Statement of
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Department of the Interior
House Natural Resources Committee
Subcommittee on Indian and Native Alaskan Affairs
H.R. 4027, To Amend an Act to Define the Exterior Boundary of the Uintah and Ouray Indian Reservation
March 20, 2012

Thank you for inviting the Department of the Interior (Department) to testify on H.R. 4027, which would facilitate the relinquishment of State of Utah mineral interests to benefit the Ute Tribe, and the compensatory selection of Federal mineral estate by the State of Utah within the Uintah and Ouray Reservation. The Department supports the goals of the relinquishment and selection of mineral estates on the Hill Creek Extension of the Uintah and Ouray Reservation in Uintah and Grand Counties in Utah, but the Department cannot support the bill, as currently written. Consistent with the Federal Land Policy and Management Act (FLPMA), agency policy on the valuation of lands, as well as underlying Acts regarding the Hill Creek Extension, the Department would like to work with the Committee and the Sponsor to ensure that the interest of the Federal government is protected. The Department recognizes that we have a unique trust responsibility to the Ute Tribe; as such, we are committed to finding an equitable solution.

Background

In 1948, Congress, through P.L. 80-440, extended the boundary of the Uintah and Ouray Reservation by approximately 900 square miles to include what is generally known as the "Hill Creek Extension." The Act transferred the Federal surface estate to the Tribe, while the mineral estate in those parts of the area affected by then existing withdrawals was reserved to the Federal government. Furthermore, that Act as amended in 1955 (P.L. 84-263), authorized the State of Utah to relinquish state sections for the benefit of the Tribe and subsequently select Federal lands (including the mineral interest in land) of equal value outside of the Hill Creek Extension area.

The State of Utah's School and Institutional Trust Land Administration (SITLA) holds the mineral interest in about 28 square miles (approximately 18,000 acres) within the southern portion of the Hill Creek Extension in Grand County, while the surface ownership is held in trust for the Tribe. The Tribe would like to obtain the mineral estate underlying tribal lands in the Grand County portion of the Hill Creek Extension in order to prevent development on lands that have special significance to the Tribe. However, the Tribe does not object to development of other mineral estate, retained by the Federal government, within the Hill Creek Extension in Uintah County.

SITLA proposed to trade their mineral estate within the Hill Creek Extension in Grand County for similar acreage of Federal mineral estate in Uintah County, also within the Hill Creek Extension. However, the 1955 law specified that the selection by the state should take place "outside of the area hereby withdrawn," and therefore outside of the Hill Creek Extension.

H.R. 4027

H.R. 4027 proposes to amend the 1948 and 1955 Acts to permit this trade to take place within the Hill Creek Extension. The legislation further provides that the transaction should be on an acre-for-acre basis and establishes a limited overriding interest for both the United States and SITLA in the lands exchanged.

The Department has no objection to allowing for the selection by SITLA of mineral estate within the Hill Creek Extension and supports that provision of the legislation. However, the 1948 and 1955 laws as well as FLPMA require that these transfers be of equal value. The per-acre value of mineral estate can vary dramatically from one acre to another, and this area of Utah has significant oil and gas resources.

The legislation proposes to address any difference in value by having each party to the transaction retain a financial interest in their respective parcels for thirty years. However, as written, the overriding interest fails to fully protect the Federal government's interest in two ways. First, the overriding interest would expire 30 years after the date of enactment, with no requirement for leasing during that period of time. Second, the royalty rate specified for the financial interest is the royalty rate in effect today, and fails to account for the possibility of a changed royalty rate in the future. These issues should be addressed before H.R. 4027 moves forward.

Finally, the Department would like the opportunity to work on other technical amendments with the Sponsor and the Committee.

Conclusion

Thank you for the opportunity to testify. The Department would welcome the opportunity to resolve these issues for the benefit of the Ute Indian Tribe and protect land that has special significance in a manner that also protects the fiduciary interest of the Federal government.

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H.R. 4194, Alexander Creek Village Recognition Act
March 20, 2102

Mr. Chairman and Members of the Committee, thank you for inviting me to express the views of the Department of the Interior (Department) on H.R. 4194, the Alexander Creek Village Recognition Act.

The Department of the Interior understands the continuing desire of Alexander Creek to be recognized as a Native village. However, this legislation would, in amending the Alaska Native Claims Settlement Act (ANCSA) to identify the Alexander Creek Native Group Corporation as a Native Village Corporation, effectively overturn the long-standing settlement, codified in statute, which resolved the status of Alexander Creek, and would undermine the finalization of land entitlement claims in southcentral Alaska. For these reasons, the Department opposes H.R. 4194.

Background

The Alaska Native Claims Settlement Act (ANCSA) established the framework to resolve aboriginal land claims in Alaska. Through Section 4 of the ANCSA, Native claims in Alaska were extinguished in exchange for 44 million acres of land and $962.5 million in compensation. ANCSA established specific entitlements for allocating this settlement among Native-owned regional corporations, Native villages, and Native groups. Native villages (required to have a Native population of 25 individuals or more, as determined by a 1970 census) received greater entitlements than Native groups. Native villages were entitled to a minimum of 69,120 acres from the public domain. In contrast, communities determined to have fewer than 25 Natives could be certified as Native groups and were entitled to a maximum of 7,680 acres.

ANCSA listed nearly 200 Native villages and directed the Secretary of the Interior to determine if additional Native communities qualified as villages. Alexander Creek was not listed as a village in ANCSA. It applied for eligibility as an unlisted village, but its application was contested by the State of Alaska, the Matanuska-Susitna Borough, and other parties. Thus began a long period of litigation.

Alexander Creek's eligibility as a Native village was ultimately resolved in a Stipulated Agreement in 1979 and codified in Section 1432 of the Alaska National Interest Lands Conservation Act (ANILCA). The 1979 Agreement, among Alexander Creek, the ANCSA regional corporation, Cook Inlet Region, Inc. (CIRI), and the Department, settled three issues: Alexander Creek's eligibility; its entitlement to surface estate; and, CIRI's entitlement to associated subsurface estate. In signing this Stipulated Agreement, Alexander Creek withdrew

its application to be recognized as a village, accepted certification as a Native group, and agreed that the lands conveyed under the 1979 Agreement *"constitute a full and final settlement"* of its land entitlement under ANCSA. The Department has fulfilled nearly all its responsibilities to Alexander Creek under the Agreement.

H.R. 4194

H.R. 4194 would amend the Alaska Native Claims Settlement Act (ANCSA) to legislatively designate the Alexander Creek Native group as a Native village. The bill does not assign an acreage entitlement, include selection deadlines, or provide withdrawal authority.

Declaration of Alexander Creek as an eligible village could have serious repercussions in the overall framework of land conveyances established by ANCSA. The resolution of Alexander Creek's status as a Native group and subsequent codification in ANILCA allowed the land entitlement process throughout southcentral Alaska's Cook Inlet region to proceed. The BLM's Alaska Land Conveyance program is now in a late stage of implementation. Changing the status of Alexander Creek at this stage in the process could undercut the basis on which village and regional entitlements were addressed. H.R. 4194 has the potential to require recalculation and reapportionment of the ANCSA figures, which would fundamentally disrupt this lengthy and complex land entitlement and conveyance process. Finally, if enacted, H.R. 4194 would establish a troubling precedent by which other dissatisfied corporations might seek redress.

Conclusion

Thank you for the opportunity to testify on H.R. 4194. I will be pleased to answer any questions.