

Committee on Resources

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Testimony of
Norman Ream, President Emeritus of the 13 TH Regional Corporation
for the
Hearing of the House Resources Committee
H.R. 5617 – The 13 TH Regional Corporation Land Entitlement Act
September 13, 2006

Mr. Chairman and Members of the Committee:

I am Norman Ream, the President Emeritus of the 13 th Regional Corporation, formed under the authority of the Alaska Native Claims Settlement Act. I am here today to provide testimony to the committee in support of H.R. 5617, the 13 th Regional Corporation Land Entitlement Act, and to provide any other information on the bill or the 13 th Region that members of the committee may request. I have been a shareholder in the 13 th Regional Corporation since my initial enrollment in 1979, and I have served as a corporate officer, including the position of President and CEO, from 1995 to 2003. I greatly appreciate that the Resources Committee has chosen to conduct hearings on this bill, and to invite me to provide testimony. I am very pleased and gratified to be here at an event that our entire corporation has worked toward for decades. I also express the gratitude of all the shareholders of the 13 th Region to the co-sponsors of H.R. 5617, Congressmen Don Young and Norm Dicks.

Neither Congressman Don Young nor Congressman Norm Dicks were Members at the time of the enactment of the Alaska Native Claims Settlement Act (ANCSA) in 1971. However, they have worked together over many years on implementation and amendment of the original Act in order to help this significant law serve its original purposes of settling the aboriginal land claims of Alaska Natives, clearing the way for other significant actions in Alaska, and promoting the success of Alaska's Native community. HR 5617 is in that spirit as it resolves one lingering and significant issue with the Settlement Act that has remained unaddressed since enactment. With that introduction, let me lay out the background of the 13 th Region, its place in the Alaska Native Claims Settlement Act (ANCSA), and the circumstances that led to the introduction of H.R. 5617.

In 1971, after years of prior debate and failed legislation, Congress finally took up in earnest the challenge of extinguishing statewide claims by Native Alaskans based on aboriginal land rights. In the course of the debates, it had become clear that many Alaska Natives, up to 20% of the total, were living outside Alaska. The reasons for this were diverse and legitimate, sometimes heart-rending. Some had been dislocated during and after World War II, others married or left their Alaska homes to serve in the Armed Forces, some sought health care or married, and many left to attend high schools and colleges in other states. Still others, for economic reasons, simply migrated south in the hope of attaining employment. As the Settlement Act continued to develop, it became apparent that some way to deal with this situation had to be included in the final settlement. Many of these individuals returned home regularly and maintained family and village ties, but for the reasons above, were "outside", as Alaskans call it. Many of the non-resident Natives had migrated, understandably, to Washington State, and two of the ablest participants in the settlement debate, Senator Henry Jackson and Congressman Lloyd Meeds, both of Washington State, took an active interest in seeking to ensure that these non-resident Natives were provided for in the settlement. These non-residents were not organized and were largely uninformed about the development of the settlement, so they were not particularly involved in defending their own interests.

They had a steep political hill to climb. Information about the Settlement Act and its implications for non-

resident Natives was difficult to obtain. It was spotty, inconsistent in character, and generally insufficient to enable non-resident Natives to play an effective role. As the final Act was developing, it would divide the State into 12 geographic Native "Regions" which were to be composed as far as practicable of Natives having a common heritage and sharing common interests. By their choice, these regions would be organized for purposes of the Act as corporations, rather than tribal entities. Individual Natives would be able to enroll in the region (and the village) in which these common interests were strongest. Based on the numerical total of enrollees in each region, the settlement money and the land conveyed in the settlement act would be distributed per capita. There was in other words, a strong incentive on the part of the existing resident Native regions, already well-organized, to achieve as much enrollment as possible, including from non-resident Natives, in their own region. For this reason, the organized resident Native community in Alaska opposed any special treatment of non-residents at this time, and the Alaska delegation supported that view. The non-resident Natives, however, at least those few who were well informed, had begun to realize that a separate organization for them was likely to be in their best interest. They were, however, neither well organized nor effective in advocating their own interests. They were essentially powerless in the process as it evolved. Information was particularly scarce if you were not in Alaska, where the settlement was a prime topic. It was in these political dynamics that the final settlement and the fate of the 13 th Region was shaped.

Ultimately, Senator Jackson and Congressman Meeds, over much objection, were able to win bare acceptance for a separate and additional corporation for non-resident Natives. There would not have been a 13 th Region created but for these two Members of Congress. Essentially, what they achieved was the inclusion of a provision in ANCSA that created the additional 13 th region and allowed the option of enrolling in it. This was a scant victory, however, as the final overall provision in the Act for the 13 th Region was not close to being comparable, in equitable terms, with the settlement for the other 12 resident Native corporations. The choice to join the 13 th, or not, had been created, but the terms of the choice were quite inequitable. What is important to emphasize is that the original provisions of ANCSA, with respect to the 13 th Region, represented no bargain or agreement with those who ultimately enrolled in that region, because the 13 th Region, as an organized entity, simply did not exist and had no meaningful presence or influence on the outcome. No deal was presented to them, and no acceptance was made; indeed there was no entity to accept an offer had it been made. It was simply the best that the few Congressional supporters of non-resident Natives could attain in a difficult political situation.

The structure of ANCSA is by now well-known. The Act extinguished all aboriginal land claims of Alaska Natives in return for a combination of land and money in compensation – a total of nearly a billion dollars and 44 million acres of land. The allocation of the money and the land would be proportionate to the number of enrollees (shareholders) in the various regional corporations. In addition, a provision in the Act recognized that, merely by the fortune of location, some regions would have disproportionate subsurface resources of value. A section of the Act called "7(i)" in shorthand was added, prescribing sharing among all regions of a portion of revenues produced from subsurface resources. There were also rules for downward distribution of surface land rights and shares of money to villages within a region. Under this structure, the regions could expect a regular flow of funds over a period of years, land to develop to produce long-term revenues, and expectations of a share of subsurface revenues from other corporations when they were successful in developing subsurface resources.

In contrast, the shareholders of the 13 th Region would receive a significantly shorter share of the settlement. They received their per capita share of the monetary payments, but that was all. The aboriginal claims of those in the 13 th Region were certainly as valid, and no different, from the claims of their fellow Natives living in Alaska, but the the sum total of the federal compensation for extinguishment of the claims of shareholders of the 13 th was just a part of what others received. The 13 th Region would receive no land under the settlement, and the denial of land rights to them was not compensated with any additional money. Finally, they received no right to any sharing of 7 (i) revenues produced from subsurface resources in other regions.

In terms of the procedures that would follow to implement ANCSA, monetary payments under the Settlement Act were made through the Alaska Native Fund, and distributed among all 13 Regional Corporations on a per capita basis, but land was distributed only among the 12 resident Regional Corporations and the Village Corporations within those regions. No additional money was provided to 13th Corporation to compensate for the absence of any land rights. Alaska Natives enrolled in the 13 th Regional Corporation did not receive any land, and did not receive additional money in lieu of land, and did not get any right to participate in distributions from the pool of natural resource revenue funds in which the other

Regional Corporations shared. The 13 th Regional Corporation, being comprised of non-resident Alaska Natives, was thus denied full participation in the settlement provided by the Settlement Act. Sadly, most non-resident Natives had no idea what had occurred or that their settlement was not the same as for their brothers and sisters in Alaska.

Following enactment, implementation of the settlement began, and the first step was enrollment of individual Natives to the region with which they felt the greatest attachment. This involved the basic choice of where to enroll for non-residents and whether to form the 13 th corporation. Those non-resident Natives who were informed and involved tried to make the best of the situation. Many of them felt that the interests of non-resident Natives without strong remaining ties to a region in Alaska could best be protected by forming the non-resident 13 th Regional Corporation to better control and direct their own affairs. Non-resident Natives had been given the option either to enroll in one of the 12 Regional Corporations established for each region or to elect, by majority vote, to form a separate 13 th Regional Corporation to represent the interests of non-resident Natives.

Ultimately the 13 th Regional Corporation was formed, and approximately 4,500 Alaska Natives chose to enroll in the new 13 th Regional Corporation. To provide perspective, it is important to know that this represented about one quarter of all the Natives who were non-residents at that time. The other three quarters of those who were non-residents of Alaska enrolled in one of the 12 regions in the state. The result is that the 4,500 shareholders (about 7% of all Natives) who surrendered exactly the same claims as all other Natives, received no land rights in the settlement.

In the early years particularly, the choice to enroll in the "outside" corporation was held very much against both the 13 th Region and its shareholders. The theme was that by accepting the terms of the Act at the time of its passage, and then enrolling in the 13 th, its shareholders had, in effect, made a deal, and should live with its terms. While superficially understandable, this interpretation ignores important facts and is far from adequate to answer the central inequality with which the 13 th region was treated. At the time of passage of ANCSA in Congress, the 13 th existed only as a concept but not an organization which could assert or defend its interests. At the time of passage, and later during enrollment, communications were poor and information hard to come by. Litigation was successful in recognizing that the initial Interior Department enrollment information program was unacceptable, and while a further court-ordered information program was better, it fell far short of providing the information that those individual Natives who must make a choice needed to act in their self interest. Most of the implementation information program was centered on Alaska, and any Native living outside was simply disadvantaged in making an informed choice. Over the years since that time, it has been confirmed repeatedly that most of those who enrolled in the 13 th Region were simply not aware that their settlement was for far less than other Alaska Natives.

As to why individual decisions were made to enroll in the 13 th Region, there are as many explanations as there are shareholders, but there are some central themes. Clearly, the long-term implications of being in the 13 th were not well-known, but there were thousands of non-resident Natives who clearly felt more comfortable with a separate regional corporation looking after their interests. Many agonized over ties to a particular village in Alaska but ultimately knew they would remain outside. Others learned of the provision in ANCSA that mandated that 50% of the monetary payments to the 13 th had to be passed through to individual shareholders. This was a provision that both incentivized enrollment in, and hobbled the economic prospects of, the 13 th Region. Still others felt they had no choice.

Over the years, the effect of all of the inequities in the Act has been to substantially disadvantage the shareholders of the 13 th Regional Corporation. The 13 th Corporation received its pro rata share of the monetary payments under the Act, but was obligated to distribute 50% of those proceeds immediately to shareholders as they were received over a number of years. The remaining 50% provided the only capitalization for our small corporation with many scattered shareholders. Without a land base or resources to develop, or the right to share in the development revenues of subsurface development in other regions, the 13 th corporation did not have alternatives afforded other Regional Corporations. The 13 th Region did not receive revenues from the development of its own land resources, (such as oil production or timber harvest) which was common in most regions, or any share of Sec. 7(i) revenues, including petroleum revenues, which was a source of income for the other 12 Regional Corporations. Over time, the 13 th Region has, like many others, experienced difficult times and endured poor business management, along with some successes, but alone among the other regional corporations, it does not have the financial backstop of its own land base to develop, or any 7(i) revenues, to rely on during the hard times. This is a long-term and insurmountable penalty that the shareholders of the 13 th Region simply do not deserve and should not suffer.

It is to the great credit of the 13 th Region, I believe, that at the time the 13 th Regional Corporation was initially formed after the enactment of ANCSA, and the realization of the inequitable treatment became more widely known to shareholders, the Regional Board immediately passed a resolution authorizing the pursuit of land rights and/or other remedial compensation to address the inequities of the Act. From that time, and particularly in recent years, the 13 th has become a full and active partner with its 12 regional counterparts, working actively to support Alaska Native aspirations and participating fully in the activities and projects of the Alaska Federation of Natives, and the Association of ANCSA Regional Corporation Presidents and CEOs. That original authorization to obtain a more equitable share of the settlement of our claims is culminated in the legislation that is before the Resources Committee today.

The inequities created in the original Settlement Act can only be partially corrected, and the 13 th Region is accepting of that reality. The enactment of the Settlement Act, as we all know, was the essential foundation block for all which has followed. This includes the implementation of ANCSA with its land base for Alaska Natives; the construction of the Trans-Alaska Pipeline, the enactment of the Alaska Lands National Interest Lands Act, the completion of State land selections, and other actions protecting and utilizing the vast lands of Alaska. Many diverse national, state and Native interests have been served during this period. Those events and land allocations cannot be changed and we do not seek to do so in any way.

HR 5617 is a modest proposal to partially correct the inequity created for the 13 th Region in the original formulation of ANCSA. H.R. 5617 would achieve a roughly comparable land compensation for the shareholders of the 13 th Region for the extinguishment of their aboriginal land claims, but it would be on terms which fully recognize the many Alaska land and resources decisions that have occurred in the interim since ANCSA was enacted. The 13 th Region does not seek additional money, and it does not even seek to participate in the sharing of regional subsurface revenues enjoyed by the other 12 regional corporations under Section 7 (i). Rather we seek only to gain the right to receive land in the same proportionate amount as every other regional corporation, and to do so, as I would put it, from a position "at the end of the line" when it comes to the ability to select and receive land in Alaska.

The proposed Bill authorizes the Secretary to convey up to 1,162,710 acres from the limited area in which public lands in Alaska were previously withdrawn by the Secretary of Interior for selection but not conveyed to other Native Regional Corporations. The 1,162,710 acres is arrived at by taking the total number of acres conveyed to all Regional Corporations pursuant to Section 12(c) of ANCSA (15,769,600 acres) (except Sealaska because Sealaska received a separate entitlement). This total acreage (for 11 regional corporations) of 15,769,600 acres is then divided by 60,026, the number of original Native shareholders enrolled to those eleven Native Regional Corporations. On a per capita basis, the shareholders of the other eleven Regional Corporations received approximately 262.7 acres per original shareholder. This per shareholder acreage is then multiplied by the 4,426 original shareholders of the 13TH Region, resulting in the 1,162,710 total acres to be conveyed. This is no more and no less than what other regions received in acreage, but the lands available are those not selected or used by any of the many intervening interests. This is truly the end of the line, but nonetheless of immense value to the people of the 13 th.

The bill explicitly prohibits the 13 TH Region from making selections or receiving conveyance of lands within federal conservation system units, (parks, refuges, wilderness, monuments and others) the Tongass or Chugach National Forests, the National Petroleum Reserve – Alaska, national defense withdrawals and other potentially sensitive federal public lands. The Bill gives absolute priority to land selections of other Native Corporations and the State of Alaska, and establishes a procedure which requires the coordination and approval of lands for the 13 th Region with the regional corporation in which selected lands are located. .Because of the limitations imposed by this approval process, the bill provides for a withdrawal and selection period of seven years and an over-selection allowance of 25%. Only in this way can the 13 th make the selections and then negotiate their acceptance for conveyance.

In furtherance of the 13TH Region's desire to make a positive contribution as a landowner to the entire Alaska Native community, the bill mandates "one way" 7(i) revenue contributions from the 13TH Region into the 7(i) fund to be shared among the other twelve Regional Corporations. This is strictly a one way flow of funds and the 13TH Region will not be entitled to participate in any distributions from the 7(i) fund. Additionally, as an incentive to encourage other Regional Corporations to look favorably upon the 13TH Region's selection of surplus lands from within their original withdrawal areas, the bill also requires a 10% resource development revenue payment to be made directly to the local Regional Corporation for which the lands were originally withdrawn for selection, and half of that payment to a village corporation if the development is in their withdrawal area. In this way, 25% of any revenues the 13 th Region produces from

its resource lands will go to other Native corporations. .

All of these provisions, cumulatively, reflect the willingness of the 13 th to accept the facts as they exist, to live with all reasonable limitations and protections for other Native corporations, the state, environmental interests and legitimate federal interests. The 13 th Region is willing to be at the end of the line, and believes this will only work if we cooperate fully with all these prior and vested interests. The provisions of H.R. 5617 are intended to be balanced and fair in providing a partial but acceptable resolution of the inequitable treatment of the 13 th Region in the original settlement. Non-resident Natives had little or no power at the time ANCSA was enacted, and the 13 th has little power now, but we believe that Congress and other interests will recognize that this is one piece of unfinished business in the Settlement Act that can and should be fairly resolved.

This legislation has been years in development but is very simple in concept. Through hard work and cooperation the 13 th Regions has won the support of the Alaska Federation of Natives and the Association of ANCSA Regional Corporation Presidents and CEOs. I have attached copies of those resolutions and other materials and ask that they be included in the record as part of my testimony.

If I may, I would like to add a purely personal point. I am now over 80 years old. I have lived long enough, and worked on Indian and Native affairs enough, to understand that for our Native American people, land anchors our culture. It is that simple and that important. Without a land base and the continuing tie to Alaska that it represents, future shareholders of the 13th will surely lose contact with what remains of their heritage. Ours is the generation that remembers the land claims, remembers the settlement, and remembers the basic message that guided the cause – "Take Our Land, Take Our Life." The 13 th Region has done its homework and, on its behalf, I respectfully ask the Committee and the Congress to enact H.R. 5617 during the current Congress. I thank the Committee for its time and attention to this bill.

NOTE: Attachments would be the two resolutions, the Q and A we have been using and the article on Norm Ream we use in our information packet since it introduces him and reflects well.