

# STATE OF ALASKA

## CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS

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November 4, 2011

Senator Lisa Murkowski  
709 Hart Senate Building  
Washington, D.C. 20510

Dear Senator Murkowski:

Since early 2010, the Citizens' Advisory Commission on Federal Areas has worked diligently to impartially evaluate and understand the impacts of proposed legislation intended to finalize the Alaska Native Claims Settlement Act (ANCSA) land entitlement of Sealaska Corporation. The Commission has met with representatives and shareholders of Sealaska on several occasions to discuss the provisions of S. 881, the *Southeast Alaska Native Land Entitlement Finalization Act* and most recently S. 730 the *Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act*. We have also carefully examined Congressman Young's similar companion bill, H.R. 1408 of the same title.

Commission members and staff have conferred with members of your staff who have readily answered questions and provided information to help us understand the provisions in both these bills. We have also heard and read testimony and received letters from the public both strongly supporting and adamantly opposing the proposed legislation.

Last year, the Commission formed a subcommittee to analyze S. 881 and submitted detailed comments and recommendations to your office. A number of those recommendations were incorporated into the current bill, S. 730. We appreciate your consideration and positive response to our suggestions. Just last week our subcommittee reconvened to consider S. 730 and make recommendations to the full Commission. At its October 28 meeting the full Commission, after hearing additional public testimony, adopted those recommendations. We respectfully offer the following comments.

In our deliberations, we were increasingly frustrated by the lack of data available to objectively and thoroughly assess the benefits and impacts of the proposed Sealaska selections outside of the existing ANCSA withdrawal areas. For example, conflicting claims about whether the original withdrawal areas contain sufficient timber to sustain Sealaska's timber program could not be confirmed because there are no publicly available timber appraisals. Comparative economic data are also unavailable.

The Commission continues to support the completion of Sealaska Corporation's land selections and the conveyance of lands that will provide continued essential economic opportunities for the corporation, its shareholders and Southeastern Alaska. We recognize that Sealaska Corporation is a significant economic force in the region, providing several hundred direct and indirect jobs. Forty years after the passage of ANCSA, it is well past time for Sealaska's selections to be finalized and its lands conveyed. After much thought the Commission has concluded that the corporation's land entitlement can be adequately met with lands from the ANCSA withdrawals areas added by Congress in 1976. Therefore, for the following reasons we cannot support passage of S. 730 or H.R. 1408.

Notwithstanding language in Section 5(c)(1), it is highly probable that revisions to the Tongass National Forest Land and Resources Management Plan (TLMP) would be required in order for the U.S. Forest Service to meet the goals found in that plan. Harris Sherman, Under Secretary, Natural Resources and Environment, U.S. Department of Agriculture (USDA) testified before the Subcommittee On Public Lands and Forests that S. 730 would hinder efforts to implement the Southeast Alaska Transition Strategy developed to implement the Tongass plan.

Failure to implement this strategy would in turn impact the ability of the Forest Service to provide an adequate timber supply for local processing by existing mills and associated jobs, something the Forest Service already struggles with. While Sealaska timber harvest program certainly provides valuable jobs in the region, its emphasis almost exclusively on round log export provides little timber to local mills or jobs for in state processing of timber. Sealaska has made it clear that emphasis will not change.

According to the U.S. Forest Service the majority of lands identified in S. 730 are found close to the only medium sized and smaller local mills remaining in the region. Approximately 64 percent of the land available for selection under S. 730 is within the area identified for projects listed on the Tongass' 5-year plan and would adversely affect potential profitable sales to those local mills. We find no evidence the resulting loss of jobs and economic impacts to local communities and businesses will be offset by a corresponding increase in the number of jobs from Sealaska's timber program. We should also point out that Sealaska would not be precluded from bidding on U.S. Forest Service timber sales. While there are restrictions on export of timber harvested from national forest lands, some types may be exported as round logs.

The conservation strategy within the Tongass plan was designed, in part, to avoid listing of the Queen Charlotte Goshawk and the Alexander Archipelago Wolf under the Endangered Species Act (ESA). There is documented concern that the proposed land conveyances of lands in S. 730 will decrease the effectiveness of the conservation strategy in the plan and increase the likelihood that these two species would be considered for listing. In fact, the Center for Biological Diversity recently filed a petition with the U.S. Fish & Wildlife Service for listing the Alexander Archipelago Wolf. While listing is not warranted for either species, the U.S. Fish & Wildlife Service decision not to list was based on the conservation strategy in the 1997 Tongass plan that carried forward into the 2008 revision.

The Commission strongly opposes the creation of the proposed Conservation Areas. Placing more than 150,000 acres into a permanent legislatively designated conservation classification which does not allow timber harvest or road construction further impacts the timber industry. The 16.74 million acre Tongass National Forest already contains 5,753,548 acres of designated wilderness and 722,482 acres of congressionally designated Land Use Designation (LUD) II lands. Adding this additional acreage would place nearly 40% of the Tongass under wilderness designation or its equivalent. In addition, creation of these areas will not remove the threat of the ESA listing discussed above. To be frank, we are confused by the proposed creation of eight new conservation areas in light of your objections to Secretary Salazar's Wild Lands Policy and the new round of wilderness suitability reviews conducted by agencies within that department.

The proposed conveyance of the sites with traditional, recreational and renewable energy use value, previously identified as future sites or economic development sites, has generated the most controversy within Southeast Alaska. While the number of identified sites has decreased, and access provisions modified in response to public concerns, reliance on Section 17(b) easements to protect public access across ANCSA corporation lands in many instances elsewhere in the state has proven to be inadequate. Proposals to reserve even existing access routes as 17(b) easements frequently are challenged successfully by corporations. There are also a number of cases where the Bureau of Land Management has simply refused to reserve the easements despite strong public support and demonstrated need. Conveyance of these sites to private ownership does not appear to be in the best interest of local communities or residents.

Although existing guiding and outfitting special use permits and authorizations issued by the U.S. Forest Service will be allowed to continue on conveyed lands for the remaining term of the permit and one subsequent 10 year renewal, it is likely that these commercial operations ultimately will be displaced. Should this occur, it is far from certain that the operation could shift to National Forest Lands as the U.S. Forest Service in recent years has made decisions to restrict guiding operations in some ranger districts on the Tongass, particularly in designated wilderness areas.

Finally, while S. 730 applies only to land selections and conveyances to Sealaska Corporation, it has the potential to create additional pressure from other ANCSA corporations to revisit their selections. ANCSA has been amended many times since its passage, but this proposal is unprecedented. As we stated above, existing withdrawals and selections authorized under the 1976 amendments in response to Sealaska's request, are adequate to fulfill their entitlement.

In conclusion, the Commission reasserts its support for the fulfillment of Sealaska Corporation's land entitlement under ANCSA. We have determined that entitlement can be met with the currently selected lands in the existing withdrawals. Neither S. 730 nor H.R. 1408 will accomplish this in a manner that is fair and equitable to all of the residents and communities who depend on the resources of the Tongass National Forest. We appreciate your consideration of our comments.

With Best Regards,

A handwritten signature in black ink, appearing to read "Wes Keller". The signature is written in a cursive, flowing style.

Representative Wes Keller  
Chairman

Cc: Sen. Mark Begich  
Rep. Don Young  
Gov. Sean Parnell  
Sen. Jeff Bingaman  
Rep. Doc Hastings  
Sealaska Corporation

