

TESTIMONY OF  
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Before the

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE  
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS AND MINING

Regarding S. 872  
The Unrecognized Southeast Alaska Native Communities  
Recognition and Compensation Act

October 8, 2015

Good afternoon Chairman Barrasso, Ranking Member Wyden, Senator Murkowski, and Members of the Subcommittee. I have traveled here today from Alaska to provide testimony regarding S. 872, a bill to provide for the recognition of five communities in Southeast Alaska in the Alaska Native Claims Settlement Act (ANCSA). Thank you for this opportunity to testify on this important issue to several thousand Alaska Natives; and a special thank you to Chairwoman Murkowski and Senator Sullivan for introducing this much needed legislation, and for taking on our worthy cause.

My name is Leo Barlow, and I have the great honor and responsibility of serving as a representative for the community of Wrangell on the Southeast Alaska Landless Corporation (SALC), which represents Alaska Natives enrolled through ANCSA to the Native villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell. The people I represent today have suffered an injustice for more than 40 years; an injustice the legislation currently before this Subcommittee would address.

In 1971, Congress enacted ANCSA to recognize and settle the aboriginal claims of Alaska Natives to their traditional homelands. ANCSA provided for establishment of Native Corporations to receive and manage funds and lands awarded in settlement of the claims of all Alaska Natives. While many villages throughout Alaska and Southeast Alaska were recognized and afforded the opportunity to establish Village or Urban Corporations and secure a Native land settlement, our five communities were denied these benefits of ANCSA. We have been fighting this injustice since ANCSA's passage.

Under ANCSA, as Alaska Natives we enrolled to one of thirteen Regional Corporations and also to the villages where we lived or to which we had a

historic, cultural and familial tie. For example, I enrolled to the region for Southeast Alaska, and also to the village of Wrangell, my home town, where my ancestors have lived for many generations. A total of 747 Alaska Natives enrolled to the Native village of Wrangell. Other members of our Landless Corporation enrolled to the four villages of Haines, Petersburg, Tenakee and Ketchikan. Those of us who enrolled to these five communities during the ANCSA process did so because these are our homelands and places of origin. Our families and clans originated in these communities.

In section 11 of ANCSA, Congress set forth a general process for determining eligibility for each “Native village” in Alaska. Native villages throughout the State of Alaska were listed in this section, and the Secretary of the Interior was charged with making determinations as to whether the listed villages met the eligibility requirements. For a number of reasons, however, there was a different process created for determining eligibility of Southeast Alaska Native villages in section 16 of ANCSA. These reasons included the previous Tlingit and Haida Indian Claims cash settlement, the existence of the Tongass National Forest, the existence of large timber contracts secured by powerful pulp companies, and the significant non-Native populations of certain communities. I would note that at least one of our communities – Tenakee – was at one time excluded from the Tongass National Forest through an Executive Order by President Roosevelt for purposes of an Indian Settlement. Therefore, the differing treatment due to creation of the Tongass National Forest was not justified in all circumstances.

Another significant difference between Southeast and non-Southeast Alaska communities in ANCSA was the fact that Section 11 of ANCSA provided an appeal right for non-Southeast communities left off of the list of eligible villages, while Section 16 of ANCSA failed to provide the same appeal right to Southeast villages. Three of our Coalition's villages (Ketchikan, Haines and Tenakee) brought protests against this inequitable treatment to the Alaska Native Claims Appeal Board of the U.S. Department of the Interior through appeals in 1974 and 1977. The Appeals were rejected because Section 16 made no provision for administrative reconsideration of the eligibility of villages in Southeast Alaska. Thus, we must appeal directly to Congress for help. You are our only recourse.

Southeast Alaska was the first area of Alaska with significant settlement by non-Natives because of the inviting climate and abundant resources in our homelands. Although we welcome non-Natives who have chosen to live in Southeast Alaska, their presence does not make our homes any less “Native” than other villages in Southeast Alaska. Nonetheless, this was a significant factor in the exclusion of our five communities from the list of eligible Southeast Native villages in ANCSA. This occurred despite the clear evidence that each of these Communities has historic, cultural, and traditional Alaska Native characteristics.

The 3,425 Natives who originally enrolled to Haines, Ketchikan, Petersburg, Tenakee, and Wrangell comprised over 20 percent of the shareholders of Sealaska Corporation -- our Regional Corporation for Southeast Alaska -- in 1972. Over the years we have received revenue-sharing distributions from Sealaska pursuant to section 7(j) of ANCSA, but have not enjoyed the social, economic and cultural benefits of owning shares in a Village, Urban, or Group Corporation. Many of the Village or Urban Corporations in our Region have brought significant economic benefits to their communities. Additionally, we have been deprived of the significant cultural benefit of owning an interest in lands located within and around our traditional homelands.

Some opponents argue that we have already seen the benefits of ANCSA due to “at-large” distributions through section 7(j) of ANCSA, and, therefore, have been treated fairly in ANCSA. These arguments clearly do not understand or comprehend the value of Native land ownership to our Native people. The connection to our land is what defines us as Native people – not the distributions. Establishment of these new ANCSA Corporations and conveyance of Native lands will truly provide us with the benefits of ANCSA that we have been deprived of for so long.

The history I am telling today is not based only on the opinions and conclusions made by Landless Natives. In 1993, Congress directed the Secretary of the Interior to prepare a report examining the reasons why the Unrecognized Communities had been denied eligibility to form Native Corporations under the Act. This report -- A Study of Five Southeast Alaska Communities (the ISER Report) -- strongly supports the conclusion that requirements for villages eligible to form Native Corporations were met by the Native villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell. The ISER Report noted that, with the exception of Tenakee, our communities appeared on early versions of Native village lists, and the subsequent omission was never clearly explained in any provision of ANCSA or in the accompanying conference report.

The ISER Report also indicated that the populations and percentage of Natives in each of our communities, as well as the historic use and occupation of the lands, were comparable to those Southeast Alaska communities recognized under ANCSA's original language. Prior to passage of ANCSA, each of the Unrecognized Communities had been involved in advocating for the settlement of the aboriginal claims of that community.

In short, the ISER Report found no meaningful distinction between the Native communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell and other communities listed in sections 14 or 16 of ANCSA, and thus no

justification for omission from the list of communities eligible to form Urban or Group Corporations under ANCSA.

Based on the history set forth above, it is clear that those of us who enrolled to the five Unrecognized Communities -- and our heirs -- have been unjustly denied the financial and cultural benefits of enrollment in a Village, Urban or Group Corporation. The legislation before this Subcommittee today proposes simply to correct a forty-four year wrong, and grant rights that we, the Native communities of Haines, Ketchikan, Petersburg, Tenakee and Wrangell, should have been given in 1971.

In summary, we are Southeast Alaska Natives. These villages identified in S. 872 are our traditional homelands. All we are asking is that Congress recognize that fact and provide us with what we deserve under law and equity: a chance to form ANCSA Corporations for our people and for future generation with ties to our traditional communities. Sadly, many of the original shareholders enrolled to these five communities have passed on and will never see this injustice resolved. I hope that you will help those of us original landless shareholders and our descendants finally secure recognition under ANCSA. It is long overdue.

In closing, Chairman Barrasso, Ranking Member Wyden, and Members of the Subcommittee, on behalf of the Southeast Alaska villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell, I want to once again express our extreme gratitude for your consideration of this important legislation and we urge you to support our efforts to be included in the benefits that ANCSA has brought to other Alaska Natives. I hope that this Subcommittee and the Senate will act quickly to ensure that we finally receive the recognition we have deserved for more than forty-four years.

Gunalcheesh (Thank You).