

**Statement of
Jim Peña
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U.S. Forest Service
U.S. Department of Agriculture**

**Before the
Subcommittee on Indian and Alaska Native Affairs
Committee on Natural Resources
United States House of Representatives**

May 16, 2013

Concerning

H.R. 740, the “Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act”

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 H.R. 740, the “Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act,” and, the “Southeast Alaska Native Land Conveyance Act.” The former is a comprehensive bill; the latter is what might be called a stopgap measure until a comprehensive bill can be completed. I will now address H.R. 740, the comprehensive measure, with H.R. 1306 addressed in separate written testimony.

H.R. 740 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 principal objectives of this legislation, to finalize Sealaska’s remaining ANCSA entitlement, and promptly complete conveyance of it. Under Secretary Harris Sherman expressed such support nearly two years ago during hearings in both houses on similar legislation of the 112th Congress. The Under Secretary concluded his testimony by saying the Department would continue to work with Sealaska and all interested parties to resolve concerns and find solutions that work for everyone.

Soon after those hearings, at the request of Senators Murkowski and Bingaman, USDA and the Forest Service began working closely with Senate staff, the Department of the Interior, Sealaska, and others to develop a balanced, compromise bill to resolve the long-standing issues that have delayed the completion of Sealaska’s ANCSA entitlement. We are grateful that H.R. 740 incorporates many of the provisions developed in those discussions; in this way, it is a significant improvement over previous legislation. However, H.R. 740 leaves out key provisions essential to a balanced solution and adds others that make reaching such a solution more difficult. Consequently, the Department of Agriculture opposes enactment of H.R. 740 unless it is amended as described in this statement.

Under H.R. 740, 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 25 parcels of Federal land on the Tongass National Forest totaling some 69,235 acres within 60 days. Sealaska would also be allowed to apply within two years to the Secretary of the Interior for 127 cemetery sites and historical places. This conveyance would be limited to a total of 840 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.

USDA has several significant policy concerns with H.R. 740: It excludes a provision to offset the impact of conveying thousands of acres of young growth forest to Sealaska; it also excludes provisions to establish conservation areas to balance the overall impacts of the bill and other provisions that would bolster the protection of three highly productive salmon streams on lands being conveyed to Sealaska; it would allow Sealaska to apply for 127 cemetery sites and historical places, scores of which are in existing Wilderness areas; and it would require expedited conveyance of more parcels of Federal lands that have not been agreed to in the negotiations conducted over the last two years.

USDA has serious concerns with the potential effects of the bill on the transition to young growth forest management in Southeast Alaska. 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 H.R. 740, 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 this issue is controversial, and negotiations are continuing among several parties. The absence of the provision recommended by the Administration poses a primary obstacle to enactment of H.R. 740.

The conservation areas and stream buffer provisions of the Senate companion bill, S. 340, are also viewed as essential components of a balanced, compromise solution to the long-standing debate over how to resolve Sealaska's remaining ANCSA land entitlement. We urge the Committee to add those provisions to H.R. 740.

Section 6 of H.R. 740 would allow Sealaska to apply for up to 127 additional cemetery sites and historical places. Forty-six of these are within congressionally designated Wilderness areas on the Tongass National Forest. One is on private land and is not listed in the Wilsey and Ham report referenced in the bill. Three more sites are within the 25 parcels of Federal lands that would be conveyed under Section 5 of H.R. 740. Finally, one of the sites has been selected by the State of Alaska and is not available for conveyance to Sealaska. Therefore, we recommend that Section 6 of H.R. 740 be amended to limit the number of sites to 76 and otherwise conform with Section 5 of the Senate bill, S. 340.

Finally, H.R. 740 would convey seven parcels of land not agreed to in the discussions that have taken place over the last two years. USDA has consistently recommended limiting the number of small inholdings on the Tongass, to minimize the confusion and inconvenience to the public and management problems that result from them. Each of these sites is believed to have potential for future hydropower development. All were specifically rejected during previous discussions, due partly to pre-existing development interests. Energy development has been proposed and abandoned at two of the sites due to conflicts with their high recreational use. Additionally, one of these sites is designated as a Special Interest Area in the Tongass Forest Plan to protect the area's recreational values. For all these reasons, we urge the committee to amend H.R. 740 to reflect the compromise package of conveyances contained in S. 340.

There are several other technical amendments that we believe are needed. We hope to continue working with Sealaska and the Committee on these issues.

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H.R. 1306, the “Southeast Alaska Native Land Conveyance Act”

Under H.R. 1306, two of the parcels contained in H.R. 740, the North Election Creek and North Cleveland parcels, would be conveyed to Sealaska within 60 days of enactment of the bill. These two parcels, which include 3,380 acres of Federal land, would be conveyed without the carefully negotiated provisions of H.R. 740 related to special use authorizations and public access that many stakeholders see as essential. We believe that it is far better to resolve the remaining issues associated with Sealaska’s land entitlement selections under ANCSA with a comprehensive settlement such as H.R. 740 with the changes already discussed, than to enact a piece-meal, stopgap measure such as H.R. 1306 that does not finalize Sealaska’s remaining entitlement.

For these reasons, USDA opposes enactment of H.R. 1306.

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