



# Southeast Alaska Conservation Council

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## **STATEMENT OF BOB CLAUS, FOREST PROGRAM DIRECTOR SOUTHEAST ALASKA CONSERVATION COUNCIL**

### **REGARDING H.R. 1408, THE SOUTHEAST ALASKA NATIVE LAND ENTITLEMENT FINALIZATION AND JOBS PROTECTION ACT**

**BEFORE THE SUBCOMMITTEE ON INDIAN & ALASKA NATIVE AFFAIRS,  
U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON NATURAL RESOURCES  
WASHINGTON D.C., MAY 26, 2011**

Mr. Chairman and members of this Subcommittee:

My name is Bob Claus and I am a community organizer for SEACC based on Prince of Wales Island. Thank you for the opportunity to testify before you today and I respectfully request that my written testimony and accompanying materials be entered into the official record for this Subcommittee hearing.

Founded in 1970, SEACC has members all across Southeast Alaska, from Craig on Prince of Wales Island to Yakutat. SEACC's individual members include commercial fishermen, Native Alaskans, small timber operators and value-added wood manufacturers, tourism and recreation business owners, hunters and guides, and Alaskans from all walks of life.

SEACC is dedicated to preserving the integrity of Southeast Alaska's unsurpassed natural environment while providing for balanced, sustainable use of our region's resources. Southeast Alaska contains magnificent old-growth forests, outstanding fish and wildlife habitat, important "customary and traditional" or subsistence use areas, excellent water and air quality, unsurpassed outdoor recreation opportunities, world class scenery, internationally and nationally significant cave and karst resources, and provides a unique way of life for the hardy, independent people who choose to call it home.

We were invited to testify here today because of our long involvement with this legislation.<sup>1</sup> There was a hearing at the Subcommittee on Public Land and Forests yesterday across the Capital on the most recent Senate version of this same legislation, S.730. Unlike the last session, however, the two bills are not identical.

Unlike H.R. 1408, Senate Bill 730 does not offer hyperbole for fact like the supposed findings in section 2 of the House bill;<sup>2</sup> encroach upon the federally-recognized tribe for the Hoonah Natives government-to-government relationship with the National Park Service over their traditional homelands in Glacier Bay National Park; threaten as many small

communities or valuable fish and wildlife habitat; or fail to see the value in conserving internationally significant karst and cave resources, primary fish producing watersheds, and lands recognized by local community leaders as important just the way they are. Senate Bill 730 recognizes the need for stream buffers to protect salmon habitat, although including an ill-advised sunset clause. H.R. 1408 should include permanent stream buffers to protect fisheries.

I want to be clear – the Senate bill is better than HR 1408, but that is little consolation to the communities and forest users most directly affected by this legislation. We hope the Chairman uses this opportunity to draft a bill that doesn't favor one interest or community at the expense of others.

Community leaders from across the political and economic spectrum are actively working towards a different vision of the future for Southeast Alaska than that proposed in this bill. Our salmon forest supports the sustainable nearly \$1 billion fishing industry, which employs nearly 10 times the number of workers as timber. Our fish, wildlife, and outdoor recreation opportunities support over a billion dollars in direct, indirect, and induced visitor spending in Southeast Alaska, and provide over 21 percent of the full and part time jobs in Southeast Alaska.<sup>3</sup> The critical foundation of the region's economy is customary and traditional hunting, fishing and gathering; salmon is the primary source of food for rural Southeast Alaskans. We acknowledge the difficult times and economic desperation that our small communities are facing, but logging watersheds vital to food gathering make it even more difficult for them.<sup>4</sup>

We believe that sustainable community-scaled forest products work and energy projects are compatible with this vision. This bill, with its emphasis on clearcut logging for export, conflicts with that vision of a bright future for Southeast Alaska.

### **Communities Placed in Conflict with One Another**

This legislative proposal is extremely controversial and divisive in Southeast Alaska's small communities.

One of our proudest national heritages is the freedom that Americans enjoy to access and use our public lands, anyplace and anytime. The lands sought by Sealaska will curtail public access and use of public lands and resources. The uncertain scope of the permitted activities and location of the easements proposed in HR 1408 raise concerns, as does the authority given Sealaska to control access and use of the easements and adjacent lands.

The small communities of Edna Bay, Naukati, Cape Pole, Hollis, Whale Pass, Kupreanof, Thorne Bay, Point Baker and Port Protection have written formal letters or resolutions opposing this bill, and these are the communities closest to the transfer areas. Other communities and organizations formally opposed prior versions of this legislation. Hundreds of island residents have signed petitions opposing the bill.

Many residents of these communities closest to the lands threatened by H.R. 1408 question how they can continue their shared way of living if Sealaska takes their forest. Many wonder if the existing timber industry will be able to transition away from old-growth logging if Sealaska receives the oldest young-growth on the forest.

Residents of the rural communities on Prince of Wales have long used all the lands proposed for selection by Sealaska on North Prince of Wales Island, Kosciusko and Tuxekan Islands for subsistence hunting, fishing, and gathering. Without the legal requirements for public oversight and participation provided these rural residents under Title VIII of the Alaska National Interest Lands Conservation Act on public lands, they will have no voice on how these “private” lands are managed by Sealaska nor will Sealaska be obligated to minimize impacts to subsistence resources and uses from its management.

Residents of Hydaburg fought to safeguard lands surrounding Keete/Nutkwa and Kassa Inlets and Mabel Bay. Sealaska has targeted these traditional lands for the short-term economic benefits associated with clearcut logging and round log export to Asian markets. The 1989 House-passed version of the Tongass Timber Reform Act, HR 987, safeguarded these lands permanently by designating them part of the Nutkwa Wilderness. The final compromise legislation in 1990 ultimately left these lands unprotected.<sup>5</sup> SEACC and others have consistently advocated for long-term protection for these lands ever since.

### **Out-Of-Withdrawal Selections for Economic Development Lands in H.R. 1408 Disproportionately Target the Most Ecologically Productive Lands in Southeast Alaska.**

The pool of lands from which Sealaska is seeking for clearcut logging possess some of the highest biological values represented by salmon, deer, black bears, big-tree old-growth forest, and estuaries on the Tongass National Forest.<sup>6</sup>

Analysis of earlier versions of this legislation demonstrate that the ecological productivity of the lands sought by Sealaska for intensive clearcut logging is proportionally higher in 2009, with nearly 47,000 (59.2%) of the acres inventoried as big tree forest. Recent maps prepared by the Forest Service also show the significant overlap between old growth reserves set aside Tongass-wide to safeguard wildlife populations and Sealaska’s selections, particularly on the North Prince of Wales, Kosciusko, Tuxekan, Election Creek, Polk Inlet, and Keete parcels. Although Section 6(c) of HR 1408 tries to insulate the Forest Service from the effects to the Tongass Land Management Plan from conveying the selected lands to Sealaska, the U.S. Fish and Wildlife’s decision not to list the goshawk and Alexander Archipelago wolf under the Endangered Species Act was premised on the adequacy of the Tongass Conservation Strategy adopted in the Tongass Plan. Given the extensive modification of that conservation strategy on Prince of Wales and surrounding islands that will result if this legislation is enacted, the Forest Service and Fish and Wildlife Service will face serious questions about the status of these old-growth dependent wildlife populations.

A substantial majority of the lands targeted by Sealaska on North Prince of Wales, Kosciusko, and Tuxekan Islands contain world-class karst and cave resources.<sup>7</sup> These resources are protected under federal law, and would lose that protection if turned over to

Sealaska. Karst terrain occurs on water-soluble bedrock such as limestone, dolomite, or gypsum. It is characterized by underground water drainage, sinkholes, pits, and caves. These well-drained soils support some of the most majestic old-growth forest on the Tongass. Approximately 71 % of the lands identified for conveyance by Sealaska are underlain by karst. The forest canopy protects the thin soils atop karst from eroding directly into the soluble rock below. Past and proposed clearcut logging on these fragile soils disrupt the natural hydrology, harm cave formations that hold information of thousands of years of climate change, and alter sediments that hold keys to understanding patterns of human migration into the Americas as well as other paleontological clues to our past. Eleven years ago, the Forest Service discovered human remains in On Your Knees cave on North Prince of Wales Island. DNA testing determined that these human remains were 10,300 years old. The oldest human remains in Alaska have been found in this cave system, and it has not yet been fully explored or mapped. *See* FOREST SERVICE RETURNS ANCIENT HUMAN REMAINS TO TLINGIT TRIBES, Juneau Empire (Oct. 21, 2007).<sup>8</sup>

### **Futures Sites**

The Native futures sites selections represent the best sites in all of Southeast Alaska for tourism and energy related development. Some are in direct conflict with existing small businesses and community plans, and all block future investment by any other party. Some sites, like Pegmatite Mountain, Spring Creek, and Blake Channel are actively opposed by local communities.<sup>9</sup>

### **Unfair to US Taxpayers**

Sealaska's proposed selections contain millions of dollars worth of public roads and facilities built at taxpayer expense, unlike the areas they are currently authorized to select. One way to measure fairness is through the resource value, as measured by timber, existing infrastructure, potential for economic development, and habitat values. The amount and location of land selections should reflect the true costs to the American public and not just the total number of acres. This should be a value for value exchange, not an acre for acre exchange.

Thank you for the opportunity to provide these comments on the proposed legislation.

Best Regards,

Bob Claus  
Forest Program Director

## Endnotes for SEACC's Testimony on H.R. 1408

<sup>1</sup> By this reference, we incorporate testimony we gave the Committee in 2007 on H.R. 3560 (available at <http://seacc.org/files/FINAL%20SEACC%20H.R.%203560%20testimony%2011-14-07.pdf>) and last spring on H.R. 2099 (available at <http://seacc.org/files/SEACC%20Testimony%20%20on%20HR%202099%203-31-10%20LH%20%282%29.pdf>) into the record for today's hearing, as well as supporting documentation provided committee staff.

<sup>2</sup> This problem is exemplified in section 3(5)(B) of HR 1408's statement that the \$7.5 million awarded by the Court of Claims to the Tlingit-Haida Central Council (THCC) "did not justify the significant disparate treatment of Sealaska under the Alaska Native Claims Settlement Act" exemplifies our point. Both the historical record of Alaska Native land claims and the legislative record for the ANCSA reveal that the 1968 settlement was the sole reason Congress decided to treat Southeast Alaska Natives differently from other Alaska Natives in the ANCSA. *See e.g.*, Section 13(d), H.R. 10367, 92<sup>nd</sup> Congress, 1<sup>st</sup> Session, 117 CONG. REC. 37,067 (1971).

<sup>3</sup> McDowell Group, *Economic Impact of Alaska's Visitor Industry*, Table 9 at p. 20 (March 2010). This report is available at -- [http://www.dced.state.ak.us/ded/dev/pub/Visitor\\_Industry\\_Impacts\\_3\\_30.pdf](http://www.dced.state.ak.us/ded/dev/pub/Visitor_Industry_Impacts_3_30.pdf).

<sup>4</sup> As noted by experts at the Alaska Department of Labor: "Living in Alaska involves higher costs no matter where you live, but living in rural Alaska increases those costs even more." Alaska Economic Trends at 15 (May 2011) available at <http://labor.state.ak.us/trends/may11.pdf>

<sup>5</sup> *See* House Committee on Interior and Insular Affairs, *Amending ANILCA to Designate Certain Lands in the Tongass National Forest as Wilderness, and For Other Purposes*, H.R. 987, 101<sup>st</sup> Cong., 1<sup>st</sup> Sess., (1989), reprinted in House Report No. 101—84, Part I, 101<sup>st</sup> Cong., 1<sup>st</sup> Sess., (1989). As reported, the House passed H.R. 987 by a vote of 356 to 60, with 15 not voting. *See* 135 CONG. REC. 3718 (daily ed. July 13, 1989)(designating approximately 52,654 acres as the Nutkwa Wilderness). That fall, Congress enacted the Tongass Timber Reform Act into law. *See* Pub. L. 101-626, 104 Stat. 4426 (Nov. 28, 1990)(designating approximately 28,118 acres as the Nutkwa LUD II Management Area). The nearly 25,000 acre of lands unprotected in the final legislation are the lands at risk in H.R. 1408.

<sup>6</sup> Schoen, John and Erin Dovichin, eds. 2007. *The Coastal Forests and Mountain Ecoregion of Southeastern Alaska and the Tongass National Forest*. Audubon Alaska and The Nature Conservancy, 715 L Street, Anchorage, Alaska. This complete report is available online at: <http://conserveonline.org/workspaces/akcfm>. *See also* Exhibit 3 to SEACC's Testimony on S.881 (Oct. 8, 2009)(a map comparing Landscape Scale Density of Oldgrowth Forests 1950's – 2005 on the southern portion of the Tongass National Forests with the land pool proposed for selection by Sealaska) available at <http://seacc.org/files/SEACC%20Final%20Testimony%20for%2010-08-09%20Hrg%20on%20S881.pdf>

<sup>7</sup> *See* Exhibit 4 to SEACC's Testimony on S.881 (Oct. 8, 2009)(available at <http://seacc.org/files/SEACC%20Final%20Testimony%20for%2010-08-09%20Hrg%20on%20S881.pdf>)

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<sup>8</sup> This story can be found on the web at  
[http://www.juneauempire.com/stories/102107/loc\\_20071021021.shtml](http://www.juneauempire.com/stories/102107/loc_20071021021.shtml).

<sup>9</sup> See e.g., <http://m.juneauempire.com/local/2011-05-07/tenakee-springs-opposes-sealaska-and-ipecc-geothermal-site-selection>