

**STATEMENT  
JAY JENSEN  
DEPUTY UNDER SECRETARY FOR FORESTRY  
NATURAL RESOURCES AND ENVIRONMENT  
UNITED STATES DEPARTMENT OF AGRICULTURE**

**BEFORE THE  
COMMITTEE ON NATURAL RESOURCES  
UNITED STATES HOUSE OF REPRESENTATIVES  
MARCH 17, 2010**

**CONCERNING**

**H.R. 2099 “SOUTHEAST ALASKA NATIVE LAND ENTITLEMENT  
FINALIZATION ACT”**

Mr. Chairman, Honorable Ranking Member and distinguished members of the Committee, thank you for the opportunity to speak with you today about the Alaska Native land claims in Southeast Alaska. I would like to start by acknowledging the unique relationship the agency and department has with Alaska Native Corporations. Our forest management work, especially our work in Southeast Alaska, must stay mindful of the rich historical and cultural ties to the forestlands in the care of the USDA Forest Service. We are here today to talk about the fulfillment of the selection rights entitlements held by the Sealaska Corporation as proposed in H.R. 2099, the Southeast Alaska Native Land Entitlement Finalization Act. This bill proposes to finalize Alaska Native Claim Settlement Act (ANCSA) entitlement to Sealaska Corporation (Sealaska).

**H.R. 2099**

H.R. 2099 would amend ANCSA to allow Sealaska to select and receive conveyance from lands administered by the Forest Service that are outside of the original withdrawal areas established by the Act in 1971, and that would create new and unique categories of selections not available to other regional corporations. Specifically, H.R. 2099 directs the Secretary of the Interior to convey to Sealaska three categories of lands from within the Tongass: economic development lands, sacred site lands, and Native futures sites. None of these categories of land selections currently appear in ANCSA and other Native Corporations are not entitled to make such selections. The Department is concerned that H.R.2099 would provide an impetus for other regional corporations to reopen land claims at this critical final stage in the land transfer program. We defer to the Department of the Interior for an analysis of the bill as it relates to ANCSA implementation as it affects the Department of the Interior.

The pool of lands identified in H.R. 2099 from which Sealaska would select its economic development lands includes significant areas of productive old-growth timber and major areas of young-growth timber. While the specific lands Sealaska will select as economic development lands from this pool are not known, we have a number of concerns regarding potential consequences these selections would have on USDA’s efforts to

develop a long-term, sustainable plan for supporting a diversity of economic opportunities for Alaskan communities and Native Alaskans. These concerns reflect the interconnected nature of the problems facing Southeast Alaskans: legislation that pulls out one piece of the puzzle makes it more challenging to find a comprehensive solution that is responsive to the concerns of local communities and conservation groups while also working for Sealaska.

In previous years, the Tongass National Forest has supported communities in Southeast Alaska through its timber program. In exploring a diversity of opportunities to support the communities and people of Southeast Alaska, the Forest Service is seeking to expeditiously transition that program away from reliance on sales of old-growth timber in roadless areas to an integrated program of work focused on restoration, development of biomass opportunities, and sales of young-growth timber in roaded areas.

With this short summary of the bill, I would like to focus my testimony on the direction the Department and the Forest Service are heading regarding job stabilization and forest restoration in Southeast Alaska, and then move into how that vision is intimately tied to H.R. 2099.

#### **Broader Context – Job Creation and Transition**

The Department views this legislation in the broader context of the suite of economic challenges facing Southeast Alaska. The Department's priority is to transition timber management on the Tongass National Forest away from reliance on sales of old-growth timber in roadless areas to an integrated program of work focused on restoration, development of biomass opportunities, and sales of young-growth timber and to develop a broader focus on the full array of goods and services the forest provides to the citizens of Southeast Alaska and the nation.

Recently, I joined my Rural Development counterpart, USDA Deputy Under Secretary Victor Vasquez, on a visit to Alaska. While there, we co-hosted two economic diversification workshops to better understand how USDA can support an expanded economy and a range of opportunities for Southeast Alaskans and the surrounding National Forest. Since those initial sessions, USDA regional staffs, led by the Forest Service and Rural Development, visited thirty-two communities in Southeast Alaska, to delve deeper into the economic and employment needs of the area. Their focus was, through a coordinated USDA role, to explore long-term, sustainable support for an assortment of economic opportunities for Alaskan communities and Alaskan Natives, one not just focused on timber production, but also on ecosystem restoration, biomass utilization, energy, recreation and tourism, watershed and fisheries, and other opportunities outside the national forest, such as mariculture. While transforming the forest from old-growth management to a new forest economic model with a full array of job opportunities and a new timber program that has restoration, biomass, and young-growth management at its center, we would work to afford existing industry a transition – a 'bridge' – to a sustainable forest products industry. I am optimistic the Forest Service, in close partnership with Rural Development, can provide new and expanded economic opportunities for Southeast communities and Alaska Natives.

This transition could be the basis for alignment across diverse groups, including local communities, the State, some of the timber industry, environmental groups, Alaska Natives and many others.

The USDA will now take steps to implement this transition by developing a framework for transitioning to an integrated and diverse program of work in the long term. Though some initial steps to transition the timber program, in particular, follow:

First, assuming the FY2011 President's Budget proposal for an Integrated Resource Management line item, including the proposal for \$50 million in Priority Watersheds and Job Stabilization, the Alaska Region of the Forest Service could develop a plan to implement a ten-year stewardship contract based on the Secretary's forest restoration vision in fiscal year 2011. First develop projects that will provide the transition to a vibrant young growth management platform for the existing forest products industry to retain its existing skilled workforce and allow time for the necessary retooling of its mills. Projects may contain a significant component of young-growth management activities and yield, as well as appropriate habitat enhancement and restoration activities.

Second, the Forest Service will inventory efforts to describe the full spectrum of young growth management opportunities existing on the Tongass National Forest. This will allow for development of an accurate, well thought out, long range plan for active management of the young growth resource while providing for an appropriate mix of restoration activities and the goods and services needed by the residents of Southeast Alaska. The Forest Service is also exploring options to provide other meaningful project and contract opportunities to promote a more diverse economy in Southeast Alaska.

Third, a critical component of any successful transition to a young growth economy will be the retooling of existing large diameter based sawmills with equipment designed to manufacture and process smaller diameter material and biomass. My counterparts in Rural Development stand ready as partners to assist in the transition and seek opportunities to provide financial resources within the scope of existing authorities.

This framework builds upon the 2008 Tongass Land Management Plan and transitions the timber program from old-growth to young-growth forest management. Our focus will be on job creation as the measure of success. The agency will focus on, ecosystem restoration, recreation, bioenergy, subsistence and timber. Taking this approach, we will be able to deliver more stable and diversified jobs to the region through this new approach.

It is in this broad context the Department weighs its position on the Southeast Alaska Native Land Entitlement Finalization Act. The Department is firmly supportive of fulfilling Sealaska's land entitlements under ANCSA. This said, as currently crafted, we do have some concerns that H.R. 2099 could disrupt the delicate balance being struck around sustainable economic diversification and job stabilization. Noting this, we are

committed to resolving the land entitlement of Sealaska Corporation in a way that is fair and equitable.

In the context of pursuing job stabilization and forest restoration in Southeast Alaska, we are concerned that the legislation does not include a reasonable requirement for domestic processing of timber to support local infrastructure; a conservation strategy that aligns with the old-growth reserves currently designated in the Tongass Land Management Plan. We are also concerned with the location of land selections outside of the ANCSA withdrawal areas; the lack of a consultation process between the Forest Service, Alaska Native Corporations, and other stakeholders relating to public access for subsistence and recreation activities; and the inclusion of potential precedential setting considerations around how any land selections might create new categories of selections.

Sealaska is entitled to receive its remaining land entitlement under Section 14(h)(8) of ANCSA, and all of its remaining entitlement can be fulfilled from lands Sealaska has already selected within its original withdrawal areas. Any land selections addressed by H.R. 2099 should be identified as Section 14(h)(8) entitlement rather than create new selection categories. Additionally, the thrust of this legislation is to finalize Sealaska's entitlement; however, by creating new categories of selections and failing to address all outstanding Sealaska ANCSA entitlement issues, the legislation results in further entitlement complications. H.R. 2099 should address such issues as the applicability of the ANCSA escrow provision, resolving Sealaska subsurface entitlement, the desired need for Federal reacquisition of some of Sealaska's holdings in some Conservation System Units, and Sealaska's relinquishment of unconveyed ANCSA Section 14(h)(1) sites. If legislation were to be enacted, it should expressly address all outstanding entitlement issues and ensure Sealaska's entitlement is completely defined upon enactment, resulting in all current Sealaska withdrawal areas and selections relinquished upon enactment. Appropriate language to address all outstanding entitlement issues should also be coordinated with the Department of the Interior.

### **Amendments to the Tribal Forest Protection Act and the National Historic Preservation Act**

Finally, the legislation includes amendments to the Tribal Forest Protection Act (TFPA) and the National Historic Preservation Act (NHPA) to consider lands owned by any Alaska Native Corporation as tribal-owned lands for the purposes of these Acts, the implications of which are described below. The Department is willing to discuss amendments to ANCSA; however, we view the amendments to the TFPA and NHPA as unrelated to fulfilling remaining ANSCA entitlement.

The TFPA is intended to strengthen Forest Service relationships with federally recognized Tribes and to restore forested lands by authorizing the Secretary of Agriculture to enter into contracts and agreements with Tribes to carry out certain projects on the National Forests to reduce threats to adjacent or bordering lands owned by Tribes. The bill would extend the benefits of TFPA beyond those Tribes currently listed on the official list of federally acknowledged tribes in the contiguous 48 states and in Alaska.

H.R. 2099 would amend the National Historic Preservation Act (NHPA) to include Alaska Native Corporations owned lands. The definition of tribal lands does not accommodate Alaska Native Corporation owned lands that are managed by a corporate board of directors to provide a for-profit benefit to its shareholders.

The inclusion of Alaska Native Corporations as parties entitled to the benefits prescribed under both the TFPA and NHPA is at odds with the intent to provide tribes with certain benefits prescribed by these Acts.

**Environmental Mitigation and Incentives**

With respect to Section 5(b) of H.R. 2099 expressly authorizing environmental mitigation and incentives, we support the provisions which would allow any land conveyed to be eligible for participation in carbon markets or other similar programs, incentives, or markets established by USDA.

In closing, the USDA supports the timely and equitable distribution of land entitlement to Sealaska under ANCSA. The quickest way for settlement would be to make the land selections from within the current entitlement selection areas. Sealaska did identify its final selections in June of 2008, but added that the priority selections not be conveyed until after passage of this bill. We look forward to those conversations.

The USDA is committed to working collaboratively with Sealaska, Congress, and other community partners and interests to find a solution that works. We defer to the Department of the Interior for further analysis of this bill as it relates to implementation of ANCSA and Sealaska's entitlement. Thank you.