, and picnicking due to its proximity to Salt Lake City and the greater Wasatch Front.

The valley carved by the prehistoric Lake Bonneville is now home to one of the fastest growing urban corridors in the entire country. More than 75% of Utah's population lives along the Wasatch Front. In 2017, Utah's outdoor recreation economy generated more than $12.3 billion in consumer spending and directly supported more than 100,000 jobs in Utah. The ***Bonneville Shoreline Trail Advancement Act*** will help to complete the vision of the Bonneville Shoreline Trail; giving mountain bikers, runners, hikers, equestrians, cross-country skiers -- and families -- new opportunities to get outside and enjoy the outdoors. We look forward to working with you to advance the legislation through Congress, and working together to achieve the promise of the Bonneville Shoreline Trail.

Sincerely,

Bill Lee
Senior Vice President for Policy, Advocacy, and Government Relations
The Trust for Public Land

UTAH HIGH SCHOOL CYCLING LEAGUE

758 S. Auto Mall Dr.
Unit #3, American
Fork, Utah 84060

Dallen Atack
Executive Director
801-643-9906
dallen@utahmtb.org

Board of Directors
Jim Wedge
Jon Lowe
Curt Doman
Kim Christensen
Jamie Pogue
Jo Darton
Sarah Kaufman
Lori Barrett
Shawn Rositter
Jay Morgan
Drew Jordan
Bob Saffell
Marc Rasich
Meghan Sheridan

February 18, 2020

Congressman John Curtis
U.S. House of Representatives (UT-03)
3549 N. University Avenue
Yorktown Building Suite #275
Provo, UT 84604

To Congressman Curtis

The Utah High School Cycling League fully supports the Bonneville Shoreline Advancement Act. The adjustments this bill proposes provides critical continuity to the BST trail experience and will likely lead to further advancements toward trail completion

The Utah High School Cycling League, a 501(c)(3) non-profit organization, had over 4,400 student-athletes and over 2,500 coaches register to participate and race during the 2019 season. The Utah league has experienced exponential growth since beginning in 2012 with only 320 student-athletes. Our mission is to build strong bodies, minds, character and community through cycling.

Completion of the BST will greatly enhance the ability of our teams to practice safely and reduce impact to other trail users. Last year our teams provided over 10,000 volunteer hours of trail building and maintenance in their respective communities. As a league, we would commit to assisting the labor needed to advance the BST.

Thank you for your consideration and investment into the lives and futures of children and their families.

Sincerely,

Dallen Atack
Executive Director

WESTERN SPIRIT
Cycling Adventures

July 9, 2020

The Honorable John Curtis
125 Cannon Office Building
Washington, DC 20515

Dear Representative Curtis,

Western Spirit is North America's premier mountain bike outfitter, specializing in helping clients achieve their cycling destination dreams. Our mission is to get more people outside, while striving to protect fragile desert and mountain environments. We understand the power and importance of truly unique outdoor experiences, but also take time to encourage responsible public land use outlined by the International Mountain Bicycling Association, as many of our backcountry campsites are in remote and unimproved landscapes. This makes us uniquely situated to fully understand and support the Bonneville Shoreline Trail Advancement Act as a way to better organize and manage Wilderness boundaries.

As the backbone of many master trail plans along the Wasatch Front, the Bonneville Shoreline Trail (BST) is a long-distance multi-use recreational trail which provides a trail experience for the densely populated northern valleys. Requiring further trail building for completion, the Bonneville Shoreline Trail Advancement Act would marginally relocate wilderness boundaries to accommodate planned BST alignments where they interact with Mt. Olympus, Twin Peaks and Lone Peak Wilderness areas.

We support these proposed Wilderness adjustments which will help extend and improve the BST and is seen as a responsible approach to encouraging outdoor enthusiasts to use designated trails, a practice we model for clients, and maximize recreational opportunities. While requiring 326 acres be removed to accommodate the BST, the Bonneville Shoreline Trail Advancement Act would responsibly offset this boundary movement by adding 326 acres of new Wilderness to the Mt Olympus Wilderness Area from a parcel acquired by the Uinta-Wasatch-Cache National Forest Service. This offset creates a 1:1 ratio and a net zero impact for Wilderness. Previous legislation in Cache County in 2003 has set a precedent for this exchange of land to create a maintenance corridor and extend the BST, and this historical precedent is adhered to in this proposal.

As a strong advocate for enhancing sustainable recreational opportunities throughout Utah, we write in support of the Bonneville Shoreline Trail Advancement Act.

Sincerely,

Ashley Korenblat
CEO, Western Spirit

www.westernspirit.com / 478 Mill Creek Drive, Moab, UT 84532 / 435-259-8732

Senator LEE. Mr. French, you may be well aware that the parcel of land being designated as wilderness rests miles away from the Salt Lake Valley while the parcels being removed are backed right up against urban development and are currently impeding trail traffic. Do you feel this swap would help the lands under the wilderness designation to better match the Wilderness Act's description of wilderness as an area where the earth and its community of life are untrammeled by man where man himself is a visitor who does not remain?

Mr. FRENCH. Yes, I think that if you look at consolidating that land and away from those edges, it's, it makes for a more consistent management and is more consistent with the Wilderness Act.

Senator LEE. Did the Forest Service participate in this, in local stakeholder discussions about this proposal and that the proposed no net loss of wilderness?

Mr. FRENCH. Yeah, the local forest worked with the proponents to help develop some of the proposals and the maps.

Senator LEE. Okay.

I also want to ask you about the Human Power Travel and Wilderness Areas Act, S. 1695. So another approach to solving some of the access issues at BST is to ease the nationwide ban on bicycles inside of wilderness. This bill that I introduced, S. 1695, the Human Power Travel in Wilderness Areas Act, would amend the Wilderness Act of 1964 to authorize local land managers to determine on a case-by-case basis where and whether to allow mountain bikes to access wilderness. I would like to thank you, Mr. French, and also you, Mr. Nedd, and your respective departments and agencies for your support of this bill.

Now I have heard some concerns that the bill, according to some, would authorize new roads in wilderness. Mr. Nedd, can you confirm that my bill would not allow for new roads?

Mr. NEDD. Yes, Mr. Chairman, that is my understanding. The bill would allow just for the existing, the existing path and road would not allow for the use of new roads.

Senator LEE. And would the Department seek public input before deciding on the suitability of a trail for other types of motorized travel?

Mr. NEDD. Well, my understanding, there's two years for the federal manager at the local level so that process would include seeking input from stakeholders.

Senator LEE. Okay.

Mr. French, how prominent has mountain biking become on National Forest System lands compared to the 1960s when logging was a more dominant use?

Mr. FRENCH. It's a tremendous use. Three out of every four miles of trail right now that we have, it's like 120,000 miles, currently are open to mountain biking and we see increased use year after year. It's a dominant expanding use.

Senator LEE. Now is the ban on mountain bikes contained in and directed by the Wilderness Act, and if it is not, could the Forest Service change its regulations on bicycles if it decided to do so?

Mr. FRENCH. Our advice and interpretation from our attorneys is that the Wilderness Act specifically calls out mechanized, not al-

lowing mechanized and there is some court cases that support that and that was the change in our regulations in the '80s that created that.

Senator LEE. The original understanding at the time the Wilderness Act was enacted in 1964 did not encompass bicycles, is that correct?

Mr. FRENCH. Sir, I'd have to get back with you. I know the language in 1964 specifically called out not using mechanized——

Senator LEE. Right.

Mr. FRENCH. ——transportation.

Senator LEE. Okay.

Senator LEE. I see my time has expired. Let's see. We will go next to Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman.

Susan Jane, we have a long history of working on innovative forestry solutions together. I remember your work with Chairman DeFazio, and I want to ask about the Clean Air Act in particular to start, because this is something that has been right at the foundation of my public service. When I was a young member of the House, one of the first things that I was able to do, and I am especially proud of, is we stopped the polluters from unraveling the Clean Air Act with a proposal to protect the national parks. I would like to get your take on how our legislation, the Prescribed Fire Act, addresses the Clean Air Act by directing the agencies to use existing clean air authorities to, in effect, accelerate the pace and scale of controlled burns. In your view, how does this type of flexibility ensure better forest management while at the same time protecting a bedrock environmental law?

Ms. BROWN. Thank you, Senator. I appreciate that question.

You know, the Clean Air Act is obviously a bedrock environmental law. Very few nations have a law quite like ours, and it is very strong, and it has given us some of the cleanest air in the world. And I think that that's something that's important and should be celebrated. What's great about your proposed legislation is that it directs the federal agencies to use a tool already at their disposal, that is already part of the Clean Air Act, which is the exceptional events provision of the Act. And it, therefore, really is not a streamlining proposal or an amendment to the Clean Air Act, but instead, it's just pointing out to land managers that they have this tool and that they should utilize it.

And one of the things that we have seen here in Oregon as we have attempted to accelerate the pace and scale and quality of restoration, including the utilization of prescribed fire, is that sometimes those restrictions are simply too narrow and don't understand and don't recognize or take into consideration the fact that although humans are putting smoke into the air by lighting a fire and using that fire in a prescribed manner, that that has an ecological benefit. And it is a health benefit as well because if we don't use these tools that the law already provides for us, nature is going to do that burning without us, and you're going to have situations like we saw this year where you have fires during the hottest, driest, windiest part of the year which is usually during the summer as opposed to allowing us to put fire on the ground on the shoulder seasons. And so, your legislation would allow us to have more flexi-

bility to really put fire and smoke out in the atmosphere and on the ground on our terms which is really what we need.

Senator WYDEN. I very much appreciate your point that what we are doing in the legislation, and this is what we set out to address, is to say, let's try to make sure we use an existing tool and do it in a way that is going to let us get more work done without raising the prospect of litigation. And one of the things I have admired about your work over the years is that you have tried to bring people together. You have been able to strike that balance, get important environmental work done and avoid litigation. So hats off and big thanks for your help on this.

Ms. BROWN. Thank you.

Senator WYDEN. Mr. French, let me kind of follow up with you in the context of what Susan Jane has just said. We worked closely with you. We are very appreciative of this. We have mentioned that this is all about using proven tools, controlled burns, making sure that you protect the Clean Air Act. It is all about forest health and wildfire resiliency.

Now Susan Jane also talked about the enormous backlog of work that you have to address, Mr. French. How would the National Prescribed Fire Act help the Forest Service deal with that enormous backlog by increasing the pace and scale of controlled burns and how would this help reduce wildfire risks in forests?

Mr. FRENCH. Thank you, Senator.

I think the two factors that are really helpful in addressing that backlog is it adds capacity, it gives us more flexible tools on how to add to that capacity, and it creates a more flexible environment for those burn windows in terms of the discussion you were just having on the Clean Air Act. Those two pieces alone, I think, are really helpful in helping us overcome that backlog.

Senator WYDEN. Well, thank you and that is, in effect, two of the big points that I wanted to make this afternoon. I have already thanked Chairman Lee for giving us the opportunity to address this during this hearing. What we are doing here is making sure that we ring every bit of value out of existing environmental laws and we address Mr. French's point which is we get at the backlog because both Mr. French and Susan Jane have made the point that there is an enormous backlog. We have a lot to do.

I will just close by way of saying Senator Merkley and I were all over the State of Oregon during the incredibly powerful fires that we had. These fires are not your grandfather's fires. They are bigger, they are more powerful, and we saw not too long ago fires leap the Columbia River. I thought I had seen everything, but this summer I saw even more when I was out with Senator Merkley. We saw communities where I had been having town hall meetings basically turned into what amounts to dust, just literally dust.

So my thanks to you, Susan Jane, for your help; the Forest Service and Mr. French representing them today, and again, Chairman Lee, thank you for your consideration on this matter. I see I am well over my time, and I will yield.

Senator LEE. Thanks so much, Senator Wyden.

Next at bat will be Senator Cantwell.

Senator CANTWELL. I will pass for a second.

Senator LEE. Okay.

Now let's see. Senator Heinrich.

Senator HEINRICH. Thank you, Chairman. I just want to start by, I know Senator Michael Bennet had asked to be able to testify in this Committee today and was denied that opportunity and I think it is important to state that S. 241, the CORE Act, just the breadth of local support for that legislation, having spent quite a bit of time in Colorado myself, having family there, the number of county commissions and other leaders who have really embraced this legislation is impressive. I think it was unfortunate that he was not able to be here today to give his testimony in person, but I understand that has been included for the record.

I guess I would start my questions, Mr. Nedd, with respect to S. 4889. I wanted to ask, given that ANCSA was passed in 1971, regarding the particular communities that are called out in this legislation, why were they not formed as corporations at that time and did they meet the legal qualifications for population that were included in that legislation back in 1971?

Mr. NEDD. Senator, thank you for the question. I will have to take that as a question back. I just don't have information as to what happened back when the legislation was passed and why did they not meet it. And in terms of meeting the legal definition, I just don't have that information. I'll be glad to take the question back.

Senator HEINRICH. I think that would be very important for looking at this legislation to understand, first and foremost, what the intent of the original legislation was. Would the mineral rights that are under the withdrawals in this legislation, would those be retained by the government or would they transfer as well?

Mr. NEDD. My understanding is those rights will be transferred as well.

Senator HEINRICH. Now would they transfer to these communities or to a regional corporation?

Mr. NEDD. Senator, it is my belief it would be transferred with whomever is the surface owner. So it may be the regional community. I don't want to speculate so that's something——

Senator HEINRICH. So my understanding is that is actually not the case that they would all be transferred to Sealaska which is the regional corporation. So I think that's another point that should be clear on this legislation and something we probably all need to understand before this legislation is marked up.

And then finally what I would ask is I have a map but I can't, I can't quite tell from the map whether any of the selections that clearly are very close to Misty Fjords National Monument and the Misty Fjords National Monument Wilderness, but I can't tell whether any of the selections are actually inside or not. Mr. French, would you know the answer to that question?

Mr. FRENCH. I'm going to get back with you, but my working knowledge right now is that they're not, but I'm going to verify that and come back to you, Senator.

Senator HEINRICH. Alright, I would appreciate that.

And then finally, I guess I would just simply make the point that in 1964 when the Wilderness Act was passed and when one of my predecessors in New Mexico, Clinton P. Anderson, managed that legislation on the Floor of the Senate, I think we should be originalists in our interpretation of the language because I think

they were actually quite deliberate in choosing the word "mechanized" because it was not just about keeping internal combustion engines out of these special places, but it was also about the experience that people can have in these special places and mechanized applies not only to, is it applies to mechanical objects and has been interpreted over the years, not just to apply to bicycles, but to other conveyances as well.

When I hunt in wilderness, I don't use a game cart. You are not allowed to fly a hang glider. And one of the things I will tell you is that if you want to see the wild game change their behavior in a wilderness area, open those trails to mountain biking. We have many, many trails, three out of four miles, I understand from Mr. French, that are open to mountain biking. And I will tell you that every wilderness bill that I have ever been a part of drafting, we took very seriously what areas should be open to mountain biking and what areas should not because nothing will change the behavior of an elk herd faster than changing a pedestrian trail to a mountain biking or, for that matter, internal combustion engine bike trail.

Mr. Chair, that is the balance of my time.

Senator LEE. Thank you very much.

Senator Cantwell.

Senator CANTWELL. Thank you, Mr. Chairman, and thanks for this hearing.

Obviously, I would like to talk about prescribed burning and a variety of issues, but I want to mention, again, that in our state more than 800,000 acres burned in the 2020 fire season with over 300,000 of those acres burning in just one day. These have forced hundreds of evacuations of structures and homes, and throughout the West we are seeing these unbelievable numbers with over 47,000 fires having burned over 8 million acres, and this is not an anomaly. Every year since 2000 we have had an average of 71,000 wildfires, and they burn an average of 6.9 million acres. So clearly we need to do more, and the statistics are telling us we need to have new strategies, and that is why I am a big supporter of cross-laminated timber (CLT) and reducing our risk to wildfires. We can store the carbon instead of it burning in wildfires and help our rural communities—for example, with very long-term timber contracts, under which if they promise to produce CLT, they will receive a selection preference. We need to be doing more of this and obviously this is why I am a sponsor of S. 4625, the National Prescribed Fire Act, with Ranking Member Manchin and Senator Wyden.

Both of these, I think, are steps in the right direction. I am also interested in the role that women are playing in our forests workforce and the women-in-fire aspect of that legislation, S. 4625. So I wondered, Mr. French, if you could address both that issue and what the agency did on the agency tracking provisions of our last Act, tracking smoke and public health impacts and being able to measure that. What kind of results did we get?

Mr. FRENCH. So on your first question, are you specifically asking about the agency's focus on CLT and second about our focus on diversifying the ranks of our fire organization?

Senator CANTWELL. Women-in-fire, sorry.

Mr. FRENCH. Yeah, okay, thank you for that clarification.

It is a particular focus of ours as an agency right now to create a work environment that not only recruits and retains a more diversified space for folks, including in our fire organization, but especially a place that is, again, we can not only recruit, but retain. It's welcoming and valuing women in the fire workplace. We recognize the history we've had in this, and we have taken many proactive and deliberate and concrete steps under the leadership of Chief Christiansen to change that vector. And I'm quite proud of the approach the agency has been taking. I grew up in the fire organization. I certainly understand and have seen many of the issues that our agency has been plagued with, and I'm proud to be part of the different cultural change and mindset of where we need to go.

In terms of tracking the specifics on air quality that you spoke of, I will get back to you on that because I don't have those right at my hands right now.

[Information requested was not received as of the date of printing.]

Senator CANTWELL. Okay. Well, we think that is a really important point. I wondered if Susan Jane Brown could also add to our discussion about the women-in-fire, if she has any comments?

Ms. BROWN. Sure, thank you, Senator Cantwell.

Like Mr. French, I agree that the Forest Service has come a long way in terms of welcoming, in particular, women into the Fire Corps. But there's a lot of work that needs to be done still and the prescribed fire legislation does take another step forward by encouraging the recruitment and retention of women in fire which I think is great. Some of the changes that are also being proposed in terms of shifting seasonal fire employees to permanent fire employees is also very helpful to many women in fire who do want a career in fire but also have other responsibilities in terms of caring for the home. And so this legislation provides some additional flexibility, and I think that will incentivize attracting women to the fire corps.

One of the suggestions for an amendment to the legislation that I proposed in my written testimony is to really think holistically about how we approach fire and many times the way that we see how women are represented in the workforce is by looking at mascots. And so this legislation does utilize an existing mascot called Burner Bob which, I understand, is a very effective program down in the Southeast. I would suggest perhaps thinking about a different mascot by the name of Burner Betty. This would be a female character in fire and as a mascot, as a public relations, and a public education tool would be really a forward-facing and forward-thinking representation of the Forest Service's commitment to being a more diverse workforce including in fire. So I put that forward for your consideration.

Senator CANTWELL. Thank you. That is so helpful. I want to point out, just because we have done so much work with the Coast Guard on a similar issue of workforce issues, there are policies we can put in place to encourage more diverse workforce and we should consider that.

I know I am out of time, Mr. Chairman. I would just like to note for Mr. French—regarding your testimony on the Tongass proposal, that it would be hard to carry out your review under the National Environmental Policy Act and issue a schedule or offer any sales in 2021–2022. I concur on that point. I am not a fan of the proposal overall, but I also don't think you can even deliver on it.

To the BLM, it was very important that we not disturb the Arctic Wildlife Refuge habitat, specifically for polar bears, and I think the Department's plan relies heavily on an unreliable polar bear surveillance technology. I understand that recently we found that there was 55 percent of the known dens that were missed by this technology. So I am going to submit a question for the record for BLM on that, Mr. Chairman, and thank you so much.

Senator LEE. Without objection. Thank you, Senator Cantwell.

Okay, we will now start our second round. I am not seeing any additional members who have not yet had the chance to ask questions, so we will start a second round now. They are expected to call a vote in a little while so at some point we have to either adjourn or recess for that. Depending on the timing, we will try to work through things as quickly as we can.

Let's see. I am going to go to Mr. Nedd next. I want to talk to you a little bit about the Colorado Outdoor Recreation and Economy Act. This legislation, the CORE Act, H.R. 823 would allow, it would withdraw 200,000 acres from mining and mineral leasing development in an area that is known to have critical mineral and energy resources. From the perspective of the Administration, does the CORE Act support the Department's goal of maintaining American energy dominance and promoting domestic production of critical minerals over that of a less friendly set of countries, like for example, China?

Mr. NEDD. Thank you, Mr. Chairman.

This bill does not support the Department's goal of maintaining its energy dominance and relying less on foreign countries, and so it would not.

Senator LEE. Now would construction of a new dam/reservoir be compatible with the CORE Act, in your view, Mr. Nedd?

Mr. NEDD. Again, Mr. Chairman, certainly the Bureau of Reclamation can answer this best, but my understanding is as long as future or proposed water projects are consistent with Congressional designation, they should not, but again, I would defer to the Bureau of Land Management or the state that manages water rights.

Senator LEE. Okay. They should not, but it doesn't necessarily mean they would not or could not?

Mr. NEDD. That's my understanding. They should not.

Senator LEE. Okay.

Mr. French, do you have any, anything to add to that?

Mr. FRENCH. Not at this time. I think, in general, with the CORE Act which we've testified on before, those provisions that have gone through our broader land management planning process and there's consensus on, we support, but the overall intent, the Administration does not.

Senator LEE. Okay.

Mr. French, with regard to S. 2875, the Smith River National Recreation Area Expansion Act, do you feel like the expansion of

the NRA and designation of the wild and scenic river areas will impact the ability of the agency to combat wildfires and what type of activities do you think the designation might prevent?

Mr. FRENCH. It really depends on how it's crafted and the specifics. You know, I think we saw this year intense fire activity in that whole area. I mean, we lost hundreds of homes and others. So anytime that you're looking at a designation like a national recreation area, it's really important that it does not preclude our ability for restoring those forests, treating fuels, having access for suppression, of course. And so, if it does those sorts of things, it can be quite challenging and add to the problem.

Senator LEE. Turning to S. 4599, Senator Heinrich's bill, the Pecos Watershed Protection Act, what type of recourse development is available or is currently taking place in the Pecos Watershed?

Mr. FRENCH. So you know, I'm not sure. Are you asking the question like how do we manage that, Senator?

Senator LEE. Yes.

Mr. FRENCH. In terms of recourse development?

Senator LEE. Yes.

Mr. FRENCH. What we can do, I mean, under the 1872 Mining Law there's not discretion for whether someone can use those minerals, obtain those minerals, but we can work with how they do that and ways that—we're doing it in a way that most protects the environment of how they're pulling that away and that's our primary role.

Senator LEE. Is there interest in more exploration or future development of the region?

Mr. FRENCH. There is some limited, yes, there is some limited interest right now. It's mainly around metal, lead, zinc, gold, copper, silver.

Senator LEE. Mr. Nedd, Mr. French mentioned some minerals. What impact might this withdrawal have on access to critical minerals that are necessary for U.S. national security?

Mr. NEDD. So, Mr. Chairman, not withstanding valid and existing right, it would permit—prohibit any new development.

Senator LEE. Prohibit any new development, including any development not foreseen or rights not previously staked out?

Mr. NEDD. Right. Again, not foreseen, unless there's a valid and existing right there, a withdrawal would then prevent any future development.

Senator LEE. Okay.

With regard to S. 4625, Senator Wyden's bill, Ms. Brown, I have a question for you on this. When wildfires occur, some species of plant or animal life may thrive while others might suffer. In addition to prescribed fire, would you say we also need to ensure that we can reasonably access fragile ecosystems for managing—for mechanical thinning to prevent their demise in foreseeable wildfires?

Ms. BROWN. Thank you for that question, Senator.

Yes, I think that in most situations we do need all tools in the tool box and in many situations mechanical treatment, prior to prescribed fire, is the wise and best choice. So I do think that in many cases mechanical treatment definitely has a role to play.

Senator LEE. Mr. French and Mr. Nedd, are there some vegetation types that some forest lands in the United States, particularly

in the Western United States, that are just too dense or too diseased or otherwise problematic to run a prescribed fire?

Mr. FRENCH. Yeah, I mean, there are certain forest types, I think, lodgepole is an existing one, where just by the nature of it and depending on its age, you're going to look at other approaches to do that. Most of your western adapted fire, fire forests, at some point you can start to use prescribed fire as the primary goal for maintaining it. On your first entries you may need to do mechanical treatments to prepare them for work like that because they're too dense.

Senator LEE. Mr. Babbott, do the forests in Coconino County need more mechanical thinning or more prescribed fire?

Mr. BABBOTT. So, thank you, Mr. Chairman. So the answer is yes to both, but really, importantly, I think we need to understand that there are thousands and tens of thousands of acres that have to come from a first things first approach. You cannot place fire, prescribed fire, in landscapes and settings where tree densities do not allow that to serve the purpose of what managed fire is. I'm going up tomorrow with the District Ranger to look at the upper steep slope of the Museum Fire. No prescribed fire ever could have been put on those areas prior to mechanical thinning. So there is a first things first approach that not all acres are created, kind of, equal in terms of their unhealthiness. Areas that prescribed fire can be safely put on or managed—natural ignition fires are great candidates—but we should not be confused that there are hundreds of thousands of acres in the 4FRI footprint that cannot have prescribed fire safely put on it because we have suppressed for a century that natural ignition in a fire-adapted ecosystem and 20 years of drought and climate change are all contributing to what was just referenced by one of your colleagues.

And while I'm sitting here, we just got a fire start on north of the peaks here, the third week of November. So the rules are changed. We can't use the same strategies or approach that used to work because they don't work anymore.

Senator LEE. I would imagine there are a lot of places within the Kaibab National Forest where you do not want any burn prior to mechanical thinning.

Mr. BABBOTT. One hundred percent correct.

Senator LEE. Thank you.

Senator Heinrich.

Senator HEINRICH. Thank you, Mr. Chair.

I want to come back to something that Mr. French said and just make sure I got it right so that everyone understands. Under existing law under the 1872 Mining Act, could the Forest Service just decide that the Pecos River Valley just is not the right place for a mine? Do you have that discretion?

Mr. FRENCH. Not at this point. If there's a valid existing right under the 1872 Mining Law, we would not have the discretion——

Senator HEINRICH. You cannot deny the ability to develop that right, correct?

Mr. FRENCH. That's correct. We would work with——

Senator HEINRICH. And so, and I don't disagree with you on that fact at all. I want to be clear about the situation my constituents are in, because today no one makes their living in this valley by

hardrock mining. Now there is interest from international corporations in changing that, but the people who live in the Pecos Valley do not want to see new mines along the Pecos River because they have experienced, firsthand, what the devastation of a mine waste spill looks like in the 1990s with the former Tererro Mine which we have finally, finally, gotten cleaned up. So we have people who make their living by guiding people to fly fish, we have people who make their living by farming, we have people who make their living through recreation, and they are concerned that their right to be able to do the things that they want to do now, that they are doing now, is going to be taken away. So the only way those folks can protect their watershed from new mines is this kind of legislation and that is why we are here today.

I want to switch to Mr. Nedd and go back to the question that Senator Cantwell had and, basically, I think a lot of us were dismayed but frankly not surprised to see President Trump's last-minute effort to shortcut environmental laws and try to jam oil drilling in the Arctic Refuge through on his way out the door. While there is a lot of justifiable concern about this, many of us are quite confident that efforts to shortcut the review process and to ignore the law will ultimately fail. That is why I would urge this Administration to actually focus on ensuring a smooth transition rather than trying to expedite legally-deficient projects that will degrade our nation's public lands.

So Mr. Nedd, this call for nominations comes less than a month after BLM released a plan to move forward with seismic testing throughout the Arctic National Wildlife Refuge 1002 Area using heavy trucks and machinery that may kill/threaten polar bears and damage the Tundra as well. I understand that the Department's seismic testing plan relies heavily on a very unreliable polar bear surveillance technology that a recent study found missed more than 50 percent of known dens, actually, 55 percent of known polar bear dens. So I want to know what actions the BLM is taking to actually ensure that critically endangered polar bears are afforded the protections required under the law if a lease sale goes through.

Mr. NEDD. Senator, thank you for that question.

The BLM does, will ensure there's, adequate protection is provided. Specifically with the polar bear and what protection it will be, I would need to take a question back for the record.

Senator HEINRICH. I am trying to understand what those protections actually are, and you are telling me you don't know.

Mr. NEDD. Well, again, Senator, I don't have detailed information here to answer the specifics, but I'll be glad to take a question back for the record.

Senator HEINRICH. Well, I would just point out that this is not the first time today that you did not have the answers to questions that are very specific to what the BLM does and what it is doing right now and the role of this, these various pieces of legislation. This is the national interest. This is not only a national wildlife refuge, it is the crown jewel of all national wildlife refuges, and we have critically endangered polar bears that don't have anywhere else to go. They cannot go any further north because the sea ice doesn't form as early as it used to. I have watched these bears on the North Slope of this refuge, and every year their existence gets

more and more tenuous. If you are going to drill for oil, you should have a plan in a wildlife refuge for how to protect the wildlife. Do you disagree?

Mr. NEDD. Well, Senator, again, I am here to testify on several bills, and I would like to take a question back on the polar bears. So I didn't come prepared to answer questions on the polar bear and drilling in the Arctic. And again, I would like to take a question back.

Senator HEINRICH. I look forward to that answer, Mr. Chairman.

Mr. NEDD. Thank you.

Senator LEE. All right, the vote has now been called. We are going to wrap up here in a second. Before we do that I want to submit for the record a series of letters that have been submitted in connection with the Colorado Outdoor Recreation and Economy Act and those will be admitted into the record, without objection.

[Letters for the record regarding S. 241 follow:]

AURORA WATER

City of Aurora

Water Administration
15151 E. Alameda Parkway, Suite 3600
Aurora, Colorado 80012
303.739.7370

Worth Discovering • auroragov.org

November 17, 2020

The Honorable Lisa Murkowski
Chairwoman
Committee on Energy & Natural Resources
United States Senate
304 Dirksen Senate Building
Washington, D.C. 20510

The Honorable Joe Manchin
Ranking Member
Committee on Energy & Natural Resource
United States Senate
304 Dirksen Senate Building
Washington, D.C. 20510

Re: H.R. 823 / S. 241 Colorado Outdoor Recreation and Economy Act
Public Lands, Forests & Mining Legislative Hearing on November 18, 2020

Dear Chairwoman Murkowski and Ranking Member Manchin

Section 107 of the Colorado Outdoor Recreation and Economy Act (CORE Act) seeks to designate 28,676 acres of United States Forest Service (USFS) lands in the upper Eagle River valley as the "Camp Hale National Historic Landscape". H.R. 823 / S. 241 legislative language does not have consensus and is not supported by all who depend upon and enjoy this multi-use landscape. The legislation is well intended in its desire to honor World War II veterans, but as written may create unnecessary conflicts and barriers to restoring an important watershed and to providing drinking water supplies for the State of Colorado's diverse and growing populations.

The cities of Aurora and Colorado Springs are the third and second largest cities within Colorado and hold significant water rights and land interests within the upper Eagle River valley. In the 1950s, the two cities began developing the existing Homestake Water Project that provides critical drinking water supplies to its citizens and businesses. A second Homestake Water Project phase was to be developed subsequently but local permitting issues suspended the second phase. In the 1990s, Aurora, Colorado Springs, Colorado River Water Conservation District, Upper Eagle Regional Water Authority, Cyprus – Climax Metals Company, Eagle River Water and Sanitation District, and Vail Associates negotiated and finalized the Eagle River Memorandum of Understanding (ERMOU) agreement to develop a joint use water project that would benefit all parties. The agreement still guides the parties today and the joint use water project remains an indispensable water supply project for the parties' collective future. The ERMOU joint use water project has been identified as a priority in the State of Colorado's Basin Roundtable implementation and planning process to meet future water supply gaps. The Camp Hale valley is near the center of the overall project area.

Along with the significant water rights, the Camp Hale valley also includes the Continental Divide Trail, Scenic Byway designation, recreational mecca for both motorized and un-motorized uses, historic use by Native Americans, and a U.S. Army Training Facility for what became the 10th Mountain Division. The significance of the past military facility is not lost on any Camp Hale stakeholder. During the Army's WWII use, the once meandering Eagle River was channelized straight for over five miles and over 340 acres of adjacent wetlands were filled in. While the military buildings have long since been removed, the open flat valley created when the river was channelized, and the resulting ecological impacts remain.

The National Forest Foundation (NFF) named the Camp Hale valley as a Treasured Landscape and saw opportunities to restore the stream and wetlands. Over many years, NFF successfully worked with water rights owners, land owners, cultural custodians, history buffs, and motorized and non-motorized recreational organizations to define a vision for the future that supports all uses and a framework to co-exist. The National Forest Foundation stakeholder plan, *Camp Hale – Eagle River Headwaters Restoration Project: Collaborative Recommendations for Restoration and Management*, can be found at https://www.nationalforests.org/assets/blog/Camp-Hale-Master-Plan.pdf . Acting together Aurora and Colorado Springs were one of many stakeholders that participated and supported this effort. The USFS agreed to honor and accommodate the collaborative's shared vision and recommendations and began the formal planning and environmental evaluation process mandated by the National Environmental Policy Act (NEPA). Information on the USFS formal *Camp Hale Restoration and Enhancement Project* planning and permitting can be found at https://www.fs.usda.gov/project/?project=46121

In relation to the NFF stakeholder group effort, a comprehensive *Camp Hale and Eagle River Headwaters Area Interpretive Plan* was drafted and includes goals and objectives to engage visitors in understanding the region's significance in the context of the sacrifices, accomplishments, and contributions of the 10th Mountain Division. The NFF stakeholder efforts are all encompassing and should be used as a foundation for any supporting legislation. As currently written, the CORE Act creates a path that "coordinates" with stakeholders. In our work to find consensus legislation, we sought to include a requirement of collaboration to ensure that the past inclusive stakeholder process continues. This is not included in H.R. 823 / S. 241 and the current language undermines the years of stakeholders' work. Aurora and Colorado Springs have worked in good faith with the sponsors to revise language in order to provide security for water supply projects, ecological restoration, and historic designation goals that uses the stakeholder efforts as a foundation. Aurora and Colorado Springs have been told by the sponsors that:

- the intent of the Camp Hale National Historic Landscape is not to impair nor impede any water rights operation or development;
- the Camp Hale National Historic Landscape would not require additional analyses nor consideration under a special use request of these federal lands as part of a water rights operation or development;
- the intent of the Camp Hale National Historic Landscape is not to prevent wetland restoration nor wetland mitigation projects; and
- the intent of the Camp Hale National Historic Landscape is to protect the area from timber, mining, and minerals extraction; not to protect the area from water rights development.

With the above listed goals and intentions in mind, Aurora and Colorado Springs developed the attached alternative language for Section 107 with input from the sponsors. This language has not been accepted by all stakeholders as local governmental entities interpret and desire the Camp Hale National Historic Landscape designation as a protection mechanism against future water supply projects. The current language of H.R. 823 does not include the requested revisions. The sponsors have stated the legislative intention is a "light touch" and for celebration of history in conjunction with water supply development and ecological restoration. The attached language, prepared to meet the stated intention, provides security and balance for those goals.

A summary and explanation of requested revisions to H.R. 823 version, set forth fully in the attached, are as follows:

- Section 107(c)(2)(B)(iv)(II) and (III). Inclusion of wildfire prevention and risk reduction, wildfire suppression, post wildfire mitigation, watershed health and protection within the management plan. This inclusion will allow for protection of water supplies and infrastructure as well as ensure management for healthy and resilient ecosystems.
- Section 107(c)(2)(B)(vi). Addition to specify that the Historic Landscape management plan will include the protections listed in subsection (g).
- Section 107(d)(2). Addition to ensure that the opportunity to collaborate on the project will be afforded to the Camp Hale valley stakeholders that have invested in the future vision and planning.
- Section 107(d)(2)(C). Addition of Western Slope In-Lieu Fee Program is needed to ensure the existing agreements and intentions are recognized.
- Section 107(d)(2)(F). Addition of Colorado Department of Natural Resources as a missing stakeholder.
- Section 107(e)(3). Addition of the word "under".
- Section 107(g)(2). Revised language with "(2) affects any water right in existence on the date of enactment of this Act or a future operational water right therefor or a water rights derived from said existing right, or the exercise of such a water right, including - …". Given the pronounced intent of not impairing any water rights operations or development, Aurora and Colorado Springs believe it is then necessary to preserve intact both existing water rights and the ability to modify or supplement those rights with operational rights as may be necessary to achieve the benefits of the existing rights. As an example, Aurora and Colorado Springs want to preserve the ability to obtain rights of exchange or conduct augmentation operations with the existing rights but not to increase the decreed depletions of those existing rights. Aurora and Colorado Springs also believe the suggested changes to § 107 (g) (2) would preserve future flexibility of the participants in the aforementioned joint use water project as well as other local water entities or other regional water operators regarding operational rights they may seek individually or in conjunction with future activities.
- Section 107(g)(2)(A). Revision to "a water right subject to" is necessary for protection of all water rights operations and development.
- Section 107(h) insertion that funding from local government and the public may be used in implementing the projects. Intent is to acknowledge and allow local funding sources that are already planned and ties back to the collaboration with those entities on the projects.

NFF's Colorado Western Slope In-Lieu Fee Program recently received federal approval and includes the Camp Hale – Eagle River Headwaters stream channel and wetland restoration as one of many

projects. Aurora, Colorado Springs, and other water rights owners have entered into Development Agreements with NFF for the Camp Hale – Eagle River Headwaters project. The ability to design and construct stream and wetland restoration is awaiting USFS decision on its Camp Hale Restoration and Enhancement Project environmental impact statement. Along with the NFF agreements, Aurora and Colorado Springs hold numerous water rights in Camp Hale valley and adjacent areas as well as facilities for water collection, storage, transmission.

The original Homestake Project water rights have a priority date of 1952 and were decreed in 1962 by the Eagle County District Court in Civil Action N0. 1193. Legal descriptions of these rights have been corrected and changed by subsequent decree entered in 1988, Cases No. 85CW151, 85CW582, and 85CW583, as well as by the decree entered in 95CW272. These rights were decreed to the following structures: (1) Homestake Conduit (181.88 cfs absolute, 1658.2 cfs conditional); (2) East Fork Conduit (74.63 cfs absolute, 185.37 cfs conditional); (3) Homestake Tunnel (300.0 cfs absolute, 10.0 cfs conditional); (4) Homestake Reservoir (43,504.7 af absolute, 83,338.98 conditional): and (5) Eagle-Arkansas Ditch (530.0 cfs conditional).[1] A finding of due diligence was entered in Case No. 13CW3045, and a case seeking a finding of due diligence and to make additional amounts absolute in the East Fork Conduit is pending currently in Case No. 20CW3024. In addition to these rights, Aurora and Colorado Springs also have conditional rights decreed in Case No. 95CW272 to the following structures: (1) Blodgett Reservoir (9,316 af conditional storage right); (2) Homestake Creek Intake (400.0 cfs conditional surface diversion; (3) Turkey Creek Intake (200.cfs conditional surface diversion); and (4) Eagle-Cross Pump and Pipeline (300.0 cfs conditional surface diversion). These rights were decreed for the following uses: municipal, irrigation, commercial, domestic, industrial, snowmaking, recreation, fishery, wetland creation and irrigation, wildlife, exchange, augmentation, and aquifer recharge. This case also involved a plan for augmentation including exchange, changes of the Homestake conditional diversion rights, and of the Homestake Reservoir conditional storage right.

Additional conditional surface water rights, conditional storage rights, conditional appropriative rights of exchange, a plan for augmentation including exchange, and a change involving additional uses and alternative places of use for existing rights were also decreed in 2002 in Case No. 88CW449. The decree entered in that case adjudicated rights for the following structures: (1) Resolution Creek Reservoir (5,000 af conditional surface storage right); (2) Lower East Fork Reservoir (2,500 af conditional surface storage right); (3) Eagle Park Reservoir (3,500 af conditional storage right); (4) Eagle Park Wetland Irrigation System (60.0 cfs conditional surface water right to be used to create and/or enhance wetland habitat); and (5) Eagle Park Aquifer Well Field (60.0 cfs not to exceed 5,000 af per year, conditional).

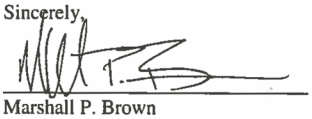
Aurora and Colorado Springs assert that it is in the best interests of the stakeholders that these water rights, intended for the benefit of both the citizens of the cities and the stakeholders with an interest in Camp Hale, be properly recognized and protected in any legislation put forth for federal designation of a Camp Hale National Historic Landscape.

The Camp Hale valley is truly treasured by many users, and the USFS already protects and manages the area for these multiple uses. The Camp Hale National Historic Landscape designation could alter the balance and re-create conflicts previously resolved by stakeholders. As written, we respectfully request the Senate Energy and Natural Resources Committee oppose Section 107 of H.R. 823 / S. 241

[1] Amounts listed as absolute and conditional are based on the most recent decrees for each water right.

CORE Act, and to either amend or delete Section 107 until consensus can be reached. If Section 107 is amended, Aurora and Colorado Springs request the attached language to promote honoring the past military achievements while retaining the balanced integration of uses agreed to by the stakeholders. Thank you for the opportunity to provide comments on the CORE Act. We commit to continue to work with legislators and stakeholders to honor the historical aspects and to support healthy ecosystems along with development of reliable and resilient drinking water supplies for our cities and partners. Please feel free to contact Aurora staff Kathy Kitzmann (kkitzman@auroragov.org) or Colorado Springs Utilities staff Andy Colosimo (acolosimo@csu.org) for more information.

Sincerely,



Marshall P. Brown
General Manager, Aurora Water

SEC. 107. CAMP HALE NATIONAL HISTORIC LANDSCAPE.

(a) Designation.--Subject to valid existing rights, the approximately 28,676 acres of Federal land in the White River National Forest in the State, as generally depicted as ``Proposed Camp Hale National Historic Landscape'' on the map entitled ``Camp Hale National Historic Landscape Proposal'' and dated June 24, 2019, are designated the ``Camp Hale National Historic Landscape''.

(b) Purposes.--The purposes of the Historic Landscape are--

(1) to provide for--

(A) the interpretation of historic events, activities, structures, and artifacts of the Historic Landscape, including with respect to the role of the Historic Landscape in local, national, and world history;

(B) the historic preservation of the Historic Landscape, consistent with--

(i) the designation of the Historic Landscape as a national historic site; and

(ii) the other purposes of the Historic Landscape;

(C) recreational opportunities, with an emphasis on the activities related to the historic use of the Historic Landscape, including skiing, snowshoeing, snowmobiling, hiking, horseback riding, climbing, other road- and trail-based activities, and other outdoor activities; and

(D) the continued environmental remediation and removal of unexploded ordnance at the Camp Hale Formerly Used Defense Site and the Camp Hale historic cantonment area; and

(2) to conserve, protect, restore, and enhance for the benefit and enjoyment of present and future generations the scenic, watershed, and ecological resources of the Historic Landscape.

(c) Management.--

(1) In general.--The Secretary shall manage the Historic Landscape in accordance with--

(A) the purposes of the Historic Landscape described in subsection (b); and

(B) any other applicable laws (including regulations).

(2) Management plan.--

(A) In general.--Not later than 5 years after the date of enactment of this Act, the Secretary shall prepare a management plan for the Historic Landscape.

(B) Contents.--The management plan prepared under subparagraph (A) shall include plans for--

(i) improving the interpretation of historic events, activities, structures, and artifacts of the Historic Landscape, including with respect to the role of the Historic Landscape in local, national, and world history;

(ii) conducting historic preservation and veteran outreach and engagement activities;

(iii) managing recreational opportunities, including the use and stewardship of--

(I) the road and trail systems; and

(II) dispersed recreation resources;

(iv) the conservation, protection, restoration, or enhancement of the scenic, watershed, and ecological resources of the Historic Landscape, including –

(I) conducting the restoration and enhancement project under subsection (d);
(II) wildfire prevention and risk reduction, wildfire suppression, and post wildfire mitigation; and
(III) watershed health and protection

(v) environmental remediation and, consistent with subsection (e)(2), the removal of unexploded ordnance; and

(vi) managing the Historic Landscape in accordance with subsection (g).

(4) Explosive hazards.--The Secretary shall provide to the Secretary of the Army a notification of any unexploded ordnance (as defined in section 101(e) of title 10, United States Code) that is discovered in the Historic Landscape.

(d) Camp Hale Restoration and Enhancement Project.--

(1) In general.--The Secretary shall conduct a restoration and enhancement project in the Historic Landscape--

(A) to improve aquatic, riparian, and wetland conditions in and along the Eagle River and tributaries of the Eagle River;

(B) to maintain or improve recreation and interpretive opportunities and facilities; and

(C) to conserve historic values in the Camp Hale area.

(2) Coordination.--In carrying out the project described in paragraph (1), the Secretary shall coordinate and provide the opportunity to collaborate on the project with--

(A) the United States Army Corps of Engineers;

(B) the Camp Hale-Eagle River Headwaters Collaborative Group;

(C) the National Forest Foundation and its Western Slope In-Lieu Fee Program;

(D) the Colorado Department of Public Health and Environment;

(E) the Colorado State Historic Preservation Office;

(F) the Colorado Department of Natural Resources

(G) units of local government; and

(H) other interested organizations and members of the public.

(e) Environmental Remediation.--

(1) In general.--The Secretary of the Army shall continue to carry out the projects and activities of the Department of the Army in existence on the date of enactment of this Act relating to cleanup of--

(A) the Camp Hale Formerly Used Defense Site; or

(B) the Camp Hale historic cantonment area.

(2) Removal of unexploded ordnance.--

(A) In general.--The Secretary of the Army may remove unexploded ordnance (as defined in section 101(e) of title 10, United States Code) from the Historic Landscape, as the Secretary of the Army determines to be appropriate in accordance with applicable law (including regulations).

(B) Action on receipt of notice.--On receipt from the Secretary of a notification of unexploded ordnance under subsection (c)(3), the Secretary of the Army may remove the unexploded ordnance in accordance with--

(i) the program for environmental restoration of formerly used defense sites under section 2701 of title 10, United States Code;

(ii) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); and

(iii) any other applicable provision of law (including regulations).

(3) Effect of subsection.--Nothing in this subsection modifies any obligation in existence on the date of enactment of this Act relating to environmental remediation or removal of any unexploded ordnance located in or around the Camp Hale historic cantonment area, the Camp Hale Formerly Used Defense Site, or the Historic Landscape, including such an obligation under—

(A) the program for environmental restoration of formerly used defense sites under section 2701 of title 10, United States Code;

(B) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

(C) any other applicable provision of law (including regulations).

(f) Interagency Agreement.--The Secretary and the Secretary of the Army shall enter into an agreement--

(1) to specify--

(A) the activities of the Secretary relating to the management of the Historic Landscape; and

(B) the activities of the Secretary of the Army relating to environmental remediation and the removal of unexploded ordnance in accordance with subsection (e) and other applicable laws (including regulations); and

(2) to require the Secretary to provide to the Secretary of the Army, by not later than 1 year after the date of enactment of this Act and periodically thereafter, as appropriate, a management plan for the Historic Landscape for purposes of the removal activities described in subsection (e).

(g) Effect.--Nothing in this section--

(1) affects the jurisdiction of the State over any water law, water right, or adjudication or administration relating to any water resource;

(2) affects any water right in existence on the date of enactment of this Act or a future operational water right therefor or a water right derived from said existing right, or the exercise of such a water right, including--

(A) a water right subject to an interstate water compact (including full development of any apportionment made in accordance with such a compact);

(B) a water right decreed within, above, below, or through the Historic Landscape;

(C) a water right held by the United States;

(D) the management or operation of any reservoir, including the storage, management, release, or transportation of water;

(E) the construction or operation of such infrastructure as is determined to be necessary by an individual or entity holding water rights to develop and place to beneficial use those rights, subject to applicable Federal, State, and local law (including regulations);

(3) constitutes an express or implied reservation by the United States of any reserved or appropriative water right;

(4) alters or limits--

(A) a permit held by a ski area;

(B) the implementation of activities governed by a ski area permit; or

(C) the authority of the Secretary to modify or expand an existing ski area permit;

(5) prevents the Secretary from closing portions of the Historic Landscape for public safety, environmental remediation, or other use in accordance with applicable laws; or

(6) affects--

(A) any special use permit in effect on the date of enactment of this Act; or

(B) the renewal of a permit described in subparagraph (A).

(h) Funding.--

(1) In general.--There is established in the general fund of the Treasury a special account, to be known as the ``Camp Hale Historic Preservation and Restoration Fund''.

(2) Authorization of appropriations.--There is authorized to be appropriated to the Camp Hale Historic Preservation and Restoration Fund $10,000,000, to be available to the Secretary until expended, for activities relating to historic interpretation, preservation, and restoration carried out in and around the Historic Landscape; provided however that interested organizations including units of local government and members of the public may provide funding for purposes of carrying out the project identified in subsection (d).

(i) Designation of Overlook.--The interpretive site located beside United States Route 24 in the State, at 39.431N 106.323W, is hereby designated as the ``Sandy Treat Overlook''.

PO Box 292 ◦ Delta, CO 81416-0292 (970) 874-1433 ◦ (970) 874-4170 fax
cwgawool@aol.com ◦ coloradosheep.org

Senator Cory Gardner
Betsy_Bair@gardner.senate.gov

March 6, 2019

Re: CORE Act / San Juan Mountain Wilderness area

Dear Senator Gardner:

The Colorado Wool Growers Association opposes Senator Bennet's Colorado Outdoor Recreation and Economy Act (CORE), which is sweeping legislation that would lock up thousands of acres through special land designations for wilderness areas, additional recreational management, and conservation areas.

Both the BLM and Forest Service have very stringent regulations to manage public lands. Forest Service lands have previously been inventoried for wilderness characteristics. Additionally, special land designations serve only to undercut the multiple-use mandate of federal lands; and create additional difficulties for grazing permittees.

As Colorado is now facing a concerted effort to force a wolf recovery program on the state, wolf activists are using wilderness areas as a selling point to bring wolves into the state. Wolves do not stay in wilderness areas, they follow big game herds and livestock to lower elevations during the fall, winter, and spring.

Colorado sheep ranchers, in addition to providing lean and nutritious Colorado Lamb, are some of the finest wool producers in the United States; and provide open space, wildlife habitat, and are economic drivers in our rural communities. Our sheep ranchers and federal lands permittees have many challenges: market volatility and consolidation, labor, weather, predators, and regulatory overburden.

We oppose additional special land designations by Congress.

Respectfully,

Ernie Etchart
President

Intermountain Forest Association
2218 Jackson Blvd, Ste 10, Rapid City, SD 57702
605-341-0875 Fax 605-341-8651

March 18, 2019

The Honorable Cory Gardner
354 Russell Senate Office Building
Washington, DC 20510

Dear Senator Gardner:

This letter outlines the position of Intermountain Forest Association (IFA) and our members regarding the Colorado Outdoor Recreation and Economy Act (CORE) introduced by Representative Neguse (H.R.823) and Senator Bennet (S.241). Our members play integral roles in implementing prescribed treatments on National Forests and provide employment in communities throughout Colorado. IFA appreciates the communication and outreach efforts from Senator Bennet's office to discuss the separate bills that comprise the CORE Act. Those discussions found compromise with the San Juan Wilderness Act. However, we do not support any legislation that would reduce the ability to implement forest management activities that can reduce the threats of insects and wildfires and, therefore, do not support the CORE Act as introduced.

In Colorado, Wilderness and other protected areas already have a large place in National Forest System (NFS) lands where there is currently 3.14 million acres of Wilderness, 4.2 million acres of Roadless, and 225,000 additional acres where forest management activities are limited in areas such as Recreation Management Areas, Special Management Areas, National Protection Areas, Wildlife Preserves, and National Recreation Areas, where forest management activities are limited. Lands currently suited and available for forest management activities, where we can have a positive impact to reduce the threats of insects and wildfires while supporting communities, have been limited. The CORE Act would further reduce the acres identified in Forest Plans as suited and available for forest management by approximately 8,000 acres. It is critical to retain the ability to manage NFS lands to protect communities, forest resources, and watersheds which serve as headwaters that provide water to 19 states and Mexico.

We look forward to continued conversations with Senator Bennet's office, working toward a refined designation of lands under the CORE Act that would not reduce the ability of land management agencies to implement critically needed forest management activities.

Thank You,

Ben Wudtke
Executive Director

Cc:
Senator Michael Bennet
Representative Joe Neguse
Representative Scott Tipton

71734
71734 6/11/2019 3:05 PM Eryn K Wintz
1 of 2 RES R$0.00 D$0.00 Mineral County Clerk

RESOLUTION NO. 2019-11

A RESOLUTION FOR THE MINERAL COUNTY BOARD OF COUNTY COMMISSIONERS, MINERAL COUNTY, COLORADO, OPPOSING THE 'COLORADO OUTDOOR RECREATION AND ECONOMY (CORE) ACT' INTRODUCED IN THE UNITED STATES SENATE (S241) AND IN THE UNITED STATES HOUSE OF REPRESENTATIVES (HR823)

WHEREAS, the Colorado Outdoor Recreation and Economy (CORE) Act has been recently introduced in the both the United States Senate (S241) and in the United States House of Representatives (HR823); and

WHEREAS, the CORE Act is a compilation of numerous land and resource related issues that have been proposed in legislative form in the past with no success of passage their own; and

WHEREAS, the purpose of the CORE Act is to designate over 205,000 acres of federally controlled public lands as Wilderness, Recreation Management Areas, Wildlife Conservation Areas, Special Management Areas, and a National Historic Landscape, all restricted use areas, thus eliminating the multi-use approach to management currently prescribed for these acres; and

WHEREAS, the ability to manage for forest health will be one of the activities that will be restricted and potentially eliminated and returning our State's forests to an optimum healthy state should be a priority for all Land Agencies; and

WHEREAS, Mineral County understands the economic depression that can follow a catastrophic fire event compounded by an unhealthy forest encompassed in a designated Wilderness Area as well as the devastation to wildlife habitat, scenic quality and threat to a major watershed that occurred.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Mineral officially opposes the passage of the 'Colorado Outdoor Recreation and Economy Act' by both Federal Legislative Bodies.

71734
71734 6/11/2019 3:05 PM Eryn K Wintz
2 of 2 RES R$0.00 D$0.00 Mineral County Clerk

BE IT FURTHER RESOLVED that this Board adamantly supports all efforts to return all of the State's forests to their optimum health and Land Agencies should have access to every management prescription allowed them with a multi-use approach..

County Commissioner Lamb made a motion to adopt the foregoing Resolution. County Commissioner Weber seconded the motion for the adoption of the foregoing Resolution. The Resolution was adopted as follows:

AYE 3 NAY 0

Adopted at a regular meeting of the Mineral County Board of Commissioners held on the 3 day of June, 2019 at the Mineral County Courthouse, Creede, Colorado.

ATTEST

Eryn Wintz, County Clerk and Recorder

Jesse Albright, Chairman/Commissioner

Ramona Weber, Commissioner

R. Scott Lamb, Commissioner

COUNTY CLERK SEAL MINERAL CO. COUNTY

SG Interests VII, Ltd. Response to S.241 – Colorado Outdoor Recreation and Economy Act (the "Act")
October 17, 2019

SG Interests VII, Ltd. ("SG") owns approximately 27,000 gross acres of Federal oil and gas leases within the boundaries of the Thompson Divide Withdrawal and Protection Area ("Thompson Divide Area") as defined in the Act. The purpose of the Act as it applies to the Thompson Divide Area is to withdraw certain Federal land in the Thompson Divide Area from mineral and other disposal laws "subject to valid existing rights". The Act does not require a leaseholder to relinquish any existing rights but provides that a leaseholder may exchange an existing lease and acquire credits to be applied to future Federal lease acquisitions. Credits are essentially based on the costs of acquiring and maintaining the lease excluding any legal fees.

In order for SG to avail itself of the exchange opportunity provided in Sec. 304 of the Act, SG must first relinquish all of its oil and gas lease rights in the Wolf Creek Storage Field. SG owns approximately 9,200 acres of rights below the stratigraphic equivalent of approximately 5,000 feet in depth in the Wolf Creek Storage Field. The Act states that a conveyance of the Wolf Creek Storage Field deep rights to the Secretary is a condition precedent to the relinquishment of Thompson Divide lease under the Act. The definition of a Thompson Divide lease excludes a Wolf Creek Storage Field development right so no credits are available for relinquishing the Wolf Creek Storage Field deep rights.

SG opposes the Act for the following reasons:

- The credits are based on what was paid for a Federal lease and are not based on the value of a Federal lease. There should be a mechanism in the Act to negotiate the value of a Federal lease with the Secretary and receive credits based on the negotiated value.

- If SG were to relinquish a Thompson Divide lease and receive a credit, i.e. the exchange, SG must first give up its rights in the Wolf Creek Storage Field. Since SG is the only leasehold owner of the Wolf Creek Storage Field deep rights, the Act discriminates against SG by not allowing any credits for a Thompson Divide lease unless SG first gives up its Wolf Creek Storage Field deep rights. There are other Lessees that would be able to exchange a Federal lease and not be required to give up rights as a condition precedent. SG has invested a total of $1,436,282.00 in the Wolf Creek Storage Field deep rights which the Act will require SG to walk away from in order to exchange a Thompson Divide lease.

- The Act itself will be used to prevent development of existing lease rights. The Act will not allow the necessary pipeline rights of way and road access to existing leases and thereby stranding existing lease rights.

- No economic evaluation has been done to determine lost revenues from permanently removing mineral extraction from the Thompson Divide Area. The Piceance Basin has been proven to contain billions of cubic feet of recoverable natural gas and it is unknown whether the nation will need this energy supply in the future.

- Given that some of the leading candidates for President are proposing a ban on fracking on Federal lands, the credits being given for exchanging a Thompson Divide lease may be worthless. The Act needs to protect future Federal leases from a possible fracking ban.

Senator LEE. We are now going to adjourn. We will keep the record open for a period of two weeks. Thank you for your testimony today and for answering our questions.

We stand adjourned.

[Whereupon, at 4:39 p.m. the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

U.S. Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining
November 18, 2020 Hearing: *Pending Legislation*
Questions for the Record Submitted to Mr. Chris French

Question from Senator Mike Lee

Question: The CORE Act modifies the "Colorado Wilderness Act of 1993" to insert and create several wilderness areas. However, the Colorado Wilderness Act states in Sec. 3, "Subject to valid existing rights… any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act." In the case of these proposed additions, would the management agencies interpret 'valid existing rights' to include those rights that have been given since the enactment of the Colorado Wilderness Act of 1993?

Answer: Yes. If the Colorado Wilderness Act of 1993 were amended by the CORE Act, we would interpret valid existing rights in section 3 of the 1993 Act to include all valid existing rights accrued between enactment of the 1993 Act and enactment of the CORE Act with respect to the areas added as wilderness by the CORE ACT.

Questions from Senator Maria Cantwell

Question 1: PRIVATIZING 115,000 ACRES OF TONGASS NATIONAL FOREST

Section 7 of S.4889 would effectively privatize 115,000 acres of some of the most valuable portions of the Tongass National Forest. Congress has heard similar proposals since 1997, but consistently, administrations from both sides of the aisle have opposed the privatization of public lands in the Tongass.

Mr. French, in your written testimony, you acknowledged that 40,500 acres of the land the bill would privatize is categorized as "Old Growth Habitat" and that areas in three timber sales have been identified for privatization. Would S.4889 need to be amended to ensure that any conveyed of the Old Growth acreage you identified in your testimony is not clear cut after the land is transferred out of public ownership?

Answer: As written, S.4889 Section 7 would allow logging to occur on the selected parcels following the conveyance of the land out of Forest Service ownership.

Question 1, continued: Mr. French, has the Forest Service conducted or been involved with any public outreach to determine what specific parcels should be included in this conveyance and what potential conflicts might arise from the parcels currently listed?

Answer: The USDA Forest Service has not conducted or been involved with any public outreach to determine what specific parcels of lands should be included in any conveyance to the named urban corporations. The agency has not completed a comprehensive analysis of the selected parcels.

U.S. Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining
November 18, 2020 Hearing: *Pending Legislation*
Questions for the Record Submitted to Mr. Chris French

Question 2: LOSS OF PUBLIC ACCESS TO TONGASS

Mr. French, your written testimony about S.4889, stated, that the agency "anticipates the proposed conveyance of the lands will affect the Tongass National Forest's delivery of its recreation program." What assurances does the public have that land important for fishing, recreation, and cultural purposes won't be logged or developed, and made inaccessible to the public by this bill? Please describe any specific impacts to the Forest Service's recreation program in the Tongass that have been identified.

Answer: Based on the agency's review of S.4889 Section 7, it appears many of the parcels identified for conveyance are located in areas where subsistence gathering, hunting, fishing, and other public use occurs. S.4889 Section 7 would transfer public land to private ownership. The USDA Forest Service anticipates the proposed conveyance of the lands will affect the agency's delivery of its recreation program. Based on an initial review of the mapped selections, the Forest Service identified the following located within the boundaries of the parcels: 13 developed recreation sites (3 camping sites, 7 public use cabins, 1 picnic site, 1 shelter, and 1 trailhead); 3.5 miles of hiking trail; 26.5 miles of designated Off Highway Vehicle trails; 90.9 miles of open roads; and an estimated 12 marine access facilities. The Agency's initial review also identified approximately 40 outfitter/guiding businesses authorized under special use permits have reported actual use within or adjacent to more than half of the selected parcels. Upon conveyance of the land, outfitting/guiding authorized under the Forest Service special use permits for outfitting/guiding will terminate on the identified parcels.

S.4889 Section 7 allows for logging and other development to occur on the selected parcels following the conveyance of the land. The legislation includes a provision that would allow for public access on the conveyed lands, with some restrictions, for subsistence, noncommercial recreational hunting and fishing, and other noncommercial recreational uses.

Question 2, continued: Mr. French, has the Forest Service determined this transfer to be in the public interest? If yes, please describe what specific benefits the Forest Service identified to justify the determination.

Answer: The USDA Forest Service has not made a formal determination as to whether the transfer is in the public interest.

Question from Senator Martin Heinrich

Question: Are any of the parcels proposed for conveyance to the new ANCs established by Section 7 of S. 4889 located within any wilderness areas or national monuments?

Answer: None of the National Forest System lands identified for selection in S.4889 Section 7 (Recognition and Compensation of Unrecognized Native Communities in Southeast Alaska) are located within the Misty Fjords National Monument Wilderness Area.

U.S. Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining
November 18, 2020 Hearing: *Pending Legislation*
Questions for the Record Submitted to Mr. Chris French

Question from Senator Cindy Hyde-Smith

Question: Multiple countries and intergovernmental organizations have declared that forest management and biomass play an essential role in mitigating climate change as part of an all-in approach to reduce dependence on fossil fuels. Mr. French, what role can sustainable biomass play in our nation's overall energy strategy, and how do strong forest product markets benefit rural communities?

Answer: Sustainable biomass continues to be the largest source of renewable energy, representing 43 percent of all renewables in the United States in 2019. Over the next five years, our country has the potential to revolutionize the transportation sector by using forest residues, such as slash and pre-commercial thinnings, to produce renewable fuel for the commercial airline and other transportation sectors. Sustainable biomass enables our country to improve forest health, invest in rural communities, keep energy dollars local, advance climate goals, generate renewable energy, and create vibrant forest products sectors. Low value forest residues and forest products manufacturing leftovers create a severe waste management burden and high cost for land managers and rural businesses throughout the country, especially in areas with limited to no markets or a weak forest products infrastructure. Renewable bioenergy offers an economic opportunity for communities and businesses to transform forest residues into higher value end uses, such as heating, cooling, electricity, and transportation fuels, while improving forest health. Strong forest products markets retain and create infrastructure along the entire forest products supply chain and help keep forest management costs to a minimum.

Question from Senator John Hoeven

Question: Both S. 4603, the Forest Health and Biomass Energy Act and S. 4625, National Prescribed Fire Act of 2020 aim to improve the health of our national forests, which can reduce wildfire risk. S. 4625 in particular relates to prescribed burns, an important component of helping to prevent wildfires. Ahead of any prescribed burns it is important that the Forest Service maintain an open line of communication with local stakeholders, and take their input into account when making decisions. Will you continue to engage with local stakeholders well in advance of any prescribed burns in the Dakota Prairie Grasslands?

Answer: Yes, we will continue to engage with local stakeholders well in advance of any prescribed burns in the Dakota Prairie Grasslands. It is very important local communities and stakeholders are informed any time the agency uses prescribed fire. Our employees regularly engage with local fire departments, adjacent landowners, grazing associations and other stakeholders when prescribed fire projects are first proposed. Stakeholder feedback is critical to the planning process so our plans are made with their concerns in mind. After prescribed fire plans are approved, personnel on the Dakota Prairie Grasslands, as on other Forest Service units, use a variety of means to announce their intentions to apply prescribed fire weeks in advance of any ignitions. This process includes notices to local newspapers or radio stations, posting notices on the web, and even through social media. When requested, we also contact specific stakeholders directly days before ignition to make sure stakeholders have the best information possible.

United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, DC 20240

DEC 21 2020

The Honorable Mike Lee
Chairman
Subcommittee on Public Lands, Forests and Mining
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Lee:

Enclosed are responses prepared by the Bureau of Land Management to questions for the record submitted following the November 18, 2020, legislative hearing on pending legislation.

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

Cole Rojewski
Director
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Ron Wyden, Ranking Member
Subcommittee on Public Lands, Forests and Mining
Committee on Energy and Natural Resources

U.S. Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining
November 18, 2020 Hearing: *Pending Legislation*

Questions from Senator Maria Cantwell

Question 1: LEASING ON ARCTIC NATIONAL WILDLIFE REFUGE

On Tuesday November 17, 2020, the Bureau of Land Management (BLM) issued a "call for nominations" to invite input on which land tracts should be available for leasing on the Arctic National Wildlife Refuge Coastal Plain (Coastal Plain). This request follows the release on August 17, 2020 of the Record of Decision, in which the Administration formalized its decision to open essentially the entire Coastal Plain for an oil and gas leasing program.

The Tax Cuts and Jobs Act of 2017 added an oil and gas program on the Coastal Plain as one of several purposes for the refuge, but did not waive the Refuge Act, the National Environmental Policy Act (NEPA), the Wilderness Act, or any other environmental law. It also specifically limited surface coverage by production and support facilities on federal land in the Coastal Plain to no more than 2,000 acres during the term of the leases under the Program.

Under the Refuge Act, 16 U.S.C. § 668dd(d)(3), the Secretary shall not initiate a new use of a refuge, unless the unless the Secretary has determined that the use is a compatible use, that the determination was made in writing, and provided an opportunity for public comment.

Mr. Nedd, did the BLM make a compatibility determination before initiating the new oil and gas leasing program for the refuge? If, yes, please detail when that determination made and on what evidence the determination was based on.

Mr. Nedd, did the BLM provide the legally required opportunity for public comment on the determination?

Response: When the Arctic National Wildlife Refuge was established with passage of the Alaska National Interest Lands Conservation Act in1980, 1.56 million of its 19.3 million acres was set aside in the law for study of all the resources in recognition of the area's potential for oil and gas resources. The Department's 1987 Coastal Plain Resource Assessment and Final Legislative Environmental Impact Statement, published in accordance with Section 1002(h) of ANILCA, was the culmination of a 5-year scientific study, carried out in accordance with the National Environmental Policy Act and with the opportunity for public involvement, by the U.S. Fish and Wildlife Service (FWS), U.S. Geological Survey (USGS) and Bureau of Land Management (BLM), in which the Secretary of the Interior recommended that the entire coastal plain be made available by Congress for oil and gas leasing.

The Tax Cuts and Jobs Act of 2017 (P.L. 115-97) was Congresses response, mandating that the Department establish an oil and gas program on the coastal plain. Including oil and gas development on the coastal plain as a purpose of the refuge, Congress struck a balance between access to national important energy resources and the permanent preservation of vast areas of wilderness. Secretary Bernhardt has been clear that the Department and the Bureau of Land Management (BLM), tasked with implementing the law, will carry out the congressionally-mandated oil and gas program and all activities on the coastal plain associated with the program in full compliance with the relevant laws and regulations.

Under the approved plan, a majority of the Coastal Plain Oil and Gas Leasing Program area will be subject to no surface occupancy restrictions (359,400 acres) and operational timing limitations (585,400 acres) to protect habitat and wildlife. All permitted activities will incorporate required operating procedures and stipulated restrictions based on the best science and technology to ensure that energy development does not come at the expense of the environment.

The Department will continue to work diligently to meet its obligations under the law and to implement the program mandated by Congress in the best interests of the American public.

Question 2: IMPACT OF PROPOSED ARCTIC REFUGE DRILLING PROPOSAL

Mr. Nedd, did the Bureau of Land Management determine there would be any negative impacts to the other statutory purposes of the Arctic National Wildlife Refuge, including wildlife dependent recreation and conservation of species such as the polar bear, as a result of the proposed oil and gas leasing program within the Arctic National Wildlife Refuge? Please describe any identified impacts in detail.

Mr. Nedd, what evidence or information did the Administration rely on when identifying and quantifying the negative impacts of the proposed oil and gas leasing program within the Arctic National Wildlife Refuge?

Response: The Tax Cuts and Jobs Act of 2017 (P.L. 115-97) mandated that the Department of the Interior establish an oil and gas program on the coastal plain. From the beginning of this process, Secretary Bernhardt has been clear that the Department and the Bureau of Land Management (BLM), tasked with implementing the law, will carry out the congressionally-mandated oil and gas program and all activities on the coastal plain associated with the program in full compliance with the relevant laws and regulations.

The BLM relied upon the references listed in the Coastal Plain Oil and Gas Leasing Program Final EIS, published September 2019. Please see Volume 1, Chapters 1 – 3 for a complete list of references.

Question 3: THREAT TO POLAR BEARS FROM PROPOSED SEISMIC TESTING PLAN

Last month BLM released a plan to move forward with seismic testing throughout much of the Arctic Refuge using heavy-duty trucks and machinery that may kill threatened polar bears and damage the sensitive tundra that provides critical habitat for polar bears.
According to a February 27, 2020 study published in the journal PLOS One, the surveillance technology used by the petroleum industry to find polar bear dens is unreliable and shown to miss 55% of known dens, yet this unreliable technology is what the seismic testing plan exclusively relies on. Another article written by the Fish and Wildlife Service (FWS) regarding the impact of seismic testing on polar bears, published by Journal of Wildlife Management in December 2019, noted that

conducting seismic surveys after polar bears give birth (December – January) can lead to increased death of cubs. The report also highlighted how a disproportionately high portion of all Southern Beaufort Sea (SBS) polar bears den within the 1002 Area which is one reason why 77% of the Coastal Plain is designated as critical habitat for polar bears.

Mr. Nedd, what actions is the BLM taking to ensure that critically endangered polar bears are afforded the protection required under law before authorizing any seismic testing and before offering any lease sales?

Mr. Nedd, is the BLM undertaking a new consultation as required under section 7(a)(2) of the Endangered Species Act regarding the potential impact of seismic testing on the Southern Beaufort Sea (SBS) polar bear population?

Response: The BLM is consulting with the FWS as required by Section 7 of the Endangered Species Act (ESA), and will abide by any required measures that may result from that consultation.

Question 4: USE OF FISH AND WILDLIFE SERVICE ANALYSIS IN SEISMIC TESTING PLAN

Mr. Nedd, is the BLM relying on the Biological Opinion issued by the Fish and Wildlife Service (FWS) on March 13, 2020 that did not analyze the impact of seismic testing on polar bears?

Mr. Need, do you agree with the 2019 FWS report that seismic exploration could lead to den abandonment and the death of polar bear cubs?

Response: As indicated in the response to the previous question, the BLM is consulting with the FWS on its proposed authorization of seismic operations, as required by Section 7 of the ESA. The Department and the BLM are carrying out the congressionally-mandated oil and gas program and all activities on the coastal plain associated with the program in full compliance with the relevant laws and regulations.

Question 5: BUFFER AROUND POLAR BEAR DENS

Mr. Nedd, will you commit to suspending any seismic testing or other oil and gas leasing development within the Arctic Refuge until a technology or survey method is proven capable to successfully identify all polar bear den sites, and then require a one-mile buffer around those sites?

Response: The Department and the BLM are commited to carrying out the congressionally-mandated oil and gas program and all activities on the coastal plain associated with the program in full compliance with the relevant laws and regulations.

Question 6: COMPLIANCE WITH THE MARINE MAMMAL PROTECTION ACT

Under the Marine Mammal Protection Act (MMPA), the Secretary of the Interior can allow for the incidental taking of polar bears, but only if they can reach specific findings, one of which is that the take will have a negligible impact on the species or stock. One metric used to assess negligible impact is potential biological removal (PBR), or the number of bears that can be removed due to human activity while retaining a sustainable population. The 2019 FWS article in the Journal of Wildlife Management found that in addition to the critical importance of the Coastal Plain to denning polar bears, the article noted that subsistence hunting already exceeds the PRB for the Southern Beaufort Sea polar bear population.

Mr. Nedd, has the Secretary issued the necessary findings under the MMPA to support issuance of an incidental take permit for any seismic testing or other oil and gas leasing program activity?

Mr. Nedd, how does the Secretary justify issuing a finding that any taking of polar bears from seismic testing or any oil and gas leasing activity will have a "negligible impact" on polar bear if subsistence hunting already exceeds the sustainable PBR for Southern Beaufort Sea polar bears?

Response: On December 8, 2020, the FWS published and requested public comments on a proposed Incidental Harassment Authorization (IHA) and accompanying draft environmental assessment for authorization to take by harassment small numbers of polar bears incidental to seismic survey and associated activities. No take by injury or death to polar bears is likely and therefore such take is not included in this proposed authorization. To date, no Incidental Harassment Authorization (IHA) has been granted.

Question 7: NEPA COMPLIANCE

Last week, a Federal Court ruled, for a second time, that BLM failed to comply with NEPA requirements by neglecting to properly weigh the cumulative impacts of climate change before offering oil and gas leasing in Wyoming.

The NEPA analysis BLM released this summer for the Arctic Refuge also arguably failed to comply with NEPA requirements, by failing to adequately consider the cumulative impacts of climate change from developing oil and gas leases and relying on a legally deficient biological opinion regarding impacts to polar bears from the oil and gas leasing program.

Mr. Nedd, will the BLM commit to revising the current NEPA analysis to properly weigh the cumulative climate change impacts of the oil and gas leasing program in the Arctic Refuge before moving forward with any lease sales?

Response: The BLM completed a robust analysis in accordance with NEPA for the Coastal Plain Oil and Gas Leasing Program. There is a thorough discussion of climate change effects in the Leasing EIS in the Climate Change subsections of the Affected Environment, as well as under the Direct and Indirect Impacts and Cumulative Impacts for each resource, as applicable.

U.S. Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining
November 18, 2020 Hearing: *Pending Legislation*

Question 8: OUTDOOR RECREATION

The Final EIS concluded that the leasing program has the potential to harm recreation throughout the entire Coastal Plain and cause the displacement or decline of sensitive species such as polar bears. D

Mr. Nedd, does BLM recognize or consider that this area has tremendous potential for outdoor travel and tourism as the northwest passage opens up, uses that are consistent with the specific purpose for which the refuge was created?

Response: The Final EIS considered all potential impacts to the Coastal Plain as a result of the leasing program. All alternatives considered were designed to meet the purpose and need of implementing the leasing program consistent with PL 115-97, as well as account for all purposes of the ANWR.

Question 9: IMPACTS TO THE ARCTIC REFUGE FROM THE CONVEYANCE PROPOSED IN S. 4889

Section 5 of Senate Bill 4889 would convey public lands in the Arctic National Wildlife Refuge out of public ownership to two ANCSA corporations. BLM is currently reviewing the Marsh Creek East Seismic Exploration application submitted by the Kaktovik Iñupiat Corporation, to conduct a seismic survey on close to one million acres of the Arctic National Wildlife Refuge Coastal Plain (Coastal Plain).

Mr. Nedd, with one of the corporations requesting a permit for seismic exploration on the Coastal Plain, and the other showing interest in oil and gas development, do you think this change make it easier for those corporations to pursue oil and gas extraction on the Coastal Plain?

Mr. Nedd, has the BLM determined this transfer to be in the public interest? If yes, what specific benefits did the BLM identify to justify the determination?

Response: The Native village of Kaktovik has an outstanding entitlement to approximately 2,300 acres of land under the Alaska Native Claims Settlement Act (ANCSA). S. 4889 resolves an unintended conflict between ANCSA and the 1988 Submerged Lands Act which has prohibited the BLM from fulfilling its statutory obligation under ANCSA to the village of Kaktovik, and allows the BLM to fulfill the statutory entitlement to Kaktovik by conveying the surface estate of approximately 2,300 acres to the Kaktovik Inupiat Corporation and the matching subsurface to the Artic Slope Regional Corporation.

The opportunity to own lands for the benefit of the Alaska Native shareholders of the corporations formed pursuant to ANCSA was part of the intent of ANCSA.

U.S. Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining
November 18, 2020 Hearing: *Pending Legislation*

Question from Senator Martin Heinrich

Question: Could the Bureau of Land Management please outline for the Committee the specific reasons why Native corporations were not formed for Ketchikan, Wrangell, Petersburg, Tenakee, and Haines at the same time as other ANCs? As part of your response, please note for the Committee whether these communities met the qualifications to form an ANC, including the population requirement.

Response: In early 1993, at the direction of Congress, the BLM, the U.S. Forest Service, and the Bureau of Indian Affairs contracted with the Institute of Social and Economic Research (ISER) at the University of Alaska-Anchorage to prepare a report presenting the available evidence on why the five study communities were omitted from ANCSA. The report also addressed how the historical circumstances and conditions of the study communities compared with other listed southeast Alaska communities. While the report was inconclusive, Congress may use the historical record in the report to determine whether the communities were inadvertently not recognized. The report is available at: https://iseralaska.org/publications/?id=877.

U.S. Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining
November 18, 2020 Hearing: *Pending Legislation*

Questions from Senator John Hoeven

Question 1: As you are aware, the Bureau of Land Management (BLM) works collaboratively with the Forest Service as part of the Department of the Interior's Wildland Fire Management Program, which includes efforts to proactively manage fuels and establish a better federal wildfire workforce. What tools and/or partnerships does BLM utilize to reduce hazardous fuels?

Response: The BLM's Fuels Management Program conducts a wide variety of active management vegetation treatments using mechanical, biological and chemical tools, and prescribed fire. The program includes creating fuel breaks to provide safe access for firefighters, reducing fuel loads by removing pinon-juniper and invasive species, reducing fire risk near communities, targeted grazing, and herbicide followed with seeding to break the fire-cheatgrass cycle. Fuel reduction activities such as these lower the potential for severe wildfires and improve land health by restoring fire-adapted ecosystems and increasing wildfire resiliency.

Fuels treatments are planned and implemented in collaboration with other BLM programs with federal, state, local, tribal, non-governmental collaborators, and partners. Through contracts, use of the Good Neighbor Authority, financial assistance agreements, and firefighting partnerships, the BLM is maximizing the capacity to conduct fuels reduction projects across landscapes and help protect communities. In addition, the BLM's partnerships with wildlife organizations – such as the National Wild Turkey Federation and Rocky Mountain Elk Foundation – have funded fuels and vegetation management projects to improve wildlife habitat and the ability of ecosystems to recover after wildfire. The BLM further engages with community partners through wildfire management planning, public education, providing equipment, and wildland fire training.

Question 2: How has the administration worked to promote better fuel management and further reduce wildfire risk?

Response: The DOI and the BLM have made substantial progress to reduce the risk of catastrophic wildfire by working collaboratively with partners and significantly reducing hazardous fuels. These efforts are part of a larger wildfire reduction strategy guided by Executive Order 13855 – *Promoting Active Management of America's Forests, Rangelands, and Other Federal Lands to Improve Conditions and Reduce Wildfire Risk*, and Secretary's Order 3372 – *Reducing Wildfire Risks on Department of the Interior Land Through Active Management.* In accordance with these orders, the BLM's Fuels Management Program completed more than 780,000 acres of active management fuels treatments in fiscal year 2020 and in fiscal year 2019, the BLM accomplished over 840,000 acres of fuels treatments (70 percent) of the total 1.3 million acres accomplished by all DOI Bureaus.

November 17, 2020

The Honorable Mike Lee
Chairman
Subcommittee on Public Lands, Forests & Mining
Senate Energy and Natural Resources Committee
304 Dirksen Senate Building
Washington, DC 20510

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

RE: S. 1695, Opposition to "Human-Powered Travel in Wilderness Areas Act"

Chairman Lee, Ranking Member Ron Wyden and Members of the Subcommittee:

On behalf of our members and supporters, which number in the tens of thousands, we thank the subcommittee for the opportunity to comment on S. 1695, the "Human-Powered Travel in Wilderness Areas Act." **We strongly oppose S. 1695** and encourage subcommittee members to oppose this legislation as well.

S. 1695 seeks to open federal wilderness areas to mountain biking, a clear violation of the 1964 Wilderness Act, the nation's seminal conservation law. Most importantly, S. 1695 would threaten the character of the entire National Wilderness Preservation System by undermining our nation's bedrock landscape conservation tool.

The Wilderness Act is simple and clear in that wilderness areas are established:

> "...in order to assure that an increasing population, accompanied by expanding settlement and **growing mechanization**, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition..." [emphasis added].

S. 1695 would amend the section of the Wilderness Act (Section 4(c)) that prohibits the use of motorized and mechanized devices, undermining one of the main reasons the Wilderness Act was passed into law in the first place. That section states in part:

> "...there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, **no other form of mechanical transport**..." [emphasis added].

The Wilderness Act clearly established that the "enduring resource" of wilderness is to be the last refuge from the influence of mechanization. We believe the intent of the Act is more relevant today than ever before.

Our nations wilderness areas include only 5% of our nation's public lands. In the lower 48 states, it's merely 3%. The remaining **97%** is open to motorized and mechanized recreation. Designated wilderness areas have a fundamentally different purpose than providing for motorized and mechanized access. In fact, that is the very purpose of the Wilderness Act – to provide for a few remote, pristine areas where nature prevails.

This is the land we count on to provide our cities with clean air and water. It's where wildlife finds its only true refuge. As development and increasing population continue to press in from all sides, we must make sure we are balancing our recreational desires with the conservation values of wilderness landscapes themselves. In other words, wilderness for wilderness' sake.

There remains a nearly inexhaustible supply of non-wilderness federal lands that are open to mountain biking and where additional mountain bike trails and opportunities continue to be created. In the last decade, new mountain biking trails have been developed at a historically rapid rate.

Proponents of S. 1695 argue that bikes are human powered and should be allowed to go everywhere a hiker can go. That is no reason to amend the Wilderness Act. A closer look at the capability of these machines says otherwise. Today's mountain bikes, with their disc brakes, shock absorbers and climbing-gear-oriented drive trains are technical machines designed to take their riders further and faster than ever before. Where a backpacker or horseback rider might take an entire day to climb 10 miles into the wilderness, a mountain biker can do it in two hours.

Simply put, S. 1695 would open a Pandora's box to other forms of mechanized travel by future Congresses. It would forever change the primitive, backcountry experience enjoyed by millions of Americans each year. For example, new battery technologies, which make it hard to tell electric bikes from traditional bikes, are muddying the waters in the debate over where these machines are appropriate. Law enforcement on public lands has already been cut to the bone, making it harder to manage ever-increasing numbers of outdoor recreationists. Agencies are ill-equipped to handle this new management issue.

In several locations across the country, wilderness advocates, recreation organizations and mountain bike groups have successfully worked together to develop legislative proposals that preserve access to important mountain bike trails while protecting adjacent areas as wilderness. These collaborations are widely celebrated and serve as models for building successful partnerships between stakeholders and land managers. Divisive legislation like S. 1695 significantly undermines the ability of stakeholder groups to work together.

Opening our nation's treasured wilderness areas to mechanized uses, most notably bicycles, would irrefutably and irrevocably redefine wilderness – and the very intent of the Wilderness Act. This would profoundly and forever change the experiences provided on many of our nation's national scenic and national historic trails, and not for the better. User conflicts will arise. High-speed bikes and slow-moving horse and hikers will clash with greater frequency, and the casualty will be everyone's safety. It's already happened.

It's important to note that we are not against mountain biking. In fact, many of our members and supporters are avid mountain bikers who see the value and importance of maintaining wilderness trails as simple footpaths. We believe mountain biking must be accommodated on our public lands, but designated wilderness areas are not the place for bikes.

Congress wisely has resisted efforts to undermine the Wilderness Act for more than five decades. These efforts have failed because of strong public support for wilderness. This latest effort deserves to fail as well. We strongly urge members of the subcommittee to reject this proposal.

Thank you for your continued support of our nation's wilderness. If we can provide further clarification of our comments herein, please contact either Randy Rasmussen, Back Country Horsemen of America, WildernessAdvisor@bcha.org, or Mark Larabee, Pacific Crest Trail Association, mlarabee@pcta.org

Respectfully submitted on behalf of,

Ala Kahakai Trail Association

American Hiking Society

American Trails

Appalachian Trail Conservancy

Arizona Trail Association

Back Country Horsemen of America

Continental Divide Trail Coalition

Florida Trail Association

Ice Age Trail Alliance, Inc.

Lewis and Clark Trail Heritage Foundation

Lewis and Clark Trust, Inc.

National Washington Rochambeau Revolutionary Route Association

National Wilderness Stewardship Alliance

North Country Trail Association

Oregon-California Trails Association

Overmountain Victory Trail Association

Pacific Crest Trail Association

Pacific Northwest Trail Association

Partnership for the National Trails System

ALASKA FEDERATION OF NATIVES

December 2, 2020

Sent Via Electronic Mail
The Honorable Lisa Murkowski
United States Senate
522 Senate Hart Office Building
Washington, D.C. 20510
fortherecord_@energy.senate.gov

Re: Support for S. 4889

Dear Senator Murkowski:

I write on behalf of the Alaska Federation of Natives in support of S. 4889, Alaska Native Claims Settlement Act Fulfillment Act of 2020. In line with the purpose of the Act, which is to provide the landless communities of southeast Alaska with acreage upon the formation of a village or urban Native corporation under the Alaska Native Claims Settlement Act, our organization has passed the attached resolutions (i) Landless Southeast Alaska Communities, AFN Resolution 19-43; (ii) 14(c)(3), AFN Resolution 19-42; and (iii) ANCSA Dividend Exclusion, AFN Resolutions 19-45.

Specifically, AFN supports Sec. 7 of Act, Recognition and Compensation of Unrecognized Native Communities in Southeast Alaska. We favor local efforts to make the Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell (known as "Landless communities" in Southeast Alaska) eligible to form Native village or urban corporations under ANCSA. The reason for these communities' exclusion is not explained in the statutory or report language of ANCSA. The five Landless communities and their shareholders have been denied the benefit of Native land ownership, and the opportunities that land ownership could provide economically, socially and culturally for over 40 years.

As you know, ANCSA provided for the establishment of Native corporations to receive and manage lands retained and funds in settlement of Alaska Natives aboriginal land claims. While many villages throughout Alaska were recognized and afforded the opportunity to establish village or urban Native corporations, and secure a Native land settlement, these five communities were denied these benefits and required to register as "At Large" within the Sealaska Corporation. Many Alaska Native corporations have become successful and powerful economic, social, and cultural engines within their communities, regions and throughout the state of Alaska. The continued exclusion leaves these five Landless communities at a significant disadvantage and deprives them of the cultural benefit of owning an interest in lands located within and around their traditional homelands.

AFN is additionally supportive of Sec. 3 and Sec. 6 of S. 4889. Following passage of ANCSA, dividends to shareholders from ANCSA corporations were counted as income for purposes of determining eligibility for other federal needs-based benefits programs, adversely impacting shareholder's eligibility for such programs. As part of the 1988 ANCSA technical amendments Congress addressed this issue by providing that $2,000 of income from ANCSA dividends would be excluded from the calculation of income for federal benefit eligibility. The eligibility of ANCSA shareholders, particularly elders, to qualify for federal programs continues to be adversely affected by ANCSA dividends and distributions, and some shareholders are compelled to waive or return this income or jeopardize their entitlement to federal programs. The $2,000 amount of the dividend exclusion has not been increased since and AFN supportive of the language in Sec. 3 that would raise this amount to $5,000 per individual and to be adjusted for inflation in calendar year 2025, and every five years after.

Sec. 6 of S. 4889 addresses 14(c)(3) of ANCSA, requiring every Native Village corporation to turn a portion of the lands it received in the village under the Act over to the State of Alaska to be held in trust for the eventual creation of a municipal government in the area. For many rural Native villages, this land is now being managed by the State Municipal Land Trust, an office that is underfunded and overtasked and not benefiting the community. AFN is supportive of legislative efforts to facilitate the transfer of MLT held village lands back to the appropriate Native entity.

Thank you for leadership to address these historic inadequacies. Please contact me directly with any questions.

Sincerely,

Julie E Kitka

Julie Kitka
President

Attached: AFN Resolution 19-42, 43, and 45.

Alaska Federation of Natives
2019 Annual AFN Convention
Resolution 19-42

TITLE: LANDS IN ALASKA NATIVE VILLAGES BEING HELD IN TRUST BY THE STATE OF ALASKA UNDER SEC. 14(C)(3) OF ANCSA

WHEREAS: The Alaska Federation of Natives (AFN) is the largest statewide Native organization in Alaska and its membership includes 191 federally recognized tribes, 171 village corporations, 12 regional corporations and 12 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: Section 14(c)(3) of the Alaska Native Claims Settlement Act (ANCSA) required every Native Village Corporation formed under the Act to turn a portion of the lands it received in the Village under the Act over to the State of Alaska to be held in trust for the eventual creation of a municipal government in the area; and

WHEREAS: many Villages have already turned land over to be held in trust and managed by the State of Alaska; and

WHEREAS: in the case of many rural Native Villages the land is now being managed in apparent perpetuity by the State Municipal Land Trust (MLT), an office that is underfunded and overtasked; and

WHEREAS: There are a number of villages in Alaska where conveyances to the State MLT have not yet taken place, or have not been finalized with a 14(c)(3) signed agreement; and

WHEREAS: it has been decades since the passage of ANCSA, and many years after villages turned over land, and there have been no municipalities formed or planned, and no end in sight; and

WHEREAS: the State does not have the resources to adequately manage these lands indefinitely, nor did the drafters of ANCSA intend that result; and

WHEREAS: the State laws and regulations governing the MLT give the Trust the authority to convey or dispose of 14(c)(3) lands it is managing in Villages when the Tribal authority (referred to in the regulations as the Appropriate Village Entity) concurs with the action; and

WHEREAS: the local community, acting through its Tribal Council and its Native Village Corporation is best situated to make appropriate decisions on Village land management in the best interests of the community.

NOW THEREFORE BE IT RESOLVED that the delegates of the 2019 Annual AFN Convention requests that in cases where there has been demonstrated support by the Village Tribal and Corporate leadership, the MLT should use its authority under AS 44.33.755 and 3 AAS 190.410 – 190.490 to work with the Tribal Council and the Alaska Native Corporation to ensure a smooth and effective return of the 14(c)(3) lands to the appropriate Native entity to manage in what they determine to be their own community's best interests; and

BE IT FURTHER RESOLVED that any necessary changes be made to federal law to facilitate the transfer of MLT-held Village lands back to the appropriate Native entity; and

BE IT FINALLY RESOLVED that in cases where there has been demonstrated support by the Village Tribal and Alaska Native Corporate leadership, and the Alaska Native Corporation has not completed the 14(c) process, the Alaska Native Corporation should be allowed to transfer part or all of its 14(c)(3) required acreage directly to the appropriate Native entity

Julie Kitka
President

SUBMITTED BY: CHENEGA CORPORATION
COMMITTEE ACTION: PASS
CONVENTION ACTION: PASS

ALASKA FEDERATION OF NATIVES
2019 ANNUAL CONVENTION
RESOLUTION 19-43

TITLE: A RESOLUTION IN SUPPORT OF THE LANDLESS SOUTHEAST NATIVE COMMUNITIES SEEKING LEGISLATION TO FORM ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA) CORPORATIONS AND RECEIVE ANCSA BENEFITS, INCLUDING LAND SELECTION RIGHTS AND APPROPRIATE COMPENSATION

WHEREAS: The Alaska Federation of Natives (AFN) is the largest statewide Native organization in Alaska and its membership includes 191 federally recognized tribes, 171 village corporations, 12 regional corporations and 12 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: In 1971 the United States Congress enacted the Alaska Native Claims Settlement Act (ANCSA) to recognize and settle the aboriginal claims of Alaska Natives to their traditional homelands by authorizing the establishment of Alaska Native Corporations to receive and manage lands and funds awarded in settlement of the claims for Alaska Natives; and

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

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

WHEREAS: Many of the Alaska Native Corporations have become successful and powerful economic, social and cultural engines within their communities, regions and throughout the State of Alaska; and

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

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

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

WHEREAS: The five Landless communities and shareholders have been denied the benefit of Native land ownership, and the opportunities that this land ownership could provide economically, socially and culturally; and

WHEREAS: These five Landless communities have sought full eligibility for ANCSA land and benefits for four decades, and will continue to fight to correct this historic inequity; and

WHEREAS: The Landless communities, through legislation introduced into the United States Senate and House of Representatives, are seeking an act of Congress to allow them to form ANCSA Native urban corporations and to receive ANCSA benefits, including land selection rights and appropriate compensation.

NOW THEREFORE BE IT RESOLVED that the delegates of the 2019 Annual AFN Convention that AFN calls upon the United States Congress, the Department of the Interior and the Department of Agriculture to recognize these five Landless communities as eligible to form Alaska Native corporations and to receive land selection rights and compensation under ANCSA; and

BE IT FURTHER RESOLVED that the Alaska Federation of Natives will add its policy support and efforts to the struggle to enact legislation intended to authorize the formation of the Alaska Native corporations for these five Landless communities under ANCSA.

Julie Kitka
President

SUBMITTED BY: SEALASKA CORPORATION
COMMITTEE RECOMMENDATION: PASS
CONVENTION ACTION: PASS

ALASKA FEDERATION OF NATIVES
2019 ANNUAL CONVENTION
RESOLUTION 19-45

TITLE: A RESOLUTION URGING THE DELEGATION TO AMEND ANCSA TO ADDRESS TREATMENT OF INCOME FROM ANCSA CORPORATIONS AND SETTLEMENT TRUSTS

WHEREAS: The Alaska Federation of Natives (AFN) is the largest statewide Native organization in Alaska and its membership includes 191 federally recognized tribes, 171 village corporations, 12 regional corporations and 12 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: The Alaska Native Claims Settlement Act of 1971 (ANCSA) settled the land claims of the Alaska Native people and created for-profit Alaska Native corporations owned by Alaska Native shareholders; and

WHEREAS: Following passage of ANCSA, dividends to shareholders from ANCSA corporations were counted as income for purposes of determining eligibility for other federal needs-based benefits programs, adversely impacting shareholders' eligibility for such programs; and

WHEREAS: As part of the 1988 ANCSA technical amendments Congress addressed this issue by providing that $2,000 of income from ANCSA dividends would be excluded from the calculation of income for federal benefit eligibility; and

WHEREAS: The amount of the dividend exclusion has not been increased since; and

WHEREAS: Many Alaska Native corporations are now issuing distributions through an ANCSA Settlement Trust rather than a dividend from the Alaska Native corporation; and

WHEREAS: The eligibility of ANCSA shareholders, particularly elders, to qualify for federal programs continues to be adversely affected by ANCSA dividends and distributions, and some shareholders are compelled to waive or return this income or jeopardize their entitlement to federal programs; and

WHEREAS: AFN supports initiatives to have the delegation review and update the $2,000 income exclusion to either increase and inflation adjust the dollar amount, or to provide an exclusion for Alaska Native corporation dividends and ANCSA Settlement Trust distributions.

NOW THEREFORE BE IT RESOLVED that the delegates of the 2019 Annual AFN Convention urge our congressional delegation to amend ANCSA's $2,000 income exclusion to increase and inflation adjust the dollar amount or to provide an exclusion for Alaska Native corporation dividends and ANCSA Settlement Trust distributions in the calculation of income for federal benefit program eligibility.

Julie E. Kitka

Julie Kitka
President

SUBMITTED BY: CHUGACH ALASKA CORPORATION
COMMITTEE RECOMMENDATION: PASS
CONVENTION ACTION: PASS

Alaska Native Brotherhood Camp 1 Sitka, Alaska

From: Alaska Native Brotherhood Camp 1 President Harriet B. Beleal
Date: Dec 1 , 2020

Support for The Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act, Senate and House bill S. 4891 and H.R. 8751

As Alaska Native Brotherhood President of Camp 1, and for our officers, we respectfully urge you to put your support behind Senate bill 4891 and H.B. 8751. The 5 landless communities of Wrangell, Haines, Ketchikan, Petersburg, and Tenekee, Alaska have been waiting since 1971 when the Alaska Native Settlement Act was enacted into law. It did not reconginze or compensate these 5 landless communities with land or money. Amending the ANSCA to include 23,000 township of land to these 5 communities would indeed right a wrong that is long overdue.

As indigenous people of Alaska, and as Tlingit Indians/ Haida Indians and having occupied this land for ten thousand years, our cultural and spiritual identity is to this land, we and depending on for survival. Already, these five landless communities have waitied almost fifty years. In comparison, the Japanese- Americans and Americans (120,000 of them from, mostly the west coast of the United Statets and Alaska were arrested and taken to Internment Prison Camps during WWII. They, too, waited forty years for Congress to pass the Repatriation Act that compensated them with $20,000. My father George Kamachi Miyasato and my brother George Worthilngton Miyasato were among those who were arrested and separated to different Internment Camps during WWII. I mention this to make this letter more personal . I am 87 and one half Tlingit Indian and one half Japanese. I would like to see in my lifetime, both bills pass.

Another important and vital point is these 5 landless communities want to leave an inheritance and legacy to future generations and their future descendants. Please, I implore you to do all in your power to persuade your fellow constituents to vote to pass these bills the Alaska Delegation has worked so hard for. I thank you and may God bless you in all that you do for us.

Sincerely, I remain,
Harriet Miyasato Beleal, President
Alaska Native Brotherhood , Camp 1
235 Katlian Street
Sitka , Alaska 99835
(907) 744-6912

TEXT OF PETITION OF SUPPORT FOR

The Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act

available at https://www.withoutland.org/take-action (last visited Dec. 2, 2020)

***

Petition

CORRECT THIS LONG STANDING INJUSTICE

Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act

In 1971, the Alaska Native Claims Settlement Act (ANCSA) was enacted, giving 44 million acres of land and $963 million to 12 newly organized Alaska Native regional corporations and more than 200 village and urban corporations. After 49 years, five Alaska Native communities have yet to be recognized by ANCSA. These communities include Haines, Ketchikan, Petersburg, Tenakee Springs and Wrangell.

To delve deeper into why these communities were left out of ANCSA legislation, Congress had the Institute of Social and Economic Research conduct a report (ISER Report) in 1993 on why this phenomenon occurred. In their thorough investigation, the report strongly suggested that there was no reason these communities should have been omitted. In fact, they could find no discernible difference between recognized and unrecognized communities.

As people of the landless community, we feel that 49 years has been far too long to receive rightful ownership and recognition of our traditional homelands. With this 116th session of Congress, we urge you to help our voice grow and reach the correct audience to resolve this mounting inequity. As a movement and a people, we are closer than ever to achieving the same goal we had 49 years ago.

To show your support of S. 4891 and H.R. 8751, please the petition, share with others over social media, and/or write letters directly to our senators and congressman.

Date	Prefix	First	Last	City	State	Zip	Country	Message	Action Typ	Action Taken
12/2/2020		Everett	Bingisser	Woodinville	WA		US		Petition	Petition Signed
12/2/2020		Darrin	weisenburger				US		Petition	Petition Signed
12/2/2020		Marty	Bingisser	Woodinville	WA		US		Petition	Petition Signed
12/2/2020		Vanessa	Shemock	arcata	CA		US		Petition	Petition Signed
12/2/2020		Heather	Bingisser	Fort Collins,	CO		US		Petition	Petition Signed
12/2/2020		Kenneth	Berkley	Belen	NM		US		Petition	Petition Signed
12/2/2020	Mr.	vernon	hill	Hoonah	AK	99829-0433	US	long overdue!!	Petition	Petition Signed
12/2/2020		Carena	Gordon	Everson	WA		US		Petition	Petition Signed
12/2/2020		Sylvia	Shaquanie	Kake	AK		US		Petition	Petition Signed
12/2/2020	Mr.	MICHAEL	HAGEN	Seattle	WA	98117-5326	US		Petition	Petition Signed
12/2/2020	Mr.	Daniel	DOWHITT	Anchorage	AK	99501-6503	US		Petition	Petition Signed
12/1/2020		peter	kinsman	Everett	WA		US		Petition	Petition Signed
12/1/2020		Erika	Chen	Seattle	WA		US		Petition	Petition Signed
12/1/2020		Amy	Groesbeck	Seattle	WA		US		Petition	Petition Signed
12/1/2020	Mr.	Douglas	Berry	Kalispell	MT	59901-7962	US	I was born in Ketchikan, Alaska December 22, 1962. Both my parents were Alaska Native and (BOTH) were left out of their God Given born right of receiving land. my father was born Dec 1 1930 in Ketchikan to a full blooded Athabascan mother. When it was time to put him in grade school there was a white school and an Indian school. His mother was obviously Ak native but my father looked white because his father had red hair and fair skin. They finally put him in white school and all white kids tried to beat him up every day because they knew he was a half breed. So my father spent his life hiding who he was and in turn screwed himself by not signing up for same Alaska native corp as his sisters did. My fathers sisters signed up for Cook Inlet because they lived in Anchorage and they received over their life time land and over $500k in cash from Casino revenue. So not only was my father screwed out of LAND because he was living in Ketchikan was told to sign up in 1971 for Sealaska. Sealaska pays all their money to their CEO's, COO's and their employees but their shareholders only gets pennies. My mother was born to a full blooded native women in a interior of Alaska village mother in 1934 and her father who was white was the only school teacher and he also worked for the Government managing/overseeing a herd of reindeer 100,000 strong. My mother was sent to Ketchikan on a steamship when she was 4 yrs old to live with her fathers sister (her aunt) and uncle Margaret and Claude Collins who lived at 1228 Tongass Ave (the house I grew up in) the 1960's, 70's. My mother's biological mother was only 15 years old when my mother was born so her older educated father Darrell Wagner basically took her away from her mother and sent her to Ketchikan and in turn my mother lived her whole life with NO BIRTH CERTIFICATE. Basically a cover up because back then as wit now people who have money make the rules and decide what happens to people who have less than them. One last thing Alaska Natives as in for sure SeaAlaska shareholders are gettting screwed by their white masters ie CEO's COO's and making 6 figures a year and we get scraps. The U.S. governement is still screwing the American indians all across this country and nowhere worse than Kethcikan Alaska. SeaAlaska shareholders get pennies on the dollar compared to (ALL) native corp in Alaska Thank you Douglas C. Berry born in Ketchikan, Alaska Dec 22, 1962	Petition	Petition Signed
12/1/2020		Johanna	Williams	McMinnville	OR		US	We need to pass this for all native land.	Petition	Petition Signed
12/1/2020		Carlene	Hartshorn	Marysville	WA		US		Petition	Petition Signed
12/1/2020	Mr.	John	Feller	Juneau	AK	99801-8910	US	I was born and raised in Wrangell. I met William Paul , my mother Carol Feller introduced us in 1962 in Sitka. His Tlhitaan Case was perfect, however it wasn't considered by Congress. Perhaps, Congress wanted a more comprehensive approach. I and others think that culminated in what is ANCSA today. It's ironic that all our efforts have failed to achieve Congressional intention to include all the communities , especially Wrangell, Haines, Ketchikan,Petersburg & Tenakee.	Petition	Petition Signed
12/1/2020	Ms.	Mary	Brouillette	Seattle	WA	98133-8716	US		Petition	Petition Signed
12/1/2020		Isabella	Haywood	Sitka	AK		US		Petition	Petition Signed
12/1/2020		Bartley	Stokes Sr	Everett, WA	WA		US	Our families have the right to our heritage.	Petition	Petition Signed
12/1/2020		Janelle	Devoid	Manchester	NH		US		Petition	Petition Signed
12/1/2020		mel	brimmer	portland	ME		US		Petition	Petition Signed
12/1/2020		Zoe	Goodwin				US		Petition	Petition Signed
12/1/2020		Richard	Reyes	Juneau	AK		US		Petition	Petition Signed
12/1/2020	Miss	Liza	Hasan	Fairbanks	AK	99709-6352	US		Petition	Petition Signed
12/1/2020	Ms.	Cecilia	Tavoliero	Bothell	WA	98012-4504	US	Please help us right this 49 year old injustice & vote for passage of S. 4891 Unrecognized Southeast Alaska Native Communities Recognition & Compensation Act. Thank you.	Petition	Petition Signed

12/1/2020		Tiana	Gaona	Seattle	WA		US		Petition	Petition Signed
12/1/2020		Malea	Munoz	Bellingham	WA		US		Petition	Petition Signed
12/1/2020		Helen	McKoy	Juneau	AK		US		Petition	Petition Signed
12/1/2020		Larina	Baringer	Vancouver	WA		US		Petition	Petition Signed
12/1/2020		Sharon	Morton	OLYMPIA	WA		US		Petition	Petition Signed
12/1/2020		Molly	Robinett	Fairbanks	AK		US		Petition	Petition Signed
11/30/2020		Rebecca	Berry	Seattle	WA		US		Petition	Petition Signed
11/30/2020	Ms.	Ellen	Bradley	Everett	WA	98201-4104	US		Petition	Petition Signed
11/30/2020		Catherine	Allemann				US		Petition	Petition Signed
11/30/2020		Erin	Grambush	Seattle	WA		US		Petition	Petition Signed
11/30/2020		Sabrina	Sykes	Blaine	WA		US		Petition	Petition Signed
11/30/2020		Zachary	Fuertes-Gomez	Santa Barbara	CA		US		Petition	Petition Signed
11/30/2020		Cynthia	Vallejo	Anchorage	AK		US	It's me,!I agree that it is not fair.	Petition	Petition Signed
11/30/2020	Mr.	Leslie	Perastowich	Ellensburg	WA	98926-9574	US	To show your support of S. 4891 and H.R. 8751	Petition	Petition Signed
11/30/2020		Jennifer	Feaster	Central Point	OR		US		Petition	Petition Signed
11/30/2020	Mrs.	Kara	Mayer	Puyallup	WA	98375-9806	US		Petition	Petition Signed
11/30/2020	Ms.	Karen	Caindec	Kentfield	CA	94904-1583	US	I'm Tlingit and my family is originally from Wrangell. Please correct this fifty year old mistake.	Petition	Petition Signed
11/30/2020		Jessica	Collins	Juneau	AK		US		Petition	Petition Signed
11/30/2020	Dr.	Angela	Michaud	Anchorage	AK	99504	US	We need support for the landless these are our Traditional homelands and they need to be given the correct allotment!	Petition	Petition Signed
11/30/2020	Mrs.	Darlene	Villegas	Wrangell	AK	99929	US		Petition	Petition Signed
11/30/2020	Mrs.	Vanessa	Allen	Juneau	AK	99801-8835	US		Petition	Petition Signed
11/30/2020		Adrienne	Strawther	Anchorage	AK		US		Petition	Petition Signed
11/30/2020		T	Kearns	Sitka	AK		US		Petition	Petition Signed
11/30/2020		Celia A	Gillen	Palmer	AK		US		Petition	Petition Signed
11/30/2020		Erin	Zamzow	Ellensburg	WA		US	Please support senate bill S.4891 and House Bill H.R. 8751	Petition	Petition Signed
11/30/2020		John	Kasbohm	Beloit	WI		US		Petition	Petition Signed
11/30/2020		Tasha	Elizarde	Juneau	AK		US		Petition	Petition Signed
11/30/2020	Ms.	Joan	Dangeli	Truth Or Consequences	NM	87901-9035	US	Please pass the legislation for the Unrecognized Southeast Alaska Native Communities through the Recognition and Compensation Act. This has been a very heavily congressional studied issue that inadvertent injustice has occurred calling for the very serious and long-awaited Senate bill S. 4891 and the companion House bill H.R. 8751. Your help is so much appreciated, we have worked so hard for this for so many years.	Petition	Petition Signed
11/30/2020		June	Lee	Juneau	AK		US		Petition	Petition Signed
11/30/2020		Tessie	Chilton	Anchorage	AK		US	I had given up hope that this would happen in my life time. I'm so happy to see this moving forward after 49 years of disappointment. To all of you who have worked tirelessly to make sure the "Landless" were not forgotten, you have my extreme gratitude. Tessie (Cranston) Chilton	Petition	Petition Signed
11/30/2020		Bernadette	Elson	Powell Butte	OR		US	I support this claim.	Petition	Petition Signed
11/30/2020	Mr.	Male	Bocatch	Bonney Lake	WA	98391-6631	US		Petition	Petition Signed
11/30/2020	Mr.	David	Salaguinto	Bothell	WA	98021-7998	US		Petition	Petition Signed
11/30/2020	Mrs.	Pamela	Race	Juneau	AK	99801-7624	US	This is long overdue-- Correct ASAP!	Petition	Petition Signed
11/30/2020		Jillian	Peterson	Lemoore	CA		US		Petition	Petition Signed
11/30/2020	Ms.	Shyla	Germain	Juneau	AK	99801-9274	US		Petition	Petition Signed
11/30/2020	Mr.	Gary	Demmert	Olalla	WA	98359-9529	US		Petition	Petition Signed
11/30/2020	Mr.	Larry	Booth	Ketchikan	AK	99901-5605	US		Petition	Petition Signed
11/30/2020		Kathleen	Murphy	Snohomish	WA		US		Petition	Petition Signed
11/30/2020	Mrs.	Sue	LaFray	Boise	ID	83709-5503	US	It's been way too long.	Petition	Petition Signed
11/30/2020	Mrs.	Lori	Hestmark	Oak Harbor	WA	98277-3812	US		Petition	Petition Signed
11/30/2020		Carrie	Young	Portland	OR		US		Petition	Petition Signed
11/30/2020	Ms.	Vicki	Sobaleff	Blaine	WA	98230-9308	US		Petition	Petition Signed
11/30/2020		Krysten	Brown	Las Vegas	NV		US		Petition	Petition Signed
11/30/2020		April	Einert	Lake Stevens	WA		US		Petition	Petition Signed
11/30/2020		Lacretticia	Dewey	Swansea	IL		US		Petition	Petition Signed

11/30/2020		Franklin James	Churchill Sr	Wrangell	AK		US		Petition	Petition Signed
11/30/2020		Terry	Allen	Williamsburg	VA		US	I support the goal to have the landless people recognized now!	Petition	Petition Signed
11/30/2020	Mr.	DOUG	BEDORTHA	Seattle	WA	98168-1227	US		Petition	Petition Signed
11/30/2020		Donna	Dams	Oak Harbor	WA		US	I support native Americans	Petition	Petition Signed
11/30/2020		Les	Dams	Oak Harbor	WA		US	I support native Americans	Petition	Petition Signed
11/30/2020	Dr.	Jason	Hubbard	Glendale	AZ	85308-7046	US		Petition	Petition Signed
11/30/2020		Richard	Vandel	Shelton	WA		US		Petition	Petition Signed
11/30/2020	Mrs.	Rachael	Cannon	Silverdale	WA	98383-9488	US		Petition	Petition Signed
11/30/2020	Mr.	Sophia Destiny	Wood	Stanwood	WA	98292-6508	US	Please give back the land.	Petition	Petition Signed
11/30/2020	Mr.	Andrew	Wood	Stanwood	WA	98292-6508	US	Please do the right thing. Honor the agreement and return the land. There is so much unrest regarding racial issues in our nation and it appears the Native Americans are still being overlooked.	Petition	Petition Signed
11/30/2020	Mr.	Jace	Wood	Stanwood	WA	98292-6508	US	Please return our land.	Petition	Petition Signed
11/30/2020		Art	Nelson	Poulsbo	WA		US	Please pass this important legislation to address the left out native communities.	Petition	Petition Signed
11/30/2020		Stephanie	Joy	Bellingham	WA		US		Petition	Petition Signed
11/30/2020	Ms.	Larisa	Koenig	Stanwood	WA	98292-6508	US	Please do good when it is in your power to do it.	Petition	Petition Signed
11/29/2020	Mrs.	Maryjean	Kathlean	Tacoma	WA	98404-3932	US		Petition	Petition Signed
11/29/2020		Marca	Mork	Wrangell	AK		US		Petition	Petition Signed
11/29/2020		Gail	Ferguson	Edmonds	WA		US		Petition	Petition Signed
11/29/2020		Sue	Melton	Spokane	WA		US		Petition	Petition Signed
11/29/2020		Mabel	Clark	Anchorage	AK		US	Support the landless! Thank you.	Petition	Petition Signed
11/29/2020		Charles	Felder	Spokane	WA		US	TSIMSIAN NATIVE.	Petition	Petition Signed
11/29/2020	Mrs.	Judy	Andrist	Snohomish	WA	98296-7907	US		Petition	Petition Signed
11/29/2020	Mrs.	Mildred	Newman	Ketchikan	AK	99901-6615	US		Petition	Petition Signed
11/29/2020	Mrs.	Jaime	Rassbach	Everett	WA	98203-3617	US		Petition	Petition Signed
11/29/2020		Jimmy R	McGraw	Lorena	TX		US		Petition	Petition Signed
11/29/2020		Gus	Brock	McMinnville	OR		US	Help	Petition	Petition Signed
11/29/2020	Miss	Ruth	Stough	Wrangell	AK	99929	US	I'm asking your support for Senate Bill S 4891 and House Bill HR 8751 to correct us being left out and being landless. I sincerely thank you for your support. Ruth Ann Stough	Petition	Petition Signed
11/29/2020		Michael	Hunter	Goodyear	AZ		US	This is a Bill that needs to be passed to recognize those landless Alaska natives from Ketchikan and awarding them this land in recognition of their tribal lands and their right to posses this land for their future and the future of their grandchildren in the years to come.	Petition	Petition Signed
11/29/2020		erik	Broad	Pompano Beach	FL	33069-1157	US	It's been 49 plus years please support this	Petition	Petition Signed
11/29/2020		Arthur	Williams jr	Ketchikan	AK		US	Vote yes	Petition	Petition Signed
11/29/2020		francisco	Fernandez	Petersburg	AP		US	I support this bill, after 50 years and numerous attempts to pass legislation to give these communities their land, it time to end this struggle and pass the bill	Petition	Petition Signed
11/29/2020		Lisa	Roland	Los Angeles	CA		US		Petition	Petition Signed
11/29/2020		Edward	Brown	Wasilla	AK		US	Asked Don Young to do something about this in 1998 and little has been done since. 5 villages completely left of Anilca. Sen Ted Stevens and both Murkowski's failed also.	Petition	Petition Signed
11/29/2020		Mindi	Miller	Portage	WI		US		Petition	Petition Signed
11/29/2020		Robert	Lindsey	Bainbridge Island	WA		US		Petition	Petition Signed
11/29/2020		Frances	Steele	Everett	WA		US		Petition	Petition Signed
11/29/2020		Marcelo	Fernandez	Petersburg	AK		US		Petition	Petition Signed
11/29/2020		Assunta	T	Anchorage	AK		US		Petition	Petition Signed
11/29/2020		Davina	Barril	Lakewood	WA		US	Please support the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act: Senate bill S. 4891 and the companion House bill H.R. 8751! It is only right that five Alaska Native communities, Haines, Ketchikan, Petersburg, Tenakee Springs and Wrangell should be recognized. Sincerely, Davina Barril	Petition	Petition Signed
11/29/2020		William	Kito	ALEXANDRIA	VA		US	It is about congress is considering this fix for landless natives.	Petition	Petition Signed
11/29/2020		Gerald	Hiebert	West Melbourne	FL		US		Petition	Petition Signed
11/29/2020		Francisco	Hayward	Tulalip	WA		US		Petition	Petition Signed

11/29/2020		Heide	Sibley	Sausalito	CA		US		Petition	Petition Signed
11/29/2020	Mrs.	Luella	Knapp	Wrangell	AK	99929-0827	US		Petition	Petition Signed
11/28/2020		Tina	Jimmie Culleeny	Bainbridge island	WA		US	In '93, Clinton's years in office, the ISER Report should have been a done deal, so then why wasn't it? Congress ignored the report and let it lay to die in Congress, no senator or congressman deemed it important enough to bother. Now here we are twenty-seven years later, nothing has changed, I believe that 2020 the year of COVID-19, social unrest the absence of Federal leadership has opened doors of recognition that the many injustices brown and black people have endured. The ball has started rolling once again, we need to stay together, not let up, slow down. We can attain recognition once and for all. Gunalch'eesh!	Petition	Petition Signed
11/28/2020	Mr.	Randall	Kimball	Silverdale	WA	98383-9734	US		Petition	Petition Signed
11/28/2020	Mrs.	Larisa	Lewis	Petersburg	AK	99833	US		Petition	Petition Signed
11/28/2020		Carlissa	Churchill	Anchorage	AK		US		Petition	Petition Signed
11/28/2020	Ms.	Valarie	Anderson	Tulalip	WA	98271-7333	US		Petition	Petition Signed
11/28/2020		Tiffany	Smithson	Everett	WA		US		Petition	Petition Signed
11/28/2020		Donna	Barger	Eatonville	WA		US	Being landless and native is a great loss of our ancestors. We must have our land back to honor our ancestors and our future.	Petition	Petition Signed
11/28/2020		Lisa	Lowenstein	Shoreline	WA		US		Petition	Petition Signed
11/28/2020		Leslie	Grawrock	Vancouver	WA		US		Petition	Petition Signed
11/28/2020		Sandra	Churchill	Wrangell	AK		US	My father caught diligently for the land claims locally and in Washinton DC. He died knowing we were left out. I'm a community leader and a Grand Officer and continue the fight for our land. Please grant us this recognition of our land before another generation passes.	Petition	Petition Signed
11/28/2020		Susan	Laffrey	Grand Rapids	MI		US		Petition	Petition Signed
11/28/2020	Mrs.	Martha	Gallagher	Las Vegas	NV	89193-6491	US		Petition	Petition Signed
11/28/2020		Anna	Laffrey	Sitka	AK		US		Petition	Petition Signed
11/27/2020		Cheryl	Hull	St George	UT		US	I support the effort to correct the issue of the five Alaska communities that are landless.	Petition	Petition Signed
11/27/2020		Timothy	Droke	Ketchikan	AK		US		Petition	Petition Signed
11/27/2020		Laura	Pfeffer	Wells	NY		US		Petition	Petition Signed
11/27/2020		Tess	De Paula	Brooklyn	NY		US		Petition	Petition Signed
11/27/2020	Mr.	Robert	McCullough	Marysville	WA	98270-2638	US		Petition	Petition Signed
11/27/2020		Reid	Guthrie	Burien	WA		US	I 100% support bill S. 4891 & H.R. 9751	Petition	Petition Signed
11/27/2020		Tiffany	Trockenbrod	Ewing	NJ		US		Petition	Petition Signed
11/27/2020		Glacia	Rain	Bellingham	WA		US		Petition	Petition Signed
11/27/2020		Cara	Ward	Seattle	WA		US		Petition	Petition Signed
11/27/2020		Amber	H	San Jose	CA		US		Petition	Petition Signed
11/27/2020		Eleanor	Dailey	Anchorage	AK		US		Petition	Petition Signed
11/27/2020		Tamera	Brockway	Bothell	WA		US		Petition	Petition Signed
11/26/2020		Sophie	Szatkowski	Portland	ME		US		Petition	Petition Signed
11/26/2020	Mr.	Ernest	Mills	Odessa	WA	99159-0344	US		Petition	Petition Signed
11/26/2020	Ms.	Deirdre	Downey	Fairbanks	AK	99701-4853	US		Petition	Petition Signed
11/26/2020		Theresa	Miller	JUNEAU	AK		US		Petition	Petition Signed
11/26/2020		Cade	Guthrie	Bellingham	WA		US		Petition	Petition Signed
11/26/2020		Marisa	Brockway	bothell	WA		US		Petition	Petition Signed
11/26/2020	Mr.	Richard	Kathlean	Brooklyn, NY	NY	11206-3330	US		Petition	Petition Signed
11/26/2020		Ralph	Bolton	Wrangell	AK		US	Sign me up	Petition	Petition Signed
11/26/2020		Ernest	Williams	Juneau	AK		US	saying our children are our future, then need to be added, to keep our culture going on.	Petition	Petition Signed
11/26/2020		Tina	McPherson	FEDERAL WAY	WA		US		Petition	Petition Signed
11/26/2020		morgan	magaoay	ocean springs	MS		US		Petition	Petition Signed
11/26/2020		Robert	Sheldon	Port angeles	WA		US		Petition	Petition Signed
11/26/2020		Susan	LAFRAY	BOISE	ID		US	Time to recognize.	Petition	Petition Signed
11/26/2020		Henry	Smith	Wasilla	AK		US	Please help us to receive what we have deserved for how many years now and have something to cherish forever.	Petition	Petition Signed
11/26/2020	Mr.	Manuel	Ortiz	Seattle	WA	98125	US		Petition	Petition Signed
11/26/2020	Ms.	Kyla	Daniels	Juneau	AK	99801-9640	US		Petition	Petition Signed
11/26/2020	Mr.	Daniel	Clark	Anchorage	AK	99507-1013	US		Petition	Petition Signed

11/26/2020		Madeleine	Fontaine	Cambridge	MA		US		Petition	Petition Signed
11/26/2020		Rita C.	Ford		WA		US		Petition	Petition Signed
11/26/2020		Benjamin	James	Juneau	AK		US		Petition	Petition Signed
11/26/2020		Nicole	Lewis	Juneau	AK		US	Also please bring up the history of when Russia sold us to the US and that the southeast community was not going to be a part of the rest of Alaska because we were undefeatable but somehow the United States took adrantage of it and somehow became a part of the United States. A southeast native Americans were undefeatable and we were not supposed to be sold to the US!! Please also recognize the other smaller communities like Kake, Angoon, Hoonah, Juneau!!!! Prince of Whales Island, Hydaburg, Kaasan, Klawock, Sitka, Metlakatla. Gunalcheesh!	Petition	Petition Signed
11/26/2020		Trenton-Andrew	Chukwak	PALMER	AK		US	It sucks struggling financially and to not learn my traditional history.	Petition	Petition Signed
11/26/2020		Brian	Stanley	Cathlamet	WA		US	Do what's right ! Lead by example.	Petition	Petition Signed
11/26/2020		Angeline	Anderson	Cathlamet	WA		US		Petition	Petition Signed
11/26/2020		Leoni	Johnson	Juneau	AK		US		Petition	Petition Signed
11/26/2020		Francine	Eakin	Des Moines	WA		US		Petition	Petition Signed
11/26/2020		Joshua	Lea	Billings	MT		US		Petition	Petition Signed
11/26/2020	Ms.	Yvette	Fitzjarrald	Prosser	WA	99350-8638	US		Petition	Petition Signed
11/26/2020	Mr.	Mitch	Spencer	Puyallup	WA	98374-8400	US		Petition	Petition Signed
11/25/2020		Terry	Hosford	Aberdeen	WA		US		Petition	Petition Signed
11/25/2020	Ms.	Vilda	Cooday	Juneau	AK	99801-1765	US		Petition	Petition Signed
11/25/2020		Matthew	Wilson	Richmond	VA		US		Petition	Petition Signed
11/25/2020		Linda	Cutler	Soldotna	AK		US	Give us our land back Please!	Petition	Petition Signed
11/25/2020		Samuel	Campus	Wrangell	AK		US	What erks me is that mental health got land before Alaska Natives. Nobody knows how mental health got into getting land. There is very little land left for us to call our own.	Petition	Petition Signed
11/25/2020	Ms.	Anthony	Smith	Kake	AK	99830	US		Petition	Petition Signed
11/25/2020	Ms.	Paula	Wickman	Camano Island	WA	98282-7387	US	Please support the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act; Senate bill S. 4891 and the companion House bill H.R. 8751.	Petition	Petition Signed
11/25/2020		John	Kito	Anchorage	AK		US	I support the initiative of securing land for The landless	Petition	Petition Signed
11/25/2020	Ms.	Annette	Bennett	Petersburg	AK	99833-0198	US		Petition	Petition Signed
11/25/2020		Alessandro	Hill Jr	Juneau / Hoonah	AK		US	Let make thing right. Now. !!!!!!	Petition	Petition Signed
11/25/2020	Ms.	Constance	Simpson	Federal Way	WA	98023-4129	US	My mother was born in Wrangell in 1909 I totally support the landless who have been working for about 50 years for what is rightfully theirs.	Petition	Petition Signed
11/25/2020		Tom	Shepard	Battleground	WA		US	please support this bill	Petition	Petition Signed
11/25/2020		Randolph	Tirazona	Winnetka	CA		US	Please let's settle all this once and forever. Thank you for your time and effort	Petition	Petition Signed
11/25/2020		Priscilla	Hudson	Sequim	WA		US	please support the landless Alaskan communities in their rights.	Petition	Petition Signed
11/25/2020		Kate	Galgano	Forked River	NJ		US		Petition	Petition Signed
11/25/2020		Grace	Carter	AUBURN	WA		US	Correct this please.	Petition	Petition Signed
11/25/2020		Sonya	Frazier	Tacoma	WA		US		Petition	Petition Signed
11/25/2020		Addison	Coryell	Lancaster	PA		US		Petition	Petition Signed
11/25/2020		Dora	Mathew	Chefornak	AK		US	Fair would be an awesomely done deal	Petition	Petition Signed
11/25/2020		Todd	Marks	Kent	WA		US		Petition	Petition Signed
11/25/2020		Norman	Collins	Burlington	WA		US	I would like the Alaska Native people to get what is deserving to us. this was our land and should be again so please help us get what is owed to us.	Petition	Petition Signed
11/25/2020		Julia	Zauner	Skillman	NJ		US		Petition	Petition Signed
11/25/2020		Ralph	Ketah Jr	Carson City	NV		US	I am 52 years old . This has happened back when I was 4 years old . My family has fought for this and passed away not knowing if this wrong has ever been corrected .	Petition	Petition Signed
11/25/2020		Arlene	Vaara	Federal Way	WA		US	I give my full support	Petition	Petition Signed
11/25/2020	Ms.	Anna	Zauner	Sitka	AK	99835-7221	US		Petition	Petition Signed
11/25/2020	Mr.	Glacier	Brown	Anchorage	AK	99502-1542	US		Petition	Petition Signed
11/25/2020		Norman	Guthrie	Bellingham	WA		US		Petition	Petition Signed
11/25/2020		Jamilah	Merrick	Campbell	CA		US	I believe in the preservation of our people through the government upholding the law in allocating the land that is rightly entitled to our landless communities. The time has come!	Petition	Petition Signed
11/25/2020	Ms.	Peggy	Johnson	Lynnwood	WA	98037-7105	US		Petition	Petition Signed
11/25/2020		Susan	Mayo	Wichita	KS		US		Petition	Petition Signed

11/25/2020	Mr.	Damon	Fitzgibbon	Stanwood	WA	98292-6779	US		Petition	Petition Signed
11/25/2020	Mr.	Kevin	O'Neal-Smith	Juneau	AK	99801-7225	US		Petition	Petition Signed
11/25/2020	Miss	Kylie	Denvaes	Palmer	AK	99645-8791	US	For justice	Petition	Petition Signed
11/25/2020		Barbara	Blake	Juneau	AK		US		Petition	Petition Signed
11/25/2020	Mr.	Dale	Morrison	Juneau	AK	99801-1470	US	I'm one of the landless. I want compensated for 49 yes of waiting for this .Dale Morrison	Petition	Petition Signed
11/25/2020		Gina	Owens	Seattle	WA		US	I am a member of an Alaska tribes (Haida). This issue affects many of my grandmother's family.	Petition	Petition Signed
11/25/2020	Mr.	Lawrence	Barkley	Seattle	WA	98125-3647	US		Petition	Petition Signed
11/25/2020		BONNIE	WEST	DEER PARK	WA		US		Petition	Petition Signed
11/25/2020		Christie	Jamieson	Wrangell	AK		US	Please support our efforts in passing this legislative! We've waited long enough and deserve resolution. Thank you!	Petition	Petition Signed
11/25/2020	Mrs.	Alice	Lamm	Ketchikan	AK	99901-5333	US	Please support this.	Petition	Petition Signed
11/25/2020		Judy	Burns	Everett	WA		US		Petition	Petition Signed
11/25/2020		Patrick	Taylor	Spanaway	WA		US		Petition	Petition Signed
11/25/2020		Martin	Sequak	Belfair	WA		US	Someday we got this	Petition	Petition Signed
11/25/2020	Ms.	Brandy	Lokke	Anchorage	AK	99504-1368	US		Petition	Petition Signed
11/25/2020		Barbara	Franks	Fairbanks	AK		US	This is long overdue. It's time to make things right . Our Elders needs to know their efforts is making this change.Gunalcheeh	Petition	Petition Signed
11/25/2020		Katherine	Chen	Juneau	AK		US		Petition	Petition Signed
11/24/2020		Triston	Guthrie				US		Petition	Petition Signed
11/24/2020		Martha	Wassily	Dillingham	AK		US		Petition	Petition Signed
11/24/2020		Arnold	Gray	Las vegas	NV		US		Petition	Petition Signed
11/24/2020		Anthony	Hazen	Foster	OR		US	Its been too long for these Alaskan natives for not being acknowledged back in 1971 and 2020 thats 50 yrs way to long	Petition	Petition Signed
11/24/2020		Gabriel	Dunham				US		Petition	Petition Signed
11/24/2020		Kelly	Naylor	Newton	IA		US		Petition	Petition Signed
11/23/2020		Tamara	Fales	Everett	WA		US		Petition	Petition Signed
11/23/2020		Jackie	Guthrie	Bellingham	WA		US		Petition	Petition Signed
11/23/2020		Victor	Guthrie	Bellingham	WA		US		Petition	Petition Signed
11/23/2020		Shari	Dodge	Medford	OR		US		Petition	Petition Signed
11/23/2020		Cindy Lou	Hagwood	Haines	AK		US	Thank you for fighting the battle for us.	Petition	Petition Signed
11/23/2020		William	Price	Juneau	AK		US		Petition	Petition Signed
11/23/2020		Melody	Price-Yonts	Haines	AK		US		Petition	Petition Signed
11/23/2020		Triniti	Lanzo	Wailuku	HI		US		Petition	Petition Signed
11/23/2020		Donald	Newman	Seattle	WA		US	Thank you for hosting the meeting today	Petition	Petition Signed
11/23/2020		Heather	Gurko	Beaverton	OR		US		Petition	Petition Signed
11/23/2020		Gilbert	Leask	Anchorage	AK		US		Petition	Petition Signed
11/23/2020		James	Ilanos Sr	Ketchikan	AK		US		Petition	Petition Signed
11/23/2020		Amanda	Greenfield	Petersburg	AK		US		Petition	Petition Signed
11/23/2020		Catrina	Mitchell	Juneau	AK		US		Petition	Petition Signed
11/23/2020		Candace	Aduddell	Federal Way	WA		US	We want our land back as Alaskan Natives	Petition	Petition Signed
11/23/2020		Stephanie	Alkins	Petersburg	AK		US	These communities deserve the land that is owed to them and it was a gross negligence on part of the Government by not including them. People should be held accountable, but first, lets Right this incredibly horrible wrong!	Petition	Petition Signed
11/23/2020		Katherine	Bromley	Eugene	OR		US		Petition	Petition Signed
11/23/2020		James	Llanos	KETCHIKAN	AK		US	Please include Class C Stock of Sealaska as apart of Landless	Petition	Petition Signed
11/23/2020		Brett	Bocatch	Bonney Lake	WA		US	Thank you	Petition	Petition Signed
11/23/2020		Tesla	Cox	Juneau	AK		US		Petition	Petition Signed
11/23/2020		Torah	Harding-Laman	Ketchikan	AK		US		Petition	Petition Signed
11/23/2020		Kristine	Rose	Plattsburgh	NY		US		Petition	Petition Signed
11/23/2020		Eli Gene	Derenoff	Juneau	AK		US	Hang in there and keep it up!	Petition	Petition Signed
11/23/2020		McKenzie	Knudson	Douglas	AK		US		Petition	Petition Signed
11/23/2020		Tonia	Swink	Blaine	WA		US		Petition	Petition Signed
11/23/2020		LeRoy	DeAsis	Juneau	AK		US		Petition	Petition Signed
11/23/2020		Kenneth	Brown	West Sacramento	CA		US		Petition	Petition Signed
11/23/2020		James	Yeltatzie	Portland	TX		US		Petition	Petition Signed

11/23/2020		Joseph	Bader	Ketchikan	AK		US		Petition	Petition Signed
11/23/2020		Jasmyn	Parker	Tacoma	WA		US		Petition	Petition Signed
11/23/2020		Jolene	Baisden	Deming	WA		US	My dad, Joseph William Bennett, was a Veteran & full Tlingit. I am his voice now.	Petition	Petition Signed
11/22/2020		Jennifer	Sanchaze	Ramona	CA		US		Petition	Petition Signed
11/22/2020		Kaitlin	Alne	Kalispell	MT		US		Petition	Petition Signed
11/22/2020		Chase	Alne	Bothell	WA		US	Would be a true blessing to see my grandmother received land before to much time has passed. She is now 78 how much longer should wait	Petition	Petition Signed
11/22/2020		Tammy	Matthews	Las Vegas	NV		US		Petition	Petition Signed
11/22/2020		Timothy	Lewis	Anchorage	AK		US	I currently live in Anchorage, but I was born and raised in Haines, AK.	Petition	Petition Signed
11/22/2020		Jan (joe)	Hanson	Nampa	ID		US		Petition	Petition Signed
11/22/2020		Renee	Campbell	SPARKS	NV		US		Petition	Petition Signed
11/22/2020		Roberta	Wynne	Sparks	NV		US		Petition	Petition Signed
11/22/2020		Tina	Frohlich	Renton	WA		US		Petition	Petition Signed
11/22/2020		Brenda	Wood	Oroville	CA		US		Petition	Petition Signed
11/22/2020		Mildred	Sterling	Petersburg	AK		US		Petition	Petition Signed
11/22/2020		Guy	Archibald	Juneau,	AK		US		Petition	Petition Signed
11/21/2020		Christy	Flake	Juneau	AK		US		Petition	Petition Signed
11/21/2020		Thomas B.	Williams Jr	Haines	AK		US	Keeping all that have a say in this also the ones that don't have computers too thank you.	Petition	Petition Signed
11/21/2020		Bree	Carter	Tampa	FL		US		Petition	Petition Signed
11/21/2020		Matilda	Porter	Juneau	AK		US		Petition	Petition Signed
11/21/2020		David	Purcell	Auburn	WA		US		Petition	Petition Signed
11/21/2020		Michelle	Kohinka	Anchorage	AK		US		Petition	Petition Signed
11/21/2020	Mrs.	Joyce	Baldwin	Tumwater	WA	98512-0997	US		Petition	Petition Signed
11/21/2020		Neil	Erickson	Juneau	AK		US		Petition	Petition Signed
11/21/2020	Mr.	ROB	HOYT	Bellingham	WA	98229-5035	US		Petition	Petition Signed
11/21/2020		Crystal	Muir	Woodlyn	PA		US		Petition	Petition Signed
11/21/2020		Ryan	Turner	Missoula	MT		US		Petition	Petition Signed
11/21/2020		Chandler	Hire	Lake forest park	WA		US		Petition	Petition Signed
11/21/2020		Molly	Gunther	Seattle	WA		US	Correct this injustice!	Petition	Petition Signed
11/21/2020		Charles	James	Wasilla	AK		US		Petition	Petition Signed
11/21/2020		rock	baldwin	tumwater	WA		US		Petition	Petition Signed
11/21/2020		Manuel	Vasquez	Bothell	WA		US		Petition	Petition Signed
11/21/2020		Judy	Needham	Ketchikan	AK		US		Petition	Petition Signed
11/21/2020		Darryl	Olson	Petersburg	AK		US		Petition	Petition Signed
11/21/2020		Jacqueline	Tiller	Partlow	VA		US		Petition	Petition Signed
11/21/2020		Katy	Hiestand	West Linn	OR		US		Petition	Petition Signed
11/21/2020	Mrs.	Barb	Dedera	Juneau	AK	99803-2046	US		Petition	Petition Signed
11/21/2020		Meghan	O'Malley	Bend	OR		US		Petition	Petition Signed
11/21/2020		Joyce	Simons	Haines	AK		US	Need list of members who signed up 49 years ago for Haines Alaska	Petition	Petition Signed
11/21/2020		Rosa	Gaona	Juneau	AK		US		Petition	Petition Signed
11/21/2020		Shirley	Bagoyo	Seattle			US		Petition	Petition Signed
11/21/2020		Tammy	McGuffin	Tukwila	WA		US		Petition	Petition Signed
11/21/2020		Dorene	Hopper	Owatonna	MN		US	I will sign. 507-686-0391 if any question.	Petition	Petition Signed
11/21/2020		Levi	Thompson	Haines	AK		US		Petition	Petition Signed
11/21/2020		kathleen	donley	portland	OR		US	Please support this measure.	Petition	Petition Signed
11/21/2020		Gina	Jensen	Eugene	OR		US		Petition	Petition Signed
11/21/2020		vernon	grant	Craig	AK		US	I'm a psg at large shareholder. I support this petition	Petition	Petition Signed
11/21/2020		Shelley	Jenkins	Eagle River	AK		US	I urge Congress to recognize these communities that were left out of ANCSA & correct this injustice.	Petition	Petition Signed
11/21/2020		max	spromberg	Mount Vernon	WA		US		Petition	Petition Signed
11/21/2020	Mrs.	Kristen	Trevorrow	Anchorage	AK	99502-5210	US		Petition	Petition Signed
11/21/2020		Marilyn	Andrews	Seattle	WA		US	Please support this petition. Landless AK Natives are counting on your fairness.	Petition	Petition Signed
11/21/2020		Christine	Yatchmenoff	Petersburg	AK		US		Petition	Petition Signed

11/21/2020		Sue	Folletti	Haines	AK		US	My Grandmother, my Father, Great Aunts and Uncles and our beloved Elders waited years for this injustice to be rectified. Since they have passed on I'm hoping in my lifetime we will see this rectified. I then can celebrate their legacy by having this compensation to pass down to my Children and Grandchildren.	Petition	Petition Signed
11/21/2020		Daniel	Gomez	Eugene	OR		US		Petition	Petition Signed
11/20/2020		Melissa	Twitchell	El Dorado Hills	CA		US	Born in Ketchikan...my father was a resident of the city when ANCSA was passed.	Petition	Petition Signed
11/20/2020		Lynette	Hinz	Anchorage	AK		US	My mom Harriet Beleal (86 yrs old) and late dad Phillip Moreno Sr. were both born in Wrangell, Ak. These communities were left out of ANSCA in 1971, and the other communities mentioned. Their spirits were disheartened but my mom asked us kids if we wanted to choose Sitka as our village corporation. We had moved out of Sitka in 1969 to Anchorage because my mom wanted to work Please support the effort to create these left out communities to receive want they should of received all those years ago. Do the right thing. Thank u. Gunalcheseeh. Lynette (907)301-5435.	Petition	Petition Signed
11/20/2020		Christine	Ness	Milton	WA		US		Petition	Petition Signed
11/20/2020		Ann	McEachern	KETCHIKAN	AK		US		Petition	Petition Signed
11/20/2020		Maria	Jordison	Sterling	AK		US	Maria Lee Jordison	Petition	Petition Signed
11/20/2020	Mr.	Fred	James	Marysville	WA	98270-0611	US		Petition	Petition Signed
11/20/2020		Patti	Green	Ketchikan	AK		US		Petition	Petition Signed
11/20/2020	Ms.	Danika	Smalley	Wrangell	AK	99929-2143	US		Petition	Petition Signed
11/20/2020	Miss	Wendy	Dyakanoff	Everett	WA	98204-7350	US		Petition	Petition Signed
11/20/2020		Donna	O'Connor	Palm Bay	FL		US		Petition	Petition Signed
11/20/2020		William	Ritchie	Gold Bar	WA		US		Petition	Petition Signed
11/20/2020		Carl	Elliott	Stanwood	WA		US	Looking good keep going. Thanks	Petition	Petition Signed
11/20/2020		Lorraine	Fisher	Graham	WA		US		Petition	Petition Signed
11/20/2020		Janet	Kinsman	Ketchikan	AK		US	we wont our land	Petition	Petition Signed
11/20/2020		Linda	Keizer	KETCHIKAN	AK		US	Please let's do the right thing for our Landless people. We have waited long enough for this wrong to be righted. Respectfully, Linda Keizer	Petition	Petition Signed
11/20/2020		Mischelle	Kitter	Anchorage	AK		US		Petition	Petition Signed
11/20/2020		Ronald	okegawa	Anchorage	AK		US	I'm from Petersburg	Petition	Petition Signed
11/20/2020		Rick	Aine	Bothell	WA		US		Petition	Petition Signed
11/20/2020		Joseph	Tavares	Ketchikan	AK		US		Petition	Petition Signed
11/20/2020	Ms.	Sandra	Rusch	Klawock	AK	99925	US		Petition	Petition Signed
11/20/2020	Mrs.	Claudine	Haynes	Anchorage	AK	99577	US	its long overdue	Petition	Petition Signed
11/20/2020		Darricka	Clark	JUNEAU	AK		US		Petition	Petition Signed
11/20/2020	Mr.	Russell	Barker	Keizer	OR	97303-3623	US	thanks	Petition	Petition Signed
11/20/2020		Shawna	Chess	Anchorage	AK		US		Petition	Petition Signed
11/20/2020		GEORGE	YATES	ANACORTES	WA		US		Petition	Petition Signed
11/20/2020		Samantha	Martin	Douglas	AK		US		Petition	Petition Signed
11/20/2020		Edward R	Austin Jr	Anchorage			US	I had land Hoonah taken it, wish could get paid for that could you help?	Petition	Petition Signed
11/20/2020		Bradford	Dybdahl	Juneau	AK		US		Petition	Petition Signed
11/20/2020		Thelma	Fields	FAIRBANKS	AK		US		Petition	Petition Signed
11/20/2020	Mr.	Curtis	McQueen	Wasilla	AK	99623-9848	US		Petition	Petition Signed
11/20/2020		James	Brown	Seattle	WA		US	I support us landless claim	Petition	Petition Signed
11/20/2020		Willaim	Carson	Tacoma	WA		US		Petition	Petition Signed
11/20/2020		Donovan	Clayton	Desert Hot Springs	CA		US		Petition	Petition Signed
11/20/2020	Ms.	Stacie	Zane	Federal Way	WA	98003-7595	US		Petition	Petition Signed
11/20/2020		Kathleen A.	Brezina	Juneau	AK		US		Petition	Petition Signed
11/20/2020		Kathy	Berzanske	Haines	AK		US		Petition	Petition Signed
11/20/2020		Russell	Price	anchorage	AK		US		Petition	Petition Signed
11/20/2020		Florence	Murray	Sitka	AK		US		Petition	Petition Signed
11/20/2020		Richard	Rinehart III	Albany	OR		US		Petition	Petition Signed
11/20/2020		Angela	Donley	Milwaukie	OR		US		Petition	Petition Signed

11/20/2020		Matthew	Rinehart	Eugene	OR	97405-2978	US		Petition	Petition Signed
11/20/2020		Natashia	McMunn	Mechanicburg	PA		US		Petition	Petition Signed
11/20/2020		Tiana	Duke		AK		US		Petition	Petition Signed
11/20/2020		Maryann	Williams	St.Cloud	MN		US		Petition	Petition Signed
11/20/2020		Shiree	Seeds	Petersburg	AK		US		Petition	Petition Signed
11/20/2020		Sandra	Lucas	Gloucester	VA		US		Petition	Petition Signed
11/20/2020		Carol	Belke				US		Petition	Petition Signed
11/20/2020		Alfred Eli	Gordon III	Haines	AK		US	My Mother and I were denied ANCSA in 1971. We were enrolled in Klawok AK. We are Klingets. I was born in Juneau in 7-9-1945 and raised in Ketchikan. Mother and her Parents were born and lived their entire lives in Southeast AK areas (Haines, Klukwan, Juneau, Klawok, Ketchikan). My Father was from Sitka. My Mother and Father have passed, but I feel I deserve to be recognized and compensated for having had my ancestural lands and heritage taken away. Thank you.	Petition	Petition Signed
11/20/2020		Evangeline	Willard	Haines	AK		US	It's the right thing to do, and without delay. Gunalchéesh!	Petition	Petition Signed
11/19/2020		Judean	Gordon	Skagway	AK		US		Petition	Petition Signed
11/19/2020		Pamela	Perez	Puyallup	WA		US		Petition	Petition Signed
11/19/2020		Catherine	Young	Petersburg	AK		US		Petition	Petition Signed
11/19/2020		Verna	Adams	Juneau	AK		US	From Haines group now living in Juneau	Petition	Petition Signed
11/19/2020		amanda	mcmunn	titusville	PA		US		Petition	Petition Signed
11/19/2020		Randy	Begay	Federal Way	WA		US		Petition	Petition Signed
11/19/2020		Kevin	Thompson	Haines	AK		US		Petition	Petition Signed
11/19/2020		Gale	Thompson	Haines	AK		US		Petition	Petition Signed
11/19/2020		Amanda	Goodnough	Titusville	PA		US		Petition	Petition Signed
11/19/2020		Stephanie	Crossley	Paris	ID		US	I support Senate bill S. 4891 and the companion House bill H.R. 8751.	Petition	Petition Signed
11/19/2020		Diane	(Lewis-Phillips) Hiesington	Lewiston Idaho			US	please keep me informed on status in regard to the landless.Thank you	Petition	Petition Signed
11/19/2020		Raymond G	Lewis Sr	Palmer	AK		US	Growing up in Southeast Alaska ! Haines Alaska , my father faught hard to keep this program alive. But not he has long past. When will the red tap end? Enough of the round around , Us native people want closer on this with a victory on our behalf.	Petition	Petition Signed
11/19/2020		Georgiana	Hotch	Haines	AK		US	Correct this 48-year-old injustice.	Petition	Petition Signed
11/19/2020		Harriet	Brouillette	Haines	AK		US	Who are we without our land? Our identity is wrapped up in our lands	Petition	Petition Signed
11/19/2020		Susan	Davis	Newberry	FL		US		Petition	Petition Signed
11/19/2020		Roberta	Kitka	Eagle river	AK		US	Most of my elders who were waiting for something to happen are gone now.	Petition	Petition Signed
11/19/2020		Nevette	Bowen	Petersburg	AK		US		Petition	Petition Signed
11/19/2020		randy	williams	ketchikan	AK		US		Petition	Petition Signed
11/19/2020		Kaley	Nauska	Juneau	AK		US		Petition	Petition Signed
11/19/2020		Brent	Campbell	Sparks	NV		US	Thank you.	Petition	Petition Signed
11/19/2020		Delvin	Leask	Seattle	WA		US		Petition	Petition Signed
11/19/2020		Ashley	James	Oshkosh	WI		US	I have family in these towns and believe in this petition.	Petition	Petition Signed
11/19/2020		Christian	DeLay	Valdez	AK		US	Please recognize the communities of Wrangell and others that were left landless.	Petition	Petition Signed
11/19/2020		Terry	DeLay	Valdez	AK		US		Petition	Petition Signed
11/19/2020		Valencia	Hiebert	Valdez	AK		US	Wrangell and the other landless communities need to be recognized	Petition	Petition Signed
11/19/2020		Sandra	Montgomery	Palmer	AK		US	My land I only got one acre and the cdib is wrong on my boat record	Petition	Petition Signed
11/19/2020		Carolyn	Lutton	Craig	AK		US	I signed up in Petersburg Alaska	Petition	Petition Signed
11/19/2020		Brett	Garvey	Wasilla	AK		US		Petition	Petition Signed
11/19/2020		Shelly	Mabry	Anchorage	AK		US		Petition	Petition Signed
11/19/2020		Sharyl	Yeisley	Ketchikan	AK		US		Petition	Petition Signed
11/19/2020		Kevin	Johnson	Ketchikan	AK		US		Petition	Petition Signed
11/19/2020		Cynthia	Taylor	Ketchikan	AK		US	I support this bill, we have been waiting for so long.	Petition	Petition Signed
11/19/2020		Leda	Klein	Shelton	WA		US	It time!	Petition	Petition Signed
11/18/2020		John	Morse	Seattle	WA		US		Petition	Petition Signed
11/18/2020		Kirstie	Johnson	Chehalis	WA		US		Petition	Petition Signed
11/18/2020		Dawn	Mill				US		Petition	Petition Signed

11/18/2020		William	Johnson		WA		US		Petition	Petition Signed
11/18/2020		Fern	Seimears	Wrangell	AK		US		Petition	Petition Signed
11/18/2020		Diana	Parks	Haines	AK		US		Petition	Petition Signed
11/18/2020		Dawn	Davis	Wrangell	AK		US		Petition	Petition Signed
11/18/2020		Christopher	Tavares	Marysville	WA		US		Petition	Petition Signed
11/18/2020		Michael	Abbott	Seattle	WA		US	Please lets get this done! Not only for th ones waiting, but for our future generations	Petition	Petition Signed
11/18/2020		Lauren	Gillen	Wrangell	AK		US		Petition	Petition Signed
11/18/2020		Sheila	Delapp	Tucson	AZ		US	Please recognize the landless, My grandmother lived in Ketchikan, but was from Kasaan. She never received any land or shares in a corporation. She should have received land or shares for her and her family before her.	Petition	Petition Signed
11/18/2020		James	Jenson	Wrangell	AK		US	My girlfriend family is from wrangell ,ak I support this bill	Petition	Petition Signed
11/18/2020		Amanda	Metiwier	Wrangell	AK		US	My foster sisters family is from wrangell ,ak I support this bill	Petition	Petition Signed
11/18/2020	Mr.	Robert	Kuntz	Wrangell	AK	99929	US		Petition	Petition Signed
11/18/2020		Katie	Metiwier	Wrangell	AK		US	My foster sisters family is from wrangell ,ak I support this bill	Petition	Petition Signed
11/18/2020		Scott	Stuart	Wrangell	AK		US	My fiances family is from wrangell ,ak I support this bill	Petition	Petition Signed
11/18/2020		Jana	Barlow	Wrangell	AK		US	My family is from wrangell ,ak I support this bill	Petition	Petition Signed
11/18/2020		Dennis	Barlow	Wrangell	AK		US	My family is from wrangell ,ak I support this bill	Petition	Petition Signed
11/18/2020		April	Hutchinson	Wrangell	AK		US	Its about time!	Petition	Petition Signed
11/18/2020		Owen	Oliver	Ketchikan	WA		US		Petition	Petition Signed
11/18/2020		Katherine	Harrje	Oak harbor	WA		US	I support this act! I am a shareholder, and my descendants and majority of my family calls Ketchikan their home!	Petition	Petition Signed
11/18/2020	Ms.	Mary	Szatkowski	Fairbanks	AK	99708	US	I am excited to hear that the legislature is in progress to return land to these communities.	Petition	Petition Signed
11/18/2020		Victoria	Shay	Petersburg	AK		US		Petition	Petition Signed
11/18/2020		Justin	Jackson	Petersburg	AK		US	This is long over due.	Petition	Petition Signed
11/18/2020		Samantha	Jackson	Petersburg	AK		US		Petition	Petition Signed
11/18/2020		Monica	Walker	Kodiak	AK		US	I support the southeast Alaska natives	Petition	Petition Signed
11/18/2020		Lovey	Demmert-Keele	Kent	WA		US		Petition	Petition Signed
11/18/2020		David	Berg	Petersburg	AK		US	Let's make this right	Petition	Petition Signed
11/18/2020		Jordan	Breshears	Palmer	AK		US		Petition	Petition Signed
11/18/2020		Marcia	Miller	Wasilla	AK		US	Please take care of this injustice.	Petition	Petition Signed
11/18/2020		Greg	Miller	Wasilla	AK		US		Petition	Petition Signed
11/18/2020		Teresa	Kinneen	Nampa	ID		US		Petition	Petition Signed
11/18/2020		Sally	Steele	Apex	NC		US		Petition	Petition Signed
11/18/2020		Robert	Kasbohm	Beloit	WI		US		Petition	Petition Signed
11/18/2020		Laura	Elekdag	Washington	DC		US		Petition	Petition Signed
11/18/2020		Denise	Ison	Juneau	AK		US	Please rectify this wrong. Being a member of Sealaska gives me feelings of my native heritage, but being Wrangell Landless makes me feel as if I don't count as a complete native person. This is so unfair! I don't know how else to describe it, I feel like I'm incomplete. And not real. like I'm not as welcome in Native circles as I should be. Like an unwelcome family member. Please, fix this!	Petition	Petition Signed
11/18/2020		Shawna	Kradenpoth	Everett	WA		US		Petition	Petition Signed
11/18/2020	Mrs.	Terese	Bingisser	Woodinville	WA	98072-8336	US	Does the person signing these petition need to be landless or native my husband is a white man but support this petition	Petition	Petition Signed
11/18/2020		Marsha	Fernandez	Petersburg	AK		US	This act of discrimination against these five Landless communities MUST be stopped and rectified NOW. This is an act that never should have happened and has gone on far too long. Thank you.	Petition	Petition Signed
11/18/2020		Gerri	Mesack	Wrangell	AK		US		Petition	Petition Signed
11/17/2020		Kevin	Snodgrass	Anchorage	AK		US	Where is it at	Petition	Petition Signed
11/17/2020		Greg	Meissner	Wrangell	AK		US		Petition	Petition Signed
11/17/2020		Tammi	Meissner	Wrangell	AK		US		Petition	Petition Signed
11/17/2020		Sumi	Angerman	Wrangell	AK		US		Petition	Petition Signed
11/17/2020		Mark	Heuer	Crystal Lake	IL		US	I sign this now!!!	Petition	Petition Signed
11/17/2020		romona	wigg	Juneau	AK		US	I am from Wrangell	Petition	Petition Signed
11/17/2020		Jessie	Archibald	Juneau	AK		US	Long overdue!!!	Petition	Petition Signed
11/17/2020		Pauline A	Wurth	Lacey,	WA		US		Petition	Petition Signed

11/17/2020		Pauline A.	wURTH		CA		US		Petition	Petition Signed
11/17/2020		heather	nelson	albuquerque	NM		US		Petition	Petition Signed
11/17/2020		Amanda	Lehman	Mt Vernon	WA		US		Petition	Petition Signed
11/17/2020		Michelle	Summers	Seattle	WA		US		Petition	Petition Signed
11/17/2020		Michelle	Beltran	Coos Bay	OR		US		Petition	Petition Signed
11/17/2020		Patricia	Zook	Juneau	AK		US		Petition	Petition Signed
11/17/2020		Nadine	Price	Anchorage	AK		US		Petition	Petition Signed
11/17/2020		kjell	nore	wrangell	AK		US		Petition	Petition Signed
11/17/2020		Lynn	Allen	Wrangell	AK		US	We have been fighting long and hard for land that rightfully belonged to our ancestors and us descendants. I dont understand why this is even such a big deal by giving us left out tribes a small piece of what was rightfully ours in the first place.	Petition	Petition Signed
11/17/2020		Kasey	Ballard	Abilene	TX		US		Petition	Petition Signed
11/17/2020		Peter	Bayou	Anchorage	AK		US		Petition	Petition Signed
11/17/2020		Alanna	Francis	Kent	WA		US		Petition	Petition Signed
11/17/2020		Ali	Keller	Anchorage	AK		US		Petition	Petition Signed
11/17/2020		Zina	Ballard-Meyer	Nolan	TX		US		Petition	Petition Signed
11/17/2020		Kylie	Vroman	Ellensburg	WA		US		Petition	Petition Signed
11/17/2020		Dave	Rude	Mount Vernon	WA		US		Petition	Petition Signed
11/17/2020	Mr.	terance	Johnson	Auburn	WA	98092-7290	US	right the wrong for the left outs	Petition	Petition Signed
11/17/2020		Savannah	Nichols	Anchorage	AK		US		Petition	Petition Signed
11/17/2020		Edward	Boone	Juneau	AK		US	Must have eye-opening information to reach goal!	Petition	Petition Signed
11/17/2020		Brandi	Walters	Selah	WA		US		Petition	Petition Signed
11/17/2020		Bhavi	Maisuria				US		Petition	Petition Signed
11/17/2020		Eugene	Hiebert	Salem	OR		US		Petition	Petition Signed
11/17/2020		Nathan	Pointer	Vancouver	WA		US		Petition	Petition Signed
11/17/2020		GeorgAnna	Wilson	Bonney Lake	WA		US		Petition	Petition Signed
11/17/2020		Rosita	Fredrickson	Angoon	AK		US		Petition	Petition Signed
11/17/2020		Charles	Boyd	HERMISTON	OR		US		Petition	Petition Signed
11/17/2020		Donna	Turner	Ketchikan	AK		US	I believe that the land should be distributed by how many landless not by even amounts to each community as some have small population and some have large population of landless. It would be fair so we all get the same amount of land per landless native. This needs to fair for each individual.	Petition	Petition Signed
11/17/2020		Maia	Wen	Anchorage	AK		US		Petition	Petition Signed
11/17/2020		Joyce	Makua	Ketchikan	AK		US	I support the 5 landless communities that have been left out for 50 years. Pass the legislation to recognize The Landless.	Petition	Petition Signed
11/17/2020		Victor	Demmert Sr	Fairbanks			US	From Ketchikan	Petition	Petition Signed
11/17/2020		Coral	Burch	Portland	OR		US	Please correct the injustice for our children	Petition	Petition Signed
11/17/2020		Vivian	Smith	San Antonio	TX		US		Petition	Petition Signed
11/17/2020		Richard	Boyd	Ketchikan	AK		US		Petition	Petition Signed
11/16/2020		Katherine	Friday	Klawock	AK		US	Katherine Friday	Petition	Petition Signed
11/16/2020		Ann	Chemin				US		Petition	Petition Signed
11/16/2020		Savanna	Stern	Seattle	WA		US		Petition	Petition Signed
11/16/2020		Sienna	Paddock	Juneau	AK		US		Petition	Petition Signed
11/16/2020		Catherine	White	WRANGELL			US		Petition	Petition Signed
11/16/2020		Jim	Gayheart	wasilla	AK		US		Petition	Petition Signed
11/16/2020		Jessica	Tiedeman	Wasilla	AK		US		Petition	Petition Signed
11/16/2020		Sharon Rosanna R	Abbott	Concrete	WA		US		Petition	Petition Signed
11/16/2020	Ms.	Sheila	Short	McMinnville	OR	97128-5460	US	I am a born and raised Alaska I was born in Ketchikan and raised in Wrangell My Grandfather and my Mother passed away with a dream that this bill would pass before their lives ended Sadly that never happened Although I am retired and living in Oregon my family is all still in Wrangell I sincerely hope this bill is passed ! It is truly long overdue	Petition	Petition Signed
11/16/2020		Jodi	Ramey	Nevada	MO		US		Petition	Petition Signed
11/16/2020		Teri Jo	Lowenthal	Broomfield	CO		US	From Petersburg AK	Petition	Petition Signed

11/16/2020		James	Haldane	Everett	WA		US		Petition	Petition Signed
11/16/2020		Nadine	Peratrowich	Juneau	AK		US		Petition	Petition Signed
11/16/2020		Tony	Mather	BOTHELL	WA		US		Petition	Petition Signed
11/16/2020		Gregory Luke	Doyle	Orowille	WA		US		Petition	Petition Signed
11/16/2020		John	Bradley	Anchorage	AK		US		Petition	Petition Signed
11/16/2020	Mrs.	Letasha	Heumann	Juneau	AK	99801-9379	US		Petition	Petition Signed
11/16/2020		Lucero	Hugarte	Soldotna	AK		US	We shouldn't have to ask in the first place, but please pretty please.	Petition	Petition Signed
11/16/2020		Dani	Eggleston	Kelso	WA		US		Petition	Petition Signed
11/16/2020		grace	lambert	haines	AK		US		Petition	Petition Signed
11/16/2020		Gabrielle	Joudi	Seattle	WA		US		Petition	Petition Signed
11/16/2020		LINCOLN	LANDERS	SEATTLE	WA		US		Petition	Petition Signed
11/16/2020		Leslie	Hamley	Caldwell	ID		US		Petition	Petition Signed
11/16/2020		Madeline	Friend	Sedro Woolley	WA		US		Petition	Petition Signed
11/16/2020		Jenna	Allen	Anchorage	AK		US		Petition	Petition Signed
11/16/2020		chloe	wirum				US		Petition	Petition Signed
11/16/2020		Capri	Potter	Juneau	AK		US		Petition	Petition Signed
11/16/2020		James	Kibbe	Simi Valley	CA		US		Petition	Petition Signed
11/16/2020	Mrs.	ruth	droke	Ketchikan	AK	99901-9773	US		Petition	Petition Signed
11/16/2020		Darren	Kito	Fairbanks	AK		US	land for us not them	Petition	Petition Signed
11/16/2020		Claire	Scott				US		Petition	Petition Signed
11/16/2020		Jocelyn	Ludwigsen	West. Chicago	IL		US		Petition	Petition Signed
11/16/2020		Bradley	Wilding	Anchorage	AK		US		Petition	Petition Signed
11/16/2020		Lillian	Johnson	Homer	AK		US		Petition	Petition Signed
11/16/2020		Carla	Knapp	Wrangell	AK		US	Please correct a huge injustice. Please recognize us now, for our children, and their children and loved ones.	Petition	Petition Signed
11/16/2020		Kimberly	Lewis-Olds	Redmond	WA		US	Sadly my Grandmother is no longer around to hear the progress that has been made. Let's get this bill passed for our elders who have passed and the children of our future! Gunalcheesh!	Petition	Petition Signed
11/16/2020		Melanie	Greer	Juneau	AK		US	I stand with Alaska Natives Without Land in the fight for rightful land ownership and ANCSA recognition for Haines, Ketchikan, Petersburg, Tenakee Springs and Wrangell!	Petition	Petition Signed
11/16/2020	Ms.	Megan	Warren	Anchorage	AK	99516-6915	US		Petition	Petition Signed
11/16/2020		Jim	McGraw	Lorena	TX		US		Petition	Petition Signed
11/16/2020		Rebecca	Kirian	Juneau	AK		US		Petition	Petition Signed
11/16/2020		Grace	S	Juneau	AK		US		Petition	Petition Signed
11/16/2020		Cheryl	Gaona	Seattle	WA		US		Petition	Petition Signed
11/16/2020		Rose	Johnson	Ketchikan	AK		US	Please support this as it's been a long time we have been unrecognized	Petition	Petition Signed
11/16/2020		Lloyd	Ludwigsen	Ketchikan	AK		US	Give us our land back that we so deserve	Petition	Petition Signed
11/16/2020		Elizabeth	Peterman	Wrangell	AK		US		Petition	Petition Signed
11/16/2020		Gary	Faber	ocean shores	WA		US		Petition	Petition Signed
11/16/2020		Julia	Pringle-Hernandez	Yoncalla	OR		US	Its time to settle. We have waited long enough.	Petition	Petition Signed
11/16/2020		David	Turner	Ketchikan	AK		US		Petition	Petition Signed
11/16/2020		Mitchell	Haldane	Douglas	AK		US	Supporting Alaska Natives Without Land!	Petition	Petition Signed
11/16/2020	Mr.	george	shumway	shoreline	WA	98133	US		Petition	Petition Signed
11/16/2020		Kayla	horton	Seattle	WA		US		Petition	Petition Signed
11/16/2020		Anne renee	Melody	Athena	OR		US		Petition	Petition Signed
11/16/2020		Peggy	Johnson	Everett	WA		US	Right this wrong!	Petition	Petition Signed
11/16/2020		David	Contreras	Volcano	HI		US		Petition	Petition Signed

11/16/2020		Doug	Berry	Kalispell	MT		US	I was born in Ketchikan in 1962 and lived there for 42 years. My father was half Athebascan but only signed up in 1971 as a 1/4 indian blood because he spent his whole life being decsriminated against. When he was 5 years old they didn't know what to do with him because his mother was obviously 100% native and they had an indian school and a white school. My father grew fighting with whites and fighting with inidians because they both discriminated against him. My mother Nancy Collins Wagner was born in a small Native village in 1934 and her father was a white man who was the school teacher and also worked for the government managing the 100,000 reindeer or caribou herds. My mother was half indian but was never given a birth certificate and her mother was only 14 years old so my grandfather sent her to Ketchikan on a steamship to be raised by her aunt (her father's biological sister) Margaret Wagner Collins who lived at 1228 Tongass Ave Ketchikan which is the house I ended up growing up in after my grand parents died in late 60's and early 70's. My mother was excluded her whole life as was my sisters and we are all well over 1/4 Alaska native blood. For example my aunt (dads sister) Mary Vanwinkle signed up for Cook Inlet native corp and she ended up getting well over half million dollars over her life time where as my father only got peanuts because he lived in Ketchikan and she lived in Anchorage/Fairbanks area. THis is prime example how the Alaska Claims settlement act was totally un fair and S T I L L is and always will be. I know in my life time I will never receive my rightful born as I am dying at 58 yrs old from prostate cancer but I was hoping maybe someday my son would get something. Thank you Douglas Collins Berry born 12-22-1962 Ketchikan Alaska	Petition	Petition Signed
11/16/2020		Carla	Norris	Quartzsite	AZ		US		Petition	Petition Signed
11/16/2020		Rosanna	Angus	Ketchikan	AK		US	9076175184	Petition	Petition Signed
11/16/2020	Ms.	Mckenna	Hunt	Seattle	WA	98103-6220	US	Land Back.	Petition	Petition Signed
11/16/2020		Irma	Hutchinson	Douglas	AK		US	Thank you for your continued support to finalize the ANCSA for the five unrecognized southeast communities.	Petition	Petition Signed
11/16/2020		Aurora	Coronell	Juneau	AK		US		Petition	Petition Signed
11/16/2020		CASEY	JACKSON	SEDRO WOOLLEY	WA		US	Please do right by our people .	Petition	Petition Signed
11/16/2020		Kevin	Lampshire	Stanwood	WA		US		Petition	Petition Signed
11/16/2020		Beth	Ketah	Seattle	WA		US	I am contributing to this movement since it directly affects our family. Here is a direct quote from a cousin with knowledge of the situation. "I just recently found out some information regarding grandma's parents. Some years ago, she asked Sealaska to help her claim the land where her original village was located in Warm Chuck inlet, but that fell through because of federal regulations. Anyway, through reading the documents, I learned that her dad is buried on a tiny island near Warm Chuck creek. I was remarking to my wife the other day that if it were a white family making the claim, we would probably be awarded the property. There is evidence from archaeological digs that our ancestors were there going back 8,000 years." Sadly, I am sure that this is not an uncommon story for many people following this act. Thank you for your time to read this information and considering how you would feel if this were your reality.	Petition	Petition Signed
11/16/2020		Sherri	Clyman	Westmont	NJ		US		Petition	Petition Signed
11/16/2020		Elma	Guthrie	Ketchikan	AK		US	Please pass Senate Bill S. 4891 & House Bill 8751. It has been 50 years. I don't even know how we slipped through crack as far as Village Corporation, but is time to change this injustice for the 5 Tribes. I would like this to happen while my 82 years old Mother & 83 years old Dad. Since I am now 62 I would like to see that you do the right thing. I would like to leave my son something that he can pass on to his children. Elma M. Guthrie P.O. Box 5351 Ketchikan, Alaska 99901	Petition	Petition Signed
11/16/2020	Miss	Doris	Duchene	Beaverton	OR	97005-8914	US		Petition	Petition Signed
11/16/2020		Katherine	Jones	Monroe	WA		US	Been waiting since 1971 for this injustice to be resolved. Surely congress has the time to rectify their past exclusions of these natives & their land & pass this act!	Petition	Petition Signed
11/16/2020		Diane	Scholten	Ferndale	WA		US		Petition	Petition Signed
11/16/2020		Richard	Brock	Petersburg	AK		US	Thank you for recognizing these 5 important southeast native communities!	Petition	Petition Signed
11/16/2020	Mr.	Kenneth	Casey	Seattle	WA	98136-1614	US		Petition	Petition Signed
11/16/2020	Mr.	Will	Race	Juneau	AK	99801-9602	US	#landback	Petition	Petition Signed

At a time when we need to be working in good faith finding solutions involving all sides on issues, meeting and working through to compromises, Senator Murkowski, you are doing exactly the opposite. It is unethical and only builds anger and more divisiveness when you introduce this bill, S4889, and hold hearings a few days later, not even giving anyone time to become familiar with the bill. You do a major disservice to your constituents. The people of Southeast Alaska deserve a chance to examine the bill, consider its ramifications and discuss it in order to resolve this long standing controversial issue. Proper resolution needs to include discussion among all the stakeholders to discuss their differences and possibly find some common ground. That is the democratic way to handle business, not this crass power move.

I am especially concerned about the inclusion of lands within Tenakee Inlet. It is a beautiful area and the watersheds there support a healthy salmon population. The folks who live in Tenakee have been strong defenders of the land around the inlet to ensure they maintain their lifestyle which is heavily dependent on a healthy forest and salmon runs. I fully support their efforts as I have for decades. Tenakee did not meet the original ANSCA requirements and would get much larger per capita acreage than any of the other communities. This is not equitable. Especially within Tenakee Inlet, the parties must meet to find acceptable compromises.

Large scale logging in Southeast Alaska has never been a profitable venture and now, with the importance of Old Growth trees as a source of carbon sequestration, creating corporate models that pretty much depend upon logging the land allocation is backwards. Not only does that harm the planet, it also negatively impacts the traditional lifestyle so important to Natives but also the immigrants of the last 100+ years. What is needed is discussion of models that can be sustainable and create minimal environmental impact; that allow everyone to live sustainable lives here. I think you want to see this happen but this approach will not achieve that.

Sincerely,
Marian Allen
829 Pherson St.
Sitka, AK 99835
marinalallen@hotmail.com

● 350 Central Mass ● 350PDX ● ActionAid ● Alliance of Nurses for Healthy Environments ● Ashfield Affiiliates ● Bark ● Battle Creek Alliance ● Biofuelwatch ● Blue Mountains Biodiversity Project ● California Chaparral Institute ● Cascadia Wildlands ● Center for Biological Diversity ● CAN Western MA ● Climate Hawks Vote ● Concerned Citizens of Franklin County (Massachusetts) ● Conservation Congress ● Christians Caring for Creation ● Deer Creek Valley Natural Resources Conservation Association ● Dogwood Alliance ● Earth Action, Inc. ● Eco Advocates NW ● ecoAmerica ● EFCWest ● Elders Climate Action ● Elders Climate Action - Massachusetts Chapter ● Environmental Caucus of Democratic Party of Oregon ● Environmental Protection Information Center ● Franciscan Action Network ● Friends of Mohawk Trail State Forest ● Friends of the Clearwater ● Friends of the Earth United States ● Friends of the Pelham Hills ● Friends of the Wild Swan ● Global Environmental Options ● Gray Dove ● Green Team, Unitarian Universalist Society of Greater Springfield ● Greenpeace USA ● Greenvironment, LLC ● Illinois Valley Section Sierra Club ● Indivisible Williamsburg ● John Muir Project of Earth Island Institute ● Klamath Forest Allaince ● Klamath-Siskiyou Wildlands Center ● Last Tree Laws ● Leverett Climate Action Group ● Los Padres ForestWatch ● Mass Forest Rescue ● Massachusetts Forest Watch ● Natural Resources Law ● NTS Group, CEA, City of Boulder Energy Tech Team ● Old-Growth Forest Network ● Oregon PSR ● Partnership for Policy Integrity ● People Demanding Action ● People's Justice Council ● Pivot Point ● Rachel Carson Council ● RESTORE: The North Woods ● Save Our Sky Blue Waters ● Sequoia ForestKeeper® ● Shagbark ● Sharon Friends of Conservation ● Social Justice Commission (Episcopal Diocese of Western Mass.) ● Solar Store of Greenfield ● South Congregational Church ● Southeast Faith Leaders Network ● Southern Oregon Climate Action Now ● Standing Trees Vermont ● Sunrise Beaverton ● Sustainable Sharon Coalition ● Swan View Coalition, Inc. ● The Enviro Show ● The Imani Group Inc ● Umpqua Watersheds ● Unitarian Society of Northampton and Amherst ● Unitarian Society of Northampton and Florence Climate Action Group ● University of Oregon Climate Justice League ● Upper Valley Affinity Group (Vermont) ● Vermonters for a Clean Environment ● WECAN International ● Wendall State Forest Alliance ● Wild Nature Institute ● Willamette Riverkeeper ● Williams Community Forest Project ● WSFA ● Yellowstone to Uintas Connection ●

November 18, 2020

RE: Oppose S. 4603 *The Forest Health and Biomass Energy Act of 2020*

Dear Senators,

We the undersigned conservation, climate, environmental justice, and faith-based organizations and individuals urge you to oppose S. 4603, "The Forest Health and Biomass Energy Act of 2020" (Senator McSally, R-AZ). This bill, based upon a list of findings that are disconnected from the scientific record, would utilize taxpayer dollars to exacerbate the climate crisis, harm biodiversity, and pollute communities while not only failing to stop weather-driven wildfires but often making them burn more intensely.

At its core, S. 4603 is simply a logging bill that attempts to further subsidize the cutting of trees from National Forest lands for the purpose of incinerating those trees, or parts of trees, to produce energy. Here is why this is a bad idea.

First, weather-driven fires, a term which describes every large fire we have experienced in the West, not just this year, but historically too, are overwhelmingly a product of high temperatures, low humidity, drought, and extreme winds--not forest density or the presence of dead trees ("snags"). Far from reducing the effects or spread of wildfire, this bill would allow small and medium-sized live trees and dead trees of any size to be cut for free, essentially anywhere in our National Forests, reducing tree canopy and therefore moisture in our forests, eliminating the buffering effect standing trees have on windspeeds and spreading easily ignitable invasive grasses throughout these areas. All of these effects would increase, not decrease wildfire activity.

Second, the extreme weather events we are experiencing today (which are driving wildfires) are being exacerbated by climate change. Standing trees, dead or alive, store and sequester vast amounts of carbon. Logging is an inherently climate polluting activity. This is because about 70% of the carbon in trees that are logged ends up in the atmosphere almost immediately. This goes up to 100% when trees are incinerated as biomass. Further, logging equipment, such as chainsaws, trucks, bulldozers, and feller bunchers all spew carbon dioxide and other pollutants into the atmosphere while the act of logging itself damages forest ecosystems, disrupting soil carbon storage as well as long-term ecosystem productivity. This is a double whammy for climate change impacts, because not only is stored carbon rapidly released into the atmosphere but the ability of our forests to sequester carbon is immediately reduced with lasting and cumulative impacts.

Third, burning trees for energy emits more greenhouse gases and toxic pollutants than burning coal for equal energy produced. A typical 50 MW biomass power plant emits a ton of carbon dioxide per minute. In addition to the climate change impacts, the co-pollutants emitted, such as particulates, nitrogen oxides, carbon monoxide, sulfur dioxide, lead, mercury, and others, impact the health of communities where such biomass facilities are disproportionately located-- low-income areas and communities of color - making biomass energy production a significant environmental justice issue. Further subsidizing this industry, which would not exist absent a handout of taxpayer dollars coupled with ratepayer increases, would funnel more federal money into increasing pollution impacts to communities throughout the West.

Fourth, incentivizing logging means incentivizing the removal of habitat, further disrupting our native ecosystems and harming plant and animal species. Fire is a natural part of these ecosystems, and even today, the great majority of areas in wildland fires burn at low and moderate intensity, with a smaller portion (usually 5-30%) of any given fire burning at high intensity. Yet study after study has shown that areas that burn at high-intensity (and are not post-fire logged) contain levels of biodiversity akin to those found in old-growth forests. Logging is not a natural process and the more it occurs on the landscape the greater harm it generates.

S. 4603 would prop up a destructive industry and further commodify our National Forests at the expense of any other use or ecosystem benefit while intensifying wildfires that increasingly intersect with communities and worsening the climate crisis. We need new ideas and better policies if we are going to gain ground on climate change and protect the disenfranchised and our ecosystems. If you are seeking legislation to support which would help communities be prepared for wildfires, we urge you to support S. 2882 The Wildfire Defense Act, introduced by Vice-President

Elect, Senator Kamala Harris. This bill is focused on what we can actually control - how to protect homes from burning down - rather than pretending we can reduce extreme weather events by removing trees from our forest ecosystems.
Sincerely,

Organizational sign-ons:

Katie Huffling
Executive Director
Alliance of Nurses for Healthy Environments

Delta Carney
Ashfield Affiiliates

Brenna Bell
Staff Attorney
Bark

Mary Camp
President
Deer Creek Valley Natural Resources Conservation Association

Marily Woodhouse
Director
Battle Creek Alliance

Rita Frost
Campaigns Director
Dogwood Alliance

Rachel Smolker
Codirector
Biofuelwatch

Mary Gutierrez
Director
Earth Action, Inc.

Paula Hood
Co-Director
Blue Mountains Biodiversity Project

Shannon Wilson
Director
Eco Advocates NW

Richard Halsey
Director
California Chaparral Institute

Meighen Speiser
Executive Director
ecoAmerica

Dylan Plummer
Grassroots Organizer
Cascadia Wildlands

Sarah Diefendorf
Director
EFCWest

Lauren Packard
Staff Attorney
Center for Biological Diversity

Steve Simon
Chair, Policy Committee
Elders Climate Action

RL Miller
Co-Founder and Political Director
Climate Hawks Vote

Maiyim Baron
Leadership Team
Elders Climate Action - Massachusetts Chapter

Janet Sinclair
Director
Concerned Citizens of Franklin County
(Massachusetts)

Connie Hanson
Director
Christians Caring for Creation

Denise Boggs
Director
Conservation Congress

Jason Miller
Director of Campaigns and Development
Franciscan Action Network

Monica Leverett
Friends of Mohawk Trail State Forest

Gary Macfarlane
Eexecutive Director
Friends of the Clearwater

Jeff Conant
Senior International Forests Program
Manager
Friends of the Earth United States

Elizabeth Pols
Founding member
Friends of the Pelham Hills

Arlene Montgomery
Program Director
Friends of the Wild Swan

Dr. Stephen Frantz
Global Environmental Options

Catherine Thomasson
Vice-ChairEnvironmental Caucus of
Democratic Party of Oregon

Mary Guiterrez
Director
Earth Action, Inc.

Thomas Wheeler
Executive Director
Environmental Protection Information Center

Chad Hanson, Ph.D.
Executive Director and Priciple Ecologist
John Muir Project of Earth Island Institue

Kimberly Baker
Executive Director
Klamath Forest Allaince

Peggy Wolff
Leverett Climate Action Group

Bryant Baker
Conservation Director
Los Padres ForestWatch

Glen Ayers
President
Mass Forest Rescue

Chris Matera
Founder
Massachusetts Forest Watch

René Voss
Director
Natural Resources Law

Patricia Crotty
Editor
Gray Dove

Verne Mcarthur
Green Team
Unitarian Universalist Society of Greater Springfield

Amy Moas, Ph.D.
Senior Forest Campaigner
Greenpeace USA

Mary Booth, Ph.D.
Director
Partnership for Policy Integrity

Andrea Miller
Executive Director
People Demanding Action

Michael Malcom
Executive Director
People's Justice Council

Peter Riggs
Director
Pivot Point

Bob Musil
President & CEO
Rachel Carson Council

Michael Kellett
Executive Director
RESTORE: The North Woods

Alison Burchell
NTS Group, CEA,
City of Boulder Energy Tech Team

Lea Sloan
Board of Directors
Old-Growth Forest Network

Lluvia Merello
Energy Justice Organizer
Oregon PSR

Rev. Dr. Margaret Bullitt-Jonas
Missioner for Creation Care, Episcopal Diocese of Western Mass.
Social Justice Commission (Episcopal Diocese of Western Mass.)

Claire Chang
Solar Store of Greenfield

Nathalie
Green Team, chair
South Congregational Church

Alan Journet
Co-facilitator
Southern Oregon Climate Action Now

Mark Nelson
Founding Member
Standing Trees Vermont

Pedro Evenezer
Hub Organizer
Sunrise Beaverton

Paul Lauenstein
Sustainable Sharon Coalition

Lori Andresen
President
Save Our Sky Blue Waters

Ara Marderosian
Executive Director
Sequoia ForestKeeper®

Andy Mahler
Director
Shagbark

Kasey Hovik
Executive Director
Umpqua Watersheds

Dr. Nicholas Warren
Unitarian Society of Northampton and Amherst

Edward Olmstead
Co-Chair
Unitarian Society of Northampton and Florence Climate Action Group

Courtney Kaltenbach
Co-Director
University of Oregon Climate Justice League

Geoffrey Gardner
Communications Director
Upper Valley Affinity Group (Vermont)

Annette Smith
Executive Director
Vermonters for a Clean Environment

Leonore Alaniz
Tree Ally
Wendell State Forest Alliance

Keith Hammer
Chair
Swan View Coalition, Inc.

Don Ogden
Producer
The Enviro Show

Brendolyn Boseman
Executive Director
The Imani Group Inc

Monica Bond, PhD
Principal Scientist
Wild Nature Institute

Elisabeth Holmes
Staff Attorney
Willamette Riverkeeper

Cheryl Bruner
Secretary
Williams Community Forest Project

Laurel Facey
WSFA

Jason Christensen
Director
Yellowstone to Uintas Connection

Dallas Conyers
Coordinator
Southeast Faith Leaders Network

Sue Sullivan
NHS Env. Club

Kurt Buermann
President
Sharon Friends of Conservation

Kelly Stone
Senior Policy Analyst
ActionAid

Janet Cason
President
350 Central Mass.

Chris Palmer
Communications Manager
350PDX

Silva Solaun
Executive Director
NJ Forest Watch Friends of Sparta Mountain

Ellen Moyer
Owner
Greenvironment, LLC

Darcy Sweeney
Climate Action Now Western
Mass. Joseph Vaile
Climate Director
Klamath-Siskiyou Wildlands Center

Osprey Orielle Lake
Executive Director
WECAN International

Norene Roberts
Indivisible Williamsburg

Kristin Beatty
Last Tree Laws

Individuals: organizations listed for identification purposes only

Edward Woll
Marilyn Ray Smith
Gas Leaks Alliance

Anne O'Conner
Williamstown Select Board

Susan Waltner

Adele Gilbert
Sharon Moulton
Climate Action Now Western MA

Ralph Baker
Environmental Scientist

Vivian Scott

Susan Triolo

Susan Garrett
Climate Action Now

Sarah Griffith
HEET

Marguerite Behringer
Clean Energy Action

Kenneth Lederman
Sugar Shack Alliance

Judy Todd
Great Old Broads for Wilderness
Nature Connect NW

Sue Craig
350.0rg, Interfaith EarthKeepers

Roslyn Feldberg

Louise Quigley
Jewish Climate Action Network

Abigail Franks
SCEN

Roger Luckmann

Judie Wagner

Gloria Kegeles
John Cohen
Miriam and Mike Kurland
Wendell State Forest Alliance

Anne Mellinger-Birdsong

Jean O'Neil
PhD Ecologist, Retired

Charles Dudek

Charles Flammer
Elders Climate Action

American Exploration &
Mining Association
EST. 1895

16201 E. Indiana Ave., Suite 32801
Spokane Valley, WA 99216
(509)624-1158 - www.miningamerica.org

November 16, 2020

Honorable Lisa Murkowski, Chairman
Senate Committee on Energy & Natural Resources
304 Senate Dirksen Office Building
Washington, D.C., 205105

Honorable Mike Lee, Chairman
Senate Subcommittee on Public Lands, Forests, and Mining
304 Senate Dirksen Office Building
Washington, D.C., 205105

Honorable Joe Manchin, Ranking Member
Senate Committee on Energy & Natural Resources
304 Senate Dirksen Office Building
Washington, D.C., 205105

Honorable Ron Wyden, Ranking Member
Senate Subcommittee on Public Lands, Forests, and Mining
304 Senate Dirksen Office Building
Washington, D.C., 205105

RE: S. 2804, the Pershing County Economic Development and Conservation Act

Dear Chairmen and Ranking Members,

The American Exploration & Mining Association ("AEMA") is pleased to support *S. 2804, the Pershing County Economic Development and Conservation Act*, and we urge the Subcommittee on Public Lands, Forests, and Mining and the full Senate Committee on Energy and Natural Resources to advance this bi-partisan legislation introduced by Sen. Cortez-Masto.

AEMA applauds the visionary approach S. 2804 takes to resolve the longstanding challenge of managing the checkerboard lands in Pershing County, Nevada. This 40-mile-wide zone of alternating sections of public and private lands is difficult and costly for both landowners and the Bureau of Land Management ("BLM") to manage. The process in S. 2804 to privatize some of the public land sections within the checkerboard will be a win-win for landowners, BLM, and Pershing County.

First, S. 2804 will help landowners realize the full potential of the lands they already hold by creating contiguous blocks of private land that can be more readily developed into responsible projects that will provide jobs and tax revenue to Pershing County. Secondly, the expedited process in S. 2804 for selling lands that BLM has already identified as being suitable for disposal will allow the agency to better meet its mandate to more effectively manage its resources on public lands with higher natural resource values. BLM also will receive a portion of the proceeds from the land sales, which will help fund future conservation programs in Pershing County. Finally, S. 2804 will directly benefit Pershing County and its rural residents by increasing the private land tax base, reducing the County's reliance on PILT, and stimulating economic growth and diversification.

AEMA, in particular, supports Section 104 of the bill, which provides mining companies in Pershing County the opportunity to purchase the lands where their operations are located. Privatizing these mining lands provides economic certainty to all the stakeholders, including the local taxpayers.

Several of our member companies worked closely with the Pershing County Commissioners, Pershing County residents, and members of Congress during the public dialogue that formed the foundation for S. 2804. AEMA endorses the collaborative approach that Pershing County used to develop this land bill and suggests that this grassroots process should be adopted as a template for the right way to develop future land bills elsewhere. We urge the Committee to adopt and send S. 2804 forward for full Senate consideration.

Who We Are

AEMA is a 125-year old, 1,600 member national association representing the minerals industry with members residing in 44 U.S. states (including Nevada), 7 Canadian provinces or territories, and 10 other countries. AEMA is the recognized national voice for exploration and access to public lands and represents the entire mining life cycle, from exploration to reclamation and closure.

Sincerely,

Mark O Compton

Mark Compton
Executive Director

AMERICAN WHITEWATER

P.O Box 1540
Cullowhee, NC 28723
info@americanwhitewater.org
1-866-262-8429

November 17th, 2020

Senator Mike Lee, Chairman
Public Lands, Forests, and Mining Subcommittee
304 Dirksen Senate Building
Washington, DC 20510

Senator Ron Wyden, Ranking Member
Public Lands, Forests, and Mining Subcommittee
304 Dirksen Senate Building
Washington, DC 20510

RE: Public Lands, Forests, and Mining Subcommittee Legislative Hearing, S. 2875, *Smith River National Recreation Area Expansion Act* (Merkley).

Dear Chairman Lee and Ranking Member Wyden:

On behalf of the whitewater paddling community, American Whitewater writes to express our appreciation for holding a hearing on S. 2875, *Smith River National Recreation Area Expansion Act*. This legislation would afford new protective designations for whitewater rivers that are of value to our membership and protect the recreational paddling experience.

We are tremendously pleased by, and grateful for, the Committee's work to secure the passage of the John D. Dingell, Jr. Conservation, Management, and Recreation Act as well as the Great American Outdoors Act earlier this Congress; we believe the Committee has an opportunity to capitalize on the momentum of this success and work toward passage of similarly well developed legislation that protects and enhances opportunities for outdoor recreation that include whitewater paddling.

About American Whitewater

American Whitewater is a national non-profit 501(c)(3) river conservation organization founded in 1954 with approximately 50,000 supporters, 6,000 dues-paying members, and 100 local-based affiliate clubs, representing whitewater enthusiasts across the nation. American Whitewater's mission is to protect and restore America's whitewater rivers and to enhance opportunities to

enjoy them safely. The organization is the primary advocate for the preservation and protection of whitewater rivers throughout the United States, and connects the interests of human-powered recreational river users with ecological and science-based data to achieve the goals within its mission. Our vision is that our nation's remaining wild and free-flowing rivers stay that way, our developed rivers are restored to function and flourish, that the public has access to rivers for recreation, and that river enthusiasts are active and effective river advocates. Our members live, work, and recreate in the Smith River watershed.

Support for S. 2875, Smith River National Recreation Area Expansion Act

American Whitewater strongly supports S. 2875, *Smith River National Recreation Area Expansion Act,* introduced by Senator Merkely and co-sponsored by Senators Wyden and Feintsein. The North Fork of the Smith River, originating with its headwaters in Oregon and flowing through California, is recognized as one of the nation's premiere whitewater runs, featuring clear blue water, high quality rapids, and spectacular scenery. The watershed is characterized by rare hydrologic and botanical resources, that the legislation appropriately recognizes, as well as unique opportunities for backcountry recreation.

In 1990, Congress enacted legislation to establish the Smith River National Recreation Area (NRA) to protect the watershed, but the boundary of the NRA stopped at the Oregon border, leaving the North Fork of the Smith River and its tributaries unprotected. The proposed legislation would expand the Smith River National Recreation Area by 58,000 acres protecting the diverse ecosystems of this watershed and providing consistent management for the recreational opportunities our members enjoy in this spectacular landscape. Additionally, the legislation would extend Wild and Scenic designation to the upper watershed of the North Fork of the Smith River and includings its major tributaries. This would further protect one of the west coast's last free-flowing rivers and a special place for all who enjoy wild rivers.

North Fork of the Smith River and its headwater tributaries are beloved by our members and many river enthusiasts, and we support their protection with this legislation. On behalf of the whitewater paddling community, thank you again for holding this hearing, and we look forward to continuing to work with you in support of conservation and recreation values on our country's public lands and waters.

Sincerely,

Thomas O'Keefe, PhD
Pacific Northwest Stewardship Director

AMERICAN WHITEWATER

P.O Box 1540
Cullowhee, NC 28723
info@americanwhitewater.org
1-866-262-8429

November 24th, 2020

Senator Mike Lee, Chairman
Public Lands, Forests, and Mining Subcommittee
304 Dirksen Senate Building
Washington, DC 20510

Senator Ron Wyden, Ranking Member
Public Lands, Forests, and Mining Subcommittee
304 Dirksen Senate Building
Washington, DC 20510

RE: Public Lands, Forests, and Mining Subcommittee Legislative Hearing, S. 2875, Colorado Outdoor Recreation and Economy Act S. 241/H.R. 823 (Bennet/Neguse).

Dear Chairman Lee and Ranking Member Wyden:

On behalf of the whitewater paddling community, American Whitewater writes to express our appreciation for holding a hearing on S. 241, *Colorado Outdoor Recreation and Economy Act (CORE Act)*. This legislation would afford new protective designations for watersheds across Colorado, provide both intrinsic and economic value to our membership, and protect the recreational paddling experience.

We are tremendously pleased by, and grateful for, the Committee's work to secure the passage of the John D. Dingell, Jr. Conservation, Management, and Recreation Act as well as the Great American Outdoors Act earlier this Congress. We believe the Committee has an opportunity to capitalize on the momentum of this success and work toward passage of similarly well developed legislation that will provide generational protection for some of Colorado's most iconic and beautiful landscapes. The CORE Act has broad local stakeholder support, and enhances opportunities for outdoor recreation of all types, including whitewater paddling.

American Whitewater is a national non-profit 501(c)(3) river conservation organization founded in 1954 with approximately 50,000 supporters, 6,000 dues-paying members, and 100 local-based affiliate clubs, representing whitewater enthusiasts across the nation. American Whitewater's mission is to protect and restore America's whitewater rivers and to enhance opportunities to enjoy them safely. The organization is the primary advocate for the preservation and protection of whitewater rivers throughout the United States and connects the interests of human-powered recreational river users with ecological and science-based data

to achieve the goals within its mission. Our vision is that our nation's remaining wild and free-flowing rivers stay that way, our developed rivers are restored to function and flourish, that the public has access to rivers for recreation, and that river enthusiasts are active and effective river advocates. Our members live, work, and recreate in the Smith River watershed.

Support for S. 241, Colorado Outdoor Recreation and Economy Act

American Whitewater strongly supports *S. 241, Colorado Outdoor Recreation and Economy Act*, introduced by Senator Bennet and introduced by Representative Neguse in the House of Representatives as *H.R. 823* and the same title. The landscapes and watersheds that are protected within the CORE Act are cherished by American Whitewater members and recreationists of all backgrounds. The Thompson Divide, which would see extractive industries prohibited, while maintaining invaluable grazing for local ranchers, provides iconic vistas and protects water quality for important recreation on the Crystal River. Curecanti National Recreation Area will protect the Gunnison River as it runs through the iconic Black Canyon. Paddling on the Eagle River starts high up in the drainage at its source within the Camp Hale boundary. These areas protect some of the premiere whitewater runs in Colorado, featuring crystal clear water, high quality rapids, and spectacular scenery. These watersheds are characterized by high alpine mountain peaks sitting against picturesque forest, that the legislation appropriately recognizes, as well as unique opportunities for all types of recreation.

The areas encompassed in the CORE Act are beloved by our members and many river enthusiasts, and outdoor adventurers of all backgrounds. We emphatically support their protection with this legislation. On behalf of the whitewater paddling community, thank you again for holding this hearing, and we look forward to continuing to work with you in support of conservation and recreation values on our country's public lands and waters.

Sincerely,

Hattie Johnson
Southern Rockies Stewardship Director

Ian Stafford
Colorado Policy Strategist

Pershing County Economic Development and Conservation Act

S. 2804

Senate Energy and Natural Resources Committee

Testimony of Americas Gold & Silver Corporation, Pershing Gold Corporation, and Gold Acquisition Corp.

Phillip Dalke

General Manager, Relief Canyon Mine, Pershing County, Nevada

November 18, 2020

Chairwoman Murkowski, please accept for the record, this testimony of Americas Gold & Silver Corporation (AG&SC) and our subsidiaries Pershing Gold Corporation and Gold Acquisition Corp. in support of S. 2804, the Pershing County Economic Development and Conservation Act. We very much appreciate the tireless efforts of Nevada's two senators, Senator Catherine Cortez Masto and Senator Jackie Rosen to advance this bill. AG&SC is a publicly traded company listed on the New York Stock Exchange (USAS) and the Toronto Stock Exchange (USA). One of our key U.S. assets is the Relief Canyon Mine in Pershing County, Nevada, where we employ nearly 200 people. Gold Acquisition Corp. is the operator of the Relief Canyon Mine. I am the General Manger of this mine.

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. The checkerboard land configuration makes it very difficult for Pershing County to achieve important economic diversification objectives. The checkerboard also complicates the Bureau of Land Management's (BLM's) management of the public sections of lands because the alternating land ownership pattern can interfere with environmental conservation objectives. The Pershing County Economic Development and Conservation Act as proposed in S. 2804 is the solution to this problem.

Pershing Gold and Gold Acquisition Corp. are proud to be one of the many stakeholders who helped craft this bi-partisan, grassroots-led effort to solve the checkerboard land conundrum. We worked with the Pershing County Commissioners and numerous Pershing County residents to develop a consensus-based proposal for managing the County's checkerboard 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.

The bill authorizes the sale or exchange of certain lands in Pershing County. Title I defines "eligible lands" that BLM has already identified for disposal. Title I also describes "encumbered lands" that are active mining operations that are currently off limits to the public for safety reasons.

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;

- Creating the Pershing County Special Account that the Secretary can use to acquire lands with important environmental, conservation, and multiple use characteristics and to improve public land management on the checkerboard lands in Pershing County;

- 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 eligible 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 encumbered 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.

Using the process described in Title I, Pershing County Commissioners and the Secretary of the Interior could nominate eligible public lands that BLM has already designated as suitable for disposal in the checkerboard for sale or exchange to qualified purchasers. These sales would consolidate lands into more manageable contiguous blocks of public and private land. The land sales would bring new jobs and economic development to Pershing County, expand the County's private-property tax base, and produce much needed tax revenue. The sales would also provide BLM with funds that can be used to purchase lands with important conservation values.

Title I would authorize Gold Acquisition Corp. and other mining companies to purchase the encumbered lands where our mining operations are located. These sales would be based on a fair market value of the lands. The sale of the encumbered lands would achieve several desirable objectives. First, it would enhance the value of the mining assets. Secondly, it would increase Pershing County's private land tax base. Third, the general public would benefit because BLM would be provided with funds that could be used to purchase lands to achieve important conservation and land management objectives.

During active mining operations, there is restricted access to the mining operations on the encumbered lands due to safety reasons. Although the mined lands will ultimately be reclaimed and returned to multiple use, the reclaimed lands will not have high resource values that would make them attractive locations for public use. S. 2804 would result in a net increase in public lands with high resource values because 85 percent of the revenues from the sales of the mining claims would be retained by the Secretary to purchase other lands in Pershing County for recreation, wildlife habitat preservation and enhancement, protection of important cultural resources, and access to landscapes that are more important to the public.

Another important benefit of privatizing the encumbered lands is that the resulting private land could support a much broader range of post-mining land uses than would be achievable if these lands remain in the public domain. For example, reclaimed mine sites could be redeveloped into renewable energy (especially solar) facilities that capitalize upon the existing transmission lines, pipelines, roads, and other infrastructure. Because many of the mining claims on the encumbered lands are located near the Interstate-80 corridor, industrial parks, warehouses, or other brownfields redevelopment would likely be feasible. Post-mining redevelopment would provide a sustainable source of jobs and tax revenues for Pershing County.

The environmental safeguards currently in place at 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) obligations would continue to govern our operation as those in effect today.

As shown in Table 1, the environmental permitting and protection requirements for Pershing County mining projects would be largely identical following enactment of S. 2804. The State of Nevada's comprehensive permitting requirements would still govern mine development. The only

substantive difference would be that a BLM Plan of Operations would no longer be required. The financial assurance (e.g., reclamation bonding) amount would be the same following enactment because BLM and NDEP use the NV Standardized Reclamation Cost Estimating (SRCE) software tool to calculate the required bond amount, which is uniformly applied on public and private lands.

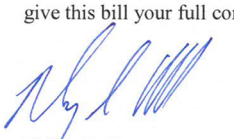
Table 1
Environmental Permitting and Protection Requirements would Continue to Govern Mines on Encumbered Lands Sold Under S. 2804

Partial List of Required Permits for Nevada Mining Operations	Before Enactment	After Enactment
Federal Permits		
BLM Plan of Operations	✓	No
BLM/NDEP Reclamation Bond	✓	✓
US Army Corps of Engineers 404 Permit (if applicable)*	✓	✓
US EPA/NDEP Hazardous Waste Management Permit	✓	✓
U.S. Fish & Wildlife Service (if project affects T&E species habitat)	✓	✓
Bureau of Alcohol Tobacco & Firearms Explosives Permit	✓	✓
Mine Safety and Health Administration Permit	✓	✓
Nevada State Permits		
NDEP Plan of Operations/Reclamation Permit	✓	✓
NDEP Water Pollution Control Permit	✓	✓
NDEP NPDES Surface Water Discharge Permit (if applicable)*	✓	✓
NDEP Class I Air Quality Operating Permit	✓	✓
NDEP Class II Air Quality Operating Permit	✓	✓
NDEP Nevada Mercury Operating Permit	✓	✓
NDEP Class III Landfill Waiver	✓	✓
NDEP Stormwater Permit (if applicable)*	✓	✓
NDEP Underground Injection Permit (if applicable)	✓	✓
NDEP Onsite Sewage Disposal System (Septic System) Permit	✓	✓
NDEP Potable Water System Permit	✓	✓
NV Department of Wildlife Industrial Artificial Pond Permit	✓	✓
NV Department of Water Resources Water Rights Permits	✓	✓
NV Department of Water Resources Dam Safety Permit **	✓	✓
Pershing County Permits		
Pershing County Special Use and Building Permits	✓	✓

* Some Pershing County projects may not require these permits due to the arid setting and general lack of surface water features
** Required for projects with impoundments higher than 20 feet or ponds that store more than 20 acre-feet.

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 Pershing County stakeholders who have worked for more than a decade on solving the challenges associated with the vast swath of checkerboard lands in the County. I also want to commend the work and dedication of Senators Cortez Masto and Rosen and their leadership in developing the Pershing County Economic Development and Conservation Act. S. 2804 is a win-win for everybody. I urge this committee to give this bill your full consideration and pass it as soon as possible.



Phillip Dalke
General Manger, Relief Canyon Mine

November 17, 2020

The Honorable Mike Lee
Chairman
Subcommittee on Public Lands, Forests & Mining
Senate Energy and Natural Resources Committee
304 Dirksen Senate Building
Washington, DC 20510

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

RE: S. 1695, Opposition to the "Human-Powered Travel in Wilderness Areas Act"

Chairman Lee, Ranking Member Ron Wyden and Members of the Subcommittee:

I am writing to express the position of Back Country Horsemen of America on S. 1695, the "Human-Powered Travel in Wilderness Areas Act." On behalf of our members, which include Back Country Horsemen of Oregon and Back Country Horsemen of Utah, we strongly oppose S. 1695. We respectfully request that you also oppose this unnecessary and divisive legislation.

If enacted, S. 1695 could facilitate the opening of federal wilderness areas to any number of forms of mechanized travel, most notably mountain bike use. The effect of allowing bike use in wilderness would threaten the very character of the National Wilderness Preservation System. As such, S. 1695 would serve to undermine our nation's bedrock landscape conservation tool, the 1964 Wilderness Act.

The Wilderness Act has been used by Congress for over half a century to protect unparalleled landscapes and the primitive and unconfined recreational experience enjoyed by horsemen and women. Our members continue to be alarmed at the rapid diminishment of these recreational opportunities on landscapes throughout the nation. We view S. 1695 as a significant threat to the public's long-standing use and enjoyment of federal public lands and, specifically, to the safety and enjoyment of wilderness by horsemen and women who place great value on

P.O. Box 1182 | Columbia Falls, MT | 59912-1182
Toll Free 860-586-7540 | www.bcha.org

congressionally-designated wilderness as a last and final respite from the hectic pace of modern society.

Horsemen continue to be displaced by the growing popularity of mountain bike use on non-Wilderness lands. While about three percent (**3%)** of federal public land in the lower 48 states is protected as congressionally-designated wilderness; the remaining **97%** is open to motorized and mechanized recreation. There remains an abundance of non-Wilderness federal lands that are open to mountain biking and where additional mountain bike trails and opportunities continue to be created. Yet for horsemen, bike use in the remaining 3% of designated Wilderness could represent a significant safety hazard and would further serve to displace horseback use given that:

- Wilderness trails were neither designed, nor are they maintained, for mountain bike use and their relatively rapid speeds. Combined with their often silent approach, bike use in Wilderness would create significant safety hazards for horsemen especially on steep, narrow or winding trails.
- Bikes in Wilderness would represent a serious safety hazard for persons on horseback or those leading a pack string, when a bike could startle the least-trained horse or mule within a pack string and could bolt and/or endanger the entire party.
- The Wilderness Act's promise of solitude or a primitive and unconfined recreational experience would be lost if horsemen were forced to constantly scan the trail ahead and over their shoulder for rapidly approaching bikes.

Back Country Horsemen are strongly opposed to S. 1695. The bill, if enacted, would undermine one of our nation's bedrock conservation laws and derail decades of work to bring mountain bicyclists, hikers, horsemen, hunters, recreation organizations and conservationists together. We strongly urge you to reject this proposal.

Sincerely,

Darrell Wallace
Chairman

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

I am opposed to this Bill.

These five communities were originally denied corporation status during the original Native Lands Settlement Act as they did not meet the criteria. These 5 communities have since tried several times without success to have the original rulings overturned.

I have lived in Tenakee Springs Alaska since 1980 and if this bill passes the effects on the area where I live would be profound with negative impacts.

Many of the Tenakee selections could have serious ecological ramifications. For example, privatizing and developing the Tenakee-Port Frederick Portage area could potentially block most wildlife migration into and out of NW Chichagof Island. The logging of old growth forest would impact the water sheds that harbor rich salmon spawning stream's located within the land parcels. This in turn effects local fisherman that make their livings commercial salmon fishing in the area and all of us that participate in subsistence fishing.

Tenakee is different than the other four groups seeking corporate status. The other groups met some of the original ANCSA requirements and have considerably larger membership. The Tenakee group did not meet ANCSA criteria, yet its members would get a much larger acreage per capita than the other groups.

Why is Senator Murkowski trying to rush through this complex legislation during a lame duck session, and holding a hearing less than a week after introduction. If passed, this bill will have huge impacts on Southeast Alaska, and Alaskans deserve an opportunity to examine this bill and understand its potential consequences.

Ms. Beret Barnes
PO Box 502
Tenakee Springs, AK 99841

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

The Honorable Joe Manchin United States Senate
306 Hart Senate Building
Washington, D.C. 20510

Subject: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to express the following urgent concerns regarding the recently submitted Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889). Many significant questions remain unanswered by Senator Murkowski, provoking a recent Borough of Petersburg letter[1] requesting Senator Murkowski to *delay* and withdraw this legislation until a myriad of complex issues get clarified.

Unfortunately, the rushed timeline and recent (Nov.10th, 2020) submission has precluded public hearings in the directly affected communities. There has been great dismay, controversy and divisiveness with no transparency of process with S.4889 which undermines the political legitimacy of this bill.

False Premises of Entitlement and Eligibility

Of particular concern is Section 7, *"Recognition and Compensation of Unrecognized Native Communities in Southeast Alaska."* Firstly, these concerns start with the demonstrably false premises of the Section 7 title.

"Recognition and Compensation"

Native residents of the 5 communities mentioned in this bill were *fully recognized* in all ANCSA proceedings and remain *generously compensated* as Urban/At Large ANCSA shareholders receiving

[1] https://www.kfsk.org/2020/11/18/petersburg-assembly-asks-for-more-time-on-landless-natives-legislation/

the lion's share of Sealaska ANCSA 7(i) distributions. The current 2020 Shareholder Spring Distributions for these residents totaled almost 4 times *more per share* than village corporation shareholders.[2]

Secondly, the legislative record is very clear as to *precisely why* the Native residents of these 5 communities were found to be ineligible. Senator Murkowski's serial failed attempts to rewrite history and ANCSA's bipartisan proceedings speaks for itself. Please do not enable Senator Murkowski's naked exploitation of Chairmanship to unilaterally override bipartisan Acts of Congress.

ANCSA as a Failed Social, Cultural, Economic and Environmental Experiment.

As important and urgent as the 1971 Alaska Land Claims Settlement Act was for exploiting the petroleum reserves of Prudhoe Bay, for which state revenues were made singularly dependent, the legislation corporatized over 260 indigenous tribal entities, thus perpetuating the same neocolonial/ multinational corporate plantation extractivism practiced in third world countries as well as America's own Appalachia.

Alaska's failed social, environmental and economic policies are directly at the center of Alaska's multibillion dollar protracted fiscal crisis in the second decade of the 21st Century. Still, Alaska's tax policy remains among the lowest of all 50 states.

Senator Murkowski and her predecessor/appointer father (Frank Murkowski) both personally own full responsibility for not only ignoring a dysfunctional, unsustainable, utterly failed social and economic policy, but bear moral responsibility for perpetuating it — *at all social and environmental costs.*

---

[2] https://www.sealaska.com/shareholders/sealaska-announces-spring-2020-shareholder-distribution/

Alaska's social metrics speak for themselves. Whether ranking at the top of public corruption convictions per capita in all 50 states[3] (2013) or at the bottom percentiles of social metrics of the entire US, decades of social scientists' research have also documented Alaskan Native communities are still in the grip of ANCSA's failed social and cultural legacies. National registers annually demonstrate the communities of Alaska have amongst the highest rates of infant mortality, domestic violence, suicide, sexual abuse, and substance abuse in the entire nation. Alternatively Alaska has among the lowest measures of health and quality of life. S.4889 will perpetuate rather than mitigate these social and cultural tragedies.[4]

S. 4889 perpetuates environmental tragedies of Climate Catastrophe, Ocean Acidification, and Ecological Crises

This hotly contested and politically incendiary legislation introduced by Senator Murkowski further expands and imposes her multi-national corporate agenda on the Tongass National Forest. This occurs to the exclusion of ecosystem integrity, and the sustainable economic policy upon which all rural communities of the Tongass depend.

ANCSA's model of privatization of public lands and resources, environmental deregulation, and unsustainable corporate asset stripping of the most biologically valuable and at-risk watersheds of the Tongass National Forest, are at the center of

---

[3] http://www.ktoo.org/2014/06/16/alaska-tops-corruption-rankings-policy-journal/

[4] 2010 Kirk. Dombrowski, "The White Hand of Capitalism and the End of Indigenism as We Know It." *The Australian Journal of Anthropology* 21:129-140.
2008 Kirk Dombrowski "Reply: What's changed (since 1975)?" *Dialectical Anthropology* 32(1-2): 43-50.
2007 Kirk Dombrowski "Subsistence Lifestyle, Native Identity and Internal Differentiation in Southeast Alaska." *Anthropologica: The Journal of the Canadian Anthropology Society* 49(2):211-229.
2004 Kirk Dombrowski "The Politics of Native Culture" in T. Biolsi (ed) *A Companion to the Anthropology of American Indians* pp. 360-382. Malden MA: Blackwell Publishing.
2002 Kirk Dombrowski "Billy Budd, Choker-Setter: Native American Culture and Indian Work in the Southeast Alaska Timber Industry." *International Labor and Working Class History* 62:121-142.

this ecological crisis. S. 4889 will only exacerbate and accelerate our regional ecological and social collapse.

The Tongass is globally known as the "Crown Jewel" of America's national forest system, not a corporate tree plantation which will never provide the ecosystem integrity necessary for maintaining the world's most sustainable and largest wild salmon runs. The last two years have been disasters for the commercial salmon fisheries, while tourism has also taken a hit. We must reverse Native corporate extractivist policies rather than expand their environmentally destructive practices which endanger legitimate and sustainable sectors as mainstays of our regional economy.

Conclusion

The 49 year history of ANCSA speaks for itself as the final act of post-genocidal assimilation of Tlingit, Tsimshian and Haida cultures of Southeast Alaska.

Senator Murkowski's prior 70,000 acre, Sealaska Native Corporate privatization scheme (S.340 in 2013) resorted to the same false pretenses as her current S.4889. Both could not be passed as stand-alone legislation, so must be bundled into the belly of a Trojan Horse omnibus bill.

Our nation's lawmakers are infamously presiding over the lowest public approval ratings of the American electorate in all history, and S. 4889 demonstrates precisely why.

Please deny passage of S.4889 which is yet another socially divisive, environmentally destructive, and morally reprehensible legislative assault on our rural communities of Southeast Alaska.

Sincerely,
David Beebe
Petersburg Alaska

Image Caption:
ANCSA's Native Sealaska Regional Corporation, Clarence Strait just north of Ketchikan. Sealaska's state-approved, clearcut logging of old growth forests for foreign export in the round gracing Southeast Alaska's renowned "Scenic Byway" (as viewed from either the Alaska State Ferry or international cruise ship)

Statement for the Record
S. 241, the Colorado Outdoor Recreation and Economy Act
Senator Michael Bennet
November 18, 2020

The Subcommittee on Public Lands, Forests & Mining
The Senate Committee on Energy and Natural Resources

Thank you Chairman Murkowski and Ranking Member Manchin, and Subcommittee Chairman Lee and Ranking Member Wyden, for providing the opportunity to submit testimony for the record.

Background
I started working on the various components of S. 241, the Colorado Outdoor Recreation and Economy (CORE) Act over a decade ago, and I'd like to share a little bit about what I've learned. In 2009, I joined former Senator Mark Udall in introducing the San Juan Mountains Wilderness Act. Around that time, I also started talking with local leaders, ranchers, and sportsmen about their interest in new protections for parts of the Thompson Divide. These proposals are now Title II and Title III of the CORE Act.

Shortly after, in 2011, at the request of Gunnison County, I began working on legislation to formally authorize the Curecanti National Recreation Area. And in 2015, I joined veterans and community leaders to find a way to protect public lands along the Continental Divide and protect, restore, and commemorate Camp Hale. These two proposals now represent Title IV and Title I of the CORE Act, respectively.

Over my decade of working on this bill, I've had the opportunity to visit and recreate in many of the places the CORE Act would protect. I've also had the chance to hear from Coloradans about why the public lands protected in the CORE Act are so important to them. In the last year – in the midst of the COVID-19 pandemic and with record high visitation to our outdoors – a few stories really stand out.

Over the summer, in Telluride, Colorado, while hiking through the aspens above town, I heard how public lands drive the region's outdoor recreation-based economy and how public lands have provided residents and visitors alike a refuge to keep their spirits high during the pandemic.

In August, I went to Gunnison where I met with members of Trout Unlimited, Backcountry Hunters and Anglers, the National Wildlife Federation and the Theodore Roosevelt Conservation Partnership. Standing on the banks of the Gunnison River, I heard how the CORE Act would safeguard so many special places in Colorado – including miles of blue ribbon trout stream and thousands of acres of elk habitat. We also talked about how the CORE Act would finally expand public fishing access in the Upper Gunnison Basin.

In early September, I traveled to the west side of Colorado's iconic Eisenhower Tunnel with Congressmen Joe Neguse and Jason Crow, to meet with county commissioners and veterans.

There, we talked about the CORE Act's protection of a critical migration corridor across I-70, and the importance of protecting Camp Hale's landscape and history.

Each of these spots reminded me why we must pass the CORE Act.

I must emphasize that we are not at this point by chance. Rather, we are here because of the hard work of so many Coloradans, over the last decade, to hammer out compromise and find the best way forward. To identify shared values and, despite disagreements, to work together to find solutions. To broker compromises, adjusting boundaries, and modifying designations, until each of the four proposals reflected local interests. I am so grateful for their work. Coloradans have written this bill.

Each proposal, the Continental Divide Recreation, Wilderness, and Camp Hale Legacy Act, the San Juan Mountains Wilderness Act, the Thompson Divide Withdrawal and Protection Act, and the Curecanti National Recreation Area Act, is a testament to our state's collaborative spirit, hard work, and tireless dedication to our public lands. It is an example that Washington should follow.

In 2019, Coloradans started to combine their efforts, recognizing that each of the proposals complements the others, and that an integrated package could bring people from different walks of life together in common cause for the benefit of our state. I agreed, in part, because I felt like one region or one proposal should not be prioritized ahead of any other in Congress. That is why we combined these four proposals into a single bill, called the Colorado Outdoor Recreation and Economy (CORE) Act.

Highlights
The Colorado Outdoor Recreation and Economy Act is a bold vision for our state's public lands. Together, the bill protects over 400,000 acres of public land in Colorado, including new wilderness and recreation areas, and permanent protection for landscapes like the Thompson Divide, where Teddy Roosevelt went bear hunting in 1905, and Camp Hale, where the 10th Mountain Division trained for mountain warfare prior to World War II.

The CORE Act would grow our economy by permanently securing and protecting opportunities for biking, hiking, skiing, grazing, hunting, and fishing in some of the most beautiful places in our state.

This includes:

- Snowmobiling, skiing, and backcountry hiking at Camp Hale, the true birthplace of Colorado's ski industry – and arguably the outdoor recreation industry itself;
- Backcountry skiing, camping, and hiking in the San Juan Mountains at Ice Lake Basin, near Silverton, and in Waterfall Canyon outside of Ophir;
- World-class mountain biking in thousands of acres near Breckenridge, including a portion of the Colorado Trail, and local trails in the Ophir Valley near Telluride, where this bill has the formal support of the San Miguel Bike Alliance;

- Nearly 7 miles of Gold Medal fishing, 100 miles of native cutthroat trout habitat, and 12 cutthroat trout lakes, according to a Trout Unlimited report, along with expanded public fishing access in the Upper Gunnison River Basin;
- Hunting in the Thompson Divide, and across our state, by protecting nearly 100,000 acres of important migration corridors for elk, mule deer, and other big game, including the only north-south wildlife migration corridor over I-70; and
- Conserving summer grazing lands for long-time Colorado ranchers.

It also addresses unique land management needs in Colorado by:

- Establishing a pilot program to lease and generate energy from methane leaking from coal mines, to support the North Fork Valley economy, improve air quality, and address climate change;
- Releasing around 3,000 acres of the Dominguez Canyon Wilderness Study Area (WSA), with the support of Mesa and Delta County, and portions of the existing McKenna Peak WSA in San Miguel County;
- Taking a balanced approach to new wilderness protections near Ouray, by working with Ouray Silver Mines, to allow for mining plans to proceed while protecting much of the area as wilderness, as requested by Ouray and San Miguel counties; and
- Protecting all existing water rights and ensuring that no existing roads or designated motorized trails are closed.

Finally, the bill includes a first-of-its-kind designation, the Camp Hale National Historic Landscape, which would honor Colorado's military legacy at Camp Hale. In the 1940's, American soldiers from all across the country were sent to Camp Hale, in the mountains outside of Leadville, to train to become the nation's first military climbers and skiers. When these soldiers deployed to Italy, they led Allied forces to victory, including the Battle of Riva Ridge, where they surprised the Nazis by scaling a seemingly impossible mountain route. This was exactly the type of combat that the 10th Mountain Division prepared for in the mountains surrounding Camp Hale.

But the Camp Hale story doesn't end with victory in World War II. After the war, many 10th Mountain Division veterans came back to Colorado to start ski resorts, ski patrols, and ski schools throughout the state and country. As we prepare for ski season in Colorado, we owe a debt of gratitude to the veterans who served and then came back to build the outdoor recreation industry that exists today.

Last February, I joined veterans from the 10th Mountain Division, 2nd Battalion, 22nd Infantry Regiment at Camp Hale. The group had come to Camp Hale to celebrate the legacy of the 10th Mountain Division during the 75th anniversary of the 10th Mountain Division's pivotal World War II battles. They told me that – after serving in Iraq and Afghanistan – they still come back to the mountains of Colorado and to the birthplace of the 10th Mountain Division to find peace and solitude on our public lands. They reminded me that there's a whole new generation of veterans who are returning to our public lands as a way of re-acclimating to civilian life.

For all of these reasons, the 10th Mountain Division is an indelible part of our history. In September, I heard a stirring account from Pitkin County Commissioner Greg Poschman whose father served during World War II with the 10th Mountain Division and then returned to Colorado to join the ski industry. He implored us to finally get the CORE Act over the finish line. I also heard from Nancy Kramer, President of the 10th Mountain Division Foundation, whose father also served in the 10th in Italy. Nancy and Greg told me that we owe it to the last few surviving World War II veterans to finally, formally protect Camp Hale before these veterans are gone.

The new Camp Hale National Historic Landscape designation would do just that. It will honor and permanently protect this unique landscape, a landscape that doesn't exist anywhere else in the world. Rich with history and a source of peace and solitude for veterans. And a place that embodies so many of our values, our commitment to our veterans, and our commitment to protecting our public lands.

Support

With such a diversity of locally developed, and decades-in-the-making, land management designations, protections, and safeguards, it is not surprising that the CORE Act enjoys support from across the State of Colorado. Most importantly, the CORE Act has the full support of 7 counties, 12 towns and cities, and the State of Colorado. Every county affected by the bill has approved the part of the bill in their county. A coalition of outdoor businesses and recreation user groups – including the Outdoor Industry Association (OIA), the Theodore Roosevelt Conservation Partnership (TRCP), the International Mountain Bike Association (IMBA), and members of the Conservation Alliance – also support the CORE Act.

The bill has the support of countless conservation organizations such as The Wilderness Society and the Coalition to Protect America's National Parks, which, speaking on behalf of five retired superintendents of Curecanti National Recreation Area, strongly support the formal establishment of the Curecanti National Recreation Area. As I mentioned, the support for the bill continues to grow to include new businesses and community leaders – such as New Belgium and 35 other Colorado craft breweries who expressed their support earlier this year.

Coloradans asked Congress to pass the CORE Act, and its components, for many years. Last year, the House finally acted on those wishes and passed the CORE Act with bipartisan support. Then, this summer, the CORE Act was included as part of the House's Fiscal Year 2021 National Defense Authorization Act, and passed the House for the second time.

I would like to recognize and thank my colleague, Representative Neguse – and all of the members of the Colorado delegation – for their leadership in passing the bill through the House.

Coloradans have waited too long for these proposals to become a reality. It is our time to act in the Senate. I look forward to working with Chairman Murkowski, Ranking Member Manchin, and the members of this Committee to do our job in the Senate, respect the wishes of Colorado, and pass the CORE Act into law.

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889). I am shocked that you would introduce this bill—which has not passed multiple times in the past—at this time and in this way. I am disappointed in the politics involved in this action, and it will definitely affect my voting consideration in the future.

I have listened to the people who initiated this bill and have given careful thought to it. I am sympathetic to the cause of Native claims and the history of Americans—Alaska Natives in Alaska, and the white privilege involved. I think the communities outside of Tenakee may actually have a valid concern. However, there are some very strong reasons why the Tenakee claim is not viable and should not be included in this bill.

I do not think there has been the established Native community in Tenakee Inlet as in other places where corporations have been established. There are extremely few Alaska Native residents here now. Establishing a "corporation" for this area would not address the issues of "homeland" that other local groups are seeking to establish.

Tenakee Inlet is a very special space that is currently enjoyed by Alaskans and tourists alike. It is enjoyed by numerous fishermen, hunters, and natural beauty appreciators. It provides subsistence for the community of Tenakee Springs. This would all change with the current bill. If those who wish lands in Tenakee Inlet were restricted to land to build homes, I think the community of Tenakee Springs would welcome them with open arms. But they do not wish to return to their homeland; they wish to create wealth by exploiting the land.

Exploitation of the land of Tenakee Inlet would destroy the rich watersheds for salmon, destroy the natural beauty through clear cutting logging operations, pollute the waters of the watershed and the inlet, and interfere with the wildlife, both in the forest and in the waters, and destroy the community of Tenakee Springs by destroying the livelihoods of those who live here.

The Tenakee Inlet portion of this bill is not an authentic claim. Please remove it, or oppose the bill.

Sincerely,

Mary-Claire Bernstein
Tenakee Springs resident

From: Anissa Berry
To: fortherecord (Energy)
Subject: For the 11/18/20 Cmte PLFM Subcmte Hrg
Date: Wednesday, November 18, 2020 12:23:00 PM

Dear Senate Energy and Natural Resources Committee,

I urge you to hold S. 4489 until the communities to which this bill affects are able to hold public meetings and hearings. While it is important to recognize and repatriate Native lands, a thorough process should be permitted between the communities of SE Alaska, the Alaska Natives without the land and Sealaska Corporation. This will ensure a better and more effective bill.

Thank you,
Anissa Berry
PO Box 1222
Haines, AK 99827
907-766-3490

From: Gretchen Bishop
To: fortherecord (Energy)
Subject: For the 11/18/20 Cmte PLFM Subcmte Hrg
Date: Wednesday, November 18, 2020 6:37:24 PM

Dear Committee Members:

I am a lifelong Resident of Southeast Alaska and a highly educated and well-travelled woman who supports native rights. I nonetheless URGE you to slow down and expand your scoping input in your efforts to compensate and give away heretofore public lands to landless natives in Southeast Alaska. These issues are EXTREMELY controversial and divisive and have the potential to tear apart communities, alienate neighbors, and cause irrevocable environmental damage if not conducted in a sensitive fashion.

Sincerely,

Gretchen H Bishop
PO Box 210836
Auke Bay, AK 99821

907 419-0014

Gretchen.h.bishop@gmail.com

Sent from my iPhone

Testimony on S. 4215 –
Bonneville Shoreline Trail Advancement Act

Submitted to the
Senate Energy & Natural Resources Committee
Subcommittee on Public Lands, Forests, and Mining

November 18, 2020

The Honorable Mike Lee
Chairman, Subcommittee on Public Lands, Forests, and Mining
Energy & Natural Resources Committee
U.S. Senate

The Honorable Ron Wyden
Ranking Member, Subcommittee on Public Lands, Forests, and Mining
Energy & Natural Resources Committee
U.S. Senate

Dear Chairman Lee & Ranking Member Wyden,

My name is John Knoblock and I am the Chair of the Bonneville Shoreline Trail Committee. I live in Millcreek Utah, where I am on our local community council, and I have been involved with the Bonneville Shoreline Trail for over twenty years. I am retired after working for Chevron in their oil refineries and corporate office as a chemical engineer and as an environmental and safety manager.

The Bonneville Shoreline Trail is over thirty years old and it is completed for about half of its planned 300 mile length along Utah's Wasatch Front. The trail was envisioned to be an urban-wildland interface shared-use trail, meaning that is runs just above the neighborhoods along the mountain foothills and can be used by hikers, runners, mountain bikers, and equestrians.

The Bonneville Shoreline Trail Committee gives our full support to the Bonneville Shoreline Trail Advancement Act (BSTAA). The idea of adjusting the Federal Wilderness boundary to accommodate mechanized construction and mountain bikes on the entire Bonneville Shoreline Trail is not a new idea. A collaborative effort in 2015 called the Mountain Accord embraced these small wilderness boundary adjustments in Salt Lake County as part of a package of other more complex proposals to find common ground amongst often conflicting user groups. This resulted in proposed legislation called the Central Wasatch National Conservation and Recreation Area Act (CWNCRAA), which we also strongly support. Unfortunately, the Mountain Accord and CWNCRAA have not moved forward due to the complexities. We hope that the BSTAA can advance in this Congress and bring positive momentum for actions to resolve the other issues in the Central Wasatch.

Completing the trail is very challenging due to a variety of issues such as private property parcels blocking the alignment and difficult terrain. This has forced about two dozen isolated sections of

the planned and constructed trail onto designated wilderness in Uinta Wasatch Cache National Forest. Unfortunately, the trail alignment entering wilderness not only precludes mountain bikes from using those sections of the trail, but it also prevents the use of standard mechanized trail construction equipment that is not allowed in wilderness areas. Sections of trail that could be constructed in months by an excavator tractor now take years of backbreaking hand construction. We strongly support legislation that can remove barriers to efficient trail construction and allow mountain biking along the entire length of the Bonneville Shoreline Trail.

The Bonneville Shoreline Trail is very popular and heavily used, as the population of Salt Lake and Utah Counties is more that 1.6 million people. The trail provides healthy recreation for the hundreds of thousands of people who live along the trail corridor and Wasatch foothills region as well as for visitors to our state. Utah's Wasatch Front is one of the fastest growing areas in the nation and that is putting an increased demand on our recreational trails. And with Covid, we are seeing an unprecedented increase in trail use, including the Bonneville Shoreline Trail.

As you can imagine, one of the reasons for Utah's population and economic growth is our great access to outdoor recreation. While we may not have good ocean beaches, we have world class skiing, hiking, and mountain biking. As our Wasatch Mountain and National Park trails become more heavily used, local access to the Bonneville Shoreline Trail becomes more important along the Wasatch Front.

Another important reason for supporting mountain bike access on the Bonneville Shoreline Trail is that Utah has the largest group of high school mountain bike teams in the nation. These young mountain bike riders are organized in the Utah High School Mountain Bike League within the National Interscholastic Cycling Association. With over 4,000 students involved in mountain biking, we need to increase our locally accessible trails open to mountain bikers.

The Bonneville Shoreline Trail Advancement Act is broader in geographic scope than the CWNCRAA, as it addresses wilderness adjustments needed along the entire length of the Bonneville Shoreline Trail. This includes Utah and Cache Counties rather than just Salt Lake County as in the CWNCRAA. One of the key elements in the BSTAA is that there is no net loss of wilderness area. This is very important for the support of our wilderness advocate partners. In the BSTAA, this is accomplished by adding to Federal Wilderness a large parcel of land that was acquired by the Forest Service from the Boy Scouts of America in 2016. This beautiful parcel of land is bordered by the Mount Olympus Wilderness on three sides, includes several sections of trails managed as wilderness trails, and meets all of the criteria for becoming wilderness.

In conclusion, the Bonneville Shoreline Trail Committee endorses the Bonneville Shoreline Trail Advancement Act and hopes that you pass this legislation in this Congress.

Sincerely,

John Knoblock, Bonneville Shoreline Trail Committee

Comment by Judith Brakel on **S. 4889 Unrecognized Southeast Alaska Communities Recognition and Compensation Act** introduced 11/10/2020 by Senator Lisa Murkowski

This is Senator Murkowski's second move to increase logging on the Tongass National Forest in the space of two years. First she pushed the US Forest Service to remove the "Roadless Rule" that since 2001 have protected some ecologically valuable areas on the Tongass from roading and clear-cut logging while allowing for appropriate exceptions for local development, communications, some mining, and other uses (in other words "Roadless" status was by no means a complete lock-up, in fact all the exemptions applied for since 2001 were approved).

The push to have the "Roadless Rule" status removed is nearly complete and is soon to be in effect. This despite over 400,000 public comments, the great majority opposing it – nationally, from Alaska residents, and from Southeast Alaska Native organizations.

Now Senator Murkowski is pushing another means of increasing clear-cut logging in our region: S. 4889, just introduced on 11/10/2020. A Senate Committee on Energy & Natural Resources hearing is to be held Nov. 18, with today, Nov. 16, the deadline to provide written testimony. There has been nothing about this on the Alaska news, I heard about this Nov. 14 from friends in the little community of Tenakee, where people are worried about the local effects.

The Tongass is the nation's largest National Forest and encompasses most of our region of Southeast Alaska. Consequently management of the Tongass has been a major concern of the region's inhabitant since massive clear-cut logging programs were initiated by the Forest Service in the late 1950s. Members of my family have been engaged in these Tongass issues for four generations, a not-unusual situation.

Most of the logging that took place on the original ANCSA lands in Southeast Alaska was exported to Japan as round logs, thus creating little industry in Southeast Alaska. The same would be true of timber from the proposed new lands. (Round log export is prohibited for most timber from US Forest Service Tongass lands.)

The Alaska Native Claims Settlement Act of 1971 distributed lands to 12 Native village and urban corporations. I.ve always thought that Wrangell and Haines should have been included in ANCSA as qualified communities. An extensive study of communities that did and did not receive corporations and land was done by the Institute of Social and Economic Research (ISER), Univ. of Alaska Anchorage, for the US Forest Service in 1994 (available on the internet). To me this document suggests that the claim of Tenakee for a corporation and lands is thin. For example, it shows that as of the 1970 US Census there were 6 Native people living in Tenakee constituting 7% of Tenakee's population. However, during enrollment under ANCSA, 64 people chose to enroll to the village of Tenakee, although 0% of enrollees lived there at the time. If Tenakee qualifies in this bill, can we expect later bills qualifying Skagway, Dyea, Shakan, Howkan, Klinkwan, Douglas?

The maps showing lands to be awarded to the 5 communities under S.4889 have some serious problems. For example, the lands to be awarded to Haines are nowhere near areas used and occupied by the Tlingit people of Haines. Rather, they are traditional lands of the Hoonah Kawoo (or Kwan) on the south end of the Chilkat Peninsula. We have seen the Hoonah Tlingit in recent times fiercely defend portions of their territory from the claims of other Kwans.

In a previous attempt to address the claims of "landless" villages in our region, Native people in communities near the proposed new land selections were not necessarily hospitable to the plan. As one Native village later remarked, if they want to do that, "they should choose land from the places they say they are from." As you can learn from Native resistance to ending the Roadless Rule, Native village residents often feel hurt by the clear-cut logging that occurred near their villages under the Native corporations.

Proposed selections have other unfortunate features. In most places they are small and scattered, making consistent land management difficult. Also, since basically no time is being afforded to the public to vet these selections, many may be in places especially important for biological reasons.

Salmon are now recognized as perhaps the most important "product" of the Tongass forest because of its innumerable salmon spawning and rearing streams. As the climate warms up we've learned that salmon in these streams are vulnerable to having water become too warm if there is inadequate tree cover. Importantly, logging under the Native corporations does not have nearly as strict rules and monitoring of that done under the US Forest Service.

Having myself had about one hour to "vet" the selection maps, I found some heartbreakers. I'll mention just two. 1) Lake Bay on the NE coast of Prince of Wales Is. This bay forms the entrance to a lovely chain of lakes including Barnes Lake and Sweetwater Lake leading into the interior of the island. I grew up in Petersburg, quite a distance north of there, but my dad loved the "Lake Bay" area and looked for ways to protect it from the large clearcutting that had commenced on Prince of Wales Is. in the 1950s. He thought if he could show that siltation from logging would make the system unnavigable by boats, he could help prevent logging there. 2) Red Bay shores on northern Prince of Wales east of Point Baker. The little community of Point Baker has suffered so much US Forest Service logging around it, and fought back. Now there may be more clear-cutting from a new Native corporation.

So I ask you to back off, provide new lands only to Wrangell and Haines Native communities unless a really good case can be made for additional communities. Provide time and expertise (e.g. salmon stream information) to vet the proposed land selections and likely change some of them. Consider other types of compensation rather than timber lands.

Sincerely,

Judith (Judy) Brakel Box 94, Gustavus Alaska 99826 judybrakel@gmail.com (907) 697-2287

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

My name is Zachary Brown, and I am a resident of the Tongass. My family, my livelihood, and life depend on our healthy forest. I hunt for sitka black-tailed deer and fish for coho salmon on the Tongass. I also run a nonprofit educational organization, Inian Islands Institute, that brings students into the Tongass to learn about the natural world and gain inspiration and tools for leadership.

Anyone following the landless saga can plainly see that Senator Murkowski's goal is not to right past wrongs and serve Alaska Natives of this region, but to privatize public lands to prop up the dying timber industry by clearcutting our forest home.

Moreover, this is a scandalous time for Senator Murkowski to introduce controversial legislation: a lame-duck session after a divisive election that pushed our democracy to the brink (and which her party's standard bearer still refuses to recognize). Ramming this legislation through without giving Alaskans a chance to examine it is a shameless abuse of power.

The Tongass is a world-class place, where many vocations, avocations, and values can exist side-by side: subsistence practices, recreation, exploration, eco-tourism, commercial and sport fishing, value-added small-scale timber harvest. Unfortunately, clearcut logging is utterly contrary to this "many uses" mentality, destroying every one of the aforementioned opportunities.

I vehemently oppose S. 4889 – both its content and the timing and mode of its introduction. Please reject this bill and all others that see the Tongass not as a homeland, but as a site for recless profiteering and plunder.

Sincerely,
Zach Brown, PhD
Box 225
Gustavus AK

From: jay@cabuagohana.com
To: fortherecord (Energy)
Cc: Crowther, John (Energy); Griffin, Christopher (Energy)
Subject: Support for S. 4889 Alaska Native Claims Settlement Act Fulfillment Act of 2020
Date: Wednesday, December 2, 2020 4:56:58 PM

Dear Committee Members,
I am contacting you in support of this legislation.
Please consider the generations of Alaska Natives that have so much ancestral life connected to these lands.
Thank You,
Jacob KM Cabuag Jr.

Jacob KM Cabuag Jr.
Cell: 425-315-5075
jay@cabuagohana.com

CENTRAL COUNCIL
Tlingit and Haida Indian Tribes of Alaska
Office of the President • Edward K. Thomas Building
9097 Glacier Highway • Juneau, Alaska 99801

November 30, 2020

The Honorable Mike Lee
Chairman
Subcommittee Public Lands, Forests and Mining
Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Office Building
Washington, DC 20510

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

RE: The Unrecognized Southeast Alaska Native Communities Recognition and Compensation

Chairman Lee, Ranking Member Wyden and members of the Subcommittee on Public Lands, Forests and Mining:

On November 18, the Subcommittee on Public Lands, Forests and Mining held a legislative hearing on multiple bills, including S. 4889, the Alaska Native Claims Settlement Act Fulfillment Act of 2020.

On behalf of Central Council of Tlingit & Haida Indian Tribes of Alaska (Tlingit & Haida), I am writing in support Section 7 of S. 4889, which redresses the omission of the Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell from the Alaska Native Claims Settlement Act of 1971 (ANCSA) by authorizing the Alaska Natives enrolled to those communities under ANCSA to form Urban Native Corporations and to receive certain settlement land pursuant to ANCSA. This is an important opportunity to move towards a more equitable and opportune environment for the excluded Indigenous peoples.

Gunalchéesh, Háw'aa, thank you for your consideration. Should you have any questions, please contact my office at 888.335.8981 or rpeterson@ccthita-nsn.gov

Sincerely,

Richard J. Peterson,
President

Chichagof Conservation Council
Box 621
Tenakee Springs, Alaska 99841

chichagof.conservation@gmail.com 781-514-5318

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

The Chichagof Conservation Council is a well-established non-profit organization based in Tenakee Springs. Our members include fishermen, small scale timber operators, scientists, and a wide range of residents that share a deep appreciation of Tenakee Inlet. We are dismayed that Senator Murkowski has chosen to try to push through controversial legislation at the height of a global pandemic and during a brief lame-duck session. This action reveals a contempt for Senator Murkowski's Alaskan constituents that makes our hearts ache. At this point in history we need leaders that will bring us together, not drive us apart.

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 for-profit corporation in Tenakee Spings or to withdraw substantial Tenakee Inlet acreage from the Tongass National Forest. We have submitted letters and hearing testimony many times 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 of acknowledging the longstanding connections between Alaska Native people and specific places in Tenakee Inlet. We are deeply disappointed that Senator Murkowski has chosen to ignore our repeated pleas to explore alternatives that do not threaten the economic stability of our community or the long term health of the salmon streams and forests that sustain us all.

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 who spawn and rear in the streams of upper Tenakee Inlet . Many of the young people living here are trollers whose cash income is supported by those same streams. Tourists and sport fishermen are drawn here by the abundant fishing, viewing and hunting opportunities.

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

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 Comer 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. Under S 4889, Corner Bay would be transferred to private ownership. What would happen to the current business? And how quickly would the remaining timber be liquidated?

There are many other troubling aspects of the bill, in addition to the fundamental problem of privatizing public land. For example, Tenakee Springs is a rural community and is classified as "rural" for subsistence purposes. However, S 4889 proposes to establish an "urban" corporation. Tenakee cannot be rural and urban at the same time and we must oppose anything that might cloud or diminish our subsistence standing.

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. However, we can only oppose this bill, when it's proponents have the stated aim of "monetizing" Tenakee Inlet and flatly refuse any discussion of constraints on resource extraction. Please retire this out-dated bill and initiate a genuine effort to resolve this issue.

Sincerely,
Molly Kemp
CCC secretary

CITY AND BOROUGH OF WRANGELL
INCORPORATED MAY 30, 2008

P.O. BOX 531 (907)-874-2381
Wrangell, AK 99929 FAX (907)-874-3952
www.wrangell.com

November 17, 2020

The Honorable Lisa Murkowski
Chairman
Senate Committee on Energy & Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Re. Alaska Native Claims Settlement Act Fulfillment Act of 2020 – Hearing on S.4889 on November 18, 2020

Dear Chairman Murkowski:

The City and Borough of Wrangell offer the following comments on S. 4889 – The Alaska Native Claims Settlement Act Fulfillment Act of 2020. I respectfully request that they be included as part of the hearing record on the bill to be held by your Subcommittee on Public Lands, Forests & Mining on November 18, 2020.

In S. 4889, the bill includes sections for the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act that will set aside 23,040 acres of Federal land within the boundaries of the City and Borough of Wrangell for a prospective Urban Corporation comprised of native landless residents from the Wrangell area. Approximately 20% of Wrangell's population is Native and would benefit from these withdrawals. We recognize your intent to correct an oversight when ANSCA passed omitting withdrawals to the native communities in five Southeast Alaska communities. We wish to acknowledge the efforts by your staff to provide us with an earlier draft of the bill along with withdrawal maps and to engage in dialog with us to address Borough concerns.

There are elements within the bill that have generated initial concern by the Borough due to the potential loss of public recreational areas, high value community subsistence sites, and protection of rights-of-way and access to not only remote Borough lands but some private land as well. Some of the areas proposed for conveyance are established Forest Service public use assets including cabins, campsites, trails and picnic areas. Other areas proposed for withdrawal are heavily used by Wrangellites for hunting, fishing and subsistence purposes. Some of the areas include existing critical US Forest Service mainline roads that are the only access to Borough or State lands and to other areas of the Tongass National Forest. One of the selections could impact private property, the Garnet Ledge, which is deeded to the children of Wrangell and managed on their behalf by the Presbyterian Church of Alaska.

Formal introduction of the bill, followed very quickly by a hearing and the possibility of prompt consideration and enactment in the waning days of this Congress concerns us, given that Borough and Wrangell community have not had adequate time to vet the proposed withdrawal areas along with the bill's process for conveyance to ensure community concerns over recreational, road, cabin, trail, and rights-of-way access to the public are adequately protected.

Wrangell has so few developed remote recreational sites on the island and to have many of them proposed for withdrawal, placing the continued public use of these sites in limbo is disheartening to the community. Including appropriations in the bill to assure that the US Forest Service can replace their investment in the public assets that are withdrawn at least provides reasonable assurance to the public and relief of lost opportunities.

Many of the trails and roads on Forest Service land utilized by the community are through informal designations. The Borough has no explicit agreements with the Forest Service for assured public access. We understand under the terms of the legislation that the Forest Service and Bureau of Land Management would seek to protect, at least for the short term, public easements as part of the conveyances of the withdrawal areas. Without formal agreements in place we are uncertain that the Federal agencies would be able to protect continued long-term public access to these areas that all residents currently enjoy. If the agencies choose not to protect public access, Wrangell will have little recourse. While the bill includes access for non-commercial recreational public use, subject to "reasonable restrictions," how that may be ultimately interpreted by the Urban Corporation raises concerns that the phrasing could be used to restrict access in ways that the bill does not intend. Lastly, we would like more specificity on how the loss of Federal acreage will impact our annual Secure Rural Schools and Payment-In-Lieu-of-Taxes payments, assuming due to the formulas in those calculations, that there is an impact.

For these reasons, we would respectively request that you refrain from trying to enact the bill this year. Wrangell would like more time to discuss its provisions and the impacts the withdrawal areas could have within our community, gather the views of fishermen, hunters, recreation users, landless village residents and potential Urban Corporation members, our local Forest Service District, and others to understand the ramifications of the bill and its implementation. We pledge to work with you and your staff on developing appropriate safeguards to address these concerns that can hopefully be incorporated in a new bill to be considered in the next Congress.

Thank you for consideration of these views and for your long-time support of our community.

Sincerely,

Steve Prysunka
Mayor

Cc: The Honorable Dan Sullivan
The Honorable Don Young

November 14, 2020

Senator Lisa Murkowski
United States Senate
Washington, DC 20510

Dear Senator Murkowski:

The City of Craig offers the following comments regarding S 4889, also known as the Alaska Native Claims Settlement Act Fulfillment Act of 2020.

The city's concerns regarding S 4889 are summarized below.

1. The City of Craig objects to the proposed Prince of Wales and Heceta land selections. The city finds it difficult to believe that suitable selections of land are not available to the proposed Ketchikan and Wrangell corporations at locations closer to those communities. The proposed Ketchikan corporation selection on Prince of Wales Island is a full 80 miles from the nearest Ketchikan resident. The proposed selection on Heceta Island is 74 miles away from Ketchikan. Similarly, the Wrangell corporation selection near Coffman Cove is at least 38 miles away (and across Etolin and Woronoski Islands, as well as Clarence Strait, Kashevarof Passage, and Zimovia Strait) from the nearest Wrangell resident. A review of national forest land patterns shows hundreds of thousands of acres of national forest land in and near the proposed corporation home communities. Given that ANCSA land selections are meant to benefit community shareholders, the land selections are most properly made close to the community where the corporation is based.
2. When land is selected or exchanged out of the national forest system to a recipient such as an ANCSA corporation, the subject land loses its status under Title VIII of ANILCA. That change reduces the amount of land on POW managed for rural subsistence uses, and potentially also loss of the use of public roads, landings, and other features now available to subsistence users. While the city is aware that the legislation provides for continued noncommercial uses of the selected lands in Unit 2, the bill explicitly permits the denial of access to selected lands at the will of the recipient corporation subject to broadly worded justification.
3. Prior conveyances away from the national forest have not included easements sufficient to assure continued access to longstanding recreation and subsistence sites, including access to rivers, lakes, campsites, trails, and other areas used by the public.

(907) 826-3275 • Fax (907)826-3278 • www.craigak.com • PO Box 725, Craig, Alaska 99921

4. Unit 2 has been the focus of several new and large land selections over the past five years, most notably selections made by Sealaska and the Alaska Mental Health Trust Authority. These selections have made federal land management decisions on the island difficult due to the changing ownership patterns on the forest. The volume of additional land selections in the POW area resulting from S 4889 concerns the city.

The City of Craig asks that you to make the following modifications to the bill to address the concerns cited in this letter.

1. Add language to the legislation to prohibit withdrawal of Federal lands on Prince of Wales Island and islands to the west and permit the proposed Ketchikan and Wrangell corporations to make selections elsewhere.
2. Create a mechanism where residents in and near the proposed land selections may formally participate in the identification of easements and review of valid existing rights before finalizing these important means of public access.
3. Require local public hearings prior to a corporation being able to prohibit noncommercial public uses of land as allowed at pages 20-21 of the bill; and add wording to provide the public standing to challenge such decisions.

Thank you for considering the city's comments.

Sincerely,

Mayor Tim O'Connor
City of Craig

11/16/2020 12:15 FAX 9077362249 TKE-SPGS CITY 001

CITY OF TENAKEE SPRINGS

Dan Kennedy
MAYOR
citytke@gmail.com

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

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).
City of Tenakee Springs, AK

Gentlefolk:

The city of Tenakee Springs' position on the legislation proposed remains unchanged from that expressed in the attached letter of October 1, 2019 to Todd Antioquia of Alaska Natives Without Land.

Due to the extremely short time between publication of the proposed legislation and the hearing, we have not had time to analyze the bill or maps in any detail. On first glance they seem to be the same lands as were proposed prior to Mr. Antioquia's letter and presented to our community. If so, that means there are some very negative aspects of the legislation relative to the stability of ecosystems on all of NE Chichagof Island, as well as other troubling selections.

We urge Senator Murkowski and the committee to slow this process down to allow time for a more thoughtful public process including study, consultation and collaboration on the legislation proposed and possible more equitable and less divisive options that would still provide fair resolution of these issues.

Thank you for considering our request.

Sincerely,

Dan Kennedy

Dan Kennedy, Mayor

CITY OF TENAKEE SPRINGS

Dan Kennedy
MAYOR
citytke@gmail.com

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

October 1, 2019

Todd Antioquia
ALASKA NATIVES WITHOUT LAND
175 South Franklin Street
Juneau, AK 99801

Dear Mr. Antioquia,

Thank you very much for coming to Tenakee and presenting your legislative proposal. It was very good to have such a well-attended and cordial meeting, especially on an issue with such a long and emotionally charged history. We appreciate your willingness to disclose maps for public review and answer the many questions that members of the public asked at the presentation.

We remain interested in seeking ways to help renew Native individuals and families' historic and cultural connections with specific places in Tenakee Inlet, Freshwater Bay and the surrounding area. We sincerely hoped your presentation would offer a new path toward honoring the past without sacrificing the future.

Unfortunately, your proposal appears to be identical to past legislative initiatives based on the Alaska Native Claims Settlement Act structure of creating for-profit corporations. As we are sure you are aware, the City of Tenakee Springs has a long history of opposition to this model. While we respect the AMCSA corporations established in 1971, we do not think that corporate model is necessarily the best or only way to address the situations, issues and opportunities of 2019 and beyond.

It was disappointing to see that this new legislation, like previous bills, will propose the same transfer of 115,000 acres of public lands to private, for-profit corporations without any constraints on how those lands would be "monetized". If those acres are transferred to private corporate ownership there will be no process for public disclosure, involvement, or feedback process the way there is on Tongass National forest land. Those could have enormous consequences for our community. When a Tenakee resident asked if there was any potential of altering your proposal to provide any sort of constraints on development, your answer was emphatically "no".

Consequently, the City of Tenakee has not changed our long-term position opposing the creation of new corporations and land entitlements.

We would like to continue to share ideas and proposals in constructive conversations about the future of the lands and waters where we live. Thank you for your consideration and again we appreciate very much your initiative in coming to share your current thinking with us.

Sincerely,

Dan Kennedy

Tenakee Springs City Council
Dan Kennedy, Mayor

December 1, 2020

Greetings Honorable Committee Members

My name is Stää yäät, of the Kaagwaantaan. (Lee E Clayton).

Although I support the intent of S. 4889 and H.R. 8751, I am concerned the bill, as written, limits economic opportunities. Regrettably, the majority of the Haines Landless selection is for clear-cutting of old-growth trees outside our traditional territory. I know this territory well; I have commercially fished in the area for decades; it is where my father-in-law is buried at sea nearby; I have seen the devastation of clear-cutting and its impact on this special place. I wish for this land to be preserved and not logged for short term gain. We should not be held exclusively to these selections as it would compound the injustice of waiting 40 years to remedy congressional oversight.

I'm requesting that you consider updating the land selection and acquisition language to provide each community with an opportunity to select from the currently available federal surplus property. ANCSA and other corporations have had the chance to make selections in this way for over 40 years.

Gunacheech,

Stää yäät. (Lee E Clayton)

Haines Landless Shareholder

PO Box. 1357, Haines, Alaska 99827

Statement for the Record
Philip A. Francis, Jr.
Chair of the Executive Council
Coalition to Protect America's National Parks
Subcommittee on Public Lands, Forests & Mining
Committee on Energy & Natural Resources
United States Senate
Hearing on Various National Park and Public Lands Bills

November 18, 2020

Senator Lee, Senator Wyden, and members of the subcommittee, thank you for the opportunity to provide a statement for the record on behalf of the Coalition to Protect America's National Parks (Coalition) regarding four of the bills on today's agenda that impact the National Park Service (NPS).

I am a long-time member of the Coalition, including having served as the chair of the Executive Council for the past two years. I retired from the National Park Service in 2013 after eight years as superintendent of the Blue Ridge Parkway, and a total of 41 years of government service with the NPS. My work with the Park Service included service as administrative officer at Chickamauga and Chattanooga National Military Park, Shenandoah National Park, and Yosemite National Park. I also served as associate regional director, administration, for the Southwest region, and as deputy superintendent of Great Smoky Mountains, including three years as acting superintendent.

The Coalition is comprised of more than 1,900 retired, former, and current employees of the NPS who collectively have nearly 40,000 years of experience managing and protecting national parks. We believe that our parks and public lands represent the very best of America, and advocate for their protection.

H.R. 823/S. 241, the Colorado Outdoor Recreation and Economy Act (CORE Act)

The Coalition supports the CORE Act that provides for the designation of the San Juan Wilderness Area, the protection of certain portions of the Thompson Divide from mineral exploration and development, and the designation of the Camp Hale area as a National Historic Landscape in honor of the training done there by the 10th Mountain Division during World War II.

In particular, we strongly support the portion of the CORE Act that would officially authorize in statute the establishment of the Curecanti National Recreation Area, thus making it a full-fledged member of the National Park System. Five former superintendents—Connie Rudd, Joe Alston,

Sheridan Steele, Bill Wellman, and Bruce Noble—with a combined 26.5 years of experience as superintendents of Curecanti National Recreation Area and a collective 179 years of service with the NPS—also have gone on the record as supporting the Curecanti legislation included in the CORE Act.

Curecanti National Recreation Area was created in 1965 through an agreement between the NPS and the Bureau of Reclamation that was signed by Secretary of the Interior Stewart Udall. A careful reading of that agreement suggests that all parties envisioned that Congress would pass legislation for the area quickly in order to codify this agreement in statute. Unfortunately, it has been 55 years and there has been no legislation officially authorizing Curecanti National Recreation Area as part of the National Park System. The recreation area is one of only a couple of park units that have never had their own authorizing legislation.

Designating Curecanti National Recreation Area as a unit of the National Park System will ensure the protection of its superb resources in perpetuity and provide for continued public access for a variety of recreational purposes. H.R. 823 and S. 241 also would result in an exchange of lands among the NPS, the U.S. Forest Service, and the Bureau of Land Management that will allow each agency to acquire certain parcels that would be most efficient for them to manage. Significantly, the Curecanti legislation would not place any additional lands into federal ownership. The legislation is revenue-neutral in that it does not call for a budget increase for the recreation area.

Curecanti National Recreation Area is mostly known as the home of Blue Mesa Reservoir. This reservoir is the largest body of water in Colorado and a magnet for water-based recreation, as well as an important source of water for irrigation and municipal use. The recreation area has numerous hiking trails and ten campgrounds that accommodate tents and RVs, and includes scenic wonders such as the Dillon Pinnacles. Curecanti includes more miles of the Black Canyon than does Black Canyon of the Gunnison National Park. The recreation area attracts approximately one million visitors per year and generates in the vicinity of $40 million of annual revenue that forms a vital part of the economy in Gunnison, Montrose, and Delta counties. We urge the committee's support in getting this long-overdue piece of legislation passed.

S. 1695, the Human-Powered Travel in Wilderness Areas Act

The Coalition has serious concerns about S. 1695, a bill that would authorize local officials of the federal land management agencies, including the NPS, to determine all permissible forms of nonmotorized travel over any route in a wilderness area. It would require that all forms of nonmotorized travel be accommodated to the maximum extent possible. Additionally, if the local official does not act on a request within two years, the route would be considered approved.

We understand S. 1695 is being proposed to allow mountain bike use within wilderness areas. The legislation, as proposed, would override land management agency prohibitions on the use of bicycles in wilderness that, in most cases, have been in place for over 50 years. Importantly, the proposal would be in direct conflict with the stated purpose and intent of the Wilderness Act of 1964 (Public Law 88-577; 16 U.S.C. 1131-1136), as stated in Section 2(a) of the Act:

> In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness *(emphasis added to underlined sections above)*.

As described in the Act, wilderness was specifically intended to be a place protected, in part, from modern forms of mechanization. Regarding this, Section 4(c) of the Act states:

> (c) Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area *(emphasis added to underlined sections above)*.

The plain language of Section 4(c) clearly distinguishes between "motorized transport" and the broader category of "mechanized transport," while prohibiting all such forms. Because of these distinctions, "other forms of mechanical transport" inevitably includes non-motorized forms such as bicycles.

The visionary Wilderness Act has served the nation well for over 50 years. Now, when the pressures of modernization on public lands are greater than ever, is not the time to revise, some would say weaken, its mandate with regard to "other forms of mechanical transport." The Coalition believes bicycle use within wilderness areas is inconsistent with the language and the intent of the Act and we strongly oppose amending the act to authorize this use.

Further, we find it odd that the legislation exempts the Appalachian National Scenic Trail from the provisions of this legislation, but none of the other long-distance trails managed by the NPS and the other federal land management agencies. We see no difference among these various long-distance trails and believe all federal long-distance trails should be managed consistently. Additionally, if enacted, it would create a major workload for national park superintendents to determine potential impacts on each proposed route within a wilderness area to ensure that national park resources, wildlife, visitor enjoyment, and other impacts are avoided while processing permits for such activities.

We urge the committee to set this bill aside just as previous bills have been stopped to allow this inconsistent use of wilderness.

S. 4569, the Sunset Crater Volcano National Monument Boundary Adjustment Act

The Coalition strongly supports S. 4569, that would authorize the transfer of administrative jurisdiction from the U.S. Forest Service to the NPS of about 98 acres of land adjacent to the Sunset Crater Volcano National Monument.

The visitor center for the national monument and several other NPS buildings are located on the Forest Service land adjacent to the current boundary of the monument, and the NPS operates these lands under an interagency agreement. The agreement requires Forest Service approval whenever any maintenance needs to be completed, among other provisions. S. 4569 would eliminate these administrative issues by transferring the land for these buildings to the NPS. The bill would help ensure a better visitor experience for those coming to see the volcano and to enjoy the trails and other resources of the park.

S. 4625, the National Prescribed Fire Act of 2000

The Coalition believes S. 4625 would provide much-needed resources to federal agencies to meet their wildfire programs' needs, but we also have concerns about some of its provisions. The bill would provide $300 million for federal land management agencies, including the NPS, to increase the number of acres treated with prescribed fire and would require the federal land management agencies to have at least one prescribed fire at each of its units based upon defined criteria in order to help address the wildfire risks seen across the country. The criteria proposed in the Act for this wildfire requirement appear somewhat arbitrary and may not address the actual risks occurring on each park unit's land. National park fire plans are unique to each unit and created to set some parameters around which decisions are made and implemented for having prescribed fires. These plans should guide the decision-making process instead of a limited set of pre-defined criteria that may be inappropriate or unneeded at specific national park sites.

The issue of sufficient prescribed fires on federal lands tends to receive attention every year the country experiences extreme wildlife risk. And it is true that federal land management agencies often have insufficient funds to be able to carry out their prescribed fire responsibilities. Increases in staffing for wildland fire definitely are needed for preventive actions such as controlled burns and defensible space, and also for large-scale suppression activities. S. 4625 would help federal land management agencies achieve their prescribed fire needs by increasing resources for this purpose.

Further, the impacts of the devastating wildfires that annually affect major parts of our country need the cooperation of all parties at the federal, state, and local level, along with homeowners and businesses in communities most concerned with wildfires. Many national park units in fact are part of the wildland urban interface. We applaud the provisions of the bill that allow some of the funding to be provided for prescribed burns on state, county, and private land and that increase the training and development programs in federal agencies for prescribed fire staffing in order to address currently unmet needs.

None of this increased funding will achieve the desired effects without leadership and direction for those programs within the NPS and among other land management agencies. Fire plans, in parks across the nation, need to be reviewed to ensure visitor and employee safety, and modified to meet the demands of unprecedented fire activity caused by previous inaction and climate change. These plans need to be shared with members of the House and Senate and the appropriate committees in order to increase understanding of each federal agencies' actions, and needs. These plans should also be the primary basis for prescribed fire activities within our national park sites in achieving the purposes of this legislation.

The Coalition would be glad to provide you with any additional information you may need on the views expressed on each of these bills.

Mitchell J. Krebs
President and Chief Executive Officer
Director

Testimony of Coeur Mining, Inc.

Senate Subcommittee on Public Lands, Forests and Mining

Hearing on S. 2804 (Senator Cortez Masto), The Pershing County Economic Development and Conservation Act

November 18, 2020

Chairman Lee, 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. 2804, the Pershing County Economic Development and Conservation Act. We want to thank our sponsors, Senator Catherine Cortez Masto and Senator Jacky Rosen 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. 2804 promptly during 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 a U.S.-based, well-diversified, growing precious metals producer and a proud corporate citizen of Pershing County providing jobs, tax revenues, and economic growth for Pershing County communities in a responsible way with a best-in-class safety and environmental record. 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 is 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. S. 2804, as unanimously recommended by the Pershing County Commission, will provide a meaningful boost to the future of mining in Pershing County, and will represent a solid foundation for the County's economic and conservation future by addressing critical land tenure and federal land management issues. Pershing County's lands both underpin the economic drivers for sustainable development and provide the recreation and beauty its citizens enjoy.

This bill strengthens the long-term future of the County by rationalizing federal "checkerboard" lands through the fair market sale of lands influenced by mining, setting aside more cohesive and effective conservation and recreation lands, and greater protection of environmentally important federal lands. Our company and others will have the opportunity to purchase at fair market value the lands we currently hold under federal mining claims. Privatization of these mining lands will provide Coeur Rochester, Inc. and other companies with 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. Yet, permitting and regulatory oversight of operations and closure will remain in effect by the State of Nevada. Additionally, all applicable Federal environmental laws will continue to apply to these mining lands such as the Clean Water Act, the Clean Air Act, the Endangered Species Act, and many more.

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 help secure the long-term future of mining in Pershing County. The lands that are the subject of Title I 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, which will continue for many years into the future throughout the life of the mine and closure. However, under the text of the legislation, 85% of the fair market sales revenues from these transactions will be retained by the Secretary of Interior to purchase other lands where there exist real opportunities for enhanced recreation, wildlife habitat preservation, and conservation of 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 federal ownership acreage. The ability to acquire important conservation lands within Pershing County utilizing mine land sales is a unique opportunity to allow mining development to fund conservation and protection—all within the same county. Given the demands for national land acquisition funds, important conservation lands within Pershing County are unlikely to be acquired by the BLM without this important legislation.

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
President and Chief Executive Officer, Coeur Mining, Inc.

Statement of Dan Gibbs
Executive Director
Colorado Department of Natural Resources
Before
The Subcommittee on Public Lands, Forests & Mining
of
The Senate Committee on Energy & Natural Resources
November 18, 2020

Chairman Lee, Ranking Member Wyden, and Members of the Subcommittee:

On behalf of Governor Polis and the State of Colorado, we appreciate the opportunity to submit this testimony on the Colorado Outdoor Recreation and Economy Act (S.241/H.R. 823) for the record. We strongly support the CORE Act and hope Congress will move swiftly to enact it. As you know, as a member of Congress, Governor Polis had sponsored the Continental Divide Recreation, Wilderness and Camp Hale Legacy Act, which has now been incorporated into the broader CORE Act.

Introduction

This legislation—the product of years of collaboration among elected officials, businesses, community members, and a myriad of other interested and affected stakeholders across Colorado—would protect some of the most beloved public lands in Colorado for their unsurpassed recreation, scenery, wildlife, watersheds, historic, and other unique values. The testimony below pertains to the House-passed version of H.R. 823, which includes some substantive improvements that were made as the bill was considered and passed by the House. Most notably, we support the expansion of the coal mine methane capture provisions in Title III.

As the Executive Director of the Colorado Department of Natural Resources, I support this bill because it will benefit our wildlife by protecting critical habitat and migration corridors; it will protect the outstanding recreational experiences that bring people from across Colorado—and the world—to these special places; it will help safeguard Colorado's water resources by protecting key watersheds and all water rights; it strikes the right balance by protecting key public lands from development, while protecting all existing mineral rights and leaving other appropriate lands available for mining, oil, and gas development; and because it complements the values and opportunities associated with our state lands.

As a former county commissioner in Summit County, Colorado, I support this bill because I was intimately involved in the years-long process of developing the provisions in Title I of the bill (Continental Divide), and I know my fellow county commissioners from other affected counties

were similarly involved in the development of the provisions in Titles II, III, and IV. This bill is built on the input of mayors, town councilors, hikers, mountain bikers, motorized users, hunters, anglers, veterans, water users and providers, ranchers, skiers, land managers, property owners, business owners, backpackers, farmers, visitors, the military, wildlife managers, members of the delegation, firefighters, organizations, and countless others.

As a kid living in Gunnison, Colorado, the spectacular lands and waters of the Curecanti National Recreation Area were my backyard and my favorite place to fish. I reveled in the unsurpassed beauty of the aspen forests of Kebler Pass. As an outdoor adventure guide, and board member of the Summit County Chamber of Commerce, I learned to appreciate the economic value of protecting wild places.

As a certified wildland firefighter, former Summit County Wildfire Mitigation Specialist, and former chair of both the Summit County Wildfire Council and statewide Wildland Fire and Prescribed Fire Matters Advisory Council, I understand the importance of forest health, fuels, and wildfire management.

I was pleased to have the opportunity to join public lands and community leaders, veteran members of the Tenth Mountain Division, Senator Michael Bennet, and Representatives Crow and Neguse earlier this fall in Summit County, on the Divide Trail in an addition to the Ptarmigan Peak Wilderness -- one of the incredible wilderness areas that would be expanded under the CORE Act.

Today, the Governor and I are pleased to join county commissions, mayors, and town councils from across the state in support of this legislation, including Eagle, Summit, San Juan, Ouray, San Miguel, Gunnison, and Pitkin Counties, and municipalities like Glenwood Springs, Ridgway, Breckenridge, Carbondale, Crested Butte, Ophir and Telluride, to name just a few. We join literally hundreds of businesses, from outdoor industry leaders like Osprey, Icelantic Skis, North Face, Patagonia, and Vail Resorts, to local small businesses on main streets across the state. We join an array of organizations, including, for example, the Outdoor Industry Association, Backcountry Hunters and Anglers, Trout Unlimited, the Vet Voice Foundation, Conservation Colorado, and The Wilderness Society. And we join too many Coloradans to count.

Colorado has a long and rich tradition of public lands protection, with nearly twenty Wilderness and other protective bills enacted over the last 54 years. All of these share the characteristics of broad citizen and stakeholder support and cooperation among the State's elected leaders. The CORE Act is part of this proud Colorado tradition.

There is good reason for Colorado's history of working to protect key public lands: Coloradans love their public lands, our outdoor recreational opportunities are world-class, and they support a thriving recreation industry that benefits our entire economy. Outdoor recreation in Colorado generates $28 billion in consumer spending and creates 229,000 jobs in the State (Outdoor Industry Association, 2017). Seventy-three (73) percent of Coloradans consider themselves outdoor recreation enthusiasts; seventy-three (73) percent say the ability to live near, recreate

on, and enjoy public lands like national forests, parks, or trails is a significant reason they live in the West; and ninety (90) percent believe the outdoor recreation economy is important to the future of Colorado (State of the Rockies, 2019). A poll by Colorado Parks and Wildlife as part of our Land and Water Conservation Fund comprehensive outdoor recreation plan found that Wilderness areas or open lands with little to no development and opportunity for solitude were ranked very to extremely important by seventy (70) percent of Coloradans, higher than any other category of outdoor recreation area (CPW, 2013).

The CORE Act is a combination of four previously-introduced and broadly-supported bills: the Continental Divide Recreation, Wilderness, and Camp Hale Legacy Act; the San Juan Mountains Wilderness Act; the Thompson Divide Withdrawal and Protection Act; and the Curecanti National Recreation Area Boundary Establishment Act. Senator Bennet has been working with all the affected communities on these proposals for many years to help bring together all the relevant stakeholders.

Each of these proposals have evolved significantly as a result of thorough research, collaboration, consultation and input. That process included not only stakeholders and local governments from across the spectrum and state, but also local federal land managers. Together, they are a complementary set of proposals, and the broad support each element of the bill enjoys has been unified by the CORE Act, with communities across the state now working together and committed to supporting each other. The CORE Act reflects the State's current needs and desires for the future.

For all of these reasons, the current Administration's testimony and statement of administrative policy on H.R. 823 before the House are disappointing. In particular, the statement of administrative policy simply does not reflect the reality of exhaustive public engagement around the provisions of the bill carried out over more than a decade at the local level and the current Forest Service leadership testimony is inaccurate with respect to a number of key points. As just a couple of many examples of that from areas near where I live:

- The current Forest Service leadership testimony stated that it does not support the proposed Williams Fork Wilderness "given the presence of roads in the area." There are no roads in the Williams Fork Mountains proposed wilderness area. Rather, this designated roadless area is recognized by the agency with its highest ranking for "natural and free from disturbance," and the forest plan determined that the area is "capable of and available for wilderness designation." (See White River National Forest Land and Resource Management Plan, Appendix C: Roadless Area Management and Recommended Wilderness.)
- Similarly, the current Forest Service leadership stated that it does not support the proposed addition to the Holy Cross Wilderness "given there are remnants of past timber harvests as well as the likelihood of unexploded ordinances [sic] in the area." Notwithstanding old remnants of past timber harvests *outside* of the area, this proposed addition is also recognized by the agency with its highest ranking for "natural and free from disturbance," and the forest plan determined that the area is "capable of and

available for wilderness designation." According to the local agency staff, they have no record of UXO ever being found in the proposed addition, and there is no reason to believe the likelihood of ever finding any would be any higher than in adjacent areas in the existing Holy Cross Wilderness.

Unfortunately, these inaccuracies and omissions are not limited to Title I of the bill.

- The current Forest Service leadership testimony points to forest planning processes in Titles II and III that make contradictory arguments. The current Forest Service leadership testimony regarding Title II states that "Due to this ongoing public process [for the pending LRMP revision for the GMUG (Grand Mesa, Uncompahgre and Gunnison) NF], USDA believes a formal position on Wilderness designations would be premature at this time." Contradicting that position in the very next breath (Title III), the testimony ignores the very same ongoing GMUG plan revision and states that "We oppose the proposed withdrawal as it would have adverse effects on current lease holders and would not be consistent with the current Forest plan."
- Moreover, the Forest Service failed to point out that the White River National Forest finalized its oil and gas leasing amendment in 2015. This plan determined that, with the exception of a few hundred acres, all the lands within the White River National Forest that overlap with lands covered in Title III of CORE Act are unsuitable for further leasing, administratively withdrawing the lands for the duration of the land use plan.
- It is also important to note that the Forest Service and Bureau of Land Management previously testified in support of the San Juan Mountains Wilderness Act of 2010 (H.R. 3914) in the House Natural Resources Committee on January 21, 2010. (See https://www.doi.gov/ocl/hearings/111/HR3914_012110; https://www.fs.usda.gov/sites/default/files/legacy_files/media/types/testimony/HNRC_01-21-2010_Testimony2944.pdf).
- The current Forest Service leadership testimony states that it "does not support the additional transfer of NFS land" to the Curecanti National Recreation Area (NRA) because while "there are no current timber sales, the area is a part of the suitable timber base. In addition, currently there are ongoing mechanical treatments for fuels treatments to increase forage production consistent with winter range objectives in portions of the proposed area." When the National Park Service collaboratively developed its Resource Protection Study and Report to Congress for consideration of legislatively establishing the NRA, the Forest Service land identified for transfer was included with the concurrence and support of the Forest Service. (See page 8 of the NPS Report to Congress, https://parkplanning.nps.gov/document.cfm?parkID=48&projectID=11243&documentID=30185). This appears to be another example of testimony that is not founded in the facts on the ground.

We believe that, on its merits, this bill is strongly in the interest of Coloradans as well as the broader public's interest, and thank Senator Bennet and Representative Neguse for their leadership on the CORE Act and their efforts to move it forward for the State of Colorado.

Title I: Continental Divide

The continental divide region of Colorado's central mountains in Summit and eastern Eagle Counties is known for its soaring peaks, world-class outdoor recreation, abundant wildlife, crystal clear water, and alluring history. It is home to the White River National Forest (the most visited national forest in the country); to world-famous resorts like Arapahoe Basin, Breckenridge, Copper Mountain, Keystone, Ski Cooper, and Vail; to Camp Hale, the storied historical site of the 10th Mountain Division; and to iconic mountain towns like my hometown of Breckenridge.

Within two hours of Denver, the I-70 corridor between Denver and Grand Junction in this region has experienced the effects of the rapid growth of local communities and Colorado's Front Range, adding enormous pressure to the public lands of the region. Millions of visitors compete with locals and each other to experience an array of high-quality recreational experiences, from the solitude of Wilderness to the developed recreational opportunities found at the resorts.

Title I of the CORE Act is aimed at providing a range of sustainable recreational opportunities, while protecting wildlife, watersheds, scenery, and historic resources from development. The provisions of Title I have long enjoyed broad support, including by the local county commissions in Summit and Eagle Counties; the towns of Breckenridge, Dillon, Frisco, Minturn, and Vail; more than 150 local Colorado businesses, including Vail Resorts, Arapahoe Basin Ski & Snowboard Area, and Copper Mountain; the Tenth Mountain Division Foundation, Continental Divide Trail Coalition, Colorado Mountain Club, the Summit Fat Tire Society and Vail Valley Mountain Bike Association, Breckenridge Outdoor Education Center; and many other organizations and individuals. None of the proposed designations would close any roads, trails, or areas that are currently available for motorized recreation.

I am proud of the careful work that we put into this Title. The thoughtful collaboration that went into it included careful design of the boundaries and management provisions of the proposed designations, including my work with the Summit County Wildfire Council to ensure appropriate buffers near communities and appropriate forest management flexibility where needed.

Section 102 would create three new Wilderness Areas (in the Tenmile Range, Hoosier Ridge, and Williams Fork Mountains) and additions to the Eagles Nest, Ptarmigan Peak, and Holy Cross Wilderness Areas.

- The proposed Tenmile Wilderness would sit high above the Town of Breckenridge, mostly above tree-line and ranging from rarely-visited mountain terrain to popular summer alpine hiking destinations.
- The proposed Hoosier Ridge Wilderness provides opportunities for quiet recreation and important watershed protection. Just minutes from Breckenridge and even closer to the small community of Blue River, the boundaries of the proposed Wilderness were crafted in consultation with local fire-protection specialists and water providers.
- The additions to the Eagles Nest, Holy Cross, and Ptarmigan Peak Wilderness Areas would expand the protections these popular recreation areas and important

watersheds offer. Many of the additions improve the administrability of the existing Wilderness boundaries, and all of the new boundaries were carefully tailored to account for non compatible uses and appropriate buffers from development. The proposed Spraddle Creek addition to the Eagles Nest Wilderness sits in the foreground of the spectacular views of the Gore Range that are enjoyed by the more than 1.6 million visitors to Vail Resort—America's most visited ski resort—and it is an important source of drinking water for local communities. A portion of the area was logged in the 1980s, raising concerns about the impacts on water quality, recreation, and scenic values. In the decades since, the forest has reemerged, making the historic "imprint of man" increasingly unnoticeable with each passing year. To avoid a repeat of the past and protect the watershed into the future, the community wants to see this area protected as Wilderness. A special provision is included in subsection (e) to address appropriate watershed protection efforts in the case of fires or flood.

Section 103 provides for the eventual establishment of the Williams Fork Mountains Wilderness, protecting critical wildlife habitat—including for the greater sage grouse and important ungulate herds—and opportunities for solitude. The proposed landscape transitions from sagebrush to subalpine forest, adding a critically underrepresented ecotype to the Forest Service's National Wilderness Preservation System portfolio. Subsection (c) addresses two grazing allotments that have been vacant for more than a decade with no determination by the Forest Service as to whether to renew grazing there. Developed through discussions with local ranchers, these provisions call for the Forest Service to determine whether to authorize grazing in all or part of the allotments prior to the formal establishment of the area as Wilderness. If grazing is reestablished, it would be grandfathered under the standard provisions of the Wilderness Act.

Section 104 would establish the Tenmile Recreation Management Area (RMA) adjacent to the Towns of Breckenridge and Frisco. The RMA would help enhance the world-class outdoor recreation opportunities there, including renowned mountain biking trails, popular hiking and hunting areas, important wildlife habitat, and essential water supplies. While the RMA restricts commercial logging, it provides flexible authority for forest, wildfire, insect, and disease management, consistent with the purposes of the area.

Section 105 would establish the Porcupine Gulch Wildlife Conservation Area (WCA). The area was designed in consultation with Colorado Parks and Wildlife to provide high-level protections for the only alpine wildlife migration corridor over Interstate 70. The I-70 corridor presents a nearly impenetrable east-west barrier to most terrestrial wildlife species in the region. The WCA would protect the southern approach to and crossing of the unique land bridge over the Eisenhower Tunnel, through which more than 13.4 million cars travelled in 2018. Those protections would connect to a proposed addition to the Ptarmigan Peak Wilderness, separated by a small corridor between the two to accommodate a utility easement and a trail corridor over the Eisenhower Tunnel.

Section 106 would establish the Williams Fork Mountains Wildlife Conservation Area. The WCA includes important greater sage grouse and big game habitat, and it complements the

protections of the contiguous Williams Fork Mountains Wilderness Area by providing a zone that contemplates the potential need for significant habitat management. The complex was designed in consultation with Colorado Parks and Wildlife and enjoys the strong support of hunters.

Section 107 would establish Camp Hale as the first-ever National Historic Landscape. This designation speaks to the storied legacy of the Army's 10th Mountain Division in Colorado and around the world. The 10th Mountain Division trained for winter warfare at Camp Hale and led our nation to victory in World War II. Its veterans went on to create the outdoor industry as we know it today. The area not only harbors the nationally-significant history of the 10th Mountain Division (recognized in part by its designation as a National Historic Site), but also a legacy of outdoor recreation advanced by its soldiers and veterans that continue to be popular on the landscape today, including mountaineering, camping, hiking, and off-road vehicle recreation. The designation also would enhance the ongoing work of the National Forest Foundation and many local collaborators to restore the Eagle River as it flows through Camp Hale. Subsections (e) and (f) include important provisions to ensure the Army Corps of Engineers will continue its environmental remediation and cleanup of legacy hazards in the area, in accordance with existing law.

Section 108 would slightly expand the boundary of the White River National Forest to include approximately 120 acres owned by Summit County within the proposed Williams Fork Mountains Wildlife Conservation Area. The boundary adjustment, which is supported by Summit County, would make it possible for the Forest Service to acquire the land for addition to the WCA, should the Forest Service and Summit County ever choose to do so.

Section 109 would adjust the "Potential Wilderness" designation around the Trail River Ranch inholding in Rocky Mountain National Park to ensure continued access to the property. When the potential wilderness area was designated in 2009, the ranch was slated for demolition. However, it has since become a valuable site for Grand Lake to host events with students, seniors, and visitors. The adjustment will allow the continued productive use of the ranch buildings to continue.

Section 110 and 111 were recently signed into law as part of the John D. Dingell, Jr. Conservation, Management, and Recreation Act (Sections 1002 and 1101 of Public Law 116-9), which passed Congress in 2019.

Section 112 includes standard administrative provisions, including for the continued jurisdiction and responsibility of the State with respect to fish and wildlife in the State, and for the continued use of the airspace by the military.

Title II: San Juan Mountains

Title II of the CORE Act derives from the San Juan Mountains Wilderness Act, considered in several sessions of Congress, and favorably reported by the House Natural Resources Committee (H.R. 3914; 111th Cong.), as well as the Senate Energy and Natural Resources Committee (S. 341; 113th Cong.).

The San Juan Mountains in southwest Colorado are another world-class recreational hub, home to the Telluride Ski Resort, world class mountain biking, backcountry skiing, mountain climbing, fishing for the iconic Colorado cutthroat trout, and whitewater rafting on clear mountain rivers. Jeepers experience incredible mountain vistas from challenging roads, and the whole region is encircled by the historic Million Dollar Highway, which along with the Durango Silverton Narrow Gauge Railroad, celebrates the area's rich mining history.

The mountain towns of Telluride, Ridgway, Ouray, and Silverton, among others, depend on tourism and outdoor recreation as their economic drivers, and protected natural landscapes are the key to the region's draw. The mountainous public lands also are the source of these communities' municipal water supplies. Protecting high quality water is a key part of the CORE Act's goals in this area. Further to the west, the Wilderness proposal for McKenna Peak and the mineral withdrawal for Naturita Canyon would provide much-needed protection for mid elevation wildlife habitat and migration routes, as well as ideal hunting territory.

Similar to the Continental Divide region, the San Juan Mountains are very much a mixed recreational-use area. Hikers, anglers, mountain bikers and OHV riders all enjoy various parts of the landscape. Appropriate management and zoning is essential to preserve high-quality and sustainable recreation experiences. The proposed designations in this section reflect the need for balance with different recreational activities and are fully supported by local governments in the area.

The provisions of Title II have long enjoyed the support of San Miguel, San Juan, and Ouray Counties, as well as the towns of Silverton, Ridgway, Telluride, Mountain Village, and Ophir; more than 100 local businesses, the Telluride Ski Resort, the San Miguel Bike Alliance, the Silverton Single Track Society, Ouray Silver Mines, the Double RL Ranch, and many others.

Section 203 would expand the existing Mt. Sneffels Wilderness and the Lizard Head Wilderness, as well as designate the McKenna Peak Wilderness on lands administered by the Bureau of Land Management in western San Miguel County.

- The jaw-dropping scenery of the Mt. Sneffels Wilderness draws hikers and backpackers from around the world, and the additions to it would fully protect its namesake mountain, one of the most notable 14ers in the region. It would also protect the iconic ridgeline of peaks to its west that leave visitors to Telluride in awe, as well as a number of former inholdings that have been acquired by the Forest Service for their outstanding natural

values. The bill was fairly recently amended to exclude approximately 500 acres from the originally-proposed Whitehouse Addition in Ouray County to facilitate avalanche control. The bill also excludes approximately 180 acres in San Miguel County to facilitate underground mining from the Ouray County-side by Ouray Silver Mines—the only active hardrock mining operation in the area and a supporter of San Juan Wilderness proposal.

- The additions to the Lizard Head Wilderness would protect the north side of iconic Wilson Peak, west of Telluride (which is reputedly the model for the peak on the Coors beer can).
- The proposed McKenna Peak Wilderness would preserve canyons, gently rolling mesas, and twisting arroyos in a new BLM-managed low-elevation Wilderness area in San Miguel County. The proposal generally follows the boundaries of the existing Wilderness Study Area (WSA) in the County, but cleans up a number of mapping discrepancies identified through consultation with the land managers. The portion of the existing WSA that is located in Dolores County will remain a WSA for future consideration.

Section 204 would designate the Sheep Mountain and Liberty Bell East Special Management Areas.

- The Sheep Mountain Special Management Area (SMA), located between the towns of Ophir and Silverton, hosts the Ice Lakes Basin, a high alpine basin that is one of the most popular hiking destinations in the San Juan Mountains. The SMA would preserve the area's wild character, while allowing an existing heliskiing operation and the Hardrock 100 foot race, one of the country's most prestigious alpine endurance races, to continue. The bill also includes a new provision to allow the Forest Service to allow for mountain biking in the Ophir Valley portion of the SMA.
- The Liberty Bell East SMA also would be managed to preserve its wilderness character, while allowing the continuation of the Hardrock 100 and an existing mountain bike trail.

Section 205 releases a small portion of the Dominguez Canyon Wilderness Study Area that Congress neglected to make a determination for when it designated the Dominguez Canyon Wilderness Area in 2009 (Section 2403 of Public Law 111-11). The provision will simplify the management of the affected area of the Dominguez-Escalante National Conservation Area. It also releases small portions of the existing McKenna Peak Wilderness Study Area (WSA) in San Miguel County that are not designated as Wilderness by section 203.

Section 206 includes a number of standard administrative provisions, including for the continued jurisdiction and responsibility of the State with respect to fish and wildlife in the State, and for the continued grazing of livestock. Subsection (g) withdraws certain public lands in Naturita Canyon from mineral development, preserving an important wildlife corridor and recreation area near Norwood, a town that has embraced recreation as a growing part of its economy. The area was originally proposed for Wilderness designation, but the community ultimately settled on a withdrawal for more flexible management. While the area has not seen significant interest in mineral development, there is broad agreement that development inside the canyon would be inappropriate.

Title III: Thompson Divide

The Thompson Divide refers to the broad countryside west of Carbondale and south of Glenwood Springs. It contains extensive aspen forests, rugged hills and mountains, and critically-important watersheds from the Four Mile Park area to McClure Pass in west-central Colorado. It includes parts of 15 separate watersheds, and provides water and land for farming and ranching, superb wildlife and hunting habitat, and a wide-variety of recreational opportunities. The area's cultural, natural, and recreational values have also been threatened by oil and gas development.

The Thompson Divide Coalition was formed over a decade ago to secure permanent protection from oil and gas development on Federal lands in the Thompson Divide area, including the Thompson Creek and Four Mile Creek watersheds, as well as portions of the Muddy Basin, Coal Basin, and headwaters of East Divide Creek. The broad-based coalition consists of ranchers, farmers, hunters, anglers, recreationists, water users, land owners, small business owners, conservationists, and local governments. Over the years, the Coalition has continually demonstrated widespread community support for legislation to permanently protect the Thompson Divide from oil and gas development, while also striving to ensure that valid existing rights are protected. Protecting the area from future oil and gas leasing will help safeguard the important cultural, natural, and recreational values.

Title III of the CORE Act would preserve existing uses on these spectacular public lands, including its water supplies for the agricultural and ranching operations in the area, high quality habitat and fisheries that lure sportsman from near and far, the snowmobiling on the Sunlight Powderhorn Trail, and the great many other recreational opportunities like hiking, camping, skiing, and mountain biking in the Divide.

This title of the CORE Act was initially introduced in Congress by Senator Bennet in 2013, and then again in 2017, as the Thompson Divide Withdrawal and Protection Act. Modifications to the original provisions and boundaries have been made over the years to address stakeholder interests. For example, in the 2017 introduction, and at the request of Gunnison County, the legislation was expanded to include additional acreage in Gunnison County, including the Kebler Pass area of the Gunnison National Forest between Paonia and Crested Butte. Following Gunnison County Road 12 west out of Crested Butte through the Gunnison National Forest, and in between the Raggeds and West Elk Wilderness Areas, lies perhaps one of the largest living organisms on the planet: the aspen grove along Kebler Pass.

Colorado has been a major oil and gas producer for many years, including natural gas production on the western slope. Much of the landscape is dotted with wells and compressor stations, and the region to the west of the Thompson Divide is one of the most heavily developed. The Divide itself has seen only limited historic development, and it maintains a more natural character. The provisions of Title III of the CORE Act are meant to keep it that way: to maintain a region critical to agriculture, wildlife, watersheds, and recreation—the way it is today.

Title III would protect critical watersheds for surrounding communities. The North Fork Valley is one of the most productive organic farming regions in the nation, home to the highest concentration of organic farms in the state and supporting the highest altitude vineyard in the northern hemisphere. In the Roaring Fork Valley, some 35 current ranching operations continue over 100 years of tradition, supporting the area's agricultural economy, its rural and historic character, and providing essential winter habitat for big game, which is rapidly diminishing with explosive growth the area is experiencing. According to a study commissioned by the Thompson Divide Coalition, the hunting, fishing, ranching, and recreation in the Thompson Divide area collectively support nearly 300 jobs and $30 million in annual economic output for our local communities.

Permanently withdrawing the Thompson Divide to new oil and gas leasing, drilling, and the associated infrastructure that comes with development, including roads and pipelines, would not significantly affect Colorado's oil and gas industry. Local communities have clamored for this protection to ensure the continued vitality of the area's rich agricultural and ranching heritage, as well as its increasingly important recreation economy.

Section 303 includes standard withdrawal language for the public lands in the Thompson Divide Withdrawal and Protection Area. The withdrawal would help to protect what President Theodore Roosevelt described as the "great, wild country" of the Thompson Divide after he spent a month hunting there in the early 1900s. As with other provisions of the CORE Act, the withdrawal would be subject to valid existing rights, which include some remaining oil and gas leases within the Divide. Only two leaseholders still have holdings in the withdrawal area. One of them, Gunnison Energy, worked collaboratively with Senator Bennet, the Thompson Divide Coalition and Gunnison County to make modifications to the bill. Gunnison Energy now supports the revised Thompson Divide language as included in Title III of this bill. Gunnison Energy also deserves credit for its efforts on the methane-capture provisions.

Section 304 was included after discussion with the only other leaseholder in the Divide. This section provides willing leaseholders the option to exchange their leases for credits to recoup the value of their investments in those leases. If the leaseholder elects to relinquish its leases in the Divide, subsection (e) would require the company to give up subleases it holds under the Wolf Creek Storage Field that have been a primary concern of citizens in surrounding communities.

Section 305 directs the Secretary to work with the State of Colorado and its institutions of higher education to complete an inventory of methane emissions in the North Fork Valley, which produces significant methane emissions from active, inactive, and abandoned coal mines. Subsection (b) would create a program to put that methane to economic use through leases to generate energy, supporting the local economy and addressing climate change. This provision was added at the request from Gunnison County, Delta County, and natural gas producers to address waste methane gas that is currently vented into the atmosphere from abandoned, inactive and active coal mines. Subsection (c) directs the Secretary to develop a program to

facilitate the sale and delivery of methane that is not leased under subsection (b) to demonstrate the feasibility, cost-effectiveness, and environmental benefits of producing electric power from methane. At the request of local governments, including Garfield County, this provision was expanded during the legislative process in the House to identify numerous potential coal mine methane capture areas in the region, and the language in the House-passed version of H.R. 823 enjoys broad support from local stakeholders.

As with the CORE Act overall, this Title respects valid existing rights, including existing mineral leases, as declared by section 306.

Title IV: Curecanti National Recreation Area

Beginning in the late 1950s, the Bureau of Reclamation (BOR) began acquiring land along a 40-mile stretch of the Gunnison River between the Black Canyon of the Gunnison and the City of Gunnison for the construction of what would become the Wayne Aspinall Unit of the Colorado River Storage Project. Blue Mesa dam was the first of the three dams comprising the Aspinall Unit. Completed in 1965, it created the largest body of water in Colorado, the Blue Mesa Reservoir. Two more dams are downstream (Crystal and Morrow Point), creating an ideal area for various types of outdoor recreation. Recognizing its recreational value, Secretary of the Interior Stewart Udall created Curecanti NRA in 1965 by Secretarial Order, and it has operated under a Memorandum of Agreement between the National Park Service (NPS) and BOR ever since. NPS has managed the area's recreational, cultural, historic and scenic resources and BOR has managed the dams, power plants and related infrastructure.

Neither the boundaries of the Curecanti NRA nor the role of NPS have ever been defined by Congress. It is one of only a handful of units of the National Park System that have no formal congressional designation. While Curecanti NRA has functioned relatively well under NPS management, a number of issues remain unresolved, hampering effective and efficient management.

In 1999, the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area Act was signed into law. The Act required NPS to study how best to protect neighboring Curecanti NRA and determine its final boundaries. The Curecanti NRA Resource Protection Study and Environmental Impact Study was released in 2008 and recommended that Congress pass legislation defining the boundaries of the NRA and NPS's management authority. The study included letters of support from adjacent Federal agency partners who would be affected by such legislation and proposed minor transfers of jurisdiction among the Federal agencies in the basin. Local elected officials and numerous stakeholders also supported the report's recommendations.

Representative John Salazar first introduced a bill to establish the Curecanti National Recreation Area during the 111th Congress (H.R. 6493). Since then, there has been more years of consultation with Federal agency managers, local governments, sportsmen, and landowners to craft a bill to address the establishment of Curecanti NRA that has broad

support.

Title IV is a common-sense solution to improve management of this important NRA. Gunnison County has helped lead the collaborative effort to develop the proposal, which is supported by a broad range of stakeholders, including the Upper Gunnison Water Conservancy District, a number of local sporting goods businesses, the National Parks Conservation Association, High Country Conservation Advocates, and a number of retired National Park Service Superintendents of the Black Canyon National Park and Curecanti NRA.

Section 402 would formally establish the boundary of the Curecanti NRA. Subsection (c) would improve management of the area by instituting a number of jurisdictional changes that streamline management and reiterate the Bureau of Reclamation's sole authority to operate the water facilities under Reclamation law. Paragraph (5) would create a mechanism whereby adjacent private landowners within three miles of NRA can request assistance from the NPS for preservation of natural resource values on their land, including cooperative management, grants, easements, or acquisition—all on a voluntary basis if requested by the landowner. Paragraph (9) directs the BOR to uphold its commitment to expand public fishing access in the basin to mitigate for the access that was lost when the Aspinall Unit was created. This provision is crucial to the many sportsmen who help drive a recreation-based economy in the Curecanti area.

Section 403 authorizes adjustments in land ownership and administration to improve management, protection, and public enjoyment of the NRA.

Sections 404 and 405 direct the NPS to prepare a general management plan for the NRA and the Secretary of the Interior to conduct a boundary survey and legal description of the NRA, respectively.

Conclusion

I'd like to thank the Subcommittee, as well as Chairman Lee and Ranking Member Wyden, for the opportunity to submit our views on S.241/H.R. 823. I also would like to again thank Senator Michael Bennet for his extraordinary leadership on this important legislation and Representative Neguse and other members of the Colorado delegation.

The majority of the state of Colorado is in extreme drought and Coloradans have witnessed the most severe, climate change-fueled wildfire season the state has ever seen. The urgency to protect additional public lands cannot be overstated. As a county commissioner, wildland firefighter and now as Director of the Colorado Department of Natural Resources, I appreciate the long-standing collaborative efforts of local stakeholders and the federal land management agencies that have gone into perfecting the CORE Act.

As the members of this Committee well know, it is impossible to make everyone happy with any legislation; that may be especially true when it comes to public lands, as it seems everyone loves every acre in their own way, sometimes in conflict with the interests of the broader public.

On behalf of the State of Colorado and the many counties, municipalities, and other supporters of this legislation, I hope this Committee will recognize the care that went into crafting this bill, the broad support it has locally and nationally, and the public interests it will advance. I urge the Committee to report the CORE Act expeditiously for consideration by the full Senate.

Colorado Springs Utilities
It's how we're all connected

December 1, 2020

The Honorable Lisa Murkowski
Chairwoman
Committee on Energy & Natural Resources
United States Senate
304 Dirksen Senate Building
Washington, D.C. 20510

The Honorable Joe Manchin
Ranking Member
Committee on Energy & Natural Resource
United States Senate
304 Dirksen Senate Building
Washington, D.C. 20510

Re: S. 241 / H.R. 823Colorado Outdoor Recreation and Economy Act

Dear Chairwoman Murkowski and Ranking Member Manchin:

Colorado Springs Utilities is the largest community-owned, not-for-profit, four-service utility in the nation. We provide water, wastewater, gas, and electric utility services to approximately 450,000 residents in the Pikes Peak Region. I am writing to express concerns about Section 107 of S.241/H.R.823 the Colorado Outdoor Recreation and Economy Act (CORE Act).

Section 107 seeks to designate 28,676 acres of United States Forest Service (USFS) lands in the upper Eagle River valley as the "Camp Hale National Historic Landscape". While we appreciate Senator Bennet's leadership and desire to honor World War II veterans, Section 107, as written, may create unnecessary conflicts and barriers to restoring an important watershed and to providing drinking water supplies for the State of Colorado's diverse and growing populations.

Colorado Springs Utilities, together with the city of Aurora and other project partners are trying to develop a joint use water project in the Camp Hale valley and surrounding vicinity. The joint use water project has been identified as a priority in Colorado's Water Plan and Basin Implementation Plans to meet future water supply gaps and help mitigate water supply risks as a result of changing climate, increasingly variable hydrology, and aging infrastructure, among other factors. We are requesting that the language be amended to recognize and protect our existing, vested water rights but also allow us to make minor operational modifications to these water rights (consistent with state law) in order to conform with the final permitted configuration of the project.

Further, Colorado Springs Utilities and many other stakeholders developed the comprehensive Camp Hale and Eagle River Headwaters Area Interpretive Plan. As currently written, Section 107 creates a path that "coordinates" with stakeholders. In our work to find consensus legislation, we sought to include a requirement of collaboration to ensure that the past inclusive stakeholder process continues. This is not included in H.R. 823 / S. 241 and the current language undermines the years of stakeholders' work.

121 South Tejon Street
Mail Code 950
Colorado Springs, CO 80903

Phone 719.448.4800
csu.org

Colorado Springs Utilities is committed to working with the sponsors and stakeholders to balance the need to provide security for water supply projects with ecological restoration, recreation, and historic designation goals. Until consensus is reached, we respectfully request the Senate Energy and Natural Resources Committee to either amend or delete Section 107 until consensus can be reached.

Sincerely,

Earl Wilkinson
Chief Water Services Officer

SEC. 107. CAMP HALE NATIONAL HISTORIC LANDSCAPE.

(a) Designation.--Subject to valid existing rights, the approximately 28,676 acres of Federal land in the White River National Forest in the State, as generally depicted as ``Proposed Camp Hale National Historic Landscape'' on the map entitled ``Camp Hale National Historic Landscape Proposal'' and dated June 24, 2019, are designated the ``Camp Hale National Historic Landscape''.

(b) Purposes.--The purposes of the Historic Landscape are--

(1) to provide for--

(A) the interpretation of historic events, activities, structures, and artifacts of the Historic Landscape, including with respect to the role of the Historic Landscape in local, national, and world history;

(B) the historic preservation of the Historic Landscape, consistent with--

(i) the designation of the Historic Landscape as a national historic site; and

(ii) the other purposes of the Historic Landscape;

(C) recreational opportunities, with an emphasis on the activities related to the historic use of the Historic Landscape, including skiing, snowshoeing, snowmobiling, hiking, horseback riding, climbing, other road- and trail-based activities, and other outdoor activities; and

(D) the continued environmental remediation and removal of unexploded ordnance at the Camp Hale Formerly Used Defense Site and the Camp Hale historic cantonment area; and

(2) to conserve, protect, restore, and enhance for the benefit and enjoyment of present and future generations the scenic, watershed, and ecological resources of the Historic Landscape.

(c) Management.--

(1) In general.--The Secretary shall manage the Historic Landscape in accordance with--

(A) the purposes of the Historic Landscape described in subsection (b); and

(B) any other applicable laws (including regulations).

(2) Management plan.--

(A) In general.--Not later than 5 years after the date of enactment of this Act, the Secretary shall prepare a management plan for the Historic Landscape.

(B) Contents.--The management plan prepared under subparagraph (A) shall include plans for--

(i) improving the interpretation of historic events, activities, structures, and artifacts of the Historic Landscape, including with respect to the role of the Historic Landscape in local, national, and world history;

(ii) conducting historic preservation and veteran outreach and engagement activities;

(iii) managing recreational opportunities, including the use and stewardship of--

(I) the road and trail systems; and

(II) dispersed recreation resources;

(iv) the conservation, protection, restoration, or enhancement of the scenic, watershed, and ecological resources of the Historic Landscape, including –

(I) conducting the restoration and enhancement project under subsection (d);
(II) wildfire prevention and risk reduction, wildfire suppression, and post fire wildfire mitigation; and
(III) watershed health and protection.

Commented [AC1]: This inclusion will allow for protection of water supplies and infrastructure as well as ensure management for healthy and resilient ecosystems.

(v) environmental remediation and, consistent with subsection (e)(2), the removal of unexploded ordnance; and

(vi) managing the Historic Landscape in accordance with subsection (g).

Commented [AC2]: Addition to specify that the Historic Landscape management plan will include the protections listed in subsection (g)

(4) Explosive hazards.--The Secretary shall provide to the Secretary of the Army a notification of any unexploded ordnance (as defined in section 101(e) of title 10, United States Code) that is discovered in the Historic Landscape.

(d) Camp Hale Restoration and Enhancement Project.--

(1) In general.--The Secretary shall conduct a restoration and enhancement project in the Historic Landscape--

(A) to improve aquatic, riparian, and wetland conditions in and along the Eagle River and tributaries of the Eagle River;

(B) to maintain or improve recreation and interpretive opportunities and facilities; and

(C) to conserve historic values in the Camp Hale area.

(2) ~~Coordination.~~ Collaboration.--In carrying out the project described in paragraph (1), the Secretary shall ~~coordinate~~ collaborate with--

Commented [AC3]: Coordinating and collaborating are two different things. Just coordinating allows a divergence from all the local planning efforts and the NFF ILF and USFS EIS that are in process.

(A) the United States Army Corps of Engineers;

(B) the Camp Hale-Eagle River Headwaters Collaborative Group;

(C) the National Forest Foundation Western Slope In-Lieu Fee Program;

(D) the Colorado Department of Public Health and Environment;

(E) the Colorado State Historic Preservation Office;

(F) the Colorado Department of Natural Resources;

(G) units of local government; and

(H) other interested organizations and members of the public.

(e) Environmental Remediation.--

(1) In general.--The Secretary of the Army shall continue to carry out the projects and activities of the Department of the Army in existence on the date of enactment of this Act relating to cleanup of--

(A) the Camp Hale Formerly Used Defense Site; or

(B) the Camp Hale historic cantonment area.

(2) Removal of unexploded ordnance.--

(A) In general.--The Secretary of the Army may remove unexploded ordnance (as defined in section 101(e) of title 10, United States Code) from the Historic Landscape, as the Secretary of the Army determines to be appropriate in accordance with applicable law (including regulations).

(B) Action on receipt of notice.--On receipt from the Secretary of a notification of unexploded ordnance under subsection (c)(3), the Secretary of the Army may remove the unexploded ordnance in accordance with--

(i) the program for environmental restoration of formerly used defense sites under section 2701 of title 10, United States Code;

(ii) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); and

(iii) any other applicable provision of law (including regulations).

(3) Effect of subsection.--Nothing in this subsection modifies any obligation in existence on the date of enactment of this Act relating to environmental remediation or removal of any unexploded ordnance located in or around the Camp Hale historic cantonment area, the Camp Hale Formerly Used Defense Site, or the Historic Landscape, including such an obligation under—

(A) the program for environmental restoration of formerly used defense sites under section 2701 of title 10, United States Code;

(B) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

Commented [AC4]: Ensures the existing agreements and intentions are recognized.

Commented [AC5]: Adding a key stakeholder.

(C) any other applicable provision of law (including regulations).

(f) Interagency Agreement.--The Secretary and the Secretary of the Army shall enter into an agreement--

(1) to specify--

(A) the activities of the Secretary relating to the management of the Historic Landscape; and

(B) the activities of the Secretary of the Army relating to environmental remediation and the removal of unexploded ordnance in accordance with subsection (e) and other applicable laws (including regulations); and

(2) to require the Secretary to provide to the Secretary of the Army, by not later than 1 year after the date of enactment of this Act and periodically thereafter, as appropriate, a management plan for the Historic Landscape for purposes of the removal activities described in subsection (e).

(g) Effect.--Nothing in this section--

(1) affects the jurisdiction of the State over any water law, water right, or adjudication or administration relating to any water resource;

(2) affects any water right in existence on or after the date of enactment of this Act, or a future operational water right therefor or a water right derived from said existing right, or the exercise of such a water right, including--

(A) a water right ~~under~~ subject to an interstate water compact (including full development of any apportionment made in accordance with such a compact);

(B) a water right decreed within, above, below, or through the Historic Landscape;

(C) a water right held by the United States;

(D) the management or operation of any reservoir, including the storage, management, release, or transportation of water;

(E) the construction or operation of such infrastructure as is determined to be necessary by an individual or entity holding water rights to develop and place to beneficial use those rights, subject to applicable Federal, State, and local law (including regulations);

(3) constitutes an express or implied reservation by the United States of any reserved or appropriative water right;

(4) alters or limits--

(A) a permit held by a ski area;

(B) the implementation of activities governed by a ski area permit; or

Commented [AC6]: We believe it is necessary to preserve intact both existing water rights and the ability to modify or supplement those rights with operational rights as may be necessary to achieve the benefits of the existing rights. As an example, Aurora and Colorado Springs want to preserve the ability to obtain rights of exchange or conduct augmentation operations with the existing rights but not to increase the decreed depletions of those existing rights. Aurora and Colorado Springs also believe the suggested changes to § 107 (g) (2) would preserve future flexibility of the participants in the aforementioned joint use water project as well as other local water entities or other regional water operators regarding operational rights they may seek individually or in conjunction with future activities.

Commented [AC7]: Proper reference.

(C) the authority of the Secretary to modify or expand an existing ski area permit;

(5) prevents the Secretary from closing portions of the Historic Landscape for public safety, environmental remediation, or other use in accordance with applicable laws; or

(6) affects--

(A) any special use permit in effect on the date of enactment of this Act; or

(B) the renewal of a permit described in subparagraph (A).

(h) Funding.--

(1) In general.--There is established in the general fund of the Treasury a special account, to be known as the ``Camp Hale Historic Preservation and Restoration Fund".

(2) Authorization of appropriations.--There is authorized to be appropriated to the Camp Hale Historic Preservation and Restoration Fund $10,000,000, to be available to the Secretary until expended, for activities relating to historic interpretation, preservation, and restoration carried out in and around the Historic Landscape; provided however that interested organizations and units of local government and members of the public may provide funding for purposes of carrying out the project identified in subsection (d).

(i) Designation of Overlook.--The interpretive site located beside United States Route 24 in the State, at 39.431N 106.323W, is hereby designated as the ``Sandy Treat Overlook".

Commented [AC8]: Intent is to acknowledge and allow local funding sources that are already planned and ties back to the collaboration with those entities on the projects.

The Confederated Tribes of the Colville Reservation

Written Statement of the Honorable Rodney Cawston, Chairman, Colville Business Council, Confederated Tribes of the Colville Reservation

Legislative Hearing on S.4625, the "National Prescribed Fire Act of 2020"

Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests, and Mining
United States Senate

November 18, 2020

The Confederated Tribes of the Colville Reservation ("Colville Tribes" or the "CCT") appreciates the opportunity to provide this written statement on S.4625, the "National Prescribed Fire Act of 2020" ("NPFA" or "the Act"). The Colville Tribes supports the NPFA and offers some recommendations on how, in the CCT's view, it can be improved to be more applicable to tribal forests.

The Colville Tribes has utilized prescribed burns to manage its forests since time immemorial and fully supports the increased use of prescribed burns as a management tool. Historically, Bureau of Indian Affairs ("BIA") management of the forests on the Colville Reservation relied on uneven aged management objectives, which today have resulted in crowded understory conditions and modified species composition on large areas of our forests. While these areas would benefit from prescribed burns, they first require traditional thinning treatments to ensure the prescribed burns can be carried out safely.

Background on the Colville Tribes and its Forest Management

Although now considered a single Indian tribe, the Confederated Tribes of the Colville Reservation is a confederation of twelve aboriginal tribes and bands from across eastern Washington state, northeastern Oregon, Idaho, and British Columbia. The present-day Colville Reservation is in north-central Washington state and was established by Executive Order in 1872. The Colville Reservation covers approximately 1.4 million acres and its boundaries include parts of Okanogan and Ferry counties. The CCT has more than 9,500 enrolled members, making it one of the largest Indian tribes in the Pacific Northwest, and the second largest in the state of Washington. About half of the CCT's members live on or near the Colville Reservation. Of the 1.4 million acres that comprise the Colville Reservation, 922,240 acres are forested land, and 660,000 of the forested acres are commercial timber land. Because of this, healthy forest management is critical to the Colville Tribes and its membership.

The Colville Tribes has endured two major wildfire events during the past five years. In 2015, the Colville Reservation witnessed the most destructive fire on an Indian reservation in recorded history. The North Star and Okanogan Complex fires collectively burned more than 255,000 acres on the Colville Reservation—nearly 20 percent of the total land base. Approximately one-fourth of the commercial timber land on the Reservation burned or was affected, which included 788 million board feet of timber. These two fires were part of what was then the worst wildfire season in Washington state history where more than 121 fires ignited during a four-day period from August 10-14, 2015.

While total acres for the 2020 fire season were slightly less than the 2015 fire season, the 2020 Washington Labor Day Fires burned the most acres (330,000) over a 24 hour period in the state's history. Two of those fires, the Cold Springs and the Inchelium Complex fires, burned nearly 200,000 acres of the Colville Reservation and caused one fatality. Nearly 80 homes and 70 other structures also burned. The Cold Springs Fire was so intense that it traveled approximately 20 miles to the south in just over six hours, where it jumped the Columbia River. This jump is suspected to have started the Pearl Hill fire, which burned an additional 223,000 acres.

Use of Prescribed Fire on the Colville Reservation

The Colville Tribes have used fire to manage its forests since time immemorial. Elders on the Colville Reservation recall that the conditions in the forests were such that there were fewer but larger trees and less vegetation in the understory. Fires that burned under these conditions had much lower severity compared to fires today.

As noted above, uneven aged management on the Colville Reservation resulted in dense understories in some areas. The Colville Tribes' current forest management practices reflect the goals of restoring the forest to historical conditions when prescribed fire was used more often, canopy heights were higher, fire resilient species were more dominant in the overstory, wildfires burned with mixed severity, and the understories were less dense. Specifically, the CCT utilizes fire to maintain an open understory, reduce fuel loading, and manage the stocking of the forest by allowing the prescribed fire to kill the less desirable second growth trees that would otherwise crowd the understory if left alone. Doing this, however, takes an active management approach, both in forest and fuels management.

To safely use prescribed fire, areas with dense understories must often be treated with using mechanical treatments such as commercial forest health treatments, precommercial thinning, and mastication. Revenue generated by these thinning treatments can be used for prescribed fires or other treatments to benefit the landscape, such as road maintenance or decommissioning, culvert replacement, tree planting, and aquatic restoration. In sum, while prescribed fire is a valuable and often preferred treatment, mechanical treatments must be considered of equal importance, especially for forests like those on the Colville Reservation that require significant understory treatments.

Comments and Recommendations on S.4625

Prescribed Fire Accounts: S.4625 would establish Prescribed Fire accounts for both the Forest Service and the Department of the Interior to plan, prepare, and conduct controlled burns on federal, state, private, and tribal lands, and authorizes appropriations up to $300 million. The Colville Tribes appreciates the significance of this investment but cautions that for tribal forests such as those on the Colville Reservation, mechanical treatments are often required in combination with prescribed burns to accomplish tribal management goals effectively and safely. For this reason, the CCT recommends that the authorized activities for these funds in section 101(e) be revised to allow the Secretaries to use the funds to assist Indian tribes or the BIA in carrying out other activities, including mechanical treatments, necessary to safely carry out prescribed burns.

Workforce Development: Section 202(a)(1) of the NPFA directs the Secretaries to increase the number of skilled and qualified prescribed fire practitioners in the Department of the Interior, the Department of Agriculture, and Indian tribes.

From the Colville Tribes' perspective, there is also a shortage of other professionals needed for tribal forest management, including foresters, biologists, silviculturists, road engineers, and other positions necessary for environmental analysis and to carry out management activities on the ground.

In 2013, the third report of the federally mandated Indian Forest Management Assessment Team ("IFMAT") analyzed the demographics and staffing levels of the BIA and tribal forestry workforce.[1] That report found that more than fifty percent of the combined workforce of BIA and tribal forestry program employees are over the age of 50, twenty-five percent are between the ages of 40 and 50, another twenty-five percent are between the ages of 30 and 40, and only one and a half percent are in the 20 to 30 age group.[2] The workforce problem for the Colville Tribes and other tribes, therefore, goes far beyond prescribed fire practitioners.

Section 202(a)(8) is broader in that it authorizes the Secretaries to provide funding to intertribal organizations, including the Intertribal Timber Council, to provide training and workforce development opportunities in wildland fire generally. The Colville Tribes recommends that, at least for Indian tribes, Section 202(a)(1) be expanded to encompass a broader range of positions and not be limited to prescribed fire specialists.

Liability and Indemnity Provisions: Section 202(d) of the Act provides that, except in the case of gross negligence, Federal employees planning or overseeing prescribed fires that escaped shall not be subject to criminal prosecution or to civil proceedings, except in accordance with 28

[1] Management activities on forests in Indian country is comprehensively regulated by the National Indian Forest Resources Management Act ("NIFRMA"), 25 U.S.C. §§ 3101-3120, and its implementing regulations. NIFRMA requires the Secretary of the Interior every ten years to enter a contract with a non-federal entity to conduct an independent assessment of Indian forest lands and Indian forest land management practices. Since NIFRMA's enactment in 1990, the Intertribal Timber Council has overseen the preparation of the various IFMAT reports.
2 *See* IFMAT III, Vol. II, NIFRMA Task C, *available at* https://www.itcnet.org/file_download/295cc60c-7e21-4947-8ef1-74b3234af5d9.

U.S.C. § 2672 (relating to the ability to settle claims). As drafted, Section 202(d) is a broader insulation from liability than the Federal Torts Claims Act, which currently applies to civil tort claims arising from actions or omissions of federal employees.

Most Indian tribes with forestry programs have contracted at least some federal forestry activities carried out by the BIA under the Indian Self Determination and Education Assistance Act, 25 U.S.C. §§ 5301-5423 ("ISDEAA"). Once contracted, the employees carrying out the contracted functions are tribal, not federal, employees. To maximize the effectiveness of section 202(d) for ISDEAA and tribal forestry programs, Section 202(d) should be revised to include individuals who plan or oversee prescribed fires under an approved ISDEAA contract.

The Colville Tribes appreciates the Committee's consideration of this written testimony and looks forward to working on this bill as it moves forward.

***

From: jaycrondahl
To: fortherecord (Energy)
Subject: S 4889
Date: Wednesday, November 18, 2020 1:39:39 AM

Regarding S4889
It is unfair to pass without public input
At this time public input is impossible
Because of the C19 pandemic
More time is needed
Give respect to the People
Give time

A. J. Crandall
800 F. Street A4
Juneau , Alaska
99801

Sent from Samsung tablet

November 15, 2020

Dear Senator Murkowski,

I am writing to express my opposition to SB 4889 and in particular to the creation of a new native corporation that would impact the community of Tenakee Springs and the salmon streams and forests of Tenakee Inlet.

While I have great respect for the native peoples of Southeast Alaska and hope that inequities can be fully addressed this bill would cause much harm. The people of Tenakee Springs are deeply connected to the land, forests, and salmon that they rely on and love. You know how much opposition there is to this because this is not the first time this kind of legislation has been tried. Time and time again people have fought for to keep Tenakee Inlet intact and healthy.

It's shameful that you would bring this complex piece of legislation forward in a lame duck session and hold a hearing less than a week after introducing it. Alaskans deserve an opportunity to examine this complex bill and understand its potential harmful consequences. This is politics at it's worst. Please reconsider!

Jai Crapella
28 Good River Rd
Gustavus, AK 99826

Wanda J Culp PO Box 259, Hoonah, Alaska, wandajculp@yahoo.com

November 15, 2020

Alaska (R) Senator Lisa Murkowski, Chair
And,
VA (D) Senator Joe Manchin, Ranking Member,
US Senate Committee on Energy & Natural Resources
Washington DC

RE: SB 3004 or S 3273 "Alaska Delegation's LANDLESS LEGISLATION

To All This Concerns,

I am a pissed off Tlingit Grandmother indigenous to the Tongass Forest who has spent decades, along with millions of others, forcing the insertion of the Voices of the People into this broken corporate-led democracy.

My Grandparents successfully filed two (2) lawsuits against the US government:

1. Tee-Hit-Taan (1936-71) resulted in a $7.5M settlement conceding Tlingit & Haida's "*aboriginal title*" to non-federal and non-state of Alaska land, creating the non-profit tribal organization Tlingit & Haida Tribal Indians of SE Alaska as administrators of the Settlement, of which I am a Tribal member of.
2. 1971 for-profit Alaska Native Claims Settlement Act (ANCSA) extinguished AK Native *"aboriginal claims*" to the land, providing a mere 1/9th% of State of AK "*private property*" holdings to owner Natives under corporate-driven laws. I am a Tribal Member Shareholder of Sealaska.

   NOTE OF IMPORTANCE: ANCSA formed **12 regional** corporations across Alaska, of which **Sealaska Corporation** belongs to the Tongass Forest. In the 1960s, the SOI/Bureau of Indian Affairs conducted an "**Enrollment**" of original lawsuit

beneficiaries, our enrollment numbers are reflected on our ORIGINAL ANCSA corporate shareholder documents tied to who we are and where we originate from.

Alaska Natives that were not living in Alaska were not enrolled. Only later did that occur, and the tiny 13th "regional" ANCSA corporation was created. Irregardless, "landless" Alaska Natives could only qualify if they are bloodline attached to where they come from by who they are. They cannot move forward without the original parent voices of the lawsuit.

My point, the for-profit Sealaska Corporation belongs to Alaska Native-owned Interest. It is not AK-(R)'s authority to decide what "landless legislation" and "rectifying 50-years of injustice" should look like -- without the free, prior, and well informed consent of ANCSA shareholders!!

ANCSA lands are separate in ownership status from 1959 Statehood land.

Alaska's (R) DC Delegation is literally bastardizating my Grandparent's intent for a "*just*" settlement the same way that Lisa Murkowski did with the overturning of the 2001 ROADLESS RULE on our hunting, fishing, and gathering areas designated as "*federal public lands*", this month at the end of America's current pro-industry administration, and lame duck session.

Proposed withdrawals of National public lands require legal processes that Senator Murkowski omitted with her 2018 Draft Environmental Impact Statement (DEIS) that recently overturned the People's hard-fought 2001 ROADLESS RULE in the Tongass Forest. Now Murkowski turns her focus on the weak "*private lands*" status of ANCSA in Alaska, as easily as she exploited the uncodified national ROADLESS RULE.

QUESTION: Given that the Vietnam War was during the decades of 1960-70s, prior ANCSA: Why is Senator Lisa Murkowski not prioritizing settling the land allotments for the Vietnam Veterans? That issue has been before Congress for decades, Ex-senator Frank Murkowski made it an issue. Hoonah, less than 800 residents and 28 Vietnam Veterans served. Five brothers from the Huna Mills family served, their home base is Excursion Inlet and Hoonah.

US Navy Seal Veteran Thomas L Mills Sr lives in the 100+ year old house he was born in 76 years ago, in Excursion Inlet. Tommy boasts of meeting Senator Lisa Murkowski and giving

her photos of young moose on the Inlet beach, and other wonders. He believes in his war-beaten heart that she is going to settle the Vietnam Land Allotment issue once and for all in his lifetime.

Remember him Lisa Murkowski as you use his existence in your puppet show.

The maps attached to the cumbersome "Landless Legislation" being claimed for the 13th ANCSA Region is out of whack, spread across every Traditional Tlingit & Haida use area in the Tongass. Further, we have many long-term resident neighbors who identify with the land whose legal interest grassroot voices are also being ignored. Please identify who this legislation is for in connection to "shareholder"-established bloodline ownership, as originally required for ANCSA eligibility. The wide-spread pieces of public land being designated for the 13th regional corporation clearly reveals the lack of family history knowledge and traditional use importance. Rather, it is the shopping list for the mining and clearcut logging industries.

CV-19 has more than drained the public coffers near and far. There is no time or money for disillusions, or costly games of monopoly. It is time for close examination and prioritizing repairs focused on cleanliness and root causes to this global pandemic of all living families on this planet.

Ignoring Science and the People is no longer an option.

Divert this horrible legislation back to the SE Alaska communities of the Tongass Forest to sort out COMMON GROUND among Tribal, Federal, and State government land ownership designations that we all live within. THAT is how the US Congress can "*rectify 50 years of Injustice*"!

For, "We Are All In This Together", right?

Allow us to lead the way.

Yours in Hope for the Best,

Wanda Kashudoha Culp, Tlingit

Earthjustice * Sierra Club * Natural Resources Defense Council * Western Enviornmental Law Center

November 18th, 2020

Senator Lisa Murkowski
Chair, Energy and Natural Resources Comm.
522 Hart Senate Office Building
Washington, DC 20510

Senator Joe Manchin
Ranking Member, Energy and Natural Resources Comm.
306 Hart Senate Office Building
Washington D.C. 20510

Dear Chair Murkowski and Ranking Member Manchin:

As organizations committed to safeguarding the environment, protecting forests, and fighting for climate stability, we want to express our opposition to The Forest Health and Biomass Energy Act of 2020, S. 4603. The bill promotes that biomass harvested from federal lands is a climate solution, creating energy that is carbon neutral while also claiming that the use of forest biomass is a tool to create healthy forests and mitigate wildfire risk. While science-driven forest management is necessary, and much of our wildfire issues are due to 100 years of wildfire suppression, forest biomass will only exacerbate current matters within the forest system including climate change and fire risk.

Forest biomass burning is not a climate solution and should not be considered a distributed renewable energy resource. When we burn forest biomass for bioenergy, we release carbon into the air, and even when trees are regrown, the climate impacts last for decades to centuries. These new regrown or planted trees do not store as much carbon as the older mature trees logged for biomass burning. Furthermore, biomass incineration creates particulate matter pollution and other harmful pollutants, which can seriously harm public health. These particulates include nitrogen oxides, carbon monoxide, sulfur dioxide, lead, mercury, and other pollutants detrimental to human health and disproportionately impact underserved communities across the country.

Instead, we urge the Senate to focus on legislation that would use science-based methods to mitigate wildfire risk to protect communities from wildland fires. States and localities can protect communities from wildland fires by utilizing cost-share grants to create defensible space and fire-safe retrofits. Rather than logging miles away from homes and businesses and increasing air pollution through the incineration process that will impact human health and leave communities and habitats vulnerable to more catastrophic wildland fires. Empirical evidence, including the Forest Service's former top fire science researcher, has demonstrated that the most effective means of protecting structures is to create defensible space immediately around the building and install fire-safe retrofits—not logging miles away from communities or burning forest biomass for energy. A preferred solution would be Senator Kamala's Harris bill S. 2882 The Wildfire Defense Act, or Sen. Ron Wyden's National Prescribed Fire Actl S.4625. Both provide community protection, and S. 4625 provides a scientifically-driven tool to aid in healthy forest management.

S. 4603 is a false solution in search of a problem within our national forest system, which will only intensify wildland fires, harm communities, and exacerbate the climate and biodiversity crisis. The Senate should focus on legislation that will protect homes, livelihoods, and communities, rather than solutions that will only negatively impact the environment, animal habitat and not solve the wildland fire issue.

Alaska State Legislature
Representative Bryce Edgmon
Speaker of the House

December 1, 2020

The Honorable Lisa Murkowski
Chairman
United States Senate Energy and
Natural Resources Committee
5222 Hart Senate Office Building
Washington, DC 20510

The Honorable Joe Manchin
Ranking Member
United States Senate Energy and
Natural Resources Committee
306 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Murkowski and Ranking Member Manchin:

As Speaker of the House of the Alaska State Legislature, I urge you and your colleagues to support and pass S.4696, *the University of Alaska Fiscal Foundation Act.*

The University of Alaska is our state's only system-wide institution for public higher-education, serving an area that makes up one-fifth the landmass of the United States. It provides educational opportunities ranging from vocational and technical certificates to graduate degrees. UA's cutting-edge research is vital to our national interests in this part of the world. Graduates from the University go on to contribute to the U.S. workforce through various vocations, and some even go on to public service roles like me and several of my colleagues in the Alaska legislature.

Alaska's fiscal climate is all too real for many in the state, and the University of Alaska has borne more than its share of the consequences. The legislature has had to make tough choices and will continue to do so when addressing budgetary shortfalls. If passed, S. 4696 would provide an opportunity for the University to establish a program that would contribute to its long-term financial stability. This stability would aid the University's mission of education, research, and public service to Alaska and to the nation.

I extend my appreciation to the Alaska Congressional Delegation and I urge the U.S. Committee on Energy and Natural Resources to pass the *University of Alaska Fiscal Foundation Act.*

Sincerely,

Bryce Edgmon

Rep. Bryce Edgmon
Alaska Speaker of the House

State Capitol Building
120 East 4th Street, Juneau, AK 99801
Phone: 907 465 4451 | Toll Free: 800 898 4451 | Fax: 907 465 3445
Rep.Bryce.Edgmon@akleg.gov

Testimony of Elko Mining Group LLC

Senate Subcommittee on Public Lands, Forests and Mining

Hearing on S. 2804 (Senator Catherine Cortez Masto), The Pershing County Economic Development and Conservation Act

November 18, 2020

Chairman Lee, on behalf Elko Mining Group LLC, please accept for the Record our testimony in support of S. 2804, the Pershing County Economic Development and Conservation Act.

Elko Mining Group LLC is the manager of Solidus Resources, LLC ("Solidus") and Clover Nevada LLC ("Clover"). Solidus is the owner of the Spring Valley project and Clover is the owner of the Wildcat project, both located in Pershing County, Nevada. Both projects are located within the checkerboard lands resolution area as depicted on the map in Title I map of S. 2804.

As a key stakeholder in Pershing County, Nevada, Elko Mining Group supports the passage of this crucial legislation, as it is important to the citizens and lands of Pershing County. Over the years, Elko Mining Group has worked with all stakeholders and Congress to push this grass roots movement forward and to address minor apprehensions with the legislation. By addressing federal land management issues and land tenure, S.2804 lays the groundwork for a bright future for the County's economic and conservation efforts.

Currently, the land in Pershing County is distributed in a "checkerboard" manner due to early conveyances designed to incentivize building of the transcontinental railroad. This setup of fractured ownership has stumped economic growth for Pershing County and frustrates management for the BLM. This legislation would solve the "checkerboard" issue by allowing for exchanges and directed sales at fair market value to clean up ownership patterns in the County. Not only would Title I spur economic growth, but it would also allow for better conservation and more recreational use of the land. Revenues from land sales must be utilized by the Secretary to purchase lands within Pershing County for conservation, species and habitats, recreation, and preservation of other cultural and ecological resources. The purchased lands will be added to property tax rolls, increasing revenue for the County as a whole.

The lands that are subject to the Title I provisions are already heavily impacted by mining activities and include existing mining, mine pits, roads, drill sites, heap leach pads, buildings, and other infrastructure. These federal lands are not available to the public today and contain extremely low recreation, conservation, or wildlife habitat resources for the public. These lands

will remain mining lands for decades in the future. S.2804 allows the Secretary to receive fair market value for these lands now, and in return, can purchase higher value lands within Pershing County to increase recreation and conservation resources available to the public. The result should be a very insignificant change in Federal land acres managed by the BLM. The existing mining projects will continue to be regulated under the jurisdiction of Nevada State Law and mining regulations, the role model of mining regulations in the United States.

Finally, Elko Mining Group supports the designation of public lands as wilderness to conserve Pershing County's beautiful desert lands for future generations. This effort has been driven by ranchers, mining companies, conservationists, and citizens, as it is important to each of these groups that we preserve these lands for the future.

Elko Mining Group appreciates the Subcommittee's consideration of the Pershing County Economic Development and Conservation Act and urges the Committee to do everything necessary to enact this important legislation this Congress.

Respectfully,

Jack McMahon, President

Elko Mining Group LLC

PO Box 21756
Juneau, AK 99802
November 16, 2020

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee:

I have the following comments on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

I am a recreational user of Tenakee Inlet. I also regularly harvest seafood from the Inlet.

I object to granting exclusive private use of lands surrounding Tenakee Inlet to private Native Corporations who were not part of the original ANCSA and ANILCA negotiations. The reason is that these potential corporations would quickly liquidate the value of these lands through clearcutting and habitat destruction.

Please refrain from passing legislation that would form these corporations, and refrain from giving away land that is already in use by existing nearby residents for their subsistence and recreational needs.

Sincerely,

Richard M. Farnell
Southeast Alaska Resident

Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests and Mining
Legislative Hearing
Wednesday, November 18, 2020

Senator Gardner
Statement for the Official Record

Thank you to the Committee for having this legislative hearing before the Subcommittee on Public Lands, Forests and Mining.

I am glad to see Congressman Neguse's Colorado Outdoor Recreation and Economy (CORE) Act is receiving a hearing in the U.S. Senate. Over the past several months, there has been much miscommunication from political pundits that used this legislation to politicize our treasured Colorado public lands.

There is a great tradition in Colorado - public lands designations have always been bipartisan. These designations also included the support of those members that represent the area Congress is designating. In honoring these traditions, I have tried to play a role in bridging the divide among my Colorado colleagues on this particular piece of legislation. The CORE Act passed the House of Representatives, not once, but twice without bipartisan support from the Colorado delegation. This breaks all tradition back home.

I agree in the bipartisan tradition of working together to protect public lands and its long been how the Colorado delegation confronts these issues. In fact, this is a major pillar of how I address these issues. Given that, I provided Senator Bennet with suggestions to improve the CORE Act to gain bipartisan support with the delegation on October 17 of last year. I have never wanted to litigate our work in the press, but I assure you my suggestions were technical in nature. An example is to provide clarity on water rights included in the legislation.

Unfortunately, anyone's guess is as good as mine what has become of those suggestions.

What is interesting is that I hear from stakeholders back home that my Democratic colleagues are still negotiating language. I am not even sure if this legislation we are reviewing today is the latest bill text.

I would like to make it clear that I do not oppose this bill, and I am not standing in the way of its passage. I have provided suggestions only because I continue to believe in our delegation's history of working together to protect public lands.

On a final note, since the introduction of the legislation, Colorado has seen two of the largest fires in Colorado history this year. We need increased coordination and collaboration among local, state, and federal recovery efforts to mitigate long-term impacts to the region's forests, infrastructure, economy, and watersheds following this wildfire season. We need to confirm with certainly that the CORE Act will not impact these massive mitigation efforts following this tragically historic wildfire season.

Thank you, again, for holding today's legislative hearing.

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee:

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

I am writing to express my strong opposition to passage of SB 4889 at this time. I have lived in Hoonah, one of the communities that will be affected by this bill, for almost 30 years. I am in full support of rectifying any inequities in the original configuration of the ANCSA corporations. However, I believe the current land selections for the proposed Tenakee Corporation would negatively impact life in Hoonah, would be ecologically damaging, and would exacerbate existing community conflicts. I request that the committee not pass this bill. The communities impacted by the Tenakee Corporation need time to work together to find a solution that will be less impactful.

The proposed Tenakee Corporation made land selections that would be of perceived economic value for the corporation. Such economic gain would require development. However, the selections in Port Frederick and Freshwater Bay are largely areas that are currently used by Hoonah residents in their recreational and subsistence lives. Turning those areas into private land could limit public access — even if the leaders of the proposed corporation say at this time that Hoonah people could continue to use the land. Once land is taken out of the public trust, the new owners are not bound by any prior verbal assertions. Privatizing those areas also makes them potential natural resource or tourist developments — which again can degrade the land and limit public access, at least during the tourism season, which is the same season as recreational and subsistence use.

Several of the land selections are extremely important ecologically, including the Portage and the Neka Bay watershed. The Portage is a critical, very narrow wildlife corridor. Developing it could potentially block most wildlife migration into and out of Northwest Chichagof Island, thereby impacting subsistence hunting. Development in Neka Bay puts an important salmon stream at risk which would impact the fishery in the area. It's important to remember that this part of Chichagof Island is not undeveloped wilderness: instead, it is still a long way from recovering from the unsustainable clearcutting of the long-term Forest Service timber contracts and the logging on Native land.

Today Port Frederick is faces a serious overload of tourism as a result of the expanding operation at Icy Strait Point and the local businesses which have grown up around it. While Icy Strait Point has been a net positive for Hoonah, the current trajectory of tourism is potentially unsustainable

for both resources and quality of life. Another corporation geared around landscape based development will just aggravate the problem.

The selections for the Tenakee Corporation could also exacerbate community conflict. There is already a lot of disagreement here about the headlong increase of development. Selections that cut to the heart of many frequently used areas will simply create ill will between the Tenakee Corporation and other community members. This controversial and potentially divisive legislation is entirely inappropriate at a time when political divisions are so intense and we are all exhausted by the past months of election and pandemic. We need our Congressional delegation to bring us together, not drive wedges between us.

Finally, this process appears to be a blatant attempt to rush something through due to a changing administration. As a community member, I had all of one weekend to prepare my testimony. In fact, I couldn't even find a place on the Energy and Natural Resources Committee's website where comments could be submitted! Shame on Senator Murkowski for trying to rush through this complex legislation during a lame duck session, and holding a hearing less than a week after introduction. If passed, this bill will have huge impacts on Southeast Alaska, and Alaskans deserve an opportunity to examine this bill and understand its potential consequences.

Thank you for considering my concerns. Again, I support the concerns of the unfairness of the original ANCSA legislation. However, I oppose SB 4889 until the land selections for the Tenakee Corporation can be redesigned with input from the communities impacted.

Sincerely,

Stephanie Harold
PO Box 475
Hoonah, AK 99829

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

I am concerned about the fast tracking of this bill during a lame duck administration. This timeline does not allow adequate time for dissemination of the information, nor for research or thoughtful evaluation.

There may be huge ecological ramifications to our shared lands, waters, habitats and wildlife, all too important to the life of SE Alaska to be treated in such a cavalier fashion.

I ask you in the interest of good peer-reviewed science and traditional ecological knowledge to take this up in the new year, after we have all recovered from a divisive and draining election cycle.

Thank you,

Melanie Heacox
P.O. Box 359
Gustavus, AK 99826

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

I am writing to express my strong opposition to the Alaska Native Claims Settlement Act Fulfillment Act of 2020. This is just another attempt to destroy the Tongass by promoting logging of more of the vital old growth forests. I am Outraged that this time it is to shamelessly use the naked excuse of creating fictional 'landless natives' urban corporations then conveying large parcels to them. A brief look at the map will show that the selected lands have no connection whatsoever, current or historical, with these purported groups. They have been selected purely for their economic value. They target not traditional lands but areas of high density old growth forests and/or areas likely to be developed as recreational homesites or commercial lodges. There is no doubt that the intention is that these critical lands are to be clear cut and the logs sent (in the round) overseas as is currently being done on much of other native allotments.

The Tongass as is, is critical to the residents of the region. Fishing for salmon (which require cold non logged-over streams and tributaries) and tourism (which needs the unique and pristine natural environment) provide the vast majority of the jobs in Southeast Alaska. The Tongass is also vitality important as a food resource for its residents. Salmon is a staple, as are deer and other game, wild berries and vegetables. All are hugely negatively impacted, if not outright destroyed, by logging and are critically important to all residents - including Indigenous residents. Logging has and will always provide only minuscule number of jobs relative to the resident population, while at the same time threatening the vast majority of livelihoods. Moreover it becomes more apparent every day that the Tongass, the carbon it sequesters and oxygen it produces, is critical to mitigating the threat of climate change for the entire planet. I have lived for 38 years in outlying regions of Southeast Alaska. I have lived in locations that have seen extensive logging (Kupreanof and Mitkof Islands) and the much more pristine NW Chichagof Island. I have seen firsthand the lasting impacts, the diminished resource that result because of logging. This is solidly backed up by countless studies done by the Alaska department of Fish and Game, as well as several federal agencies.

The potential damage done to thousands of Southeast residents livelihoods, the negative environmental impacts, and worldwide climate impacts do not remotely justify pursuing the conveyance of these lands to newly created Native groups.

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

Ms. Deborah Hemenway
17 Fara Way
Gustavus, AK 99826

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

As a small scale commercial fisherman and rural resident born and raised on Chichagof Island and now residing in the small community of Gustavus across Icy Straits from Chichagof I am writing to express my disapproval of S. 4889. This bill has gone forward too quickly and with little input from the public and especially from the residents of the subsistence communities who will be impacted by this transfer of a massive amount of public land into the hands of a private for profit corporation. This land is currently being used for the benefit of every resident. Why not give the public the opportunity to fully review this bill and introduce it after this year's lame duck session?

I am particularly disturbed by the Tenakee Inlet land transfers. Since the Tenakee group did not meet the requirements of the original ANSCA distribution, how can it be included in an "ANCSA Fulfillment Act"? In addition it seems completely arbitrary to me that the members of this group will be receiving much more land per capita than the four other communities affected by this bill. This bill feels like it was written expressly to strip land from the public domain and place it in the hands of for profit industry rather than to right an historic wrong.

The Portage area land selection is in a particularly sensitive location as development in this area would ecologically seperate North Eastern Chichagof from the rest of the island. The habitat of the NE section of the island has already been hammered by road building and industrial clear cut logging on both public and private land. It is very important to maintain a wildlife corridor between the North Eastern section of the island and the less heavily impacted western sections. It is a well documented fact that maintaining large well connected reserves of habitat is of the utmost importance in preserving wildlife. Why risk further fragmenting an already vulnerable landscape?

I make my economic living from salmon and secure most of my protein by hunting deer on Chichagof Island. Conserving our salmon runs in Southeast Alaska is key to the region's economic, environmental, and cultural health. These lands being taken from the public and transferred to a private corporation will not be subject to even the modest restrictions placed on clearcut logging by the US Forest Service. There will be no requirement to leave the stream and shoreline buffers absolutely essential to maintaining salmon runs.

We have repeatedly seen salmon runs decimated by loss of spawning habitat from California to British Columbia and even throughout the Tongass. We know that this land transfer will negatively impact . The land selections in this proposed bill cherry pick some of the most ecologically important lands in the Tongass and opens them up to commercial exploitation.

Sincerely

Matthew Hemenway

F/V Lucky Strike

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Senators

Once again I am forced to write to try defend the Tongass National Forest.
Once again the desires of the 96% of people who supported keeping the Tongass roadless are being ignored.
I am now writing to express my Strong opposition to the Alaska Native Claims Settlement Act Fulfillment Act of 2020. This is just another attempt to destroy the Tongass by promoting logging of more of the vital old growth forests. I am Outraged that his time it is to shamelessly use the naked excuse of creating fictional 'landless natives' urban corporations then conveying large parcels to them. A brief look at the map will show that the selected lands have no connection whatsoever, current or historical, with these purported groups. They have been selected purely for their economic value. They target not traditional lands but areas of high density old growth forests and/or areas likely to be developed as recreational homesites or commercial lodges. There is no doubt that the intention is that these critical lands are to be clear cut and the logs sent (in the round) overseas as is currently being done on much of other native allotments.

The Tongass as is, is critical to the residents of the region. Fishing for salmon (which require cold non logged-over streams and tributaries) and tourism (which needs the unique and pristine natural environment) provide the vast majority of the jobs in Southeast Alaska. The Tongass is also vitality important as a food resource for it's residents. Salmon is a staple, as are deer and other game, wild berries and vegetables. All are hugely negatively impacted, if not outright destroyed, by logging and are critically important to all residents - including Indigenous residents. Logging has and will always provide only minuscule number of jobs relative to the resident population, while at the same time threatening the vast majority of livelihoods. Moreover it becomes more apparent every day that the Tongass, the carbon it sequesters and oxygen it produces, is critical to mitigating the threat of climate change for the entire planet.
I have 38 years experience living in outlying regions of Southeast Alaska. I have lived in locations that have seen extensive logging (Kupreanof and Mitkof Islands) and the much more pristine NW Chichagof Island. I have seen firsthand the lasting impacts , the diminished resource, that result because of logging. This is solidly backed up by countless studies done by the Alaska department of Fish and Game (some of which I was involved in as an ADF&G employee) as well as several federal agencies.
The potential damage done to thousands of Southeast residents livelihoods, the negative environmental impacts, and worldwide climate impacts do not remotely justify persuing the conveyance of these lands to newly created Native groups

Steven Hemenway
17 Fara Way
Gustavus, Alaska
Shearwaterak@aol.com

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

I am writing to express my displeasure that a hearing for this bill is happening at this time and on such extremely short notice. Bills virtually identical to S.4889 have been introduced before and have never gained traction because of their controversial nature. To attempt to move this bill at this time, with much more pressing matters before the Senate such as COVID relief and helping us through a turbulent presidential transition, smacks of political opportunism at its worst. With all of our attentions on these and other issues, for Senator Murkowski to call a hearing for this bill on short notice and with only one day for public comment, is quite literally, a shameful use of her position.

I have studied at length the historical process by which the federal government took Tlingit lands beginning in 1867 and culminating with the passage of ANILCA in 1971, so I am sensitive to the issue. I want the Tlingit people to enjoy ownership of the lands entitled to them by ANCSA, and to retain access to those public lands excluded from ANCSA selections. But in the century between the US acquisition of Alaska, and the passage of ANCSA, many thousands of non-Native people moved into the Tongass forest and also came to call it home. We must also take into consideration the needs of that population.

Several cases in northern Southeast Alaska highlight the flaws of this bill. Creating an "urban" corporation for Tenakee Springs, an isolated community with a population of 134 should be seen for what it is – a deliberate transfer of 23,040 acres of public land to private ownership. I will point out that when ANCSA was passed in 1971 the village of Tenakee did not qualify for selections under terms of that act as it had very few Alaska Native residents and did not meet any of the criteria for land selections. However, I am aware that some of the people with ties to Tenakee were able to enroll in the corporations of neighboring villages and towns, such as Hoonah or the urban corporation in Juneau. To now suppose, 50 years later, that an urban constituency has sprung up among the descendants of people with Tenakee ties who did not qualify for selections before, but now qualify for selection, is an issue that needs a much more thorough analysis than this rushed process would allow.

Another of the flaws in this bill is presented by the Haines urban corporation selection. This corporation would select the bulk of its lands from the Excursion Inlet/peninsula area. However, based on years of historic and ethnographic research I know for a fact that the lands the Haines

urban corporation would want to select were not a part of the traditional territories of any of the clans who inhabited northern Lynn Canal, rather they were lands owned by the Woosheetaan and Kaagwaantaan clans based out of Hoonah. I suspect there are two reasons the Haines urban corporation would want to make selections on the Excursion peninsula – 1) those lands are now included within the Haines Borough municipal boundary, a boundary regularly and aggressively disputed by the municipality of Hoonah, and, 2) it is an area that had been selectively logged, at public expense, by the NFS in the 1980s so has an existing network of roads, meaning the cost of gaining access for clear-cut logging the remaining forest would be much reduced compared to non-roaded areas. Let us see this for what it is – removal of public lands to private ownership because of the expediency offered by the presence of a publicly funded road network, on lands not traditionally claimed by the Tlingit people of Haines.

I implore the Senate Energy and Natural Resources committee to table this bill until the next Congress so the public has a fair chance to participate, and a proper, informed decision can be made. To do otherwise smacks of political opportunism at its worst.

Wayne Howell
Gustavus, Alaska

PO Box 20280
Boulder, CO 80308
Office: 303.545.9011
Fax: 303.545.9026
www.IMBA.com

Testimony on S.241
–
Colorado Outdoor Recreation and Economy Act

Submitted to the
Senate Energy & Natural Resources Committee
Subcommittee on Public Lands, Forests, and Mining

November 18, 2020

The Honorable Mike Lee
Chairman, Subcommittee on Public Lands, Forests, and Mining
Energy & Natural Resources Committee
U.S. Senate

The Honorable Ron Wyden
Ranking Member, Subcommittee on Public Lands, Forests, and Mining
Energy & Natural Resources Committee
U.S. Senate

Dear Chairman Lee and Ranking Member Wyden,

Thank you, Chairman Lee, Ranking Member Wyden, for the opportunity to submit written testimony today on Senate bill 241 the Colorado Outdoor Recreation and Economy Act (CORE).

On behalf of the International Mountain Bicycling Association (IMBA), we want to urge the Committee to support the CORE Act.

IMBA is a 501(c)3 non-profit educational association whose mission is to create, enhance and protect great places to ride mountain bikes. Founded in 1988, IMBA leads the national and worldwide mountain bicycling communities through a network of 140,000 individual supporters, subscribers and affiliate groups and members. Each year, Mountain bikers are estimated to contribute more than 100,000 hours annually valued at more than $2 million in volunteer trail stewardship on America's public lands. Mountain bikers are some of the best assistants to federal, state, and local land managers when it comes to trail maintenance, trail planning, design and building. IMBA's members and mountain bike trail organizations nationwide have relied on federal lands for sustainable and thoughtful shared access to trails in their communities and this bill will further advance both recreation and conservation measures in Colorado's high country. Consequently, our local members and affiliate organizations have endorsed this bill.

PO Box 20280
Boulder, CO 80308
Office: 303.545.9011
Fax: 303.545.9026
www.IMBA.com

Since 2010, IMBA has worked consistently with our local members and organized mountain bike groups and a variety of other stakeholders to ensure that mountain biking interests are protected, enhanced and planned for along with the natural resource and ecological values of these landscapes in the San Juan Mountains of Southwest Colorado and Central Mountains of Summit and Eagle Counties. This includes our directly affected Eagle and Summit County chapters Vail Valley Mountain Trails Alliance, as well as the Silverton Singletrack Society, San Miguel Mountain Bike Alliance and Trails 2000 in the San Juan Mountains of SW Colorado.

We greatly appreciate the concerted effort by the office and staff of Senator Michael Bennet to address our concerns in the development of this bill. We have worked collaboratively, over the years, to provide input about mountain bike trails that may be impacted by the Wilderness protections in the proposal and there has been a genuine effort to address access issues we identified during the process. While we maintain that no bill is likely perfect from anyone's viewpoint, through open dialogue, consensus building and a commitment to ongoing communications, together we have resolved the concerns of mountain bikers and we fully support the current bill.

Model Legislation
The proposals included in the CORE act represent a modern approach to land protection that strikes a recreation and conservation-friendly balance through a community driven process. They include components that advance our missions and we are confident they will result in better mountain biking and land protection in Colorado. We are proud to be able to stand by the process, the relationships, and the end product that represents the CORE Act and this ensures our support.

Due to the permanence and level of protections that a Wilderness designation affords, IMBA believes Wilderness designations must be made carefully and with the broadest possible stakeholder engagement and support. Wilderness is an appropriate designation when it is arrived at through an open and landscape-level collaborative process that fully considers options for more flexible protective designations in some areas where desired and addresses the diversity of ways in which people presently access and wish to sustainably enjoy and engage with their public lands in the future. The CORE Act meets the high standards we place on how bills get crafted and it establishes a model for how conservation legislation should be developed.

We maintain that fair process and good relationships are essential to keeping mountain bikers and others engaged and supportive of public lands and that sustainable recreation activities must be included and accounted for in land management and legislative decision making.

Additionally, Colorado's spectacular public lands are vital to the state's outdoor recreation economy and these lands and the recreation they host must be protected. In a 2017 study, outdoor recreation contributed $62 billion to Colorado's economy and $35 billion to the state's Gross Domestic Product - which is more than 10 percent - while supporting 511,000 direct jobs, according to Colorado Parks and Wildlife. The outdoor economy contributes $2 billion in state and local taxes annually, according to the Outdoor Industry Association. The CORE Act helps ensure that the balance of this recreation economy will be maintained.

PO Box 20280
Boulder, CO 80308
Office: 303.545.9011
Fax: 303.545.9026
www.IMBA.com

Bike-Friendly Components
We are proud of the collective work that has led to the myriad changes, refinements, and adjustments that has, in each iteration over the years, resulted in better outcomes for mountain biking and sustainable natural resource management and public support. Mountain bikers must be afforded opportunities to enjoy their public lands, from frontcountry to backcountry; and have good reason to believe that our country's system for protecting public lands—viewed as a whole—works for them and can be supported.

Aside from the Wilderness acres championed by our partners and other stakeholders, the CORE Act specifically accounts for and benefits mountain biking and mountain biking advocacy in a number of significant ways. The CORE Act utilizes special designations such as the 17,000 acre Tenmile Recreation Management Area, Williams Fork Wildlife Conservation Area, Ophir Valley Area and others to protect and address mountain biking assets and interests appropriately. Throughout the CORE Act, the bill utilizes non-wilderness trail corridors, cherry stems, and boundary adjustments to protect and preserve both existing trail assets and future mountain biking advocacy goals so that the mountain biking community benefits now and into the future by retaining the availability of trail connections, enhancements and new trail developments while retaining access to all existing trails.

These special designation landscapes and trail accommodations make invaluable contributions not only to clean air, clean water, and healthy wildlife populations; but also support gateway public lands communities and recreation economies; and allow more Americans—from urban to rural—to experience their public lands in meaningful ways that foster a sense of shared ownership and stewardship. Land managers and Congress must continue to employ a range of designations and accommodations represented in the CORE Act to meet the needs of Americans and we are pleased to see this achieved in the CORE Act.

For these reasons, IMBA is proud to support the S.241 – Colorado Outdoor Recreation and Economy Act and we encourage Congress to advance this legislation.

Sincerely,

David Wiens, Executive Director
International Mountain Bicycling Association

THE JOHN MUIR PROJECT
OF EARTH ISLAND INSTITUTE

1015 15th St NW, Suite 600, Washington, DC 20005
P.O. Box 897, Big Bear City, CA 92314
Office: 202-657-7270 Telephone: 530-273-9290

02 December 2020

The Honorable Lisa Murkowski
Chairwoman
Senate Energy and Natural Resources Committee
522 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Joseph Manchin
Ranking Member
Senate Energy and Natural Resources Committee
306 Hart Senate Office Building
Washington D.C. 20510

The Honorable Mike Lee
Subcommittee Chair: PLFM
361A Russell Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden
Subcommittee Ranking Member: PLFM
221 Dirksen Senate Office Building
Washington, DC 20510

Re: PLFM Subcommittee 11/18/2020 Legislative Hearing

Dear Ms. Chairwoman, Ranking Member, Members and Staff;

Last month we virtually attended your November 18th Public Lands, Forests, and Mining Subcommittee Legislative Hearing. We were specifically interested in the discussion surrounding S. 4603, the Forest Health and Biomass Energy Act of 2020, and S. 4625, the National Prescribed Fire Act of 2020, and the claims that these bills could alleviate western wildfires. Unfortunately, rather than focusing on their constituents and communities, these two bills as well as members of this subcommittee focused almost exclusively on ways to continue to manipulate and eliminate native vegetation in our forest ecosystems.

This hyperfocus on vegetation, or the number of acres burned, by both the media and Congress, is resulting in the misdirected policies that consumed the discussion at this recent hearing. Given the science at our disposal and the coming shift away from an administration quick to dismiss facts and science to one which embraces reason, we believe that it is time for Congress to begin a new conversation, one which is focused on the pressing issue at hand, protecting people and communities and mitigating climate change.

We are writing this letter to hopefully bring some balance to the testimony that was presented and to address the problematic underlying narrative which is shifting members' attention away from actions that will actually protect people and the planet.

1. **Wildfires are Overwhelmingly Driven by Climate and Weather Conditions.**

   The number one driver of fire behavior and extent (how large a fire becomes) is the climate, specifically high temperatures, extreme wind speeds and very low humidity. Yes, climate change is making these conditions more prevalent, more often. However,

the result is not more intense forest fires, or an excess of fire in forests, but rather it is that fires simply cannot be stopped.

We have always had fires in the West and always will, and there is wide agreement among scientists (including from government agencies such as the United States Forest Service) that we currently have *less* mixed-intensity fire in our forests than we did historically, before fire suppression, and that *fire intensity in forests is not increasing*.[1] The real issue is that, fires that cannot be suppressed, especially when they are started by human ignitions or infrastructure, then have the potential to burn into and affect communities which have sprawled over time into our fire-adapted ecosystems, with devastating effects.

There are several ways that we know it is climate conditions, rather than the density of forests or presence of dead trees, that is driving fire behavior.

a. First, and most informative are the field-based studies that have looked at the effect, if any, that decades of successful fire suppression have had on fire intensity. Specifically, seven studies have investigated whether areas that have not experienced fire in a very long time (*i.e.* areas that have had the chance for vegetation to grow unimpeded for nearly a century or more) burn at higher intensity than areas which have experienced fire more recently. Three of the seven studies found unequivocally that areas that have not burned in a very long time *do not burn at higher intensities* than areas that have burned in recent decades, three of the remaining four studies found that the most long-unburned forests (the densest forests) *burned at lower intensities* than other forests, and the final of the seven studies speculated that long-unburned forests would burn *slightly* more intensely but would still be dominated by lower-intensity fire effects (and this study, unlike the other six, involved a theoretical model, and its conclusion was not based on actual fire data from long-unburned forests).[2]

b. Next, we have empirical research which has investigated whether the number of dead trees in a given area drives fire behavior. The most comprehensive scientific studies (including one prepared by NASA) found that forests with more dead trees burn *the same* as other forests or burn at *lower* intensities.[3] While it may seem counterintuitive, soon after trees die (such as from drought and native beetle activity), they shed their needles and small twigs, which fall to the ground and decay into soil, after which there is no real mechanism to carry flames. Thus the provisions in S. 4603 which would expedite the logging of not just dead, but dying trees as well, would do nothing to mitigate future fire behavior or protect communities as the title of this bill misleadingly implies.

c. Third, we also know that our forests currently have significantly *less* tree biomass in them than they did historically, due to decades of logging. Claims that our forests are "overstocked" are quite simply misleading.[4]

d. Fourth, even today, at the height of these intense weather driven fires that are covering large areas, fires are burning mostly at low and moderate intensity, with high intensity portions well within the natural range.[5] For example, the large Creek Fire that burned in central California this year experienced 12% high

severity effects to soils based on the Burned Area Emergency Report (BAER) produced by the Forest Service.

e. Finally, it is so well understood that hot, dry, and windy weather conditions fuel large unstoppable fires that the National Weather Service issues Fire Weather Watches and Red Flag Warnings to alert the public that extensive wildfire occurrences and/or control problems are to be expected.[6] Conversely, when weather conditions become cooler, with less wind and increased humidity, possibly even rain or snow, it is understood that fires will stop growing or be responsive to fire suppression efforts. These statements are universal, around the world, regardless of the ecosystem or vegetation involved or whether logging activities or prescribed burning had preceded the fire. *(Please contact us for press stories).*

2. To Protect Communities, We Must Focus on Communities.

As discussed above, fires, and especially the ones experienced this year in Talent and Phoenix, Oregon, are ultimately weather and climate driven events, similar to hurricanes. Accepting this will enable Congress to pursue policies which will ensure that our communities, people and their homes, will be protected and remain resilient to the extreme weather events that are becoming more frequent as our climate changes. Outside of putting resources into stopping human ignitions via more recreational and law enforcement patrols near communities during high fire weather, eliminating fire starts from energy infrastructure (above ground power lines) and educating the public about fire-safe activities, once a fire starts under extreme weather conditions it is going to burn until the weather changes.

According to the scientific research the only effective way to protect homes from a wildland fire is to focus on making the homes themselves more fire-safe, and to conduct annual defensible space pruning within 100 feet of homes. Beyond 100 feet from houses, there is *no additional benefit* to home protection from altering vegetation.[7]

Congressional resources should be put into such efforts, and there is currently a bill in both houses of Congress that takes a first step in this direction, S. 2882/ H.R. 5091, the *Wildfire Defense Act.*

Unfortunately, both S. 4603 and S. 4625 are so completely focused on commodifying and commercializing vegetation reduction activities on National Forests that they fail to address the one area where lightly altering vegetation can be effective, the home defense zone. This failure ensures that scarce resources will be diverted away from policies that would protect communities from fire, while simultaneously giving these same communities a dangerous and false sense of security - that increasing the burning of forest biomass in incinerators or forcing prescribed fire on the landscape out-of-season will somehow save their town from the next weather driven wildfire.

3. S. 4625 - Problems with Prescribed Fire.

As was made clear at the hearing by Senator Wyden and witnesses, increasing the amount of area where fires are unnaturally forced upon the landscape by prescribed fire practitioners would not replace logging, but would merely be another tool in the timber management toolbox ostensibly to control or eliminate natural fire. Here is the problem,

in order to be an effective tool, it must get the job done, and landscape level prescribed fire (as envisioned by S. 4625) will not stop wildland fires from igniting or burning and it will not make weather driven fires suppressible. So while wildland firefighters, politicians and even members of communities who live in/near fire adapted ecosystems might prefer to experience fire on their own terms, the weather makes the rules, not drip torches.

A recent example of a weather driven wildland fire burning unabated through an area that was intentionally burned for "fuels reduction" only two years prior was seen in the Australian bushfires of 2019-2020. There, the fires driven by extreme weather similar to our current experiences with fire in California, Oregon and Colorado this year and last, burned right through the largest prescribed burn ever done in Australia's history. Similarly, areas within the 2020 Creek Fire that had been either logged followed by burning (something which committee members incorrectly insisted is the only "safe" way prescribe fire can be used), or solely prescribed-burned in the year(s) prior to the Creek Fire, simply burned again during the hot, dry, often windy weeks which pushed that fire to nearly 380,000 acres. So even if prescribed fire were to be increased exponentially as envisioned by S. 4625, it would not eliminate the occurrence of fires during fire season, it would simply dramatically increase the amount of fire that shrubland ecosystems, forests and people experience, along with the amount of smoke and particulates

In addition, prescribed fire is also unnatural, as it is typically ignited during the cooler months when fires do not usually burn, which is why accelerants are necessary. Burning out of season has impacts to soils by mixing excess moisture with heat which creates steam that can superheat the soil, killing microorganisms which are necessary to the resilience and function of native ecosystems. Out-of-season burning often coincides with wildlife nesting/denning season which can result in the killing of newborn animals that cannot fly or flee the smoke and flames, while reducing the amount of food and shelter available for these new families during a time when they need them most.

Prescribed fire, if it were defined to include monitoring a wildland fire that starts via lightning without attempting to actively suppress the fire, could be a way to get natural fire, which is essential to our fire adapted ecosystems, back on the landscape. It would not be burning out-of-season, so negative impacts could be avoided. Unfortunately S. 4625 defines prescribed fires *only* as those set by agency personnel, and excludes prescribed natural fires. Prescribed fire can also be utilized in localized situations to burn adjacent to homes when communities are in the path of an oncoming wildland fire, thus allowing firefighters the best chance at protecting structures from being damaged or destroyed by embers or flames. This was done to great effect in Forest Falls and Angelus Oaks, California during the Eldorado Fire this year. While this would ostensibly be allowed under S. 4625, it is not prioritized or even mentioned, even though it is the only proven use of prescribed fire to protect communities during a weather driven fire event.[8]

At the end of the day, S. 4625 is just continuing to pursue the century old Gifford Pinchot "vegetation management" approach to fire, which fundamentally ignores and denies that climate is the driving factor behind fire behavior. This strategy may have enjoyed some semblance of success during cooler periods, but its failings are laid bare in the era of climate change. We currently have a climate crisis and a community protection problem, neither of which will be solved by CO2 emitting logging operations and masticators, or

drip torches. We note that most of the activities classified as "prescribed fire" on federal lands currently are actually pile-burning of logging "slash debris", and S. 4625 fails to exclude such activities from coverage. This means that the bill, if passed, would primarily act as an additional subsidy for logging activities, including clearcutting, on public lands..

4. Our Forests, Even When Affected by Large Wildland Fires, are a Climate Solution, NOT a Climate Problem.

Our forests are currently substantial carbon sinks, absorbing more carbon than they emit, but they could absorb much more carbon than they currently do, if they were protected from logging. Logging is the real source of carbon emissions from forests, not fire. In U.S. forests, for example, logging of all types (*e.g.*, thinning, clearcutting, group selection, etc.) emits 10 times more carbon than is emitted from wildland fire and tree mortality from drought and native bark beetles *combined.* When a tree dies, its role in the forest does not end. A fallen log is really the forerunner of future forests. Its rotting wood, the work of plants, bacteria, and insects, enriches the soil so that other plants grow. Dead trees and downed logs decay extremely slowly (decades to a century or more), and eventually return their nutrients to the soil, which helps maintain the productivity and carbon sequestration capacity of the forest.[9]

Wildland fires, including large mixed-severity fires, only consume about 1% to 2% of the biomass of trees in the forest, and therefore only release this small portion of the carbon stored in trees into the atmosphere, and the carbon emitted is soon re-absorbed by post-fire regrowth, which is enhanced by nutrient cycling resulting from the fires. We know this from field-based studies of actual fires in actual forests. The problem is that federal and state agencies use theoretical models to estimate carbon emissions from forest fires and dead trees, but the models wildly exaggerate carbon emissions from decay and fire. For example, in the 257,000-acre Rim fire of 2013, field-based data determined that only *one-tenth of 1% of the carbon in trees was actually consumed in areas with median levels of fire intensity*, whereas the theoretical models falsely assume levels of consumption that are vastly higher than this.[10]

In contrast, logging which would precede prescribed fire under S. 4625, or biomass energy production under S. 4603, emits most, if not all, of the carbon stored in the trees that are cut into the atmosphere. Because most of the carbon in trees that are logged is incinerated as "slash" (branches and tree tops) and/or milling/manufacturing waste for energy production, *approximately 81% of the carbon in trees that are logged quickly ends up in the atmosphere, with only 19% ending up being temporarily stored in wood products, whether dimensional lumber or CLT.*[11] Logging also removes nutrients from forests and compacts soils, reducing the overall productivity and function of the forest ecosystem as well as its carbon sequestration and storage capacity.[12] Moreover, incinerating trees for energy production (biomass logging being incentivized by S. 4603) produces substantially more greenhouse gas emissions than burning coal, for equal energy produced.[13] Biomass logging is a climate change nightmare, and it is troubling to see legislators who truly want to solve the climate crisis appearing to promote this climate-polluting activity.

It should also be noted that fires burning in our forests, especially the large fires that burn at mixed-intensity, transform forest ecosystems but do not destroy them. In fact, such fires create natural heterogeneity across large areas, creating and rejuvenating wildlife habitat to such a degree *that the biodiversity in mature forests that experience*

high-intensity fire is similar to levels of biodiversity found in unlogged old-growth forests.[14] The same is true for forests which have experienced drought and high levels of new snags from native beetles.[15] These natural processes create "snag forest habitat", which is an ecological treasure, not a loss. In addition, forests naturally regenerate vigorously, even in the largest high-intensity fire patches.[16]

Everyone who spoke at the hearing on the issue of forests and fire promoted the notion that increased removal of carbon from our forests is a solution to weather driven fires. But this way of thinking not only denies the ability of our forests to continue acting as carbon sinks, but also denies the role of logging in making climate change worse. Numerous studies have found that logging conducted under the guise of "thinning", "fuels reduction" and fire management actually causes a large net loss of forest carbon storage and a substantial net increase in carbon emissions.[17] We must completely shift our orientation towards forests and fire if we are going to be successful at mitigating the climate crisis and protecting communities from the inevitable wildfire season.

5. S. 4603 Would Harm our Environment, Biodiversity, Climate and EJ Communities.

Attached please find a letter from over 100 climate, environmental justice, conservation and faith based organizations against S. 4603, the Forest Health and Biomass Energy Act of 2020. As detailed in the letter, the impacts of logging and incinerating our forests to produce energy is universally negative to this broad coalition of interest groups. From habitat destruction to extensive localized pollution and carbon dioxide emissions that rival emissions from coal plants, biomass energy is not a solution for the future but an old, expensive, ineffective idea that must be retired once and for all.

Because weather and climate are overwhelmingly driving wildfires, and climate change is increasing the occurrence of extreme weather, in order to moderate fire behavior Congress's focus should be on proposing policies which mitigate, rather than exacerbate, climate change, with immediate resources being poured into creating fire resilient communities. Neither S. 4603 and S. 4625 would facilitate the policy shift that is needed here today, and both would increase carbon emissions into our atmosphere and worsen climate change, while leaving communities unprotected. We appreciate your taking the time to read our response, and would be happy to discuss these issues further with you and your staff.

Sincerely,

Chad Hanson, Ph.D.
Chief Scientist and Director
John Muir Project

Jennifer Mamola
D.C. Forest Protection Advocate
John Muir Project

Endnotes

1: (a) DellaSala, D.A., and C.T. Hanson (Editors). 2015. The ecological importance of mixed-severity fires: nature's phoenix. Elsevier Inc., Waltham, MA, USA; (b) Keyser, A.; Westerling, A. Climate drives inter-annual variability in probability of high severity fire occurrence in the western United States. *Environ. Res. Lett.* 2017, *12*, 65003.

2: (a) Miller JD, Skinner CN, Safford HD, Knapp EE, Ramirez CM. 2012a. Trends and causes of severity, size, and number of fires in northwestern California, USA. Ecological Applications 22, 184-203; (b) Odion, D.C., E.J. Frost, J.R. Strittholt, H. Jiang, D.A. DellaSala, and M.A. Moritz. 2004. Patterns of fire severity and forest conditions in the Klamath Mountains, northwestern California. Conservation Biology 18: 927-936; (c) Odion, D.C., and C.T. Hanson. 2006. Fire severity in conifer forests of the Sierra Nevada, California. Ecosystems 9: 1177-1189; (d) Odion, D.C., and C.T. Hanson. 2008. Fire severity in the Sierra Nevada revisited: conclusions robust to further analysis. Ecosystems 11: 12-15; (e) Odion, D. C., M. A. Moritz, and D. A. DellaSala. 2010. Alternative community states maintained by fire in the Klamath Mountains, USA. Journal of Ecology, doi: 10.1111/j.1365-2745.2009.01597.x; (f) van Wagtendonk, J.W., K.A. van Wagtendonk, and A.E. Thode. 2012. Factors associated with the severity of intersecting fires in Yosemite National Park, California, USA. Fire Ecology 8: 11-32; (g) Steel, et al. 2015. Ecosphere 8: Article 8.

3: (a) Hart, S.J., T. Schoennagel, T.T. Veblen, and T.B. Chapman, 2015. Area burned in the western United States is unaffected by recent mountain pine beetle outbreaks. Proceedings of the National Academy of Sciences of the USA 112: 4375-4380; (b) Meigs, G.W., H.S.J. Zald, J.L. Campbell, W.S. Keeton, and R.E. Kennedy. 2016. Do insect outbreaks reduce the severity of subsequent forest fires? Environmental Research Letters 11: 045008.

4: (a) McIntyre, P.J., et al. 2015. Twentieth-century shifts in forest structure in California: Denser forests, smaller trees, and increased dominance of oaks. Proceedings of the National Academy of Sciences of the United States of America 112: 1458-1463; (b) Erb, K.H., et al. 2018. Unexpectedly large impact of forest management and grazing on global vegetation biomass. Nature 553: 73-76.

5: DellaSala, D.A., and C.T. Hanson. 2015. The Ecological Importance of Mixed-severity fires: Nature's Phoenix. Elsevier, Inc

6: https://www.weather.gov/gjt/firewxcriteria; https://www.fire.ca.gov/programs/communications/red-flag-warnings-fire-weather-watches/

7: Syphard, A.D., T.J. Brennan, and J.E. Keeley. 2014. The role of defensible space for residential structure protection during wildfires. Intl. J. Wildland Fire 23: 1165-1175.

8: https://www.bark-out.org/sites/default/files/bark-docs/Federal%20Wildfire%20Sign-On.pdf

9: (a) Harris, N.L., et al. 2016. Attribution of net carbon change by disturbance type across forest lands of the conterminous United States. Carbon Balance Management 11: Article 24; (b) Meigs, G., et al. 2009. Forest fire impacts on carbon uptake, storage, and emission: The role of burn severity in the Eastern Cascades, Oregon. Ecosystems 12:1246–1267; (c) Campbell, J.C., J.B. Fontaine, and D.C. Donato. 2016. Carbon emissions from decomposition of fire-killed trees following a large wildfire in Oregon, United States. Journal of Geophysical Research: Biogeosciences 121: 718-730.

10: Stenzel, J.E., et al. 2019. Fixing a snag in carbon emissions estimates from wildfires. Global Change Biology 25: 3985-3994.

11: Hudiburg, T.W., Beverly E. Law, William R. Moomaw, Mark E. Harmon, and Jeffrey E. Stenzel. 2019. Meeting GHG reduction targets requires accounting for all forest sector emissions. Environmental Research Letters 14: Article 095005.

12: (a) Walmsley, J.D., et al. 2009. Whole tree harvesting can reduce second rotation forest productivity. Forest Ecology and Management 257: 1104-1111; (b) Elliot, W.J., et al. 1996. The effects of forest management on erosion and soil productivity. Symposium on Soil Quality and Erosion Interaction. July 7, 1996, Keystone, CO.

13: Sterman, J.D., L. Siegel, and J.N. Rooney-Varga. 2018. Does replacing coal with wood lower CO2 emissions? Dynamic lifecycle analysis of wood bioenergy. Envir. Research Letters 13: Article 015007.

14: See hundreds of scientific studies summarized in chapters 1 through 5 of: DellaSala, D.A., and C.T. Hanson (Editors). 2015. The ecological importance of mixed-severity fires: nature's phoenix. Elsevier Inc., Waltham, MA, USA.

15: (a) Mosher, B.A., et al. 2019. Forest birds exhibit variable changes in occurrence during a mountain pine beetle epidemic. Ecosphere 10: Article e02935; (b) Matseur, E.A. 2017. Abundance of black-backed woodpeckers and other birds in relation to disturbance and forest structure in the Black Hills and Bear Lodge mountains of South Dakota and Wyoming. Master's Thesis, University of Missouri-Columbia; (c) Stone, W.E. 1995. Impact of a mountain pine beetle epidemic on wildlife habitat and communities in post-epidemic stands of a lodgepole pine forest in northern Utah. Doctoral Dissertation, Utah State University.

16: (a) Owen, S.M., C.H. Sieg, A.J. Sanchez Meador, P.Z. Fule, J.M. Iniguez, L.S. Baggett, P.J. Fornwalt, and M.A. Battaglia. 2017. Spatial patterns of ponderosa pine regeneration in high-severity burn patches. Forest Ecology and Management 405: 134–149; (b) Hanson, C.T. 2018. Landscape heterogeneity following high-severity fire in California's forests. Wildlife Society Bulletin 42: 264-271.

17: (a) Campbell, J.L., M.E. Harmon, and S.R. Mitchell. 2012. Can fuel-reduction treatments really increase forest carbon storage in the western US by reducing future fire emissions? Frontiers in Ecology and Environment 10: 83-90; (b) Hudiburg, T.W., et al. 2013. Interactive effects of environmental change and management strategies on regional forest carbon emissions. Environmental Science and Technology 47: 13132-13140.

From: Emily Kane
To: fortherecord (Energy)
Subject: "For the 11/18/20 Cmte PLFM Subcmte Hrg"
Date: Tuesday, November 17, 2020 9:39:39 PM

My name is Emily Kane
I live in Juneau Alaska
I strongly object to rushing a lands resolution bill through in this lame duck session.
This is a critically important issue both to indigenous SE Alaskans, and also for the concept of land stewardship. This cannot be done hastily, nor without meaningful, LOCAL, stakeholder participation.
I urge you to table this bill until the next administration comes in and focus on helping working class people survive with dignity as the COVID 19 epidemic rages on.
Thank you.

Lots of natural food and herbal and anti-viral tips specific to COVID-19 on my website, first link below, under "news."

www.DrEmilyKane.com
www.lifewavex39.com/dremilykane
www.NaturopathicMedicineInstitute.org
www.primarydoctor.org
www.naturopathic.org

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

I am disturbed that you are rushing through this complex bill during a lame duck session and having the hearing less than one week after introducing it. I live in one of the areas you are proposing as being able to organize as an "Urban Corporation". Tenakee Springs is classified as "Rural" for subsistence purposes.

This legislation does not allow for any public process in land selection, or for any public review of, or engagement in the land selection, thereby blocking Tenakee and the other communities out of the process altogether.

As a resident of Tenakee I deserve the opportunity to examine this bill and understand its potential consequences.

This is wrong on so many levels, shame on you.

Terry Kennedy

Tenakee Springs, Alaska 907-736-2252

Ketchikan
INDIAN COMMUNITY

Office of the President
2960 Tongass Avenue – Ketchikan, AK 99901
(907) 228-4900 Phone
www.kictribe.org

Dears Sir/Madam,

Ketchikan Indian Community is proud to support Alaska Natives Without Land. It is time for our landless communities to receive their traditional lands that they deserve.

It has been 49 years since the Alaska Native Claims Settlement Act (ANCSA) was passed. It has been proven that there was no apparent reason the communities of Haines, Ketchikan, Petersburg, Tenakee Springs and Wrangell were left out. Together they are home to 4,400 Alaska Native enrolled landless shareholders. This means they are Sealaska shareholders who originally enrolled in one of the five villages but do not have an associated urban corporation, like Goldbelt, Inc. for Juneau or Shee Atiká, Inc. for Sitka.

The Alaskan Natives Without Land campaign is working closely with the Alaska congressional delegation to craft a fifth congressional bill they hope Alaska's delegation will support and advance through congress. It will be different than previous efforts in that it contains specifics, maps and startup funds so these corporations can make sustainable business decision. The bill envisions 115,200 acres to be divided equally between the five landless Alaska Native communities.

Throughout this past year rallies and grass roots efforts in Anchorage, Seattle, Juneau, Haines, Ketchikan, Petersburg, Tenakee Springs and Wrangell took place to garner signatures of support and commitments from landless prospective shareholders, other tribal members and members of the general public to stand and fight with us to reunite these five landless communities with their land. We have garnered a tremendous amount of support.

Respectively,

Norman Skan
President

From: Kyle Knight
To: fortherecord (Energy)
Cc: Kyle Knight
Subject: FOR THE 11/18/20 SENR SubCmte PLFM in opposition to SB 4889
Date: Friday, November 20, 2020 9:48:00 PM

My name is Kyle Knight.
I am a lifelong resident of Petersburg Alaska, a commercial fisherman, and an avid subsistence hunter and fisherman.

I am writing in opposition to SB 4889, specifically the provisions for transfer of some 115,000 acres of public lands (national forest) to 5 new corporations in SE Alaska. The realization of this scheme for privatization of public property is:

1) Deeply flawed from a conceptual standpoint. The term "landless natives" for the group described is an example of expert propaganda- brilliantly framed for a PR sales pitch but totally misleading. The prospective shareholders in question are NOT "landless" as they received substantial lands as shareholders of Sealaska under ANCSA. That act was purported to finalize Alaska Native claims for historic mistreatment of Native Peoples. It used a deliberate process to settle Alaska Native Claims in a fashion that was equitable to all Alaska Natives. A more honest and appropriate title for this group and corresponding legislation would be "People who ceaselessly lobby for privatization of land under false pretenses." Passing this bill would amount to an award to the prospective shareholders in excess of compensation under ANCSA. It would not resolve, but CREATE iniquity between the compensation of Alaska Native Communities and set precedent for an entire new round of land privatization.

2) Environmentally, economically, and socially harmful to the people in the associated communities and in the region at large. Although the spokespeople for the beneficiary groups deny any intent of logging, it's pretty obvious that this is a thinly veiled attempt at transferring some of Southeast's last remaining old growth stands into private ownership to make it available for clearcutting under lax state regulations. Why else do many of the parcels contain old growth timber, log transfer facilities, and logging roads?

These areas don't need any more of the scorched earth timber campaigns that Native Corporations in Southeast have become synonymous with.

That would further compromise already crippled terrestrial salmon habitat. Commercial fishing is the true economic mainstay of the region and recent salmon returns have been very poor- largely because of the decimation of salmon streams through clearcutting in the region. If you truly believe that the forestry practices implemented by Southeast's Native Corporations are compatible with healthy salmon stocks I invite you to read up on basic salmon biology and history of stock collapses globally. Then take a flight over Kake, Cordova Bay, and the Cleveland Peninsula to see for yourself what the land management strategies you advocate for have resulted in.

Clearcutting destroys habitat for not only salmon, but an entire community of organisms that Natives and non-natives depend on for recreation, subsistence, and traditional practices. This includes Sitka Blacktail Deer.

All of this destruction is executed to support an industry that constitutes less than 1% of the

regional economy and is not even profitable without enormous subsidization. It's destroying our land, degrading our sustainable industries, and crippling our communities. We're tired of it!!

Native logging and the establishment of Native corporations doesn't seem to have done much to substantially benefit native peoples in the region. It has provided handouts in the form of dividends (the currency through which consent in the tribes is purchased) for short periods and then left many natives in impoverished communities that have been stripped of their natural resources without tenable sustainable economies. The results are Alaska's answer to the proverbial "Weyehauser Towns"- villages like Kake and Hoonah. Bills like this are an example of the continued exploitation of Native peoples and their lands by robber barons and disingenuous politicians. The native population at large is being used as a front for extractionist interests and will ultimately be thrown by the wayside once again.

Advocates for the bill also claim that public access to the areas in question will not be restricted. While it's true that there is language providing for continued public access there is shortly thereafter a provision making that access subject to restriction under "reasonable" discretion of the private owners. This doesn't in any way guarantee continued public access.

If the authors of this bill are genuine in their assertions that the lands will not be logged and access will not be affected then there should be concrete and specific language in the bill restricting logging and allowing continued access (NOT at the discretion of the owners).

The premises of this bill and the associated land claims are false. The lands in question in this bill are better off remaining public- where they retain continued value and access to ALL Alaskans through access for subsistence and recreation purposes.

Please retract this bill.

Kyle Knight
605 N Second St.
Petersburg, AK 99833

From:	Rebecca Knight
To:	fortherecord (Energy)
Subject:	FOR THE 11/18/20 SENR SubCmte PLFM Subcmte Hrg
Date:	Saturday, November 21, 2020 4:49:03 PM
Attachments:	Knight_Senate Bill 4889__Landless__18Nov20.pdf KFSK_Pbg asbly asks more time on landless,_18Nov20.pdf Petersburg Pilot_Editorial_Landless_19Nov20.png.pdf ISER letter m1993 copy.pdf 2015-Landless_blacktestimonyfinal.pdf Landless letter__Lyons to Young (OCR"d)__24Jul96 copy.pdf

Hello,

Please see my comments and the supporting attachments for the 11/18/2020 Senate Energy & Natural Resources SubCmte: Public Lands, Forests, and Mining Subcmte Hearing of 11/18/2020.

The entire premise of the proposed legislation S. 4889 is flawed because natives from the five so-called "landless" communities were found ineligible to form urban corporations under the Alaska Native Claims Settlement Act (ANCSA). They were already appropriately compensated.

Moreover, natives in the five communities are not "landless" as they and Senator Murkowski would have you believe. They own land as "at-large" shareholders of the Sealaska Corporation, per the supporting attachments

Senator Murkowski claims that because they have "waited" 49 years, that they are somehow entitled to 115, 200 acres (23,040 acres to each of five corporations). "Waiting" does not confer eligibility.

Thank you,

Rebecca Knight
PO Box 1331
Petersburg, AK 99833
bknight15@icloud.com

TESTIMONY
OF
REBECCA KNIGHT
BEFORE THE PUBLIC LANDS, FORESTS & MINING LEGISLATIVE HEARING
(S.4889)
NOVEMBER 18, 2020

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889) introduced by Senator Murkowski on Nov. 10.

S.4889 is flawed from the outset and on a fast-track trajectory. It should be entirely rejected. If you do not reject the bill, then public field hearings must be conducted. They should be in person, after the effects of the pandemic have subsided. Alaskans and the American public must have the opportunity to weigh in on this massive privatization of public resources and taxpayer funded infrastructure.

Murkowski's bill is a land grab of monumental proportions, designed to put valuable public lands into private hands for development. It would withdraw substantial acreage from the Tongass National Forest and inevitably result in large-scale clearcutting. It is a form of corporate welfare designed to enrich an entitled few at the expense of all Alaskans and the American people.

It is not appropriate or desirable to establish five new native corporations in SE Alaska. Here is why:

While I respect the deep cultural ties of Alaskan native people to the lands of SE Alaska, it's important to note that these five communities were found ineligible for independent corporate status under Alaska Native Claims Settlement Act (ANCSA). Accordingly, the individuals involved receive extra annual cash payments from Sealaska, of which they are "at-large" shareholders.[1] In the words of Jim Lyons, Undersecretary for the Department of Agriculture in 1996, "*There are no 'landless'*

[1] *See* attached various attached documentation, including but not limited to: **1.** Letter to KFSK, Amy Miller from Lee Gorsuch, Director Institute Social and Economic Research (ISER). Dec. 7, 1993; **2.** 2015-Landless_blacktestimonyfinal 36_16_15-1 5. **3.** Landless letter__Lyons to Young (OCR'd)__24Jul96 copy

Natives in southeast Alaska since all Natives have a beneficial interest in lands owned by Sealaska, including surface and subsurface estates." [2] This fact must be included and documented on the record for this proposed legislation, not ignored.

Senator Murkowski has flip-flopped on the finality of native land claims. Following passage of the highly contentious 2014 Sealaska land swap legislation, which passed as a budget rider, she alleged it would, "*finally finish paying the debt we owe Natives for the settlement of their aboriginal land…*"[3] In fact, her bill which became that rider was titled the "Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act." Yet, shortly thereafter, she introduced Senate Bill 872 [4]—an earlier version of this latest so-called "Landless" legislation. And now she says that this new bill would "*right a 50-year historical wrong.*" Saying so does not make it so, and why is "finalization" not "final"?

The bill would give 115,200 acres of prime forestland to a relatively small group of already specially-favored Sealaska shareholders in five communities – Haines, Ketchikan, Petersburg, Tenakee, and Wrangell (23,040 acres each). It includes millions of dollars worth of taxpayer funded infrastructure including "*all roads, trails, log transfer facilities, leases,"* and other incidentals on the land to be gifted.[5]

An example of why this amounts to a land grab by Murkowski is that the bill disproportionally allocates 23,040 acres to a reported five Sealaska shareholders in Tenakee. That's equivalent to a handout of about 3,500 football fields worth of public land per person!

Most of the lands mapped for selection in the bill are on the maps because of their timber value and would be logged—to the nubbin—under the weak State Forest Practices and Resources Act (FPRA).[6] Examples of this kind of logging include the wholesale destruction seen around Hobart Bay, Kake, and the Cleveland Peninsula. All or most of the timber will be exported in the round, along with its associated jobs, to China.

---

[2] *Id.*

[3] *See* Press Release, Murkowski Applauds Final Passage of Sealaska Lands Bill (Dec. 12, 2014). https://www.energy.senate.gov/2014/12/sen-murkowski-applauds-final-passage-of-sealaska-lands-bill

[4] S.872 - Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act. 114th Congress (2015-2016). https://www.congress.gov/bill/114th-congress/senate-bill/872/titles

[5] *See* "Landless Native Legislation". US Senate Bill 4889 116th Congress.

[6] The Alaska Forest Practices and Resources Act – which governs all non-federal logging – provides no enforceable protection for wildlife habitat whatsoever, and no consideration of cumulative impacts across the landscape. Buffers on fish-bearing streams are far narrower under state than federal law. Logging plans can (and have been) drawn up effectively on the back of the proverbial napkin.

Some of the land selections are adjacent to Senator Stedman's pending Kake Access Road to Nowhere. This is another thinly veiled attempt to use public funds earmarked for "subsistence and recreation" to subsidize timber industry activity. The timber industry has plans for a timber export facility near Kake, Stedman's Kake road and the NE Kupreanof "landless" land exchange appear to all be part of one resource exploitation scheme.

Since when has clearcut logging been considered an important traditional practice of native Alaskans? This habitat destruction does more to degrade important traditional uses of these lands for everybody - hunting, fishing, and gathering - than it does to compensate for any historic inequity. It also undercuts the economic interests of the region by degrading salmon habitat, through what are by far the most destructive kind of logging practices that are allowed in our region.

Public access conditions are specified in the proposed legislation and at the apparent discretion of the corporation for how they are interpreted. Local natives and non-natives will likely lose full access to these traditional hunting and fishing grounds.

While Alaskans are distracted and exhausted by the pandemic and a contentious election cycle, Senator Murkowski intends to jam the bill through the legislative process by attaching it to must-pass Omnibus legislation or to the National Defense Authorization Act (NDAA) without any opportunity for public comment, exactly as she did in 2014 with her land claims "finalization" bill. Now, she has called a Senate hearing to consider the bill only one week after introduction, during the lame duck session, clearly in order to sneak it through as a rider.

If passed, this bill will have huge, irreversible impacts on the people, fish, wildlife, and landscapes of SE Alaska. The public deserves an opportunity for informed and meaningful comment.

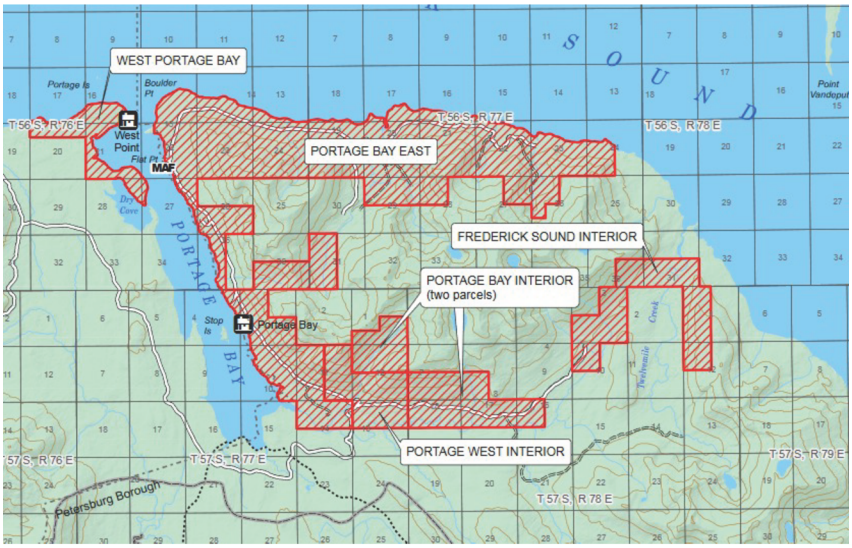
Sincerely,

Rebecca Knight
45-year resident of Petersburg, Alaska
PO Box 1331
Petersburg, AK 99833
bknight15@icloud.com

https://www.kfsk.org/2020/11/18/petersburg-assembly-asks-for-more-time-on-landless-natives-legislation/

Petersburg assembly asks for more time on landless Natives legislation

Posted by Joe Viechnicki I Nov 18, 2020



Proposed land selections on Kupreanof Island near Petersburg are shown in red. Twelvemile Creek is also the site of a proposed new boat ramp for the state's Kake Access Project. (U.S. Forest Service map from the U.S. Senate Energy and Natural Resources Committee)

Petersburg's borough assembly Wednesday voted to send a letter asking for more time to review proposed legislation that would grant land to Alaska Natives in five Southeast communities. Elected officials and community members have questions and concerns about the Tongass National Forest land and improvements would be turned over to new urban corporations.

https://kfsk.org/wp-content/uploads/2020/11/19LANDLESS.mp3

Petersburg's letter asks the congressional delegation to hold off on seeking passage of the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act until people in Petersburg can learn more about it and have concerns addressed. The legislation is part of a larger bill introduced in the House and Senate this month to revisit the landmark 1971 Alaska Native Claims Settlement Act.

This bill would create five new Native urban corporations in Petersburg, Haines, Wrangell, Ketchikan and Tenakee. Natives in those communities say they were excluded from the 1971 law and not granted land or allowed to form ANSCA corporations. The proposed bill would transfer 23,040 acres of Tongass National Forest land to each.

Cecilia Tavoliero is president of the Southeast Alaska Landless Corporation, a non-profit formed to see the legislation passed. She explained to the assembly by phone how a new corporation would use that land.

"We've got ecotourism, communities that are looking at that, carbon credits," Tavoliero said. "In order to take advantage of carbon credits you have to have the timber to do the carbon credits. We understand the process and Sealaska is helping other urban and village corporations gain access to that benefit as well."

The regional Native corporation Sealaska has pledged half a million dollars to lobby for the change to the landmark 1971 law to address the five "landless" communities as they're sometimes called. Sealaska would also be granted the subsurface rights for the land transferred.

Supporters of the effort say the new corporations would look for other economic development on the lands other than logging and say public access for hunting and fishing would continue.

Tavoliero told the assembly the bill is not being fast-tracked, pointing out she and others have come before the assembly multiple times this year to talk about the effort. And this is the fifth time this legislation's been introduced. This version is different in that it has specific land selections identified.

Another supporter of the bill Todd Antioquia asked the assembly to support the legislation and recognize the urgency of passing it.

"You know 49 years has been far too long and literally with every passing day this inequity mounts and there are 200 communities that have been able to benefit from their ANCSA corporations and ANCSA lands in their

areas, where Petersburg has not and being able to have economic development, to have social and cultural programs that benefit the entire community," Antioquia said.

Assembly members questioned the representatives on who made the land selections and whether there was any public process for the choices. They answered that local shareholders of the proposed corporation made those selections. For Petersburg, a new Native corporation would have an estimated 624 shareholders, with 115 living in Juneau, 113 in Petersburg, with others in Anchorage and other U.S. states. The five proposed new urban corporations would encompass a total of 4,400 shareholders.

Public comment at the meeting was opposed to the legislation or included concerns about specific parcels of public land that would be transferred to a private corporation. Many continued to ask about access to the land for hunting and fishing.

Local resident Becky Knight said the five communities were not left out of the 1971 law inadvertently but did not qualify. She told the assembly that commercial use of the land would impact public use.

"This legislation cherry picks the remaining prime forest land as well as other important areas for development and would displace existing uses," Knight said.

The bill as drafted would require the lands to remain open to subsistence hunting and fishing but would also allow a new urban corporation to restrict access in certain cases.

Assembly member Taylor Norheim is a member of the Petersburg Indian Association but doesn't think he'd qualify as a shareholder under this legislation. He took issue with comments by the public and referenced a recent political stance by the assembly on the Kake Access Road.

"How about your neighbors here? Your neighbors here, not one town over, have been trying to get this for 49 years and you are so quick to jump from being an ally to the tribe to demonizing them as privileged people," Norheim said. "You don't want to even want to give them their own land back because it's valuable to you."

The selections near Petersburg include some of the lands and around Portage Bay and the state's controversial 40 million dollar Kake Access Road Project. Along with lands, the legislation would also transfer some roads, U.S. Forest Service recreational cabins and logging infrastructure to a new corporation.

That's a stumbling block for mayor Mark Jensen who notes the selected lands throughout the region have been improved with public dollars since 1971.

"As far as corporations, they probably have a board of directors, they make the decisions what they want to do with the land for development," Jensen said. "In Petersburg specific, they will not only get two and a half million dollars with their 23,000 acres to start up their corporation, they will get infrastructure in Portage Bay worth millions of dollars. I'm talking about (the) administration site, West Point Cabin and the cabin up by Stop Island."

The assembly had postponed a vote on the letter from their Monday meeting. But they wanted to make a decision on it in time to send in input for a Senate Energy and Natural Resources Committee hearing in the nation's capital.

The vote was 4-2 in favor of sending the letter with Norheim and assembly member Chelsea Tremblay voting no. It voices concern that the bill has been introduced in the waning days of this Congress and asks the delegation to wait until next year.

Landless-Native-Legislation-Letter-to-Murkowski-11.2020Download

Don't revise history

by Ron Loesch, Publisher

Alaskan natives, particularly the Alaska Natives Without Land, have every right to petition the federal government for additional lands, but it's imperative that history is accurately portrayed in the process.

Those lobbying for additional land allocations say in writing, "It has been proven there's no apparent reason the communities of Ketchikan, Wrangell, Petersburg, Haines and Tenakee Springs were left out," of the Alaska Native Claims Settlement Act (ANCSA) that was passed 48 years ago.

There are pages of documents in the federal files that explain exactly why the five communities were left out.

A written statement made before the House Natural Resources Committee Subcommittee on Indian, Insular and Alaska Native Affairs provides an explanation. "Although it was impossible for congress to have effected total parity among all villages in the state, there was a distinction made in ANCSA between the villages in the southeast and those located elsewhere. Prior to the passage of ANCSA, Natives in the southeast received payments from the United States pursuant to court cases in the 1950s and late 1960s, for the taking of their aboriginal lands. Because Natives in the Sealaska region benefitted from an additional cash settlement under ANCSA, the eligible communities received less acreage than their counterparts elsewhere in Alaska.

"Congress specifically named the villages in the southeast that were to be recognized in ANCSA, these five communities applied to receive benefits under ANCSA and were determined to be ineligible. Three of the five appealed their status and were denied.

"Alaska Natives in these five communities are enrolled as at-large shareholders in the Sealaska Corporation. The enrolled members of the five communities comprise more than 20 percent of the enrolled membership of the Sealaska Corporation, and as such, have received benefits from the original ANCSA settlement."

The statement continues: "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."

The remedy proposed in the same document suggests that it could be possible for the shareholders in question to seek additional lands from the Sealaska Corporation.

That effort, apparently, has not been attempted.

This drawn out effort to secure lands for the so-called landless natives in Ketchikan, Wrangell, Petersburg, Haines and Tenakee Springs needs to be addressed by the Sealaska Corporation and its shareholders in conjunction with the already established provisions of ANCSA.

There are indeed very well-defined reasons why the communities of Ketchikan, Wrangell, Petersburg, Haines and Tenakee Springs were not awarded specific acreage under ANSCA and we hope those specifics will be accurately addressed as the discussions continue.

UNIVERSITY OF ALASKA ANCHORAGE

3211 Providence Drive
Anchorage, Alaska 99508

SCHOOL OF PUBLIC AFFAIRS

INSTITUTE OF SOCIAL AND
ECONOMIC RESEARCH
(907) 786-7710 FAX (907) 786-7739

December 7, 1993

Amy Miller,
Alaska Public Radio Network, Petersburg
Fax number 772-9290

Dear Ms. Miller:

While driving to work this morning and listening to KSKA, I was surprised to hear your story on the draft report, *A Study of Five Southeast Alaska Communities*, that we wrote for the U.S. Forest Service and other federal agencies. The story was inaccurate and disappointing. No one here at ISER was contacted for the story. If you had called me or Steve Colt, we could have pointed out several things that would have improved the accuracy of the story.

First, the report is still a draft and not a final report. It's not unheard of for draft reports to receive news coverage, but we prepare drafts so knowledgeable reviewers can help us find any omissions or mistakes or other shortcomings before we reach the final version. But the fact that the document is a draft is less important than the fact that you reported the substance of the report inaccurately.

We were asked, as we reported in the preface to the report, to examine two broad issues: (1) what is the available factual evidence on why Congress denied the five study communities the authority to form village or urban corporations under the Alaska Native Claims Settlement Act (ANCSA); and (2) how does historical use and occupancy in the five study communities compare with use and occupancy in other Southeast communities that received land under ANCSA. Because they were denied the authority to form village or urban corporations, the five study communities received no land entitlements. The study villages were not, however (as you reported), denied all benefits under ANCSA. Qualified residents of those villages received cash payments, and they are at-large members of Sealaska regional corporation.

We did not, as you reported, make a finding that Congress had inadvertantly omitted the study villages from land benefits, nor did we recommend that Congress should now award them land. We did not, as you implied, say that the study villages were entitled to the same economic benefits as Southeast communities with village or urban corporations have received. We did estimate what those benefits had totaled to date, but that is a much different thing from making a recommendation.

This report will be presented to Congress. Congress will decide what if any changes to make in the status of the five study villages, based on this report and other sources. It was not in our scope of work to make recommendations—just to present factual information.

We're always glad to receive news coverage of our work, and we have in the past felt that the Alaska Public Radio Network provided fair and accurate coverage. We would like you to set the record straight by airing a correction of this story. If you have any questions I'll be glad to talk to you.

Lee Gorsuch
Director, ISER
786-7710

TESTIMONY
OF
MICHAEL BLACK
DIRECTOR OF THE BUREAU OF INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
SUBCOMMITTEE ON INDIAN, INSULAR AND ALASKA NATIVE AFFAIRS
HOUSE NATURAL RESOURCES COMMITTEE
U.S. HOUSE OF REPRESENTATIVES
ON
H.R. 1157, THE "SANTA YNEZ BAND OF CHUMASH MISSION INDIANS LAND TRANSFER ACT OF 2015"

JUNE 17, 2015

Chairman Young, Ranking Member Ruiz, and Members of the Subcommittee, my name is Michael Black and I am the Director for the Bureau of Indian Affairs. Thank you for the opportunity to present the Department of the Interior's (Department) views on H.R. 1157, a bill to authorize the Secretary of the Interior to place certain lands located in the unincorporated area of the County of Santa Barbara, California into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians (Tribe), and for other purposes.

Taking land into trust is one of the most important functions that the Department undertakes on behalf of Indian tribes. Homelands are essential to the health, safety, and welfare of the tribal communities. Thus, this Administration has made the restoration of tribal homelands a priority. This Administration is committed to the restoration of tribal homelands, through the Department's acquisition of lands in trust for tribes, where appropriate. The Department supports mandatory fee-to-trust legislation but takes no position on H.R. 1157 given that the 5 parcels identified in the H.R. 1157 are currently on appeal to the Assistant Secretary for Indian Affairs at the Department.

H.R. 1157 authorizes the Secretary for the Department to place approximately 5 parcels of land into trust for the Tribe. H.R. 1157 clearly provides the legal description for the lands that will be held in trust for the Tribe. H.R. 1157, once the land is placed in trust for the Tribe, removes any restrictions on the property pursuant to California state law, but also provides that the legislation does not terminate any right-of-way, or right-of-use issued, granted or permitted prior to the date of the enactment of this legislation. H.R. 1157 also includes a restriction that the Tribe may not conduct any gaming activities on any land taken into trust pursuant to this Act.

Thank you for the opportunity to present the Department's views on this legislation. I will be happy to answer any questions the Subcommittee may have.

Statement for the Record
U.S. Department of the Interior
House Natural Resources Committee
Subcommittee on Indian, Insular, and Alaska Native Affairs
H.R. 2386, Unrecognized Southeast Alaska Native Communities
Recognition and Compensation Act
June 17, 2015

Thank you for the opportunity to provide the views of the Department of the Interior on H.R. 2386, the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act. H.R. 2386 would amend the Alaska Native Claims Settlement Act (ANCSA) to authorize the five Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to organize as urban corporations, entitling each to receive land in southeastern Alaska.

The Department supports the goals of fulfilling ANCSA entitlements as soon as possible so that Alaska Native corporations may each have the full economic benefits of completed land entitlements. In recent years, the Bureau of Land Management (BLM) has maintained an accelerated pace in fulfilling entitlements pursuant to the ANCSA. To date, the BLM has fulfilled 95 percent of ANCSA and State of Alaska entitlements by interim conveyance, tentative approval, or patent. The BLM is committed to improving the Alaska land transfer process wherever opportunities exist. For example, we have proposed to establish a faster, more accurate, and more cost effective method for land conveyances required by the Alaska Statehood Act, though we continue to wait for meaningful engagement and feedback from the State of Alaska.

Background
ANCSA effected a final settlement of the aboriginal claims of Native Americans in Alaska through payment of $962.5 million and conveyances of more than 44 million acres of Federal land. Although it was impossible for Congress to have effected total parity among all villages in the state, there was a distinction made in ANCSA between the villages in the southeast and those located elsewhere. Prior to the passage of ANCSA, Natives in the southeast received payments from the United States pursuant to court cases in the 1950s and late 1960s, for the taking of their aboriginal lands. Because Natives in the Sealaska region benefitted from an additional cash settlement under ANCSA, the eligible communities received less acreage than their counterparts elsewhere in Alaska. Congress specifically named the villages in the southeast that were to be recognized in ANCSA; these five communities were not among those named. Despite this, the five communities applied to receive benefits under ANCSA and were determined to be ineligible. Three of the five appealed their status and were denied.

Notwithstanding the ineligibility of some communities for corporate status under ANCSA, all Natives potentially receive benefits from the ANCSA settlement. Alaska Natives in these five communities are enrolled as at-large shareholders in the Sealaska Corporation. The enrolled members of the five communities comprise more than 20 percent of the enrolled membership of the Sealaska Corporation, and as such, have received benefits from the original ANCSA settlement.

H.R. 2386

H.R. 2386 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) from local areas of historical, cultural, traditional and economic importance. The bill provides that establishment of these new urban corporations does not affect any entitlement to land of any Native Corporation established before this act being proposed.

Recognition of these five communities as provided in the bill, despite the history and requirements of ANCSA, risks setting a precedent for other similar communities to seek to overturn administrative finality and re-open their status determinations. Establishing this de facto new process would contravene the purposes of ANCSA and could create a continual land transfer cycle in Alaska.

The Department also has concerns with specific provisions in the bill. For example, in section 6, new ANCSA section 43 contains very open-ended selection language. The provision does not require the new urban corporations to take lands for "the township or townships in which all or part of the Native village is located," as provided for in ANCSA. Instead, it requires only that the lands be "local areas of historical, cultural, traditional, and economic importance to Alaska Natives" from the villages. The bill also appears to require the Secretary, in consultation with the Secretary of Commerce and representatives from Sealaska Corporation, to select and offer lands to the new urban corporations.

Although the Department does not support H.R. 2386, we would be glad to work with the sponsor and the Committee to address these issues as well as problems with eligible existing ANCSA communities. For instance, rather than simply addressing the perceived inequities of five communities formerly deemed to be ineligible under ANCSA, the Department would like to work with the Committee to find solutions to the existing eligible communities that have no remaining administrative remedies, such as the villages of Nagamut, Canyon Village and Kaktovik.

Conclusion

The BLM's Alaska Land Transfer program is now in a late stage of implementation and the Department strongly supports the equitable and expeditious completion of the remaining Alaska Native entitlements under ANCSA and other applicable authorities. H.R 2386 would delay the Department's goal of sunsetting the Alaska Land Transfer Program, which is in its final stages. The Department believes that the completion of the remaining entitlements under ANCSA and the Statehood Act is necessary to equitably resolve the remaining claims and fulfill an existing Congressional mandate.

TESTIMONY
OF
MICHAEL BLACK
DIRECTOR OF THE BUREAU OF INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
SUBCOMMITTEE ON INDIAN, INSULAR AND ALASKA NATIVE AFFAIRS
HOUSE NATURAL RESOURCES COMMITTEE
U.S. HOUSE OF REPRESENTATIVES
ON
H.R. 2538, THE "LYTTON RANCHERIA HOMELANDS ACT OF 2015"

JUNE 17, 2015

Chairman Young, Ranking Member Ruiz, and Members of the Subcommittee, my name is Michael Black and I am the Director of the Bureau of Indian Affairs. Thank you for the opportunity to present the Department of the Interior's (Department) views on H.R. 2538, a bill taking certain lands located in the County of Sonoma, California into trust for the benefit of the Lytton Rancheria of California (Tribe), and for other purposes.

Taking land into trust is one of the most important functions that the Department undertakes on behalf of Indian tribes. Homelands are essential to the health, safety, and welfare of the tribal communities. Thus, this Administration has made the restoration of tribal homelands a priority. This Administration is committed to the restoration of tribal homelands, through the Department's acquisition of lands in trust for tribes, where appropriate. The Department supports H.R. 2538, with some amendments.

H.R. 2538 will place approximately 511 acres of land into trust for the Tribe. H.R. 2538 references a map titled "Lytton Fee Owned Property to be Taken into Trust" dated May 1, 2015 that identifies the lands to be transferred into trust for the Tribe. Under H.R. 2538, once the land is in trust for the Tribe, valid existing rights, contracts, and management agreements related to easements and rights-of-way will remain. H.R. 2538 includes a restriction that the Tribe may not conduct any gaming activities on any land taken into trust pursuant to this Act.

H.R. 2538 also references a Memorandum of Agreement between the County of Sonoma and the Tribe. The MOA affects not only the trust acquisition covered in the legislation but also future acquisitions and subjects the Tribe to the land use/zoning authority of the County for most of the property identified in the legislation for the term of the MOA, twenty (22) years, and imposes negotiated restrictions on the Tribe's residential development.

This Administration is supportive of legislative efforts to take land into trust for tribes. The Administration is also supportive of counties and tribes negotiating agreements to resolve their differences. The decision to compromise principles of tribal sovereignty is itself an exercise of sovereignty and tribal self-governance. In that spirit, the Administration defers to the decision made by the Tribe.

Thank you for the opportunity to present the Department's views on this legislation. I will be happy to answer any questions the Subcommittee may have.

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

JUL 24 1996

Honorable Don Young, Chairman
Committee on Resources
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

In testimony delivered at a hearing before the House Resources Committee on June 11, 1996, on H.R. 2505, the Department of the Interior testified that the Secretaries of both Agriculture and Interior would recommend a Presidential veto of any legislation containing a "Landless Natives" proposal such as that formerly contained in S. 2539 in the 103rd Congress. We reiterate this position with respect to any so-called "landless" Natives legislation which would either recognize additional Native corporations in Alaska or provide a premise for the conveyance of additional Federal lands or money in furtherance of such new corporations under the Alaska Native Claims Settlement Act (ANCSA).

We are concerned that such a proposal might be appended to the so-called "Presidio" legislation, containing numerous land use measures, or to other legislation, now being considered by the Congress.

There is no equitable or legal justification for Congressional recognition of "landless" Natives in southeast Alaska or elsewhere as new corporations under ANCSA. We conclude this because:

-- There is no inequity in ANCSA to redress. Each of the five communities of Ketchikan, Petersburg, Wrangell, Tenakee Springs and Haines was considered for village status during the formulation of ANCSA and none met the general statutory criteria for eligibility.

-- Natives in the five "landless" communities are enrolled as "at-large" shareholders in Sealaska Corporation, have received fair and substantial equitable benefits of the original ANCSA settlement, and the dividends received by these at-large shareholders substantially exceed those paid by the regional corporations to village shareholders.

-- There are no "landless" Natives in southeast Alaska since all Natives have a beneficial interest in lands owned by Sealaska, including surface and subsurface estates.

-- Recognition of the five "landless" communities in southeast Alaska would itself effect an inequity among other "landless" communities elsewhere in Alaska.

-- Recognition of the five "landless" communities could reopen the entire settlement scheme of ANCSA and result in a never-ending, extremely costly, and unattainable effort to effect total equality of treatment among all Natives in all communities.

These conclusions are not ameliorated by legislative proposals which would merely recognize the creation of the five corporations without addressing their ultimate entitlement to land. One proposal would amend section 14(h) of ANCSA by merely allowing Haines, Ketchikan, Petersburg and Wrangell to organize as urban corporations and allowing Tenakee to organize as a group corporation. Creation of such shell corporations with no assets merely sets the stage for their potential insolvency and later demands that the Federal Government provide them with a land base and other assets.

In 1993, Congress authorized the Secretary of the Interior to conduct a study of the entitlements of Natives in southeast Alaska with particular respect to Native populations in the communities of Haines, Ketchikan, Petersburg, Wrangell and Tenakee. The study subsequently prepared by the Institute of Social and Economic Research of the University of Alaska was inconclusive on the issue of equitable treatment. While the named five communities may not have received land, their treatment was like that of many other communities elsewhere in Alaska. Further, the study did not consider adequately the actual distribution of regional stock dividends to "landless" Natives.

ANCSA effected a final settlement of the aboriginal claims of Native Americans in Alaska through payment of over $900 million and conveyances of 40 million acres of Federal land. Although it was impossible for Congress to have effected total parity among all villages in the state, there was a distinction made in ANCSA between the villages in the southeast and those located elsewhere. All recognized southeast villages had the opportunity to select timbered land, the value of which far exceeded the foreseeable values in the surface estate available to villages in the other eleven regions of Alaska. In addition, Natives in the southeast had received payments from the United States for the taking of their aboriginal lands. For these reasons, ANCSA specifically named the ten villages that were to be recognized in the southeast as opposed to subjecting the villages to a determination by the Secretary of the Interior of their eligibility prior to the receipt of any lands.

The proposed five "landless" communities meet none of the criteria for corporate recognition, that is, having a majority

Native population, and not being modern or urban in character. None of the five has a Native majority and four out of the five are modern and urban in character. Tenakee has no actual Native residents and the enrollees only represent seven percent of the population of the community. Three of the communities appealed their status through the administrative processes prescribed by the Secretary of the Interior and were denied. Recognition of any of these five communities would substantially lower the standards set out in ANCSA for village recognition with implications elsewhere.

There are many "landless" villages in Alaska which do not meet the Act's criteria for eligibility to select land. In section 11(b)(1) of ANCSA, Congress listed more than two hundred villages which were presumed to be eligible villages unless the Secretary of the Interior determined otherwise under criteria set out in section 11(b)(2). Under section 11(b)(3), communities not named in section 11(b)(1) were provided with the opportunity to petition for an eligibility determination, but were presumed ineligible unless the Secretary found them eligible. Twenty-three named villages were found ineligible, and a number of unnamed villages could not prove their eligibility.

Once recognition of heretofore ineligible communities in the southeast is commenced, pressure will mount for similar treatment by other communities. For example, Anchorage and Fairbanks have larger native enrollments than any of the communities now seeking recognition. There is no land available in either of those communities for granting a new corporation a land base.

As ANCSA is currently structured, recognition of the five communities as villages, urban or group corporations could also have a substantial impact on section 14(h)(8) entitlements of all twelve regional corporations. The land conveyed to urban and group corporations must be subtracted from the amount of land divided among the twelve regional corporations under section 14(h)(8). Consequently, the amount of land held by the regional corporations as a land-base for economic development and benefit to all the stockholders of the regional corporation will be reduced. Two of the regional corporations, Cook Inlet Region, Inc. (CIRI) and Chugach Alaska Corporation, have settled with the Department in agreements ratified by the Congress for their section 14(h)(8) entitlements by receiving specified quantities of land in particular places. Therefore, the burden of the reduction will be borne by the remaining ten regions.

Additionally, we have also seen proposals which would recognize these communities as villages. If this approach is taken, the amount of land available for distribution under section 12(c) would be substantially reduced.

Some "landless" legislative proposals would exempt existing

entitlements of regional corporations under section 14(h)(8). The result of such an exemption would be to substantially raise the cost of the overall ANCSA settlement beyond the original settlement package of 40 million acres. We oppose more public land being used to increase the size of the original settlement.

It is unclear how various recognition proposals would be affected by State selections. When ANCSA was originally passed, the State of Alaska and Congress knew that many villages would be without a land base unless lands selected by the State were made available for selection by the new village corporations. If landless Natives are provided land on a statewide basis, this cooperation will again become necessary. However, because the period of State selection is over, the State of Alaska may be unable or unwilling to cooperate with a new round of selections by newly created Native corporations.

Notwithstanding the ineligibility of some communities for corporate status under ANCSA, all Natives receive benefits from the ANCSA settlement. Natives enrolled in eligible village communities received one hundred shares of regional corporation stock, and one hundred shares in the village corporation organized for their community. Natives not enrolled in a village or a group are "at-large" stockholders in the regional corporation.

The regional corporations were instructed on how to divide any dividends they would declare. Natives who are members of villages are sent regional dividends for fifty percent of the per capita share of dividend to be divided. The other half of the dividend is sent to the village corporation. The village corporation subtracts part of the per capita dividend to be used for running the village corporation, and then declares a dividend on the remainder of the money received from the region.

Individual Natives who are enrolled in communities that were not eligible to be village corporations receive one hundred percent of the per capita dividend declared by the regional corporation. As a result, "landless" Natives receive much larger dividends than Natives enrolled in villages. No realistic assessment of true equity among affected Natives can be made without consideration of the distribution of regional dividends, a subject not adequately considered in the Landless Natives Study. The extra benefits received over the last twenty-five years by at-large stockholders compared to those received by village stockholders is a factor heretofore not considered in this debate.

Were additional corporations recognized by Congress, equity with other regional shareholders should require the potential members of those corporations to turn back their "at-large" stock in exchange for stock in the new corporations. Since this would have

a substantial impact on the family economy of at-large stockholders, we believe that these people should be given time to consider these impacts before Congress considers any action to recognize new corporations and before these Natives are forced into a new corporate alliance.

Some current proposals which would allow the members of newly created corporations to continue to receive distributions as "at-large" shareholders create inequities among shareholders. Members of the new communities would get all the benefits of "at-large" membership, including receiving one hundred percent of per capita dividends, in addition to the potential benefits afforded as stockholders in land based Native corporations, thus creating new inequities.

No additional corporate recognitions should occur because of the substantial unknown land and fiscal liabilities which would be created by this new round of corporate recognitions. Every regional corporation has "at-large" stockholders who are "landless" Natives, and even if Congress recognizes the five communities in the southeast, Sealaska Corporation will continue to have "landless" at-large stockholders. Therefore, recognition of these five communities will become a precedent for other unrecognized communities in all twelve regions all demanding recognition along with more land and financial resources.

The recognition of additional Native corporations under the landless Natives rationale will also have substantial and unacceptable fiscal impacts on the Federal budget. Unlike village corporations, urban and group corporations are subjected to additional financial stresses because those corporations do not receive a share of regional dividends. All stockholders of urban and group corporations retain their status as at-large regional stockholders. It has been up to the Congress to infuse these financially strapped corporations with "start up" money, but these infusions have been insufficient to prevent the corporations from entering into hasty financial arrangements.

A subject unrelated to ANCSA concerns legislative proposals which would not only recognize Haines, Ketchikan, Petersburg, and Wrangell as urban corporations, and Tenakee as a group corporation, but would also give these communities and Sealaska the power to make recommendations for the Tongass Land Management Plan. Under the National Forest Management Act, affected state and local governments, Indian tribes and native corporations, and the public are consulted in the preparation of land and resource management plans for the National Forests. All have a voice and an opinion which the Forest Service must consider, but none have deference over others. In southeast Alaska, the five communities and Sealaska already have a voice in the land management planning process. The Secretary of Agriculture advises that any legislation proposing to give outside parties power independently

to impose recommendations on the Tongass Land Management Plan will subvert the land management planning process, delay adoption of the plan, and further unsettle the economy and stability of southeast Alaska.

In summary, efforts to reopen ANCSA settlements under the guise of equity will be costly to the American public and unsettling to public and private land allocations in Alaska. The proposed recognition of landless Native corporations will upset the entire settlement regime of ANCSA which has been so carefully and laboriously implemented over the last two decades. Recognition would not redress inequities but result in new ones among Native shareholders and among groups, villages and communities throughout Alaska.

The Secretaries of the Interior and Agriculture will recommend that the President not approve any legislation recognizing so-called landless Native corporations, or which grant Native corporations authority to impose recommendations on the Tongass Land Management Plan.

The Office of Management and Budget advises that the presentation of this report is in accord with the Administration's program.

Sincerely,

ACTING Assistant Secretary
Department of the Interior

Under Secretary
Department of Agriculture

cc. Honorable Ted Stevens

From: Rebecca Knight <bknight15@icloud.com>
Sent: Sunday, November 29, 2020 7:10 PM
To: fortherecord (Energy) <fortherecord_@energy.senate.gov>
Subject: FOR THE 11/18/20 SENR SubCmte PLFM Subcmte Hrg.

Hello Public Lands, Forest and Mining Chair and Subcommittee Members,

Please see the attached addition to my previous comments and supporting attachments for the 11/18/2020 Senate Energy & Natural Resources Subcommittee: Public Lands, Forests, and Mining Hearing of 11/18/20.

First, are my "Part II" supplemental comments for the record.

The second attachment is a letter from the Borough of Petersburg, Alaska regarding S.4889 "The Alaska Native Claims Settlement Act Fulfillment Act of 2020." You may have this on record already, but in case you do not, here it is.

The third attachment is the Southeast Alaska Conservation Council's position statement on an earlier version of this bill (S. 872).

And other relevant attachments, including a photo of typical logging under the State of Alaska Forest Resources and Practices Act (FRPA).

Thank you for including my testimony (with attachments) into the hearing record for S.4889.

SUPPLEMENTAL TESTIMONY
OF
REBECCA KNIGHT
BEFORE THE PUBLIC LANDS, FORESTS & MINING LEGISLATIVE HEARING (S.4889)
NOVEMBER 18, 2020

November 29, 2020

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

Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

"Recognition of the five 'landless' communities could reopen the entire settlement scheme of ANCSA and result in a never-ending, extremely costly, and unattainable effort to effect total equality of treatment among all Natives in all communities."[1]

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889) introduced by Senator Murkowski on Nov. 10.

This testimony is supplemental to my Nov. 18 comments to you. As I wrote in those comments, the legislation *"is flawed from the outset and on a fast-track trajectory. It should be entirely rejected."* S. 4889 is a ruse, at the behest of the Southeast Alaska timber industry[2], to make vast tracts of Tongass National

---

[1] *See* Letter from Jim Lyons Undersecretary of Agriculture and Sylvia Baca, Assistant Secretary Dept. of Interior to Rep. Don Young Committee on Resources. July 24, 1996. Attached.

[2] *See* 2016 Tongass LRMP FEIS Project Record Folder 763_02_000084 (Niemi 2016, Socioeconomic Comments on Timber Demand at 12.) Logging on these remote and rugged lands comes at tremendous cost to U.S. taxpayers but benefits less than one percent of Southeast Alaska's economy;

Forest old-growth timber available for clear-cut logging under the weak Alaska's Forest Resources and Practices Act (FRPA), and then followed by round log export to China. Enactment of the bill would be highly profitable for the timber industry, but would be highly destructive to all other values and uses—including to landscapes, fish and wildlife populations, recreation, tourism and those who depend on the Tongass for their sustenance and heritage.

While I continue to respect the deep cultural ties of Alaska native people to the lands of SE Alaska, the transfer of 115,200 acres (23,040 acres per each of five SE AK communities[3]) of the Tongass NF for corporate privatization is not justified.

Quite simply, such conveyance is unjustified because Alaska Natives from these five communities in SE Alaska did not qualify for village status under the Alaska Native Claims Settlement Act (ANSCA) and were instead, equitably compensated as "at-large" shareholders of Sealaska Inc.. Since the Act's passage, these shareholders have received benefits substantially exceeding those paid by the regional corporations to village shareholders.[4] They also are land holders of the Tongass NF public lands—as any American citizen is. Clearly, they are not "landless" as they have alleged. In fact, "There are no 'landless' Natives in southeast Alaska since all Natives have a beneficial interest in lands owned by Sealaska, including surface and subsurface estates.[5]

I included multiple documentation in my earlier letter to support that rationale.

ANSCA's section 7(I) already provided just compensation for natives from five SE Alaska communities who did not meet the criteria for village status.

Under the 7(i) provision of ANCSA and as "at-large" shareholders of Sealaska, these natives received equitable compensation. Referenced below is the Sealaska 2020 Spring Shareholder Distribution[6], further documenting that

---

[3] Haines, Petersburg, Ketchikan, Tenakee, Wrangell.

[4] *Id.*

[5] *See* Letter from Jim Lyons Undersecretary of Agriculture and Sylvia Baca, Assistant Secretary Dept. of Interior to Rep. Don Young Committee on Resources. July 24, 1996. Attached.

[6] Sealaska Announces Spring 2020 Shareholder Distribution and Changes to 2020 Community And Annual Meeting Schedules. (One of two annual distributions) https://www.sealaska.com/shareholders/sealaska-announces-spring-2020-shareholder-distribution/

natives from the five communities have been justly compensated for being denied village status. This most recent distribution shows they received $13.06 per share of Sealaska stock, far above the $3.32 per share of native shareholders having village and other status. Although the distribution shows dividends going back to 2013, clearly this is a snapshot in time and such dividend distributions have been in place since ANSCA's 1971 passage.

Moreover, Aaron Schutt concluded in his scholarly research[7]:

"Ultimately, however, Section 7(i) has resulted in the sharing between the regional corporations of ***several billion dollars*** [emphasis added] *of revenue derived from resources from ANCSA lands. And it has quietly played an important role in economic equity and the success of Alaska Native corporations.*

'The resource revenue-sharing provision contained in Section 7(i) is an important and unique element of ANCSA.[8]Section 7(i) still has important consequences for Alaska Native corporations and their resource development partners more than forty years after the passage of ANCSA. As highlighted by the title of this article, have received fair and substantial equitable benefits."

In 2015, only five years ago, the Southeast Alaska Conservation Council (SEACC) maintained that proposed "landless legislation" (S. 872) would "Create new inequities where none currently exist," and believed the best course of action was for them to seek land from Sealaska, the Regional Corporation for Southeast Alaska. That seems a perfect solution, since no additional lands would be removed from public ownership and any disputes could be settled amongst themselves. See attached SEACC written testimony.

Deep concern exists regarding the fate of the Tongass National Forest Old Growth Reserve system (small, medium, and large OGR's), riparian areas, and beach fringe habitats.

Also of concern under S. 4889 is the fate of the Tongass Old Growth Reserve forestwide system (small, medium, and large OGR's), riparian areas, and beach fringe habitats. These areas will be greatly impacted by the proposed legislation under Alaska (non-federal) forest practices.

In December 2014, biologists with significant experience in southeast Alaska wildlife research and forest ecology, including involvement in the development and implementation of the Tongass conservation strategy, wrote the Forest

---

[7] M. Schutt. Alaska Law Reveiw. ANCSA Section 7(I): $40 Million Per Word and Counting. Aaron Dec. 12, 2016. https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1515&context=alr

Service and the Tongass Advisory Committee (TAC)[8] in order to raise concerns about logging recovering forests in beach fringes, riparian areas and old growth reserves. The experts explained that "[a]cre for acre, beach fringe and riparian are two of the most important habitats for sustaining wildlife populations on the Tongass." They opposed the changes, particularly in the absence of any review by actual scientists. One of those experts, Matt Kirchhoff, wrote the TAC again the next year, and requested that it take the beach fringe and OGRs "off the table" except for "very limited" research.

An unacknowledged/unidentified amount of logging and habitat destruction to most selection areas included in the proposed legislation will occur if S.4889 is enacted. This will be in the absence of any analysis of the potential harms to these areas which currently provide critical ecological services for fish and wildlife. Timber and other resource extraction will literally unravel the ecological services afforded in these in these important habitat areas.

These areas would be clearcut logged under the Alaska FRPA which has no enforceable provisions for wildlife habitat or required consideration of cumulative impacts. There is also no limit on the size of clearcuts, which in many cases can exceed many square miles along previously forested hillsides.[9] These special areas comprise the most important intact habitat features protecting species viability on the Tongass. They should be specifically protected from logging or other habitat destruction in the legislation, if it moves forward or at a minimum must be analyzed and disclosed prior to consideration in order to make an informed decision. To enact this legislation without removing these areas from consideration or in the absence of such analysis would be grossly irresponsible.

Field hearings must be held for the proposed S. 4889.

Prior to further consideration of S. 4889, individual field hearings throughout Southeast Alaska must be held. There has been very little if any public vetting of the legislation in local communities. Alaska "Natives Without Land" held a public open house last year in Petersburg, but it conflicted with another open house scheduled at the same exact time for a major timber sale in the Petersburg area. Regardless, I was told the meeting was very short on details.

Senator Murkowski, you are poised to fast track this legislation by attaching it to a must-pass Omnibus or National Defense Authorization Act which is a very sneaky way to get the legislation passed. This bill desperately needs a local, public vetting.

---

[8] The Tongass Advisory Committee was the committee charged with considering a transition away from old growth logging.

[9] *See* Photo of Menkenzie Inlet (Prince of Wales Island) clear-cut logging under the State of Alaska Forest Resources and Practices Act (FRPA). Attached.

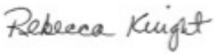
In fact, when your 2014 Sealaska legislation (S. 872) was under consideration, you visited the Petersburg Vessel Owner's Association (PVOA) and were grilled about that legislation. In response to a remark about the about the bill that, "much of Southeast's residents cannot help but feel being played as hostages and political pawns in this legislation," you responded that you truly "regret[ted] the anxiety and tension that the Sealaska bill has created in our small towns" and you recognized, that it "...has pitted neighbor against neighbor" and that the "resentment is not good for communities."

Yet, Senator Murkowski, your regret was short-lived. You are now ready to push thru S. 4889 via any means possible with no local consultation. It is déjà vu all over again, and you have no apparent remorse for your actions.

I request that the other mostly Lower-48 legislation considered during the Nov. 18 sub-committee NOT be used as the quid pro quo vehicle to push your bill S. 4889 over the top. The true conservation gains would be highly negative.

Finally, I request that you pull from further consideration, S. 4889 Alaska Native Claims Settlement Act Fulfillment Act of 2020 and allow SE Alaskans to get on with their lives and cease pushing your resource extraction schemes on regular Alaskans who just want to live their traditional lifestyles without being constantly bothered by your extractivist legislation.

Sincerely,



Rebecca Knight

PO Box 1331

Petersburg, AK 99833

bknight15@icloud.com

Southeast Alaska
Conservation Council
224 Gold Street Juneau, Alaska 99801 (907) 586-6942 Fax (907) 463-3312

October 6, 2015

The Honorable Jon Barrasso
Chairman
Subcommittee on Public Lands,
Forests & Mining
Committee on Energy & Natural Resources
U.S. Senate
366 Dirksen Senate Office Bldg.
Washington, D.C. 20515

The Honorable Ron Wyden
Ranking Member
Subcommittee on Public Lands,
Forests & Mining
Committee on Energy & Natural Resources
U.S. Senate
366 Dirksen Senate Office Bldg.
Washington, D.C. 20515

Re: Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act (S.872)

Dear Chairman Barrasso and Ranking Member Wyden:

Please accept this testimony on behalf of the Southeast Alaska Conservation Council (SEACC) on S.872. Founded in 1970, SEACC is a grassroots conservation organization with members who live across Southeast Alaska, from Craig on Prince of Wales Island to Yakutat. SEACC's individual members include commercial fishermen, Native Alaskans, small timber operators and value-added wood manufacturers, tourism and recreation business owners, hunters and guides, and Alaskans from all walks of life. SEACC is dedicated to preserving the integrity of Southeast Alaska's unsurpassed natural environment while providing for balanced, sustainable use of our region's resources. 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 customary and traditional practices of local communities.

SEACC appreciates the histories and traditions of the Native peoples from Ketchikan, Wrangell, Petersburg, Tenakee Springs, and Haines. Given our long history of working with local Native people to maintain and protect abundant customary and traditional resources and uses, we further recognize the immense cultural benefit associated with continuing those uses of lands, waters, animals and plants that support their way of life. Most recently, large-scale mining development upstream in British Columbia threaten the long-term health of the waters, salmon, herring and hooligan resources of the Taku, Unuk, Nass and Stikine Rivers, as do operations by Canadian mining companies operating in Alaska, such as the one threatening the productive Chilkat River. To safeguard our shared interests, SEACC has cooperated tirelessly with Tribes across

Southeast Alaska, including tribal leaders from Wrangell, Ketchikan, Haines and Petersburg. We are also assisting several Tribes in the development of robust Tribal monitoring and management programs for the waters, lands, and resources they are so connected to. We remain committed to these efforts.

Late last year, seven years of controversy and debate ended when Congress finalized the Southeast Alaska's Native land entitlement issue by enacting section 3002 of Public Law No. 113-291 (Dec. 19, 2014), the Southeast Alaska Native Land Entitlement and Jobs Protection Act. This bill was the product of a long and strenuous process in which SEACC participated in good faith. As Senator Murkowski explained when she obtained final Senate passage of this bill on December 13, 2014:

> It has taken seven years, but I'm proud to say that we finally completed the land conveyance for Southeast Alaska's nearly 20,000 Native shareholders . . . .
>
> . . .
>
> Some 43 years after passage of the Alaska Native Claims Settlement Act, the federal government will finally finish paying the debt we owe Natives for the settlement of their aboriginal land claims . . . .

See Press Release, Murkowski Applauds Final Passage of Sealaska Lands Bill (Dec. 12, 2014).[1]

Since all the Native people which S. 872 seeks to compensate are also Sealaska Corporation shareholders, it is unclear what new circumstance led Senator Murkowski to introduce this bill on March 25, 2015, and again seek to reopen the Alaska Native Claims Settlement Act. We don't understand why additional public lands need to be conveyed from the Tongass National Forest to resolve claims from Sealaska Corporation shareholders beyond 2014's full and final installment of Sealaska's land entitlement. We are concerned that as drafted, instead of resolving long-standing claims, the open-ended scope of the 115,000 acres of lands that could be selected and conveyed to these new "urban" corporations under the proposed bill will only generate more controversy and discord across Southeast Alaska.

Proceeding with this legislation could also create additional inequities because Alaska Natives from Ketchikan, Wrangell, Haines, Tenakee, and Petersburg are considered Sealaska's "at-large" shareholders and as such already receive bigger Sealaska dividends than village shareholders. However, we recognize the deep cultural and spiritual ties that Tlingit, Haida, and Tsimshian peoples have long had with the land itself and understand their desire to possess at least a portion of their traditional ancestral territory. Fortunately, a mechanism for granting land to these five communities already exists. Congress set aside 2 million acres to be available for selection by one of the 12 Regional Corporations after all other claims were resolved. Lands conveyed to the two urban corporations of Juneau and Sitka came from this pool of lands. *See* 43 U.S.C. § 1613(h)(3)(2013). If these 5 communities want lands, they should go where Congress intended – to Sealaska Corporation, the Regional Corporation for Southeast Alaska.

[1] Available at http://www.energy.senate.gov/public/index.cfm/2014/12/sen-murkowski-applauds-final-passage-of-sealaska-lands-bill

We wish to highlight a couple of salient points in our testimony:

- Section 2 of S.872's misrepresents findings made by the University of Alaska's Institute of Social and Economic Research in its 1994 congressionally-directed study. Those researchers:
  - Did not find that Congress had "inadvertently" omitted any of these groups; and
  - Did not recommend that Congress should now award them land.[2]
- Section 6 of S.872 would grant each of these 5 "Urban" Native Corporations 23,040 acres of high value "local" public lands, which could come from anywhere, including:
  - Lands on Admiralty Island and in the Misty Fjords designated as National Monuments by Presidential Proclamation in 1978 to protect their superlative scientific, cultural, and historic features, and Congressional designation in the 1980 Alaska National Interest Lands Conservation Act (ANILCA);
  - Wilderness Areas designated by Congress on the Tongass in the Alaska Lands Act of 1980 and 1990 Tongass Timber Reform Act (TTRA), including the Stikine, Karta, Chuck River, and South Etolin Island Wilderness Areas;
  - Lands designated by Congress in the 1990 TTRA and the 2014 Sealaska Corporation Lands Bill for perpetual management as roadless wildlands, also referred to a Legislated LUD II Areas, such as Kadashan, Trap Bay, Mud Bay, Anan, the Naha, Nutkwa, or the Honker Divide.
  - National Parks designated or expanded in ANILCA, including Glacier Bay National Park and Wrangell Saint Elias.

  Previous acts of Congress protected all of these special lands and they all should be made clearly off-limits to any and all possible selections/conveyances, without delay.
- Creates new inequities where none currently exist.
  - All Natives in Southeast Alaska received a beneficial interest in the lands conveyed to Sealaska Corporation, the largest private landholder in Southeast.
  - Sealaska's "at-large" shareholders, which include Alaska Natives from Ketchikan, Wrangell, Haines, Tenakee, and Petersburg, already receive bigger Sealaska dividends than village corporation shareholders.

As pointed out above, Congress intended urban corporations created in Southeast Alaska to receive lands from the Regional Corporation for Southeast Alaska, Sealaska Corporation. We encourage Congress and the five communities to consider new and innovative forms of land ownership and management. The "maximizing short-term profit" model of

[2] For the record, we submit a December 7, 1993 letter from then-ISER Director Lee Gorsuch to Amy Miller, Alaska Public Radio Network with our testimony.

clearcut and export logging followed by ANCSA corporations in Southeast Alaska has not resulted in long-term sustainable dividends for shareholders. In virtually every case, timber-first management compromised salmon streams and wildlife habitat on lands that have supported customary and traditional uses for millennia.

Today, there are a number of innovative models for managing forest lands that do a better job of balancing forest values. For example, SEACC collaborated with the people of Hoonah and Kake, two predominantly Alaska Native communities, to craft Community Forest Plans that emphasized sustainable, community-based economic diversification. More recently, the Prince of Wales Tribal Conservation District, a project of the Alaska Tribal Conservation Alliance, is applying local and traditional knowledge to the management of natural resources in order to promote healthy people and healthy environments on Prince of Wales Island. This legislation is not in-line with the new vision of land management that is currently being crafted by the tribes themselves.

We urge Senator Murkowski to withdraw this legislation and schedule field hearings in Southeast Alaska next year to discuss this matter with all the affected Alaska Native communities and their neighbors. The current bill creates more conflict in Southeast Alaska instead of resolving it.

Thank you for including SEACC's testimony (with attachment) into the hearing record for S.872.

Best Regards,

Buck Lindekugel
Grassroots Attorney

From: Bart Koehler <bart_koehler@yahoo.com>
Date: Tuesday, November 17, 2020 at 1:19 PM
Subject: Missive/Testimony on the Landless Natives Legislation: S.4889;

PLEASE MAKE THIS LETTER A PART OF THE OFFICIAL COMMITTEE HEARING RECORD FOR S.4889

^^

11/17/2020
The Honorable Lisa Murkowski; U.S. Senate; and Members of the Senate Energy Committee
Comments on S. 4889 for Senate ENR Committee Hearing
(Please enter the statement below into the official hearing record.)

Dear Lisa:

Lisa, I've always addressed US Senators by their first names. I learned that from my old friend US Senator of Wyoming, Alan Simpson, & carried on the tradition with Alaskan Senators Ted Stevens and your Father, Frank. I hope to actually meet you -- someday -- since you are highly regarded by a number of my good friends who are veteran Alaskan conservation leaders. You and I probably will disagree over specific issues, but that doesn't mean we can't respect one another. For the record, I've been engaged in conservation issues on Capitol Hill, helping bedrock citizens protect places near and dear to their hearts for over 47 years. I have faith in our democracy where people of good will can work in good faith together with their Delegation to truly make a difference in this wild world of ours.

Lisa, you may not remember me, but I was deeply engaged in the Tongass Timber Reform Act actions in grassroots Southeast Alaska and in Washington, D.C. back in the late 1980s and the TTRA enactment in 1990. Your Father and I respectfully and dutifully crossed swords over the TTRA during many a Senate hearing and numerous junctures along the way. The TTRA passed the Senate by a 99-0 vote (Malcolm Wallop was absent) and both Ted Stevens and your Father voted for the final compromise. (I had the honor of handing Frank a cold bottle of award-winning Alaska beer at a reception we held after the vote. I recall telling him that, "beer is the kind of sustainable industry we can support here in Alaska. We both laughed at that.") Later on in the mid-1990s, we fought over the future of the two pulp mills in our home region. Starting in late 1995, I became deeply involved in the "landless natives" legislation when I returned to the helm of SEACC as executive director for a second tour of duty to help bring about a sea change.

Today I am writing as a concerned individual who for decades has endeavored to find a respectful and responsible resolution of the landless natives issue. I am not writing on behalf of any organization, yet I strongly support comments by SEACC and Chichagof Conservation Council that should be in your possession by now.

A LOT LIKE A PATCH OF DEVIL'S CLUB

This issue is a lot like one of my favorite Southeast Alaska plants, the Devils Club.
At first glance it seems like it would be simple to navigate an easy path through a large patch of this very functional and useful plant. However if a person is not careful and deliberate and clear-eyed and level-headed he/she won't make any headway at all and instead will come away with a handful of very painful and deeply penetrating thorns. (thorns/prickers all over the stalk and even on the underside of the glorious leaves.) Still, if you pick the right time and have a good thick pair of gloves and you take very wise and respectful steps you can steadily make your way to where you need to go. One needs to be patient when traveling thru Devils Club, for if you lumber along on the same old path you'll find yourself at a dead end with the path ahead blocked by slash and stumps from the past practices. Rush your actions and you will trip, falter and fail.

The problem right now is that YOUR BILL TODAY IS FUNDAMENTALLY THE SAME BILL THAT PEOPLE AND GROUPS HAD TO FIGHT in 1995 AND FOUGHT EVER SINCE AND HAVE TO FIGHT NOW AT THIS HEARING. It is the same bill that has failed to pass time after time. The only real improvement in this bill is that there are maps of the areas proposed to be transferred out of the majestic Tongass National Forest ....so citizens of Southeast Alaska can see where extensive damage to their favorite salmon stronghold watersheds will take place as a result of enactment ---- IF IT IS NOT IMPROVED. I am personally very disappointed that the Alaska Delegation did not come forward with a better and more balanced bill that some of us could work with. Amazingly, it looks like we will again be stuck stumbling around in a very unforgiving patch of Devil's Club.

RESPECT FOR INDIGENOUS PEOPLE OF THE TONGASS

Before I go any further, I want you and the members of this Committee to know that I have a profound respect for the histories and traditions of the indigenous people who live in Southeast Alaska and with the Tongass National Forest. Over the many decades that I've been engaged in conservation issues in Southeast Alaska, I have done my level best to listen to, and learn from Native elders and leaders and have worked in concert with them on a number of issues of mutual interest and common ground concern. From Yakutat to Hydaburg and between. I have learned much from such sage elders as Austin Hammond, Matthew

Fred, Lydia George, Adrian and Vicki LeCornu, Don Bremner, Wanda Culp, and Ernestine Hanlon to name a few. (I can provide more details if need be.) In several cases I was a leader in efforts where our salt-of-the-earth waterlogged grassroots outfit was the only conservation group to stand on the side of Native people.)

WHAT IS SEALASKA'S ROLE IN THIS?

Before, during and after the legislative actions that caused the enactment of the Tongass Timber Reform Act ~ by a 99-0 vote of the US Senate, I have worked on a variety of issues in concert with leaders of Sealaska. In fact when I was the E.D. of SEACC during the TTRA endeavors, I worked very closely with leaders Bob Loescher and Byron Mallott and others in an effort to support the permanent protection of Legislated LUD II watersheds which provided long-term benefits to many Native villages in Southeast Alaska. (Ever since, I have had a personal interest in striving to work with Native leaders in Southeast.)

So, what's at stake for Sealaska? Members of this Committee should know that under this bill Sealaska would gain ownership of the subsurface rights beneath all of the former Tongass National Forest lands selected by the "landless" villages. This is a big deal. For years Sealaska has provided the funds needed to support this legislative action. And for years, I've harbored hopes that Sealaska would come forth, chart a different course and propose some common ground solutions to be included in this landless effort. Instead we're looking at the same old bill, based on the same old premises and inaccurate claims. I will touch on the ISER Report and the true fact that none of the villages qualify for corporate status(see items 3,4,5,6 below). But you should know that Sealaska's claim that the ISER report gives no reason for the omission of the 5 villages is patently untrue. (see ISER Report page 22.)

WHY EVER HAPPENED TO ISER REPORT ?

Lisa, do you remember the ISER Report of 1994 ? Does any member of this Committee remember or know anything about this report by the prestigious INSTITUTE OF SOCIAL AND ECONOMIC RESEARCH of the University of Alaska, Anchorage? It was commissioned by the US Dept. of Agriculture/US Forest Service; and the US Dept. of Interior/Bureau of Land Management: and was Entitled "A STUDY OF 5 SOUTHEAST ALASKA COMMUNITIES". Today a few of us still know all about it, and still try to use its facts to help resolve this landless issue before us. Please rest assured that the ISER Report was not and is not a racist document.

You should know that in the mid-1990s, the ISER Report was viewed as the most important and reliably-factual review of this issue at a time when your Father was chairman of this Committee. Frankly, the ISER Report was viewed as the "Bible" on this important issue. Today, this report is barely noted. In fact if some of us didn't bring it up, most members of your Committee probably wouldn't know it even existed. Well, it still exists and I will refer to the ISER Report often in this missive, both the executive summary and full report.
THEREFORE, I RESPECTFULLY URGE YOU TO MAKE THE ISER REPORT AN OFFICIAL PART OF THE HEARING RECORD ON S.4889 AND URGE EVERY MEMBER ON THE COMMITTEE AND THEIR STAFF TO CAREFULLY REVIEW IT'S CONTENTS. (I will cite parts of the ISER Report in my comments below on S. 4889.)
^^^

Haines, Petersburg, Ketchikan and Wrangell were deemed "urban in character" and were not "majority Native. Tenakee lacked 2 criteria: the village was not "majority Native" and "did not have more than 25 Native residents". Furthermore, ANCSA had provisions which provided for these villages to appeal the fact that they were not included in the list, and to prove their eligibility. Tenakee, Haines and Ketchikan appealed and lost. Petersburg and Wrangell chose not to appeal at all. (see executive summary of ISER Report page xii)

Under ANCSA, all qualified SE village corporations were identified and named. There were, "no provisions for new corporations to be created in Southeast." (exec. summary ISER, page viii). Furthermore, in order for new village corporations to form in the rest of the State, "they had to have at least 25 Native residents in 1970 and could not be modern or urban in character". (exec.summary of ISER page x.)

5) *Given the fact that you are pushing this legislation despite the findings of the ISER Report, and pushing for recognition and corporate status for 5 villages I must say that ---- in this supercharged political context ----***TENAKEE SPRINGS should not be included** in the bill *NO MATTER WHAT.* While the other villages (Haines, Wrangell, Petersburg & Ketchikan) all can demonstrate histories and traditions in their home regions and various degrees of qualifying for attention----**TENAKEE SPRINGS was never a Native Village and SHOULD NOT BE ON THE LIST.**

On October 8th, 2015 (the last time there was a Senate hearing) you stated the following about TENAKEE NOT BEING QUALIFIED: "You have a limited number of communities in Southeast, all there in the Tongass. For whatever reason you had 5 of them, five of them, THAT ALL WITH THE EXCEPTION OF TENAKEE, (emphasis is mine) met the criteria in terms of Native non-Native composition and the other criteria that were there, and they were excluded." (***it is important to note that your assertion that the other 4 villages "met the criteria" is not an accurate statement and flies in the face of the findings of the ISER Report.****)

It is striking that in the face of your statement about the lack of qualification by Tenakee, your legislation STILL includes Tenakee as one of the 5 villages. IF S.4889 SOMEHOW STARTS TO GET TRACTION, you owe it to yourself and the hard-working and deeply concerned citizens of Tenakee Springs to fix this particular problem and STRIKE TENAKEE FROM THE LIST.

6) There are a host of non-ANCSA solutions and options that could be incorporated into this Landless legislation. I'm sure there will be many groups that will discuss them in detail: they include creating co-management stewardship areas, indigenous protected areas and indigenous rangers, and many more sound ideas. I sincerely hope you will keep an open mind while considering these possibilities.

Lastly, I'm looking at this issue on a personal level. I've worked on this issue for a quarter century. Once we came close to resolving this difficult and complex issue only to see it tragically fail. If I could ever go back in That was in 1998. That's a long time ago. I think it is high time to address these issues fairly and to do our best to come to a harmonious commonsense resolution. In this spirit, I'm willing to help in any way I possibly can.

Lisa, thanks for listening & please make this missive an official part of the hearing record. And please say "howdy" to your Father for me.

Sincerely,

Bart Koehler (former Executive Director of SEACC: 1984-1991; 1995-1999; and a member of the Alaska Conservation Hall of Fame (2016))

Testimony for the record S. 2875, the Smith River National Recreation Area Expansion Act

Submitted to Darla_Ripchensky@energy.senate.gov
December 3, 2020

Dear Chair Mike Lee and members of the Senate Energy and Natural Resources Committee, Subcommittee on Public Lands, Forests, and Mining:

KS Wild is a regional land and water conservation organization with over 3,000 dues paying member and over 10,000 supporters based in southwest Oregon. Our organization strongly supports the conservation of the Smith River through the proposed S. 2875, the Smith River National Recreation Area Expansion Act.

The history of support for this legislation is long, as it was first proposed for conservation in 1990 when the Smith River National Recreation Area legislation passed. While the Oregon portion was left out of the bill, it is a critical portion of the watershed deserving of our strongest conservation efforts. More recently, tens of thousands of people engaged in a plan that would mine in the headwaters of the North Fork Smith, with overwhelming local and regional opposition to the mining plans. Local municipalities, elected officials, and public health stewards all were opposed to the proposed nickel strip mine.

The North Fork Smith River is a world class stream, and one of the most sought-after whitewater experiences in the nation. Recreation in southwest Oregon is rapidly expanding. In recent years, more and more people are coming to visit public lands and wild rivers. We need to protect rivers like the North Fork Smith. This is a huge benefit to local communities and businesses that rely on these places for recreation-based tourism.

The Smith River National Recreation Area Expansion Act will also protect Wild and Scenic streams that are have some of the best water quality we have ever seen. It would ensure that a 20-year mineral withdrawal in the basin is made permanent and thereby protect water quality and fish populations.

Please let us know how we can continue to help ensure that we leave a lasting legacy of wild rivers for this and future generations. Thank you for advancing this important legislation.

Joseph Vaile, KS Wild

From: Abe Levy
To: fortherecord (Energy)
Cc: meredith@seacc.org; Pat Levy; monica@alaskawild.org
Subject: Protecting the integrity of the Tongass NF
Date: Tuesday, November 17, 2020 10:12:26 PM

I implore and beseech you to protect all Tongass NF lands from any and all diminution.

With the greatest of respect for all Native American claims, meetings should be held and methods found to satisfy their concerns which do **not** diminish the Tongass NF or any National Park.

Thanks for allowing this feedback.

Abe Levy
4875 Pelican Colony Blvd Apt 301
Bonita Springs FL 34134-6916
914-924-1260
abelevy48@gmail.com

November 17, 2020
PO Box 53
Tenakee Springs, AK 99841
tenakeetwo@yahoo.com
(613) 417-4000

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

I write these comments from my home in Tenakee Springs. I acknowledge that this land, like nearly all lands and waters in Southeast Alaska, is Tlingit Ani. I am grateful to the peoples and culture that have cared so well for these lands since people first set foot on them, many thousands of years ago. Without them, I might not also be sharing this place with bears, deer, spruce and hemlock trees, salmon and seals and the other amazing inhabitants of the forest and waters I also call home. Gunalchéesh.

As they do today, the Tlingit, Haida, and Tsimshian peoples historically lived in and travelled throughout all the lands and waters we now call Southeast Alaska. In reaching back in time, it is not always as clear which areas specific groups of people used, claimed or inhabited. This is certainly the case in Tenakee Inlet. There are indications that people from both Angoon and Hoonah either shared or successively used these lands and waters.

I was dismayed last Friday to learn Senator Murkowski is trying to rapidly push through what she is calling the Alaska Native Claims Settlement Fulfillment Act of 2020 (S. 4889) in the waning days of the current administration in the height of a pandemic. The opportunity for meaningful public participation is being denied in this rushed effort.

History has shown that the Alaska Native Claims Settlement Act (ANCSA), while perhaps well-intentioned, is a flawed model. It attempted to recompense Alaska Natives for the taking of their land by forcing them into a western model of corporate structure and monetizing the lands and landscapes whose intact ecosystems had been essential to Native cultures and people for thousands of years. It is evident that monetizing landscapes by clearcutting or other industrial

scale developments has significantly harmed watersheds and entire landscapes in Southeast Alaska while also interfering with the pursuit of important lifestyles and cultural traditions. As is frequently the case in western economies, ANCSA has also had significantly unequal benefits and costs among Alaska Native groups and individuals.

Lands proposed for selection under S. 4889 have been "cherry-picked", in most cases apparently for the highest monetary potential. In many cases, these selections have problematic environmental or economic effects on surrounding lands and communities. Among the most egregious in the Tenakee selections is the Portage, which, if developed, might not only preclude access to or damage an important recreational and cultural site, but would also effectively block the terrestrial corridor connecting NE Chichagof Island with the rest of the island. This could have devastating long-term impacts on the stability of wildlife communities.

ANCSA provided concise and explicit criteria to determine which communities would be included in the bill as village corporations. According to these criteria, many places were eliminated, including Tenakee. Congress directed that village corporations must meet the following three requirements: (ISER, 1994, p 20)

- The native population must be greater than 25 people on the date of the 1970 census.
  The 1970 census enumerated only 6 Tlingit inhabitants in Tenakee Springs, (although more than that were enrolled in the proposed Tenakee Village, ANCSA also required a native population of at least 13 residing in the actual village) (ISER, 1994, p 20, Village regulation #2).

- The native population must be a majority of the community.
  The total population of Tenakee at the time was 86, which made the native proportion about 7%. (ISER, 1994, executive summary, table 2).

- The community must be of other than urban or modern character.
  Tenakee clearly was not urban or modern.

Unless the fundamental eligibility requirements of the original ANCSA legislation are to be changed, it is hard to see how Tenakee should qualify under any interpretation. It seems that by opening up ANCSA to such a small group of people or their offspring S. 4889 will open a huge "can-of-worms" not only in SE Alaska, but throughout the entire state. There must be many places that could claim they had had 6 native inhabitants in 1970 that were not included in the ANCSA corporate structure.

Not only that, but, using the western model of "fair", it is clearly inequitable for people claiming Tenakee residency (none now live full-time on lands surrounding the Inlet) to receive the same amount of land or other recompense as groups containing far more people. The per capita benefits are greatly different. And, like ***all*** natives who were not among groups allowed to form village corporations, ANCSA granted them alternative compensation.

I believe that there are better ways than the ANCSA model to begin to solve the problems created by colonization and the taking of the lands of Tlingit and other peoples. Canada may provide

some good models to begin examining. It is certainly not my place as a white person to suggest or determine the best or most effective and culturally sustaining ways to achieve racial justice, but I recognize and respect there is a deep need to do so. I would hope that with all of Southeast Alaska's communities working together it should be possible to find workable solutions within years rather than the decades it's been since ANCSA first appeared on the scene with its many flaws.

Additionally, I would support legislation that would lead to more Tlingit people living in or around Tenakee, thus providing more access to the ocean and forest resources that have been so important to maintaining their place-connected cultural lifeway. ANCSA was not written to perpetuate those connections and the current legislation continues with the intent to move public land into private ownership for industrial scale resource exploitation. In my opinion, S. 4889 is neither racially just, nor environmentally responsible and I must oppose it as written.

I therefore urge the committee to quit rushing – and in fact to reject S. 4889 with its many complex ramifications. While it might be pushed through in this lame duck session, I believe that slowing down and engaging in genuine dialogue will lead to a racially just solution. A better, more stable, and long-lasting solution can be found if Native Alaskans are given the opportunity to collaborate and develop culturally sensitive models that not only provide ways to survive in the western world, but maintain the intact and functional landscapes and ecosystems that continue to sustain their cultural continuity and success.

While I must oppose S. 4889 as currently written, I pledge to assist when it is appropriate and requested, and to forgo some of my privilege in order to make alternative legislation and a high quality solution a real possibility in the not-too-distant future.

Sincerely,

Stephen Lewis,

Citation: Institute of Economic and Social Research, 1994, A Study of Five Southeast Alaska Communities, University of Alaska, Anchorage, 3211 Providence Dr., Anchorage, AK 99508.

From: virgene link
To: fortherecord (Energy)
Subject: For the 11/18/20 Cmte PLFM Subcmte Hrg
Date: Tuesday, November 17, 2020 10:31:39 PM

Energy and Natural Resources Committee leadership:

Please hold S. 4889 bill in order to give Southeast Alaskan communities time to participate in a more thorough public process around this legislation.

Make a firm commitment to working with Alaska Natives Without Land, Sealaska Corporation, and all of Southeast Alaska's communities in the next Congress to jointly develop a lasting, meaningful process and plan for restoration of Indigenous lands in Southeast Alaska.

We want to see restoration of Indigenous land stewardship and cultural practices, and want to see it *in this next year* — not in some far-off distant future.

Thank you.

Virgene Link-New

2004 10th Street

Anacortes, WA 98221

From: Joe Loberti
To: fortherecord (Energy)
Subject: For the 11/18/20 Cmte PLFM Subcmte Hrg
Date: Wednesday, November 18, 2020 10:00:25 AM

Good morning,

I am writing to implore you, the Energy and Natural Resources Committee leadership, to hold the bill in order to give Southeast Alaskan communities time to participate in a more thorough public process around this legislation.

Please make a firm commitment to working with Alaska Natives Without Land, Sealaska Corporation, and with all of Southeast Alaska's communities in the next Congress to jointly develop a lasting, meaningful process and plan for restoration of Indigenous lands in Southeast Alaska.
I implore you to seek meaningful resolution to Indigenous land claims, to see restoration of Indigenous land stewardship and cultural practices, and want to see it in 2021 — not in some far-off distant future.

Please forego rushing through legislation during the lame duck session of Congress, wedged between one of the most contentious elections in history, with spiking COVID cases in Alaska and nationwide, with only a week's notice for a Washington, D.C.-based hearing that Alaskans cannot reasonably attend, does not entail a serious effort by delegation to craft a meaningful and lasting solution for Southeast Alaskans.

Thank you for your time.

Joe Loberti
73 Wilbur Hazard Road
Saunderstown, RI 02874

Ann Mackovjak
PO Box 63/#1 Hemlock Rd.
Gustavus, AK 99826
907-308-4038
amackovjak15@gmail.com

November 17, 2020

Senator Lisa Murkowski
522 Hart Senate Office Building
Washington, DC 20510

Re: S. 4889

Dear Senator Murkowski,

I have just become aware of S. 4889. I checked the Anchorage Daily News and did not see anything about this bill which appears to be heading for a committee meeting tomorrow morning. This would look to be a very important piece of legislation that deserves a thorough going over. As these landless Natives did not meet the criteria of ANCSA, and it has been almost 50 years since ANCSA (a very long time which makes me wonder why at just this moment? Why not long before this? A rush to try to get this through while Trump is still President?), this legislation certainly needs to be considered and examined and the effects of such a controversial bill understood.

I am opposed to this bill being pushed through without a full analysis and consideration of what it means to the people of Southeast Alaska.

Best regards,

Annie Mackovjak

James Mackovjak
P.O. Box 63
Gustavus, Alaska 99826
907-308-4038
[redacted]

November 15, 2020

Senator Lisa Murkowski
522 Hart Senate Office Building
Washington, DC 20510

Re: Opposition to S.4889

Dear Senator Murkowski:

I have lived in Southeast Alaska for more than four decades. As the author of *Tongass Timber: A History of Logging and Timber Utilization in Southeast Alaska*, I have a sound understanding of the value of the Tongass National Forest and how it has been used and abused over the years.

Shame on you for attempting to rush through this complex, controversial legislation during a lame-duck session and holding a hearing less than a week after its introduction. Your bill, if passed will have huge impacts on Southeast Alaska. Alaskans deserve an opportunity to examine it and understand its potential consequences.

And there are plenty of red flags. I am familiar with the Point Couverden area, in Icy Strait east of Gustavus, that you want to transfer to a Haines Native corporation. Wow! This has nothing to do with Haines Native culture; it's all about money from clearcutting timber. The map accompanying the legislation even refers to "Homeshore." Historically, this was the homeshore of the Hoonah people. Haines folks had no cultural attachment to it. Again, it's just about money and clearcutting forests, just like when the Klukwan corporation selected lands on Long Island, at the very south tip of Southeast Alaska, under the Alaska Native Claims Settlement Act.

I could go on and on. Because of the pandemic, I've just cancelled a trip to Oregon to see my newborn grandson. Our nation needs to come together to quell the pandemic and transition to a new administration. This is not the time to rush controversial legislation. Alaskans deserve better. I am opposed to S.4889.

Stay safe,

James Mackovjak

Senator Lisa Murkowski

709 Hart Senate Office Building

Washington, DC 20510

Phone: (202)-224-6665

Fax: (202)-224-5301

November 16, 2020

The Honorable Lisa Murkowski,

As a Tenakee Springs resident since 1983, I am opposed to Senate Bill 4889 for the following reasons:

While I acknowledge with respect the connection of Alaska Native people with their Southeast Alaska home, it is not appropriate or desirable to establish a new urban corporation in a community designated as rural for subsistence purposes.

I am opposed to any bill that gives public land to private interests.

Tenakee Inlet remains largely intact and provides food and livelihood for local residents on the public land that all can use and enjoy.

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? When ANCSA settled Alaska Native claims in 1970 Tenakee Springs did not qualify as a Native village nor did they qualify as a Native village upon two appeals. Furthermore it's my understanding that SE Alaska natives belong to regional Native corporations. Simply put there are no reasonable Native claims to form a corporation in Tenakee Inlet.

I would welcome any Native people who feel they have a valid claim to land in Tenakee Inlet to have a conversation about how to get land in individuals ownership vs corporate ownership. It seems that individuals would be far better served by not going with a corporate model.

Sincerely,

Craig Mapes

PO Box 46

Tenakee Springs, Alaska 99841

Dear Senator Murkowski and the Senate Energy Committee,

I oppose S 4889 which claims to " provide for the recognition of certain Alaska Native communities and the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes." I see this as another attempt to take land out of the public domain and put it in the hands of "corporations" whose purpose is to make the shareholders happy with payments. The lands now are op en to all, native and non native. The corporations that would be founded would most likely exclude the public and require exploitation of the resources to fulfill their financial obligation to shareholders. In a p ublic meeting here Al Hill made it
clear his intention was to "monetize" new corporate lands, and that when we asked whether proponent s would support any constraints on resource extraction his response was a resounding " NO!"

I have lived in the Tongass for 46 years and made my living off the land commercial fishing and now retir ed I live a subsistence lifestyle which depends on uncut forests and clean, protected streams. We have f ought hard to keep Tenakee Inlet intact and protect the forest, "the lungs of the planet." Tenakee has a l ong history of opposing these new corporations and specifically including Tenakee as an "urban" corpor ation when it is not urban and did not qualify when ANCSA was passed. The Institute of Social and Econo mic Research (ISER) Report which was commissioned by the US Senate in 1992 addressed these issues. T he ISER Report documents that
(1) the land claims of Native people in Southeast Alaska were carefully considered in the negotiations le ading up to the Alaska Native Claims Settlement Act, (2) the
people were duly compensated according to the terms of the Act, and (3) Tenakee Springs is unlike the o ther four study communities and the10 ANCSA corporation villages in significant respects, particularly th e absence of a Native majority or strong historical Native presence.

This bill fails to incorporate any lessons learned from 45 years of implementing ANCSA and will cause m ore problems than it solves.
Please withdraw this divisive bill. We are currently reeling from a pandemic and unsettling political situa tion. Now is the time to heal, not throw Alaskans into another controversy.

Thank you for this opportunity to comment.

Ms Joan McBeen
PO Box 23
Tenakee Springs, AK 99841
907 736 2245

Dear Senator Murkowski and the Senate Energy Committee,

I have some comments on S 4889.

I have lived in Tenakee Springs for nearly 45 years and through most of that time my wife and I and many other people in this area have worked almost nonstop to protect Tenakee Inlet and the surrounding area from large scale clear-cutting and other other environmentally damaging activities with a great deal of success. That is why many of the proposed parcels in the pending bill have been selected. This is one of the few areas that have not already been degraded or destroyed so it is a prime target of the potential beneficiaries of this supposed landless native bill. While I acknowledge that native people have not been fairly treated in the past that does not justify destroying the surrounding environment and the lives of the people of Tenakee to try to compensated them for past wrongs.

Although I would support some form of reparation for the effected people, This bill is not the way to do it. It is utterly immoral and unjust to destroy the lives and environment of one group of people in order to compensate another group of people for perceived injustices that may have been visited upon them in the past. If reparations are to be made, it must be done in a way that does not do further injustices to another group of people.

This bill, S 4889, is deeply flawed and must be rejected in its current form as it will cause much more harm than it proposes to repair.

Thank You,

Mr. Samuel McBeen

PO Box 23

Tenakee Springs, AK 99841

907-736-2245

From: Kathrin McCarthy
To: fortherecord (Energy)
Subject: 11/18/20ComtePLFMsubcmte Hrg
Date: Wednesday, November 18, 2020 1:16:25 PM

Dear Committee,
This morning Senator Lisa Murkowksi's bill concerning the creation of urban corporations for Alaska Native people living in the communities of Ketchikan, Haines, Petersburg,Tenakee Springs and Wrangell. These communities initially did not meet the ANSCA criteria to receive land for many reasons that have been argued. The record is extensive. I am writing for the record of this hearing to say that this bill should not be rushed through a lame duck session of congress. The issue is too important to everyone who lives in the entire region. It should wait until 2021 so that all persons who will affected can be involved in a process to reach a fair solution to the problems. If this bill comes up for a vote in the last days of this congress without the full participation of all the indigenous people, non-natives living in region and the Native Regional and Village corporations it will create more division, and more strife. If social justice is to occur there must be a process that involves everyone and it has to be a healing process.
Thank you consideration of my comments.
Sincerely,
Kathrin W. McCarthy
414 3rd St.,Juneau, AK. 99801
907-635-0051

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee

I appose S.4889 Alaska Native Claims Settlement act Pertaining to Tenakee Corp. land selection. This selection blocks our public access to the National Forest. This selection would be harmful to the town of Hoonah. All these selections are heavenly used by our community for our subsistence life style and our recreation. I fill the town of Tenakee will be hurt in this selection as well. I don't appose them getting land, just there selection, I am worried about what access will become. Our gateway to the National Forest, Please protect it.

Billy Joe Miller Jr.
P.O. Box 314
Hoonah, Alaska 99829

wildbill_miller@yahoo.com

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889). The proposed Tenakee corporation does not fit and should be taken off this bill. Please look closely at this legislation because these five proposed native corporations are not all in the same category. And instead of thrusting a bill through congress on short notice during a lame-duck session, please allow all of us who have a stake in Southeast Alaska to come together to find a compromise that supports Native sovereignty *and* subsistence, culture and protecting irreplaceable forests and watersheds.

When corporations formed in the original ANCSA bill, a Tenakee corporation did not fit the parameters. If you look at Tlingit maps of this area (I've attached the one from Alaska Native Knowledge Network website), Tenakee Inlet is Xootznahoo and Xuna territory. Both those groups (modern day Angoon and Hoonah) have village corporations already. Tenakee did not have a majority native population, so it did not fit as a village corporation.

Today, it still does not fit this new bill. Tenakee Springs, with a population under 100 full-time residents, is about as far from an urban community as any community can be. We do not have cars, public water or sewage, or a community dump. It is a small, remote fishing and subsistence community. Not one person who filed to be part of the Tenakee corporation lived in Tenakee at the time of the original ANCSA bill. This is still the case today.

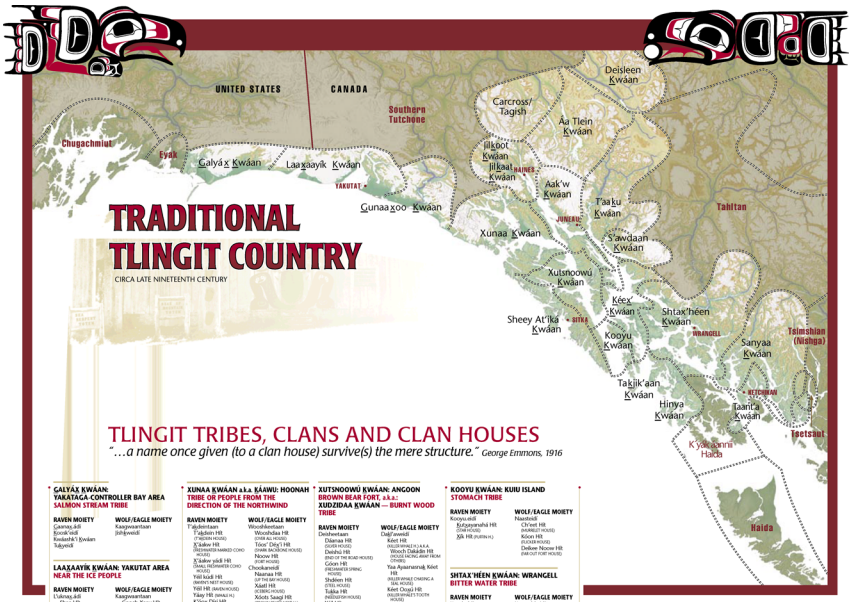
That doesn't mean that there wasn't Native presence in this inlet, nor that there weren't people who were left behind when ANCSA was formed. I do think this fact should be addressed, however this is not the way to go about it.

ANCSA was passed a generation ago. It wasn't perfect. The corporate structure means that shareholders need to make money off the land year after year. While this has helped with the inequities Alaska Native people have suffered since white contact, it has also caused anguish and loss—for Native and non-native alike. Land that could be used for subsistence and traditional use has been clear cut. Watersheds that support salmon and brown bear have been destroyed. The largest temperate rainforest in the world, which acts as a carbon sink in this desperate race against a changing climate, have been used as toilet paper. The people of this region have overwhelmingly supported policy that keeps these forests intact—just look at the public outrage following the repeal of the roadless rule last year.

A Tenakee corporation did not fit the ANCSA criteria of the original bill. On top of that, the corporate structure itself is problematic. However, if there was a *different* bill proposed, one that does give ownership to Native people but not in a corporate way, I would support it. Giving up access to public land would be a huge sacrifice for those of us who live in Tenakee Inlet, but compromise is never easy. The problem is, I don't think any of us—the Native community or Tenakee residents—have been given options. None of us were at the table when this legislation was created. Instead, we are forced into this binary: native sovereignty is only available to Native people if it's in a corporate model, and those of us who live here can't accept the corporate model. It destroys the land and the watersheds.

Sincerely,

Megan Moody



TLINGIT TRIBES, CLANS AND CLAN HOUSES

"…a name once given (to a clan house) survive(s) the mere structure." George Emmons, 1916

GALYA̱X KWÁAN: YAKATAGA-CONTROLLER BAY AREA
SALMON STREAM TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
Ga̱anag.ádi	Ka̱agwaantaan
Kooxa̱k'oodí	Jishpwoodí
Kwáashk'i Ayáan	
Tsayeedí	

LAA̱XAAYÍK KWÁAN: YAKUTAT AREA
NEAR THE ICE PEOPLE

RAVEN MOIETY	WOLF/EAGLE MOIETY
L'uknax.ádi	Ka̱agwaantaan
Shaa Hít (MOUNTAIN FOODS—Se Mt. St. Elias)	Gooch Ka̱ax Hít (HOUSE AT STORM BAY HOUSE)
Daqnaa Hít (HAT OUT IN THE SEA K.)	Lkaxwaan (Tsilqwaidí
Eech Hít 1 (BEST HOUSE 1 - located at Shad Bay)	Xeidí Hít (THUNDERBIRD HOUSE 2)
Eech Hít 2 (BEST HOUSE 2 - located at Shad Bay)	Cágook Hít (COLDEN EAGLE HOUSE)
Kwaashk'i Ayáan Aanyuwaa Hít (HOUSE OF TOOKAA.)	Gaanx' Hít (SNOW K.)
Tsisk'ne Hít (OWL HOUSE)	Tlaxs' Hít (SHARK K.)
Dis Hít (BEAVER HOUSE)	Xóots Hít (BROWN BEAR HOUSE)
Yéil S'aagí Hít (RAVEN'S TOTEM HOUSE)	Dagóoshnax Xeidí Hít (THUNDERBIRD HOUSE 1)
Nooxe Hít (MOUNTAIN HOUSE)	
Shaa Hít (MOUNTAIN HOUSES — Se Mt. St. Elias)	

GUNAA̱XOO KWÁAN: DRY BAY
AMONG THE ATHABASCANS TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
X'at'óa.aayí	Dagódinaa
Kooxa̱k'oodí	
Xaas Hít (COW K.)	
L'uknax.ádi	
Xéech'i Hít (KILLER WHALE HOUSE)	
Lukaax.ádi	
Shaka Hít (CANOE FROM HOUSE)	

JILKAAT KWÁAN: KLUKWAN
CHILKAT TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
Ga̱anaxteidí	Ka̱agwaantaan
X'aakw Hít (FRESHWATER MARKED COHO HOUSE)	Gooch Hít (WOLF K.)
Yaay Hít (SHARK K.)	Kéet Hít (KILLER WHALE HOUSE)
X'aak Hít (CLOUD OR MARINE K.)	Lipóohi Hít (KILLER WHALE STORIAL PA HOUSE)
Kutlx' Hít (COMING OUT K.)	Dagódinaa Xeidí Hít (THUNDERBIRD HOUSE)
Xéech'i Hít (ROCK K.)	Xeidí Hít (THUNDERBIRD HOUSE ON THE SALMON HOLE IN THE BEEK)
Lukaax.ádi	Dakl'aweidí
Naach'oonteidí	Ch'ivet Hít (MARBLET HOUSE)
Nooxwhaka.aayí	Tlaxiis Hít (WHITE K.)
	Kéet Goosha Hít (KILLER WHALE STORIAL PA HOUSE)
	Kéet Xwáani Hít (KILLER WHALE PEOPLE K.)
	Kéet L'óot'i Hít (KILLER WHALE HOUSE K.)
	Kéet Dáa'ji Hít (KILLER WHALE BACKBONE K.)

JILKOOT KWÁAN: HAINES
CHILKOOT TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
Lukaax.ádi	Shangukeidí
Yéil Hít (RAVEN K.)	Kaine̱ltaaxaí Hít (HOUSE LOWERED FROM THE SKY)
Yéil Kaa Hít (RAVEN'S KING K.)	Ka̱agwaantaan
Shaa Hít (MOUNTAIN HOUSE)	Xóots Hít (BROWN BEAR HOUSE)
Kaagwaantaan Hít (KING CETEA HOUSE)	Ch'ak' Hít (EAGLE K.)
Geishin Hít (ST. BENEDICT K.)	Kaawagaani Hít (BURNT HOUSE)

Research by Andrew Hope III
Produced by Peter Metcalfe
Graphic Design by Sue Kraft
Artwork by Mike Jackson

XUNAA KWÁAN a.k.a. KÁAWU: HOONAH
TRIBE OR PEOPLE FROM THE DIRECTION OF THE NORTHWIND

RAVEN MOIETY	WOLF/EAGLE MOIETY
Tàkdeintaan	Wooshkitaan
T'aqdein Hít (SALMON HOUSE)	Wooshdaa Hít (SALMON HOUSE)
X'aakw yádí Hít (SMALL FRESHWATER COHO HOUSE)	Tlaxs' Dèiq'i Hít (SHARK BACKBONE HOUSE)
Yéil kudí Hít (RAVEN'S NEST HOUSE)	Noow Hít (FORT HOUSE)
Yéil Hít (RAVEN HOUSE)	Chookaneidí
Yàay Hít (SHAKE K.)	Naanaa Hít (CHIEF'S HOUSE)
Kaa Shaayí Hít (RAVEN'S MARK HOUSE)	Xáadí Hít (ICEBERG HOUSE)
Sisq' Hít (SNAIL HOUSE)	Xóots Saagí Hít (BROWN BEAR'S NEST K.)
Teel Hít (WAR HOUSE)	Wandaa Hít (SEA LION'S ROOST HOUSE K.)
Kaa Shaayí Hít (RAVEN'S MARK HOUSE)	Xóots Hít (BROWN BEAR HOUSE)
Xaas Hít (COW HOUSE)	Yan Wulthashí Hít (DRIFTED ASHORE HOUSE)
Ga̱anag.ádi	Shux'aa Xaay Hít (FIRST YELLOW CEDAR K.)
Ga̱ahraqaa Hít (CAMPAIGN HOUSE)	Kaagwaantaan
	Xáay Hít (YELLOW CEDAR HOUSE)
	Kaagwaantaan
	Xóots Kúdi Hít (BROWN BEAR'S NEST K.)

T'AAKU KWÁAN: TAKU
GEESE FLOOD UPRIVER TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
Ga̱anag.ádi	Yanyeidí
Nlka.á Hít (SALMON HOUSE)	Ch'ilaa' Hít (WILLOW HOUSE)
Tàkdeintaan (SALMON PEOPLE)	Tsaateineidí
Yéil Hít (RAVEN HOUSE)	Xóots Hít (BROWN BEAR HOUSE)
Ishkahítaan	Yaynaaa Hít (BETWEEN THE RIVER FORK HOUSE)
Kookjhítaan	S'eet'ìyeedí
Tookaa.ádi	

DESLEEN KWÁAN: TESLIN
BIG SNEW TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
Ishkeetaan	Dakl'aweidí
Kookjhítaan	Yanyeidí
Deisheetaan	

AA TLEIN KWÁAN: ATLIN
BIG LAKE TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
Ishkeetaan	Yanyeidí
Kookjhítaan	Ga̱anaxa Hít (HOUSE BETWEEN THE RIVER FORK HOUSE)
Xaas Hít (COW K.)	Dakl'aweidí
Deisheetaan	

AAK'W KWÁAN: AUKE BAY
SMALL LAKE TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
L'eeneidí	Wooshkeetaan
Gaaxlak'ádi Hít (TRAP K.)	Gunukadeit Hít (SEA MONSTER HOUSE)
Tàdaa' Hít (ITCH/ CHUMOUSE HOUSE)	Hít Tleix Hít (BLT. K.)
Tagús Hít (SALMON HOUSE)	Noow Hít (FORT K.)
Dakl'aweidí	Tlaxs' Hít (SHARK K.)
L'uknax.ádi	Xeidí Hít (THUNDER K.)
L'óok Hít (COHO SALMON HOUSE)	Xóots Hít (BROWN BEAR HOUSE)
Ga̱anag.ádi	
Ga̱anaxa Hít (CAMPAIGN HOUSE)	
Yéil Hít (RAVEN K.)	

S'AXÁDAAN KWÁAN: SUMDUM
DUNGENESS CRAB TOWN TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
?	S'eet'ìyeedí Hít (CLAY HOUSE)
	S'eek Hít (BLACK BEAR HOUSE)

Proofreading by Richard & Nora Dauenhauer and Jeff Leer
Revised base map by Adrian Ruch and David Albert
Fourth Edition Revised © 2005 Tlingit Readers, Inc.

XUTSNOOWÚ KWÁAN: ANGOON
BROWN BEAR FORT, a.k.a. XUDZIDAA KWÁAN — BURNT WOOD TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
Deisheetaan	Dakl'aweidí
Dáanaa Hít (OLDER HOUSE)	Kéet Hít (KILLER WHALE A.K.A. Yéilnch Daláda Hít (HOUSE FACING AWAY FROM OTHERS)
Daxhú Hít (OLDER HOUSE)	Yaa Ayasanuxaj Kéet Hít (KILLERWHALE'S TOOTH HOUSE)
Gíxee Hít (REDHEADED WOMAN HOUSE)	Tolóweidí
Shólaas Hít (STEEL HOUSE)	Shaanax Hít (VALLEY HOUSE)
Tsáka Hít (HERRINGFISH HOUSE)	Xóots Hít (BROWN BEAR HOUSE)
Yéil Hít (RAVEN HOUSE)	Woosh'eetaan
Kaa Shaayí Hít (SMOKY K.'S NEST K.)	Noow Hít (FORT K.)
Eek'weidí	Noow Shaka Hít (HEAD FORT HOUSE)
Kakúak'w Hít (BARRET BAY ARCH HOUSE)	Xóots Kúdi Hít (BROWN BEAR'S NEST K.)
L'eeneidí	
Aanyéiak Hít (SMOKY K.'S HOUSE)	
Yanaxoon Hít (LOG JAM HOUSE)	

SHEEY AT'ÍKA (a.k.a. SHEET'KÁ) KWÁAN: SITKA
OUTSIDE EDGE OF A BRANCH TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
Kiks.ádi	Ka̱agwaantaan
K'uneidí Hít (STRONG HOUSE)	Aanyádi Hít (NOBLETY HOUSE)
Ga̱ahrí Hít (CAMPING HERRING K.)	Eech Hít (BEEF HOUSE)
Kaajítaa Hít (CAMPING HERRING K.)	Ch'aak' Hít (EAGLE K.)
Nooxulu Hít (HOUSE AT THE LOWER END OF TOWN)	Ch'aak' Kúdi Hít (EAGLE'S NEST HOUSE)
Noow Daganaxa Hít (OUTSIDE THE FORT HOUSE)	Chaadí Hít (HALIBUT K.)
Yé'i Hít (CLAM HOUSE)	Dáda X'awool Hít (HOUSE WITH TWO DOORS)
Shóleen Hít (STEEL HOUSE)	Gaxéix' Hít (RICH HOUSE)
Tináa Hít (CAMPAIGN HOUSE)	Gooch Hít (WOLF HOUSE)
X'aakú Hít (POINT HOUSE)	Ka̱ayanaahú Hít (TAME HOUSE)
Watóneidí	Heenka Hít (CALLING WATER)
Kook'eidí	Xóots Hít (BROWN BEAR HOUSE)
Xaas Hít (COW K.)	Kaawagaani Hít (BURNT HOUSE)
L'uknax.ádi	Tlaxs' Hít (SHARK HOUSE)
Ga̱ahrí Hít (CLAM IN THE OCEAN SALMON BOX HOUSE)	Kóok Hít (BOX HOUSE)
Kutsa Hít (LEEF HOUSE)	Kóok Hít (BOX HOUSE)
L'óok Hít (BIG COHO HOUSE)	Kalús' Hít (STORING OUT TO SEA HOUSE)
L'óok Hít Yádí (SMALL COHO HOUSE)	Ch'ilaa' Kúdi Hít (STANDING VETERAN'S HOUSE)
Shgak'aayí Hít (Hoale named for creek near Sitka)	Chookaneidí
Tsaa Hít (SALMON HOUSE)	Kaadí Hít (ICEBERG HOUSE)
Xinaa Hít (HOUSE AT THE LOWER END OF TOWN)	Aan Ingagaxak Hít (ICEBERG ON THE BEACH HOUSE)
Xinaa Hít 2 (HOUSE AT THE LOWER END OF TOWN)	Woosh'eetaan
Xéech'i Hít (OTTER HOUSE)	Noow Hít (FORT HOUSE)
Yàay Hít (SHAKE HOUSE)	X'aa'ahítaan
T'aakú Hít (SMOKED HOUSE)	X'aa'a Hít (CLIFF HOUSE)

KEEX' KWÁAN: KAKE
THE OPENING OF THE DAY (DAWN) TRIBE
a.k.a. THE TOWN THAT NEVER SLEEPS

RAVEN MOIETY	WOLF/EAGLE MOIETY
Eech.ádi	Tsaagweidí
Kéet Hít (KILLERWHALE MARKED SOCKEYE HOUSE)	Aan Yakwéiltaqí Hít (ICEBERG ON THE BEACH HOUSE)
Kutlx' Hít (COMING OUT TO SEA HOUSE)	Tlaxs' Hít (SHARK K.)
Sukteeneidí	Xaay Hít (TELLOW CEDAR HOUSE)
Aanyéiak Hít (MIDDLE OF TOWN HOUSE)	Woosh'eetaan
Shaa Hít (MOUNTAIN HOUSE)	Noow Hít (FORT K.)
Yaa Hít (KING HOUSE)	Shangukeidí
Tlaxs' Hít (SHARK HOUSE)	Xóok Hít (BOX HOUSE)
Yéik Hít (CREST K.)	Neex.ádi
Kóostaa Hít (LARGE CITTED HOUSE)	Kéet Goosha Hít (KILLERWHALE'S FIN HOUSE)
Tsoy Hít (STORM SAND HOUSE)	Wan'éneidí
X'achanéidí	Tag' Hít (PLATFORM OR BENCH HOUSE)

KOOYU KWÁAN: KUIU ISLAND
STOMACH TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
Kooyu.ádi	Naanéidí
Ka̱ayanaahú Hít (TAME HOUSE)	Ch'inet Hít (SPRUCE HOUSE)
Xíx Hít (KUIU K.)	Kóox Hít (ELEVEN HOUSE)
	Dellow Noow Hít (MID OUT FORT HOUSE)

SHTAX'HÉEN KWÁAN: WRANGELL
BITTER WATER TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
Eech.ádi	Kaguxlikeidí.aan
Naalq Hít (VALLEY HOUSE)	Kéet Hít (KILLERWHALE HOUSE)
Xéech'i Hít (ROCK HOUSE)	Kayaashka Hít (SMOKED SALMON HOUSE)
Alkaa Hít (CAMBLING HOUSE)	Naanaa.aaní
Gaach Hít (BIG OR MAY HOUSE)	X'atgu Naasí Hít (HOUSE BEFORE THE STONE HOUSE)
Kaadaa Hít (HOUSE LOWERED FROM THE SKY)	Xóots Kúdi Hít (BROWN BEAR'S NEST K.)
Yàay Hít (SHAKE K.)	Hít Tleix (BIG HOUSE)
Shangukeidí	Tatlx.aaní Hít (SEA MONSTER HOUSE)
Xeidí Hít (THUNDERBIRD HOUSE)	Tsisk'ne Hít (OWL HOUSE)
Tl'aadein Hít (STANDING SOLDIER'S K.)	Tatlx.aaní Hít (SEA MONSTER HOUSE)
Xéech'i Saaní Hít (ROCK'S NEST HOUSE)	Chéiy'i Hít (SNEOW HOUSE)
Taan Hít (SEA LION HOUSE)	Aan Shooka Hít (HOUSE AT THE HEAD OF THE BAY HOUSE)
Kiks.ádi	Sik'naq.ádi
Gagaan Hít (SUN K.)	X'aan Hít (BEE/ CLAY OR BEE HOUSE)
Tag' Hít (SNAIL HOUSE)	Ank'w Hít (STARGRAM CANE HOUSE)
Xéech'i Hít (ORCA K.)	X'óots'ee Hít (STEEL HOUSE)
Tsalíweidí	Shóleen Hít (STEEL HOUSE)
Kéet Hít (KILLERWHALE HOUSE)	Aandaa Oonaa Hít (CANNON HOUSE)
Kaajóondu Aa Hít (MAKE OF WATER SPIRIT THAT DRAWN'M'N'AGED)	
Gíf Hít (CLIFF HOUSE)	
Teeyhítaan	
Tiey Hít (BARK HOUSE)	

TAANT A KWÁAN: KETCHIKAN
SEA LION TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
Ga̱anag.ádi	Tolóweidí
Gíkook Hít (LITTERN EAGLE HOUSE)	Kaatlx' Hít (HOUSE BEFORE THE HOUSE OF THE RIVER)
Kutlx' Hít (COMING OUT TO SEA HOUSE)	Shaanax Hít (VALLEY HOUSE)
Nooxe Hít (FORT K.)	Warwick Hít (HOUSE BEFORE THE HOUSE K.)
S'áx Hít (SCABBY HOUSE)	Xóots Hít (BROWN BEAR HOUSE)
X'aagóon Hít (HARBOR POINT HOUSE)	Dakl'aweidí
Xaas Hít (COW HOUSE)	Kéet Hít (KILLER WHALE HOUSE)
Yàay Hít (SHAKE K.)	Kóox Hít (ELEVEN HOUSE)
Yan Wulthashí Hít (DRIFTED ASHORE HOUSE)	

TAKJIK'AAN KWÁAN: PRINCE OF WALES
COAST TOWN TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
Ga̱anag.ádi	Kaag'waa.aní.aan
Yan Wulthashí Hít (DRIFTED ASHORE K.)	Ga̱a X'oox Hít (GIANT POST HOUSE)
L'eeneidí	Naashóoki
Kiks.ádi (STOC SALMON HOUSE)	Kaxunáa Noow Hít (MID OUT FORT HOUSE)
Tèel' Yádí Hít (SMALL STOC SALMON HOUSE)	Shangukeidí
Gaach Hít (SALLY HOUSE)	Ch'ilaa' Hít (EAGLE HOUSE)
Tsalíweidí	Gooch Hít (WOLF HOUSE)
Taan Hít (SEA LION HOUSE)	Tsisk'ne Hít (OWL HOUSE)
Teeyneidí	X'atgu Hít (COLDEN HOUSE)
Caaykà Hít (CAMERA HOUSE)	Tolóweidí
Heenka Hít (CALLING WATER HOUSE)	Saanaa Hít (COASTWAIT HOUSE)
S'áx Hít (STARFISH HOUSE)	
Yéil Hít (RAVEN HOUSE)	
Yéil Yadí Hít (SMALL RAVEN HOUSE)	

The Traditional Tlingit Map & Tribal List Project Administrative support: Sealaska Heritage Foundation, the Sitka Tribe of Alaska, Alaska Native Brotherhood Camp 2, Alaska Federation of Natives and the University of Alaska Southeast. Grant funding: the National Science Foundation, Annenberg Foundation, Alaska Native Programs/University of Alaska Fairbanks and Klukwan Heritage Foundation.

HINYAA KWÁAN: KLAWOCK
TRIBE FROM ACROSS THE WATER

RAVEN MOIETY	WOLF/EAGLE MOIETY
K'óoxeineidí	Ka̱ag'oos.hítaan
K'óox Hít (MARTEN HOUSE)	Ga̱a X'oox Hít (GIANT POST HOUSE)
Tsátw.aeneidí	Tsisk'ne Hít (OWL HOUSE)
Yàay Hít (SHAKE K.)	Shangukeidí
Teeyneidí	Gvaakadeit Hít (SEA MONSTER HOUSE)
Yan Wulthashí Hít (HOUSE DRIFTED ASHORE)	Xóots Hít (BROWN BEAR HOUSE)
Tiey Hít (BARK HOUSE)	Lkaxwaidí

SANYAA KWÁAN: CAPE FOX
SECURE IN RETREAT LIKE A FOX IN ITS DEN/SOUTHEAST TRIBE

RAVEN MOIETY	WOLF/EAGLE MOIETY
Kiks.ádi	Naiq.ádi
Wéiq' Hít (SQUIRREL HOUSE)	Ch'aak' Hít (EAGLE HOUSE)
Ch'aak' X'oosí Hít (EAGLE'S FOOD)	Ch'aak' Kúdi Hít (EAGLE NEST HOUSE)
Ch'aak' Kaaxw Hít (EAGLE TRAP HOUSE)	Ch'aak' Kúdi Hít (EAGLE NEST HOUSE)
Chaadí Hít (HALIBUT HOUSE)	Chaadí Hít (HALIBUT HOUSE)
X'éiq Hít (WHITE CRAB HOUSE)	X'éiq Hít (WHITE CRAB HOUSE)
Xeet' Hít (SPRUCE HOUSE)	Xeet' Hít (SPRUCE HOUSE)
Tolóweidí	Tolóweidí
Xóots Xoowu Hít (BROWN BEAR'S FOOD HOUSE)	Xóots Hít (BROWN BEAR HOUSE)
Kaatlx' Hít (HOUSE BEFORE THE HOUSE OF THE RIVER)	Ch'aak' Kúdi Hít (EAGLE NEST HOUSE)
	Gooch Hít (WOLF HOUSE)

CARCROSS/TAGISH

CROW MOIETY	WOLF MOIETY
Ga̱anag.éedí	Yanyeidí
Ishkeetaan	Dakl'aweidí
Kookjhítaan	
Deisheetaan	

This list of Tlingit tribes, clans and clan houses was compiled and reconstructed by Andrew Hope, III. The list is by no means final. It is a work in progress. The following sources were used to develop this list:

1. Unpublished "genealogical papers," by Louis Shotridge (N.D.)
2. The unpublished manuscript, "History of Tlingit Tribes and Clans, by George Emmons (N.D.)
3. The unpublished list of "Tlingit Tribe, Clan, and House Group Names," by Jeff Leer (1985)
4. *Social Structure and Social Life of the Tlingit Alaskan*, by Ronald Olson (1976)
5. *Social Conditions, Beliefs, and Linguistic Relationship of the Tlingit Indians*, by John Swanton (1970)
6. The unpublished list of Angoon clan houses by Lydia George (1967)
7. *My Old People Say*, by Catherine McClellan (1975)
8. Conversations Andrew Hope had with the following individuals, some who have since passed into the spirit world: *Harry Brenner Sr., George Davis, Henry Davis, Sr., Nora Dauenhauer, Forrest DeWitt, Sr., Albert Frank, Sr., Matthew Fred, Sr., Jimmie George, Sr., Lydia George, Paul Jackson, Mark Jacobs, George James, George Jim, Sr., George John, Sr., Andrew P. Johnson, William Nelson, Sr., Charlie Olson, William Paul, Sr., Tom Ukas, Jimmy Williams, Sr., Robert Zuboff.*
9. Conversations with the following: *Clarence Demmert, Mike Jackson, Dawn Stee' Jackson and Tonya Johnson.*
10. The list was revised in July 1997 in Sitka by Tlingit Language Workshop participants, including: *Rosie Cooley, Lonnie Hotch, Jennie Lindoff, Roby Littlefield, Nellie Lord, Ethel Makinen, Al McKinley, Emma Sam, Esther Shea, Margaret Stevens, Carol Williams.*
11. Carcross/Tagish clans were added in July 2003.

The Honorable Lisa Murkowski
United States Senate
522 Hart Senate Building
Washington, D.C. 20510
The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

I am strongly opposed to S 4889.

This act is a direct threat to the commercial salmon fishing industry that is thriving in SE Alaska. If enacted, the actions of the urban corporations would destroy stream and riparian habitats and, thereby, decrease the fragile populations of salmon.

Setting up a for-profit urban corporation is not the same as restoring land to Native people. It invites – in fact it requires – the managers of the corporation to liquidate the assets of the land. That means logging ancient forests, exposing salmon streams to siltation and sun, placing tourist development in sensitive habitat – all counter to the long-term well-being of land and the interests and practices of the people who have lived there for millennia without wrecking it. It is counter, too, to the decades of careful, collaborative efforts to protect both the well-being of the land and the interests of the Native people and their settler neighbors.

This could be done well. But the speed of this process (just a week for comment), its abrupt announcement, its complete lack of consultation with people whose homes and incomes will be affected, coming as it does in a deeply unsettled time, all but ensures that it will not be a thoughtful, collaborative, win/win solution to a long-standing problem. Rather, it is a hasty, bullying effort to ram through legislation that could not survive careful examination. It will create problems, rather than solve them. And this is a shame.

Please do not bring this bill to the Senate.

Sincerely,

Frank L. Moore
P.O. Box 37
Tenakee Springs, Alaska 99831

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

While I am generally supportive of plans to return land to the Native people, this is a deeply flawed and destructive proposal. So I write to register my opposition.

Setting up a for-profit urban corporation is not the same as restoring land to Native people. It invites – in fact it requires – the managers of the corporation to liquidate the assets of the land. That means logging ancient forests, exposing salmon streams to siltation and sun, placing tourist development in sensitive habitat – all counter to the long-term well-being of the land and the interests and practices of the people who have lived there for millenia without wrecking it. It is counter, too, to the decades of careful, collaborative efforts to protect both the well-being of the land and the interests of the Native people and their settler neighbors.

This could be done well. But the speed of this process (just a week for comment), its abrupt announcement, its complete lack of consultation with people whose homes and incomes will be affected, coming as it does in a deeply unsettled time, all but ensures that it will not be a thoughtful, collaborative, win/win solution to a long-standing problem. Rather, it is a hasty, bullying effort to ram through legislation that could not survive careful examination. It will create problems, rather than solve them. And this is a shame, because returning land to Native people is a worthy effort, if done thoughtfully, openly, fairly, and with consideration for sustaining all the natural and cultural gifts of southeast Alaska.

Please do not bring this bill to the Senate.

Sincerely,

Kathleen Dean Moore
P.O. Box 37
Tenakee Springs, Alaska 99831

NATIONAL CONGRESS OF AMERICAN INDIANS

EXECUTIVE COMMITTEE

PRESIDENT
Fawn R. Sharp
Quinault Indian Nation

1ST VICE PRESIDENT
Aaron Payment
Sault Ste. Marie Tribe of Chippewa Indians

RECORDING SECRETARY
Juana Majel-Dixon
Pauma Band of Luiseño Indians

TREASURER
Shannon Holsey
Stockbridge-Munsee Band of Mohican Indians

REGIONAL VICE PRESIDENTS

ALASKA
Rob Sanderson, Jr.
Tlingit & Haida Indian Tribes of Alaska

EASTERN OKLAHOMA
Norman Hildebrand
Wyandotte Nation

GREAT PLAINS
Larry Wright, Jr.
Ponca Tribe of Nebraska

MIDWEST
Rebecca Crooks-Stratton
Shakopee Mdewakanton Sioux Community

NORTHEAST
Tina Abrams
Seneca Nation of Indians

NORTHWEST
Leonard Forsman
Suquamish Tribe

PACIFIC
Erica Rae Macias
Cahuilla Band of Indians

ROCKY MOUNTAIN
Mark Pollock
Blackfeet Nation

SOUTHEAST
Nancy Carnley
Ma-Chis Lower Creek Indian Tribe of Alabama

SOUTHERN PLAINS
Robert Tippeconnie
Comanche Nation

SOUTHWEST
Joe Garcia
Ohkay Owingeh Pueblo

WESTERN
Amber Torres
Walker River Paiute Tribe

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

December 2, 2020

The Honorable Mike Lee
Chairman
Subcommittee Public Lands,
Forests and Mining
United States Senate
304 Dirksen Senate Building
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member
Subcommittee Public Lands,
Forests and Mining
United States Senate
304 Dirksen Senate Building
Washington, DC 20510

Re: Support for S. 4889, the Alaska Native Claims Settlement Act Fulfillment Act of 2020

Dear Chairman Lee and Ranking Member Wyden:

My name is Fawn Sharp, I am the President of the Quinault Indian Nation and also serve as President of the National Congress of American Indians (NCAI), the oldest, largest, and most representative national organization comprised of tribal nations and their citizens. On behalf of the NCAI, I would like to thank the Subcommittee for holding a legislative hearing wherein the Subcommittee considered S. 4889, the Alaska Native Claims Settlement Act Fulfillment Act of 2020. NCAI strongly supports the legislation and urges swift passage.

In 1971, Congress passed the Alaska Native Claims Settlement Act (ANCSA) to settle aboriginal land claims of Alaska Natives and create Alaska Native Corporations to provide a means to pursue economic development for the benefit of the Alaska Native community. However, five traditional Native villages were excluded from ANCSA: Haines, Petersburg, Wrangell, Ketchikan, and Tenakee.

While members of these five traditional Native villages have received revenue sharing under Section 7(j) of ANCSA as Urban shareholders of the Sealaska Corporation, they have not enjoyed the social, economic, and cultural benefits of owning shares in a Village, Urban, or Group Corporation. Additionally, these members have been deprived of the significant cultural benefit of owning an interest in lands located within and around our traditional homelands. For these reasons, in 2007, NCAI membership passed NCAI Resolution #Den-07-097 titled, Urging Congress to Recognize Landless Southeast Native Communities. More recently, in 2019, NCAI membership renewed its support for these Landless Communities in Alaska through NCAI Resolution #ABQ-19-053 titled, Support for Landless Native Communities.

Nearly fifty years after the passage of ANCSA, it is time to complete its recognition of Native villages and land entitlement conveyance. S. 4889 will recognize the five traditional Native communities in Southeast Alaska under the

ANCSA, and authorize each to form an Urban Corporation. Further, it authorizes each of the newly formed Urban Corporations to receive certain settlement land pursuant to ANCSA.

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

I would like to thank you again for you holding a hearing to consider S. 4889 and urge its passage. If you have any additional questions, please contact NCAI Policy Counsel Darren Modzelewski, dmodzelewski@ncai.org.

Sincerely,

Fawn Sharp
President,
National Congress of American Indians

From: North Wind Inn, LLC
To: fortherecord (Energy)
Subject: For the 11/18/20 DNER CMTE PLFM subcommittee hearing
Date: Monday, November 16, 2020 8:56:58 PM

I, Christopher Orr, am writing this letter to request you oppose giving out the requested land as it will affect the entire communities of Hoonah, Gustavus, Tenekee, Pelican and Juneau negatively. The majority of requested parcels have the access points for the surrounding areas where hunting and other recreation takes place. Giving those exact parcels of land will also be taking away the boat docks.

I strongly oppose this request and urge you to do the same.

Christopher Ryan Orr
257 Second Street
Hoonah, AK 99829

OUTDOOR ALLIANCE

November 17, 2020

Senator Mike Lee
Chair, Subcommittee on Public Lands, Forests, and Mining
361A Russell Senate Office Building
Washington, DC 20510

Senator Ron Wyden
Ranking Member, Subcommittee on Public Lands, Forests, and Mining
221 Dirksen Senate Office Building
Washington, DC 20510

Re: Subcommittee on Public Lands, Forests, and Mining November 18, 2020, legislative hearing

Dear Chairman Lee and Ranking Member Wyden:

On behalf of the human powered outdoor recreation community, thank you for holding the November 18, 2020, legislative hearing to consider a number of bills of significance for our community.

Outdoor Alliance is a coalition of ten member-based organizations representing the human powered outdoor recreation community. The coalition includes Access Fund, American Canoe Association, American Whitewater, International Mountain Bicycling Association, Winter Wildlands Alliance, The Mountaineers, the American Alpine Club, the Mazamas, Colorado Mountain Club, and Surfrider Foundation and represents the interests of the millions of Americans who climb, paddle, mountain bike, backcountry ski and snowshoe, and enjoy coastal recreation on our nation's public lands, waters, and snowscapes.

H.R. 823/S. 241, the Colorado Outdoor Recreation and Economy Act

As outdoor recreationists passionate about the protection of the natural landscapes where we enjoy our varied pursuits, we strongly support the thoughtful protections embodied in the CORE Act. In addition to its essential protections for conservation values, the bill also protects hundreds of miles of trails, scores of

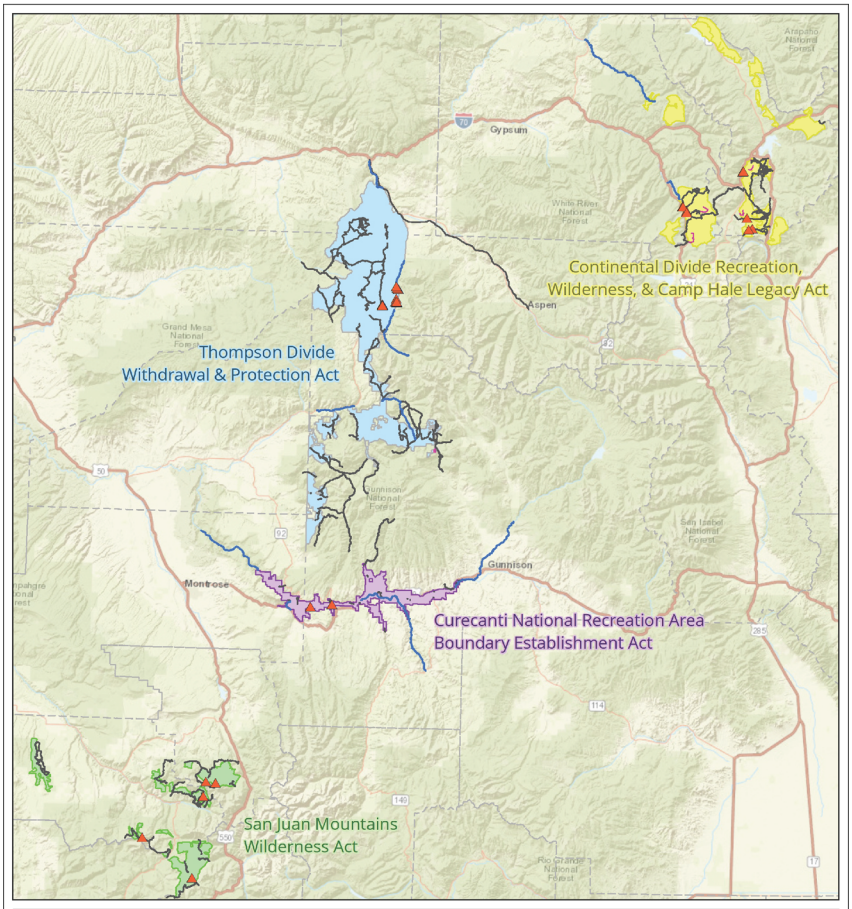
climbing sites, more than 20 miles of whitewater paddling opportunities, and valued backcountry ski terrain.

In the San Juans, the Sheep Mountain Special Management Area protects backcountry ski terrain near Lizard Head Pass and creates management for the Ophir Valley area for new mountain biking trails near the town of Ophir. The Liberty Bell and Whitehouse Wilderness additions protect world-class hiking and climbing opportunities in the iconic Mt. Snefflels range while allowing for a trail corridor for the iconic Liberty Bell/Hardrock 100 trail. In the Continental Divide bill, the Tenmile Wilderness and Recreation Management Areas provide opportunities for long ridgeline technical traverses, challenging backcountry ski terrain, and world class mountain biking, and the Spraddle Creek Wilderness addition provides a primitive backcountry area in close proximity to downtown Vail while keeping the future mountain bike extension of the North Vail Trail viable. These designations allow for a new Wilderness-urban interface which provides a unique opportunity to experience and protect these important landscapes.

All of the proposed designations in the CORE Act have been carefully vetted by recreation groups, and designations protect and enhance recreational opportunities like hiking, climbing, skiing, and mountain biking. The mineral withdrawals and resource protections in this bill further preserve the scenic and natural qualities of these landscapes.

We are particularly pleased to support legislation that designates Wilderness while also using other protective designations where more appropriate. This approach is essential, in particular, for protecting and enhancing mountain biking opportunities. Because of the collaborative approach employed in the bill's development, embracing input from local and national mountain biking stakeholders among others, the legislation enjoys broad support from the mountain biking community. This approach—embracing alternative designations where appropriate to protect both existing and prospective mountain biking opportunities—should be considered a model for other protective designation efforts around the country.

OUTDOOR ALLIANCE



OUTDOOR ALLIANCE

S. 4215, the Bonneville Shoreline Trail Advancement Act

Outdoor Alliance supports S. 4215, the Bonneville Shoreline Trail Advancement Act.

The BSTAA will help facilitate completion of the multiple-use 280-mile Bonneville Shoreline Trail (BST). The proposed boundary adjustments will remove 326.27 acres from Wilderness management across 19 carefully drawn areas, and these adjustments will be offset by the addition of an equal area of new Wilderness protection in Mill Creek Canyon. These adjustments will ensure bicycle access on the BST and allow for work on the trail to proceed using tools impermissible under Wilderness management. In addition to the direct benefits of the trail itself, the BST is a central component for trail planning efforts for jurisdictions across the Wasatch Front.

The outdoor recreation community strongly supports the Wilderness Act. An outgrowth of that support and our fundamental commitment to protection of Wilderness includes a sensitivity to the need to maintain strong public support for Wilderness protections. We believe that goal of maintaining broad public support is advanced by an openness to judicious adjustments to existing Wilderness in carefully considered settings. Common sense, modest adjustments, offset by new Wilderness additions, can be an important tool for ensuring that existing boundaries do not create insurmountable obstacles to sustainable recreation in places where relatively minor adjustments can be made without undercutting the values that animate the Wilderness Act. We believe that these conditions are met here.

Additionally, Outdoor Alliance and the outdoor recreation community remain committed to the success of the Central Wasatch Commission (CWC) and Mountain Accord process. Wilderness boundary adjustment to facilitate completion of the Bonneville Shoreline Trail has been at times a component of the CWC process, and we remain hopeful of seeing the goals of the CWC realized. Specifically, we strongly support sustainable solutions to the area's transportation needs and legislation to protect conservation values through new Wilderness designations; protect valued backcountry ski terrain from encroachment by ski area development through land exchanges; facilitate conservation of the watershed; and support sustainable access and maintenance of recreation infrastructure for dispersed human-powered outdoor recreation.

OUTDOOR ALLIANCE

Our support for the BSTAA is grounded in our belief that this bill represents a step forward in realizing a broader vision for conservation and sustainable outdoor recreation in the Wasatch.

OUTDOOR ALLIANCE

S. 1695, the Human-Powered Travel in Wilderness Areas Act

Outdoor Alliance opposes S. 1695, the Human-Powered Travel in Wilderness Act.

In many ways, the CORE Act represents a model for how new Wilderness designations should be achieved: through careful stakeholder input, with carefully drawn boundaries and other conservation designations also employed across a landscape scale. The BSTAA represents an appropriate approach for targeted, necessary, minor modifications to existing Wilderness, offset by new Wilderness additions, where those modifications can be made prudently and with respect for the values of the Wilderness Act.

In contrast, the Human-Powered Travel in Wilderness Act proposes a highly controversial change that would create unnecessary conflict and undercut increasingly successful measures—like the CORE Act and BSTAA—that work toward sound Wilderness policy.

Since its enactment in 1964, the Wilderness Act has proven itself to be one our country's most far-sighted laws, protecting wild places for their own sake, for their ecological importance, and for the importance to people of the opportunity to experience vast, wild landscapes. Outdoor Alliance supports the Wilderness Act wholeheartedly.

Because of the strength of Wilderness protections—as well as the importance of maintaining deep public support for this bedrock conservation law—Wilderness designations should be made carefully and with the broadest possible stakeholder engagement and support. Wilderness is best designated when it is approached collaboratively, in recognition of the full diversity of ways in which people wish to sustainably enjoy and engage with their public lands, and at a landscape scale, allowing for more flexible protective designations in some areas.

This approach has not always been followed. In recent years, mountain bikers have, at times, been left out of Wilderness designation conversations; at other times, mountain bikers have engaged in designation processes in a spirit of collaboration and compromise, but found their interests cut out at the eleventh hour. This has justifiably resulted in hard feelings, and it can be difficult to accept why a quiet,

sustainable, human-powered activity is excluded from wide areas of public lands for reasons that can feel arbitrary or preferential.

Outdoor recreationists and the outdoor industry stand shoulder to shoulder with the conservation community in our support for the Wilderness Act. We also believe it absolutely essential that mountain bikers and others engaged in sustainable recreation activities be included in land management decision making; be afforded opportunities to enjoy their public lands, from frontcountry to backcountry; and have good reason to believe that our country's system for protecting public lands—viewed as a whole—works for them.

It is possible to accomplish these objectives without making changes to the Wilderness Act.

Foremost, our organizations believe that the solution to challenges regarding Wilderness is to protect more landscapes in ways that embrace opportunities for sustainable recreation of all types. Where Wilderness is designated, it often may be appropriate that broader contiguous landscapes be protected using designations that support a full range of sustainable recreation activities in addition to Wilderness designations. Thoughtful management may also require "cherry stemming" trails by maintaining non-Wilderness corridors in some areas. Where existing or prospective mountain biking opportunities are closed off, mitigation, by developing riding opportunities in nearby areas, should be standard. Bicycles should be managed precisely, not through careless shorthands like the often used phrase "motorized or mechanized," which should be abandoned.

There continue to be outstanding opportunities for new Wilderness designations. Many of these designations should be pursued, however, in conjunction with alternative designations on broader landscapes, protecting opportunities for a range of outdoor recreation experiences. For some landscapes, this might mean smaller Wilderness areas than proposed as the most aggressive alternatives. Done thoughtfully and collaboratively, however, these mixed designations can provide greater ecological benefits and more opportunities for outdoor recreation and its attendant economic benefits, while building a broader base of public support and maintaining the goodwill necessary for the Wilderness Act to thrive for generations to come.

OUTDOOR ALLIANCE

Approaching landscapes at scale and moving away from binary decisions between Wilderness and lands managed as multiple use is also essential for providing the range of opportunities that supports the $887 billion outdoor recreation economy. High quality recreation opportunities can occur in a range of settings, many of which deserve recreation-focused protections and management. These landscapes make invaluable contributions to clean air, clean water, and healthy wildlife populations; support gateway public lands communities and recreation economies; and allow more Americans—from urban to rural—to experience their public lands in meaningful ways that foster a sense of shared ownership and stewardship. Land managers and Congress need to employ a range of designations to meet these needs.

With these principles in mind, we believe that mountain biking opportunities can be protected and enhanced while maintaining the integrity of the Wilderness Act.

* * *

On behalf of the human-powered outdoor recreation community, thank you for the Subcommittee's attention to the important issues reflected in this hearing, and we look forward to working with you in support of conservation and sustainable recreation opportunities.

Best regards,

Louis Geltman
Policy Director
Outdoor Alliance

cc: Adam Cramer, Executive Director, Outdoor Alliance
Chris Winter, Executive Director, Access Fund
Beth Spilman, Executive Director, American Canoe Association
Mark Singleton, Executive Director, American Whitewater
Kent McNeill, CEO, International Mountain Bicycling Association
Todd Walton, Executive Director, Winter Wildlands Alliance

OUTDOOR ALLIANCE

Tom Vogl, Chief Executive Officer, The Mountaineers
Mitsu Iwasaki, Chief Executive Officer, American Alpine Club
Sarah Bradham, Interim Executive Director, the Mazamas
Keegan Young, Executive Director, Colorado Mountain Club
Chad Nelson, Chief Executive Officer, Surfrider Foundation

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

11/16/2020

Dear Sen. Murkowski,

I am very concerned about the impact of S.4889 on the Tongass National Forest and its communities. Other than and related to the Covid pandemic our most urgent concerns are the health of the Tongass and the effects of logging on climate change; in addition, the negative impact on our fisheries, both sport, commercial and subsistence uses. Because of the reduction in the state economy any additional degradation to our tourism economy will be devastating to our community. I would urge you not to try and force this controversial bill through the Legislature at a time of political chaos and medical crisis.

Shelley Owens, JD retired
Member, Gustavus City Council

From: Steven Parker
To: fortherecord (Energy)
Subject: For the 11/18/20 Cmte PLFM Subcmte Hrg
Date: Tuesday, November 17, 2020 10:32:23 PM

Energy and Natural Resources Committee Members,

I urge you to delay taking any action on the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act until the communities involved have an opportunity to review the proposed legislation and to make comments locally. This legislation should not be rushed through congress in a lame duck session which would deprive the local communities the opportunity to have their voices heard. All of the shareholders and communities involved need to be consulted and have the time to work together to develop a lasting and meaningful plan that restores indigenous lands in Southeast Alaska.

Thank you for your consideration,

Steven Parker
15485 Glacier Hwy
Juneau, AK 99801

From: Ben Paul
To: fortherecord (Energy)
Cc: Crowther, John (Energy); Griffin, Christopher (Energy)
Subject: Landless bill
Date: Tuesday, December 1, 2020 7:40:41 PM

Chairman Lee, Ranking Member Wyden and members of the Subcommittee:

On November 18, the Subcommittee on Public Lands, Forests and Mining held a legislative hearing on multiple bills, including S. 4889, the Alaska Native Claims Settlement Act Fulfillment Act of 2020.

I am writing in support Section 7 of S. 4889, which redresses the omission of the Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell from the Alaska Native Claims Settlement Act of 1971 (ANCSA) by authorizing the Alaska Natives enrolled to those communities under ANCSA to form Urban Native Corporations and to receive certain settlement land pursuant to ANCSA.

Thank you for your time.
My name is Ben Paul, member of the Teehiton, Raven Clan, Tlingit Nation. Shareholder in Sealaska, and Tlingit and Haida Central Counsel.
I am writing on behalf of my fellow Teehiton, a house of the Tlingit people in Wrangell, who were left out of the Alaska Native Claims Act of 1971. We received no land in that settlement. This is more than just ironic, it is wrong, that the man, William Lewis Paul, who is called the father of Alaska Native Land Claims, a Teehiton man, received no land himself in that settlement. William Lewis Paul was the greatest warrior ever known to the Tlingit. A brief account of his accomplishments can be read on Wikipedia, and in his son's book on ANSCA, "Then Fight For It" by Fred Paul (Fred Paul was the attorney of record for the North Slope Natives in the ANSCA battle.), Walter R. Echo-Hawk "In the Courts of the Conqueror" the 10 worst Indian Law cases ever decided, "The rise of Civilization" by D. Purvis is a detailed account of Teehiton vs. US, Larry Goldin's award winning documentary "The Land Is Ours" 1997, and many other sources. The archives at the new Sealaska Heritage building in Juneau are named The William Lewis Paul Archives.

The land we are asking for at Lake Bay on Prince of Wales Island is sacred to the Teehiton. When my great grand mother, Tillie Paul Tamaree (also Teehiton), was growing up in Wrangell she spent her summers at their camp at Lake Bay along with several other of the Clan houses based in Wrangell.
Perhaps you have seen a picture of her on the cover of this years Official Alaska Voters Pamphlet. Tillie Paul Tamaree is that strong looking woman in the middle. Tillie was chosen for this publication because of her being arrested for inciting a Native to vote. Her son, William Lewis Paul, handled the case and won voting rights for Alaska Natives in 1923.

But the history of the Teehiton at Lake Bay goes much further back, and we have not forgotten.
It was at Lake Bay where the Teehiton encountered a strong group of Tsimshian with whom we were at war. A Teehiton ahn-kah-wu (head man of the village, chief) was killed by the Tsimshian. By Tlingit and Tsimshian law a man of equal rank must die from the Tsimshian. But instead of more killing the Tsimshian made a raft and covered it with ermine fur. On top they placed their most prized possession Ahn-yuddy-yeil-gowX, "Raven is Prince of the Town" hat, and floated the raft in on the tide to the Teehiton camp. The Teehiton accepted this

gift and more killing was averted. Peace was obtained. The Teehiton Raven hat is kah-nah-wedy, payment for a death. Even to this day the Tlingit and Tsimshian are good friends. (See the entry way at the new Sealaska Heritage building in Juneau, Tlingit territory. The beautiful inner house front is a Tsimshian carving.). (photo of William Paul holding the Teehiton Raven hat for which he was caretaker for 57 years.)

All people everywhere must remember their history both the good and the bad, or they are doomed to repeat it. What people would not want a memory like what I have just related to remember, and cherish, and hold sacred? And yet we are told we do not own that land any more.

Goldschmidt/Haas got it right when they made their report in 1946 on which Alaska Natives owned which land on Prince of Wales Island. The Teehiton and other Wrangell Natives owned the land to the north east side of POW Island, including Lake Bay. The Natives who live on the west coast of the island, like Criag and Klawock, have never owned land on the eastern shore of Prince of Wales Island. The proof of this is easily obtained. You only have to ask them.

Another area of land owned by the Teehiton is on Zarembo Island.
When Tillie Paul Tamaree, born c. 1860, was a child of about six or seven she was deathly ill coughing up blood. She had caught the TB which killed her mother the year before. (Tillie had held her mother's hand until it went cold.)
The Teehiton shaman, Shquindy, was called in to treat little Tillie. Shquindy pronounced that she would not die of this illness, but would live long and have many children. Tillie had six children and live to be 90.

When the shaman Shquindy died he was buried on Zarembo Island where the Teehiton owned land. But the grave was robed. Tillie, by then grown wise and strong, confronted the thief who denied the crime. However, the next day a paper bag appeared on Tillie's porch in Wrangell which contained Shquindy's necklace and spirit catcher, the very same ones that were used on Tillie in her illness 40 years before. The necklace and spirit catcher remain in the possession of the Paul family to this day.

That land on Zarembo Island is sacred to the Teehiton. We need to own our own gravesites and restore the grave of the shaman Shquindy.

Please help us in our respect for all living things.

Ben Paul, Teehiton, Raven Clan, Tlingit, great grandson of Tillie Paul Tamaree, Kaht-tli-udt, Kahtahah, Teehiton.

Sent from Mail for Windows 10

OFFICIAL ELECTION PAMPHLET
State of Alaska

The Division of Elections celebrates the history of strong women of Alaska and women's suffrage!

Region I – Southeast, Kenai Peninsula, Kodiak, Prince William Sound
VOTE November 3, 2020

PERSHING COUNTY
BOARD OF COUNTY COMMISSIONERS

P. O. DRAWER E
LOVELOCK, NV 89419
775-273-2342 * FAX 775-273-5078

The Honorable Mike Lee
Chairman
Subcommittee on Public Lands, Forests and Mining
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member
Subcommittee on Public Lands, Forests and Mining
304 Dirksen Senate Office Building
Washington, DC 20510

November 12, 2020

Re: S. 2804, Pershing County Economic Development and Conservation Act

Dear Senators Lee and Wyden:

As the Pershing County Commission, we are writing to express our support for S. 2804, the Pershing County Economic Development and Conservation Act, legislation introduced by Senators Cortez Masto and Rosen. For years, stakeholders have worked tirelessly to achieve compromise legislation that provided economic growth and expansion desperately needed in our county, while also providing valuable conservation acreage for wildlife and generations to come. This legislation has truly experienced an evolution since its first inception last Congress and now includes meaningful legislative fixes to concerns raised throughout the deliberative and collaborative process. We are proud to have been part of the experience that has brought us to S. 2804 and the Commission has unanimously passed resolutions in support of this well balanced and effective legislation. We support the changes made over last Congress and believe the language is simplified and addresses concerns expressed in the past. We stand prepared to assist in any way to reach success on this long-standing important issue for Pershing County.

We appreciate the subcommittee's consideration of this legislation and hope it will receive full Senate committee and Senate floor consideration very soon. Pershing County's future depends greatly on your support and efforts as we hope this non-partisan, good government approach to land management decisions in Pershing County can achieve success in Congress as soon as possible. Supported by a broad array of stakeholders and interested citizens, we cannot stress enough the broad-based, all-inclusive nature of the long process to achieve consensus in

Pershing County in regard to the future management of our public lands. Pershing County is in great need of this legislation and we urge the passage of this legislation in this Congress.

Local support for the Pershing legislation remains high. As you are aware, hunters, hikers, four wheelers, ranchers, environmentalists, miners, prospectors, educators, business owners, and many other citizens support the Pershing legislation. As you can appreciate, it is difficult to hold such a diverse group together during the long legislative process, but we remain committed to enactment of this legislation which is critical to our future.

We thank you for your hard work to continue to move this legislation and the County stands ready to assist your efforts in any way possible.

Sincerely,

PERSHING COUNTY BOARD OF COMMISSIONERS

Carol Shank, Chair

PETERSBURG
ALASKA

November 18, 2020

The Honorable Lisa Murkowski
Chairman
Senate Committee on Energy & Natural Resources
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Murkowski:

The Petersburg Borough Assembly wishes to offer the following comments on S. 4889 – The Alaska Native Claims Settlement Act Fulfillment Act of 2020. I would respectfully request that our comments be included as part of the hearing record on the bill to be held by your Subcommittee on Public Lands, Forests & Mining on November 18.

These comments pertain to the sections of the bill that include the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act. As you know the bill sets aside 23,040 acres of Federal land within our Borough's boundaries for withdrawal to a prospective Urban Corporation made up of native landless village residents from our area. Many of our resident Native Alaskan population would benefit from these withdrawals. We recognize your intent to correct an oversight that occurred when ANSCA passed and did not authorize land withdrawals to the native communities in the five Southeast Alaska communities. We wish to acknowledge the efforts by your staff to provide us with earlier drafts of the bill along with withdrawal maps and to continuing dialog with us to address any concerns.

Introduction of the bill, followed quickly by a hearing and the possibility of prompt consideration and enactment in the waning days of this Congress does concern us, given that we have not had adequate time to vet within Petersburg the proposed withdrawal areas along with the bill's process for conveyance to ensure community concerns over recreational, road, cabin, trail, and rights-of-way access to the public are adequately protected. For example, some of the proposed withdrawal areas are heavily used by our residents for hunting, fishing and subsistence purposes. That includes popular hunting areas and cabin use in Portage Bay. That area is adjacent to the Kake Access Road that, once built, will facilitate the movement of people and vehicles from Kake which will connect onto roads that will be in the withdrawal areas. Part of the new road will also traverse one of the areas.

Also, many of the trails and roads on Forest Service land the community now has access to are through informal agreement. The Borough has no explicit agreements with the Forest Service for assured public access that would necessarily convey. We understand under the terms of the legislation that the Forest Service and Bureau of

Borough Administration
PO Box 329, Petersburg, AK 99833 – Phone (907) 772-4425 Fax (907)772-3759
www.ci.petersburg.ak.us

Land Management would seek to protect public easements as part of the conveyances of the withdrawal areas. Without formal agreements in place we are uncertain that the Federal agencies would be able to protect public, commercial and non-commercial access to these areas that our residents currently enjoy. The agencies could also choose not to protect public access, and we would have little recourse. The bill does include access for non-commercial recreational public use, subject to "reasonable restrictions." We are concerned that the Urban Corporation might selectively interpret that phrasing to restrict access in ways that the bill does not intend. Lastly, we would like more dollar amount specificity on how the loss of Federal acreage will impact our annual Secure Rural Schools and Payment-In-Lieu-of-Taxes payments, assuming due to the formulas in those calculations that there is an impact.

For these reasons, we would respectively request that you refrain from trying to enact the bill this year. We would like more time to discuss its provisions and withdrawal areas within our community, gather the views of fishermen, hunters, recreation users, landless village residents and potential Urban Corporation members, our local Forest Service District, and others to understand the ramifications of the bill and how, on a practical level, it would be implemented in Petersburg. We pledge to work with you and your staff on developing appropriate safeguards to address these concerns that can hopefully be incorporated in a new bill to be considered in the next Congress.

Thank you for consideration of these views and for your long-time support of our community.

Sincerely,

Mark Jensen
Mayor

Cc: The Honorable Dan Sullivan
The Honorable Don Young

Borough Administration
PO Box 329, Petersburg, AK 99833 – Phone (907) 772-4425 Fax (907)772-3759
www.ci.petersburg.ak.us

2005 Market Street, Suite 1700
Philadelphia, PA 19103-7077
215.575.9050 Phone
215.575.4939 Fax

901 E Street NW, 10th Floor
Washington, DC 20004
202.552.2000 Phone
202.552.2299 Fax
www.pewtrusts.org

Written Statement of Marcia Argust
Director, U.S. Public Lands and Rivers Conservation, The Pew Charitable Trusts
Regarding S. 241, S. 2804, S.2875, S.4599, and S. 1695
For the record of the legislative hearing held on November 18, 2020
In the Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests, and Mining

The Pew Charitable Trusts seeks to preserve ecologically and culturally significant U.S. public lands and rivers through legislative designations, as well as federal and state administrative protections. To accomplish these goals, we work closely with diverse stakeholders—such as local businesses, local governments, Indigenous Tribes, the outdoor recreation industry, travel and tourism organizations, veterans, sportsmen and women— to develop collaborative proposals that protect landscapes and local communities.

The COVID-19 pandemic has underscored how much Americans value the outdoors, with individuals actively seeking connections to public lands and rivers. It has also shown how important visitor spending is to gateway communities. According to newly released figures from the Bureau of Economic Analysis, the outdoor recreation industry generates $788 billion each year in national economic output, and supports 5.2 million American jobs. Outdoor recreation on public lands and rivers is an economic driver in rural and urban areas, and bills pending before the Subcommittee have the potential to assist in our nation's economic recovery.

Pew supports S. 241, S. 2804, S.2875, S.4599; we strongly oppose S. 1695. We appreciate the Subcommittee holding a hearing on these initiatives. Our specific position on each proposal is outlined below.

The Colorado Outdoor Recreation and Economy (CORE) Act (S. 241). This bill would protect 400,000 acres of public land in Colorado through new wilderness designations in places like Mount Sneffels and Hoosier Ridge, mineral withdrawals in the Thompson Divide, and the preservation of recreation and conservation management areas in places like Tenmile Range that provide opportunities for hiking and mountain biking.

It would also preserve important wildlife conservation areas like the Porcupine Gulch Wildlife Conservation Area, which includes Colorado's only migration corridor over Interstate 70 for elk,

bear, mule deer, and other wildlife. In addition, the bill would honor the military legacy of the state and the U.S. Army's 10th Mountain Division through the designation of the Camp Hale National Historic Landscape.

S. 241 improves upon four previously introduced lands bills: the *Continental Divide Recreation, Wilderness, and Camp Hale Legacy Act*, the *San Juan Mountains Wilderness Act*, the *Thompson Divide Withdrawal and Protection Act*, and *the Curecanti National Recreation Area Boundary Establishment Act*. The current legislation reflects years of coordination with hikers, campers, ranchers, sportsmen, elected officials, recreation groups, counties, and local business and energy companies. These individuals and groups came together to achieve consensus on appropriate protections for the region, and a program to support local communities through leasing and energy generation of excess methane from existing and abandoned coal mines in the North Fork Valley.

The Pershing County Economic Development and Conservation Act (S. 2804). This initiative is the product of a balanced, bipartisan, and locally driven process supported by a diverse group of public lands users. The group's consensus product, S.2804, would protect areas of significant ecological value and provide new opportunities for economic development by consolidating checkerboard lands, and resolving other longstanding public lands issues in Pershing County, Nevada.

Pew strongly supports the conservation designations in this bill, as it would provide wilderness protection for approximately 136,000 acres of land in Nevada's Great Basin Desert, conserve critical wildlife habitat, geologic wonders, and outdoor recreation opportunities. The wilderness designations would 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.

We have previously expressed concerns with some of the bill's other provisions. While we describe these concerns below for the record, we note that all stakeholders have been working together in good faith to resolve them, and we are confident that each of these issues can and will be resolved soon.

Section 204 would release 48,600 acres of Wilderness Study Areas (WSAs), permitting development to take place on lands that are currently managed for conservation values. Section 103 would make approximately 150,000 acres of federal land available for sale. That land, along with land conveyed elsewhere under Title I, could result in an increase in industrial development. While Pew would not support these changes in land management or ownership on their own, we recognize that these provisions are balanced by significant conservation gains in Title II of the legislation.

Pew also recognizes the need to resolve the long-standing checkerboard ownership pattern of land in Pershing County. We support the intent of these conveyances: consolidating the checkerboard of federal and non-federal ownership in this region by removing partially-

encumbered land from the federal estate and using the proceeds to acquire other land in the county, including land that would assist the Bureau of Land Management (BLM) implement conservation and recreation management goals. We look forward to continue working with Senator Cortez-Masto and the Subcommittee to address these issues.

As the Subcommittee considers the request of the United States Navy for an expansion of Naval Air Station (NAS) Fallon, and subsequent mitigation that would be necessary if an expansion were allowed, we urge the Subcommittee to ensure that as a condition of the expansion, the Douglas County Economic Development and Conservation Act (S.2890), the Lander County Land Management and Conservation Act (S.3465), and the Ruby Mountains Protection Act (S. 258) are enacted in addition to the Pershing bill. We also urge the Subcommittee to address the needs of Churchill County, the Walker River Paiute Tribe, and the Fallon Shoshone Paiute Tribe as part of any reauthorization and expansion of NAS Fallon.

The Smith River National Recreation Area Expansion Act (S.2875). The bill would expand the Smith River National Recreation Area by 58,000 acres and protect 74 miles under the Wild and Scenic Rivers Act, including Baldface Creek, Chrome Creek, and nearby streams. If enacted, the bill would protect these diverse ecosystems of the rivers, streams, and adjacent lands of the North Fork Smith River watershed and help boost the local fishing and recreation industries that many Oregonian families rely on.

In 1990, Congress enacted legislation to establish the Smith River National Recreation Area (NRA) to protect the portion of the watershed in California, but the boundary of the NRA stopped at the Oregon border, leaving the North Folk of the Smith River and its tributaries unprotected. S. 2875 would extend the boundary of the recreation area into Oregon, ensuring the protection of these critical resources.

The Smith River is home to a rich assemblage of life forms, including Coho and Chinook salmon, Coastal Cutthroat trout, the diverse Siskiyou Mountains forests, unique plants found nowhere else on earth, and spectacular redwoods that tower over the lower riverbanks. The Smith River NRA's scenic beauty, world-class fisheries, and exceptional water quality attract adventurers who partake in water sports, fishing, hunting, camping, and sightseeing. The waters in the area are also the source of clean drinking water for the surrounding communities.

The NRA expansion would permanently withdraw the land from new mining claims, helping to protect this sensitive area from proposed nickel strip mines. In addition, the legislation would task the Forest Service with the preparation of an updated recreation plan to identify specific plans for the entire NRA and to produce a special study of streams, fens, wetlands, and potentially unstable and vulnerable aquatic habitat areas.

The bill is a product of various interests coming together to find common ground and it is supported by local elected officials, sport and commercial fishing industry representatives, and conservation organizations.

The Pecos Watershed Protection Act (S. 4599). The bill will protect over 150,000 acres of the Pecos River Watershed from all publicly owned minerals including oil and gas, as well as gold, silver, copper and other hard rock minerals. In so doing, S.4599 would protect the clean drinking water for communities in both New Mexico and Texas.

Beginning at an elevation of over 12,000 feet, the Pecos River Watershed extends from the north-central Sangre de Cristo Mountains and continues south and east before reaching the New Mexico-Texas state line at an elevation of approximately 3,000 feet. These waters are among New Mexico's most outstanding aquatic resources for people, plants, and animals alike. For centuries, the watershed has supported thriving ecosystems and communities. The Upper Pecos has sustained the Pecos Pueblo peoples, for generations, and to this day, remains culturally and materially significant to their communities. The Upper Pecos also sustains rich traditions of farming and ranching and other traditional uses, all of which depend on clean water.

In the 1990s, toxic waste spills and irresponsible mining activities caused severe contamination of the area. Remediation of that contamination took decades and required millions of dollars. S.4599 would help prevent a repeat of these actions, safeguarding these waters for future generations.

The Human-Powered Travel in Wilderness Areas Act (S. 1695). By amending the Wilderness Act to allow the use of mechanized vehicles, such as bicycles, S. 1695 would permanently weaken statutory protections for all wilderness areas designated by Congress since 1964 and Pew strongly opposes it.

Nearly 57 years after its passage, the Wilderness Act is considered the "gold standard" of public lands protection. The National Wilderness Preservation System includes some of the most remote, ecologically important, and undisturbed landscapes in the United States. Because Congress intended for Wilderness protection to preserve these landscapes in a primitive, unspoiled state, motor vehicles and most other forms of mechanical transport are not allowed in Wilderness areas. These prohibitions include bicycles, wheeled cargo carriers, and other non-motorized forms of mechanical transportation.

Wilderness proposals are typically developed over years of collaboration with local stakeholders and their Members of Congress. Recreational users, including the mountain biking community, are often active participants in these efforts. Congress has a broad spectrum of tools that it can use to protect public lands. While mechanized activities are not permitted in designated wilderness areas, other protective designations, such as National Parks, National Monuments, National Conservation Areas, National Recreation Areas, National Wildlife Refuges, and others provide ample opportunities for mechanized recreational activities. .

While Pew opposes S. 1695, we welcome the opportunity to work with the Subcommittee and with members of the mechanized recreation user community to address their specific concerns about access to public lands in ways that will not undermine the integrity of the Wilderness Act.

Contact

Pew appreciates the opportunity to submit these views for the Subcommittee's consideration, and we would welcome the opportunity to work with the Committee to improve these bills. Please contact John Seebach at 202-540-6509 or jseebach@pewtrusts.org or Nicole Cordan at 503-703-3733 or rcordan@pewtrusts.org if you have any questions regarding our views on this legislation.

The Honorable Lisa Murkowski
United States Senate
522 Hart Senate building
Washington, D.C. 20510

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

Re: November 18, 2020, Public Lands, Forests& Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the. opportunity to provide comments on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S.4889.)

In 2015, after 10 years of long summers spent in Tenakee Springs, my husband Charles King and I moved from Oregon to live in Tenakee year round. During our years in Tenakee we developed a deep appreciation of the natural resources of Tenakee Inlet. A subsistence life is still prevalent there and is intensely valued by the residents in the Inlet.

Any for-profit corporation introduced into the Inlet would unavoidably bring development detrimental to the wildlife and forests and the salmon streams that depend on a healthy forest. And as the Earth's climate continues to warm, we have an overriding responsibility to preserve as much of the Tongass as possible as an antidote.

Thank you for your consideration of these comments.

Sincerely,

Elizabeth Richards
November 14, 2020

December 1, 2020

The Honorable Mike Lee
Chairman
Subcommittee Public Lands, Forests and Mining
Committee on Energy and Natural Resources
United States Senate
304 Dirksen Senate Office Building
Washington, DC 20510

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

Chairman Lee, Ranking Member Wyden and members of the Subcommittee:

On November 18, the Subcommittee on Public Lands, Forests and Mining held a legislative hearing on multiple bills, including **S. 4889, the Alaska Native Claims Settlement Act Fulfillment Act of 2020**.

I am writing in support **Section 7 of S. 4889**, which redresses the omission of the Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell from the Alaska Native Claims Settlement Act of 1971 (ANCSA) by authorizing the Alaska Natives enrolled to those communities under ANCSA to form Urban Native Corporations and to receive certain settlement land pursuant to ANCSA.

You should have heard that this injustice has been going on for nearly 50 years. It has actually been going on for **over 100 years**. For 153 years (1867-2020) the communities of Ketchikan, Wrangell, Petersburg, Haines and Tenakee Springs have been without our village lands. It took over 100 years and several generations before ANCSA became reality.

a) We first began to petition Washington D.C. 130 years ago when we sent attorney Willoughby Clark in 1890 to lobby the president and congress for lands improperly taken.
b) In 1915, (one hundred-five years ago) the Alaska Native Sisterhood Society Camp 1 was formed in Wrangell.
c) In 1934 (eighty-six years ago) the first meeting of the Tlingit & Haida Central Council was held in Wrangell.
d) In 1954 (sixty-six years ago) William L. Paul, Sr. brought suit against the government in Tee-Hit-Ton vs. the United States a US Supreme Court case. The Teeyhíttaan are one of the nine clans from the Shx'at Kwáan (Stikine River Area) and are still Landless today.
e) Ketchikan, Wrangell, Petersburg and Haines were always involved and part of the Alaska Native Land Claim efforts, however, for reasons unknown they were left out of the village land selections.

Tlingit Perspective

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.

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.[1]

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.

---

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

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

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

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

Ultimately, for our people, what these arguments really boil down to is this: "We don't trust those people to make responsible decisions about their land."

Opponents of our land claims have always pointed to conflicting views of natural resource development. The Forest Service and the timber industry actively fought Native land claims in the Tongass over fears that Native peoples would not develop timber. Some environmental groups today oppose our legislation over fears that we will develop timber resources. We are certain that you will find their testimony to this effect in the hearing record. These sentiments are the epitome of degrading and paternalistic thoughts towards Native people that should no longer be tolerated.

Half of One Percent
The U.S. Forest Service (USFS) in testimony submitted to this Subcommittee identified a number of technical issues they would like to see resolved. The USFS notes that, "although the total acreage proposed for transfer to new urban corporations is a small portion of the National Forest System lands within southeast Alaska, due to the high value of these lands for forest management activities and public use, the Forest Service anticipates that these selections could adversely impact the implementation and viability of the 2016 Forest Plan broadly across program areas."

The Shx'at Kwáan (Stikine River Area) is the traditional homeland for my people; it used to incorporate a very large area. As stated in the Goldschmidt Haas report, commissioned by federal government just after World War II, seventy-four years ago.

> "The Stikine territory is a very large one, extending from Union Bay on the Cleveland Peninsula northward along the mainland approximately to Cape Fanshaw, thence south across Kupreanof Island to include a portion of Portage Bay and Totem Bay, on the south across Sumner Straights to include Red Bay on Prince of Wales Island and south on that island to Thorne Bay.... The Stikine people also went a considerable distance up the Stikine River, far above the present Canadian boundry."[2]

Our traditional area included the Stikine LaConte Wilderness (448,926 acres); all of Wrangell Island (134,432 acres); all of Etlion Island (561,971 acres); all of Mitkof Island (133,376 acres); all of Zarambo Island (117,210 acres); eastern portions of Kupreanof Island, northeastern portions of Prince of Wales Island, northwestern portion of the Cleveland Peninsula, and numerous smaller islands. The 23,040 acres we are asking for only make up approximately **one per cent of our homeland.**

SE Alaska Land Ownership: over 90 percent of Southeast Alaska is federally owned land.

- The Tongass National Forest at 16.8 million acres encompasses nearly 80 percent of the land area of the region, and already includes nearly six million acres designated as Wilderness Area.
- Glacier Bay National Park and Preserve covers about 2.7 million acres or another 12.5 percent of the region.
- Misty Fjords National Monument covers another 2.3 million acres.
- Lands managed by the State of Alaska include the Haines State Forest at 534,000 acres and other smaller holdings distributed throughout the region, as well as most all navigable waters and tidelands throughout the Alexander Archipelago and extending out to 3 miles off the coast.
- Alaska Native Corporations, Sealaska and the existing Village and Urban Corporations, own about 577,000 acres of land in the region.
- The five communities are requesting 23,040 acres each for a total of 115,200 acres or about ***half of one percent*** of SE Alaska. When combined with the other Alaska Native Corporations (including Sealaska and all the existing village and urban corporations) they will only own 3% of their homeland.

Why is everyone so concerned about such a small fraction of ownership? In the words of Senator Lisa Murkowski—every acre of the Tongass is precious to someone.

Prince of Wales Community Advisory Council (POWCAC) Objection

POWCAC is an association of communities on Prince of Wales Island who objects to our proposed Prince of Wales and Heceta land selections. POWCAC believes that suitable selections of land are available to the proposed Ketchikan and Wrangell corporations at locations closer to our communities. They claim Wrangell selections near Coffman Cove are at least 38 miles away from the nearest Wrangell resident. And they believe there are national forest land ownership with hundreds of thousands of acres of national forest land in and near the proposed corporation home communities. They go on to say that given that ANCSA land

---

[2] Page 73, Haa Aani', Our Land, Tlingit and Haida Land Rights and Use, Walter R. Goldschmidt and Theodore H. Haas. This report was first issued in 1946 as a federal government Indian land claims document titled "Possessory Rights of the Natives of Southeast Alaska"

selections are meant to benefit community shareholders, the land selections are most properly made close to the community where the corporation is based.

Selections on Prince of Wales Island
This illustrates how every acre of the Tongass is precious to someone I would like to highlight the reason Wrangell and Ketchikan have made selections on Prince of Wales Island.

When the Alaska Native Claims Settlement Act was passed in 1971 (ANCSA) the process for the 10 Southeast Alaska villages named in ANCSA was set forth in Section 16 of ANCSA. All ANCSA selections were to be "contiguous and in reasonably compact tracts, except as separated by bodies of water..."

For each of the 10 villages identified in Southeast, all public lands in each township that encloses all or any part of the Native village, and in each township that is contiguous to or corners on such township (generally, a total of 9 townships), were *withdrawn from all forms of appropriation under the public land laws*, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act.

During a period of three years from December 18, 1971, each Village Corporation for the 10 villages listed in Section 16 was allowed to select an area equal to 23,040 acres (one township) from within the areas withdrawn; however, such selections had to first include the township or townships in which all or part of the Native village is located, and then--only to the extent necessary--lands from the townships that are contiguous to the village townships.

However, because no lands were withdrawn for the five Unrecognized Native Communities today this is no longer possible because so many other uses have been allowed and taken since 1971. The State of Alaska, the City and Boroughs, the Alaska Mental Health Trust, the University of Alaska Trust lands, National Parks & Monuments have all taken so much that the only land left is within the US Forest Service (USFS) Tongass National Forest.

The USFS allows Wilderness Areas that take up 5.9 million acres. Natural Use LUDs or Land Use Designations: Remote Recreation, Semi-Remote Recreation, Old Growth Habitat, Municipal Watersheds, Research Natural Areas, Special Interest Areas, and Wild, Scenic or Recreational Rivers. These Natural Use LUDs take up 7.4 million acres leaving only 3.4 million acres of development LUD group to select from, but of course that all has designated uses too.

Today we find every acre has been designated in one way or another, but none has been withdrawn or designated for our Unrecognized Native Communities. These lands taken or with special protected designations is why the Landless Native Communities are not able to make contiguous village township selections near their community.

Teeyhittaan Land
I know people living on Prince of Wales Island (POW) today are not used to thinking in terms of Wrangell clans claiming land use on POW. However, I would like to point out that there is historical evidence of Lake Bay (near Coffman Cove) being used by Wrangell clans included in the 1946, report to the Commissioner of Indian Affairs by anthropologist Walter Goldschmidt and lawyer Theodore Haas[3].

[3] Ibid

Also, in the book 'Kahtahah, A Tlingit Girl' Frances Lackey Paul tells about her mother-in-law Tillie Paul Tamaree growing up at summer camp in Lake Bay[4]. Tillie Paul Tamaree, born Jan. 18, 1863, was Teeyhíttaan, a Tlingit clan from Wrangell.

The subsistence use of the Coffman Cove/Lake Bay area by Wrangell people was also noted by Kathryn A. Cohen in 1989 Wrangell Harvest Study: a Comprehensive Study of Wild Resource Harvest and Use by Wrangell Residents. Alaska Department of Fish & Game Technical Paper 165. Juneau.

The usage by Wrangell clans was also recognized in the 2016 report by Madonna Moss 'The Archaeology of Coffman Cove: 5500 Years of Settlement in the Heart of Southeast Alaska'. Published by the University of Oregon Museum of Natural and Cultural History and the Department of Anthropology, University of Oregon, Eugene, 2016

Additionally, the story of the Teeyhíttaan clan crest hat was about how it was given by a Tsimshian chief to avert potential conflict for a life unjustly taken. They floated the hat across the tidal lake to the Teeyhíttaan on Lake Bay. The hat was literally 'Paid for in Blood' and it was done at the Teeyhíttaan summer camp at Lake Bay.

I will tell you one more story. There was once a feud between the Sitka and Wrangell Tlingits. It had gone on for at least four generations with the last action being a massacre of Wrangell people in Sitka in 1855, this feud started around mid-1700's. It was related to Lake Bay because a Wrangell man had taken a Sitka Kaagwaantaan man's wife. When the Sitka man asked for his wife back the Wrangell man shot him dead. A few years later some Sitka men heard this man was out at Lake Bay fishing, hunting and training himself. They went out to find him and killed him at the saltwater falls coming out of Lake Bay during low tide.

One final point. In the US Supreme Court case filed by William Paul in 1955 for the Teeyhíttaan of Wrangell. The lands in question were on Prince of Wales Island; consisting of approximately 350,000 from Thorne Bay all the way up to Red Bay on Prince of Wales Island, including Lake Bay and Coffman Cove[5].

Ben Paul, the grandson of William Paul Sr., has even more information on the Teeyhíttaan's use of the land at Lake Bay. I bring all this up to let everyone know why Wrangell selected lands on POW near Coffman Cove. It is not just an arbitrary selection and this local Wrangell clan has a long-documented history of use in the area.

Public Access and 17(b) Easements

We conducted outreach over the years, and this was the most common point of opposition. All five landless communities listened carefully to these concerns, and all five communities took the initiative to ask the Alaska congressional delegation to include language in the legislation that specifically guarantees public access to the lands we receive; we asked that such access should enable citizens to continue to enjoy recreation, hunting, subsistence and other activities.

---

[4] https://www.amazon.com/Kahtahah-Frances-Lackey-Paul/dp/0882400584/ref=sr_1_1?dchild=1&keywords=kahtahah&qid=1605313126&sr=8-1

[5] https://en.wikipedia.org/wiki/Tee-Hit-Ton_Indians_v._United_States

With regard to roads and trails, and with regard to public access, the USFS is aware that any conveyances of land to the Unrecognized Native Communities "shall be" subject to the reservation of public easements under Section 17(b) of ANCSA. Under Section 17(b), the Bureau of Land Management (BLM) is required to "identify public easements across lands selected" by Alaska Native corporations, including lands which are reasonably necessary to guarantee "a full right of public use and access for recreation [including camping], hunting, transportation, utilities, docks, and such other public uses ..." BLM must "consult with appropriate State and Federal agencies, shall review proposed transportation plans, and shall receive and review statements and recommendations from interested organizations and individuals on the need for and proposed location of public easements." 17(b) easements are reserved and managed by the Federal Government. The rights are reserved when the BLM conveys land to an Alaska Native corporation under ANCSA.

It is impossible for the Landless communities to pursue conveyances without overlapping areas currently in use by members of the public. It is for this reason that we agreed to amend this legislation to guarantee public access on roads and trails, guarantee access to the land for recreational uses and subsistence hunting and fishing, and preserve all existing special use permits (as well as provide for the issuance of an additional 10-year special use permits). All of this is in addition to the existing process—under Section 17(b) of ANCSA—that provides for the reservation of public easements. Perhaps some do not understand or have not read the several pages of language in the legislation that details these guarantees of public access. In our view, the legislation could not be more clear that public access will be maintained.

Legislation is being 'Fast Tracked'

The assertion this legislation is being fast tracked is simply not true. What is true is that this version of the legislation is being introduced near the end of a Congress. The reason the bill is being introduced at the end of this Congress is that the landless communities were committed to focusing on public outreach before introducing — rather than after introducing — the bill. We would hope that these collective efforts to engage in community outreach will not be held against the landless communities.

Perhaps more importantly, these Native community have actively fought for the legal right to regain just a fraction of our homeland for more than 100 years. This battle for justice and equality under the Alaska Native Claims Settlement Act (ANCSA) has been actively fought in the public forum since ANCSA passed 49 years ago. Legislation has been introduced on behalf of our communities in multiple Congresses. Almost 30 years ago, Congress demanded the production of a report from the Department of the Interior and the Department of Agriculture. That report, produced in 1994, detailed the history of these Native communities[6]. Through all these years, the Alaska Congressional delegation has made clear that legislation for landless communities was a priority and that this historic inequity should be righted.

With regard to this iteration of the legislation, the Southeast Alaska Landless Corporation embarked on an active public campaign through the last two years to build awareness of the coming legislation and to build support. We publicized specific land nominations to be included in the legislation and sought public and Tongass stakeholder feedback throughout our outreach. Numerous community and stakeholder meetings were held throughout Southeast Alaska, in

[6] https://iseralaska.org/static/legacy_publication_links/StudyOf5-SE-AK-Communities.pdf

Anchorage and in Washington state. Many of those meetings were covered by Southeast Alaska and statewide media outlets. Representatives from the Southeast Alaska Landless Corporation, as well as other landless shareholders, have spoken at assembly meetings to build awareness of the legislative progress and process.

Our campaign to build awareness of the pending legislation went far beyond our community and stakeholder meetings. We have a website at www.withoutland.org , we have an active Facebook and Instagram page, we have received numerous letters of support and resolutions from institutions like Central Council of the Tlingit and Haida Indian Tribes of Alaska, the Alaska Federation of Natives, National Congress of American Indians and previous borough assemblies among others. This has been a public and transparent process at great cost to us, even though our exclusion was no fault of our own. The time is now to finally bring it to conclusion to strengthen our communities with a rich indigenous history.

Landless Natives already have lands under Sealaska so are not landless
Yes, landless Natives own shares of Sealaska, the regional Native corporation for Southeast Alaska. Sealaska was able to take title to land near many of the 12 villages that were able to form village or urban corporations under ANCSA. But Sealaska did not have the ability to take title to land near the landless villages.

ANCSA was the vehicle through which aboriginal land claims were settled in Alaska. Alaska Native corporations were established to take title to land and to serve the cultural, social and economic needs of Alaska Natives. Regional corporations were formed to focus on the needs of each regional Alaska Native community. Village and urban corporations were formed to focus on the needs of each individual community. The fact that Sealaska owns land for the benefit of the Southeast Alaska Native population has no bearing on whether the landless communities were treated fairly in the context of the aboriginal land claims settlement. Each individual Alaska Native village was culturally, socially and economically distinct. We do not appreciate the suggestion that we can simply be lumped together. Our people have a deep historical and cultural tie to this place.

There are 4,400 of Sealaska's 23,000 shareholders who did not receive land through a village or urban corporation. There were 12 village and urban corporations formed in Southeast as a result of ANCSA — there should have been 17. In total there are 200 village and urban corporations throughout Alaska that received land and money at settlement, in addition to the shares and land of their respective regional corporations. Wrangell, Petersburg, Ketchikan, Tenakee Springs and Haines are truly landless; it is a fact that we have not been afforded the same opportunities as the other 200 Native villages across Alaska. That's not right.

Landless receive more money than village and urban shareholders from Sealaska
This is a red herring if ever there was one; but to the point, this is a common misconception stemming from the fact that landless Natives receive natural resource revenue sharing monies under Section 7(j) of ANCSA. The regional corporations distribute natural resource revenues on a per capita basis — those who are shareholders of a village corporation receive that benefit through their village corporation. Landless shareholders, since they have no village corporation, receive these benefits directly.

Senator Murkowski claimed at the conclusion of the Sealaska final entitlement lands bill there would be no further ANCSA settlements
This is patently false, and obviously so given the fact that Alaska's congressional delegation continued to introduce landless legislation during the period in which it sought to resolve separate, outstanding issues for Sealaska. While Sealaska's final entitlement land bill did fully conclude Sealaska's land entitlement under ANCSA, it did not resolve other issues related to ANCSA like the landless inequity.

Senator Murkowski and Congressman Young, through the time of the Sealaska land legislation process, spoke publicly about a landless resolution as a priority that would remain until resolved. They have never suggested otherwise.

The ISER report stated the five communities were not eligible
This, too, is untrue. I can't imagine how anyone who reads the ISER report would come to this conclusion[7]. The ISER report lays out a history that demonstrates that there were no discernible differences between the landless villages and many other Native villages throughout Alaska that were listed under ANCSA. The report does not come to any conclusion as to why the landless villages were omitted. Here is an excerpt from the delegation's press release regarding the legislation published last week: "There is no consensus on why the five communities were left out of ANCSA, but a congressionally-directed 1994 study by the University of Alaska's Institute of Social and Economic Research found that the examined history of the five communities showed strong similarities to other communities in the region that were granted corporations under ANCSA."

The Tlingit & Haida settlement of 1968 settled land claims
Southeast Alaska was included in ANCSA because Congress determined that the 1968 Tlingit & Haida settlement had not fully settled the land claims of the Native people of Southeast Alaska. ANCSA returned roughly 12 percent of the lands in Alaska to the Native peoples of the state. Alaska Natives have stewarded this land for the benefit of Native communities with enormous benefits to all Alaskans. The Native people of Southeast Alaska, by comparison, received less than 3 percent of their original homelands under ANCSA. ANCSA was not a good deal for Southeast Alaska and neither was the 1968 settlement. What we are seeking is a tiny fraction of our original homeland to be managed by the Native community.

In Summary

History

• The Tlingit people have lived in Southeast Alaska dating back more than 10,000 years. The Haida and Tsimshian peoples migrated into Southeast Alaska millennia ago.

---

[7] Ibid

• Our indigenous people have had a system of vibrant communities and clans all through Southeast Alaska since time immemorial.

• We were the original stewards of the lands we now call the Tongass National Forest. The name "Tongass" comes from the name of the Tongass tribe of Tlingit people who lived at the base of Portland Canal for millennia.

ANCSA

• In 1971, the Alaska Native Claims Settlement Act was signed into law. It abrogated Alaska Native claims to aboriginal lands except those that are the subject of the law. In return, Natives received up to 44 million acres (180,000 km2) of land and were paid $963 million.

• Haines, Ketchikan, Petersburg, Tenakee Springs and Wrangell met the majority of qualifications but were not included in the settlement.

• In all five landless communities it has been proven they were all settled prior to the arrival of white "settlers." The occupancy was in the early townsite and there are Native cemeteries, graves and totems in these five modern cities. There are ancient Native place names of every mountain, waterway, bay and land mass surrounding these communities.

With Lands Restored We'll See:

• Acknowledgement of Alaska Natives as the indigenous, traditional owners, and return of less than one-half of one percent of our original homelands, or 23,040 acres per community.

• Each community will start an "urban Native corporation" under the amendment to the Alaska Native Claims Settlement Act of 1971. The shareholders will elect a governing board of directors that will set policy, corporate vision mission and strategy, and hire executive management to manage the assets and work toward its vision on behalf of the shareholders.

• Greater economic and employment opportunities for shareholders and non-shareholders alike in Haines, Ketchikan, Petersburg, Tenakee Springs and Wrangell

• Direct and indirect benefit to many community businesses: accounting firms, insurance companies, fuel retail, banking institutions, grocers, restaurants, hotels and tour operators make up a fraction of the traditional goods and services utilized by Native corporations in other communities.

• Strengthened communities through dividends, scholarships, internships and professional opportunities.

Conclusion

Based on the history set forth above, it is clear that those of us who enrolled to the five Unrecognized Communities -- and our heirs -- have been unjustly denied the financial and cultural benefits of enrollment in an Alaska Native Village, Urban or Group Corporation. The legislation before this Subcommittee today proposes simply to correct a forty-nine year wrong, and grant rights that we, the Native communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell, should have been given in 1971.

In summary, we are Southeast Alaska Natives. These villages identified in Section 7 of S. 4889 are our traditional homelands. All we are asking is that Congress recognize that fact and provide us with what we deserve under law and equity: a chance to form ANCSA Corporations for our people and for future generation with ties to our traditional communities. Sadly, many of the original shareholders enrolled to these five communities have passed on and will never see this injustice resolved. I hope that you will help those of us original landless shareholders and our descendants finally secure recognition under ANCSA. It is long overdue.

In closing, Chairman Lee, Ranking Member Wyden and Members of the Subcommittee, on behalf of the Southeast Alaska villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell, I want to express our extreme gratitude for your consideration of this important legislation and we urge you to support our efforts to be included in the benefits that ANCSA has brought to other Alaska Natives. I hope that this Subcommittee and the Senate will act quickly to ensure that we finally receive the recognition we have deserved for more than forty-four years.

Gunalcheesh (Thank You).

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

STATEMENT/LETTER FOR THE RECORD FOR
SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES:
PUBLIC LANDS, FORESTS, & MINING LEGISLATIVE HEARING
SUBCOMMITTEE HEARING, NOVEMBER 18, 2020, 2:30PM, DIRKSEN SENATE OFFICE BUILDING, RM 366

STATEMENT/LETTER FOR THE RECORD, HEARING ON NOVEMBER 18, 2020
FROM:
KIM & TRACY RIVERA
RESIDENTS OF TENAKEE SPRINGS, ALASKA
MEMBERS OF CHICHAGOF CONSERVATION COUNCIL
PO Box 541
400 E Tenakee Ave
Tenakee Springs, AK 99841
907-957-0760
kim.rivera59@gmail.com and tracyrivera0@gmail.com

Dear Chairwoman Murkowski & Members of the Senate Committee on Energy & Natural Resources:

We are writing to oppose Senate Bill 4889, "Alaska Native Claims Settlement Act Fulfillment Act of 2020" and specifically Section 7 ''Recognition & Compensation of Native Communities in Southeast Alaska" that would "provide for the recognition of certain Alaska Native communities and the settlement of certain claims under the Alaska Native Claims Settlement Act (ANCSA), and for other purposes....and would redress the omission...of five communities that were not included in the original passage of ANCSA".

We are residents of Tenakee Springs, Alaska, and our comments focus on Tenakee and our opposition to the enactment of this proposed statute that would authorize an urban corporation to be formed around Tenakee land selections. Our opposition is based on two concerns: 1) that irreparable harm and changes would occur to the Tenakee land selections in Tenakee Inlet if a corporation was allowed to form, and 2) that conditions have not changed whereby Tenakee was considered and did not qualify for a corporation in the 1970s when ANCSA was initially enacted.

First, in Southeast Alaska, Alaska Native corporations under ANCSA have used a corporate model that includes resource extraction to include either timber logging or intense tourism (e.g. Hoonah, other areas). Neither of these extractions are desired by the Tenakee Springs community that currently resides there (see 2016 and 2019 letters from the City Council of Tenakee Springs).

Second, it's our understanding that the US Government (Department of Interior) contracted a report from the Institute of Social and Economic Research (ISER) at the University of Alaska. ISER was directed to research and report the factual information available on why Haines, Petersburg, Wrangell, and Ketchikan (the "big four") and Tenakee were omitted from original consideration in ANCSA. The ISER report was made available in 1994 and concluded that Tenakee did not meet 2 of 3 requirements that must be met to be a corporation authorized by ANCSA. Thus Tenakee was considered and it was concluded that it did not meet the criteria required under ANCSA to have a corporation. Thus, unless the ANCSA requirements are also being amended in this Senate bill, and since the conditions in Tenakee have not changed, then Tenakee continues to not meet the requirements for a corporation.

Therefore, it is not appropriate, under the proposed Senate bill 4889 to authorize an urban corporation for Tenakee. However, we personally do believe that Tlingit descendants and their ancestors do have deep and important ties to this land that should not be ignored or overlooked. We would support legislation that would lead to more Tlingit people living here - leading to more access to the marine and forest resources so important to maintaining their place-connected cultural traditions and way of life. But, ANCSA as drafted in 1971 was NOT written to perpetuate those connections. It was written with the intent of moving public land into private ownership with the primary purpose of making it available for exploitation for profit through the establishment of corporations and shareholders. And thus, shareholders expect annual dividends/distributions, as made possible by resource extraction such as logging or tourism. This corporate model is inconsistent with the current Tenakee Springs community and does not result in restoring a people's connection with their land in a meaningful way.

We urge you to reconsider this bill and to not pass it as currently drafted. We appreciate this opportunity to provide comments.

Respectfully,

Kim & Tracy Rivera
Residents of Tenakee Springs, Alaska

From: Carl Fisher
To: Matiella, Nick (Energy); Ripchensky, Darla (Energy)
Subject: Fwd: HR 7672/S 4215 - Bonneville Shoreline Trail Enhancement Act
Date: Monday, November 16, 2020 10:21:06 PM
Attachments: FINAL-Accord-July-13-2015-w-Sigs-and-Attach.pdf
HR 5718 Written Testimony.docx
IMBA Support for Save our Canyons.pdf
Bonneville Shoreline Trail Enhancement Act- SOC.docx

Mr. Matiella and Ms. Ripchensky,

I've been discussing the background and our concerns with S4215 & HR 7672, with Mr. Petit. I was hoping that you could include the attached as part of the record for the hearing this coming Wednesday.

Please see the below email, explaining these documents and their significance to this bill.

We continue to work with local elected officials on a consensus package and trying to work locally on some of our transportation issues. It is highly likely we will be working with members of Utah's delegation to address some of these issues and that we'll be needing to work with your team on these issues.

Please feel free to reach out if you have any questions. I'm more than happy to discuss.

Thank you.
Carl

Carl Fisher
Executive Director
Save Our Canyons
(801) 363-7283 - Office
(801) 910-7487 - Mobile
www.saveourcanyons.org
www.facebook.com/saveourcanyons

---------- Forwarded message ---------
From: **Carl Fisher** <carl@saveourcanyons.org>
Date: Fri, Aug 28, 2020 at 11:24 AM
Subject: HR 7672/S 4215 - Bonneville Shoreline Trail Enhancement Act
To: Rackens, Chris <Chris.Rackens@mail.house.gov>, <bryan_petit@energy.senate.gov>
Cc: <UT04.McAdams@mail.house.gov>, Jenny Wilson <jwilson@slco.org>, Mendenhall, Erin <erin.mendenhall@slcgov.com>, Mike Peterson <mpeterson@cottonwoodheights.com>, Ralph Becker <ralph@cwc.utah.gov>, Jim Bradley <jbradley@slco.org>, Peter Metcalf <petermetcalf55@gmail.com>

Dear Mr. Rackens and Mr. Petit,

Please see the attached letter discussing our concerns and opposition to the Bonneville Shoreline Trail Enhancement Act from Save Our Canyons.

For background, I've also included for you:
- a copy of the Mountain Accord with signatures, including those of the local mountain bike community.
- My testimony on the Central Wasatch National Conservation and Recreation Area Act citing support as part of a package for realization of the BST, which was also reiterated in my verbal testimony during its hearing.
- A letter from IMBA stating their conditions and support for expanded wilderness.

I apologize for the volumes of information here, but I believe it is important to be thorough and not just state exhaustive efforts are being made, but show you. A great deal of work has been going on in the Wasatch and we believe that it is imperative to stand against piecemeal actions concerning our public lands, especially when dealing with wilderness removal, and encourage comprehensive actions for this critical landscape.

I'd welcome an opportunity to get you out on the landscape here to see first hand the challenges and opportunities we are trying to work to reconcile. Due to the proximity to the SLC International Airport, it could be done in a day.

The preamble of Mountain Accord might just be the best summary of why this BSTEA detracts from what everyone locally is working toward...

"WHEREAS, population growth, recreation use, traffic congestion, economic development pressures, land-use conflicts, and piecemeal and fragmented decision-making processes threaten the future health and viability of the mountains;"

We've enjoyed a good relationship with the committee as we've worked over the past decade to resolve increasingly complex issues confronting our forests, our municipal watersheds, and a growing population. The challenges we face happen faster than the planning horizon of local and forest plans, hence the need for comprehensive action to resolve issues for this cherished landscape.

I am happy to answer any questions you might have.

Sincerely,
Carl

Carl Fisher
Executive Director
Save Our Canyons
(801) 363-7283 - Office
(801) 910-7487 - Mobile
www.saveourcanyons.org
www.facebook.com/saveourcanyons

MOUNTAIN ACCORD

THE ACCORD
July 13, 2015

The Central Wasatch mountain range is beloved by those of us who live along both sides of its ridge line. We hike, we bike, we ski, we discover wildlife, we ramble and amble and find solitude amid one of the world's most spectacular backyards. And even as these mountains are a source of peace and spiritual renewal, they are also our source for water and, literally, the reason life is possible in Utah's arid climate.

Amid threats from population growth, development pressures, and piecemeal decision-making, we know that we need to take action now to ensure we have clean water, a thriving economy, and an exemplary quality of life — not only for current generations, but for those that come after us. The time has come to truly consider the future of this precious landscape.

To that end, this Mountain Accord agreement (the 'Accord') represents the culminating commitment of more than 20 organizations who, through a voluntary, multi-year, public, consensus-based planning process agree to proceed with a suite of actions designed to ensure that future generations can enjoy all the activities we do today, while preserving our watershed and natural environment. Over the past few decades more than 80 studies have partially examined the Wasatch but until now, no effort has built a comprehensive plan that sees the forest for the trees. We the signers intend the Accord to influence future, local, regional and statewide planning and to initiate efforts to enact meaningful protections and preservations for the Central Wasatch in the face of growing pressures on this beloved mountain range. The actions proposed in the Accord will remain transparent and engage the public, and follow regional planning, National Environmental Policy Act (NEPA), and other applicable requirements.

RECITALS
WHEREAS, the Central Wasatch Mountains are a treasured natural resource and we, the signers of this Accord, place a high value on the natural environment, wilderness qualities, watershed health, and aesthetics of these mountains;

WHEREAS, the Central Wasatch Mountains are the primary source of drinking water for Utah's growing urban populations and are the reason the region flourishes in Utah's arid climate;

WHEREAS, the Central Wasatch Mountains are a vital ecological unit and policies governing the unit should work together in harmony, not diverge from one another, in the interest of improving the health of the land and our watersheds;

WHEREAS, the mountain environment offers diverse recreational experiences that promote active lifestyles and enhances quality of life in the region;

WHEREAS, the Central Wasatch Mountains are an invaluable asset to the local and state economies, a beloved amenity for residents and companies that choose to locate in the region, and a key component of Utah's tourism industry;

MOUNTAIN ACCORD

WHEREAS, population growth, recreation use, traffic congestion, economic development pressures, land-use conflicts, and piecemeal and fragmented decision-making processes threaten the future health and viability of the mountains;

WHEREAS, the Mountain Accord process was established by a Program Charter in February 2014 to make integrated and critical decisions regarding the future of Utah's Central Wasatch Mountains;

WHEREAS, the Utah State Legislature passed a resolution in 2012 supporting the evaluation, through a public process, of year-round transportation solutions to serve multiple recreation uses in the mountains (SCR 10) and the Mountain Accord process and other efforts that have been conducted since that time reflect the current sentiments on the issues the legislature raised;

WHEREAS, the Program Charter established the Executive Board (refer to Attachment 1: Executive Board Membership) as a consensus-based body comprised of representatives from local governments, Utah state government and legislature, federal agencies, and private business, environmental, and recreation interests;

WHEREAS, the Program Charter defined the geographic area for Mountain Accord as portions of Salt Lake County, Summit County, and Wasatch County, bound on the west by the existing transportation backbone in the Salt Lake Valley (Salt Lake International Airport, FrontRunner Commuter Rail line, TRAX North-South light rail line, and I-15), on the east by Park City, on the north by Parley's Canyon, and on the south by Little Cottonwood Canyon;

WHEREAS, the Mountain Accord effort has placed a high value on public engagement, transparency, and the participation of all stakeholders;

WHEREAS, the Mountain Accord effort has engaged commercial interests and private property owners as willing participants;

WHEREAS, the Executive Board brought together more than 200 stakeholders and experts to consider future trends, visions, and goals and to create a "Blueprint" for the Central Wasatch Mountains;

WHEREAS, the Executive Board published the proposed "Blueprint" for the Central Wasatch Mountains for public comment and conducted an extensive process to collect feedback;

WHEREAS, public feedback reflected a desire to protect the integrity of this iconic landscape for its ecological values and outstanding opportunities for dispersed and commercial recreation; and

WHEREAS, the Executive Board received and incorporated public comment into this Accord document, which replaces the proposed Blueprint and memorializes the final consensus recommendations of the Executive Board.

Now, therefore, the undersigned signers of this Accord agree as follows:

AGREEMENT

1. PURPOSE OF ACCORD

1.1. The Accord represents the consensus positions of the Mountain Accord Executive Board and undersigned parties ('the signers of the Accord'). It serves as a formal recommendation and documented reference for current and future decision makers at the private, local, state, and federal level.

1.2. The intent of the Accord is to benefit current and future generations by establishing an integrated, comprehensive, landscape-scale framework for the future of the Central Wasatch Mountains that provides for the long-term protection of the region's water, lands, environment, recreational opportunities, and economic prosperity. The signers of the Accord support a transportation system that serves these values.

1.3. The signers of the Accord agree to pursue federal action for land designations, land exchanges and transit/transportation solutions. The Accord signifies unanimous support for passage of a comprehensive compromise conservation package that can only be carried out by U.S. Congress.

1.4. It is recognized by all signers of this Accord that while federal actions may occur, there are conditions outlined in the Accord that are needed to achieve the federal outcomes.

1.5. The signers agree to support the Accord and to work diligently and in good faith to accomplish the actions recommended in the Accord – both as a whole and within our respective jurisdictions.

1.6. The signers of this Accord recognize that many of the actions recommended in this Accord are subject to rigorous analysis and public review pursuant to the National Environmental Policy Act (NEPA), and other state, local, or private decision-making processes. The decision-making authority for actions that require NEPA lies with the applicable federal agencies.

1.7. Specifically, the signers of the Accord seek:

1.7.1. A natural ecosystem that is conserved, protected and restored such that it is healthy, functional, and resilient for current and future generations.

1.7.2. A recreation system that provides a range of settings and accommodates current and increasing demand by encouraging high levels of use at thoughtfully designed locations (nodes) with convenient access, while protecting solitude, nature, and other backcountry values.

1.7.3. A sustainable, safe, efficient, multi-modal transportation system that provides year-round choices to residents, visitors and employees; connects to the overall regional network; serves a diversity of commercial and dispersed recreation uses; is integrated within the fabric of community values and lifestyle choices; supports

land-use objectives; and is compatible with the unique environmental characteristics of the Central Wasatch.

1.7.4. Broadly shared economic prosperity that enhances quality of life and preserves natural and scenic resources and infrastructure that is attractive, sustainable, and provides opportunity for visitors and residents.

2. INTENDED OUTCOMES

The signers of this Accord seek the following outcomes:

2.1. To protect watersheds and ensure existing and future culinary water resources are reliable and of high quality. To preserve lands that provide critical terrestrial and aquatic habitats, corridors for wildlife, natural and scenic values, and recreational opportunities and to restore degraded lands.

2.2. To designate certain U.S. Forest Service lands in the study area for additional federal protections, as shown on Attachments 3 and 5 (existing conditions are depicted on Attachment 2). To bind ski resorts on public land within the federal designation as shown on Attachment 5: Intended Outcomes.

2.3. To reduce the patchwork nature of public and private land ownership so that U.S. Forest Service is managing undeveloped rather than developed lands. To consolidate U.S. Forest Service lands, to obtain inholdings, and to transfer privately held upper watershed lands with environmental and recreation values into public ownership.

2.4. Clustered Nodes

2.4.1. To encourage development patterns that reduce sprawl and preserve open space, sensitive environments, community character, and quality of life in the mountains.

2.4.2. To focus future development in urban areas near transit corridors, specifically in those areas identified by the Wasatch Choice for 2040 and Wasatch Back Choice for 2040 vision efforts (shown as Economic Centers on Attachment 7).

2.4.3. To limit additional mountain development in the Cottonwood Canyons to clustered nodes within existing disturbed areas at the bases of the existing ski areas. The signers of the Accord recognize the rights of private property owners to develop their property as prescribed by existing local laws and ordinances. An estimate of development units planned prior to the Mountain Accord effort is shown on Attachment 6: Resort Area Development.

2.4.4. To the extent mountain property is developed, the signers of the Accord agree to promote development with the following characteristics:

- thoughtfully designed to complement the natural setting and maintain open spaces,
- compatible with the communities as defined in local land-use plans and ordinances, and
- focused around transit stations to encourage walking, biking, and transit use, and to reduce single-occupancy automobile use.

2.4.5. To seek plans, ordinances, and policies that support the land use intentions and intended outcomes outlined in this section for the Cottonwood Canyons through cooperation with local land use authorities, environmental organizations, property owners, and other

interested parties.

2.5. To design a balanced recreation system with a wide variety of recreational opportunities for residents and visitors that will reduce the degradation of natural resources caused by such uses. To focus recreation infrastructure at strategically located and designed nodes, to provide convenient access at these nodes, and to accommodate and manage growth in recreation uses. To integrate trail access with transit solutions.

2.6. To create transportation connections between the economic and population centers in the urban areas and the recreation destinations in the Central Wasatch Mountains that support the environmental, recreation, and economic goals of the Accord and serve residents, employees, and visitors. Such transportation connections should increase transit use, walking, and biking and decrease single-occupancy vehicle use. To focus transit improvements in locations that are compatible with the unique environmental character of the Central Wasatch Mountains.

2.7. To plan and implement transportation solutions in the canyons with the goal of reducing risks associated with avalanches, winter weather, rockslides, incidents, and other hazards and to improve emergency response capabilities and evacuation routes.

3. AGREED-UPON ACTIONS

3.1. To achieve the outcomes described above, the signers of this Accord agree to pursue a comprehensive and interdependent package of actions including land exchanges, land designations, transportation improvements, environmental monitoring, and other actions, as described in the remaining sections. Because the following actions are interdependent, the signers recognize that removal, additions, or alteration of individual actions may warrant re-negotiation.

3.2. FEDERAL LAND DESIGNATION AND ASSOCIATED CONDITIONS

3.2.1. The signers of this Accord agree to support and pursue a new federal land designation for the land shown on Attachment 5: Intended Outcomes. The federal designation will provide special protections against development and environmental degradation for U.S. Forest Service land and any private land transferred into federal ownership within the boundary shown on Attachment 5. The federal lands within this boundary total approximately 80,000 acres. Options for the federal land designation could be National Recreation Area, National Monument, or Conservation Management Area (all requiring designation by U.S. Congress). It is intended the federal lands will continue to be managed by the U.S. Forest Service.

3.2.2. The federal land designation will specifically prohibit expansion of ski areas onto public lands beyond the resort area boundaries shown on Attachment 5: Intended Outcomes. The ski areas will support the land designation actions, and will not seek to further expand their respective footprints onto public land within the federal designation area shown on Attachment 5.

3.2.3. The signers of this Accord recognize that the federal land designation and the land exchange will require federal action, and have drafted federal legislation proposing these

actions. The signers agree to continue work on the draft legislation and to formally approve the proposed legislation language through the Mountain Accord Executive Board consensus process. The signers of the Accord request that the U.S. Congress introduce the federal legislation as soon as possible; and the desired outcome is for legislation to be enacted before the end of the 2016 calendar year.

3.2.4. The federal legislation may establish new wilderness areas as recommended by the Executive Board.

3.2.5. The signers of this Accord anticipate growth in year-round use of the ski areas and expressly support changes to recreation infrastructure (e.g., lifts, trails, etc.) that respond to changes in demand within the ski areas' respective U.S. Forest Service Special Use Permit boundaries. The signers recognize such changes would be managed through standard permit processes. Lands transferred to U.S. Forest Service ownership within the Special Use Permit boundary will be managed according to the Special Use Permit.

3.2.6. The signers of this Accord agree to carry out land designation actions, including the adjustment to wilderness boundaries identified on Attachment 3, in a manner that will preserve transportation alternatives and not prejudice the NEPA process.

3.2.7. Transit infrastructure, transit stations and associated public amenities (such as restrooms), trails, and trailheads may be considered within the new federal designation and on the lands exchanged into public ownership, in locations consistent with intended outcomes and Mountain Accord vision and goals.

3.2.8. Nothing in the Accord is intended to limit the Utah Department of Transportation from providing avalanche control and maintenance activities on current and future transportation facilities.

3.3. LAND EXCHANGE

3.3.1. The signers of this Accord recommend that the U.S. Forest Service initiate, in accordance with NEPA requirements, the land exchange concept as shown on Attachments 3 and 4. The signers recognize that land exchanges are subject to valuation, land, title, and boundary descriptions, and mitigation analyzed in the NEPA process.

3.3.2. For lands currently in U.S. Forest ownership that would be transferred into private ownership, the signers of this Accord recognize that the U.S. Forest Service must receive 100 percent of the value of the transferred federal lands on a value-for-value basis for each ski area. At least 75 percent of the value of the federal lands must be in the form of private land transferred into federal ownership. Up to 25 percent of the value of the federal lands may be in the form of monetary payments.

3.4. ALTA LAND EXCHANGE

3.4.1. The Alta Ski Lifts Company agrees to proceed with the exchange of the following lands (shown on Attachments 3 and 4): approximately 603 acres of Alta Ski Lifts Company land (including but not limited to parcels in Emma Ridge, Grizzly Gulch, and Devil's Castle) in exchange for approximately 160 acres of U.S. Forest Service land situated at the base of

the ski area.

3.4.2. The signers of this Accord understand that the Alta Ski Lifts Company-U.S. Forest Service land exchange may only be executed after the NEPA process is complete and is dependent upon valuation; land, title, and boundary descriptions; and mitigation.

3.4.3. Alta Ski Lifts Company's commitment to exchange its private land with the U.S Forest Service is conditioned upon:

- Transit improvements (including a tunnel or other type of connection between Little Cottonwood Canyon and Big Cottonwood Canyon) that resolve transportation problems and improve avalanche control and safety in Little Cottonwood Canyon. The consideration of such a transit project will be subject to NEPA and other requirements.
- Approval to build a 100-room hotel (anticipated to be contained in one building) and eight commercial/retail shops in support of a transit station. The conditions outlined by Alta Ski Lifts Company do not bind current or future Town of Alta councils or administrations.
- Provision of culinary water for a 100-room hotel and eight commercial/retail shops in support of a transit station.

3.4.4. The signers of the Accord agree to work in good faith toward a transit system and associated public amenities (such as public restrooms) for summer and winter visitors, including a dispersed-user trailhead, consistent with Mountain Accord intended outcomes. A transit system and/or station could be located on base-area land obtained in the exchange, subject to the NEPA process. A portion of the water referenced above (e.g., the eight commercial/retail shops) will be used for such public amenities.

3.4.5. Salt Lake City agrees to provide additional culinary water for the purpose of up to a 100-room hotel to be operated by Alta Ski Lifts Company and eight commercial/retail shops supportive of a transit station to be operated by Alta Ski Lifts Company. Salt Lake City agrees to provide additional snowmaking water to Alta Ski Lifts Company. For Salt Lake City, the provision of this additional culinary and snowmaking water is contingent upon:

- widespread and permanent protection of federal lands in Salt Lake City's municipal watersheds,
- transfer of privately held parcels into federal ownership and permanent protection as described in this Accord, including those privately held parcels in Grizzly Gulch,
- no future ski resort expansion as defined in Section 3.2.2, and
- Salt Lake City's completion of legal review.

3.4.6. Under the current conditions, the Town of Alta supports a federal land exchange between the Alta Ski Lifts Company and the U.S. Forest Service provided the following conditions are met:

- Decisions regarding the land exchange and transportation improvements in Little Cottonwood Canyons are made together. If transportation solutions fail to proceed, the Town of Alta may withhold its support of a federal land exchange between Alta Ski Lifts Company and the U.S. Forest Service. Commitment from Alta Ski Lifts Company to work with the Town of Alta, existing base area property owners, and the public to maintain access to public lands for ski area use, trails, business

operations, parking, and other existing private uses, even if the resort and transit facilities are reconfigured.

- Commitment from Alta Ski Lifts Company that base area land dedicated for public purposes such as transit, public facilities, trailheads, and community spaces, etc. may be deeded to public bodies responsible for managing those uses, with appropriate deed restrictions, pending the outcome of comprehensive land use and transportation planning.

3.4.7. Future development on lands to be acquired by Alta Ski Lift within Town of Alta boundaries is subject to Town of Alta zoning and land-use regulations. The Town of Alta recognizes that at this time the current zoning and General Plan do not anticipate this potential change in land ownership, and do not include all lands proposed for exchange from U.S. Forest Service ownership to Alta Ski Lift ownership in the plan's identified commercial core. If/when such transfer takes place, the Town of Alta will work collaboratively with the Alta Ski Lifts Company, existing private property and lodging owners in the ski base area, and the public to undertake a General Plan and zoning update.

3.4.8. Although the current Town Council and Planning Commission cannot bind future administrations, it is anticipated that any new zoning or land-use permits would be consistent with Mountain Accord intended outcomes and existing land-use patterns in the base area and would support a thriving commercial center for all base area business owners. The Alta Ski Lifts Company and the Town of Alta desire and intend to promote enhanced public facilities for use by Alta residents and visitors, while maintaining the natural character and open space characteristics that define the area now, and the continued vitality of established Town of Alta businesses.

3.4.9. A ski lift option on Flagstaff would be eliminated upon installation of an acceptable alternate avalanche control program replacing artillery in the area.

3.4.10. Transit improvements in Little Cottonwood Canyon may occur without the Alta Ski Lifts Company land exchange if Alta Ski Lifts Company's conditions cannot be met (as described in this section). In this situation, there may still be a public need for a transit station and associated amenities, and the Town of Alta would likely need additional culinary water to sustain these purposes. As such, if the Alta land exchange is not implemented, Salt Lake City agrees to work with the Town of Alta to provide culinary water for a transit station and associated amenities, with the following conditions:

- Additional water will be used to facilitate transit station improvements that include, by way of example, public restrooms and up to eight commercial uses to facilitate public needs;
- Transit station improvements will be designed in an environmentally sensitive manner to avoid watershed impacts; and
- Salt Lake City completion of legal reviews.

3.5. SNOWBIRD LAND EXCHANGE

3.5.1. Mountain Accord respects each jurisdiction's authorities and desires with respect to land actions. Snowbird has proposed land actions in Salt Lake County and Utah County. The

signers of the Accord are not taking a position on the land proposal as it relates to Utah County until such time as Utah County agrees to any lands action in Utah County. Cooperation and collaboration between Salt Lake County and Utah County interests is important to avoid disparate approaches on this important issue.

3.5.2. For the Snowbird lands proposed to be exchanged in Little Cottonwood Canyon, the following conditions apply:

- Salt Lake County will develop a resort zone to better define development at the Snowbird base area in accordance with Mountain Accord intended outcomes (recognizing Snowbird's existing approved master plan and associated entitlements).
- Salt Lake City will provide additional snowmaking water to Snowbird if Snowbird (under any conditions) transfers the identified approximate 1100 acres to the U.S. Forest Service and the lands become part of the permanently protected federal designation.
- The right to perform avalanche safety control by (especially above Snowbird and Town of Alta) will be preserved.

3.6. SOLITUDE LAND EXCHANGE

3.6.1. Solitude Resort (referred to as 'Solitude' and owned by Deer Valley Resort) agrees to proceed with the exchange of the following lands and actions (shown on Attachments 3 and 4): approximately 240 acres of Deer Valley's land located in the upper Big Cottonwood watershed in the Hidden Canyon/Guardsman Road area for approximately 50 acres of federal lands around the Solitude base area and an approximate 15-acre expansion of Solitude's special use permit to allow for relocation of the Honeycomb chair lift in lower Honeycomb Canyon.

3.6.2. Once the land exchange described above is completed, Salt Lake City will provide additional snowmaking water to Solitude.

3.6.3. The proposed federal designation will protect current dispersed recreation uses and watershed values and limit the potential for further ski area expansion in Silver Fork Canyon.

3.6.4. The Honeycomb lift extension will be subject to a NEPA process if and when Solitude makes an application. The NEPA process will consider a range of alternatives to meet the desired needs of Solitude while protecting backcountry experiences in Silver Fork. Specifically, uphill access to backcountry areas in Silver Fork Canyon will not be inhibited.

3.6.5. Recognizing there is no official winter parking for Silver Fork Canyon, Solitude commits to improving access conditions for backcountry recreationalists consistent with transportation options considered in the Cottonwood Canyons NEPA process.

3.6.6. It is recognized that the currently proposed SolBright lift referred to in the U.S. Forest Service Record of Decision 2003 could provide an unacceptable, higher-level of access to the Wolverine area. Recognizing this, Solitude and Brighton Mountain Resort will work with the U.S. Forest Service, representatives from the environmental community, and Salt Lake City to identify an alignment that would dramatically limit or virtually eliminate that access and would still provide a connection via chairlift from Brighton Mountain Resort to Solitude. Salt Lake City agrees to pursue such an alignment

assuming all permits and environmental/water quality protections would be in place.

3.6.7. Formal permission from Salt Lake City would need to be obtained if new lift alignments traverse Salt Lake City watershed parcels or if Solitude's expansion contains Salt Lake City watershed parcels.

3.6.8. Salt Lake City and Salt Lake County agree to provide flexibility in terms of where Solitude places its remaining 120 hotel rooms to support transit use consistent with Mountain Accord intended outcomes. Specifically, sewer and water units can be moved within the resort's base area to accommodate development patterns consistent with Mountain Accord intended outcomes.

3.7. BRIGHTON LAND EXCHANGE

3.7.1. Brighton Mountain Resort ('Brighton') agrees to proceed with the exchange of the following lands and actions (shown on Attachments 3 and 4): approximately 200 acres of Brighton's land, located in the upper watershed for approximately 15 acres of U.S. Forest lands around the Brighton base area and a 100 to 170 acre expansion of Brighton's special use permit in Hidden Canyon.

3.7.2. Any future lift servicing Hidden Canyon would be designed to return recreationists to the Great Western lift area.

3.7.3. Once the land exchange described above is completed, Salt Lake City will provide additional snowmaking water to Brighton Ski Resort.

3.7.4. The signers of this Accord agree to work in good faith toward a transit station and associated public amenities for summer and winter visitors consistent with Mountain Accord intended outcomes. Salt Lake City agrees to work with Brighton to allow culinary water to be used to support public transit station improvements, contingent on completion of legal review, and provided that transit station improvements serve public purposes and are designed in an environmentally sensitive manner to avoid watershed impacts.

3.8. LAND ACQUISITION PROGRAM

3.8.1. The Executive Board will create a coordinated, comprehensive program for the acquisition of private lands with environment and recreation values within the study area. It is the intent of Mountain Accord to work with willing sellers. Where appropriate, the Executive Board will work with, and provide support to coordinate funding for local land trusts to acquire and preserve private lands.

3.9. TRANSPORTATION

3.9.1. In order to achieve the outcomes described in Section 2, the signers of this Accord agree to the steps related to transportation outlined in Sections 3.10 to 3.13. Attachment 7: Transportation Connections shows key transportation corridors.

3.10. COTTONWOOD CANYONS

3.10.1. The signers of this Accord will request that the applicable federal agencies initiate the NEPA process to study public transportation alternatives that better connect the Salt Lake Valley and the Cottonwood Canyons. All decisions about such alternatives will be subject to NEPA procedures. Nothing in this agreement is intended to prejudice or circumvent the NEPA process.

3.10.2. The NEPA process may use the outcomes of the Mountain Accord analysis and the results of numerous previous studies that identify transportation issues in Big and Little Cottonwood Canyons as a starting point.

3.10.3. The signers of this Accord express their mutual preference for alternatives that connect to the existing regional public transportation system, and that incentivize public transit, walking, and biking to and in the Cottonwood Canyons.

3.10.4. The signers of this Accord recommend considering alternatives that dis-incentivize single-occupancy vehicle access to and in the Cottonwood Canyons. Specific options could include but are not limited to: recreation fees, congestion pricing, ski resort parking fees, U.S. Forest Service parking fees, tolling, single-occupancy vehicle restrictions, and elimination of roadside parking in the canyons. Any such options should be regionally coordinated and integrated with transportation alternatives considered in the NEPA process.

3.10.5. In addition to the dis-incentives to single-occupancy vehicle use described above, the signers of this Accord recommend that the NEPA process also consider the following:

- bus or rail transit improvements on the Fort Union corridor, the 9400 South corridor, Wasatch Boulevard, and Little Cottonwood Canyon;
- improved year-round transit service on the existing roadway in Big Cottonwood Canyon;
- a potential non-auto tunnel connection between Big Cottonwood Canyon and Little Cottonwood Canyon;
- options that improve the cycling and pedestrian environments in Big Cottonwood and Little Cottonwood Canyons and in the approaches to the canyons; and
- public transit stations and associated amenities that are thoughtfully designed to complement the natural setting of the Canyons, and to encourage biking, walking, and transit use.

3.10.6. The signers of the Accord recommend that the NEPA process fully consider bus-based transit alternative(s) that do not require major construction, and that equal consideration be given to low-impact options versus options that could require major construction. The signers also recommend that alternatives that do not connect the canyons be given equal consideration to those alternatives that do connect the canyons (for example, a tunnel). Any alternatives that include cross canyon connections will include an evaluation of environmental consequences such as increased usage, increased commercial opportunity, impacts to dispersed recreation, and impacts to water resources.

3.10.7. The signers of this Accord understand that NEPA requires a full analysis of alternatives

and environmental impacts. Subject to NEPA analysis, the signers of this Accord agree that trams, ski lifts, or other aerial modes are not recommended. Similarly, alternatives that would create increased capacity for single-occupancy vehicles are not preferred transportation options (in the context of moving people in Little Cottonwood Canyon).

3.10.8. It is recommended the NEPA process address the following questions:

- To what extent should single-occupancy vehicles be restricted or charged with fees?
- Should the transportation alternative include an independent guideway? If so, should it be on the road, near the road, or in a separate alignment outside avalanche paths?
- How can the road and selected transportation alternative be protected from avalanches?
- How can parking needs be reduced for the various alternatives?
- How can we maintain convenient access points and reasonable cost for canyon users?

3.11. BIG COTTONWOOD TO PARK CITY

3.11.1. The signers of this Accord agree to further study the economic, transportation, community, and environmental detriments, benefits and impacts (both positive and negative) of a wide range of non auto-based options to connect Park City with Big Cottonwood Canyon. The study will include an analysis of carrying capacity for the broader Park City Community.

3.11.2. Summit County, Park City, Salt Lake County, Salt Lake City, U.S. Forest Service, the environmental community WFRC, and the Ski Resorts will develop a scope for further study and suggest next steps.

3.11.3. The study described above will be conducted through a local process (not a NEPA process) under the direction and control of the parties listed in Section 3.11.2 above. The signers of this Accord agree that the intent of this effort is to gather information and facts, and no party will have any obligation to act on the information gathered.

3.11.4. The signers of this Accord agree to actively support maintaining Guardsman Pass Road in its current management in winter (closed).

3.12. PARLEY'S CORRIDOR

3.12.1. With the goal of connecting economic centers and recreational nodes within the Wasatch Front and Back, the signers of this Accord agree to support an Alternatives Analysis to evaluate connections between the Salt Lake Valley and the greater Park City area. The Alternatives Analysis will consider modes, corridors and termini between Salt Lake City and Salt Lake County and the greater Park City area.

3.12.2. The intent of the Alternatives Analysis is to obtain concurrence on a Locally Preferred Alternative that more specifically addresses short- and long-term mobility needs on regional travel corridors, which may include, but are not limited to, I-80, SR-224, SR-248, US-40, Foothill Boulevard, 3300 South, and I-215. It will also consider multi-modal bicycle and pedestrian connections, including regional trails. Upon adoption of a Locally Preferred Alternative by the affected jurisdictions, and if a federal action is identified, the signers of this Accord support initiating the NEPA environmental review process for

proposed operational and infrastructure improvements with a subsequent goal of obtaining approval of a project that is consistent with Mountain Accord's vision and goals.

3.12.3. The Alternatives Analysis effort will include a review of wildlife corridors identified by the Environmental Dashboard or other related efforts and will consider opportunities to integrate safe passage of wildlife and other environmental mitigation into final recommendations.

3.12.4. A taskforce with representatives from Salt Lake City, Salt Lake County, Park City, Summit County, Utah Department of Transportation, Wasatch Front Regional Council, Utah Transit Authority, and potentially others will undertake this effort.

3.13. MILLCREEK CANYON

3.13.1. The signers of this Accord support piloting and potentially implementing a shuttle providing service in Millcreek Canyon, with service to start before the summer of 2017, as recommended by the Millcreek Canyon Transportation Feasibility Study completed in 2012. Incentives for using shuttle rather than private vehicles will be explored.

3.13.2. The signers of this Accord agree to work in good faith toward improvements to the road cycling and pedestrian environment in Millcreek.

3.14. TRAILS AND CYCLING

3.14.1. The signers of this Accord agree to support development and implementation of a comprehensive trail and cycling plan for the Central Wasatch Mountains.

3.14.2. The trail plan will:

- build on the Trails Implementation Plan developed by Trails Utah;
- be developed in coordination with decisions regarding federal land designations (it could be included as a part of the U.S. Forest Service management plan);
- contemplate a trail network that connects residents and communities, recreation nodes, and future transit stations; and
- consider the overall balance and availability of multi-use trails and hiking-only trails, consider multiple user groups such as hikers, bikers, skiers, and climbers, and consider mitigation for user conflicts .

3.14.3. The road cycling plan will contemplate connections to recreation nodes and future transit stations and will address road cycling needs in Big Cottonwood Canyon, Little Cottonwood Canyon, Millcreek Canyon, and Parley's Canyon (including the approaches to each canyon).

3.14.4. Trail components recommended in the Trails Implementation Plan and hard surface road cycling facilities will be considered in the Cottonwood Canyons NEPA process and Parley's Corridor Alternatives Analysis.

3.14.5. The signers of this Accord agree to take immediate actions to support certain trail components that are ready for construction, including the Grit Mill trail and Utah Olympic Park to Mid-Mountain Trail.

3.15. NEPA PROCESS FOR COTTONWOOD CANYONS

3.15.1. The signers of the Accord recommend that the applicable federal agencies include the land exchanges and designations described in this Accord within the NEPA process described in Section 3.10 for the transportation alternatives in the Cottonwood Canyons.
3.15.2. The signers of this Accord, in accordance with the National Environmental Policy Act, support a NEPA process that is open, transparent, and comprehensive in scope, and an Environmental Impact Statement that is streamlined, public-friendly, and includes the existing conditions, goals, and relevant metrics developed through the Mountain Accord effort to the extent possible.
3.15.3. The signers of this Accord request that the federal agencies issue a Notice of Intent as soon as possible and with the goal that the NEPA process be completed before December 2016.
3.15.4. The signers of this Accord recommend that the NEPA decisions regarding transportation and land exchanges be made together, to ensure that land exchanges do not preclude or otherwise influence transportation alternatives.
3.15.5. It is recommended that either the NEPA process or a separate study analyze the capacity of the environmental resources (biological, flora, fauna, watershed) in the Cottonwood Canyons to remain healthy under increasing recreational use. The study should include an evaluation of the social capacity of recreation amenities such as trails to handle increasing use while maintaining a range of recreational experiences.

3.16. ENVIRONMENTAL MONITORING, ADAPTIVE MANAGEMENT, and RESTORATION

3.16.1. As recommended by the Mountain Accord Environmental Committee, an Environmental Dashboard will be developed and made available for integration into the NEPA decision-making process and other studies identified above. Actions identified above will include potential mitigation to improve environmental conditions as measured by the Dashboard. An Adaptive Management Plan will be developed that addresses changes in use and environmental conditions as measured by the Dashboard.
3.16.2. The Environmental Dashboard is the basis for development of a landscape-level restoration and mitigation plan that addresses watershed protection, contaminated soils/historic mining activities, lands with invasive weeds, impaired streams, roadside mitigation/stabilization, safe passage for wildlife, and other areas of the environment that are in a degraded condition.
3.16.3. The Environmental Sub-Committee developed the scope of work and will be initiated in Fall 2015.

3.17. GOVERNANCE AND FUNDING

3.17.1. In recognition of the challenges inherent in implementing an integrated set of actions across a large number of jurisdictions, and in accordance with the recommendations from the Recreation and Environment Committees, the signers of this Accord agree to study and consider options for continued multi-jurisdictional coordination, collaboration, and

communication, including a potential governance structure that includes elected officials, or their designees, accountable to the public, that can facilitate achieving the intended outcomes of the Accord and adapt to changing circumstances.

3.17.2. The signers of this Accord agree to work together in good faith toward obtaining additional resources, including but not limited to, funding and authority necessary to prepare studies, perform environmental work, assist with year-round management and operations, safety, security, visitor services, environmental monitoring and restoration, purchase of private lands, trail development, and transportation solutions identified in this Accord. Management and operations could include improving sanitary conditions, mitigating erosion and compaction, controlling weeds, and mitigating the impacts caused by dispersed activities in sensitive wetland, riparian, and alpine ecosystems. The signers of this Accord agree to conduct an analysis of funding options and to identify funding solutions on a fiscally-constrained basis.

3.17.3. The signers agree that municipal authority to regulate watersheds on the Wasatch Front should be maintained. The signers agree that a regional approach to land use jurisdiction within the mountainous areas on the Wasatch Front (except for areas within existing municipal jurisdiction) should be maintained.

3.17.4. Mountain Accord decisions are consensus-based and do not supersede the authority of federal, state, and local jurisdictions. Local government signatories are encouraged to support the actions described in this Accord through zoning, general plans, or other available tools. However, local jurisdictions are not obligated to implement actions with which they are not in agreement. Disagreements should be disclosed to the Mountain Accord Executive Board.

3.18. PUBLIC ENGAGEMENT AND TRANSPARENCY

3.18.1. The signers of this Accord agree to continue to build upon public engagement efforts, to maintain public transparency, and to implement a disclosure procedure for conflicts of interest for future efforts.

MOUNTAIN ACCORD

Signatories:

State of Utah

Governor Gary R. Herbert, State of Utah

Alan Matheson, State of Utah Governor's Office

Nathan Lee, Utah Department of Transportation

Cities/Counties

Mayor Ben McAdams, Mountain Accord Executive Board Chair, Salt Lake County

Chris Robinson, Mountain Accord Executive Board Vice-Chair, Summit County Council

Mayor Ralph Becker, Salt Lake City

Andy Beerman, Park City Council

Mayor Kelvyn Cullimore, Cottonwood Heights

Mayor Tom Dolan, Sandy City

Mayor Tom Pollard, Town of Alta

Mayor Troy Walker, Draper City

Local Districts/MPOs

Michael Allegra, Utah Transit Authority

Andrew Gruber, Mountain Accord Transportation Co-Chair, Wasatch Front Regional Council

Mike Wilson, Metropolitan Water District Salt Lake and Sandy

State Legislators

Representative Johnny Anderson, Utah Legislature

Representative Brad Dee, Utah Legislature

President Wayne Niederhauser, Utah Senate

Private Entities

Lane Beattie, Salt Lake Chamber of Commerce

Joan DeGiorgio, The Nature Conservancy, Environment Co-Chair

Carl Fisher, Save Our Canyons

Peter Metcalf, Outdoor Industry Association

Nathan Rafferty, Ski Utah

MOUNTAIN ACCORD

ADDITIONAL SIGNATORIES

Laynee Jones, Mountain Accord Program Manager

System Group Co-Chairs

Jeff Edwards, President and CEO of EDCUtah, Economic Co-Chair

Natalie Gochnour, Associate Dean, David Eccles School of Business, University of Utah, Economic Co-Chair

Ann Ober, Senior Policy Advisor, Park City Municipal, Environment Co-Chair

Brad Barber, Barber Consulting, Recreation Co-Chair

Michael Baille, PlanWorks Design, Recreation Co-Chair

Ski Areas

Bob Bonar, Snowbird Resort

Randy Doyle, Brighton Mountain Resort

Bob Wheaton, Solitude Resort

Onno Wieringa, Alta Ski Lifts Company

MOUNTAIN ACCORD

Public Signatories:

Signature	Print Name	City of Residence	Date
	Rodney Sorensen	Sandy	8/3/15
	David Kallas	Bluffdale	8/3/15
	LIZA SIMPSON	PARK CITY	8/3/15
	Bob Wood	Holladay	8-3-15
	John Johnson	S.L.C	8/3/15
	Jaymee Blakesley	Holladay	03 Aug 2015
	Lisa Bagley	East Millcreek	8-3-15
	DONNA WAHOFF-STICE	Summit Park	8-3-15
	MARI DOUGHERTY	PARK CITY	8-3-15
	Ellie Ienatsch	Cottonwood Hts	8/3/15
	Kimberly Frost	Salt Lake	8/3/15
	Sarah Bennett Trails Utah	SLC	8/3/15

MOUNTAIN ACCORD

Public Signatories:

Signature	Print Name	City of Residence	Date
	Dave Iltis	Salt Lake City	8-3-15
	Matt Mudek	SLC	8/3/15
	Lauren Scholnick	SLC	8/3/15
Deborah + Mark Read	Deborah Read	Cotton Hts	8/3/15
	Connie Marshall	Sandy	8/3/15
	NEIL COHEN	SANDY	8/3/15
Marie Taylor	Marie Taylor	SLC	8/3/15
	Melanie Marrer	Cotton Hts	8/3/15
	Jennifer Scalley	Park City	8/3/15
	DAVID NIELSON	SALT LAKE CITY	8/3/15
	Rob Voye	Sandy	8/3/15
Anne Zeigler	Anne Zeigler	C.H	8/3/15
	John Park	C.H.	8/3/15

MOUNTAIN ACCORD

Public Signatories:

Signature	Print Name	City of Residence	Date
Kimberly Barnett	Kimberly Barnett	SLC	8/3/15
Robin Hutcheson	Robin Hutcheson	SLC	"
PDT	Paul Diegel	SLC	8/3/15
Eliot Setzer	Eliot Setzer	Murray	8/3/15
	John Hiskey	Sandy	8/3/15
Jacob Adams	Jacob Adams	Sandy	3 Aug 2015
K.N. Gunalan	K.N. GUNALAN	WEST JORDAN	8/3/15
Duru G.	DURU GUNALAN	"	"
Gay Lynn Bennion	Gay Lynn Bennion	Cottonwood Heights	8/3/15
Lynn H. Pace	LYNN H. PACE	HOLLADAY CITY	8-3-15
	NEWEL T. JENSEN	SALT LAKE CITY	8-3-15
	Michael Gross	Salt Lake City	8-3-15
	Derek Siddoway	Rockport	8-3-15
	Austin Tenny	Provo	8-3-15

MOUNTAIN ACCORD

Public Signatories:

Signature	Print Name	City of Residence	Date
	Laura Briefer	Salt Lake City	8/3/15
	PAUL ZOCKERMAN	SLC	8/3/15
	Brad Gilson		8-3-15
	Jared Grant		8-3-15
	Jacquelyn Thiel	Millcreek Trails Assoc	8/3/15
Patrick A. Shea	Patrick A. Shea	SLC	8/3/15
	RICHARD SNELGROVE	SL County	8-3-15
Nancy Van Allmen	Nancy Von Allmen	SL Co	8/3/15

MOUNTAIN ACCORD

Public Signatories:

Signature	Print Name	City of Residence	Date
Carly Castle	Carly Castle	Salt Lake City	08/03/2015
Rusty Dassing	Rusty Dassing	Powderbird	8/3/2015
Alex Schmidt	Alex Schmidt	SLC	8/3/15
Yuliya Chadovich	Yuliya Chadovich	Sandy	8/3/15

Accord Signatures from Website

First Name	Last Name	Date
Jason	Burningham	3/2/2016
Carolyn	Hoffert	23/12/2015
Todd	Evans	22/12/2015
Earl	Lewis	1/12/2015
Patrick	Matheson	13/11/2015
Rod	Read	5/11/2015
Justin	Runyan	4/11/2015
Robert	Smith	2/11/2015
Mindy	Fauntleroy	1/11/2015
Laurence	Renzetti	31/10/2015
Richard	Webb	31/10/2015
Denzel	Rowland	31/10/2015
Henry	Whiteside	30/10/2015
Bertrand	Serlet	30/10/2015
Daniel	Freifeld	30/10/2015
Samantha	Goldstein	28/10/2015
Jennifer	Lecker	15/10/2015
Phyllis	Anderson	14/10/2015
Robert	Ett	13/10/2015
Nick	Duerksen	13/10/2015
John	Van Hoff	13/10/2015
James	Mulcare	13/10/2015
John	Knoblock	13/10/2015
Beat	von Allmen	13/10/2015
Pierre	Askmo	13/10/2015
Dixie	Huefner	13/10/2015
Brian	Stillman	13/10/2015
Merrill L	Johnson	13/10/2015
Barbara	Cameron	12/10/2015
Mark	Mylar	12/10/2015
Jim	Byrne	12/10/2015
Nancy	Pinnell	29/09/2015
Kirk	Nichols	27/09/2015
Eileen	White	27/09/2015
Matthew	Webb	26/09/2015
Robert	Smith	26/09/2015
Brian	Stillman	26/09/2015
Trudy	Bach Whitehea	26/09/2015
Dianne	Gaschler	26/09/2015
Naomi	Franklin	26/09/2015
Anne	Zeigler	26/09/2015
John	Worlock	25/09/2015
James	Mulcare	25/09/2015
Mark	Barone	25/09/2015

Jack	Crognale	25/09/2015
Daintrie	Zega	25/09/2015
Lucilr	Keough	25/09/2015
Albert	Schmidt	31/08/2015
Diane	Hamiton	31/08/2015
Debbie	Baskin	25/08/2015
Albert	Schmidt	22/08/2015
Kathleen	Freeman	3/8/2015
Tegan	Feudale	27/07/2015

MOUNTAIN ACCORD

ATTACHMENTS

1. Executive Board Membership
2. Existing Conditions
3. Proposed Federal Designation and Land Exchange
4. Land Exchange Detail
5. Intended Outcomes
6. Resort Area Development
7. Transportation Connections

INCORPORATED BY REFERENCE

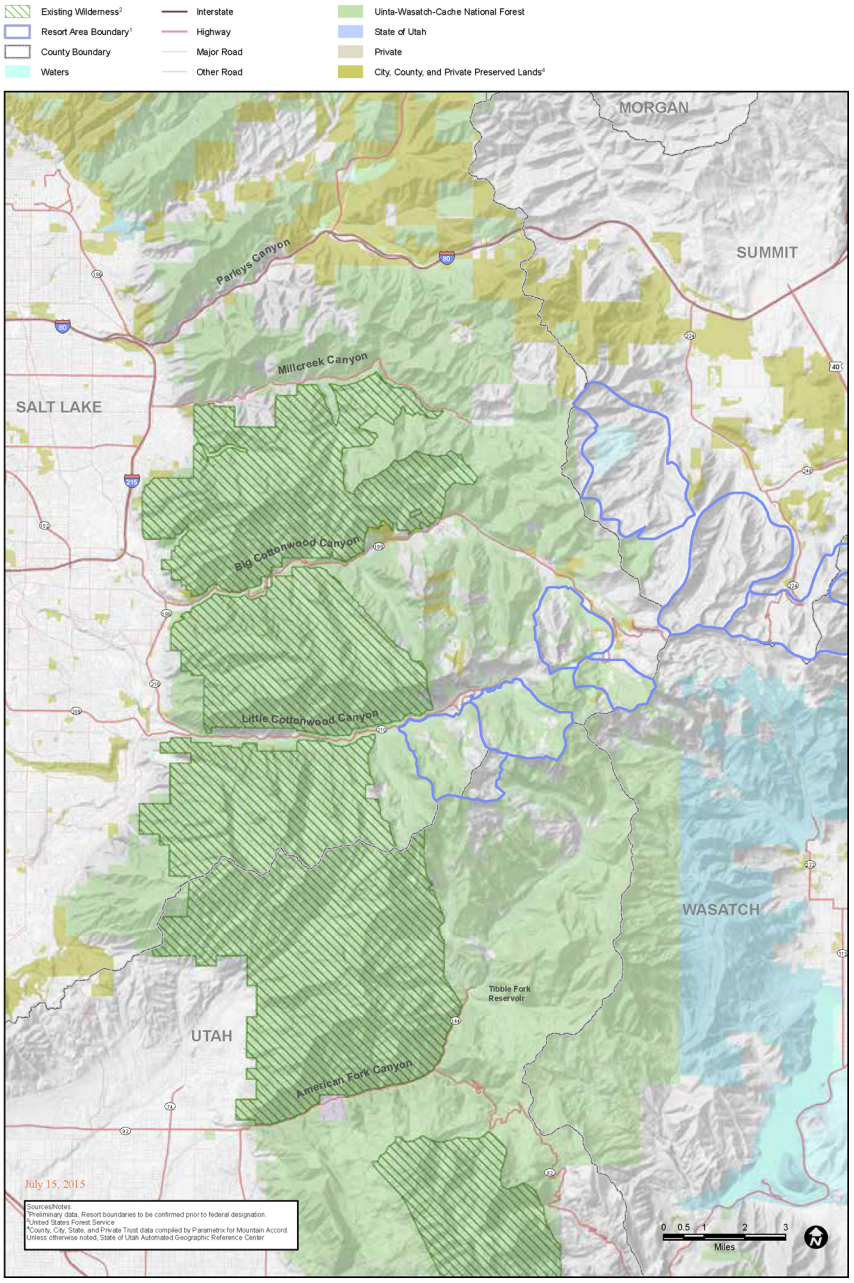
1. Mountain Accord Program Charter
2. Mountain Accord Existing Conditions and Future Trendlines Report
3. Mountain Accord Vision, Goals, and Metrics
4. Mountain Accord Idealized Systems Reports
5. Mountain Accord Trails Implementation Plan

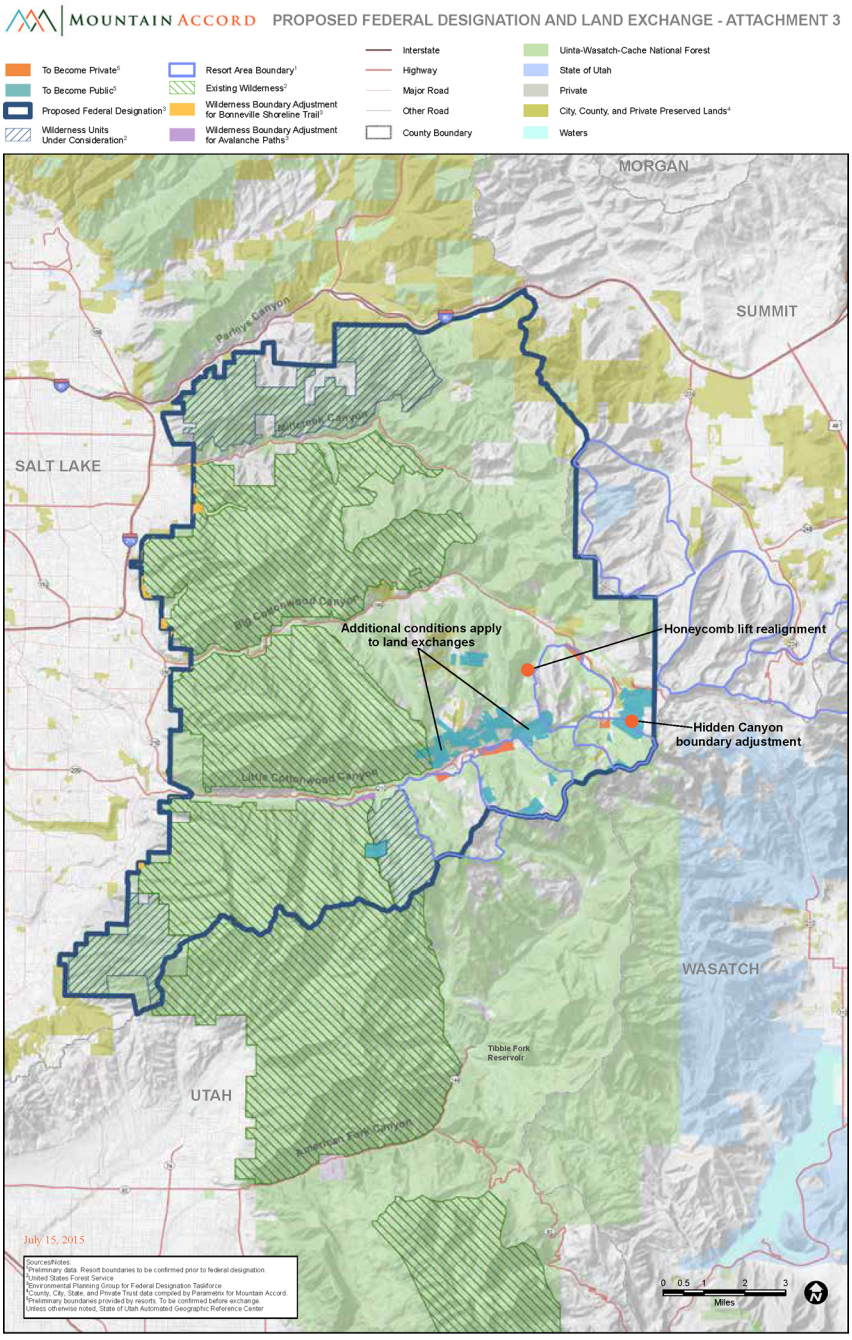
MOUNTAIN ACCORD

Attachment 1: Mountain Accord Executive Board (July 2015)

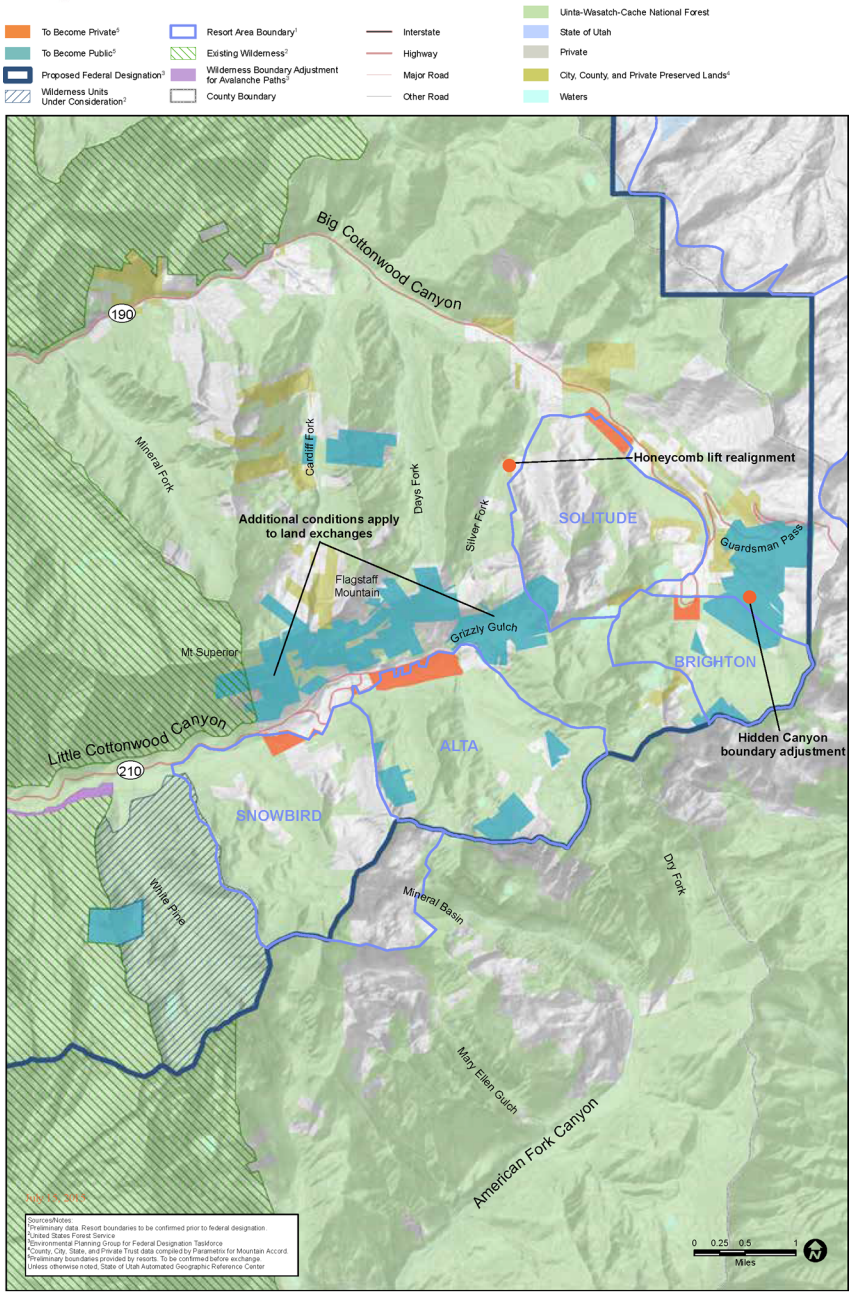
Cities/Counties	
Mayor Ben McAdams, Chair	Salt Lake County
Councilmember Chris Robinson, Vice-Chair	Summit County
Mayor Ralph Becker	Salt Lake City
Councilmember Andy Beerman	Park City
Mayor Kelvyn Cullimore	Cottonwood Heights
Mayor Tom Dolan	Sandy City
Mike Kohler	Wasatch County (non-participating after Phase I)
Mayor Tom Pollard	Town of Alta
Mayor Troy Walker	Draper City (Phase II participant)
Local Districts/MPOs	
Michael Allegra	Utah Transit Authority
Andrew Gruber	Wasatch Front Regional Council
Mike Wilson	Metro. Water District Salt Lake /Sandy
State Government	
Nathan Lee	Utah Department of Transportation
Alan Matheson	State of Utah, Governor's Office
TBD	Governor's Office of Economic Dev. (Phase II participant)
State Legislators	
Representative Johnny Anderson	Utah Legislature
Representative Brad Dee	Utah Legislature
President Wayne Niederhauser	Utah Legislature, Senate President
Federal Government	
Linda Gehrke	Federal Transit Administration (non-signatory)
Ivan Marrero	Federal Highway Administration (non-signatory)
Dave Whittekiend/ Cathy Kahlow	US Forest Service (non-signatory)
Private Entities	
Lane Beattie/ Justin Jones	Salt Lake Chamber of Commerce
Joan DeGiorgio	The Nature Conservancy (Phase II participant)
Carl Fisher	Save Our Canyons
Peter Metcalf	Outdoor Industry Association
Nathan Rafferty	Ski Utah

MOUNTAIN ACCORD **EXISTING CONDITIONS - ATTACHMENT 2**

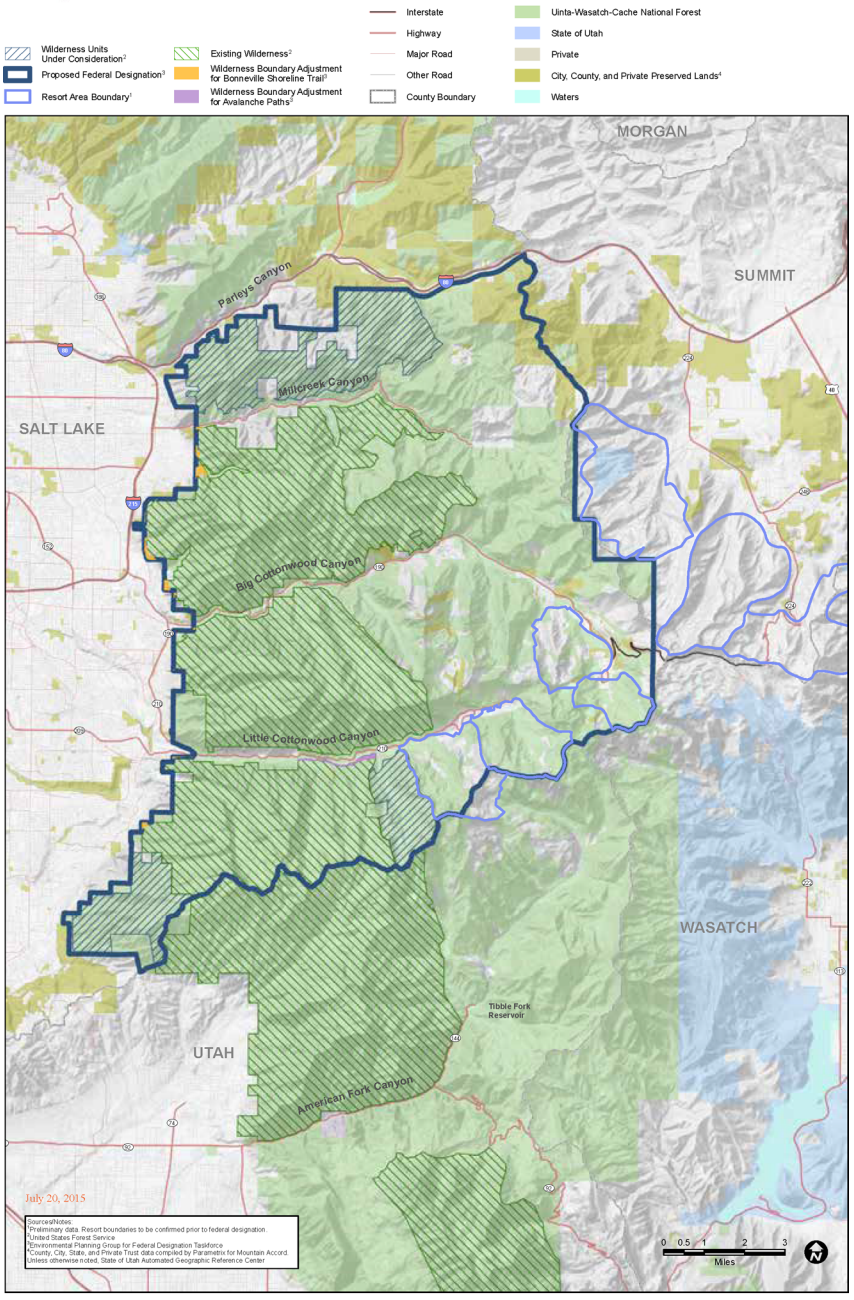



MOUNTAIN ACCORD
PROPOSED FEDERAL DESIGNATION AND LAND EXCHANGE - ATTACHMENT 3
To Become Private[5]
To Become Public[5]
Proposed Federal Designation[3]
Wilderness Units Under Consideration[2]
Resort Area Boundary[1]
Existing Wilderness[2]
Wilderness Boundary Adjustment for Bonneville Shoreline Trail[3]
Wilderness Boundary Adjustment for Avalanche Paths[3]
Interstate
Highway
Major Road
Other Road
County Boundary
Uinta-Wasatch-Cache National Forest
State of Utah
Private
City, County, and Private Preserved Lands[4]
Waters
MORGAN
SUMMIT
SALT LAKE
WASATCH
UTAH
Parleys Canyon
Millcreek Canyon
Big Cottonwood Canyon
Little Cottonwood Canyon
American Fork Canyon
Tibble Fork Reservoir
Additional conditions apply to land exchanges
Honeycomb lift realignment
Hidden Canyon boundary adjustment
July 15, 2015
Sources/Notes:
1 Preliminary data. Resort boundaries to be confirmed prior to federal designation.
2 United States Forest Service
3 Environmental Planning Group for Federal Designation Taskforce
4 County, City, State, and Private Trust data compiled by Parametrix for Mountain Accord.
5 Preliminary boundaries provided by resorts. To be confirmed before exchange.
Unless otherwise noted, State of Utah Automated Geographic Reference Center
0 0.5 1 2 3
Miles

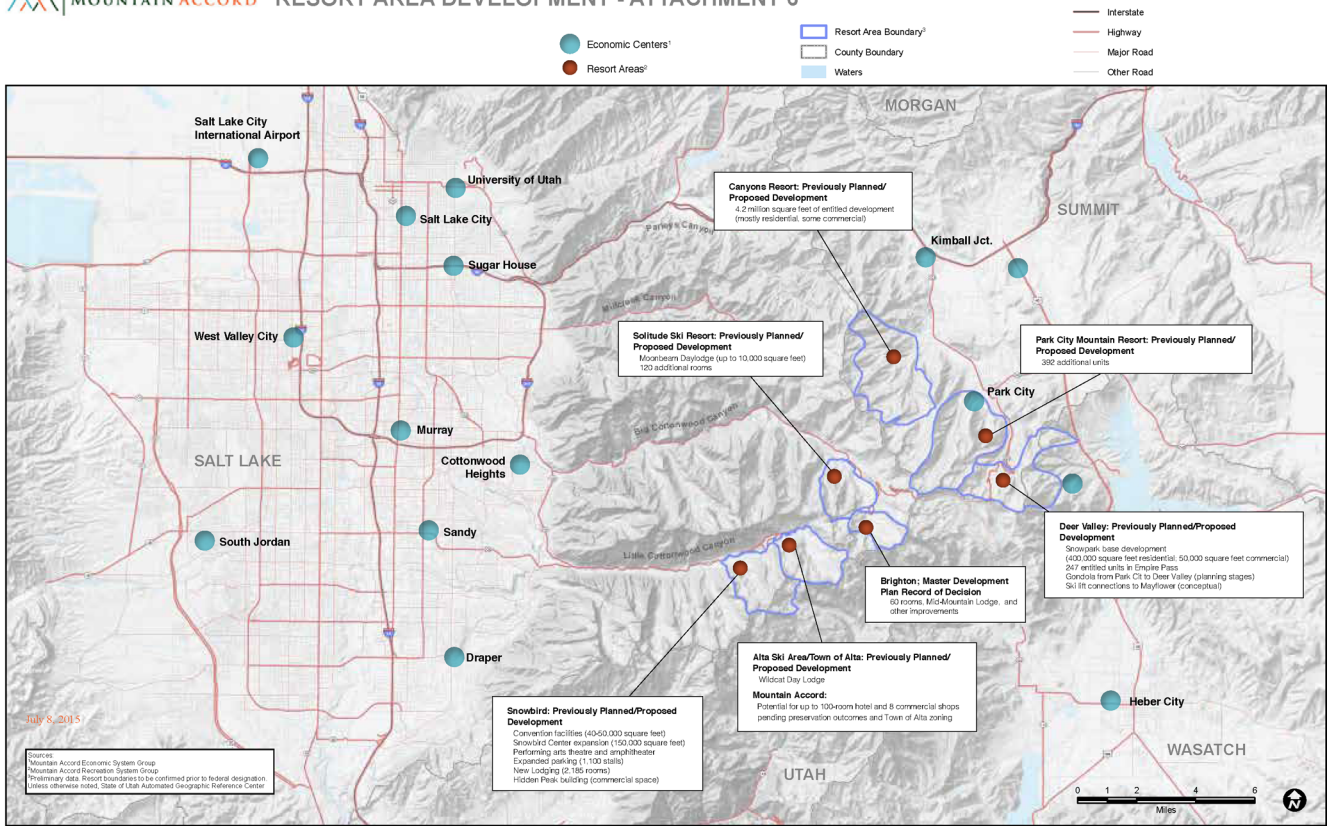
MOUNTAIN ACCORD PROPOSED FEDERAL DESIGNATION AND LAND EXCHANGE DETAIL - ATTACHMENT 4



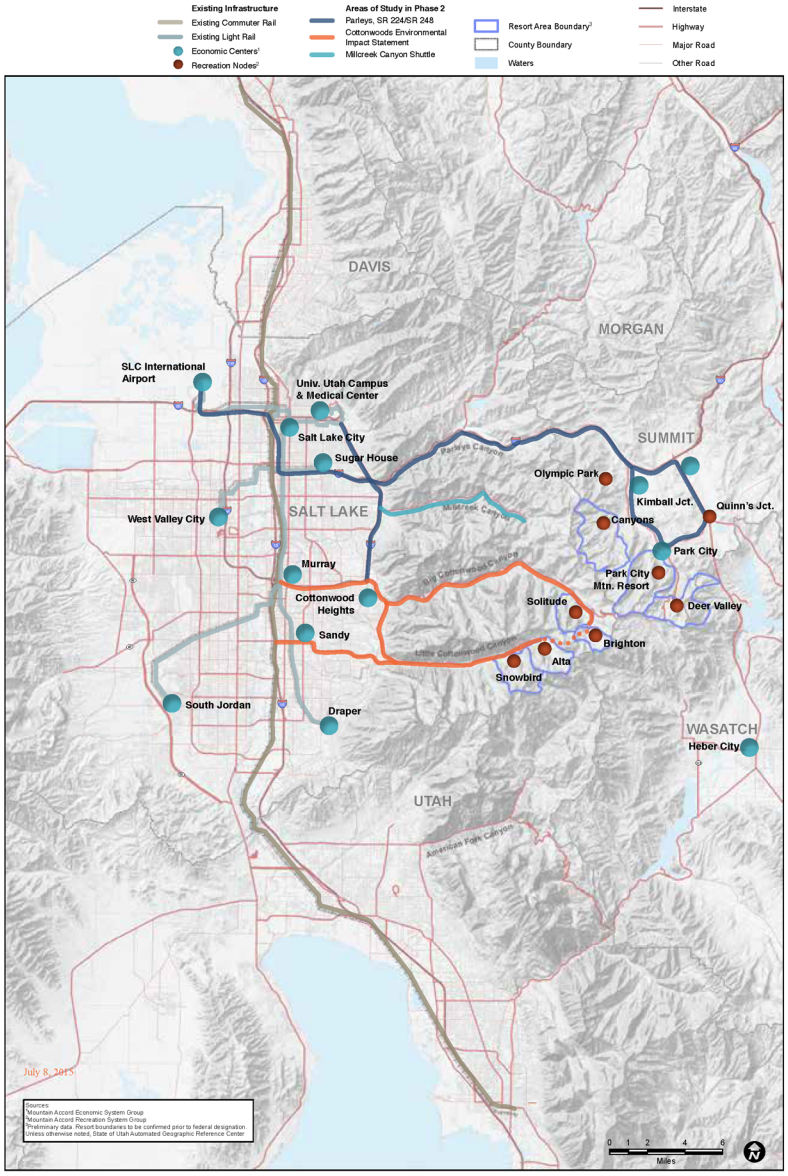
MOUNTAIN ACCORD **INTENDED OUTCOMES - ATTACHMENT 5**



MOUNTAIN ACCORD RESORT AREA DEVELOPMENT - ATTACHMENT 6



MOUNTAIN ACCORD **TRANSPORTATION - ATTACHMENT 7**



Joint Written Testimony of Carl Fisher
Executive Director, Save Our Canyons
House Committee on Natural Resources,
Subcommittee on Federal Lands
H.R. 5718, Central Wasatch National Conservation and Recreation Area Act
November 15, 2016

Thank you, Chairman Bishop, Ranking Member Grijalva, Subcommittee Chairman McClintock and Subcommittee Ranking Member Tsongas for the opportunity to submit written testimony today on H.R. 5718, the Central Wasatch National Conservation and Recreation Area Act, and for giving this unprecedented collaborative legislation the opportunity to be heard.

We would like to acknowledge and thank Congressman Jason Chaffetz for introducing this locally driven collaborative lands package, also Congresswoman Mia Love, and Congressman Chris Stewart for their support of this important and timely legislation. Last, but certainly not least, we are incredibly appreciative of our local elected officials in Salt Lake and Summit Counties - Mayor Ben McAdams, Mayor Dolan, Mayor Biskupski, Mayor Cullimore, Mayor Pollard, Councilman Chris Robinson, and Councilman Andy Beerman for making the Wasatch a priority and for forging a plan to sustain this incredibly important resource.

Introduction

The Wasatch Mountains are truly unlike anywhere else in the world. With dramatic peaks rising nearly seven thousand feet above the Salt Lake Valley, the spectacular Wasatch Mountains are unique in providing access to exceptional high quality backcountry and pristine wildlands within miles of a vibrant metropolitan area. The Wasatch Mountains are also the cornerstone of Utah's outdoors lifestyle, a primary motivator behind business relocation and population retention. More than just being important to human inhabitants, the Wasatch are critical habitat for over 1200 species of flora and fauna and are also part of the western wildlife corridor.

Looking historically at these mountains there is one theme that transcends the millennia: the story of water. It was the conflict between water and rock that formed the jagged skyline that we admire and pursue; it was water that was the prehistoric occupant of the Salt Lake Valley, which created the Bonneville Bench along the western 5,100 foot contour line of the range; it was water that brought Native American tribes to the Wasatch to trade and gather salt; it was the prevalence of water that allowed the Mormon pioneers to settle the region; it is water that provides the signature powder snow sought by tourists and residents; water that over 1,000 plant and animal species require for their continued existence; and water that is the ingredient for life and commerce in an otherwise dry and arid region.

It's these resources and places, as well as the experiences within them that this legislation, HR 5718, the Central Wasatch National Conservation and Recreation Area Act, seeks to protect.

How we arrived at this widely supported, collaborative and consensus legislation is a testament to the magnificence of the landscape. Setting aside the legislative clashes of the past few years; the preservationist vision of the Wasatch Wilderness and Watershed Protection Act (H.R. 4267, 112th Congress) juxtaposed with the economic opportunity of the Wasatch Range Recreation Access Enhancement Act (H.R. 3452, 112th Congress), local leaders wisely convened stakeholders in the effort to put to rest the decades-long conflicts over the future of the Wasatch Mountains. In November of 2012, Utah Governor Gary Herbert, Salt Lake City Mayor Ralph Becker, Salt Lake County Mayor Peter Corroon, Summit County Councilman David Ure, Park City Mayor Dana Williams, Utah Transit Authority General Manager Mike Allegra and Salt Lake Chamber of Commerce President Lane Beattie kicked off a multi-jurisdiction planning exercise focusing on four key areas of the Wasatch Mountains: conservation, transportation, recreation and economy. Over the course of the next three years thousands of participants representing community members, governments, interest groups, non-profits, land managers and businesses worked to develop a vision and an action plan for realizing that vision.

Through this process stakeholders and the community requested a series of outcomes. Paramount was the desire for increasing protections for the watershed to ensure that development no longer fragment high value wildlife habitat and the dispersed recreation areas so prized by backcountry skiers, hikers, mountain bikers, climbers, hunters, anglers, and backpackers. Additionally, the community understood that visitation to the Wasatch was reaching unsustainable levels and that private automobiles were detracting from the experiences sought by recreationists and tourists alike. There were also significant concerns about the facilities and infrastructure required to support increased transit service in the canyons. Thus, Mountain Accord devised a package that would help protect the values of the landscape while accommodating safe and sustainable transportation to both trailhead and resort destinations. HR 5718 is a key component that helps to support these transportation solutions.

On August 3, 2015, Governor Gary Herbert was the first to sign the Mountain Accord. Governor Herbert was joined by mayors from cities across the valley as well as businesses, ski areas, and environmental and recreation organizations. One of the most important elements of the Accord, is the introduction of federal legislation to help protect public lands in the Central Wasatch recognizing the importance of their beauty and wildness, the facilitation of land exchanges to help conserve some of the most iconic peaks in the region while allowing ski areas to better manage their base area operations, the adjustment of wilderness boundaries for transportation opportunity analysis and to ensure for multiple and contiguous uses along regional trails for improved recreational access, and preserving the remaining wilderness values still found immediately adjacent our quickly urbanizing communities.

Elements of HR 5718

Using the systems identified in the Mountain Accord as a guide, conservation groups, ski area representatives, watershed managers, industry and outdoor businesses, city and county leaders, and guidance from the United States Forest Service worked to devise a legislative

package. Once that package received support from the participants, it was then brought to the governing entity of the Mountain Accord where it received unanimous agreement from its members.

Land and water resources are not only what define the Wasatch; they are the foundation on which recreation, ecology, and the economy reside. The Wasatch are home of over 1,200 species of plants and animals. While out enjoying the resource, it is not uncommon to see large mammals like moose and elk ranging through alpine meadows, but also goshawks and golden eagles soaring high above aspen forests and ridgelines where they search for smaller animals like hares, ermine, and the increasingly threatened American pika. HR 5718, directs the Secretary of Agriculture to "conserve and protect the ecological, natural, scenic, wilderness, cultural, historical, geological and wildlife values" inside the Central Wasatch National Conservation and Recreation Area. It goes on to require the Secretary to "protect, enhance, and restore the water quality and watershed resources" of the area. These provisions are critically important for conservation, recreation, and community interests within the Central Wasatch Mountains.

Other important designations are also a part of this package. First, approximately 8,000 acres of land will be added to the National Wilderness Preservation System. The proposed Grandeur Peak Wilderness Area, which has long been part of the Utah Citizens' Wilderness proposal while also expanding upon some of the already established Wilderness unit's boundaries. Wilderness designation is one of the strongest protections we can place upon the land, giving these places the ability to change without the influence of man. Second, the White Pine Special Management Area protects some of the natural and wild characteristics of this cherished tributary to Little Cottonwood Canyon, while still allowing for adaptive management and already permitted uses to continue in the area. Finally, this bill directs the Secretary of Agriculture to explore other special designations within the management plan, such as a "Special Botanical Area" in Albion Basin, which would help protect one of the most rapidly disappearing alpine bioregions. It is worth noting that the colorful bouquets of botanicals in Albion Basin draw hundreds of thousands of visitors throughout the summer – one of the preeminent natural spectacles the region has to offer.

The Wasatch's diversity of natural qualities bring an ever-increasing and equally diverse recreating public. Whether by skis, bikes, boots, or climbing gear over 5 million visitors annually set out to explore this special landscape. In these mountains you can witness people exploring year round, whether climbing granite slabs or iced over waterfalls, families walking through fields of flowers, backcountry skiers in search of untracked powder, cyclists cranking up winding canyon roads and mountain bikes descending miles and miles of single-track, the fisherman flicking flies for the elusive Bonneville Cutthroat trout, and the solemn bow hunter stalking mule deer. It's these and many other opportunities that contribute to the diversity of life in the Wasatch, exactly what this legislation seeks to protect.

One of the largest community concerns is the geographic footprint of the ski areas. While many outdoor enthusiasts enjoy visiting ski resort areas -- as do many of these signatories -- they also

appreciate the opportunity to interact with the more wild and less domestic areas of the Wasatch. Not only do these ski resort areas contain some of the most highly sought after terrain in the region -- north facing powder sloped important to both recreation and extirpated species like the Canadian Lynx -- their intensity of use, the hardened impermeable areas, their incessant hum reverberating throughout the Wasatch keeps timid wildlife and many of the human visitors confined to the adjacent and ever shrinking forest sanctuaries nearby. H.R. 5718 addresses this concern by codifying in federal law the 2003 Wasatch-Cache National Forest Plan's promise of no more ski area expansion onto additional National Forest System lands. This provision is critically important to the protection of wildlife, opportunities for dispersed recreation, as well as for the protection of water resources.

Thanks in part to the 1872 Mining Law, patented mining claims, many of which have come into ski area ownership, intertwine with the public domains of the Central Wasatch. Given the prohibitions of this legislation on ski area projects on public lands it was the desire of the ski areas to partner with the USFS in land exchanges to accomplish two goals: consolidating the ownership of NCRA lands to make land management more cohesive for the lands outside resort boundaries. Second, to get the United States Forest Service out of the time intensive business of managing ski area base operations, thus allowing them to focus their finite resources on managing the unpermitted domains of the landscape. This legislation takes critical steps to consolidate land ownership which is beneficial to resorts, recreationists, conservation, and perhaps most importantly watershed values of the region, making right over a century of fragmented land ownership and the conflicts between public and private lands ownership.

The next significant issue this legislation addresses is access and transportation. There are two major thoroughfares in the Wasatch Canyons. The busiest two canyons in the NCRA are Big (SR-190) and Little (SR-210) Cottonwood Canyons. While the notion of transportation is generally supported and embraced, the alignment and mode of idealized transportation proposals is a topic of great concern. However, if done right, transportation can help alleviate some of the environmental concerns created by unfettered access to these Wasatch Canyons. This bill, will reduce some of the concerns from environmental and recreation interests that come from Transit oriented development, while giving the opportunity to devise a more sustainable and efficient transportation solution in our canyons. Finally, the directive to have the Secretary of Transportation and the Secretary of Agriculture jointly participate in a National Environmental Policy Act actions, helping to both inform and disclose impacts to the environment, recreation, and most importantly our water supply and its quality, optimally informing the decisions and reducing impacts to both of these important systems. It's important to reiterate that many interests see value in transportation over the single occupant vehicular regime that exists today. This legislation establishes a commendable process, helps highlight critical natural values and continues the collaborative process to address access and mobility issues in these sensitive alpine environments.

Finally, this bill seeks to help realize an important regional trail – The Bonneville Shoreline. Following a bench, established by the ancient Lake Bonneville, this trail is envisioned to run north and south through Utah's capitol county. While the vision of this trial came after the

designation of the Mount Olympus and Twin Peaks Wilderness, it stands to be an important community resource, threading the interface between the civilized world and the natural world. According to the 2010 Environmental Assessment completed for the Bonneville Shoreline, "In 1999, Utah Governor Mike Leavitt and the Utah Legislature designated the Bonneville Shoreline as the State's Millennium Legacy Trail (Utah Code 63-11a-504). Action on this, the Bonneville Shoreline was designated by the White House millennium Council and the U.S. Department of Transportation as one of sixteen National Millennium Trails in the country." However, because this trail traverses existing Wilderness, National Forest Land, and private property, realizing this important multiple use trail, has been exceedingly difficult. Local governments have failed to enact zoning and obtain easements to secure a viable alignment. Moreover, the trail weaves in and out of wilderness and non-wilderness lands, preventing the trail from being used by uses not consistent with the Wilderness Act, like mountain bikes. H.R. 5718 removes minimal portions of existing Wilderness in order to help realize this trail complete with its multiple use objective. While we recognize this is a big ask, we've used the data from the 2010 EA to justify the alignment, which has undergone significant environmental analysis, not to mention investments in land acquisition by the State of Utah and its counties, and further, being along the periphery of the urban/wilderness interface will have miniscule impacts to the integrity of the Wilderness unit; we believe this adjustment is in the interest of the community, upholding the spirit of compromise central to this legislation and connected actions of this project.

Conclusion

There really is no place like the Wasatch. It is a place that truly has it all, perfection however, does not come with out challenge and consequence. As Save Our Canyons' founder Gale Dick liked to remind our community "...protections for the Wasatch must be enacted... Delay will only make the problems more intractable in the future." We've collectively engaged, to that very end. Now we are asking for the support of the US Congress to assist in the memorialization this once in a generation opportunity – for communities and the Wasatch.

In closing, we join other stakeholders, local governments, transportation partners and ski areas in asking for your support for this critical piece of legislation. It is the first step of several, that we need to take in protecting the integrity and legacy of the Wasatch Mountains – for current and future generations and the community of life that are reliant upon them.

Thank you for your consideration of this legislation and we invite you to come experience this amazing place for yourself.

INTERNATIONAL MOUNTAIN BICYCLING ASSOCIATION

July 15, 2008

Carl Fisher
Save Our Canyons
68 South Main #400
Salt Lake City, Utah 84101

Re: Central Wasatch Wilderness Additions

Dear Mr. Fisher:

I understand that you have been working with IMBA State Representative Ryan Miller and Board Member Tom Clyde on a Wilderness proposal that affects the Big and Little Cottonwood Canyon areas in the Wasatch-Cache National Forest outside of Salt Lake City. We appreciate your efforts to involve IMBA early in the process, and the results appear to have been positive as far at mountain bike access is concerned.

You have asked IMBA for a formal statement of support for the proposal. We have reviewed the proposal, and have concluded that it is one that IMBA can support. While other land use designations such as a National Recreation Area, National Scenic Area, or similar designation might accomplish about the same level of protection, we are willing to support a Wilderness designation subject to the following:

1. The Wasatch Crest or Wasatch Ridge trail from the Guardsman Pass trail head area through to the Mill Creek Canyon/Big Water trails would need to remain open for mountain bike use. The trail is one of the nation's best. We understand that the latest version of your proposal had pulled the Wilderness boundary off the ridge to protect that trail. That boundary adjustment needs to allow sufficient room to relocate the trail in the event of physical changes such as a landslide, or re-routing it around private lands if that becomes necessary.

2. The Mill D connector trail from the Ridge down to the Big Cottonwood Canyon road also needs to be open for mountain bike access. This is important because it allows a shorter loop option for riders without a car shuttle between the trailhead and trail.

As long as these trails are excluded from the Wilderness proposal, IMBA will publicly state our support for the proposal.

IMBA's focus is on preserving and improving mountain bike access. We are aware of the other user conflicts in the area, and ski resort expansion plans. Those are not our issues, and we are not expressing any opinion on those, one way or the other.

Sincerely,

Jenn Dice

Jenn Dice, IMBA

Rep. Raul Grijalva
Chair - House Natural Resources Committee

Rep. Deb Haaland
Chair - Subcommittee on National Parks, Forests, and Public Lands

Sen. Joe Manchin
Ranking Member - Senate Committee on Energy and Natural Resources

Sen. Ron Wyden
Ranking Member - Subcommittee on Public Lands, Forests, and Mining

August 21, 2020

Re: Bonneville Shoreline Trail Enhancement Act - HR 7626/S 4215

Dear Rep. Grijalva, Rep. Haaland Sen. Manchin, and Sen. Wyden:

We are writing to express our sincere opposition to the Bonneville Shoreline Trail Enhancement Act (BSTEA) and hope to provide for you some background on why we cannot support piecemeal actions and partisan attacks on Utah's Wilderness. It is not that we don't support the realization and vision of the Bonneville Shoreline Trail, we do, but this legislation does nothing to help realize that vision, by taking what was once envisioned to be a multiple use trail and converting it into a double-black diamond mountain bike trail, reducing this multiple use to a single and elite use in an area that is critical in accommodating a growing recreation demand. Further, this legislation pulls from a local, consensus-based process, where our communities have been working tirelessly to enact robust and comprehensive actions for the Wasatch Mountains to deal with crushing visitation and growth, the impacts of climate change and fire

suppression, and protection of the watersheds that make life in the arid west possible. For decades, this community has worked to refine a vision for the Wasatch, identifying priority areas deserving of wilderness protection, garnered local support for these additions, yet none of these areas are being incorporated by the BSTEA sponsors.

I don't need to provide a photo (but will) to let you know Utah is home to some of the United States' most iconic landscapes. The Wasatch rises sharply, towering 7,000 feet over the Salt Lake Valley, one of the west's most urbanizing areas. They form the eastern extent of the Basin and Range and the Western edge of the Western Wildway's, *Heart of the West*, conservation planning unit[1]. Unlike some of our most treasure and heavily visited landscapes, the Wasatch range lacks funding and managerial protections, save for the Wilderness Areas that this legislation seeks to remove. Two acts of Congress[2] helped to protect these mountains, which supply the drinking water for the million plus people in the region. Further, these mountains are home to over 1,200 species of plant and animals, though because of intense development activity, numerous species have been extirpated from this region including but not limited to grizzly bear, wolverine, river otter, Canadian lynx, and yellow-billed cuckoo. The Wasatch Mountains also host Utah's ski industry. Our love of enjoying snow sports is only overshadowed by our passion for the remaining wildness that can be found in the Wasatch, and an incessant fear that this will all be lost due to aggressive development plans being foisted upon this landscape by hungry developers, jeopardizing our water quality, natural beauty and biodiversity. This threat has existed primarily above 8,000 feet however, this legislation has moved the threat quite literally closer to home, as it seeks to unravel the consensus of a landscape level planning process that has garnered overwhelming public support containing broad protections, while accommodating for targeted wilderness removals for recreation planning.

The importance of the Wasatch and the aforementioned challenges brought about a need to forge a vision and achieve consensus for a new plan for the Wasatch. In 2012, state and local leaders joined in forming the Mountain Accord, which after 3 years of intensive work, stakeholder, community and governmental collaboration, yielded a signing by every interest and local government, including support from Utah's Governor, Speaker of the House and Senate President. While inking the Accord was a feat in and of itself, it was by no means the end. The hard work of implementing the consensus vision needed to begin. The "Accord" inked an agreement that would remove about 400 acres of wilderness offset by the addition of 8,000 acres to our national Wilderness portfolio, adding significant acreage to each wilderness unit. The 1:1 ratio contained in the BSTEA is a poor precedent, particularly in an area where there is such desire and need to expand wilderness protections on lands deserving of such protections.

Two goals of the Mountain Accord were to enact comprehensive legislation to better protect our watersheds while implementing a new management plan to better equip land managers with the tools to address the challenges facing the Central Wasatch. Second, it came with a commitment to act on transportation issues facing the region as it struggles to accommodate over 6 million

---

[1] Western Wildway. https://wildlandsnetwork.org/wildways/western/

[2] The Lone Peak Wilderness was part of the Endangered American Wilderness Act of 1978. The Twin Peaks and Mount Olympus Wilderness were part of the Utah Wilderness Act of 1984.

annual visitors. 6 million visits is a staggering number, especially in a western watershed, and these visits take place on about 80,000 acres of US Forest Service managed lands, making this one of the most intensely visited forests in the country.

The aforementioned consensus legislation was introduced to Congress in 2016 by then Rep. Jason Chaffetz where it received a hearing[3]. It should be noted that this legislation was a carefully crafted house of cards that codified give and take amongst the region's stakeholders. Any one element of this would surely falter on its own merits, which is why we collaborate, negotiate and compromise. This bill does several things.

1. It establishes the Central Wasatch as a National Conservation and Recreation Area (CWNCRA).
2. It designates new units of Wilderness totaling approximately 8,000 acres.
3. It establishes a Special Management Area for White Pine Canyon - which IMBA is attempting to turn into a downhill trail in one of our primary watersheds.
4. It aided and prioritized the implementation of transportation, particularly mass transit service.
5. It authorizes land exchanges between ski areas and the US Forest Service to protect lands outside of ski area boundaries, while giving resorts more opportunity to use lands at their bases for visitor services.
6. Last, but not least, the legislation would remove wilderness for the Bonneville Shoreline Trail (BST) with the agreement that any Wilderness removed would be done in conjunction with the agreed elements of the broader package, notably the proposed wilderness additions and other protections.

With this context, you can hopefully understand why the alternative legislation introduced by Rep. Curtis and Sen. Romney comes as an affront to the earnest hard work of our local community, and is seen as another attack on Utah's already protected landscapes, with the vast majority of Utahns wishing to see more, not less, protections in their watersheds and upon its majestic wild landscapes.

Numerous local plans and policies cite piecemeal decision-making and induced recreation visitation as the number one threat to the Central Wasatch Mountains. This is why the Mountain Accord, and the Central Wasatch National Conservation and Recreation Area Act (CWNCRAA) has been a local priority, continuing to be refined to address stakeholder input and comments locally over the past several years. The BSTEA jeopardizes the holistic and comprehensive vision that continues to be worked on locally. As the bill's sponsors work for a hearing, a hearing we hope is not granted, you'll hear several myths proponents will peddle.

Myth 1 - The BSTEA is part of the Mountain Accord consensus therefore has overwhelming support.

---

[3] Central Wasatch National Conservation and Recreation Area Act - HR 5718. https://www.congress.gov/bill/114th-congress/house-bill/5718

While the Mountain Accord indeed enjoys broad local support, just because you extract an element from a complex and comprehensive agreement does not mean the element enjoys the same broad support. This is because the actions of some efforts, like removing wilderness for the Bonneville Shoreline Trail, were offset by other actions in the legislation, like the additions of 8,000 acres of wilderness and establishment of the National Conservation and Recreation Area.

Further, BSTEA does not enjoy the support of Salt Lake County, Salt Lake City, Cottonwood Heights, or Rep. Ben McAdams who represents some of the lands that this legislation removes protections from.

This is not to suggest that these entities don't support the Bonneville Shoreline Trail (BST), we're sure they do, but most importantly, we do![4] We just cannot support cherry-picking from a consensus process. We would hope that rather than attacking the process, our Congressmen and Senators would lead to help us locals enrich consensus of the broader package.

Myth 2 - Should the BSTEA be realized the result would be the same as the CWNCRA.

As mentioned earlier, development along the Wasatch Front has practically come right up to the Wilderness Boundaries, which have been the most robust and protective designation in our region. Removing wilderness, while accommodating the BST could also open up our public lands to other uses from utility corridors to roads or the many other "uses" of our public lands. The Central Wasatch NCRA (CWNCRA) legislation acknowledged this risk and as such, while accommodating for the removal of Wilderness, added these lands to the protective NCRA designation rather than adding them back to the unprotected USFS land as the BSTEA does. This is an unacceptable fate for lands that are part of our wilderness heritage and yet another reason why this legislation falls woefully short of doing what the CWNCRA does. It was only a year ago when the USFS sold land in this exact geography to a private developer rather than supporting recreation by adding a much needed trailhead as requested by Salt Lake County and Millcreek City.[5]

Myth 3 - The Wilderness removals equal the Wilderness additions and are therefore satisfactory

Some lands are more threatened than others, some lands have higher or different ecological integrity than others, etc. For decades, local organizations have identified, primarily at the request of Utah's Senators and Congressmen, priority lands across the state. Never once have the so-called "wilderness offsets" identified by this legislation been found on a conservation organizations proposal or priority lands for protection. The lands proposed for wilderness addition in the BSTEA are so steep and landlocked that they are not a priority, further they've not been inventoried as roadless and were privately owned by the Boy Scouts of America up

[4] See written testimony for HR 5718, noting our support as part of a package for realization of the BST. Nov. 15, 2016

[5] GSAauctions.gov. 4900 Mile High Dr. - Salt Lake City, UT auction. https://gsaauctions.gov/gsaauctions/aucdsclnk?sl=FTWOR718039001

until a couple of years ago. Moreover, with so many lands eligible for wilderness protections in the area, most of which enjoy overwhelming support for their inclusion in the National Wilderness Preservation System, receiving annual affirmations by local elected leaders, pursuit of a 1:1 ratio of removal to protections sets a damaging precedent that suggests wilderness lands are equal to non-wilderness lands, when in fact we know by the very existence of the NWPS, wilderness lands are physically and intrinsically more valuable and rare than non-wilderness lands.

We believe any adjustments to Wilderness Areas should be done in partnership with the conservation and wilderness community, not against their wills. Our organizations have had agreements with International Mountain Bicycling Association (IMBA) and local mountain bike groups, working in good faith to ensure both existing and desired trails alignments throughout the Wasatch remain open and accessible to a multiple use recreational future while simultaneously protecting the adjacent wilderness characteristics and providing wilderness experiences for uses consistent with its management. Over time, wilderness proposals have gone from some proposed 30,000 acres to 8,000 acres, yet we are being accused of not compromising or collaborating, even when the aforementioned groups have tendered support for the larger proposals wilderness proposals[6], even ones that never removed existing wilderness, which we support and advocate for as part of the comprehensive package currently being revised by local elected officials.

Myth 4 - This bill will complete the vision of a multiple use Bonneville Shoreline Trail

According to the 2010 EA, ROD and the BST Memorandum of Understanding, the purpose of the BST, "is to provide a place where walkers, runners, cyclists and equestrians, can experience their recreational pursuits at a distance from automobiles that is both safe and aesthetically pleasing."[7] This is a goal we support and wish to be a partner in realizing. Sadly this bill does not accomplish this.

The ROD goes on to required mitigation, including that "Maximum trail gradients will not exceed 10%." Trail grades being proposed by the BSTEA will be in excess of 20% - 30% with areas that exceed 50% grades. The USFS analyzed these higher alignments and decided they wouldn't be

> "consistent with the character envisioned for the BST and would not provide the same unique quality recreation opportunities along the urban-forest interface. Alternative 3 located higher on the mountainside, would deviate substantially from the Bonneville Shoreline bench and due to the amount of elevation gain, would not be accessible or utilized by as wide a range of users, including those seeking less aggressive types of recreation opportunities".[8]

---

[6] IMBA letter of support for Wasatch Wilderness and Watershed Protection Act. July 2008.
[7] Bonneville Shoreline Trail - Salt Lake County. Environmental Assessment. USDA Forest Service. March 2010. Pg. 1-2
[8] Record of Decision and Finding of No Significant Impact. Bonneville Shoreline Trail - Salt Lake County. USDA Forest Service, Uinta-Wasatch-Cache National Forest. P. 8

Moreover, according to IMBA's "Guidelines for a Quality Trail Experience - Mountain bike trail guidelines" the grades (>30%), side slope/fall-off (>60%), trail width (<12"), not to mention the numerous rock outcroppings, would list this trail, which was intended to be "multiple-use", as a double-black diamond[9]. This legislation isn't about realizing the Bonneville Shoreline Trail, it is about creating an extremely high-velocity expert and elite trail that will displace and risk the health and safety of other users. Put in IMBA's terms from the guidelines, this would be a "gravity trail", riddled with "high speed features", with geographically constrained "features where a rider cannot safely yield", effectively converting a multiple use trail into a "trail where [bike] rider experience is primary and other trail use would be significantly diminished by other uses (including other riders traveling in opposite directions)"[10].

We need to engage to find the right alignment to realize this trail so it can fulfill its broadly supported vision and purpose as laid out in the BST MOU - serving multiple users of multiple abilities, a resource where our community can connect with the Wasatch and each other.

We have been a partner in realizing a sustainable trails and recreation system for the Wasatch for decades. We regularly organize trail days to help the USFS build and maintain trails in the Wasatch. Save Our Canyons members, staff and volunteers have built the very portions of wilderness trail that are being removed from the NWPS by the BSTEA. Or membership dues funded and created the GIS data being used by the sponsors of the BSTEA, while ignoring the

---

[9] Guidelines for a Quality Trail Experience - Mountain bike trail guidelines. US DOI Bureau of Land Management and International Mountain Bike Association. P. 104.
https://www.imba.com/sites/default/files/GQTE_Digital_Book_Rev_6.11.18_high_res.pdf
[10] Guidelines for a Quality Trail Experience - Mountain bike trail guidelines. P. 24.

agreed to additions. We have done so as a show of good faith, to build trust amongst partners, which we are now being punished for.

The BSTEA will set us back decades when it seems we are so close with the CWNCRA[11]. Reconciling the differences in one piece of legislation by working together and recognizing that conservation values must be balanced with recreation interests for the Wasatch would serve all stakeholders better than lopsided bills that assert one interest's dominance over the range. This BSTEA legislation reeks of the SkiLink legislation (Wasatch Range Recreation Access Enhancement Act - HR 3452) of years ago, which was the last effort to remove protections from public lands in the Wasatch that had no stakeholder engagement or process. This is a disturbing trend that seem to be a requisite only when communities are trying to enact protections, but Utah's Congressmen and Senators are eager and willing at a moment's notice to strip protections for the benefit of special interests, often at the expense of other users, creatures and values that are cherished by the public and our local communities.

We all agree we are in need of a legislative fix for issues in the Wasatch with the unique challenges we face, what that looks like is being pursued by stakeholders and local governments, in partnership with the Central Wasatch Commission.[12]

There is a rich history and much context in this region. We are more than happy to assist in providing additional materials or to answer any questions you might have.

Thanks in advance for your attention to this matter, and for your aid in protecting the Wasatch and other cherished landscapes in our beautiful nation.

Sincerely,

Carl Fisher
Executive Director
Save Our Canyons

Cc: Rep. Ben McAdams (UT – CD4)
Salt Lake County Mayor Jenny Wilson
Salt Lake City Mayor Erin Mendenhall
Cottonwood Heights Mayor Mike Peterson
Central Wasatch Commission, Executive Director Ralph Becker

---

[11] Central Wasatch Commission – Federal Land Designation Legislation – CWNCRA https://cwc.utah.gov/legislation-and-federal-designation/
[12] Central Wasatch Commission - https://cwc.utah.gov

Sen. Mike Lee
Chairman – Subcommittee on Public Lands, Forests, and Mining

Sen. Ron Wyden
Ranking Member - Subcommittee on Public Lands, Forests, and Mining

Re: Bonneville Shoreline Trail Enhancement Act – S 4215

Dear Senator Lee and Senator Wyden,

We are writing to express our sincere opposition to the Bonneville Shoreline Trail Enhancement Act (BSTEA) and hope to provide context as to why we cannot support piecemeal attacks that threaten the preservation of Utah's Wilderness. We do support the realization and vision of a multi-use Bonneville Shoreline Trail but the legislation substantially fails to achieve its purpose of providing trails welcoming to users of various abilities. In addition, removing designated Wilderness and replacing those acres with non-wilderness quality lands undermines our bi-partisan and multi-faceted agreement.

In July 2015, an unprecedented local coalition of businesses, citizens, community groups, governments, and organizations, including the State of Utah, came to a consensus on a comprehensive vision and action plan to addressed recreation, economy, transportation and environment in the Central Wasatch Mountains called the Mountain Accord. The deliverables outlined in this process are now being moved forward by an intergovernmental entity tasked with implementing the Mountain Accords charter established in 2017 called the Central Wasatch Commission. These efforts are a locally driven and organized, bi-partisan effort that represent a grand bargain and a good faith compromise, to uphold the values and desires of our community. The comprehensive package has a little something for everyone, hikers, resorts, landscape photographers, anglers and hunters, backcountry skiers, cyclists, families, land and home owners and downstream water users. This "something for everyone" approach is the glue that keeps this vision relevant.

The aforementioned consensus legislation was introduced to Congress in 2016 by then Rep. Jason Chaffetz where it received a hearing. It should be noted that this legislation was a carefully crafted house of cards that codified give and take amongst the region's stakeholders. Any one element of this would surely falter on its own merits, which is why we collaborate, negotiate and compromise. This legislation achieves several things, two of which are especially applicable: it establishes the Central Wasatch National Conservation and Recreation Area Act (CWNCRA) and would remove wilderness for the Bonneville Shoreline Trail (BST) with the agreement that any Wilderness removed would be done in conjunction with the agreed elements of the broader package, notably the proposed wilderness additions and other protections cited in the CWNCRA.

For decades, local organizations have identified, primarily at the request of Utah's Senators and Congressmen, priority lands across the state. Never once have the so-called "wilderness offsets" identified by this legislation been found on a conservation organizations proposal or as priority lands for protection. The lands proposed for wilderness addition in the BSTEA have not been inventoried as roadless and are so steep and landlocked thus not a priority for designation. Moreover, with so many lands eligible for wilderness protections in the area, most of which enjoy overwhelming support for their inclusion in the National Wilderness Preservation System, receiving annual affirmations by local elected leaders, this legislation's pursuit of a 1:1 ratio of removal to protections sets a damaging precedent for our public lands. This suggests wilderness lands are equal to non-wilderness lands, when in fact we know by the very existence of the NWPS, wilderness lands are physically and intrinsically more charismatic and rarer than non-wilderness lands.

We believe any adjustments to Wilderness Areas should be done in partnership with the conservation and wilderness community, not against their wills. Our organizations have worked in good faith with the International Mountain Bicycling Association (IMBA) and local mountain bike groups, to ensure both existing and desired trails alignments throughout the Wasatch remain open and accessible to a multiple

use recreational future. This has been achieved while simultaneously protecting the adjacent wilderness characteristics and providing wilderness experiences for uses consistent with its management.

According to the 2010 EA, ROD and the BST Memorandum of Understanding, the purpose of the BST, "is to provide a place where walkers, runners, cyclists and equestrians, can experience their recreational pursuits at a distance from automobiles that is both safe and aesthetically pleasing."[1] This is a goal we support and wish to be a partner in realizing. Sadly, this bill does not accomplish this.

The ROD goes on to required mitigation, including that "Maximum trail gradients will not exceed 10%." Trail grades being proposed by the BSTEA will be in excess of 20% - 30% with areas that exceed 50% grades. The UFS analyzed these higher alignments and decided they wouldn't be

> "consistent with the character envisioned for the BST and would not provide the same unique quality recreation opportunities along the urban-forest interface."[2]

The proposed trail alignment and geography do not meet guidelines for quality trail construction and user experience according to International Mountain Bike Association or as analyzed and recommended by the US Forest Service.

Advancing the BSTEA undermines our broadly determined vision for the Wasatch Mountains future. Through the Mountain Accord and now the Central Wasatch Commission, our communities have created a broadly supported way forward that preserves our quality of life and 1,200 plus species that call the Wasatch home. Currently, the Central Wasatch Commission is accepting public comment on the latest draft of the CWNCRA to increase awareness and gather input from the owners of these public lands. Stopping this BSTEA legislation will allow the public input to inform our decisions and ultimately garnering support for the future outcomes and trails connections.

The local population and the visitation to the Wasatch Range continues to grow. We support a trail system that provides connectivity, access, and functionality for the enjoyment of this amazing area but the BSTEA legislation parses out one element to the detriment of the comprehensive effort. We believe continuing these efforts locally, holistically and comprehensively with the vast partnerships across the region achieves a result that will enhance the opportunities for enjoyment and stewardship of the Wasatch Mountains.

Sincerely,

Carl Fisher
Save Our Canyons

Jen Ujifusa
Southern Utah Wilderness Alliance

Polly Hart
Millcreek Friends Interested in Dogs and Open Space

Kirk Robinson
Western Wildlife Conservancy

Kyle Maynard
Friends of Alta

[1] Bonneville Shoreline Trail - Salt Lake County. Environmental Assessment. USDA Forest Service. March 2010. Pg. 1-2

[2] Record of Decision and Finding of No Significant Impact. Bonneville Shoreline Trail - Salt Lake County. USDA Forest Service, Uinta-Wasatch-Cache National Forest. P. 8

S.4889: Alaska Native Claims Settlement Act Fulfillment Act of 2020
Public Lands, Forests & Mining Legislative Hearing
U.S. Senate Committee on Energy and Natural Resources
November 18, 2020

Dear Senator Murkowski:

I offer these comments on proposed legislation that would amend the Alaska Native Claims Settlement Act to create five new urban Native corporations in Southeast Alaska and allow each corporation to select up to 23,040 acres of National Forest land. I submit these comments as a private citizen.

I am a third generation Southeast Alaskan and have lived in Juneau for 51 of my 53 years. I am deeply sympathetic to the cause of the five landless communities and all Indigenous people of Southeast Alaska who have suffered a grave injustice through the taking of their homelands. The five communities deserve a stake in the lands that are their traditional territory. They deserve access rights and management authority and the opportunity to derive benefits, including economic benefits, from their traditional homelands.

While I question whether the corporate model set forth in the Alaska Native Claims Settlement Act is the right path, above all, I object to the manner in which this legislation is being rushed through and the lack of a transparent public engagement process. Its introduction has alarmed Southeast Alaska residents and taken community leaders by surprise. No legislation should do that. The selection of approximately 115,000 acres throughout the Tongass National Forest includes areas that are important and valued for recreation, fishing, and hunting, and some of the parcels hold cultural, spiritual and historic significance for residents in communities throughout Southeast Alaska, Native and non-Native alike. Attempting to expedite passage of this bill prior to the next Congress runs the risk of doing serious harm to our communities, by sparking division over these selections and pitting Native against non-Native, and even Native against Native.

I urge you to take the time necessary to hold in-person public hearings in affected communities throughout Southeast Alaska, not just the five landless communities. Hearings should be held in Haines, Juneau, Angoon, Tenakee, Hoonah, Wrangell, Petersburg, Ketchikan, and Coffman Cove, at a minimum. These listening sessions present an opportunity not just for residents to offer their comments, but also for the members and representatives of the Landless corporation and Sealaska Corporation to share their vision for these lands and for Congressional staff to explain the provisions and address concerns and misconceptions about what the legislation will mean and how it will be implemented. In addition, the hearings can be an opportunity to hear alternative proposals for how to best to address this longstanding injustice.

Thank you for considering these comments.

Sincerely,

Sally Schlichting
419 Kennedy Street
Juneau, AK 99801

VALUES IN ACTION
SEALASKA

WRITTEN TESTIMONY OF
SEALASKA CORPORATION

Submitted to the

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS AND MINING

Regarding

S. 4889, the Alaska Native Claims Settlement Act Fulfillment Act of 2020

December 2, 2020

Chairman Lee, Ranking Member Wyden, and Members of the Subcommittee:

Thank you for the opportunity to submit written testimony from Sealaska Corporation regarding the Subcommittee's November 18, 2020 hearing on S. 4889, the Alaska Native Claims Settlement Act Fulfillment Act of 2020.

Sealaska is one of 12 Alaska Native Regional Corporations established pursuant to the Alaska Native Claims Settlement Act (ANCSA) of 1971. Our more than 23,000 shareholders are descendants of the original Native inhabitants of Southeast Alaska – the Tlingit, Haida and Tsimshian people. There are provisions in S. 4889 that would greatly impact shareholders of Sealaska, and we would like to speak in support of enactment of this legislation.

Section 7 – Recognition and Compensation of Unrecognized Native Communities in Southeast Alaska

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 once again attempt to provide some sense of the historical context that gave rise to the need for this important 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 National Forest, 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. 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 ultimate 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, 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 to Congress to request an amendment to ANCSA to permit Sealaska to select lands in Southeast Alaska located near its 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 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 land settlement under ANCSA as a reward for their persistence in seeking justice.

Section 7 of S. 4889 would amend ANCSA to authorize the five Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to organize as ANCSA 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 for more than 10,000 years. 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. We strongly support enactment of this legislation.

Section 2 – Dividend Exclusion Increase

Section 2 raises the amount of the ANCSA distributions that are excluded from consideration when determining the eligibility of Alaska Native individuals for need-based programs. The original amount has been $2,000 for decades and requires an adjustment for inflation and higher cost of living. The amendment in Section 2 would

raise the exclusion from $2000 to $5000, and indexes that level every 5 years based on inflation. Sealaska believes that this increase is long overdue, and strongly supports this provision for the benefit of our shareholders who may require needs-based assistance.

Section 3 – Eligibility for Certain Programs

Section 3 amends ANCSA by adding payments to elders (65 or older) made through an ANCSA Settlement Trust to the list of items excluded as an asset or resource when determining eligibility for needs based financial assistance or benefits under any Federal program or federally-assisted program. Sealaska strongly supports this exclusion, as we provide such benefits to our elders. We want to ensure that this is truly a benefit that merely adds to the support and resources available to our most precious older shareholders. Caring for our elders is in alignment with important cultural values, and we implore the Subcommittee and the Congress to enact this important provision into law.

Conclusion

In closing, thank you for the opportunity to submit written testimony into the Record for S. 4889 on behalf of Sealaska Corporation and its more than 23,000 shareholders. We support enactment of S. 4889, and most importantly Sections 2, 3 and 7.

If you need any further information from Sealaska, please do not hesitate to contact Jaeleen Kookesh, V.P. for Policy and Legal Affairs, at jaeleen.kookesh@sealaska.com or at 907-586-1512.

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.

The statement above is required by the U.S. Forest to enable the distribution of these chapters. Responsibility for factual and reference errors in Chapters 1-3 is the sole responsibility of the author, Dr. Charles W. Smythe.

CONTENTS

Introduction		iii
Acknowledgments		ix
Chapter I.	The Alaska National Forests: The Land and Its Peoples	1
Chapter II.	Prelude to ANCSA: Acknowledgment of Native Property Rights	24
Chapter III.	ANCSA to ANILCA: State, National, and Native Interests	35
Chapter IV.	Alaska Forest Management: A Legislative Watershed	53
Chapter V.	The National Forests and Alaska Commerce	73
Chapter VI.	The "Resource Management" Period, 1971-1980	88
Chapter VII.	Land Management Planning in the Alaska Region	108
Chapter VIII.	Multiple-Use: A Changing Mix	133
Chapter IX.	Timber Management, Timber Reform and Some Other Matters	151
Chapter X.	Forest Managers and Forestry: An Alaskan Profile	179
Chapter XI.	A New Frontier in Forest Management.	191

Maps:

Plate I.	The Tongass and Chugach Regions of Alaska	4
Plate II.	The Chugach Alutiiq Peoples	4
Plate III.	The Chugach Alutiiq/Prince Williams Sound	4
Plate IV.	Tlingit Tribal Subdivisions of the Tongass	9
Plate V.	Alaska and the Arctic	73
Plate VI.	Who Owns Alaska?	73
Plate VII.	Alaska Economic Regions	73
Plate VIII.	The Alaska Marine Highway	81
Plate IX.	New National Forests for Alaska	96

Appendix:	*Bibliographic Information*	215
Appendix:	*Supervisors and District Rangers, 1970-1995*	217

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.

ACKNOWLEDGMENTS

The authors are very appreciative of the editorial review and general management of this research and writing project by Gerald H. Clark, Heritage Program Manager for the Alaska Region. We are indebted to those who read and reviewed all or parts of the manuscript as it was being developed and offered careful and constructive advice and criticism. They include John A. Sandor, Michael A. Barton, Paul Brewster, Steve Ambrose, Rai Behnert, Dave Gibbons, Walt Sheridan, Dick Wilson, Ron Klaudt, Dick Estelle, David Rittenhouse, Gary Morrison, Ron Knowles, Alan Aitken, Robert W. Williams, Susan Rutherford, John Mattson, John Autrey, and Karen Iwamoto, among many others. Each has contributed significantly to the quality and accuracy of the final product. The authors received free rein to research, organize and write the book as they thought it should be done. The work (including hopefully precious few errors and omissions) is the responsibility of the authors.

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]

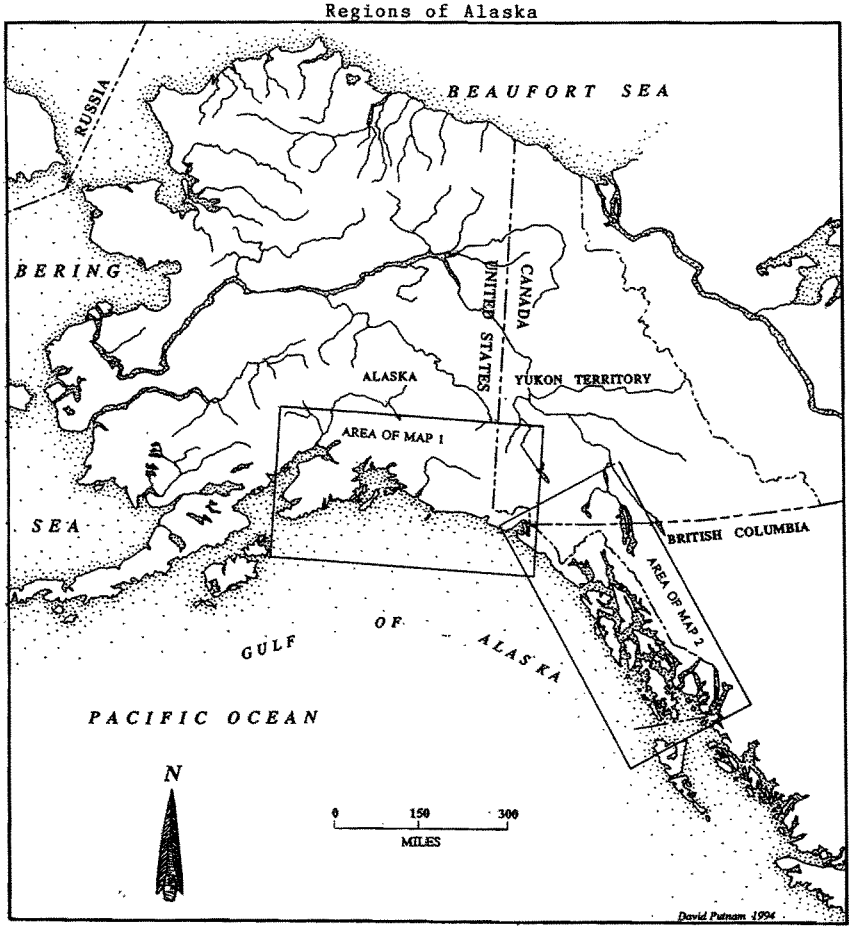
Other Alaskan Proposals
The proposed Norton Bay area forest reserve was withdrawn in 1903, but was restored to the public domain in 1907 after Langille investigated and recommended against its creation. Following investigations in the Cook Inlet area in 1905, Langille recommended a Talkeetna National 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 Tongass (Map 2) Regions of Alaska



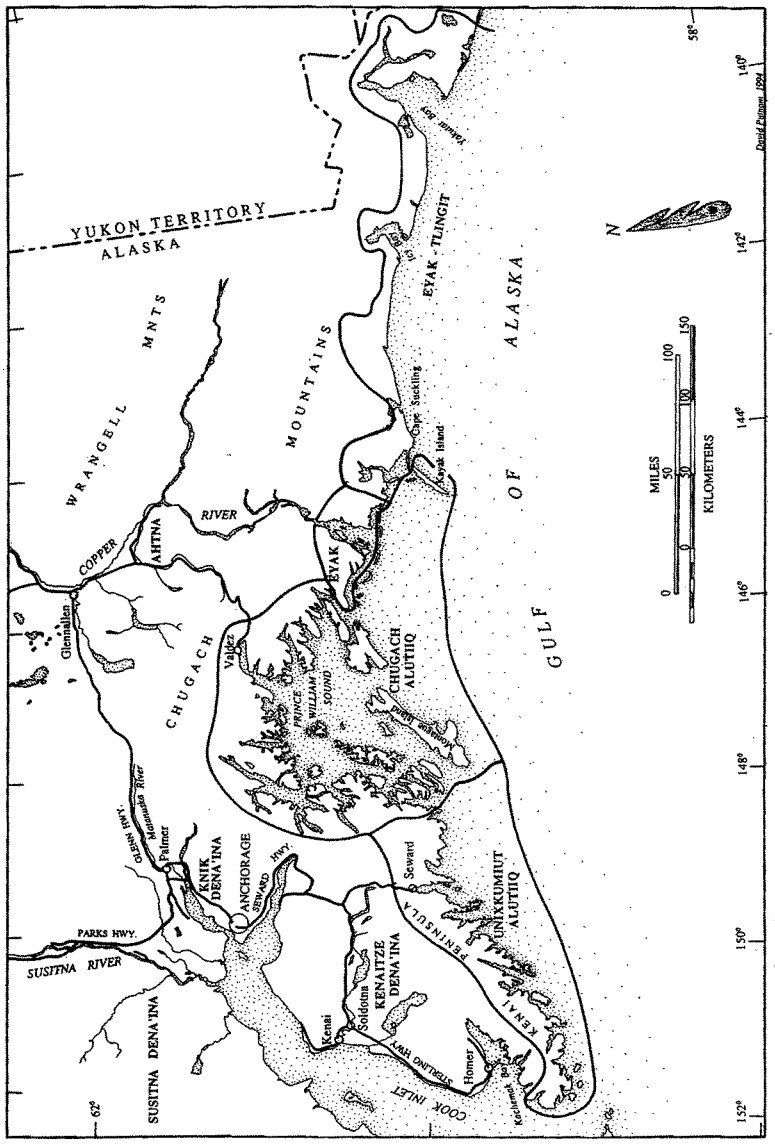


PLATE II. The Chugach Alutiiq (Pacific Eskimo) and People of the Chugach Region

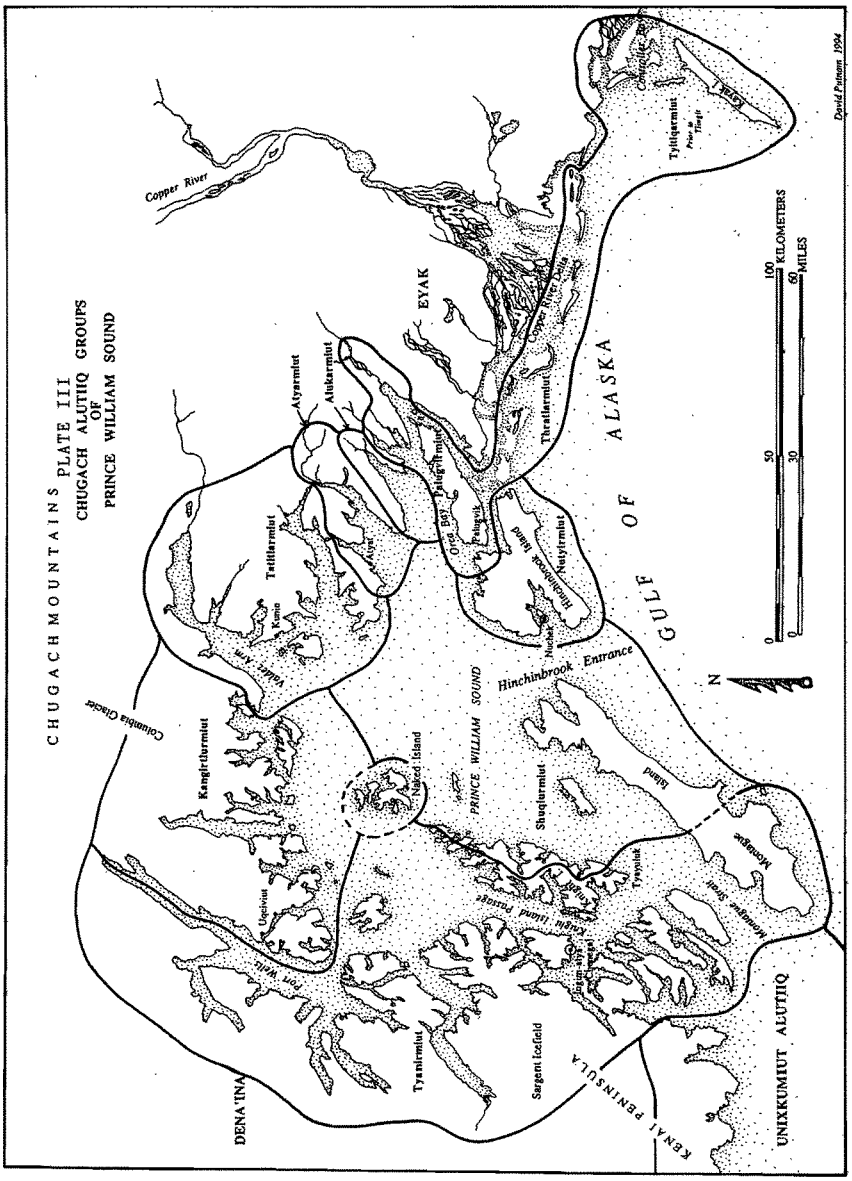


PLATE III
CHUGACH ALUTIIQ GROUPS
OF
PRINCE WILLIAM SOUND
CHUGACH MOUNTAINS
Copper River
EYAK
Atyarmiut
Alukarmiut
Tatitlarmiut
Kanglirtlurmiut
Columbia Glacier
Valdez Arm
Kunia
Atyat
Palugvitmiut
Orca Bay
Palugvik
Thraitlarmiut
Copper River Delta
Hinchinbrook Island
Nutyirmiut
Nuchek
Hinchinbrook Entrance
GULF OF ALASKA
Tyitiqarmiut
Prince of Tlingit
Kayak I.
Naked Island
PRINCE WILLIAM SOUND
Shuqiurmiut
Island
Montague
Montague Strait
Tyayuluk
Knight Island Passage
Knight I.
Uqciviut
Port Wells
Tyanirmiut
Sargent Icefield
DENA'INA
KENAI PENINSULA
UNIXKUMIUT ALUTIIQ
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 smoke-houses.

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]

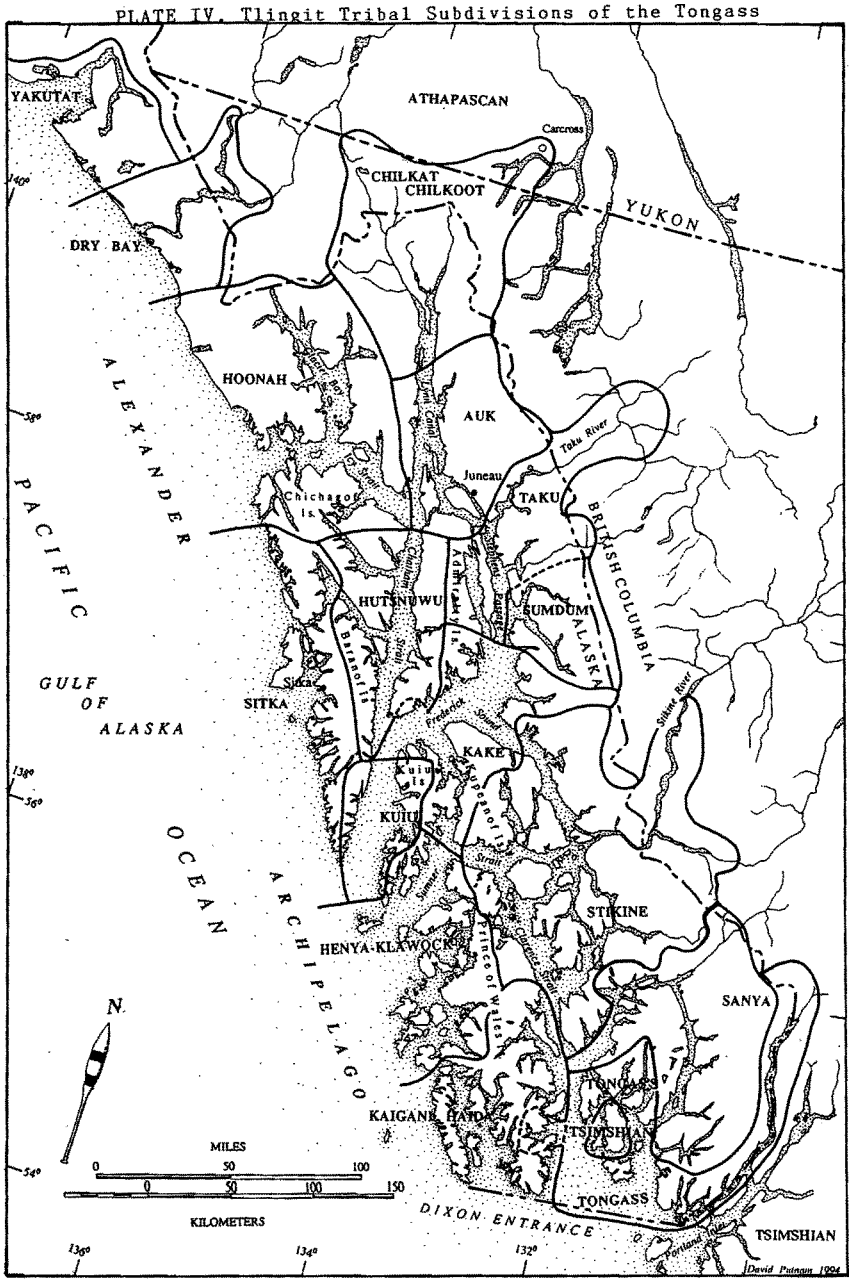
The Aboriginal Cultures of the Tongass Region

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 government 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.[30] 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."[31] 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).[32] 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).[33] For all of human evolution and most of our history, the entire human population subsisted as hunters, fishers, and gatherers.[34] 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 Aaní*** 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 Aaní*** 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 1493* (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.umn.edu/humanrts/cases/40-04.html).

From: Joe Sebastian
To: fortherecord (Energy)
Subject: S.4889
Date: Wednesday, December 2, 2020 5:57:57 PM

Senator Murkowski has made it her lifes work to unburden the American people of the Public Lands they all hold in common , by privatizing these same lands to special interest groups who will ruthlessly exploit said Lands, then export round logs to Orient as a result . While we be-moan the expanded destruction of the Amazon Rainforest , Government Officials think nothing of leveling America 's rainforest , The Tongass National Forest . Senator Murkowski uses Alaskas Native peoples as a foil to make the land giveaways seem like a natural progression of racial justice , nothing could be further from the truth . I came to Alaska in 1978 and have worked as a commercial salmon fisherman for the last 42 years , never missing a season. I want to tell the Committee the Oceans are in serious trouble due to Carbon- caused Climate Change. The land is also in trouble with more and more erratic weather events. For example , the last two days it rained 9.5 inchs of rain in 48 hours . Storms now routinelly create winds of 50 to 65 miles per hour. Or we have two years of drought in a row , which dry's up salmon streams . We do not need land giveaways , we need serious recognition of the severe changes that are getting worse ,year by year, and recognize that standing old growth forest's are one of the few natural allies mankind has in soaking up Excess Carbon from our atmosphere.

Statement of John Sisk on
S.4889: Alaska Native Claims Settlement Act Fulfillment Act of 2020
Public Lands, Forests & Mining Legislative Hearing
U.S. Senate Committee on Energy and Natural Resources
November 18, 2020

Dear Senator Murkowski:

I respectfully submit to you, as Alaska's Senior Senator and Chair of the Senate Committee on Energy and Natural Resources, this hearing statement on S. 4889, the Alaska Native Claims Settlement Act (ANCSA) Fulfillment Act of 2020, which will be considered as part of the Public Lands, Forests & Mining Legislative Hearing scheduled for Wednesday, November 18, 2020 in Washington, DC. Please include this statement in the written record of testimony on S. 4889.

My name is John Sisk and I live in Juneau Alaska. I am now retired after a career in the tourism business, conservation and public service. I hold a master's degree in forestry as well as a bachelor's degree in environmental biology. My work addressed a range of natural resource issues in Alaska, including advocacy to protect important salmon watersheds in the Tongass Timber Reform Act, participation in the State of Alaska team in the Pacific Salmon Treaty, and reauthorization of the Magnuson-Stevens Fishery Management and Conservation Act. I worked for the Southeast Alaska Conservation Council, the Alaska Department of Fish & Game, the Governor's Office under former Governor Tony Knowles, and The Nature Conservancy (where I helped provide staff support to the Tongass Futures Roundtable). I served two terms on the board of the Juneau Economic Development Council and also on the boards of the Alaska Conservation Foundation and the State Board of Forestry (as an alternate). I've been a strong advocate and at times worked hard to strike sound compromises that all parties can live with. I continue to strive for "sustainability" that includes viable businesses and jobs for Alaskans, ecosystem stewardship and conservation, and respect for Alaskans from all walks of life.

Madam Chairwoman, Senate Bill 4889 is fraught from the outset by the manner and date it was introduced. The introduction of controversial legislation in the 23rd month of a 24-month long session of Congress does not allow for reasonable, responsible legislative process. Following that introduction with a hearing only one week later is just as inappropriate. Many Alaskans feel blindsided. Here we are in Alaska, struggling with a distressing surge in the Covid-19 virus throughout the state, wrestling with the loss of most ferry service in southeast Alaska, watching a US federal election process in which the President clings to power in spite of losing the election, while families strive to stay economically viable and deal with over-stressed schools that are trying to adapt to the virus. Along comes last minute legislation to change the face of the Tongass. While there will be one all-too-quick hearing in Washington, D.C. there will be no opportunity for hearings in Alaska communities that would be affected by the proposed law. Most Alaskans cannot travel safely to Washington in a timely manner to work with your or other Senators' staff. Many people are wondering why the Alaska delegation seems to be trying to "slap-shot" a difficult issue into law by attaching it to a must-pass bill in the waning

weeks and days of the anticipated "lame duck" session of Congress. Doing so would not be right. It could sow long-lasting bitterness among many Alaskans even as it might please other Alaskans. I do not think that this is your intention, therefore I urge you to hold S. 4889 back after this hearing and call on all concerned parties to take up the issue anew in the next Congress. That would open the door of possibility for a more considerate resolution of a controversial issue.

There are many substantive conflicts and concerns with S. 4889. There is no question that southeast Alaska was originally Native land. There is also no question that Native people were disenfranchised from the salmon streams and fisheries of southeast Alaska, and that the federal lands in the region were designated without Native input and without adequate compensation for the loss of the wealth of the forest and rivers. That inequity sowed profound hardships that affect many Native people and families and communities to this day. Reconciling the troubles of the past with the promise of the future is an essential challenge and responsibility for all of us in southeast Alaska. ANCSA addressed these issues in a variety of ways including the establishment of for-profit corporations and a compensation fund. The federal recognition of Tribal governments, with their formal direct relationship with the federal government, continues to open doors for human services, social and cultural revitalization, education and training, land in trust, and more.

Over the years, from the Native Claims Settlement Act to the Alaska Lands Act (ANILCA) to the Tongass Timber Reform Act and beyond, conservation organizations and Native interests have demonstrated the value of both partnership and respectful conflict resolution. This can and should continue, and grow, and continue to be part of how we live together. Collaborative partnerships and community business development ventures are breaking new ground, opening up new possibilities. Altogether, these and other endeavors cast the future in a very favorable light, for all of us.

At the same time, S. 4889 currently presents real concerns and conflicts among the bill's advocates, conservationists and communities; the need for respectful debate and conflict resolution is at hand. For example, there is disagreement in Alaska today as to which of the five communities in S. 4889 qualify for corporation status under the specific requirements of the Alaskan Native Claims Settlement Act (ANCSA). Although advocates of S. 4889 rely heavily on the relevant Institute for Social and Economic Research (ISER) report as justification for this legislation, the ISER report casts significant doubt on the qualification of Tenakee Springs (in particular) and the other communities. Are there viable alternate ways to reconnect people with the land? Perhaps, yet the possibilities have yet to be explored fully. There is also an important companion discussion, waiting to be held, about alternative structures and means that could be available for Native people to reconnect, formally and directly, with the Tongass National Forest as collaborative managers and authorized stewards of the forest and its salmon watersheds. Such options have tremendous potential, are relevant to S. 4889 and should receive attention and consideration at the same time. Shooting the bill through Congress as the bell tolls would leave these prospects on the cutting room floor and could set them back for some time.

Significant, site-specific concerns and conflicts cloud some of the proposed land selections in S. 4889. In the place with which I am most familiar, Tenakee Inlet, three watersheds have been considered for conservation area status for many years: Goose Flats, Long Bay and Seal Bay. Goose Flats is not only beautiful but boasts a productive estuary and a near-shore crab fishery upon which local residents depend. All three areas feature productive salmon streams with high elevation headwaters that keep the waters cool; therefore they are relatively robust to climate warming and help sustain Tenakee Inlet salmon populations. Goose Flats, Long Bay and Seal Bay were also identified by the Nature Conservancy and the Audubon Society, and presented to the Tongass Futures Roundtable, as "Conservation Priority Watersheds." That recommendation was the result of comprehensive scientific analysis of the fish and wildlife productivity (and biodiversity) of every watershed on the Tongass. Those three watersheds, Goose Flats, Long Bay, and Seal Bay (along with parts of Crab Bay), rose to the top category as areas meriting additional conservation. However, the old growth forest stands in Long Bay are targeted for selection by a new ANCSA corporation in S. 4889, presumably setting the stage for that area to be logged.

On the opposite side of upper Tenakee Inlet is an area known as "The Portage." By portaging an isthmus only a few hundred yards wide one can cross between Tenakee Inlet and Port Frederick, a large marine water body connected to the Pacific Ocean via Icy Strait. The Portage area is a travel route that has been used for centuries, perhaps dating back to the time when it was likely an open water passage. S. 4889 proposes to move a large portion of land adjacent to the Portage area, including waterfront on both the Port Frederick and Tenakee Inlet sides, from the Tongass National Forest to a new ANCSA corporation. What can local people and current users expect from such a change? How would it be developed?

Another area of concern is the proposed land selection at Corner Bay. Directly across Tenakee Inlet from the small City of Tenakee Springs, Corner Bay is the home of Tenakee Logging Company (TLC), a successful business that provides high-quality lumber and pilings to homes and businesses on Chichagof Island. It also provides road access to southeast Chichagof Island for local residents as well as the occasional small tour boat. The proposed selection also has some unusual boundary lines. What would be the affect of moving this land into ANCSA corporation ownership? How would a new corporation coordinate with Tenakee Springs? With businesses that use the area?

These concerns about specific selection areas are examples of the legitimate questions and conflicts that remain regarding S. 4889. There is not time to do these questions justice in the lame duck Congress.

I want to thank you for the opportunity to submit testimony on S. 4889 and reiterate my recommendation that you carry this bill forward to 2021.

-- end --

SMITH RIVER ALLIANCE

P.O. Box 2129, Crescent City, CA 95531
www.smithriveralliance.org

December 3, 2020

Senator Mike Lee, Chairman
Senator Ron Wyden, Ranking Member
Public Lands, Forests, and Mining Subcommittee
304 Dirksen Senate Building
Washington, DC 20510

RE: S. 2875, Smith River National Recreation Area Expansion Act – Nov 18 hearing

Dear Chairman Lee, Ranking Member Wyden and Members of the Subcommittee:

Thank you for including the *Smith River National Recreation Area Expansion Act* in the hearing. This legislation has strong support from southwest Oregon community leaders for maintaining a pristine North Fork Smith River because it will be good for local communities and the travel and recreation industries along what is known as "America's Wild Rivers Coast."

We share this regional perspective. The Smith River Alliance (SRA) is a non-profit 501(c)(3) organization that worked with our elected representatives and partners on the campaign which established the Smith River National Recreation Area in 1990. SRA is based in Del Norte County California along the mainstem Smith River which is downstream from the 58,000 acres that would be added to the Smith River National Recreation Area with passage of S. 2875.

The downstream communities and their water suppliers including Del Norte County, the City of Crescent City, Gasquet Community Services District, Big Rock Community Services District, and the Crescent City-Del Norte Chamber of Commerce (representing over 300 businesses) are unified in their support for a permanent mineral withdrawal or mining ban --- an important provision of S. 2875.

Thank you again for holding a hearing on S. 2875. We hope the bipartisan support for this legislation will expedite its passage.

Sincerely,

Grant Werschkull, Co-Executive Director

Southeast Alaska
Conservation Council

2207 Jordan Ave
Juneau, AK 99801
(907) 586-6942
www.seacc.org

November 18, 2020

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

Dear Senator Murkowski, Senator Manchin, and Members of the Subcommittee,

Thank you for the opportunity to provide official comment for the record on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889), on behalf of our more than 7,000 supporters.

For 50 years, the Southeast Alaska Conservation Council has been dedicated to protecting the bountiful lands, forests, waters and wildlife of Southeast Alaska. We acknowledge and recognize the historic theft of Tlingit, Haida and Tsimshian territory as a wrong that must be righted, and as just one of many injustices that have been perpetrated on Alaska's Native Peoples and their sovereignty.

SEACC embraces any opportunity to collaborate with Alaska's Native Peoples to work for fair, equitable, and environmentally sustainable solutions to resolve past injustices. However, we adamantly disagree with using a for-profit corporate model to address those wrongs, which could ultimately lead to large scale clearcutting of intact old growth forests.

At SEACC we evaluate any proposal that would affect the lands and waters of Southeast Alaska by asking how it impacts the environment we rely on for our livelihoods and way of life as Southeast Alaskans. Every map showing proposed selections from the Tongass National Forest for the proposed new corporations includes land selections which will cause unacceptable impacts on key salmon fishery watersheds and recreation areas near each of these communities, in particular in Tenakee Inlet. Therefore, SEACC strongly opposes this bill as written and we will continue to oppose without fundamental improvements.

Submitted for the official record of the Public Lands, Forests and Mining Meeting, November 18, 2020.

Sincerely,
Meredith Trainor

Meredith Trainor
Executive Director

**WRITTEN TESTIMONY OF THE
REPRESENTATIVES OF THE
SOUTHEAST ALASKA LANDLESS NATIVE COMMUNITIES**

prepared for the

**SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING**

regarding

S. 4889, the Alaska Native Claims Settlement Act Fulfillment Act of 2020

December 2, 2020

Chairman Lee, Ranking Member Wyden, and Members of the Subcommittee:

We appreciate the opportunity to submit testimony regarding S. 4889, the Alaska Native Claims Settlement Act Fulfillment Act of 2020, which was considered during the Subcommittee's November 18, 2020 legislative hearing on multiple bills.

Our testimony focuses on Section 7 of S. 4889, which redresses the omission of the Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell from the Alaska Native Claims Settlement Act of 1971 (ANCSA) by authorizing the Alaska Natives enrolled to those communities under ANCSA to form Urban Native Corporations and to receive certain settlement land pursuant to ANCSA. The omission of these Native communities is an inequity that has had long term, negative impacts on these communities and the Alaska Natives enrolled to these communities. This inequity will continue without an Act of Congress. For that reason, we humbly ask for your due consideration and support.

Executive Summary and Responses to Concerns Raised by Members of the Subcommittee

In ANCSA, Southeast Alaska Was Treated Differently Due to a Previous, Partial Settlement of Land Claims; As A Result, the Landless Communities Were Unable to Appeal Their Exclusion

As Congress developed ANCSA in the late 1960s, it recognized that it had previously authorized a partial settlement of aboriginal land claims for Alaska Native groups in Southeast Alaska. Specifically, in 1935, Congress had authorized the Tlingit and Haida Indians to sue the federal government for land that was taken without compensation, and in 1968, the U.S. Court of Claims authorized a payment of $7.5 million to settle Tlingit and Haida land claims.

In 1971, just three years after the Tlingit and Haida Settlement, Congress enacted ANCSA, authorizing almost $1 billion and 44 million acres to settle the aboriginal land claims of all Alaska

Natives. As Congress developed ANCSA, Congress determined that the Tlingit and Haida settlement had failed to cover all of the claims of the Tlingit and Haida Indians, and so the Southeast Alaska region was included in ANCSA.

Although Southeast Alaska was included in ANCSA, the settlement for the Southeast region was very limited. Each of 12 villages received only one township of land rather than—as in other regions of Alaska—multiple townships based on population size. ANCSA returned roughly 12 percent of the lands in Alaska to the Native peoples of the state; the Native people of Southeast Alaska, by comparison, received less than 3 percent of their original homelands under ANCSA. Remarkably, Alaska Natives in Southeast Alaska—who made up 22 percent of the Alaska Native population in 1971—received less than 1½ percent of the land settlement. This was our reward for having the audacity to be the first to pursue our aboriginal land claims.

To add insult to injury, Congress in Section 11 of ANCSA, which lists villages outside of the Southeast Alaska region, included a provision that allowed unlisted villages to appeal their status. Section 16 of ANCSA, which lists villages in the Southeast Alaska region, does not include similar appeal language. When ANCSA passed, five Alaska Native villages were left out of the settlement: Wrangell, Petersburg, Ketchikan, Tenakee and Haines. No reason was given for their exclusion although, as detailed below, opposition from the Forest Service and the non-Native timber industry appears to have played a dominant role. Three of the five communities appealed their status, but because Congress failed to establish a right of appeal for Southeast villages, their appeals were rejected outright. Thus, for almost 50 years, the five Landless villages have sought the equitable redress of their exclusion from the 1971 aboriginal land claims settlement.

The Five Landless Communities Did Not Meet the Technical Criteria for *Village* Corporations as A Direct Result of the influx of Non-Native Settlers into the Five Communities; However, Congress Included Similarly Situated Native Communities in ANCSA

During the November 18, 2020 hearing, **Senator Heinrich** asked whether the five Landless communities met "the legal qualifications of population" for villages listed in ANCSA in 1971. We appreciate Senator Heinrich's question because it raises important issues of law and equity that underlie this legislation.

The Tlingit and Haida people have been fighting to establish a legal right to own a fraction of their traditional homelands for more than a century. In the 1940s, the 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 Native lands could not be seized by the government without the consent of the Tlingit landowners and without paying just compensation. To reverse this decision, Congress passed a Joint Resolution authorizing the Secretary of Agriculture to sell timber and land within the Tongass, "notwithstanding any claim of possessory rights" based upon "aboriginal occupancy or title." This action ultimately resulted in the *Tee-Hit-Ton Indians v. United States* decision, in which the U.S. Supreme Court held that Indian land rights are subject to the doctrines of discovery and conquest, and "conquest gives a title which the Courts of the Conqueror cannot deny." 348 U.S. 272, 280 (1955). **The Court concluded that Indians do not have 5th Amendment rights to aboriginal property. Instead, the Congress, in its sole discretion, would decide if there was to be any compensation**

whatsoever for lands stolen. And so, here we are. We start at a clear disadvantage. We have been told that we have no 5th Amendment rights to aboriginal property, and Congress, without explanation, excluded our communities from the 1971 settlement of land claims in ANCSA.

As a technical matter, like many other Native communities listed in ANCSA, the five Landless communities met most, but not all, of the nominal requirements set forth in ANCSA for *village* corporations; that is, in fact, why this legislation establishes five *urban* corporations. **As we detail below, the reason that the five Landless communities did not meet this technical requirement for *village* corporations was due to the influx of white settlers into the five Landless communities, an experience over which our people had no control.**

Villages in ANCSA generally were required to have a majority-Native population in order to establish village corporations. But unlike most regions of Alaska, a large population of white settlers had moved into the Southeast region by the early twentieth century to exploit the rich natural resources of what is now the Tongass National Forest—gold, timber, and salmon. It is our hope that our historical reality—the arrival of non-Native settlers in our region and their settlement in our communities—will not be held against us.

Fortunately, Congress *has* recognized and addressed this issue of non-Native settlement for other, similarly situated Native communities in Alaska. In ANCSA itself, the general criteria for villages—that a community must have a majority-Native population—did not prevent Congress from extending recognition to other traditional villages (in fact, *every* other traditional Alaska Native village of which we are aware) that technically did not meet the population criteria used to define villages under ANCSA, including at least two villages in Southeast Alaska (Saxman and Kasaan) in which village corporations were established and four urbanized villages (Kenai, Sitka, Juneau and Kodiak) in which urban corporations were established.

The fact that non-Natives made their homes in the five Landless Native communities in the early twentieth century should not be held against these communities; in fact, the opposite should be true. The five Landless communities have long, rich indigenous histories and our communities should have an opportunity to be recognized and to receive a sliver of our original homelands. Recognizing our five Landless communities would not open the door to similar efforts elsewhere in Alaska. We are not aware of even a single community elsewhere in the State of Alaska that finds itself in the same position. As detailed below, other Alaska Native communities like Nome also experienced a large influx of non-Natives in the early twentieth century yet were listed in ANCSA and were authorized to establish village or urban corporations. Southeast Alaska was different, and the inequities that resulted are redressed in this legislation.

<u>They're Going to Clear Cut the Tongass!</u>

In the late 1960s, the then-powerful non-Native timber industry held significant political sway within the Southeast Alaska region; a pulp mill and sawmills were located within four of the five communities. Congress did not explain why it chose to exclude *these* five communities, and we can only wonder whether it was politically expedient to be silent as to the true reason: timber.

Opponents of our land claims have always objected to our claims based on their own parochial views of natural resource development. For decades, the Forest Service and the timber industry

actively fought indigenous land claims in the Tongass over fears that Native peoples would *not* develop timber or support the timber industry. We document some of this history below. Some environmental groups today oppose our legislation over fears that we *would*, as owners of the land, have the *right* to develop timber resources. We are certain that you will find their testimony to this effect in the hearing record. Truly, we are damned if we do, and we are damned if we don't. **But ultimately, for our people, what these arguments really boil down to is this: "We don't trust those people to make responsible decisions about their land."** These sentiments are the epitome of degrading and paternalistic thoughts towards Native people that should no longer be tolerated.

In this context, some of the opponents of the Landless claims have raised the specter of the so-called "Sealaska land bill," which was enacted by Congress in 2014. The Sealaska land bill identified specific lands within the Tongass for conveyance to Sealaska Corporation, the regional Alaska Native corporation for Southeast Alaska, to complete its 1971 entitlement under ANCSA. Sealaska has harvested some timber on some of its lands over the course of several decades, and this was largely the basis (for some) for opposing that legislation. What these groups probably will not tell you is that Sealaska entered into one of the largest forest carbon-sequestration contracts in U.S. history after it received its final entitlement lands in 2014. The reality is that Sealaska and other Alaska Native corporations in Southeast Alaska are working with local communities and even conservation groups to build and support environmentally responsible businesses in the Tongass. In short, we no longer live in the 1970s, and it is unfair for those who opposed timber development in the Tongass during that era to continually deploy the specter of decades-old logging politics and practices as a reason to oppose indigenous rights.

The legislation before this Subcommittee would convey 115,200 acres in total to the five Landless communities (one township, or 23,040 acres each) in Southeast Alaska, a region that comprises 21.9 million acres of federal land (of 22.9 million acres total in the regional land base). This legislation returns ½ of 1 percent of that land to Native ownership.

One organization has submitted testimony articulating their concern that the legislation would convey 4,800 acres of the so-called TU-77 watersheds in Southeast Alaska to the new Native corporations. The TU-77 comprise 1.9 million acres of watersheds in the Tongass National Forest. It is remarkable, frankly, that our proposed selection overlaps just .25 percent of these massive TU-77 areas that have been earmarked for conservation in the Tongass. It is even more remarkable given the fact that 80 percent of the Tongass is already effectively set aside for conservation, over 6.6 million acres of which has been set aside into permanent conservation status through direct acts of Congress and 7 million additional acres insulated from development through administrative land planning. The fact that the Tongass is "public" does not mean that those who advocate to set aside more of it do not have their own parochial interests in its use. The reality is that our Native land selections must come from the "scraps" left over after every other stakeholder interest in the Forest has selected or set aside land to serve their own interests.

<u>The ISER Report to Congress—The Point of the Report Is the Truth of Our History</u>

In 1993, Congress instructed the Secretary of the Interior to investigate the exclusion of the Landless communities from ANCSA. In turn, the U.S. Forest Service (USFS), the Bureau of Land Management (BLM), and the Bureau of Indian Affairs (BIA) contracted with the University of

Alaska's Institute of Social Economic Research (ISER) to investigate why the Landless communities were excluded from ANCSA. This research materialized into a lengthy report titled, "A Study of Five Southeast Alaska Communities" ("ISER Report"), which was to be used by Congress to help determine "whether the exclusion of the five [Landless] study communities was intentional or inadvertent." The ISER Report provides a detailed overview of "how the historical circumstances and conditions of the study communities compare with those of the Southeast communities that were recognized under ANCSA."

The ISER Report does not draw any specific conclusions about the validity or invalidity of claims that the Landless communities met (or did not meet) the general criteria for inclusion in ANCSA. The ISER Report does demonstrate, however, that all five of the Landless communities share the same litany of cultural, historical, and social characteristics that define traditional Alaska Native villages. These characteristics are addressed in more detail below.

The Native Village of Tenakee

Somewhat remarkably, at least one individual has submitted testimony suggesting that the village of Tenakee "was never a Native village." As detailed by the ISER Report, Tenakee has a long history as a Native village. But the reality is that the Native population in Tenakee has largely been displaced by a non-Native population, and so our testimony must address this history.

During the period leading up to ANCSA, the federal government recognized Tenakee as a Native place. Tenakee was identified as an "Indian settlement" in a 1935 executive order *excluding Tenakee from the Tongass National Forest* and, in 1965, the federal government rejected a non-Native application for a trade and manufacturing site at the Indian village in Tenakee in recognition of the "possessory rights to this tract" and use and occupancy of the site by the Native people of Tenakee.

Unlike the four large Landless communities, the1970 Census showed that Tenakee had fewer than 25 Native residents in 1970. However, 64 Native individuals enrolled to Tenakee, and Tenakee in 1970 shared many similarities with the Southeast village of Kasaan, which, unlike Tenakee, was listed in ANCSA. Kasaan, which had only 8 Native residents according to the 1970 Census, was ultimately able to demonstrate that it *did in fact meet the requirements* for a listed village. This may reflect the fact, as acknowledged in the ISER Report, that the 1970 Census likely undercounted the Alaska Native population. The Census did not take into account Alaska Native movement between Native villages, which was common at the time. The residents of Tenakee did not have an opportunity to make the same showing that Kasaan was successfully able to make because Tenakee was not listed in ANCSA.

The similarities between Tenakee and Kasaan are compelling. Kasaan, like Tenakee, experienced an out-migration of Native residents due to impacts of unregulated, non-Native fishing. **But, as detailed in the ISER Report, Kasaan repopulated and revitalized as a Native community after it was given the opportunity to incorporate under ANCSA.**

PRIVILEGED & CONFIDENTIAL

The Bottom Line: "Technicalities" Do Not Erase the Native-ness of Our Five Communities

In failing to list these communities, Congress precluded 4,400 Alaska Natives from five traditional Native communities in Southeast Alaska from forming Alaska Native corporations with land in and around their communities and pursuing the economic, social, and cultural benefits of operating an Alaska Native corporation in each of their respective communities.

As noted above, none of the five Landless communities met all the requirements under ANCSA to incorporate as village corporations. And, as discussed below, it is impossible to articulate whether the five Landless communities "met" the requirements for incorporation as urban corporations because, in fact, ANCSA did not establish any specific requirements for urban corporations; the point of the urban corporation model was to provide a solution for communities that did not meet ANCSA's definition of a village due to the size of the village's non-Native population. However, like the Alaska Native populations in the four towns that were authorized to incorporate urban corporations, the five Landless villages "originally were Native villages, but [came to be] ... composed predominantly of non-Natives."

As you review testimony submitted by a few of our detractors, you will note that most objections to legislation introduced on behalf of our communities focus not on the right of the Landless communities to establish Native corporations but instead arise from a generalized fear about what we might do with the land conveyed to our people. Specifically, you will see concerns about timber development. This may be unavoidable given the fact that our homeland is a forest. In any event, these fears are unfounded and inappropriate. First, given the modern timber economy in our region, the threat of mass timber harvesting is, as a practical matter, an empty fear. No one has engaged in large-scale timber harvesting in our region in decades, and we challenge anyone to demonstrate otherwise. Second, as noted above, we no longer live in the clear-cut-the-forest economy of the 1970s, and it is unfair for those who opposed timber development in the Tongass during that era to continually raise the specter of logging 40-50 years later. Third, the only federal land available for conveyance to the five Landless communities comes from the Tongass National Forest, and any perceived threat to the integrity of the Tongass tends to spur both local and national resistance. We understand that political reality, and we recognize that your constituents will raise these concerns. But the fact is that these lands were taken from our people; we do not recognize generalized fear about the capacity of Native landowners to make decisions for ourselves to be valid grounds for precluding Native ownership of aboriginal homelands, and neither should the Members of this Subcommittee.

Congress has significant discretion to settle aboriginal claims, and Native American claims have often been settled by Congress not only out of legal obligation but as a result of "moral and political persuasion." Congress acted both in ANCSA and—on numerous occasions—after ANCSA to extend the benefits of the Settlement to Alaska Native communities that had been impacted by non-Native settlement.

Congress in 1971 and in the years following took steps to extend the benefits of the settlement to identifiable Alaska Native groups where equity demanded it. In ANCSA itself, four "urban" communities were authorized to incorporate despite the fact that they did not meet ANCSA's definition of a Native village or group. Similarly, although the Governor of Alaska specifically objected to the establishment of a Native corporation for Nome, Congress authorized Nome to

incorporate as a village corporation. After ANCSA was enacted, in 1980, Congress authorized seven additional communities in the Koniag region to incorporate as villages under ANCSA.

Congress provided no reason to exclude the five Landless villages in 1971. Congress has taken steps to resolve other inequities under ANCSA, and the entire Alaska Native community recognizes that the Landless claims still need to be resolved. No other Native communities in Alaska find themselves in the same unique position. We believe it is clear that our villages were left out due to the political influence of the timber industry in the 1960s, and the notion that some groups would prefer to see us left out of ANCSA today out of fear that an Urban Corporation might harvest some amount of timber reeks of irony and paternalism.

Every other Native community in Alaska that experienced an influx of non-Native settlers, like the five Landless communities, was authorized by Congress to have a village or an urban corporation under ANCSA. This is the truth, and Congress should consider this truth when others throw technicalities in front of our pleas for justice. The five Landless villages should be allowed to fully participate in the United States' settlement of aboriginal land claims in Alaska.

Other Questions Raised by Members of the Subcommittee

During the November 18 hearing, Senator Heinrich asked whether the mineral rights associated with lands conveyed to the Urban Corporations would be retained by the Government or would be conveyed to Sealaska Corporation, the regional Native corporation for Southeast Alaska.

Under the terms of ANCSA, regional Alaska Native corporations receive the subsurface estate under the surface estate conveyed to a village or urban corporation, subject to valid existing rights, including valid mining claims. This legislation applies all of the usual rules and legal requirements of ANCSA to the proposed establishment of the five new Native corporations. Although Sealaska has not actually developed any subsurface minerals in Southeast Alaska over the last 49 years—other than some minor quarrying activity—it is worth noting that, under the terms of ANCSA, 70 percent of any revenues generated by a regional corporation from the development of subsurface revenues must be shared with the entire Alaska Native community through the other Regional Corporations. In any event, the fact that Sealaska would receive the subsurface estate only reflects a reality that the entire Native population of Southeast Alaska was given short shrift in the context of ANCSA as Sealaska's ownership in Southeast Alaska is minimal.

During the November 18 hearing, Senator Heinrich also asked whether any of the proposed Landless selections would be located within Misty Fjords National Monument. None of the proposed selections are located within National Monuments, National Parks, Wilderness Areas or so-called "LUD II" conservation areas, which are special conservation areas within the Tongass set aside by Congress. This is not to say, however, that Alaska's indigenous people do not have legitimate aboriginal ties to Misty Fjords. Conservation areas in Alaska—and for that matter, throughout the United States—were largely set aside without regard to indigenous rights.

Issues Raised by the U.S. Forest Service

The U.S. Forest Service (USFS) in testimony submitted to this Subcommittee identified a number of technical issues they would like to see resolved. We note that USFS did not propose solutions

to the technical issues raised in their testimony, and for this reason we commit to work with USFS to resolve issues to the greatest extent possible.

The USFS notes that, "although the total acreage proposed for transfer to new urban corporations is a small portion of the National Forest System lands within southeast Alaska, due to the high value of these lands for forest management activities and public use, the Forest Service anticipates that these selections could adversely impact the implementation and viability of the 2016 Forest Plan broadly across program areas."

The challenge we face is that—in the words of Senator Lisa Murkowski—every acre of the Tongass is precious to someone. In working to identify parcels of land for conveyance to the five Landless communities, we truly do find that every acre of land proposed for conveyance has been classified by the USFS or categorized by third party groups for one public use or another.

USFS notes that the "proposed selection acreage will decrease the Tongass National Forest land base suitable for timber by nearly 37,000 acres, or 10 percent." First, it is notable that only 370,000 acres of the 17 million-acre Forest is categorized as suitable for timber development, signifying that the vast majority of the Forest has been set aside for non-timber uses. Second, it is remarkable, frankly, that the 115,200 acres identified for selection by the Landless communities overlaps only 37,000 acres of the Tongass land base identified as suitable for timber. Clearly, we are under pressure to avoid selections in many other areas, including all conservation areas, that are *not* classified as suitable for timber development.

USFS notes that the Landless selections include about 40,500 acres of land designated by the 2016 Forest Plan as Old Growth Habitat, 21,200 acres of land designated as Scenic Viewshed, and 2,850 acres designated as Semi-Remote Recreation. It is important to note that this is acreage allocated to specific land use designations, or LUDs, in the Tongass Forest Plan. It is important to view these numbers in context. For example, 2,008,582 acres are set aside under the 2016 Forest Plan within the Semi-Remote Recreation LUD alone. About 5 million acres of the Tongass are considered "productive old-growth"—which is a subset of total old growth—of which 4.5 million acres are set aside in conservation areas.

The USFS also notes the following selections in roadless areas:

> The selections include nearly 9,000 acres that are subject to the 2020 Alaska Roadless Rule direction to modify the timber land suitability and become available for timber harvesting. These 9,000 acres may be considered a nearly 50 percent addition to the estimated 18,650 acres that were projected to be harvested in roadless areas under the Alaska Roadless Rule.

It is unclear whether the inclusion of these roadless areas are of concern to the USFS. As a matter of public policy, it seems reasonable to include both roadless and roaded areas of our homeland within the acreage designated for settlement of our land claims. The USFS notes that it recently identified certain roadless areas within the Tongass to be suitable for timber harvesting. This decision was the subject of public debate. However, the potential selection of roadless areas by the Landless communities does not suggest that the Landless communities will deem such areas to be suitable for timber harvest. The fact that Indian tribes and Alaska Native corporations have

an interest in economic development—among many other interests in the management of Native lands—does not mean that Indian tribes or Alaska Native corporations will deem resource development to be appropriate within a given area. We hope that is not the presumption here with regard to the five Landless communities. Moreover, the inclusion of this small amount of roadless acreage is entirely reasonable given that 9.6 million acres of the 16.8 million-acre Tongass are inventoried roadless.

The USFS also notes that the proposed selections would impact three timber harvest projects currently in planning, including 17 percent of the Central Tongass Project, 5.2 percent of the South Revilla Project and 2.5 percent of the Twin Mountain II Project. The USFS notes that these are "not large percentages of the overall projects," but suggests that "the inclusion of selections within the three project areas is likely to impact the Forest Service's ability to complete a timely review under the National Environmental Policy Act, issue decisions on schedule, and offer timber in fiscal years 2021 and 2022." It is unclear whether or how the Landless communities can possibly avoid impacting proposed project areas, with are sub-regional in scope. The Landless communities are effectively left to choose from the scraps to begin with—approximately 6 million acres of the Tongass is set aside within Wilderness LUDs, and approximately 7.5 million acres of the Tongass is within Natural Setting LUDs, leaving just 3.36 million acres within development LUDs (including scenic viewsheds). Municipalities have already selected much of the land near the Landless communities themselves. Focusing largely on selections within the development LUDs—as we have been pressed to do—the Landless communities generally have sought to identify large, contiguous blocks located within reasonable proximity to the Landless communities, which necessarily results in overlap with multiple land use designations and selections within timber harvest projects that span sub-regions of the Tongass.

Finally, the USFS indicates that it "anticipates the proposed conveyance of the lands will affect the Tongass National Forest's delivery of its recreation program," including "13 developed recreation sites (3 camping sites, 7 public use cabins, 1 picnic site, 1 shelter, 1 trailhead), 3.5 miles of hiking trail, 26.5 miles of designated Off Highway Vehicle trails, 90.9 miles of open roads, and an estimated 12 marine access facilities." USFS has also "identified that outfitter/guide activity is [currently] authorized under special use permits within or adjacent to more than half of the selected parcels."

We would like to work with the USFS to see if we can resolve issues involving specific recreational sites. However, with regard to roads and trails, and with regard to public access, the USFS is aware that any conveyances of land to the Urban Corporations "shall be" subject to the reservation of public easements under Section 17(b) of ANCSA. Under Section 17(b), the Bureau of Land Management (BLM) is required to "identify public easements across lands selected" by Alaska Native corporations, including lands which are reasonably necessary to guarantee "a full right of public use and access for recreation [including camping], hunting, transportation, utilities, docks, and such other public uses ..." BLM must "consult with appropriate State and Federal agencies, shall review proposed transportation plans, and shall receive and review statements and recommendations from interested organizations and individuals on the need for and proposed location of public easements." 17(b) easements are reserved and managed by the Federal Government. The rights are reserved when the BLM conveys land to an Alaska Native corporation under ANCSA.

PRIVILEGED & CONFIDENTIAL

Further, this legislation, unlike ANCSA, preserves public access to all of the lands conveyed to the new Urban Corporations, guaranteeing in perpetuity that the land shall "remain open and available to subsistence uses, noncommercial recreational hunting and fishing, and other noncommercial recreational uses by the public." The legislation preserves all existing special use permits and provides for the issuance of an additional 10-year special use permit to each permit holder. The legislation also preserves the right of the USFS and its designees to continue to use the roads and other transportation facilities conveyed with the land to the Urban Corporations. By our count, *eight pages* of the legislation are devoted to preserving public access and access to roads, trails, and other facilities by the USFS and others.

Again, it is impossible for the Landless communities to pursue conveyances without overlapping areas currently in use by members of the public. It is *for this reason* that the legislation has been amended to guarantee public access on roads and trails, guarantee access to the land for recreational uses and subsistence hunting and fishing, and preserve and extend all existing special use permits. All of this is in addition to the existing process—under Section 17(b) of ANCSA—that provides for the reservation of public easements on the land. It is unclear why the USFS does not mention or discuss the several pages of language in the legislation detailing these guarantees of public access. In our view, the legislation could not be clearer that public access will be maintained. But we are willing to work with the USFS on these issues.

Background: The Tlingit and Haida Settlement, ANCSA, and the Landless Villages

In order to properly introduce the "Landless" legislation, we must first provide an overview of the Tlingit and Haida Settlement, the mechanics of ANCSA, and a brief historical description of the five Landless Alaska Native communities in Southeast Alaska.

The Tlingit and Haida Settlement

Congress has significant discretion to settle aboriginal claims, and Native American claims have often been settled by Congress not out of legal obligation but as a result of "moral and political persuasion."[1]

ANCSA was the second of two agreements to settle aboriginal land claims authorized by Congress for Alaska Natives. The first of the two major settlements was the Tlingit and Haida Settlement.[2] This settlement was achieved through a lawsuit brought by the communities of the Tlingit and Haida Indians against the federal government.[3] The lawsuit was made possible through the enactment of the Jurisdictional Act of June 19, 1935, which authorized Tlingit and Haida Indians to sue the federal government for land that was taken or used by the United States without providing compensation.[4] The Act also authorized a community settlement, which would have provided "'all persons of Tlingit or Haida blood, living in or belonging to any local community of these tribes' [] in Southeast Alaska" a share of the judgment.[5] Administration of a subsequent

[1] ISER Report at 1-2 (citing LUCY KRAMER COHEN, ET AL., COHEN'S HANDBOOK OF FEDERAL INDIAN LAW 3-7, 12-13 (1982)).
[2] ISER Report at 3.
[3] *Id.* at 25; *see also Tlingit and Haida Indians of Alaska v. United States*, 389 F.2d 778, 781 (Ct. Cl. 1968).
[4] ISER Report at 25; *see also* Jurisdictional Act of June 19, 1935, ch. 275, 49 Stat. 388 (1935).
[5] ISER Report at 25.

settlement was to be administered by the Tlingit and Haida Central Council ("Central Council"), which was recognized as the beneficiary entity of the settlement and the regional tribal organization.[6] The Central Council worked to create a roll of tribal membership through input from "tribal communities," which would be sent to the Secretary of the Interior for approval.[7]

The Tlingit and Haida lawsuit was not organized and filed until the 1950s. In 1959 the U.S. Court of Claims held that the Tlingit and Haida Indians established aboriginal title to the land in Southeast Alaska and were entitled to compensation from the United States.[8] In 1968, after almost a decade of litigation and work from the Central Council and communities, the Court of Claims valued the loss of Tlingit and Haida lands at $7,546,053.80 and held that the claimants were to receive compensation in that amount.[9] The payment was ultimately distributed to the Tlingit and Haida Indians pursuant to the Act of July 13, 1970.[10]

ANCSA

In 1971, just a few years after the Tlingit and Haida Settlement, Congress passed ANCSA[11] to settle the aboriginal claims of all Alaska Native groups that arose from the United States' acquisition of Alaska from Russia. ANCSA extinguished all Alaska Native aboriginal land claims and created a corporate structure for governing the assets awarded to the communities that were eligible for benefits under ANCSA.[12] In total, ANCSA awarded almost $1 billion and 44 million acres of land to Alaska Native communities.[13]

ANCSA dictated a very different structure for distributing the settlement award as compared to the payment associated with the Tlingit and Haida Settlement and the treaty and reservation structure common in the lower 48 states. Rather than dividing the land into reservations to be held "in trust" for Native communities by the federal government, or appointing a tribal council to divide a monetary award, Congress in ANCSA relied on modern business structures to manage settlement assets.[14] Specifically, ANCSA divided Alaska into twelve regions, directing Alaska Natives from each of those regions to establish regional corporations. A thirteenth regional corporation was established for Alaska Natives who had left Alaska before ANCSA's passage.

ANCSA also created village and group corporations as well as four urban corporations. These smaller, community-oriented corporations are organized under State law either as for-profit or nonprofit corporations "to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of" a Native village, Native group, or the Native residents of an urban community, respectively.[15]

---

[6] *Id.* at 25, 31.
[7] *Id.* at 31.
[8] *Id.* at 25.
[9] *Id.* at 34.
[10] Pub. L. No. 91-355, 84 Stat. 431 (July 13, 1970).
[11] Alaska Native Claims Settlement Act, 43 U.S.C. §§ 1601-1629h (2018).
[12] ISER Report at 5.
[13] *Id.* at vii.
[14] *Id.* at 16.
[15] 43 U.S.C. §§ 1602(j), (n), (o).

Alaska Native individuals were to benefit from ANCSA by becoming shareholders in their respective regional corporation and the village, group, or urban corporation established for their community. **ANCSA established a process by which every Alaska Native individual would enroll to the community in which he or she resided on the date of the 1970 Census enumeration *or to the community where they or their families had traditionally lived.***[16]

In the decades that have passed since ANCSA was enacted, Congress has sought to significantly strengthen the role of Alaska Native corporations as Native-serving institutions. For example, ANCSA as enacted provided for the alienation of stock from Native ownership 20 years after enactment, a policy reflective of the United States' allotment era policies of distributing tribal assets to individual Indians, the ownership of which would become alienable within, in many cases, 20 years. But the Indian status of Alaska Native corporations was not frozen in time in 1971, just as the Indian status of tribes was not frozen in time during the allotment era or the termination era, or through the passage and implementation of ANCSA. In 1988, Congress enacted the so-called 1991 amendments, reversing course and establishing that Native corporation stock could not be alienated unless Alaska Native stockholders so choose.

Congress has amended ANCSA numerous times to grant Native corporations new rights, duties, and preferences, many of which overlap with rights, duties, and preferences granted to sovereign tribes. For example, though a non-Native can inherit stock from a Native spouse or parent, Congress required that only Alaska Natives have the power to vote as stockholders. Congress has exempted Native corporations from certain employment restrictions contained in Title VII of the Civil Rights Act to protect shareholder hiring. 43 U.S.C. § 1626(g). Congress has enacted laws protecting undeveloped ANCSA lands from taxation and involuntary alienation, 43 U.S.C. § 1636(d). Congress has required federal agencies to consult with Alaska Native Corporations "on the same basis as" federally-recognized Tribes. Pub. L. No. 108-447, 118 Stat. 2809, 3267 (2005) (amending Pub. L. No. 108-199, 118 Stat. 3, 452 (2005).). These are actions taken to ensure that the actions of Congress, though ANCSA and its amendments, serve the long-term interests of the Alaska Native owners of Native corporations because of their status as Indians. These actions reflect the fact that ANCSA, and the dozens of statutes that amend ANCSA, are part of the framework of "Indian legislation enacted by Congress pursuant to its plenary authority under the Constitution of the United States to regulate Indian affairs."[17]

Village Corporations

For an Alaska Native community to incorporate as a village corporation, the community had to qualify as a "Native village," which ANCSA defined as a village listed in Sections 11 or 16 of ANCSA or any other village that met certain minimum requirements.[18] As discussed below, Section 11 of ANCSA included a provision that generally allowed any unlisted village an opportunity to demonstrate that it met the eligibility criteria for forming a village corporation.

---

[16] ISER Report at xiii.

[17] Pub. L. 100–241, §2, 101 Stat. 1788 (1988).

[18] 43 U.S.C. § 1602(c) ("Native village" means any tribe, band, clan, group, village, community, or association in Alaska listed in sections 11 and 16 of this Act, or which meets the requirements of this Act, and which the Secretary determines was, on the 1970 census enumeration date (as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance), composed of twenty-five or more Natives;").

PRIVILEGED & CONFIDENTIAL

For all regions of Alaska other than the Southeast Alaska region, villages presumed to be eligible to establish village corporations were listed in Section 11 of ANCSA.[19] Village corporations established for villages listed in Section 11 were authorized to receive up to seven townships of land based on the size of the village population.

Because the Tlingit and Haida Indians had received a partial settlement of aboriginal land claims in 1968, albeit only through a cash settlement and no land, Southeast Alaska was treated differently. Ten Native communities presumed to be eligible to establish village corporations were listed in Section 16 of ANCSA.[20] Village corporations established for villages listed in Section 16 were limited to selecting just one township of land each, despite the large Native populations of many of the Southeast villages.

Under ANCSA, in order for any listed or unlisted village to qualify to establish a village corporation, the Secretary of the Interior was required to make a determination that the village was "composed of" at least 25 Native individuals on the date of the 1970 Census.[21] No reason was given by Congress for establishing the minimum village Native population to be 25.[22] Additionally, the village could not be modern and urban in character, nor could a majority of residents be non-Native.[23] The BLM promulgated regulations to implement these criteria at 43 C.F.R. § 2651.2(b):

> (1) There must be 25 or more Native residents of the village on April 1, 1970, as shown by the census or other evidence satisfactory to the Secretary. A Native properly enrolled to the village shall be deemed a resident of the village.
>
> (2) The village shall have had on April 1, 1970, an identifiable physical location evidenced by occupancy consistent with the Natives' own cultural patterns and life style, and at least 13 persons who enrolled thereto must have used the village during 1970 as a place where they actually lived for a period of time: Provided, That no village which is known as a traditional village shall be disqualified if it meets the other criteria specified in this subsection by reason of having been temporarily unoccupied in 1970 because of an act of God or government authority occurring within the preceding 10 years.
>
> (3) The village must not be modern and urban in character. A village will be considered to be of modern and urban character if the Secretary determines that it possessed all the following attributes as of April 1, 1970:
>
> > (i) Population over 600.
> >
> > (ii) A centralized water system and sewage system that serves a majority of the residents.

---

[19] 43 U.S.C. § 1610(b)(1).
[20] 43 U.S.C. § 1615(a).
[21] 43 U.S.C. § 1610(b)(2).
[22] ISER Report at 11.
[23] 43 U.S.C. § 1610(b)(2)(B). Note that Alaska Natives made up just 27 percent of Saxman's population and 27 percent of Kasaan's population, so, clearly exceptions were made, at least in the case of Southeast Alaska. ISER Report at xii.

> (iii) Five or more business establishments which provide goods or services such as transient accommodations or eating establishments, specialty retail stores, plumbing and electrical services, etc.
>
> (iv) Organized police and fire protection.
>
> (v) Resident medical and dental services, other than those provided by Indian Health Service.
>
> (vi) Improved streets and sidewalks maintained on a year-round basis.
>
> (4) In the case of unlisted villages, a majority of the residents must be Native, but in the case of villages listed in Sections 11 and 16 of the Act, a majority of the residents must be Native only if the determination is made that the village is modern and urban pursuant to subparagraph (3) of this paragraph.

As noted above, ANCSA included a provision that gave unlisted villages a chance to demonstrate that they met the eligibility criteria for forming village corporations. Specifically, Section 11 of ANCSA, which lists villages outside of the Southeast Alaska region, included a provision that allowed any village not listed in Section 11 an opportunity to qualify as a Native village if the Secretary made a determination, within two and a half years, that the village met all of the criteria applicable to Native villages, as detailed above.[24]

Critically, however, Section 16 of ANCSA, which lists villages in the Southeast Alaska region, did not include language authorizing the Secretary to reconsider the status of unlisted villages in the Southeast region. Three of the Landless communities—Tenakee, Ketchikan, and Haines—appealed their unlisted status to the Alaska Native Claims Appeal Board ("ANCAB"). The ANCAB denied all three appeals, finding that Congress' failure to provide an explicit right of appeal to unlisted Southeast Alaska villages was apparently intentional (but unexplained) and foreclosed the opportunity to pursue such an appeal with the Secretary of the Interior.[25] In sum, no due process was provided to unlisted Alaska Native villages.

Group Corporations

Under ANCSA, a "Native group" is defined as "any tribe, band, clan, village, community or village association of Natives in Alaska composed of less than twenty-five Natives, who comprise a majority of the residents of the locality."[26] Native groups were authorized to incorporate group corporations,[27] and Native group corporations were entitled to receive up to 23,040 acres of land surrounding the group's locality.[28]

---

[24] 43 U.S.C. § 1610(b)(3).
[25] *Id.* at xii (citing *In Re: Appeal of Ketchikan Indian Corp.*, 2 A.N.C.A.B. 169, 171 (Dec. 5, 1977)).
[26] 43 U.S.C. § 1602(d) (emphasis added).
[27] *Id.* § 1602(n).
[28] *Id.* § 1613(h)(2).

At least one early version of legislation that ultimately became ANCSA defined Native "groups" more expansively.[29] For example, Governor Wally Hickel established a Task Force—a committee comprised of State officials, representatives of the Alaska Federation of Natives, and other representative leaders of the Native community—to develop legislation that was eventually introduced in the U.S. Senate as S. 2906.[30] That bill called for the enrollment of every Native to one Native group, with each Native group to determine its own membership and enrollment. Alaska Natives under this model could have enrolled to the villages where they currently lived, or to the villages where they or their ancestors had come from. Native groups that failed to enroll at least 25 Natives would have their members enrolled to another group.[31] According to the ISER Report, nothing in the legislative history of S. 2906 indicates why the 25 person population figure was used, and the definition of Native group in S. 2906 did not include a population requirement.[32] The ISER Report explains:

> Natives did not need to constitute a majority of a Native village or exhibit current aboriginal use and occupancy of land under S. 2906 to participate in its proposed settlement. Two sections of the bill proposed exceptions that persist in subsequent settlement proposals. First, villages which were relatively new or which had relocated in recorded history could still file a claim based upon aboriginal use and occupancy during such period (S. 2906 § 504). Second, Native villages which had been abandoned involuntarily or which had been absorbed by non-Native communities could also file claims based on aboriginal use and occupancy before their involuntary abandonment or absorption (S. 2906 §505). These exceptions broke from an early tendency in the claims commission bills (e.g. 1964) to tie Native group land entitlements to present use by a Native community and a traditional use or need standard. The official Governor's Task Force commentary explains these exceptions:
>
> > Section 504. Claims of New Villages
> >
> > Native villages which have relocated or been reestablished during the last 100 years as a result of volcanic explosion, flood, loss of game, and other reasons. This section permits these villages to participate in the settlement.
> >
> > Section 505. Claims of Abandoned Villages
> >
> > This section provides for situations such as Kenai, where the native village has been absorbed, and villages which have been involuntarily abandoned. In the latter case, only a few native group corporations based upon abandoned villages are expected, as most members of these villages have formed or have affiliations with other groups (Alaska Native Land Claims: Hearings on 2906 at 108).

[29] ISER Report at 13.
[30] *Id.*
[31] *Id.*
[32] *Id.*

> Despite the disavowal of the requirement of present aboriginal use and occupancy and the need for a majority Native population, the exceptions tend to prove the rule—only current Native aboriginal land use (that is, subsistence lifestyles exhibited by a predominantly Native community) would assure an entitlement under the Governor's Task Force proposal. The exceptions (relocated villages and the original urban corporation provision) were tightened or eliminated in subsequent acts.[33]

The ISER Report provides little additional information about Congressional objectives in allowing the establishment of group corporations, and our own research indicates that relatively little information regarding the establishment in practice of group corporations is available.

While ANCSA itself says little about the creation of group corporations, the BLM promulgated regulations to facilitate the incorporation of and distribution of land to group corporations. The BLM defined "Native group" to mean "any tribe, band, clan, village, community or village association of Native composed of less than 25, but more than 3 Natives, who comprise a majority of the residents of a locality and who have incorporated under the laws of the State of Alaska."[34] The regulations specify the eligibility requirements for Native group incorporation and the application process.[35] Additionally, the regulations specify that Native groups are allowed to select 320 acres for each Native member of a group, or 7,680 acres for each Native group, whichever is less.[36]

Urban Corporations

Four Alaska Native communities were incorporated as "urban" corporations: Juneau and Sitka in Southeast Alaska, and Kenai and Kodiak in Southcentral Alaska.[37] Section 14(h)(3) of ANCSA provided each corporation with an entitlement to 23,040 acres of land.[38] **Urban corporations do not have a specific population requirement for incorporation, as compared to Native villages, which had to be composed of 25 or more Alaska Native residents to incorporate a village corporation.** Also, although there were exceptions, Native villages generally were not able to incorporate a village corporation or a group corporation if the majority of the residents of the village were non-Native in 1970. Although we do not have data for Kenai and Kodiak, Sitka and Juneau both had large Alaska Native enrollment populations (at 1,863 and 2,722, respectively); however, the Native population did not comprise a majority of the residents of these communities (at 23 percent and 20 percent, respectively).[39]

The term "urban"—at least, in relation to the designation by Congress of four urban corporations—is not defined in ANCSA.[40] ANCSA describes the four communities that incorporated urban

---

[33] *Id.* at 14.
[34] 43 C.F.R. § 2653.0-5 (2020).
[35] *Id.* § 2653.6(a).
[36] *Id.* § 2653.6(b).
[37] ISER Report at 17.
[38] 43 U.S.C. § 1613(h)(3).
[39] ISER Report at xiii.
[40] Congress did not define "urban community" in ANCSA, though it did define the term "urban corporation." *Id.* § 1602(o) ("'Urban Corporation' means an Alaska Native Urban Corporation organized under the laws of the State of

corporations as communities that were "originally Native villages, but [came to be] ... composed primarily of non-Natives."[41] Thus, the inclusion of the four urban corporations in ANCSA allowed for the inclusion of Native communities that did not meet the standard eligibility requirements for village or group corporations under ANCSA. However, the four communities authorized to form urban corporations were not the only Native communities that technically did not meet the eligibility requirements for village corporations under ANCSA. For example, Alaska Natives made up just 27 percent of Saxman's population and 27 percent of Kasaan's population, both of which were listed villages, bucking the general rule that Native villages were not able incorporate a village corporation or a group corporation if the majority of the residents of the village were non-Native in 1970. These exceptions to the general eligibility criteria enabled Congress to fulfill the equitable objectives of ANCSA as a settlement of aboriginal land claims. In fact, these exceptions appear to be the rule in ANCSA; we are not aware of any other traditional Alaska Native villages that became predominantly non-Native but were excluded by Congress from ANCSA, or later amendments to ANCSA. Only the Landless communities are left.

While there is no legislative definition of "urban community," the legislative history indicates that the term stemmed from an understanding that many Native people had to abandon their aboriginal village and relocate, or that their village may have been absorbed into a larger non-Native community.[42] The allowance for urban corporations evolved from the question of how to allow Native groups located in urban areas—meaning those not in small, rural Native villages—to participate in ANCSA.[43]

The Landless Communities and ANCSA

Alaska Natives residing in Alaska were to be enrolled by the BIA to their community of permanent residence as of April 1, 1970.[44] Applicants were asked to specify a permanent place of residence as of that date and were given a copy of regulations that defined "permanent residence" for the purpose of enrollment. **An Alaska Native individual did not have to be physically living in his or her permanent residence on April 1, 1970, as long as he or she "continued to intend" to make his or her home at that place.** The relevant regulations provided:

> "Permanent residence" means the place of domicile on April 1, 1970, which is the location of the permanent place of abode intended by the applicant to be his actual home. It is the center of the Native family life of the applicant to which he has the intent to return when absent from that place. A region or village may be the permanent residence of the applicant on April 1, 1970, even though he was not

---

Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of an urban community of Natives in accordance with the terms of this chapter.").

[41] ISER Report at xi (quoting 43 U.S.C. § 1613(h)(3)).

[42] ISER Report at 18 (citing the Governor's Task Force commentary using Kenai as an example of a native village being absorbed).

[43] ISER Report at xi, 18.

[44] 25 C.F.R. § 43h.4(a) (1981) ("Permanent residents of Alaska: A Native permanently residing in Alaska on April 1, 1970, shall be enrolled in the region and village or other place in which he or she was a permanent resident on that date.")

> actually living there on that date, if he continued to intend that place to be his home.[45]

In Southeast Alaska, the BIA contracted with the Central Council to conduct the enrollment.[46] The Central Council hired an enrollment coordinator for the region and hired and trained enumerators throughout Southeast Alaska to help local residents complete enrollment applications.[47] The authors of the ISER Report interviewed seven individuals who were involved in the enumeration process, along with several individual shareholders.[48] The enumerators reported that some applicants from the Landless communities were aware that their communities were not eligible for certification, and others were not; however, based on these limited interviews, "those who were unaware of the community eligibility issue appear to have been the largest group."[49]

Nearly 3,500 Natives—or 22 percent of total enrollment in the Southeast Alaska region—enrolled to the five Landless communities.[50] The Landless and their descendants have now grown to a population of 4,400, although, unfortunately, approximately one half of the original Landless shareholder population has now passed away waiting for the resolution of their land claims.

After ANCSA passed, as discussed above, three of the Landless communities appealed their unlisted status to the ANCAB, only to be denied in 1974 and 1977 for lack of an appeals process for Southeast villages in Section 16 of ANCSA.[51]

In 1976, Congress amended ANCSA to reopen enrollment for one year, which appeared to provide an opportunity to those Landless enrollees who might wish to change their place of enrollment to do so.[52] In fact, when the amendment was first passed, Sealaska Corporation informed its shareholders that redetermination of residency would be available to Southeast communities, including the Landless communities.[53] However, seven years later, a 1983 opinion of the Solicitor of the Department of the Interior held that the amendment did not apply to those enrolled to the five Landless communities.[54] Attorneys were unsuccessful in challenging that opinion.[55] The Solicitor's opinion found that the legislative history demonstrated that Congress enacted the amendment to address nine places in the Koniag region where 25 or more Alaska Natives had enrolled, but for which during eligibility proceedings had been found to lack 25 Native residents. The Solicitor did not view the Landless communities as similarly situated. Importantly, Congress ultimately decided that seven of the nine Koniag communities, as well as two other Native communities, should be dealt with legislatively through provisions of the Alaska National Interest Lands and Conservation Act of 1980 (ANILCA); Congress directed that eight of the Native

---

[45] 25 C.F.R. § 43h.1(k) (1981).
[46] ISER Report at 79.
[47] *Id.*
[48] *Id.* at 82.
[49] *Id.*
[50] *Id.* at xiv.
[51] *See id.* at 17 (citing *In Re: Village of Tenakee*, VE # 74-60, 2 AN CAB 173, 177, Sept. 9, 1974; identical opinion *In Re: Village of Haines*, VE # 7 4-85, Sept. 9, 197 4; acc'd, *In Re: Appeal of Ketchikan Indian Corp.*, 2 ANCAB 169, Dec. 5, 1977).
[52] Pub. L. No. 94-204 § 1(c), 89 Stat. 1145-46 (1976).
[53] ISER Report at 88.
[54] *See* ISER Report at 89.
[55] *Id.*

communities were to be treated as Native villages (and were authorized to incorporate as village corporations), and the ninth was to be treated as a Native group.[56]

Thus, after more than a decade of legislation and subsequent amendments, confusion about enrollment and re-enrollment, and appeals to the Department of the Interior, residents of the five Landless communities were finally left with the reality that Congress had granted other similarly situated Alaska Native communities the right to incorporate under ANCSA, while the five Landless communities were left with no recourse but to turn to Congress.

The Landless communities have, since the 1970s, advocated first for an administrative solution and then, for a legislative solution that would allow Alaska Native enrollees to the Landless communities to receive the full benefits shared by other Alaska Native villages under ANCSA. This would include the right of each community to establish a Native corporation, the right to enroll Alaska Natives from each of the communities as shareholders of their respective corporations, and the right of each corporation to receive one township of land near their community. As a result of lobbying efforts that started in the 1980s, Congress in 1993 instructed the Secretary of the Interior to investigate the exclusion of the Landless communities from ANCSA.[57] The ISER Report, produced as a result of this directive, was to be used by Congress "to help determine whether the [Landless] study communities were intentionally or inadvertently denied recognition under ANCSA."[58]

History and Characteristics of the Five Landless Villages

In general, Southeast Alaska Native communities faced significant obstacles to participate in ANCSA.[59] By the time the Tongass National Forest was created, in 1907, the Tlingit and Haida people 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.[60] The Act of 1884, which created civil government in the territory, also extended the first land laws to the region, and in combination with legislation in 1903, settlers were given the ability to claim areas for canneries, mining claims, townsites, and homesteads, and to obtain legal title to such tracts. **Since Alaska Natives were not recognized as citizens, they did not have corresponding rights to protect their interests.**[61]

For decades prior to the passage of ANCSA, the Forest Service opposed the recognition of traditional Indian use and aboriginal title in the Tongass National Forest. **As late as 1954, the Forest Service formally recommended that all Indian claims to the Tongass be extinguished because of continuing uncertainty affecting the timber industry in Southeast Alaska.**[62]

In the 1940s, the 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

---

[56] *Id.* at 90.
[57] *Id.* at i.
[58] *Id.* at i.
[59] ISER Report at 16.
[60] Robert Baker, Charles Smythe and Henry Dethloff, A New Frontier: Managing the National Forests in Alaska, 1970-1995 17 (1995).
[61] *Id.* at 18.
[62] *Id.* At 31 (citations omitted).

ruled that Native lands could not be seized by the government without the consent of the Tlingit landowners and without paying just compensation. To reverse this decision, Congress passed a Joint Resolution authorizing the Secretary of Agriculture to sell timber and land within the Tongass, "notwithstanding any claim of possessory rights" based upon "aboriginal occupancy or title." This action ultimately resulted in the *Tee-Hit-Ton Indians v. United States* decision, in which the U.S. Supreme Court held that Indian land rights are subject to the doctrines of discovery and conquest, and "conquest gives a title which the Courts of the Conqueror cannot deny." 348 U.S. 272, 280 (1955). **The Court concluded that Indians do not have 5th Amendment rights to aboriginal property. Instead, the Congress, in its sole discretion, would decide if there was to be any compensation whatsoever for lands stolen.**

The Tlingit and Haida Settlement of 1968 injected additional uncertainty into the claims of the Tlingit, Haida and Tsimshian people, and an early ANCSA bill excluded Southeast Native communities entirely.[63] Once the case was made that the Tlingit and Haida Settlement had not extinguished all Native claims in Southeast Alaska, Congress decided to include the Southeast region in ANCSA.[64] Still, while ANCSA established a process through which Alaska Natives would ultimately take title to roughly 12 percent of their original homeland in Alaska, the Alaska Native communities in Southeast received less than 3 percent of their own homelands.

All four of the larger Landless communities share multiple characteristics that arguably made our communities good candidates to incorporate either village or urban corporations under ANCSA—namely the relatively large size of our Alaska Native populations, our participation in the land claims effort, and the strong history of each community as an Alaska Native community. The ISER Report considers a number of measures to compare the histories of Native use and occupancy in the Landless (unlisted) communities and the listed communities (those that incorporated village corporations or urban corporations) in Southeast Alaska:

- *Enrollment Populations:*
    - When comparing the three larger Landless communities (Ketchikan, Wrangell, and Petersburg) and the two Southeast urban communities listed in ANCSA (Juneau and Sitka), the percentage of Native enrollees who resided in the communities where they enrolled was similar.[65] The proportion of enrollees who lived in the communities varied from 64 to 77 percent.
    - Among the small and medium communities listed in ANCSA, between 14 and 79 percent of enrollees lived in the communities where they enrolled.[66] The Landless community of Haines fell into that range, with 51 percent of those who enrolled to Haines also living there.[67]

- *Native Population as a Percentage of Total Community Population:*
    - In the 1970 Census, Alaska Natives made up close to the same percentage of the total population in Ketchikan (15 percent) and Wrangell (19 percent) as in

[63] ISER Report at 16.
[64] *Id.*
[65] *Id.* at 43.
[66] *Id.*
[67] *Id.*

Juneau (20 percent), for which an urban corporation was established.[68] Petersburg's Native population (12 percent) was smaller.[69]

- In the 1970 Census, Alaska Natives made up 24 percent of Haines's population, which was similar to Saxman (27 percent) and Kasaan (27 percent), for which village corporations were established.

- *Indian Settlements, Land Reserves, Land Possessions:*
  - One or more areas in all of the Landless communities were considered to be Indian villages or Indian towns; this was also true of Juneau, Sitka, and other smaller ANCSA communities.[70] Ketchikan and Petersburg were summer villages before white settlers arrived, while Haines and Tenakee were winter villages before white settlers arrived.[71] Wrangell was a summer village and then became the primary village of the Stikine kwan in 1836.[72] That was also true in the ANCSA-listed urban communities of Juneau and Sitka and in a number of smaller ANCSA-listed communities.[73]
  - Federal land reservations were set aside for Native communities at Haines and Ketchikan in the early 1900s, as well as for the ANCSA-listed communities of Hydaburg, Klawock, and Klukwan.[74]
  - Tenakee, Kasaan, and Craig were excluded from the Tongass National Forest.[75]
  - Haines, Ketchikan, Wrangell, and Petersburg had Indian possession lands identified when townsites were first established. In this respect, the Landless communities differed from Juneau (which had no Indian possession lands in the original townsite), Sitka (which had Indian possession lands totaling less than an acre), and Craig (which had no record of Indian possession lands in the original townsite).[76] There is no record of Indian possession lands in the Tenakee townsite, but an area outside the townsite was excluded from the Tongass National Forest because it was occupied as an Indian village.[77]
  - School reserves for federal Indian schools were also set aside in many Southeast communities, including the Landless communities of Petersburg, Wrangell, and Haines.[78]

- *Government Schools for Indians*
  - Federal Indian schools operated in Haines, Ketchikan, Petersburg, and Wrangell during the period between 1881 and 1948, and all twelve ANCSA-listed Southeast communities had federal government schools.[79]

---

[68] *Id.* at 40.
[69] *Id.*
[70] *Id.* at xv-xvi, 62-64.
[71] *Id.*
[72] *Id.*
[73] *Id.*
[74] ISER Report at xv-xvi, 62-64.
[75] *Id.*
[76] *Id.*
[77] *Id.*
[78] *Id.*
[79] *Id.* at xvi, 64-65.

PRIVILEGED & CONFIDENTIAL

- *Churches and Missions Serving Indians:*
  - The first churches to organize in all five of the Landless communities were Native churches—that is, churches that were either started as missions for Alaska Natives, or churches that were established by the Alaska Native community. The establishment of Native churches was common among ANCSA-listed communities as well.[80]

- *Participation in Native Organizations*
  - All five of the Landless communities had local camps of the Alaska Native Brotherhood and Sisterhood beginning in the 1920s, as did the ANCSA-listed communities.[81]
  - Ketchikan, Petersburg, Wrangell, and Haines belonged to the Tlingit and Haida Central Council as of 1971, as did the ANCSA-listed communities, as well as Metlakatla; Seattle, Washington; and Oakland, California.
  - All four of the larger Landless communities formed Indian Reorganization Act (IRA) organizations in the 1930s and 1940s, as did the ANCSA-listed communities.[82]

Although the four larger Landless communities were majority non-Native, and therefore technically did not meet the population requirements to establish *village* corporations, we have noted above that Saxman and Kasaan, too, had populations that were majority non-Native.

As discussed above, all four of the larger Landless communities share multiple characteristics that arguably made our communities good candidates to incorporate village corporations under ANCSA. However, given the size and the predominately non-Native populations in these communities, one might reasonably argue—based solely on these statistics—that the four larger Landless communities were more appropriately situated to establish urban Native corporations. The four larger Landless communities are good examples of the Native communities identified by Governor Hickel's Task Force; i.e., communities that had been absorbed by the time of ANCSA, through no fault of their own, into larger, non-Native communities—a problem for which the establishment of urban corporations provided an equitable, if only partial, solution in ANCSA.

Like Ketchikan, Petersburg, Wrangell, and Haines, Tenakee shares many of the historical characteristics typical of Southeast Alaska Native communities that were listed in ANCSA.

First, the village of Tenakee is, without doubt, historically a Native village.[83] Located at the Tenakee hot springs, Tenakee was a winter village that existed before white settlers came to the area in 1900.[84] Tenakee is similar to the ANCSA-listed communities of Juneau, Sitka, Craig, and Kasaan in this regard.[85] In 1891, the U.S. Coast Pilot reported that Tenakee was a "small Native village . . . constantly used by the Indians in their journeys from Chatham Strait to Port

[80] ISER Report at xvi, 65-66.
[81] *Id.* at xvi, 66-67.
[82] *Id.*
[83] *Id.* at 55.
[84] *Id.* at 55, 59.
[85] *Id.* at 68.

Frederick."[86] In 1901, the historic use of the village was also accounted by the owner of a saltery in the area who reported that there was a local clan leader who asserted ownership of the fishing sites in Tenakee Inlet.[87] Tenakee's Native population grew in the 1920s and 1930s when Alaska Natives from nearby villages moved to take advantage of jobs at Tenakee's two canneries.[88] After ANCSA was enacted, 64 Alaska Native individuals enrolled to the village of Tenakee.[89]

For decades, Tenakee was recognized as a Native community by the federal government. The village was formally recognized in 1935 as an "Indian settlement" in an executive order by President Franklin Roosevelt that operated to exclude the Tenakee Indian village from the Tongass National Forest.[90] As late as 1965, the BLM rejected a non-Native application for a trade and manufacturing site at the Indian village.[91] In rejecting the application, the BLM noted that the "possessory rights to this tract are claimed and that the lands have been used and occupied by these Indian people for many years."[92] The communities of Haines, Ketchikan, Craig, and Kasaan also had established land reservations or exclusions, like Tenakee.[93]

Second, all of our communities, including Tenakee, had local camps of the Alaska Native Brotherhood and Sisterhood beginning in the 1920s, as did other ANCSA-listed communities.[94]

Third, all of our communities had churches or missions serving Alaska Natives, and all had active Salvation Army posts similar to Juneau, Sitka, Kake, Angoon, and other villages.[95]

Fourth, all of our communities had Native cemeteries, graves, or totems, as did Juneau, Sitka, Craig, and Kasaan.[96]

Although all five of our communities were part of the Tlingit and Haida Central Council at some point, Tenakee did not belong to the Central Council when ANCSA was passed in 1971.[97] During the 1950s, Haines, Tenakee, and Kasaan all became inactive, at least for some time, as individual communities. The ISER Report notes that, "Members of those communities participated through other communities."[98]

At seven percent of the population (and just six individuals), according to the 1970 Census, Tenakee did not have a significant Native population—at least, on paper—when ANCSA passed, which distinguishes Tenakee from the four larger Landless communities.[99] However, the ISER report concedes that the 1970 Census may have undercounted the Native population in many

---

[86] *Id.* at 55-56.
[87] ISER Report at 56.
[88] *Id.*
[89] *Id.* at 80.
[90] *Id.* at 56.
[91] *Id.* (emphasis added).
[92] *Id.*
[93] *Id.* at 61-62.
[94] ISER Report at 66.
[95] *Id.* at 65-66.
[96] *Id.* at 68.
[97] *Id.* at 69.
[98] *Id.*
[99] *Id.* at xii.

Alaska Native communities,[100] and Tenakee—like Kasaan, which was included in ANCSA—faced a unique socio-economic situation that deserves special attention.

The 1970 Census shows that, of the ANCSA-listed Native communities and the five Landless communities, the only communities that did not meet the minimum population threshold were Tenakee and Kasaan.[101] The 1970 Census reported that Tenakee had a total population of 86 people, of whom only six were Alaska Native.[102] However, 64 Alaska Native individuals enrolled to Tenakee. Kasaan, which was listed under ANCSA, had a population of 30 according to the 1970 Census, of whom only eight were Alaska Native. Kasaan, however, was able to overcome a challenge to its eligibility status. We discuss the case of Kasaan—and its relevance to Tenakee—in more detail below.

The equitable claim for Tenakee is straightforward. First, the Alaska Natives who enrolled to Tenakee qualify broadly as a distinct Alaska Native group that sought for decades to settle aboriginal land claims associated with the group's traditional occupation of the village.

Congress has previously authorized identifiable Native "groups" to pursue claims against the federal government, and Congress considered a similar approach in the context of Alaska Native land claims. As noted in the ISER Report:

> Senator Gruening of Alaska introduced one of the first Native claims bills on February 1, 1968. That bill authorized Alaska "native groups" to incorporate under state or federal law, select lands, and receive royalties derived from Outer Continental Shelf development as compensation for their claims, based on aboriginal use and occupancy of Alaska lands. . . . S. 2906 [legislation introduced by Governor Wally Hickel's Task Force, discussed above] borrowed elements of its definition for "native group" from S. 1964, the first bill prepared for the first session of the 90th Congress by the Secretary of the Interior. That bill provided jurisdiction in the Court of Claims to compensate Alaska Natives for losses of aboriginal or "Indian title" lands. . . . Congress had done the same for southern Indian tribes in the Indian Claims Commission Act (25 U.S.C. §§ 70 to 70v-2, 1983). The Indian Claims Commission provided groups not generally regarded as Indian tribes an opportunity to assert their claims against the federal government. The act allowed the commission to hear claims "on behalf of any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States of Alaska" (25 U.S.C. § 70a; emphasis added). The commission later clarified its position noting that so long as a "group can be identified and it has a common claim, it is ... an 'identifiable group of American Indians'" (Loyal Creek Band or Group of Creek Indians, 1 Indian Cl. Comm'n 122, 129, 1949).[103]

---

[100] *Id.* at 41.
[101] *Id.* at 40.
[102] ISER Report at 40. Of the four larger Landless communities, Haines had the smallest Alaska Native population with just over 100 residents. *Id.*
[103] ISER Report at 8.

PRIVILEGED & CONFIDENTIAL

The 64 Alaska Native individuals who enrolled to Tenakee are, if anything, an "identifiable group" with a "common claim" to lands that were, for decades, recognized by the United States as lands "used and occupied" by the Tenakee people. A Tlingit village was located at the Tenakee hot springs when white settlers arrived around 1900. As the ISER Report notes:

> The village and the surrounding area, including Tenakee Inlet, were owned and occupied by members of the Wooshkeetan clan. . . . In 1935, the federal government issued an executive land order that recognized the Native community at Tenakee as "an Indian settlement" and excluded it from the national forest. . . . Native rights to the village tract were reaffirmed in 1965, when the BLM turned down a non-Native application for a trade and manufacturing site there, noting that "possessory rights to this tract are claimed and that the lands have been used and occupied by these Indian people for many years."[104]

Second, given the clear, documented evidence that the Tenakee enrollees are an identifiable group with a common claim to land, Congress should treat this identifiable group of enrollees in an equitable manner, i.e., in a manner that reflects Congress' treatment of other identifiable Alaska Native groups under ANCSA and subsequent legislation.

Although ANCSA designated villages with 25 or more residents as the principal claimants and beneficiaries of ANCSA, Congress in 1971 and in the years following took steps to extend the benefits of the Settlement to other identifiable groups, including the four Alaska Native "urban" communities that were "originally Native villages, but [came to be] ... composed primarily of non-Natives," and—in the context of group corporations—smaller groups of between 3 and 25 individuals. Although Governor Hickel objected to the incorporation of Alaska Native communities in Kenai or Nome, Congress nevertheless authorized Kenai to incorporate as an urban corporation and Nome to incorporate as a village corporation.[105] As noted above, when it enacted ANILCA in 1980, Congress deemed seven additional communities in the Koniag region to be eligible villages under ANCSA, terminated an eligibility review for an eighth village, and authorized a ninth community to establish a Native group corporation. There is no reason Tenakee should not be treated equally.

Third, in the context of Congress' unique approach to Southeast Alaska, Congress should consider its own approach, in 1971, to the village of Kasaan, a Southeast Alaska village that was listed under ANCSA but had to confirm its eligibility to receive benefits.

Historically, Tenakee and Kasaan share important characteristics in that they both: (1) were settled prior to the arrival of whites; (2) occupied an area in the early towns; (3) were excluded from the Tongass National Forest, with land reserved for Native use; (4) had Alaska Native Brotherhood/Sisterhood organizations; and (5) had Native cemeteries, graves, or totems near their villages.[106]

---

[104] *Id.* at 56.
[105] *Id.* at 15.
[106] *Id.* at 68.

Kasaan, unlike Tenakee, was listed as a village by Congress in Section 16 of ANCSA. For villages listed in Section 11 or 16 of ANCSA, like Kasaan, a majority of the residents had to be Native only if the determination was made that the village was modern and urban in character.[107]

Kasaan's status as a Native village was nevertheless challenged by the U.S. Forest Service and at least two other groups. On appeal, Kasaan was able to demonstrate that it met the requirements for a listed village, including that at least 25 of the Alaska Native individuals who enrolled to Kasaan could be considered permanent residents of the community as of April 1, 1970, and that at least 13 persons who enrolled to Kasaan used the village during 1970 as a place where they actually lived for a period of time. In ruling for Kasaan, the ANCAB made these observations:

> In determining the "permanent residence" of a Native enrolled under the Act, it is necessary, as it is in determining "home" and "domicile," to consider the physical characteristics of the dwelling place, the time spent therein, the things done therein, the intention when absent to return to that place, other dwelling places of the individual, and similar factors concerning them. As demonstrated above, it is also necessary to recognize the mobility of the Native life style necessitated by economic and educational pressures. It is impossible to ignore the impact of the cash economy upon a traditional subsistence existence. The fact that education and employment can be acquired in many instances only without the village dictates the emphasis upon the intent to return to the Native home when absent from that place contained in the definition of "permanent residence."
>
> The majority of Natives enrolled to Kasaan who testified at the hearing were born and raised in Kasaan, moved to Ketchikan, and returned to Kasaan seasonally to live according to their Native family life style. The obvious lack of employment and educational opportunity in Kasaan has forced people away from the village. But a majority of Natives enrolled to Kasaan who testified at the hearing have indicated by word and by their frequent contact with the village a genuine and continuing intent to return to that place they consider home. These Natives have been forced to leave the village at some time in their lives. But they have always returned and lived in the village on a frequent and continuous basis. Such objective evidence of their intent must be given appropriate consideration. A majority of these individuals and those related to them must be considered "permanent residents" of the village of Kasaan.
>
> Based on the foregoing, the Board finds that the Native village of Kasaan did have 25 or more Native residents on April 1, 1970. Although the question of whether or not 13 Natives enrolled to Kasaan who were residents thereof used the village as a place where they actually lived for a period of time was not in issue in this appeal, the Board further finds that 13 Native residents of Kasaan did use the village during 1970 as a place where they actually lived for a period of time.[108]

Unfortunately for Tenakee, it was not listed in Section 16 of ANCSA, and it did not have the right to appeal its unlisted status (as discussed above).

---

[107] 43 C.F.R. § 2651.2(b)(4) (2020).

[108] *U.S. Forest Serv. v. Village of Kasaan*, A.N.C.A.B. VE# 74-17, VE# 74-18 (June 14, 1974) (emphasis added).

If Tenakee had been listed, it would have had an opportunity to defend its status as a village pursuant to the same regulatory criteria that applied to Kasaan. With 64 enrollees, Tenakee more than met the requirement of 25 Alaska Natives enrollees. Tenakee was not modern or urban in character; therefore, Tenakee would not have had to establish that a majority of its residents were Native. Under 43 C.F.R. § 2651.2(b), Tenakee would have had to establish "an identifiable physical location evidenced by occupancy consistent with the Natives' own cultural patterns and life style, and at least 13 persons who enrolled thereto must have used the village during 1970 as a place where they actually lived for a period of time." We note that just eight individuals were identified as residents of Kasaan in the 1970 Census, and yet Kasaan was easily able to demonstrate that at least 13 persons who enrolled to Kasaan used the village during 1970 as a place where they actually lived for a period of time; Tenakee never had an opportunity to demonstrate that this standard was met. We do not have good population data for Tenakee in the years preceding 1970, but we do know that, as late as 1965, BLM rejected a non-Native application for a trade and manufacturing site at the Indian village of Tenakee on the basis that the "possessory rights to this tract are claimed and that the lands have been used and occupied by these Indian people for many years."

Fourth, and finally, ANCSA's implementing regulations established that "[t]hat no village which is known as a traditional village shall be disqualified if it meets the other criteria specified in this subsection by reason of having been temporarily unoccupied in 1970 because of an act of God or government authority occurring within the preceding 10 years."[109]

Tenakee, like Kasaan, saw its population decline starting in the 1950s due to the decline of commercial fisheries.[110] The ISER Report explains why this was so:

> There was continued population movement to the new white towns at a more gradual rate in subsequent years, but there was an acceleration of migration after 1950, prompted by the crash in the fish stocks, which many Indians depended on.[111]

In the 1950s, Alaska salmon runs were declared a federal disaster. According to the State of Alaska, several reasons were likely to blame:

> Lax federal management and a lack of basic research into salmon runs were surely factors. Federal law required half of all runs escape upriver to spawn the next generation, but nobody really counted. Wartime demand for protein resulted in an overharvest of Alaska's salmon runs which steepened the decline. Long-term fluctuations in climate, later known as the Pacific inter-Decadal Oscillation, also undoubtedly played a role.[112]

---

[109] 43 C.F.R. § 2651.2(b)(2).
[110] ISER Report at 55, 64. The ISER Report indicates that there were only a "handful of people" remaining in Kasaan after its cannery closed in 1953.
[111] *Id.* at 47.
[112] Alaska Department of Fish and Game, Sustaining Alaska's Fisheries: Fifty Years of Statehood, Starbound (1949-1959) 1 (Jan. 2009).

Whether "an act of God" (i.e., the impact of climate fluctuations on the fisheries) or "an act [or lack thereof] of . . . government authority" (i.e., lax federal management and resultant overfishing, and the need to supply the wartime demand for protein), or both, Tenakee's Native residents appear to have left the village as a result of outside forces that began to impact Tenakee 20 years before ANCSA was enacted. We do not have specific population numbers for the Alaska Native residents of Tenakee during the period prior to the 1970 Census, so we do not know whether Tenakee would have been able to demonstrate that it met the threshold population requirement but became "temporarily unoccupied in 1970 *because of an act of God or government authority occurring within the preceding 10 years*." It certainly appears that this may have been the case.

ANCSA's implementing regulations, which appear to apply to situations like that faced by Tenakee; Congress's treatment of the village of Kasaan; and Congress's efforts to extend the benefits of ANCSA to multiple other Alaska Native groups, all reflect a broader effort on the part of the Federal Government to preserve the aboriginal rights of defined Alaska Native groups. The socio-economic pressures that forced Tenakee's Native residents to leave the village might have been truly temporary if the Native community had simply been afforded the same opportunity as Kasaan. In fact, the ISER Report points out that Kasaan *repopulated after it was listed* as a Native village under ANCSA because people's confidence was "restored in the community."[113]

Conclusions

It is impossible to demonstrate to this Subcommittee that the five Landless communities "met" the requirements of ANCSA for incorporation as urban corporations because ANCSA did not establish any requirements at all for urban corporations. However, like the Alaska Native populations in the four towns that did incorporate urban corporations, the five Landless villages all "originally were Native villages, but [came to be] ... composed predominantly of non-Natives."

All five of the Landless communities have well-documented histories as Native villages. Tenakee, certainly, was smaller, but like the four larger Landless communities, Tenakee has a long and well-documented history as a Native village. The federal government recognized Tenakee as a Native place, identifying Tenakee as an "Indian settlement" in a 1935 executive order excluding Tenakee from the Tongass National Forest and rejecting a non-Native application for a trade and manufacturing site at the Indian village in Tenakee in 1965 in recognition of the "possessory rights to this tract" and use and occupancy of the site by the Native people of Tenakee.[114] The 64 Alaska Native individuals who enrolled to Tenakee are in fact an "identifiable group" with a "common claim" to lands that were, for decades, recognized by the United States as lands "used an occupied" by this Native community.

Congress has significant discretion to settle aboriginal claims, and Congress has amended ANCSA on numerous occasions to extend the benefits of the Settlement to Native communities that were wrongly and unjustifiably excluded. The five Landless Alaska Native communities should be authorized to incorporate urban Alaska Native corporations based on the structure and objectives of ANCSA, and the inequitable and discriminatory history that resulted in their exclusion.

---

[113] ISER Report at 64.
[114] *Id.* at 56.

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

November 16,2020

Dear Senator Murkowski:

Please make this letter part of the Senate hearing record for November 18, 2020.

It has come to our attention at this late hour, that you have introduced legislation that would adversely affect the future of the Tongas National Forrest. We live in Gustavus, Alaska on the northern border of the Tongas forest. We make our living from commercial fishing and tourism. Further development of the northern edge of the Tongas will directly and irreparably damage our lively hood and the economic health of the region. I understand that you have historically been a friend of the timber industry in Southeast Alaska. I understand that the motivation behind this legislation is to carve out new areas of protected land to be developed by newly designated Native Corporations for the primary purpose of logging these cherry-picked parcels. You have a right to further your interests.
But these are public lands and to introduce this seismic legislation without the usual public process, without a public comment period, and during a "lame duck" Senate session is devious and skirts the democratic process. Furthermore, this legislation represents a deception which seeks to use Alaska Native interests to further development in a sensitive and protected forest. Introduction of this legislation at this time is a desperate attempt at a "public land grab" before a new and more environmentally conservative administration moves into place on January 20, 2021.

I ask you Senator Murkowski and the Senate to postpone voting on this legislation and allow the democratic process to be carried out and guide your decisions. Provide sufficient time for public comment and transparent deliberation. This is our back yard. This is our future you are deciding. Don't allow special interests to determine your vote.

Sincerely,

Colleen Stansbury and Bruce Smith
F/V Noseeum
PO Box 145
Gustavus, Alaska 99826
codlips@gmail.com

From: Sarah Stewart
To: fortherecord (Energy)
Subject: For the 11/18/20 Cmte PLFM Subcmte Hrg
Date: Wednesday, November 18, 2020 6:13:24 PM

It appears that in the past S. 4889 has been used by the congressional delegation to set neighbor against neighbor in Southeast Alaska, and to falsely set their shared values around conservation against their shared values around equity and justice for Indigenous peoples, as if the two cannot advance hand-in-hand. **But conservation and Tribal sovereignty and land stewardship are not in opposition, and never have been.**

A serious effort to develop a lasting solution would entail a better public process on the part of Senator Murkowski, as the senior Senator and the bill sponsor. This would include creating opportunities for Southeast Alaskans to participate in local hearings, offer comments, and propose revisions. It would include a timeline that doesn't compel community leaders to choose between helping their community members obtain COVID relief funding, or offering comment on a piece of legislation that could have been introduced months before the fading weeks of an administration that is itself notorious for the disregard of public input and fair process.

I urge you to call on Energy and Natural Resources Committee leadership to hold the bill in order to give Southeast Alaskan communities time to participate in a more thorough public process around this legislation.

And please make a firm commitment to working with Alaska Natives Without Land, Sealaska Corporation, and with all of Southeast Alaska's communities in the next Congress to jointly develop a lasting, meaningful process and plan for restoration of Indigenous lands in Southeast Alaska such that they get meaningful resolution to Indigenous land claims and restoration of Indigenous land stewardship and cultural practices *in this next year* — not in some far-off distant future.

For any proposed resolution to be successful and lasting, everyone needs a better, more accessible process, and to fight the effort by their delegation to set Indigenous Alaskans and conservationists (Indigenous and non-Indigenous alike) against one another.

All should be fighting together to create solutions to these challenges from their collective history and for their shared future.

Sincerely, Sarah Stewart, 1045 US Highway 89S, Gardiner, MT 59030

November 15, 2020

Senator Lisa Murkowski
Chairperson, Committee on Energy and Natural Resources
U.S. Senate
Washington, D.C.

Dear Senator Lisa Murkowski:

I object to SB 4889 and particularly the accelerated review schedule. The bill is too complex and controversial to rush. I am concerned about the inclusion of Tenakee. Tenakee is different than the other four groups seeking corporate status. The other groups met some of the original and have considerably larger membership. The Tenakee group did not meet ANCSA criteria, yet its members would get a much larger acreage per capita than the other groups. Transfer of some of the Tenakee selections have major ecological ramifications.

Sincerely,

Richard Stokes
3800 Glacier Highway
Juneau, Alaska 99801
rastokes6@gmail.com
907-957-2405

The Honorable Lisa Murkowski

November 15, 2020

United states Senate

522 Hart Senate Building

Washington. D.C. 20510

RE: S. 4889

Dear Senator Murkowski:

You know me to be an ecologist and 50-year resident of Northern SE Alaska with a long involvement in land and resources from several standpoints. You also know me as a frequent supporter of your statesmanship and admirer of your political courage, and so I regret to write you in **opposition** to **this draft** of your S.4889, dealing with the Alaska native landless issue.

I oppose the present draft of S4889 on four grounds:

This action is procedurally unacceptable. Moving so complex an issue quickly in a lame duck session with almost no time for public comment and for congressional response to comments is simply wrong, even if politically expedient. This is unlike you, Senator!

This draft chooses the wrong way to honor "landless" native groups' legitimate claims. I am generally sympathetic to the claims of these groups, but not by granting them lands outside their region of traditional use. I will use the Haines situation as a familiar example. The selections offered them are actually within the traditional territory of the Hoonah Quan of Tlingits, and offering Hoonah lands to others is an affront to them. The Haines (Chilkoot Quan) folks should be offered lands in the Chilkoot – Taiyasanka – upper Lynn Canal region where they have resided for centuries. There are large State and Federal holdings there that could be considered that would have deep meaning for them.

Offering out-of-region lands has a bad land-use history. The proposed action, at least as it involves the Chilkoots, raises the question of stewardship; will these lands be used to maximize short-term cash flow, as has often happened on other lands granted in this fashion by ANCSA? Many have endured full-scale clearcutting and minimal protection of other values, leaving scarred and less productive landscape. If the purpose of your proposed action comes down to financial compensation in all honesty, a straight cash grant would be more appropriate and avoid collateral damage in several respects.

Selecting a scatter of Tongass NF lands fragments land management units. ANCSA land grants did serious damage to the Tongass NF management by granting lands helter-skelter across a coherent landscape, without deference to watershed or other natural boundaries, thus compromising land management strategies. My quick overview of selection options in S.4889 points to some degree the same problem, and exacerbates the out-of-region problem.

I hope you will respond positively and provide a draft more carefully attuned to redressing a clear need.

With respect,

Greg Streveler

Box 94

Gustavus AK 99826

greg.streveler @gmail.com

POST OFFICE BOX 402
SAN JOSE, CALIFORNIA 95103-0402
PRESIDENT@SUSTAINABLETRAILSCOALITION.ORG
(408) 204-3816

November 30, 2020

Subcommittee on Public Lands, Forests, and Mining
United States Senate
Washington, D.C. 20510

Re: S. 1695 and S. 4215; subcommittee hearing of November 18, 2020

Dear Senators:

We watched the above-captioned hearing on the proposed Human-Powered Travel in Wilderness Areas Act, S. 1695, and the Bonneville Shoreline Trail Advancement Act, S. 4215. We submit this letter for requested inclusion in the hearing record.

STC is a nonprofit, grass-roots organization with tens of thousands of followers on social media. We work to restore National Forest, Bureau of Land Management, and National Park staff discretion to allow mountain biking in Wilderness on a case-by-case basis. They were able to do this as recently as the year 2000 in the case of the BLM, but no longer can. The Forest Service instituted the first nationwide blanket bicycle ban in 1977, taking away its line officers' discretion, and the BLM and NPS eventually followed suit. STC believes that these blanket bans are not required by the Wilderness Act of 1964 and should be reconsidered.

S. 1695

Not only does STC support S. 1695, but this legislation is our reason for existing. Subcommittee Chairman Lee's legislation is modest. It would not open a single mile of Wilderness trail to mountain biking. It merely authorizes line officers who know the terrain to allow it if they think it is feasible.

S. 1695 gives the federal agency in charge of a Wilderness area a very reasonable two years to decide affirmatively where, if anywhere, bicycles may be authorized. And it allows yet more discretion: If agency staff prefer to take no action, they can run a pilot program without the effort that a formal determination might require. In that case, trails would open to nonmotorized, human-powered travel, letting line officers observe the result. They would still be able to regulate or prohibit mountain biking, exercising discretion on the basis of what they observe.

The agencies already have this authority for all of the activities currently allowed in Wilderness. They can regulate horseback-riding, canoeing, camping, backpacking, hunting, trail running, and the Wilderness dude-ranch industry. Some of these activities' environmental impacts are significantly higher than the low impact of riding a bicycle, but agencies have found ways to accommodate them.

Here is a hypothetical example of how S. 1695 would work. The fictional Akhenaten National Forest manages the Eight Peaks Wilderness area, which contains the Isocoma, Kayenta, and Oneonta trails.

— The Isocoma Trail is oversubscribed and social conflict already exists between legions of day hikers, backpackers, and commercial pack outfitters, with numerous complaints to the National Forest staff. The National Forest disallows mountain biking on the Isocoma Trail. It is already being loved to death.

— The Kayenta Trail is a well-maintained trail that runs 12 miles to Sapphire Lake. Because the trailhead is 20 miles down a rocky jeep road, it's lightly used, and most backpackers turn around two miles in, at Emerald Lake, which has lake trout and good campsites. Sapphire Lake has many mosquitoes but no fish and so is unpopular with hikers and backpackers. The National Forest allows mountain biking except on summer weekends.

— The Oneonta Trail fell into disrepair years ago and has disappeared. The local mountain bike club says it will restore it for the benefit of all user groups, if it can ride the trail. But a local environmental group wishes that humans would stay out of Wilderness entirely and likes the fact that the trail has disappeared. The Forest Service doesn't want to mediate between the two groups and says nothing about bicycle access but does allow volunteers to repair the trail. Mountain bikers restore the trail and then, after waiting two years and now authorized under S. 1695, begin to ride it legally, while forest rangers monitor the experiment.

With regard to the hypothetical Oneonta Trail: In exchange for this modest relaxation of the agencies' rigid bicycling bans, agencies could expect to gain the help of a large corps of mountain bikers who provide trail maintenance voluntarily throughout the United States. As it stands, a number of Wilderness trails have been lost to overgrowth. One sees them on a map but, on arriving at trailheads, finds that they have vanished. The agencies have neither time nor money to maintain all of their Wilderness trails (see www.gao.gov/products/D05042) and the current cadre of civilian volunteers has proved inadequate to the task. S. 1695 does not address this problem directly, but it will have the indirect effect of making Wilderness trails more accessible to all, not just mountain bikers.

S. 4215

S. 4215 would trade 344.16 acres of Wilderness abutting the Salt Lake County, Utah, urban area for the same acreage of newly designated Wilderness land in the backcountry.

The bill would thus allow completion of the Bonneville Shoreline Trail as a route open to all human-powered travelers, including mountain bikers.

STC endorses this sensible legislation. We note that if S. 1695 is enacted, the Uinta-Wasatch-Cache National Forest will not have to wait for an act of Congress, but can leave the current Wilderness boundaries in place while allowing mountain biking on the short stretches of trail on which the Forest Service's rigid nationwide rule forbids bicycling.

Forest Service Deputy Chief Chris French's Testimony Regarding S. 1695

STC is pleased that the Forest Service endorses S. 1695 in principle. We wish, however, to respond to one aspect of Mr. French's testimony:

"Our advice and interpretation from our attorneys is that the Wilderness Act specifically calls out mechanized— not allowing mechanized [activities] and there [are] some court cases that support that."

The Forest Service's attorneys may not be aware that legal research in recent years has debunked the idea that Congress wanted to ban bicycles when it prohibited "mechanical transport" (16 U.S.C. § 1133(c)) in Wilderness. We would refer the subcommittee to the following:

Applegate, A.: *Congress, Let Bicycles Back In*

https://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=3182&context=lawreview

Ruckriegle, H.: *Mountain Biking Into the Wilderness (I)*

https://www.wyomingbar.org/june-2016-wyoming-lawyer/

Ruckriegle, H.: *Mountain Biking Into the Wilderness (II)*

https://www.colorado.edu/law/sites/default/files/attached-files/ruckriegle_final.docx_2.pdf

Stroll, T: *Congress's Intent in Banning Mechanical Transport in the Wilderness Act of 1964*

http://www.ecocyclist.org/norcamba/wilderness/stroll.pdf

As for court cases, STC is unaware of any judicial decision that bicycles constitute prohibited "mechanical transport" (16 U.S.C. § 1133(c)) under the Wilderness Act of 1964. Mr. French and Forest Service counsel may have in mind cases generally allowing for agency discretion in interpreting statutes. (See *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.* (1984) 468

U.S. 837.) The *Chevron* deference doctrine has, however, long been criticized and the U.S. Supreme Court may soon pare it back or eliminate it.

Addressing Senators' Concerns

During the hearing, the concern was raised that mountain bikers will annoy elk herds.

It's a fair point, but studies show that *all* human interactions annoy wildlife. "Recreational activities like hiking, cross-country skiing, snowshoeing, mountain biking, climbing, and trail running often disturbed nearby wildlife even more than motorized recreation. [¶] Bobcats, for example, were less concerned about nearby motor vehicles than they were of hikers. The same was true of deer and elk." ("Wildlife Hates Hikers," *Sierra Magazine* (Sierra Club 2017).) "Distances between elk and recreationists were highest during ATV riding, lowest and similar during hiking and horseback riding, and intermediate during mountain biking." ("Elk responses to trail-based recreation on public forests," *Forest Ecology and Management* (2018).) The authors include two Forest Service employees.

Hiking has "driven elk to the brink," according to the United Kingdom's *Guardian* newspaper. "To measure the impact on calves, [a Colorado State University wildlife professor] . . . sent eight people hiking into calving areas until radio-collared elk showed signs of disturbance, such as standing up or walking away. The consequences were startling. About 30% of the elk calves died when their mothers were disturbed an average of seven times during calving. Models showed that if each cow elk was bothered 10 times during calving, all their calves would die. [¶] When disturbances stopped, the number of calves bounced back." ("Americans' love of hiking has driven elk to the brink, scientists say," *The Guardian*, Aug. 25, 2019.)

In any event, to the extent that studies or anecdotes suggest that mountain biking bothers a particular species of wildlife, S. 1695 gives federal land managers comprehensive ability to prohibit or limit mountain biking whenever and wherever the activity might cause a disturbance.

It was also asserted that originalists must find that the Wilderness Act of 1964 banned bicycling.

Originalism requires applying legal texts as their words were understood when they were set down. In 1964 the term "mechanized," as applied to conveyances, meant "motorized" and only that. There was no obvious nonmotorized but wheel-using method of trail travel then, including by bicycle. The Wilderness Act's preamble states a desire to provide refuges from "growing mechanization." (16 U.S.C. § 1131(a).) We doubt that Congress had in mind horse-drawn stagecoaches or children's Radio Flyer wagons—or Schwinn bicycles. It had in mind jeeps, Chevrolet Impalas, and Ford Fairlanes.

A House of Representatives hearing of April 28, 1964, is indicative of this textual reality. Representative Compton White of Idaho and Forest Service lawyer Reynolds Florance had this exchange:

> "Mr. FLORANCE: Horses and buggies are not prohibited.
>
> "Mr. WHITE: I am talking about the mechanical contraption with wheels that goes behind the horse. The buggy. Or the spring wagon. This is considered—and this is not a mechanical device?
>
> "Mr. FLORANCE: No, it is not a motorized vehicle."

In other words, as Representative White said, "They [Wilderness visitors] cannot come in by jeep, they must come in by horse and buggy." (*Wilderness Preservation System: Hearings Before the Subcomm. on Public Lands of the Comm. on Interior and Insular Affairs, House of Representatives*, 88th Cong., 2d Sess. (Apr. 28, 1964) 1053, 1159.)

In 1962, a wildlands report used the term mechanized to mean motorized and only that. It stated:

> "In our judgment, wilderness recreation will be available in areas having the following characteristics. [¶] ... Not open to *auto, jeep, truck, motorcycle, motorboat, airplane, helicopter*, or other means of *mechanized* travel." (Italics added.)
>
> "... [P]rimitive areas have been redrawn to exclude portions containing roads. [¶] Nevertheless, serious problems of *mechanized* access remain. It is widely recognized that ... jeeps, scooters, and motorcycles ... can get around the barriers ... or can operate cross-country without roads." (Italics added.)
>
> "... [P]ublic entry of wilderness reserves by *mechanized* means is increasing. It is reported, for example, that jeeps have been flown into private airfields in the Idaho Primitive Area and then used for prospecting, hunting, or fishing trips on national forest land." (Italics added.)

("Wilderness and recreation—a report on resources, values, and problems," *Outdoor Recreation Resources Review Commission Study Report No. 3* (1962), pp. 298-299, 313.)

In 1970, the Comptroller General issued a report to Congress (www.gao.gov/assets/200/195991.pdf) titled "Problems Relating to Restricting the Use of Motorized Equipment in Wilderness and Similar Areas." It stated:

> "The methods used by the Forest Service to transport bridge materials to the construction sites varied from using such primitive means as pack animals to such *mechanized transport* as helicopters." (P. 27, italics added.)

In addition, as mentioned above, a solid body of legal research shows that Congress did not intend to ban self-powered visits to Wilderness, even if the visitor used a device like a bicycle.

We think that a distinguished member of the then-titled Committee on Interior and Insular Affairs, Senator Clinton P. Anderson of New Mexico, would agree. In introducing the 1961 version of the proposed Wilderness Act, he quoted President Kennedy: " 'Many of the routine physical activities which earlier Americans took for granted,' he points out, 'are no longer part of our daily life. A single look at the packed parking lot of the average high school will tell us what has happened to the *traditional bike to school* that helped to build young bodies. The television set, the movies, and the myriad conveniences and distractions of modern life all lure our young people away from the *strenuous physical activity* that is the basis of fitness in youth and in later life.' " ("Statement by Senator Anderson on the Wilderness Bill," 107 Cong. Rec. 189, 192 (Jan. 5, 1961), italics added.) It's likely that Senator Anderson and President Kennedy would have seen bicycling as an environmentally benign way to gain fitness and self-reliance needed to counter the all-consuming Soviet threat.

So why then did the Forest Service ban bicycles in Wilderness in 1977? It was concededly an arbitrary decision. "Mechanical devices are difficult to define, so we arbitrarily drew the line around bicycles," a Forest Service employee stated in 1983. ("Agency Wants Bikes Kept Out of Wilderness," Spokane, Wash., *Spokesman-Review*, Aug. 25, 1983, p. 8.) Unfortunately, this exercise in line-drawing, not based on scientific review, left out those who travel by bicycle—people who, like other Wilderness visitors, seek, to again quote Senator Anderson, a "whole environment in which we ourselves can often feel most deeply refreshed, inspired in the scenes of our own distant beginnings." ("Statement by Senator Anderson on the Wilderness Bill," *supra*, 107 Cong. Rec. at p. 191.)

The Forest Service, Bureau of Land Management, and National Park Service have full authority to reverse their Wilderness bicycle bans. The law will be with them if they do this. Apparently, however, they are unwilling to act, so Congress must direct them to do what they are unwilling to do on their own initiative.

We thank the subcommittee for including our views in the record if it is so inclined, and for taking the time to consider them.

Respectfully submitted,

Ted Stroll

Ted Stroll
STC board president

cc: The Hon. Lisa Murkowski
The Hon. Mike Lee
Mr. Chris French, USDA Forest Service

From: theresa svancara
To: fortherecord (Energy)
Subject: For the 11/18/20 Cmte PLFM Subcmte Hrg
Date: Wednesday, November 18, 2020 8:51:26 PM

Greetings from Alaska,
I urge you to delay the 11/18 hearing on Alaska Tribe land selection. This is an extremely important issue and you have not given enough notice to Alaskans to adequately prepare. Please postpone the hearing.

Thank you,
Theresa Svancara
Juneau, AK

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senator Murkowski:

We are writing to convey our opposition to S.B.4889. Your proposed legislation to convey property to a native corporation in Tenakee Springs or withdraw acreage in Tenakee Inlet from the Tongass National Forest is not appropriate or desirable. If this were to occur, much of the acreage would undoubtedly be clear cut by the proposed new corporation. Unlike federal lands, Native Corporations are not restricted as to how they harvest timber on their lands.
Our community relies heavily on the salmon that spawn and rear in the Tenakee Inlet watershed and streams that empty into the Inlet. Many of our young residents are trollers and crabbers whose livelihood and cash income is supported by these same streams. Tourists and sport fishermen are drawn here by the abundant fishing, hunting opportunities and beauty that the Inlet is known for.
S.B.4889 is a misguided piece of legislation which should not be passed.

Sincerely,
Rod and Gaile Swope

Tenakee Springs AK 99841

From: Cecilia Tavoliero
To: fortherecord (Energy)
Cc: Crowther, John (Energy); Griffin, Christopher (Energy)
Subject: Support for S 4889 Native Claims Settlement Act Fulfillment Act of 2020
Date: Wednesday, December 2, 2020 4:37:52 PM

Please record my full support for the bill S 4889 as it has been a huge injustice for far too long and it should be fulfilled by Congress just as it has been for all the other Native communities across Alaska.
Our region could also use an economic boost from the ability to form businesses & the SE Alaska communities as a whole would benefit & not just the potential shareholders.
It is prudent in today's economy to pool resources so help us be wise.

--
Cecilia Tavoliero
4255122460

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

I write to express my alarm that my Senator is attempting to push through S4889 to set up more Native corporations and give away our public lands to them. This is the wrong time to sneak such a controversial plan through Congress and it must not be allowed to succeed. I have been a resident of Gustavus since the 1970s so am familiar with the Tongass National Forest lands along Icy Strait suggested for transfer to a proposed Haines Native Corp. These public lands should not be given away! They should remain in perpetuity as part of the Tongass National Forest, under federal management for the benefit of all Americans who own them, now and far into the future. When Gifford Pinchot and President Teddy Roosevelt established our National Forest system they did so to stop the transfer of public lands to rapacious, wealthy private interests. They wisely saw that their resources should be more-fairly available to all Americans far into the future. Pinchot and Roosevelt stood their ground and prevailed against powerful commercial interests and today Americans have a legacy of public forests the envy of globally.

We must get beyond the idea that the answer to any issue or local need is to give away public lands and resources for private development. When politicians do that the lands are lost to the public forever. We have had far too much of that already. S4889 follows just that outdated, inappropriate philosophy. The Tongass National Forest must be managed for the benefit of all Americans, not just the commercial interests of a few. Public interest goes far beyond the single use of lumber production for short term profit.The timber values of Tongass woodlands are actually very limited as the market for Tongass timber is very poor and profit from logging is illusive. The Tongass forest should be valued for its long-term sustainable ecological services of carbon sequestration, water resources, fish production, wildlife habitat, subsistence, recreation, and visitor appreciation. Please don't give it away!

If additional Native corporations are needed, then they should be established with financial resources that can be invested or sustainable, long-term economic benefits rather than single shot unsustainable timber development. Furthermore, the establishment of new Native corporations, especially if they are to be given public resources, deserves careful consideration through the public process. It should not be rushed through in a lame duck session for signature by a lame duck, impeached president who has been turned out of office by the voters.

Mike Taylor, MS
PO Box 85
Gustavus, Alaska 99826
mike@shizendou.net
907-697-2273

Post Office Box 32712 • Juneau, Alaska 99803
Telephone: (907) 789-2399 • Fax: (907) 586-6020

November 18, 2020

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee:

The Juneau-based Territorial Sportsmen, Inc. was established in 1945 and currently has about 1,200 members. TSI has raised funds through its Golden North Salmon Derby for over 70 years, with proceeds going to scholarships for college-bound graduating high school students. To date, TSI has awarded nearly $2 million in scholarships. Additionally, TSI has supported access for outdoor recreation and over the past several decades, TSI has built 7 public use cabins in Northern SE Alaska that are now managed by Alaska's State Parks. TSI has also been actively involved in State and Federal regulatory processes, has lobbied for hunting and fishing license fee increases, and offered input on legislation affecting public access and opportunities. TSI was among organizations that supported ANCSA when it was created over four decades ago and we have submitted feedback on previous bills related to the creation of new Native corporations and conveyance of public lands to them.

TSI appreciates the opportunity to provide input on the Alaska Native Claims Settlement Fulfillment Act of 2020 (S. 4889). As expressed in our previous comments, we are concerned with Section 7 of S. 4889 because of the potential negative impacts it could have on fish, wildlife, and federal public lands in SE Alaska's Tongass National Forest. While TSI does not oppose efforts to address outstanding injustices of Alaska Native Tribes and individuals, we believe this bill is the wrong solution to those problems. We encourage you to seek remedies that do not rely principally on giving public lands to private corporations.

TSI sees this legislation as the latest in a long string of efforts to carve off, privatize, and unsustainably exploit valuable public lands on the Tongass. It comes on the heels of the U.S. Department of Agriculture's decision to repeal the Roadless Rule on the Tongass, which removed important protections for more than 9 million acres of the forest, and just six years after Congress passed the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection

Act of 2014, which was celebrated for finalizing land entitlements in the Tongass.

This bill would amend the Alaska Native Claims Settlement Act (ANCSA) to create five new for-profit corporations in the communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell. Each new corporation would be given surface rights to approximately 23,040 acres (115,200 acres in total) of some of the most valuable and productive public lands in the Tongass. Sealaska Corporation, which was the beneficiary of the 2014 bill, would get a windfall and receive the subsurface rights to all 115,200 acres. As has been demonstrated time and time again on lands owned by other for-profit ANCSA corporations in SE Alaska, the valuable old-growth forest on these lands will be clear-cut logged, the minerals will be mined, federal protections designed to minimize impacts to fish and wildlife will no longer apply, and existing users of the land, including recreational and subsistence anglers and hunters, outfitters and guides, and other outdoor enthusiasts, will lose access and opportunities. Although this latest version of the bill provides for limited public use of the privatized lands, history has shown that the value of the land is compromised once its resources have been exploited and our fish and wildlife populations impacted.

In previous comments to earlier versions of this bill, TSI expressed concern that the lands to be privatized would be cherry-picked from throughout the region and would compromise access to adjacent public lands. The maps that are now available and incorporated into this bill confirm that this is once again what will happen if this newest legislation is adopted. More than 4,800 acres of the Tongass 77, which were identified by the Tongass Advisory Committee as being especially important for wild salmon and subsequently protected in the current Tongass Land Management Plan, would be privatized. Key parcels at the mouths of salmon streams and along coastlines, at important recreation sites, at the gap where the Hoonah road network could be connected to the Tenakee road, and at sites containing valuable publicly-funded infrastructure would be privatized and given to the new ANCSA corporations.

While TSI appreciates the complex and historical roots of many of the issues this bill seeks to address, many of the same issues we raised with past versions of this bill remain unresolved. We urge the Committee to not move forward with Section 7 of S. 4889 or any other similar bill until a new cooperative solution can be reached that avoids giving away important public lands to for-profit corporations, does not come at the expense of current and future users or the conservation of our natural environment, and does not set a further precedence for creating new corporate land claims in Alaska.

Sincerely,

Doug Larsen
President, Territorial Sportsmen, Inc.

November 16, 2020

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: Trout Unlimited opposes Section 7 of S. 4889 in the November 18, 2020, Public Lands, Forests & Mining Hearing

Dear Senator Murkowski, Senator Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889). While Trout Unlimited (TU) will provide separate written comments on several of the other bills that are part of this hearing, we wanted to write separately to address our concerns with Section 7 of S. 4889 because of the potential severe impact it could have to fish, wildlife and federal public lands in southeast Alaska's Tongass National Forest, and to the people that rely on those important resources.

At the outset, TU recognizes the longstanding injustices of Alaska Native Tribes and people, and acknowledges that the Tlingit, Haida, and Tsimshian people have a long and rich history caring for the waters and forests of southeast Alaska. We recognize there is a lot of work yet to be done to remedy past issues and support the challenges facing many indigenous communities in southeast Alaska. We are committed to doing our part to help resolve these past and future challenges while maintaining and protecting the fish and wildlife resources we all depend on. However, we encourage the Committee to oppose this bill and, instead, seek remedies that address injustices without compromising the fish, wildlife, clean water, and the cultural and traditional values of the land.

This bill is the latest in a long string of efforts to carve off, privatize and unsustainably exploit valuable resources and public lands on the Tongass. It comes on the heels of the U.S. Department of Agriculture's ill-conceived decision to repeal the Roadless Rule on the Tongass, which removed important protections for more than 9 million acres of the forest, and just six years after Congress passed the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act of 2014, which was celebrated for finalizing land entitlements on the Tongass.

This bill would amend the Alaska Native Claims Settlement Act (ANCSA) to create five new for-profit corporations in the communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell. Each new corporation would be given surface rights to approximately 23,040 acres (115,200 acres in total) of some of the most valuable and productive public lands in the Tongass. Sealaska Corporation, which was the beneficiary of the 2014 bill, would get a windfall and receive the subsurface estate to all 115,200 acres.

As has been demonstrated repeatedly on lands owned by other for-profit ANCSA corporations in southeast Alaska, we must expect the valuable old-growth forest on these lands to be clear-cut logged, the minerals to be mined, federal protections designed to minimize impacts to fish and wildlife to no

longer apply, and existing users of the land—including subsistence users, anglers, hunters, outfitters and guides, and recreationists—to be displaced. Although this latest version of the bill provides for limited public use of the lands after they are privatized, that value of the lands to the public will be greatly diminished once they are developed and fish and wildlife populations impacted.

In TU's comments to prior versions of this bill, we expressed concern that the lands to be privatized would be cherry-picked from throughout the region and block off access to adjacent public lands. Unfortunately, the maps that are now available and incorporated into this bill confirm our prior concerns. More than 4,800 acres of the Tongass 77—which are extremely important to TU and our partners, and were identified collaboratively by the Tongass Advisory Committee as being especially important for wild salmon and subsequently protected in the Tongass Land Management Plan—would be privatized. Key parcels at the mouths of salmon streams and along coastlines, at important recreation sites including public use cabins and campsites, at the gap where the Hoonah road network could be connected to the Tenakee road, and at sites containing valuable publicly-funded infrastructure would be privatized and given to the new ANCSA corporations.

Many of the same issues TU has raised with past versions of this bill remain unresolved. While we acknowledge the complex and historical roots of the issues this bill seeks to address, and appreciate Senator Murkowski's efforts to address them, lasting solutions should avoid giving away important public lands and natural resources to for-profit corporations, not come at the expense of current users or the conservation of regionally and globally important public lands, and not set a further precedence for creating new corporate land claims in Alaska. We therefore must urge the Committee to oppose Section 7 of S. 4889.

Sincerely,

Austin Williams
Alaska Director of Law and Policy

Kate Miller
Director of Government Affairs

November 18, 2020

The Honorable Mike Lee, Chair
Subcommittee on Public Lands, Forests, and Mining
Senate Committee on Energy and Natural Resources
U.S. Senate, Washington, DC 20510

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

RE: Subcommittee Legislative Hearing (11/18/2020)

Dear Chairman Lee and Ranking Member Wyden:

I am writing on behalf of Trout Unlimited (TU), and our more than 300,000 members and supporters across the country, to offer our views on several of the legislative proposals listed for consideration during the Subcommittee's September 18, 2020 legislative hearing.

- H.R. 823/S. 241, Colorado Outdoor Recreation and Economy Act (Neguse/Bennet);
- S. 2875, Smith River National Recreation Area Expansion Act (Merkley);
- S. 4599, Pecos Watershed Protection Act (Heinrich);
- S. 4625, National Prescribed Fire Act of 2000 (Wyden);
- S. 4889, Alaska Native Claims Settlement Act Fulfillment Act of 2020 (Murkowski).

Thank you for considering our views.

Sincerely,

Kate Miller

November 18, 2020

Re: H.R.823 / S.241, Colorado Outdoor Recreation and Economy Act (Neguse/Bennet)

On behalf of Trout Unlimited and our members in Colorado and across the country, we write to express our support for H.R. 823 /S. 241, the Colorado Outdoor Recreation and Economy (CORE) Act.

The CORE Act provides significant protection for the lands and waters valued most by the sporting community. A recent Trout Unlimited analysis of critical fish and wildlife habitat protected in the bill's framework found that the CORE Act safeguards some 2,416 miles of streams, 100 miles of native cutthroat trout steam habitat, 12 cutthroat trout lakes spanning 804 acres, nearly 7 miles of Gold Medal fishing water and an additional 88 miles of Gold Medal waters downstream of protected headwater landscapes.

What's more, the CORE Act includes hundreds of thousands of acres of critical elk and mule deer range and nearly 100,000 acres of important migration corridors at a time when both the State and Federal government have issued special orders focused on protecting animal migration routes.

Highlights of habitat protection benefiting sportsmen and women through various provisions of the CORE Act include:

Curecanti Boundary Establishment Act

In addition to formally establishing the boundary of Curecanti National Recreation Area and improving coordination among land management agencies, the bill ensures the Bureau of Reclamation upholds its commitment to expand public fishing access in the basin, which was lost when the Aspinall Unit was created. The Bureau originally agreed to provide 26 miles of public fishing access in the Gunnison Basin, but has only accounted for about 14 miles to date.

Within Curecanti, 9,180-acre Blue Mesa Reservoir is the largest Kokanee salmon fishery in the U.S. and, along with neighboring Morrow Point Reservoir, has accounted for multiple state records for Rainbow Trout, Mackinaw and Kokanee, along with trophy Brown Trout. The Gunnison River, from 200 yards downstream of Crystal Dam and through Black Canyon of the Gunnison National Park to its confluence with the North Fork, is designated Gold Medal and Wild Trout Water, including 2.4m within Curecanti NRA.

Formal boundary designation will also add a layer of protection for 2.2 miles of Cutthroat Trout stream and 775 acres of Cutthroat lake habitat, 5,926 acres of mule deer migration corridor and 7,123 acres of elk migration corridor along with 50,323 acres of elk winter range.

Thompson Divide Withdrawal and Protection Act

With its bounty of fish and wildlife habitat, the Thompson Divide area remains critically important to sportsmen and women in Colorado and across the nation. The three main game management units that lie within its boundary are among the most desirable to elk and mule deer hunters in the state, and the largely roadless area serves as year-round habitat for those and other species. More than 34,000 acres within Thompson Divide double as elk migration corridors.

The area also contains several conservation populations of Colorado River Cutthroat Trout, considered critical to the recovery and maintenance of the species to its native range. Among the 1,550 miles of stream radiating in all directions off Thompson Divide, about 83 miles qualify as Cutthroat stream habitat along with nearly 12 acres of Cutthroat lake habitat. The northern boundary of the withdrawal and protection area includes 4.4 miles of Gold Medal fishing water along the Roaring Fork River, and Thompson Divide's headwater tributaries extend to additional high-quality fisheries in the North Fork of the Gunnison River, the Crystal River and the Colorado River, which sustain surrounding retailers, fishing guides and outfitters that help drive the local recreation economy.

Continental Divide Recreation, Wilderness and Camp Hale Legacy Act

The nearly 100,000 acres along the Continental Divide surrounding Camp Hale served as the genesis of Colorado's robust outdoor recreation economy, not only through the legacy of skiers that that passed through the WWII alpine training grounds and returned to the region post-war, but also through word of the hunting and fishing opportunities the soldiers enjoyed. The landscape is rife with elk and mule deer habitat and migration corridors, including more than 10,000 acres of severe winter elk range that the animals depend upon for survival.

The 474 miles of stream within the bill's boundaries serve as headwaters to Gore Creek and the Eagle, Blue and Colorado rivers, feeding clean, cold water into multiple Gold Medal fishing sections and supplying more than 11 miles of Cutthroat Trout stream habitat along with half a dozen Cutthroat Trout lakes.

San Juan Mountains Wilderness Act

Wilderness and special management area proposals in the San Juan Mountains of southwest Colorado would protect headwater tributaries of the Animas River among more than 325 stream miles that contain nearly 5 miles of Cutthroat stream habitat. Four lakes spanning 6.6 acres within the proposed Sheep Mountain Special Management Area also hold the rare native trout. Roughly 50,000 terrestrial acres serve as summer range and calving areas that support mule deer and elk populations on public lands in the region, and a large elk winter concentration area is found in the Uncompahgre National Forest along the proposed 6,500-acre Naturita Canyon Mineral Withdrawal Area that includes Cutthroat Trout habitat within a tributary to the San Miguel River near Norwood

Trout Unlimited members have long advocated for protection for these unique landscapes, and the fish, wildlife, and people who call them home. Beyond the sportsmen's community, the bill has broad local support from county commissioners, outdoor businesses, and ranchers, and includes a first-of-its-kind National Historic Landscape to honor Colorado's military legacy at Camp Hale, where the 10th Mountain Division trained for winter combat in World War II.

We thank the bill sponsors and look forward to continuing to work with members of Congress and the Colorado delegation to see this bill advance.

For questions related to these comments, please contact the following:

Scott Willoughby
Norther Colorado Field Coordinator
scott.willoughby@tu.org

Kate Miller
Director of Government Affairs
kate.miller@tu.org

November 18, 2020

Re: S. 2875, Smith River National Recreation Area Expansion Act (Merkley)

On behalf of the 3,000 members and supporters of Trout Unlimited in Oregon, we write to you today to express our support for Senate Bill 2875, the Smith River National Recreation Area Expansion Act.

With this legislation we have an opportunity to join with diverse partners to wisely invest in the health of our salmon and steelhead populations and also boost the local fishing and recreation industries that many Oregonians rely on.

Trout Unlimited's mission is to conserve trout and salmon fisheries and the watersheds on which they depend. In pursuit of this mission, we've developed expertise in salmon recovery and habitat restoration and we've gained valuable insights on the value of our "salmon stronghold" rivers. These are rivers with existing protection and stable populations of salmon species which provide critically important resiliency to regional salmon stocks. These stronghold rivers are therefore vital for the successful restoration of salmon populations in nearby watersheds and for the health of our Pacific Northwest communities.

The Wild and Scenic Smith River is one of the premier salmon stronghold rivers along the Pacific Coast. This broadly supported legislation will permanently withdraw from new mining claims the last 58,000 acres in the watershed now vulnerable to strip mining. Accordingly, Trout Unlimited has recognized this legislation as part of our 2020 Angler's Conservation Project priority campaigns. These are our highest priority initiatives for the protection of salmon fisheries.

Thank you for your consideration. Please see the attached original press release with quotes from Senators Merkley, Wyden, local elected representatives and state and national fishery and environmental organizations.

For questions related to these comments, please contact the following:

Kyle Smith
Oregon Field Coordinator
Kyle.smith@tu.org

Kate Miller
Director of Government Affairs
kate.miller@tu.org

November 18, 2020

Re: S.4599, Pecos Watershed Protection Act (Heinrich)

The Upper Pecos River Valley of northern New Mexico is one the state's most popular outdoor recreation and trout fishing destinations, prized by local residents and tourists alike. The area lies approximately 20 miles west of Santa Fe, the state capital, and is home to a growing recreation and amenity-based economy that centers on the Pecos River and surrounding lands managed by the Santa Fe National Forest. The headwaters of the Pecos River supply a critical source of clean water to downstream communities, farms, and ranches in an otherwise arid environment.

The watershed is also a focal point for restoration of a unique population of Rio Grande cutthroat trout – New Mexico's state fish and a species of conservation concern. Along with the New Mexico Department of Game and Fish, Trout Unlimited is engaged in efforts to restore native trout to the watershed. The fishery is only now recovering from a legacy of mining that included a massive fish kill in the 1990's when mine tailings were washed into the Pecos River.

Local communities are opposed to new mining operations in the valley. Resolutions of opposition to new mining have been passed by San Miguel and Santa Fe Counties and the Village of Pecos. In September of 2019, Governor Michelle Lujan Grisham sent a letter to the Chief of the US Forest Service expressing opposition to renewed mineral exploration in the valley, siting previous environmental damages that have cost New Mexico over $7 million and significant public concern over mining in the region.

The Pecos Watershed Protection Act would withdraw a portion of the federally managed minerals in the headwaters from new mining claims and development. Doing so will protect the water quality and trout habitat in this area from new mining impacts, supporting the popular trout fishery and the growing recreation economy. This legislation has the support of local leaders and advocacy groups, including the San Miguel County Commission, the Village of Pecos, and numerous local farmers, ranchers, and business owners.

For questions related to these comments, please contact the following:

Dan Roper
New Mexico Field Coordinator
Dan.Roper@tu.org

Kate Miller
Director of Government Affairs
kate.miller@tu.org

November 18, 2020

Re: S. 4625, National Prescribed Fire Act of 2000 (Wyden)

Trout Unlimited appreciates the consideration of S.4625, the National Prescribed Fire Act of 2020. Decades of fire suppression have prevented fire from playing it's natural and beneficial role on the landscape. Western forests and trout and salmon evolved with fire and safely reintroducing fire to our forests is necessary to recover the health and ecological processes of our forests. Risks abound, but the risk, for example, of uncharacteristically severe wildfires burning during extreme fire conditions, has become far greater than smaller, prescribed burns and wildfire burning under prescription that will efficiently reduce fuels, help restore and maintain more natural forest conditions, and improve the health of fire-adapted ecosystems. We strongly agree with the goals of S. 4625 and appreciate the sponsor's efforts to identify barriers to prescribed fire and find creative, collaborative ways ensure land managers have the tools to better utilize prescribed fire as an efficient and effective land management strategy.

For questions related to these comments, please contact the following:

Corey Fisher
Public Lands Policy Director
Corey.Fisher@tu.org

Kate Miller
Director of Government Affairs
kate.miller@tu.org

From: Ralph Wells
To: fortherecord (Energy)
Subject: For the 11-18-20 Cmte PLFM Subcmte Hearing
Date: Wednesday, November 18, 2020 2:41:26 PM

Senator Murkowski:
This comment is in regard to the Native lands bill hearing today. Land designations are always fraught with controversy and should be subject to thorough public input. This does not seem to be a good time for such a process. Given the shameful actions of the president since the election, and the failure of most of your Republican colleagues to call him out, any legislative action now feels suspicious. I urge you to postpone further action until 2021, when the pandemic has eased and meaningful public hearings are possible.
Thank you.
Ralph Wells
Lot 1, Port Armstrong, Alaska 99836

Sent from my iPad

Statement for the Record of Lesli Allison
Executive Director, Western Landowners Alliance

Before the
United States Senate
Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests, and Mining

Legislative Hearing
November 18, 2020

Chairman Lee, Ranking Member Wyden, and members of the Subcommittee, the Western Landowners Alliance (WLA) appreciates the opportunity to submit this statement regarding the Subcommittee's consideration of S. 4625, *the National Prescribed Fire Act of 2020*. WLA is a non-partisan, landowner-led organization that advances policies and practices to sustain working lands, connected landscapes and native species. Our members represent over 15 million acres of leased and deeded land across the West.

Statement of Interest

The West is a complex patchwork of public and private lands, ecosystems and habitat types. Resource management authority may stop at a fence line, but resource destruction knows no bounds, highlighting the need for comprehensive resource stewardship strategies. Private landowners and federal land permittees/lessees play a pivotal role in providing habitat for wildlife species, mitigating wildfire risk and connecting working landscapes. It is essential that public policies and programs are informed by those working closest to the ground.

The 2020 fire season saw catastrophic wildland fire expand to a scale rarely seen in recent memory. Our own members and neighbors are experiencing devastating losses from catastrophic wildfires. These fires have destroyed decades of conservation efforts, agricultural production and livelihoods. At the same time, we recognize that ecosystems are dynamic and fire natural in many ecosystems.

Discussion

With this backdrop, we commend the Subcommittee for your efforts to advance legislation that would increase the pace and scale of proactive land management, wildfire risk mitigation, forest restoration efforts and return systems to expected fire regimes. Several provisions of S. 4625 highlighted below would help willing landowners conduct prescribed fires on their property and integrate the land they steward into broader collaborative, cross-boundary prescribed fire strategies. We offer comment on the following provisions that would:

- "*Provide federally sponsored insurance administered by States, in conjunction with State-sponsored training and certification programs, for private persons implementing*

prescribed fires." In many parts of the West, strict emissions, smoke management and burn regulations limit the feasibility of implementing prescribed fire as a management strategy for landowners. This often leaves intensive thinning as the primary management tool on forested lands to restore and maintain ecological health and reduce wildfire risk. On top of this, ambiguity regarding landowner liability and personal risk further complicate efforts to use prescribed fire in management. Providing federally sponsored insurance in states that do not already have similar programs in place would address some of these issues and increase landowner access to prescribed fire as a land stewardship strategy.

- *"Establish a training or certification program for teams comprised of citizens or local fire services to conduct prescribed fires on private land, consistent with any standards developed by the National Wildfire Coordinating Group or State prescribed fire standards."* National Wildfire Coordination Group (NWCG) credentials, while robust, are tailored to federal and professional firefighters and require ongoing training, evaluation and certification. This means that landowners and land managers not affiliated with federal agencies may struggle to achieve and maintain NWCG fire credentials beyond the basic red card. Additionally, fire fighting skills, while necessary and useful, are not the only skills needed to successfully implement prescribed fire. We encourage the Committee to work with states that have created certified ignition and prescribed fire training programs and explore how to expand the flexibility of certification programs for rural landowners while upholding industry standards and best practices.

- *Establish: (1) a Collaborative Prescribed Fire Program and (2) a Large Cross-Boundary Prescribed Fire Incentive Program.* We are encouraged to see support for collaboratively developed, multi-jurisdictional prescribed fire plans along with recognition of the need for large-scale, cross-boundary prescribed fires. Particularly in the West, patchwork land ownership patterns and interrelated resource management objectives necessite collaborative processes and effective interagency coordination. We encourage the Committee to ensure that landowners, and by extension, Prescribed Burn Associations or Landowner Burn Associations, are brought in early as decision makers to cross-boundary prescribed fire planning.

- *Increase coordination among Federal and State air quality agencies and federal and state land management agencies by "streamlining the decision making process for approving the use of prescribed fire under a State, Tribal, or local government smoke management program."* Streamlined decision making processes and greater coordination between federal, state and local air quality regulators may help address permitting barriers landowners face in utilizing prescribed fire. Landowners and contractors conducting burns on private land need tailored regulations and added flexibility to better consider location-specific conditions.

Conclusion

If enacted, several provisions included in S. 4625 provide a path forward toward more holistic forest and grassland management. Prescribed fire is an important management component of comprehensive approaches to address chronic forest and land health issues that, when combined with effects of climate change, create conditions for the catastrophic unplanned wildland fire witnessed this year.

Along with the above statement, attached please find the 2018 WLA Report, "*Frontline Perspectives, Landowners speak from experience on forestry"* We request that you include both this statement and the attached report for the record. Thank you for your consideration of this request. We look forward to working with the Subcommittee on this issue. Please contact me if you have any questions or require further information.

Respectfully,

Lesli Allison
Executive Director

Attachment

WESTERN LANDOWNERS ALLIANCE
STEWARDSHIP WITH VISION

Frontline Perspectives

Landowners speak from experience on forestry

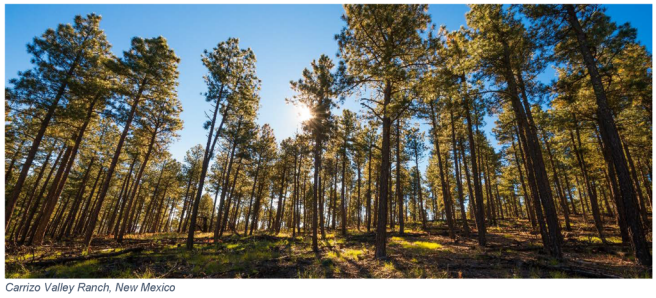
Western Landowners Alliance
Spring 2018

WESTERN LANDOWNERS ALLIANCE
STEWARDSHIP WITH VISION

the WESTERN LANDOWNERS ALLIANCE advances policies and practices that sustain working lands, connected landscapes, and native species

FRONTLINE PERSPECTIVES:
Landowners speak from experience on forestry

By Hallie Mahowald and Virginie Pointeau



Carrizo Valley Ranch, New Mexico

The American West is home to some of our nation's most iconic forests. These lands comprise an incredibly diverse ecosystem, support local economies and provide critical water supplies, recreational opportunities and sanctuary for wildlife populations. Forests also help provide clean air and healthy soils by filtering out pollutants and sequestering carbon dioxide.[1] However, both publicly and privately owned forests face increasing threats that range from insect infestation and development pressure to extreme forest fires, unstable timber markets and, perhaps most threatening, an ever-dwindling U.S. Forest Service budget and diminishing financial assistance for private land management.

A national policy of fire suppression over the last century has almost entirely extinguished the natural forest-fire rhythm that has maintained healthy forests over millennia, resulting in overly dense forests with thicker undergrowth that in turn increase the risk for high-intensity, destructive wildfires.[2] This is particularly true for lower elevation forests, where in the past fire cycles had been frequent and where growing human settlement now requires ongoing fire suppression. In 2017, hundreds of wildfires burned communities across the West in yet another devastating fire season.

---

[1] Oswalt, S. N. and Smith, W. B., eds. 2014, U.S. Forest Resource Facts and Historical Trends, Forest Service FS-1035, U.S. Department of Agriculture, https://www.srs.fs.usda.gov/products/marketing/ cards/fs-1035.pdf (accessed January 3, 2018).
[2] Oswalt and Smith.

According to the American Forest Foundation, nationwide one in four rural Americans is a family forest owner.[3] In the West, more than 30 percent of forested areas posing a high risk of wildfire are privately owned, mostly due to insufficient management resources and shrinking markets for forest products.[4] Private landowners play a crucial role in ensuring the restoration and maintenance of healthy and resilient forests, but they face many barriers to the successful implementation of good, common-sense management on the ground.

Thinning and Prescribed Fire

Jim Johnson, owner of Elk Glade Outfitters in southern Colorado, points to the absence of natural fire—together with repeated fire suppression—as the cause of many of the land-health issues on his property. Historically, regular forest and grassland fires kept trees from encroaching into the open prairie. Without those fires, Johnson is quickly losing his valleys and productive grasslands to forest.

Bill McDonald, an Arizona rancher and prominent member of the Malpai Borderlands Group (MBG), has faced the same problem. He explained, "We watched brush encroachment take over at the expense of grasses. We needed to get fire back in this landscape." New Mexico rancher Sid Goodloe, owner of Carrizo Valley Ranch, concurred, "Fire is friendly to grass and an enemy to brush" because brush grows from the end of limbs, and fire kills the limbs. Grass, on the other hand, regenerates from underground, from the root base. "That's how fire maintained this country."

State and federal agencies now recognize the urgent need for the use of prescribed fire to reduce stand densities, lower wildfire intensity back to a sustainable and productive level, and restore the ecological benefits of fire in fire-adapted forests. But complex policies around permitting, liability, regulations, ownership boundaries, implementation and other issues related to prescribed fire have rendered this management tool almost inaccessible to private landowners.

Private landowners across the West understand the important role of fire in fire-adapted ecosystems. The MBG, which is made up of about 1 million acres of deeded and leased land, has had success in bringing fire back onto the landscape. As Don Decker from the Natural Resources Conservation Service (NRCS) explained, "Fire out here isn't a bad word. It's generally very beneficial. There's just a limited amount of moisture here and precipitation, and in the end the shrubs can outcompete the grass if given a chance, so fire is one way to hold back that brush and keep the grass vibrant and healthy."

Those who have had the opportunity to use prescribed burning on their lands know that careful management that includes planned burns can prevent inevitable wildfires from becoming catastrophic and gradually reintroduce fire and its many benefits into the ecosystem. This makes a lot of sense to Aaron Jones, who has succeeded in using prescribed burning to reduce stand density on a ranch in northern New

[3] American Forest Foundation 2017, "Root for Rural Family Forest Owners in the Tax Code" (blog post). https://www.forestfoundation.org/contentmgr/showdetails.php/id/3/view_type/950040 (accessed January 3, 2018).
[4] American Forest Foundation 2015, "Western Water Threatened by Wildfire: It's Not Just a Public Lands Issue." https://www.forestfoundation.org/stuff/contentmgr/files/1/3d98bbe1b03a0bdf4c726534d438b0ab/misc/final_fire_report.pdf (accessed January 3, 2018).

Mexico and southern Colorado. "It's not *if* we get a fire, it's *when* we get a fire," he said. "We know it's coming but when it burns through it's not going to take every tree; it's going to mimic fire in a landscape that burned in the last 50 years rather than 200 years."

Rancho del Oso Pardo, New Mexico

Jones, who manages Rancho del Oso Pardo outside Chama, New Mexico, has worked on and off the ranch for the last 27 years. As part of their management plan, the ranch developed a detailed map of the property with layers identifying forest and habitat types, ecosystem types, steepness of terrain, stand age categories, watershed and water resources, etc. They looked at how fire would respond to the different habitat types and how it would be likely to behave throughout the property. They identified the most critical fire zones and prioritized direct thinning and other forest health projects in these areas. While they've made good progress toward improving forest health on the ranch, Jones pointed out that past New Mexico policies made it easier to use prescribed fire as a management tool. "We used to be able to burn a lot of acres without too many people and at low cost," he said. "Now liability, permitting, etcetera, has really changed that." Gary Harris, a private forestry consultant in New Mexico and Colorado, who works closely with landowners in the Chama Peak Land Alliance, has seen similar changes. "We have burned hundreds of acres here with the cowboy burning mentality—i.e., using local resources and without expensive burn plans and burn crews."

Policies and Regulations

Some landowners and managers work in regions with strict air quality regulations that make it much harder to use controlled burning on private property. For Phil Ramsey and Beau Larkin at the MPG Ranch in Montana, planning for fire can be difficult. "We need some flexibility," Larkin said, referring to federal air quality regulations. "The forest is going to light someday and it's going to be a big deal. We could do smaller burns between now and then and probably head that off."

Missoula County, Montana, where the MPG Ranch is located, is a designated federal airshed, which brings additional air quality regulations that don't apply in most other places. Larkin, the forest ecologist at the MPG, explained it this way: "It's basically impossible for us to burn. We might do a 20-acre rangeland burn every few years. It's so rare that the stars line up. It's a short window when you're allowed to burn, and then it can't be too hot or too wet. It's damn difficult to burn just 20 acres. Maybe one in five years when you can do it. You get all the expensive personnel, and then they sit around because conditions are wrong."

Add to the strict burn regulations the need for very specific wind, temperature and relative humidity conditions, and fire becomes that much more difficult to implement. For Harris, the solution is to try to burn piles in the late fall or winter, when a layer of snow on the ground minimizes the risk, but this approach isn't always feasible. "For some fuel types you can do lower temperatures and higher humidity, but others don't work that way."

For Larkin and Ramsey, this leaves thinning as the best and only management tool to maintain the forest and lessen the risk of catastrophic wildfire. According to Larkin, their only option is to "thin like crazy" in an effort to minimize the risk of catastrophic wildfire. But thinning by itself, without fire, has its limitations. "The problem with thinning is you don't get nutrient cycling," said Larkin. "Everything is just going to sit there. We need to cut, and we need to burn." Thinning does not reduce the undergrowth that creates high fuel levels and contributes to high-intensity wildfire, and as Larkin pointed out, "Eventually you're going to get a fire you can't put out."

Sid Goodloe, Carrizo Valley Ranch, New Mexico

Liability

In regions where landowners can more easily implement fire, the concern with liability becomes an issue of great concern, as Jones implied above. In some states, a landowner can be criminally or civilly liable for damages that result from a prescribed fire. In addition, if a prescribed fire escapes and damages federal lands or property, federal criminal statutes may apply.[5] More often, state statutes are simply unclear as to landowner liabilities.

Gus Holm, manager of the Vermejo Park Ranch near Raton, New Mexico, concurred with Jones. "Liability is one of the hardest barriers to overcome, but it is important to do so because prescribed fire is critical in forest management and restoration," he said. For New Mexico ranchers Nelson Shirley (Spur Lake Ranch), Nancy Ranney (Ranney Ranch) and Sid Goodloe, liability weighs heavily when it comes to fire. "If you have a fire that burns across federal or state land, get ready for the lawyers," Shirley said. "You have liability down to your shoelaces."

[5] Gass, Tobah M. 2009. *Reducing Barriers to Use of Prescribed Fire in Privately Owned Forests*. Colorado Forest Restoration Institute and Department of Forest, Range and Watershed Stewardship, Colorado State University. https://fri.colostate.edu /wp-content/uploads/sites/22/2018/03/Gass_BarriersPrescribedFirePrivateLand2.pdf (accessed June 6, 2018).

Goodloe agreed. Risk has increased "because people build homes in fire prone areas. The Forest Service has to worry about protecting these homes to do a controlled burn." Goodloe now must worry about neighbors when he burns. "I am in for a lawsuit and may lose my ranch if a fire escapes."

Ranney has discussed prescribed fire as a potential management tool for juniper regrowth and encroachment for more than 10 years, but "it's very scary." Like Goodloe, she worries about the neighbors. And given the consistent wind patterns in her area, there are very few good burn days. Right now, the only tools they have to remove juniper are selective "plucking" of the entire tree—including roots—by an excavator with a hydraulic thumb, which, although very effective, is expensive and only partially funded by the NRCS EQIP program; and the use of a directed herbicide applied to the base of the plant, which is labor and time intensive. "Fire would be much more healthy and natural." Although the ranch has not been able to implement prescribed fire in the past, Ranney is "hoping to give burning a try in 2018."

Permitting

Permit requirements vary by state. In Colorado, landowners are required to apply for both state-level smoke permits and county-level burn permits. Depending on the extent of the burn they are planning, or the number and size of piles, they must acquire either a general, open-burn permit or a "significant user" permit.[6]

For some Colorado landowners, acquiring smoke permits from the state can prove challenging and doesn't always make a lot of sense. As a ranch manager in rural Colorado expressed, "Smoke permits are a joke. We have to have significant user classification, which is really made for the Front Range in Colorado. So they are thinking about public health in much more dense areas."

For Craig Taggart, the environmental manager on the Trinchera Blanca Ranch, located in southern Colorado, this creates a substantial hurdle. "The state has taken the policy of applying guidelines statewide, which means that the standards for areas in the Front Range are the same for wide open country where there are no people to impact," he explained. "You can only burn on 'excellent,' 'good' and 'very good' days; not on 'poor' or 'very poor' days, even though there are no people that would be affected." This often leads to "lots of back and forth and checking and rechecking if the burn windows are good [and] lots of sitting around and not burning on days when it would be great as far as escape risk, but not great in terms of smoke dispersion conditions." A solution would require the state to change the regulations to "consider the actual locations rather than being a blanket regulation for the whole state. Make the regulations appropriate to the location and to the people."

Gary Harris concurred: "You get a nice burn day, but you can't meet the ventilation category, so you can't burn." Ideal burning conditions, in this case, are in direct contradiction with air quality regulations, putting landowners squarely between a rock and a hard place.

---

[6] Gass, Tobah M..

Les Dhaseleer, the natural resources manager for Vermejo Park Ranch, said that the smoke permitting process in New Mexico is "complex, but if you have done it before then it's pretty easy." He permits the whole ranch and it only "takes seven or eight days out of the year." However, he admitted, "it's very burdensome for smaller ranches" that don't have the same personnel and resources and are not familiar with the process.

And even with ideal burning conditions and permits in place, landowners are still faced with restrictions designed mainly for "yard burners," explained a private forester from Colorado. In Colorado, burn piles are usually limited in size to 4 ft. by 4 ft. by 4 ft. and must be extinguished by sunset. "Four by four by four is ludicrous," he added. "I burned piles yesterday that were 100 ft. by 100 ft. by 15 ft."

Public Perception

In addition to liability and permitting issues, public perception also poses a challenge to how landowners manage their lands. When Sid Goodloe purchased his Carrizo Valley Ranch more than sixty years ago, the land had been left in poor condition from consistent overgrazing compounded by persistent drought. The two issues together had led to shrub encroachment onto the ranch's grasslands. "When I got here I didn't know anything about land health," he admitted. "I had to learn it by trial and error. It was just me and a chainsaw." Over time, Goodloe began to recognize the importance of fire in restoring and managing healthy lands. "The problem with this whole deal is lack of fire," he said.

Early on in his ranch ownership, Goodloe found that even talking about fire was a "no-no." Policies around fire suppression, together with lack of acceptance among the public, made the option of fire as a management tool out of the question. "You didn't talk about fire except to put it out." Public perception has significant influence on policymakers, and only recently has perception of prescribed fire—together with the associated smoke and air quality concerns—become more positive, as public understanding of the role of fire in forest management has increased.

Access to Skilled Labor and Equipment

Even as public perception becomes more favorable toward prescribed fire in certain areas, economic and resource barriers keep this management tool largely out of reach for many landowners. "We don't have the personnel, we don't have the equipment, and we don't have what it takes to put in the blacklines to do the burn," Goodloe said. He is not alone in struggling to find people who can plan, supervise and perform fieldwork on managed fires, including qualified equipment operators. Lack of access to skilled labor, specialized equipment and necessary financial resources are all common barriers to the use of prescribed fire for landowners.

In the West, due to the extent of federal land, most wildland firefighters and prescribed fire crews are certified under the federal fire training standards established by the National Wildfire Coordinating Group (NWCG). These credentials are considered the gold standard in the industry. However, they are specifically tailored to federal and professional firefighters and require ongoing training, evaluation and certification,

which are generally only possible for those who work with federal fire crews. This means that landowners and their employees and contractors not affiliated with federal agencies can have a difficult time achieving and maintaining NWCG fire credentials beyond the basic red card—and even NWCG certification doesn't fully alleviate the liability risk to landowners.

In other parts of the country, particularly in the Southeast, many states have passed legislation to create certified burner training programs and accompanying liability relief for private landowners. Landowners who are certified or who contract with certified individuals to conduct prescribed fires and implement them in accordance with proper procedures receive a measure of liability relief from the state. However, most Western states lack such programs.

One exception is Colorado, which created the Colorado Certified Burner program in 2013, providing limited liability protection to individuals who were either certified through this program or qualified by NWCG standards as a Prescribed Burn Boss. According to the 2013 Colorado Prescribed Burning Act, such an individual "is not liable for civil damages for acts or omissions made in good faith resulting in damage or injury caused by fire or smoke resulting from prescribed burns they conduct on the landowner's property and in compliance with applicable state laws and local ordinances, unless such private landowner's or designee's acts or omissions are grossly negligent or willful and wanton."[7] Other states—including New Mexico, Arizona and Montana—still do not have this kind of prescribed fire legislation. And not only are certified burner programs rare in the West, but the time and travel required to attend classes and become certified makes it tough for landowners who live in remote areas to participate when they do exist.

Finally, most prescribed fire professionals are affiliated with fire departments and public agencies. Sometimes it is possible for a landowner to contract volunteer firefighters or even federal contract crews. However, the availability of these resources can be very limited, particularly when federal agencies are busy implementing prescribed fire or responding to wildfires. State forestry departments can be precluded by law or directive from assisting landowners with prescribed fire. The Nature Conservancy, Forest Stewards Guild and several private companies have been able to train and organize prescribed fire crews through collaborative burning models and Prescribed Fire Training Exchanges (TREX). These alternate approaches provide hands-on training opportunities for wildland fire professionals and accomplish treatment objectives by making highly trained professionals and resources such as water tanks, UTVs or wildland engines available. Organized events last from one to two weeks and include planned burns on selected properties. For willing landowners, hosting a TREX or collaborative burn event is a rare opportunity to conduct a burn that could otherwise be financially and logistically prohibitive. However, resources and programs like these are few and far between, relative to the scale of need in the Western landscape.

Landowners can face a similar shortage of resources when it comes to mechanical thinning. Randy Mannix, a fourth-generation rancher on the Mannix Brothers Ranch in west-central Montana, has found it especially challenging to find quality loggers to do thinning and restoration work. Mannix explained, "The equipment that is out there today allows for loggers to do an exceptional job of forest management, and it can be done

[7] Colorado Prescribed Burning Act, Colorado Senate Bill 13-083, 2013. Accessible at http://www.leg.state.co.us/CLICS/CLICS2013A/csl.nsf/fsbillcont3/5F5B370100DCF8DC87257A8C00507309?Open&file=083_enr.pdf.

safer and more comfortably. However, I don't know of a profession that has more challenges." The huge capital outlay loggers need to get started, uncertain markets, difficult weather conditions—ranging from wet and muddy to cold and frozen—the challenging nature of the physical work and the long distances they need to travel are just a few of the reasons for the continued lack of quality personnel to do the forestry work needed on the Mannix Brothers Ranch and similar properties.

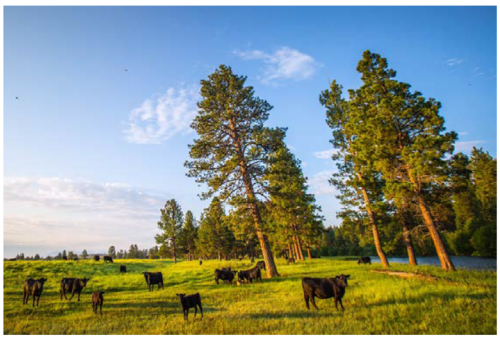
The same holds true in Colorado and New Mexico. Jim Johnson and others in this area struggle to find enough people to do the work at the scale that is needed. Not only are there very few good logging companies to do the thinning, they pointed out, there is also very little choice in contractors or labor to do the physical work. On finding good local labor, "It's almost impossible," said Gary Harris. "They last a day or two and then they are gone. Bigger outfits have a visa deal, so they can bring up folks from Mexico." Moreover, there are limited markets or mills left for the timber coming off the ranch.

Expense and Access to Mills and Markets

In much of the West, local mills for processing lumber and local markets for that lumber have all but disappeared, especially in smaller rural communities. For landowners in northern New Mexico and southern Colorado who work with Gary Harris, the best available mill that is interested in their timber is over two hundred miles away, in Montrose, Colorado, which means a lot of fuel for transporting logs, resulting in low stumpage values.

Restrictions on logging trucks add another level of difficulty. Harris explained, "The highway weight limit is 80,000 pounds on the New Mexico side, but in Colorado it's 85,000 pounds. This is a 2.5-ton difference. Most loggers and truck drivers are paid on a weight basis; they lose money by crossing the border into New Mexico. In Colorado, you can get an exemption to go above the 85,000 pounds, but New Mexico doesn't have that." Colorado law also requires truck drivers to install electronic logbooks and limit their time on the road to 11 hours per day, further limiting their working area. Harris believes a solution could involve creating an enterprise zone that "gives us some allowances to help promote the logging industry"—for example, setting the same weight limit in New Mexico that exists in Colorado.

Back to skilled labor: where landowners are fortunate enough to find people to do the work on the ground, most simply cannot afford the expense. Mechanical thinning costs an average of $300 to $1,000 an acre. Even when the timber is merchantable and a market exists within reasonable distance to offset some of the costs, forest treatments are often at best only a break-even proposition for the landowner. And without the ability to allow natural fires to burn or to implement prescribed fire, landowners frequently struggle not only with the high initial cost of thinning and clearing, but also with the expense of repeated treatment in areas where regrowth happens. "We spend millions of taxpayer dollars fighting wildfires," Gus Holm explained, "but there is no money for prescribed fire. Prevention money is much cheaper, everyone knows that. But human nature is to wait and be reactionary."



Mannix Ranch, MT

For Randy Mannix, selling timber has saved the Mannix Brothers Ranch a time or two. While he feels strongly that maximizing timber productivity together with wildlife values and grazing potential must be the ranch's priorities, the main barrier to effectively managing its forested acres is the loss of mills and lack of markets for forest products. His area of Montana has already lost many mills and a paper plant, and this has been a huge economic hit for the local rural communities. Mannix said he feels fortunate that a few mills still do exist in his area. However, he explained, "as for the mills that are still here, if it weren't for local guys taking heroic steps and losing a lot of money, we wouldn't even have those." "Each year we lose some," added Gary Harris. "It's a slim margin on anything they do. Any little disruption really puts a crimp in their operations." Nelson Shirley agreed. "No one's going to build a mill without some sort of guarantee of how much they can get year to year."

Nancy Ranney faces similar challenges down in central New Mexico, where she sees the complete lack of local market options as the number one barrier to good forest management. There is huge potential for positive economic impact on the local community using cleared wood as a resource. Pellet stoves are popular, and a wood pellet plant could be set up locally to use cleared juniper from the surrounding area, including Ranney Ranch, and provide pellets for sale and local use. "There is a way to connect the needs on the ranch with community development. This could be pretty convincing." Ranney has so far been unable to find grants to get this idea off the ground.

Another reason that local mills have failed is the lack of a consistent supply of wood. In the West, especially, a predominately checkerboard land-ownership pattern means that private lands are largely intermixed with and surrounded by public lands. The wood coming off private lands alone is not sufficient to incentivize new mill development and drive a wood products market. Unfortunately, consistent federal supply off public lands cannot be guaranteed due to a variety of administrative challenges ranging from U.S. Forest Service budget constraints and limited personnel to limitations caused by regulatory processes and associated litigation. For example, federal agencies are usually limited to budgeting three to four years at a time, while investors often need much longer commitments of 10 to 20 years in order to ensure a return on their investment.

In terms of regulatory constraint, the National Environmental Policy Act (NEPA), for example, requires federal agencies to assess the potential environmental impacts of proposed actions. This regulation helps avoid developments that can harm wildlife habitats and natural resources, but it can also slow or prevent other activities, such as forest thinning. As Harris explained, "The Forest Service has always been tough on

guaranteed supply. They have the NEPA process and they can lose it right there when they get to the public input stage." The NEPA process doesn't only affect markets and guaranteed supply, it also adds expense. Private landowners interested in forest treatments on leased public land can face increased costs and time delays associated with NEPA. "A big barrier is trying to get NEPA done," explained Shirley.

Federal Funding

The only way that some private landowners have been able to afford forest treatment and restoration work is through federal funding programs primarily housed under the USDA Natural Resources Conservation Service (NRCS). "The only thing that made it doable was money from federal programs," stated Shirley. Sid Goodloe concurred. Without federal funding programs, "I couldn't have done the things I've done here. They have great programs."

Nancy Ranney started her forest management activities with money from the NRCS Great Plains program and then later received funding from the NRCS Environmental Quality Incentives Program (EQIP). This worked well for a while. However, as she explained, "EQIP is now financially strapped. It has gone from $400,000 to $100,000 for the district." Mannix also expressed feeling "fortunate to have been awarded EQIP grants to help with pre-commercial thinning practices...and make it possible to perform the management tasks that don't generate any cashflow." He added, "It's critical for these funds to continue to be available."

In addition to NRCS EQIP, Ranney has also done work under the Conservation Stewardship Program (CSP), a USDA Farm Service Agency program, which she has drawn on for eight years (each award is for a five-year period) and used to implement a variety of conservation practices on the ranch. While many landowners agree that funding for conservation title programs through the Farm Bill is critical for private land management, Mannix also reflected on a desire for the market to be "strong enough that [we] don't have to go to the government for management alternatives."

Models and Successes

Amid a myriad of barriers and challenges, private landowners throughout the West have taken initiative to restore and maintain forest health.

In addition to some of the landowners discussed above, Greg Moore, owner and operator of Moore Land and Cattle Company in northern New Mexico, has successfully used prescribed fire to reduce shrub encroachment into his grasslands, which has saved water for the benefit of healthier grasses. After years of trying to push back encroachment with front-end loaders and chemicals, to no avail, Greg decided to try fire. When asked about his management, he replied, "I don't manage anything. I just light the fire and let the fire do the managing. It's that simple."

In spring 2017, Moore was able to burn approximately 6,000 acres. The burn was over in a matter of days, but the prep leading up to it was years in the making. Greg started preparing the land in 2006, by spraying

herbicides to kill piñon and juniper, which in turn led to what he described as an "explosion" of grass growth. The increased grass growth built up the needed fuel load to carry fire across the landscape and ensure a successful burn. Greg described his situation as, "We're either coming out of a drought or going into the next one. Every morning I wake up thinking about how I'm going to beat the next drought." And for several decades now, he's done just that, through careful management that includes planned rotational grazing and prescribed fire.

Emily Hohman, Executive Director of the Chama Peak Land Alliance, has seen another effective model of prescribed burning that "has great potential in the West." Prescribed Burn Associations or Landowner Burn Associations are collaborative groups common mostly in the Great Plains but also starting to pop up in the Southeastern U.S. Hohman plans to explore this model with Chama Peak Land Alliance.

The Malpai Borderlands Group has also had success in implementing prescribed fire and studying "the effect of fire on a landscape scale being applied as a management tool," explained Ben Brown, MBG's science coordinator. According to Peter Warren from The Nature Conservancy, "The Malpai Group is really focused on very practical things. How do we protect the land? How do we manage the land better? And one of the important aspects of that is using fire." Bill McDonald reflected, "You know, the interesting thing is that we just went through a 20-year drought. This country ought to look terrible. The fact that we are working with people who are studying the landscape, the fact that we are thinking about something other than cows and our use of fire have really helped to keep this landscape viable and looking as good as it does."

The MBG is also a great model for public-private cross-boundary cooperation and communication. Prior to implementing prescribed fire, ranchers in the area had many discussions with their federal and state land agency neighbors. "Our experience with the agencies and how they came on board with the fire convinced the ranchers that if they were willing to get out in front on some of these issues, they could set the agenda as leaders and not as just followers," said Brown.

Another area where cross-boundary solutions have been successful is through a recent Memorandum of Understanding (MOU) between the U.S. Bureau of Land Management (BLM), the New Mexico State Land Office and the New Mexico Association of Conservation Districts to allow cooperation and coordination of prescribed fire use between the BLM and private landowners. The MOU reads, "The purpose of this agreement is to outline each agency's role and responsibilities in the development and implementation of prescribed burn plans on joint administrative landscapes of private and public (BLM administered) lands in New Mexico. Whereas the BLM's expertise has been requested and funded to assist private landowners and/or grazing permittees in the development of a burn plan for his/her property and public grazing allotment to maintain overall landscape health and habitat quality for these lands."[8] Jesse Juen, former New

[8] Memorandum of Understanding between United States Department of the Interior, Bureau of Land Management, New Mexico State Office and New Mexico Association of Conservation Districts regarding BLM Prescribed Fire Expertise for Private Landowners Across Landscapes, BLM MOU-NM-931-2017-008, 2017. Accessible at Western Landowners Alliance, https://www.westernlandownersalliance.org/blm-mou-nm-931-2017-008_nmso-nmacd-mou-for-fire-05172017-bmr-07_0511741/.

Mexico director of the BLM explained, "This MOU provides landowners another option among many for resources to plan burns and carry them out should they want BLM to assist."

Some landowners are even finding new and different markets for their timber. "Another increasing and promising development is the growth of the small wood-miser type mills that give some landowners a viable marketing option," explained Randy Mannix. "They are paying more per ton than the bigger mills are right now." Mannix has also seen an "increase in value of round wood" in his area. "The price per ton for lodgepole whips has surpassed the value of stud-logs, which has helped us personally." Round wood is used primarily for post-and-pole material for fences.

Ranney has also found a new potential market for the timber coming off Ranney Ranch. She has been unable to create a local market, but she has been approached by a company out of England that is seeking to import cleared juniper for a power plant required by a European Union directive to phase out fossil fuels by 2025.[9] As Ranney explained, "They are currently purchasing and shipping cleared juniper out of Texas; New Mexico is still a bit too far away but may still work as they really like the low sulfur content, very dry environment and high BTU of our wood."

While bright spots in forest health and management can be seen throughout private lands in the West, landowners can't do it alone. Cooperation between the public and private sectors, economic drivers and supportive public policies at the local, state and federal levels are key to their success.

Beyond Forest Health

It's not just forest management that presents a challenge to landowners. Most landowners in the West are managing highly diverse landscapes, including forests, grasslands and wetlands. They are faced with the challenge of managing these varied ecosystems for multiple ecological and economic goals, ranging from restoring and maintaining wildlife habitats to running a viable livestock operation; from providing much-needed ecosystem services (clean air, clean water, carbon-rich soils) to meeting their financial bottom lines.

Craig Taggart commented, "It's amazing what it costs to keep a property this size running and try to improve the land, rather than just maintain it." Every landowner juggles many factors to keep an operation running and financially viable. For Nancy Ranney, this requires a little creativity in creating diverse income streams. "Grassfed beef, rentals and wind energy are all in the picture of how to keep the ranch afloat," she said. "This is an enormous challenge. We struggle with this daily."

Despite the many challenges to keeping Western working lands intact, it is critical that we do so. In addition to sustaining rural communities throughout the West, these lands carry the burden of providing ecosystem services—such as water filtration and storage, clean air and soil carbon sequestration—that cities and other paved urban areas cannot provide. Moreover, private working lands provide critical wildlife habitat. According to the American Forest Foundation, a national nonprofit organization of conservation-

[9] Drax Group, based out of North Yorkshire in the United Kingdom, currently generates 68 percent of its power from burning wood pellets: https://www.theguardian.com/business/2017/jul/19/drax-coal-free-future-pre-tax-loss-power-station.

minded landowners, more than two-thirds of federally-listed threatened or endangered species exist on private lands.[10]

Along with many fellow landowners and managers, Beau Larkin recognizes the urgent need for ranches to be economically viable in order to keep working lands intact. While managing for forest health is important, the constant pressure to sell lands off for development poses an even greater threat. "The real problem is that development is forever," he said. "You can make a forest look like the moon, and a hundred years later the forest will be back. This is not the case once the land has been subdivided and developed."

The biggest threat to healthy forests, thriving wildlife and land connectivity in the West is the loss of private land to development. For these working lands to remain intact, and for our Western forests to be restored and resilient in the face of wildfires, landowners need public policies and economic drivers that enable them to keep lands healthy and productive while remaining economically viable.

Sid Goodloe and other landowners throughout the West understand that land health and economic prosperity can and really must go hand-in-hand: "If you don't improve your land health, you don't improve your income," he said. "We just have to utilize all the natural resources we can in a sustainable manner. In fact, it's more than sustainable. I am not too happy with the buzzword 'sustainable' because it means staying the same. You have to be sustainable plus improvement and increased production and land care, land health; these are the things that are important to us. We want to keep the land improving all the time because when we got here it was in a debilitated condition. Sustainability doesn't mean anything in that condition. You have to care about land health."

---

[10] American Forest Foundation 2018, *Protect At-Risk Wildlife and Fish on Family Forestland* (webpage). https://www.forestfoundation.org/endangered (accessed June 6, 2018).

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

November 16, 2020

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

I am a 25-year resident of Juneau, Alaska, and have chosen to raise a family and grow a small business here. I am honored to be able to live in Lingit Aani and specifically in the ancestral homeland of the Aak'w Kwaan people. My home and business are near where the Auk Village once stood. I am also a former Deputy Mayor and City and Borough of Juneau Assembly Member and a former member of the Alaska Native Sisterhood. One of my proudest acts as an Assembly Member was naming a local park with its proper Tlingit name, Aanti'yeik.

I also enjoy hunting, fishing, and recreating in the public lands around Southeast Alaska, including Tenakee Inlet and other parts of the Tongass National Forest.

I am particularly concerned about the land selections made in this legislation for areas in Tenakee Inlet. I have hunted and fished in these areas and they are some of the last prime intact forests left in the inlet, abundant with fish and game.

The residents of Tenakee Springs rely on the selected lands for their hunting, gathering, and fishing needs. This small community has suffered greatly in recent times due to drastic cuts in the Alaska Marine Highway ferry service. Losing cherished lands in the inlet to clearcut logging will cause more long-term economic damage to the community, by reducing habitat for Sitka blacktail deer and diminishing freshwater salmon resources.

I know of no residents of the community that will qualify as shareholders for the new village native corporation. To my knowledge, Tenakee Springs was never an actual Tlingit village site, and was only used seasonally by nearby tribes I fear that out of town shareholders will not treat these lands with the stewardship currently provided by local

residents of the inlet, resulting in using these lands for short-term gain, not long-term ecological health and sustainable economics.

From what I can tell, all of the village corporation lands in Southeast Alaska have been clearcut to send logs to Asia with no local wood processing. Some of the funds generated by these operations have been stewarded well, and some have vanished, leaving no long-term economic benefit in the region. This has particularly been the case where villages selected lands far from their communities.

Instead of creating more village corporations in Southeast Alaska, I would humbly suggest encouraging more economic development in the region through tribal organizations, who aren't solely driven by a corporate profit model. I personally have supported sustainable economic development in the region by building with Tongass second-growth timber in my business. Instead of encouraging more clearcut logging in the last intact watersheds in the Tongass, we should all be supporting a transition to a second-growth timber industry with local value-added processing. This could be facilitated with increased support to local tribal organizations in economic development.

Thank you for your consideration of my comments.

Sincerely,

Marc Wheeler
427 W 9th Street
Juneau, AK 99801

November 18, 2020

The Honorable Mike Lee
Chairman
Subcommittee on Public Lands, Forests, and Mining
Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

The Honorable Ron Wyden
Ranking Member
Subcommittee on Public Lands, Forests, and Mining
Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Dear Chairman Lee, Ranking Member Wyden, and Members of the Subcommittee,

On behalf of our more than one million of members and supporters, The Wilderness Society (TWS) writes to express views on the bills being heard before the Senate Committee on Energy and Natural Resources Subcommittee on Public Lands, Forests, and Mining on November 18, 2020. We respectfully request that this letter be included in the hearing record.

H.R. 823/S. 241, Colorado Outdoor Recreation and Economy Act
TWS supports H.R. 823/S.241, Colorado Outdoor Recreation and Economy (CORE) Act, by Representative Neguse and Senator Bennet. This legislation is the product of over a decade of intensive locally driven collaboration, compromise and consensus building; a process which has yielded a well vetted and detail-oriented piece of public lands legislation. Because of its collaborative development process, the CORE Act enjoys strong support from the local leaders and communities most intimately associated with each area included in the bill. As a result, the CORE Act is supported by Colorado Governor Polis, the Department of Natural Resources, 20 counties and municipalities, and nearly 300 Colorado businesses, including many with a national presence.

The CORE Act protects important recreation areas and viewsheds in the high central mountains of Colorado, an area seeing intensive population growth, recreation and increasing strain on public lands. The CORE Act includes an Historic Landscape designation for Camp Hale, the base of the 10th Mountain Division, which was integral to mountain combat during World War II and to the birth of the modern ski industry. The bill also includes important areas in the San Juan Mountains in southwestern Colorado, including state landmarks, iconic fourteeners, and popular hiking destinations. It includes the protection of the popular Thompson Divide from energy development concerns and reflects overwhelming community consensus for protection while respecting valid existing rights of oil and gas leaseholders. Additionally, the bill makes long-overdue management clarifications and fixes such as formalizing the boundary of Curecanti National Recreation Area, as requested by a National Park Service report to Congress.

Protected landscapes are incredibly valuable to the economic vitality of Colorado. In 2017 outdoor recreation contributed $62 billion to the state's economy, comprising nearly 19% of the labor force in Colorado. Moreover, outdoor recreation in Colorado creates nearly four times as many direct jobs as the oil and gas industry and the mining industry combined. To that end, this bill has garnered the endorsement of the top local, national and international companies in the outdoor industry, as well as the country's largest user groups and outdoor recreation associations. After years of detailed collaboration with user organizations and local clubs and working with the U.S. Forest Service during their travel management planning process, the resulting bill keeps all open roads and trails intact and accessible. The bill language for all of the areas--Wilderness included--includes provisions that permit necessary insect, disease, and wildfire management activities.

This bill represents a long and extensive process that has yielded an excellent product. We urge the Committee to support the CORE Act.

S. 1695, Human-Powered Travel in Wilderness Areas Act
TWS opposes S. 1695, the Human-Powered Travel in Wilderness Areas Act, by Senator Lee, which would undermine the Wilderness Act as well as overturn a half-century of wilderness management.

In landscapes across the country, wilderness advocates and mountain bicyclists have successfully worked together using a wide range of tools to develop proposals that preserve access to important mountain bike trails and protect adjacent wilderness areas. These collaborations are widely celebrated as models for building successful partnerships between diverse stakeholders and land managers. We believe this approach offers the best path to success and we are committed to these collaborative efforts.

Unfortunately, these types of collaborative efforts are threatened by S. 1695, which would open America's 111 million acres of wilderness areas to a number of forms of mechanized recreation, including bikes, the effect of which would be to completely redefine and threaten wilderness areas nationally.

Mountain biking in wilderness not only violates the letter of the law but also the clear intent of the Wilderness Act, which anticipated growing pressures for unforeseen types of mechanized use to impinge on the wilderness values the Act was designed to protect. The Wilderness Act states, "...there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport". **Congress clearly established the "enduring resource"** of wilderness to be the last refuge from the influence of mechanization. We believe this judgment endures today and underscores the heightened need for all public lands users to work together to ensure we are balancing our recreational desires with the conservation values of the lands themselves.

Amending the Wilderness Act to accommodate mountain bicycles and other wheeled devices effectively prioritizes recreation over all other wilderness values like protecting sources of drinking water, habitat for critical wildlife, and opportunities for solitude. We believe all of these values deserve consideration and must be balanced with recreation interests in our wilderness areas.

Mountain bicycling and other forms of human-powered recreation should be supported and promoted on America's public lands. It is important that conservationists collaboratively develop new land protection proposals that consider mountain biking uses and needs. TWS is committed to working collaboratively to develop proposals that both ensure mountain biking access on public lands and wilderness protection. We need more mountain bicycling opportunities, and we need more wilderness. We can do both, but we must continue working together. Unfortunately, S. 1695 would only hamstring this type of collaboration while undermining one of our bedrock environmental laws. For these reasons, TWS urges the Committee to oppose S. 1695.

S. 2804, Pershing County Economic Development and Conservation Act
S. 2804, the Pershing County Economic Development and Conservation Act, by Senator Cortez Masto and Senator Rosen, reflects years of effort and is the result of a locally driven stakeholder process to improve land management in Pershing County, Nevada. We appreciate the significant improvements in this version of the legislation over previous drafts.

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 TWS. In 2018, TWS provided detailed comments and recommendations on the Pershing County Economic Development and Conservation Act. Many of those comments apply to S. 2804, and we urge their resolution. In particular, we look forward to working with the Committee on these issues of greatest concern:

- Protecting the public interest in land disposal: TWS has significant concerns with section 104, which 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 mine 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 bill defines "fair market value", potentially resulting in major losses to the public.
    - Recommendation: *Modify section 104 to give the Secretary authority and discretion to retain lands and interests in lands necessary to protect the public interest and to ensure a fair return to the public.*
- 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 and modify section 103(a) to eliminate or narrow the exemptions to the FLPMA in order to ensure compliance with applicable laws to ensure fair market value, historic and cultural lands, and other public values are protected.*

We appreciate the significant improvements in this version of the legislation over previous drafts, however, urge the Senators and Members of the Committee to address these concerns prior to advancing S. 2804.

S. 4215, Bonneville Shoreline Trail Advancement Act
TWS opposes S. 4215, the Bonneville Shoreline Trail Advancement Act, by Senator Romney, which would redesignate portions of four wilderness areas in Utah. These wilderness areas were established by Congress in 1984 and are off-limits to mountain bikes. These areas are managed "to

secure for the American people of present and future generations the benefits of an enduring resource of wilderness." While TWS supports mountain biking as an appropriate use on public land, S. 4215 would remove portions of four wilderness areas to prioritize biking over other benefits.

For years, local elected officials, ski areas, recreation interests, conservation organizations and other stakeholders have been pursuing a comprehensive solution to protecting watersheds and improving recreation management in the Wasatch Mountains. Modifications to wilderness boundaries to facilitate the Bonneville Shoreline Trail have been discussed in that context. However, S. 4215 omits the wilderness, other conservation designations, and other components of the collaborative local agreement. For these reasons, TWS urges the Committee to oppose S. 4215.

S. 4599, Pecos Watershed Protection Act
TWS supports S. 4599, Pecos Watershed Protection Act, by Senator Heinrich. This legislation withdraws identified federal land in the Pecos River watershed in New Mexico from (i) entry, appropriation, or disposal under the public land laws; (ii) location, entry, and patent under the mining laws; and (iii) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

The Pecos River watershed is highly deserving of protection from the threat that new mining and oil and gas development would pose to its sensitive cultural, historic, and natural resources. The Jemez/Pecos Pueblo and Tesuque Pueblo have utilized the area's rich natural resources since time immemorial. Today, both Pueblos continue to use the upper Pecos Watershed for hunting, fishing, herb gathering and ceremonial purposes. Spanish land grant heirs and acequia parciantes continue to hunt, fish, gather herbs and firewood, farm and ranch in the watershed, as they have done for hundreds of years. The Pecos River is a clean, pristine mountain water source supporting not only the wildlife, flora and fauna in our area, but also the economy of the Pecos Valley, including recreation, hunting and fishing.

The Pecos Watershed Protection Act has the support of local leaders and advocacy groups, including the Upper Pecos Watershed Association, New Mexico Wild, acequia leaders, small business owners, and local elected officials. For these reasons, TWS urges the Committee to support S. 4599.

S. 4603, The Forest Health and Biomass Energy Act of 2020
TWS opposes S. 4603, the Forest Health and Biomass Energy Act of 2020, by Senator McSally. S. 4603 would prohibit the Secretary of Agriculture from collecting any revenues for certain timber logged from National Forest land, direct the Secretary of Agriculture to establish an annual performance metric for the harvest of wood biomass material, and establish a fund to house logging receipts diverted from the Treasury (and potentially certain other projects and programs) to assist timber operators and biomass energy producers.

The bill contains a number of objectionable provisions. TWS is concerned about the cost the bill's provision would impose on federal taxpayers. As a general rule, we believe the public should receive fair market value for resources extracted from federal public lands. S. 4603 would mandate that certain timber be given away regardless of its market value. The result would be decreased revenues for the Treasury and for other land management priorities, while creating a budget impact that likely would need to be offset by cuts in spending to other important land management programs.

TWS is also concerned about the breadth and vagueness of many of the bill's provisions. For example, while the bill directs the Secretary of Agriculture to designate high hazard areas of National Forest System land, to generally maintain that designation for 15 years, and to develop and permanently maintain a website to house the list of designated areas, it does not provide any meaningful guidance on what would qualify for such a designation (e.g. any area of National Forest

System land located west of the 100th meridian would qualify), what public process must be undertaken for considering such designations, or what land management factors would be considered in making a determination that the designation is no longer warranted.

Further, the legislation establishes what is effectively a biomass quota for national forests that could be used to drive future management decisions on national forest land, regardless of the ecological or social costs of those decisions. We believe management of national forests should be driven by science and ecological health, not arbitrary timber targets. Finally, the legislation creates a slush fund, to be controlled by the Secretary of Agriculture, to subsidize timber interests. Federal industry subsidies should come from Congress, after an open and transparent public debate, not from agency-created and controlled funds. For these reasons, TWS urges the Committee to oppose S. 4603.

S. 4616, Gilt Edge Mine Conveyance Act
TWS opposes S. 4616, Gilt Edge Mine Conveyance Act, by Senator Thune, which would direct the Secretary of Agriculture to transfer certain National Forest System land to South Dakota.

TWS opposes this particular land conveyance because it does not demonstrate a legitimate public purpose that benefits the American people nor is it consistent with the Recreation and Public Purposes Act. Further, the bill does not include a reversionary clause to ensure that land that is not used for the intended purpose is returned to the United States. S. 4616 needs to clearly state its specified public purpose of the conveyed land. For this reason, TWS urges the committee to oppose S. 4616.

S. 4625, National Prescribed Fire Act
TWS supports the goals of S. 4625, the National Prescribed Fire Act, by Senator Wyden. Prescribed and managed fire are critical components of restoring and maintaining the health of our national forest ecosystems and are often more cost-effective and ecologically sound than mechanical fuels treatment. As national forests continue to suffer the combined effects of past management and climate change, expanded use of prescribed and managed fire are both necessary and ecologically beneficial.

We support increased funding for prescribed fire, funding and technical assistance to tribal, state and local fire agencies, and the focus on large landscapes, as is authorized by section 101 of the legislation. We also support the goals for increased use of prescribed fire in section 102, the collaborative prescribed fire program in section 103, and the prescribed fire incentive program in section 104. Additionally, we support the workforce training initiative in Title II. These sections could benefit from a provision encouraging collaborative landscape-level strategies to be developed to guide the design and implementation of prescribed fire projects as well as expanded use of managed fire.

TWS has questions about section 205(a)(5), which exempts prescribed fires conducted by Federal, state, and tribal agencies from the Clean Air Act. While we understand the need to ensure that Federal regulations support the use of prescribed fire, we question whether a blanket exemption from the Clean Air Act is necessary and appropriate. We also question whether the limitations placed upon the Administrator of the Environmental Protection Agency, state air quality agencies, and tribal governments regarding regulations and enforcement on state and tribal use of prescribed fire in section 205(a)(6) are appropriate and necessary.

Finally, we recommend that language be added to section 205(b) to make clear that any categorical exclusions proposed under that section be developed and implemented in accordance with the National Environmental Policy Act, that their development include a thorough public process for evaluating environment impacts, that their implementation include public participation, and other

technical fixes. For these reasons, we encourage the Committee to work to address these concerns before advancing S. 4625.

S. 4696, University of Alaska Fiscal Foundation Act
The Bureau of Land Management is still actively conveying federal lands to fulfill the conditions of the Alaska Statehood Act (1958) and the Alaska Native Claims Settlement Act (1971). To fulfill these obligations, desired tracts of land are selected by the entitled entity and then conveyed by the federal government. S. 4696 would convey lands to the University that were granted under the Alaska Statehood Act. TWS has no objection to this conveyance, but the selection process gives us concerns due to limited sideboards to ensure the integrity of Alaska's Conservation System Units (CSUs).

Within S. 4696, "available state selected lands" can be interpreted as any lands the State of Alaska has selected without regard to whether that selection has been deemed valid by the federal government. The definition specifically includes 'top filed' lands. Top filing under the Alaska National Interest Lands Conservation Act (ANILCA) gave the State of Alaska the ability to select lands that were unavailable at the time of ANILCA's passage in the event that someday they became available. Top filings include military bases, areas along highway corridors, and some lands within CSUs. The potential for selections within CSUs is problematic.

Moreover, this bill gives only a limited role to the Secretary of the Interior and federal land managers, and largely leaves the establishment and management of the program to the State of Alaska and university. The Bureau of Land Management would only provide technical assistance (surveying, mapping, etc.), and the Secretary of the Interior would be required to convey any tracts that the State of Alaska and university agree on selecting. The limited role of the federal government in this process does not ensure federal land ownership and management interests.

In conclusion, removing lands that have been top filed and giving the Secretary of the Interior greater authority over this program would help ensure the protection of Alaska's CSUs. For these reasons, we encourage the Committee to work to address these concerns before advancing S. 4696.

S. 4889, Alaska Native Claims Settlement Act Fulfillment Act of 2020
TWS opposes S. 4889, a bill to amend the Alaska Native Claims Settlement Act of 2020, by Senator Murkowski. This bill would transfer 115,000 acres of the Tongass National Forest to five newly formed corporations that would be permitted to clear-cut valuable old-growth trees, mine in sensitive salmon spawning streams, build roads, and conduct other damaging construction across these carbon-sequestering forests. It would similarly legislate land exchanges in other pristine landscapes, including the Arctic National Wildlife Refuge.

We acknowledge that there are past wrongs that need to be addressed for Alaska Native communities. We respect Tribes' inherent sovereignty and self-determination, including rights to restitution. But S. 4889 is not the solution. Rather, we are eager to engage in a dialogue on enacting meaningful, long-term protections for these globally significant landscapes, where the needs and rights of Alaska's Native people, local economies, and the conservation of these iconic places are equitably addressed.

Further, as the Committee is aware, passage of ANCSA was followed by passage of the Alaska National Interest Lands Conservation Act (ANILCA) in 1980. ANSCA should not be amended to privatize conservation lands that were legally protected upon passage of ANILCA, which was drafted in response to the directive in ANSCA to address conservation more fully. ANILCA did that. ANCSA must not now chip away at the protections it called for subsequent legislation to address.

Finally, we oppose S. 4889 because of its likely devastating climate impacts. We must reduce emissions tied to energy development on public lands and support natural carbon sequestration at or ahead of the pace dictated by climate science. Our large swaths of public lands like the Arctic National Wildlife Refuge and the Tongass National Forest are vital for mitigating the climate crisis. This bill would likely fast-track their development at a time when, as a nation, we must be prioritizing their protection if we are to avoid the worst consequences of climate change. For these reasons, TWS urges the Committee to oppose S. 4889.

Thank you for considering our views.

Sincerely,

Drew McConville
Senior Managing Director, Government Relations
The Wilderness Society

The Wilderness Society

December 3, 2020

The Honorable Mike Lee
Chairman
Subcommittee on Public Lands, Forests, and Mining
Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

The Honorable Ron Wyden
Ranking Member
Subcommittee on Public Lands, Forests, and Mining
Energy and Natural Resources Committee
United States Senate
Washington, D.C. 20510

Dear Chairman Lee, Ranking Member Wyden, and Members of the Subcommittee,

On behalf of our more than one million of members and supporters, The Wilderness Society (TWS) writes to express support for S. 2875, the Smith River National Recreation Area Expansion Act, which was heard in the Subcommittee on Public Lands, Forests, and Mining hearing on November 18, 2020. We respectfully request that this letter be included in the hearing record.

S.2875, Smith River National Recreation Area Expansion Act
TWS supports S.2875, Smith River National Recreation Area Expansion Act, introduced by Senator Merkley. This legislation would expand the Smith River National Recreation Area in California, by 58,000 acres into Oregon. The expansion would also protect 74 miles under the Wild and Scenic Rivers Act, designating specific segments of the North Fork Smith River as part of the National Wild and Scenic Rivers System (NWSRS). In 1990, Congress enacted legislation to establish the Smith River National Recreation Area (NRA) to protect the portion of the watershed in California. The established boundary of the NRA stopped at the Oregon border, which leaves the North Fork of the Smith River unprotected. S. 2875 would extend the boundary of the recreation area into Oregon, ensuring the protection of these critical resources. The Smith River not only harbors rare natural resources, it also provides a unique backcountry recreation experience. The enactment of this bill would protect the diverse ecosystems of the rivers, streams, and adjacent lands of the North Fork Smith River watershed and help boost the local fishing and recreation industries that many Oregonian families rely on. For these reasons, TWS supports S. 2875.

Thank you for considering our views.

Sincerely,

Drew McConville
Senior Managing Director, Government Relations
The Wilderness Society

1615 M Street NW, Washington DC 20036 | ph 202 883-2300 | wilderness.org

100% post-consumer fiber

The Honorable Lisa Murkowski
Energy and Natural Resources Chair
United States Senate
522 Hart Senate Building
Washington, DC. 20510

RE: November 18, 2020, Pubic Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senator Murkowski and Members of the Subcommittee,

We hope we still have the opportunity to provide comment on the bill introduced by Senator Murkowski: Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

We are distressed to discover, after taking a break from the internet over the weekend, that complicated legislation is being rushed into a hearing and we may have already missed the window to comment. As longtime Alaskans, we deserve and expect adequate notice to examine any bill of this complexity, with its potential for major, irreversible impacts on Southeast Alaska. This legislation would have the ability to drive the wedge of political division in even further at a time our very democracy is in a fragile state.

We are particularly focused on Tenakee Inlet, the place most dear to us in all of Southeast Alaska. We have submitted comments on previous legislation concerning new for-profit Native corporations, and we completely agree with comments previously submitted by the City of Tenakee and the Chichagof Conservation Council. We highly respect the connection of Alaska Native people with their traditional home, but we will never support the privatizing of any land which is a part of the Tongass, and the extreme risk of that land being subjected to devastating clearcut logging. Tenakee Inlet is home to salmon-rich watersheds and amazing wildlife viewing and hunting opportunities. We want it to stay that way for future generations.

Further, the Tenakee group seeking corporate status did not meet the original ANCSA requirements, where the other four groups met some of those requirements; the Tenakee group has a small membership in relation to the other four. Yet, in spite of these facts, the Tenakee group would receive a much larger acreage per capita than the others.

We ask that you consider other means that have been previously proposed to support a Native presence in Tenakee Inlet, such as the offer of the USFS facility at Corner Bay to establish a Tlingit cultural center. This type of proposal would garner much local support, while the presence of a for-profit corporation and the privatizing and potential permanent habitat destruction of critical portions of the Inlet would be a grave offense to the future of all Alaskans.

Sincerely,

Jeff and Karen Wilson
175 S Franklin Street
Juneau AK 99801

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

The Honorable Joe Manchin
United States Senate
306 Hart Senate Building
Washington, D.C. 20510

RE: November 18, 2020, Public Lands, Forests & Mining Legislative Hearing (S. 4889)

Dear Senators Murkowski and Manchin and members of the Subcommittee,

Thank you for the opportunity to provide comment on the Alaska Native Claims Settlement Act Fulfillment Act of 2020 (S. 4889).

This is to register my strong objection to include Tenakee "landless" in this bill. Several reasons were cited by ISER, (University of Alaska Institute of Social and Economic Research) that was commissioned by Congress in 1994, that found Tenakee did not qualify as a native village at the time of ANSCA, nor is It a native community now. This bill carves out large areas of public timbered lands in Tenakee Inlet and Freshwater Bay to give to a new native corporation. There is no basis to create this new Tenakee corporation or to dispose of public lands in favor of that corporation.

Please research and reconsider this drastic attempt to privatize this land that all people, native and non-natives, are presently able to use for subsistence and recreation.

Vicki Wisenbaugh
PO Box 512
Tenakee Springs, AK 99841

WRANGELL COOPERATIVE ASSOCIATION
P.O. Box 2021 • Wrangell, Alaska 99929
Telephone: (907) 874-4304
Email: wcatribe@gmail.com

November 30, 2020

The Honorable Mike Lee
Chairman
Subcommittee Public Lands, Forests and Mining
Committee on Energy and Natural Resources United States Senate
304 Dirksen Senate Office Building, Washington, DC 20510

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

RE: S. 4889 - Alaska Native Claims Settlement Act Fulfillment Act of 2020, SEC. 7. Recognition and Compensation of Unrecognized Native Communities in Southeast Alaska

Chairman Lee, Ranking Member Wyden and members of the Subcommittee on Public Lands, Forests and Mining:

The Wrangell Cooperative Association wishes to enter comments on a hearing held Wednesday, November 18, 2020 in the Senate Committee on Energy and Natural Resources, subcommittee on Public Lands, Forests & Mining, specifically a bill introduced by Senator Murkowski: S. 4889 - Alaska Native Claims Settlement Act Fulfillment Act of 2020, SEC. 7. Recognition and Compensation of Unrecognized Native Communities in Southeast Alaska.

The Wrangell Cooperative Association is a federally recognized Tribe incorporated April 30, 1942 under Section 16 of the Indian Reorganization Act of 1934 to serve the *Shx'át Khwaán* or "Wrangell People".

The Wrangell Cooperative Association wishes to express strong support for Congress to pass legislation to finally authorize the Southeast Alaska communities of Haines, Ketchikan, Petersburg, Tenakee Springs and Wrangell to organize urban corporations and receive one township of land from within the Tongass National Forest, by an amendment to the Alaska Native Claims Settlement Act (ANCSA) of 1971. Please support the Senate/House bills: S. 4891

WRANGELL COOPERATIVE ASSOCIATION
P.O. Box 2021 • Wrangell, Alaska 99929
Telephone: (907) 874-4304
Email: wcatribe@gmail.com

and H.R. 8751 – Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act.

Passage of this land entitlement bill would address an injustice suffered by more than 4,400 Alaska Natives for the 48 years since passage of the ANCSA. This is not the first time our people have suffered injustice. In the early 1900's, Alaska Natives were not allowed to personally buy land without signatures from five white citizens testifying we were "civilized". Injustice continues today, as we remain unrecognized and unable to receive our rightful township of land.

We have never received a definitive answer from Congress on why we were omitted from the original act. ANCSA was designed as a dynamic bill and has been amended more than 100 times since becoming law. Speaking with elders in Wrangell, it was communicated that Wrangell was left out because we abandoned our village when the Russians came, which is untrue. Another elder related that Alaska Lumber and Pulp opposed including Wrangell because of their business interests in our town. Another elder stated we did not have representation in Washington, DC on behalf of Wrangell.

Regardless of the reason we were omitted, with each passing year, the inequity mounts for our landless brothers and sisters and our precious remaining Elders who fought and sacrificed for just land claims. The villages recognized in the original act have had 48 years to develop their traditional homelands, creating new economies and strengthening their communities. Many have provided meaningful distributions, jobs, cultural and social programs benefiting their Tlingit, Haida and Tsimshian shareholders, families, clans and communities. These are trying times and Wrangell needs the opportunity to support our citizens and economy. We urge Congress to resolve this injustice now.

Our tribal citizens have lived on this land since time immemorial. This land is in our DNA and we are passionate about caring for our fish, trees and habitat. This bill will give us that opportunity and correct a legislative injustice that has gone on for nearly fifty years.

Gunalchéesh (thank you) for your consideration and support. If you have any questions, please contact our Tribal Administrator, Esther Ashton, at (907) 874-4304.

Sincerely, Richard Oliver

Richard Oliver
Tribal Council President

From: Cindy Wyatt
To: fortherecord (Energy); Jan Troian
Subject: For the 11/18/20 Cmte PLFM Subcmte Hrg
Date: Tuesday, November 17, 2020 10:13:23 PM

Hello,
My name is Cindy Wyatt, and I currently, and always have supported native claims in SE alaska. It makes me sad that there are still native communities that have not been compensated with lands. I feel that conservation and Tribal sovereignty and land stewardship are not in opposition, and never have been. That said, as a long time resident of SE Alaska, since 1976, I have seen timber lands from Juneau to Metlakatla clear cut in vast swaths. Even though money is a real part of the "game", I can't help feeling that we are missing an important part of this picture.
I would feel more comfortable fully supporting the native land ownership if I knew that it would mean protecting the old growth forest I know, love, and live in. In the past I have seen forest "given" to native corporations and then clear cut using methods not allowed by non native coops. In SE Alaska there are huge clear cut areas that cause problems with fish spawning in streams, deer starving and being eaten by hungry wolves, and wind storms falling other "saved" trees that are alone in small strips.
I support looking at the big picture. I support fair sharing.
Cindy Wyatt

○