



**Testimony of Byron Mallott
Board Member, Sealaska Corporation
May 25, 2011**

**Before the
Committee on Energy & Natural Resources
Subcommittee on Public Lands and Forests
United States Senate
Legislative Hearing on S. 730**

Chairman Wyden and Members of the Subcommittee:

My name is Byron Mallott, and I am a Board Member for Sealaska Corporation, as well as a former President and CEO of Sealaska. I am from Yakutat, an Alaska Native village, and I am *Shaa-dei-ha-ni* (Clan Leader) of the *Kwaashk'i Kwáan*. My Tlingit name is *K'oo deel taa.a*.

I want to thank you for the opportunity to testify on behalf of Sealaska, the regional Alaska Native Corporation for Southeast Alaska, regarding S. 730, the "Southeast Alaska Native Land Entitlement Finalization Act," a bill that we refer to as *Haa Aaní* in Tlingit, which roughly translates into "Our Land" or "Our Place". "Haa Aaní" is the Tlingit way of referring to our ancestral and traditional homeland and the foundation of our history and culture.

Sealaska is the Alaska Native Regional Corporation for Southeast Alaska – one of 12 Regional Corporations established pursuant to the Alaska Native Claims Settlement Act ("ANCSA") of 1971. Our shareholders are descendants of the original Native inhabitants of Southeast Alaska – the Tlingit, Haida and Tsimshian people. Our ancestors once used and occupied every corner of Southeast Alaska and our cultural and burial sites can be found throughout the region. This legislation is a reflection of the significance of Our Land to our people and its importance in meeting our cultural, social and economic needs.

Forty years ago, as a young man, I traveled to Washington, DC as an advocate for the land claims of Alaska's Native people. Here I am again, forty years later, advocating for the equitable completion of Sealaska's land entitlement.

This legislation involves less than 85,000 acres from the Southeast Alaska region, a region with almost 23 million acres of land; 85% of that land is already in some form of conservation, wilderness or other protected status. Putting the Sealaska legislation in perspective, Sealaska's remaining land entitlement represents about one third of one percent of the total land mass in Southeast Alaska.

Yet this legislation also represents a significant opportunity for the public, Congress, the Administration, communities, environmental organizations and others to get it right for once in the Tongass. S. 730 achieves environmental balance, sustains jobs, ensures that Native people are viable participants in our economy, and returns important cultural and economic lands to Southeast Alaska's Native people.

S. 730 fulfills the promise of ANCSA because it:

- allows Sealaska to finalize its ANCSA land entitlement in a fair, meaningful way;
- redresses inequitable legal limitations on Sealaska's land selections by allowing it to select remaining entitlement lands from outside of withdrawal areas that, among the regional Alaska Native Corporations, uniquely constrained Sealaska;
- allows for Alaska Native ownership of sites with sacred, cultural, traditional and historic significance to the Alaska Natives of Southeast Alaska;
- creates the opportunity for Sealaska to support a sustainable rural economy and to support economic and job opportunities throughout Southeast Alaska;
- results in environmental benefits to the public because high conservation value lands important for sport and commercial fisheries, old growth wildlife reserves, areas important for local subsistence use and municipal watersheds will remain in public ownership; and
- provides a platform for Sealaska to continue to contribute to the Southeast Alaska economy, a region that is struggling overall, especially in our rural Native villages.

As discussed in detail in my testimony below, there is a compelling, equitable basis for supporting this legislation. There is no dispute that Sealaska has a remaining land entitlement, and this legislation does not give Sealaska one acre of land beyond that already promised by Congress. Sealaska has worked closely with the timber industry, conservation organizations, tribes and Native institutions, local communities, the State of Alaska, and federal land management agencies to craft legislation that provides the best possible result for the people, communities and environment of Southeast Alaska.

One thing has become extremely clear in our effort to resolve Sealaska's land entitlement – that every acre of Southeast Alaska is precious to someone. With the vast array of interests in Southeast Alaska, there is simply no way to achieve an absolute consensus on where and how Sealaska should select its remaining entitlement. However, we truly believe that this legislation offers a balanced solution as a result of our engagement with all regional stakeholders.

Our Dilemma

Alaska Native Corporations were tasked by Congress in 1971 with supporting the economic future of the Alaska Native community, in part by utilizing lands returned by the United States to Native people to develop resources that would advance the social, economic and cultural well-being of our tribal member shareholders.

We believe that Congress' core promise to Alaska Natives in ANCSA was that Alaska Natives would be able to develop sustainable economies so that we could work to achieve, for ourselves, economic parity with the rest of America. Socio-economic parity was a focal point of Alaska Natives and the Land, a congressionally-mandated study published in 1968, which was a foundational predicate for Congress to act on Alaska Native land claims.

Sealaska has utilized some of its land base to develop timber resources. Of the 290,000 acres Sealaska has received under ANCSA, Sealaska has harvested timber on 189,000 acres in accordance with modern forestry and forest engineering best management practices that protect water quality, anadromous fish habitat, wildlife habitat, forest soils, and the long term productivity of the forest. Selective harvesting and even-aged harvesting has been employed. Less than half (81,000 acres) of managed forest lands have been clear cut (even-aged harvest). Sealaska's timber business has been a powerful economic engine that has helped to support the regional economy for 30 years, and seventy percent of Sealaska's timber revenues have been shared with more than 200 Alaska Native Corporations, as required under sections 7(i) and 7(j) of ANCSA. Sealaska and its subsidiaries and affiliates expended over \$45 million in 2008 in Southeast Alaska. Over 350 businesses and organizations in 16 Southeast communities benefit from spending resulting from Sealaska activities. Sealaska provides over 363 full and part-time jobs with a payroll of over \$15 million. Including direct and indirect employment and payroll, Sealaska in 2008 supported 490 jobs and approximately \$21 million in payroll. Wherever it selects the land, Sealaska may choose to utilize some of its remaining entitlement to support sustainable forestry with a timber rotation that could sustain hundreds of jobs in our region, in perpetuity, while protecting important forest resources.

Unlike the other eleven Regional Native Corporations, Sealaska was directed to select the entirety of its entitlement lands only from within boxes drawn around just ten of the Native villages in Southeast Alaska. Forty-four percent of the ten withdrawal areas is comprised of salt water, and multiple other factors limit the ability of Sealaska to select land within the boxes. This has made it difficult to make equitable selections. No other Regional Corporation was treated in this manner under ANCSA.

To date, Sealaska has selected 290,000 acres of land under ANCSA from within the withdrawal boxes. Based on Bureau of Land Management ("BLM") projections for completion of the Section 14(h)(8) selections, and our own estimates, the remaining entitlement to be conveyed to Sealaska is between 65,000 and 85,000 acres of land. The only remaining issue is where this land will come from. Of the lands available to Sealaska today within the ANCSA withdrawal boxes:

- 270,000 are included in the current U.S. Forest Service inventory of roadless forestland;
- 112,000 acres are comprised of productive old growth;
- 60,000 acres are included in the Forest Service's inventory of old growth reserves; and
- much of the land is comprised of important community watersheds, high conservation value areas important for sport and commercial fisheries and/or areas important for subsistence uses.

The Sealaska legislation allows Sealaska to move away from sensitive watersheds and roadless areas, to select a balanced inventory of second growth and old growth, and to select most of its remaining ANCSA lands on the existing road system, preserving on balance as much as 40,000 acres of productive old growth, much of which is inventoried “roadless old growth”.

Why is Sealaska Corporation Different?

A common misperception of the Sealaska bill is that Sealaska is required to select its Native lands from within the 10 withdrawal areas in Southeast Alaska because Sealaska “asked for it”. This perception is reflected in opinion pieces in Alaska newspapers and has been shared with Members of the House and Senate Committees of jurisdiction. We therefore believe this misconception should be addressed here.

ANCSA authorized the distribution of approximately \$1,000,000,000 and 44,000,000 acres of land to Alaska Natives and provided for the establishment of 12 Regional Native Corporations and more than 200 Village Corporations to receive and manage the funds and land to meet the cultural, social, and economic needs of Native shareholders.

Under section 12 of ANCSA, each Regional Corporation, other than Sealaska, was authorized to receive a share of land based on the proportion that the number of Alaska Native shareholders residing in the region of the Regional Corporation bore to the total number of Alaska Native shareholders, or the relative size of the area to which the Regional Corporation had an aboriginal land claim bore to the size of the area to which all Regional Corporations had aboriginal land claims. While each other Regional Corporation received a significant quantity of land under section 12 of ANCSA, Sealaska received land only under section 14(h) of that Act.

Sealaska did not receive land in proportion to the number of Alaska Native shareholders, or in proportion to the size of the area to which Sealaska had an aboriginal land claim, in part because, in 1968, some compensation was provided to the Tlingit and Haida Indians by the U.S. Court of Claims, which determined that the Tlingit and Haida Indians were entitled to recover \$7.5 million for the taking of the 17 million acre Tongass National Forest and 3.3 million acre Glacier Bay National Park.

The 1968 Court of Claims payment should be viewed in context with the universal settlement reached by Congress just three years later that allowed for the return of 44 million acres to Alaska’s Native people. With a population that represented more than 20 percent of Alaska’s Native population in 1971, Southeast Alaska Natives ultimately will receive title to only 1 percent of lands returned to Alaska Natives under ANCSA.

Moreover, the 1968 settlement provided by the Court of Claims did not compensate the Tlingit and Haida for 2,628,207 acres of land in Southeast Alaska also subject to aboriginal title. These lands became an important basis for the participation of the Southeast Alaska Natives in the settlement in 1971. The court also determined the value of the lost Indian fishing rights at \$8,388,315, but did not provide compensation for those rights. These rights were pursued through a property claims action before the Indian Claims Commission, originally filed in 1954,

but there was no decision on the merits when ANCSA passed in 1971. The Commission subsequently ruled that ANCSA extinguished such claims and the proceeding became a moot.

Sealaska ultimately would be entitled to recover as much as 375,000 acres of land under ANCSA. However, under the terms of ANCSA, and because the homeland of the Tlingit, Haida and Tsimshian people had been reserved by the U.S. government as a national forest, the Secretary of the Interior was not able to withdraw any land in the Tongass for selection by and conveyance to Sealaska. The only lands available for selection by Sealaska in 1971 were slated to become part of the Wrangell-St. Elias National Park or consisted essentially of mountain tops.

For this reason, in the early 1970s, Sealaska requested that Congress amend ANCSA to permit Sealaska to select lands in Southeast Alaska, particularly located near its villages. Congress accomplished this by offering to Sealaska and the Southeast villages the opportunity to make its selections from within 10 withdrawal boxes established under ANCSA for the 10 Southeast Native villages recognized under that Act. In 1976, Congress granted that right.

In short, in the 1970s Sealaska sought areas from which to make selections because, at that time, Southeast Alaska's Native people had no other place to go in the Tongass, the very homeland of Southeast Alaska's Native people. The suggestion that Alaska's Native people invited their own exclusion from their Native homeland is an idea that any compassionate witness to our history should find repugnant. It was a choice between something limited or nothing at all. Hardly a choice.

S. 730 addresses problems associated with the unique treatment of Sealaska under ANCSA and the unintended public policy consequences of forcing Sealaska to select within the existing ANCSA withdrawals. The legislation presents to Congress and to this Administration a legislative package that will result in public policy benefits on many levels. S. 730 allows Sealaska to select from alternative, well defined withdrawals areas in Southeast Alaska. The legislation enables the conveyance of the final acres to which Sealaska is entitled—and not one acre more.

Historic pressures resulted in the political marginalization and spatial confinement of Native people in Southeast Alaska, documented in “A New Frontier” (discussed directly below), including federal pressures to prevent Native claims from impacting the timber industry. These pressures no longer (we hope) restrict the decisions of either the Congress or the Forest Service in pursuing a legislative solution that will enable Sealaska to finalize its Native entitlement in a manner that is both equitable and results in minimal impacts to other interests in the Tongass.

Observers unfamiliar with ANCSA sometimes suggest that the Sealaska legislation might somehow create a negative precedent with respect to Alaska Native land claims. This seems odd in the context of the history of the Tongass and its impact on the Southeast settlement. Moreover, ANCSA has been amended more than 30 times. ANCSA was and remains a congressional undertaking, and as a statute, it is organic. As observed by Senator Mark Begich at a hearing on this bill before the Senate Subcommittee on Public Lands and Forests in October 2009, Congress has, on multiple occasions, deemed it appropriate to amend ANCSA to address in an equitable manner issues that were not anticipated by Congress when ANCSA passed.

Additional Observations: Why Native Land Claims Are Unique in the Tongass

Two documents attached to this written testimony present an historical perspective on the long struggle to return lands in the Tongass to Native people: (1) the draft document funded by the Forest Service and authored by Dr. Charles W. Smythe, “A New Frontier: Managing the National Forests in Alaska, 1970-1995” (1995) (“A New Frontier”); and (2) a paper by Walter R. Echo-Hawk, “A Context for Setting Modern Congressional Indian Policy in Native Southeast Alaska (“Indian Policy in Southeast Alaska”).

The findings and observations summarized below are to be attributed to the work of Dr. Smythe and Mr. Echo-Hawk. For the sake of brevity, we have summarized or paraphrased these findings and observations. We encourage people with an interest in the history of the Tongass generally, or in this legislation specifically, to take the time to read these documents in full.

Dr. Smythe’s research, compiled in “A New Frontier”, found, among other things:

- By the time the Tongass National Forest was created in 1908, the Tlingit and Haida Indians had been marginalized. As white settlers and commercial interests moved into the Alaska territory, they utilized the resources as they found them, often taking over key areas for cannery sites, fish traps, logging, and mining.
- The Act of 1884, which created civil government in the Alaska territory, also extended the first land laws to the region, and in combination with legislation in 1903, settlers were given the ability to claim exclusively areas for canneries, mining claims, townsites, and homesteads, and to obtain legal title to such tracts. Since the Indians were not recognized as citizens, they did not have corresponding rights (to hold title to land, to vote, etc.) to protect their interests.
- For decades prior to the passage of ANCSA, the Forest Service opposed the recognition of traditional Indian use and aboriginal title in the Tongass National Forest. As late as 1954, the Forest Service formally recommended that all Indian claims to the Tongass be extinguished because of continuing uncertainty affecting the timber industry in Southeast Alaska.
- On October 7, 1959, the U.S. Court of Claims held that the Tlingit and Haida Indians had established their claims of aboriginal Indian title to the land in Southeast Alaska and were entitled to recover compensation for the uncompensated taking of their lands, and for the failure to protect their hunting and fishing rights.
- The efforts by the Interior Department in the 1930s and 1940s to establish reservations in Southeast Alaska greatly alarmed the Forest Service – which at the time opposed the principle of aboriginal rights and its serious conflict with Forest Service plans for a pulpwood industry in Alaska.
- The policy of the Roosevelt Administration, with Harold Ickes as Interior Secretary, was to recognize aboriginal rights to land and fisheries in Alaska and to support efforts to provide a land and resource base to Native communities for their economic benefit. Following hearings on the aboriginal claims related to the protection of fisheries in the communities of Hydaburg, Klawock and Kake, Secretary Ickes

- The judgments of the Department of the Interior were troubling to the Forest Service. If realized, the whole timber industry in southeast Alaska would be jeopardized. The Forest Service's ability to make timber sales would be in doubt.
- The Department of Agriculture later expressed its agreement with the efforts of the U.S. Senate to substantially repeal the Interior Secretary's authority to establish the proposed reservations in Southeast Alaska.

Walter Echo Hawk's paper, "Indian Policy in Southeast Alaska", observes, in part:

- The creation of the Tongass National Forest was done unilaterally, more than likely unbeknownst to the Indian inhabitants.
- The Tongass National Forest was actually established subject to existing property rights, as it stated that nothing shall be construed "to deprive any persons of any valid rights" secured by the Treaty with Russia or by any federal law pertaining to Alaska. This limitation was essentially ignored.
- A Tlingit leader and attorney William Paul won a short-lived legal victory in the Ninth Circuit Court of Appeals in *Miller v. United States*, 159 F. 2d 997 (9th Cir. 1947), which ruled that lands could not be seized by the government without the consent of the Tlingit landowners and without paying just compensation.
- To combat this decision, federal lawmakers passed a Joint Resolution authorizing the Secretary of Agriculture to sell timber and land within the Tongass National Forest, "notwithstanding any claim of possessory rights" based upon "aboriginal occupancy or title." This action ultimately resulted in the *Tee-Hit-Ton Indians v. United States* decision, in which the U.S. Supreme Court held that Indian land rights are subject to the doctrines of discovery and conquest, and "conquest gives a title which the Courts of the Conqueror cannot deny." 348 U.S. 272, 280 (1955). The Court concluded that Indians do not have 5th Amendment rights to aboriginal property. The Congress, in its sole discretion, would decide if there was to be any compensation whatsoever for lands stolen.

S. 730: A Legislative Solution with Significant Public Policy Benefits

Alaska's congressional delegation has worked hard to ensure that the fair settlement of Sealaska's Native land claims is accomplished in a manner that may have the greatest benefit to all of Southeast Alaska with the least possible impact on individuals, communities, federal and state land management agencies, and other interested stakeholders.

Thanks to the hard work of Alaska's congressional delegation, this legislation largely is in symmetry with the goals of the Obama Administration for the Tongass, which has worked to protect roadless areas and accelerate the transition away from forest management that relied on old growth harvesting. The Administration has been clear that it wants to help struggling communities in rural Alaska. The Administration also has dedicated unprecedented resources to working with American Indian and Alaska Native communities nationwide. This legislation

helps to finalize Sealaska's Native entitlement in an equitable way, while supporting a transition by Sealaska to second growth harvesting and maintaining rural Southeast Alaska jobs.

Without legislation to amend ANCSA, Sealaska will be forced either to select and develop roadless old growth areas within the existing withdrawals or shut down all Native timber operations, with significant negative impacts to rural communities, the economy of Southeast Alaska, and our tribal member shareholders. This legislation proposes an alternative: S. 730 would permit Sealaska to select its remaining entitlement lands from outside of the ANCSA withdrawal boxes. The alternative land pool from which Sealaska could select under S. 730 includes forestland suitable for timber development, but commits Sealaska to select a great deal of second growth in lieu of the old growth available to Sealaska today. In fact, the legislation ultimately would preserve as much as 40,000 acres of old growth, and even more inventoried roadless acres.

S. 730 would permit Sealaska to select 3,600 acres of land as sacred and cultural sites, and 5,000 acres of small parcels of land sometimes referred to as "Native futures sites". Under the terms of the legislation, no timber or mineral development would be permitted on sacred sites or Native futures sites. Because Sealaska would be permitted to select these sites in lieu of timberlands, these provisions reduce overall timber acres available to Sealaska by 8,600 acres.

Although Sealaska would thus give up "economic" assets under the proposed legislation, we believe the Southeast Alaska Native community will benefit because 3,600 acres of sacred sites will be returned to Native ownership. The community will also benefit from the 30 smaller selections (Native futures sites) that would be made available for development as green energy (tidal, geothermal, or run-of-river hydro) sites, bases for ecotourism or cultural tourism, or simply to exist as sites in Native ownership; in fact, several futures sites are traditional village sites. By permitting Sealaska to select a handful of small parcels for such alternative uses, S. 730 helps to preserve Native culture in perpetuity, ensures that the Tongass remains a Native place, and provides the catalyst for creating new sustainable economies within the Tongass.

The public benefits of this legislation also extend far beyond Sealaska Corporation and its shareholders. Pursuant to a revenue sharing provision in ANCSA, Sealaska distributes 70 percent of all revenues derived from the development of its timber resources - more than \$315 million since 1971 - among all of the more than 200 Alaska Native Corporations.

As discussed throughout this legislation, Sealaska's land legislation strategy was driven in large part by conservation organizations' stated public goals of "protecting roadless areas", "protecting old growth reserves", "accelerating the transition to second growth" and creating alternate economies for Southeast Alaska.

Finally, movement toward completion of Sealaska's ANCSA land entitlement conveyances will benefit the federal government. This legislation allows Sealaska to move forward with its selections, which ultimately will give the BLM and the Forest Service some finality and closure with respect to ANCSA selections in the region.

The Forest Service's Plans for the Tongass: Impact of S. 730 on Tongass Management

The U.S. Forest Service has, in the past, expressed concern that S. 730 could impact its ability to harvest second growth to support Southeast Alaska mills, and could impact other goals laid out in the 2008 Amendment to the Tongass Land Use Management Plan.

We believe Sealaska's offer to leave behind roadless old growth timber in the Tongass is significant; it is a proposal we believe this Administration should support based on its goals to protect these types of forest lands. We also believe that the lands proposed for conveyance under S. 730 conflict minimally with and may ultimately benefit the Forest Service's Transition Framework for the Tongass.

The Forest Service uses various classifications to define the condition of its second growth. The term "suitable" means that forestland is available for harvest. The term "unsuitable" refers to lands that are not available for harvest under normal harvest prescriptions. For purposes of our calculations, unsuitable lands exclude second growth in conservation designations, but include second growth available for restoration and stewardship contracting. Based upon our calculations, the following conclusions can be made:

- There are 428,972 acres of second growth on the Tongass National Forest.
 - 57% is available for harvest – suitable acres
 - 43% is not available for harvest, except through restoration and stewardship contracts – unsuitable acres
- Of the oldest second growth (over 40+ years):
 - 44% is suitable for harvest
 - 56% is unsuitable
- Sealaska selection of second growth would include approximately (an approximation is made due to differences between the bills introduced in the Senate and the House):
 - 7% of the total second growth
 - 9% of the suitable second growth
 - 4% of the unsuitable second growth
- Sealaska selections of age 40+ second growth include (an approximation is made due to differences between the bills introduced in the Senate and the House):
 - 12% of the total 40+ second growth
 - 9% of the 40+ second growth is from suitable acres
 - 4% of the 40+ second growth is from unsuitable acres

For the Forest Service, the most significant limitation to an accelerated transition to second growth is the large number of acres of older second growth that is in restricted timber use status. If these restrictions were modified or removed, there could be an acceleration to exclusive second growth harvesting.

If S. 730 were to pass today, under current standards and guidelines, the Forest Service would retain at least 223,000 acres of suitable second growth. In addition, it retains 177,000 acres of unsuitable second growth that is available for stewardship and restoration. We believe

the total pool of lands available to the Forest Service is more than sufficient to support log demand for the Forest Service's Transition Framework.

We also believe that Sealaska and the Forest Service agree that, to achieve a successful transition to second growth, the Forest Service needs Sealaska to remain active in the timber industry in the Tongass, because Sealaska's operations support regional infrastructure (including roads and key contractors), development of markets (including second growth markets), and development of efficient and sustainable second growth harvesting techniques. In short, the likely success of the Forest Service's transition to second growth is significantly improved if Sealaska second growth operations are in close physical proximity to Forest Service second growth operations.

Sealaska has 30 years of experience developing and distributing Southeast Alaska wood to new and existing markets around the world. Sealaska recently has pioneered second growth harvesting techniques in Southeast Alaska and is active in this market. Partnership between Sealaska and the Forest Service, collaborating to build new markets based on second growth, will have a better chance of success.

This legislation, which moves Sealaska into some older second growth, ensures that Sealaska will engage as an early partner with the Forest Service in second growth market development, while continuing to provide local jobs and supporting the local economy.

It is also important to note that regardless of whether Sealaska selects within the existing ANCSA withdrawal boxes or outside of those boxes, Sealaska must select its remaining entitlement lands from within the Tongass National Forest. In other words, by selecting Native entitlement lands, whether under existing law or the proposed legislation (S. 730), Sealaska's land selections will incorporate lands suitable for timber development and may require the Forest Service to adjust land management plans to account for such selections. However, the ability to make minor management adjustments is built into the revised Tongass Land Management Plan.

Local Impact of S. 730: Saving Jobs in Rural Southeast Alaska

The Southeast Alaska region lost about 750 jobs in 2009, the largest drop in at least 35 years. In January 2011, the Alaska Department of Labor and Workforce Development reported the unemployment rate for the Prince of Wales—Outer Ketchikan census area at approximately 16.2 percent. In October 2007, the Alaska Department of Labor and Workforce Development projected population losses between 1996 and 2030 for the Prince of Wales—Outer Ketchikan census area at 56.6 percent. Official unemployment rates severely underreport the actual level of regional unemployment, particularly in our Native communities.

While jobs in Southeast Alaska are up over the last 30 years, many of those jobs can be attributed to industrial tourism, which creates seasonal jobs in urban centers and does not translate to population growth. In fact, the post-timber economy has not supported populations in traditional Native villages, where unemployment among Alaska Natives ranges above Great Depression levels and populations are shrinking rapidly.

We consider this legislation to be the most important and immediate “economic stimulus package” that Congress can implement for Southeast Alaska. Sealaska provides significant economic opportunities for our tribal member shareholders and for residents of all of Southeast Alaska through the development of our primary natural resource – timber. Sealaska and its subsidiaries and affiliates expended over \$45 million in 2008 in Southeast Alaska. Over 350 businesses and organizations in 16 Southeast communities benefit from spending resulting from Sealaska activities. We provide over 363 full and part-time jobs with a payroll of over \$15 million. Including direct and indirect employment and payroll, Sealaska in 2008 supported 490 jobs and approximately \$21 million in payroll.

We are proud of our collaborative efforts to build and support sustainable and viable communities and cultures in our region. We face continuing economic challenges with commercial electricity rates reaching \$0.61/kwh and heating fuel costs sometimes ranging above \$6.00 per gallon. To help offset these extraordinary costs, we work with our logging contractors and seven of our local communities to run a community firewood program. We contribute cedar logs for the carving of totems and cedar carving planks to schools and tribal organizations. We are collaborating with our village corporations and villages to develop hydroelectric projects. We do all of these collaborative activities because we are not a typical American corporation. We are a Native institution with a vested interest in our communities.

Our shareholders are Alaska Natives. The profits we make from timber support causes that strengthen Native pride and awareness of who we are as Native people and where we came from, and further our contribution in a positive way to the cultural richness of American society. The proceeds from timber operations allow us to make substantial investments in cultural preservation, educational scholarships, and internships for our shareholders and shareholder descendants. Through these efforts we have seen a resurgence of Native pride in our culture and language, most noticeably in our youth. Our scholarships, internships and mentoring efforts have resulted in Native shareholder employment above 80% in our corporate headquarters, and significant Native employment in our logging operations. To create jobs, Sealaska has sponsored new initiatives in Southeast Alaska like mariculture farming.

ANCSA authorized the return of land to Alaska Natives and established Native Corporations to receive and manage that land so that Native people would be empowered to meet their own cultural, social, and economic needs. S. 730 is critically important to Sealaska, which is charged with meeting these goals in Southeast Alaska.

Local Impact of S. 730: Diversification of the Southeast Alaska Economy

The proposed conveyance of sacred and cultural sites and the Native Futures sites offers new economic, cultural, and educational opportunities for our region. Our legislation would allow Sealaska to pursue a more diversified economic strategy and would support new jobs by empowering Sealaska to preserve and share with others the richness of Southeast Alaska’s natural and cultural history. Both the forest ecosystem and the people it supports define the Tongass. The Tongass has supported Alaska Native people for 10,000 years.

Sealaska is embracing a healthy, alternative paradigm for the cultural and economic revitalization of our Native and rural communities by selecting sacred and cultural and Native Futures sites as part of this legislation. As part of our commitment, Sealaska has established the following principles for the use and management of these sites:

- Sacred sites. These sites will be selected and managed to ensure an active Native role in the preservation and celebration of the rich Native fabric and history of Southeast Alaska. The sites are purely for sacred, cultural, historic and anthropologic preservation, research and education. Any site improvements would be in alignment with the historic and cultural purpose for which a site was selected, and such improvements must be consistent with the management plans for adjacent public lands. Public access would be preserved under sections 17(b) and 14(g) of ANCSA and the provisions of S. 730.
- Native Futures sites. These sites will be selected and managed to promote activities with minimal land use impacts. A few of these sites could be developed for their tidal, geothermal, or small hydroelectric potential, as sources of much needed alternative energy for the region. Some may simply be preserved as Native places, supporting children's cultural camps or traditional subsistence activities. Some sites might be used as a base for ecotourism and cultural tourism activities. Public access would be preserved under sections 17(b) and 14(g) of ANCSA and the provisions of S. 730.

Conservation Considerations

We were disheartened last year when a handful of environmental groups disseminated blatant misinformation about this legislation. We think these groups must view this legislation as a part of a larger compromise between development and conservation, and by publishing statements like "Stop the Corporate takeover of the Tongass", these groups chose to ignore the Native equitable and other public benefits of this legislation. This only hurts our communities and the people who live there, including those who survive on jobs created by Sealaska.

This legislation is fundamentally about the ancestral and traditional homeland of a people who have lived for 10,000 years in Southeast Alaska. For 145 years, people from across the western world have traveled to Southeast Alaska with an interest in the rich natural resources of the region – an area the size of Indiana. In the mid-1800s, Americans came to Southeast Alaska to hunt for whales. In the late-1800s, gold miners arrived. In the first half of the Twentieth century, the fishing industry built traps at the river entrances, depleting salmon populations. In the 1950s and 1960s, two pulp mills signed contracts with the United States that gave the mills virtually unlimited access to Tongass timber. In the meantime, Natives from the late-1800's through the 1930's often were being moved from their traditional villages and territory to central locations, in part for BIA schooling.

Some conservation groups represent the latest influx of people with an idea about what best serves the public interest in the Tongass. In fairness, the conservation community writ large has long fought to preserve the Tongass for its wilderness and ecological values, and often I have appreciated the balance that the conservation community seeks for the forest.

What I do not appreciate is environmentalism that does not recognize the human element – that people have to live in this forest. I do not accept environmentalism that does not recognize that the Tongass is a Native place. We welcome people to our homeland – but we do not appreciate the assault by some on our right to exist and subsist in the Tongass.

There are groups that consistently agree with us that we should have our land, but wish to decide – to the smallest detail – where that land should be. We have been asked to place as much as two million acres of conservation on the back of our legislation as the price for selecting lands that make cultural and economic sense to our people. Native people have always been asked to go second. Let's not forget that S. 730 addresses the existing land entitlement of the Native people of Southeast Alaska.

In attempting to resolve Sealaska's unfortunate dilemma in an equitable manner, the Alaska Congressional delegation has been careful to draft legislation to be in alignment with the current Administration's stated objectives for the Tongass and other national forests; specifically, to protect roadless areas, reduce harvesting of old growth, and accelerate transition to second growth management.

Moreover, while original withdrawal limitations make it difficult for Sealaska to meet its traditional, cultural, historic and – certainly – economic needs, these original withdrawn lands are not without significant and important public interest value. For example, approximately 85 percent of those lands now designated for withdrawal by Sealaska are classified by the Forest Service as designated roadless areas. A significant portion is Productive Old-Growth forest (some 112,000 acres), with over half of that being Old Growth Reserves as classified under the 2008 Amendment to the Tongass Land Use Management Plan. S. 730 allows these roadless old growth lands to return to public ownership, to be managed as the federal government and general public sees fit. On the other hand, if forced to select from the existing withdrawals, Sealaska will find itself in the insensible position of possibly building expensive roads into sensitive watersheds and pristine areas in order to continue even limited timber operations, an action contrary to our principles.

Some groups claim that “the lands that Sealaska proposes to select . . . are located within watersheds that have extremely important public interest fishery and wildlife habitat values.” They are correct in a general sense. We agree that all lands in our region are valuable; our federal lands and our Native lands should be managed responsibly. We acknowledge the need for conservation areas and conservation practices in the Tongass. This bill meets those goals.

More fundamentally, this is not a bill about timber. This is not a bill about how much land Congress chose to give to the Native people of Southeast Alaska. This legislation fundamentally recognizes that the Tongass National Forest is a Native place – that it can support our Native community.

Economic Development on Native Lands and Sealaska's Sustainable Forest Management Program

Sealaska has a responsibility to ensure the cultural and economic survival of our communities, shareholders and future generations of shareholders. Sealaska also remains fully committed to responsible management of the forestlands for their value as part of the larger forest ecosystem. At the core of Sealaska's land management ethic is the perpetuation of a sustainable, well-managed forest, which supports timber production while preserving forest ecological functions. Significant portions of Sealaska's classified forest lands are set aside for the protection of fish habitat and water quality; entire watersheds are designated for protection to provide municipal drinking water; and there are zones for the protection of bald eagle nesting habitat. To be very clear, Sealaska has harvested 189,000 of the 290,000 acres of land it owns; of which 81,000 acres have been clear cut over the last 30 years. The decision to clear cut or partial cut is not taken lightly, and is always based on the best science and best forest practices.

Sealaska re-plants, thins and prunes native spruce and hemlock trees on its lands, thereby maintaining a new-growth environment that better sustains plant and wildlife populations, and better serves the subsistence needs of our communities. In fact, Sealaska has invested a great deal of resources in improving its forest sustainability program, including investing in ongoing silviculture research, and reaching out to organizations like the Forest Stewardship Council to ensure best possible management practices. All of Sealaska's even aged second-growth forest that is ripe for precommercial thinning is managed accordingly, creating healthy young forests that provide wildlife habitat. Sealaska maintains a silviculture program that rivals the best of programs implemented by the Forest Service or private landowners. Our harvesting program as well as thinning and planting investments provide jobs for our shareholders and others in the region, and help maintain the ecological value of our forests.

In asking for your support for this legislation, we implicitly agree to assume a major economic risk by foregoing assured revenue from the harvesting of old growth timber on original withdrawal lands. We are also removing 8,600 acres from our timber base by selecting cultural sites and Native futures sites subject to timber harvest restrictions. We are committed to investing the time, money and hard work in progressive management of second growth stands, to capture alternative economies from forest management and to ensure that our place in the timber industry remains a sustainable, although realigned, component of the region's economy.

Finally, Sealaska is committed to using its land base to create alternative economies, revenues, and jobs through forest management strategies that include engagement in markets for the purchase of ecological services. To that end, we are monitoring developments related to carbon sequestration and incorporating this effort into our forest management and strategic plans.

Time is of the Essence

Timing is critical to the success of the legislative proposal before you today. Without a legislative solution, we are faced with choosing between two scenarios that ultimately will result in dire public policy consequences for our region. If S. 730 is stalled during the 112th Congress, either Sealaska will be forced to terminate all of its timber operations within approximately one

year for lack of timber availability on existing land holdings, resulting in job losses in a region experiencing severe economic depression, or Sealaska must select lands that are currently available to it in existing withdrawal areas. This legislation is consistent with President Obama's commitment to preserving more roadless areas, while immediately stimulating the rural economy in a severely impacted region.

Sealaska Recognizes the Importance of the Public Process

The alternative selection pool identified in the Sealaska bill is a product of an exceptional public process, including three previous Congressional hearings, more than a dozen meetings held by Senator Murkowski's staff in Southeast communities, and hundreds of community meetings held by Sealaska with the State of Alaska, mill owners and industry representatives, conservation groups, the Forest Service, the BLM, and Members of Congress and staff.

The Sealaska bill has the support of the full Alaska delegation and many residents, communities and tribes throughout Southeast Alaska and statewide:

- The legislation is supported by the National Congress of American Indians, the Intertribal Timber Council, the Alaska Federation of Natives, the ANCSA Regional Presidents & CEOs, the Central Council of Tlingit and Haida Indian Tribes of Alaska, and numerous local tribes throughout Southeast Alaska.
- The Alaska Forest Association – which works with and represents Southeast Alaska's remaining timber mills – fully supports the Sealaska legislation.
- The Sealaska bill represents a net gain to the U.S. Forest Service of roadless and old growth timber in the Tongass National Forest. The legislation is fundamentally aligned with the goals of the Obama Administration.
- In autumn 2010, Davis, Hibbitts & Midghall, Inc. (DHM Research) conducted two telephone benchmark surveys to assess the values and beliefs of Southeast Alaska residents, and measure awareness of and support for Sealaska's land bill. 90 percent of Southeast residents describe the economic health of Southeast Alaska as either poor, very poor or in a crisis. 88 percent of Southeast residents agree that the Tongass should be managed in a way that balances job creation and the protection of fish and wildlife habitats. Support for Sealaska's land legislation significantly outweighed opposition, with Southeast resident responding in support outweighing those opposed by 58 percent.

Some critics of this bill want to shut down this legislation because it might mean that Sealaska selects lands on "their" islands, in "their" backyard, near "their" favorite spots. At some level, this is understandable. But every acre of the Tongass is precious to someone and we need somewhere to go to fulfill our entitlement. Sealaska has been careful to select lands that are part of the Forest Service's timber base. Sealaska has compromised and adjusted its legislation several times on the basis of community and even individual concerns.

Senators Lisa Murkowski and Mark Begich Have worked to Resolve Federal, State, and Local Concerns

As discussed above, this legislation has been subject to an exhaustive public process over the course of many years. To address federal, state and local community concerns, Senator Lisa Murkowski and Senator Mark Begich have re-introduced revised legislation in the 112th Congress that includes significant amendments to legislation introduced in the 111th Congress:

- **Economic lands:** The land selection pool on northern POW has been removed. The land pool on Koscuisko Island will be reduced by 6,079 acres. Selections at Keete/Kassa/Mabel will be reduced by 3,070 acres. A new selection area has been added on Kuiu Island, and the Polk Inlet and Tuxekan withdrawal areas have been expanded. Commercial guides are granted an extended right of access – specifically, one additional permit term of ten years – to economic lands.
- **Conservation Package:** The revised bill designates more than 150,000 acres of forestland, much of which is roadless old growth, for new conservation in the Tongass.
- **Native futures sites:** The revised legislation removes several Native futures sites, leaving 30 futures sites in the legislation. Sites removed include those for which specific concerns were raised in community meetings. The legislation has been amended to clarify that public access “across” futures sites is permitted, and that commercial guides are granted an extended right of access to the sites.
- **Sacred sites:** The revised legislation authorizes Sealaska to select 3,600 acres of new sacred sites, 90 percent of which must be selected within 15 years after passage of the bill. The revised legislation clarifies that these conveyances are subject to the procedures applicable to the selection of such sites under ANCSA.
- **Public access across sacred sites:** The legislation has been amended to provide that public access across sacred sites is permitted if “no reasonable alternative access” to adjacent public lands is available.
- **Use of sacred sites by Sealaska:** The legislation has been amended to clarify that, although Sealaska may utilize sacred sites for a broad array of reasons listed in the bill, Sealaska is limited to “site improvement activities” that are consistent with the sacred, cultural, traditional, or historic nature of the site and are not inconsistent with the management plans for adjacent public lands.
- **Glacier Bay:** The revised bill drops language that would require the National Park Service to enter into a memorandum of agreement with Sealaska and other Native entities in Southeast Alaska for the management of cultural resources in Glacier Bay.
- **Technical amendments:** The revised bill drops the Tribal Forest Protection Act and National Historic Preservation Act amendments.

Our Future in Southeast Alaska

Our people have lived in the area that is now the Tongass National Forest since time immemorial. The Tongass is the heart and soul of our history and culture. We agree that areas of the region should be preserved in perpetuity, but we also believe that our people have a right to reasonably pursue economic opportunity so that we can continue to live here. S. 730 represents a sincere and open effort to meet the interests of the Alaska Native community, regional communities, and the public at large.

It is important for all of us who live in the Tongass, as well as those who value the Tongass from afar, to recognize that the Tlingit, Haida and Tsimshian are committed to maintaining both the natural ecology of the Tongass and the Tongass as our home. We therefore ask for a reasoned, open, and respectful process as we attempt to finalize the land entitlement promised to our community 40 years ago. We ask for your support for S. 730.

Gunalchéesh. Thank you.