

February 21, 2013

Senator Ron Wyden  
Chair, Energy & Natural Resources Committee  
221 Dirksen Senate Office Building  
Washington DC 20510

Re: S 340 – Sealaska Lands Bill

Dear Senator Wyden,

We ask you and the Energy Committee as a whole to vote against S 340 and not pass it onto the floor of the Senate or bundle it with other legislation.

We urge you to not create a new injustice against us in the name of curing the alleged “injustice” Sealaska has argued.

If a hearing is scheduled, we request that an individual of our choosing be allowed to testify before the Energy Committee.

S 340, the fourth version of a Sealaska Bill in as many sessions of Congress, is unnecessary and divisive.

S 340 is unnecessary, because BLM could finalize transfer of title to the lands Sealaska designated in its June 10, 2008 letter to BLM.

BLM finalization is a simple solution which is just and consistent with legal and moral precedent.

BLM was directed to finalize conveyance under the Alaska Land Transfer Acceleration Act (2004) which arose out of the first version of the Sealaska legislation, but did not finalize for Sealaska, only because Sealaska insisted it not finalize the lands they themselves designated in 2008.

Under the Acceleration Act, BLM is in breach of its duty to transfer to Sealaska those 2008 designations.

Over the eight years since the first version of a bill was introduced in Congress, S 340 has created great anxiety, hardship, and uncertainty in our communities.

S 340 is divisive, because the people in our towns have made substantial investments in our homes and businesses in the 37 years since Sealaska had agreed to take their timber land around their own villages.

It is unfair and morally repugnant that S 340 threatens all of the investments and businesses people in our towns have made, on the sole ground that Sealaska wants better timberland and new forms of in holdings not authorized in ANCSA.

S 340 would bring up divisive issues that Alaskans thought had been settled in the 1940's in the debates between the Department of Interior and Governor Ernest Gruening over the establishment of reservations and the nature of Indian land rights.

For instance, an Interior Hearing held in 1944 in Hydaburg, Kake, and Klawock run by a former Justice of the New Mexican Supreme Court found that Indians had abandoned their rights to streams flowing into salt water and he recommended cash compensation alone, a recommendation that the Court of Claims followed in 1965. He found 1200 pages of testimony were sufficient to prove all but lands "around their villages" had been abandoned.

We believe the conclusions of a Justice who listened to testimony for days on end should add much weight to the conclusion Natives are owed land "only around their own villages", not around our towns.

In 1945, the Secretary of Interior reserved 273,000 acres of land for SE Natives around three villages based on the results of the hearing the previous year.

While the language describing "around their own villages" has changed in the last few years to "in the box," the concept arose out of New Deal efforts of the Department of Interior.

While Senator Murkowski has pointed to the unique clause in the ANCSA (1971) that applies to Sealaska alone out of the 12 other regional corporations and that lays out the formula for land allocation, she has not mentioned the long historical basis for designation of Sealaska's land around its own villages.

"Around their own villages"- now in the box - is intertwined with the holdings of Federal Cases that compensation could only be for lands that were "actually occupied" when the Tongass was created.

“Around their own villages” has a long and complicated history that began with the New Deal for Natives in Alaska when Congress passed the Alaska Reorganization Act (ARA 1936), which led to the establishment of village government and extensive 1 percent federal loans and grants to establish canneries in Hydaburg and Kake, and the purchase of other capital equipment.

“Actually occupied” lands were according to some authorities granted by the ARA. And while the subsequent legal line of cases is checkered, in the end, “actually occupied” became the lynch pin of the lead Federal case granting SE Natives monetary compensation in full.

Keeping the land selections “around their own villages” or in the box is also consistent with a line of cases going back to the 1940’s, which eventually in 1965 compensated natives in money only for lands they “actually occupied” when the Tongass National Forest was created and most of this land was “around their own villages”.

Natives in 1965 got the equivalent of 56 million in 2013 dollars as compensation for lands that they “actually occupied” when the Tongass was created in the first decade of the 20<sup>th</sup> century. The court considered where the land was located when making a judgment about the extent of monetary award.

ANCSA went beyond the 1965 Court of Claims award of money when it provided for transfer of 350,000 acres of land and a part of the billion dollar settlement, which in today’s dollars is worth about 46 billion dollars.

<http://www.usinflationcalculator.com/>

We believe that given this settled history, no one in our towns could have anticipated that S 340 or its earlier versions would have proposed the taking of land away from the Native villages and around our towns.

We relied on established law when making investments and find Sealaska’s demands to break with this history harmful to our interests.

For all of these reasons, we ask you and the Committee to vote against allowing S 340 out of Committee.

Sincerely yours,

The City of Thorne Bay - James V. Gould

The City of Kupreanof - Dana Thynes, Mayor

Edna Bay - Heather Richter, President

Cape Pole - Carin S Richter Gregory P. Richter  
Carin S Richter Gregory P. Richter

Hollis - Bob Burnett, President, Hollis Community Council

Naukati - Candy Kempel  
President, Naukati Bay Inc.

Port Protection - Judy Magnuson Port Protection, Secretary

Pt. Baker - Chairperson - David Squibb  
Vice Chair - ~~Tony Lee~~ Treasurer - Kristina Jackson

Whale Pass - Bob Cook WPCA Secretary -

Cc:

Senator Tim Johnson

Senator Lisa Murkowski, Ranking Member

Senator Mary L. Landrieu

Senator John Barrasso

Senator Maria Cantwell

Senator James E. Risch

Senator Bernard Sanders

Senator Mike Lee

Senator Debbie Stabenow

Senator Dean Heller

Senator Mark Udall

Senator Jeff Flake

Senator Al Franken

Senator Tim Scott

Senator Joe Manchin

Senator Lamar Alexander

Senator Christopher Coons

Senator Rob Portman

Senator Brian Schatz

Senator John Hoeven

Senator Martin Heinrich

Citizens Advisory Commission on Federal Areas

Territorial Sportsmen

Alaska Outdoor Council

Safari Club International

Alaska Guides Association

United Fisherman of Alaska