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SOUTHEAST ALASKA NATIVE LAND ENTITLEMENT FINALIZATION AND JOBS PROTECTION ACT

NOVEMBER 10, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1408]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1408) to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) CONSERVATION SYSTEM UNIT.—The term "conservation system unit" has the meaning given the term in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102).

(2) SEALASKA.—The term "Sealaska" means the Sealaska Corporation, a Regional Native Corporation created under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1)(A) in 1971, Congress enacted the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to recognize and settle the aboriginal claims of Alaska Natives to land historically used by Alaska Natives for traditional, cultural, and spiritual purposes; and

(B) that Act declared that the land settlement "should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives";

(2) the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)—

(A) authorized the distribution of approximately $1,000,000,000 and 44,000,000 acres of land to Alaska Natives; and

(B) provided for the establishment of Native Corporations to receive and manage the funds and that land to meet the cultural, social, and economic needs of Native shareholders;

(3) under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611), each Regional Corporation, other than Sealaska (the Regional Corporation for southeast Alaska), 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;

(4)(A) Sealaska, the Regional Corporation for southeast Alaska, 1 of the Regional Corporations with the largest number of Alaska Native shareholders, with more than 21 percent of all original Alaska Native shareholders, received less than 1 percent of the lands set aside for Alaska Natives, and received no land under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611);

(B) the Tlingit and Haida Indian Tribes of Alaska was 1 of the entities representing the Alaska Natives of southeast Alaska before the date of enactment of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

(C) 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 of a United States Court of Claims cash settlement to the Tlingit and Haida Indian Tribes of Alaska in 1968 for land previously taken to create the Tongass National Forest and Glacier Bay National Monument;

(5) the 1968 Court of Claims cash settlement of $7,500,000 did not—

(A) adequately compensate the Alaska Natives of southeast Alaska for the significant quantity of land and resources lost as a result of the creation of the Tongass National Forest and Glacier Bay National Monument or other losses of land and resources; or

(B) justify the significant disparate treatment of Sealaska under the Alaska Native Claims Settlement Act (43 U.S.C. 1611) in 1971;

(6)(A) while each other Regional Corporation received a significant quantity of land under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), Sealaska only received land under section 14(h) of that Act (43 U.S.C. 1613(h));

(B) section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)) authorized the Secretary to withdraw and convey 2,000,000-acres of "unreserved and unappropriated" public lands in Alaska from which Alaska Native selections could be made for historic sites, cemetery sites, Urban Corporation land, Native group land, and Native Allotments;

(C) under section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)), after selections are made under paragraphs (1) through (7) of that section, the land remaining in the 2,000,000-acre land pool is allocated based on the proportion that the original Alaska Native shareholder population of a Regional Corporation bore to the original Alaska Native shareholder population of all Regional Corporations;

(D) the only Native land entitlement of Sealaska derives from a proportion of leftover land remaining from the 2,000,000-acre land pool, estimated as of the date of enactment of this Act at approximately 1,700,000 acres;

(E) because at the time of enactment of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) all public land in the Tongass National Forest had been reserved for purposes of creating the national forest, the Secretary was not able to withdraw any public land in the Tongass National Forest for selection by and conveyance to Sealaska;

(F) at the time of enactment of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) other public lands in southeast Alaska not located in the Tongass National Forest were not suitable for selection by and conveyance to

Sealaska because such lands were located in Glacier Bay National Monument, were included in a withdrawal effected pursuant to section 17(d)(2) of that Act (43 U.S.C. 1616(d)(2)) and slated to become part of the Wrangell-St. Elias National Park, or essentially consisted of mountain tops;

(G) Sealaska in 1975 requested that Congress amend the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to permit the Regional Corporation to select lands inside of the withdrawal areas established for southeast Alaska Native villages under section 16 of that Act (43 U.S.C. 1615); and

(H) in 1976, Congress amended section 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1615) to allow Sealaska to select lands under section 14(h)(8) of that Act (43 U.S.C. 1613(h)(8)) from land located inside, rather than outside, the withdrawal areas established for southeast Alaska Native villages;

(7) the 10 Alaska Native village withdrawal areas in southeast Alaska surround the Alaska Native communities of Yakutat, Hoonah, Angoon, Kake, Kasaan, Klawock, Craig, Hydaburg, Klukwan, and Saxman;

(8)(A) the existing conveyance requirements of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) for southeast Alaska limit the land eligible for conveyance to Sealaska to the original withdrawal areas surrounding 10 Alaska Native villages in southeast Alaska, which precludes Sealaska from selecting land located—

(i) in any withdrawal area established for the Urban Corporations for Sitka and Juneau, Alaska; or

(ii) outside the 10 Alaska Native village withdrawal areas; and

(B) unlike other Regional Corporations, Sealaska is not authorized to request land located outside the withdrawal areas described in subparagraph (A) if the withdrawal areas are insufficient to complete the land entitlement of Sealaska under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(9)(A) the deadline for applications for selection of cemetery sites and historic places on land outside withdrawal areas established under section 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1613) was July 1, 1976;

(B)(i) as of that date, the Bureau of Land Management notified Sealaska that the total entitlement of Sealaska would be approximately 200,000 acres; and

(ii) Sealaska made entitlement allocation decisions for cultural sites and economic development sites based on that original estimate; and

(C) as a result of the Alaska Land Transfer Acceleration Act (Public Law 108–452; 118 Stat. 3575) and subsequent related determinations and actions of the Bureau of Land Management, it became clear within the last decade that Sealaska will receive significantly more than 200,000 acres pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(10) in light of the revised Bureau of Land Management estimate of the total number of acres that Sealaska will receive pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), and in consultation with Members of Alaska's congressional delegation, Sealaska and its shareholders believe that it is appropriate to allocate more of the entitlement of Sealaska to—

(A) the acquisition of places of sacred, cultural, traditional, and historical significance;

(B) the acquisition of sites with traditional and recreational use value and sites suitable for renewable energy development; and

(C) the acquisition of lands that are not within the watersheds of Native and non-Native communities and are suitable economically and environmentally for natural resource development;

(11)(A) pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1610(a)(1)), Sealaska was not authorized to select under section 14(h)(1) of that Act (43 U.S.C. 1613(h)(1)) any site within Glacier Bay National Park, despite the abundance of cultural sites within that Park;

(B) Sealaska seeks cooperative agreements to ensure that cultural sites within Glacier Bay National Park are subject to cooperative management by Sealaska, Village and Urban Corporations, and federally recognized tribes with ties to the cultural sites and history of the Park; and

(C) Congress recognizes that there is an existing Memorandum of Understanding (MOU) between the Park Service and the Hoonah Indian Association, and does not intend to circumvent the MOU; rather the intent is to ensure that this and similar mechanisms for cooperative management in Glacier Bay are required by law;

(12)(A) the cemetery sites and historic places conveyed to Sealaska pursuant to section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) are subject to a restrictive covenant not required by the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that hinders the ability of

Sealaska to use the sites for cultural, educational, or research purposes for Alaska Natives and others;

(B) historic sites managed by the Forest Service are not subject to the limitations referred to in subparagraph (A); and

(C) Alaska Natives of southeast Alaska should be permitted to use cemetery sites and historic places in a manner that is—

(i) consistent with the sacred, cultural, traditional, or historic nature of the site; and

(ii) not inconsistent with the management plans for adjacent public land;

(13) 44 percent (820,000 acres) of the 10 Alaska Native village withdrawal areas established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) described in paragraphs (7) and (8) are composed of salt water and not available for selection;

(14) of land subject to the selection rights of Sealaska, 110,000 acres are encumbered by gubernatorial consent requirements under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(15) in each withdrawal area, there exist factors that limit the ability of Sealaska to select sufficient land, and, in particular, economically viable land, to fulfill the land entitlement of Sealaska, including factors such as—

(A) with respect to the Yakutat withdrawal area—

(i) 46 percent of the area is salt water;

(ii) 10 sections (6,400 acres) around the Situk Lake were restricted from selection, with no consideration provided for the restriction; and

(iii)(I) 70,000 acres are subject to a gubernatorial consent requirement before selection; and

(II) Sealaska received no consideration with respect to the consent restriction;

(B) with respect to the Hoonah withdrawal area, 51 percent of the area is salt water;

(C) with respect to the Angoon withdrawal area—

(i) 120,000 acres of the area is salt water;

(ii) Sealaska received no consideration regarding the prohibition on selecting land from the 80,000 acres located within the Admiralty Island National Monument; and

(iii)(I) the Village Corporation for Angoon was allowed to select land located outside the withdrawal area on Prince of Wales Island, subject to the condition that the Village Corporation shall not select land located on Admiralty Island; but

(II) no alternative land adjacent to the out-of-withdrawal land of the Village Corporation was made available for selection by Sealaska;

(D) with respect to the Kake withdrawal area—

(i) 64 percent of the area is salt water; and

(ii) extensive timber harvesting by the Forest Service occurred in the area before 1971 that significantly reduced the value of land available for selection by, and conveyance to, Sealaska;

(E) with respect to the Kasaan withdrawal area—

(i) 54 percent of the area is salt water; and

(ii) the Forest Service previously harvested in the area;

(F) with respect to the Klawock withdrawal area—

(i) the area consists of only 5 townships, as compared to the usual withdrawal area of 9 townships, because of the proximity of the Klawock withdrawal area to the Village of Craig, which reduces the selection area by 92,160 acres; and

(ii) the Klawock and Craig withdrawal areas are 35 percent salt water;

(G) with respect to the Craig withdrawal area, the withdrawal area consists of only 6 townships, as compared to the usual withdrawal area of 9 townships, because of the proximity of the Craig withdrawal area to the Village of Klawock, which reduces the selection area by 69,120 acres;

(H) with respect to the Hydaburg withdrawal area—

(i) 36 percent of the area is salt water; and

(ii) Sealaska received no consideration under the Haida Land Exchange Act of 1986 (Public Law No. 99–664; 100 Stat. 4303) for relinquishing selection rights to land within the withdrawal area that the Haida Corporation exchanged to the Forest Service;

(I) with respect to the Klukwan withdrawal area—

(i) 27 percent of the area is salt water; and

(ii) the withdrawal area is only 70,000 acres, as compared to the usual withdrawal area of 207,360 acres, which reduces the selection area by 137,360 acres; and

(J) with respect to the Saxman withdrawal area—

(i) 29 percent of the area is salt water;

(ii) Sealaska received no consideration for the 50,576 acres within the withdrawal area adjacent to the first-class city of Ketchikan that were excluded from selection;

(iii) Sealaska received no consideration with respect to the 1977 amendment to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) requiring gubernatorial consent for selection of 58,000 acres in that area; and

(iv) 23,888 acres are located within the Annette Island Indian Reservation for the Metlakatla Indian Tribe and are not available for selection;

(16) the selection limitations and guidelines applicable to Sealaska under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)—

(A) are inequitable and inconsistent with the purposes of that Act because there is insufficient land remaining in the withdrawal areas to meet the traditional, cultural, and socioeconomic needs of the shareholders of Sealaska; and

(B) make it difficult for Sealaska to select—

(i) places of sacred, cultural, traditional, and historical significance;

(ii) sites with traditional and recreation use value and sites suitable for renewable energy development; and

(iii) lands that meet the real economic needs of the shareholders of Sealaska;

(17) unless Sealaska is allowed to select land outside designated withdrawal areas in southeast Alaska, Sealaska will not be able to—

(A) complete the land entitlement selections of Sealaska under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) in a manner that meets the cultural, social, and economic needs of Native shareholders;

(B) avoid land selections in watersheds that are the exclusive drinking water supply for regional communities, support world class salmon streams, have been identified as important habitat, or would otherwise be managed by the Forest Service as roadless and old growth forest reserves;

(C) secure ownership of places of sacred, cultural, traditional, and historical importance to the Alaska Natives of southeast Alaska; and

(D) continue to support forestry jobs and economic opportunities for Alaska Natives and other residents of rural southeast Alaska;

(18)(A) the rate of unemployment in southeast Alaska exceeds the statewide rate of unemployment on a non-seasonally adjusted basis;

(B) 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;

(C) 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;

(D) official unemployment rates severely underreport the actual level of regional unemployment, particularly in Native villages; and

(E) additional job losses will exacerbate outmigration from Native and non-Native communities in southeast Alaska;

(19) Sealaska has played, and is expected to continue to play, a significant role in the health of the southeast Alaska economy;

(20) despite the small land base of Sealaska as compared to other Regional Corporations (less than 1 percent of the total quantity of land allocated pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), Sealaska has—

(A) provided considerable benefits to Alaska Native shareholders;

(B) supported hundreds of jobs for Alaska Native shareholders and non-shareholders in southeast Alaska for more than 30 years; and

(C) been a significant economic force in southeast Alaska;

(21) pursuant to the revenue sharing provisions of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)), Sealaska has distributed more than $300,000,000 during the period beginning on January 1, 1971, and ending on December 31, 2005, to Native Corporations throughout the State of Alaska from the development of natural resources, which accounts for 42 percent of the total revenues shared under that section during that period;

(22) resource development operations maintained by Sealaska—

(A) support hundreds of jobs in the southeast Alaska region;

(B) make timber available to local and domestic sawmills and other wood products businesses such as guitar manufacturers;

(C) support firewood programs for local communities;

(D) support maintenance of roads utilized by local communities for subsistence and recreation uses;

(E) support development of new biomass energy opportunities in southeast Alaska, reducing dependence on high-cost diesel fuel for the generation of energy;

(F) provide start-up capital for innovative business models in southeast Alaska that create new opportunities for non-timber economic development in the region, including support for renewable biomass initiatives, Alaska Native artisans, and rural mariculture farming; and

(G) support Native education and cultural and language preservation activities;

(23) if the resource development operations of Sealaska cease on land appropriate for those operations, there will be a significant negative impact on—

(A) southeast Alaska Native shareholders;

(B) the cultural preservation activities of Sealaska;

(C) the economy of southeast Alaska; and

(D) the Alaska Native community that benefits from the revenue-sharing requirements under the Alaska Native claims Settlement Act (43 U.S.C. 1601 et seq.);

(24) it is critical that the remaining land entitlement conveyances to Sealaska under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) are fulfilled to continue to meet the economic, social, and cultural needs of the Alaska Native shareholders of southeast Alaska and the Alaska Native community throughout Alaska;

(25) in order to realize cultural preservation goals while also diversifying economic opportunities, Sealaska should be authorized to select and receive conveyance of—

(A) sacred, cultural, traditional, and historic sites and other places of traditional cultural significance, including traditional and customary trade and migration routes, to facilitate the perpetuation and preservation of Alaska Native culture and history;

(B) other sites with traditional and recreation use value and sites suitable for renewable energy development to facilitate appropriate tourism and outdoor recreation enterprises and renewable energy development for rural southeast Alaska communities; and

(C) lands that are suitable economically and environmentally for natural resource development;

(26) on completion of the conveyances of land of Sealaska to fulfill the full land entitlement of Sealaska under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the encumbrances on 327,000 acres of Federal land created by the withdrawal of land for selection by Native Corporations in southeast Alaska should be removed, which will facilitate thorough and complete planning and efficient management relating to national forest land in southeast Alaska by the Forest Service;

(27) although the Tribal Forest Protection Act (25 U.S.C. 3101 note; Public Law 108–278) defines the term "Indian tribe" to include Indian tribes under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), a term which includes "any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act . . .", the Tribal Forest Protection Act does not define the term "Indian forest land or rangeland" to include lands owned by Alaska Native Corporations, including Sealaska, which are the primary Indian forest land owners in Alaska, and therefore, the Tribal Forest Protection Act should be amended in a manner that will—

(A) permit Native Corporations, including Sealaska, as Indian forest land owners in Alaska, to work with the Secretary of Agriculture under the Tribal Forest Protection Act to address forest fire and insect infestation issues, including the spread of the spruce bark beetle in southeast and southcentral Alaska, which threaten the health of the Native forestlands; and

(B) ensure that Native Corporations, including Sealaska, can participate in programs administered by the Secretary of Agriculture under the Tribal Forest Protection Act without including Native Corporations under the definition in that Act of "Indian forest land or rangeland" or otherwise amending that Act in a manner that validates, invalidates, or otherwise affects

any claim regarding the existence of Indian country in the State of Alaska; and

(28) the National Historic Preservation Act (16 U.S.C. 470 et seq.) defines the term "Indian tribe" to include any "Native village, Regional Corporation or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act" but does not define the term "Tribal lands" to include lands owned by Alaska Native Corporations, thereby excluding from the National Historic Preservation Act cemetery sites and historical places transferred to Native Corporations, including Sealaska, pursuant to the Alaska Native Claims Settlement Act, and therefore, the National Historic Preservation Act should be amended in a manner that will—

(A) permit Native Corporations, including Sealaska, as owners of Indian cemetery sites and historical places in Alaska, to work with the Secretary of the Interior under the National Historic Preservation Act to secure grants and other support to manage their own historic sites and programs pursuant to that Act; and

(B) ensure that Native Corporations, including Sealaska, can participate in programs administered by the Secretary of the Interior under the National Historic Preservation Act without including Native Corporations under the definition in that Act of "Tribal lands" or otherwise amending that Act in a manner that validates, invalidates, or otherwise affects any claim regarding the existence of Indian country in the State of Alaska.

(b) PURPOSE.—The purpose of this Act is to address the inequitable treatment of Sealaska by allowing Sealaska to select the remaining land entitlement of Sealaska under section 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1613) from designated Federal land in southeast Alaska located outside the 10 southeast Alaska Native village withdrawal areas in a manner that meets the cultural, social, and economic needs of Native shareholders, including the need to maintain jobs supported by Sealaska in rural southeast Alaska communities.

SEC. 4. SELECTIONS IN SOUTHEAST ALASKA.

(a) SELECTION BY SEALASKA.—

(1) IN GENERAL.—Notwithstanding section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)), Sealaska is authorized to select and receive conveyance of the remaining land entitlement of Sealaska under that Act (43 U.S.C. 1601 et seq.) from Federal land located in southeast Alaska from each category described in subsections (b) and (c).

(2) TREATMENT OF LAND CONVEYED.—Land conveyed pursuant to this Act are to be treated as land conveyed pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) subject to, but not limited to—

(A) reservation of public easements across land pursuant to section 17(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(b));

(B) valid existing rights pursuant to section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)); and

(C) the land bank protections of section 907(d) of the Alaska National Interest and Lands Conservation Act (43 U.S.C. 1636(d)).

(b) WITHDRAWAL OF LAND.—The following public land is withdrawn, subject to valid existing rights, from all forms of appropriation under public land laws, including the mining and mineral leasing laws, and from selection under the Act of July 7, 1958 (commonly known as the "Alaska Statehood Act") (48 U.S.C. note prec. 21; Public Law 85–508), and shall be available for selection by and conveyance to Sealaska to complete the remaining land entitlement of Sealaska under section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)):

(1) Land identified on the maps dated February 1, 2011, and labeled "Attachment A (Maps 1 through 8)".

(2) Sites with traditional, recreational, and renewable energy use value, as identified on the map entitled "Sites with Traditional, Recreational, and Renewable Energy Use Value", dated February 1, 2011, and labeled "Attachment D", subject to the condition that not more than 5,000 acres shall be selected for those purposes.

(3) Sites identified on the map entitled "Traditional and Customary Trade and Migration Routes", dated February 1, 2011, and labeled "Attachment C", which includes an identification of—

(A) a conveyance of land 25 feet in width, together with 1-acre sites at each terminus and at 8 locations along the route, with the route, location, and boundaries of the conveyance described on the map inset entitled "Yakutat to Dry Bay Trade and Migration Route" on the map entitled "Traditional and Customary Trade and Migration Routes", dated February 1, 2011, and labeled "Attachment C";

(B) a conveyance of land 25 feet in width, together with 1-acre sites at each terminus, with the route, location, and boundaries of the conveyance described on the map inset entitled "Bay of Pillars to Port Camden Trade and Migration Route" on the map entitled "Traditional and Customary Trade and Migration Routes", dated February 1, 2011, and labeled "Attachment C"; and

(C) a conveyance of land 25 feet in width, together with 1-acre sites at each terminus, with the route, location, and boundaries of the conveyance described on the map inset entitled "Portage Bay to Duncan Canal Trade and Migration Route" on the map entitled "Traditional and Customary Trade and Migration Routes", dated February 1, 2011, and labeled "Attachment C".

(c) SITES WITH SACRED, CULTURAL, TRADITIONAL, OR HISTORIC SIGNIFICANCE.—Subject to the criteria and procedures applicable to land selected pursuant to section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) and set forth in the regulations promulgated at section 2653.5 of title 43, Code of Federal Regulations (as in effect on the date of enactment of this Act), except as otherwise provided in this Act—

(1) Sealaska shall have a right to identify up to 3,600 acres of sites with sacred, cultural, traditional, or historic significance, including archeological sites, cultural landscapes, and natural features having cultural significance; and

(2) on identification of the land by Sealaska under paragraph (1), the identified land shall be—

(A) withdrawn, subject to valid existing rights, from all forms of appropriation under public land laws, including the mining and mineral leasing laws, and from selection under the Act of July 7, 1958 (commonly known as the "Alaska Statehood Act") (48 U.S.C. note prec. 21; Public Law 85–508); and

(B) available for selection by and conveyance to Sealaska to complete the remaining land entitlement of Sealaska under section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)) subject to the conditions that—

(i) no sites with sacred, cultural, traditional, or historic significance may be selected from within a unit of the National Park System; and

(ii) beginning on the date that is 15 years after the date of enactment of this Act, Sealaska shall be limited to identifying not more than 360 acres of sites with sacred, cultural, traditional, or historic significance under this subsection.

(d) FOREST DEVELOPMENT ROADS.—Sealaska shall receive from the United States, subject to all necessary State and Federal permits, nonexclusive easements to Sealaska to allow—

(1) access on the forest development road and use of the log transfer site identified in paragraphs (3)(b), (3)(c) and (3)(d) of the patent numbered 50–85–0112 and dated January 4, 1985;

(2) access on the forest development road identified in paragraphs (2)(a) and (2)(b) of the patent numbered 50–92–0203 and dated February 24, 1992;

(3) access on the forest development road identified in paragraph (2)(a) of the patent numbered 50–94–0046 and dated December 17, 1993;

(4) access on the forest development roads and use of the log transfer facilities identified on the maps dated February 1, 2011, and labeled "Attachment A (Maps 1 through 8)";

(5) a reservation of a right to construct a new road to connect to existing forest development roads as generally identified on the maps identified in paragraph (4); and

(6) access to and reservation of a right to construct a new log transfer facility and log storage area at the location identified on the maps identified in paragraph (4).

SEC. 5. CONVEYANCES TO SEALASKA.

(a) TIMELINE FOR CONVEYANCE.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), the Secretary shall work with Sealaska to develop a mutually agreeable schedule to complete the conveyance of land to Sealaska under this Act.

(2) FINAL PRIORITIES.—Consistent with the provisions of section 403 of the Alaska Land Transfer Acceleration Act (43 U.S.C. 1611 note; Public Law 108–452), not later than 18 months after the date of enactment of this Act, Sealaska shall submit to the Secretary the final, irrevocable priorities for selection of land withdrawn under section 4(b)(1).

(3) SUBSTANTIAL COMPLETION REQUIRED.—Not later than two years after the date of selection by Sealaska of land withdrawn under section 4(b)(1), the Secretary shall substantially complete the conveyance of the land to Sealaska under this Act.

(4) EFFECT.—Nothing in this Act shall interfere with or cause any delay in the duty of the Secretary to convey land to the State of Alaska under section 6 of the Act of July 7, 1958 (commonly known as the "Alaska Statehood Act") (48 U.S.C. note prec. 21; Public Law 85–508).

(b) EXPIRATION OF WITHDRAWALS.—On completion of the selection by Sealaska and the conveyances to Sealaska of land under subsection (a) in a manner that is sufficient to fulfill the land entitlement of Sealaska under section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8))—

(1) the right of Sealaska to receive any land under that Act from within a withdrawal area established under subsections (a) and (d) of section 16 of that Act shall be terminated;

(2) the withdrawal areas set aside for selection by Native Corporations in southeast Alaska under subsections (a) and (d) of section 16 of that Act shall be rescinded; and

(3) land located within a withdrawal area that is not conveyed to Sealaska or to a southeast Alaska Village Corporation or Urban Corporation shall be returned to the unencumbered management of the Forest Service as part of the Tongass National Forest.

(c) LIMITATION.—Sealaska shall not select or receive under this Act any conveyance of land pursuant to paragraphs (1) or (2) of section 4(b) located within any conservation system unit.

(d) APPLICABLE EASEMENTS AND PUBLIC ACCESS.—

(1) IN GENERAL.—In addition to the reservation of public easements under section 4(a)(2)(A), the conveyance to Sealaska of land withdrawn pursuant to paragraphs (1) and (3) of section 4(b) that are located outside a withdrawal area designated under section 16(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1615(a)) shall be subject to—

(A) a reservation for easements for public access on the public roads depicted on the maps dated February 1, 2011, and labeled "Attachment A (Maps 1 through 8)";

(B) a reservation for easements for public access on the temporary roads designated by the Forest Service as of the date of the enactment of this Act for the public access trails depicted on the maps described in subparagraph (A); and

(C) the right of noncommercial public access for subsistence uses, consistent with title VIII of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3111 et seq.), and recreational access, without liability to Sealaska, subject to—

(i) the right of Sealaska to regulate access to ensure public safety, to protect cultural or scientific resources, and to provide environmental protection; and

(ii) the condition that Sealaska shall post on any applicable property, in accordance with State law, notices of the conditions on use.

(2) SACRED, CULTURAL, TRADITIONAL AND HISTORIC SITES.—The conveyance to Sealaska of land withdrawn pursuant to section 4(c) that is located outside of a withdrawal area designated under section 16(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1615(a)) shall be subject to—

(A) the right of public access across the conveyances where no reasonable alternative access around the land is available without liability to Sealaska; and

(B) the right of Sealaska to regulate access across the conveyances to ensure public safety, to protect cultural or scientific resources, to provide environmental protection, or to prohibit activities incompatible with the use and enjoyment of the land by Sealaska, subject to the condition that Sealaska shall post on any applicable property, in accordance with State law, notices of any such condition.

(3) TRADITIONAL AND CUSTOMARY TRADE AND MIGRATION ROUTES.—The conveyance to Sealaska of land withdrawn pursuant to section 4(b)(3) that is located outside of a withdrawal area designated under section 16(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1615(a)) shall be subject to a requirement that Sealaska provide public access across such linear conveyances if an adjacent landowner or the public has a legal right to use the adjacent private or public land.

(4) SITES WITH TRADITIONAL, RECREATIONAL, AND RENEWABLE ENERGY USE VALUE.—The conveyance to Sealaska of land withdrawn pursuant to section

4(b)(2) that is located outside of a withdrawal area designated under section 16(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1615(a)) shall be subject to—

(A) the right of public access across the land without liability to Sealaska; and

(B) the condition that public access across the land would not be unreasonably restricted or impaired.

(5) EFFECT.—No right of access provided to any individual or entity (other than Sealaska) by this subsection—

(A) creates any interest, other than an interest retained by the United States, of such an individual or entity in the land conveyed to Sealaska in excess of that right of access; or

(B) provides standing in any review of, or challenge to, any determination by Sealaska with respect to the management or development of the applicable land.

(e) CONDITIONS ON SACRED, CULTURAL, AND HISTORIC SITES AND TRADITIONAL AND CUSTOMARY TRADE AND MIGRATION ROUTES.—The conveyance to Sealaska of land withdrawn pursuant to sections 4(b)(3) and 4(c)—

(1) shall be subject to a covenant prohibiting any commercial timber harvest or mineral development on the land;

(2) shall allow use of the land as described in subsection (f); and

(3) shall not be subject to any additional restrictive covenant based on cultural or historic values, or any other restriction, encumbrance, or easement, except as provided in sections 14(g) and 17(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g), 1616(b)).

(f) USES OF SACRED, CULTURAL, TRADITIONAL, AND HISTORIC SITES AND TRADITIONAL AND CUSTOMARY TRADE AND MIGRATION ROUTES.—Any land conveyed to Sealaska from land withdrawn pursuant to sections 4(b)(3) and 4(c) may be used for—

(1) preservation of cultural knowledge and traditions associated with the site;

(2) historical, cultural, and scientific research and education;

(3) public interpretation and education regarding the cultural significance of the site to Alaska Natives;

(4) protection and management of the site to preserve the natural and cultural features of the site, including cultural traditions, values, songs, stories, names, crests, and clan usage, for the benefit of future generations; and

(5) site improvement activities for any purpose described in paragraphs (1) through (4), subject to the condition that the activities—

(A) are consistent with the sacred, cultural, traditional, or historic nature of the site; and

(B) are not inconsistent with the management plans for adjacent public land.

(g) TERMINATION OF RESTRICTIVE COVENANTS.—

(1) IN GENERAL.—Each restrictive covenant regarding cultural or historical values with respect to any interim conveyance or patent for a historic or cemetery site issued to Sealaska pursuant to the Federal regulations contained in sections 2653.5(a) and 2653.11 of title 43, Code of Federal Regulations (as in effect on the date of enactment of this Act), in accordance with section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)), terminates as a matter of law on the date of enactment of this Act.

(2) REMAINING CONDITIONS.—Land subject to a covenant described in paragraph (1) on the day before the date of enactment of this Act shall be subject to the conditions described in subsection (e).

(3) RECORDS.—Sealaska shall be responsible for recording with the land title recorders office of the State of Alaska any modification to an existing conveyance of land under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) as a result of this Act.

(h) CONDITIONS ON SITES WITH TRADITIONAL, RECREATIONAL, AND RENEWABLE ENERGY USE VALUE.—Each conveyance of land to Sealaska from land withdrawn pursuant to section 4(b)(2) shall be subject to a covenant prohibiting any commercial timber harvest or mineral development.

(i) ESCROW FUNDS FOR WITHDRAWN LAND.—On the withdrawal by this Act of land identified for selection by Sealaska, the escrow requirements of section 2 of Public Law 94–204 (43 U.S.C. 1613 note), shall thereafter apply to the withdrawn land.

(j) GUIDING AND OUTFITTING SPECIAL USE PERMITS OR AUTHORIZATIONS.—

(1) IN GENERAL.—Consistent with the provisions of section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)), except as modified herein, on land conveyed to Sealaska from land withdrawn pursuant to sections 4(b)(1) and 4(b)(2), an existing holder of a guiding or outfitting special use permit or

authorization issued by the Forest Service shall be entitled to its rights and privileges on the land for the remaining term of the permit, as of the date of conveyance to Sealaska, and for 1 subsequent 10-year renewal of the permit, subject to the condition that the rights shall be considered a valid existing right reserved pursuant to section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)), and shall be managed accordingly.

(2) NOTICE OF COMMERCIAL ACTIVITIES.—Sealaska, with respect to the holder of a guiding or outfitting special use permit or authorization under this subsection, and a permit holder referenced in this subsection, with respect to Sealaska, shall have an obligation to inform the other party of their respective commercial activities before engaging in the activities on land, which has been conveyed to Sealaska under this Act, subject to the permit or authorization.

(3) NEGOTIATION OF NEW TERMS.—Nothing in this subsection precludes Sealaska and a permit holder under this subsection from negotiating new mutually agreeable permit terms that supersede the requirements of—

(A) this subsection;

(B) section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)); or

(C) any deed covenant.

(4) LIABILITY.—Sealaska shall bear no liability regarding use and occupancy pursuant to special use permits or authorizations on land selected or conveyed pursuant to this Act.

SEC. 6. MISCELLANEOUS.

(a) STATUS OF CONVEYED LAND.—Each conveyance of Federal land to Sealaska pursuant to this Act, and each Federal action carried out to achieve the purpose of this Act, shall be considered to be conveyed or acted on, as applicable, pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(b) ENVIRONMENTAL MITIGATION AND INCENTIVES.—Notwithstanding subsection (e) and (h) of section 5, all land conveyed to Sealaska pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) and this Act shall be considered to be qualified to receive or participate in, as applicable—

(1) any federally authorized carbon sequestration program, ecological services program, or environmental mitigation credit; and

(2) any other federally authorized environmental incentive credit or program.

(c) NO MATERIAL EFFECT ON FOREST PLAN.—

(1) IN GENERAL.—Except as required by paragraph (2), implementation of this Act, including the conveyance of land to Sealaska, alone or in combination with any other factor, shall not require an amendment of, or revision to, the Tongass National Forest Land and Resources Management Plan before the first revision of that Plan scheduled to occur after the date of enactment of this Act.

(2) BOUNDARY ADJUSTMENTS.—The Secretary of Agriculture shall implement any land ownership boundary adjustments to the Tongass National Forest Land and Resources Management Plan resulting from the implementation of this Act through a technical amendment to that Plan.

(d) TECHNICAL CORRECTIONS.—

(1) TRIBAL FOREST PROTECTION.—Section 2 of the Tribal Forest Protection Act of 2004 (25 U.S.C. 3115a) is amended by adding at the end a new subsection (h):

"(h)(1) Land owned by an Alaska Native Corporation pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that is forest land or formerly had a forest cover or vegetative cover that is capable of restoration shall be eligible for agreements and contracts authorized under this Act and administered by the Secretary.

"(2) Nothing in this subsection validates, invalidates, or otherwise affects any claim regarding the existence of Indian country (as defined in section 1151 of title 18, United States Code) in the State of Alaska.".

(2) NATIONAL HISTORIC PRESERVATION.—Section 101(d) of the National Historic Preservation Act (16 U.S.C. 470a(d)), is amended by adding at the end a new paragraph (7):

"(7)(A) Notwithstanding any other provision of law, an Alaska Native tribe, band, nation or other organized group or community, including a Native village, Regional Corporation, or Village Corporation, shall be eligible to participate in all programs administered by the Secretary under this Act on behalf of Indian tribes, including, but not limited to, securing grants and other support to manage their own historic preservation sites and programs on lands held by the Alaska Native tribe, band, nation or other organized group or community, including a Native village, Regional Corporation, or Village Corporation.

"(B) Nothing in this paragraph validates, invalidates, or otherwise affects any claim regarding the existence of Indian country (as defined in section 1151 of title 18, United States Code) in the State of Alaska.".

(e) EFFECT ON ENTITLEMENT.—Nothing in this Act shall have any effect upon the entitlement due to any Native Corporation, other than Sealaska, under—

(1) the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); or

(2) the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

SEC. 7. MAPS.

(a) AVAILABILITY.—Each map referred to in this Act shall be maintained on file in—

(1) the office of the Chief of the Forest Service; and

(2) the office of the Secretary.

(b) CORRECTIONS.—The Secretary or the Chief of the Forest Service may make any necessary correction to a clerical or typographical error in a map referred to in this Act.

(c) TREATMENT.—No map referred to in this Act shall be considered to be an attempt by the Federal Government to convey any State or private land.

PURPOSE OF THE BILL

The purpose of H.R. 1408, as ordered reported, is to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act.

BACKGROUND AND NEED FOR LEGISLATION

In 1971, Congress enacted the Alaska Native Claims Settlement Act of 1971 (ANCSA, P.L. 92–203) to resolve aboriginal claims to use and occupancy of all lands and waters in Alaska. In Section 2(b) of the Act, Congress declared that:

> [T]he settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives in decisions affecting their rights and property, without establishing any permanent racially defined institutions, rights, privileges, or obligations, without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska;

Accordingly, ANCSA authorized the transfer of $1 billion and fee title to 44 million acres of unreserved public land in Alaska to 12 Regional Corporations and more than 200 Village and Urban Corporations organized by Alaska Natives.

Sealaska is the Regional Corporation for 22,000 Tlingit, Haida, and Tsimishian shareholders whose traditional homelands are the 22 million-acre Southeast (Alaska Panhandle) region. Unlike other Regional Corporations, Sealaska was not given a land entitlement in proportion to its large Native population. The Corporation estimates its final entitlement will be between 300,000 and 400,000 acres, around two percent of lands in Southeast. In comparison, 94 percent of Southeast Alaska is in federal ownership, 0.7 percent is in private ownership and two percent is in State hands. About 85 percent of the region is in a wilderness, conservation, or protected status.

Under ANCSA, the withdrawal "boxes" in which Sealaska must select its remaining settlement lands overlay the sea or roadless

areas of the Tongass National Forest containing stands of old growth trees. Such areas are unsuitable for development of timber, minerals, cultural and historical preservation, tourism, and other uses. This led Sealaska's Board of Directors to request legislation allowing Sealaska to obtain its remaining lands in several second-growth treed areas with existing forest roads, where multiple uses are more feasible to pursue.

The timber industry in Alaska is on life support. Since 1990, wilderness laws and regulations, Clinton Administration cancellation of timber contracts, and environmentalist lawsuits have reduced logging by over 90 percent in the Tongass, leading to endemic poverty and joblessness across the region. According to the State of Alaska, "The population for virtually every village and community in Southeast Alaska has fallen over the last ten years."

Highlighting the timber industry's condition, the Alaska Forest Association testified:

> Even though the Forest Service has a timber plan in place which claims to provide up to 267 million board feet annually, the agency has only offered about 15 mmbf of new timber sales annually. Because the timber sale program on federal lands is so unreliable, it is critical that private timber be available to support our industry.
>
> TESTIMONY OF OWEN GRAHAM, EXECUTIVE DIRECTOR, ALASKA FOREST ASSOCIATION, MAY 20, 2011

H.R. 1408 allows the Sealaska Corporation to select its remaining land entitlement pursuant to ANCSA from specified federal lands in the Tongass National Forest, in lieu of lands in "withdrawal boxes" that the corporation is otherwise required to select.

Most of the lands Sealaska acquires under H.R. 1408 are zoned under the Tongass Land Management Plan for eventual timber management and are accessible by forest roads. Lands that Sealaska relinquishes contain abundant stands of old growth forest in roadless areas. The bill thus has the effect of enhancing conservation values while sustaining and creating jobs in the timber industry and the businesses that support it. Except for government positions, commercial fishing, timber and mining account for most of the high-wage jobs available throughout rural Southeast Alaska. The bill is urgently needed for the Southeast Alaska economy because, as the State of Alaska explained, "Southeast Alaska's remaining timber industry . . . is on the verge of collapse . . . at its lowest level of production since Alaska became a state in 1959." (Letter to Subcommittee Chairman and Ranking Member, May 24, 2011). Under the bill, Sealaska also acquires culturally important sites. Finally, the bill amends the Tribal Forest Protection Act and National Historic Preservation Act to give Alaska Native villages, tribes, and ANCSA corporations the opportunity to participate in these programs like other recognized tribes.

Similar legislation, S. 730, is sponsored by Senator Lisa Murkowski.

COMMITTEE ACTION

H.R. 1408 was introduced on April 6, 2011, by Congressman Don Young (R–AK). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian and Alaska Native Affairs. On May 26, 2011, the Subcommittee held a hearing on the bill. On July 13, 2011, the Full Resources Committee met to consider the bill. The Subcommittee on Indian and Alaska Native Affairs was discharged by unanimous consent. Congressman Don Young (R–AK) offered amendment designated .074; the amendment was adopted by unanimous consent. Congressman Ed Markey (D–MA) offered amendment designated .957; the amendment was not adopted by a bipartisan roll call vote of 12–31, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: July 13, 2011 Recorded Vote #: 12
Meeting on / Amendment: **HR 1408** – An amendment offered by Mr. Markey.957 was NOT AGREED TO by a roll call vote of 12 yeas and 31 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		*Mr. Heinrich, NM*	X		
Mr. Markey, MA Ranking	X			**Mr. Benishek, MI**		X	
Mr. Young, AK		X		*Mr. Lujan, NM*	X		
Mr. Kildee, MI	X			**Mr. Rivera, FL**		X	
Mr. Duncan of TN		X		*Mr. Sarbanes, MD*	X		
Mr. Defazio, OR				**Mr. Duncan of SC**		X	
Mr. Gohmert, TX				*Ms. Sutton, OH*	X		
Mr. Faleomavaega, AS				**Mr. Tipton, CO**		X	
Mr. Bishop, UT		X		*Ms. Tsongas*	X		
Mr. Pallone, NJ	X			**Mr. Gosar, AZ**		X	
Mr. Lamborn, CO		X		*Mr. Pierluisi, PR*		X	
Mrs. Napolitano, CA	X			**Mr. Labrador, ID**		X	
Mr. Wittman, VA		X		*Mr. Garamendi, CA*	X		
Mr. Holt, NJ	X			**Ms. Noem**		X	
Mr. Broun, GA		X		*Ms. Hanabusa, HI*		X	
Mr. Grijalva, AZ	X			**Mr. Southerland**		X	
Mr. Fleming, LA		X		**Mr. Flores, TX**		X	
Ms. Bordallo, GU		X		**Mr. Harris, TX**		X	
Mr. Coffman, CO		X		**Mr. Landry, LA**		X	
Mr. Costa, CA		X		**Mr. Fleischmann, TX**		X	
Mr. McClintock, CA				**Mr. Runyan, NJ**		X	
Mr. Boren, OK		X		**Mr. Johnson, OH**		X	
Mr. Thompson, PA		X					
Mr. Sablan, CNMI		X					
Mr. Denham, CA		X					
				TOTALS	12	31	

Congressman John Garamendi (D–CA) offered amendment designated .051; the amendment was not adopted by a bipartisan roll call vote of 13–30, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: July 13, 2011 Recorded Vote #: 13
Meeting on / Amendment: **HR 1408** – An amendment offered by Mr. Garamendi.051 was NOT AGREED TO by a roll call vote of 13 yeas and 30 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		*Mr. Heinrich, NM*	X		
Mr. Markey, MA Ranking	X			**Mr. Benishek, MI**		X	
Mr. Young, AK		X		*Mr. Lujan, NM*	X		
Mr. Kildee, MI	X			**Mr. Rivera, FL**		X	
Mr. Duncan of TN		X		*Mr. Sarbanes, MD*	X		
Mr. Defazio, OR				**Mr. Duncan of SC**		X	
Mr. Gohmert, TX				*Ms. Sutton, OH*	X		
Mr. Faleomavaega, AS				**Mr. Tipton, CO**		X	
Mr. Bishop, UT		X		*Ms. Tsongas*	X		
Mr. Pallone, NJ	X			**Mr. Gosar, AZ**		X	
Mr. Lamborn, CO		X		*Mr. Pierluisi, PR*		X	
Mrs. Napolitano, CA	X			**Mr. Labrador, ID**		X	
Mr. Wittman, VA		X		*Mr. Garamendi, CA*	X		
Mr. Holt, NJ	X			**Ms. Noem**		X	
Mr. Broun, GA		X		*Ms. Hanabusa, HI*		X	
Mr. Grijalva, AZ	X			**Mr. Southerland**		X	
Mr. Fleming, LA		X		**Mr. Flores, TX**		X	
Ms. Bordallo, GU	X			**Mr. Harris, TX**		X	
Mr. Coffman, CO		X		**Mr. Landry, LA**		X	
Mr. Costa, CA		X		**Mr. Fleischmann, TX**		X	
Mr. McClintock, CA				**Mr. Runyan, NJ**		X	
Mr. Boren, OK		X		**Mr. Johnson, OH**		X	
Mr. Thompson, PA		X					
Mr. Sablan, CNMI		X					
Mr. Denham, CA		X					
				TOTALS	13	30	

Congressman John Garamendi (D–CA) offered amendment designated .052; the amendment was not adopted by voice vote. The bill, as amended, was ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 34–10, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: July 13, 2011 Recorded Vote #: 14
Meeting on / Amendment: **HR 1408**, Favorably reported to the House of Representatives, as amended, by a roll call vote of 34 yeas and 10 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman	X			*Mr. Heinrich, NM*		X	
Mr. Markey, MA Ranking		X		**Mr. Benishek, MI**	X		
Mr. Young, AK	X			*Mr. Lujan, NM*	X		
Mr. Kildee, MI	X			**Mr. Rivera, FL**	X		
Mr. Duncan of TN	X			*Mr. Sarbanes, MD*		X	
Mr. Defazio, OR		X		**Mr. Duncan of SC**	X		
Mr. Gohmert, TX				*Ms. Sutton, OH*		X	
Mr. Faleomavaega, AS				**Mr. Tipton, CO**	X		
Mr. Bishop, UT	X			*Ms. Tsongas*		X	
Mr. Pallone, NJ		X		**Mr. Gosar, AZ**	X		
Mr. Lamborn, CO	X			*Mr. Pierluisi, PR*	X		
Mrs. Napolitano, CA		X		**Mr. Labrador, ID**	X		
Mr. Wittman, VA	X			*Mr. Garamendi, CA*	X		
Mr. Holt, NJ		X		**Ms. Noem**	X		
Mr. Broun, GA	X			*Ms. Hanabusa, HI*	X		
Mr. Grijalva, AZ		X		**Mr. Southerland**	X		
Mr. Fleming, LA	X			**Mr. Flores, TX**	X		
Ms. Bordallo, GU	X			**Mr. Harris, TX**	X		
Mr. Coffman, CO	X			**Mr. Landry, LA**	X		
Mr. Costa, CA	X			**Mr. Fleischmann, TX**	X		
Mr. McClintock, CA				**Mr. Runyan, NJ**	X		
Mr. Boren, OK	X			**Mr. Johnson, OH**	X		
Mr. Thompson, PA	X						
Mr. Sablan, CNMI	X						
Mr. Denham, CA	X						
				TOTALS	34	10	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 1408—Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act

Summary: H.R. 1408 would authorize the Southeast Alaska Native Corporation (Sealaska) to select the rest of its land entitlement from federal lands outside the area originally delineated for that purpose by the Alaska Native Claims Settlement Act. The bill also would authorize the Director of the National Park Service (NPS) to enter into cooperative management agreements with Sealaska and other groups with cultural ties to Glacier Bay National Park.

Based on information from the Forest Service, CBO estimates that enacting H.R. 1408 would result in a net loss of $2 million in timber receipts over the 2012–2021 period (such losses would increase direct spending). Because enacting the legislation would affect direct spending, pay-as-you-go procedures apply. Enacting H.R. 1408 would not affect revenues.

H.R. 1408 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1408 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—											
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012–2016	2012–2021
CHANGES IN DIRECT SPENDING												
Estimated Budget Authority ..	0	0	0	0	0	0	0	1	1	1	0	2
Estimated Outlays	0	0	0	0	0	0	0	1	1	1	0	2

Note: Components do not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that H.R. 1408 will be enacted early in fiscal year 2012. Though the legislation would not grant additional lands to Sealaska, it would allow Sealaska to select from federal lands that are not available under

current law and that are expected to generate timber receipts for the Treasury (beginning around 2019); in contrast, the lands available under current law are not expected to generate receipts to the Treasury.

Based on information from the Forest Service, CBO estimates that enacting the legislation would result in the transfer of 18,000 acres of old and second-growth forest land to Sealaska. Proceeds from the sale of timber on federal land are deposited in the Treasury as offsetting receipts (a credit against direct spending). Based on information from the Forest Service, CBO estimates that transferring that land to Sealaska would result in a net loss of timber receipts, totaling about $2 million over the 2012–2021 period and additional amounts after 2021.

H.R. 1408 would authorize the Director of the NPS to enter into a cooperative agreement with Sealaska, other village corporations, and federally recognized tribes with historical ties to the area to recognize the contributions of those entities to the history, culture, and ecology of the region and to protect certain sacred and cultural sites in Glacier Bay National Park. Based on information from the Department of the Interior, CBO estimates that those agreements would have an insignificant impact on the federal budget.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 1408 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON JULY 13, 2011

	By fiscal year, in millions of dollars—											
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012–2016	2012–2021
NET INCREASE OR DECREASE (−) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	0	0	0	0	0	0	1	1	1	0	2

Note: Components do not sum to totals because of rounding.

Intergovernmental and private-sector impact: H.R. 1408 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit Sealaska.

Estimate prepared by: Federal costs: Martin von Gnechten; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. Based on information from the Forest Service, CBO estimates that enacting H.R. 1408 would result in a net loss of $2 million in timber receipts over the 2012–2021 period (such losses would increase direct spending).

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TRIBAL FOREST PROTECTION ACT OF 2004

* * * * * * *

SEC. 2. TRIBAL FOREST ASSETS PROTECTION.

(a) * * *

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(h)(1) Land owned by an Alaska Native Corporation pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that is forest land or formerly had a forest cover or vegetative cover that is capable of restoration shall be eligible for agreements and contracts authorized under this Act and administered by the Secretary.

(2) Nothing in this subsection validates, invalidates, or otherwise affects any claim regarding the existence of Indian country (as defined in section 1151 of title 18, United States Code) in the State of Alaska.

NATIONAL HISTORIC PRESERVATION ACT

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TITLE I

SEC. 101. (a) * * *

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(d)(1) * * *

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(7)(A) Notwithstanding any other provision of law, an Alaska Native tribe, band, nation or other organized group or community, including a Native village, Regional Corporation, or Village Corporation, shall be eligible to participate in all programs administered by the Secretary under this Act on behalf of Indian tribes, including, but not limited to, securing grants and other support to manage their own historic preservation sites and programs on lands held by the Alaska Native tribe, band, nation or other organized group or community, including a Native village, Regional Corporation, or Village Corporation.

(B) Nothing in this paragraph validates, invalidates, or otherwise affects any claim regarding the existence of Indian country (as defined in section 1151 of title 18, United States Code) in the State of Alaska.

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DISSENTING VIEWS

SEAlaska Corporation has received more than 290,000 acres of entitlement lands pursuant to the Alaska Native Claims Settlement Act of 1971 (ANCSA) (43 U.S.C. 1601 et seq.), with up to 80,000 acres yet to be conveyed. SEAlaska has selected lands from those set aside in ANCSA to satisfy the remainder of its entitlement but conveyance of those lands has been suspended, at SEAlaska's request, while the Corporation pursues legislation allowing them to select from entirely new areas of the Tongass National Forest.

Given that ANCSA, the Alaska Land Transfer Acceleration Act of 2004 (P.L. 108–452), and the current Tongass Land Use Plan are all premised on SEAlaska selecting from the previously identified lands, enactment of this legislation could have sweeping, unintended, harmful impacts to the forest and the economy of Southeastern Alaska. We oppose H.R. 1408 because it fails to mitigate or even address these potential impacts.

The Forest Service and stakeholders are working to move the Tongass away from destructive old-growth logging by developing a sustainable timber industry based on young-growth management. SEAlaska claims to share this goal but many of the parcels targeted by SEAlaska in H.R. 1408 contain these vital, young-growth trees. Conveying these lands to the Corporation for logging will severely limit the Forest Service's ability to complete this critical transition for the remainder of the forest.

The potential impacts to water quality and wildlife populations from SEAlaska's logging activities on new lands in the Tongass are unknown and therefore impossible to anticipate or mitigate. Logging activities near rivers and streams can lead to erosion and flooding that degrade water quality and harm fish populations. An amendment offered by Representative Garamendi to require a 100-foot stream buffer on lands to be logged by the Corporation, in order to shield the local economy from the devastation that would result if the salmon population declined, was rejected by the Majority.

These potential environmental harms could be offset were H.R. 1408 to include provisions conserving other portions of the Tongass. Unfortunately, Democrat's attempts to include such provisions in the bill have been flatly rejected. Even the national conservation area designations championed by Senator Murkowski in her companion bill have been excised from this legislation. Ranking Member Markey offered a simple amendment to at least protect the old-growth in the areas SEAlaska would be giving up if H.R. 1408 were enacted, but even that small step toward a more balanced bill was opposed by Republicans.

Further, the Forest Service has testified that enactment of H.R. 1408 could limit the agency's ability to provide public access to for-

est land for subsistence, recreational and tourism activities. The legislation would allow SEAlaska, rather than the Forest Service, to determine whether such access is compatible with the Corporation's resource development activities on the lands it would receive.

The legislation would also allow SEAlaska to select lands identified by the Corporation as having cultural or historic significance, or parcels for commercial development other than logging. Many of these sites include popular anchorages, hunting or fishing grounds, or are near small, rural communities or Native villages.

In the case of Native villages in particular, these parcels are managed and protected from environmental impacts by the Forest Service as an attribute of the United States' fiduciary trust responsibility toward Alaska Native tribes—a judicially enforceable responsibility a for-profit corporation such as SEAlaska would not be required to undertake. In short, the possibility that SEAlaska might take ownership of these sites has raised serious concerns in these local communities which have, so far, been ignored.

Section 6 of the legislation includes significant amendments to the Tribal Forest Protection Act (25 U.S.C. 3115a) and the National Historic Preservation Act (16 U.S.C. 470a) which are unrelated to SEAlaska's land entitlement claims. Inclusion of these amendments in a section labeled "Miscellaneous" and a subsection labeled "Technical Corrections" is misleading at best.

Finally, one of the fundamental justifications for enacting this legislation is the need to create jobs in Southeastern Alaska. To bolster this goal, Mr. Garamendi offered an amendment requiring that the timber produced from lands received by SEAlaska pursuant to H.R. 1408 be milled in Alaska, thus ensuring local job creation. The fact that Republicans rejected this amendment as well raises serious questions regarding the stated purposes of this bill.

SEAlaska is the largest Native Corporation in Alaska and the largest private landowner in Southeastern Alaska. The Corporation's remaining land entitlement claims could be satisfied immediately, without further Congressional action, if SEAlaska simply moved forward with its pending selections. Congressional intervention to authorize SEAlaska to select new, more profitable lands should only take place if the environmental impacts have been mitigated and local economic development is assured. H.R. 1408 fails on both counts.

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RUSH HOLT.
NIKI TSONGAS.
BETTY SUTTON.

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