

# Committee on Resources

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**Julie Kitka**  
**President**

**ALASKA FEDERATION OF NATIVES**

**Testimony before the Committee on Resources**  
**United States House of Representatives**

**Hearing on H.R. 5617, the 13 th Regional Corporation Land Entitlement Act**

**September 13, 2006**

## **Introduction**

Chairman Pombo, Congressman Don Young of Alaska and other committee members of the U. S. House Resources Committee. My name is Julie Kitka and I am President of the Alaska Federation of Natives (AFN), the largest Native organization in Alaska. AFN's membership includes 178 Alaska Native Villages, 13 regional Native corporations and 12 Regional non-profit tribal associations. Our population is currently approximately 110,000, and expected to double every 23 years.

Thank you for the opportunity to testify in support of HR 5617, a bill to amend the Alaska Native Claims Settlement Act to provide an equitable distribution of land to the 13th Alaska Native Regional Corporation. This legislation would provide land selection rights to the 13 th Alaska Native Regional Corporation, thereby providing its members with a more equitable settlement of the loss of their aboriginal land claims than was originally provided in the Alaska Native Claims Settlement Act of 1971.

## **Background**

With the enactment of the Alaska Native Claims Settlement Act of 1971, 43 U.S.C. 1601 et seq. (ANCSA), Congress extinguished the claims of Alaska Natives to their aboriginal lands. In exchange for Alaska Natives' extinguished claims to over 350 million acres of land, Congress created a complex mechanism for Native selection and eventual ownership of approximately 45 million acres of land, and the distribution of nearly 1 billion dollars. Alaska Natives alive on December 18, 1971, were permitted to enroll and be issued stock in one of thirteen regional corporations and in one or more than 200 village corporations, according to their place of residence or origin. The village corporations and twelve of the regional corporations received land and money. The 13 th Regional Corporation, comprised of Alaska Natives residing outside of Alaska, received only money.

## **Creation of the 13 th Regional Corporation**

Section 7(c) of ANCSA authorized the creation of the 13 th Regional Corporation and it states as follows:

Section 7(c): If a majority of all eligible Natives eighteen years of age or older who are not permanent residents of Alaska elect, pursuant to subsection 5 (c), to be enrolled in a thirteenth region for Natives who are nonresidents of Alaska, the Secretary shall establish such a region for the benefit of the Natives who elected to be enrolled therein, and they may establish a Regional Corporation pursuant to this Act.

As provided under the 1971 Alaska Native Claims Settlement Act (ANCSA), and following a 1975 U.S. District Court ruling in Washington DC, the 13th Regional Corporation was formed under Alaska Law as a private for-profit entity on December 19, 1975. Its creation hinged on how many of the approximate 78,000 Alaska Native people eligible to be enrolled under the federal law elected enrollment in the 13 th Regional Corporation by marking section 22 of the official enrollment form with a "yes" vote. The section read "Do you elect to establish and be enrolled in a 13th Region?" A ruling from Judge Oliver Gasch overturned the

Bureau of Indian Affairs initial determination that an insufficient number of enrollees voted for the creation of the 13 th Regional Corporation.

Congress provided for the formation of the 13 th Regional Corporation on the belief that it would be focused on serving the interests of nonresident Alaska Natives while affording them their fair share of the settlement; however, information about the settlement and its implications for nonresidents was difficult to obtain by those who were not residing in Alaska at the time, making a reasoned decision difficult. The corporation began with 4,537 shareholders and currently has approximately 5,500 shareholders.

Unfortunately, by opting to join the 13 th Regional Corporation, these nonresidents were not able to fully participate in the settlement of their land claims as was the original purpose of the act. While monetary benefits were provided among all 13 Regional corporations on a per capita basis, land was distributed only among the 12 in-state Regional Corporations and Village Corporations within those regions. No additional funding was provided to members of the 13 th Regional Corporation to compensate them for not receiving any land.

ANCSA also provided that the 12 Regional Corporations would share among themselves a percentage of the revenue received from the subsurface resources and from regional corporation timber sales on the lands conveyed to them. The 13 th Regional Corporation did not receive this right. In short, the members of the 13th Regional Corporation did not receive a fair and equitable settlement of their aboriginal land claims; they were not sufficiently informed of the consequences of their enrollment choice and have thus been deprived of two of the three major benefits of the settlement.

This legislation will put the shareholders of the 13 th Regional Corporation on a stronger and more equal footing with respect to the other 12 Native Regional Corporations. It's the fair and equitable thing to do.

#### **Land Entitlements of the 13 th Regional Corporation pursuant to HR 5617**

Section 3(a) of HR 5617 will allow the 13 th Regional Corporation to select no more than 1,453,388 " acres from public lands which were withdrawn by the Secretary for selection, or were otherwise available for selection, but which were not selected by, or if selected not conveyed to, the State of Alaska, another Regional Corporation, a Village Corporation, or a Group Corporation."

AFN supports this provision of HR 5617. It provides protection for the land entitlements and land selections of the other ANCSA corporations. It allows the 13 th Regional Corporation to select land from the excess lands previously withdrawn by the Secretary of the Department of the Interior on behalf of the other Regional Corporations, but will give absolute priority to land selections by the State and the other village and regional corporations.

This bill also mandates that the 13 th Regional Corporation will consult with and solicit the comments of the Regional Corporation for the geographical region within which the selection 'it made' is located. The 13 th Regional Corporation will not be able to select lands that may be of interest to the other ANCSA corporations for land exchange purposes with the federal government. Finally, section 3 of the bill provides the 13 th Regional Corporation with a deadline of seven years to select the land entitlements created pursuant to the terms of the bill; this appears to be a reasonable timeframe in which to accomplish the required selections.

#### **Existing ANCSA lands selections and Entitlements**

HR 5617 prohibits the 13th Regional Corporation from selecting, and the Secretary from conveying the following:

`(i) Any land without the approval of any Native individual or Native owned or public entity that owns a partial interest in that land, which approval may be withheld with or without reason or cause.

`(ii) Any land that the State of Alaska, a Regional Corporation, a Village Corporation or a Group Corporation could select or acquire through the exercise of statutory or contractual rights of selection or acquisition, whether or not those rights have been exercised or are subject to discretionary actions by governmental entities, without the approval of the State of Alaska, Regional Corporation, Village Corporation or Group Corporation, which approval may be withheld with or without reason or cause.

`(iii) Any land within any area withdrawn for selection pursuant to sections 11 or 14 of this Act or otherwise

withdrawn by the Secretary for selection if a Village Corporation or Regional Corporation has unexercised selection rights or rights to conveyance in that area without the approval of the Village Corporation and Regional Corporation, which approval may be withheld with or without reason or cause.

These limitations on conveyance clearly protect the best interests of the other ANCSA corporations as well as the State of Alaska.

### **The public's interests are addressed and affirmed by HR 5617**

HR 5617 also provides definitive protections for public lands located within the boundaries of the State of Alaska. Section 3(d) provides that:

`(d) Reserved Lands- The 13th Regional Corporation may not select, and the Secretary shall not convey, any of the following:

`(1) Lands within any conservation system unit as defined in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

`(2) Acquired lands.

`(3) Lands immediately surrounding any building, permanent structure, or other development owned or controlled by the United States, another unit of government, or any person, including without limitation Native owned cabins or campsites on public lands with or without the permission of the public land owner.

`(4) Lands withdrawn or reserved for national defense purposes.

`(5) Lands within the National Petroleum Reserve, Alaska.

`(6) Lands within the Tongass and Chugach National Forests.

Thus, the interests of the conservation community in potentially sensitive public lands in Alaska are expressly addressed in HR 5617.

### **Revenue Sharing**

AFN also supports the revenue sharing provisions of HR 5617. Section 4 of the bill provides that Section 7(i)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)) will be amended to include a percentage of the revenues generated by the 13 th Regional Corporation from timber and the subsurface estate patented to it pursuant to the Act to be shared with the other Regional Corporations, with a larger share going to the Regional Corporation for the geographical region where the resources giving rise to such revenues are located. The bill allows implementation of section 7(i) of ANCSA to operate as it presently does, and it also protects the terms and conditions of the 7(i) Settlement Agreement by and between the 12 Regional Corporations.

### **Conclusion**

In conclusion, we believe passage of this legislation will go a long way in overcoming the inequity in ANCSA that has long disadvantaged shareholders of the 13 th Regional Corporation. By giving them the opportunity to obtain the benefits of land ownership in Alaska, the 13 th Regional Corporation will have a better chance of building an economically successful corporation and future for its shareholders.

Thank you for giving me an opportunity to testify in support of HR 5617. I will be happy to answer any questions your might have concerning our testimony.

Section 7(c) of PL 92-203

Website of 13 th Regional Corporation

Section 3(c) of HR 5617