Testimony of Myla Poelstra

Representing Nine Alaska Towns

THORNE BAY
CAPE POLE
HOLLIS
NAUKATI
WHALE PASS
KUPREANOF
PORT PROTECTION
EDNA BAY
POINT BAKER

ON

S. 730

BEFORE THE SUBCOMMITTEE ON LANDS AND FORESTS

SENATE COMMITTEE
ENERGY AND NATURAL RESOURCES

MAY 25, 2011

Senators Wyden and Bingaman, thank you for inviting me here today to testify on a bill the towns I represent view as a threat. I also appreciate the opportunity to see Senator Murkowski and communicate with her face to face for the first time in the four years since this legislation surfaced.

I HAVE EXPERIENCED UNSUSTAINABLE LOGGING

My name is Myla Poelstra.

I have the honor today of representing Nine Towns in Alaska.

Nearly all of these towns are on Prince of Wales Island, our nation's third largest.

All but one of the huge chunks of land in this bill are located on the Prince of Wales Archipelago, which include the islands immediately off shore the long coast of Prince of Wales, such as Tuxekan and Kosciusko Islands. I live on the latter island.

In the 1790's, Captain George Vancouver named our Archipelago after the Prince of Wales, so striking an impression did our islands make upon him.

I personally know full well what happens when more trees are taken than can maintain sustainable long term employment.

Boom turns to bust.

And then issues like the spotted owl are raised and tear communities apart.

I know because my family going back three generations worked as loggers in every state in the Pacific Northwest. And we are in Alaska because of the spotted owl.

When we moved to Edna Bay, my family put our savings into the lodge and general store that I run, where I am, in my spare time, the Post Mistress - and also known as mom to my sons.

NINE TOWNS - WHO WE ARE

Even though I have never been east of Montana, the towns had faith I would represent their views and so passed the hat to get me here.

Here's their perspective.

Most of the residents of the Nine Towns are salt of the earth; folks who build their lives around the forest. In our towns, people log, run small mills, or lodges like the one my family owns. In Thorne Bay alone there are at least five small lumber mills producing between one half to a million board feet of lumber a year each. *(Personal communication)*

Other small mills are scattered in many of the towns. Some people guide, or fish commercially for salmon which return by the millions to our islands. And there are employees of the agencies who manage the forest. *(See Letter May 18, 2011- City of Thorne Bay, attached)* As well as postmasters and store owners, while others are loggers. We also put meat on the table that comes from the forest.

Our towns range from Hollis to the south, Point Baker and Port Protection to the north, and southwest to my community of Edna Bay. Whale Pass is an old logging camp, as is Thorne Bay, the largest in the country at one time. So too, is Naukati, Cape Pole and Edna Bay. Then there is Kupreanof.

Since the forest is our provider, many in the towns avow cut and run practices of former days, in favor of a rate of cut that can maintain a reasonable work force in the mills and woods. *(See Letter - City of Thorne Bay - May 18, 2011, attached)*

S. 730 is a bill the towns regard as an unprecedented land grab for the benefit of one Native Corporation, Sealaska. *(See numerous letters and clippings in committee files for S. 881 (2009-10), and S.730.)*

Looking at this legislation, we feel like deer staring into headlights. Our business investments and very communities are in danger. We made business decisions based upon the land around us remaining in the National Forest. No one could have anticipated the land being transferred to a private party for boom and bust style logging.

EACH PROVISION DRAWS PASSIONATE OPPOSITION

Each provision has its opponents.

As I write this, I imagine myself for the first time packed on a Washington subway jammed like a sardine with nowhere to turn. Sealaska, of course, is no sardine locked into a can. It had and has other options than this legislation.

I will shortly show the cause of why we are here, and then go into the options Sealaska has rejected to avoid their "crisis". I will also suggest the solution to the "crisis". But first I want to outline the key provisions which are drawing opposition.

Buffers

The Alaska Trollers Association (and numerous other fishermen) thinks the proposed five year 100 foot buffer strip protection must be ***permanent***. As do we. There is no way the State Legislature is going to make buffer strips 100 feet wide on private land, when Sealaska spent huge sums defeating this provision in 1990. Five years could expire, and lower state standards be applied, before the market recovers enough for logging to resume at the pace of other booms. *(Letter May 18, 2011 ATA; opinion piece by Paul Olson, Juneau Empire May 21, 2011: Murkowski Bill Bad for Fish.)*

Moreover, Sealaska refuses to put in writing or endorse *permanent* 100 foot buffers. 100 foot buffers prevent irreparable harm to salmon streams. This finding of irreparable harm without 100 foot buffers was a basis for the decision in *Stein v Barton* (Alaska, FD Court) 1990.

With the width of stream buffers firmly established on federal land, it is hard to understand the refusal of Sealaska to agree to this provision in writing.

It is important to note that even if the proposed 100-ft. buffers in S.730 were permanent, they still would fall far short of standards on Federal lands in Alaska, because federal regulations protect not only salmon streams, but upstream resident fish habitat, and headwaters important to downstream fish water quality.

The five year buffer in the bill is therefore a net loss to fish, streams, and those who enjoy them.

(See also letters from Mickey Knight, 35 year Petersburg resident as well as letters from the United Fishermen of Alaska, and Petersburg Vessel Owners Association, already in the committee files.)

Access across Cultural Sites and Future Sites

The Guides, Eco Tour Boat Operators, and Sportsmen, and frankly many ordinary Alaskans who enjoy the great outdoors, worry about access across the mysterious trail *corridors*, through as unidentified *Cultural Sites*, and in and across *Future Sites*. We share their concerns.

(See letters from Territorial Sportsmen, Alaska Outdoor Council, and Eco Tour Boat Operators already in the committee files on both S. 730 (2011) and S 881 (2009-10).

One 30 year Sitka resident, Bart Hamburg, wrote this committee, *"Sealaska has 10 years to claim 3,600 acres…to be a cultural site with no right of protest by the public." "The law actually precludes public access for the harvest of fish and game, and only allows for public access easements "across" and not "on" the property. The public's access would be at the whim of the corporation." "Nor shall public easements be reserved to hunt or fish…"* 2011 in the committee file, 42 CFR 2650.4-7

Our take is people can walk across but not hunt or fish should this bill pass.

Taxpayers wondering how the Federal Budget is going to be reduced will notice an additional loss of nearly <u>*ten square miles*</u> of highly valuable public land to a private corporation in this one unique provision alone.

Apparently, Sealaska rejects the Koniag language which allows for hunting and fishing.

In short this language provides:

> (5) The lands on Afognak Island required to be conveyed pursuant Afognak Island to paragraph (1) of this subsection shall remain open and available to recreational and sport hunting and fishing and other recreational uses by the public commercial uses. under applicable law (but without liability on the part of Koniag Incorporated or any Koniag Village Corporation, except for willful acts, to any user by reason of such use), subject only to such reasonable restrictions which may be imposed by Koniag, Incorporated and the affected Koniag Village Corporations for the purposes of limiting or prohibiting such public uses in the immediate vicinity of logging or other commercial operations which may be undertaken by the corporations upon the affected lands. Such restrictions shall comprise only those restrictions necessary to insure public safety and to minimize conflicts between recreational and commercial uses. Koniag, Incorporated and the affected Koniag Village Corporations shall permit access to the lands on Afognak Island conveyed to them by employees of the State for purposes of managing fish and wildlife and by other State officers and employees, and employees of political subdivisions of the State, for the purposes of carrying out this subsection.

In other words, only during dangerous activity could access be denied. Dangerous is the only grounds for denial and it is clearly limited to logging activity. Commercial activity would not include an eco-tour or a lecture.

Finally, *Trail Corridors* are unnecessary. They are protected under federal management. Possible purposes for them could be to stop energy power corridors, for which the tariff over Sealaska land could be quite high, or block individuals from walking from one side of an island to the other.

Everyone I know thinks it is unfair and unjust to bail out Sealaska by giving them better land that they bargained for in 1971 and 1975.

Give away: public infrastructure - hundreds of millions of dollars

A quick look at the maps shows many existing roads and log dumps will be available that were developed by the US Forest Service at a cost to taxpayers that we estimate to be in the hundreds of millions of dollars. Will there be an accounting for this loss of public property that will be available to the committee prior to consideration?

No other ANCSA corporation got the benefit of expensive public infrastructure. We do not believe public property should be taken without just compensation.

Location of land selections

Sealaska land requests are like throwing a can of sardines against a wall. The one hundred square miles now consolidated within the confines of one area becomes well over a hundred square miles, but now affecting far more users throughout the Tongass National Forest.

It wants square mile after square mile of long, wide tracks stretching over many shoreline miles from the upper mountain slopes of many ocean bays to the sea.

The Tuxekan selection is as long as Lake Shore Drive on the North Side of Chicago, or the distance from Ronald Regan Airport in Virginia to Silver Springs, Maryland.

The Polk and McKenzie Bay request follows the shoreline of these sausage shaped bays for seven and five miles, or from Arlington, Virgina to Catholic University (according to Google maps).

Kosciusko is eleven miles long, a little shy of the length of Manhattan Island.

There are eight of these mega grabs in all. *(See attached maps 1-6 for some parcels).*

Regarding these maps, we are disappointed that the boundaries superimposed upon the value of the timber in the areas reserved for wildlife were not made available on Senator Murkowski's web site, although they were created by the Forest Service in February. We trust this was an oversight and the attachments we provided will be made available to the public on her web site soon.

What is obvious is that Sealaska chose the best remaining trees.

Cultural sites a red herring

Sealaska refuses to commit in writing that cultural sites will not be commercialized. We believe cultural sites will be exploited for exclusive economic gain by Sealaska, when all users currently enjoy them.

Since federal law now protects these sites, there is no justification for a new category, which could be used to modify ANCSA statewide.

Future Sites conflict with existing users

Another category called *future sites* will undermine ANCSA throughout the state, unjustly giving native corporations far more than was bargained for 40 years ago.

One future site is an incredible grab of a rich public resource.

Icy Straits, according to the Electrical Power Research Institute, has the potential to produce as much power as all the Columbia River Dams, 28,000 megawatts. *(Ocean Renewables Coalition - May 20, 2011, estimates world tidal power at 63,000 megawatts)*

This one site could be worth more money than all of Sealaska's selections. There are other hydro land grabs. Why should the public loose this benefit to a private corporation?

These sites, spread throughout SE Alaska, are highly controversial, affect diverse communities, and are not in ANCSA but will be unwelcome precedent
Before we look at how these provisions affect us, let us look at a key assumption: Sealaska's past actions are a predictor of future behavior.

HOONAH'S LEGACY

Native Movie Pictures Unsustainable Logging

We know sustainability was an old Native value. But the Board of Directors of Sealaska valued profit over job retention.

Thus square mile after square mile was cut from mountain top to the sea.

Boom has now become bust. The reason appears simple.

Sealaska never intended to sustain jobs, but used its land as a cash cow, when it liquidated its most valuable trees to start profitable subsidiaries; such as a plastics and environmental cleanup businesses.

If you want to see the face of unsustainable logging, you have to see the movie that Alaska Natives made about how Sealaska logged land near their community.

When Natives condemn the Board of Directors of Sealaska themselves for short term profits vs. long term employment and use of local resources, you know there are huge problems.

Please watch Hoonah's Legacy: http://www.youtube.com/watch?v=oRQre80IVj4

While Sealaska claims they will not repeat cutting every tree in vast swaths in the future, no law bars them from doing so. Just as no law prevented them from letting many of the trees they cut rot in the woods.

SEALASKA ADMITS LOGGING UNSUSTAINABLE

See Chris McNiel's presentation to Natives in which he makes contradictory claims, *"We **cannot sustain** our current level of harvest and jobs."* And, *"We have managed our lands sustainably."* *(p.2 (November 14, 2005) attached)*

In 2006, the year after McNiel's statement that they were cutting too much, the rate of private logging increased.

The following chart illustrates the rate of private logging in SE Alaska—the vast majority of which was Native logging.

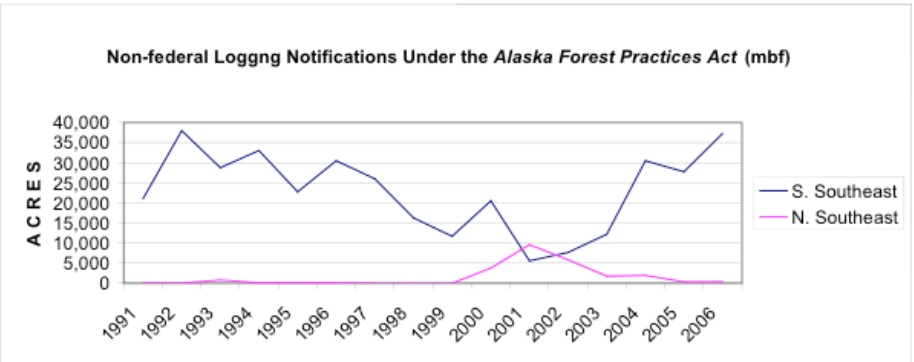
Note the rate of logging sky-rocketed upward after 2001, even though Sealaska admitted the rate could not maintain jobs. Some of this logging was village logging and some Sealaska logging.

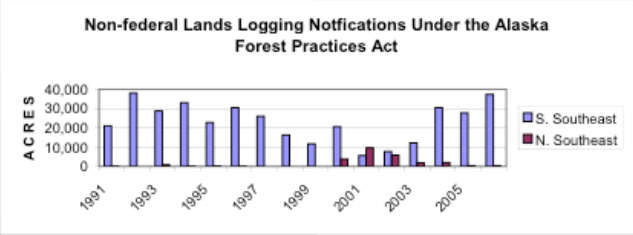
LOGGING RATE INCREASES AFTER 2005

Ak Forest Practices Act Logging Notifications (acres), 1991-2006

From: 2008 TLMP FEIS, page E-12.

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Southern Southeast Ak	21,016	37,971	28,769	33,038	22,745	30,509	26,034	16,291	11,705	20,542	5,599	7,667	12,197	30,488	27,733	37,313
Northern Southeast Ak	110	0	824	100	227	80	0	0	0	3,779	9,619	5,839	1,780	1,969	344	413





It appears Sealaska increased its logging after 2005 even after telling its shareholders the rate of logging was not sustainable.

Why worry about sustainability when their intent in 2005 was to put the land in the Tongass National Forest into a "Native Stewardship Trust", led by Sealaska, so they could manage it "better."

In the editorial, McNiel claims, *"Sealaska has demonstrated the commitment and ability to properly manage our forests."* (*McNiel editorial: A New Vision For Our Forests and Our Future, November 21, 2005.)*

This in the same year he told his shareholders their operation was not sustainable.

If over the first 20 years of operation, management of Sealaska was unaware their operations were "unsustainable", should the public bear the cost of bailing them out now with some of the most valuable lands in the Tongass?

We argue the public should not bail out another mismanaged corporation.

We have been unable to find a public audit of how many square miles has been cut. Is it approximately 200 square miles as the tables in appendix E of TLMP suggest or 450 square miles, which is their land base per McNiel's 2005 statement? Will the committee request from Sealaska, the State, or the FS numbers to evaluate how many square miles there are for Sealaska to cut at this time within their present holdings and requested selections.

The committee also could direct the FS to analyze-- for Sealaska's present ownership, the 100 square mile remaining uncut 1975 ANCSA acres conveyed, and the proposed selections in S-730—the same breakdown used by the FS in TLMP EIS 2008; that is, how many acres are in the seven size density classes (using the SDM methodology-model) or strata. In addition, the FS should analyze proportions between POG, unproductive old-growth,non-forest, second growth (or "young growth," which also includes natural even-aged stands), and freshwater per TLMP FEIS page 3-134 or thereabouts .

McNiel stated in 2005 that they would request another hundred square miles or 64,000 acres to complete their entitlement in this bill. The current legislation appears to exceed McNiel's 2005 figure by 25 square miles assuming future site acerage is 5000 and 11,000 acres more in S 730 than McNiel's 64,000 figure in 2005. Ibid.

We argue that if Sealaska cannot sustain jobs on around 200 square miles, why should the public now give it 100 square miles from the Tongass National Forest ?

It is better that Sealaska should reap what it sows, and log the 1975 lands which John Borbridge, its president, told Congress he wanted.

UNJUST ENRICHMENT

S. 730 modifies the Alaska Native Claims Settlement Act in an unprecedented way to give Sealaska much more valuable resource land than it bargained for at the time ANCSA was negotiated in 1971-- when Native Corporations were blocking oil

development in Alaska-- and S. 730 nullifies 100 square miles Sealaska directed Congress to grant to them in 1975 when they asked for amendments to ANCSA.

It is the unharvested land they directed Congress to grant them in 1975 that they no longer want in 2011.

Now they ask Congress for a far richer 100 square miles.

What is unjust with that?

Plenty -

First, Southeast Alaska Natives got a seven million dollar settlement for all their land claims before ANCSA (1971). That was when a millionaire was kinda a billionaire.

Second, Congress in ANCSA (1971) then granted them approximately 554 square miles more of the Tongass in areas that had good timber and a share of a roughly billion dollar settlement with all Natives—a 1971 billion to benefit about 70,000 Natives.

A third settlement is S. 730 —adding more than the 100 sq miles granted in 1975 into catagories unique to Sealaska (like the Icy Straights hydro site), more valuable acreage, and granting several hundred million dollars in the public's roads and bridges.

It is bad policy to give Sealaska three bites at the public's apple each bigger than the last.

S. 730 breaks Sealaska's acceptance of ANCSA and its 1975 amendment to finally and forever settle all land claims.

The cause of this legislation is bad business decisions by Sealaska's management team and Board of Directors who chose to maintain levels of harvest which they knew, or should have known, would exhaust their timber before new trees could attain commercial size.

McNeil argued in 2005 he just learned it would be more than 50 years before new trees could be cut again. Didn't the FS know way before then that the rotation was longer?

We urge you not to allow yet another for profit corporation to seek a government bail out that rewards management for their mistakes.

Consider the consequences of passing any modification to Sealaska's 1975 ANSCA lands areas, which the Corporation requested BLM convey in 2008, but then put a hold on --- pending the attempts to get a better deal in Congress.

S. 730 WILL BE DISASTEROUS

Not long ago a federal judge was asked to list the Alexander Archipelago Wolf as an endangered species, but decided a listing was not necessary.

Three high officials in the Alaska Department of Fish and Game who have over 75 years collective experience in the Department, and 50 years of experience dealing with the Endangered Species Act, sent a letter to Senator Murkowski warning of serious consequences of proceeding with S. 881, last year's version of the bill before you.

They wrote:

The referenced legislation would allow the Sealaska Corporation to select several of the old-growth reserves in southern Southeast Alaska and the corporation's representatives have stated that they intend to log the-lands selected for economic development. If these reserves are conveyed to Sealaska by Congress *it will almost certainly lead to a new petition to list the goshawk and wolf as endangered species and the distinct possibility that they will be so designated.* *(Page 1* ***Letter Reglin, Somerville, Robus*** *- April 28, 2010, attached.) Emphasis added.*

They added:

We have concluded that the proposed land "exchanges" being proposed in S. 881 have huge endangered species ramifications for the Alexander Archipelago wolf and the Queen Charlotte goshawk. *(Page 2)*

They cited the testimony of Under Secretary of Agriculture, Jay Jensen, before this committee on October 8,2009 who found that the land in the proposed selections *"contained 12 old growth reserves"* and represent a *"significant component of the TLMP conservation strategy"* three out of four we believe are still targeted on my island. *(Page 2 Reglin)*

If the S 881 selections proceeded, Reglin et al noted that *"radical environmental groups will once again file petitions to list both wolf and northern goshawk as endangered*."*(Page 3* Reglin)

Finally, the Fish and Game officials noted that in fact the wolf and deer had *"experienced significant declines"* on Prince of Wales Island(s). *(Page 3)* They requested a thorough analysis and evaluation of the proposed selections be conducted by the US Fish and Wildlife Service and the ADFG. *(Page 3 Reglin)*

We are unaware if their recommendation was followed. But we do wish to concur in their alarm. "If either species is listed as threatened or endangered the effect will be the elimination of any logging industry in the region…Remember when Weyerhauser Corporation said 'the spotted owl' will never affect us." *(Page 4 Reglin)*

When these experts cite the Albert Study comparing the value of the timber in the 1975 ANCSA sardine can to the S. 881 bill selections for the finding that the proposed selections had the highest wildlife habitat in SE Alaska, I can't help wondering whether my family fled fallout from the owl only to be nuked by the wolf and goshawk.

If a judge is ready to list these species as soon as this bill passes -- because passing the bill will pull the rug out from the Forest Service Plan called TLMP, which he said

had Old Growth Reserves to protect them—I can tell you there would be a lot of townspeople sent packing.

These OGR's are big stands of timber. Satellite studies show some of the deer spend whole storms protected from deep snow under the limbs of the trees of the OGR's. S.730, it is clear targets many of them—three out of four on my island alone.

Wolves, as I hope people on the East Coast know, prey on deer. Lower deer numbers mean lower wolf numbers.

If this bill passes, our lodges close, saw mills run out of lumber, support staff move, schools close, and meat on the table will be scarce. In the end, towns could be abandoned.

OPPORTUNITIES LOST

After 2005, Sealaska attempted to negotiate with the Forest Service for an alternative to its ANCSA 1975 allotment. The Forest Service offered numerous parcels, many of them off of Prince of Wales Archipelago.

One of these sites was in Yakutat, home to the President of Sealaska at the time.

That site contained high volume timber that was profitable and near Yakutat, a sea anchorage for transport of round logs to Asia, and would create new employment for Mr. Mallot's townsmen.

Even with a one mile buffer on the Situk River, there was almost enough timber to fill the remaining hundred square mile land needed to complete its entitlement.

Sealaska withdrew from the negotiations rejecting every parcel that was offered to them by the Forest Service.

Shortly thereafter, Sealaska approached Senator Murkowski, and a four year battle began.

SOLUTION

We have a logical solution; 730 should be torn up.

Three years ago, Sealaska submitted selections to BLM requested by their President in 1975. BLM needs to finalize the 2008 submissions.

The towns asked BLM to do so last year, but were brushed off. BLM cannot act until Congress, as it should, washes its hands of trying to enable a land grab.

Please do not let our towns become ghost towns. Kill this bill.