Statement of Jack Hession,
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before the
Committee on Resources
U.S. House of Representatives
Washington, D.C.
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Good morning. My name is Jack Hession. Thank you for inviting me to testify on behalf of the Sierra Club, which is a national environmental organization of over 700,000 members with chapters in every state. I am a regional representative of the Sierra Club based in Anchorage.

In summary, the Sierra Club strongly opposes H.R. 3148 and H.R. 4734.

I will submit our views on H.R. 3048 for the hearing record.

H.R. 3148, to provide equitable treatment of Alaska Native Vietnam Veterans

This bill would supersede Public law 105-276 of 1998, which was an amendment to the Alaska Native Claims Settlement Act to give certain Alaska Native veterans of the Vietnam War era or their heirs an opportunity to apply for a Native allotment. The Sierra Club testified in support of the 1998 law.

Let me briefly review the 1998 statute. The Alaska Vietnam Veterans Native Allotment Act redressed the grievance of those Alaska Native veterans who were in the armed forces during the 1969-71 period of the Vietnam War era (1964-75), and who missed the opportunity to apply for a Native allotment prior to the 1971 repeal of the Alaska Native Allotment Act of 1906 (Allotment Act).

During 1970 and 1971, the Department of the Interior and several Alaska Native organizations made a major effort to alert Alaska Natives through the media and other means to the approaching repeal of the Allotment Act in the soon to be passed Alaska Native Land Claims Settlement Act of 1971 (ANCSA). Natives who considered themselves eligible to receive an allotment were urged to apply before the Allotment Act was rescinded. Approximately 9,000 applications were received.

In the mid-1990's Alaska Native veterans who were in the military in 1970-71, and who did not apply for an allotment before repeal of the Allotment Act, asked Congress to reopen the Allotment Act for them. In a report to Congress that was the basis for the 1998 law, the Department of the Interior found that Alaska Natives serving in the military during 1970-71 may have not had a chance to apply for an allotment because of their service.

The report also found that Native veterans who served prior to 1970, and thus prior to the 1970-71 federal outreach effort, had the same opportunity to apply for an allotment as Alaska Native non-

veterans. Native veterans serving after 1971, the year the Allotment Act was repealed, obviously were not denied the opportunity to file an application because of their military service.

In response to the Department's report, Congress in the 1998 statute reopened the Allotment Act to applications by qualified Native veterans who were in the Service during the three-year period 1969-71. In a 2000 amendment to the law, heirs of Native veterans who served 1964-71 and who were killed or died as a result of injuries sustained during their service period, were authorized to apply for an allotment.

In addition, the 1998 Act required the Secretary to study the situation of other Native veterans who did not file for an allotment and who are not eligible under the 1998 law. The Secretary determined that veterans serving prior to 1969 who were mentally or physically disabled as a result of their military service may not have had the opportunity to apply for an allotment before the Allotment Act was repealed.

Thus, with the exception of an undetermined number of physically or mentally disabled veterans, the 1998 law as amended has provided equitable treatment to those Native veterans who missed the opportunity to apply for an allotment because of their military service.

H. R. 3148 would replace the carefully crafted 1998 law. Eligibility to apply for an allotment would be expanded to include all Alaska Native veterans who served during the Vietnam War era (1964-75), or their heirs.

The bill would eliminate the requirement of the original Allotment Act and the 1998 law that applicants demonstrate use and occupancy of the land claimed, that is, "prove up" their claims. The bill would guarantee that any acreage applied for would be conveyed by requiring the Secretary to approve all applications, except if third parties contested or protested a filing.

H.R. 3148 raises obvious questions of fairness and of its constitutionality. If Alaska Native veterans of the Vietnam War era are given any 160 acres of their choosing, the Committee could probably expect similar requests from other Native veterans of other wars, and perhaps from other non-Native veterans as well.

H.R. 3148's effect on the public lands

This bill would have a major adverse impact on the federal lands of Alaska. It would amend the 1998 law to delete "unappropriated and unreserved" lands from those lands not available for allotment applications. This would allow new applications to be filed anywhere within the national parks, wildlife refuges, wild and scenic rivers, and national forest wilderness areas of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). Under the 1998 law, applications can be filed only within the ANCSA village withdrawal areas within national parks and wildlife refuges, and the Secretary has discretion to substitute other public lands if he or she finds the original application to be incompatible with the purposes of the conservation system unit.

Dropping the “unappropriated and unreserved limitation” would also open other public lands that have never been open to applications and that remain unavailable under the 1998 law. These include the Tongass and Chugach National Forests that have been reserved since 1906; military withdrawals; federally acquired lands including Native allotments and Native corporation lands; and various small tracts acquired under the settlement laws such as trade and manufacturing sites and homesites.

The impact of H.R. 3148 on the National Interest Lands of ANILCA can be gauged by referring to the results of the 1998 law. According to the U.S. Fish and Wildlife Service in Alaska, during the application period about 250 allotment applications have filed for land within national wildlife refuges, including nearly one hundred on the Yukon Delta NWR, and another 28 on Kodiak NWR.

In the national park system units, about a dozen applications have been received, with more expected because the BLM is allowing applicants to submit revised applications after the deadline. In the Tongass National Forests, which are not open to applications under the 1998 law, more than 80 applications have been filed nonetheless.

These applications have been made by Native veterans who served during a three-year period, 1969-71. H.R. 3148 would add veterans who served between August 5, 1964 and the end of 1968, and from January 1, 1972 to May 7, 1975. Assuming that Alaska Native enlistment was evenly distributed over the Vietnam War era, the Committee could expect several hundred more applications to be submitted if H.R. 3148 is enacted.

This dramatic increase in privately owned tracts within conservation system units and the national forests would come at a time when the federal land management agencies are acquiring private inholdings, including Native allotments and Native corporation lands, pursuant to Congressional direction in ANILCA. For example, the U.S. Fish and Wildlife Service has used $150 million, mostly from Exxon Valdez Oil Spill (EVOS) litigation settlement funds, to acquire Native allotments and Native corporation lands on Kodiak and Afognak Islands for addition to Kodiak NWR. Recently the Service completed negotiations to acquire thousands of acres of Native Group holdings at Point Possession for addition to the Kenai NWR, using privately donated funds.

Similarly, the U.S. Forest Service has acquired thousands of acres in Prince William Sound using EVOS funds, including a vast tract near Chenega within the Congressionally designated Nellie Juan-College Fiord Wilderness Study Area.

The National Park Service has acquired mining claims in the Kantishna area of Denali National Park at a cost of millions of dollars in appropriated funds, in a successful effort to avoid incompatible commercial development of these tracts.

Under H.R. 3148, all of these acquired lands would be open to new allotment applications and subsequent guaranteed conveyance out of federal ownership. Because H.R. 3148 would eliminate the requirement of the 1998 law to show past use and occupancy, there is the possibility that some potential applicants could decide to select acquired lands with known high property values.

In conclusion, we strongly recommend against enactment of H.R. 3148. Congress, in enacting the

Alaska Native Vietnam Veterans Allotment Act of 1998, has provided equitable treatment to most Native veterans who for reasons of wartime service may not have had an opportunity to apply for an allotment. The Act inadvertently omitted Native veterans who were physically or mentally injured during their service and who may also have missed the opportunity to apply. A technical amendment to the 1998 statute could bring these veterans the benefits of that Act.

H.R. 4734, to expand Alaska Native contracting of Federal land management functions and activities and to promote hiring of Alaska Natives by the Federal Government

H.R. 4734 would establish an "Alaska Federal Lands Management Demonstration Project." At the request of an Indian tribe or tribal organization the Secretary "shall enter into a contract with the Indian tribe or tribal organization for the Indian tribe or tribal organization to plan, conduct, and administer programs, services, functions, and activities, or portions thereof, requested by the Indian tribe or tribal organization and related to the administration of a conservation system unit or other public land unit that is substantially located within the geographic region of the Indian tribe or tribal organization."

Indian tribes and tribal organizations are defined in Sec. 5 (2) to include Native village and regional corporations.

In addition, the Secretary is required to provide the Indian tribe or tribal organization the appropriated funds the Secretary "…would have otherwise provided for the operation of the requested programs, services, functions, and activities."

Not less than six Indian tribes or tribal organizations, representing the various regions of Alaska, are to be selected for a demonstration project in each of two fiscal years. Management contracts for each project would remain in effect for five consecutive fiscal years.

H.R. 4734 would also establish a "Koyukuk and Kanuti National Wildlife Refuges Demonstration Project" similar to the other 12 individual demonstration projects referred to above.

This bill is a formula for turning over management of 12 national conservation system units or other public land units to private entities—in this case Alaska Native organizations and corporations—for five years. Management of two national wildlife refuges would also be contracted to a private organization.

National conservation system units are the national parks, wildlife refuges, wild and scenic rivers, and national forest wilderness areas of ANILCA. "Public land units" include the Tongass and Chugach National Forests, National Petroleum Reserve Alaska, military reservations, and BLM management units.

We oppose the idea of transferring management from the established federal land management agencies to any private entity through a demonstration project or by any other means. Management of the federal lands must remain the sole responsibility of the federal government. This is the fundamental principle that H.R. 4734 would overturn.

Although firmly opposed to the idea of "privatizing" federal land management, we continue to

strongly support--as we did in a pilot program on local hire passed in the last Congress—federal agency efforts to increase local employment as part of the management of federal lands in Alaska. Sections 1307 and 1308 of ANILCA have resulted in such employment, and as the results of the pilot project for the four National Park System units show, increasing numbers of local residents have been hired at the four units.

H.R. 4734 comes a year and a half after Congress enacted Public Law 106-488, “An Act to improve Native hiring and contracting by the Federal Government within the State of Alaska, and for other purposes.” As originally introduced in the Senate, the legislation would have authorized Alaska Native entities to assume management responsibilities for National Park System units. This provision was deleted, while a provision establishing the Northwest Alaska pilot program was retained.

We recommend that the Committee take the same approach to H.R. 4734: delete the proposed demonstration projects under private entities, and instead call for more pilot projects and similar measures designed to increase local employment in the management of the public lands.

One very practical way of achieving the local hire goals of this bill would be to provide the federal land management agencies with the funds they need to fully carry out their numerous responsibilities under existing laws. In general, the agencies are understaffed, particularly in the remote regions where local employment opportunities are most needed. A substantial increase in agency budgets for additional field staff could go a long way toward achieving the local hire goals we all support.

Thank you, Mr. Chairman, for considering our views.