Statement of
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Deputy Director, Operations
Bureau of Land Management, Department of the Interior
Senate Energy & Natural Resources Committee
Subcommittee on Public Lands, Forests, & Mining
S. 872, Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act
October 8, 2015

Thank you for the opportunity to provide the views of the Department of the Interior on S. 872, the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act. S. 872 would amend the Alaska Native Claims Settlement Act (ANCSA) to authorize the five Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to organize as urban corporations, entitling each to receive land in southeastern Alaska.

The Department supports the goals of fulfilling ANCSA entitlements as soon as possible so that Alaska Native corporations may each have the full economic benefits of completed land entitlements. In recent years, the Bureau of Land Management (BLM) has maintained an accelerated pace in fulfilling entitlements pursuant to the ANCSA. To date, the BLM has fulfilled 96 percent of ANCSA and 95 percent of State of Alaska entitlements by interim conveyance, tentative approval, or patent. The BLM is committed to improving the Alaska land transfer process wherever opportunities exist. For example, the BLM has identified outdated and unnecessarily costly procedures required by a 42-year-old Memorandum of Understanding (MOU) with the State of Alaska and has developed a significantly faster, more accurate, and more cost effective method for land conveyances to the State. Using this modern approach will amount to large savings for the Federal government and fulfill the promise of the Alaska Statehood Act within the next fifteen years, a fraction of the time that would be required under the existing agreement between the state and the BLM. We have engaged the state regarding this significant opportunity and the need to revisit the 1973 MOU.

Background

ANCSA effected a final settlement of the aboriginal claims of Native Americans in Alaska through payment of $962.5 million and conveyances of more than 44 million acres of Federal land. Although it was impossible for Congress to have effected total parity among all villages in the state, there was a distinction made in ANCSA between the villages in the southeast and those located elsewhere. Prior to the passage of ANCSA, Natives in the southeast received payments from the United States pursuant to court cases in the 1950s and late 1960s, for the taking of their aboriginal lands. Because Natives in the Sealaska region benefitted from an additional cash settlement under ANCSA, the eligible communities received less acreage than their counterparts elsewhere in Alaska. Congress specifically named the villages in the southeast that were to be recognized in ANCSA; these five communities were not among those named. Despite this, the five communities applied to receive benefits under ANCSA and were determined to be ineligible. Three of the five appealed their status and were denied.

Notwithstanding the ineligibility of some communities for corporate status under ANCSA, all Natives potentially receive benefits from the ANCSA settlement. Alaska Natives in these five communities are enrolled as at-large shareholders in the Sealaska Corporation. The enrolled members of the five communities comprise more than 20 percent of the enrolled membership of the Sealaska Corporation, and as such, have received benefits from the original ANCSA settlement.

S. 872

S. 872 would amend ANCSA to authorize the five Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to organize as urban corporations, entitling each, upon incorporation, to receive one township of land (23,040 acres) from local areas of historical, cultural, traditional and economic importance. The bill provides that establishment of these new urban corporations does not affect any entitlement to land of any Native Corporation established before this act being proposed.

Recognition of these five communities as provided in the bill, despite the history and requirements of ANCSA, risks setting a precedent for other similar communities to seek to overturn administrative finality and re-open their status determinations. Establishing this de facto new process would contravene the purposes of ANCSA and could create a continual land transfer cycle in Alaska.

The Department also has concerns with specific provisions in the bill. For example, in section 6, new ANCSA section 43 contains very open-ended selection language. The provision does not require the new urban corporations to take lands for "the township or townships in which all or part of the Native village is located," as provided for in ANCSA. Instead, it requires only that the lands be "local areas of historical, cultural, traditional, and economic importance to Alaska Natives" from the villages. The bill also appears to require the Secretary, in consultation with the Secretary of Commerce and representatives from Sealaska Corporation, to select and offer lands to the new urban corporations.

Although the Department does not support S. 872, we would be glad to work with the sponsors and the Committee to address these issues as well as problems with eligible existing ANCSA communities. For instance, rather than simply addressing the perceived inequities of five communities formerly deemed to be ineligible under ANCSA, the Department would like to work with the Committee to find solutions to the existing eligible communities that have no remaining administrative remedies, such as the villages of Nagamut, Canyon Village andKaktovik.

Conclusion

The BLM's Alaska Land Transfer program is now in a late stage of implementation and the Department strongly supports the equitable and expeditious completion of the remaining Alaska Native entitlements under ANCSA and other applicable authorities. S. 872 would delay the Department's goal of completing the Alaska Land Transfer Program and fulfilling land

entitlements for Alaska Natives and the State. The Department believes that the completion of the remaining land transfers under ANCSA and the Statehood Act is necessary to equitably resolve the remaining claims and realize the existing Congressional mandate.

Statement of
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Bureau of Land Management, Department of the Interior
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S. 1955, Alaska Native Veterans Land Allotment Equity Act
October 8, 2015

Thank you for the opportunity to provide the views of the Department of the Interior on S. 1955, the Alaska Native Veterans Land Allotment Equity Act. S. 1955 would make two amendments to the Alaska Native Claims Settlement Act (ANCSA), in an effort to provide access to lands for individual Alaska Natives who have not received lands under the Alaska Native Allotment Act, the Alaska Native Vietnam Veterans Allotment Act, and ANCSA.

Background

The Alaska Native Allotment Act (1906 Act) was passed in May of 1906, and gave the Secretary of the Interior authority to convey up to 160 acres of non-mineral land to individual Alaska Natives. Over 10,000 Alaska Natives filed allotment applications.

The 1906 Allotment Act was repealed with the enactment of ANCSA in 1971, but ANCSA contained a savings provision for individual allotment claims then pending before the Department. In 1981, the vast majority of the still-pending applications were legislatively approved by Section 905 of the Alaska National Interest Lands Conservation Act (ANILCA). There remain pending, as of the date of this hearing, approximately 280 applications under the 1906 Act, most of which will require the State of Alaska to voluntarily reconvey title to the United States government before a conveyance can be made to the individual allotment claimant.

The BLM has prioritized the completion of individual allotments, and to date has completed final patent to approximately 98 percent (over 13,100 parcels) of individual Native allotments.

With respect to State land transfers, the BLM has identified a much faster, more accurate, and more cost-effective way to fulfill the promise of land conveyances called for in the Alaska Statehood Act. The BLM has proposed to use modern tools and to complete the remaining surveys and conveyances in a substantially shorter amount of time, while providing the State with higher quality data than was previously envisioned. This new approach could amount to substantial savings for the American taxpayer and will likely save the State both time and money after the land has been transferred. The BLM has presented the State of Alaska with the opportunity to jointly adopt this new approach through an update to a 1973 Memorandum of Understanding on surveying and monumenting and we are working with the State to determine a common path forward. It is our sincere hope to partner with the State of Alaska in this innovative new survey method to convey the remaining State lands out of Federal ownership and finally fulfill the promise of the Alaska Statehood Act.

The Alaska Native Vietnam Veterans Allotment Act (P.L.105-276) was enacted in 1998 to resolve problems with the repeal of the Allotment Act when some Alaska Native veterans of the Vietnam War missed opportunities to apply for allotments as a result of service in the U.S. armed forces immediately prior to 1971. The 1998 Act authorized the Department to reopen Native allotment applications for an 18-month period ending in January 2002, for certain Alaska Native Vietnam War-era veterans who may have been prevented from filing timely applications in 1971 because they were on active military duty at the time.

Congress tightly restricted the time period for which applications were reopened in order to minimize effects on other pending applications, private property interests, and other government programs. During this time period, the BLM received applications from 740 individuals claiming a total of 1,070 parcels. Of these, about 70 percent did not meet the terms of the Act and were rejected. Certificates for 243 allotments have been issued, and just eight parcels remain pending. The Vietnam-era Veterans transfer program is nearly completed.

S. 1955

Provisions in S. 1955 apply to two distinct groups of Alaska Natives seeking allotments of Federal land in Alaska under the authority of the 1906 Allotment Act. First, for a group of Alaska Natives whose applications: 1) were pending at the Department on the date of repeal for the 1906 Act; 2) were for allotments in the Tongass or Chugach National Forests; and 3) which claimed ancestral rather than personal use and occupancy, section 2 of S. 1955 would override the 1983 Ninth Circuit decision in *Shields v. United States*. The bill would reopen and legislatively approve any application for a Native allotment in lands withdrawn for the Tongass and Chugach National Forests that was pending at the Department on December 18, 1971, the date on which ANCSA repealed the 1906 Act.

The BLM expects that enactment of S. 1955 would require reopening and approval of over 1000 scattered new inholdings within the two National Forests. Implications of S. 1955 for lands already conveyed to Native Corporations under ANCSA are uncertain.

As to the second group of Alaska Natives seeking allotments, S. 1955 would allow any Alaska Native Vietnam War-era veteran who has not yet received a Native allotment to select up to 2 parcels of Federal land totaling no more than 160 acres, and an heir may apply for an allotment on behalf of the estate of a deceased veteran. Unlike the carefully defined restrictions of the 1998 Act, S. 1955 would allow Alaska Native veterans to select any vacant Federal land in the state of Alaska that is located outside of the TransAlaska Pipeline right-of-way, a unit of the National Park System, a National Preserve, or a National Monument. Thus, under S. 1955, available lands would include wildlife refuges, national forests, wilderness areas, acquired lands, national defense withdrawn lands, and lands selected by, or conveyed to, the State of Alaska or an Alaska Native Corporation.

The bill would authorize compensatory replacement selections from appropriate Federal land, as determined by the Secretary, as a replacement for land Native corporations may voluntarily reconvey for Native veteran allotments, and would require the Secretary to publish regulations within one year. A Native veteran (or heir) would have three years after the Secretary issues

final regulations to file an allotment application. Even though potential applicants may be submitted for up to four years, all conveyances under S. 1955 are required to be completed by December 31, 2020 – an unworkable deadline to complete reopening of applications, realty and survey activities, and final patenting.

As the Department has testified previously on legislation that would similarly reopen the Alaska land entitlement process, S. 1955 would disrupt precedent under existing law and complicate settled land use arrangements under ANCSA and ANILCA, undermining the goals of the Alaska Land Transfer Acceleration Act to finalize land entitlements under ANCSA, the Statehood Act, and existing applications for individual Alaska Natives and Native veterans. In this particular case, the bill would also create inequities between Alaska Native Vietnam veterans and Alaska Natives and award land to those who did not serve in the military prior to the repeal of the Allotment Act.

The BLM's Alaska Land Conveyance program is now in a late stage of implementation and the Department strongly supports the equitable and expeditious completion of the remaining entitlements under ANCSA and other applicable authorities. However, S. 1955 raises a number of concerns: S. 1955 would re-open numerous land claims which the Department has worked hard to resolve, would allow broad selection of any vacant Federal land in the state of Alaska with few exceptions, would give rise to new issues of fairness to other Alaska Natives and other Vietnam-era veterans, and would disrupt settled land use arrangements under existing statutes. While the Department opposes this version of the bill, we would be willing to work with the Committee on this issue to address our shared priority of equitable treatment of Alaska Natives through the Alaska Land Conveyance program.

Conclusion

The title recovery provisions in this bill that amend ANCSA would delay the Department's goal of completing the Alaska Land Transfer Program, which is in its final stages. The Department believes the completion of remaining entitlements under ANCSA and the Statehood Act is necessary to equitably resolve the remaining claims and fulfill an existing Congressional mandate.

Statement of
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S. 1971, California Coastal National Monument Expansion Act
October 8, 2015

Thank you for the opportunity to testify on S.1971, the California Coastal National Monument Expansion Act. The bill would add six new areas totaling 6,320 acres to the California Coastal National Monument. The Department of the Interior supports S. 1971, and would also like to work with the sponsor and the Committee to address certain technical issues in the bill.

Background

The California coast is rugged and spectacular, representing one of the nation's most iconic and treasured landscapes. Millions of visitors travel up and down the California coast each year, stopping at coastal towns and vista points to experience breathtaking views and spectacular scenery and to observe an abundance of wildlife along the coast. In 2000, Presidential Proclamation 7264 established the California Coastal National Monument, administered by the Bureau of Land Management and comprising over 20,000 islands, rocks, and pinnacles along the 1,100 mile California coast. In 2014, Presidential Proclamation 9089 expanded the Monument by adding the Point Arena-Stornetta unit, which represented the Monument's first onshore unit, providing a mainland base for access and interpretation of the monument and enhancing the public's enjoyment, appreciation and understanding of the California Coastal National Monument.

Since the expansion of the boundary, many California coastal communities have built grassroots networks including businesses, environmental groups, members of the public, and other non-governmental organizations that support the protection of additional lands along the coast as a unit of the California Coastal National Monument. Trinidad Head, Lighthouse Ranch, the Lost Coast Headlands, the Coast Dairies Public Lands, Piedras Blancas Outstanding Natural Area, and the Orange County Rocks and Islands are valued by nearby Coastal communities for their scenic, conservation and recreation values, and each of these areas contains nationally significant historical, cultural, natural, and scientific resources.

Trinidad Head is a 60-acre rocky promontory surrounded by sea stacks in the Trinidad Harbor. The large and dominant coastal head is bordered by sheer cliffs that are often battered by strong winter storms, and the area is culturally and spiritually significant to the Native American communities of the Yurok, Tsurai, and Trinidad Rancheria. Thirteen acres on Trinidad Head, including the historic Trinidad Head Light Station, are managed by the BLM, and are used for scientific research and recreational activities. The BLM is working with community partners to develop a management plan for the area that will address public access, conservation, and recreation goals.

Lighthouse Ranch, twelve miles south of Eureka, overlooks the Eel River Delta, the South Spit of Humboldt Bay, and the Pacific Ocean, offering stunning views of the coastline. The eight-acre parcel administered by the BLM is managed for conservation and recreation, including

picnicking, hiking, and wildlife viewing. The BLM also manages 600 nearby acres under a conservation easement with the California Department of Fish and Wildlife.

The Lost Coast Headlands, located about 25 miles south of Eureka, comprise about 440 acres of BLM-managed public lands. These lands offer traditional grazing uses and recreational opportunities for hikers, horseback riders, cyclists, birdwatchers, and beachgoers. The headlands feature rolling hills, windswept coastal bluffs, and narrow beaches, and provide important habitat for a variety of bird, mammal and fish species.

The Coast Dairies Public Lands, located near Davenport in Santa Cruz County, represent one of the last areas in the coastal foothills that is available to the public. The BLM manages 5,840 acres of public land in the area, which includes perennial streams lined with coast redwoods and riparian corridors. The area is also home to rare fish and wildlife species such as the California red-legged frog, Coho salmon, and Central California Coast steelhead. The Cotoni-Coast Dairies area is also culturally and historically significant to many groups of Native American people who have lived here over the past several centuries. Today, these lands are managed for conservation of native coastal wildlife and habitats, the reclamation and remediation of facilities associated with a former concrete quarry, grazing, and recreational public uses.

The Piedras Blancas Outstanding Natural Area, located six miles from the historic Hearst Castle in San Luis Obispo County on State Scenic Highway One, includes 20 acres of public lands that are part of the BLM's National Conservation Lands. The Piedras Blancas Light Station, listed on the National Register of Historic Places, began operation in 1875 and is still used today to aid marine navigation. The Light Station is named for the distinctive white rocks that loom just offshore. These rocks, and the rugged shoreline, are home to seabirds, sea lions, and elephant seals. Over 70 native plant species can be found on the habitat surrounding the Light Station. In addition, the Light Station is also an important area for scientific studies of whales, seals, and sea otters; seabirds; tide pools; and seismicity. The area provides excellent opportunities for visitors to enjoy wildlife observation, hiking, picnicking, nature study, tide-pool walks, and guided tours of the Light Station.

The Orange County Rocks and Islands are designated under legislative withdrawals to the U.S. Coast Guard for lighthouse construction and navigation. Because of the withdrawals, these rocks were not incorporated as a unit of the California Coastal National Monument. Nonetheless, the rocks contain unique geologic formations and support coastal wildlife. Because the Coast Guard no longer requires the use of these rocks and small islands for navigation purposes, local stakeholders propose to have the withdrawal removed and the rocks and islands incorporated as a unit of California Coastal National Monument.

S. 1971, California Coastal National Monument Expansion Act

S. 1971 would expand the boundary of the California Coastal National Monument to include Trinidad Head, Lighthouse Ranch, the Lost Coast Headlands, the Coast Dairies Public Lands, and Piedras Blancas Outstanding Natural Area. These five areas represent a total of approximately 6,320 acres of BLM-managed public lands located along the California coast. The bill would also remove the lighthouse reservation on the Orange County Rocks and Islands and be administered as a unit of the California Coastal National Monument. The bill would authorize these units to be managed in accordance with the two Presidential Proclamations that established and expanded the Monument.

Each of the National Monuments and National Conservation Areas designated by Congress and managed by the BLM is unique. However, all of these designations have certain critical elements in common, including withdrawal from the public land, mining, and mineral leasing laws; OHV use limitations; and language that charges the Secretary of the Interior with allowing only those uses that further the purposes for which the area is established. The designations in S. 1971 are consistent with these principles and we support their designation. The addition of new units of the California Coastal National Monument will help strengthen and expand partnerships with California coastal communities, and provide opportunities for stewardship of coastal resources, interpretation, environmental education and other volunteer activities. In addition, visitors will experience and learn about the Monument and its natural and cultural resources. The proposed expansion of the Monument is consistent with the BLM's resource management goals and the purposes of the Proclamations.

Under the bill, the Secretary, through the BLM, will be required to develop or amend the Resource Management Plan (RMP) for areas to be added to the Monument. Specifically, the bill requires that the BLM develop an RMP "for the long-term protection and management of the Federal land added to the Monument" as well as to address visitation and recreation by the public, along with other permitted and public uses. The bill further provides for continuation or development of cooperative agreements with state and local governments, tribes, environmental groups, and stewardship organizations. The BLM values and appreciates working closely with partners and looks forward to continuing to work with local government agencies and organizations on the management of these important areas.

The bill will provide protection of Native American sacred sites, as well as manage access for traditional customary uses. The Monument additions will also provide for the establishment of an advisory council or the use of existing advisory bodies for each unit to provide input for development of RMP amendments. The BLM recognizes the importance of fostering positive working relationships with adjacent private landowners and other stakeholders, and we welcome the opportunity to work together with all stakeholders to effectively manage the additions to the California Coastal National Monument.

Finally, the BLM would like to work with the sponsor to address a few technical issues related to grazing, the management plan, the legal status of the Piedras Blancas Outstanding Natural Area, and the structure and sunset for advisory councils.

Conclusion

The Department of the Interior appreciates Senator Boxer's work with local communities to develop this legislation. We support the legislation and look forward to working with the sponsor and the Committee to address certain technical issues.