



**Testimony Regarding S. 881,
The Southeast Alaska Native Land Entitlement Finalization Act
"Haa Aaní" – Our Land**

**Testimony of
Byron Mallott, Board Member
Sealaska Corporation**

**Before the Senate Subcommittee on Public Lands and Forests
Committee on Energy and Natural Resources**

October 8, 2009

**Testimony of
Byron Mallott, Board Member
Sealaska Corporation**

Before the Senate Subcommittee on Public Lands and Forests

Mr. Chairman, Members of the Subcommittee and Committee:

My name is Byron Mallott, and I am a Board Member for Sealaska Corporation, as well as a former President and CEO. I am from Yakutat, Alaska, and I am Shaa-dei-ha-ni (Clan Leader) of the Kwaashk'i Kwáan. My Tlingit name is K'oo deel taa.a. Accompanying me today in the hearing room is Chair Albert Kookesh, Vice Chair Rosita Worl, Director Clarence Jackson, President and CEO Chris McNeil, and other executives of Sealaska.

Thank you for the opportunity to testify on behalf of Sealaska Corporation regarding S. 881, the “Southeast Alaska Native Land Entitlement Finalization Act,” or what we refer to as Haa Aaní in Tlingit, which in English roughly translates into “Our Land”. Haa Aaní is the Tlingit way of referring to our ancestral and traditional homeland, the place of our ancestors, the foundation of our history and culture, and the way that we identify where we are from. 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”). 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.

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 benefited 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 contributed 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 are also the primary contributor of cedar logs for the carving of totems and are now working with the communities to provide cedar carving planks to schools and tribal organizations. We are collaborating with our village corporations and villages to develop hydroelectric projects.

The profits from our timber program 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 on our lands have allowed 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, who are constantly exploring what it means to be Native today. Our scholarships, internships and mentoring efforts have been successful beyond our wildest dreams, with our corporate shareholder employment above 80% and shareholders filling the most senior positions in our corporation. None of this would have been possible without the passage of ANCSA, which, in some ways, remains a promise unfulfilled.

Congress enacted ANCSA in 1971 to recognize and settle the aboriginal claims of Alaska Natives to the lands that we have used historically for traditional, cultural, and spiritual purposes. ANCSA allocated 44 million acres of land to Alaska's Native people, to be allocated among and managed by 12 Alaska Native Regional Corporations and more than 200 Village Corporations. Although ANCSA declared that the land settlement "should be accomplished rapidly, with certainty [and] conformity with the real economic and social needs of [Alaska] Natives," it has now been more than 35 years since the passage of ANCSA and Sealaska has not yet received conveyance of its full land entitlement.

Sealaska asks your support for the enactment of S. 881 because it:

- allows Sealaska to finalize its ANCSA land entitlement in a meaningful way that fulfills the purposes of ANCSA;
- will redress inequitable limitations on Sealaska's land selections by allowing it to select its remaining land entitlement from designated federal land outside of the original and inadequate designated withdrawal areas;
- 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 further economic and employment opportunities for Sealaska shareholders and other rural residents;
- provides a platform for Sealaska to contribute to the Southeast Alaska economy, a region that is struggling overall, especially in our rural Native villages; and
- provides real conservation benefits in the region.

In sum, this legislation resolves the long-outstanding Sealaska entitlement in a manner consistent with Congress's stated objective to act through ANCSA to promote economic development, and enables the federal government to complete its statutory obligation to the Natives of Southeast Alaska. In fact, completion of ANCSA conveyances was recently recognized by Congress as a priority through the enactment in 2004 of the Alaska Land Transfer Acceleration Act (P.L. 108-452).

There is a compelling, equitable basis for supporting passage of this legislation. First, the original ANCSA withdrawals demonstrated a lack of understanding of the geography of the region, and a series of later congressional actions further undermined the quality of the lands that were available for selection by Sealaska. As just one example, over 44% of the area within the withdrawal areas is covered with saltwater. Other factors that have severely limited the availability of lands to Sealaska are discussed in the "findings" section of our legislation. Second, there is no dispute that Sealaska has a remaining land entitlement. This legislation does not give Sealaska a single acre of land beyond that already promised by Congress. Third and finally, Sealaska has attempted to work closely with industrial users, conservation organizations, Native institutions, and local communities to craft legislation that provides the best possible result for the people, communities and environment of Southeastern 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. Moreover, what is important or valuable to one group may not be important or valuable to another. Simply put, with the vast array of interests in Southeast Alaska, there is 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 good solution that builds on our engagement with all regional stakeholders, and we remain committed to work with everyone to refine the selections and the terms of the legislation.

Our ANCSA Land Entitlement and Selection Limitations

ANCSA provides a land allocation to Sealaska pursuant to Section 14(h)(8) of the Act. Our right to this land entitlement is undisputed. The only remaining issue is “where” this land will come from. Based on Bureau of Land Management projections for completion of the 14(h)(8) selections, as well as our own estimates, the total entitlement could be up to 85,000 acres of land remaining to be conveyed to Sealaska. Uniquely, ANCSA limited Sealaska land selections to withdrawal areas surrounding certain Native villages in Southeast Alaska. The problem is that the ability to select land from the withdrawal areas that meets Sealaska's traditional, cultural, historic or economic needs is limited, and certain of those lands now available to Sealaska would more appropriately remain in public ownership. In fact, the remaining valuable timber areas within the selection areas are predominantly old growth and roadless areas with important public interest values.

ANCSA selection limitations preclude Sealaska from using any of its remaining ANCSA entitlement to select from outside of current withdrawal areas places of sacred, cultural, traditional, and historic significance that are critical to facilitating the perpetuation and preservation of Tlingit, Haida and Tsimshian culture and history. Our Native Places are not

simply “real estate” we would like to own. These are places that are important for the perpetuation of our cultures and the preservation of our stories and histories and that we intend to protect, in collaboration with the local tribes, in perpetuity.

In sum, selection from the withdrawal areas would limit Sealaska’s ability to meet the purposes of ANCSA – to create continued economic opportunities for the Native people of Southeast Alaska – or to gain ownership of our Native Places.

Legislative Solution Provided by S. 881

While original withdrawal limitations make it difficult for Sealaska to meet its traditional, cultural, historic and socioeconomic 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 U.S. 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 in the Tongass Land Use Management Plan. This legislation would allow these lands to remain in public ownership to be managed consistent with the Tongass Land Use Management Plan.

The legislation would allow Sealaska to:

- Select a majority of its remaining entitlement from an alternative pool of land, which is largely second-growth forest, and 71 percent of which is already roaded as a result of previous Forest Service timber development;
- Use a portion of its entitlement to gain title to important sacred, cultural, traditional and historic sites that are critical to the preservation of Native history and culture, and to advance Native social and cultural programs. These sacred, cultural, traditional and historic sites are relatively small in size, but are invaluable to our people;

- Select certain lands for purposes of Native enterprise that are primarily for activities with limited land use impacts and would include cultural programs, small-scale tourism/eco-tourism, and alternative renewable energy development, which would allow Sealaska to diversify its economic activities in the region and provide job opportunities for its tribal member shareholders and other residents of Southeast Alaska. Sites developed for green energy would help to relieve the villages of the crushing burden of high-cost diesel generated electrical power.

This bill does not establish the final entitlement acreage for Sealaska, leaving the final determination to the iterative process established under Section 14(h) of ANCSA. However, this Administration does have the authority to work with Sealaska to settle the final acreage, and Sealaska is willing to engage in that discussion prior to final enactment of the legislation.

Benefits of the Legislation to Others

The benefits of this legislation extend far beyond Sealaska and its shareholders. Despite Sealaska's small land base in comparison to all other Regional Corporations, Sealaska has historically provided significant economic benefits to not only Sealaska Native shareholders, but also to the other Native Corporations throughout Alaska. Pursuant to a revenue sharing provision in ANCSA, Sealaska distributes more than half of all revenues derived from the development of its timber resources - more than \$315 million between 1971 and 2007 – to the other Native Corporations. By making selections outside of the designated withdrawal areas, Sealaska will be able to sustain its resource development operations by acquiring a mix of old growth and mature and advanced second growth, enabling it to provide continued economic opportunities for the Native people of Southeast Alaska and economic benefits to the broader Alaska Native community through revenue sharing. Sealaska's timber business provides critical

support to the broader Alaska Native community, and for that reason, Sealaska has the strong support of the Alaska Federation of Natives, the Regional Corporation CEOs, and the Tlingit and Haida Indian Tribes, among other important Native entities.

The role of Sealaska in the Southeast Alaska economy is undisputed. Sealaska's timber operations provide significant positive economic impact to the region, including continued utilization of the timber harvesting sector and creation of jobs in some of the poorest rural Native communities in our region. For that reason, Sealaska has the support of the Alaska Forest Association and many Native villages in its efforts to complete its ANCSA land entitlement.

We also see a benefit to the conservation community; in fact, Sealaska's land legislation strategy was in part driven by national and local conservation organizations' stated public goals of "protecting roadless areas", "protecting old growth reserves" and creating alternate economies for Southeast Alaska. Instead of taking old growth, roadless areas in the original withdrawal areas, Sealaska would commit through this legislation to taking a majority of its remaining entitlement from areas that are already roaded, encompassing significant second-growth timber. Moreover, Sealaska would use nearly 9,000 acres of its remaining entitlement to gain title to sacred, historic, traditional and cultural sites, and Native futures sites, on which commercial timber harvest or mineral development would be prohibited. Southeast Alaska tribes and Native Village and Urban Corporations have passed resolutions in support of this legislation because they recognize the need to preserve our sacred areas and culture, and to create local, sustainable, diversified economies. This legislation gives them the opportunity to join with Sealaska to do both.

Lastly, 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 will ultimately give the Bureau of Land Management some finality and closure in the region. Completion of Sealaska's ANCSA conveyances will also give the U.S. Forest Service some finality with respect to land ownership and management in the Tongass National Forest because there will no longer be large portions of the forest encumbered by Sealaska's land selection rights.

Haa Aani Sustainable Forest Management Program

Sealaska has a responsibility as a Regional Corporation 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 to produce timber and to maintain 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 zones for the protection of bald eagle nesting habitat are established for every nesting tree.

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. Our harvest to date is a combination of approximately 60% selective harvest and 40% even aged management. All of Sealaska's even aged second-growth forest that is ripe for precommercial thinning is managed accordingly,

thereby creating healthy young forests that provide substantial wildlife habitat for deer and other animals. Sealaska maintains a silviculture program that rivals the best of programs implemented by the U.S. Forest Service or private landowners.

Our sustainable harvesting program will continue into the future through implementation of good forest management practices and completion of our Haa Aaní land selections, which will provide Sealaska with a mix of old growth and more mature second growth timber. Our harvesting program and investment in good forest management provides jobs for our shareholders and others in the region, and helps 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 nearly 9,000 acres from our timber base by selecting Cultural sites and Native Futures sites subject to timber harvest restrictions. Lands available to us under this legislation (upon which timber harvest would be allowed) are largely second-growth forest stands, development of which would require Sealaska to enter riskier, emerging markets. We are, however, 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 climate change and carbon sequestration and incorporating this effort into our forest management and strategic plans.

Diversified Economies

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 nourishes define the Tongass, which has supported the Native people for 10,000 years. By declaring that Southeast Alaska is both a "Native" place – a place that protects and supports Native communities and cultures – as well as a "scenic" place, we protect it and we proclaim its value to the world.

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.
- Native Futures sites. These sites will be selected and managed to promote recreational tourism activities with minimal land use impacts. A few of these sites could be developed for their tidal or small hydroelectric potential, as sources of much needed alternative energy for the region.

Glacier Bay National Park

Legislation introduced on Sealaska's behalf during the 110th Congress proposed the conveyance to Sealaska of a handful of sacred, cultural, traditional and historic sites in Glacier Bay National Park, based on precedent for such transfers to Indian Tribes in National Parks in the lower 48 states. As a result of concerns expressed regarding these potential conveyances, Sealaska asked the Alaska Congressional delegation to adjust the legislation to provide merely for "cooperative management" of the sacred and cultural sites located within Glacier Bay. Cooperative management would ensure Native use and management of this handful of very significant sacred and cultural sites within Glacier Bay, regardless of future changes in Park management. This language does not propose to negate the existing Memorandum of Understanding between the Park and the Huna Indian Association. As with all elements of this legislation, Sealaska remains open to a continued dialogue on this matter to address any remaining concerns.

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. 881 is stalled during the 111th Congress, Sealaska will be forced to either terminate all of its timber operations within approximately two years for lack of timber availability, resulting in job losses in an area experiencing severe economic depression, or else Sealaska must select lands that are currently available to it in existing withdrawal areas. If forced to select within the existing boxes, development will inevitably occur in many undisturbed intact watersheds and "inventoried roadless" areas replete with old growth forests. We believe that Sealaska's land entitlement legislation is more

consistent with President Obama's commitment to preserving more roadless areas, while immediately stimulating rural economies.

If Sealaska were to terminate all timber operations, this Native business, which serves as the largest regional private employer in Southeast Alaska, would be forced to eliminate jobs that are critical to Alaska's village economy, and this in the middle of the greatest recession since the Great Depression. This result would be in exactly the opposite direction that President Obama and the Congress seeks to move the national economy.

Our Future in the Region

Our people have lived in the area that is now the Tongass National Forest since time immemorial. We will continue to live in this region because it is the heart of our history and culture. The Tongass is rich and diverse in cultural history, and there continue to be Native people here trying to live and survive in a subsistence and cash economy. We agree that areas of the region should be preserved, but we also believe that our people have a right to reasonably pursue economic opportunity to survive in the world as it is today. This legislation represents a sincere and open effort to meet both the interests of Alaska Native shareholders and the public. Sealaska believes that after full debate and close scrutiny, its aspirations to meet both its rightful land selection rights under ANCSA and the public interest in the Tongass will be recognized as both forward thinking and positive.

Lastly, it is important for all of us who live in the Tongass, as well as those who cherish the Tongass from afar, to recognize that the First Peoples of the Tongass – Tlingits, Haidas and Tsimshians – are committed to maintaining not just the flora, fauna and biological ecology of the Tongass, but to preserving this place as the land of our ancestors, with all that means in spirituality, values and beliefs. We have nowhere else to go and wish for no other place. The

Tongass is our home. We, therefore, look forward to a reasoned, open, and respectful process as we attempt to finalize our ANCSA land entitlement.

Gunalchéesh. Thank you.