

SOUTHEAST ALASKA NATIVE LAND ENTITLEMENT  
FINALIZATION AND JOBS PROTECTION ACT

SEPTEMBER 10, 2013.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural  
Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 740]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 740) to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act”.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **MAPS.**—The term “maps” means the maps entitled “Sealaska Land Entitlement Finalization”, numbered 1 through 25 and dated January 22, 2013.

(2) **SEALASKA.**—The term “Sealaska” means the Sealaska Corporation, a Regional Native Corporation established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(4) **STATE.**—The term “State” means the State of Alaska.

**SEC. 3. FINDINGS; PURPOSE.**

(a) **FINDINGS.**—Congress finds that—

(1)(A) in 1971, Congress enacted the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to recognize and settle the aboriginal claims of Alaska Na-

tives to land historically used by Alaska Natives for traditional, cultural, and spiritual purposes; and

(B) that Act declared that the land settlement “should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives”;

(2) the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)—

(A) authorized the distribution of approximately \$1,000,000,000 and 44,000,000 acres of land to Alaska Natives; and

(B) provided for the establishment of Native Corporations to receive and manage the funds and that land to meet the cultural, social, and economic needs of Native shareholders;

(3) under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611), each Regional Corporation, other than Sealaska (the Regional Corporation for southeast Alaska), was authorized to receive a share of land based on the proportion that the number of Alaska Native shareholders residing in the region of the Regional Corporation bore to the total number of Alaska Native shareholders, or the relative size of the area to which the Regional Corporation had an aboriginal land claim bore to the size of the area to which all Regional Corporations had aboriginal land claims;

(4)(A) Sealaska, the Regional Corporation for southeast Alaska, 1 of the Regional Corporations with the largest number of Alaska Native shareholders, with more than 21 percent of all original Alaska Native shareholders, received less than 1 percent of the lands set aside for Alaska Natives, and received no land under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611);

(B) the Tlingit and Haida Indian Tribes of Alaska was 1 of the entities representing the Alaska Natives of southeast Alaska before the date of enactment of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

(C) Sealaska did not receive land in proportion to the number of Alaska Native shareholders, or in proportion to the size of the area to which Sealaska had an aboriginal land claim, in part because of a United States Court of Claims cash settlement to the Tlingit and Haida Indian Tribes of Alaska in 1968 for land previously taken to create the Tongass National Forest and Glacier Bay National Monument;

(5) the 1968 Court of Claims cash settlement of \$7,500,000 did not—

(A) adequately compensate the Alaska Natives of southeast Alaska for the significant quantity of land and resources lost as a result of the creation of the Tongass National Forest and Glacier Bay National Monument or other losses of land and resources; or

(B) justify the significant disparate treatment of Sealaska under the Alaska Native Claims Settlement Act (43 U.S.C. 1611) in 1971;

(6)(A) while each other Regional Corporation received a significant quantity of land under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), Sealaska only received land under section 14(h) of that Act (43 U.S.C. 1613(h));

(B) section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)) authorized the Secretary to withdraw and convey 2,000,000 acres of “unreserved and unappropriated” public lands in Alaska from which Alaska Native selections could be made for historic sites, cemetery sites, Urban Corporation land, Native group land, and Native Allotments;

(C) under section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)), after selections are made under paragraphs (1) through (7) of that section, the land remaining in the 2,000,000-acre land pool is allocated based on the proportion that the original Alaska Native shareholder population of a Regional Corporation bore to the original Alaska Native shareholder population of all Regional Corporations;

(D) the only Native land entitlement of Sealaska derives from a proportion of leftover land remaining from the 2,000,000-acre land pool, estimated as of the date of enactment of this Act at approximately 1,655,000 acres;

(E) because at the time of enactment of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) all public land in the Tongass National Forest had been reserved for purposes of creating the national forest, the Secretary was not able to withdraw any public land in the Tongass National Forest for selection by and conveyance to Sealaska;

(F) at the time of enactment of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) other public lands in southeast Alaska not located in the Tongass National Forest were not suitable for selection by and conveyance to Sealaska because such lands were located in Glacier Bay National Monument, were included in a withdrawal effected pursuant to section 17(d)(2) of that Act

(43 U.S.C. 1616(d)(2)) and slated to become part of the Wrangell-St. Elias National Park, or essentially consisted of mountain tops;

(G) Sealaska in 1975 requested that Congress amend the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to permit the Regional Corporation to select lands inside of the withdrawal areas established for southeast Alaska Native villages under section 16 of that Act (43 U.S.C. 1615), otherwise, there were no areas available for selection; and

(H) in 1976 Congress amended section 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1615) to allow Sealaska to select lands under section 14(h)(8) of that Act (43 U.S.C. 1613(h)(8)) from land located inside, rather than outside, the withdrawal areas established for southeast Alaska Native villages;

(7) the 10 Alaska Native village withdrawal areas in southeast Alaska surrounding the Alaska Native communities of Yakutat, Hoonah, Angoon, Kake, Kasaan, Klawock, Craig, Hydaburg, Klukwan, and Saxman;

(8)(A) the existing conveyance requirements of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) for southeast Alaska limit the land eligible for conveyance to Sealaska to the original withdrawal areas surrounding 10 Alaska Native villages in southeast Alaska, which precludes Sealaska from selecting land located—

(i) in any withdrawal area established for the Urban Corporations for Sitka and Juneau, Alaska; or

(ii) outside the 10 Alaska Native village withdrawal areas; and

(B) unlike other Regional Corporations, Sealaska is not authorized to request land located outside the withdrawal areas described in subparagraph (A) if the withdrawal areas are insufficient to complete the land entitlement of Sealaska under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(9)(A) the deadline for applications for selection of cemetery sites and historic places on land outside withdrawal areas established under section 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1613) was July 1, 1976;

(B)(i) as of that date, the Bureau of Land Management notified Sealaska that the total entitlement of Sealaska would be approximately 200,000 acres; and

(ii) Sealaska made entitlement allocation decisions for cultural sites and economic development sites based on that original estimate;

(C) as a result of the Alaska Land Transfer Acceleration Act (Public Law 108–452; 118 Stat. 3575) and subsequent related determinations and actions of the Bureau of Land Management, it became clear within the last decade that Sealaska would be entitled to receive a total of approximately 365,000 acres pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(10) in light of the revised Bureau of Land Management estimate of the total number of acres that Sealaska will receive pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), and in consultation with Members of Alaska’s congressional delegation, Sealaska and its shareholders believe that it is appropriate to allocate more of the entitlement of Sealaska to—

(A) the acquisition of places of sacred, cultural, traditional, and historical significance;

(B) the acquisition of sites with traditional and recreational use value and sites suitable for renewable energy development; and

(C) the acquisition of lands that are not within the watersheds of Native and non-Native communities and are suitable economically and environmentally for natural resource development;

(11) 44 percent (820,000 acres) of the 10 Alaska Native village withdrawal areas established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) described in paragraphs (7) and (8) are composed of salt water and not available for selection;

(12) of land subject to the selection rights of Sealaska, 110,000 acres are encumbered by gubernatorial consent requirements under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(13) in each withdrawal area, there exist other unique factors that limit the ability of Sealaska to select sufficient land to fulfill the land entitlement of Sealaska;

(14) the selection limitations and guidelines applicable to Sealaska under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)—

(A) are inequitable and inconsistent with the purposes of that Act because there is insufficient land remaining in the withdrawal areas to meet the traditional, cultural, and socioeconomic needs of the shareholders of Sealaska; and

(B) make it difficult for Sealaska to select—

(i) places of sacred, cultural, traditional, and historical significance;

- (ii) sites with traditional and recreation use value and sites suitable for renewable energy development; and
  - (iii) lands that meet the real economic needs of the shareholders of Sealaska;
- (15) unless Sealaska is allowed to select land outside designated withdrawal areas in southeast Alaska, Sealaska will not be able to—
- (A) complete the land entitlement selections of Sealaska under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) in a manner that meets the cultural, social, and economic needs of Native shareholders;
  - (B) avoid land selections in watersheds that are the exclusive drinking water supply for regional communities, support world class salmon streams, have been identified as important habitat, or would otherwise be managed by the Forest Service as roadless and old growth forest reserves;
  - (C) secure ownership of places of sacred, cultural, traditional, and historical importance to the Alaska Natives of southeast Alaska; and
  - (D) continue to support forestry jobs and economic opportunities for Alaska Natives and other residents of rural southeast Alaska;
- (16)(A) the rate of unemployment in southeast Alaska exceeds the statewide rate of unemployment on a non-seasonally adjusted basis;
- (B) in November 2012, the Alaska Department of Labor and Workforce Development reported the unemployment rate for the Prince of Wales—Hyder census area at approximately 12.1 percent;
  - (C) in October 2007, the Alaska Department of Labor and Workforce Development projected population losses between 1996 and 2030 for the Prince of Wales—Outer Ketchikan census area at 56.6 percent;
  - (D) official unemployment rates severely underreport the actual level of regional unemployment, particularly in Native villages; and
  - (E) additional job losses will exacerbate outmigration from Native and non-Native communities in southeast Alaska;
- (17) Sealaska has played, and is expected to continue to play, a significant role in the health of the southeast Alaska economy;
- (18) despite the small land base of Sealaska as compared to other Regional Corporations (less than 1 percent of the total quantity of land allocated pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), Sealaska has—
- (A) provided considerable benefits to Alaska Native shareholders;
  - (B) supported hundreds of jobs for Alaska Native shareholders and non-shareholders in southeast Alaska for more than 30 years; and
  - (C) been a significant economic force in southeast Alaska;
- (19) pursuant to the revenue sharing provisions of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)), Sealaska has distributed more than \$300,000,000 during the period beginning on January 1, 1971, and ending on December 31, 2005, to Native Corporations throughout the State of Alaska from the development of natural resources, which accounts for 42 percent of the total revenues shared under that section during that period;
- (20) resource development operations maintained by Sealaska—
- (A) support hundreds of jobs in the southeast Alaska region;
  - (B) make timber available to local and domestic sawmills and other wood products businesses such as guitar manufacturers;
  - (C) support firewood programs for local communities;
  - (D) support maintenance of roads utilized by local communities for subsistence and recreation uses;
  - (E) support development of new biomass energy opportunities in southeast Alaska, reducing dependence on high-cost diesel fuel for the generation of energy;
  - (F) provide start-up capital for innovative business models in southeast Alaska that create new opportunities for non-timber economic development in the region, including support for renewable biomass initiatives, Alaska Native artisans, and rural mariculture farming; and
  - (G) support Native education and cultural and language preservation activities;
- (21) if the resource development operations of Sealaska cease on land appropriate for those operations, there will be a significant negative impact on—
- (A) southeast Alaska Native shareholders;
  - (B) the cultural preservation activities of Sealaska;
  - (C) the economy of southeast Alaska; and
  - (D) the Alaska Native community that benefits from the revenue-sharing requirements under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(22) it is critical that the remaining land entitlement conveyances to Sealaska under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) are fulfilled to continue to meet the economic, social, and cultural needs of the Alaska Native shareholders of southeast Alaska and the Alaska Native community throughout Alaska;

(23) in order to realize cultural preservation goals while also diversifying economic opportunities, Sealaska should be authorized to select and receive conveyance of—

(A) sacred, cultural, traditional, and historic sites and other places of traditional and cultural significance, to facilitate the perpetuation and preservation of Alaska Native culture and history;

(B) other sites with traditional and recreation use value and sites suitable for renewable energy development to facilitate appropriate tourism and outdoor recreation enterprises and renewable energy development for rural southeast Alaska communities; and

(C) lands that are suitable economically and environmentally for natural resource development;

(24) on completion of the conveyances of land to Sealaska to fulfill the full land entitlement of Sealaska under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the encumbrances on 327,000 acres of Federal land created by the withdrawal of land for selection by Native Corporations in southeast Alaska should be removed, which will facilitate thorough and complete planning and efficient management relating to national forest land in southeast Alaska by the Forest Service;

(25) although the Tribal Forest Protection Act (25 U.S.C. 3101 note; Public Law 108–278) defines the term “Indian tribe” to include Indian tribes under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), a term which includes “any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act . . .”, the Tribal Forest Protection Act does not define the term “Indian forest land or rangeland” to include lands owned by Alaska Native Corporations, including Sealaska, which are the primary Indian forest land owners in Alaska, and therefore, the Tribal Forest Protection Act should be amended in a manner that will—

(A) permit Native Corporations, including Sealaska, as Indian forest land owners in Alaska, to work with the Secretary of Agriculture under the Tribal Forest Protection Act to address forest fire and insect infestation issues, including the spread of the spruce bark beetle in southeast and southcentral Alaska, which threaten the health of the Native forestlands; and

(B) ensure that Native Corporations, including Sealaska, can participate in programs administered by the Secretary of Agriculture under the Tribal Forest Protection Act without including Native Corporations under the definition in that Act of “Indian forest land or rangeland” or otherwise amending that Act in a manner that validates, invalidates, or otherwise affects any claim regarding the existence of Indian country in the State of Alaska; and

(26) although the National Historic Preservation Act (16 U.S.C. 470 et seq.) defines the term “Indian tribe” to include any “Native village, Regional Corporation or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act”, the National Historic Preservation Act does not define the term “Tribal lands” to include lands owned by Alaska Native Corporations, thereby excluding from the National Historic Preservation Act cemetery sites and historical places transferred to Native Corporations, including Sealaska, pursuant to the Alaska Native Claims Settlement Act, and therefore, the National Historic Preservation Act should be amended in a manner that will—

(A) permit Native Corporations, including Sealaska, as owners of Indian cemetery sites and historical places in Alaska, to work with the Secretary of the Interior under the National Historic Preservation Act to secure grants and other support to manage their own historic sites and programs pursuant to that Act; and

(B) ensure that Native Corporations, including Sealaska, can participate in programs administered by the Secretary of the Interior under the National Historic Preservation Act without including Native Corporations under the definition in that Act of “Tribal lands” or otherwise amending that Act in a manner that validates, invalidates, or otherwise affects any claim regarding the existence of Indian country in the State of Alaska.

(b) **PURPOSE.**—The purpose of this Act is to address the inequitable treatment of Sealaska by allowing Sealaska to select the remaining land entitlement of Sealaska under section 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1613) from designated Federal land in southeast Alaska located outside the 10 southeast Alaska Native village withdrawal areas in a manner that meets the cultural, social, and economic needs of Alaska Native shareholders, including the need to maintain jobs supported by Sealaska in rural southeast Alaska communities.

**SEC. 4. FINALIZATION OF ENTITLEMENT.**

(a) **IN GENERAL.**—If, not later than 90 days after the date of enactment of this Act, the Secretary receives a corporate resolution adopted by the board of directors of Sealaska agreeing to accept the conveyance of land described in subsection (b) in accordance with this Act as full and final satisfaction of the remaining land entitlement of Sealaska under section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)), the Secretary shall—

(1) implement the provisions of this Act; and

(2) charge the entitlement pool under section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)) 70,075 acres, reduced by the number of acres deducted under subsection (b)(2), in fulfillment of the remaining land entitlement for Sealaska under that Act, notwithstanding whether the surveyed acreage of the 25 parcels of land generally depicted on the maps as “Sealaska Selections” and patented under section 5 is less than or more than 69,235 acres, reduced by the number of acres deducted under subsection (b)(2).

(b) **FINAL ENTITLEMENT.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the land described in subsection (a) shall consist of—

(A) the 25 parcels of Federal land comprising approximately 69,235 acres that is generally depicted as “Sealaska Selections” on the maps; and

(B) a total of not more than 840 acres of Federal land for cemetery sites and historical places comprised of parcels that are applied for in accordance with section 6.

(2) **DEDUCTION.**—

(A) **IN GENERAL.**—The Secretary shall deduct from the number of acres of Federal land described in paragraph (1)(A) the number of acres of Federal land for which the Secretary has issued a conveyance during the period beginning on August 1, 2012, and ending on the date of receipt of the resolution under subsection (a).

(B) **AGREEMENT.**—The Secretary, the Secretary of Agriculture, and Sealaska shall negotiate in good faith to make a mutually agreeable adjustment to the parcel of Federal land generally depicted on the maps entitled “Sealaska Land Entitlement Finalization”, numbered 1 of 25, and dated January 22, 2013, to implement the deduction of acres required by subparagraph (A).

(c) **EFFECT OF ACCEPTANCE.**—The resolution filed by Sealaska in accordance with subsection (a) shall—

(1) be final and irrevocable; and

(2) without any further administrative action by the Secretary, result in—

(A) the relinquishment of all existing selections made by Sealaska under subsection 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)); and

(B) the termination of all withdrawals by section 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1615), except to the extent a selection by a Village Corporation under subsections (b) and (d) of section 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1615) remains pending, until the date on which those selections are resolved.

(d) **FAILURE TO ACCEPT.**—If Sealaska fails to file the resolution in accordance with subsection (a)—

(1) the provisions of this Act shall cease to be effective; and

(2) the Secretary shall, not later than 27 months after the date of enactment of this Act, complete the interim conveyance of the remaining land entitlement to Sealaska under section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)) from prioritized selections on file with the Secretary on the date of enactment of this Act.

(e) **SCOPE OF LAW.**—Except as provided in subsections (d) and (f), this Act provides the exclusive authority under which the remaining land entitlement of Sealaska under section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)) may be fulfilled.

(f) **EFFECT.**—Nothing in this Act affects any land that is—

(1) the subject of an application under subsection (h)(1) of section 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1613) that is pending on the date of enactment of this Act; and

(2) conveyed in accordance with that subsection.

**SEC. 5. CONVEYANCES TO SEALASKA.**

(a) **INTERIM CONVEYANCE.**—Subject to valid existing rights, subsections (c), (d), and (e), section 4(b), and section 7(a), the Secretary shall complete the interim conveyance of the 25 parcels of Federal land comprising approximately 69,235 acres generally depicted on the maps by the date that is 60 days after the date of receipt of the resolution under section 4(a), subject to the Secretary identifying and reserving, by the date that is 2 years after the date of enactment of this Act, or as soon as practicable thereafter, any easement that could have been reserved in accordance with this Act prior to the interim conveyance.

(b) **WITHDRAWAL.**—

(1) **IN GENERAL.**—Subject to valid existing rights, the Federal land described in subsection (a) is withdrawn from—

(A) all forms of appropriation under the public land laws;

(B) location, entry, and patent under the mining laws;

(C) disposition under laws relating to mineral or geothermal leasing; and

(D) selection under the Act of July 7, 1958 (commonly known as the “Alaska Statehood Act”) (48 U.S.C. note prec. 21; Public Law 85–508).

(2) **TERMINATION.**—The withdrawal under paragraph (1) shall remain in effect until—

(A) if Sealaska fails to file a resolution in accordance with section 4(a), the date that is 90 days after the date of enactment of this Act; or

(B) the date on which the Federal land is conveyed under subsection (a).

(c) **TREATMENT OF LAND CONVEYED.**—Except as otherwise provided in this Act, any land conveyed to Sealaska under subsection (a) shall be—

(1) considered to be land conveyed by the Secretary under section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)); and

(2) subject to all laws (including regulations) applicable to entitlements under section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)), including section 907(d) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636(d)).

(d) **EASEMENTS.**—

(1) **PUBLIC EASEMENTS.**—The deeds of conveyance for the land under subsection (a) shall be subject to the reservation of public easements under section 17(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(b)).

(2) **RESEARCH EASEMENT.**—In the deed of conveyance for the land generally depicted on the map entitled “Sealaska Land Entitlement Finalization”, numbered 7 of 25, and dated January 22, 2013, the Secretary shall reserve an easement—

(A) to access and continue Forest Service research activities on the study plots located on the land; and

(B) that shall remain in effect for a 10-year period beginning on the date of enactment of this Act.

(3) **KOSCUISKO ISLAND ROAD EASEMENT.**—

(A) **IN GENERAL.**—The deeds of conveyance for the land on Koscuisko Island under subsection (a) shall grant to Sealaska an easement providing access to and use by Sealaska of the log transfer facility at Shipley Bay on Koscuisko Island, subject to—

(i) the agreement under subparagraph (C); and

(ii) the agreement under section 7(b).

(B) **SCOPE OF THE EASEMENT.**—The easement under subparagraph (A) shall enable Sealaska—

(i) to construct, use, and maintain a road connecting the Forest Service Road known as “Cape Pole Road” to the Forest Service Road known as “South Shipley Bay Road” within the corridor depicted on the map entitled “Sealaska Land Entitlement Finalization”, numbered 3 of 25, and dated January 22, 2013;

(ii) to use, maintain, and if necessary, reconstruct the Forest Service Road known as “South Shipley Bay Road” referred to in clause (i) to access the log transfer facility at Shipley Bay; and

(iii) to use, maintain, and expand the log transfer and sort yard facility at Shipley Bay that is within the area depicted on the map entitled “Sealaska Land Entitlement Finalization”, numbered 3 of 25 and dated January 22, 2013.

(C) **ROADS AND FACILITIES USE AGREEMENT.**—In addition to the agreement under section 7(b), the Secretary and Sealaska shall enter into an agreement relating to the access, use, maintenance, and improvement of the roads and facilities under this paragraph.

(D) **DETERMINATION OF LOCATION; LEGAL DESCRIPTION.**—Sealaska shall—  
 (i) in consultation with the Secretary, determine the location within the corridor of the centerline of the road described in subparagraph (B)(i); and

(ii) provide to the Secretary a legal description of the centerline acceptable for granting the easement described in subparagraph (B)(i).

(E) **EFFECT.**—Nothing in this paragraph shall preempt or otherwise affect State or local regulatory authority.

(e) **HUNTING, FISHING, AND RECREATION.**—

(1) **IN GENERAL.**—Any land conveyed under subsection (a) that is located outside a withdrawal area designated under section 16(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1615(a)) shall remain open and available to subsistence uses and noncommercial recreational hunting and fishing and other recreational uses by the public under applicable law—

(A) without liability on the part of Sealaska, except for willful acts, to any user as a result of the use; and

(B) subject to—

(i) any reasonable restrictions that may be imposed by Sealaska on the public use—

(I) to ensure public safety;

(II) to minimize conflicts between recreational and commercial uses;

(III) to protect cultural resources;

(IV) to conduct scientific research; or

(V) to provide environmental protection; and

(ii) the condition that Sealaska post on any applicable property, in accordance with State law, notices of the restrictions on use.

(2) **EFFECT.**—Access provided to any individual or entity under paragraph (1) shall not—

(A) create an interest in any third party in the land conveyed under subsection (a); or

(B) provide standing to any third party in any review of, or challenge to, any determination by Sealaska with respect to the management or development of the land conveyed under subsection (a).

#### **SEC. 6. CEMETERY SITES AND HISTORICAL PLACES.**

(a) **IN GENERAL.**—Notwithstanding section 14(h)(1)(E) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)(E)), Sealaska may submit applications for the conveyance under section 14(h)(1)(A) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)(A)) of not more than 127 cemetery sites and historical places—

(1) that are listed in the document entitled “Sealaska Cemetery Sites and Historical Places” and dated January 18, 2013;

(2) that are cemetery sites and historical places included in the report by Wilsey and Ham, Inc., entitled “1975 Native Cemetery and Historic Sites of Southeast Alaska (Preliminary Report)” and dated October 1975; and

(3) for which Sealaska has not previously submitted an application.

(b) **PROCEDURE FOR EVALUATING APPLICATIONS.**—Except as otherwise provided in this section, the Secretary shall consider all applications submitted under this section in accordance with the criteria and procedures set forth in applicable regulations in effect as of the date of enactment of this Act.

(c) **CONVEYANCE.**—The Secretary may convey cemetery sites and historical places under this section that result in the conveyance of a total of approximately 840 acres of Federal land comprised of parcels that are—

(1) applied for in accordance with this section; and

(2) subject to—

(A) valid existing rights;

(B) the public access provisions of subsection (f);

(C) the condition that the conveyance of land for the site listed under subsection (a)(1) as “Bay of Pillars Portage” is limited to 25 acres in T.60 S., R.72 E., Sec. 28, Copper River Meridian; and

(D) the condition that any access to or use of the cemetery sites and historical places shall be consistent with the management plans for adjacent public land, if the management plans are more restrictive than the laws (including regulations) applicable under subsection (g).



(d) **TIMELINE.**—No application for a cemetery site or historical place may be submitted under subsection (a) after the date that is 2 years after the date of enactment of this Act.

(e) **SELECTION OF ADDITIONAL CEMETERY SITES.**—If Sealaska submits timely applications to the Secretary in accordance with subsections (a) and (d) for all 127 sites listed under subsection (a)(1), and the Secretary rejects any of those applications in whole or in part—

(1) not later than 2 years after the date on which the Secretary completes the conveyance of eligible cemetery sites and historical places applied for under subsection (a), Sealaska may submit applications for the conveyance under section 14(h)(1)(A) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)(A)) of additional cemetery sites, the total acreage of which, together with the cemetery sites and historical places previously conveyed by the Secretary under subsection (c), shall not exceed 840 acres; and

(2) the Secretary shall—

(A) consider any applications for the conveyance of additional cemetery sites in accordance with subsection (b); and

(B) if the applications are approved, provide for the conveyance of the sites in accordance with subsection (c).

(f) **PUBLIC ACCESS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), any land conveyed under this section shall be subject to—

(A) the reservation of public easements under section 17(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(b)); and

(B) public access across the conveyed land in cases in which no reasonable alternative access around the land is available, without liability to Sealaska, except for willful acts, to any user by reason of the use.

(2) **LIMITATIONS.**—The public access and use under subparagraph (B) of paragraph (1) shall be subject to—

(A) any reasonable restrictions that may be imposed by Sealaska on the public access and use—

(i) to ensure public safety;

(ii) to protect and conduct research on the historic, archaeological, and cultural resources of the conveyed land; or

(iii) to provide environmental protection;

(B) the condition that Sealaska post on any applicable property, in accordance with State law, notices of the restrictions on the public access and use; and

(C) the condition that the public access and use shall not be incompatible with or in derogation of the values of the area as a cemetery site or historical place, as provided in section 2653.11 of title 43, Code of Federal Regulations (or a successor regulation).

(3) **EFFECT.**—Access provided to any individual or entity by paragraph (1) shall not—

(A) create an interest in any third party in the land conveyed under this section; or

(B) provide standing to any third party in any review of, or challenge to, any determination by Sealaska with respect to the management or development of the land conveyed under this section.

(g) **TREATMENT OF LAND CONVEYED.**—Except as otherwise provided in this Act, any land conveyed to Sealaska under this section shall be—

(1) considered land conveyed by the Secretary under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)); and

(2) subject to all laws (including regulations) applicable to conveyances under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)), including section 907(d) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636(d)).

## **SEC. 7. MISCELLANEOUS.**

(a) **SPECIAL USE AUTHORIZATIONS.**—

(1) **IN GENERAL.**—On the conveyance of land to Sealaska under section 5(a)—

(A) any guiding or outfitting special use authorization issued by the Forest Service for the use of the conveyed land shall terminate; and

(B) as a condition of the conveyance and consistent with section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)), Sealaska shall allow the holder of the special use authorization terminated under subparagraph (A) to continue the authorized use, subject to the terms and conditions that were in the special use authorization issued by the Forest Service, for—

- (i) the remainder of the term of the authorization; and
  - (ii) 1 additional consecutive 10-year renewal period.
- (2) NOTICE OF COMMERCIAL ACTIVITIES.—Sealaska and any holder of a guiding or outfitting authorization under this subsection shall have a mutual obligation, subject to the guiding or outfitting authorization, to inform the other party of any commercial activities prior to engaging in the activities on the land conveyed to Sealaska under section 5(a).
- (3) NEGOTIATION OF NEW TERMS.—Nothing in this subsection precludes Sealaska and the holder of a guiding or outfitting authorization from negotiating a new mutually agreeable guiding or outfitting authorization.
- (4) LIABILITY.—Neither Sealaska nor the United States shall bear any liability, except for willful acts of Sealaska or the United States, regarding the use and occupancy of any land conveyed to Sealaska under this Act, as provided in any outfitting or guiding authorization under this subsection.
- (b) ROADS AND FACILITIES.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture and Sealaska shall negotiate in good faith to develop a binding agreement—
- (1) for the use of National Forest System roads and related transportation facilities by Sealaska; and
  - (2) the use of Sealaska roads and related transportation facilities by the Forest Service.
- (c) TRADITIONAL TRADE AND MIGRATION ROUTES.—
- (1) ROUTES.—
- (A) THE INSIDE PASSAGE.—The route from Yakutat to Dry Bay, as generally depicted on the map entitled “Traditional Trade and Migration Route, Neix naax aan nax—The Inside Passage” and dated October 17, 2012, shall be known as “Neix naax aan nax” (“The Inside Passage”).
  - (B) CANOE ROAD.—The route from the Bay of Pillars to Port Camden, as generally depicted on the map entitled “Traditional Trade and Migration Route, Yakwdeiyi—Canoe Road” and dated October 17, 2012, shall be known as “Yakwdeiyi” (“Canoe Road”).
  - (C) THE PEOPLE’S ROAD.—The route from Portage Bay to Duncan Canal, as generally depicted on the map entitled “Traditional Trade and Migration Route, Lingit Deiyi—The People’s Road” and dated October 17, 2012, shall be known as “Lingit Deiyi” (“The People’s Road”).
- (2) ACCESS TO TRADITIONAL TRADE AND MIGRATION ROUTES.—The culturally and historically significant trade and migration routes designated by paragraph (1) shall be open to travel by Sealaska and the public in accordance with applicable law, subject to such terms, conditions, and special use authorizations as the Secretary of Agriculture may require.
- (d) TECHNICAL CORRECTIONS.—
- (1) TRIBAL FOREST PROTECTION.—Section 2 of the Tribal Forest Protection Act of 2004, (25 U.S.C. 3115a), is amended by adding at the end a new subsection (h):
    - “(h)(1) Land owned by an Alaska Native Corporation pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that is forest land or formerly had a forest cover or vegetative cover that is capable of restoration shall be eligible for agreements and contracts authorized under this Act and administered by the Secretary.
    - “(2) Nothing in this subsection validates, invalidates, or otherwise affects any claim regarding the existence of Indian country (as defined in section 1151 of title 18, United States Code) in the State of Alaska.”
  - (2) NATIONAL HISTORIC PRESERVATION.—Section 101(d) of the National Historic Preservation Act, (16 U.S.C. 470a(d)), is amended by adding at the end a new paragraph (7):
    - “(7)(A) Notwithstanding any other provision of law, an Alaska Native tribe, band, nation or other organized group or community, including a Native village, Regional Corporation, or Village Corporation, shall be eligible to participate in all programs administered by the Secretary under this Act on behalf of Indian tribes, including, but not limited to, securing grants and other support to manage their own historic preservation sites and programs on lands held by the Alaska Native tribe, band, nation or other organized group or community, including a Native village, Regional Corporation, or Village Corporation.
    - “(B) Nothing in this paragraph validates, invalidates, or otherwise affects any claim regarding the existence of Indian country (as defined in section 1151 of title 18, United States Code) in the State of Alaska.”
- (e) EFFECT ON OTHER LAWS.—
- (1) IN GENERAL.—Nothing in this Act delays the duty of the Secretary to convey land to—

- (A) the State under the Act of July 7, 1958 (commonly known as the “Alaska Statehood Act”) (48 U.S.C. note prec. 21; Public Law 85–508); or
- (B) a Native Corporation under—
  - (i) the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);
  - or
  - (ii) the Alaska Land Transfer Acceleration Act (43 U.S.C. 1611 note; Public Law 108–452).
- (2) CONVEYANCES.—The Secretary shall promptly proceed with the conveyance of all land necessary to fulfill the final entitlement of all Native Corporations in accordance with—
  - (A) the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);
  - and
  - (B) the Alaska Land Transfer Acceleration Act (43 U.S.C. 1611 note; Public Law 108–452).
- (f) ESCROW FUNDS.—If Sealaska files the resolution in accordance with section 4(a)—
  - (1) the escrow requirements of section 2 of Public Law 94–204 (43 U.S.C. 1613 note) shall apply to proceeds (including interest) derived from the land withdrawn under section 5(b) from the date of receipt of the resolution; and
  - (2) Sealaska shall have no right to any proceeds (including interest) held pursuant to the escrow requirements of section 2 of Public Law 94–204 (43 U.S.C. 1613 note) that were derived from land originally withdrawn for selection by section 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1615), but not conveyed.
- (g) MAPS.—
  - (1) AVAILABILITY.—Each map referred to in this Act shall be available in the appropriate offices of the Secretary and the Secretary of Agriculture.
  - (2) CORRECTIONS.—The Secretary of Agriculture may make any necessary correction to a clerical or typographical error in a map referred to in this Act.

#### PURPOSE OF THE BILL

The purpose of H.R. 740 is to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act.

#### BACKGROUND AND NEED FOR LEGISLATION

H.R. 740 would allow the Sealaska Corporation to acquire 70,075 acres of federal land in the Tongass National Forest to fulfill its remaining land entitlement pursuant to the Alaska Native Claims Settlement Act of 1971 (ANCSA, 43 U.S.C. 1601 et seq.). The parcels of land are identified on maps available at: [http://naturalresources.house.gov/uploadedfiles/hr\\_740\\_1.22.2013.pdf](http://naturalresources.house.gov/uploadedfiles/hr_740_1.22.2013.pdf).

Upon federal conveyance of the lands under H.R. 740, Sealaska must relinquish rights to other lands it was required to select under ANCSA. The relinquished lands would become part of the Tongass National Forest by operation of current law. Lands conveyed to Sealaska would be charged to the corporation’s land entitlement pool, ensuring it cannot exceed its total ANCSA land allocation.

Most of the parcels conveyed to Sealaska under H.R. 740 are currently zoned by the U.S. Forest Service in the Tongass Land Management Plan for timber management and are accessible by forest roads. Lands to be relinquished by Sealaska contain abundant stands of old growth forest in roadless areas with high habitat and aesthetic value.

When all conveyances to Sealaska and other Native corporations are completed, about 94 percent of the lands in Southeast Alaska will remain in Federal ownership (85 percent of which will be in a wilderness, conservation, or similar non-development legal status), 0.7 percent will be in private (non-Native) ownership, and 2

percent will be in State of Alaska ownership pursuant to the Alaska Statehood Act.

#### ALASKA NATIVE CLAIMS SETTLEMENT ACT

In 1971, Congress enacted ANCSA to resolve aboriginal claims to use and occupancy of all lands and waters in Alaska. In Section 2(b) (43 U.S.C. 1601(b)), Congress declared that:

[T]he 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, without establishing any permanent racially defined institutions, rights, privileges, or obligations, without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska.

Accordingly, ANCSA created a system in which for-profit business corporations organized by Alaska Natives acquired rights to 44 million acres of land from the public domain, plus a payment of \$1 billion. ANCSA divided Alaska into 12 regions, recognized more than 200 Native Villages, and directed the Secretary of the Interior to withdraw large areas of unreserved public lands from further appropriation until a process of surveying, selecting, and conveying settlement lands to the Native corporations was complete.

Within each region and village, individuals of one-quarter or higher degree Native ancestry were authorized to organize a corporation. In most cases, allocating settlement lands to the corporations was based on a complex formula related to population and area that the Native people historically occupied and used. The Act provided a number of terms and conditions for the formation of the Native Corporations, issuance of stock shares, and conveyance of settlement benefits. Importantly, Section 7(i) of ANCSA requires 70 percent of a Regional Corporation's timber and mineral revenues annually to be divided among all 12 regional corporations.

#### SEALASKA LANDS

Sealaska is the Regional Corporation for individuals of Tlingit, Haida, and Tsimishian ancestry whose traditional homelands are the 22 million-acre region of Alaska's southeastern panhandle. Unlike other Regional Corporations, Sealaska was allocated the smallest amount of land in proportion to its large population: about 365,000 acres within the 16 million acre Tongass National Forest. Sealaska actively manages its lands for a variety of purposes, including silviculture and timber development, making it one of the region's largest private employers.

To date, Sealaska has not received title to the last 70,000 acres of its final 365,000-acre entitlement. Under ANCSA, the withdrawal areas, or "boxes," within which the corporation must select its remaining entitlement overlay the sea as well as remote roadless areas and large stands of Old Growth forest. Such areas are unsuitable for the development of timber, minerals, and other

uses, and many members of the public would prefer them to remain undisturbed. Consequently, Sealaska's Board of Directors requested legislation allowing Sealaska to fulfill its remaining land entitlement in alternate areas.

H.R. 740 authorizes Sealaska to obtain, outside the ANCSA withdrawal boxes, specified lands in the Tongass to fulfill its remaining 70,000-acre entitlement. The alternative lands contain second-growth forest and an existing forest road system. This enables Sealaska to sustain a viable timber program that benefits its shareholders and creates jobs in the surrounding communities. Lands in the withdrawal boxes relinquished by Sealaska can be maintained for their ecologically important values.

In a Subcommittee on Indian and Alaska Native Affairs hearing, a Director of Sealaska described the need for H.R. 740:

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

We consider this legislation to be the most important and immediate "economic stimulus package" that Congress can implement for Southeast Alaska. Sealaska provides significant economic opportunities for our tribal member shareholders and for residents of all of Southeast Alaska through the development of an abundant natural resource—timber. (Testimony of Byron Mallot, Director, Sealaska Corporation, Subcommittee hearing on H.R. 740, May 16, 2013).

Sealaska's importance to the region's economy cannot be understated. Timber development on its private land base creates and sustains private sector jobs to offset the catastrophic 90 percent decline in timber-related jobs in Southeast Alaska since the early 1990s. One of the multiple uses of the Tongass National Forest required under law is timber development. Unfortunately, since the early 1990s, the record of the U.S. Forest Service in providing timber to sustain a commercial industry has been one of abject failure, due to federal red tape, administrative appeals and the filing of lawsuits filed by environmental groups to stop every commercially viable timber sale.

As explained by the Alaska Forest Association in a Subcommittee hearing on a previous version of the bill:

Even though the Forest Service has a timber plan in place which claims to provide up to 267 million board feet annually, the agency has only offered about 15 mmbf of new timber sales annually. Because the timber sale program on federal lands is so unreliable, it is critical that private timber be available to support our industry. (Testimony of Owen Graham, Executive Director, Alaska Forest Association, May 20, 2011).

According to the State of Alaska, “Southeast Alaska’s remaining timber industry . . . is on the verge of collapse . . . at its lowest level of production since Alaska became a state in 1959.” (Letter to Subcommittee Chairman and Ranking Member, May 24, 2011). As Sealaska is actively engaged in timber management, H.R. 740 would ensure a stable supply of timber to the region’s remaining forest industry, and stabilize historic population out-migration seen in cities, towns, and Native villages across Southeast Alaska.

As with all other private (including Native corporation), state, and municipal lands in Alaska, Sealaska’s timber lands are regulated under the Alaska Forest Resources and Practices Act (FRPA, AS 41.17). Passed in 1978, FRPA has undergone major revisions regarding riparian management. According to the Alaska Division of Forestry, “[T]he Act is designed to protect fish habitat and water quality, and ensure prompt reforestation of forestland while providing for a healthy timber industry. The FRPA ensures that both the timber and commercial fishing industries can continue to provide long-term jobs.”

In addition to lands for timber management, H.R. 740 additionally conveys to Sealaska culturally important sites, and amends the Tribal Forest Protection Act and National Historic Preservation Act to give Alaska Native villages and ANCSA corporations the opportunity to participate in these programs like other tribes.

On May 16, 2013, the Subcommittee on Indian and Alaska Native Affairs held a hearing on H.R. 740, receiving testimony from the U.S. Forest Service, Sealaska, and an Alaska hunting guide who resides in Utah. The U.S. Forest Service “supports the principal objectives” of the bill; however, it opposes H.R. 740 in its current form because it lacks new conservation designations for the Tongass that are contained in the Senate version of the bill (S. 340). Such conservation designations are not included in H.R. 740 because they are unrelated to the fundamental purpose of the bill, and in a region where the vast majority of lands are protected from any development either by operation of law, topography, or lack of commercial value, they are unjustified.

#### ANALYSIS OF H.R. 740

**Large Parcels of Land**—Most of Sealaska’s remaining ANCSA entitlement under H.R. 740 will be conveyed as nine larger parcels of land comprising approximately 67,185 acres.

**Sacred Sites**—H.R. 740 would permit Sealaska to select up to 127 cultural sites, totaling 840 acres. In previous version of the legislation, Sealaska would have been permitted to select more than 200 cultural sites, totaling 3600 acres. Cultural sites will be selected and conveyed pursuant to the terms of ANCSA and federal regulations.

**Small Parcels of Land**—H.R. 740 permits Sealaska to select smaller 16 parcels, totaling 2,050 acres, near Native villages. The land offers cultural, recreational and renewable energy opportunities for the Native villages. More than 50 small parcels were considered in previous version of the legislation. Sites heavily used by local communities were removed from H.R. 740.

**Protections for Public Access and Commercial Guiding**—Under H.R. 740, Sealaska is authorized to select its remaining 70,000

acres from outside of the ANCSA withdrawal boxes, but it must do so subject to additional public access requirements, as follows:

- If Sealaska selects from within the existing ANCSA withdrawal boxes, land will be conveyed under the original terms of ANCSA. Under existing law, there would be no automatic right of public access to the 70,000 acres of land selected by Sealaska, and no automatic extension of commercial guide permits on those lands.

- In the alternative, if Sealaska selects its remaining lands under H.R. 740, the legislation would guarantee permanent public access for subsistence and recreation to more than 69,000 acres of land selected by Sealaska.

- H.R. 740 also provides for a 10 year extension of existing commercial guide permits when they expire.

- H.R. 740 guarantees access across cemetery and historical sites to adjacent public lands where such access is reasonably necessary to reach the public lands.

Access for Recreational Hunting and Fishing—Section 17(b) of ANCSA requires the reservation of public easements across lands selected by Native Corporations and at periodic points along the courses of major waterways which are reasonably necessary to support public use and access for recreation, hunting, and other public uses. H.R. 740 grants an additional, broad right of public access to more than 69,000 acres of land conveyed to Sealaska for subsistence and recreational hunting and fishing.

Access to Cultural Sites—H.R. 740 guarantees, in addition to ANCSA Section 17(b) easements, access across cemetery and historical sites to adjacent public lands where such access is reasonably necessary to reach the public lands.

#### OTHER PROVISIONS

Trade and Migration Routes removed—As introduced in the 112th Congress, the bill would have conveyed three Traditional and Customary Trade and Migration Routes to Sealaska. H.R. 740 simply recognizes the Trade and Migration Routes as Native places and direct the Forest Service to ensure that access to the Routes is assured. H.R. 740 would not place these lands in Native ownership.

Agreement with Forest Service required for forest development roads—Sealaska may utilize certain forest roads, build a road, and upgrade an existing log transfer facility, to ensure access to a landlocked economic parcel conveyed to it.

Tribal Forest Protection Act and National Historical Preservation Act—Section 7(d)(1) of the bill would permit Native Corporations to work with the Secretary of Agriculture under the Tribal Forest Protection Act to address forest fire and insect infestation issues on Forest Service lands that threaten the health of the adjacent Native lands. Section 7(d)(2) would allow Native Corporations, as owners of Native cemetery sites and historical places in Alaska, to work with the Secretary of the Interior to secure federal support for the preservation of such lands under the National Historic Preservation Act.

Except as otherwise provided in the bill, H.R. 740 provides that federal protections, privileges, and restrictions applied to lands Sealaska is required to select under current law shall apply to lands Sealaska receives under H.R. 740.

During Full Committee consideration of the bill, the Committee adopted en bloc amendments offered by Congressman Don Young (R-AK) to make several technical changes to H.R. 740, including a clarification regarding Alaska jurisdiction over hunting and fishing on private lands to address concerns expressed by the State and by the hunting and fishing community.

#### COMMITTEE ACTION

H.R. 740 was introduced on February 14, 2013, by Congressman Don Young (R-AK). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian and Alaska Native Affairs. On May 16, 2013, the Subcommittee on Indian and Alaska Native Affairs held a hearing on the bill. On June 12, 2013, the full Natural Resources Committee met to consider the bill. The Subcommittee on Indian and Alaska Native Affairs was discharged by unanimous consent. Congressman Young offered an en bloc amendment designated .048 to the bill; the amendment was adopted by voice vote. The bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 29 to 14, as follows:



**Committee on Natural Resources**  
U.S. House of Representatives  
113th Congress

Date: June 12, 2013

Recorded Vote #: 10

Meeting on / Amendment on: H.R. 740 - To adopt and favorably report the bill to the House, as amended,  
agreed to by a vote of 29 yeas to 14 nays

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
<b>Mr. Hastings, WA, Chairman</b>	X			<b>Mr. Duncan of SC</b>	X		
<i>Mr. Markey, MA, Ranking</i>				<i>Ms. Hanabusa, HI</i>	X		
<b>Mr. Young, AK</b>	X			<b>Mr. Tipton, CO</b>	X		
<i>Mr. Defazio, OR</i>		X		<i>Mr. Cardenas, CA</i>		X	
<b>Mr. Gohmert, TX</b>	X			<b>Mr. Gosar, AZ</b>	X		
<i>Mr. Faleomavaega, AS</i>	X			<i>Mr. Horsford, NV</i>		X	
<b>Mr. Bishop, UT</b>	X			<b>Mr. Labrador, ID</b>	X		
<i>Mr. Pallone, NJ</i>		X		<i>Mr. Huffman, CA</i>		X	
<b>Mr. Lamborn, CO</b>	X			<b>Mr. Southerland, FL</b>	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Ruiz, CA</i>		X	
<b>Mr. Wittman, VA</b>	X			<b>Mr. Flores, TX</b>	X		
<i>Mr. Holt, NJ</i>		X		<i>Ms. Shea-Porter, NH</i>		X	
<b>Mr. Broun, GA</b>	X			<b>Mr. Runyan, NJ</b>	X		
<i>Mr. Grijalva, AZ</i>		X		<i>Mr. Lowenthal, CA</i>		X	
<b>Mr. Fleming, LA</b>	X			<b>Mr. Amodei, NV</b>			
<i>Ms. Bordallo, GU</i>	X			<i>Mr. Garcia, FL</i>		X	
<b>Mr. McClintock, CA</b>	X			<b>Mr. Mullin, OK</b>	X		
<i>Mr. Costa, CA</i>	X			<i>Mr. Cartwright, PA</i>		X	
<b>Mr. Thompson, PA</b>	X			<b>Mr. Stewart, UT</b>	X		
<i>Mr. Sablan, CNMI</i>				<b>Mr. Daines, MT</b>	X		
<b>Ms. Lummis, WY</b>	X			<b>Mr. Cramer, ND</b>	X		
<i>Ms. Tsongas, MA</i>		X		<b>Mr. LaMalfa, CA</b>			
<b>Mr. Benishek, MI</b>	X			<b>Mr. Smith, MO</b>	X		
<i>Mr. Pierluisi, PR</i>	X						
				<b>TOTALS</b>	29	14	

## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

## COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 740—Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act*

H.R. 740 would authorize the Southeast Alaska Native Corporation (Sealaska) to select the remainder of its land entitlement from federal lands outside the area originally delineated for that purpose by the Alaska Native Claims Settlement Act. Based on information from the Forest Service, CBO estimates that enacting H.R. 740 would result in a net loss of \$4 million in timber receipts over the 2014–2023 period (such losses would increase direct spending). Because enacting the legislation would affect direct spending, pay-as-you-go procedures apply. Enacting H.R. 740 would not affect revenues.

Under the bill, Sealaska would be permitted to choose its remaining land entitlement from about 70,000 acres of old and second-growth forest land. Though the legislation would not grant additional lands to Sealaska, it would allow Sealaska to select from federal lands that are not available under current law and that are expected to generate timber receipts for the Treasury; in contrast, the lands available under current law are not expected to generate receipts to the Treasury. Proceeds from the sale of timber on federal lands are deposited in the Treasury as offsetting receipts (a credit against direct spending).

CBO estimates that enacting H.R. 740 would result in about 18,000 fewer federal acres being harvested for timber over the 2014–2023 period. CBO estimates that this reduction in timber harvests would reduce offsetting receipts by \$18 million over the 2014–2023 period. The Forest Service has the authority to spend a portion of those receipts without further appropriation. Thus, CBO estimates that enacting the bill would reduce net offsetting receipts to the Treasury by \$4 million over the 2014–2023 period and additional amounts after 2023.

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. H.R. 740 would reduce offsetting receipts;

therefore, pay-as-you-go procedures apply. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 740 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON JUNE 12, 2013

	By fiscal year in millions of dollars—												
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2013–2018	2013–2023
	NET INCREASE OR DECREASE (–) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	0	0	0	0	0	0	0	1	1	1	0	4

Note: Components do not sum to totals because of rounding.

H.R. 740 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit Sealaska.

On August 21, 2013, CBO transmitted a cost estimate for S. 340, the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act, as ordered reported by the Senate Committee on Energy and Natural Resources on June 18, 2013. H.R. 740 and S. 340 are similar; however, S. 340 would allow the Forest Service to harvest timber in areas that are not allowed under current law. CBO estimates this provision would result in a small increase in proceeds from timber sales. H.R. 740 does not include this provision. The CBO cost estimates reflect this difference.

The CBO staff contact for this estimate is Martin von Gnechten. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. Based on information from the Forest Service, CBO estimates that enacting H.R. 740 would result in a net loss of \$4 million in timber receipts over the 2014–2023 period (such losses would increase direct spending).

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

## COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

## PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

**TRIBAL FOREST PROTECTION ACT OF 2004**

\* \* \* \* \*

**SEC. 2. TRIBAL FOREST ASSETS PROTECTION.**

(a) DEFINITIONS.—In this section:

(1) FEDERAL LAND.—The term “Federal land” means—

(A) land of the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))) administered by the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), the surface of which is administered by the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(2) INDIAN FOREST LAND OR RANGELAND.—The term “Indian forest land or rangeland” means land that—

(A) is held in trust by, or with a restriction against alienation by, the United States for an Indian tribe or a member of an Indian tribe; and

(B)(i)(I) is Indian forest land (as defined in section 304 of the National Indian Forest Resources Management Act (25 U.S.C. 3103)); or

(II) has a cover of grasses, brush, or any similar vegetation; or

(ii) formerly had a forest cover or vegetative cover that is capable of restoration.

(3) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(4) SECRETARY.—The term “Secretary” means—

(A) the Secretary of Agriculture, with respect to land under the jurisdiction of the Forest Service; and

(B) the Secretary of the Interior, with respect to land under the jurisdiction of the Bureau of Land Management.

(b) AUTHORITY TO PROTECT INDIAN FOREST LAND OR RANGELAND.—

(1) IN GENERAL.—Not later than 120 days after the date on which an Indian tribe submits to the Secretary a request to enter into an agreement or contract to carry out a project to protect Indian forest land or rangeland (including a project to restore Federal land that borders on or is adjacent to Indian forest land or rangeland) that meets the criteria described in subsection (c), the Secretary may issue public notice of initiation of any necessary environmental review or of the potential of entering into an agreement or contract with the Indian tribe pursuant to section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 2104 note; Public Law 105–277) (as amended by section 323 of the Department of the Interior and Related Agencies Appropriations Act, 2003 (117 Stat. 275)), or such other authority as appropriate, under which the Indian tribe would carry out activities described in paragraph (3).

(2) ENVIRONMENTAL ANALYSIS.—Following completion of any necessary environmental analysis, the Secretary may enter into an agreement or contract with the Indian tribe as described in paragraph (1).

(3) ACTIVITIES.—Under an agreement or contract entered into under paragraph (2), the Indian tribe may carry out activities to achieve land management goals for Federal land that is—

(A) under the jurisdiction of the Secretary; and

(B) bordering or adjacent to the Indian forest land or rangeland under the jurisdiction of the Indian tribe.

(c) SELECTION CRITERIA.—The criteria referred to in subsection (b), with respect to an Indian tribe, are whether—

(1) the Indian forest land or rangeland under the jurisdiction of the Indian tribe borders on or is adjacent to land under the jurisdiction of the Forest Service or the Bureau of Land Management;

(2) Forest Service or Bureau of Land Management land bordering on or adjacent to the Indian forest land or rangeland under the jurisdiction of the Indian tribe—

(A) poses a fire, disease, or other threat to—

(i) the Indian forest land or rangeland under the jurisdiction of the Indian tribe; or

(ii) a tribal community; or

(B) is in need of land restoration activities;

(3) the agreement or contracting activities applied for by the Indian tribe are not already covered by a stewardship contract or other instrument that would present a conflict on the subject land; and

(4) the Forest Service or Bureau of Land Management land described in the application of the Indian tribe presents or involves a feature or circumstance unique to that Indian tribe (including treaty rights or biological, archaeological, historical, or cultural circumstances).

(d) NOTICE OF DENIAL.—If the Secretary denies a tribal request under subsection (b)(1), the Secretary may issue a notice of denial to the Indian tribe, which—

(1) identifies the specific factors that caused, and explains the reasons that support, the denial;

(2) identifies potential courses of action for overcoming specific issues that led to the denial; and

(3) proposes a schedule of consultation with the Indian tribe for the purpose of developing a strategy for protecting the Indian forest land or rangeland of the Indian tribe and interests of the Indian tribe in Federal land.

(e) PROPOSAL EVALUATION AND DETERMINATION FACTORS.—In entering into an agreement or contract in response to a request of an Indian tribe under subsection (b)(1), the Secretary may—

(1) use a best-value basis; and

(2) give specific consideration to tribally-related factors in the proposal of the Indian tribe, including—

(A) the status of the Indian tribe as an Indian tribe;

(B) the trust status of the Indian forest land or rangeland of the Indian tribe;

(C) the cultural, traditional, and historical affiliation of the Indian tribe with the land subject to the proposal;

(D) the treaty rights or other reserved rights of the Indian tribe relating to the land subject to the proposal;

(E) the indigenous knowledge and skills of members of the Indian tribe;

(F) the features of the landscape of the land subject to the proposal, including watersheds and vegetation types;

(G) the working relationships between the Indian tribe and Federal agencies in coordinating activities affecting the land subject to the proposal; and

(H) the access by members of the Indian tribe to the land subject to the proposal.

(f) NO EFFECT ON EXISTING AUTHORITY.—Nothing in this Act—

(1) prohibits, restricts, or otherwise adversely affects the participation of any Indian tribe in stewardship agreements or contracting under the authority of section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 2104 note; Public Law 105-277) (as amended by section 323 of the Department of the Interior and Related Agencies Appropriations Act, 2003 (117 Stat. 275)) or other authority invoked pursuant to this Act; or

(2) invalidates any agreement or contract under that authority.

(g) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the Indian tribal requests received and agreements or contracts that have been entered into under this Act.

*(h)(1) Land owned by an Alaska Native Corporation pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)*

*that is forest land or formerly had a forest cover or vegetative cover that is capable of restoration shall be eligible for agreements and contracts authorized under this Act and administered by the Secretary.*

*(2) Nothing in this subsection validates, invalidates, or otherwise affects any claim regarding the existence of Indian country (as defined in section 1151 of title 18, United States Code) in the State of Alaska.*

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## NATIONAL HISTORIC PRESERVATION ACT

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### TITLE I

SEC. 101. (a)(1)(A) The Secretary of the Interior is authorized to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. Notwithstanding section 43(c) of the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (commonly known as the “Trademark Act of 1946” (15 U.S.C. 1125(c))), buildings and structures on or eligible for inclusion on the National Register of Historic Places (either individually or as part of a historic district), or designated as an individual landmark or as a contributing building in a historic district by a unit of State or local government, may retain the name historically associated with the building or structure.

(B) Properties meeting the criteria for National Historic Landmarks established pursuant to paragraph (2) shall be designated as “National Historic Landmarks” and included on the National Register, subject to the requirements of paragraph (6). All historic properties included on the National Register on the date of the enactment of the National Historic Preservation Act Amendments of 1980 shall be deemed to be included on the National Register as of their initial listing for purposes of this Act. All historic properties listed in the Federal Register of February 6, 1979, as “National Historic Landmarks” or thereafter prior to the effective date of this Act are declared by Congress to be National Historic Landmarks of national historic significance as of their initial listing as such in the Federal Register for purposes of this Act and the Act of August 21, 1935 (49 Stat. 666); except that in cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register.

(2) The Secretary in consultation with national historical and archaeological associations, shall establish or revise criteria for properties to be included on the National Register and criteria for National Historic Landmarks, and shall also promulgate or revise regulations as may be necessary for—

(A) nominating properties for inclusion in, and removal from, the National Register and the recommendation of properties by certified local governments;

(B) designating properties as National Historic Landmarks and removing such designation;

(C) considering appeals from such recommendations, nominations, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);

(D) nominating historic properties for inclusion in the World Heritage List in accordance with the terms of the Convention concerning the Protection of the World Cultural and Natural Heritage;

(E) making determinations of eligibility of properties for inclusion on the National Register; and

(F) notifying the owner of a property, and appropriate local governments, and the general public, when the property is being considered for inclusion on the National Register, for designation as a National Historic Landmark or for nomination to the World Heritage List.

(3) Subject to the requirements of paragraph (6), any State which is carrying out a program approved under subsection (b), shall nominate to the Secretary properties which meet the criteria promulgated under subsection (a) for inclusion on the National Register. Subject to paragraph (6), any property nominated under this paragraph or under section 110(a)(2) shall be included on the National Register on the date forty-five days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves such nomination within such forty-five day period or unless an appeal is filed under paragraph (5).

(4) Subject to the requirements of paragraph (6) the Secretary may accept a nomination directly from any person or local government for inclusion of a property on the National Register only if such property is located in a State where there is no program approved under subsection (b). The Secretary may include on the National Register any property for which such a nomination is made if he determines that such property is eligible in accordance with the regulations promulgated under paragraph (2). Such determination shall be made within ninety days from the date of the nomination unless the nomination is appealed under paragraph (5).

(5) Any person or local government may appeal to the Secretary a nomination of any historic property for inclusion on the National Register and may appeal to the Secretary the failure or refusal of a nominating authority to nominate a property in accordance with this subsection.

(6) The Secretary shall promulgate regulations requiring that before any property or district may be included on the National Register or designated as a National Historic Landmark, the owner or owners or such property, or a majority of the owners of the properties within the district in the case of an historic district, shall be given the opportunity (including a reasonable period of time) to concur in, or object to, the nomination of the property or district for such inclusion or designation. If the owner or owners of any privately owned property, or a majority of the owners of such properties within the district in the case of an historic district, object to such inclusion or designation, such property shall not be included on the National Register or designated as a National Historic Landmark until such objection is withdrawn. The Secretary shall review the nomination of the property or district where any



such objection has been made and shall determine whether or not the property or district is eligible for such inclusion or designation, and if the Secretary determines that such property or district is eligible for such inclusion or designation, he shall inform the Advisory Council on Historic Preservation, the appropriate State Historic Preservation Officer, the appropriate chief elected local official and the owner or owners of such property, of his determination. The regulations under this paragraph shall include provisions to carry out the purposes of this paragraph in the case of multiple ownership of a single property.

(7) The Secretary shall promulgate, or revise, regulations—

(A) ensuring that significant prehistoric and historic artifacts, and associated records, subject to section 110 of this Act, the Act of June 27, 1960 (16 U.S.C. 469c), and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following) are deposited in an institution with adequate long-term curatorial capabilities;

(B) establishing a uniform process and standards for documenting historic properties by public agencies and private parties for purposes of incorporation into, or complementing, the national historical architectural and engineering records within the Library of Congress; and

(C) certifying local governments, in accordance with subsection (c)(1) and for the allocation of funds pursuant to section 103(c) of this Act.

(8) The Secretary shall, at least once every 4 years, in consultation with the Council and with State Historic Preservation Officers, review significant threats to properties included in, or eligible for inclusion on, the National Register, in order to—

(A) determine the kinds of properties that may be threatened;

(B) ascertain the causes of the threats; and

(C) develop and submit to the President and Congress recommendations for appropriate action.

(b)(1) The Secretary, in consultation with the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation, shall promulgate or revise regulations for State Historic Preservation Programs. Such regulations shall provide that a State program submitted to the Secretary under this section shall be approved by the Secretary if he determines that the program—

(A) provides for the designation and appointment by the Governor of a “State Historic Preservation Officer” to administer such program in accordance with paragraph (3) and for the employment or appointment by such officer of such professionally qualified staff as may be necessary for such purposes;

(B) provides for an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and

(C) provides for adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.

(2)(A) Periodically, but not less than every 4 years after the approval of any State program under this subsection, the Secretary,

in consultation with the Council on the appropriate provisions of this Act, and in cooperation with the State Historic Preservation Officer, shall evaluate the program to determine whether it is consistent with this Act.

(B) If, at any time, the Secretary determines that a major aspect of a State program is not consistent with this Act, the Secretary shall disapprove the program and suspend in whole or in part any contracts or cooperative agreements with the State and the State Historic Preservation Officer under this Act, until the program is consistent with this Act, unless the Secretary determines that the program will be made consistent with this Act within a reasonable period of time.

(C) The Secretary, in consultation with State Historic Preservation Officers, shall establish oversight methods to ensure State program consistency and quality without imposing undue review burdens on State Historic Preservation Officers.

(D) At the discretion of the Secretary, a State system of fiscal audit and management may be substituted for comparable Federal systems so long as the State system—

(i) establishes and maintains substantially similar accountability standards; and

(ii) provides for independent professional peer review.

The Secretary may also conduct periodic fiscal audits of State programs approved under this section as needed and shall ensure that such programs meet applicable accountability standards.

(3) It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to—

(A) in cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of such properties;

(B) identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register;

(C) prepare and implement a comprehensive statewide historic preservation plan;

(D) administer the State program of Federal assistance for historic preservation within the State;

(E) advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;

(F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;

(G) provide public information, education, and training and technical assistance in historic preservation;

(H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c);

(I) consult with appropriate Federal agencies in accordance with this Act on—

- (i) Federal undertakings that may affect historic properties; and
- (ii) the content and sufficiency of any plans developed to protect, manage, or reduce or mitigate harm to such properties; and
- (J) advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance.
- (4) Any State may carry out all or any part of its responsibilities under this subsection by contract or cooperative agreement with any qualified nonprofit organization or educational institution.
- (5) Any State historic preservation program in effect under prior authority of law may be treated as an approved program for purposes of this subsection until the earlier of—
  - (A) the date on which the Secretary approves a program submitted by the State under this subsection, or
  - (B) three years after the date of the enactment of the National Historic Preservation Act Amendments of 1992.
- (6)(A) Subject to subparagraphs (C) and (D), the Secretary may enter into contracts or cooperative agreements with a State Historic Preservation Officer for any State authorizing such Officer to assist the Secretary in carrying out one or more of the following responsibilities within that State—
  - (i) Identification and preservation of historic properties.
  - (ii) Determination of the eligibility of properties for listing on the National Register.
  - (iii) Preparation of nominations for inclusion on the National Register.
  - (iv) Maintenance of historical and archaeological data bases.
  - (v) Evaluation of eligibility for Federal preservation incentives.

Nothing in this paragraph shall be construed to provide that any State Historic Preservation Officer or any other person other than the Secretary shall have the authority to maintain the National Register for properties in any State.
- (B) The Secretary may enter into a contract or cooperative agreement under subparagraph (A) only if—
  - (i) the State Historic Preservation Officer has requested the additional responsibility;
  - (ii) the Secretary has approved the State historic preservation program pursuant to section 101(b) (1) and (2);
  - (iii) the State Historic Preservation Officer agrees to carry out the additional responsibility in a timely and efficient manner acceptable to the Secretary and the Secretary determines that such Officer is fully capable of carrying out such responsibility in such manner;
  - (iv) the State Historic Preservation Officer agrees to permit the Secretary to review and revise, as appropriate in the discretion of the Secretary, decisions made by the Officer pursuant to such contract or cooperative agreement; and
  - (v) the Secretary and the State Historic Preservation Officer agree on the terms of additional financial assistance to the State, if there is to be any, for the costs of carrying out such responsibility.
- (C) For each significant program area under the Secretary's authority, the Secretary shall establish specific conditions and criteria

essential for the assumption by State Historic Preservation Officers of the Secretary's duties in each such program.

(D) Nothing in this subsection shall have the effect of diminishing the preservation programs and activities of the National Park Service.

(c)(1) Any State program approved under this section shall provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purposes of this Act and provide for the transfer in accordance with section 103(c), of a portion of the grants received by the States under this Act, to such local governments. Any local government shall be certified to participate under the provisions of this section if the applicable State Historic Preservation Officer, and the Secretary, certifies that the local government—

(A) enforces appropriate State or local legislation for the designation and protection of historic properties;

(B) has established an adequate and qualified historic preservation review commission by State or local legislation;

(C) maintains a system for the survey and inventory of historic properties that furthers the purposes of subsection (b);

(D) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and

(E) satisfactorily performs the responsibilities delegated to it under this Act.

Where there is no approved State program, a local government may be certified by the Secretary if he determines that such local government meets the requirements of subparagraphs (A) through (E); and in any such case the Secretary may make grants-in-aid to the local government for purposes of this section.

(2)(A) Before a property within the jurisdiction of the certified local government may be considered by the State to be nominated to the Secretary for inclusion on the National Register, the State Historic Preservation Officer shall notify the owner, the applicable chief local elected official, and the local historic preservation commission. The commission, after reasonable opportunity for public comment, shall prepare a report as to whether or not such property, in its opinion, meets the criteria for the National Register. Within sixty days of notice from the State Historic Preservation Officer, the chief local elected official shall transmit the report of the commission and his recommendation to the State Historic Preservation Officer. Except as provided in subparagraph (B), after receipt of such report and recommendation, or if no such report and recommendation are received within sixty days, the State shall make the nomination pursuant to section 101(a). The State may expedite such process with the concurrence of the certified local government.

(B) If both the commission and the chief local elected official recommend that a property not be nominated to the National Register, the State Historic Preservation Officer shall take no further action, unless within thirty days of the receipt of such recommendation by the State Historic Preservation Officer an appeal is filed with the State. If such an appeal is filed, the State shall follow the procedures for making a nomination pursuant to section

101(a). Any report and recommendations made under this section shall be included with any nomination submitted by the State to the Secretary.

(3) Any local government certified under this section or which is making efforts to become so certified shall be eligible for funds under the provisions of section 103(c) of this Act, and shall carry out any responsibilities delegated to it in accordance with such terms and conditions as the Secretary deems necessary or advisable.

(4) For the purposes of this section the term—

(A) “designation” means the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government; and

(B) “protection” means a local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to subsection (c).

(d)(1)(A) The Secretary shall establish a program and promulgate regulations to assist Indian tribes in preserving their particular historic properties. The Secretary shall foster communication and cooperation between Indian tribes and State Historic Preservation Officers in the administration of the national historic preservation program to ensure that all types of historic properties and all public interests in such properties are given due consideration, and to encourage coordination among Indian tribes, State Historic Preservation Officers, and Federal agencies in historic preservation planning and in the identification, evaluation, protection, and interpretation of historic properties.

(B) The program under subparagraph (A) shall be developed in such a manner as to ensure that tribal values are taken into account to the extent feasible. The Secretary may waive or modify requirements of this section to conform to the cultural setting of tribal heritage preservation goals and objectives. The tribal programs implemented by specific tribal organizations may vary in scope, as determined by each tribe’s chief governing authority.

(C) The Secretary shall consult with Indian tribes, other Federal agencies, State Historic Preservation Officers, and other interested parties and initiate the program under subparagraph (A) by not later than October 1, 1994.

(2) A tribe may assume all or any part of the functions of a State Historic Preservation Officer in accordance with subsections (b)(2) and (b)(3), with respect to tribal lands, as such responsibilities may be modified for tribal programs through regulations issued by the Secretary, if—

(A) the tribe’s chief governing authority so requests;

(B) the tribe designates a tribal preservation official to administer the tribal historic preservation program, through appointment by the tribe’s chief governing authority or as a tribal ordinance may otherwise provide;

(C) the tribal preservation official provides the Secretary with a plan describing how the functions the tribal preservation official proposes to assume will be carried out;

(D) the Secretary determines, after consulting with the tribe, the appropriate State Historic Preservation Officer, the Council

(if the tribe proposes to assume the functions of the State Historic Preservation Officer with respect to review of undertakings under section 106), and other tribes, if any, whose tribal or aboriginal lands may be affected by conduct of the tribal preservation program—

(i) that the tribal preservation program is fully capable of carrying out the functions specified in the plan provided under subparagraph (C);

(ii) that the plan defines the remaining responsibilities of the Secretary and the State Historic Preservation Officer; and

(iii) that the plan provides, with respect to properties neither owned by a member of the tribe nor held in trust by the Secretary for the benefit of the tribe, at the request of the owner thereof, the State Historic Preservation Officer, in addition to the tribal preservation official, may exercise the historic preservation responsibilities in accordance with subsections (b)(2) and (b)(3); and

(E) based on satisfaction of the conditions stated in subparagraphs (A), (B), (C), and (D), the Secretary approves the plan.

(3) In consultation with interested Indian tribes, other Native American organizations and affected State Historic Preservation Officers, the Secretary shall establish and implement procedures for carrying out section 103(a) with respect to tribal programs that assume responsibilities under paragraph (2).

(4) At the request of a tribe whose preservation program has been approved to assume functions and responsibilities pursuant to paragraph (2), the Secretary shall enter into contracts or cooperative agreements with such tribe permitting the assumption by the tribe of any part of the responsibilities referred to in subsection (b)(6) on tribal land, if—

(A) the Secretary and the tribe agree on additional financial assistance, if any, to the tribe for the costs of carrying out such authorities;

(B) the Secretary finds that the tribal historic preservation program has been demonstrated to be sufficient to carry out the contract or cooperative agreement and this Act; and

(C) the contract or cooperative agreement specifies the continuing responsibilities of the Secretary or of the appropriate State Historic Preservation Officers and provides for appropriate participation by—

(i) the tribe's traditional cultural authorities;

(ii) representatives of other tribes whose traditional lands are under the jurisdiction of the tribe assuming responsibilities; and

(iii) the interested public.

(5) The Council may enter into an agreement with an Indian tribe to permit undertakings on tribal land to be reviewed under tribal historic preservation regulations in place of review under regulations promulgated by the Council to govern compliance with section 106, if the Council, after consultation with the tribe and appropriate State Historic Preservation Officers, determines that the tribal preservation regulations will afford historic properties consideration equivalent to those afforded by the Council's regulations.

(6)(A) Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register.

(B) In carrying out its responsibilities under section 106, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties described in subparagraph (A).

(C) In carrying out his or her responsibilities under subsection (b)(3), the State Historic Preservation Officer for the State of Hawaii shall—

(i) consult with Native Hawaiian organizations in assessing the cultural significance of any property in determining whether to nominate such property to the National Register;

(ii) consult with Native Hawaiian organizations in developing the cultural component of a preservation program or plan for such property; and

(iii) enter into a memorandum of understanding or agreement with Native Hawaiian organizations for the assessment of the cultural significance of a property in determining whether to nominate such property to the National Register and to carry out the cultural component of such preservation program or plan.

*(7)(A) Notwithstanding any other provision of law, an Alaska Native tribe, band, nation or other organized group or community, including a Native village, Regional Corporation, or Village Corporation, shall be eligible to participate in all programs administered by the Secretary under this Act on behalf of Indian tribes, including, but not limited to, securing grants and other support to manage their own historic preservation sites and programs on lands held by the Alaska Native tribe, band, nation or other organized group or community, including a Native village, Regional Corporation, or Village Corporation.*

*(B) Nothing in this paragraph validates, invalidates, or otherwise affects any claim regarding the existence of Indian country (as defined in section 1151 of title 18, United States Code) in the State of Alaska.*

(e)(1) The Secretary shall administer a program of matching grants to the States for the purposes of carrying out this Act.

(2) The Secretary may administer grants to the National Trust for Historic Preservation in the United States, chartered by an Act of Congress approved October 26, 1949 (63 Stat. 947) consistent with the purposes of its charter and this Act.

(3)(A) In addition to the programs under paragraphs (1) and (2), the Secretary shall administer a program of direct grants for the preservation of properties included on the National Register. Funds to support such program annually shall not exceed 10 per centum of the amount appropriated annually for the fund established under section 108. These grants may be made by the Secretary, in consultation with the appropriate State Historic Preservation Officer—

(i) for the preservation of National Historic Landmarks which are threatened with demolition or impairment and for the preservation of historic properties of World Heritage significance,

(ii) for demonstration projects which will provide information concerning professional methods and techniques having application to historic properties,

(iii) for the training and development of skilled labor in trades and crafts, and in analysis and curation, relating to historic preservation, and

(iv) to assist persons or small businesses within any historic district included in the National Register to remain within the district.

(B) The Secretary may also, in consultation with the appropriate State Historic Preservation Officer, make grants or loans or both under this section to Indian tribes and to nonprofit organizations representing ethnic or minority groups for the preservation of their cultural heritage.

(C) Grants may be made under subparagraph (A) (i) and (iv) only to the extent that the project cannot be carried out in as effective a manner through the use of an insured loan under section 104.

(4) Grants may be made under this subsection for the preservation, stabilization, restoration, or rehabilitation of religious properties listed in the National Register of Historic Places, provided that the purpose of the grant is secular, does not promote religion, and seeks to protect those qualities that are historically significant. Nothing in this paragraph shall be construed to authorize the use of any funds made available under this section for the acquisition of any property referred to in the preceding sentence.

(5) The Secretary shall administer a program of direct grants to Indian tribes and Native Hawaiian organizations for the purpose of carrying out this Act as it pertains to Indian tribes and Native Hawaiian organizations. Matching fund requirements may be modified. Federal funds available to a tribe or Native Hawaiian organization may be used as matching funds for the purposes of the tribe's or organization's conducting its responsibilities pursuant to this section.

(6)(A) As part of the program of matching grant assistance from the Historic Preservation Fund to States, the Secretary shall administer a program of direct grants to the Federated States of Micronesia, the Republic of the Marshall Islands, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau (referred to as the Micronesian States) in furtherance of the Compact of Free Association between the United States and the Federated States of Micronesia and the Marshall Islands, approved by the Compact of Free Association Act of 1985 (48 U.S.C. 1681 note), the Trusteeship Agreement for the Trust Territory of the Pacific Islands, and the Compact of Free Association between the United States and Palau, approved by the Joint Resolution entitled "Joint Resolution to approve the Compact of Free Association between the United States and Government of Palau, and for other purposes" (48 U.S.C. 1681 note). The goal of the program shall be to establish historic and cultural preservation programs that meet the unique needs of each Micronesian State so that at the termination of the compacts the programs shall be firmly established. The Secretary may waive or modify the requirements of this section to conform to the cultural setting of those nations.



(B) The amounts to be made available to the Micronesian States shall be allocated by the Secretary on the basis of needs as determined by the Secretary. Matching funds may be waived or modified.

(f) No part of any grant made under this section may be used to compensate any person intervening in any proceeding under this Act.

(g) In consultation with the Advisory Council on Historic Preservation, the Secretary shall promulgate guidelines for Federal agency responsibilities under section 110 of this title.

(h) Within one year after the date of enactment of the National Historic Preservation Act Amendments of 1980, the Secretary shall establish, in consultation with the Secretaries of Agriculture and Defense, the Smithsonian Institution, and the Administrator of the General Services Administration, professional standards for the preservation of historic properties in Federal ownership or control.

(i) The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in, and information concerning, professional methods and techniques for the preservation of historic properties and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide information concerning historic preservation to the general public including students.

(j)(1) The Secretary shall, in consultation with the Council and other appropriate Federal, tribal, Native Hawaiian, and non-Federal organizations, develop and implement a comprehensive preservation education and training program.

(2) The education and training program described in paragraph (1) shall include—

(A) new standards and increased preservation training opportunities for Federal workers involved in preservation-related functions;

(B) increased preservation training opportunities for other Federal, State, tribal and local government workers, and students;

(C) technical or financial assistance, or both, to historically black colleges and universities, to tribal colleges, and to colleges with a high enrollment of Native Americans or Native Hawaiians, to establish preservation training and degree programs;

(D) coordination of the following activities, where appropriate, with the National Center for Preservation Technology and Training—

(i) distribution of information on preservation technologies;

(ii) provision of training and skill development in trades, crafts, and disciplines related to historic preservation in Federal training and development programs; and

(iii) support for research, analysis, conservation, curation, interpretation, and display related to preservation.

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## DISSENTING VIEWS

H.R. 740 would allow the Sealaska Corporation, a regional corporation established under the Alaska Native Claims Settlement Act of 1971 (ANCSA), 43 U.S.C. §§ 1601 et seq., to obtain its remaining land entitlement under ANCSA from portions of the Tongass National Forest outside of the withdrawal areas to which Sealaska's selections are currently restricted by law. Specifically, the bill transfers ownership of the nation's most treasured public lands scattered throughout the Tongass National Forest, from the north in Yakutat to the tip of Dall Island near the Canadian border, including highly controversial land selections on Prince of Wales Island and North Kuiu, to a for-profit corporation with a long history of clear-cutting old growth trees within the Tongass. Consequently, enactment of this legislation could have sweeping, unintended, and harmful impacts to the forest and the economy of southeastern Alaska. Even if H.R. 740 attempted to mitigate or address these potential impacts, which it does not, it is wholly unnecessary legislation and should be rejected by the House.

This is the third Congress in which a bill benefiting Sealaska has been introduced and considered by the Natural Resources Committee. While H.R. 740 is an improvement over previous versions, reflecting some of the changes requested by stakeholders in southeast Alaska, the U.S. Forest Service, and the Alaska congressional delegation, it continues to be unnecessary. The only thing stopping Sealaska from finalizing its entitlement from within the areas the Corporation helped identify is Sealaska. Indeed, conveyance of those lands has been suspended, at Sealaska's request, while the Corporation pursues this legislation allowing it to select entirely new scenic, recreation and tourism areas for large-scale development such as industrial logging and construction.

By allowing development in new areas, H.R. 740 risks stalling implementation of the U.S. Forest Service's plans to transition southeast Alaska's economy from old-growth logging to more sustainable management of the forest based on second-growth timber. Sealaska claims to share this goal, but Sealaska would receive 20 percent more of the best old growth trees under H.R. 740 than it would under current law. Conveying these lands to the Corporation for logging will not only deplete prized old growth timber but also severely limit the Forest Service's ability to complete this critical transition for the remainder of the forest.

Logging activities near rivers and streams cause erosion and flooding which degrade water quality and harm fish populations. Unfortunately, H.R. 740 does not provide adequate protections for salmon streams, which support a valuable public resource, or contain conservation provisions to mitigate the impacts of increased logging. The Tongass' salmon streams and rivers are a mainstay of the region's economy and its subsistence way of life and must be preserved.

Under H.R. 740, the Tribal Forest Protection Act (TFPA)—a law that was intended to benefit tribal governments exclusively—would apply to private lands owned by Alaska Native Corporations such as Sealaska by declaring ANCSA lands as eligible for TFPA agreements, contracts, and grants. The Intertribal Timber Council (ITC), a 35-year-old association of 62 forest owning tribes and Alaska Na-

tive organizations (including Sealaska), objects to extending the TFPFA treatment to Alaska Native Corporation lands, calling the bill's attempt to equate corporation land with tribal land "contrary" to the purpose of the law, and carries with it public policy implications for states, tribes, federal agencies and private land owners that could "corrupt the basic purpose and intent of the TFPFA." Indeed, Congress passed TFPFA to promote the federal trust responsibility of protecting on-reservation lands from wildfires from adjacent federal lands, which reflects the basic fiduciary obligation of the special government-to-government relationship between the United States and federally recognized Indian tribes. ITC argues, and we agree, that applying the TFPFA to tens of millions of acres of private Alaska Native corporation land, both village and regional, is misguided, and in any event should not be legislatively advanced as a secondary provision in a bill with an entirely different purpose.

Finally, the Administration testified against H.R. 740, citing ongoing negotiations on a compromise bill, S. 340, which was introduced by Senators Murkowski and Begich. Extensive efforts have been made by the U.S. Forest Service, Sealaska, the environmental community, the Alaska congressional delegation, and impacted local communities to come to a balanced solution that works for all parties on the most controversial remaining issues, including providing for stream buffers and conservation areas under the bill. Any legislation impacting the Tongass should ensure that the U.S. Forest Service's transition goals can be met, and should provide longterm protection for the thousands of tourism and fishing jobs that rely on a healthy Tongass.

For the many reasons cited above, H.R. 740 is not that legislation and should be rejected by the House.

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