

Statement by Gail R. Schubert, Chief Executive Officer and President, Bering Straits Native Corporation to the Subcommittee on Indian and Alaska Native Affairs, Committee on Natural Resources, U.S. House of Representatives, on S. 292, the Salmon Lake Land Selection Resolution Act

January 25, 2012

Mr. Chairman and Members of the Subcommittee on Indian and Alaska Native Affairs, I am Gail Schubert, Chief Executive Officer and President of the Bering Straits Native Corporation (BSNC), a regional Alaska Native corporation authorized by the Alaska Native Claims Settlement Act (ANCSA). I am also an original shareholder of BSNC, and have been on the Board of Directors since 1992.

I am Inupiat Eskimo and was born and raised in the small village of Unalakleet located on the Northwest Coast in the Bering Strait region.

I am an attorney, and a member of the Board of Directors of the Alaska Federation of Natives (AFN). As this Subcommittee knows, the AFN is the umbrella Native organization for all Alaska Natives whose membership includes 178 villages, including tribes and village corporations, 13 regional Native corporations and 12 regional nonprofit and tribal consortiums.

Salmon Lake Land Selection Resolution Act

Thank you for holding this hearing today on S. 292, the Salmon Lake Land Selection Resolution Act. This bill passed by unanimous consent in Senate on October 18, 2011. During the previous Congress a virtually identical bill, H.R. 2340, passed in the House on July 1, 2010 by a vote of 410 to 0.

The bill you are considering today would resolve several outstanding land issues involving our Native corporation's land selections under ANCSA as well as several land selections of the State of Alaska (State) by ratifying an agreement between the United States through the Bureau of Land Management, the State, and the Bering Straits Native Corporation.

As a regional Native Corporation, BSNC received entitlement under ANCSA to 145,728 acres of land under Section 14(h)(8) of that Act.

The ratification of the agreement by enactment of S. 292 would fulfill a critical component of that entitlement by conveying 1,009 acres in the Salmon Lake area, 6,132 acres of land at Windy Cove and 7,504 acres of land at Imuruk Basin to BSNC.

The bill would also convey 3,084 acres in the Salmon Lake area to the State of Alaska in furtherance of the State's entitlement under the Alaska Statehood Act.

As part of the agreement, BSNC will relinquish 3,084 acres of land from its original Salmon Lake land selections under ANCSA.

Passage of the bill would avoid further costly and counterproductive administrative appeals or litigation and would, all of the parties to the agreement believe, result in an equitable and reasonable resolution to some difficult land issues that have faced the parties for many years caused in part by the competing land selections of the State and BSNC.

We urge the Subcommittee to favorably consider and pass this legislation as soon as it is possible during the 112th Congress.

Background of Bering Straits Region

By way of background, our Native region encompasses a large geographic region around Nome, Alaska, the Norton Sound, and the Bering Strait, which is the body of water located directly between the United States and Russia.

The Bering Strait region historically is icebound for about seven (7) months of the year. The very few local roads that have been built over time are local and not connected to the state highway system whose closest point is approximately 400 miles away.

Our region is the terminus for the famous Iditarod dogsled race each year. In the summer, rivers and the ocean are the prime means of transport for the people of our villages between the villages. In the winter, once these water bodies are frozen, they become transportation links for people to travel to and from villages in the region by snow machine or dogsled. Travel to the larger cities in the state requires travel by air.

The recent news concerning fuel delivery to Nome via the Russian icebreaking barge *Renda* and Coast Guard icebreaker *Healy*, provides an example of the difficulties and logistical challenges faced by the residents of the region on a regular basis.

The lands of our region are central to maintaining our culture, traditions, subsistence, and health. Our people have long harvested salmon and other fish, caribou, moose, and small game, and picked berries and greens to feed their families.

Activities related to food gathering still dominate much of the everyday life of each of our communities. The period when we harvest some resources is very short: for instance

diamond leaf willow greens or “sura” can be gathered for only a very few days or a week or so when the young willow shoots first show themselves.

Salmon and caribou, both migratory species, are likewise available for only a short time and people must travel to where these subsistence resources are.

Lands in the Salmon Lake Agreement

The lands subject to the Salmon Lake agreement are significant for the history they contain and for the resources that thrive there.

Salmon Lake has, for centuries, been an area for salmon and caribou harvests as evidenced by the ancient camps and village there. Our Land and Resource department has conducted cultural resource surveys in the areas subject to the agreement and numerous archaeological sites speak to the past use of the lands.

Around Salmon Lake, there are numerous ancient caribou hunting camps, and on the shoreline is a 250 year old village site that once supported a population of perhaps 50 to 100 residents who harvested the rich red salmon that returned annually to spawn there.

Within the Imuruk Basin lands are small village sites ranging from 100 years to 2000 years old. One village was decimated by the 1918 flu and only a few children survived.

Our history runs deep in these lands: we depended and still depend upon the land and waters for our sustenance, and our ancestors' remains mark and memorialize our history there.

Many residents, shareholders and non-shareholders alike, regularly travel to these lands to harvest caribou and salmon, and pick the abundant blueberries and greens.

Imuruk Basin lands are a huge swath of wetlands where the Agiapuk River delta empties into the Imuruk Basin. Waterfowl, moose, musk ox, and berries abound here and have been harvested for many generations by the people of Mary's Igloo and Teller.

Windy Cove, on the south side of Imuruk Basin, is an area used to access the uplands of the north flank of the Kigluaik Mountains, for moose hunting and berry picking.

Residents of the region have lived off the land for millennia, and while the modern era has brought significant change to this way of life, the lands are still the basis for BSNC's shareholders identity as they continue to use the lands for subsistence purposes as well as for recreation. It is the importance of these lands, both in the past and for the future, that guided BSNC in its original ANCSA land selections during the 1970's.

BSNC Land Selections under ANCSA

The history of BSNC's ANCSA 14(h)(8) selection of Salmon Lake began in 1977 when BSNC filed selection number F-33819. In 1997, BLM determined that the application would be

rejected because the lands were not withdrawn under Section 11(a)(1) of ANCSA. BSNC appealed this decision to the Interior Board of Land Appeals, and the decision was remanded back to BLM. By this point in time, BSNC had already spent well over \$100,000 in legal fees related to the Salmon Lake appeal.

Additional 14(h)(8) selections at Windy Cove (F-33833) and Imuruk Basin (F-33834) were to be similarly adjudicated and further appeals might need to be pursued resulting in additional legal and litigation costs.

In short, there was an acute need for a resolution to be negotiated that would reasonably and sensibly deal with the respective interests of all parties equitably and not expend more precious time, effort and money in the process of trying to conclude land transfers authorized pursuant to ANCSA.

Public Law 198-452

With the passage by Congress of The Alaska Land Transfer Acceleration Act (P.L. 108-452) in 2004, the mechanisms for negotiating land selection conflicts were streamlined.

The Act also provided the opportunity for Native corporations to negotiate directly with the BLM for final settlement of such land issues.

In 2004, representatives from BSNC, BLM, and the State met to discuss the possibility of resolving the issues through a negotiated settlement. Over the course of the next three years, the parties met on an annual or semi-annual basis and were eventually able to reach an agreement that served all of their interests.

Through the agreement, titled the “Salmon Lake Area Land Ownership Consolidation Agreement,” the State and BSNC will each receive a portion of the lands in and around Salmon Lake.

The lands BSNC would receive are contiguous with and adjacent to lands previously conveyed to our Native corporation.

Likewise, the lands the State would receive are immediately adjacent to other State-selected lands.

Access to State waters and other public lands has been assured through the reservation of public easements over the lands to be conveyed.

All lands granted to the parties through the Agreement will be counted against their respective remaining entitlements. Regarding the lands BSNC would receive, the total acreage subsumed under the Agreement would be subtracted from BSNC’s remaining ANCSA 14(h)(8)

entitlement. For the State of Alaska, the lands would be counted against the State's entitlement under 6(a) of the 1958 Alaska Statehood Act.

Special Protections/Public Interest

The basic terms of the Salmon Lake Agreement are by way of an overview as follows: On the lands in question, the public interest is protected through easements which allow the public to cross Native-owned lands to access state waters, public lands, or private lands.

Legally-owned private in-holdings such as Native allotments, within these tracts are also protected. The lands were appropriately selected by BSNC in 1977 and subsequently prioritized.

BSNC does not receive any additional acreage above what was originally allocated for this section (14(h)(8)) of ANCSA. And finally, this agreement does not alter the entitlements contained in ANCSA.

BSNC seeks to avoid further delays caused by litigation and/or the need for reselection of 14(h)(8) lands. This Agreement forged between the parties is not a land exchange nor does it modify or waive any section or regulatory mandate of the ANCSA.

Thank you for this opportunity to provide this Subcommittee with our views on this important piece of legislation.

The people of the Bering Strait region will be deeply grateful to this Subcommittee, to the full Committee and to the Congress for acting to approve this legislation to ratify the Salmon Lake Area Land Ownership and Consolidation Agreement thereby equitably resolving these critical remaining lands issues in our region.

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