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SOUTHEAST ALASKA NATIVE LAND ENTITLEMENT FINALIZATION AND JOBS PROTECTION

SEPTEMBER 10, 2013.—Ordered to be printed

Mr. WYDEN, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 340]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 340) to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof 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) MAPS.—The term "maps" means the maps entitled "Sealaska Land Entitlement Finalization", numbered 1 through 18, and dated June 14, 2013.

(2) SEALASKA.—The term "Sealaska" means the Sealaska Corporation, a Regional Native Corporation established 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.

(4) STATE.—The term "State" means the State of Alaska.

SEC. 3. FINALIZATION OF ENTITLEMENT.

(a) IN GENERAL.—If, not later than 90 days after the date of enactment of this Act, the Secretary receives a corporate resolution adopted by the board of directors of Sealaska agreeing to accept the conveyance of land described in subsection (b) in accordance with this Act as full and final satisfaction of the remaining land entitlement of Sealaska under section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)), the Secretary shall—

(1) implement the provisions of this Act; and

(2) charge the entitlement pool under section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)) 70,075 acres, reduced by the number of acres deducted under subsection (b)(2), in fulfillment of the remaining land entitlement for Sealaska under that Act, notwithstanding whether the surveyed acreage of the 18 parcels of land generally depicted on the maps as "Sealaska Selections" and patented under section 4 is less than or more than 69,585 acres, reduced by the number of acres deducted under subsection (b)(2).

(b) FINAL ENTITLEMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the 70,075 acres of land described in subsection (a) shall consist of—

(A) the 18 parcels of Federal land comprising approximately 69,585 acres that is generally depicted as "Sealaska Selections" on the maps; and

(B) a total of not more than 490 acres of Federal land for cemetery sites and historical places comprised of parcels that are applied for in accordance with section 5.

(2) DEDUCTION.—

(A) IN GENERAL.—The Secretary shall deduct from the number of acres of Federal land described in paragraph (1)(A) the number of acres of Federal land for which the Secretary has issued a conveyance under section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)) during the period beginning on August 1, 2012, and ending on the date of receipt of the resolution under subsection (a).

(B) AGREEMENT.—The Secretary, the Secretary of Agriculture, and Sealaska shall negotiate in good faith to make a mutually agreeable adjustment to the parcel of Federal land generally depicted on the maps numbered 1 and 18 to implement the deduction of acres required by subparagraph (A).

(c) EFFECT OF ACCEPTANCE.—The resolution filed by Sealaska in accordance with subsection (a) shall—

(1) be final and irrevocable; and

(2) without any further administrative action by the Secretary, result in—

(A) the relinquishment of all existing selections made by Sealaska under subsection 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)); and

(B) the termination of all withdrawals by section 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1615), except to the extent a selection by a Village Corporation under subsections (b) and (d) of section 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1615) remains pending, until the date on which those selections are resolved.

(d) FAILURE TO ACCEPT.—If Sealaska fails to file the resolution in accordance with subsection (a)—

(1) the provisions of this Act shall cease to be effective, except as otherwise provided in this section;

(2) the Secretary shall, not later than 5 years after the date of enactment of this Act, complete the interim conveyance of the remaining land entitlement to Sealaska under section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)) from prioritized selections on file with the Secretary on the date of enactment of this Act; and

(3)(A) 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)) shall be 70,075 acres, provided that the Secretary shall deduct the number of acres of Federal land for which the Secretary has issued a conveyance under section 14(h)(8) of that Act (43 U.S.C. 1613(h)(8)) during the period beginning on August 1, 2012, and ending 90 days after the date of enactment of this Act; and

(B) if the Governor of the State does not approve the prioritized selections of Sealaska in the Saxman or Yakutat withdrawal areas as required by subsection 14(h)(8)(B) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)(B)) by the date that is 42 months after the date of enactment of this Act, the Secretary shall reject those selections and fulfill the remaining land entitlement of Sealaska from the remaining prioritized selections on file with the Secretary on the date of enactment of this Act.

(e) SCOPE OF LAW.—Except as provided in subsections (d) and (f), this Act provides the exclusive authority under which the remaining land entitlement of Sealaska under section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)) may be fulfilled.

(f) EFFECT.—Nothing in this Act affects any land that is—

(1) the subject of an application under subsection (h)(1) of section 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1613) that is pending on the date of enactment of this Act; and

(2) conveyed in accordance with that subsection.

SEC. 4. CONVEYANCES TO SEALASKA.

(a) INTERIM CONVEYANCE.—

(1) IN GENERAL.—Subject to valid existing rights, subsections (c), (d), and (e), section 3(b), and section 6(a), the Secretary shall complete the interim conveyance of the 18 parcels of Federal land comprising approximately 69,585 acres generally depicted on the maps by the date that is 60 days after the date of receipt of the resolution under section 3(a), subject to the Secretary identifying and reserving, by the date that is 2 years after the date of enactment of this Act, any easement under section 17(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(b)) that could have been reserved prior to the interim conveyance.

(2) FAILURE TO RESERVE EASEMENTS BY DEADLINE.—If the Secretary does not complete the reservation of easements under paragraph (1) by the date that is 2 years after the date of enactment of this Act, the Secretary shall reserve the easements as soon as practicable after that date.

(b) WITHDRAWAL.—

(1) IN GENERAL.—Subject to valid existing rights, the Federal land described in subsection (a) is withdrawn from—

(A) all forms of appropriation under the public land laws;

(B) location, entry, and patent under the mining laws;

(C) disposition under laws relating to mineral or geothermal leasing; and

(D) 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).

(2) TERMINATION.—The withdrawal under paragraph (1) shall remain in effect until—

(A) if Sealaska fails to file a resolution in accordance with section 3(a), the date that is 90 days after the date of enactment of this Act; or

(B) the date on which the Federal land is conveyed under subsection (a).

(c) TREATMENT OF LAND CONVEYED.—Except as otherwise provided in this Act, any land conveyed to Sealaska under subsection (a) shall be—

(1) considered to be land conveyed by the Secretary under section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)); and

(2) subject to all laws (including regulations) applicable to entitlements under section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)), including section 907(d) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636(d)).

(d) EASEMENTS.—

(1) PUBLIC EASEMENTS.—

(A) IN GENERAL.—The interim conveyance and patents for the land under subsection (a) shall be subject to the reservation of public easements under section 17(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(b)).

(B) TERMINATION.—No public easement reserved on land conveyed under subsection (a) shall be terminated without publication of notice of the proposed termination in the Federal Register.

(C) RESERVATION OF EASEMENTS.—In the interim conveyance and patents for the land under subsection (a), the Secretary shall reserve the right of the Secretary to amend the interim conveyance and patents to include reservations of public easements under section 17(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(b)) until the completion of the easement reservation process.

(2) CONSERVATION EASEMENTS.—

(A) IN GENERAL.—In the interim conveyance and patents for the land under subsection (a), the Secretary shall reserve a conservation easement to protect the aquatic and riparian habitat extending 100 feet on each side of the anadromous water bodies depicted as "100 Foot Conservation Easement" on the maps numbered 3, 4, and 6.

(B) PROHIBITION.—The commercial harvest of timber within the conservation easements described in subparagraph (A) shall be prohibited, except that Sealaska may, for the purpose of harvesting timber outside of the conservation easement—

(i) maintain roads within the conservation easement that are in existence on the date of enactment of this Act; and

(ii) construct temporary roads and yarding corridors across the conservation easements in accordance with the applicable National Forest System construction standards.

(C) ADMINISTRATION.—The Secretary of Agriculture shall administer the conservation easements described in subparagraph (A).

(3) RESEARCH EASEMENT.—In the interim conveyance and patent for the land generally depicted on the map numbered 7, the Secretary shall reserve an easement—

(A) to access and continue Forest Service research activities on the study plots located on the land; and

(B) that shall remain in effect for a 10-year period beginning on the date of enactment of this Act.

(4) KOSCUISKO ISLAND ROAD EASEMENT.—

(A) IN GENERAL.—Concurrently with the conveyance of land under subsection (a), the Secretary shall grant to Sealaska an easement on Koscuisko Island providing access to and use by Sealaska of the sort yard and all other upland facilities at the sort yard that are associated with the transfer of logs to the marine environment, subject to—

(i) the agreement under subparagraph (C); and

(ii) the agreement under section 6(b).

(B) SCOPE OF THE EASEMENT.—The easement under subparagraph (A) shall enable Sealaska—

(i) to construct, use, and maintain a road connecting the National Forest System Road known as "Cape Pole Road" to the National Forest System Road known as "South Shipley Bay Road" within the corridor depicted on the map numbered 3;

(ii) to use, maintain, and if necessary, reconstruct the National Forest System Road known as "South Shipley Bay Road" referred to in clause (i) to access the sort yard and associated upland facilities at Shipley Bay; and

(iii) to use, maintain, and expand the sort yard and associated upland facilities at Shipley Bay that are within the area depicted on the map numbered 3.

(C) ROADS AND FACILITIES USE AGREEMENT.—In addition to the agreement under section 6(b), the Secretary of Agriculture and Sealaska shall enter into an agreement relating to the access, use, maintenance, and improvement of the roads and facilities under this paragraph.

(D) EFFECT.—Nothing in this paragraph preempts or otherwise affects State or local regulatory authority.

(e) HUNTING, FISHING, AND RECREATION.—

(1) IN GENERAL.—Any land conveyed under subsection (a) that is located outside a withdrawal area designated under section 16(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1615(a)) shall remain open and available to subsistence uses, noncommercial recreational hunting and fishing, and other noncommercial recreational uses by the public under applicable law—

(A) without liability on the part of Sealaska, except for willful acts, to any user as a result of the use; and

(B) subject to—

(i) any reasonable restrictions that may be imposed by Sealaska on the public use—

(I) to ensure public safety;

(II) to minimize conflicts between recreational and commercial uses;

(III) to protect cultural resources;

(IV) to conduct scientific research; or

(V) to provide environmental protection; and

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

(2) EFFECT.—Access provided to any individual or entity under paragraph (1) shall not—

(A) create an interest in any third party in the land conveyed under subsection (a); or

(B) provide standing to any third party in any review of, or challenge to, any determination by Sealaska with respect to the management or development of the land conveyed under subsection (a), except as against Sealaska for the management of public access under paragraph (1).

SEC. 5. CEMETERY SITES AND HISTORICAL PLACES.

(a) IN GENERAL.—Notwithstanding section 14(h)(1)(E) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)(E)), Sealaska may submit applications for the conveyance under section 14(h)(1)(A) of the Alaska Native Claims Settlement

Act (43 U.S.C. 1613(h)(1)(A)) of not more than 76 cemetery sites and historical places—

(1) that are listed in the document entitled "Sealaska Cemetery Sites and Historical Places" and dated October 17, 2012;

(2) that are cemetery sites and historical places included in the report by Wilsey and Ham, Inc., entitled "1975 Native Cemetery and Historic Sites of Southeast Alaska (Preliminary Report)" and dated October 1975;

(3) for which Sealaska has not previously submitted an application; and

(4) that are not located within a conservation system unit (as defined in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102)).

(b) PROCEDURE FOR EVALUATING APPLICATIONS.—Except as otherwise provided in this section, the Secretary shall consider all applications submitted under this section in accordance with the criteria and procedures set forth in applicable regulations in effect as of the date of enactment of this Act.

(c) CONVEYANCE.—If approved under the procedures described in subsection (b), the Secretary shall convey cemetery sites and historical places that result in the conveyance of a total of approximately 490 acres of Federal land comprised of parcels that are—

(1) applied for in accordance with this section; and

(2) subject to—

(A) valid existing rights;

(B) the public access provisions of subsection (g);

(C) the condition that the conveyance of land for the site listed under subsection (a)(1) as "Bay of Pillars Portage" is limited to not more than 25 acres in T.60 S., R.72 E., Sec. 28, Copper River Meridian; and

(D) the condition that any access to or use of the cemetery sites and historical places shall be consistent with the management plans for adjacent public land, if the management plans are more restrictive than the laws (including regulations) applicable under subsection (i).

(d) TIMELINE.—No application for a cemetery site or historical place may be submitted under subsection (a) after the date that is 2 years after the date of enactment of this Act.

(e) CONSULTATION WITH RECOGNIZED TRIBAL ENTITY.—Sealaska shall—

(1) consult with any affected federally recognized Indian tribe before submitting any application for a cemetery site or historical place located within the vicinity of the Indian tribe; and

(2) include with each application described in paragraph (1) a statement that the required consultation was carried out in accordance with that paragraph.

(f) SELECTION OF ADDITIONAL CEMETERY SITES.—If Sealaska submits timely applications to the Secretary in accordance with subsections (a), (d), and (e), for all 76 sites listed under subsection (a)(1), and the Secretary rejects any of those applications in whole or in part—

(1) not later than 2 years after the date on which the Secretary completes the conveyance of eligible cemetery sites and historical places applied for under subsection (a), and subject to subsection (e), Sealaska may submit applications for the conveyance under section 14(h)(1)(A) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)(A)) of additional cemetery sites that are not located in a conservation system unit described in (a)(4), the total acreage of which, together with the cemetery sites and historical places previously conveyed by the Secretary under subsection (c), shall not exceed 490 acres; and

(2) the Secretary shall—

(A) consider any applications for the conveyance of additional cemetery sites in accordance with subsection (b); and

(B) if the applications are approved, provide for the conveyance of the sites in accordance with subsection (c).

(g) PUBLIC ACCESS.—

(1) IN GENERAL.—Subject to paragraph (2), any land conveyed under this section shall be subject to—

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

(B) public access across the conveyed land in cases in which no reasonable alternative access around the land is available, without liability to Sealaska, except for willful acts, to any user by reason of the use; and

(C) public access to and along any Class I stream described in section 705(e) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(e)) for noncommercial recreational and subsistence fishing, without liability to Sealaska, except for willful acts, to any user by reason of the use.

(2) LIMITATIONS.—The public access and use under subparagraphs (B) and (C) of paragraph (1) shall be subject to—

(A) any reasonable restrictions that may be imposed by Sealaska on the public access and use—

(i) to ensure public safety;

(ii) to protect and conduct research on the historic, archaeological, and cultural resources of the conveyed land; or

(iii) to provide environmental protection;

(B) the condition that Sealaska post on any applicable property, in accordance with State law, notices of the restrictions on the public access and use; and

(C) the condition that the public access and use shall not be incompatible with or in derogation of the values of the area as a cemetery site or historical place, as provided in section 2653.11 of title 43, Code of Federal Regulations (or a successor regulation).

(3) EFFECT.—Access provided to any individual or entity by paragraph (1) shall not—

(A) create an interest in any third party in the land conveyed under this section; or

(B) provide standing to any third party in any review of, or challenge to, any determination by Sealaska with respect to the management or development of the land conveyed under this section, except as against Sealaska for the management of public access under paragraph (2).

(h) PROHIBITION ON TRANSFER OR LOSS.—

(1) PROHIBITION ON TRANSFER.—Notwithstanding any other provision of law, Sealaska shall not—

(A) alienate, transfer, assign, mortgage, or pledge any cemetery site or historical place conveyed under this section to any person or entity other than the United States; or

(B) permit development or improvement of the cemetery site or historical place for any use which is incompatible with, or is in derogation of, the values of the area as a cemetery site or historical place.

(2) PROHIBITION ON LOSS.—Notwithstanding any other provision of law, any cemetery site or historical place conveyed to Sealaska under this section shall be exempt from—

(A) adverse possession and similar claims based on estoppel;

(B) title 11 of the United States Code or a successor law, any other insolvency or moratorium law, or any other law generally affecting creditors' rights;

(C) judgments in any action at law or in equity to recover sums owed or penalties incurred by Sealaska or any employee, officer, director, or shareholder of Sealaska, except for liens from real property taxes; and

(D) involuntary distributions or conveyances to any person or entity other than the United States related to the involuntary dissolution of Sealaska.

(i) TREATMENT OF LAND CONVEYED.—Except as otherwise provided in this Act, any land conveyed to Sealaska under this section shall be—

(1) considered land conveyed by the Secretary under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)); and

(2) subject to all laws (including regulations) applicable to conveyances under section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)), including section 907(d) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636(d)).

SEC. 6. MISCELLANEOUS.

(a) SPECIAL USE AUTHORIZATIONS.—

(1) IN GENERAL.—On the conveyance of land to Sealaska under section 4(a)—

(A) any guiding or outfitting special use authorization issued by the Forest Service for the use of the conveyed land shall terminate; and

(B) as a condition of the conveyance and consistent with section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)), Sealaska shall issue the holder of the special use authorization terminated under subparagraph (A) an authorization to continue the authorized use, subject to the terms and conditions that were in the special use authorization issued by the Forest Service, for—

(i) the remainder of the term of the authorization; and

(ii) 1 additional consecutive 10-year renewal period.

(2) NOTICE OF COMMERCIAL ACTIVITIES.—Sealaska and any holder of a guiding or outfitting authorization under this subsection shall have a mutual obligation, subject to the guiding or outfitting authorization, to inform the other party of

any commercial activities prior to engaging in the activities on the land conveyed to Sealaska under section 4(a).

(3) NEGOTIATION OF NEW TERMS.—Nothing in this subsection precludes Sealaska and the holder of a guiding or outfitting authorization from negotiating a new mutually agreeable guiding or outfitting authorization.

(4) LIABILITY.—Neither Sealaska nor the United States shall bear any liability, except for willful acts of Sealaska or the United States, regarding the use and occupancy of any land conveyed to Sealaska under this Act, as provided in any outfitting or guiding authorization under this subsection.

(b) ROADS AND FACILITIES.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture and Sealaska shall negotiate in good faith to develop a binding agreement—

(1) for the use of National Forest System roads and related transportation facilities by Sealaska; and

(2) the use of Sealaska roads and related transportation facilities by the Forest Service.

(c) TRADITIONAL TRADE AND MIGRATION ROUTES.—

(1) IDENTIFICATION OF ROUTES.—

(A) THE INSIDE PASSAGE.—The route from Yakutat to Dry Bay, as generally depicted on the map entitled "Traditional Trade and Migration Route, Neix naax aan náx—The Inside Passage" and dated April 22, 2013, shall be known as "Neix naax aan náx" ("The Inside Passage").

(B) CANOE ROAD.—The route from the Bay of Pillars to Port Camden, as generally depicted on the map entitled "Traditional Trade and Migration Route, Yakwdeiyí—Canoe Road" and dated April 22, 2013, shall be known as "Yakwdeiyí" ("Canoe Road").

(C) THE PEOPLE'S ROAD.—The route from Portage Bay to Duncan Canal, as generally depicted on the map entitled "Traditional Trade and Migration Route, Lingít Deiyí—The People's Road" and dated April 22, 2013, shall be known as "Lingít Deiyí" ("The People's Road").

(2) ACCESS TO TRADITIONAL TRADE AND MIGRATION ROUTES.—The culturally and historically significant trade and migration routes described in paragraph (1) shall be open to travel by Sealaska and the public in accordance with applicable law, subject to such terms, conditions, and special use authorizations as the Secretary of Agriculture may require.

(d) TONGASS NATIONAL FOREST YOUNG GROWTH MANAGEMENT.—

(1) IN GENERAL.—Notwithstanding subsection (m) of section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) and in addition to the authority provided under that subsection and the terms of section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)), the Secretary of Agriculture may allow the harvest of trees prior to the culmination of mean annual increment of growth in areas that are available for commercial timber harvest under the Tongass National Forest Land and Resource Management Plan to facilitate the transition from commercial timber harvest of old growth stands.

(2) LIMITATION.—Any sale of trees pursuant to the authority granted under paragraph (1) shall not—

(A) exceed 15,000 acres during the 10-year period beginning on the date of enactment of this Act, with an annual maximum of 3,000 acres sold;

(B) exceed a total of 50,000 acres, with an annual maximum of 5,000 acres sold after the first 10-year period;

(C) be advertised if the indicated rate is deficit (defined as the value of the timber is not sufficient to cover all logging and stumpage costs and provide a normal profit and risk allowance under the appraisal process of the Forest Service) when appraised using a residual value appraisal; or

(D) apply to land withdrawn under section 4(b).

(3) APPLICABLE LAW.—Nothing in this Act affects the requirement under section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)) that the Forest Service seek to meet demand for timber from the Tongass National Forest.

(e) EFFECT ON OTHER LAWS.—

(1) IN GENERAL.—Nothing in this Act delays the duty of the Secretary to convey land to—

(A) the State 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); or

(B) a Native Corporation under—

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

(ii) the Alaska Land Transfer Acceleration Act (43 U.S.C. 1611 note; Public Law 108–452).

(2) CONVEYANCES.—The Secretary shall promptly proceed with the conveyance of all land necessary to fulfill the final entitlement of all Native Corporations in accordance with—

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

(B) the Alaska Land Transfer Acceleration Act (43 U.S.C. 1611 note; Public Law 108–452).

(3) FISH AND WILDLIFE.—Nothing in this Act enlarges or diminishes the responsibility and authority of the State with respect to the management of fish and wildlife on public land in the State.

(f) ESCROW FUNDS.—If Sealaska files the resolution in accordance with section 3(a)—

(1) the escrow requirements of section 2 of Public Law 94–204 (43 U.S.C. 1613 note) shall apply to proceeds (including interest) derived from the land withdrawn under section 4(b) from the date of receipt of the resolution; and

(2) Sealaska shall have no right to any proceeds (including interest) held pursuant to the escrow requirements of section 2 of Public Law 94–204 (43 U.S.C. 1613 note) that were derived from land originally withdrawn for selection by section 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1615), but not conveyed.

(g) MAPS.—

(1) AVAILABILITY.—Each map referred to in this Act shall be available in the appropriate offices of the Secretary and the Secretary of Agriculture.

(2) CORRECTIONS.—The Secretary of Agriculture may make any necessary correction to a clerical or typographical error in a map referred to in this Act.

SEC. 7. CONSERVATION AREAS.

(a) LUD II MANAGEMENT AREAS.—If Sealaska files a resolution in accordance with section 3(a), section 508 of the Alaska National Interest Lands Conservation Act (Public Law 96–487; 104 Stat. 4428) is amended by adding at the end the following:

"(13) BAY OF PILLARS.—Certain land which comprises approximately 20,863 acres, as generally depicted on the map entitled 'Bay of Pillars LUD II Management Area—Proposed' and dated June 14, 2013.

"(14) KUSHNEAHIN CREEK.—Certain land which comprises approximately 33,613 acres, as generally depicted on the map entitled 'Kushneahin Creek LUD II Management Area—Proposed' and dated June 14, 2013.

"(15) NORTHERN PRINCE OF WALES.—Certain land which comprises approximately 8,728 acres, as generally depicted on the map entitled 'Northern Prince of Wales LUD II Management Area—Proposed' and dated June 14, 2013.

"(16) WESTERN KOSCIUSKO.—Certain land which comprises approximately 8,012 acres, as generally depicted on the map entitled 'Western Kosciusko LUD II Management Area—Proposed' and dated June 14, 2013.

"(17) EASTERN KOSCIUSKO.—Certain land which comprises approximately 1,664 acres, as generally depicted on the map entitled 'Eastern Kosciusko LUD II Management Area—Proposed' and dated June 14, 2013.

"(18) SARKAR LAKES.—Certain land which comprises approximately 24,509 acres, as generally depicted on the map entitled 'Sarkar Lakes LUD II Management Area—Proposed' and dated June 14, 2013.

"(19) HONKER DIVIDE.—Certain land which comprises approximately 19,805 acres, as generally depicted on the map entitled 'Honker Divide LUD II Management Area—Proposed' and dated June 14, 2013.

"(20) EEK LAKE AND SUKKWAN ISLAND.—Certain land which comprises approximately 34,873 acres, as generally depicted on the map entitled 'Eek Lake and Sukkwan Island LUD II Management Area—Proposed' and dated June 14, 2013.".

(b) NO BUFFER ZONES.—

(1) IN GENERAL.—The designation of the conservation areas by paragraphs (13) through (20) of section 508 of the Alaska National Interest Lands Conservation Act (Public Law 96–487; 104 Stat. 4428) (as added by subsection (a)) (referred to in this subsection as the "conservation areas") is not intended to lead to the creation of protective perimeters or buffer zones around the conservation areas.

(2) OUTSIDE ACTIVITIES.—The fact that activities outside of the conservation areas are not consistent with the purposes of the conservation areas or can be seen or heard within the conservation areas shall not preclude the activities or uses outside the boundary of the conservation areas.

PURPOSE

The purpose of S. 340 is to provide for the conveyance of certain land in the Tongass National Forest to the Sealaska Corporation, an Alaska Native Regional Corporation, to fulfill its remaining land entitlements authorized by the Alaska Native Claims Settlement Act.

BACKGROUND AND NEED

Enacted in 1971, the Alaska Native Claims Settlement Act ("ANCSA"; 43 U.S.C. 1601 et seq.) established a framework to resolve and settle aboriginal land claims of Alaska Natives. ANCSA established 12 geographic regional corporations (and a thirteenth landless one) and over 200 village corporations in Alaska and provided that each Alaska Native living on December 18, 1971, was entitled to own stock in their local regional and village corporation. Through ANCSA, all Alaska Native aboriginal land claims were extinguished in exchange for 44 million acres of land and $962.5 million. ANCSA also established specific criteria for designating and allocating the land and money among the regional and village corporations.

The Sealaska Corporation is one of the regional corporations established by ANCSA and includes lands in Southeast Alaska. Under ANCSA, the Sealaska Corporation has selected a total of approximately 292,000 acres of land within certain township boundaries that are adjacent to ten Native Villages in Southeast Alaska. Sealaska has a remaining entitlement to approximately 70,000 acres that it can select from within a pool of approximately 327,000 acres of lands that are within the ANCSA "withdrawal boundaries" surrounding the Native Villages. However, Sealaska elected to withhold from finalizing the remainder of its entitlement from those areas, instead seeking legislation authorizing it to select lands outside of the ANCSA withdrawal boundaries. Sealaska contends that if it is forced to develop the lands inside the existing withdrawal boundaries it would be both more environmentally damaging and also less profitable for its shareholders.

As ordered reported, S. 340 would authorize Sealaska to select from specified national forest lands in Southeast Alaska located outside of the withdrawal boundaries in order to complete its entitlement. The selected areas include approximately 70,075 acres of land within the Tongass National Forest which are primarily valuable for timber, as well 76 sites totaling 490 acres with cemetery, historical, or traditional values; certain customary trade and migration routes; and access and development easements. Separately, it would provide protections from timber harvest and against some other development for approximately 152,000 acres of the Tongass National Forest. The bill requires Sealaska to waive selection rights within the withdrawal boundaries in return for it being able to select the designated lands outside the boundaries. The bill is designed to facilitate Sealaska's diversification from primarily timber harvesting to also include renewable energy, transportation, and recreation

LEGISLATIVE HISTORY

Senators Murkowski and Begich introduced S. 340 on February 14, 2013. The Subcommittee on Public Lands, Forests, and Mining held a hearing on S. 340 on April 25, 2013. At its business meeting on June 18, 2013, the Committee ordered the bill favorably reported with amendment.

A similar bill, S. 730, was introduced by Senators Murkowski and Begich in the 112th Congress. Senators Inouye, Akaka, and Landrieu were also cosponsors. The Subcommittee on Public Lands and Forests held a hearing on S. 730 on May 25, 2011 (S. Hrg. 112–131). Similar legislation, S. 881, was also introduced by Senators Murkowski, Begich, Inouye, and Akaka in the 111th Congress. The Subcommittee on Public Lands and Forests held a hearing on S. 881 on October 8, 2009 (S. Hrg. 111–285).

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on May 16, 2013, by a voice vote of a quorum present, recommends that the Senate pass S. 340, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 340, the committee adopted an amendment in the nature of a substitute. In addition to making several technical, clarifying, and conforming edits, the amendment: updates the map references of the lands to be conveyed to Sealaska to reflect boundary and acreage adjustments negotiated by Sealaska and the Forest Service; modifies the boundaries and acreage of several of the conservation areas designated in section 7; clarifies public access to and along certain streams within cemetery sites and cultural places conveyed to Sealaska; and provides the Forest Service with a limited exemption to allow it to harvest commercial timber prior to the culmination of mean annual increment of growth (CMAI) on a limited number of acres in the Tongass National Forest, to facilitate the transition from commercial timber harvest of old growth stands, while clarifying that nothing in this Act affects the requirements under current law that the Forest Service seek to meet demand for timber from the Tongass National Forest.

The amendment is explained in detail in the section-by-section analysis, below.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title, the "Southeast Alaska Native Lands Entitlement Finalization and Jobs Protection Act."

Section 2 defines key terms and map references used in the bill.

Section 3(a) provides that if the Secretary of the Interior receives a corporate resolution adopted by the Sealaska Corporation's (Sealaska) Board of Directors agreeing to accept the conveyance of land under this Act as full and final satisfaction of the remaining land entitlement granted the Corporation under section 14(h) of the Alaska Native Claims Settlement Act (ANCSA; 43 U.S.C. 1613(h)) within 90 days after the date of enactment, then the Secretary is

directed to implement this act and charge the entitlement pool 70,075 acres of land (reduced by any acres deducted under subsection (b)(2)) to fulfill Sealaska's remaining land entitlement under ANCSA.

Subsection (b) states that the 70,075 acres referenced in subsection (a) consists of 18 sites totaling 69,585 acres, plus up to an additional 490 acres of land cemetery sites and historical places which Sealaska may apply to receive in accordance with section 5.

The 18 sites include 68,434 acres of timber lands identified on the referenced maps as follows: Calder, 6,708 acres; Election Creek, 2,000 acres; Cleveland Peninsula, 1,380 acres; 12-Mile Arm, 6,471 acres; Tuxekan Island, 13,041 acres; Polk and MacKenzie Inlet, 10,445 acres; Koscuisko Island, 11,974, acres; Keete, 11,872 acres; Kuiu Island, about 4,595 acres.

The Committee is aware of concern in Port Protection and Port Baker about the local effect of logging activities on the Calder economic development parcel on Prince of Wales Island, including concerns if logging trucks access a log transfer facility at Port Protection. The Committee understands that Sealaska has agreed to truck logs harvested from the area using existing roads that will lead south and east to the Calder or other log transfer facilities, thereby avoiding the risk of increased traffic near the northern portion of the Mt. Calder-Mt. Holbrook LUD II conservation area.

The lands to be conveyed also include 1,099 acres of small parcel sites, as follows: Chicago Harbor, 150 acres; North Dolgoi Island, 245 acres; Redfield Lake, 22 acres; Cannon Beach, 43 acres; Crab Island Village, 4 acres; East Payne Island, 157 acres; Turnabout Island Village, 69 acres; Josephine Lake, 314 acres; Tlevak Narrows/Turn Point, 95 acres; Eleanor Island, 48 acres.

Any lands conveyed to Sealaska between August 1, 2012 and the date Sealaska files a corporate resolution in accordance with subsection (a) are to be deducted from the number of acres to be conveyed under this Act.

Subsection (c) provides that the resolution filed by Sealaska shall be final and irrevocable and shall result in the relinquishment of all existing selections made by Sealaska under section 14(h)(8) of ANCSA (43 U.S.C. 1613(h)(8)) and to the termination of all withdrawals by section 16 of ANCSA (43 U.S.C. 1615), except for pending Village Corporation selections, until those selections are resolved.

Subsection (d) provides that if Sealaska fails to file the resolution in accordance with subsection (a) then the provisions of this Act will cease to be effective and the Secretary of the Interior shall complete the interim conveyance of all remaining Sealaska lands within 5 years, setting the total acreage of lands to be conveyed at 70,075 acres, and completing the conveyance based on the prioritized selections in place with the Bureau of Land Management at the time of enactment. If the Governor of Alaska does not approve the prioritized selections in the Yakutat and Saxman selection areas as required by section 14(h)(8)(B) of ANCSA (43 U.S.C. 1613(h)(8)(B)) within 42 months after the date of enactment, the Secretary shall reject those selections and convey lands based on the remaining prioritized selections on file with the Secretary.

Subsection (e) states that except as provided in subsections (d) and (f), this Act provides the exclusive authority under which

Sealaska's remaining land entitlement under section 14(h)8) of ANCSA may be fulfilled.

Subsection (f) clarifies that nothing in this Act effects any pending applications for land selections under section 14 of ANCSA (43 U.S.C. 1613).

Section 4(a) directs the Secretary to complete the interim conveyance of the 18 parcels of land described in section 3 within 60 days after the date the Secretary receives the resolution from Sealaska, although the Secretary has 2 years after the date of enactment to identify any public easements reserved under section 17(b) of ANCSA (43 U.S.C. 1616(b)). If the Secretary does not complete the reservation of easements within the 2-year period, the Secretary is directed to reserve the easements as soon as practicable after that date.

Subsection (b) withdraws the 18 parcels of Federal land described in subsection (a) from all forms of appropriation under the public land laws; from location, entry, and patent under the mining laws; from disposition under the mineral or geothermal leasing laws; and from the Alaska Statehood Act, until the Sealaska selections are conveyed.

Subsection (c) clarifies that the lands conveyed to Sealaska under subsection (a) shall be considered to be land conveyed under section 14(h)(8) of ANCSA (43 U.S.C. 1613(h)(8)), and shall be subject to all laws and regulations applicable to entitlements under that section, including protections under section 907(d) of the Alaska National Interest Lands Conservation Act (ANILCA; 43 U.S.C. 1636(d)) from adverse possession by third parties and similar claims based upon estoppel, and real property taxes by any governmental entity.

Subsection (d)(1) states that all conveyances of land to Sealaska are subject to the reservation of public easements for access allowed by section 17(b) of ANCSA (43 U.S.C. 1616(b)) and that no easements may be terminated without publication of notice of termination in the Federal Register.

Paragraph (2) requires Sealaska to reserve a conservation easement to protect aquatic and riparian habitat extending 100 feet on each side of three streams identified on the referenced maps. The streams covered by this requirement are along the main stem of Trout Creek on Koscuisko Island, on Old Tom Creek at Polk Inlet, and on Karheen and Tuxekan Creeks on Tuxekan Island. The easements bar commercial timber harvest from within the easements, except to allow roads in existence on the date of enactment, or to allow for construction of temporary roads and yarding corridors across the easements subject to National Forest System construction standards.

Paragraph (3) directs the Secretary to reserve a 10-year research easement on 289 acres at 12 Mile Arm on Prince of Wales Island to permit the Forest Service to complete ongoing forestry research.

Paragraph (4) requires the Secretary to grant Sealaska an easement to construct, use, and maintain a road to permit logs to be transported to a log transfer facility and sort yard at Shipley Bay on northern Koscuisko Island, extending from the Cape Pole Road to the South Shipley Bay Road. The easement also permits Sealaska to use maintain and expand the sort yard and associated upland facilities, subject to an agreement between Sealaska and

the Forest Service relating to the access, use, maintenance, and improvement of the roads and facilities.

Subsection (e) provides that any land conveyed under subsection (a) that is located outside a withdrawal area designated under section 16(a) of ANCSA (16 U.S.C. 1615(a)) shall remain open and available to subsistence uses, noncommercial recreational hunting and fishing, and other noncommercial public recreational uses, subject to certain terms and conditions.

Section 5(a) authorizes Sealaska to submit applications for not more than 76 additional cemetery sites and historical places in accordance with section 14(h)(1) of ANCSA (43 U.S.C. 1613). The sites are limited to ones that were identified in a report by Wilsey and Ham Inc., a Seattle archeological consulting firm, entitled "1975 Native Cemetery and Historic Sites of Southeast Alaska (Preliminary Report)" and dated October, 1975, for which Sealaska has not previously submitted an application, and which are not located within a conservation system unit (as that term is defined in section 102 of ANILCA (16 U.S.C. 3102). The 76 sites are listed in Appendix A.

Subsection (b) requires the Secretary to consider all applications submitted under this section in accordance with the criteria and procedures in effect as of the date of enactment of this Act.

Subsection (c) provides that if the Secretary approves the application of the 76 sites under the procedures described in subsection (b), the Secretary shall convey the sites to Sealaska. If all of the sites are approved for conveyance, the combined acreage of the 76 sites is approximately 490 acres. The acreage of the Bay of Pillars Portage historical site is limited to no more than 25 acres. Public access to or use of the sites conveyed under this section shall be consistent with the management plans for adjacent public lands.

Subsection (d) establishes a deadline of 2 years after the date of enactment of this Act for Sealaska to submit its applications for the cemetery and historical sites it seeks to claim.

Subsection (e) requires Sealaska to consult with recognized tribal entities located in the vicinity of a site to be conveyed before submitting an application to select that site. Each application must include a statement that consultation was completed.

Subsection (f) authorizes Sealaska, if any cemetery sites or historical places are rejected in whole or in part, to submit applications to the Secretary for the conveyance of additional cemetery sites not located in a conservation system unit. Any subsequent applications under this subsection must occur not later than 2 years after the date on which the Secretary completes the conveyance of eligible sites under subsection (a), and shall not include cemetery sites located inside conservation system units, and the total acreage of the previously approved cemetery sites and historical places together with any additional approved cemetery sites shall not exceed 490 acres.

Subsection (g) identifies public access rights applicable to all cemetery sites and historical places conveyed to Sealaska by this Act. All sites are subject to the reservation of public access easements under by section 17(b) of ANCSA (43 U.S.C. 1616(b)), and are subject to public access across the conveyed land in cases in which no reasonable alterative access around the land is available, even if the sites aren't subject to section ANCSA 17(b) easements.

The public access is without liability to Sealaska, except for willful acts.

The subsection also provides for public access to and along any Class 1 (fishery) stream described in section 705(e) of ANILCA (16 U.S.C. 539d(e)) to permit noncommercial recreational and subsistence fishing in the streams, without liability to Sealaska, except for willful acts. The public access and use provisions in this subsection are subject to any reasonable restrictions that may be imposed by Sealaska to ensure public safety, to protect and conduct research on archaeological and cultural resources, or to provide environmental protection.

Subsection (h)(1) provides that notwithstanding any other provision of law, Sealaska shall not alienate, transfer, assign, mortgage or pledge any cemetery site or historical place to any person or entity other than the United States. The subsection also prohibits any development of a cemetery or historical site that is incompatible with or in derogation of the values of the area as a cemetery site or historical place.

Paragraph (2) further provides that notwithstanding any other provision of law, the cemetery sites or historical places conveyed to Sealaska by this section shall be exempt from adverse possession; title 11 of the U.S. Code or any other law involving insolvency or moratorium law, or other any law generally affecting creditors' rights; judgments in any action at law or in equity (except for liens for real property taxes); and involuntary distributions or conveyances to any person or entity except the United States.

Subsection (i) clarifies that cemetery sites and historical places conveyed to Sealaska under this section shall be considered to be land conveyed in accordance with section 14(h)(1) of ANCSA and subject to all laws applicable to those lands, including protections under section 907(d) of the ANILCA (43 U.S.C. 1636(d)) from adverse possession by third parties and similar claims based upon estoppel, and real property taxes by any governmental entity

Section 6(a) provides that any guiding or outfitting special use permit on national forest land conveyed by this Act shall terminate upon the conveyance of the land to Sealaska, but as a condition of the conveyance, and consistent with section 14(g) of ANCSA, Sealaska shall issue the holder of the terminated special use authorization a new authorization to continue such operations from Sealaska for the remainder of the term of the terminated authorization, and one additional 10-year renewal period. The subsection requires that both Sealaska and the permit holder have a mutual obligation to inform the other party of commercial activities and the provision allows for Sealaska and the permit holder to negotiate new mutually agreeable terms for guiding and outfitter authorizations prior to the end of the permit period. Neither Sealaska nor the United States shall bear liability for activities on any conveyed lands, except for willful acts.

Subsection (b) requires that Sealaska and the Secretary of Agriculture within one year of passage to negotiate in good faith to develop a binding agreement for the use of National Forest System roads and related transportation facilities by Sealaska and the use of Sealaska roads and related transportation facilities by the Forest Service, an agreement similar to what is currently in place.

Subsection (c) identifies three traditional trade and migration routes in Southeast Alaska to honor Tlingit and Haida history. The route from Yakutat to Dry Bay will be known as "Neix naax aan nax"—The Inside Passage; the route from Bay of Pillars to Port Camden, shall be known as "Yakwdeiyi"—the Canoe Road; and the route from Portage Bay to Duncan Canal, shall be known as "Lingit Deiyi"—the People's Road. The provision allows the routes to be open for travel by Sealaska and the public in accordance with applicable law, subject to any terms, conditions and authorizations set by the Secretary of Agriculture.

Subsection (d) provides a waiver to Forest Service policy concerning the management of young-growth timber tracts in the Tongass National Forest. The provision allows the Forest Service to harvest trees on some tracts prior to the culmination of mean annual increment of growth (CMAI), a requirement under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974. The waiver is limited to the harvest of 15,000 acres during a 10-year period beginning on the date of enactment with an annual maximum of 3,000 acres sold; and is limited to a total of 50,000 acres sold, with an annual maximum of 5,000 acres after the first 10-year period. The waiver only applies for sales advertised if the indicated rate is not deficit (defined as the value of the timber is not sufficient to cover all logging and stumpage costs and provide a normal profit and risk allowance under the appraisal process of the Forest Service) when appraised using a residual value appraisal.

The subsection also clarifies that nothing in this Act affects the requirement under section 705(a) of the Alaska National Interest Lands Conservation Act of 1980 that the Forest Service seek to meet demand for timber from the Tongass National Forest.

The Forest Service has stated its intention in the Tongass National Forest of transitioning timber harvest away from old-growth forests and into second growth forests while helping to maintain a viable timber industry in southeast Alaska.Current National Forest Management Act regulations generally allow final harvest of timber stands on Forest Service lands only after forest stands reach an age that maximizes the timber yield over continuous timber rotations (i.e., culmination of mean annual increment (CMAI)). Effectively, this regulation prohibits the Forest Service from conducting final harvest in second growth timber on the Tongass National Forest until trees reach an age of 70 years or more. The effect of current CMAI regulations is to slow the transition that would replace old growth timber with second growth timber over time on the Tongass National Forest.

The provisions in this legislation relaxing the culmination of mean annual increment requirements on the Tongass National Forest will allow earlier harvest of stands of second growth timber, thereby speeding the transition away from old growth timber. The Forest Service is required by section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)) to "seek to meet demand" for timber in the region. Nothing in this legislation changes this requirement. Further, the Forest Service has been required to ensure that timber sales are economic for many years by provisions of successive annual appropriation laws. This legislation would make those provisions permanent for sales of second growth

timber from the Tongass National Forest. The Committee expects that in carrying out the CMAI provisions of this legislation that the Forest Service will provide sufficient supply of suitable timber through timber sales that are economic, thereby helping maintain the timber industry during the transition.

Subsection (e) states that nothing in this Act delays the duty of the Secretary to convey lands to the State of Alaska in accordance with the Alaska Statehood Act of 1958, or to Alaska Native Corporations in accordance with ANCSA and the Alaska Land Transfer Acceleration Act of 2004.

Paragraph (3) clarifies that nothing in this Act enlarges or diminishes the responsibility and authority of the State of Alaska with respect to the management of fish and wildlife on public lands in Alaska.

Subsection (f) provides that if Sealaska files the resolution in accordance with section 3(a), it shall forfeit to the federal treasury any proceeds collected in an escrow fund since ANCSA's passage in 1971 from receipts from lands that Sealaska is receiving by this Act. The subsection also extinguishes Sealaska's rights to any proceeds, including interest, in the escrow account. The subsection also allows for technical corrections to the maps created to implement this Act and requires that all maps be available for public inspection in appropriate offices of the Department of Agriculture.

Section 7(a) provides that if Sealaska files the resolution required in section 3(a) accepting the conveyance of lands under this Act, 8 new conservation areas totaling 152,067 acres are established in the Tongass National Forest, all Land Unit Designation II (LUD II) areas. The areas are established by amending section 508 of ANILCA, which was added by section 201 of the Tongass Timber Reform Act of 1990. The new LUD II areas established are: Bay of Pillars, 20,863 acres; Kushneahin Creek, 33,613 acres; Northern Prince of Wales, 8,728 acres; Western Koscuisko, 8,012 acres; Eastern Koscuikso, 1,664 acres; Sarkar Lakes, 24,509 acres; Honker Divide, 19,805 acres; and Eek Lake and Sukkwan Island, 34,873 acres.

Subsection (b) states that the designation of the conservation areas in subsection (a) is not intended to lead to the creation of protective perimeters or buffer zones around the conservation areas, and that the fact that activities outside of the conservation areas are not consistent with the purposes of the conservation areas or can be seen or heard within the conservation areas shall not preclude the activities or uses outside the boundary of the conservation areas.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 340—Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act

S. 340 would authorize the Southeast Alaska Native Corporation (Sealaska) to select the remainder of its land entitlement from federal lands outside the area originally delineated for that purpose by the Alaska Native Claims Settlement Act. Based on information from the Forest Service, CBO estimates that enacting S. 340 would

result in a net loss of $3 million in timber receipts over the 2014–2023 period (such losses would increase direct spending). Because enacting the legislation would affect direct spending, pay-as-you-go procedures apply. Enacting S. 340 would not affect revenues.

Under the bill, Sealaska would be permitted to choose its remaining land entitlement from about 70,000 acres of old- and second-growth forest land. 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. In contrast, the lands available under current law are not expected to generate receipts to the Treasury. The bill also would open up some previously unavailable young-growth stands of timber for the Forest Service to harvest. Proceeds from the sale of timber on federal land are deposited in the Treasury as offsetting receipts (a credit against direct spending).

CBO estimates that enacting S. 340 would result in about 10,000 fewer federal acres being harvested for timber by the federal government over the 2014–2023 period, considering both the lands that would be acquired by Sealaska and the lands newly available to the Forest Service. We estimate that this reduction in timber harvests would reduce offsetting receipts by about $13 million over the 2014–2023 period. Because the Forest Service has the authority to spend a portion of those receipts without further appropriation, CBO estimates that enacting the bill would reduce net offsetting receipts to the Treasury by $3 million over the 2014–2023 period and additional amounts after 2023.

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. S. 340 would increase direct spending; therefore, pay-as-you-go procedures apply. 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 S. 340 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON JUNE 18, 2013

	By fiscal year, in millions of dollars—												
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2013–2018	2013–2023
NET INCREASE OR DECREASE (−) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	0	0	0	0	0	0	0	1	1	1	0	3

S. 340 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit Sealaska.

The CBO staff contact for this estimate is Martin von Gnechten. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation

of the regulatory impact which would be incurred in carrying out S. 340.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 340, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 340, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Bureau of Land Management and the Forest Service at the April 25, 2013, Subcommittee on Public Lands, Forests, and Mining hearing on S. 340 follows:

STATEMENT OF JAMIE CONNELL, ACTING DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to provide the views of the Department of the Interior (Department) on S. 340, the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act. My comments are limited to the programs administered by agencies of the Department, including the administration of the Alaska Land Conveyance Program by the Bureau of Land Management (BLM).

S. 340 would amend the Alaska Native Claims Settlement Act (ANCSA) to allow the Southeast Alaska Native Corporation (Sealaska) to receive conveyance of Federal lands from areas of Alaska outside of originally designated withdrawal areas, finalizing its entitlement under ANCSA. The Department supports the goals of completing ANCSA entitlements as soon as possible so that Alaska Native corporations, including Sealaska, may each have the full economic benefits of completed land entitlements. The Department defers to the U.S. Forest Service on matters regarding the disposition and management of National Forest System lands.

We look forward to working with the Congress, Sealaska, and community partners and interests to fulfill entitlements. Over the past years, the BLM has maintained an accelerated pace in administering the ANCSA land conveyance program; at mid-Fiscal Year 2013, the BLM had surveyed and patented to Native corporations nearly 32.6 million acres of ANCSA entitlements and had granted interim conveyance (all right, title, and interest of the Federal government) on approximately an additional 11.2 million acres of entitlements.

BACKGROUND

The BLM is responsible for expediting Federal land conveyances to individual Alaska Natives, Native corporations, and the State of Alaska under five core statutes: the Alaska Native Allotment Act of 1906, the Alaska Statehood Act of 1958, the Alaska Native Veterans Allotment Act of 1998, ANCSA, and the Alaska Land Transfer Acceleration Act (ALTAA). When these land conveyances are completed, about 150 million acres, or approximately 42 percent of the land area of Alaska, will have been transferred from Federal to State and private (Native) ownership.

ANCSA established a framework under which Alaska Natives formed private corporations to select and receive title to 44 million acres of public land in Alaska and receive payment of $962.5 million in settlement of aboriginal claims to land in the State. Sealaska is one of 12 regional corporations formed under ANCSA.

S. 340

S. 340 would allow Sealaska to receive conveyance of lands outside of the original withdrawal areas established by ANCSA in 1971; specifically, to receive conveyance of lands from among 18 identified parcels in the Tongass National Forest other than those that were originally available for selection, and to receive conveyance of up to 490 acres of Federal land for cemetery sites and historical places. Conveyance of these parcels would constitute finalization of Sealaska's entitlement under ANCSA.

The BLM would like the opportunity to work with the Committee on technical concerns related to finalizing the Sealaska entitlement. We note that if S. 340 is enacted other corporations might seek similar legislation for the substitution of new lands. In addition, the U.S. Fish and Wildlife Service notes that if S. 340 is enacted as proposed and the Tongass Forest Management Plan is modified, the Service may have to review its findings not to list the southeast Alaska distinct population segment (DPS) of Queen Charlotte goshawk and the Alexander Archipelago wolf.

CONCLUSION

The BLM in Alaska has made significant progress since the enactment of ALTAA, which gave the BLM tools to expedite land conveyances. We look forward to continuing to work with Alaska Native corporations, Native individuals, the State of Alaska, and other agencies and interests to fulfill the remaining land entitlements. Thank you for the opportunity to testify. I will be glad to answer any questions.

STATEMENT OF JAMES M. PEÑA, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the Committee, thank you for the opportunity to appear before you today to provide the Department of Agriculture's views on S. 340, the "Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act." S. 340 would allow the Sealaska Corporation, a Regional Corporation established under the Alaska Native Claims Settlement Act of 1971 (ANCSA), to obtain its remaining land entitlement under ANCSA from portions of the Tongass National Forest outside of the withdrawal areas to which Sealaska's selections are currently restricted by law.

The Department of Agriculture supports the objectives of finalizing Sealaska's remaining ANCSA entitlement, and completing conveyance of it. Over the last two years, the Forest Service has worked diligently with USDA, the Department of the Interior, Sealaska, the Alaska delegation, members and staff of the Committee, and others to develop a solution that works for everyone. S. 340 represents a major step forward in that effort. We look forward to continuing the close working relationship to resolve the few issues that remain.

Under S. 340, if the Sealaska board of directors approves the conveyances contemplated by the bill within 90 days of its enactment, the Secretary of the Interior would convey to Sealaska 18 parcels of Federal land on the Tongass National Forest totaling 69,585 acres within 60 days. Sealaska would also be allowed to apply within two years to the Secretary of the Interior for 76 cemetery sites and historical places; conveyance would be limited to a total of 490 acres. If any of these sites were rejected, Sealaska could apply for additional cemetery sites. These conveyances totaling 70,075 acres of Federal land would be the full and final satisfaction of Sealaska's remaining land entitlement under ANCSA.

The biggest remaining issue deals with the potential effects of the bill on the transition to young growth forest management in Southeast Alaska, and ways to offset those effects. USDA is making extensive efforts to transition the Tongass timber program, and the timber industry in Southeast Alaska, away from a reliance on old-growth timber towards a reliance primarily on the harvest of young growth stands. We believe this transition is essential to the long-term social and economic sustainability of the industry, and of the local economies of the communities in Southeast Alaska.

Under S. 340, many of the oldest second-growth stands on the Tongass would be conveyed to Sealaska. That would accelerate Sealaska's young growth program, but substantially delay the development of the Forest Service's young growth program on the Tongass unless additional steps are taken. The steps recommended by the Administration

relate to the "Culmination of Mean Annual Increment," or CMAI. This is a provision of the National Forest Management Act which, in lay terms, generally limits the harvest of young growth forest stands until they have reached their maximum rate of growth. In order for the Tongass to continue its transition to harvesting young growth without any delay caused by the transfer of lands to Sealaska, the Administration recommends that a limited amount of young growth timber on the Tongass be expressly exempted from CMAI. This exemption is not precedent-setting; it would apply only to the Tongass National Forest, due to the unique situation presented by this legislation. The existing CMAI provision contained in the NFMA would not be amended. We recognize that forest industry wants to ensure that the transition to young growth timber is done in a way that sustains the industry. We share that goal and believe that a limited CMAI exemption in this legislation will benefit the industry, local communities, and the Tongass. The successful resolution of this issue would remove the primary obstacle to moving forward with this bill.

There are several other minor amendments still being discussed. We hope to continue working with Sealaska and the Committee on these issues to ensure the final bill can be swiftly and efficiently implemented.

In conclusion, we have come a long way toward developing a solution that works for all parties. Particularly the department wants to recognize Sen. Barrasso and her staff, for their willingness to work in good faith toward agreements wherever possible. With a little more time and effort, the department believes that result can be achieved.

This concludes my testimony and I would be happy to answer any questions you may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 340 as ordered reported.

If Sealaska files the resolution in accordance with section 3(a) of this Act, the changes in existing law made by S. 340, as ordered reported are as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

Public Law 96–487

Approved December 2, 1980 (94 Stat. 2371)

AN ACT To provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act, may be cited as the "Alaska National Interest Lands Conservation Act".

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TITLE V—NATIONAL FOREST SYSTEM

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SEC. 508. LUD II MANAGEMENT AREAS.

The following lands are hereby allocated to Land Use Designation II ("LUD II") as described in the Tongass National Forest Land Management Plan, completed March, 1979, and amended Winter 1985–1986, and shall be managed by the Secretary of Agriculture in perpetuity in accordance with such designation:

(1) YAKUTAT FORE LANDS.—Certain lands which comprise approximately 137,947 acres, as generally depicted on a map entitled "Yakutat Forelands LUD I1 Management Area-Proposed" and dated March, 1990.

(2) BERNERS BAY.—Certain lands which comprise approximately 46,000 acres, as generally depicted on a map entitled "Berners Bay LUD II Management Area-Proposed" and dated May, 1989.

(3) ANAN CREEK.—Certain lands which comprise approximately 38,415 acres, as generally depicted on a map entitled "Anan Creek LUD II Management Area-Proposed" and dated October, 1990.

(4) KADASHAN.—Certain lands which comprise approximately 33,641 acres, as generally depicted on a map entitled "Kadashan LUD II Management Area-Proposed" and dated May, 1989.

(5) LISIANSKI RIVER/UPPER HOONAH SOUND.—Certain lands which comprise approximately 137,538 acres as generally depicted on a map entitled "Lisianski River/Upper Hoonah Sound LUD II Management Area-Proposed" and dated October, 1990.

(6) MT. CALDER/MT. HOLBROOK.—Certain lands which comprise approximately 64,040 acres as generally depicted on a map entitled "Mt. Calder/Mt. Holbrook LUD II Management Area-Proposed" and dated May, 1989 and "Mt. CaIder/Mt. Holbrook LUD II Addition", dated October, 1990.

(7) NUTKWA.—Certain Lands which comprise approximately 28,118 acres as generally depicted on a map entitled "Nutkwa LUD II Management Area-Proposed' and dated May, 1989.

(8) OUTSIDE LANDS.—Certain lands which comprise approximately 75,017 acres as generally depicted on a map entitled "Outside Islands LUD II Management Area-Proposed" and dated May, 1989.

(9) TRAP BAY.—Certain lands which comprise approximately 6,646 acres as generally depicted on a map entitled "Trap Bay LUD II Management Area-Proposed" and dated May, 1989.

(10) POINT ADOLPHUS/MUD BAY.—Certain lands which comprise approximately 113,326 acres as generally depicted on a map entitled "Point Adolphus/Mud Bay LUD II Management Area-Proposed" and dated October, 1990.

(11) NAHA.—Certain lands which comprise approximately 31,794 acres as generally depicted on a map entitled "Naha LUD II Management Area-Proposed" and dated October, 1990.

(12) SALMON BAY.—Certain lands which comprise approximately 10,000 acres as generally depicted on a map entitled "Salmon Bay LUD II Management Area-Proposed" and dated October, 1990.

(13) BAY OF PILLARS.—Certain land which comprises approximately 20,863 acres, as generally depicted on the map entitled "Bay of Pillars LUD II Management Area—Proposed" and dated June 14, 2013.

(14) KUSHNEAHIN CREEK.—Certain land which comprises approximately 33,613 acres, as generally depicted on the map entitled "Kushneahin Creek LUD II Management Area—Proposed" and dated June 14, 2013.

(15) NORTHERN PRINCE OF WALES.—Certain land which comprises approximately 8,728 acres, as generally depicted on the map entitled "Northern Prince of Wales LUD II Management Area—Proposed" and dated June 14, 2013.

(16) WESTERN KOSCIUSKO.—Certain land which comprises approximately 8,012 acres, as generally depicted on the map entitled "Western Kosciusko LUD II Management Area—Proposed" and dated June 14, 2013.

(17) EASTERN KOSCIUSKO.—Certain land which comprises approximately 1,664 acres, as generally depicted on the map entitled "Eastern Kosciusko LUD II Management Area—Proposed" and dated June 14, 2013.

(18) SARKAR LAKES.—Certain land which comprises approximately 24,509 acres, as generally depicted on the map entitled "Sarkar Lakes LUD II Management Area—Proposed" and dated June 14, 2013.

(19) HONKER DIVIDE.—Certain land which comprises approximately 19,805 acres, as generally depicted on the map entitled "Honker Divide LUD II Management Area—Proposed" and dated June 14, 2013.

(20) EEK LAKE AND SUKKWAN ISLAND.—Certain land which comprises approximately 34,873 acres, as generally depicted on the map entitled "Eek Lake and Sukkwan Island LUD II Management Area—Proposed" and dated June 14, 2013.

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