TESTIMONY
OF
MICHAEL BLACK
DIRECTOR OF THE BUREAU OF INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
SUBCOMMITTEE ON INDIAN, INSULAR AND ALASKA NATIVE AFFAIRS
HOUSE NATURAL RESOURCES COMMITTEE
U.S. HOUSE OF REPRESENTATIVES
ON
H.R. 1157, THE "SANTA YNEZ BAND OF CHUMASH MISSION INDIANS LAND TRANSFER ACT OF 2015"

JUNE 17, 2015

Chairman Young, Ranking Member Ruiz, and Members of the Subcommittee, my name is Michael Black and I am the Director for the Bureau of Indian Affairs. Thank you for the opportunity to present the Department of the Interior's (Department) views on H.R. 1157, a bill to authorize the Secretary of the Interior to place certain lands located in the unincorporated area of the County of Santa Barbara, California into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians (Tribe), and for other purposes.

Taking land into trust is one of the most important functions that the Department undertakes on behalf of Indian tribes. Homelands are essential to the health, safety, and welfare of the tribal communities. Thus, this Administration has made the restoration of tribal homelands a priority. This Administration is committed to the restoration of tribal homelands, through the Department's acquisition of lands in trust for tribes, where appropriate. The Department supports mandatory fee-to-trust legislation but takes no position on H.R. 1157 given that the 5 parcels identified in the H.R. 1157 are currently on appeal to the Assistant Secretary for Indian Affairs at the Department.

H.R. 1157 authorizes the Secretary for the Department to place approximately 5 parcels of land into trust for the Tribe. H.R. 1157 clearly provides the legal description for the lands that will be held in trust for the Tribe. H.R. 1157, once the land is placed in trust for the Tribe, removes any restrictions on the property pursuant to California state law, but also provides that the legislation does not terminate any right-of-way, or right-of-use issued, granted or permitted prior to the date of the enactment of this legislation. H.R. 1157 also includes a restriction that the Tribe may not conduct any gaming activities on any land taken into trust pursuant to this Act.

Thank you for the opportunity to present the Department's views on this legislation. I will be happy to answer any questions the Subcommittee may have.

Statement for the Record
U.S. Department of the Interior
House Natural Resources Committee
Subcommittee on Indian, Insular, and Alaska Native Affairs
H.R. 2386, Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act
June 17, 2015

Thank you for the opportunity to provide the views of the Department of the Interior on H.R. 2386, the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act. H.R. 2386 would amend the Alaska Native Claims Settlement Act (ANCSA) to authorize the five Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to organize as urban corporations, entitling each to receive land in southeastern Alaska.

The Department supports the goals of fulfilling ANCSA entitlements as soon as possible so that Alaska Native corporations may each have the full economic benefits of completed land entitlements. In recent years, the Bureau of Land Management (BLM) has maintained an accelerated pace in fulfilling entitlements pursuant to the ANCSA. To date, the BLM has fulfilled 95 percent of ANCSA and State of Alaska entitlements by interim conveyance, tentative approval, or patent. The BLM is committed to improving the Alaska land transfer process wherever opportunities exist. For example, we have proposed to establish a faster, more accurate, and more cost effective method for land conveyances required by the Alaska Statehood Act, though we continue to wait for meaningful engagement and feedback from the State of Alaska.

Background

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

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

H.R. 2386

H.R. 2386 would amend ANCSA to authorize the five Southeast Alaska Native communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell to organize as urban corporations, entitling each, upon incorporation, to receive one township of land (23,040 acres) from local areas of historical, cultural, traditional and economic importance. The bill provides that establishment of these new urban corporations does not affect any entitlement to land of any Native Corporation established before this act being proposed.

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

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

Although the Department does not support H.R. 2386, we would be glad to work with the sponsor and the Committee to address these issues as well as problems with eligible existing ANCSA communities. For instance, rather than simply addressing the perceived inequities of five communities formerly deemed to be ineligible under ANCSA, the Department would like to work with the Committee to find solutions to the existing eligible communities that have no remaining administrative remedies, such as the villages of Nagamut, Canyon Village and Kaktovik.

Conclusion

The BLM's Alaska Land Transfer program is now in a late stage of implementation and the Department strongly supports the equitable and expeditious completion of the remaining Alaska Native entitlements under ANCSA and other applicable authorities. H.R 2386 would delay the Department's goal of sunsetting the Alaska Land Transfer Program, which is in its final stages. The Department believes that the completion of the remaining entitlements under ANCSA and the Statehood Act is necessary to equitably resolve the remaining claims and fulfill an existing Congressional mandate.

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HOUSE NATURAL RESOURCES COMMITTEE
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ON
H.R. 2538, THE "LYTTON RANCHERIA HOMELANDS ACT OF 2015"

JUNE 17, 2015

Chairman Young, Ranking Member Ruiz, and Members of the Subcommittee, my name is Michael Black and I am the Director of the Bureau of Indian Affairs. Thank you for the opportunity to present the Department of the Interior's (Department) views on H.R. 2538, a bill taking certain lands located in the County of Sonoma, California into trust for the benefit of the Lytton Rancheria of California (Tribe), and for other purposes.

Taking land into trust is one of the most important functions that the Department undertakes on behalf of Indian tribes. Homelands are essential to the health, safety, and welfare of the tribal communities. Thus, this Administration has made the restoration of tribal homelands a priority. This Administration is committed to the restoration of tribal homelands, through the Department's acquisition of lands in trust for tribes, where appropriate. The Department supports H.R. 2538, with some amendments.

H.R. 2538 will place approximately 511 acres of land into trust for the Tribe. H.R. 2538 references a map titled "Lytton Fee Owned Property to be Taken into Trust" dated May 1, 2015 that identifies the lands to be transferred into trust for the Tribe. Under H.R. 2538, once the land is in trust for the Tribe, valid existing rights, contracts, and management agreements related to easements and rights-of-way will remain. H.R. 2538 includes a restriction that the Tribe may not conduct any gaming activities on any land taken into trust pursuant to this Act.

H.R. 2538 also references a Memorandum of Agreement between the County of Sonoma and the Tribe. The MOA affects not only the trust acquisition covered in the legislation but also future acquisitions and subjects the Tribe to the land use/zoning authority of the County for most of the property identified in the legislation for the term of the MOA, twenty (22) years, and imposes negotiated restrictions on the Tribe's residential development.

This Administration is supportive of legislative efforts to take land into trust for tribes. The Administration is also supportive of counties and tribes negotiating agreements to resolve their differences. The decision to compromise principles of tribal sovereignty is itself an exercise of sovereignty and tribal self-governance. In that spirit, the Administration defers to the decision made by the Tribe.

Thank you for the opportunity to present the Department's views on this legislation. I will be happy to answer any questions the Subcommittee may have.