Debra Thompson

From: Rebecca Knight <bknight15@icloud.com>
Sent: Monday, November 16, 2020 9:51 PM
To: Assembly
Subject: Cmts. & attachments for tonight's meeting agenda Item 15(G)-"Landless"
Attachments: Knight_Testimony__Landless_ Pbg. Bor. Assbly_16Nov20 (2).pdf; Landless letter__Lyons to Young (OCR'd)__24Jul96 copy.pdf; 2015-Landless_blacktestimonyfinal.pdf; ISER letter m1993 copy.pdf

Hello Mayor and Assembly Members,

Attached are my comments and three important attachments (**regarding eligibility**), under tonight's meeting agenda Item 15(G) regarding Senate bill 4889, the "Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act" introduced by Senator Murkowski on Nov. 10.

I believe the eligibility issue is the biggest issue with this legislation and should be addressed in the letter you are drafting. Multiple official documentation addresses this issue.
"Waiting" 50 years does not constitute eligibility.

I also ask to be allowed to attend any meeting you might have with Ms. Cecilia Tavoliero as she requested, or other "Landless" natives.

Thank you for your consideration,

Becky (Rebecca) Knight

Testimony
of
Rebecca Knight
Before the Petersburg Borough Assembly
November 16, 2020

My name is Rebecca Knight and I am here to speak before you on meeting agenda Item 15(G) the Senate bill 4889[1], the "Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act" introduced by Senator Murkowski on Nov. 10.

I agree with Mayor Jensen's comments on Borough Business today and comments a few meetings ago that there is a need for public hearings on the proposed legislation. They should be in person, after the effects of the pandemic have subsided. I request that you send a letter to Senators Murkowski and Sullivan asking them to reject this flawed legislation, or at a least pause it's fast-track trajectory. Alaskans and the American public must have the opportunity to weigh in on this massive privatization of public resources and taxpayer funded infrastructure.

Murkowski's bill is a land grab of monumental proportions, designed to put valuable public lands into private hands for development. It would withdraw substantial acreage from the Tongass National Forest and inevitably result in large-scale clearcutting. It is a form of corporate welfare designed to enrich an entitled few at the expense of all Alaskans and the American people.

It is not appropriate to establish five new native corporations in SE Alaska. Here is why.

While I respect the deep cultural ties of Alaskan native people to the lands of SE Alaska, it's important to note that these five communities were found ineligible for independent corporate status under Alaska Native Claims Settlement Act (ANCSA). Accordingly, the individuals involved receive extra annual cash payments from Sealaska, of which they are "at-large" shareholders.[2] In the words of Jim Lyons, Undersecretary for the Department of Agriculture in 1996, "*There are no 'landless' Natives in southeast Alaska since all Natives have a beneficial interest in lands owned by Sealaska, including surface and subsurface estates.*" [3] (Please read attached documents regarding eligibility.)

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[1] *See* US Senate Bill 4889 116th Congress: https://www.congress.gov/bill/116th-congress/senate-bill/4889?r=4&s=1

[2] *See* attached, must read, various attached documentation, including but not limited to: **1.** Letter to KFSK, Amy Miller from Lee Gorsuch, Director Institute Social and Economic Research (ISER). Dec. 7, 1993; **2.** 2015-Landless_blacktestimonyfinal 36_16_15-1 5. **3.** Landless letter__Lyons to Young (OCR'd)__24Jul96 copy

[3] *Id.*

This fact must be included and documented on the record for this proposed legislation, not ignored.

Senator Murkowski has flip-flopped on the finality of native land claims. Following passage of the highly contentious 2014 Sealaska land swap legislation, which passed as a budget rider, she alleged it would, "*finally finish paying the debt we owe Natives for the settlement of their aboriginal land.*"[4] In fact, her bill which became that rider was titled the "Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act." Yet, shortly thereafter, she introduced Senate Bill 872 [5]—an earlier version of this latest so-called "Landless" legislation. And now she says that this new bill would "*right a 50-year historical wrong.*" Saying so does not make it so, and why is "finalization" not "final"?

The bill would give 115,200 acres of prime forestland to a relatively small group of already specially-favored Sealaska shareholders in five communities – Haines, Ketchikan, Petersburg, Tenakee, and Wrangell (23,040 acres each). It includes millions of dollars worth of taxpayer funded infrastructure including "*all roads, trails, log transfer facilities, leases,*" and other incidentals on the land to be gifted.[6]

An example of why this amounts to a land grab by Murkowski is that the bill disproportionally allocates 23,040 acres to a reported 5 Sealaska shareholders in Tenakee. That's equivalent to a handout of about 3,500 football fields worth of public land per person!

Most of the lands mapped for selection in the bill are on the maps because of their timber value and would be logged—to the nubbin—under the weak State Forest Practices and Resources Act (FPRA).[7] Examples of this kind of logging include the wholesale destruction seen around Hobart Bay, Kake and the Cleveland Peninsula, just north of Ketchikan. All or most of the timber will be exported in-the-round, along with its associated jobs, to China.

Some of the land selections are adjacent to Senator Stedman's pending Kake Access Road to Nowhere. The timber industry has plans for a timber export facility near Kake, and Stedman's Kake road and the NE Kupreanof "landless" land selections

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[4] *See* Press Release, Murkowski Applauds Final Passage of Sealaska Lands Bill (Dec. 12, 2014). https://www.energy.senate.gov/2014/12/sen-murkowski-applauds-final-passage-of-sealaska-lands-bill

[5] S.872 - Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act. 114th Congress (2015-2016). https://www.congress.gov/bill/114th-congress/senate-bill/872/titles

[6] *See* "Landless Native Legislation". US Senate Bill 4889 116th Congress attached to this meeting's agenda.

[7] The Alaska Forest Practices and Resources Act – which governs all non-federal logging – provides no enforceable protection for wildlife habitat whatsoever, and no consideration of cumulative impacts across the landscape. Buffers on fish-bearing streams are far narrower under state than federal law. Logging plans can (and have been) drawn up effectively on the back of the proverbial napkin.

appear to all be part of one resource exploitation scheme. This is another thinly veiled attempt to use public funds earmarked for "subsistence and recreation" to subsidize timber industry activity.

Since when has clearcut logging been considered an important traditional practice of native Alaskans? This habitat destruction does more to degrade important traditional uses of these lands for everybody - hunting, fishing, and gathering - than it does to compensate for any historic inequity. It also undercuts the economic interests of the region by degrading salmon habitat, through what are by far the most destructive kind of logging practices that are allowed in our region.

Public access conditions are specified in the proposed legislation and at the apparent discretion of the corporation for how they are interpreted. Local natives and non-natives will likely lose full access to these traditional hunting and fishing grounds.

While Alaskans are distracted and exhausted by the pandemic and a contentious election cycle, Senator Murkowski intends to jam the bill through the legislative process by attaching it to must-pass Omnibus legislation or to the National Defense Authorization Act (NDAA) without any opportunity for public comment, exactly as she did in 2014 with her land claims "finalization" bill. Now, she has called a Senate hearing to consider the bill only one week after introduction, during the lame duck session, clearly in order to sneak it through as a rider.

If passed, this bill will have huge, irreversible impacts on the people, fish, wildlife, and landscapes of SE Alaska. The public deserves an opportunity for informed and meaningful comment.

Sincerely,

Rebecca Knight

Rebecca (Becky)Knight

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

JUL 24 1996

Honorable Don Young, Chairman
Committee on Resources
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

In testimony delivered at a hearing before the House Resources Committee on June 11, 1996, on H.R. 2505, the Department of the Interior testified that the Secretaries of both Agriculture and Interior would recommend a Presidential veto of any legislation containing a "Landless Natives" proposal such as that formerly contained in S. 2539 in the 103rd Congress. We reiterate this position with respect to any so-called "landless" Natives legislation which would either recognize additional Native corporations in Alaska or provide a premise for the conveyance of additional Federal lands or money in furtherance of such new corporations under the Alaska Native Claims Settlement Act (ANCSA).

We are concerned that such a proposal might be appended to the so-called "Presidio" legislation, containing numerous land use measures, or to other legislation, now being considered by the Congress.

There is no equitable or legal justification for Congressional recognition of "landless" Natives in southeast Alaska or elsewhere as new corporations under ANCSA. We conclude this because:

-- There is no inequity in ANCSA to redress. Each of the five communities of Ketchikan, Petersburg, Wrangell, Tenakee Springs and Haines was considered for village status during the formulation of ANCSA and none met the general statutory criteria for eligibility.

-- Natives in the five "landless" communities are enrolled as "at-large" shareholders in Sealaska Corporation, have received fair and substantial equitable benefits of the original ANCSA settlement, and the dividends received by these at-large shareholders substantially exceed those paid by the regional corporations to village shareholders.

-- There are no "landless" Natives in southeast Alaska since all Natives have a beneficial interest in lands owned by Sealaska, including surface and subsurface estates.

-- Recognition of the five "landless" communities in southeast Alaska would itself effect an inequity among other "landless" communities elsewhere in Alaska.

-- Recognition of the five "landless" communities could reopen the entire settlement scheme of ANCSA and result in a never-ending, extremely costly, and unattainable effort to effect total equality of treatment among all Natives in all communities.

These conclusions are not ameliorated by legislative proposals which would merely recognize the creation of the five corporations without addressing their ultimate entitlement to land. One proposal would amend section 14(h) of ANCSA by merely allowing Haines, Ketchikan, Petersburg and Wrangell to organize as urban corporations and allowing Tenakee to organize as a group corporation. Creation of such shell corporations with no assets merely sets the stage for their potential insolvency and later demands that the Federal Government provide them with a land base and other assets.

In 1993, Congress authorized the Secretary of the Interior to conduct a study of the entitlements of Natives in southeast Alaska with particular respect to Native populations in the communities of Haines, Ketchikan, Petersburg, Wrangell and Tenakee. The study subsequently prepared by the Institute of Social and Economic Research of the University of Alaska was inconclusive on the issue of equitable treatment. While the named five communities may not have received land, their treatment was like that of many other communities elsewhere in Alaska. Further, the study did not consider adequately the actual distribution of regional stock dividends to "landless" Natives.

ANCSA effected a final settlement of the aboriginal claims of Native Americans in Alaska through payment of over $900 million and conveyances of 40 million acres of Federal land. Although it was impossible for Congress to have effected total parity among all villages in the state, there was a distinction made in ANCSA between the villages in the southeast and those located elsewhere. All recognized southeast villages had the opportunity to select timbered land, the value of which far exceeded the foreseeable values in the surface estate available to villages in the other eleven regions of Alaska. In addition, Natives in the southeast had received payments from the United States for the taking of their aboriginal lands. For these reasons, ANCSA specifically named the ten villages that were to be recognized in the southeast as opposed to subjecting the villages to a determination by the Secretary of the Interior of their eligibility prior to the receipt of any lands.

The proposed five "landless" communities meet none of the criteria for corporate recognition, that is, having a majority

Native population, and not being modern or urban in character. None of the five has a Native majority and four out of the five are modern and urban in character. Tenakee has no actual Native residents and the enrollees only represent seven percent of the population of the community. Three of the communities appealed their status through the administrative processes prescribed by the Secretary of the Interior and were denied. Recognition of any of these five communities would substantially lower the standards set out in ANCSA for village recognition with implications elsewhere.

There are many "landless" villages in Alaska which do not meet the Act's criteria for eligibility to select land. In section 11(b)(1) of ANCSA, Congress listed more than two hundred villages which were presumed to be eligible villages unless the Secretary of the Interior determined otherwise under criteria set out in section 11(b)(2). Under section 11(b)(3), communities not named in section 11(b)(1) were provided with the opportunity to petition for an eligibility determination, but were presumed ineligible unless the Secretary found them eligible. Twenty-three named villages were found ineligible, and a number of unnamed villages could not prove their eligibility.

Once recognition of heretofore ineligible communities in the southeast is commenced, pressure will mount for similar treatment by other communities. For example, Anchorage and Fairbanks have larger native enrollments than any of the communities now seeking recognition. There is no land available in either of those communities for granting a new corporation a land base.

As ANCSA is currently structured, recognition of the five communities as villages, urban or group corporations could also have a substantial impact on section 14(h)(8) entitlements of all twelve regional corporations. The land conveyed to urban and group corporations must be subtracted from the amount of land divided among the twelve regional corporations under section 14(h)(8). Consequently, the amount of land held by the regional corporations as a land-base for economic development and benefit to all the stockholders of the regional corporation will be reduced. Two of the regional corporations, Cook Inlet Region, Inc. (CIRI) and Chugach Alaska Corporation, have settled with the Department in agreements ratified by the Congress for their section 14(h)(8) entitlements by receiving specified quantities of land in particular places. Therefore, the burden of the reduction will be borne by the remaining ten regions.

Additionally, we have also seen proposals which would recognize these communities as villages. If this approach is taken, the amount of land available for distribution under section 12(c) would be substantially reduced.

Some "landless" legislative proposals would exempt existing

entitlements of regional corporations under section 14(h)(8). The result of such an exemption would be to substantially raise the cost of the overall ANCSA settlement beyond the original settlement package of 40 million acres. We oppose more public land being used to increase the size of the original settlement.

It is unclear how various recognition proposals would be affected by State selections. When ANCSA was originally passed, the State of Alaska and Congress knew that many villages would be without a land base unless lands selected by the State were made available for selection by the new village corporations. If landless Natives are provided land on a statewide basis, this cooperation will again become necessary. However, because the period of State selection is over, the State of Alaska may be unable or unwilling to cooperate with a new round of selections by newly created Native corporations.

Notwithstanding the ineligibility of some communities for corporate status under ANCSA, all Natives receive benefits from the ANCSA settlement. Natives enrolled in eligible village communities received one hundred shares of regional corporation stock, and one hundred shares in the village corporation organized for their community. Natives not enrolled in a village or a group are "at-large" stockholders in the regional corporation.

The regional corporations were instructed on how to divide any dividends they would declare. Natives who are members of villages are sent regional dividends for fifty percent of the per capita share of dividend to be divided. The other half of the dividend is sent to the village corporation. The village corporation subtracts part of the per capita dividend to be used for running the village corporation, and then declares a dividend on the remainder of the money received from the region.

Individual Natives who are enrolled in communities that were not eligible to be village corporations receive one hundred percent of the per capita dividend declared by the regional corporation. As a result, "landless" Natives receive much larger dividends than Natives enrolled in villages. No realistic assessment of true equity among affected Natives can be made without consideration of the distribution of regional dividends, a subject not adequately considered in the Landless Natives Study. The extra benefits received over the last twenty-five years by at-large stockholders compared to those received by village stockholders is a factor heretofore not considered in this debate.

Were additional corporations recognized by Congress, equity with other regional shareholders should require the potential members of those corporations to turn back their "at-large" stock in exchange for stock in the new corporations. Since this would have

a substantial impact on the family economy of at-large stockholders, we believe that these people should be given time to consider these impacts before Congress considers any action to recognize new corporations and before these Natives are forced into a new corporate alliance.

Some current proposals which would allow the members of newly created corporations to continue to receive distributions as "at-large" shareholders create inequities among shareholders. Members of the new communities would get all the benefits of "at-large" membership, including receiving one hundred percent of per capita dividends, in addition to the potential benefits afforded as stockholders in land based Native corporations, thus creating new inequities.

No additional corporate recognitions should occur because of the substantial unknown land and fiscal liabilities which would be created by this new round of corporate recognitions. Every regional corporation has "at-large" stockholders who are "landless" Natives, and even if Congress recognizes the five communities in the southeast, Sealaska Corporation will continue to have "landless" at-large stockholders. Therefore, recognition of these five communities will become a precedent for other unrecognized communities in all twelve regions all demanding recognition along with more land and financial resources.

The recognition of additional Native corporations under the landless Natives rationale will also have substantial and unacceptable fiscal impacts on the Federal budget. Unlike village corporations, urban and group corporations are subjected to additional financial stresses because those corporations do not receive a share of regional dividends. All stockholders of urban and group corporations retain their status as at-large regional stockholders. It has been up to the Congress to infuse these financially strapped corporations with "start up" money, but these infusions have been insufficient to prevent the corporations from entering into hasty financial arrangements.

A subject unrelated to ANCSA concerns legislative proposals which would not only recognize Haines, Ketchikan, Petersburg, and Wrangell as urban corporations, and Tenakee as a group corporation, but would also give these communities and Sealaska the power to make recommendations for the Tongass Land Management Plan. Under the National Forest Management Act, affected state and local governments, Indian tribes and native corporations, and the public are consulted in the preparation of land and resource management plans for the National Forests. All have a voice and an opinion which the Forest Service must consider, but none have deference over others. In southeast Alaska, the five communities and Sealaska already have a voice in the land management planning process. The Secretary of Agriculture advises that any legislation proposing to give outside parties power independently

to impose recommendations on the Tongass Land Management Plan will subvert the land management planning process, delay adoption of the plan, and further unsettle the economy and stability of southeast Alaska.

In summary, efforts to reopen ANCSA settlements under the guise of equity will be costly to the American public and unsettling to public and private land allocations in Alaska. The proposed recognition of landless Native corporations will upset the entire settlement regime of ANCSA which has been so carefully and laboriously implemented over the last two decades. Recognition would not redress inequities but result in new ones among Native shareholders and among groups, villages and communities throughout Alaska.

The Secretaries of the Interior and Agriculture will recommend that the President not approve any legislation recognizing so-called landless Native corporations, or which grant Native corporations authority to impose recommendations on the Tongass Land Management Plan.

The Office of Management and Budget advises that the presentation of this report is in accord with the Administration's program.

Sincerely,

Acting Assistant Secretary
Department of the Interior

Under Secretary
Department of Agriculture

cc. Honorable Ted Stevens

TESTIMONY
OF
MICHAEL BLACK
DIRECTOR OF THE BUREAU OF INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
SUBCOMMITTEE ON INDIAN, INSULAR AND ALASKA NATIVE AFFAIRS
HOUSE NATURAL RESOURCES COMMITTEE
U.S. HOUSE OF REPRESENTATIVES
ON
H.R. 1157, THE "SANTA YNEZ BAND OF CHUMASH MISSION INDIANS LAND TRANSFER ACT OF 2015"

JUNE 17, 2015

Chairman Young, Ranking Member Ruiz, and Members of the Subcommittee, my name is Michael Black and I am the Director for the Bureau of Indian Affairs. Thank you for the opportunity to present the Department of the Interior's (Department) views on H.R. 1157, a bill to authorize the Secretary of the Interior to place certain lands located in the unincorporated area of the County of Santa Barbara, California into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians (Tribe), and for other purposes.

Taking land into trust is one of the most important functions that the Department undertakes on behalf of Indian tribes. Homelands are essential to the health, safety, and welfare of the tribal communities. Thus, this Administration has made the restoration of tribal homelands a priority. This Administration is committed to the restoration of tribal homelands, through the Department's acquisition of lands in trust for tribes, where appropriate. The Department supports mandatory fee-to-trust legislation but takes no position on H.R. 1157 given that the 5 parcels identified in the H.R. 1157 are currently on appeal to the Assistant Secretary for Indian Affairs at the Department.

H.R. 1157 authorizes the Secretary for the Department to place approximately 5 parcels of land into trust for the Tribe. H.R. 1157 clearly provides the legal description for the lands that will be held in trust for the Tribe. H.R. 1157, once the land is placed in trust for the Tribe, removes any restrictions on the property pursuant to California state law, but also provides that the legislation does not terminate any right-of-way, or right-of-use issued, granted or permitted prior to the date of the enactment of this legislation. H.R. 1157 also includes a restriction that the Tribe may not conduct any gaming activities on any land taken into trust pursuant to this Act.

Thank you for the opportunity to present the Department's views on this legislation. I will be happy to answer any questions the Subcommittee may have.

Statement for the Record
U.S. Department of the Interior
House Natural Resources Committee
Subcommittee on Indian, Insular, and Alaska Native Affairs
H.R. 2386, Unrecognized Southeast Alaska Native Communities
Recognition and Compensation Act
June 17, 2015

Thank you for the opportunity to provide the views of the Department of the Interior on H.R. 2386, the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act. H.R. 2386 would amend the Alaska Native Claims Settlement Act (ANCSA) to authorize the five Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to organize as urban corporations, entitling each to receive land in southeastern Alaska.

The Department supports the goals of fulfilling ANCSA entitlements as soon as possible so that Alaska Native corporations may each have the full economic benefits of completed land entitlements. In recent years, the Bureau of Land Management (BLM) has maintained an accelerated pace in fulfilling entitlements pursuant to the ANCSA. To date, the BLM has fulfilled 95 percent of ANCSA and State of Alaska entitlements by interim conveyance, tentative approval, or patent. The BLM is committed to improving the Alaska land transfer process wherever opportunities exist. For example, we have proposed to establish a faster, more accurate, and more cost effective method for land conveyances required by the Alaska Statehood Act, though we continue to wait for meaningful engagement and feedback from the State of Alaska.

Background

ANCSA effected a final settlement of the aboriginal claims of Native Americans in Alaska through payment of $962.5 million and conveyances of more than 44 million acres of Federal land. Although it was impossible for Congress to have effected total parity among all villages in the state, there was a distinction made in ANCSA between the villages in the southeast and those located elsewhere. Prior to the passage of ANCSA, Natives in the southeast received payments from the United States pursuant to court cases in the 1950s and late 1960s, for the taking of their aboriginal lands. Because Natives in the Sealaska region benefitted from an additional cash settlement under ANCSA, the eligible communities received less acreage than their counterparts elsewhere in Alaska. Congress specifically named the villages in the southeast that were to be recognized in ANCSA; these five communities were not among those named. Despite this, the five communities applied to receive benefits under ANCSA and were determined to be ineligible. Three of the five appealed their status and were denied.

Notwithstanding the ineligibility of some communities for corporate status under ANCSA, all Natives potentially receive benefits from the ANCSA settlement. Alaska Natives in these five communities are enrolled as at-large shareholders in the Sealaska Corporation. The enrolled members of the five communities comprise more than 20 percent of the enrolled membership of the Sealaska Corporation, and as such, have received benefits from the original ANCSA settlement.

H.R. 2386

H.R. 2386 would amend ANCSA to authorize the five Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to organize as urban corporations, entitling each, upon incorporation, to receive one township of land (23,040 acres) from local areas of historical, cultural, traditional and economic importance. The bill provides that establishment of these new urban corporations does not affect any entitlement to land of any Native Corporation established before this act being proposed.

Recognition of these five communities as provided in the bill, despite the history and requirements of ANCSA, risks setting a precedent for other similar communities to seek to overturn administrative finality and re-open their status determinations. Establishing this de facto new process would contravene the purposes of ANCSA and could create a continual land transfer cycle in Alaska.

The Department also has concerns with specific provisions in the bill. For example, in section 6, new ANCSA section 43 contains very open-ended selection language. The provision does not require the new urban corporations to take lands for "the township or townships in which all or part of the Native village is located," as provided for in ANCSA. Instead, it requires only that the lands be "local areas of historical, cultural, traditional, and economic importance to Alaska Natives" from the villages. The bill also appears to require the Secretary, in consultation with the Secretary of Commerce and representatives from Sealaska Corporation, to select and offer lands to the new urban corporations.

Although the Department does not support H.R. 2386, we would be glad to work with the sponsor and the Committee to address these issues as well as problems with eligible existing ANCSA communities. For instance, rather than simply addressing the perceived inequities of five communities formerly deemed to be ineligible under ANCSA, the Department would like to work with the Committee to find solutions to the existing eligible communities that have no remaining administrative remedies, such as the villages of Nagamut, Canyon Village and Kaktovik.

Conclusion

The BLM's Alaska Land Transfer program is now in a late stage of implementation and the Department strongly supports the equitable and expeditious completion of the remaining Alaska Native entitlements under ANCSA and other applicable authorities. H.R 2386 would delay the Department's goal of sunsetting the Alaska Land Transfer Program, which is in its final stages. The Department believes that the completion of the remaining entitlements under ANCSA and the Statehood Act is necessary to equitably resolve the remaining claims and fulfill an existing Congressional mandate.

TESTIMONY
OF
MICHAEL BLACK
DIRECTOR OF THE BUREAU OF INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
SUBCOMMITTEE ON INDIAN, INSULAR AND ALASKA NATIVE AFFAIRS
HOUSE NATURAL RESOURCES COMMITTEE
U.S. HOUSE OF REPRESENTATIVES
ON
H.R. 2538, THE "LYTTON RANCHERIA HOMELANDS ACT OF 2015"

JUNE 17, 2015

Chairman Young, Ranking Member Ruiz, and Members of the Subcommittee, my name is Michael Black and I am the Director of the Bureau of Indian Affairs. Thank you for the opportunity to present the Department of the Interior's (Department) views on H.R. 2538, a bill taking certain lands located in the County of Sonoma, California into trust for the benefit of the Lytton Rancheria of California (Tribe), and for other purposes.

Taking land into trust is one of the most important functions that the Department undertakes on behalf of Indian tribes. Homelands are essential to the health, safety, and welfare of the tribal communities. Thus, this Administration has made the restoration of tribal homelands a priority. This Administration is committed to the restoration of tribal homelands, through the Department's acquisition of lands in trust for tribes, where appropriate. The Department supports H.R. 2538, with some amendments.

H.R. 2538 will place approximately 511 acres of land into trust for the Tribe. H.R. 2538 references a map titled "Lytton Fee Owned Property to be Taken into Trust" dated May 1, 2015 that identifies the lands to be transferred into trust for the Tribe. Under H.R. 2538, once the land is in trust for the Tribe, valid existing rights, contracts, and management agreements related to easements and rights-of-way will remain. H.R. 2538 includes a restriction that the Tribe may not conduct any gaming activities on any land taken into trust pursuant to this Act.

H.R. 2538 also references a Memorandum of Agreement between the County of Sonoma and the Tribe. The MOA affects not only the trust acquisition covered in the legislation but also future acquisitions and subjects the Tribe to the land use/zoning authority of the County for most of the property identified in the legislation for the term of the MOA, twenty (22) years, and imposes negotiated restrictions on the Tribe's residential development.

This Administration is supportive of legislative efforts to take land into trust for tribes. The Administration is also supportive of counties and tribes negotiating agreements to resolve their differences. The decision to compromise principles of tribal sovereignty is itself an exercise of sovereignty and tribal self-governance. In that spirit, the Administration defers to the decision made by the Tribe.

Thank you for the opportunity to present the Department's views on this legislation. I will be happy to answer any questions the Subcommittee may have.

UNIVERSITY OF ALASKA ANCHORAGE

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Anchorage, Alaska 99508

SCHOOL OF PUBLIC AFFAIRS

INSTITUTE OF SOCIAL AND ECONOMIC RESEARCH
(907) 786-7710 FAX (907) 786-7739

December 7, 1993

Amy Miller,
Alaska Public Radio Network, Petersburg
Fax number 772-9290

Dear Ms. Miller:

While driving to work this morning and listening to KSKA, I was surprised to hear your story on the draft report, *A Study of Five Southeast Alaska Communities*, that we wrote for the U.S. Forest Service and other federal agencies. The story was inaccurate and disappointing. No one here at ISER was contacted for the story. If you had called me or Steve Colt, we could have pointed out several things that would have improved the accuracy of the story.

First, the report is still a draft and not a final report. It's not unheard of for draft reports to receive news coverage, but we prepare drafts so knowledgeable reviewers can help us find any omissions or mistakes or other shortcomings before we reach the final version. But the fact that the document is a draft is less important than the fact that you reported the substance of the report inaccurately.

We were asked, as we reported in the preface to the report, to examine two broad issues: (1) what is the available factual evidence on why Congress denied the five study communities the authority to form village or urban corporations under the Alaska Native Claims Settlement Act (ANCSA); and (2) how does historical use and occupancy in the five study communities compare with use and occupancy in other Southeast communities that received land under ANCSA. Because they were denied the authority to form village or urban corporations, the five study communities received no land entitlements. The study villages were not, however (as you reported), denied all benefits under ANCSA. Qualified residents of those villages received cash payments, and they are at-large members of Sealaska regional corporation.

We did not, as you reported, make a finding that Congress had inadvertantly omitted the study villages from land benefits, nor did we recommend that Congress should now award them land. We did not, as you implied, say that the study villages were entitled to the same economic benefits as Southeast communities with village or urban corporations have received. We did estimate what those benefits had totaled to date, but that is a much different thing from making a recommendation.

This report will be presented to Congress. Congress will decide what if any changes to make in the status of the five study villages, based on this report and other sources. It was not in our scope of work to make recommendations—just to present factual information.

We're always glad to receive news coverage of our work, and we have in the past felt that the Alaska Public Radio Network provided fair and accurate coverage. We would like you to set the record straight by airing a correction of this story. If you have any questions I'll be glad to talk to you.

Lee Gorsuch
Director, ISER
786-7710