



Southeast Alaska Conservation Council

SEACC 419 6th Street, Suite 200, Juneau, AK 99801
(907) 586-6942 phone • (907) 463-3312 fax
www.seacc.org • info@seacc.org

March 17, 2011

The Honorable Lisa Murkowski
United State Senate
Washington, D.C. 20510

re: Response to February 2011 Sealaska Lands Bill Discussion Draft

Dear Senator Murkowski:

Just before your staff held informational meetings on February 21-22, 2011 in Ketchikan and Craig respectively, you unveiled a discussion draft of the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act. Since the Sealaska Corporation's lands bill was first introduced in 2007, the Southeast Alaska Conservation Council (SEACC) has submitted extensive comments and information for the legislative record. Please accept the following supplemental comments from SEACC on this discussion draft.

First, SEACC acknowledges the improvements in your February discussion draft from S.881 as introduced. Dropping the economic development lands in the Red Bay, Buster Creek and Labouchere Bay drainages on north Prince of Wales Island and lands around Karheen Cove and Karheen Lakes on Tuxekan Island, the cultural/historical sites in Glacier Bay National Park and other park system units, seventeen of the proposed future sites and amendments to National Historic Preservation Act and Tribal Forest Protection Act are all major improvements. We also appreciate the modifications made to the size and boundaries of the parcel on north Kuiu Island in order to reduce impacts to Security Bay. Still, more can be done to improve this bill.

As you know, future sites remain one of the most controversial aspects of this legislation. Your staff heard extensive opposition at the recent listening session in Ketchikan about proposed sites at Bailey Bay (aka Springs Creek Hot Springs) on the south shore of the Cleveland Peninsula; Dog Cove, at the mouth of the Naha River Legislated LUD II; Blake Channel¹ near Wrangell across the Bradfield Canal from the Anan Legislated LUD II and Bear Observatory; Point Lavina and Inian Peninsula East near Elfin Cove; Pegmatite Mountain in Upper Tenakee Inlet; and, Holkam Bay, a safe and vital small boat anchorage near the mouth of the Tracy Arms Wilderness. Although the deed conveying such a site will contain a covenant that "prohibit[s] any commercial timber harvest or mineral development," by inference, any other type of economic development is allowed, including energy development, gravel extraction, and tourism. While the draft substitute attempts to address the thorny access issue relating to these sites, and drops several controversial sites, many conflicts regarding traditional, sport, and

¹ For the record, this site is actually on Marten Creek, which the Forest Service has found to have outstandingly remarkable fish, wildlife, scenic, and recreation values.

commercial use of the remaining areas remain. We are also concerned that sites dropped previously because of strong community opposition have reappeared – sites like Cannon Beach near Yakutat.

We also remain concerned about losing the valuable wildlands near Hydaburg, Hollis and Edna Bay to clearcut logging if they are conveyed to Sealaska. For example, instead of conveying any part of the Keete, Kassa, and Mabel watersheds to Sealaska, these lands deserve permanent protection as additions to either the Nutkwa Legislated LUD II or South Prince of Wales Wilderness. We join the wide variety of forest users from the listening sessions who supported imposing federal buffers on salmon and resident fish streams and along the beach to protect salmon and wildlife habitat.

The acre-for-acre approach taken by Sealaska in wrapping up its land entitlement exacerbates the adverse environmental and economic impacts of the proposal. In exchange for large blocks of average-size old-growth forest left within the boxes, Sealaska wants the same amount of acreage from smaller chunks of land that contain a large proportion of the remaining blocks of contiguous big-tree forest left on Prince of Wales Island. In addition, much of the land proposed for conveyance outside the existing withdrawal areas includes valuable infrastructure – primarily tax-payer funded roads. The fairest approach would be to require value-for-value balancing: balancing the value of the selection rights Sealaska intends to relinquish against the value of the land – including existing infrastructure – that Sealaska stands to gain.

Throughout this long legislative process, SEACC has worked in good faith with Sealaska, your office, and others to resolve key issues with the bill. While we appreciate your willingness to designate additional Tongass lands for conservation purposes in this legislation, the proposed section 6 falls far short of what we had hoped for. While the discussion draft would designate some deserving lands, it offers far less protection for certain high valued places – like the Honker Divide and Kosciusko Island Geological Area – than the current Tongass Forest Plan. Simply calling these lands “conservation areas” does not make them so. Furthermore, the discussion draft fails to encompass the minimum safeguards identified by a variety of stakeholders, including commercial fishermen and community leaders from Prince of Wales Island. We offer some suggestions below for closing the big gaps we see and urge you to designate additional key fishing and conservation lands like Port Houghton, Sanborn Canal, the Cleveland Peninsula, East Kuiu Island, Upper Tenakee Inlet, Ushk Bay, Poison Cove, and Deep Bay near Sitka.

To facilitate your review, our comments will address each section of the bill in order.

Section 1. Short Title.

While a worthy goal, this bill does not and will not “finalize” Native land claims on the Tongass National Forest. On April 2, 2009, three weeks before introduction of S.881, you introduced S.784, a bill to recognize and settle certain claims under the Alaska Native Claims Settlement Act (ANCSA). S.784 would have allowed five (5) communities in Southeast Alaska that failed to meet one or more of the legislative criteria set for village status under ANCSA to form urban corporations. The bill would have further granted each corporation 23,040 acres of land from

anywhere in the Tongass National Forest, including designated Wilderness and Legislated LUD II lands -- nearly 180 square miles of public lands.

We recognize that the Native people asking for recognition have long histories and traditions in this region. Any land conveyed to these unrecognized communities must come from the same pool of 2 million acres that Congress set aside for conveyance to the 12 regional corporations. Such a settlement will therefore reduce Sealaska's per capita share of the economic development land-base available for distribution to Alaska's regional corporations under section 14(h)(8) for the benefit of all regional corporation stockholders. To proceed differently would reopen the overall ANCSA settlement by increasing the size of the 40-million-acre land package agreed to in 1971. If Congress chooses to recognize these communities, as much as the 115,000 acres proposed last Congress in S.784 will need to be deducted from the section 14(h) pool of lands -- a reduction of at least 25,000 acres in Sealaska's share of these lands.

Discussions in the past have proposed creating one corporation that encompassed all the unrecognized communities and reduced any Tongass lands available for selection to 23,040 acres. If recognized, we anticipate Congress will want to make sure that any settlement treats at-large and village corporation shareholders in Southeast Alaska equitably by addressing the extra benefits those at-large Sealaska shareholders received over the last 50 years. As you recall, at-large Sealaska shareholders received more settlement monies and a greater share of corporate dividends from Sealaska than village corporation shareholders.²

We raise this issue now because we see the value in resolution of all outstanding Native land claims in Southeast Alaska at the same time and how much, if any, Tongass lands are conveyed to these unrecognized communities, necessarily implicates how much land Sealaska is actually entitled too. If you intend to address the claims, the best time to do it is now.

Sec. 2. Definitions.

We recommend adding several more definitions to avoid confusion:

1. "Conservation system unit" -- This term is referenced in paragraph 4(c)(1)(page 4, line 13) as one of the limitations on where Sealaska may select economic development or future site parcels. It is unclear whether this term is meant to mean "conservation system unit" as that term is defined by section 102(4) of the Alaska National Interest Lands Conservation Act (ANILCA) or not.
2. Sites with "traditional and recreational use value" -- This term is used in paragraph 3(b)(2)(page 2, line 3).

² A joint letter from the Departments of Interior and Agriculture to Congressman Don Young examines this issue in greater depth. See Letter from the Departments of Interior and Agriculture to Chairman Young, House Committee on Resources (July 24, 1996)(letter attached to the Appendix to the Statement of Deborah L. Williams, Special Asst. to the Secretary for Alaska, U.S. Dept. of Interior before the Senate Committee on Energy and Natural Resources Concerning S.967, a bill to Amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act (July 29, 1997)), available at <http://ftp.resource.org/gpo/reports/105/sr119.105.txt>.

3. “Unreasonably restricted or impaired” – This phrase is used to define a standard for Sealaska management of access to “Certain Native Sites” under subparagraph 4(d)(4)(B)(page 5, lines 14-15).
4. “Substantial Completion” – This phrase is used to measure compliance with the timeline for conveyances to Sealaska Corporation in paragraph 4(a)(2)(p.3-lines 30-32). Does this term refer to some particular number of acres or would interim conveyance under section 22j of ANCSA work? How much completion of conveyances qualifies as “substantial completion”?

Sec. 3. Selections in Southeast Alaska

(a) Selection by Sealaska. This subsection was rewritten and restructured as compared to your July 2010 draft substitute. The subsection provides that all lands conveyed pursuant to this bill are to be treated as ANCSA lands subject to public easements under section 17(b), valid existing rights under 14(g), and the Alaska National Interest Lands Conservation (ANILCA) land bank protections:

We agree with moving the reference to the Alaska Lands Bank to this subsection. Although the explicit reference to section 17(b) is intended to respond to widespread concerns about public access, this amendment is undermined by other provisions that substantially modify how 17(b) easements will be utilized and managed, in Southeast Alaska, including provisions that authorize Sealaska to apply different and ill-defined standards for granting or restricting such access. Such a standard is provided in section 4(d)(4)’s condition that public access to undefined “Certain Native Sites”³ will not be “unreasonably restricted or impaired.”⁴ Ultimately, regardless of what standard applies to which category of lands, section 4(d)(5) makes any decisions by Sealaska unreviewable by denying aggrieved persons their day in court.⁵

The difficulty regarding the latter issue is magnified because the February 2011 discussion draft drops a sentence previously inserted in the July 2010 draft substitute for S.881 that read: “Any road for which a public easement is conveyed pursuant to section 17(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(b)) shall not be closed by Sealaska.” The Discussion Draft replaces this definitive language with undefined and vague language, such as the phrase “unreasonably restrict or impaired” contained in section 4(d)(4)(B) (page 5, lines 14-15).

³ Presumably, this phrase refers to “Sites with Traditional and Recreational Use Value” referenced in section 3(b)(2), at page 2, line 4.

⁴ See page 5, lines 14-15.

⁵ See page 5, lines 21-22.

(b) Withdrawal of Land.— The lack of legal descriptions and individual maps for all the parcels Sealaska seeks in Section 3, makes it impossible for Congress and the public to know with specificity what public lands are being withdrawn.

- (1) This paragraph references lands identified by Sealaska for clearcut logging and identified on maps referenced as “Attachment A (Maps 1 through 8).”

Our review of the maps and previous data indicate that these 3(b)(1) lands comprise approximately 80,018 acres of land. Although the discussion draft narrative indicates that the Keete parcel was reduced 40 percent to meet concerns, our review indicates a reduction of only 26 percent. Dropping the Keete – North Mabel section (#242) would reduce the size of this parcel an additional 10 percent.

A significant concern raised at the listening sessions was that current fish and wildlife habitat standards on private lands in Alaska are inadequate. We support the call for application of federal riparian and beach fringe standards on lands conveyed to Sealaska for clearcut logging.

- (2) The provision allowing Sealaska to select a new category of lands – “Sites with Traditional and Recreational Use Value” – remains one of the most controversial parts of the legislation. What does the phrase “traditional and recreational use value” mean, how is such value determined, and who decides whether this criterion is met for a particular site? If this phrase is interpreted as a prerequisite for lands selected under this paragraph, how can sites like Pegmatite Mountain qualify? If a site must have “traditional and recreational use value” to qualify for selection as a future site, how can energy development of that site, like anticipated Spring Creek Hot Springs (aka Bailey Bay), be consistent with this selection?

Other prospective sites of concern due to conflicts with existing patterns of public uses include Dog Cove, at the mouth of the Naha Legislated LUD II area. According to Sealaska, this site is slated for ecotourism development. Ironically, Sealaska wants to clearcut lands identified in McKenzie Inlet, which includes Old Tom’s Creek southeast of Hollis on Prince of Wales Island. This old-growth cedar-dominated watershed is used extensively by local lodges and guides because of its high fish and wildlife values.

Finally, although the draft bill narrative does not indicate that the proposed site at Clover Creek was dropped, this controversial site is no longer referenced on the map. We applaud this action.

- (3) Traditional and Customary Trade and Migration Routes – We appreciate that these sites are subject to the prohibitions relating to commercial

logging or mineral development contained in paragraph 4(e)(1).⁶ We further recommend shifting the conditions limiting site improvement activities on these sites under paragraph 4(f)(5)⁷ to subsection 4(e) for clarity's sake.

(c) Sites with Sacred, Cultural, Traditional, or Historic Significance.— The discussion draft's narrative on your web site explains that the purpose of this paragraph is to define the selection process for up to 3,600 acres of Native cultural, traditional, historic and sacred sites that Sealaska will identify in the future. There is a significant divergence of opinion within the Native community about conveying lands traditionally owned by local clans to Sealaska as past bills proposed, and as your discussion draft currently proposes. We respect the position of the tribes on this question.

In addition, we fully support your decision to drop the “confusing, contentious, complex, and ultimately damaging” encroachment on the Hoonah Indian Association's unique government-to-government relationship with the National Park Service in managing Glacier Bay National Park. We hope your responsiveness to tribal concerns continues.

(d) Forest Development Roads. — Because an easement, whether exclusive or not, is an interest in land that may be conveyed, the bill should clarify that BLM will survey the boundaries of the easement and deduct the acreage from Sealaska's remaining entitlement.

Paragraph (4) allows access and “use of the log [dump] identified on the maps [in Shipley Bay]”⁸ and paragraph (6) grants Sealaska “a right to, construct a new log transfer facility and log storage area” at Van Sant Cove.⁹ First, a large chunk of the Sealaska selection on North Kosciusko encompasses the intense karst of Mount Francis and the streams and rivers that flow from it that we had hoped to safeguard by adding the entire Kosciusko Island Geological Area to the Calder-Holbrook Legislated LUD II area. Unfortunately, the proposed Western Kosciusko Conservation Area does do so. We request the proposed bill be changed to do so. We recommend that Sealaska not receive any lands north of the bridge that must be rebuilt, across the Trout Creek. If this is done, then Sealaska will not need access to the log dump at Shipley Bay.

Secondly, the Alaska Department of Environmental Conservation (ADEC) is best equipped to decide whether use of the log dump at Shipley Bay or construction of a dump at Van Sant Cove is consistent with Alaska's water quality standards and antidegradation policy, not Congress. The U.S. Environmental Protection Agency recently transferred the responsibility to implement the general National Pollutant Discharge Elimination System (NPDES) permits for log dumps and log storage areas to ADEC on October 31, 2008.¹⁰

⁶ See page 5, lines 26-27.

⁷ See page 6, lines 2-6.

⁸ Page 3, lines 15-16.

⁹ Page 3. Lines 19-20.

¹⁰ For more information, go to <http://www.dec.state.ak.us/water/npdes/AboutAPDES.htm>.

Further, we question the need for the corridor to Van Sant Cove as identified on map 3 of Attachment A. If, as we hope, Sealaska's proposed North Kosciusko parcel is dropped and the proposed conservation area expanded to encompass and safeguard the entire Kosciusko Island Geological Area, this easement and proposed road construction will be unnecessary. Map 3 of Attachment A indicates that there are already roads built that could be extended to provide shorter access to Van Sant Cove from the northwest, if necessary. The identified easement also looks in excess of what Sealaska reasonably needs and the proposed location will likely compromise the significant karst and cave resources the bill purports to conserve in section 6.¹¹ At a minimum, this route must avoid any portion of the Van Sant Cove geologic Special Interest Area and limit width of right-of-way to the minimum necessary.

Finally, please add language to paragraphs (5) and (6) to clarify that Sealaska's "right to construct" a "new road" or a "new log [dump]" will not come at taxpayer expense – all the costs associated must be paid for by Sealaska, just as it has paid for all infrastructure associated with development of its timber base within the existing withdrawal areas.

Sec.4. Conveyances to Sealaska Corporation

(a) Timeline for Conveyance – In order to convey legal title to public property, the government issues a patent, which must include a survey of the described property. Given the quantity and small size of the parcels sought by Sealaska that must be surveyed before conveyance, we believe the deadline for conveyance (substantial completion with 42 months of enactment) is unrealistic. One way to help minimize this survey issue would be for the bill to specifically reference the authority in section 22j of ANCSA,¹² which allows the government to convey lands under ANCSA that have not been surveyed by "interim conveyance."

We are also surprised that paragraph 2 of section 4(a) requires Sealaska to submit final, irrevocable priorities for lands selected for clearcut logging before Sealaska will know how many acres are required for sites that qualify as sacred, cultural, traditional, and historic sites. Regional corporations cannot know their final acreage entitlement under section 14(h)(8) until BLM completes the adjudication and survey of all the individual cemetery and historical sites selected under 14(h)(1). This subsection of S.881 turns the 14(h) formula established in ANCSA completely upside down by prioritizing conveyance of lands for clearcut logging before conveyance of cultural and historical sites identified under paragraph (2) of section 3(c).¹³

(b) Expiration of Withdrawals – Under subsection 403(d) of ALTAA, the submission of final priorities by any Native Corporation acts as a relinquishment of "any unprioritized,

¹¹ See page 8, lines 27-29.

¹² 43 U.S.C. 1621(j).

¹³ See pages 2-3, lines 30-42 and 1-4.

remaining selections” and terminates the withdrawals under sections 11 and 16 of ANCSA under the relinquished selections. S.881, however, chooses not to follow this approach.

Unlike subsection 4(d) of ALTAA, subsection 4(b) of the discussion draft does not terminate the withdrawals under the relinquished selections once Sealaska submits its final, irrevocable priorities.¹⁴ Instead, “expiration” of the withdrawals must wait until conveyance of all of Sealaska’s remaining entitlement.

(c) Limitation – The term “conservation system unit” in paragraph (1) should be defined, as should Land Use Designation I and II area in paragraph (3).¹⁵ The use of the term “Land Use Designation I” in paragraph (3) is confusing because the Forest Service no longer uses this LUD on the Tongass. What is it intended to mean and add to the bill?

(d) Applicable Easements and Public Access – Access has become one of the most controversial portions of the bill. Unfortunately, edits made to this section have neither made this subsection easier to understand nor addressed all the concerns. The biggest concern we have heard is that this bill substantially rewrites the 17b process by authorizing Sealaska to manage the easements.

- (1) In General – While we understand Sealaska intends this provision to provide for unprecedented public access, the discussion draft grants Sealaska practically limitless authority to override the public’s “right to” access.¹⁶ Then, subparagraph 4(d)(5)(B) makes denial of access by Sealaska unreviewable by any court.¹⁷ Many are concerned about the lack of an administrative or judicial mechanism to resolve disputes that might arise between Sealaska and affected members of the public over access.
- (2) Sacred, Cultural, Traditional and Historic Sites – Again, who will be the referee if a disagreement arises with Sealaska over whether there is “no reasonable alternative access around the land”?
- (3) Traditional and Customary Trade and Migration Routes – While public access is provided “across such linear conveyances,” is access provided across the one-acre sites at each terminus, and the additional eight sites along the Yakutat to Dry Bay Migration Route?
- (4) Certain Native Sites – Because there is no mechanism provided for resolving disputes between Sealaska and the public, specificity as to exactly what is

¹⁴ See page 3-4, lines 37-39 and 1-10)

¹⁵ See page 4, lines

¹⁶ See subparagraph 4(d)(5) (A) (page 5, lines 18-20).

¹⁷ See page 5, lines 21-22.

intended by the phrase “unreasonably restricted or impaired” would reduce confusion and uncertainty.

(5) Effect – our concerns with this provision are noted above, *supra* page 8.

(e) Conditions on Sacred, Cultural, and Historic Sites and Traditional and Customary Trade and Migration Routes – We support the conditions referenced here, but are concerned about confusion over the “purpose” language contained in referenced subsection (f). We also recommend treating the two conditions described in 4(f)(5) as covenants under section 4(e) for any lands conveyed to Sealaska under sections 4(d)(2) - (3). Finally, we question whether any site improvement activities allowed under paragraph (5) will qualify as “development” and consequently result in waiving Alaska Land Bank protections that may otherwise apply to those lands.

(f) Uses of Sacred, Cultural, Traditional, and Historic Sites and Traditional and Customary Trade and Migration Routes – As noted in our comments on the previous subsection, we think purpose language like this only creates confusion.

(g) Termination of Restrictive Covenants – We oppose this provision. We believe the covenants – particularly those that run with the land -- provide the surest mechanism for assuring long-term protection for these sites.

(h) Conditions on Certain Native Sites – We support these conditions.

(i) Escrow Funds for Withdrawn Lands – No objection.

(j) Guiding and Outfitting Special Use Permits or Authorizations – We will defer to the State of Alaska and commercial guides on this amendment.

Sec. 5. Miscellaneous

(a) Status of Conveyed Land – No objection.

(b) Environmental Mitigation and Incentives – No objection.

(c) No Material Effect on Forest Plan – Regardless, this bill threatens to unravel the wildlife habitat conservation strategy on Prince of Wales and surrounding islands. We also worry that choosing Sealaska’s preferred economic model for Prince of Wales Island will increase the difficulties in developing sustainable forest dependent jobs for Prince of Wales communities.

(d) Effect on Entitlement – As explained above, *supra* pages 2-3, we disagree with this assumption.

Sec. 6. Conservation Areas

This section proposes to amend ANILCA Section 508 by adding a new paragraph (13) entitled "Conservation Areas." First, given the essentially roadless character of most of the proposed designations, and to avoid re-inventing the wheel, we recommend that these lands be designated as legislated LUD II lands instead of creating a new conservation designation on the Tongass. Second, we recommend closing several gaps that we have discovered since 1990 in the LUD II designation in order to fully achieve the stated objective for these lands – that is to retain their essential roadless character in perpetuity. These include: 1) withdrawing designated LUD II lands from mineral entry; 2) requiring the State of Alaska to satisfy the same environmental, economic, and analytical requirements for any of its identified transportation needs as the Forest Service must follow for vital forest transportation links; and 3) amending the definition of Conservation System Units provided in section 102(4) of ANILCA to include legislated LUD II lands.

In addition to achieving the desired conservation objective for these lands, the above designation would also close the holes we see in the management requirements proposed for the new "Conservation Areas." For example, as a leader in the collaborative effort that developed the microsale program on Prince of Wales Island, we appreciate the value of this program, but before it is made a statutory management requirement, we believe further elaboration as to what standards apply is necessary. As explained in a recent Forest Service decision:

A Microsale is a timber sale consisting of dead or down timber which has been proposed by a prospective purchaser, and the District Ranger agrees to offer for bidding using an informal advertisement and short bid form. The maximum size of a Microsale would be 50 MBF.

Microsales are generally associated with a small number of trees. Dead or down trees within a distance of approximately 200 feet from [existing] roads, and are harvestable under Forest Plan (2008) Standards and Guidelines, may be eligible as a Microsale opportunity within the project area.¹⁸

Given that we understand the proposed conservation lands lack existing roads, and the LUD II designation enacted in Section 201 of the Tongass Timber Reform Act (TTRA), specifically allows "personal use of wood . . . for cabin logs, firewood, float logs, trolling poles, and other similar uses," the proposed management requirement is unnecessary. Likewise, proposed management requirements (A), (B), (D), and (E) duplicate existing direction for Legislated LUD II lands. As explained in the Joint Explanatory Statement of the Committee of Conference on

¹⁸USFS, Final Environmental Impact Statement for Central Kupreanof Project, Vol. A at 2-9, 10 (Feb. 2011), available at http://a123.g.akamai.net/7/123/11558/abc123/forestservic.download.akamai.com/11558/www/nepa/21809_FSPLT2_034134.pdf.

the TTRA, these lands “were chosen because of their critical importance for fish and wildlife habitat and their high value to tourism and recreation.” The Statement describes the specific management criteria for these lands, as follows:

- (1) Purpose: Areas allocated to LUD II are to be managed in a roadless State [sic] to retain wildland character, but this would permit wildlife and fish habitat improvement and primitive recreation development.
- (2) Management Implications: Commercial timber harvesting is not permitted. Timber can be salvaged only to prevent significant damage to other resources. Examples are removal of windfall in an important fish stream or control of an epidemic insect infestation.

Water and power developments are permitted if they can be designed to retain the overall primitive characteristics of the allocated area.

Roads will not be built except to serve authorized activities such as mining, power and water developments, aquaculture developments, transportation needs determined by the State of Alaska, and vital Forest transportation system linkages.

Permanent improvements such as fishways, fish hatcheries, or aquaculture sites may be built. Appropriate landscape management techniques will be applied in the design and construction of such improvements to minimize impacts on recreational resources.

Major concentrated recreational facilities will generally be excluded.¹⁹

The Forest Service subsequently made the management prescriptions for legislated LUD II lands even more specific in the 2008 Tongass Forest Plan Amendment, from pages 3-67 to 3-73.

Finally, we are concerned that the management requirements in the discussion draft fall short of safeguarding the significant karst and cave resources present on Eastern Kosciusko and Northern Prince of Wales. The 2008 Tongass Forest Plan Amendment designated these as Special Interest Areas to protect the existing characteristics and attributes of these lands, allow for fish and wildlife improvements “if they are compatible with the purposes for which . . . established,” and to consider withdrawing these areas from mineral entry if mineral development is not consistent with protecting each area’s unique features. We contend that mineral development is completely inconsistent with these protecting these significant cave and karst resources for perpetuity, as

¹⁹ See H.R. REP. NO. 101-931 at 16 (1990), *reprinted in* 1990 U.S.C.C.A.N. 6297, 6270.

well as the critical cultural, fish, and wildlife values recognized by Congress in designating the twelve LUD II areas in the TTRA.

Consequently, we respectfully request that this legislation apply the legislated LUD II designation, as amended to withdraw the designated lands from mineral entry and tighten the standards for meeting State transportation needs, to the proposed conservation designations or a wilderness designation for those lands which are adjacent to existing Tongass Wilderness. For those lands identified with significant karst and cave resources, we further recommend amending the LUD II designation to limit any activities on these lands to those consistent with protecting the unique features of the area.

Thank you for your careful attention to these comments and concerns. As always, we remain ready and willing to work with you, your staff, Sealaska and others to draft legislation that fulfills Sealaska's land entitlement in a fair and equitable fashion.

Best Regards,



Lindsey Ketchel
Executive Director



Buck Lindekugel
Grassroots Attorney