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H.R. 2547, TO PROVIDE FOR THE CONVEYANCE OF LAND INTERESTS TO CHUGACH ALASKA CORPORATION TO FULFILL THE INTENT, PURPOSE, AND PROMISE OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

HEARING

BEFORE THE

COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

JULY 28, 1999, WASHINGTON, DC

Serial No. 106–50

Printed for the use of the Committee on Resources

Available via the World Wide Web: http://www.access.gpo.gov/congress/house
or
Committee address: http://www.house.gov/resources

U.S. GOVERNMENT PRINTING OFFICE

60–581 ⇆ WASHINGTON : 1999

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H.R. 2547, TO PROVIDE FOR THE CONVEYANCE OF LAND INTERESTS TO CHUGACH ALASKA CORPORATION TO FULFILL THE INTENT, PURPOSE, AND PROMISE OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

WEDNESDAY, JULY 28, 1999

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC.

The Committee met, pursuant to call, at 11 a.m. in Room 1324, Longworth House Office Building, Hon. Don Young [chairman of the Committee] presiding.

STATEMENT OF HON. DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

The CHAIRMAN. The Committee will come to order.

The Committee is meeting today, and I want to thank those Members here, and most Members decided to go out because of our deceased colleague in California, and I do thank you for being here to hear testimony on H.R. 2547, the Chugach Alaska Native Settlement Claims Act.

[The information follows:]

I

106TH CONGRESS
1ST SESSION

H. R. 2547

To provide for the conveyance of land interests to Chugach Alaska Corporation to fulfill the intent, purpose, and promise of the Alaska Native Claims Settlement Act.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 1999

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Resources

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A BILL

To provide for the conveyance of land interests to Chugach Alaska Corporation to fulfill the intent, purpose, and promise of the Alaska Native Claims Settlement Act.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chugach Alaska Natives Settlement Implementation Act of 1999".

SEC. 2. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

1 (1) The term "ANCSA" means the Alaska Na-
2 tive Claims Settlement Act, as amended (43 U.S.C.
3 1601 et seq.).
4 (2) The term "ANILCA" means the Alaska
5 National Interest Lands Conservation Act of 1980,
6 as amended (16 U.S.C. 3101 et seq.).

7 TITLE I—EASEMENT FOR
8 ACCESS

9 **SEC. 101. FINDINGS.**

10 The Congress finds that—
11 (1) Chugach Alaska Corporation, formerly
12 known as Chugach Natives, Inc., is the Alaska Na-
13 tive Regional Corporation organized under the au-
14 thority of ANCSA for the Chugach people in the
15 Chugach region;
16 (2) ANCSA promised the Chugach people a fair
17 and just settlement of their aboriginal claims to
18 lands and waters in Alaska;
19 (3) pursuant to section 1430 of ANILCA, the
20 Secretary of the Interior, the Secretary of Agri-
21 culture, the State of Alaska, and Chugach Alaska
22 Corporation were directed to study land ownership
23 in and around the Chugach region for the purposes
24 of—

1 (A) providing a fair and just land settle-
2 ment for the Chugach people and realizing the
3 intent, purpose, and promise of ANCSA by
4 Chugach Alaska Corporation; and
5 (B) identifying lands that, to the maximum
6 extent possible, are of the like, kind, and char-
7 acter of those traditionally used and occupied
8 by the Chugach people, and, to the maximum
9 extent possible, are coastal accessible and eco-
10 nomically viable;
11 (4) on September 17, 1982, the aforementioned
12 parties entered into the 1982 Chugach Natives, Inc.
13 Settlement Agreement in order to set forth a fair
14 and just land settlement for the Chugach people
15 pursuant to the study directed by Congress, which
16 among its many provisions—
17 (A) required the United States to convey
18 to Chugach Alaska Corporation not more than
19 73,308 acres of land in the vicinity of Carbon
20 Mountain, which tract of land contains signifi-
21 cant natural resources, but is inaccessible by
22 road;
23 (B) granted Chugach Alaska Corporation
24 rights-of-way across Chugach National Forest
25 to such tract of land, and required the United

1 States to grant to Chugach Alaska Corporation
2 an easement for the purpose of constructing,
3 using, and maintaining roads and other facili-
4 ties necessary for the use and development of
5 that tract of land;
6 (C) required Chugach Alaska Corporation
7 to apply to the Forest Supervisor for Chugach
8 National Forest for conveyance of the ease-
9 ment, and to provide such information as may
10 be prescribed by the Forest Supervisor; and
11 (D) reserved in the United States the right
12 to prepare environmental documents in connec-
13 tion with the easement grant, consistent with
14 the provisions of section 910 of ANILCA, if
15 deemed desirable by the responsible Federal
16 agency;
17 (5) on September 11, 1996, the Forest Super-
18 visor deemed preparation of environmental docu-
19 ments for the easement desirable;
20 (6) on August 8, 1997, and January 21, 1998,
21 Chugach Alaska Corporation and the United States
22 Forest Service entered into collection agreements,
23 pursuant to which Chugach Alaska Corporation was
24 required to pay to the United States Forest Service
25 the costs of United States Forest Service personnel

1 involvement in the preparation and review of envi-
2 ronmental documents and processing of the ease-
3 ment application;
4 (7) on March 13, 1998, Chugach Alaska Cor-
5 poration and the United States Forest Service en-
6 tered into a Memorandum of Understanding, pursu-
7 ant to which the parties reached agreement on—
8 (A) the information prescribed by the For-
9 est Supervisor, in a detailed work plan prepared
10 jointly by United States Forest Service and
11 Chugach Alaska Corporation representatives;
12 (B) the process for the preparation and
13 approval of environmental documentation in
14 support of the easement; and
15 (C) the requirement that the United States
16 Forest Service grant an easement to Chugach
17 Alaska Corporation within 45 days after receiv-
18 ing a complete easement application from Chu-
19 gach Alaska Corporation;
20 (8) In furtherance of providing the environ-
21 mental documentation prescribed by the Forest Su-
22 pervisor, Chugach Alaska Corporation, at its sole
23 expense—
24 (A) contracted for the performance of field
25 surveys and the preparation of resource reports

1 on the cultural resources, wetlands, threatened,
2 endangered, and sensitive plant and animal spe-
3 cies, vegetation, and fish and wildlife in the
4 easement project area, as depicted on the map
5 entitled "Project Area and Corridor Carbon
6 Mountain Access Project 1–14–98".
7 (B) submitted the resource reports to the
8 United States Forest Service for review and
9 comment, and contracted for further field sur-
10 veys and reports as and when requested by the
11 United States Forest Service;
12 (C) in conjunction with United States For-
13 est Service biologists, contracted for the per-
14 formance of field surveys and the preparation of
15 reports for waterfowl, goshawk, and goat kid-
16 ding areas in the easement project area;
17 (D) contracted for the preparation of
18 bridge designs and hydrological analyses for
19 major crossings within the easement project
20 area, submitted such designs and analyses to
21 the United States Forest Service for review and
22 comment, and modified such designs pursuant
23 to comments received from United States For-
24 est Service specialists;

(E) prepared a transportation plan for the easement and road, including maintenance and design standards and an erosion control plan, for review by United States Forest Service engineers and specialists; and

(F) contracted for the preparation of a draft road design for field and office review by United States Forest Service engineers and specialists, and for the modification of such design pursuant to comments received by the United States Forest Service;

(9) In June 1998, an interdisciplinary team of specialists in the fields of fisheries, hydrology, engineering, soils, wildlife, recreation, and visual quality from the United States Forest Service and Chugach Alaska Corporation and its contractors conducted an extensive field review of the easement corridor and road location, the costs of which were borne by Chugach Alaska Corporation, and United States Forest Service specialists concurred with Chugach Alaska Corporation on the location of the easement corridor;

(10) Following the interdisciplinary team review and concurrence, United States Forest Service staff officers, including the Forest Supervisor for the

1 Chugach National Forest, conducted a field review
2 of the road location and affirmed such concurrence;
3 (11) on January 12, 1999, the Forest Super-
4 visor determined that Chugach Alaska Corporation
5 had completed all studies and provided adequate
6 documentation to support its easement application;
7 (12) on January 19, 1999, Chugach Alaska
8 Corporation submitted the complete easement appli-
9 cation, containing all information prescribed by the
10 Forest Supervisor, in a multivolume collection of the
11 extensive field work, reviews, reports, analyses, and
12 modifications performed and relied upon in support
13 of the easement, and entitled "Documentation in
14 Support of an Easement Application for Road Ac-
15 cess Via the Martin River Valley to the Bering River
16 Coal Fields as Granted by the 1982 CNI Settlement
17 Agreement";
18 (13) to date, the United States Forest Service
19 has failed to grant Chugach Alaska Corporation an
20 easement for access to its lands in the vicinity of
21 Carbon Mountain;
22 (14) without such easement, the lands conveyed
23 to Chugach Alaska Corporation in the vicinity of
24 Carbon Mountain cannot be utilized or developed in

1 a manner consistent with the intent of congress as
2 expressed in the ANILCA and ANCSA;
3 (15) Chugach Alaska Corporation has incurred
4 considerable expense and delay in its efforts to
5 achieve the fair and just settlement Congress in-
6 tended and promised to the Chugach people more
7 than 2 decades ago pursuant to ANCSA;
8 (16) the easement requirement under the 1982
9 Chugach Natives, Inc. Settlement Agreement should
10 be granted without further delay.

11 **SEC. 102. PURPOSE.**

12 The purpose of this title is to provide Chugach Alaska
13 Corporation with access to and for the utilization and de-
14 velopment of land interests in the vicinity of Carbon
15 Mountain that were conveyed to Chugach Alaska Corpora-
16 tion pursuant to ANCSA.

17 **SEC. 103. CONVEYANCE.**

18 Notwithstanding any other provision of law, as soon
19 as practicable but not later than 90 days after the date
20 of the enactment of this title, the Secretary of Agriculture
21 shall grant Chugach Alaska Corporation a perpetual ease-
22 ment located and having the specifications as set forth in
23 the "Documentation in Support of an Easement Applica-
24 tion for Road Access Via the Martin River Valley to the
25 Bering River Coal Fields as Granted by the 1982 CNI

1 Settlement Agreement", for the purposes and facilities de-
2 scribed therein.

3 **SEC. 104. EASEMENT.**

4 Unless otherwise agreed to by the Secretary of Agri-
5 culture and Chugach Alaska Corporation, the easement
6 granted under section 103 of this title shall—

7 (1) include sufficient lands for logistical staging
8 areas and construction material sites used for the
9 construction and maintenance of a single-lane forest
10 road; and

11 (2) include the right for Chugach Alaska Cor-
12 poration, or its assignees, to construct, operate, and
13 maintain related facilities and structures within the
14 right-of-way.

15 **SEC. 105. TRANSFER.**

16 If within 6 months from the date of the enactment
17 of this title the Secretary of Agriculture and Chugach
18 Alaska Corporation fail mutually to agree on the terms
19 and conditions of the use of the easement, then the ease-
20 ment is hereby granted to Chugach Alaska Corporation,
21 and such grant shall be deemed as a conveyance pursuant
22 to ANCSA.

TITLE II—CEMETERY SITES AND HISTORIC PLACES

SEC. 201. DEFINITIONS.

For the purposes of this title, the following definitions apply:

(1) The term "Federal Government" means any Federal agency of the United States.

(2) The term "Secretary" means the Secretary of the Interior.

SEC. 202. FINDINGS.

The Congress finds the following:

(1) Pursuant to section 14(h)(1) of ANCSA, the Secretary has the authority to withdraw and convey to the appropriate regional corporation fee title to existing cemetery sites and historical places.

(2) Pursuant to section 14(h)(7) of ANCSA, lands located within a National Forest may be conveyed for the purposes set forth in section 14(h)(1) of ANCSA.

(3) Chugach Alaska Corporation, the Alaska Native Regional Corporation for the Chugach Region, applied to the Secretary for the conveyance of cemetery sites and historical places pursuant to section 14(h)(1) of ANCSA in accordance with the regulations promulgated by the Secretary.

1 (4) Pursuant to such regulations, Village Cor-
2 poration selections were given priority over Regional
3 Corporation selections for the same lands.
4 (5) Chugach Alaska Corporation's section
5 14(h)(1) applications for lands that were selected by
6 and conveyed to Village Corporations in the Chugach
7 Region were either withdrawn by Chugach Alaska
8 Corporation or denied by the Secretary.
9 (6) As part of the Exxon Valdez Oil Spill Res-
10 toration Program, the Federal Government has ac-
11 quired and is in the process of acquiring lands from
12 Village Corporations in the Chugach Region that
13 Chugach Alaska Corporation applied for pursuant to
14 section 14(h)(1) of ANCSA and lands from other
15 private parties in the Chugach Region that contain
16 cemetery sites and historical places.
17 (7) The fulfillment of the intent, purpose, and
18 promise of ANCSA requires that lands Chugach
19 Alaska Corporation selected or would have selected
20 under section 14(h)(1) of ANCSA and that were
21 subsequently acquired by the Federal Government
22 should be made available for conveyance to Chugach
23 Alaska Corporation as cemetery sites and historical
24 places pursuant to section 14(h)(1) of ANCSA, sub-
25 ject only to a determination that such lands meet

1 the eligibility criteria for historical places or cemetery sites, as appropriate, set forth in the Secretary's regulations.

4 **SEC. 203. WITHDRAWAL OF LANDS.**

5 Notwithstanding any other provision of law, the Secretary shall withdraw from all forms of appropriation—

7 (1) all public lands for which Chugach Alaska Corporation filed an application for conveyance pursuant to section 14(h)(1) of ANCSA as a cemetery site or an historical place, and such application was denied because the land was selected by and conveyed to a Village Corporation; and

13 (2) all lands that the Federal Government acquired or hereafter acquires from Village Corporations or other private parties in the Chugach Region in connection with the Exxon Valdez Oil Spill Restoration Program.

18 **SEC. 204. APPLICATION FOR CONVEYANCE OF WITHDRAWN LANDS.**

20 Chugach Alaska Corporation shall apply to the Secretary for the conveyance of lands as cemetery sites or historical places under section 14(h)(1) of ANCSA as follows:

24 (1) With respect to lands withdrawn pursuant to subsection 203(1) of this title, by filing with the

1 Secretary a request for reinstatement of its original
2 application, together with any amendments author-
3 ized under section 205 of this title.
4 (2) With respect to lands withdrawn pursuant
5 to subsection 203(2) of this title, for which Chugach
6 Alaska Corporation has not filed an application
7 under section 14(h)(1) of ANCSA with the Sec-
8 retary, by filing with the Secretary an application in
9 accordance with the regulations promulgated by the
10 Secretary as of the date of enactment of this title.
11 The Secretary shall accept all such requests filed within
12 the periods set forth in section 207 of this title.
13 **SEC. 205. AMENDMENTS.**
14 Chugach Alaska Corporation may amend original ap-
15 plications filed with the Secretary for the conveyance of
16 lands pursuant to section 14(h)(1) of ANCSA—
17 (1) to include lands withdrawn pursuant to sec-
18 tion 203 of this title which are adjacent to lands
19 Chugach Alaska Corporation selected in its original
20 application and that Chugach Alaska Corporation
21 deems culturally important and potentially eligible as
22 a cemetery site or historical place; and
23 (2) to cure technical defects.

1 **SEC. 206. PROCEDURE FOR EVALUATING AND CONVEYING**
2 **SELECTED LANDS.**

3 The lands selected by Chugach Alaska Corporation
4 pursuant to sections 204 and 205 of this title shall be
5 evaluated for their eligibility as cemetery sites and histor-
6 ical places, as appropriate, and conveyed to Chugach Alas-
7 ka Corporation, in accordance with the criteria and proce-
8 dures set forth in the regulations promulgated by the Sec-
9 retary as of the date of the enactment of this title. To
10 the extent that such criteria and procedures conflict with
11 any provision of this title, the provisions of this title shall
12 control.

13 **SEC. 207. REINSTATEMENT PERIOD.**

14 Notwithstanding any other provision of law, Chugach
15 Alaska Corporation shall have—

16 (1) 1 year from the date of enactment of this
17 title to file a request for reinstatement under sub-
18 section 204(1) of this title, together with any
19 amendments authorized under section 205 of this
20 title; and

21 (2) 4 years from the date of recording the con-
22 veyance document for any Federal acquisition of
23 lands to file an application under subsection 204(2)
24 of this title.

1 **SEC. 208. APPLICABILITY.**

2 This title shall apply to all Federal acquisitions of
3 the lands described in section 203 of this title, whether
4 occurring prior to or after the date of enactment of this
5 title.

6 TITLE III—FOREST SYSTEM 7 LAND MANAGEMENT

8 **SEC. 301. DEFINITION.**

9 For the purposes of this title, the term "Alaska Na-
10 tive Corporation" means a "Native Corporation" as that
11 term is defined in section 3(m) of ANCSA, as amended
12 (43 U.S.C. 1601 et seq.).

13 **SEC. 302. FINDINGS.**

14 The Congress finds that—

15 (1) pursuant to ANCSA and ANILCA, Alaska
16 Native Corporations own hundreds of thousands of
17 acres of land intermingled with, adjacent to, or de-
18 pendent for access upon National Forest System
19 lands in Alaska;

20 (2) the United States Forest Service, in a letter
21 dated June 30, 1998, to Chugach Alaska Corpora-
22 tion, the Alaska Native Regional Corporation for the
23 Chugach Region established under ANCSA, dis-
24 claimed any legal obligation to coordinate the revi-
25 sion of the Chugach National Forest land and re-
26 source management plan with the plans of Alaska

1 Native Corporations for the utilization of their lands
2 and resources;
3 (3) the uncoordinated development, mainte-
4 nance, or revision of land and resource management
5 plans for units of the National Forest System in
6 Alaska adversely affects the use, development, and
7 value of the lands and resources conveyed to Alaska
8 Native Corporations under ANCSA and ANILCA;
9 and
10 (4) the proper management of National Forest
11 System lands in Alaska and the fulfillment of the in-
12 tent, purpose, and promise of ANCSA require co-
13 ordination in the development, maintenance, and re-
14 vision of land and resource management plans for
15 units of the National Forest System in Alaska with
16 the plans of Alaska Native Corporations for the uti-
17 lization of their lands which are intermingled with,
18 adjacent to, or dependent upon for access National
19 Forest System lands.
20 **SEC. 303. COORDINATION REQUIRED.**
21 Notwithstanding any other provision of law, the Sec-
22 retary of Agriculture shall coordinate the development,
23 maintenance, and revision of land and resource manage-
24 ment plans for units of the National Forest System in
25 Alaska with the plans of Alaska Native Corporations for

1 the utilization of their lands which are intermingled with,
2 adjacent to, or dependent for access upon National Forest
3 System lands. At a minimum, such coordination shall
4 involve—

5 (1) notifying Alaska Native Corporations in ad-
6 vance of the development, maintenance, or revision
7 of a land and resource management plan for a unit
8 of the National Forest System in Alaska;

9 (2) meeting with Alaska Native Corporations at
10 the beginning of the plan preparation, maintenance,
11 or revision process to develop procedures for coordi-
12 nation;

13 (3) reviewing the plans of Alaska Native Cor-
14 porations for the utilization of their lands and re-
15 sources;

16 (4) assessing the impacts of Alaska Native Cor-
17 poration land use plans on National Forest land and
18 resource management planning, and determining
19 how to address those impacts; and

20 (5) identifying conflicts between National For-
21 est land and resource management plans and the
22 land use plans of Alaska Native Corporations, and
23 considering alternatives for resolving those conflicts.

1 **SEC. 304. APPLICABILITY.**

2 This title shall apply to all land and resource manage-
3 ment plans for units of the National Forest System in
4 Alaska—

5 (1) in the process of being developed or revised
6 on the date of enactment of this title; and

7 (2) developed, maintained, or revised after the
8 date of enactment of this title.

O

The CHAIRMAN. Under rule 4(g) of the Committee rules, any oral opening statements are limited to the Chairman and Ranking Minority Member, and other statements of Members can be included in the record under unanimous consent.

H.R. 2547 fulfills the purpose, promise and intent of the Alaska Native Claims Settlement Act for a group of Alaska Natives in the Chugach region. They are represented by the Chugach Alaska Corporation, the vehicle that manages the lands transferred to native ownership under the settlement Act.

I always feel a little awkward saying these lands were transferred to the Natives when, in fact, the lands were theirs to begin with.

The legislation is divided into three titles. Title I fully and finally eliminates the terms of a 1982 agreement between the United States and the Chugach Native people which the government promised, but has failed to grant, an easement providing access to property they own called the Carbon Mountain tract. This agreement in turn was supposed to implement the 1971 Native Claims Act.

Title II fulfills the intent of the Congress that Chugach receive possession of historical sites and cemeteries within its Native region. These sites have been the target of a zealous Trustee Council on a land-buying spree.

And title III requires the government to coordinate the forest land management plan with Native corporations whose lands are intermingled with national forest lands.

Twenty-eight years ago Congress extinguished the land claims of Alaska Natives. This cleared title to millions of acres of public land in Alaska and enabled the government to effect the d(2) withdrawals, which then led to all the future parks, wildlife refuges and wilderness areas.

But the purpose of the Native Claims Act was not to turn Alaska into a national park, it was meant to return a fraction of the lands the Federal Government took from our first Americans.

However, in the Chugach region, the Native people have not obtained what was promised. They were promised access to their Carbon Mountain lands, fee ownership of historic cemetery sites, and maximum participation in the management of public land that affects them, but these promises were either broken or left to wither. Even now while Chugach waits for a commitment to be honored, the government is planning new, unauthorized wilderness and wild and scenic river designations in the Chugach National Forest that will effectively impair the Natives' rights.

I wish Members would think about it. The administration could have granted the easement years ago, but instead devoted its attention to managing forest lands in a way that deprives the Natives of the promises, intent and purposes of ANCSA. What does that tell us about the government's intentions?

I am especially perturbed with this administration because it assured this Committee that easement would be issued by a time-certain deadline. Chugach met every obligation under the 1982 agreement, but no acceptable easement has been granted.

I believe this administration misrepresented its intentions to this Committee last year. It has no desire of issuing an easement. The

Chugach people are tired of lip service, so I am giving them H.R. 2547.

I should note that my frustration is not with those dedicated Forest Service employees on the ground in Alaska. In fact, the employees of the Forest Service in Alaska have worked very hard to accomplish this goal. The problem is here in Washington.

There is no excuse for further delays. The administration has to grant the easement today, it is that simple. I could go on, but there are more issues concerning the Native Claims Act and the Chugach Natives, and we will leave that to our witnesses to explain.

I am rearranging the order of witnesses today because the administration again failed to submit its testimony in an acceptable time frame. This is a habit that OMB can't seem to break. Hence, I am disallowing the submission of administration testimony for the record. However, the administration witness will remain present in this room and prepare for questions at the witness table after the other panel testifies and answers questions.

Let me remind the witnesses under our Committee rules they are limited to oral statements for 5 minutes, but their entire statement will appear in the record.

[The prepared statement of Mr. Young follows:]

STATEMENT OF HON. DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

H.R. 2547 fulfills the purpose, promise and intent of the Alaska Native Claims Settlement Act for a group of Alaska Natives in the Chugach Region. They are represented by the Chugach Alaska Corporation, the vehicle that manages the lands transferred to Native ownership under the Settlement Act.

I always feel a little awkward saying these lands were "transferred" to the Natives when, in fact, the lands were theirs to begin with!

The legislation is divided into three titles. Title I fully and finally ... implements the terms of a 1982 agreement between the United States and the Chugach Native people in which the government promised, but has failed to grant, an easement providing access to property they own, called the Carbon Mountain tract.

This agreement in turn was supposed to implement the 1971 Native Claims Act.

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And Title III requires the government to coordinate its forest land management plan with Native corporations whose lands are intermingled with national forest lands.

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However, in the Chugach region, the Native people have not obtained what was promised. They were promised access to their Carbon Mountain lands, fee ownership of historic and cemetery sites, and maximum participation in the management of public land that affects them.

But these promises were either broken or left to wither. Even now, while Chugach waits for a commitment to be honored, the government is planning new, *unauthorized* wilderness and wild and scenic river designations in the Chugach National Forest that will effectively impair the Natives' rights.

Think about it. The Administration could have granted the easement years ago, but instead, devoted its attention to managing forest lands in a way that deprives the Natives of the promises, intent and purposes of ANCSA. What does that tell us about the government's intentions.

I am especially perturbed with this Administration because it assured this Committee the easement would be issued by a time-certain deadline. Chugach met every obligation under the 1982 Agreement, but no acceptable easement has been granted.

I believe this Administration misrepresented its intentions to this Committee last year. It has no desire of issuing an easement. The Chugach people are tired of lip service, so I'm giving them H.R. 2547.

I should note that my frustration is not with those dedicated Forest Service employees on the ground in Alaska ... many Alaskans have worked hard to get this completed. The problem is here in Washington.

There is no more excuse for further delays. The Administration can grant the easement today. It's that simple.

I could go on, but there are more issues concerning the Native Claims Act and the Chugach Natives, and we'll leave that to our witnesses to explain.

The CHAIRMAN. The Chairman now welcomes the witness Chugach Alaska Corporation, one who represents the environmental organization, and will the witnesses take the stand, Sheri Buretta, Mr. Edgar Blatchford and Mr. Dune Lankard.

We will start out with Mr. Blatchford, please. He is chairman of the board, Chugach Alaska Corporation. Welcome, Mr. Blatchford. You are on.

STATEMENT OF EDGAR BLATCHFORD, CHUGACH ALASKA CORPORATION, ANCHORAGE, ALASKA

Mr. BLATCHFORD. Thank you, Mr. Chairman. It is a pleasure to be back here. Thank you for this opportunity to testify again about the Federal Government's obligation to the Chugach people. My name is Edgar Blatchford, and I am chairman of the finance committee of Chugach Alaska Corporation's board of directors. And I say testify again, Mr. Chairman, because 17 years ago I sat before another committee and testified to Congress about the Forest Service's entrenched commitment to frustrate the self-determination of the Chugach Natives and to deny them the fair and meaningful land settlement promised by the Congress of the United States. I came here 20 years ago and started the process that led up to the 1982 settlement agreement.

Seventeen years ago I testified as chairman of the board of Chugach Alaska, then Chugach Natives, Inc. Since then we have changed our name to Chugach Alaska Corporation, and today a new generation has risen to the leadership of our Native corporation, a generation that should be finally reaping the benefits of land settlement we fashioned 17 years ago; a generation that should be finally building on the promises of ANCSA and ANILCA and the 1982 Chugach Natives, Inc., settlement agreement; finally, to taking care of our elders, preserving our heritage for our children, and providing meaningful benefits and opportunities under the ANCSA, a generation of promise which is embodied in our chairman, Sheri Buretta, from whom you will hear a little later.

Instead it was with humble disappointment, Mr. Chairman, that we find ourselves today testifying before Congress about the very issues that brought me here 20 years ago, 17 years ago to this Committee: the entrenched refusal of the United States Forest Service to carry out the will of the Congress in meeting the Federal Government's obligations to the Chugach Native people.

Mr. Chairman, in 1982, Chugach, the State of Alaska, the Forest Service and the United States Department of Interior entered into the 1982 Chugach Natives, Inc., settlement agreement. The agree-

ment ended years of litigation by which the Chugach Natives sought to obtain a fair and just land settlement as envisioned in the Alaska Native Claims Settlement Act enacted in 1971. Under the settlement Act, largely because of Chugach National Forest lands withdrawals within our region, the Chugach Natives would have received nothing but mountaintops and glaciers in return for the extinguishment of our aboriginal land claims. In the years following the enact of ANCSA, the Forest Service did everything in its power to obstruct and delay the conveyance of economically viable lands to the ANCSA corporations created to effect Congress's land settlement to the Chugach people. Only pressure from the Congress caused the Forest Service to finally agree to a land settlement for Chugach. The 1982 settlement agreement finally provided Chugach with a land base upon which to build an economic future and a foundation for achieving the self-determination of the Chugach people.

Mr. Chairman, one of the cornerstones of the settlement was a large tract of land, 73,000 acres, known as the Bering River Coalfields, and also known as the Carbon Mountain tract. This tract of land is rich in mineral and timber resources, but unfortunately is surrounded by public lands with no road access. Recognizing that the entire value of this tract depended on access, the 1982 settlement agreement guarantees Chugach access across Forest Service land for the purpose of economic development. In fact, the settlement specifically calls this access "an integral part" of our settlement.

Chugach was not in a position to develop the Carbon Mountain tract in the period immediately following the 1982 settlement. It is important to remember that, as of this time, Chugach had not received a single acre of land to which it was entitled under the settlement Act, now already past its 10-year anniversary. In the years following the 1982 settlement, Chugach expanded its operations in Prince William Sound to fisheries, a traditional livelihood of the Chugach people. After establishing successful fishing operations, operations that paid our shareholders dividends out of corporate profits in the mid-1980s, Chugach finally turned its attention to the timber resources that were only beginning to be conveyed under the 1982 settlement.

Mr. Chairman, I can speak of this period of time from personal experience as one of unprecedented optimism at Chugach Alaska Corporation. We had settled our land claims with the Federal Government. We had established successful fishing operations throughout south central Alaska, owning and operating canning and fish processing facilities in Cordova, Port Graham and Kodiak. We had embarked on a plan to develop our timber resources through investing heavily in timber harvesting and manufacturing operations in our region. We had even changed our name to reflect the promise of the future. I was proud to be on the board of directors during this period of growth and promise.

As you recall, Mr. Chairman, in March of 1989, an oil tanker called the Exxon Valdez grounded beside the Native village of Tatitlek in the heart of our region and spilled 11 million gallons of crude oil in the waters of Prince William Sound. As a result of the oil spill, virtually overnight, Chugach lost all of its fishing oper-

ations, it lost its timber and logging operations, and it was even forced to declare bankruptcy. It is impossible to overstate the consequences of this event on Chugach Alaska Corporation and its shareholders. Our businesses were completely destroyed, our communities devastated. The natural environment of our remarkable region which had sustained our people for thousands of years was blackened and ruined. As a result of the oil spill, it is safe to say that Chugach lost everything—everything except its land—or has Chugach lost all of its lands because of the oil spill?

The Congress has been well-informed of the environmental damage caused by the Exxon Valdez oil spill. Damage has been well studied and documented. And it is easy to grasp the impact such an event would have on fishing and timbering operations.

Today I am here to report a different kind of damage, an injury not so obvious, but one that needs your attention nonetheless. As a result of the oil spill, the Federal agencies charged with conveying the land and access rights we have been promised and to which we are legally entitled have embarked on a strategy of rendering Native lands in the Chugach region undevelopable all in the name of repairing the damage done by the oil spill.

Mr. Chairman, in the wake of the oil spill, I was appointed for the third time to act as chairman of the board, but this time my responsibilities were specifically to hear and address the concerns of Chugach shareholders affected by the oil spill. I am well acquainted with the damage caused when the Exxon Valdez grounded on Blight Reef and can tell you that no one has been more damaged than the people in the Chugach region, the Chugach Natives, and the Federal Government will not repair this damage by depriving Chugach of the self-determination promised by Congress.

Which brings us back to access to the Carbon Mountain tract. In 1994, Chugach began planning the development of its timber resources on the Carbon Mountain tract. A feasibility study in 1995 showed that the timber resources were economically viable and that development would provide significant benefits to our shareholders. In 1996, Chugach and the Forest Service began working to provide Chugach the access that was guaranteed in the 1982 settlement. Between 1996 and 1998, at the Forest Service's insistence, Chugach spent millions of dollars studying the environmental consequences of a road to Carbon Mountain, even paying the Forest Service several hundreds of thousands of dollars to review the studies and process our application.

Despite these studies, which the Forest Service has accepted as complete, despite these enormous sums of money, despite the promises and contractual commitments, despite even the genuine dedication of local Forest Service officers and employees, Chugach was compelled last year to seek the assistance from Congress in obtaining the promised easement from the Forest Service. At the time the Forest Service insisted that legislation was not necessary because it was on the verge of granting the easement required under the 1982 agreement. But today we have no easement. Yet during the entire period of these attempts by Chugach to obtain the easement to which it is entitled under the 1982 settlement, the Forest Service has been acquiring land from Native corporations in the Chugach region, using money paid to the Exxon Valdez oil spill Trustee

Council as a result of the oil spill. Not content to acquire land from willing sellers, its appetite whetted by EVOS-Council-funded acquisitions of surface estate and conservation easements from Chugach region village corporations, the Forest Service has determined to foreclose development on lands remaining in Native hands. These maps here show graphically the extent to which the Forest Service and other Federal agencies are committed to the eradication, Mr. Chairman, of the settlement Act's footprint from the Chugach National Forests.

As Chugach redoubled its efforts to obtain a fair and meaningful land settlement for the Chugach people, many people will come before you purporting to speak for the Chugach Natives. But Congress created the Native corporations to be the vehicles for the self-determination of Alaska Natives, young and old, and it is the people elected by the shareholders of such corporations—such as myself and Chairman Buretta—who have the responsibility and duty to achieve the purposes of the Alaska Native Claims Settlement Act.

Mr. Chairman, I conclude my statement with the simple statement, Chugach Alaska Native Corporation lands and Chugach Native lands are not for sale. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

[The prepared statement of Mr. Blatchford follows:]

STATEMENT OF EDGAR BLATCHFORD, CHUGACH ALASKA CORPORATION, ANCHORAGE, ALASKA

Mr. Chairman, members of the Committee.

Good afternoon, and thank you for this opportunity to testify *again* about the Federal Government's obligations to the Chugach people.

My name is Edgar Blatchford, and I am Chairman of the Finance Committee of Chugach Alaska Corporation's Board of Directors. I say "testify *again*" because 17 years ago, I sat before another committee and testified to Congress about the Forest Service's entrenched commitment to frustrate the self-determination of the Chugach Natives, and to deny them the fair and meaningful land settlement promised by the Congress of the United States.

Seventeen years ago, I testified as Chairman of the Board of Chugach Natives, Inc. Since then, we have changed our name to Chugach Alaska Corporation, and today, a new generation has risen to the leadership of our Native Corporation: a generation that should be, finally, reaping the benefits of the land settlement we fashioned 17 years ago; a generation that should be, finally, building on the promises of ANCSA and ANIILCA and the 1982 Chugach Natives, Inc., Settlement Agreement; a generation turning, finally, to taking care of our elders, preserving our heritage for our children, and providing meaningful benefits and opportunities under ANCSA; a generation the promise of which is embodied in our Chairman, Sheri Buretta, from whom you will hear later this afternoon.

Instead, it is with humble disappointment that we find ourselves today testifying before Congress about the very issue that brought me here 17 years ago: the entrenched refusal of the United States Forest Service to carry out the will of the Congress in meeting the Federal Government's obligations to the Chugach Native people.

In 1982, Chugach, the State of Alaska, the Forest Service and the United States Department of Interior entered into the 1982 Chugach Natives, Inc., Settlement Agreement. The Agreement ended years of litigation by which the Chugach Natives sought to obtain a fair and just land settlement as envisioned in the Alaska Native Claims Settlement Act, enacted in 1971. Under the Settlement Act, largely because of Chugach National Forest lands withdrawn within our region, the Chugach Natives would have received nothing but mountaintops and glaciers in return for the extinguishment of our aboriginal land claims. In the years following enactment of ANCSA, the Forest Service did everything in its power to obstruct and delay the conveyance of economically viable land to the ANCSA Corporations created to effect Congress's land settlement for the Chugach people. Only pressure from the Con-

gress caused the Forest Service to finally agree to a land settlement for Chugach. The 1982 Settlement Agreement finally provided Chugach with a land base upon which to build an economic future and a foundation for achieving the self-determination of the Chugach people.

One of the cornerstones of the settlement was a large tract of land—73,000 acres—known as the Bering River Coalfields, and also known as the Carbon Mountain Tract. This tract of land is rich in mineral and timber resources, but, unfortunately, is surrounded by public lands with no road access. Recognizing that the entire value of this tract depended on access, the 1982 Settlement Agreement guarantees Chugach access across Forest Service land for the purpose of economic development. In fact, the settlement specifically calls this access "an integral part" of the settlement.

Chugach was not in a position to develop the Carbon Mountain Tract in the period immediately following the 1982 Settlement. It is important to remember that, as of this time, Chugach had not received a single acre of land to which it was entitled under the Settlement Act, now already past its 10-year anniversary. In the years following the 1982 settlement, Chugach expanded its operations in Prince William Sound fisheries, a traditional livelihood of the Chugach people. After establishing successful fishing operations—operations that paid our shareholders dividends out of corporate profits—in the mid-80's, Chugach turned its attention to the timber resources that were only beginning to be conveyed to it under the 1982 settlement.

I can speak of this period of time from personal experience as one of unprecedented optimism at Chugach Alaska Corporation. We had settled our land claims with the Federal Government. We had established successful fishing operations throughout south central Alaska, owning and operating canning and fish processing facilities in Cordova, Port Graham and Kodiak. We had embarked on a plan to develop our timber resources through investing heavily in timber harvesting and manufacturing operations in our region. We had even changed our name to reflect the promise of the future. I was proud to be on the Board of Directors during nearly this entire period of growth and promise.

And so it was that I was serving on the Chugach Board of Directors in March of 1989 when an oil tanker called the *Exxon Valdez* grounded beside the Native Village of Tatitlek, in the heart of our region, and spilled 11 million gallons of crude oil into the waters of Prince William Sound. As a result of the oil spill, virtually overnight, Chugach lost all of its fishing operations; it lost its timber and logging operations; and it even was forced to declare bankruptcy. It is impossible to overstate the consequences of this event on Chugach Alaska Corporation. Our businesses were completely destroyed; our communities were totally devastated. The natural environment of our remarkable region, which had sustained our people for thousands of year, was blackened and ruined. As a result of the oil spill, it is safe to say that Chugach lost everything—everything except its land . . . or has Chugach all but lost its land because of the oil spill, after all?

The Congress has been well-informed of the environmental damage caused by the *Exxon Valdez* oil spill, damage that has been well-studied and documented. And it is easy to grasp the impact such an event would have on fishing and timbering operations. Today, I am here to report a different kind of damage, an injury not so obvious, but one that needs your attention nonetheless. As a result of the oil spill, the Federal agencies charged with conveying the land and access rights we have been promised and to which we are legally entitled have embarked on a strategy of rendering Native land within the Chugach Region undevelopable, all in the name of "repairing" damage done by the oil spill.

Ladies and gentlemen, in the wake of the oil spill, I was appointed for the third time to act as Chairman of the Chugach Board. But this time, my responsibilities were specifically to hear and address the concerns of Chugach shareholders affected by oil spill. I am well acquainted with the damage caused when the *Exxon Valdez* grounded on Blight Reef, and can tell you that no one has been more damaged by the oil spill than Chugach. And the Federal Government will not repair this damage by depriving Chugach of the self-determination promised by Congress.

Which brings us back to access to the Carbon Mountain Tract. In 1994, Chugach began planning the development of its timber resources on the Carbon Mountain Tract. A feasibility study in 1995 showed that the timber resources were economically viable, and that development would provide significant benefits to Chugach's shareholders. In 1996, Chugach and the Forest Service began working to provide Chugach the access that was guaranteed in the 1982 settlement. Between 1996 and 1998, at the Forest Service's insistence, Chugach spent millions of dollars studying the environmental consequences of a road to Carbon Mountain, even paying the For-

est Service hundreds of thousands of dollars to review the studies and process our easement application.

Despite these studies, which the Forest Service has accepted as complete; despite these enormous sums of money; despite the promises and contractual commitments; despite even the genuine dedication of local Forest Service officers and employees, Chugach was compelled last year to seek assistance from Congress in obtaining an easement from the Forest Service. At the time, the Forest Service insisted that legislation was not necessary because it was on the verge of granting the easement required under the 1982 settlement.

But today, we still have no easement.

Yet, during the entire period of these attempts by Chugach to obtain the easement to which it is entitled under the 1982 settlement, the Forest Service has been acquiring land from Native Corporations in the Chugach Region, using money paid to the *Exxon Valdez* Oil Spill Trustee Council as a result of the oil spill. Not content to acquire land from willing sellers, its appetite whetted by EVOS-Council-funded acquisitions of surface estate and conservation easements from Chugach Region Village Corporations, the Forest Service has determined to foreclose development on land remaining in Native hands. These maps show graphically the extent to which the Forest Service and other Federal agencies are committed to the eradication of ANCSA's footprint from Chugach National Forest.

As Chugach redoubles its efforts to obtain a fair and meaningful land settlement for the Chugach people, many people will come before you purporting to speak for the Chugach Natives. But Congress created Native Corporations to be the vehicles for the self-determination of Alaska Natives, and it is the people elected by the shareholders of such Corporations—such as myself and Chairman Buretta—who have the responsibility and duty to achieve the purposes of ANCSA.

The CHAIRMAN. Before we go on, would you have your staff explain to the Committee what those green spots are? Is that what they bought? You mentioned the exposure there. Whoever is going to do it.

Ms. BURETTA. If I could have Peter Giannini answer that.

The CHAIRMAN. Go ahead.

Mr. GIANNINI. Thank you, Mr. Chairman. There are actually two maps. The one that I have sat down on the floor shows the extent of Native land surface holdings in Prince William Sound prior to the EVOS acquisitions.

The CHAIRMAN. Would you have somebody else point them out? Which one are we talking about now? That was before the purchase of land.

Mr. GIANNINI. It is upside down. That shows the full extent of Native surface holdings in Prince William Sound prior to the oil spill acquisitions. That was all fee simple Native land.

The CHAIRMAN. And the second one is after they purchased the property?

Mr. GIANNINI. Anything in green remains unrestricted fee simple Native ownership. If it had a black outline, that means it has been purchased in fee by the Exxon Valdez Oil Spill Council and transferred to a Federal or State agency, or that the surface rights have been restricted to development with or without public access.

The CHAIRMAN. Do you have the number of acreage that has been purchased?

Mr. GIANNINI. It is roughly 235,000 purchased.

The CHAIRMAN. Purchased by the oil spill money.

Mr. GIANNINI. Either in fee of the development rights.

The CHAIRMAN. Edgar is telling me that prior to the oil spill money, the oil spill itself, there was an active fishing and a viable company or a corporation. But after the oil spill, which destroyed the fisheries and any other activities, the moneys that were settled

by Exxon to the council, the council has been eradicating the Native-owned land.

Mr. BLATCHFORD. That is correct.

The CHAIRMAN. Thank you.

Ms. Sheri Buretta, chairman of the corporation, you are now up.

STATEMENT OF SHERI BURETTA, CHAIRMAN OF THE BOARD, CHUGACH ALASKA CORPORATION, ANCHORAGE, ALASKA

Ms. BURETTA. Thank you, Mr. Chairman, members of the Committee. Thank you for the opportunity to speak today on behalf of the Chugach people.

Mr. Chairman, I would like to thank some of the Congressmen. I know that you have rearranged your schedule to be here today, and I appreciate that very much.

Before I get started, I would like to ask you a few questions, Mr. Chairman. I have the additional information on the maps and our environmental study that I would like to be added to the record.

The CHAIRMAN. Without objection.

Ms. BURETTA. Thank you.

I have already introduced our special counsel, Mr. Peter Giannini, and from time to time if there are technical questions, I would like to refer to him.

Finally, my testimony may take a few minutes longer than the 5 minutes allocated.

The CHAIRMAN. I am very lenient with Alaskan witnesses who have traveled 5,000 miles to Washington, DC.

Ms. BURETTA. My name is Sheri Buretta. I am the chairman of the board for Chugach Alaska Corporation and a shareholder in both Chugach and Tatitlek Corporations. My mother is an Aleut woman who grew up in the village of Tatitlek. I am here to talk about our land, which is at the heart of our culture and our heritage, and which was promised to us under the Alaska Native Claims Settlement Act as the cornerstone of our future.

Our land was taken from us, without our consent, by the Russians, who later sold it again without our consent to the United States. Since then, generations of my ancestors have fought to regain ownership of that land and to restore the rights of Natives to makes decisions about how we use our land.

In 1971, Native leaders were finally successful in reaching a settlement with the United States on our land claims, but we gave up much. Although Alaska Natives once owned all of Alaska, Native land holdings were reduced under ANCSA to entitlements for each of the village and regional corporations. Chugach Alaska Corporation, formerly Chugach Natives, Inc., was given an entitlement to 375,000 acres of land plus the subsurface under village corporation lands. We accepted this settlement because we believed that the United States would honor its commitment to return the land to us and because we believed that our people would benefit from economic development of our land by the for-profit corporation created by this Congress as the vehicle for Native self-determination.

But as Mr. Blatchford has told you, we were not given the land we were promised. Instead, we found that much of the land in the region of Chugach's entitlement had already been made a national forest which they called the Chugach National Forest. As a result,

the only lands available for the Chugach people to select were mountains and glaciers.

In 1975, Chugach sued the United States. In 1982, through the efforts of the elders who had obtained the settlement and a new generation of Natives such as Mr. Blatchford, who had college educations and a degree of sophistication about the political process, we reached a second written settlement, the 1982 Chugach Natives, Inc., settlement agreement with the United States Departments of Interior and Agriculture, which finally promised us our land and our rights of access to it.

Many of the elders who were responsible for ANCSA are now gone, and it has been almost 20 years since the second settlement was agreed to, but Chugach has yet to receive the land which it was promised. These problems must not pass to yet another generation. It cannot fall to my 2-year-old daughter to complete the work that her great-grandfather began. It must be resolved now.

One of the issues that brings us to Washington involves access to our land. This easement was promised in writing in the 1982 settlement. Without access, the 73,000-acre tract at Carbon Mountain is worthless. In a recent radio interview, one of our critics accused us of seeking this easement because it makes our land more valuable, but this is not true. In order to make any meaningful use of our land at Carbon Mountain, we must have the access we were promised. What landowner would think otherwise?

We have spent over a million dollars addressing the environmental issues relating to access. We have addressed all of the Forest Service concerns. We have been required to do twice the studies of any other road built in a national forest. We have been required to pay the Forest Service over $100,000 to do their part in the preparation of the environmental documents.

On January 12, 1999, the forest supervisor of the Chugach National Forests deemed our application complete, finding that the content and the format of these environmental documents was consistent and responsive with the Forest Service's requests. Under our Memorandum of Understanding with the Forest Service, Chugach was to have its easement within 45 days, but as a result of pressure from environmental groups and the administration, we have nothing but delays. We have yet to see a draft easement which grants us the rights we need to access and develop our property. According to the Forest Service, we are at impasse over what the government lawyers call an exchange of easements, despite the fact that Chugach has already given the government all of the easements we are required to give under the Chugach Native settlement agreement, and we have agreed to allow public access over any road we build.

The outspoken opponents to Chugach getting our rights are funded, although many have never even stepped foot on the land that they are so driven to take from us. The people of the Chugach region have inhabited this area for over 7,000 years and deserve to be able to access and utilize it.

When the devastating Exxon Valdez oil spill happened in our beautiful and abundant waters, the spotlight was on our home and lives. The world got a good look at the Prince William Sound, and

many people decided that their opinions about what was best for everyone are more important than the owners of the property.

There is a war being waged against the continued private ownership of this land. We are witness to this by the treatment that we have received from the Federal agencies, which give more weight to the views of environmental activists than they do to their obligations to the Native people. This attack on Native rights pours salt on the wounds that are left in the wake of a horrendous environmental disaster that not only crippled the economies of the communities surrounding the spill, but cast a dark shadow over a lifestyle depending on the precious resources provided by the waters of Prince William Sound. This event changed the course of an innocent, simple culture.

Unfortunately, it also created a huge war chest for the State and Federal Governments, which are trustees for a $900 million settlement that does not consider humans as part of the environment affected by the spill. They have justified that buying private land from the people most affected by the spill is a way of protecting it from future devastation. The fact that Exxon Corporation has used legal tactics for the past 10 years to avoid paying billions of dollars to the people of the affected area is criminal. It only assists the government in creating a land grab. The State and Federal Governments are taking advantage of the economic situation that these people are faced with as a means of survival.

Using the EVOS funds, the State and Federal Government have been extinguishing Native ownership in Prince William Sound. These maps show clearly the devastating impact that EVOS' purchases have had on Native presence in Prince William Sound. The surface estate owned by Native corporations prior to EVOS is shown in green. The maps show the extent to which those ownership rights have been extinguished. The land in gray is land which has been either sold to the State and Federal Government or is subject to such restrictive conservation covenants that it has no continuing economic value.

While some of the EVOS land remains in Native ownership, it is really nothing more than a park. ANCSA promised us land and economic development. We did not bargain for ownership of parks. The EVOS fund has created a mindset in our public officials such that they now believe it is their duty to facilitate the extinguishment of Native ownership in Prince William Sound rather than fulfill the commitments made to us in 1971 and 1982. Chugach still has thousands of acres of land to which it has yet to receive patent. Although BLM says it doesn't have the resources to process those conveyances, which date back to 1971, it was able to immediately process the conveyances to EVOS of property that it bought.

The Department of Interior seems far more interested in buying up Native lands than it does in honoring its ANCSA commitments. Several weeks ago I met with the special assistant to the Secretary of Interior and asked for her help in gaining the title to our lands and in obtaining the easement. I told her Chugach was under increasing pressure from environmental groups to sell our land, and that the president of the Alaska chapter of a national environmental group had said that it we were unwilling to accept a con-

servation easement on our land at Carbon Mountain, that they would sue us.

I made it clear that Chugach's board of directors has clearly stated that Chugach land is not for sale. Her response was, I know your land is not for sale, but would you consider a conservation easement? This is not what the Department of Interior agreed to do under ANCSA and the Chugach Native settlement, but it is the new EVOS mindset.

In a meeting with the Forest Service in June in a failed attempt to negotiate an acceptable easement document, the government lawyer said, we don't want you to have this easement, and suggested that once an easement is granted, Chugach should begin discussing a sale or trade of our land in Carbon Mountain and Prince William Sound. As a Native corporation we are entitled to our own lands and to make the decisions about how to use it, just like every other private property owner.

The Congress of the United States created Native corporations as the vehicle of Native self-determination. Congress envisioned that these corporations would make the decisions as to if and when to develop the land through their elected board of directors. Mr. Blatchford and I are two such elected representatives, and it is the will of our board that Chugach obtain the rights to which we are entitled. Most of our shareholders support the board. The Eyak Corporation, the Village Corporation for the Cordova area and the Eyak Tribal Council are both on record as supporting our easement. Some of our shareholders disagree. Although we respect their positions and their right to their own opinions, our board believes it should be trusted to make the decisions with which it is charged under ANCSA and Alaska law. We believe we can make them responsibly with the best interests of our shareholders in mind, and we should be allowed to do so without the interference of non-Native groups, especially environmental groups based outside of Alaska.

We resent the implication that Alaska Natives are too inexperienced or irresponsible to be trusted with the land on which we have lived for thousands of years.

Chugach Alaska Corporation's mission statement has three parts: a commitment to profitability, a commitment to preserve our heritage, and a commitment to continued ownership of our lands. The legislation which has been referred to this Committee is an important step toward allowing Chugach Alaska Corporation to exercise self-determination over our lands and our historic sites and to fulfill each of the three elements of our mission.

In summary, Mr. Chairman, I ask you on behalf of the Native people of the Chugach region to move this bill forward. We have waited a long time for our land and for our rights. We have been profoundly affected by the oil spill and the delay of the Federal agencies. It is time to bring these matters to an end. It is time for the Native people of the Chugach region to have control over our lands, over our lives, and over our destinies. Thank you.

The CHAIRMAN. Thank you, Sheri.

[The prepared statement of Ms. Buretta follows:]

STATEMENT OF SHERI BURETTA, CHAIRMAN OF THE BOARD, CHUGACH ALASKA CORPORATION, ANCHORAGE, ALASKA

Mr. Chairman, members of the Committee, thank you for the opportunity to speak on behalf of the Chugach people.

My name is Sheri Buretta. I am Chairman of the Board of Chugach Alaska Corporation and a shareholder in both Chugach and The Tatitlek Corporation. My mother is an Aleut woman who grew up in the Village of Tatitlek.

I am here to talk about our land, which is at the heart of our culture and our heritage and which was promised to us under the Alaska Native Claims Settlement Act as the cornerstone of our future.

Our land was taken from us, without our consent, by the Russians, who later sold it, again without our consent, to the United States. Since then, generations of my ancestors have fought to regain ownership of that land and to restore the rights of Natives to make decisions about how we use our land.

In 1971, Native leaders were finally successful in reaching a settlement with the United States on our land claims. But we gave up much. Although Alaska Natives once owned all of Alaska, Native land holdings were reduced under ANCSA to entitlements for each of the Village and Regional corporations. Chugach Alaska Corporation, formerly Chugach Natives, Inc., was given an entitlement to 375,000 acres of land, plus the subsurface under Village Corporation lands. We accepted this settlement because we believed that the United States would honor its commitment to return the land to us, and because we believed that our people would benefit from economic development of our land by the for-profit corporations created by this Congress as the vehicles for Native self-determination.

But, as Mr. Blatchford has told you, we were not given the land we were promised. Instead, we found that much of the land in the region of Chugach's entitlement had already been made a national forest—which they call the Chugach National Forest. As a result, the only lands available for the Chugach people to select were mountaintops and glaciers.

In 1975, Chugach sued the United States. In 1982, through the efforts of the elders who had obtained the settlement and a new generation of Natives such as Mr. Blatchford, who had college educations and a degree of sophistication about the political process, we reached a second written settlement—the 1982 Chugach Natives, Inc., Settlement Agreement—with the United States Departments of Interior and Agriculture, which finally promised us our land and our rights of access to it.

Many of the elders who were responsible for ANCSA are gone now, and it has been almost 20 years since the second settlement was agreed to. But Chugach has yet to receive the land which it was promised. These problems must not pass to yet another generation. It cannot fall to my 2-year-old daughter to complete the work her great-grandfather began. It must be resolved now.

One of the issues that brings us to Washington involves access to our land. This easement was promised in writing in the 1982 settlement. Without access, the 73,000-acre-tract at Carbon Mountain is worthless. In a recent radio interview, one of our critics accused us of seeking this easement because it makes our land more valuable. But this is not true. In order to make any meaningful use of our land at Carbon Mountain, we must have the access we were promised. What land owner would think otherwise?

We have spent over $1 million addressing the environmental issues relating to access. We have addressed all of the Forest Service concerns. We have been required to do twice the studies of any other road built in a national forest. We have been required to pay the Forest Service over $100,000 to do their part in the preparation of the environmental documents.

On January 12, 1999, the Forest Supervisor of the Chugach National Forest deemed our application complete, finding that the content and the format of these environmental documents was consistent with and responsive to the Forest Service's requests.

Under our Memorandum of Understanding with the Forest Service, Chugach was to have its easement within 45 days. But as a result of pressure from environmental groups and the administration, we have had nothing but delays.

We have yet to see a draft easement which grants us the rights we need to access and develop our property. According to the Forest Service, we are at impasse over what the government lawyers call an "exchange of easements"—despite the fact that Chugach has already given the government all of the easements we are required to give under the Chugach Natives Settlement Agreement, and we have agreed to allow public access over any road we build.

The outspoken opponents to Chugach getting our rights are heavily funded, although many have never even stepped foot on the land that they are so driven to

take from us. The people of the Chugach Region have inhabited this area for over 7,000 years and deserve to be able to access and utilize it.

When the devastating *Exxon Valdez* oil spill happened in our beautiful and abundant waters, the spotlight was on our home and lives. The world got a good look at the Prince William Sound, and many people decided that their opinions about what is best for everyone are more important than those of the owners of the property. There is a war being waged against the continued private ownership of this land. We are witness to this by the treatment that we have received from the Federal agencies, which give more weight to the views of environmental activists than they do to their obligations to the Native people.

This attack on Native rights pours salt on the wounds that are left in the wake of the horrendous environmental disaster that not only crippled the economies of the communities surrounding the spill, but cast a dark shadow over a lifestyle dependent on the precious resources provided by the waters of the Prince William Sound. This event changed the course of an innocent simple culture.

Unfortunately, it also created a huge war chest for the state and Federal governments, which are trustees for a $900 million settlement that does not consider humans as part of the environment affected by the spill. They have justified that buying private land from the people most affected by the spill is a way of protecting it from future devastation: i.e., logging, development, private ownership. The fact that Exxon Corporation has used legal tactics for the past 10 years to avoid paying billions of dollars to the people of the affected area is criminal. It only assists the government in creating a land grab. The State and Federal governments are taking advantage of the economic situation that these people are faced with as a means of survival.

Using the EVOS fund, the state and Federal Governments have been extinguishing Native ownership in Prince William Sound. These maps show clearly the devastating impact the EVOS purchases have had on the Native presence in Prince William Sound. The surface estate owned by Native corporations prior to EVOS is shown in green. The maps show the extent to which those ownership rights have been extinguished. The land in grey is land which has been either sold to the state and Federal Government or is subject to such restrictive conservation covenants that it has no continuing economic value.

While some of the EVOS land remains in Native ownership, it is really nothing more than a park. ANCSA promised us land and economic development. We did not bargain for ownership of parks.

The EVOS fund has created a mind set in our public officials such that they now believe it is their duty to facilitate the extinguishment of Native ownership in Prince William Sound, rather than fulfil the commitments made to us in 1971 and 1982. Chugach still has thousands of acres of land to which it has yet to receive patent. Although BLM says it doesn't have the resources to process those conveyances, which date back to 1971, it was able to immedately process the conveyances to EVOS of property it bought.

The Department of Interior seems far more interested in buying up Native lands than it does in honoring its ANCSA commitments. Several weeks ago, I met with the Special Assistant to the Secretary of Interior, and asked for her help in gaining the title to our lands and in obtaining the easement. I told her Chugach was under increasing pressure from environmental groups to sell our land, and that the president of the Alaska chapter of a national environmental group had said that, if we were unwilling to accept a conservation easement on our land at Carbon Mountain, they would sue us.

I made it clear that Chugach's Board of Directors had clearly stated that Chugach's land is not for sale. Her response was, "I know your land is not for sale, but would you consider a conservation easement?"

This is not what the Department of Interior agreed to do under ANCSA and the Chugach Native Settlement, but it is the new EVOS mind set.

In a meeting with the Forest Service in June in a failed attempt to negotiate an acceptable easement document, the government lawyer said, "We don't want you to have this easement," and suggested that, once an easement is granted, Chugach should begin discussing a sale or trade of our land in Carbon Mountain and Prince William Sound.

As a Native corporation, we are entitled to own our land, and to make the decisions about how we use it, just like every other private property owner.

The Congress of the United States created Native corporations as the vehicles of Native self-determination. Congress envisioned that these corporations would make the decisions as to if and when to develop the land through their elected board of directors. Mr. Blatchford and I are two such elected representatives, and it is the

will of our Board that Chugach obtain the rights to which we are entitled. Most of our shareholders support the Board.

The Eyak Corporation, the Village Corporation for the Cordova area, and the Eyak Tribal Council are both on record as supporting our easement.

Some of our shareholders disagree. Although we respect their positions and their right to their own opinions, our Board believes it should be trusted to make the decisions with which it is charged under ANCSA and Alaska law. We believe we can make them responsibly with the best interests of our shareholders in mind, and we should be allowed to do so without the interference of non-Native groups, especially environmental groups based outside of Alaska.

We resent the implication that Alaska Natives are too inexperienced or irresponsible to be trusted with the land on which we lived for thousands of years.

Chugach Alaska Corporation's mission statement has three parts:

1. A commitment to profitability, so we can provide economic benefits to our shareholders, as Congress expected when it created for-profit corporations as the economic organizations of the Native community;

2. A commitment to preserve our heritage. With the passing of every Native elder, more and more of our culture is being lost. As a Regional Native corporation, we must do what we can to save what we can and pass it on to our children and our children's children.

3.A commitment to continued ownership of our Native lands.

As Alaska Natives working, as ANCSA anticipated, through our Alaska Native Regional Corporation, we should be given the opportunity to balance these important commitments ourselves, and to reach the decisions which we believe are in the best interests of our own Native community. The legislation which has been referred to this Committee is an important step toward allowing Chugach Alaska Corporation to exercise self-determination over our lands and our historic sites, and to fulfill each of the three elements of our mission.

Title I of the bill allows negotiations with the Forest Service to continue for a reasonable time, as they should, because there are no real issues standing in the way of the United States obtaining our easement, and there is no reason why an acceptable easement cannot be presented immediately. If the Forest Service is acting in good faith, then this title will be unnecessary. But if there is additional delay, we will have our easement by operation of law.

Title II will allow Chugach Alaska to renew its application to cemeteries and historical sites on land which as purchased by EVOS from the Village Corporations. ANCSA provided that the Regional Corporation would have the right to apply for title to these sites on any land which the Village Corporations did not select.

ANCSA did not anticipate the oil spill and the handicaps it would create for our people, or the huge fund of money which would be used to buy Village and private lands with cultural and historic significance at the same time the Exxon litigation was dragging on and on, depriving the people most affected of any meaningful compensation for their damages. The technical language of the law should not be used to keep these sites out of Native ownership.

The Native graveyards at Kiniklik, one of the original village sites in Prince William Sound, was sold to EVOS at the same time Chugach's application for this site was denied because it was not Federal land. The village site and cemetery on Hawkins Island, called Quayvik ("The Crying Place"), where recently the bones of our ancestors were repatriated from museums, was sold to EVOS and transferred to the State of Alaska for a marine park.

This is not what ANCSA intended. This Congress envisioned these places in Native ownership, and allowed Regional Corporations to take this responsibility if villages chose not to own the site. We should have the right to manage these sites which are so important to our culture and our heritage.

Finally, Title III requires the Forest Service to meaningfully coordinate with Native Corporations as part of their planning process. Although ANCSA corporations are not on the list of "recognized tribes" in Alaska, this Congress gave us the duty to own and manage Native land.

While it is important for the Forest Service to coordinate with the tribes, it is equally important that they coordinate with Native land owners. Chugach owns interests in 700,000 acres of land within the Chugach National Forest, and has rights of access under the law across the forest. It would be of mutual benefit to both the government and the Native community to work together prior to initiating the public process of forest land use planning, in order to avoid creating unreasonable expectations in the public by calling an area "roadless" when in fact it is burdened by the government's written obligation to provide an easement to access Native land.

In summary, Mr. Chairman, I ask you, on behalf of the Native people of the Chugach Region, to move this bill forward. We have waited a long time for our land and for our rights. We have been profoundly affected by the oil spill and the delay of the Federal agencies. It is time to bring these matters to an end. It is time for the Native people of the Chugach Region to have control over our own land, over our lives, and over our destinies.

Thank you.

The CHAIRMAN. Mr. Lankard.

STATEMENT OF DUNE LANKARD, EYAK RAINFOREST PRESERVATION FUND, CORDOVA, ALASKA

Mr. LANKARD. Thank you, Chairman Young and fellow House Members. My name is Dune Lankard. I am an Eyak Indian from the Chugach region. I am also a shareholder of both Eyak Corporation and the Chugach Alaska Corporation.

Our Eyak people have 3,500 years of history on the Copper River Delta. There are four distinct tribes in the Chugach region, the Eyak, the Tlingit, the Aleut and the Chugach, and out of the 1,900 shareholders of the Chugach Corporation, we only make up about 50, so we are a superminority tribe within a corporation. And out of the 326 village corporation shareholders, we only make up 37, so again, we are a superminority of our own corporation, so whatever the corporation decides to do, we have to go along with it because we don't have the votes to overpower the majority.

The Eyak people have historically lived off of the Copper River Delta and its incredible salmon runs. There are about 500 gill netters that have made a living off the Copper River Delta salmon, and it has been the catalyst to our industry since the Exxon Valdez oil spill.

I would like to tell you a little bit about the history of the region. In the 1800s they tried to build canneries, and they basically wiped out the majority of the fish. Shortly after that they decided to get into mining and build the Copper River Railway, and that didn't pan out very well either. So we have a strong history of natural resources extraction that has not made a lot of money for the people, but a lot of resources have left the region.

In the early 1900s there was clear-cutting in some of the areas in Prince William Sound; only 6,500 acres fell. In the last 10 years since the Exxon Valdez oil spill, the Native corporations have leveled over 50,000 acres, yielding very little to no dividends for the shareholders. For example, in the Eyak Corporation they leveled 1,700 acres of trees, and we were paid $3,000 apiece, that is $978,000, and over a $100 million in losses, so there was no money in the extraction of the timber.

As far as I see it, what the issue is, it is about environmental restoration in the region from the Exxon Valdez oil spill, not about economic restoration. I think what we need to do is stop the hemorrhaging in the region. What this legislation does is it allows a road to be built across the Copper River Delta, again which is one of the most incredible wetlands left intact and is still pristine and highly productive in the world. I think it is important if they are going to build a road across the delta, that they spend the extra money and make sure that it is done right, and that it is done properly, and to see that the environment as well as the salmon fishery continues well into the future.

The history of our corporation, in 1971, the Chugach Alaska Corporation, we have seen very little dividends. I believe the total to date has been about $750 paid over 28 years. And I don't see that changing with the building of this road which could cost 20- to $30 million. I would imagine that the 8,000 acres of hemlock doesn't have much value, so they would be lucky if they cover the cost of building the road.

In 1986, under the net operating loss sale, the Chugach Alaska Corporation sold the Bering River Coalfields. They were valued at $100 million. They sold it for $3 million. That created a $97 million loss on a blank piece of paper. Those losses were sold for the $50 million that was eventually lost in the bankruptcy. During that 1991 bankruptcy, our Chugach Alaska Corporation transferred the Bering River Coalfields to an outside corporation. There was a subsidiary joint owner called Korean Alaska Development Corporation where the shareholders did not have a say in how those assets were to be transferred, so we lost the entire Bering River Coalfields.

Now they want to get legislation that opens up the road across the delta so they can level the 8,000 acres of trees that has no market. The Asian market crash has severely affected Native logging in Alaska. I don't know what crystal ball they are looking at, but I don't see that changing again in the near future.

So what we are concerned with is that if you apply the wisdom from the past experiences of the bad decisions that the corporation has made, then the best thing that it could do is bring the shareholders together and try to figure out what is best for the corporation.

In the Chugach region, four of the five village corporations chose to do deals with the Exxon Valdez Oil Spill Trustee Council. I have never once supported sale of our land, Mr. Chairman. I have never once said that Native land should be for sale. The government could have met the goals of restoration without buying title to our land. They could have purchase development restrictions, and we would still retain title and be paid to watch our trees grow, subsistence continues, and the fish keeping jumping.

I think under this situation that probably the best thing that could happen to the Chugach Corporation at this time right now is if a comprehensive conservation easement package was put together that was able to help the corporation become solvent and liquid. I think that at this time we are at a very critical stage because with the year 2000 coming up and the fact that the last director of the corporation, Mr. Brown, has left office, I think that now is a good time for the corporation to be looking at other alternatives. And so I feel that the bill, the way that it is written, that under title I it would force the Secretary of Agriculture to grant the CAC an easement in the Chugach National Forest allowing the construction of a 55-mile logging road across the Copper River Delta. The thing that I am concerned about there is that we are not only talking about a 55-mile logging road—that is just to get there—we are talking about a couple of hundred miles of logging roads once they do get there, and I do not think that the economics are there. The corporation has never given its shareholder an eco-

nomic analysis to show how they are going to make any money from this logging operation.

Under title II it would require the Secretary of the Interior to undo certain land conveyances agreed upon by the Alaska Native villages corporations. The regional corporations were never in the position to receive title to our cemetery or our burial sites or any of our historical sites, so I don't feel that they should be able to come back and double-dip. In fact, in reality, the lands have more protections now than they did when they were owned by the regional and the village corporations. Because in 1992 our village corporation, Eyak Corporation, decided to clear-cut Eyak River even though we proved there were culturally modified trees, burial sites, charcoal rocks, village sites in the direct vicinity, they were able to clear-cut the land anyway, where at least if it was under some sort of protection, State or Federal historical preservation Act laws, we would have been able to at least get an injunction to stop them.

Under title III, it would effectively amend the National Forests Management Act by forcing the Secretary of Agriculture to engage in extensive coordination with CAC and other Alaska Native corporations before revising, developing or maintaining national forest land management plans.

Under this I feel that the Chugach Alaska Corporation should not have preferential treatment, Mr. Chairman, and I feel that with the way that the public process has worked, there has been 114 meetings since 1997, and Chugach has participated in the great majority of those meetings, so I feel that they have participated, and I think that this legislation not only overrides public process, but it overrides what the best interests of the 1,900 shareholders are.

I don't think that nine board members have the wisdom to do for its 1,900 shareholders at this point. If you look at the track record and the decisions that they have made, they have made poor and bad decisions over and over again.

I really think that this legislation, if it is written to really help the Native people, then it should include the Native people. And you as Congressmen should understand that Native corporations are not Native people, they are separate entities. They do not represent the best interests of the shareholders.

[The prepared statement of Mr. Lankard follows:]

STATEMENT OF DUNE LANKARD, EXECUTIVE DIRECTOR & SPOKESPERSON, EYAK PRESERVATION COUNCIL, EYAK TRADITIONAL ELDERS COUNCIL

Introduction

My name is Dune Lankard. I am a local resident of the Copper River Delta and Prince William Sound. As an Eyak Indian, local commercial and subsistence fisherman, and shareholder of both the Eyak Corporation and the Chugach Alaska Corporation, I appreciate the opportunity to submit written and oral testimony for the Hearing Record opposing H.R. 2547.

The Eyak Preservation Council and Eyak Traditional Elders Council strongly opposes H.R. 2547. The Eyak Preservation Council is a grassroots defense fund for the traditional lands of the Eyak people. We represent issues facing our Eyak Traditional Elders Council and address local and regional environmental issues and concerns that erode our subsistence relationship to our ancestral lands of the Copper River Delta. The Eyak Traditional Elders Council represents the Eyak Tribe, one of the 550 federally recognized tribes in America, we are also one of the 226 recognized tribes in Alaska, and we are one of the four distinct tribes of the Chugach region (Eyak, Chugach, Aleut and Tlingit) that own shares of stock in the Chugach

Alaska Corporation (CAQ, an Alaska Native Claims Settlement Act (ANCSA, 1971) corporation.

The Copper River Delta is one of the most fragile, wild and highly productive ecosystems left intact in the Chugach National Forest and possibly the world. Our Eyak people have for thousands of generations survived off the incredible bounty of this irreplaceable region. To even consider upsetting the delicate balance of this region and the Copper River Delta salmon fishery is unacceptable—we as humans, cannot manage land better than nature does itself.

H.R. 2547 is divided into three titles, each of which is apparently intended to resolve a private dispute between CAC and the United States Government:

Title I would force the Secretary of Agriculture to grant to CAC an easement in the Chugach National Forest allowing the construction of a 55-mile logging road across the incomparable Copper River Delta.

Title II would require the Secretary of the Interior to undo certain land conveyances agreed upon by Alaska Native village corporations and the U.S. Government as part of the Exxon Valdez oil spill restoration program.

Title III would effectively amend the National Forest Management Act by forcing the Secretary of Agriculture to engage in extensive "coordination" with CAC and othcr Alaska Native corporations before revising, developing or maintaining national forest land management plans.

Although we recognize certain rights granted to CAC by ANCSA, the Alaska National Interest Lands Conservation Act (ANILCA, 1980), and the Chugach Native's Inc. Settlement Agreement (CNI, 1982), H.R. 2547 goes beyond the intent of these agreements by attempting to exempt CAC from environmental and public laws that safeguard the public's interest in national forest land and other public resources. ANCSA sought to strike a fair balance between the rights of Alaska's Indigenous people and members of the American public. H.R. 2547 rejects this responsible approach in favor of immediate but poorly considered action. H.R. 2547 creates hasty "solutions" to complex issues and may ultimately harm the interests of both CAC and the general public. In particular, it may threaten the health and vitality of one of our world's environmental treasures, the Copper River Delta. The Eyak Preservation Council and Eyak Traditional Elders Council therefore opposes H.R. 2547.

The Copper River Delta

The Copper River is located in a remote region of south central Alaska and drains significant portions of the Alaska, Wrangell, and Chugach mountain ranges into the Gulf of Alaska. For much of its length, the river forms the western boundary of the Wrangell-St. Elias National Park, the largest national park in the country. The St. Elias mountains to the east of the Copper River are the tallest coastal mountains in the world and are capped by the greatest mantle of glacial ice outside the polar ice caps and Greenland.

The Copper River Delta lies at the confluence of the Copper River and the Gulf of Alaska. At 700,000 acres it is the largest wetlands complex on the Pacific coast of North America and an ecosystem of almost unparalleled productivity. The Copper River Delta hosts incredible numbers and varieties of fish and wildlife. Considered by biologists to be one of the most important shorebird habitats in the western hemisphere, the Delta is a critical staging area for over 16 million shorebirds and waterfowl. It supports world-renowned salmon runs and is a haven for grizzly bears, black bears, wolves, mountain goats, moose, wolverines, mink, otters, sea lions, and harbor seals.

The Copper River Delta is also a place of incredible beauty and uncompromising wildness. Ragged peaks of rock and snow crowd the watershed. Pale blue glaciers split with explosive force thrusting enormous sheets of ice into the river. Sculpted icebergs ride the silty turbulent waters along with logs, brush, and other victims of the river's erosive appetite. Seals swim inland for miles hunting salmon while enormous brown bears patrol the shore. These scenes from an almost prehistoric landscape are accompanied by the uneasy music of current, ice and wind. There are other great wetlands ecosystems in the world, but few are as magnificent, dynamic and productive in its intact wild state as the Copper River Delta.

Notwithstanding its harsh, untamed appearance, the Delta has nurtured the people of the Copper River basin for thousands of years. Thousands of generations of Eyak Indians and other tribal Nations have relied upon the bountiful fish and wildlife that thrive in the region. Today, over half of the watershed's population of 5,000 people live in the seaside town of Cordova, separated from the Delta by only the narrow Heney Range. Cordova is the region's sole community and most of its residents (many of whom are Native) continue to live a subsistence lifestyle-harvesting and sharing the area's sustainable natural resources. Commercial and subsistence fishing are the mainstays of Cordova's economy, in large part because of Copper

River salmon, one of the most highly prized stocks of wild salmon in the world. The Copper River Delta is the nursery that sustains both fish, wildlife and human populations.

Almost 100 years ago Teddy Roosevelt recognized that the Copper River Delta was a unique and irreplaceable natural wonder. In 1907, he created the Chugach National Forest to help protect the Copper River Delta and Prince William Sound from corporate monopolies engaged in coal mining and other unregulated development of public resources. Today's conservationists have learned from this wise example by making the Delta a Western Hemisphere Shorebird Reserve Network Site, an emphasis area in the North American Waterfowl Management Plan, and a State Critical Wildlife Habitat Area. The Copper River Delta is one of the most productive, beautiful, and untamed wetlands ecosystems in the world. Congressional action and/or any actions affecting this area should be thoroughly evaluated and responsive to a clearly established need.

Title I—Easement for Access

ANILCA gave CAC, formerly known as Chugach Natives, Inc., the right to select lands within the boundaries of the Chugach National Forest. To ensure that CAC shareholders obtained a just and fair land settlement, the Secretary of Agriculture and others were directed to prepare a study of the Chugach region. Eventually, the U.S. Government, the State of Alaska and CAC signed an agreement, generally referred to as the 1982 CNI Settlement Agreement, directing the United States to convey to CAC 73,000 acres of land known as the Bering River/Carbon Mountain tract. The Bering River/Carbon Mountain tract lies approximately 30 miles east of the Copper River and 20 miles north of the Gulf of Alaska. It is bounded on three sides by the Chugach National Forest and on the fourth side by Bureau of Land Management holdings. Under ANILCA, CAC may access its land by utilizing the procedures established by 16 U.S.C. § 3210. This is exactly the same right afforded to other Alaska Native corporations for accessing their own in-holdings. In addition, the 1982 Settlement Agreement provides that CAC may "construct, at its own cost, roads, pipelines and transportation facilities for access necessary for economic utilization of the Bering River coal fields."

Although CAC no longer owns the Bering River coal fields (it conveyed title to a partnership of Korean corporations in 1992), it now proposes to log the 8,000-acres of coastal rainforest on the Bering River/Carbon Mountain tract. The 55-mile access road would sever hundreds of streams that feed the pristine, eastern portion of the Copper River Delta, including the Bering and Martin Rivers which are eligible for inclusion into the Federal Wild and Scenic River system. It would also degrade hundreds of acres of marsh and other wetlands. A heavily used logging road would inevitably impair the wildlife and aesthetic values of the Delta and could even threaten the world-famous Copper River salmon fishery. Ironically, CAC may not even benefit from this potential environmental tragedy. CAC's timber is of modest quality, the market is extremely poor, and it will be very expensive to build and maintain an access road. An independent economic analysis prepared by ECONorthwest of Eugene, Oregon in 1998, concluded that the proposed logging project was unlikely to be profitable and could actually result in a substantial loss to CAC and its 1900 shareholders.

CAC and the U.S. Forest Service are both fully aware of the richness of the Copper River Delta and the environmental threat posed by a major road project. Nevertheless, they have entered into an agreement that allows CAC to plan and develop the project without an unbiased environmental impact statement or an opportunity for public notice and comment. Instead, CAC has been permitted to conduct its own environmental studies under the supervision of Koncor Forest Products, the company retained to log CAC's land. While CAC must go through the formalities of obtaining a special use permit before it can cross 27 miles of Chugach National Forest, its activities will not be subject to environmental review and public process normally required by the National Environmental Policy Act and other applicable laws.

An appropriate level of environmental review and public participation should be particularly important given CAC's dubious environmental track record. CAC built the first mile and a half of logging road last summer. This section of road crosses private land and did not require Forest Service authorization. CAC's placement of a bridge across Clear Creek, the first river in the proposed road corridor, was very controversial and prompted the Alaska Department of Fish and Game to investigate the construction for possible violations of state law. More recently, the Environmental Protection Agency is investigating potential clean water act violations. Nevertheless, CAC has said it plans to build several more miles of road this summer. The next section of roadway would cross both private and public lands and would necessitate filling gravel in Sheep Creek and bridging Sheep Creek, an anadromous

and beautiful, fast-flowing braided river. The Copper River Delta is simply too important culturally, economically, and environmentally to authorize development without the careful consideration required by the nation's environmental laws.

Indeed, full environmental review and public input is especially critical now. The Forest Service is in the process of updating its management plan for the Chugach National Forest and, in response to strong public sentiment, is considering recommending portions of the Delta as a special management area. It would be inappropriate, and a blow to every citizen with a legitimate interest in the Copper River Delta, to authorize an easement without taking the time to ensure that the environmental effects of road construction will be minimized.

CAC is not entitled to exercise its rights without regard to the rights and laws of other citizens of this country, especially without regard to the rights of its own shareholders. The original intent of the CNI Agreement was to provide access for CAC to its in-holdings—but not allow CAC the right to restrict public access through its private land once a public road is built. If allowed, a precedent will be established that ANCSA corporations can override the entire purpose and intent of the Federal Government that protects the public interest, and in the process evaporate public laws by enacting special interest legislation.

Until a thorough and independent environmental impact statement is completed, and CAC obtains the normal permits and authorizations, we must oppose any bill that forces the USFS to issue an easement in 90 days and to approve construction activities no matter how ill conceived. Sound public policy dictates extreme caution. The Copper River Delta is an extraordinarily complex and fragile ecosystem. It was created by forces of nature over tens of thousands of years and, once destroyed, can never be recreated by human beings. No compensation or restoration could ever replace the Copper River Delta back to its pristine state. The Delta should be treated with the care reserved for any other international treasure—preserved, not exploited with minimal environmental review and public input.

Title II—Cemetery Sites and Historic Places

This section is designed to determine the outcome of a U.S. District Court lawsuit currently pending between CAC and the USFS, filed on May 19th, 1999. This bill would give CAC the right to obtain historic areas and cemetery sites from the Federal Government after the ANCSA village corporations agreed to protect these culturally sensitive area's using Exxon Valdez Oil Spill restoration funds. Ironically, these culturally sensitive lands have more protection now than when they were owned by the village corporations, however the actual titles to the archeological, historical and cultural resources still belongs to each of the village corporations because they were reserved at the time of conveyance.

The Eyak Preservation Council and Eyak Traditional Elders Council has never agreed to the fee simple title component to these "restoration acquisitions."

We have always believed that conservation easements (development restrictions), could have met the goals of restoration without demanding title to our Native lands. If Congress would like to fix this restoration flaw and reverse the fee title acquisition and apply conservation easements—then, do it, but, don't let these ANCSA regional's take what they never deserved to own in the first place.

According to ANCSA, CAC has certain undeniable rights. However, we believe it is premature for Congress to decide the issues raised in H.R. 2547 without first allowing the Federal court to issue a ruling. Leaving aside the propriety of asking Congress to intervene on behalf of a private litigant, the courts are generally in the best position to decide complex issues of statutory construction. CAC has sat around since 1991, without taking any action or intervening in any meaningful discussion to disrupt this acquisition process, until now. They were repeatedly invited to participate, but refused.

We are also concerned with the practical effects of H.R. 2547. The bill focuses on lands sold by ANCSA Native village corporations to the Federal Government as part of the ongoing efforts to restore Prince William Sound to its pristine pre-spill condition. The ANCSA village corporations, whose shareholders are also shareholders of regional Native corporations such as CAC, voted to approve the sales and were somewhat reasonably compensated. Allowing CAC to reclaim the properties (apparently without payment) would create a windfall for some ANCSA regional corporations and would threaten the integrity of the Exxon Valdez Oil Spill restoration efforts.

The Native American Graves Protection and Repatriation Act, the American Indian Religious Freedom Act, National Historic Preservation Act and Alaska State Historic Preservation Act establishes a process for protecting culturally sensitive lands of Alaska Natives that were acquired by the Exxon Valdez Oil Spill Trustee Council. In actuality, these cemetery sites and historic lands now have state and

Federal protections that were not afforded to Alaska Natives under ANCSA. A clearcut example is when the Eyak Corporation clearcut our Eyak village and burial sites along the Eyak River in 1992.

If Congress finds under section 14(h)l of ANCSA, that the Secretary has the authority to withdraw and convey to the appropriate regional corporation fee title to existing cemetery and historical places, and pursuant to section 14(h)7 of ANCSA, lands located within a National Forest may be conveyed for the purposes set forth in section 14(h)l of ANCSA—then, why not incorporate into this legislation, that section 14(c)l of ANCSA be carried out by these concerned ANCSA regional corporations. And that is, that our ancestral lands of Alaska's Native people be reconveyed to the Alaska Native people immediately, once the regional corporations receive title from the Federal Government.

Title III—Forest System Land Management

This section of H.R. 2547 attempts to amend the National Forest Management Act and other laws prescribing the process for developing or revising national forest plans. Specifically, it would require the Secretary of Agriculture to "coordinate" with CAC and other ANCSA Native corporations by, among other things, "assessing the impacts of Alaska Native Corporation land use plans on National Forest land and resource management planning, and determining how to address those impacts" and "Identifying conflicts between National Forest land and resource management plans and the land use plans of Alaska Native Corporations, and considering alternatives for resolving those conflicts." We oppose this section for three reasons.

First, changes to existing practice are unnecessary. The U.S. Forest Service is required by law to provide interested parties with ample opportunity to influence the development or revision of a national forest management plan. The revision of the Chugach National Forest land management plan, which apparently prompted this bill, is a good illustration. The U.S. Forest Service has utilized an extensive public process involving dozens of open meetings for all affected stake holders. Notably, CAC representatives have attended and participated in many of these public meetings.

Second, the "coordination" required by H.R. 2547 would give CAC undue leverage in which to influence forest plan revisions. National forests are supposed to be managed for the benefit of all Americans and to accommodate multiple uses. H.R. 2547 requires the Forest Service to work around CAC's development plans and gives the corporation a privileged status that is inconsistent with the public purposes of national forest land.

Finally, H.R. 2547 treats similar parties unequally. There are many individuals businesses and private entities other than Alaska Native corporations, that have lands "which are intermingled with, adjacent to, or dependent for access upon National Forest System lands." A fundamental tenet of legislation is that it should be fair and even handed. H.R. 2547 is neither.

This bill would also give ANCSA Native corporations "preferential treatment" to determine land status and zoning processes for environmentally and culturally sensitive lands that the entire public should be a part of, including CAC's shareholders. CAC has never provided a "land use plan" for its CAC shareholders that shows not only the environmental impacts but, the economic impacts of CAC's natural resource extraction projects. Nor, has CAC ever created a process in which to identify and settle internal conflicts with its distinct tribes, or attempted to settle ANCSA section 14(c)l re-conveyance claims of its 1900 shareholders.

CAC's Eyak Shareholder Concerns

As ANCSA shareholders, we Eyak Natives feel it is necessary for Congress to understand that we are not being well served by CAC or the Eyak Corporation. ANCSA was a way of creating dependency by Alaska Natives on the "money culture." Also it is important to point out that the "access issue" has nothing to do with inherent rights of Chugach Natives—it is a way for CAC to gain access to our ancestral land and exploit its abundant natural resources.

After oil was discovered on the north slope in the 1960's, and as the construction of the pipeline was proposed, it was deemed necessary to settle the Alaskan Indian land claims. ANCSA's original intent was to settle these land claims, in the simplest of terms, by transferring Indian land claims into "for-profit only" corporations. Approximately 500 Alaskan Natives voted on ANCSA, out of a population of over 65,000 Natives at the time. We are the only minority race of people in America who have been forced into corporations in order to receive a "just and fair land settlement" from the Federal Government.

Unlike the lower 48 states, where the Indian problem was dealt with by creating "reservations" (land reserved for Indian people), the Indigenous people of Alaska

were deprived of sovereignty over their ancestral land and inherent rights by being placed in corporations and given non-transferable stock. 100 shares were issued to "applicable" Indigenous people in 1971, with no new shares to be issued, according to the ANCSA law. Shareholders with less than 100 shares are not allowed to vote. Shares are transferred by virtue of inheritance.

It is only a matter of simple math to realize that ANCSA was designed to take the power and land away from Alaska's Indigenous people over time, therefore creating a legalized form of cultural genocide. ANCSA for-profit corporations also jeopardize Alaska Native ancestral lands, because the land is either clearcut, stripmined, drilled or sold—allowing cultural ecocide. If Congress wants to truly help Alaska's Native people, in this case CAC, then it should enact legislation that benefits all CAC shareholders equally, while providing opportunities and choices to natural resource extraction—as the only fix-all to corporate failings. CAC's entire history is filled with corporate mismanagement, poor/bad judgment by Board of Directors (CAC has yet to recover from it's 91' bankruptcy) and tens of millions of dollars in net operating losses.

An immediate GAO investigation of all the ANCSA regional corporations should be implemented by the House Committee on Resources, starting with CAC. These findings would give Congress the information it needs to make educated, timely and sound decisions as to how to proceed with proposed ANCSA legislation or ANCSA implementation amendments.

ANCSA is a social and cultural experiment that has failed miserably by any stretch of one's imagination. Congress needs to rewrite ANCSA and implement laws that helps preserve our inherent rights—laws that also compliment our inherent rights as stewards—rather than just ANCSA shareholders of our land.

The Eyak Preservation Council and the Eyak Traditional Elders Council wants to emphasize to Congress that ANCSA corporations has not and does not represent the true interests and concerns of Alaska's Native people. Ironically, it is ANCSA corporations that are the one's who can ultimately protect subsistence rights and our inherent rights of self-determination for Alaska Natives. By preserving our ANCSA lands and keeping them "roadless and wild" will preserve our unique way of life that has provided for us since time immemorial.

It is our wish that Congress stay out of Native politics and let us settle our intra-corporate affairs on our own. CAC has never proven to its shareholders that it is worthy of deserving access to our ancestral land in the Copper River Delta region. CAC has been fiscally, environmentally and culturally irresponsible ever since they were created in 1971. Many of our shareholders are embarrassed to report that we have never received dividends from any of CAC's ill conceived development schemes. Congressional legislation should help us become solvent, not liquidate our remaining assets, drive us further into poverty and place us right back into the bankruptcy court.

This legislation is unacceptable and unnecessary. It allows CAC to have dominion over our ancestral land and inherent tribal rights. Congress should be enacting legislation that strengthens our bond to our ancestral land and clearly enhances our right to self-determination as independently recognized tribes in Alaska.

I would offer that there is not a place in Indian Country on the planet, where a road has not permanently changed the management of fish and wildlife, allowed irresponsible natural resources development and adversely affected Native people's subsistence lifestyle forever.

Conclusion

We and numerous other Alaska voters strongly oppose H.R. 2547. This bill takes a slap-dash approach to complex situations in which many Alaskans and numerous ANCSA corporations have a passionate interest. This is particularly true with respect to the Copper River Delta. It requires finesse, not a sledge hammer, to responsibly evaluate a 55-mile road project through one of the world's intact and most-unique and spectacular wetlands.

There are numerous stake holders and worldwide consumers who depend on the returning Copper River Delta salmon. There is a value to intact wild places and what they mean to the world—wild places are priceless and simply become more valuable each day as more wild places are developed and lost to progress.

Protected watersheds are some of the most valuable and rich ecosystems left on our planet. Last year, when Congress decided to assist the Chalista Corporation, this was a similar situation, near bankruptcy, both financially and spiritually—Congress intervened and basically created a conservation unit that helped them financially and socially.

We would obtain a greater financial and social return in preserving the Bering River/Carbon Mountain tract in its pristine state, in perpetuity—while maintaining

our ability to preserve our needed traditional subsistence activities and unique way of life on the Copper River Delta.

By helping us to implement a comprehensive conservation easement (without any fee title transfers) and helping preserve the entire Copper River Delta region for all future generations to enjoy is the best way to settle this controversial dilemma on the Delta.

Thank you for this opportunity to comment.

The CHAIRMAN. I beg to differ with you. This is a process. Sheri is a Native person, Edgar is a Native person, you are a Native person. I don't think that you ought to differentiate and say they are not Native people.

Mr. LANKARD. The corporation does not represent Native people, that is what I said.

The CHAIRMAN. They are elected by Native people. It is an elective process.

Mr. LANKARD. I agree to disagree with you, sir.

The CHAIRMAN. It is an elective process?

Mr. LANKARD. Yes.

The CHAIRMAN. Edgar is elected by your people?

Mr. LANKARD. Like I said, we are a superminority group.

The CHAIRMAN. And they don't vote with Chugach at all?

Mr. LANKARD. Yes, we do vote, but whenever we do vote, our numbers do not carry any weight.

The CHAIRMAN. Of course not, you are the minority. If you want to change the system, you ought to become the majority.

Mr. LANKARD. Yes, I am planning on running for the board of directors.

The CHAIRMAN. And if you get elected, you will have a voice. I thank you.

Let's go back to where and why we are all here. We had this hearing last year. I think most of you were here. Mr. Vento, we moved the bill out of committee, and this is an Act of 1971 and an Act of 1982, an inability of the Forest Service to come to a conclusion. We can argue about whether it is right or wrong, but the fact is that there is a requirement.

I just want to know one thing. Edgar or Sheri, has Chugach Natives met all of the obligations of the 1982 Act?

Ms. BURETTA. Yes, sir.

The CHAIRMAN. You had to pay for the full cost of the environmental impact statement?

Ms. BURETTA. This is correct.

The CHAIRMAN. Is that common practice? Does anyone know whether any other Native corporation had to do this?

Ms. BURETTA. If I can refer to our legal counsel.

Mr. GIANNINI. Thank you, Mr. Chairman.

The environmental documents which the forest supervisor deemed necessary were paid for by Chugach Alaska. We estimate that the cost was over $1 million, and then we paid $100,000 under a collection agreement for the Forest Service to participate in them, read them and review them.

The CHAIRMAN. The Forest Service has agreed with the findings and have signed off on this agreement?

Mr. GIANNINI. Prior to final publication of the environmental documents, we received a letter from people in Anchorage at the Forest Service that said it was complete both in form and content and—it was an interdisciplinary team review toward the end, and everybody agreed that it was the best route, and all questions had been addressed. And we understood that within 45 days of the submission of those documents, we would receive the issuance of a recordable easement document.

The CHAIRMAN. Let's go back to the selling of the land. EVOS bought how many acres of land?

Ms. BURETTA. EVOS has purchased lands from the village corporation, the surface estate of which we own the subsurface.

The CHAIRMAN. How many acres?

Ms. BURETTA. Approximately 235,000.

The CHAIRMAN. When they purchase that land, do they transfer title to the National Forest Service?

Mr. GIANNINI. Some land has been purchased in fee simple, and title has been transferred to the Forest Service, some to the State and I believe some to the Department of Interior. I am not entirely sure.

Some of the land was not purchased in fee, but instead what they purchased were what they call conservation easements, which include development rights. In other words, the property, while remaining—bear title remaining in the village corporation, the rights of development are completely——

The CHAIRMAN. My understanding is that—and the Forest Service has communicated to me—that they want a Federal easement for the whole road, otherwise you have to enter into an agreement with your land as Federal easement?

Mr. GIANNINI. Yes. Mr. Chairman, under the 1982 agreement, there was a provision whereby as the government deeded the property out to the Native corporation, it would reserve easements. And, in fact, on the particular Carbon Mountain tract, there were several routes of easements that were reserved. What they have told us is that they now believe that we have an obligation to convey yet another easement across the proposed route of the mainline road once it leaves Forest Service land and enters our land.

The CHAIRMAN. You have agreed to build the road and pay for the road and grant public access. Why do they want a Federal easement?

Mr. GIANNINI. The 1982 agreement, Mr. Chairman, requires that we build the road and we maintain the road, but that the public have access on the road on Forest Service land. Now they are saying that they want to have public access on Chugach Alaska land on the mainline road because there are several pieces of that road on our land which would also access Forest Service land.

While we have said we will not convey further easements, we have agreed that as a condition of the easement, we would allow public access on the road that we build on our land.

The CHAIRMAN. Why are they insisting on that? They have said, we have given the chance to do it. We are not the ones dragging our feet, Chugach is doing it. As far as I can find, the only problem that they have is this easement. Why do you think that they are insisting upon that provision?

Mr. GIANNINI. We believe that there is some danger that once they request this easement, and once we grant them an easement and they have a Federal property interest on our land, that it would basically federalize an undertaking on our land that requires additional studies.

The CHAIRMAN. Otherwise not issue the right of way?

Mr. GIANNINI. Yes, and delay it further so that we would be forced into the position of having to sell the land or a conservation easement.

The CHAIRMAN. My time is up.

The gentleman from American Samoa.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. I certainly would like to echo your sentiments expressed earlier about the funeral services that our colleagues are currently attending of our late member, George Brown. I want to say with all due respect and reverence for this great American, it has been my privilege in the past 11 years knowing him.

Having said that, I want to thank you and to commend you for holding this hearing on this legislation that we find ourselves now in, an example of—not just in terms of the easement process, Mr. Chairman, but it goes a lot deeper and a lot farther, in my humble opinion, on how we have gone about treating the rights of our first Americans, especially in the great State of Alaska.

I do have several questions that I want to ask the members of the panel. As expressed earlier by Mr. Lankard, there seems to be some concern that the Eyak Athabascans are not represented in his nine-member board. I would like to ask the panel, in the election process of the nine-member boards, aren't all the four groups represented in the membership of the board, of the corporation, Mr. Lankard?

Mr. LANKARD. No, they are not. When it comes to voting, it is not like we make sure that we have an Eyak or Tlingit or Aleut or Chugach representation.

Mr. FALEOMAVAEGA. So there is no proportional representation in your election process?

Mr. LANKARD. No, neither in the village as well.

Mr. FALEOMAVAEGA. Ms. Buretta, do you want to respond to this?

The CHAIRMAN. Would the gentleman yield?

Mr. FALEOMAVAEGA. Yes, sure.

The CHAIRMAN. I have a letter here from the president of the native village of Eyak, which acknowledges Mr. Lankard is a respected member of our tribe. However, he is not a member of our tribal council, nor is not a spokesman for our tribe. The native village of Eyak does support H.R. 2547, the village itself does. I just want to make that clear.

Mr. FALEOMAVAEGA. And I appreciate that, Mr. Chairman.

Mr. LANKARD. Could I clarify that?

Mr. FALEOMAVAEGA. Yes, go ahead.

Mr. LANKARD. The native village of the Eyak tribal council, the five Eyak tribal chiefs, are all of Aleut descent, so it is only in name.

The way that it works under the Bureau of Indian Affairs, it is the traditional government. So any traditional government, the 600-some members, they elect their own officers.

So when it comes to election, again, we are a super minority so we don't even have status within our own village council as well.

Ms. BURETTA. I would like to just clarify.

Mr. FALEOMAVAEGA. Please, could you respond to that, Ms. Buretta?

Ms. BURETTA. The native village of Eyak tribal council is the federally recognized tribe for the Eyaks, and they are the designated tribe.

Mr. LANKARD. Federally-recognized traditionally.

Mr. FALEOMAVAEGA. On the 1,900-shareholder membership on CAC, that represents obviously all four groups. So we are talking about a total population of what, of the Chugach Nation, if I would describe it in that format?

Ms. BURETTA. There are approximately 1,900 shareholders that we represent.

Mr. FALEOMAVAEGA. The corporation, right?

Ms. BURETTA. Yes.

Mr. FALEOMAVAEGA. But I am talking about what is the total population of the Eyaks, the Chugachs, the Tlingit, the Aleuts, that make up the Chugach?

Ms. BURETTA. We also have descendants that—1971 was the cutoff date for allowing native people to belong to the corporation, but there are a large number of descendants that are also considered part of the corporation.

Mr. FALEOMAVAEGA. Now, maybe I am losing my question to you. The tribal roles for these four groups make up the total Chugach Corporation, or the Nation, if you call it. What is the total population that we are talking about?

I am not talking about the 1,900 shareholders. I am talking about the total population of all of these four groups that was indicated earlier, the Chugachs, the Tlingits, the Aleuts, the Eyaks. What is the total population that we are talking about of the Nation?

Mr. BLATCHFORD. If I might, Mr. Chairman, respond?

Mr. FALEOMAVAEGA. Please.

Mr. BLATCHFORD. The total population within the Chugach region, the native population is much larger than the 1,900, because we have descendants of shareholders, descendants of shareholders, and all of those Alaskan natives who were not alive prior to December of 1971 are not shareholders, original shareholders, but they can be granted shareholder status by their parents, gifts of their 100 shares that the parents have to their children. Okay?

Mr. FALEOMAVAEGA. Am I making the question so complicated? All I want to know is the total population of the Chugach shareholders. Twenty thousand people?

The CHAIRMAN. No. The shareholders, I would say, are about 2,000 shareholders.

Mr. FALEOMAVAEGA. Right.

The CHAIRMAN. Now the descendants, I don't know whether—and we will have to figure that out with this new census that comes up.

Mr. BLATCHFORD. Mr. Chairman, if I may respond. Again, the total native population of the Chugach region probably represents around 3,500 people. That is shareholders and descendants of shareholders.

Mr. LANKARD. And as far as Eyak descendants, there are 132 of us.

Mr. FALEOMAVAEGA. Mr. Chairman, the experience that I seem to gain in meetings and in trying to understand, for this member

in resolving all the problem that has come to the forefront of this corporation, duly-elected members asking for an easement and the recalcitrance of the Forest Service and other agencies, they have been dragging their feet for the past 10 years. And I would like to ask, again, the members of the panel: Is there for some reason—personality problems in the administration—or is there some missing portion of the agreements that were made in the 1982 settlement that has caused this thing to drag on now for 10 years?

Ms. BURETTA. Peter Giannini will answer that question.

Mr. GIANNINI. Mr. Chairman, we have enjoyed for the last several years a very fine working relation with the local people in the Chugach National Forest. The new forest supervisor and the people he has put on this have really worked hard, and we are really pleased with that relationship.

I cannot say that it has been that way. I think Mr. Blatchford's comments indicated that in the 1970s and 1980s particularly there was strong resistance. We think that the million dollar study, which was done by the previous forest supervisor, was——

Mr. FALEOMAVAEGA. So the supervisor does approve all the things that have been done, but when it comes to Washington it washes—is that basically what we are looking at?

The CHAIRMAN. If I can, and your time is about up and we will come back to you, that is exactly what is happening.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

The CHAIRMAN. I mean, it comes right out of DC. They want to force this group of native people to sell their land because of environmental pressures.

Mr. FALEOMAVAEGA. Thank you.

The CHAIRMAN. And that is a fact. That is not a joke; that is a fact. EVOS has done that—$900 million. What they have done is criminal. That money was granted to the board of trustees to replenish the wildlife and the fish that were hurt because of Exxon Valdez, and what they have done is set out and bought native land, eradicated native rights.

Mr. FALEOMAVAEGA. Will the chairman yield?

The CHAIRMAN. Yes.

Mr. FALEOMAVAEGA. And out of this EVOS fund of $900 million, has there ever been any consideration given to the economic losses of the Chugach Corporation?

The CHAIRMAN. What happens is not to the corporation. They go into the village and wave that money over and over. We have cases where the village has said, we do not want to sell our land and yet they keep coming back and coming back and coming back and waving the big dollars. And by the way, the reason Chugach hasn't been able to pay any dividends is because they haven't been able to do anything because they can't get title to their land, which was guaranteed to them.

The gentleman from New Jersey.

Mr. SAXTON. Thank you, Mr. Chairman.

Mr. Chairman, I hear three sets of issues here. One set has to do with the environment. One set has to do with the economic viability of potential future operations on this 73,000 acres and the other set of issues has to do with an agreement between the Chugach Alaskan Corporation and the Department of Interior.

Is that a fair analysis, Mr. Blatchford?

Mr. BLATCHFORD. If I may respond, Mr. Chairman, I would say it is a fair analysis. Going back to the 1982 agreement, in answering the previous question, there is a substantial lack of good faith and there is a substantial lack of respect for Alaskan natives, I believe, in the Chugach region. We have tried very hard to keep that not for sale kind of——

Mr. SAXTON. In 1982, your corporation made an agreement with the Department of Interior; is that right?

Mr. BLATCHFORD. In 1982, Congressman, we did—in good faith, we made an agreement and an integral part of that agreement was access to our lands.

Mr. SAXTON. And there were—what I hear you saying is there were two parts to that agreement. One was to convey title to the land, which they did, right?

Mr. BLATCHFORD. Right. That is correct.

Mr. SAXTON. And the second part of that agreement, which was a signed contract between the parties?

Mr. BLATCHFORD. It was a signed contract between the parties, between the Chugach natives and the United States Government.

The United States Government guaranteed us access across public lands. We gave up our claims to those public lands in exchange for 73,000 acres in the Carbon Mountain Tract, and we could not develop that land unless we had access to it, an easement.

We would not—I believe we would not have agreed to the 1982 agreement had we believed that the United States Government was acting in bad faith.

Mr. SAXTON. Was there anything in the agreement about environmental studies relative to the establishment or construction of the road?

Mr. GIANNINI. Mr. Chairman, Congressman, yes, there is. It says that although under ANILCA, the—this ANCSA conveyance would be exempt from NEPA, that the forest supervisor can deem the preparation of NEPA-like environmental documents necessary, and the previous forest supervisor did deem documents necessary. And the pile of documents at the end of the counter there, that is the study that took place.

Mr. SAXTON. And those documents—those studies have been done, the documents have been completed and they have been accepted by the Forest Service; is that right?

Mr. GIANNINI. Yes, they have.

Mr. SAXTON. So you have done everything that you agreed to and yet the Forest Service hasn't done everything it agreed to; is that correct?

Mr. GIANNINI. That is exactly how we view it, yes.

Mr. SAXTON. Well, Mr. Chairman, I was in the real estate business for 20 years and we handled thousands of contracts, and people get in trouble if they don't—if they don't do what they agree to do in the contract.

I find it strange that the Forest Service had agreed in 1982 to do these things, and the CAC did what they agreed to do. I just have a hard time understanding how it is that the Forest Service can just not do it.

Now, their motive, their motive, may not be so mysterious, from what I am hearing. Because there is a pot of money that was created subsequent to the Exxon Valdez oil spill to purchase lands. There is money available for purchase if somebody is a willing seller; is that correct?

Mr. LANKARD. Not out of the Exxon Valdez oil spill restoration monies. They have refused to extend the boundary to include the Bering River region. So none of those monies, which are about $55 million, that were set aside for habitat protection, can be used.

Mr. SAXTON. Well, Mr. Blatchford, there are monies available for the purchase of this land; is that correct?

Mr. BLATCHFORD. I believe, Mr. Chairman, Congressman, I believe that there is an agenda out there to force Chugach natives to sell its land to the Federal Government.

I believe this is an extinguishment effort. I think that we have seen this—I saw it. I experienced it back in the 1970s when I was coming back to Washington, DC. There was a strong, strong opinion that lands should not be conveyed to native Alaskans, and then within the Chugach region, once the land was agreed to, they agreed to slow the process.

How they have done it, Mr. Chairman, to the Congressman, is that they have prevented any development; and when there is no development and no effort to generate any profits, there are no dividends. If there are no dividends, there is no—there is dissension within our shareholder ranks, our Alaskan natives. They are asking what the corporation has done.

What the Forest Service, I believe—what the Federal Government has done is to fan the waves of dissension by saying, look, you have not done anything; therefore, you have not received anything from your corporation. Therefore, the only time you are going to get anything is if you sell the land.

What is so sad about it, Mr. Chairman, to the Congressman, is that the land has been sold at a ridiculously low price, between—an average—we haven't figured out the average, but it is between $200 and $400 an acre in the most pristine area of Prince William Sound.

I think the least that the Federal Government can do is to have a little respect for Alaskan natives and have a little faith that we can take care of the land just as good as anybody else.

We need a little respect here, Mr. Chairman, Congressman.

Mr. SAXTON. Mr. Chairman, thank you very much.

The CHAIRMAN. Thank you.

The gentleman from Washington State, I believe, was the next here, and then Mr. Vento.

Mr. INSLEE. Thank you, Mr. Chairman.

Mr. Lankard has expressed some criticism of some decisions the corporation has made in the past. I am going to be asking you some questions about the corporation's intent, but in doing so, I want to make sure that I believe wholeheartedly in Mr. Blatchford's comment that the tribe is deserving, number one, of respect legally; and two, I believe that the corporation has the right to make mistakes.

And if it has made mistakes in the past—I am not agreeing with Mr. Lankard necessarily; I don't know the situation—but if it has

made mistakes in the past, it has the right to make mistakes. These are decisions about its own land, and it has a right to make an investment decision just like any other owner.

I am going to ask you some questions about your intent, but I want to make sure at least one member—and I think a lot of the members feel it is important to respect your decisions in this regard for your own purposes, and I just want to tell you personally that that is how I feel about this.

Let me ask you about your feelings about prospective purchases or sales. I think you are right. I don't know a lot about this issue, but I think there are people interested in trying to purchase conservation easements, in some sense to do this rather than harvest the timber on this land. From what little I know about that, that seems to be accurate.

What is the corporate feeling about that if, indeed, the corporation could receive the same net economic benefit from a sale of conservation rights as opposed to harvest? Does the corporation have it on record or really addressed that issue? If it could, in fact, have the same net economic benefit, would it make a difference to the corporation in its decision?

Ms. BURETTA. I would like to respond to that, Congressman.

The position that the board of directors has taken with this issue, and all of our land issues, is that our land is not for sale; and until we get the rights that we bargained for under the agreements in 1971 and again in 1982, we are not in a position to make any considerations until we have achieved those rights that we have bargained for.

I don't know how—you know, how much more clear that can be. We have an obligation to our shareholders to fulfill what was bargained for, and that is our intent.

Mr. INSLEE. Is it—I am sorry, Mr. Blatchford. Go ahead.

Mr. BLATCHFORD. With the permission of superior, Mr. Chairman, in response to the question there, I chair the finance committee of Chugach Finance Corporation and we have done no economic analysis, no financial analysis, of any purchase of Chugach's land. Simply that we look at the opportunities for shareholders, Alaska natives, descendants of shareholders. We are there for the best interest of the Alaska native people.

We have done no financial analysis, no economic analysis, of any money that we might receive from any sale of land for the simple reason that we have not considered the sale of native land in our region, period.

The CHAIRMAN. Would the gentleman yield for just a moment?

Mr. INSLEE. Certainly.

The CHAIRMAN. I think one of the problems they are faced with is that if the Forest Service keeps dragging their feet, and they don't have access to the land, then they will be required to sell the land. Once they get access, and that is a right, and once they have full title to their land, then that is when the negotiations should take place.

But right now they are unable to negotiate. They can't put a price on it because it really is of no value. If you can't get to it, it might as well be on the moon.

Mr. INSLEE. Well, let me ask a question, and if you give me a candid response I would really appreciate it. It is kind of a sensitive question, I suppose.

I assume that the corporation is reluctant to even consider this issue because they feel that without access they will be low-balled on the purchase price and that is of great concern to the corporation, as opposed to a situation where the corporation, for some philosophical reason, would always reject a sale of conservation easements.

The reason I have that belief and assumption, is that the corporation did sell its subsurface rights several years ago and that, therefore, it is not a philosophical objection that the corporation would have; it is more of an economic one, that without the access, they think they will get low-balled.

Is that a fair statement?

Mr. BLATCHFORD. Mr. Chairman, to the Congressman, I don't think that is a fair statement. I think that the corporation simply says that we are not going to sell our land. The Bering River Coalfields, the Carbon Mountain Tract is not for sale. Sure, we entered into some business development prospects with a company from Korea several years ago, but we remain adamant that the land is not for sale.

Just let me address, Mr. Chairman—talk about the kinds of dissension that results from lack of return from the corporation. Yes, shareholders become frustrated because they are told that this is a corporation; therefore, you are entitled to a dividend. We are expected to go out and utilize the opportunities within our natural boundaries, the Chugach native region, because we want to expect some sort of return for our shareholders.

Now, a few years ago, it was timber. A few years ago, it was fisheries. That doesn't foreclose the opportunities of fisheries or timber, despite what happened, because we had an unnatural incident that totally surprised and shocked the board of directors and the Chugach native region, and that was the Exxon Valdez running aground on Blight Reef. From 1971—from 1971 to 1982, and I got my first introduction, Mr. Chairman, to Congressman Mo Udall with this same issue. When Blight Reef came into the international spotlight, Chugach was spending hundreds of thousands of dollars just on what we thought would be our opportunities in the Chugach region. Those opportunities were extinguished when the Exxon Valdez hit the reef. From 1971 to the settlement time, 1982, we spent well over a million dollars trying to convince the Congress of the United States to convince the Department of the Interior and the Department of Agriculture to convey to us what we were entitled to, an Act of Congress, a binding Act of Congress on the United States Government, to honor its good-faith commitment to native Alaskans, Alaskan natives.

It kind of reminds me, Mr. Chairman, if I may be so bold as to say this, but in 1830 the Congress of the United States permitted the removal of all Indian tribes east of the Mississippi River, and then on those lands, they were taken; they were removed off of those lands.

Well, we found out with the 1989 Exxon Valdez oil spill that it became kind of like that. It became the Chugach Native Removal Act.

Sure, there is dissension within our region, and there will always be dissension within our region. We have thousands of people that we are responsible for; and you are all Congressmen, you are all elected by the people, so you know what dissension is.

We appreciate it.

The CHAIRMAN. I thank the gentleman.

The gentleman from Minnesota, I believe, is next.

Mr. VENTO. I think the gentleman from New Mexico.

The CHAIRMAN. Mr. Udall then. Go ahead, Mr. Udall. We are not going to waste time passing this baton back and forth.

Mr. UDALL. Thank you very much, Mr. Chairman.

Mr. Lankard, you were about to comment on that sale issue at one point.

Mr. LANKARD. Yes.

Mr. UDALL. Could you go ahead?

Mr. LANKARD. A point of clarification: A conservation easement is purchasing the development restrictions, and not fee title to one's land. I feel that if Congress is so concerned about that, then they should go in and reverse those fee simple acquisitions and make them acquisitions of development restrictions only, where they could have still met their goals of restoration without having to buy the title of native land away from the people.

So what they are confusing this issue with is—is that what we are trying to do here is create a conservation alternative to the natural resource extraction projects that have landed us in bankruptcy. So we feel that if they are allowed to build a road across the Delta, and they are allowed to log this land; and since they haven't proven through an economic analysis how they are going to make any money, we see we are just going to be further driven into bankruptcy.

You know, I agree that corporations have the right to make mistakes, but I don't think that they should be allowed to repeatedly make bad decisions that affect all of the people, because 90 percent of the people who live in the Cordova region and along the coastline live a subsistence life-style.

So I think it is really important that we look at alternatives and not just have blinders on and say that this is an access issue and we need to develop our land. ANCSA didn't say that. It said that it was to help the native peoples, and development obviously has not.

Mr. UDALL. You say in your statement at the end that you believe that implementing a comprehensive conservation easement without any fee title transfers and helping preserve the entire Copper River Delta region for future generations would be the best way to go. Could you describe why you believe that?

Mr. LANKARD. Well, if you look at the economic restoration that Mr. Murkowski and Mr. Young are so concerned about in the Chugach region, in the four villages that have accepted deals with the trustees' council, the Exxon Valdez oil spill trustee council, that has poured over $100 million of economic restoration into the region where we would not have received that any other way.

So I think as far as helping the native peoples out, I think that the alternative is this: That rather than clear-cut, strip mine, oil drill and sell the land, if we were to do conservation easements, and again purchasing the development restrictions away from these native corporations, it would do a number of things. It would preserve the land in its intact state; it would show that wild places do have value; and at the same time, it would allow the people who continue to make a living off of the Delta, the way that it is right now, that opportunity way into the future, because these watersheds are irreplaceable and especially this one that is as highly productive as the Copper River Delta.

So I feel that the corporation should at least have a choice and not be forced to have a road built across the Copper River Delta, because the stakeholders—it affects many stakeholders, not just the corporation.

Mr. UDALL. So you view this really as a win-win situation for the corporation and for the native people that live there?

Mr. LANKARD. Definitely, because again, like I said earlier in my testimony, our subsistence life-style makes us some of the most wealthiest people on the planet because we are able to subsist in the wild rather than in grocery stores. And I don't think that a lot of the commercial fishermen in the Sound would have been able to survive over this last decade if the Copper River Delta Fishery wouldn't have been the catalyst that has made their industry stay afloat.

Because the Sound salmon, the price just plummeted, like Mr. Blatchford said. Right after the Exxon Valdez oil spill happened, our prices went from a dollar a pound for pinks and chums down to around a nickel a pound. So the only thing that has held the price and kept people fishing, without going bankrupt themselves, is the Copper River Delta Fishery.

Mr. UDALL. Do you view that the corporation has supported the native subsistence life-style in the way they have operated?

Mr. LANKARD. No. I feel that because of the extraction projects that they have been engaged in and the amount of losses and the no-dividends that have been paid through these extraction decisions, I think reflect that they haven't been enhancing our subsistence life-style at all.

The best thing that they could do is help us preserve our lands, preserve our subsistence life-styles, preserve our commercial fishing industry and allow the people to continue to live off the land the way it is. That is how I think, the best they could help us, by leaving the land alone.

Mr. UDALL. Have you viewed the Forest Service as being a constructive force in this process?

Mr. LANKARD. I think that the Forest Service has tried to uphold and protect the laws, and also they have tried to protect the public interest in this case, because again this road has to cross 27 miles of public forest. So I think they have a fiduciary responsibility to protect the land as much as they can.

As far as the access issue goes, that, I think, has been a point of contention. I think that if Chugach Alaska Corporation wants to build a road across public lands, then they should, in turn, give up access to private lands to cross a public road. And I think it goes

both ways. They can't have it just one way. I think that is what the Forest Service has done.

Mr. UDALL. Thank you very much.

The CHAIRMAN. I think we have also heard the Forest Service locally has tried everything possible to make sure this happens. It is getting stopped right here in Washington, DC. That is number one.

Number two, I think it has been explained that if they insist on having the public easement on the Federal lands, then it becomes Federal lands on native lands, taking lands away from the natives. Then that opens a whole gamut of new lawsuits that can be applied because it is Federal land, thus impeding or slowing down the processes of the easement.

Now, we may disagree—by the way, Mo was a very big supporter of the Native Lands Claim Act. You know, I want you to remember that. He wanted it to be fully implemented.

Mr. UDALL. Do you think if he was back here today, hearing this, he would still——

The CHAIRMAN. He would be very upset with the Forest Service and this administration.

Mr. UDALL. I think he would be very upset about some of the things he would have heard today.

The CHAIRMAN. Now I want to say one other thing, too, while we are at it.

The idea that this road is going to destroy the fisheries, remember there has been a tremendous amount of money put into the environmental impact statement, has been signed off and there are many different laws that would also preclude that from occurring. I am going to suggest that this is a case where there are a group of people, primarily stationed in Washington, DC, that are trying to harass this small 3,500 group of people, 2,000 shareholders, and finally buy them out. This is the goal. I mean, you know, this is what this is all about.

You may disagree. It may not be economical, et cetera, et cetera. Of course, it is not economical if you don't have access. This was the problem with our whole battle over the Alaska National Lands Act. We have State lands and native lands, and in between we have the Federal; and the Act itself—I have an amendment that says we shall have access, but every time we try to achieve access, we are precluded from getting it. It actually makes your land not valuable.

Now, I again think that if we were to get the access, this is just saying—I am not going to put anybody in a box here. If the access was granted, if it isn't economical to harvest those hemlock, that is another story, but at least they would get a fair shot at the true value of that 8,000 acres. Right now they have no fair shot at all. I want you to understand that.

It was set up in 1971. It was to build the corporations, nonprofit and profit, and that has been recognized. That is the law, and I don't think it is going to be changed.

The gentleman from Minnesota.

Mr. VENTO. Well, thanks, Mr. Chairman.

I know there hasn't been—one of the witnesses said there hasn't been—Mr. Blatchford said there hadn't been an economic analysis

of exactly what the results or consequence would be. But one of the statements that has been made and one that persists is the issue that in order to get that—this easement has been off and on.

This hasn't been a one-position situation since 1982 when Jim Watt granted this particular parcel of land under a lawsuit issue, incidentally. It wasn't part of ANILCA.

I think, in fact, leading up to ANILCA, we had every effort, including John Dingell tried to make this a wildlife protected area, and it came back as a conservation area. It is an important wetlands resource, one of the most distinctive in North America, as the gentleman from Alaska knows.

But the issue here is, the total length of the road is something like 55 miles, and apparently 30 miles of it is proposed to be over the national or Federal lands and the rest over village corporation lands. So the issue is, part of the road construction has already begun and we have no analysis of what the cost of the road is. There are estimates that go into the tens of millions of dollars.

Mr. Lankard, do you have any idea of what the cost of this road is? It has been built through some of the corporation lands already, near as I can see.

Mr. LANKARD. Yes. If it is flat land and there are no bumps, they can build for about $125,000 a mile, but once they start going up over any slopes, which they would have to do along this road because they are right up against the cliff line, the forest line, then it bumps up to $250,000 a mile. So then, in past discussions with the corporation, we heard anywhere from $3 million to $4 million, and I actually believe that it is going to be $20 million to $30 million, and that is just to get to where they are going. That does not include the number of miles that it would cost to build once they go there, which could drive that price even much higher than that.

I don't think the timber is enough or the quality is there to cover the cost of even building the road.

Mr. VENTO. Do you have to pay the trees on top of it? Ms. Buretta?

And pardon me. That is a name I should be able to pronounce, I would say.

Ms. BURETTA. Congressman, I would like to point out two things on our map here, if I could.

Can I get somebody to just put up the other map? If you can just put that one down.

If you would note, there is already a road that crosses over much of the Delta, that does not affect, to the degree that Mr. Lankard has mentioned, any of the fisheries. The public is able to enjoy the beauty of that area, and it has been there for a long time, without any of this effect that they are so concerned about on the environment.

Mr. VENTO. What did you say the cost was of constructing the road? That was my question, the new road, the cost of the new road that you say you disagreed with his assessment of, what the cost is—$125,000, $250,000 a mile?

Ms. BURETTA. If I could let our attorney answer.

Mr. VENTO. Well, yes. Mr. Giannini.

Mr. GIANNINI. Thank you. We have estimated that the cost of the road from the Copper River Highway to our land would probably

be somewhere in the $6 million to $8 million range. The estimates of $20 million to $30 million, I don't know where they come from.

Mr. VENTO. Ms. Buretta, in terms of talking about how the public was going to enjoy that, does that mean you are interested in giving a public easement on this land?

Ms. BURETTA. Well, the other thing that I wanted to point out on the map——

Mr. VENTO. Because about half of it is public and half of it is in the native area, right?

Ms. BURETTA. Well, if you look at the map, surrounding our area, everything in white is already a park, is already—and there are hundreds of thousands of acres of——

Mr. VENTO. But my question, of course, is, if it is a park and nobody can get to it, you can't enjoy it. The national forest——

The CHAIRMAN. If the gentleman would yield?

Mr. VENTO. Yes.

The CHAIRMAN. In the agreement, they have agreed to public access. They just don't want to give a Federal access definition, is my understanding, because once you do that, they have other problems that could occur that would delay the granting of the right-of-way. They have publicly agreed to public access on the road.

By the way, I never understood the Forest Service, where they are hung up on this, unless there is something mischievous in their minds about delaying the issuance of this deal.

Don't look at me that way. They can be very mischievous, believe me.

Mr. VENTO. I know in your mind, Mr. Chairman, they are.

The CHAIRMAN. In everybody's mind. You had better watch out.

Mr. VENTO. Well, I think the other aspect, of course, is that since there has been no economic analysis of this—as has been pointed out by the chairman, I guess there has been no economic analysis of a lot of things that have gone up on the Chugach Corporation, based on the dividends. I don't know if it is all inability to get access, but the cost of the logging has to be added in here, the cost of the roads in this area have to be added in; so many other aspects.

So since you are coming with us and pleading this case as an economic problem, I guess we want to understand the specifics of it.

Mr. Lankard?

Mr. LANKARD. Yes. Historically, the way that native corporations have done logging business in the past is they have paid loggers to log the land and paid people to build the roads. So if you look at the way the regional corporations have been set up is that they are supposed to pay 70 percent of their profits to the other 12 regional corporations through 7-I sharing, but as long as you are driving your overhead so high that there is no way that there are any profits at the end, you basically spend all of your money building the roads and paying off the loggers. So by the time it comes down to any profit there is none, and that equals no dividends.

Historically, that is the way it has always been.

The CHAIRMAN. The gentleman's time is up.

Mr. VENTO. Thank you, Mr. Chairman.

The CHAIRMAN. I want to thank the panel. I appreciate your being here.

Mr. FALEOMAVAEGA. Mr. Chairman. Mr. Chairman.

The CHAIRMAN. Yes, go ahead. I am sorry.

Mr. FALEOMAVAEGA. Can we go further?

The CHAIRMAN. If you would like to go further, go further.

Mr. FALEOMAVAEGA. I would like to. I still have some more questions, Mr. Chairman, I would like to raise here.

It is my understanding, in reading the testimonies here, that the corporation had expended well over a million dollars, even $100,000 that the Forest Service had demanded that you pay for an environmental impact statement that has now been submitted, fully accepted by the supervisor, the people, the Forest Service in Alaska? Is this all in the books, accepted?

Mr. GIANNINI. Mr. Chairman, if I may—Peter Giannini speaking—it is environmental documents that are—were prescribed by the forest supervisor. It is not an environmental impact statement, but it is documents that met the Forest Service supervisor's concern.

This was part of—I think there has been some confusion here. When Mr. Blatchford said there has been no economic analysis, there has been no economic analysis of any conservation easements, because none have been proposed to it, none have been offered to us. No one has ever shown us the money.

What there—there has been significant economic analysis of the proposed logging venture, and in fact the reason nothing is going forward now is obviously because the market is unacceptable.

Somehow it is being painted that this corporation has been financially irresponsible. While it is true that in 1991 it was forced into bankruptcy by the failure of the fish canneries and a sawmill, the ongoing logging operations that the corporation has engaged in since its Chapter XI, which incidentally has paid its—Chugach Alaska has paid its creditors in full and is back to a position of profitability and strength, thanks to very good management by both our board and our management.

But that being said, there has been an economic analysis done and there has been an environmental analysis done, and the real issue here is, if we could stop spending money on trips to Washington to try to get the access rights and on the environmental study, we could be much more profitable. If we had the easement, we could then make the decision as to whether this is an appropriate time to log, an appropriate time not to log, an appropriate time to consider——

Mr. FALEOMAVAEGA. Could I reclaim my time? I think you are going a little further than what I was trying to get at.

Is the CAC Corporation the only organization that clearly does timber operations? What about the other 11 regional corporations in Alaska? Do they also have timber operations currently?

Mr. BLATCHFORD. Mr. Chairman, responding to the Congressman, we do not speak for the other regional——

Mr. FALEOMAVAEGA. No, I am just saying, do the other 11 regional organizations have timber operations?

Mr. BLATCHFORD. There are logging operations, yes.

Mr. FALEOMAVAEGA. Okay. That is all I am trying to ascertain.

Since you declared bankruptcy after the Valdez spill, with a $900 EVOS, why is it that that the EVOS funding has not been utilized

to help you overcome this financial disaster that you have—not as a result of you, but because of what the Exxon company had done?

Mr. BLATCHFORD. Mr. Chairman and Congressman, under the policy of the Exxon Valdez oil spill trustees' council, under their policy, they do not recognize people and indeed they do not recognize cultural activities.

Mr. LANKARD. Also, the fact that they demand fee title, and that was one reason that Chugach has not entertained any negotiations with them. And again, we have never endorsed that as well.

Mr. BLATCHFORD. Mr. Chairman, I must respond. With all due respect to the person sitting to the right of me, he doesn't have any official position with Chugach or within the Chugach native community. So I wonder where he got some of his factual basis in responding to the Congressman earlier about the financial analysis.

We have not done a financial analysis of the sale because we are not considering any sale.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from Washington.

Mr. INSLEE. Mr. Chairman, thank you for indulging me.

Could someone show me where the road surface is, where the Forest Service wants an easement over the corporation's land? Could you just kind of generally give me an idea of where that is?

Mr. GIANNINI. Mr. Chairman.

Mr. INSLEE. I have got the map. I don't know if you can show me on the board or somehow.

Mr. GIANNINI. In the material that we have provided, one of the things is a summary of the documentation in support of the easement. And the very last page is a map, and on that map, on the far left, is a dotted line, which is the existing Copper River Highway.

Mr. INSLEE. Yes.

Mr. GIANNINI. Then there is a—the proposed route across Forest Service land is shown—it is actually marked as "proposed corridor." on the right-hand side is a tract that says, Chugach Alaska Corporation/Carbon Mountain Tract, and so from the river——

Mr. INSLEE. Could I stop you just for second. From the intersection with the existing road, is it just the square that shows Chugach Village Corporation lands?

Mr. GIANNINI. The Eyak village land is what is called a 17-B easement, and there is already public access on that route. Then—that is actually a public easement. Then—or there is an agreement to relocate that easement.

The piece that would travel across the national forest to our land, there is a provision in the Chugach Native Settlement Agreement that provides that the public and the government has a right of access across any road that we build.

Then when we get to Chugach Alaska property; that is private property. The government has reserved various rights—various easements across that tract, and has the right today to construct whatever roads it chooses across that property.

What they are saying is that the road that we are proposing to build on our land may not follow those easements, and so they are suggesting that we now have an obligation to provide an additional

easement without any contractual or statutory basis for requesting that.

We have said that we will not give them that interest in land, but to the extent that we have agreed to allow access on the road on the Forest Service property, we will provide access across the road—the mainland road that we build on our property, at least so far as it provides access to Forest Service.

Mr. INSLEE. So you made some statement that the Forest Service reserved the right to place some easements on that property?

Mr. GIANNINI. When the Forest Service issued interim conveyance—I don't believe we have final patent to these. When the——

Mr. INSLEE. Let me interrupt just for a second. Did the Forest Service have the right to decide where those easements were, or do you say they were already described in metes and bounds?

Mr. GIANNINI. Actually, I believe it was BLM that officially was responsible for that selection, but I am certain the Forest Service had input in that decision.

Mr. INSLEE. So if BLM, in fact, or some Federal agency, reserved the right to locate some easements, couldn't they effectively argue that they have the right to put the easement right on top of wherever you were going to build your road?

Mr. GIANNINI. The easement that is reserved is specifically described as passing through specific sections. It is a reservation in our patent or in our conveyance.

Mr. INSLEE. I see. Have they expressed a willingness to give those up in exchange for a public easement on wherever you put your road?

Mr. GIANNINI. They have been unclear as to whether they are willing to or not.

Mr. INSLEE. Okay.

Mr. Lankard, could you tell me, we are very sensitive in my statement about degradation of salmon spawning habitat because of logging roads. We have had some real tragedies in our State and we don't want to see that happen in yours, obviously.

Could you tell me, do you or others question the site location or specifics for this road from a salmon habitat standpoint?

Mr. LANKARD. Well, I think that since there have been adjustments and the road has been moved up to the timber line, that I think that it is actually in a better place than where they originally had planned.

But what we are more concerned with is what kind of fill will be required, like the very first bridge that they built across Clear Creek this last year in the first mile and a half of road, there were 11 stipulations in Title XVI, which is an anadromous fish spawning stream crossing, and there were at least five violations that we had recorded.

So there are a number of investigations going on right now that, you know, show that on the very first bridge they had violated the Clean Water Act. So I think that that is only going to increase, the farther away they get from the public road. They have—it depends on the path that they finally choose, but it could cross over a couple hundred salmon streams.

And then the other concern that we have is that we don't know what kind of resources are going to come out of that region. I know

that there has been expression of oil and gas pipelines, and that was originally one of reasons why they wanted such a wide easement. I believe last year they wanted 500 feet wide.

So we just want to make sure that if this road is built, that the environmental document that they did in-house, that there is an accompanying environmental impact statement that mitigates any damages that could occur. That is why we would rather see an EIS than an in-house environmental document.

Mr. FALEOMAVAEGA. Would the gentleman yield?

Mr. UDALL. Certainly.

Mr. VENTO. The gentleman from Utah, Mr. Udall.

Mr. FALEOMAVAEGA. Oh, go ahead.

Mr. UDALL. I will yield to anyone.

Mr. FALEOMAVAEGA. I believe the gentleman, Mr. Udall, does have the time.

Mr. VENTO. The gentleman from Utah.

Mr. UDALL. New Mexico.

Mr. VENTO. Excuse me.

Mr. UDALL. That is okay.

Mr. VENTO. I am out of practice.

Mr. UDALL. Listening to this discussion here, and looking at the history, it seems to me the corporation has been willing to sell the coal, the fee title to the coal, of which I guess has been purchased by some Korean companies, you have been willing to sell the trees and that has gone to Pacific Rim countries, and I would just urge you, in the strongest possible terms, to seriously consider a conservation easement to the United States.

It seems to me that a good argument has been made that the corporation wins and that natives can continue their subsistence life. It looks like a win-win situation to me, and I don't know why you are not seriously considering that.

Mr. FALEOMAVAEGA. Will the gentleman yield?

Mr. UDALL. Yes.

Mr. FALEOMAVAEGA. In my limited understanding of what happened here, historically, I understand that in 1907 then-President Teddy Roosevelt declared this whole region as a national forest reserve out of fear that some corporate entities were going to go there and literally rape the landscape and do mining operations and all of that sort.

What really boggles my mind is the fact that here are these people that have been living here for thousands of years from the tip of there to the 10 million acres total that is equivalent to the size of Connecticut and Massachusetts combined, and yet not knowing that the Russians claimed in some papers they owned all of Alaska and then it became "Seward's ice box," becoming later a State, and yet these people, indigenous people living in this whole region, didn't even know that this was happening.

My question really is, I just can't understand how such a settlement can be made of these lands, totally owned by these indigenous peoples are, so spotty? And why are these the worst areas that are given to the Chugach Nation, the way it is listed in the village level and the corporation level? Why couldn't there have been a combination of a whole reservation, if you will, like we do the Navajo Nation? Why so spotty like this?

And it is so difficult, now that we are faced with this problem and we can't even get an easement to the 73,000 acres that has tremendous environmental value and interest.

The CHAIRMAN. If the gentleman will yield, and I will let the panel answer.

Mr. FALEOMAVAEGA. Unbelievable.

The CHAIRMAN. Two things have happened. One, you are absolutely right. The Alaska native people were totally ignored until 1970—1968, and we started a process of—and by the way, we white men, we did start this process with the native leaders to try to solve some of the injustices—yes, driven by the oil line—to give them 44 million acres of land, chosen by the recognized groups. Chugach was one of them.

Unfortunately, as you said, Teddy Roosevelt—and by the way, he did this to stop a monopoly of the Guggenheimers in the coal fields, and he did declare it a national forest. But unbeknownst to these people, this was all something done in Washington, DC.

So now we come to selecting lands. The Chugach region had no choice but, frankly, the rooftops of mountains and glaciers. The Calista group, nothing, very frankly, at all because it was a refuge created by the Department of Interior. And I can go on down the line.

It was decided by this Congress that they had a priority right, but even Chugach, after the Native Lands Claim Settlement, couldn't choose the land. They had to eventually sue and finally reached an agreement in 1982. That is when this all came from, 1982.

That agreement was reached with the Forest Service and it says specifically in the law, access shall be granted from 1971 to 1982 until 1999.

Now, they did build the road, by the way, Mr. Lankard, across the great Copper River Delta.

Mr. LANKARD. The west Delta.

The CHAIRMAN. It has been all the way through there. It has been one of the most productive areas. It apparently hasn't hurt too much because subsistence still takes on and fishing still takes on. It can be done.

Now, as far as Mr. Udall, the idea of an easement, again, there is no value there until they get the easement access. Once that is made possible, they can negotiate. Right now we will low-ball them. That is not fair.

Now, if the Federal Government wants to take and buy their land, and they say they want to sell it, give them a million dollars an acre. If it is worth that much, then they have a decision to make. That is fair, because the idea is that they were supposed to get this land. They are the first Americans. They were there.

This was an Act of this Congress, and to have agencies like the Forest Service and the Department of Interior—who oppose the Native Lands Claims Act, by the way—suggest that it be vetoed, still drag their feet and not fulfill what this Congress has said should be done, that is my frustration.

You may not agree with what they have done. I am not saying that is right or wrong, but that is their privilege, as they should have the right to do so because we set it up that way. And that

is our responsibility. To go back on them now is wrong, and I will say again, every one of the regional corporations, if I have my way, when this finally gets done and they all get their land, which they still don't have all title to it, we ought to sue the Forest Service and the Department of Interior and the Park Service for a hundred billion dollars in lost revenues because they have had to fight every inch of the way, because they have never supported the ideas that the American Indians should own land.

Mr. FALEOMAVAEGA. Mr. Chairman?

The CHAIRMAN. Yes?

Mr. FALEOMAVAEGA. I would like to say for the record that I support this legislation, period.

The CHAIRMAN. Any other questions?

If not, I will excuse the panel. And for the rest of you here, we will have the administration up to answer questions. For you who were not here earlier, they did not get their testimony to this Committee until this morning. That is a no-no. I am tired of that. If they want to be heard, they want to testify, then they ought to have at least the decency to have testimony to us on time.

So we will be asking them questions. Do you have any questions you want to ask them? You are welcome to stay. I do have some questions.

This panel is excused.

The next up will be Mr. Ron Stewart, I believe—is that correct—Deputy Chief of Programs and Legislation, U.S. Department of Agriculture, U.S. Forest Service, Washington, DC; accompanied by Mr. Snow, U.S. Department of Agriculture, Office of General Counsel; and I believe one other legal eagle, Paul Kirton.

RON STEWART, DEPUTY CHIEF FOR PROGRAMS AND LEGISLATION, U.S. FOREST SERVICE, U.S.DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY JAMES SNOW, OFFICE OF GENERAL COUNSEL, U.S. DEPARTMENT OF AGRICULTURE, AND PAUL KIRTON, SOLICITOR'S OFFICE, U.S. DEPARTMENT OF THE INTERIOR

The CHAIRMAN. I want to welcome the witnesses before the Committee, and I hope you understand my frustrations about the delay in having testimony on time.

The Department of Interior has a habit—it is like a drug disease—of never being on time. As a chairman, I don't deeply appreciate that at all.

Which one of you wants to answer this first question? I have a series of questions, and I will go on down them.

Isn't it true, under the 1982 CNI Settlement Agreement, it requires you to grant Chugach an easement and that easement is a real property interest?

Mr. STEWART. That is my understanding, yes.

The CHAIRMAN. You agreed to that?

Mr. STEWART. Yes.

The CHAIRMAN. Okay. Is the environmental documentation required under the 1982 CNI Settlement Agreement and MOU signed last year complete and adequate?

Mr. STEWART. That is my understanding, that it is. Yes, we have accepted it.

The CHAIRMAN. What does H.R. 2547 grant that the Secretary is not already required to grant?

Mr. STEWART. The concern we have is that the 1982 settlement agreement did provide for reciprocal access. At the time that that negotiation occurred, which—as you probably recall, I was not there, but the two people with me were actually engaged in that suggestion. That access was a significant issue for the State of Alaska, members of local public and both the Departments of Agriculture and Interior. As part of the give-and-take that came out of that settlement agreement, there was a desire to assure that there would be access to the public lands there as part of the access across the Forest Service lands.

It is my understanding that the only sticky issue at this point in time is the resolution of that access. I heard a lot of discussion of that here, but there are ongoing negotiations to try to work that out; and my understanding is that has also been fairly productive, and hopefully we are very close to actually having an agreement.

The CHAIRMAN. With all due respect, Mr. Stewart, I heard the same thing last year. I hope that if there are negotiations, it is in sincerity and not just—you know, my fear is that the longer you delay this, the more pressure, the people's group and the rest of the environmental groups will get this group to sell their land.

Mr. STEWART. I would like an opportunity, if you would, please, to have Mr. Snow, who has been engaged in that on the part of the Forest Service in the discussions, but only to say it is our intent, and I am quite well aware the administration has made some commitments to assure granting of that.

The CHAIRMAN. Before Mr. Snow answers, I have a question to ask you, Mr. Snow. I understand you had a major role in drafting the easement. Is that correct? And I want a yes or no.

Mr. SNOW. Yes, I had a role in it.

The CHAIRMAN. Did you read the environmental document approved by the Forest Service before or when you attempted to draft the easement?

Mr. SNOW. I drafted that easement in consultation with my local counsel.

The CHAIRMAN. Did you read the document?

Mr. SNOW. Sir, I did not have all the documentation.

The CHAIRMAN. You did not read the document?

Mr. SNOW. I don't believe that is a correct characterization of the process that went on.

The CHAIRMAN. Let's don't play games with me now. I want to ask you a question.

Mr. SNOW. Sir, it was not necessary for me to read the entirety of the environmental documentation in order to draft the easement.

The CHAIRMAN. What did you read?

Mr. SNOW. Sir, all I was required to do was to draft an easement, which is an interest in land that incorporates the terms and conditions of the 1982 agreement, and that is what I did.

The CHAIRMAN. Okay. The Forest Service issued a deficient document and called it an easement. This document is deficient because it ignores the environmental document. Would you not say that?

Mr. SNOW. I don't understand your question, sir.

The CHAIRMAN. The question is, your issuing of the document ignores the environmental document that you signed off on.

Mr. SNOW. On the contrary, sir. Our document that we issued and that we proffered then in March incorporated, by reference, all the documentation that was prepared and accepted by the Forest Service, and it is incorporated by reference and specifically stated in the easement.

The CHAIRMAN. Why did it take 45 days of waiting, after submission of the easement application, to issue a draft document that again ignores the work done by the environmental document?

Mr. SNOW. Forty-five days was, I think, a very prudent and necessary period of time in order to put together a very complicated legal document, and we proffered it to them and we got to it before the 45 days.

The CHAIRMAN. How long have you been on this case?

Mr. SNOW. We got—I had the case given to me in January.

The CHAIRMAN. In January. How long has the Forest Service had it?

Mr. SNOW. The Forest Service has been working with Chugach Alaska, I believe, for quite a long time.

The CHAIRMAN. 1982.

Mr. SNOW. No, sir. It has been an off-and-on process since 1982, and we have not had a pending application since 1982.

The contract—and I would direct the Committee to read the contract, because it is very explicit on these points—requires that Chugach apply. Chugach did not apply formally under the terms of the contract until January.

We, in fulfillment of our obligation, responded within 45 days.

The CHAIRMAN. Does the document you call an easement require Chugach Alaska Corporation to undertake additional worker studies that have already been performed pursuant to the MOU?

Mr. SNOW. It required them in three or four situations to do additional work that had not been done and that would have been required in order to complete it, but the great majority of the work was done.

There are some things that Chugach, on its own initiative, opted not to do at the time we recommended it. So, therefore, those——

The CHAIRMAN. Is this the same document that was signed off by the Forest Service?

Mr. SNOW. The Forest Service signed off on the adequacy of that which was submitted. There were some items that they specifically—that the Forest Service had asked for that were not provided, that Chugach asked to do during the construction phase; and those matters we agreed to allow them to fulfill during the construction phase, but the easement was contingent upon them.

The CHAIRMAN. Can you explain the exchange of easements?

Mr. SNOW. You mean the reciprocal right of access?

The CHAIRMAN. Exchange of easements. Have you requested an exchange of easements?

Mr. SNOW. Yes, we did.

Our reading, and this is contrary to CAC's reading of the contract, but we think it is quite clear that the contract contemplated that the public would have full rights of use of that easement over

the entirety of the road as built, to the extent that it provided access to public lands.

Now, at that point, where the road leaves Federal land for the last time and enters back onto CAC property—we are not contending that the public has a right of access, but having been a party to the negotiations in 1982, I can tell you that one of the concerns of the Secretary of the Interior, Mr. Watt, and the Secretary of Agriculture, Mr. Block, on behalf of the Reagan Administration, was that the people of south central Alaska should have full rights of access to their public lands. And that was one of the major contractual provisions that we put into the agreement.

The CHAIRMAN. If it is the understanding that Chugach is offering to allow free public use of the road on Chugach's private land, why do you have to have another easement?

Mr. SNOW. Well, because that is the position of the corporation today. The board of directors tomorrow could pass a resolution and block public access. Unless we have a legal right of access, we have no access at all because then it becomes access essentially at the behest of whoever is in control of the corporation.

The CHAIRMAN. If I write this in the legislation that there will be public access, why do you need the exchange of easements?

Mr. SNOW. Well, right now, there is no legislation. There is——

The CHAIRMAN. There is legislation before us. I am asking you if I put in, in fact, there will be public access, that no other board can change that, why do you have to have a Federal easement?

Mr. SNOW. Well, first of all, I would question the ability of this Congress to compel, without its consent, CAC to grant use of the——

The CHAIRMAN. That is an argument I can have with them, but I am asking you a question. Why do you need the Federal easement recognition at this time?

Mr. SNOW. Well, again, I am not sure where your question is leading, other than to say——

The CHAIRMAN. What it is leading to, if you were here before, it leads to another whole ball game of delaying tactics by the Forest Service and through outside interests that preclude the issuance of this access. That is what I am leading to.

Mr. SNOW. Well, sir, our position is they are entitled to access and they are entitled to an easement, and the direction that I have been given from all levels of the Department and the administration was that we are going to live up to and comply fully with the 1982 settlement agreement and that requires——

The CHAIRMAN. Let's see, 1982 to 1999, that's—'82, that's 10—that's 19 years, 19 years.

Mr. Kirton, I keep seeing you shake your head. What do you mean it is not 19 years? I can add up. Seventeen years, 19 years is a long time.

Mr. KIRTON. The end of 1982 to the present is 16 years.

The CHAIRMAN. They have what?

Mr. KIRTON. The end of 1982/January of 1983, the final ratification by Congress, to present, is 16 years.

The CHAIRMAN. Is that a short period of time?

Mr. KIRTON. Just the bath, I would say.

The CHAIRMAN. Just a short bath. I see.

Mr. KIRTON. Just a bath.

The CHAIRMAN. It is easy for people to do that, Mr. Stewart, Mr. Snow, Mr. Kirton. You are dealing with people's lives here and a right of law.

Does anybody disagree with that?

Mr. STEWART. No, Mr. Chairman, but if I might just say, almost anything dealing with Alaska becomes controversial.

Of course, this particular area, the Copper River Delta, is an area that was even specifically dealt with in ANILCA, so there is a significant amount of interest. So I think everybody's concern is, we want to do whatever we do there.

The CHAIRMAN. But, Mr. Stewart, with all due respect, that is not up to you. The law says they shall have access, and by nonaction you are depriving them of that access. You are depriving them of what this Congress said was theirs.

Is that correct?

Mr. STEWART. My understanding is, we have not had a formal request for the access, the paperwork to request that, until—is that January of this year, we processed that, we came back with an agreement? There were some differences in the agreement, and we are continuing to negotiate with the parties, believing that everybody is negotiating in good faith, and it should be possible to reach agreement.

The CHAIRMAN. Do you have any idea of time frame?

Mr. SNOW. Well, we were ready—we believe that we offered an adequate easement in March.

The CHAIRMAN. Because you see—you want a Federal easement, they are willing to give public access. Why do you need that Federal easement, if, in fact, it is guaranteed in law that they can't renege on what they said they can give?

Mr. SNOW. I think I have to reserve judgment on whatever language that might be proffered by the Committee, but the bottom line is, we feel that the public has a right of access.

The CHAIRMAN. They do, too.

Mr. SNOW. Pardon?

The CHAIRMAN. They do, too.

Mr. SNOW. Okay.

The CHAIRMAN. Okay. So what I want to suggest is—which is what I suggested last year and why I really would not like to waste my afternoon today talking to you guys, very frankly, because you told me last year that this would be accomplished. And you did—maybe you weren't sitting in front of me, I forgot, very rarely I do that, but it was said this would be accomplished. I am going to suggest, all right, now I have got you at the table, and I have the other people that testified, I am willing to sit down with all three of you and the three people who were before the Committee today, and we will arrive at a decision. What is wrong with that proposal?

Mr. SNOW. Well, sir, I spoke with Mr. Giannini earlier, and we have I believe very successfully negotiated 99 percent of this. I think that there are options that we are currently addressing for dealing with this access question. I think that we are perfectly able and we certainly have the motivation to complete it. I am not sure that action by the Committee would be necessary, because I believe it could be done by negotiation.

The CHAIRMAN. My problem is and the reason we are here is you haven't done it. I hear from one side, and I hear from another side. I am suggesting it is a good negotiating position. I will be in the room, and we will get everybody to sit down, and when we get done, we will sign a packet of agreement. Then I don't have to move this bill. Otherwise, I am going to move the bill, and I will pass it. You guys may veto it, but it again shows your colors if you do so.

I haven't talked to Chugach about this at all, by the way, so if they are in the room I am sure they are very, very concerned right now. But I am just suggesting—I keep hearing from both sides, we are negotiating in good faith, but you are not because we have not reached a decision yet.

Mr. STEWART. Mr. Chairman, what I hear you offering is lend your weight to keeping the feet to the fire on all parties to try and reach agreement?

The CHAIRMAN. All parties feet to the fire to try to solve this problem, so they get their just due. And if you, in fact, think you have some concern, I can address those concerns also. But I do not want this constant 18, 17, 16 years, 1971 till now, 1992 till now, to continue, because I don't see you coming to the conclusion.

I think there will be somebody outside—Mr. Stewart, all due respect, will blow on somebody's ear and say we can't do that, this is a sacred area, forget the people, we have got to protect it. I mean, I am afraid that is going to happen. And you may be caught in the middle. I don't know. But I know this, that the regional people have worked very hard to get this done, and they can't get anywhere. They have worked very hard, and I won't take that away from them. But for some reason it is a constant stalemate from down here.

Mr. STEWART. I am not in a position—I would like to bring your proposal back to the administration and see if we can work something out. What I would be concerned about is, is in the meantime holding out the prospect of trying to resolve this legislatively, which could take a significant amount of time, and in the meantime have the people walk away from the table and not continue what have been fairly productive discussions.

The CHAIRMAN. Well, again, I don't think you have to worry about that too much, Mr. Stewart. For one reason, you know, if I don't want this bill to move, it is not going to move. If I do want it to move, it is going to move. That is the threat to you, and that is the suggestion of the other side of the aisle that we try to solve these problems. I think they have worked very well in good faith. You say you have worked well in good faith. I hear from both sides, but out of it comes nothing.

I waited a whole year before I introduced this bill hoping—by the way, it was supposed to be last January, we were told last December, and now it is the—whatever it is in July, 28th of July, and so I want—this is one of the projects that I have a great seriousness about completing about the end of this year. So if you want to go back and suggest what I am suggesting and, in the meantime I will talk to the people from Chugach and see if they are willing to sit down. They are sitting in the back room—I haven't talked to

them about this. This is something I want to get done. I don't want to be sitting here next year finding out why it wasn't solved. Okay?

Mr. STEWART. I think we all want to solve this. They do have the access right. It is our intent to grant that to them. As I said, there has been one—at least one sticking point, and if there is a way to break that logjam and get people to the table, I am all for it.

The CHAIRMAN. All right, thank you.

The gentleman from American Samoa.

Mr. FALEOMAVAEGA. Mr. Chairman, I am encouraged by the statements made by the gentleman before us on the panel. We have completed about 99 percent of the negotiations at this point in time, as I hear, Mr. Snow. Where is that 1 percent left that seems to be bothersome to the agencies?

Mr. SNOW. I think perhaps putting a percentage on it is not correct, because that assumes that 1 percent is not important.

Mr. FALEOMAVAEGA. Obviously, it is very important. So that is why I am asking.

Mr. SNOW. That is right.

Mr. FALEOMAVAEGA. Where is that 1 percent that is causing all of those problems?

Mr. SNOW. I think that we have—as a result of a meeting that we had in June, we made extraordinary progress, I believe, not only in coming to agreement on most of the terms and conditions of the proposed access but I think in our cooperative regulations between the Forest Service and the Corporation. The remaining issue concerns this public access, I believe, that Chugach has some very legitimate concerns about the effect that granting an interest in land has on federalizing. I believe it is legitimate. But I also believe there are legitimate concerns that we have with respect to the public's rights under this agreement.

Mr. FALEOMAVAEGA. Mr. Snow, if I may, I would like to quote you a statement by Ms. Buretta, chairman of the Corporation, and I quote: In a meeting with the Forest Service in June, in a failed attempt to negotiate an acceptable easement document, the government lawyer—and I would like to know who the government lawyer is—said, and I quote, we don't want you to have this easement. I suggested that once an easement is granted, Chugach should begin discussing a sale or a trade of our land in Carbon Mountain in Prince William Sound.

Is that an accurate statement by Ms. Buretta?

Mr. SNOW. With all due respect to Ms. Buretta, who I have a great deal of respect for, I don't believe that was a correct representation.

I was the government lawyer at that meeting. I made no such statement. We have consistently said that at some point that Chugach gets its easement, that if the Corporation, acting at the behest of its shareholders, decides it wants to convey an interest in land, we would be happy to talk about it.

We do not, however, use this as a lever. They have a right to that access. They are going to get the access. When they get it, if they want to sell, they can sell it to us.

Mr. FALEOMAVAEGA. Are you fully satisfied that the counsels and all the responsible people do and have all expressed the interest that this is the policy of the direction that the CAC Corporation

wishes to pursue with the Forest Service? You sound like you are waiting for the Corporation to say, unless we hear from the corporate membership of the shareholders, the majority in agreement they are going to negotiate, is that what you mean?

Mr. SNOW. What I am addressing, sir, is the contention that we heard frequently this afternoon that somehow the denial of this access is predicated on a strategy to force them to sell an interest in the land. We have, on occasion, offered Chugach the opportunity to sell or convey or to exchange that opportunity. Chugach has told us they are not interested in doing so, at least until they get their easement. There is legitimate concern that the property would be valued without access.

I would make a point that it would be valued, as if it did have access, because it has, as a matter of law and contract, a right of access, so there is no way that the government under the uniform appraisal standards could ever devalue that property for the lack of it. But the bottom line is, they have a right to access. If they want to develop that access, that is their prerogative. Once they get it, or if they decide that they want to sell or convey an interest in that property, that is also their prerogative. And we are hoping for consideration of that.

Mr. FALEOMAVAEGA. Are you satisfied with the supervisors' evaluation, given the fact that the Forest Service had also requested that an environmental study was made costing this corporation about a million dollars just to do this requirement? Is this an agreement with your regulatory administration of this part of the contract, Mr. Stewart?

Mr. STEWART. It is not——

Mr. FALEOMAVAEGA. This Corporation paid over a million dollars to comply with your requirements, Federal requirements. Is there any other aspect of the contract agreement that they are short of in terms of why this thing has dragged on now for so long?

Mr. STEWART. I think what was mentioned is, in the 1982 agreement, the forest supervisor was given the prerogative to determine what environmental documents would be needed. But not a NEPA process, that was part of the trade-off. And he specified that. Those were agreed to in a memorandum of understanding between the forest and Chugach Alaska. And my understanding is and—which I had just heard explained a minute ago, that we have accepted everything they have given to date. There are a couple of things that were not done.

But at this point it did not prevent us from going forward with a draft proposal to grant the easement. In this issue of them having to pay for the environmental work and so forth, there is a significant precedent for that, when there is a for-profit corporation proposing activities that would impact Federal lands, to have the proponent actually pay for some or all of the environmental documentation.

There is—unfortunately, one of the problems with that is the perception then, in the case where NEPA is concerned, that there is an implied agreement if they spend that, they are going to get a favorable decision, and you can't always guarantee that. And in this case there was no NEPA. And, in fact, the information has been accepted; and we are prepared to go ahead.

Mr. FALEOMAVAEGA. One more question, Mr. Chairman. I know my time is over.

Mr. Stewart, what kind of a timetable are you looking at in terms of months that you think that we can wrap this thing up as far as negotiations are concerned? Again looking at that 1 percent that seems to be hanging over.

Mr. STEWART. One percent is always the sticking point. And my sense is we would like to resolve it as quickly as possible.

Mr. Chairman, I was, frankly, told by the administration that they wanted to make sure that we did convey the message that we planned to grant that; and, you know, anything that brings the people to the table and gets this resolved as quickly as possible is good.

Mr. FALEOMAVAEGA. Mr. Stewart, if I may, you know, I heard President Clinton being the compassionate President of the First Americans and Native American rights and the issues and the problems that we have had socially, economically. I really like to hope and take in good faith that the President means what he said and that, as you and your stewardship and members of this administration, that we follow through on this and, hopefully, that there is resolution to the problem.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. And again I want to stress, Mr. Stewart, that the sticking point is that 1 percent can be solved very easily. If we can get an agreement from Chugach and an agreement from you that the public access is guaranteed by law, and, you know, that is all I have to do, and I will move this bill just with that provision, and there may be a couple other things that you would like, and it can become a reality.

I just—again, I am somebody that doesn't want to see this happen. I can tell you, in a small area, especially with a small group of shareholders, the lure of big dollars can sometimes do great harm. And one thing I don't want to do, as long as I sit in this chair, is to have the American, the Alaskan Natives make a settlement for 44 million acres of land and not have any land.

We can talk about subsistence and all the other good things you want, but that was a deal that we made, this Congress made. And to have us deny and take and through attrition deprive them of their land, I think is inappropriate.

The gentleman from Washington state, Mr. Inslee.

Mr. INSLEE. Thank you, Mr. Chairman.

Can I offer for the record a statement from the National Wildlife Federation? May I make that part of the record with your indulgence?

The CHAIRMAN. Not until I read it. After I read it, I will sure it is all right. I am not particularly fond of the National Wildlife Foundation right now.

Mr. INSLEE. I understand that. But I understand you are against censorship too, Mr. Chairman, so hopefully you will permit that.

The CHAIRMAN. I will read it, and if it is permissible——

Mr. INSLEE. They will capitalize the name Young in here, too. I will make sure that they do that.

Has anyone asserted that legally there are additional process requirements for design of the road, for instance, NEPA or some

other Federal law? Has anyone argued that any of the Federal agencies are required legally to go through any additional process than they already have? Has anybody suggested that to you?

Mr. SNOW. Well, the contract requires, as it necessarily must, that they comply with all applicable State and Federal laws, rules and regulations. I don't think it surprises anyone here that to do anything can bring up a panoply of different laws. I know questions have been raised with regard to section 404 of the Clean Water Act, for example. Interior and Agriculture have no jurisdiction over that particular section of the law. So if you are asking are there other legal requirements that Chugach may have to fulfill in order to construct this road, I would say the answer is probably yes.

Mr. INSLEE. For instance, I mean, do I understand that the ANSCA has essentially taken the position that NEPA does not apply at least to granting the access?

Mr. SNOW. Well, the issue of NEPA was addressed in the 1982 agreement. And in that regard, the 1982 agreement was intended to effect the conveyance of entitlements to Chugach Alaska Corporation; and under section 910 of ANILCA, those are exempt from the preparation of environmental impact statements.

So there was an effort by the parties in 1982, and we agree with it today, that section 910 should apply to this situation. Now, does that mean that will be upheld in court? That will be a question that could be the subject of litigation, but we certainly, I think, agree with CAC with regard to the applicability of section 910.

Mr. INSLEE. Let me ask you kind of a broad question. This is extremely sensitive ground. It seems to me a significant portion of this would cross or be very close to wetlands, as I understand it. What can you tell us about how high a standard of design has been contemplated by the Corporation and the agencies relative to other Federal lands and other criteria for road building?

Mr. STEWART. This road, I think, is going to be very environmentally sensitive. I think you heard that from one of the members of the local community. And it will meet best management practices as established by the State and by the Forest Service. It has used the Forest Service standards over Forest Service roads. We are certainly very sensitive to the watershed and so is the Chugach Alaska. So I think that those concerns will be taken care of, and it will meet best management practices standards.

Mr. INSLEE. Do I understand there was some controversy already on some construction? Someone told me—someone alluded to some difficulty in the first stage of construction. Has the State of Alaska challenged this at all?

Mr. SNOW. I do know of some controversy. I don't know of what the status is.

Mr. STEWART. There were some demonstrations during some of the early construction phase, but I am not sure that it was—necessarily there have been alleged or proof of any violations of anything.

Mr. INSLEE. As far as the agency's desire for Federal easement on the deeded property, to the extent you can, can you tell us what—is that based on some statute that you believe is required? Is it simply an administrative position? Do you know what basis

should we have in evaluating whether we should or should not have a Federal deeded access on fee title property?

Mr. SNOW. We believe that the contract read as a whole contemplated that the public would have use of the road. We reserved the Kushtaka Lake easement in the contract at the time when the proposed delineation of the road was to be on that particular side of the lake. So the intent was to have the reservation of the right of way be congruent or identical to where the planned route was.

That at the time was predicated on a road that was for coal extraction. Now they have changed their intent to have the road be for timber extraction, and that necessarily requires them to put it over a different portion of their property. Where we do not have a reserved easement, I guess at the time, had we been clairvoyant, we might have also reserved an additional public easement over the proposed route.

Mr. INSLEE. With your indulgence, Mr. Chair, the Corporation's concern is, if there is an easement, it will just simply open the door to untold further barriers to ultimate construction, if necessary. Is that an accurate concern? And, if so, what can be done about that?

Mr. SNOW. I can't—whenever you are dealing with the myriad of conflicting environmental laws, rules and regulations, if I were a private developer, I think I would be concerned about any situation that could unravel or get more complicated than anticipated.

So if you are asking me, is the Corporation being unreasonable in their concerns; if I were their lawyer, I would say they are not. On the other hand, from the government's perspective, all we are trying to do is enforce the 1982 agreement, and that is subject, by its own terms, to all applicable rules and regulations and laws. Since we can't change that by contract, we just have to let the chips fall where they may.

Mr. INSLEE. For whatever it is worth, from what little I know of this, it sounds to me like your interpretation is probably correct, and I hope that your negotiations under whatever auspices reach a conclusion. And I also hope that that ultimately leaves the Corporation to conclude in the exercise of their sovereignty and best interests that they will entertain offers for this property, and I would hope that I can work with anyone interested in this subject to ultimately respect the dignity and sovereignty of this Corporation and also reach that conclusion.

Thank you very much.

The CHAIRMAN. Thank you.

And, Mr. Stewart, I again want to get a response back from you. I am glad to hear Mr. Snow say that they do have a legitimate concern about becoming a Federal easement and body in the water. You said you thought section 910, it is a law. Now, how can anyone challenge that? I mean, they can challenge it, but would you be willing to defend that as a lawyer?

Mr. SNOW. The position that we have taken is that the 1982 agreement is an extension of Chugach's entitlement under the Native Claims Settlement Act, and to the extent that the section 910 of ANILCA exempts conveyances to native corporations under their entitlements from NEPA requirements, then we believe that the '82 agreement is correct. And we will defend that.

The CHAIRMAN. Thank you. The term here is conveyances are different than easement, but it says easement determinations. So 910 as defined in ANILCA precludes anyone from filing a lawsuit, or they can do it, but it would be heavily defended, it could be heavily defended.

What I am looking for it, if necessary, when I reach this agreement, if I do have to move some legislation after we have a sit-down meeting, I want to make sure we write it so that other parties can't delay this process. They can't turn around and sue the Forest Service for not doing something, further delaying this access question. You know, the delay tactic is what a lot of people use in this arena in these days, and that is what I am trying to look for.

Mr. INSLEE. Mr. Chair, could you yield for just one moment?

The CHAIRMAN. Yes.

Mr. INSLEE. I just—apparently, there is some suggestion that the original language that excluded coverage of NEPA applied to the deeding process of the property itself. I have been told that there is potentially an argument though that that exclusion did not cover granting of easements, of access easements and I just—some have argued that, I just wanted to point that out, the agencies have not obviously agreed with that interpretation. But it seems to me that there is some argument that folks interested in this issue ought to be somewhat concerned about.

The CHAIRMAN. The National Environmental Policy Act of 1969, 83 statute 852, shall not construed in whole or in part as requiring preparation or submission of an environmental impact statement for withdrawals, conveyances, regulations, orders and easement determinations or other actions which would lead to the issuance of conveyance to the native and native corporations pursuant to the Alaskan Native Claims Settlement Act, and it sounds good.

I am not a lawyer. I just want to make sure that there is no open doors, and if there is any open doors there, Mr. Snow, I would like to know it so that we can preclude any delaying tactic once you agree that this easement shall take place. I don't know how many times I have seen agencies sued by other interest groups who supposedly haven't done the job as you should do it, and that again delays the process. I want to look at that. That will be part of our discussion. Come back to me with your recommendations.

If there are no other questions, I excuse the panel. I do thank you for your patience, and I hope you take my criticism in good faith. Next time, have your testimony here at least 2 days prior to the actual hearing.

This Committee is adjourned.

[Whereupon, at 1:30 p.m., the Committee was adjourned.]

[Additional material submitted for the record follows.]

Alaska National Interest Lands Conservation Act

(f) EXISTING CONTRACTS.—Nothing in this section shall be construed as impairing, or otherwise affecting in any manner, any contract or other obligation which was entered into prior to the enactment of this Act or which (1) applies to any land which is subject to an agreement, and (2) was entered into before the agreement becomes effective.

PROTECTION OF NATIVE LANDS IN CONTINGENCY AREAS UNDER TIMBER SALES

SEC. 908. Section 15 of the Alaska Native Claims Settlement Act is amended by inserting "(a)" after "SEC. 15." and by adding at the end of such section the following new subsection: 43 USC 1614.

"(b) No land conveyed to a Native Corporation pursuant to this Act or by operation of the Alaska National Interest Lands Conservation Act which is within a contingency area designated in a timber sale contract let by the United States shall thereafter be subject to such contract or to entry or timbering by the contractor. Until a Native Corporation has received conveyances to all of the land to which it is entitled to receive under the appropriate section or subsection of this Act, for which the land was withdrawn or selected, no land in such a contingency area that has been withdrawn and selected, or selected, by such Corporation under this Act shall be entered by the timber contractor and no timber shall be cut thereon, except by agreement with such Corporation. For purposes of this subsection, the term 'contingency area' means any area specified in a timber sale contract as an area from which the timber contractor may harvest timber if the volume of timber specified in the contract cannot be obtained from one or more areas definitely designated for timbering in the contract.". *Ante*, p. 2271. "Contingency area."

USE OF PROTRACTION DIAGRAMS

SEC. 909. With the agreement of the party to whom a patent is to be issued under this title, or the Alaska Native Claims Settlement Act, the Secretary, in his discretion, may base such patent on protraction diagrams in lieu of field surveys. Any person or corporation receiving a patent under this title or the Alaska Native Claims Settlement Act on the basis of a protraction diagram shall receive any gain or bear any loss of acreage due to errors, if any, in such protraction diagram. 43 USC 1637. 43 USC 1601 note.

NATIONAL ENVIRONMENTAL POLICY ACT

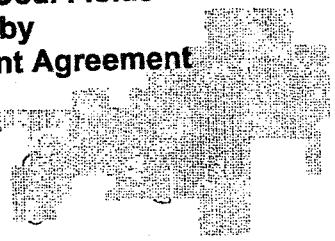
SEC. 910. The National Environmental Policy Act of 1969 (83 Stat. 852) shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement for withdrawals, conveyances, regulations, orders, easement determinations, or other actions which lead to the issuance of conveyances to Natives or Native Corporations, pursuant to the Alaska Native Claims Settlement Act, or this Act. Nothing in this section shall be construed as affirming or denying the validity of any withdrawals by the Secretary under section 14(h)(3) of the Alaska Native Claims Settlement Act. 43 USC 1638. 42 USC 4321 note. 43 USC 1613.

TECHNICAL AMENDMENT TO PUBLIC LAW 94-204

SEC. 911. Section 15(a) of the Act of January 2, 1976 (Public Law 94-204, 89 Stat. 1154-1155), is amended— 43 USC 1611 note.

(1) by striking out the description beginning with "Township 36 south, range 52 west;" and all that follows through "Township

SUMMARY
of
Documentation in Support of
an Easement Application for Road Access
Via the Martin River Valley
to the Bering River Coal Fields
as Granted by
the 1982 CNI Settlement Agreement



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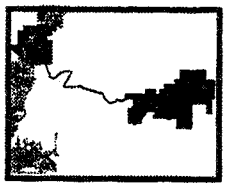

Summary

On January 19, 1999, Chugach Alaska Corporation submitted to the U.S. Forest Service (USFS) its final Documentation in Support of an Easement Application for Road Access Via the Martin River Valley to the Bering River Coal Fields as Granted by the 1982 CNI Settlement Agreement (referred to as the Final Documentation or Easement Application Documentation). This Final Documentation is the culmination of the long and complex process undertaken to effect the conveyance of an easement to Chugach pursuant to the Alaska Native Claims Settlement Act of 1971, as amended (ANSCA).

Background

Chugach Alaska Corporation (Chugach) is the Alaska Native Regional Corporation for the Chugach region established pursuant to ANCSA.[1] ANCSA promised Alaska Natives substantial land conveyances and cash in return for relinquishment of their aboriginal claims to lands and waters in Alaska. However, because of prior withdrawals of public lands within the Chugach Region, Chugach was unable to select ANCSA lands on which to build a viable economic future.

With the passage of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), Congress recognized the need to balance the conservation and economic development of Alaska's resources, and sought to remedy some of the deficiencies of the ANCSA land selection process. To realize ANCSA's intent, purpose, and promise of providing the Chugach people with a fair and just land settlement, ANILCA entitled Chugach to select public lands within the boundaries of the Chugach National Forest that were, to the maximum extent possible, coastally accessible and economically viable. ANILCA mandated state and federal agencies to study options for fulfilling Chugach's ANCSA land entitlement. The resulting Chugach study recommended conveyance of various parcels of land,

[1]Chugach Alaska Corporation was formerly known as Chugach Natives, Inc., or CNI. The Chugach Region includes the coastal area from Port Graham on Kachemak Bay, east to the 141st meridian.

including conveyance of approximately 43,000 acres of USFS land known as the Bering River Coal Fields, located approximately 35 miles east of Mile 41 of the Copper River Highway, and an adjacent 34,000-acre tract of BLM lands called the Carbon Mountain Tract. Both tracts are located on the eastern edge of the Chugach National Forest near Cordova, Alaska, and were conveyed to Chugach pursuant to ANCSA in 1983.

Under the 1982 Chugach Natives, Inc. Settlement Agreement (CNI Settlement Agreement),[2] conveyance of these tracts included rights of access as part of the comprehensive settlement of Chugach's ANCSA land claims. The CNI Settlement Agreement identified two right-of-way routes for access to the Bering River Coal Fields: one, from the Copper River Highway across the Martin River drainage; the other, from the Gulf of Alaska between Point Martin and Strawberry Point. The CNI Settlement Agreement provides that the granting of rights-of-way over these routes is an integral part of the conveyances made to Chugach under the CNI Settlement Agreement and a condition precedent to Chugach's willingness to agree to the exchanges provided in the CNI Settlement Agreement. The CNI Settlement Agreement further provides that all interests in lands conveyed under the CNI Settlement Agreement are real property interests conveyed under ANCSA.

Purpose of and Need for Action

Because neither the Bering River Coal Field nor the Carbon Mountain Tract were accessible by road, an integral part of the conveyances was the provision that Chugach receive rights-of-way, to be granted in the form of easements, to construct roads and other transportation facilities across surrounding publicly-owned National Forest lands to the tract called the Bering River Coal Fields. As in 1982, the nearest road is the Copper River Highway, approximately 35 miles west.

Chugach proposes to harvest approximately 8,000 acres of commercial timber from its privately-owned lands over the next 10 to 15 years, and to manage the land for future harvest rotations of forest products. Doing so requires the construction of an appropriate log-haul road across publicly-owned lands

[2]The full text of the Agreement is reproduced in Appendix 2-A(1) of the Final Documentation.

drained by the Martin River.[3] Chugach has asked the USFS to issue the easement so that it can begin constructing the road on Forest Service land in early 1999.[4]

The proposed road will include intervisible turnouts for passing vehicles. It is designed to support heavy logging truck traffic at speeds of 25-30 miles per hour. Bridges will be single-lane, of modular steel or log stringer design, with 80-ton load ratings.

The footprint of the road (land surface covered or excavated for the road) will include road shoulder slopes and hillside slopes cut as necessary to create a bench upon which to place the road. An approximately 10-foot width will be cleared of tall vegetation on both sides of the footprint, and will be kept cleared throughout the period of active road use. The typical disturbed width will be approximately 60 feet.

Also, because of topographical constraints, the proposed easement Corridor utilizes three additional segments within the Bering River drainage in order to access the Carbon Mountain Tract.[5]

Prior to issuing the easement, the Forest Supervisor required Chugach to provide certain documentation in support of its application.[6] Pursuant to this request, Chugach worked in close collaboration with the USFS, first to complete a series of studies analyzing the environment potentially affected by the easement; second, based on those findings, to determine the best and least intrusive

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[3]Chugach proposes to build a 30-mile-long, single-lane log haul road typical of forest roads on federal, state, and private lands in Alaska. The road design allows for flexibility in avoiding environmentally sensitive areas by fitting the road to the contour of the land, and avoiding large cut and fill sections. Logging camps, log sort yards, and other facilities will all be built on privately-owned lands. Upon the completion of the first silvicultural entry, the road will either be maintained or closed (blocked, water barred, and all bridges and culverts removed). If closed, the road will remain closed for approximately 65 years, or until the second silvicultural entry.

[4]A road crossing privately-owned lands (with rights of public access) links the proposed road to the Copper River Highway at Mile 41.

[5]The first of these segments is southeast of Lake Charlotte where the Corridor crosses Maxwell Creek and is approximately one mile long. The second segment rounds the toe of the south flank of Kushtaka Mountain and is approximately one mile long. The third segment also rounds the toe of a mountain slope as the Corridor runs from the Stillwater Creek to the Canyon Creek drainage, and is approximately 1.4 miles long. In all three instances, steep mountain slopes prohibited a Corridor location entirely on Chugach-owned lands.

[6]Consistent with the CNI Settlement Agreement and relevant provisions of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), this documentation was not required to be, nor does the Final Documentation purport to be, either an Environmental Impact Statement or an Environmental Assessment under the National Environmental Policy Act of 1969 (NEPA). ANILCA specifically created an exemption from these NEPA assessments for conveyance of lands and land interests under ANCSA.

location for the easement and the associated road; and third, to document those findings and determinations.[7]

Following his review of this Documentation, the Forest Supervisor will implement paragraph 8 of the CNI Settlement Agreement. Among other things, the Forest Supervisor must decide the terms and conditions to be included in the easement granting Chugach the right to construct and use the proposed road for the right-of-way granted in the CNI Settlement Agreement. The terms and conditions may address, among other things, the location and width of the easement and the requirements set forth in paragraph 8 of the CNI Settlement Agreement. Finally, the Forest Supervisor will issue an easement.

It is expected that there will be no other USFS permits required in order for the easement to be issued and road construction to begin. Construction and use of the road will, however, be subject to all other applicable state and federal laws, regulations, and permit requirements.

Public and Government Use

Consistent with the CNI Settlement Agreement, the proposed road, though intended and designed primarily for use as a timber haul road, will allow for public and governmental use and will be subject to the regulation of such uses by the Secretary of Agriculture. It is anticipated that the public and governmental use of the proposed road and right-of-way guaranteed by the above provisions will have some indeterminate impacts on resource values located within the Project Area. The CNI Settlement Agreement guarantees such uses, however, regardless of the location or width of the easement, or the magnitude of effects on resources within the Project Area resulting from such uses.

Thus, any management of impacts resulting from public or governmental use which is deemed necessary or appropriate is the subject of the Secretary of Agriculture's continuing independent authority to regulate public and governmental use, but does not affect the determination of a specific term or condition of the easement, its width, or its location.

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[7]The purpose of this document is to identify and evaluate the effects of constructing and using the proposed road on National Forest System lands to the extent that such effects are relevant to determining the location and width of the easement, or the terms and conditions set forth in paragraph 8 of the CNI Settlement Agreement. Therefore, effects that will not affect or be affected by the conditions placed on the easement are not discussed.

Development of the Easement Corridor[8]

Determining the best location for the easement Corridor required that Chugach and the USFS work together to, among other things, identify possible locations for the Corridor; undertake complex studies of fish, wildlife, wetlands and other resources within those potential locations; solicit input from the public; and evaluate alternatives.

Definition of the Work Plan

Because the CNI Settlement Agreement specified the terms of, but not the process for, issuing the easement, Chugach initiated a process through informal discussions with the USFS. These discussions ultimately led to the development of a Memorandum of Understanding (MOU)[9] which contained a detailed work plan establishing the scope of analysis, the review of alternatives, and the proposed content and organization of the Final Documentation.

Next, Chugach and the USFS created an interdisciplinary team of engineering and resource specialists assembled from the USFS, Chugach, and various contractors. This team of experts was to work together to implement the MOU work plan, and was instrumental in gathering, analyzing and reporting information pertinent to the development of the easement Corridor.

The development of the easement Corridor subsequently became a collaborative effort between Chugach and the USFS that involved, among other things: (1) review of previous reports studying access into the Project Area, as well as review of other pertinent literature; (2) collection and analysis of current field data; (3) interdisciplinary field review; (4) staff review; (5) review by professionals with

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[8]As described in this summary and in more detail in the Final Documentation, Chugach's selection of the Copper River Highway route for access to the Bering River Coal Fields defined the geographic boundaries of the analyses presented in this document. The following terms are used in this Summary and in the Final Documentation to describe specific areas within those boundaries:

1. The term "Project Area" refers to USFS-administered lands within the Martin River drainage, and, to a lesser extent, within the Bering River drainage.
2. The terms "Corridor", "proposed Corridor" and "proposed easement Corridor" refer to the actual land area covered by the easement. This area was extensively studied for environmental and engineering considerations.
3. The terms "road" or "proposed road" refer to the area that will actually be cleared of vegetation and overlaid with rock to provide a vehicle travel surface.

[9]The Memorandum of Understanding is contained in Appendix 2-A(5) of the Final Documentation.

expertise in the subject areas; and (6) ongoing assessment and redefinition of the processes outlined in the MOU. These efforts are described in greater detail in the Final Documentation.

This collaborative effort resulted in the preliminary identification of several alternative locations for the easement Corridor within the Project Area. Subsequent analysis of various environmental and engineering data, however, established that most of these alternatives were not viable, and they were therefore eliminated.[10]

Also as a result of their collaboration, Chugach and the USFS agreed on several modifications to the scope of the MOU work plan. Included in these was the decision to eliminate extensive analyses and comparisons of alternative easement locations.[11] Thus, although the Final Documentation discusses several alternatives in detail, it focuses primarily on the land and resource effects that are pertinent to determining the location and width of the Easement within this Corridor, as well as to information that will assist the Forest Supervisor in determining the terms and conditions of the easement.

Public Participation

During this process, the public was given a variety of opportunities to submit, receive, review and exchange information. Chugach hosted three open houses, two in Cordova and one in Anchorage;[12] distributed a quarterly project newsletter entitled *Carbon Mountain Update* and published several informational advertisements in *The Cordova Times*;[13] and met individually with interested stakeholders to exchange information and views. The results of this participation, including sign-in sheets and written comments about concerns for fish habitat, water quality, wetlands and wildlife resources, are detailed in Appendix 2-C to the Final Documentation.

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[10]For example, three alternative crossings of the Johnson River were identified within the Johnson River valley. Field data revealed substantial resource and engineering concerns that affected all but the upper Johnson River alternative. Accordingly, the upper Johnson River alternative was carried forward as the only viable option for the proposed Easement location. See the map attached as Figure 1.

[11]This was a direct result of Chugach's and the USFS's mutual determination that, based on available information, the only reasonable or feasible location that provides Chugach with economic access to its lands while protecting fish and wildlife values of publicly-owned lands is within the Corridor identified in Appendices 1-A(1) and 2-K(1).

[12]Two more open houses are planned for January, 1999.

[13]Copies of these publications are located in Appendix 2-C of the Final Documentation.

Identification of Areas to be Studied

Both through public comment and input from USFS professional staff, several areas were determined to be within the scope of the decision to be made by the Forest Supervisor because they are relevant to deciding the location and width of the easement and/or the terms and conditions provided for in paragraph 8 of the CNI Settlement Agreement. These include:

- Fish;
- Wildlife;
- Threatened, endangered and sensitive species;
- Wetlands;
- Water quality;
- Glacial outburst flooding;
- Surface water hydrology;
- Floodplain management;
- Visual quality;
- Recreation;
- Commercial uses;
- Subsistence; and
- Cultural and paleontological resources.

These areas were extensively studied in the process of identifying the location of the easement Corridor. The results of these studies are discussed in depth in the Final Documentation and its appendices.[14]

Location of the Easement Corridor

Based on the information developed through the processes described above, Chugach and the USFS determined that the only reasonable location for the easement Corridor consistent with the primary purpose of protecting fish and wildlife values is along the route marked on the attached Figure 1 as "Project Corridor", extending from the Eyak Village Corporation Lands to the Chugach Alaska Corporation lands and including the upper Johnson River alternative shown as a solid line.

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[14]Many other issues were identified, but were outside the scope of the decision to be made for one or more of the following reasons:

(1) they concerned potential effects outside of the Project Area;
(2) they were too speculative to warrant consideration;
(3) they were not relevant to determining the location or width of the easement;
(4) they were not relevant to determining the terms and conditions of the easement; and
(5) they are subject to the USFS's continuing and independent regulatory authority.

Because these issues will not impact the decision to be made by the Forest Supervisor, their discussion is omitted from this document. Such issues include clearcutting and other activities on the private lands being accessed; employment opportunities associated with the proposed road; and safety concerns over log trucks moving through Cordova.

Description of Existing Environment

The Project Area lies within the Martin River valley 40 miles east of Cordova, Alaska and covers approximately 166,100 acres which include rugged mountains, large glaciers, broad floodplains, diverse forest types, and a variety of wildlife.

The easement Corridor generally follows the toe of the hillslopes bordering the north side of the Martin River valley. The valley floor supports an extensive floodplain containing a mixture of wetlands and coniferous forests. Upper sideslopes are composed of coniferous forests, alder thickets, and meadows maintained by snow loading and winter avalanches. About 15 percent of the proposed Corridor is wetlands.[15]

Although many streams within the Project Area are glacial in origin and carry very high sediment loads, many smaller non-glacial streams which are relatively clear also occur within the Project Area. Many of these streams support extensive fisheries resources, including coho, sockeye, Dolly Varden, and other salmon species.

Other wildlife species within the area includes moose, brown and black bear, mountain goats, bald eagle, wolves, and numerous birds and waterfowl.

No species of plants or animals classified as "Threatened" or "Endangered" were found within the proposed Corridor. Two species were found, however, that are identified as "Sensitive":

1. One pair of trumpeter swans are nesting near the proposed Corridor at Road Station 290+00; and
2. Dusky Canada goose are known to occur in the Project Area and probably use the proposed Corridor at times.

Only one historical site, an old sawmill cabin, was found within the proposed Corridor.

Recreational use of the Martin River valley currently falls completely into the dispersed-use category, which includes hunting, fishing, camping, canoeing, motor boating, rafting, flightseeing, hiking, viewing scenery, and other uses involving few people scattered over a large area.

Further, although substantial opportunities exist, current subsistence use is extremely limited by lack of access to the area. Fourteen big game and fishing outfitter guides currently use the Project Area

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[15]The route avoids wetlands to the extent feasible.

under special use permits with the Forest Service. Federal subsistence species are those for which a "Customary and Traditional Use Determination" has been made, and others for which rural residents are given harvest priority. A Customary and Traditional Use Determination has been made for black bear, wolf, moose, and goat for the Game Management Units encompassing the Project Area.

A more detailed description of the existing environment with supporting studies and analyses are included in Chapter 3 of the Final Documentation.

Effects on Existing Environment[16]

Direct effects of the proposed road on the existing environment are summarized best in the following Table S-1.

Table S-1 Summary of Direct Effects	
Physical Effects	
Road Length	29.95 Miles
Right-of-Way Clearing	226 Acres (60-foot average width)
Potential Rock Sources	Approximately 1 per mile
Environmental Effects	
Floodplain Crossing	7 Acres
Wetland Excavation, Fill, or Clearing	33 Acres
Forested Wetlands	~23 Acres
Non-forested Wetlands	~10 Acres
Anadromous and Resident stream crossings	28
Resident fish stream crossings	20
Total fish stream crossings	48
Total non-fish stream crossings	146
Total stream crossings	194
Forest Clearing	193 Acres

[16]Direct, indirect and cumulative effects on plants, wildlife, fish, habitats and other resources within the easement Corridor are discussed only generally in this summary. Specific effects on these resources are, however, discussed individually and at length in the Final Documentation and its appendices. Ultimately, it was determined that effects on resources will either be minimal or can be mitigated through proper management and monitoring.

Mitigation

Numerous alternatives for mitigating adverse environmental impacts were developed during the 1998 field review and ultimately implemented to minimize environmental impacts. Many of the decisions made were based on trade-offs between the protection of competing resources.[17]

Most direct effects on fisheries resources relate to potential impacts on fish habitat from degraded water quality. Most direct impacts will be avoided by careful Corridor placement during preplanning, and the numerous road re-routes formulated during the 1998 interdisciplinary field review. The avoidance of fish habitat during initial planning was the principal mitigation measure employed. Resident and anadromous fish streams will require the installation and maintenance of culverts in a manner that ensures fish passage. Bridges, log culverts, pipe arches, and other structures as appropriate will be used wherever fish passage cannot be ensured with metal culverts.

Wildlife or wildlife habitat will be affected in several ways by road construction and subsequent use as a log haul road. These effects include converting existing habitat to road surface and road shoulder, clearing shrubs and trees adjacent to the road and maintaining low vegetation there, converting existing habitats of borrow sites and cut slopes to young vegetation types, creating edge habitat adjacent to clearing areas, adding disturbance by noise, vibration, and human activity during construction, adding noise and visual disturbance of moving vehicles during operation, and creating the potential for collisions between vehicles and animals.

Many mitigation measures were implemented to minimize impacts on wildlife species and their habitats during the planning and development of the proposed easement Corridor. Further measures will be implemented throughout the construction of the proposed road. In addition to species-specific measures described at length in the Final Documentation, road construction and maintenance will be conducted in a manner that minimizes blocking game trails identified during construction.

The road's unavoidable impacts on wetlands will be focused on the wetlands that are considered the least valuable for support of water birds and aquatic ecosystems and for flood attenuation. The road

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[17]In addition to the mitigation measures identified in the field, appropriate Best Management Practices (BMPs) will be applied along the entire easement Corridor. The application of BMPs is expected to reduce the impact of sediment eroded from the proposed road, maintain water quality within state standards, and help minimize impacts on aquatic resources and associated fish habitats along the length of the proposed Corridor.

avoids the seasonally and permanently flooded, willow-type wetlands that support waterfowl (including geese and swans) and moose; help protect against river channel erosion and sedimentation; and export nutrients and organic materials that support food webs in the aquatic ecosystems downstream. Less than five acres of this wetland type will be directly impacted. In the Project Area, these are the wetlands that perform functions most unique to wetlands. Locating the road on the lower mountain slopes and in the upper Johnson River valley will minimize disturbance to these wetlands.

Direct effects on water quality within the Corridor and downstream could result primarily from ground disturbance activities that increase sediment loads in nearby streams. Proper road design and location at the preplanning stage, strict road maintenance schedules, and implementing other appropriate BMPs are essential for minimizing sediment delivery to streams and maintaining state water quality standards. Alaska Department of Fish and Game Title 16 permits will also be secured for all anadromous stream crossings where instream construction is required.

The proposed road will not directly or indirectly affect the occurrence or magnitude of glacial outburst flood events. The road has been designed to pass at least a 50-year flood event, with oversizing of drainage structures for fish-bearing streams.

The proposed road route minimizes floodplain crossings. The road design has incorporated several mitigation measures to minimize direct impacts on the floodplain and the associated aquatic environment and to lessen the chance that floods will damage the road. Culverts and bridges in the road, and the adjacent stretches of roadway, will be designed to pass without damage at least the estimated 50-year recurrence interval flood.

The conveyances made to Chugach pursuant to the CNI Settlement Agreement, including the right-of-way to access the Bering River Coal Fields, were evaluated by the Secretary of Agriculture and Secretary of Interior at the time of executing the CNI Settlement Agreement to determine the effects upon subsistence uses and needs, and the availability of alternatives that might reduce or eliminate any impact on subsistence uses. The Secretaries concluded that there are no other alternatives available that would have a lesser effect upon subsistence users, and that the road will not significantly impact subsistence uses.[18]

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[18]Although additional analysis was not required, Chugach also provided the subsistence evaluation contained in Appendix 1-D to the Final Documentation.

The road is not expected to directly effect any known cultural or paleontological resources.

Monitoring

Monitoring will address not only adherence to the road construction stipulations contained in the easement, but also the short- and long-term effects of the road on other resources. All these efforts will be greatly facilitated after road construction is completed and vehicular access is available.

The following monitoring activities are planned for the road:

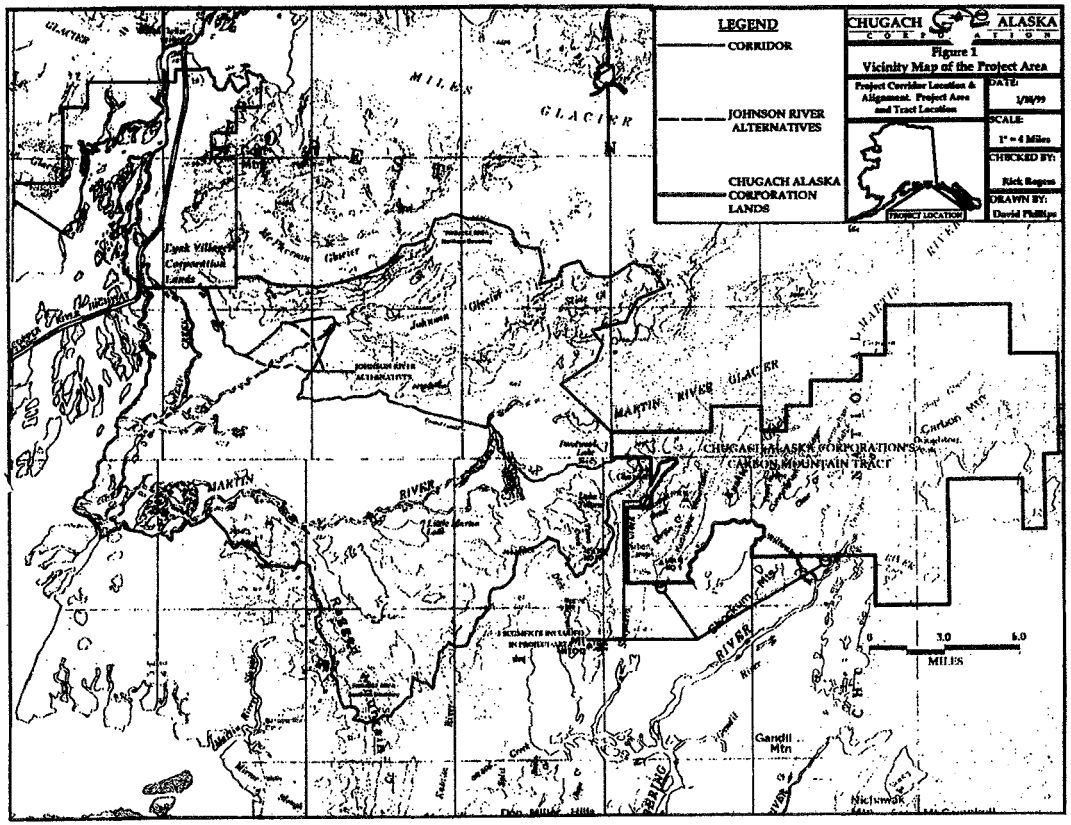
- On-site USFS and Chugach inspectors during actual clearing and road construction;
- Routine USFS road maintenance monitoring during Chugach usage;
- Routine Forest Practices Act inspections by Alaska Department of Natural Resources, Alaska Department of Environmental Conservation, and Alaska Department of Fish and Game
- Title 16 permit inspections by Alaska Department of Fish and Game for both anadromous streams and resident fish passage in non-anadromous streams.

Notice of Availability of Final Documentation

Beginning January 22, 1999, Chugach's Final Documentation will be available to the public, as follows:

1. This summary is available at no charge at the Forest Service Offices in Anchorage and Cordova.
2. A complete copy of the Final Documentation will also be available at those locations for inspection.
3. By arrangement, copies of the Final Documentation with reduced-size blueprints of the road and bridge designs will be available for public purchase from Timeframe, Inc., 300 W. 36th Avenue, Anchorage, Alaska 99503. Full-size versions of the blueprints and bridge designs only will be available for purchase from Digital Blueprints, 903 W. Northern Lights Boulevard, Anchorage, Alaska.

This Final Documentation is being made available to the public for informational purposes only. No public comment is solicited.


LEGEND
CORRIDOR
JOHNSON RIVER ALTERNATIVES
CHUGACH ALASKA CORPORATION LANDS
CHUGACH ALASKA CORPORATION
Figure 1
Vicinity Map of the Project Area
Project Corridor Location & Alignment. Project Area and Tract Location
DATE:
1/18/99
SCALE:
1" = 4 Miles
CHECKED BY:
Rick Rogers
DRAWN BY:
David Phillips
PROJECT LOCATION
MILES
GLACIER
MARTIN
RIVER
CHUGACH ALASKA CORPORATIONS CARBON MOUNTAIN TRACT
Carbon Mtn
Gandil Mtn
Nichawak
Dyak Village Corporation Lands
JOHNSON RIVER ALTERNATIVES
0
3.0
6.0
MILES

NATIONAL WILDLIFE FEDERATION®
People and Nature: Our Future Is in the Balance

July 27, 1999

Written Testimony for the Hearing Record

HOUSE COMMITTEE ON RESOURCES

Hearing on H.R. 2547

Prepared by:

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Introduction

The Alaska Rainforest Campaign, Alaska Center for the Environment, Eyak Preservation Council, National Wildlife Federation, Sierra Club, Southeast Alaska Conservation Council, and The Wilderness Society appreciate the opportunity to submit comments for the record on H.R. 2547.

H.R. 2547 is divided into three titles, each of which is apparently intended to resolve a private dispute between Chugach Alaska Corporation (CAC), a for-profit Alaska Native corporation, and the United States government. Title I would force the Secretary of Agriculture to grant CAC an easement in the Chugach National Forest allowing the construction of a 55-mile logging road across the Copper River Delta. Title II would require the Secretary of Interior to give CAC certain lands conveyed to Alaska Native corporations by the Alaska Native Claims Settlement Act and subsequently purchased by the federal government for the conservation purposes of the Exxon Valdez oil spill restoration program. Title III would effectively amend the National Forest Management Act by forcing the Secretary of Agriculture to engage in extensive "coordination" with CAC and other Alaska Native corporations before developing, maintaining, or revising national forest land management plans.

Although we recognize the rights granted to CAC by the Alaska Native Claims Settlement Act (ANCSA), and believe that CAC should make a fair profit from its land, H.R. 2547 goes beyond the intent of ANCSA by attempting to exempt CAC from environmental laws that safeguard the public's interest in national forest land and other public resources. ANCSA sought to strike a fair balance between the rights of Alaska's indigenous people and other members of the American public. H.R. 2547 rejects this responsible approach in favor of immediate but poorly-considered action. The bill creates hasty "solutions" to complex issues and may ultimately harm the interests of both CAC and the general public. In particular, it may threaten the health and vitality of the magnificent Copper River Delta and the vital commercial and subsistence fisheries it supports. We therefore oppose H.R. 2547.

The Copper River Delta

The Copper River is located in a remote region of southcentral Alaska and drains significant portions of the Alaska, Wrangell, and Chugach mountain ranges into the Gulf of Alaska. For much of its length, the river forms the western boundary of the Wrangell-St. Elias National Park, the largest national park in the country. The St. Elias mountains to the east of the Copper River are the tallest coastal mountains in the world and are capped by the greatest mantle of glacial ice outside the polar ice caps and Greenland.

The Copper River Delta lies at the confluence of the Copper River and the Gulf of Alaska. At 700,000 acres it is the largest wetlands complex on the Pacific coast of North America and an ecosystem of almost unparalleled productivity. The Delta hosts incredible numbers and varieties of fish and wildlife. Considered by biologists to be one of the most important shorebird habitats

in the western hemisphere, the Delta is a critical staging area for over 16 million shorebirds and waterfowl. It supports world-renowned salmon runs and is a haven for grizzly bears, black bears, wolves, mountain goats, moose, mink, wolverines, otters, sea lions, and harbor seals.

The Delta is also a place of great beauty and uncompromising wildness. Ragged peaks of rock and snow crowd the watershed. Pale blue glaciers split with explosive force thrusting enormous sheets of ice into the river. Sculpted icebergs ride the silty, turbulent waters along with the logs, brush, and other victims of the river's erosive appetite. Seals swim inland for miles hunting salmon while enormous brown bears patrol the shore. These scenes from an almost prehistoric landscape are accompanied by the uneasy music of current, ice, and wind. There are other great wetlands ecosystems in the world, but few are as magnificent and dynamic as the Copper River Delta.

Notwithstanding its harsh, untamed appearance, the Delta has nurtured the people of the Copper River basin for thousands of years. Generations of Eyak Indians have relied upon the bountiful fish and wildlife that thrive in the region. Today, over half of the watershed's population of 5,000 people live in the seaside town of Cordova, separated from the Delta by only the narrow Heney Range. Cordova is the region's sole community and most of its residents (many of whom are Native) continue to rely on a subsistence way of life--harvesting and sharing the area's sustainable natural resources. Commercial and subsistence fishing are the mainstays of Cordova's economy, in large part because of Copper River salmon, one of the most highly prized stocks of wild
salmon in the world. The Copper River Delta is the nursery that sustains both fish and human populations.

Almost 100 years ago, Teddy Roosevelt recognized that the Copper River Delta was a unique and irreplaceable natural wonder. In 1907, he created the Chugach National Forest to help protect the Delta and Prince William Sound from corporate monopolies engaged in coal mining and other unregulated development of public resources. Today's conservationists have learned from this wise example by making the Delta a Western Hemisphere Shorebird Reserve Network Site, an emphasis area in the North American Waterfowl Management Plan, and a State Critical Wildlife Habitat Area. Congress, too, has recognized the extraordinary nature of the Copper River Delta. It is the only region in the entire national forest system in which the conservation of fish and wildlife and their habitat are given priority by statute. The bottom line is the Copper River Delta is one of the most productive, beautiful, and untamed wetlands ecosystems in the world. Actions affecting this area should be thoroughly evaluated and responsive to a clearly-established need.

Title I--Easement for Access

The Alaska National Interest Lands Conservation Act (ANILCA) gave CAC, formerly known as Chugach Natives, Inc., the right to select lands within the boundaries of the Chugach National Forest. To ensure that CAC's shareholders obtained a fair land settlement, the Secretary of

Agriculture and others were directed to prepare a study of the Chugach region. Eventually, the United States government, the State of Alaska, and CAC signed an agreement, generally referred to as the 1982 Settlement Agreement, directing the United States to convey to CAC 73,000 acres of land, known as the Bering River/Carbon Mountain tract, as well as other valuable properties in the Prince William Sound area.

The Bering River/Carbon Mountain tract lies approximately 30 miles east of the Copper River and 20 miles north of the Gulf of Alaska. It is bounded on three sides by the Chugach National Forest and on the fourth side by Bureau of Land Management holdings. Under ANILCA, CAC may access its land by utilizing the procedures established by 16 U.S.C. § 3210. This is exactly the same right afforded to other Alaska Native corporations for accessing their own in-holdings. In addition, the 1982 Settlement Agreement provides that CAC may "construct, at its own cost, roads, pipelines and transportation facilities for access necessary for economic utilization of the Bering River coal fields."

Although CAC no longer owns the Bering River coal fields (it conveyed title to a partnership of Korean corporations in 1987), it now proposes to log the 8,000-acres of coastal rainforest on the Bering River/Carbon Mountain tract. The 55-mile access road would sever hundreds of streams that feed the pristine, eastern portion of the Copper River Delta, including the Bering and Martin Rivers which are eligible for inclusion into the federal Wild and Scenic River system. It would also degrade hundreds of acres of marsh and other wetlands. A heavily-used logging road would inevitably impair the wildlife and aesthetic values of the Delta and could even threaten the world-famous Copper River salmon fishery. Ironically, CAC may not even benefit from this potential environmental tragedy. CAC's timber is of modest quality, the market is extremely poor, and it will be very expensive to build and maintain an access road. An independent economic analysis prepared by ECONorthwest of Eugene, Oregon, concluded that the proposed logging project was unlikely to be profitable and could actually result in a substantial loss.

We do not object, in principle, to CAC obtaining the right-of-way granted by the 1982 Settlement Agreement; however, we are very concerned with the process being used to establish that right-of-way--a process that would be codified by this bill. CAC and the Forest Service are both fully aware of the richness of the Copper River Delta and the environmental threat posed by a major road project. Nevertheless, they have entered into an agreement that allows CAC to plan and develop the project without an unbiased environmental impact statement or an opportunity for public notice and comment. Instead, CAC has been permitted to conduct its own environmental studies under the supervision of Koncor Forest Products, the company retained to log CAC's land. While CAC must go through the formalities of obtaining a special use permit before it can cross approximately 30 miles of Chugach National Forest, its activities will not be subject to the environmental review and public process normally required by the National Environmental Policy Act and other laws.

An appropriate level of environmental review and public participation is particularly important given the controversy created by CAC's work to date. The corporation built the first two miles

of logging road last summer. This section of road crosses private land and did not require Forest Service authorization. CAC's placement of a bridge across Clear Creek, the first river in the proposed road corridor, was very controversial and prompted the Alaska Department of Fish and Game to investigate the construction for possible violations of state law. More recently, the U.S. Environmental Protection Agency visited the construction site to review reported violations of the Clean Water Act. Nevertheless, CAC has said it plans to build several more miles of road this summer. The next section of roadway would cross both private and public lands and would necessitate bridging Sheep Creek, a beautiful, fast-flowing river that will require sophisticated engineering and careful oversight.

The Copper River Delta is simply too important culturally, economically, and environmentally to authorize development without the careful consideration required by the nation's environmental laws. Indeed, full environmental review and public input is especially critical now. The Forest Service is in the process of updating its management plan for the Chugach National Forest and, in response to strong public sentiment, is considering recommending portions of the Delta as a wilderness area. It would be inappropriate, and a blow to every citizen with a legitimate interest in wilderness and the Copper River Delta, to authorize an easement without taking the time to ensure that the environmental effects of road construction will be minimized.

In summary, we do not question CAC's basic right to access its inholding. However, that does not mean Congress should arbitrarily intervene in this debate. Until a thorough and independent environmental impact statement is completed, and CAC obtains the normal authorizations and permits, we must oppose any bill that forces the Forest Service to issue an easement in 90 days and to approve construction activities no matter how ill conceived. Sound public policy dictates extreme caution. The Copper River Delta is an extraordinarily complex and fragile ecosystem. It was created by forces of nature over tens of thousands of years and, once lost, can never be recreated by human beings. The Delta should be treated with the care and respect reserved for any other national treasure.

Title II--Cemetery Sites and Historic Places

This section is designed to determine the outcome of a lawsuit currently pending between CAC and the Forest Service, but its impacts go far beyond current litigation. The bill would give CAC the right to obtain, free of cost, historic areas and cemetery sites from the U.S. government that the government has acquired or will acquire in the future from Alaska Native village corporations or private property owners.

Leaving aside the propriety of asking Congress to intervene on behalf of a private litigant, we are concerned with the practical effects of H.R. 2547. The bill focuses on land interests conveyed by Native village corporations to the federal government as part of the ongoing efforts to restore Prince William Sound to conditions existing before the Exxon Valdez oil spill. The Native village corporations, whose shareholders are also shareholders of regional Native corporations such as CAC, voted to approve the conveyances and were reasonably compensated. Allowing

CAC to reclaim the properties would seem to create a special benefit for some CAC shareholders and
would work to frustrate the objectives of the Exxon Valdez Oil Spill Recovery Fund, which was used to purchase most of the property interests subject to this bill.

The bill might also negatively affect Alaska Native village corporations. Under H.R. 2547, public land managers have little incentive to purchase land interests they know the government might be required to cede to CAC. As a result, village corporations and other private land owners would be unable to profit from historic sites and other areas that might otherwise have been conveyed to the U.S. government.

Title III--Forest System Land Management

This section of H.R. 2547 attempts to change certain procedures established by the National Forest Management Act (NFMA). Specifically, it would require the Secretary of Agriculture to engage in extensive "coordination" with CAC and other Alaska Native corporations before adopting or revising national forest management plans. This coordination would involve, among other things, "assessing the impacts of Alaska Native Corporation land use plans on National Forest land and resource management planning, and determining how to address those impacts" and "identifying conflicts between National Forest land and resource management plans and the land use plans of Alaska Native Corporations, and considering alternatives for resolving those conflicts." We oppose this section for three reasons.

First, changes to existing practice are unnecessary. The Secretary is already required by NFMA, the National Environmental Policy Act, and other laws to provide the interested public with fair and reasonable opportunities to influence the adoption or revision of national forest management plans. The revision of the Chugach National Forest land management plan, which prompted this bill, is a good illustration. The Forest Service has utilized an elaborate process that has involved 114 public meetings since May 7, 1997. Public meetings have included workshops, scoping meetings, open houses, and scientific conferences, and have been held in communities throughout the Chugach region. Notably, CAC representatives have attended many of these meetings and, indeed, were participants in three meetings devoted specifically to CAC's plans and concerns.

Second, the "coordination" required by H.R. 2547 would give CAC undue leverage in which to influence forest plan revisions. National forests are supposed to be managed for the benefit of all Americans and to accommodate multiple uses. H.R. 2547 requires the Forest Service to work around CAC's development plans and gives the corporation a privileged status that is inconsistent with the public purposes of national forest land.

Finally, H.R. 2547 treats similar parties unequally. There are many individuals and businesses, other than Alaska Native corporations, that have lands "which are intermingled with, adjacent to, or dependent for access upon National Forest System lands." A fundamental tenet of legislation

is that it should be fair and even handed. H.R. 2547 is neither.

Conclusion

We and our millions of members strongly oppose H.R. 2547. The bill takes a hasty approach to complex situations in which many Alaskans have a passionate interest. This is particularly true with respect to the Copper River Delta. It requires finesse, not a sledge hammer, to responsibly evaluate a 55-mile road project through one of the world's most unique and spectacular wetlands.

As a final note, we do not believe that logging is the most economic use of CAC's land. After a great deal of thought, we are convinced that there are viable alternatives to logging that would provide greater fiscal returns to CAC, allow CAC's shareholders to continue using their land for hunting, fishing, and other traditional uses, and still preserve the Copper River Delta. Specifically, we propose that CAC sell a conservation easement on the Bering River/Carbon Mountain tract. The easement could be designed so that CAC would continue to own the land in fee simple, but would agree not to engage in major development projects such as logging, mining, oil drilling, and road construction. The easement would not apply to activities with little environmental impact like hunting, fishing, non-motorized recreation, and protection of cultural and historic sites. The sale of a conservation easement, perhaps with the aid of the Land and Water Conservation Fund, could be much more profitable than logging and, at the same time, would preserve the intrinsic beauty, environmental richness, and cultural values of the Copper River Delta. This is a win/win solution that would benefit us all.

Thank you for the opportunity to comment.