To provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 5, 2011

Ms. MURKOWSKI (for herself and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Southeast Alaska Na-
tive Land Entitlement Finalization and Jobs Protection
Act”.

SEC. 2. DEFINITIONS.

In this Act:
(1) **Conservation System Unit.**—The term “conservation system unit” has the meaning given the term in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102).

(2) **Land Use Designation II.**—The term “Land Use Designation II” has the meaning described in title V of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539 et seq.), as further amended by section 201 of the Tongass Timber Reform Act of 1990 (Public Law 101–626).

(3) **Sealaska.**—The term “Sealaska” means the Sealaska Corporation, a Regional Native Corporation created under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(4) **Secretary.**—The term “Secretary” means the Secretary of the Interior.

SEC. 3. SELECTIONS IN SOUTHEAST ALASKA.

(a) **Selection by Sealaska.**—

(1) **In General.**—Notwithstanding section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)), Sealaska is authorized to select and receive conveyance of the remaining land entitlement of Sealaska under that Act (43 U.S.C. 1601 et seq.) from Federal land located in southeast...
Alaska from each category described in subsections (b) and (c).

(2) TREATMENT OF LAND CONVEYED.—Land conveyed pursuant to this Act is to be treated as land conveyed pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) subject to, but not limited to—

(A) reservation of public easements across land pursuant to section 17(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(b));

(B) valid existing rights pursuant to section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)); and

(C) the land bank protections of section 907(d) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636(d)).

(b) WITHDRAWAL OF LAND.—The following public land is withdrawn, subject to valid existing rights, from all forms of appropriation under public land laws, including the mining and mineral leasing laws, and from selection under the Act of July 7, 1958 (commonly known as the “Alaska Statehood Act”) (48 U.S.C. note prec. 21; Public Law 85–508), and shall be available for selection by, and conveyance to, Sealaska to complete the remaining
land entitlement of Sealaska under section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)):

(1) Land identified on the maps dated February 1, 2011, and labeled “Attachment A (Maps 1 through 8)”.

(2) Sites with traditional, recreational, and renewable energy use value, as identified on the map entitled “Sites with Traditional, Recreational, and Renewable Energy Use Value”, dated February 1, 2011, and labeled “Attachment D”, subject to the condition that not more than 5,000 acres shall be selected for those purposes.

(3) Sites identified on the map entitled “Traditional and Customary Trade and Migration Routes”, dated February 1, 2011, and labeled “Attachment C”, which includes an identification of—

(A) a conveyance of land 25 feet in width, together with 1-acre sites at each terminus and at 8 locations along the route, with the route, location, and boundaries of the conveyance described on the map inset entitled “Yakutat to Dry Bay Trade and Migration Route” on the map entitled “Traditional and Customary
Trade and Migration Routes”, dated February 1, 2011, and labeled “Attachment C”;

(B) a conveyance of land 25 feet in width, together with 1-acre sites at each terminus, with the route, location, and boundaries of the conveyance described on the map inset entitled “Bay of Pillars to Port Camden Trade and Migration Route” on the map entitled “Traditional and Customary Trade and Migration Routes”, dated February 1, 2011, and labeled “Attachment C”; and

(C) a conveyance of land 25 feet in width, together with 1-acre sites at each terminus, with the route, location, and boundaries of the conveyance described on the map inset entitled “Portage Bay to Duncan Canal Trade and Migration Route” on the map entitled “Traditional and Customary Trade and Migration Routes”, dated February 1, 2011, and labeled “Attachment C”.

(c) Sites With Sacred, Cultural, Traditional, or Historic Significance.—Subject to the criteria and procedures applicable to land selected pursuant to section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) and set forth in the regulations pro-
mulgated at section 2653.5 of title 43, Code of Federal
 Regulations (as in effect on the date of enactment of this
 Act), except as otherwise provided in this Act—

(1) Sealaska shall have a right to identify up to
3,600 acres of sites with sacred, cultural, traditional,
or historic significance, including archeological sites,
cultural landscapes, and natural features having cul-
tural significance; and

(2) on identification of the land by Sealaska
under paragraph (1), the identified land shall be—

(A) withdrawn, subject to valid existing
rights, from all forms of appropriation under
public land laws, including the mining and min-
eral leasing laws, and from selection under the
Act of July 7, 1958 (commonly known as the
21; Public Law 85–508); and

(B) available for selection by, and convey-
ance to, Sealaska to complete the remaining
land entitlement of Sealaska under section
14(h)(8) of the Alaska Native Claims Settle-
ment Act (43 U.S.C. 1613(h)(8)), subject to
the conditions that—

(i) no sites with sacred, cultural, tra-
ditional, or historic significance may be se-
lected from within a unit of the National Park System; and

(ii) beginning on the date that is 15 years after the date of enactment of this Act, Sealaska shall be limited to identifying not more than 360 acres of sites with sacred, cultural, traditional, or historic significance under this subsection.

(d) FOREST DEVELOPMENT ROADS.—Sealaska shall receive from the United States, subject to such reasonable terms and conditions as the Forest Service may impose, nonexclusive easements to Sealaska to allow—

(1) access on the forest development road and use of the log transfer site identified in paragraphs (3)(b), (3)(c), and (3)(d) of the patent numbered 50–85–0112 and dated January 4, 1985;

(2) access on the forest development road identified in paragraphs (2)(a) and (2)(b) of the patent numbered 50–92–0203 and dated February 24, 1992;

(3) access on the forest development road identified in paragraph (2)(a) of the patent numbered 50–94–0046 and dated December 17, 1993;

(4) access on the forest development roads and use of the log transfer facilities identified on the
maps dated February 1, 2011, and labeled “Attachment A (Maps 1 through 8)”;

(5) a reservation of a right to construct a new road to connect to existing forest development roads, as generally identified on the maps described in paragraph (4); and

(6) access to, and reservation of a right to, construct a new log transfer facility and log storage area at the location identified on the maps described in paragraph (4).

SEC. 4. CONVEYANCES TO SEALASKA.

(a) Timeline for Conveyance.—

(1) In General.—Subject to paragraphs (2), (3), and (4), the Secretary shall work with Sealaska to develop a mutually agreeable schedule to complete the conveyance of land to Sealaska under this Act.

(2) Final Priorities.—Consistent with the provisions of section 403 of the Alaska Land Transfer Acceleration Act (43 U.S.C. 1611 note; Public Law 108–452), not later than 18 months after the date of enactment of this Act, Sealaska shall submit to the Secretary the final, irrevocable priorities for selection of land withdrawn under section 3(b)(1).

(3) Substantial Completion Required.—Not later than 2 years after the date of selection by
Sealaska of land withdrawn under section 3(b)(1),
the Secretary shall substantially complete the con-
voyance of the land to Sealaska under this Act.

(4) EFFECT.—Nothing in this Act shall inter-
fere with, or cause any delay in, the duty of the Sec-
retary to convey land to the State of Alaska under
section 6 of the Act of July 7, 1958 (commonly
known as the “Alaska Statehood Act”) (48 U.S.C.
note prec. 21; Public Law 85–508).

(b) EXPIRATION OF WITHDRAWALS.—On completion
of the selection by Sealaska and the conveyances to
Sealaska of land under subsection (a) in a manner that
is sufficient to fulfill the land entitlement of Sealaska
under section 14(h)(8) of the Alaska Native Claims Settle-
ment Act (43 U.S.C. 1613(h)(8))—

(1) the right of Sealaska to receive any land
under section 14(h)(8) of that Act from within a
withdrawal area established under subsections (a)
and (d) of section 16 of that Act (43 U.S.C. 1615(a)
and 1615(d)) shall be terminated;

(2) the withdrawal areas set aside for selection
by Native Corporations in southeast Alaska under
subsections (a) and (d) of section 16 of that Act (43
U.S.C. 1615(a) and 1615(d)) shall be rescinded; and
(3) land located within a withdrawal area that is not conveyed to Sealaska or to a southeast Alaska Village Corporation or Urban Corporation shall be returned to the unencumbered management of the Forest Service as part of the Tongass National Forest.

(c) LIMITATION.—Sealaska shall not select or receive under this Act any conveyance of land pursuant to paragraph (1) or (2) of section 3(b) located within any conservation system unit.

(d) APPLICABLE EASEMENTS AND PUBLIC ACCESS.—

(1) IN GENERAL.—The conveyance to Sealaska of land withdrawn pursuant to paragraphs (1) and (3) of section 3(b) that is located outside a withdrawal area designated under section 16(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1615(a)) shall be subject to—

(A) a reservation for easements for public access on the public roads depicted on the maps dated February 1, 2011, and labeled “Attachment A (Maps 1 through 8)”;

(B) a reservation for easements along the temporary roads designated by the Forest Service as of the date of enactment of this Act for
the public access trails depicted on the maps described in subparagraph (A);

(C) the right of noncommercial public access for subsistence uses, consistent with title VIII of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3111 et seq.), and recreational access, without liability to Sealaska, subject to—

(i) the right of Sealaska to regulate access granted under this subparagraph to ensure public safety, to protect cultural or scientific resources, and to provide environmental protection; and

(ii) the condition that Sealaska shall post on any applicable property, in accordance with State law, notices of the conditions on use; and

(D) the requirement that, with respect to the land conveyed to the corporation pursuant to section 3(b)(1), Sealaska shall continue to manage the land in accordance with the State of Alaska Forest Resources and Practices Act, Alaska Stat. 41.17, except that, for a period of 5 years beginning on the date of enactment of this Act, Alaska Stat. 41.17.116(1) shall apply
to the harvest of timber within 100 feet of a
water body defined in Alaska Stat. 41.17.950(31).

(2) Sacred, cultural, traditional and historic sites.—The conveyance to Sealaska of land withdrawn pursuant to section 3(c) that is located outside of a withdrawal area designated under section 16(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1615(a)) shall be subject to—

(A) the right of public access across the conveyances where no reasonable alternative access around the land is available without liability to Sealaska; and

(B) the right of Sealaska to regulate access granted under this paragraph across the conveyances to ensure public safety, to protect cultural or scientific resources, to provide environmental protection, or to prohibit activities incompatible with the use and enjoyment of the land by Sealaska, subject to the condition that Sealaska shall post on any applicable property, in accordance with State law, notices of the conditions on use.

(3) Traditional and customary trade and migration routes.—The conveyance to Sealaska
of land withdrawn pursuant to section 3(b)(3) that
is located outside of a withdrawal area designated
under section 16(a) of the Alaska Native Claims
Settlement Act (43 U.S.C. 1615(a)) shall be subject
to a requirement that Sealaska provide public access
across the conveyances if an adjacent landowner or
the public has a legal right to use the adjacent pri-
ivate or public land.

(4) SITES WITH TRADITIONAL, RECREATIONAL,
AND RENEWABLE ENERGY USE VALUE.—The con-
vveyance to Sealaska of land withdrawn pursuant to
section 3(b)(2) that is located outside of a with-
drawal area designated under section 16(a) of the
Alaska Native Claims Settlement Act (43 U.S.C.
1615(a)) shall be subject to—

(A) the right of public access across the
land without liability to Sealaska; and

(B) the condition that public access across
the land would not be unreasonably restricted
or impaired.

(5) EFFECT.—No right of access provided to
any individual or entity (other than Sealaska) by
this subsection—

(A) creates any interest, other than an in-
terest retained by the United States, of such an
individual or entity in the land conveyed to
Sealaska in excess of that right of access; or

(B) provides standing in any review of, or
challenge to, any determination by Sealaska
with respect to the management or development
of the applicable land.

(e) CONDITIONS ON SACRED, CULTURAL, TRADITIONAL, AND HISTORIC SITES AND TRADITIONAL AND CUSTOMARY TRADE AND MIGRATION ROUTES.—The conveyance to Sealaska of land withdrawn pursuant to sec-
tions 3(b)(3) and 3(e)—

(1) shall be subject to a covenant prohibiting
any commercial timber harvest or mineral develop-
ment on the land;

(2) shall be subject to a covenant allowing use
of the land only as described in subsection (f); and

(3) shall not be subject to any additional re-
strictive covenant based on cultural or historic val-
ues, or any other restriction, encumbrance, or ease-
ment, except as provided in sections 14(g) and 17(b)
of the Alaska Native Claims Settlement Act (43
U.S.C. 1613(g), 1616(b)).

(f) USES OF SACRED, CULTURAL, TRADITIONAL,
AND HISTORIC SITES AND TRADITIONAL AND CUSTOMARY
TRADE AND MIGRATION ROUTES.—Any land conveyed to
Sealaska from land withdrawn pursuant to sections 3(b)(3) and 3(e) may be used for—

(1) preservation of cultural knowledge and traditions associated with the site;

(2) historical, cultural, and scientific research and education;

(3) public interpretation and education regarding the cultural significance of the site to Alaska Natives;

(4) protection and management of the site to preserve the natural and cultural features of the site, including cultural traditions, values, songs, stories, names, crests, and clan usage, for the benefit of future generations; and

(5) site improvement activities for any purpose described in paragraphs (1) through (4), subject to the condition that the activities—

(A) are consistent with the sacred, cultural, traditional, or historic nature of the site; and

(B) are not inconsistent with the management plans for adjacent public land.

(g) TERMINATION OF RESTRICTIVE COVENANTS.—

(1) IN GENERAL.—Each restrictive covenant regarding cultural or historical values with respect to
any interim conveyance or patent for a historic or
cemetery site issued to Sealaska pursuant to the
Federal regulations contained in sections 2653.5(a)
and 2653.11 of title 43, Code of Federal Regula-
tions (as in effect on the date of enactment of this
Act), in accordance with section 14(h)(1) of the
Alaska Native Claims Settlement Act (43 U.S.C.
1613(h)(1)), terminates as a matter of law on the
date of enactment of this Act.

(2) REMAINING CONDITIONS.—Land subject to
a covenant described in paragraph (1) on the day
before the date of enactment of this Act shall be
subject to the conditions described in subsection (e).

(3) RECORDS.—Sealaska shall be responsible
for recording with the land title recorders office of
the State of Alaska any modification to an existing
conveyance of land under section 14(h)(1) of the
Alaska Native Claims Settlement Act (43 U.S.C.
1613(h)(1)) as a result of this Act.

(h) CONDITIONS ON SITES WITH TRADITIONAL,
RECREATIONAL, AND RENEWABLE ENERGY USE
VALUE.—Each conveyance of land to Sealaska from land
withdrawn pursuant to section 3(b)(2) shall be subject
to—
(1) a covenant prohibiting any commercial timber harvest or mineral development; and

(2) the conveyance of the site identified as Pegmatite Mountain Geothermal #53 on the map labeled “Attachment D” and dated February 1, 2011, shall be subject to a covenant prohibiting commercial development of the site for a period of 15 years beginning on the date of enactment of this Act, provided that Sealaska shall have a right to engage in site evaluation and analysis during the period.

(i) Escrow Funds for Withdrawn Land.—On the withdrawal by this Act of land identified for selection by Sealaska, the escrow requirements of section 2 of Public Law 94–204 (43 U.S.C. 1613 note), shall thereafter apply to the withdrawn land.

(j) Guiding and Outfitting Special Use Permits or Authorizations.—

(1) In General.—Consistent with the provisions of section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)), on land conveyed to Sealaska from land withdrawn pursuant to sections 3(b)(1) and 3(b)(2), an existing holder of a guiding or outfitting special use permit or authorization issued by the Forest Service shall be entitled to its rights and privileges on the land for the remain-
ing term of the permit, as of the date of conveyance to Sealaska, and for 1 subsequent 10-year renewal of the permit, subject to the condition that the rights shall be considered a valid existing right reserved pursuant to section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)), and shall be managed accordingly.

(2) NOTICE OF COMMERCIAL ACTIVITIES.—Sealaska, with respect to the holder of a guiding or outfitting special use permit or authorization under this subsection, and a permit holder referenced in this subsection, with respect to Sealaska, shall have an obligation to inform the other party of their respective commercial activities before engaging in the activities on land, which has been conveyed to Sealaska under this Act, subject to the permit or authorization.

(3) NEGOTIATION OF NEW TERMS.—Nothing in this subsection precludes Sealaska and a permit holder under this subsection from negotiating new mutually agreeable permit terms that supersede the requirements of—

(A) this subsection;

(B) section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)); or
(C) any deed covenant.

(4) LIABILITY.—Sealaska shall bear no liability regarding use and occupancy pursuant to special use permits or authorizations on land selected or conveyed pursuant to this Act.

SEC. 5. MISCELLANEOUS.

(a) STATUS OF CONVEYED LAND.—Each conveyance of Federal land to Sealaska pursuant to this Act, and each Federal action carried out to achieve the purpose of this Act, shall be considered to be conveyed or acted on, as applicable, pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(b) ENVIRONMENTAL MITIGATION AND INCENTIVES.—Notwithstanding subsection (e) and (h) of section 4, all land conveyed to Sealaska pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) and this Act shall be considered to be qualified to receive or participate in, as applicable—

(1) any federally authorized carbon sequestration program, ecological services program, or environmental mitigation credit; and

(2) any other federally authorized environmental incentive credit or program.

(c) NO MATERIAL EFFECT ON FOREST PLAN.—
(1) IN GENERAL.—Except as required by paragraph (2) and the amendment made by section 6, implementation of this Act, including the conveyance of land to Sealaska, alone or in combination with any other factor, shall not require an amendment of, or revision to, the Tongass National Forest Land and Resources Management Plan before the first revision of that Plan scheduled to occur after the date of enactment of this Act.

(2) BOUNDARY ADJUSTMENTS.—The Secretary of Agriculture shall implement any land ownership boundary adjustments to the Tongass National Forest Land and Resources Management Plan resulting from the implementation of this Act through a technical amendment to that Plan.

(d) EFFECT ON ENTITLEMENT.—Nothing in this Act shall have any effect upon the entitlement due to any Native Corporation, other than Sealaska, under—

(1) the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); or

(2) the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).
SEC. 6. CONSERVATION AREAS.

(a) IN GENERAL.—Section 508 of the Alaska National Interest Lands Conservation Act (Public Law 96–487; 94 Stat. 2381, 104 Stat. 4428) is amended—

(1) in the matter preceding paragraph (1), by striking “The following lands are hereby” and inserting the following:

“(a) IN GENERAL.—The following land is”; and

(2) by adding at the end the following:

“(13) CONSERVATION AREAS.—Subject to valid existing rights, certain land for conservation purposes, comprising approximately 151,565 acres, as depicted on the map entitled “Conservation Areas”, dated February 1, 2011, and labeled “Attachment E”, which is more particularly described as follows:

“(A) BAY OF PILLARS.—Certain land, comprising approximately 21,146.5 acres, located on the southern shore of the Bay in Forest Service Value Comparison Unit 4030.

“(B) KUSHNEAHIN CREEK.—Certain land, comprising approximately 36,703 acres, located on southwestern Kupreanof Island in the Forest Service Value Comparison Units 4300 and 4310.

“(C) SARKAR LAKES.—Certain land, comprising approximately 25,403.7 acres, located
on Prince of Wales Island in Forest Service Value Comparison Unit 5541.

“(D) Western Kosciusko.—Certain land, comprising approximately 7,416.5 acres, located on Kosciusko Island in Forest Service Value Comparison Units 5410, 5430, and 5440.

“(E) Honker Divide.—Certain land, comprising approximately 15,586.2 acres, located on Prince of Wales Island in Forest Service Value Comparison Units 5740, 5750, 5760, 5780, and 5971.

“(F) Eek Lake and Sukkwan Island.—Certain land, comprising approximately 34,644.1 acres, located in Forest Service Value Comparison Units 6320, 6700, 6710 and 6720.

“(G) Eastern Kosciusko.—Certain karst land, comprising approximately 1,663 acres, located on Kosciusko Island in Forest Service Value Comparison Units 5430 and 5460.

“(H) Northern Prince of Wales.—Certain karst land, comprising approximately 10,888 acres, located in Forest Service Value Comparison Units 5280, 5290, 5311, 5313, 5330, 5360, and 5371.

“(b) Management of Conservation Areas.—
“(1) IN GENERAL.—Subject to paragraph (2), the conservation areas designated by subsection (a)(13) shall be allocated to Land Use Designation II status (as defined in section 2 of the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act) and shall be managed by the Secretary of Agriculture to protect subsistence activities and unique biological and geological resources and to prohibit commercial timber harvests or new road construction, in accordance with management guidelines developed under the Tongass National Forest Land and Resource Management Plan.

“(2) REQUIREMENTS.—In managing the areas designated by subsection (a)(13)—

“(A) the Forest Service shall protect the traditional and cultural use, biological and geological value, and, where applicable, the roadless character of the areas;

“(B) industrial logging and associated road building shall be prohibited;

“(C) timber micro-sales in accessible areas shall be allowed;
“(D) restoration projects in young-growth stands and salmon streams shall be encouraged for meeting integrated resource objectives;

“(E) subsistence enhancement and low impact recreation and tourism development projects shall be encouraged;

“(F) sustainable, community-scaled economic development of forest and marine resources shall be allowed, including issuance of special use permits for non-timber forest products gathering, mariculture development, and transportation and energy development; and


“(c) LIMITATION.—The establishment of the conservation areas by subsection (a)(13) shall not be used by the Secretary of Agriculture or a designee of the Secretary of Agriculture as a basis for any administrative management decisions to establish by administrative action any buffers, withdrawals, land-use designations, road closures, or other similar actions on any land, value comparison units, or adjacent land-use designations.”.
SEC. 7. MAPS.

(a) AVAILABILITY.—Each map referred to in this Act shall be maintained on file in—

(1) the office of the Chief of the Forest Service;

and

(2) the office of the Secretary.

(b) CORRECTIONS.—The Secretary or the Chief of the Forest Service may make any necessary correction to a clerical or typographical error in a map referred to in this Act.

(c) TREATMENT.—No map referred to in this Act shall be considered to be an attempt by the Federal Government to convey any State or private land.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act and the amendments made by this Act.