



May 10, 2010

The Honorable Tom Vilsack  
Secretary  
U.S. Department of Agriculture  
1400 Independence Ave., SW  
Washington, D.C. 20250

Beth Giron Pendleton  
Regional Forester  
U.S. Department of Agriculture  
Forest Service-Alaska Region  
P.O. Box 21628  
Juneau, Alaska 99802-1628

Re: Petition for Acknowledgement of Kootznoowoo Property Rights and Interests, Federal Intervention in Fisheries Management and Assertion of Extra-Territorial Jurisdiction over Marine Waters surrounding Angoon, Alaska consistent with Title V of ANILCA in order to assure a Subsistence Preference and Priority in accordance with Title VIII of ANILCA and 50 CFR 100.10(a)

Dear Secretary Vilsack and Regional Forester Pendleton,

Kootznoowoo, Inc. (Kootznoowoo), the Native village corporation for the community of Angoon, Alaska writes today on behalf of itself, its shareholders and community members and petitions the federal government through the USDA Forest Service to implement the "Subsistence" and "Conservation Unit" provisions of the Alaska National Interest Lands Conservation Act (ANILCA).

#### **STATEMENT OF PURPOSE OF PETITION**

Kootznoowoo petitions the federal government to exert management authority over:

- 1.) reserved federal waters within the Admiralty Island National Monument and the Kootznoowoo Wilderness (Admiralty Island) including but not limited to Mitchell, Kanalku and Favorite Bays;

- 2.) reserved federal waters immediately surrounding Admiralty Island within the exterior boundary described in Exhibit A;
- 3.) reserved federal waters 3 miles distant from the continental mainland and the Islands of Admiralty, Chichagof and Baranof Islands; and
- 4.) all marine waters and lands depicted as “Angoon Territory”<sup>1</sup> in Exhibit B through the exercise of extra-territorial jurisdiction

to ensure the fulfillment of the Alaska Native Claims Settlement Act (ANCSA) and the amendments thereto including acknowledging the property rights and interest of Kootznoowoo.

## **BACKGROUND, HISTORY OF ANGOON, ADMIRALTY ISLAND**

From time immemorial to President Carter’s Proclamation<sup>2</sup> of December 1, 1978, creating Admiralty Island National Monument, to this day, the Tlingit people of Angoon have worked continuously to preserve inherent rights to traditional and customary hunting, fishing and harvesting of natural resources, all of which are integral to their tribal way of life.

Angoon’s leadership has persistently and consistently advocated and been intimately involved in protecting Angoon’s community rights and Admiralty Island and its surrounding marine waters through participation in the Tlingit & Haida land suit before the U.S. Court of Claims; before the U.S. Congress in the 1971 ANCSA; the 1980 ANILCA; and the Admiralty Island National Monument Land Management Act of 1990 (Act of 1990) which renames the wilderness portion of the Monument the Kootznoowoo Wilderness.

### **Creation of a National Monument**

When President Carter proclaimed “that there are hereby set apart and reserved as the Admiralty Island National Monument all lands, including submerged lands, and waters owned or controlled by the United States within the boundaries of the area described on the document entitled “Admiralty Island National Monument (Copper River Meridian)...,” Angoon had succeeded in having the federal government reserve approximately 1,100,000 acres of lands, including submerged lands, and

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<sup>1</sup>Chart 10 of “Angoon Territory” showing aboriginal use and ownership and present (1946) Goldschmidt and Haas Manuscript, 1946 and 1994-1995

<sup>2</sup> Presidential Proclamation No. 4611, 3 C.F.R. 69 (1978)

waters within the monument boundaries for reasons important to the United States and Angoon. President Carter understood the importance of Angoon and Admiralty Island to current and future generations of Americans. Angoon understood its responsibility to maintain its culture and way of life, and President Carter with a stroke of a pen assured them of the right to assert their self determination and maintain their culture.

President Carter declared that “Admiralty Island is outstanding for its superlative combination of scientific and historic objects. Admiralty Island contains unique resources of scientific interest which need protection to assure continued opportunities for study.” He recognized the importance of Angoon’s history and value to the Monument by specifically noting that “Admiralty Island has been continuously inhabited by Tlingit Indians for approximately 10,000 years. Archeological sites and objects are plentiful in the areas of Angoon, Chaik Bay, Whitewater Bay and other bays and inlets on the island. These resources provide historical documentation of continuing value for study. The continued presence of these natives on the island add to the scientific and historical value of the area.” (emphasis added)

When President Carter proclaimed that the “The cultural history of the Tlingit Indians is rich in ceremony and creative arts and complex in its social, legal and political systems” and that “Admiralty provides a unique combination of archeological and historical resources in a relatively unspoiled natural ecosystem that enhances their value for scientific study,” he understood the connection Angoon had with the fish and wildlife within the historic Angoon Territory including most of Admiralty Island. It is in this context and understanding of history that Kootznoowoo petitions the federal government through your offices.

President Carter declared that “Hunting and fishing shall continue to be regulated, permitted and controlled in accord with the statutory authorities applicable to the Monument area.” Angoon understood that the fish and game laws created during territorial days would more or less endure as part of the State of Alaska’s management regime. Importantly, Angoon also understood the promises and commitments by their representatives in Washington, D.C. that “subsistence rights” would be addressed next to assure the customary and traditional activities of hunting, fishing, harvesting, sharing and living within accepted cultural Angoon protocols would be protected and assured by federal law and continue so that future

generations could experience the way their ancestors thrived for 10,000 years with assured food security.

With the passage of ANILCA<sup>3</sup> the framework for these federal laws were passed, and the Secretary of Agriculture and others were put to the task of implementing them under the broad title of “subsistence.”

The State of Alaska understood since its inception in 1959 that Native property including fishing rights would be managed and subject to federal laws. This is evidenced by §4 of the Statehood Act<sup>4</sup> and Article 12, §12 of the State Constitution in which the State disclaimed any claims of ownership in these properties and interests therein.

### **Wilderness, Property Rights and Partnership with Kootznoowoo**

Angoon saw that Wilderness status provided the best protection for its subsistence way of life.<sup>5</sup> It also recognized limitations to that status and very carefully negotiated with Congress. This negotiation resulted in unique provisions in ANILCA relating to Kootznoowoo’s private property settlement, including a portfolio of property rights and interest it would retain in federal lands and waters on behalf of Angoon.

Admiralty Island, with the exception of numerous Native Allotments, mineral patents and private inholdings, is primarily federally owned lands and waters. Additionally when initially proclaimed a monument and with the passage of ANILCA, the island’s federal lands were declared to be a dominant estate,<sup>6</sup> and provisions<sup>7</sup> were made for the federal government to procure inholdings with the assistance of Kootznoowoo. An active partnership between the USDA Forest Service as steward of the federal holdings and Kootznoowoo as steward of Native holdings was very much

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<sup>3</sup> ANILCA has two expressly stated primary purposes, i.e. establishing national conservation lands including provisions relating directly to Admiralty Island and Kootznoowoo under Title V and protecting subsistence resources and uses under Title VIII.

<sup>4</sup> Alaska Statehood Act, Public Law 85-508, 72 Stat. 339, July 7, 1958

<sup>5</sup> Angoon did not want to have trees cut down or logging activities such as log transfer facilities located in areas important to maintaining subsistence habitat or activities.

<sup>6</sup> “the National Monument shall be the dominant reservation” Presidential Proclamation No. 4611, 3 C.F.R. 69 (1978); also the 1981 legal description state that the Admiralty Island National Monument Wilderness contains 937,396 acres of National Forest Lands and 32,168 of alienated lands, See Exhibit A, page 4.

<sup>7</sup> The Greens Creek Land Exchange Act of 1995 contemplated federal acquisition of private lands on Admiralty Island and established as a special fund in the United States Treasury into which the first \$5 million of any royalties collected would be paid into a special fund to purchase these properties.

contemplated and established by Congress.<sup>8</sup> Although the Congress designated Kootznoowoo under ANSCA and ANILCA as the statutory holder of rights and interests for the Angoon people, Kootznoowoo recognizes and acknowledges that the clan leaders and families, the Angoon Community Association, Angoon's federally recognized tribal government and the City of Angoon are also beneficiaries of these acts. The Act of 1990 confirms this as it specifically mentions the "Community of Angoon." Therefore Angoon's Tribal and municipal governments have essential roles in the various aspects relating to the management and caretaking<sup>9</sup> of Admiralty Island

### **Kootznoowoo's Portfolio of Native Property on Admiralty Island**

As part of Angoon's settlement under ANCSA, it was conveyed lands and property interests in lands and waters in and around Admiralty Island. Kootznoowoo was conveyed fee simple title to real property at Kootznahoo Inlet by the United States. Additionally, Congress reserved the marine waters of Favorite Bay, Kanalku Bay and Mitchell Bay and marine waters within and surrounding the wilderness monument area for the benefit of Kootznoowoo tribal shareholders and the community members of Angoon. Finally, Congress provided to Kootznoowoo, its shareholders and community members of Angoon rights and interest (e.g., development rights, including the right to develop hydroelectric<sup>10</sup> facilities) in federal lands and waters on Admiralty Island. These holdings while federal were excluded from the provisions of the Wilderness Act in order to assure use by Kootznoowoo. Finally, federal reserved rights are subject to Kootznoowoo's significant property right of quiet enjoyment.

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<sup>8</sup> See Title II of the Act of 1990 - Amends ANILCA to direct the Secretary of Agriculture to enter into land acquisition agreements and cooperative agreements with Kootznoowoo, Inc., to improve the management of federal lands on Admiralty Island

<sup>9</sup> Management and caretaking includes establishing project development standards such as federal air and water quality standards, protecting historic sites, facilitating public works projects; managing and protecting subsistence and other natural resources including salmon and deer, supporting economic development and jobs by receiving project finance funding through grants, assistance, loans and loan guarantees and entering into federal contracts.

<sup>10</sup> The right to develop hydroelectric resources on Admiralty Island within township 49 south, range 67 east, and township 50 south, range 67 east, Copper River Base and Meridian, subject to such conditions as the Secretary of Agriculture shall prescribe for the protection of water, fishery, wildlife, recreational, and scenic values of Admiralty Island. ANILCA §506 (a)(3)(B). The area described is 46,080 acres including approximately half of which is above high tide line and the balance of which includes submerged lands, marine waters and tidelands. It is important to note that a portion of this reserve includes federal waters three miles off shore (otherwise known as donut holes), it extends beyond boundary established by the Carter proclamation

Angoon and Congress further clarified their expectations and positions regarding the management of Admiralty Island with passage of the 1990 Act. However, despite these efforts and the passage of time, Angoon finds its efforts in working with the State of Alaska and the federal government as so far not effective in producing that which was statutorily provided and promised. The spirit and intent of these essential elements of ANILCA relating to the free exercise and quiet enjoyment of sacred activities within the environs of Angoon are being infringed upon and violated.

Hence, this petition.

### **CRITICAL ISSUES FOR USDA FOREST SERVICE**

- As part of Angoon's ANCSA settlement, Congress balanced subsistence and conservation system values relating to Admiralty Island with Kootznoowoo's economic and cultural needs by creating three categories of property interest on Admiralty Island with specific management direction applicable to these valuable property rights.<sup>11</sup> Kootznoowoo asserts that this portfolio of property rights and management direction, including Kootznoowoo's right to quiet enjoyment, the provision related to providing direction to the Secretary of Agriculture and exemption from the Wilderness Act, are provisions related to economic and cultural needs of the corporation and its tribal shareholders.
- From time immemorial the citizens of Angoon have considered themselves the "people of the tides" and relied upon a healthy tidal zone in the bays and waters surrounding Angoon for their spiritual, mental, emotional, and physical sustenance. The community of Angoon has enumerated in ANILCA additional legal rights<sup>12</sup> including specific rights related to the management of marine waters<sup>13</sup>

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<sup>11</sup> §506. (a)(1) Congress hereby recognizes the necessity to reconcile the national need to preserve the natural and recreational values of the Admiralty Island National Monument with the economic and cultural needs and expectations of Kootznoowoo, Incorporated, and Sealaska, Incorporated, as provided by the Alaska Native Claims Settlement Act and this Act

<sup>12</sup> ANILCA §506. (a)(1) Congress hereby recognizes the necessity to reconcile the national need to preserve the natural and recreational values of the Admiralty Island National Monument with the economic and cultural needs and expectations of Kootznoowoo, Incorporated ... provided by the Alaska Native Claims Settlement Act and this Act.

(2) Nothing in this section shall affect the continuation of the opportunity for subsistence uses by residents of Admiralty Island consistent with Title VIII of this Act.

<sup>13</sup> §506(a)(E) provides the Secretary of Agriculture shall consult and cooperate with Kootznoowoo, Incorporated, in the management of Mitchell, Kanalku, and Favorite Bays, and their immediate

and lands necessary to protect and maintain their customary and traditional way of life. Kootznoowoo asserts that the Secretary of Agriculture has a responsibility to acknowledge, maintain and protect these rights. Until the USDA Forest Service recognizes these property rights, Kootznoowoo and its tribal shareholders will continue to suffer irreparable harm.

- The Secretary is required to manage the lands and marine waters around Angoon as directed by Congress to insure that any public access does not interfere with Kootznoowoo's quiet enjoyment, occupancy and use. Kootznoowoo asserts that these property rights and interests granted by Congress for subsistence, economic and other purposes, including maintaining cultural heritage, knowledge and community food supply, are valuable property rights. Any loss of these rights causes the nation, the community of Angoon, and Kootznoowoo and its tribal shareholders irreparable harm.
- Kootznoowoo has been informed by USDA Forest Service personnel that the State of Alaska owns the marine waters and submerged lands of Mitchell, Favorite and Kanalku Bays and generally around Admiralty Island as result of a settlement in Alaska v. United States.<sup>14</sup> This 2001 settlement, in which Kootznoowoo was never advised nor consulted as required by law, provides<sup>15</sup> that submerged lands held by the United States for the benefit of any tribe, band, or group of Indians or for individual Indians were to be excluded from the settlement. History indicates that the lands and waters of the Tongass prior to its creation<sup>16</sup> have sustained the people who have lived in the forest. Goldschmidt and Haas documented this in their 20<sup>th</sup> century study of the possessory rights of Angoon which is set forth in Exhibit B. Additionally, numerous Native Allotments have been established on Admiralty Island and these allotments include claims to use of marine waters, tidelands and submerged lands. Documentation abounds

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environs...and provides for... regulation of public uses; and management of the recreational and natural values of the area.

<sup>14</sup> No. 128 , Original in The Supreme Court of the United States

<sup>15</sup> (2) The disclaimer does not disclaim: (a) any submerged lands that are subject to the exceptions set out in Section 5 of the Submerged Lands Act, ch. 65, Tit. II, §5, 67 Stat. 32, 43 U.S.C. 1313; one exception is listed under §1313 (b) such lands beneath navigable waters held, or any interest in which is held by the United States for the benefit of any tribe, band, or group of Indians or for individual Indians.

<sup>16</sup> The "Tongass National Forest" was created by a series of presidential proclamations beginning with Teddy Roosevelt's Proclamation 491 - establishing the Alexander Archipelago Forest Reserve on August 20, 1902.

relating to the culture, history and relationship of Angoon to the lands and waters surrounding Angoon, and this is well known to the USDA Forest Service as is evidenced in its publications and archives.<sup>17</sup> Kootznoowoo asserts that beginning with the establishment of the Tongass, continuing through the period of time during which the USDA Forest Service destroyed smoke houses and other property owned by the people of Angoon, continuing through the presidential proclamation establishing the Admiralty Monument and through ANCSA, ANILCA and the 1990 Act, that either Angoon<sup>1819</sup> or the USDA Forest Service has owned the lands including submerged lands and marine waters of Admiralty Island as described in Exhibit A and Exhibit B. Furthermore, the USDA Forest Service cannot legally affect title to these lands and waters without consultation with Kootznoowoo.

- Kootznoowoo has been informed by USDA Forest Service personnel that the Department of Justice has “tied their hands” relative to the disclaimer<sup>20</sup> of submerged lands and marine waters and that the State of Alaska owns up to mean high tide. Kootznoowoo asserts that the Department of Justice cannot override the laws related to Native rights as these laws are solely within the plenary powers of Congress and not the executive branch or its agencies and that Kootznoowoo’s rights

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<sup>17</sup> See USDA Forest Service Archives Related to “*Haa Atxaayi Haa Kusteeyix Sitee*, Our Food is our Tlingit Way of Life: Excerpts of Oral Interviews.” Newton and Moss, May 2009. Rasmuson Library University of Alaska, Library

<sup>18</sup> See Goldschmidt and Haas Manuscript, 1946 and 1994-1995

<sup>19</sup> “As a compact with the United States said State and its people do agree and declare that they forever disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under the authority of this Act, the right or title to which is held by the United States or is subject to disposition by the United States, and to any lands or other property, (including fishing rights), the right or title to which may be held by any Indians, Eskimos, or Aleuts (hereinafter called natives) or is held by the United States in trust for said natives; that all such lands or other property, belonging to the United States or which may belong to said natives, shall be and remain under the absolute jurisdiction and control of the United States until disposed of . . .” Section 4, Alaska Statehood Act, Public Law 85-508, 72 Stat. 339, July 7, 1958. See also Article 12, Section 12, State of Alaska Constitution.

<sup>20</sup> In an abrupt about face, the USDA Forest Service changed its long held policy that submerged lands and waters of the Alexander Archipelago were reserved to the United States as part of the various proclamations establishing the Tongass. The State of Alaska was the beneficiary of a settlement to a claim that these were state submerged lands and waters, consistent with the equal footing doctrine and the submerged lands Act (SLA). Kootznoowoo was not consulted nor advised about these settlement discussions as is required by §506 of ANILCA. A careful reading of the disclaimer reveals an exception to the State acquiring title to the marine waters and submerged lands of Admiralty Island. Kootznoowoo asserts the disclaimer related to any submerged lands and waters of Admiralty Island was ineffective in vesting title in the State of Alaska, consistent with the two counts in Alaska v. United States whereby the Supreme Court ruled against the State of Alaska’s claims.

under ANILCA were negotiated in good faith. The USDA Forest Service is required to actively manage the Monument wilderness despite direction from the Department of Justice on the disclaimer of title to submerged lands and marine waters of the Tongass to the State of Alaska. Kootznoowoo asserts the USDA Forest Service should carefully review the disclaimer for provisions supportive of Kootznoowoo's position.

- The USDA Forest Service owns the dominant estate of Admiralty Island. Kootznoowoo asserts that it should work with Kootznoowoo and the Community of Angoon to make the Monument Wilderness whole and in a manner consistent with the Carter Proclamation, ANILCA and the 1990 Act.
- Kootznoowoo has received a Record of Decision regarding the development requirement for a hydroelectric project whereby the USDA Forest Service requires Kootznoowoo to procure permits from the State of Alaska for water and tidelands. Kootznoowoo asserts the State of Alaska has no jurisdiction over these waters and tidelands, that the USDA is not authorized to expand the restrictions or add conditions to those imposed by the Congress on its right to develop hydro electric resources under §506 of ANILCA, and therefore this requirement to procure these additional permits should be removed.
- Current State of Alaska and federal management regulatory scheme does not meet the requirements of ANILCA. The law provides for some basic steps which have not been undertaken. These steps would ensure that the resource manager develop a meaningful understanding of the community's relationship with the subsistence resources. Kootznoowoo asserts that in order for the resource manager to have a meaningful understanding, they must conduct additional research, and change their attitude and perspective on the resource and revise their management prescriptions and style. The current management system is based on "bag limits." Such a perspective violates the purpose and intent of the ANILCA subsistence preference and priority.

- The law requires C&T Determinations to be made by stock, species, location and community. In addition Congress<sup>21</sup> directed that Admiralty Island shall be managed by the Secretary of Agriculture as a unit of the National Forest System *“to protect objects of ecological, cultural, geological, historical, prehistorical, and scientific interest.”* “Subsistence” as practiced by Angoon community members consists of activities, the very heart of which are ecological, cultural, geological, historical, prehistorical and of scientific interest. Despite these intersecting and overlapping mandates and direction of Congress, the basic work necessary for making C&T Determinations by stock and species on Admiralty Island has not been done by the USDA Forest Service. Kootznoowoo asserts that the USDA Forest Service is responsible for making C&T Determinations and cannot assign its duties to the State of Alaska without the consent of Kootznoowoo as they relate to the lands and marine waters of Angoon. Kootznoowoo has substantive and procedural rights related to the Monument, including the marine waters of Kanalku, Mitchell and Favorite Bays as well as all submerged lands and marine water located on Admiralty Island. The USDA Forest Service is under an obligation to consult and cooperate with Kootznoowoo in its management efforts. Kootznoowoo has provided this direction in numerous discussions and in its comments and concerns over the Tongass Land Management Plan and subsequent appeals, which were ignored and summarily dismissed.
- Placing a bag limit of 15 Kanalku sockeye per household per year on subsistence uses of this resource does not provide for the opportunity<sup>22</sup> for the community to meet its customary and traditional needs and uses of this resource and does not provide for a priority and preference for these salmon, especially while a mixed stock

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<sup>21</sup> Congress’ purposes of ANILCA parks, refuges, and national interest conservation system units is to have as their primary purpose “the viability of subsistence resources and the opportunity for continued subsistence uses by local residents which is essential to the life of Indian people...”

<sup>22</sup> ANILCA §802. It is hereby declared to be the policy of Congress that--  
 (1) consistent with sound management principles, and the conservation of healthy populations of fish and wildlife, the utilization of the public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for each unit established, designated, or expanded by or pursuant to Titles II through VII of this Act, the purpose of this title is to provide the opportunity for rural residents engaged in a subsistence way of life to do so.

commercial fishery takes hundreds of thousands of the same fish in marine waters immediately adjacent to the migration terminus near Angoon. The law provides that Angoon community members have a right to a priority and preference to these resources.<sup>23</sup> Kootznoowoo asserts that unless the community's needs are being met that the commercial mixed stock fishery should be limited to historic levels, and that a customary and traditional determination<sup>24</sup> (C&T Determination) needs to be made and the commercial fishery stopped until that need is met.

- Enforcing a “bag limit” against Angoon Community members when they take Kanalku Sockeye for subsistence purposes is harassment and illegal. Enforcing a “bag limit” against Angoon Community members when they take Kanalku Sockeye for subsistence purposes is harassment, patently illegal and offensive when the commercial effort is allowed to increase. The law provides for a preference and priority to the residents of Angoon of these resources, and any limitation can only be established after taking into consideration the customary and traditional relationship between these sockeye and the community of Angoon. Kootznoowoo asserts that all enforcement efforts against Angoon subsistence users should be suspended and that current outstanding citations should be dismissed.
- Enforcing a “bag limit” against Angoon community members when they take Kanalku Sockeye for subsistence purposes is harassment and illegal when the disproportionate commercial effort is allowed to increase. The law provides for a preference and priority to the residents of Angoon for this reason, and until a rule is established taking into consideration the customary and traditional relationship between these sockeye and the community of Angoon which respects the communities needs, enforcement efforts should be suspended. The USDA Forest Service should carefully monitor the resources migration and population levels of these Kanalku Sockeye and implement a plan that will provide for the Community's needs, e.g., close the heavily mixed use areas and “hot spots” in the adjacent

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<sup>23</sup>Congress prefaced ANILCA's principle subsistence provisions with a declaration that “the continuation of the opportunity for subsistence uses... essential to native physical, traditional and cultural existence.

§801(1)

<sup>24</sup> ANILCA §803.

marine waters and require the commercial effort to congregate closer to the hatchery stocking areas away from Angoon.

- Enforcing criminal penalties by way of fines, forfeitures and sanctions against Angoon Community members for taking subsistence resources without establishing the required parameters under ANILCA such as making C&T Determinations is tantamount to taking property without fair compensation and violates the due process rights of Angoon Community members. Angoon defendants have forfeited fish and wildlife that they have harvested legally in the context of customary and traditional means and efforts only to have the State of Alaska confiscate the same and through official action provide the forfeited fish and wildlife to others without due process of law and without just compensation. Kootznoowoo asserts such actions violate the Constitution of the United States and infringes on the rights of Angoon which is located in a “protected Monument Wilderness.” The value of this unlawful taking is not limited to the loss of private and community property, but it also includes the time and effort of tribal shareholders who then refrain from further legal activities while enforcement and criminal proceedings are pending. Kootznoowoo asserts the USDA Forest Service is responsible for management of the Monument Wilderness and for achieving public policy goals established by the U.S. Congress including the health, vitality and continuation of Angoon, a traditional Tlingit community that has existed for 10,000 years, and the quiet enjoyment of Kootznoowoo. Kootznoowoo asserts that the USDA Forest Service should discharge its responsibilities with cooperators and other in a manner that recognizes the constitutional and other legal rights of Kootznoowoo and Angoon community members.

----- Petition -----

Kootznoowoo requests that the U.S. Secretary of Agriculture and the USDA Forest Service Regional Forester find:

- a. As part of Angoon's ANCSA settlement, Congress balanced subsistence and conservation system values relating to the Admiralty Monument/Kootznoowoo Wilderness with Kootznoowoo's economic and cultural needs by creating portfolio of property interest and granting them to Kootznoowoo with specific management direction including rights to quiet enjoyment, consultation, cooperation and the lack of applicability of the Wilderness Act.
- b. 15 Kanalku sockeye salmon per family per year per household results in a failure to provide for the ANILCA §804 preference and priority when commercial fishing interest are allowed to disproportionately harvest hundreds of thousands of salmon in Angoon marine waters; and
- c. Enforcement efforts in the Monument Wilderness have resulted in monetary fines for violations of state bag limits, seasons and forfeitures of fish and wildlife to State of Alaska; and
- d. A voluntary closure by the community of Angoon to the harvest of Kanalku sockeye salmon while commercial fishing interest are allowed by the State of Alaska to expand take and effort results in a failure to provide for the ANILCA §804 preference and priority; and
- e. Kootznoowoo's attempts to modify the management process through petitions and correspondence with the State of Alaska have not resulted in either a solution or the likelihood of a solution under current state management; and
- f. C&T Determinations have not been implemented prior to subsistence limitation being established; and
- g. Failure to complete C&T Determinations have resulted in a disproportionate allocation of salmon between Title VIII federally qualified, subsistence users and the commercial fishing fleet utilizing Angoon's traditional marine waters; and
- h. USDA Forest Service has jurisdiction in reserved waters of Mitchell, Favorite and Kanalku Bays and the marine waters described in the Admiralty Island National Monument Proclamation as well as the

marine waters described by Goldschmidt and Haas as traditional clan territories belonging to Angoon; and

- i. USDA Forest Service has authority under 50 CFR 100.10 (a) to close waters and land necessary to provide a preference and priority for salmon for the residents of Angoon under ANILCA; and

Kootznoowoo petitions the Secretary and Regional Forester to exercise their authority under law as prescribed in 50 CFR 100.10 (a) whereby:

*“ the Secretaries retain their existing authority to restrict or eliminate hunting, fishing or trapping activities which occur on lands or waters in Alaska other than public lands when such activities interfere with subsistence, hunting, fishing, or trapping on the public lands to such an extent as to result in a failure to provide the subsistence priority. ”*

and to close to commercial fishing the fisheries in the marine waters surrounding Angoon to wit:

- 1.) reserved federal waters within the Admiralty Island including but not limited to Mitchell, Kanalku and Favorite Bays;
- 2.) reserved federal waters immediately surrounding Admiralty Island within the exterior boundary described in Exhibit A;
- 3.) reserved federal waters 3 miles distant from the continental mainland and the Islands of Admiralty, Chichagof and Baranof Islands; and
- 4.) all marine waters and lands depicted as “Angoon Territory” in Exhibit B through the exercise of extra territorial jurisdiction

to ensure the subsistence priority and preference established by Title VIII §804 of ANILCA are met for Kootznoowoo shareholders and the community members of Angoon.

Furthermore, Kootznoowoo Petitions the Secretary of Agriculture to acknowledge, maintain and protect Kootznoowoo’s rights, interests and quiet enjoyment of federal lands and waters within Admiralty Island as prescribed by law and take all necessary actions to dismiss current and continued prosecution of subsistence violations , bag limits and further enforcement efforts.

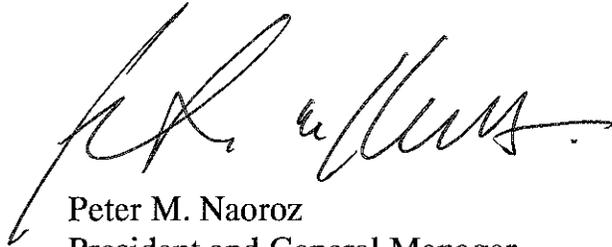
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In conclusion, please acknowledge receipt of this Petition at your earliest convenience. Kootznoowoo requests the courtesy of a reply by the end of May. We also request a timeline outlining when we can expect a final determination by USDA and the Forest Service on all matters raised in this petition. We appreciate your attention to these matters, and we are prepared to engage fully in the dialogue and consultation necessary to resolve these matters at the earliest date possible.

Respectfully,



Matthew A. Kookesh  
Chairman of the Board  
Kootznoowoo, Inc.



Peter M. Naoroz  
President and General Manager  
Kootznoowoo, Inc.

cc: Wally Frank, Sr., President, Angoon Community Association  
Mayor Albert Howard, City of Angoon  
Albert M. Kookesh, Chair, Sealaska Corporation  
Chris McNeil, President and CEO, Sealaska Corporation  
The Honorable Ken Salazar, Secretary of Interior  
The Honorable Larry Echo Hawk, Assistant Secretary of Interior  
The Honorable Sean Parnell, Governor, State of Alaska  
Denby Lloyd, Commissioner, ADF&G  
Janie Hipp, Senior Advisor to the Secretary, USDA  
Robert Bonnie, Senior Advisor to the Secretary for Environment and  
Climate, USDA  
Harris Sherman, Under Secretary For Natural Resources and  
Environment, USDA  
Thomas L. Tidwell, Chief, USDA Forest Service  
Lillian Petershoare, Tribal Liaison, USDA Forest Service, Region 10  
Forrest Cole, Forest Supervisor, Tongass National Forest  
Marti Marshall, Admiralty Island Ranger  
K.J. Metcalf, Friends of Admiralty

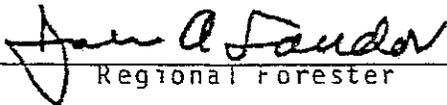
NATIONAL WILDERNESS PRESERVATION SYSTEM

Admiralty Island National Monument Wilderness

Tongass National Forest

I hereby certify that the legal description and maps herewith represent the location of the boundary of the Admiralty Island National Monument Wilderness on the Tongass National Forest as covered into the National Wilderness Preservation System by the Act of December 2, 1980 (P.L. 96-487).

Signed October 23, 1981

  
Regional Forester

ADMIRALTY ISLAND NATIONAL MONUMENT WILDERNESS

The exterior boundary of the Admiralty Island National Monument Wilderness, Tongass National Forest, Alaska Region, June 1, 1981 as covered into the National Wilderness Preservation System by the Act of December 2, 1981 (P.L. 96-487) in the State of Alaska:

Beginning on the shore of the northwest side of Admiralty Island at Pt. Young, Vertical Angle Bench Mark (VABM) 20; thence, southeasterly along the hydrographic divide between Admiralty Creek and Stevens Passage to an unnamed peak, elevation 1893 in the northwest one-quarter of Section 8, T.43S., R.67E., Copper River Meridian (CRM); thence, southeasterly along said hydrographic divide, passing southwest of a series of small ponds, elevation 2217, through an unnamed peak, elevation 2432, to an unnamed peak, elevation 2754, in the northwest one-quarter of Section 16 of said Township; thence, southeasterly along said hydrographic divide through an unnamed peak, elevation 3390, to an unnamed peak, elevation 3592, near the center of Section 22 of said Township; thence, southeasterly along said hydrographic divide through an unnamed peak, elevation 2985, to an unnamed peak of unspecified elevation in the northwest one-quarter of Section 26 of said Township; thence, southwesterly along the hydrographic divide between Admiralty Creek and King Salmon River to an unnamed peak, elevation 2017, in the east one-half of Section 33 of said Township; thence, westerly along said hydrographic divide to an unnamed peak, elevation 4210, in the south one-half of Section 31 of said Township; thence, northwesterly along said hydrographic divide to an unnamed peak, elevation 3939, in the west one-half of said Section 31; thence, westerly along said hydrographic divide to an unnamed peak of unspecified elevation in the east one-half of Section 36, T.43S., R.66E., CRM; thence, along the common boundary with Admiralty Island National Monument Non-Wilderness, southerly and southwesterly along the hydrographic divide between Greens Creek and King Salmon River to an unnamed peak, elevation 3830, in the northeast one-quarter of Section 11, T.44S., R.66E., CRM; thence, southeasterly and southerly along said hydrographic divide through an unnamed peak, elevation 3802, to an unnamed peak, elevation 4469, in the southwest one-quarter of Section 13 of said Township; thence, westerly along the hydrographic divide between an unnamed tributary of Greens Creek and an unnamed tributary of Wheeler Creek to an unnamed peak, elevation 3856, in the south one-half of Section 14 of said Township; thence, northwesterly along said hydrographic divide to an unnamed peak, elevation 3990, in the west one-half of said Section 14; thence, westerly along said hydrographic divide to an unnamed peak, elevation 3738, in the northeast one-quarter of Section 16 of said Township; thence, southwesterly along the hydrographic divide between an unnamed tributary of Wheeler Creek and an unnamed tributary of Greens Creek through a saddle, elevation 1110, to an unnamed peak, elevation 3752, in the southeast one-quarter of Section 30 of said Township; thence, northerly and westerly along said hydrographic divide to an unnamed peak of unspecified elevation in the northeast one-quarter of Section 25, T.44S., R.65E., CRM; thence, northwesterly along the hydrographic divide between an unnamed

tributary of Greens Creek and an unnamed drainage of Piledriver Cove to an unnamed peak of unspecified elevation in the southwest one-quarter of Section 11 of said Township; thence, northwesterly along said hydrographic divide to an unnamed knob of unspecified elevation between Section 3 and Section 10 of said Township; thence, northerly along said hydrographic divide to a point on the west shore of Admiralty Island, southwest of the mouth of Greens Creek in Hawk Inlet; thence, offshore of the Admiralty Island coastline and of variable distance from said coastline to include all federally-owned rocks, pinnacles, islets, and islands above mean high tide immediately offshore or specifically named as follows: from offshore of Admiralty Island, proceeding southwesterly, encompassing Piledriver Cove and Game Cove, to a point in Chatham Strait offshore and west of Point Marsden, USGS station "Bad 2"; thence, southerly to a point offshore and west of USGS station "Lines 2"; thence, southeasterly, encompassing Square Cove, to a point offshore and west of Cube Point in the Northwest one-quarter of Section 17, T.45S, R.66E., CRM; thence, southerly, encompassing Cube Cove and Point Hepburn to a point offshore and west of USGS station "Jew 2"; thence, southerly, encompassing Jims Cove, to a point offshore and west of USGS station "Tax 2"; thence, southerly, passing west of Fishery Point, to a point offshore and west of USGS station "Sad 2"; thence, southerly and southeasterly, encompassing Marble Bluffs, to a point offshore and west of USGS station "Tap 2"; thence, southerly, encompassing Marble Cove, to a point offshore and west of Parker Point, USGS station "Harp 2"; thence, southeasterly and southerly to a point offshore and west of Danger Point Reef, north of USGS station "Game"; thence, southerly, encompassing Kootznahoo Inlet, Favorite Bay, Kenasnow Rocks and Kootznahoo Roads, to a point offshore and west of Pt. Samuel, north of USGS station "Bay 2" on Killisnoo Island; thence, southerly, encompassing Killisnoo Island, Killisnoo Harbor, Table Island, and Hood Bay, to a point offshore and west of Distant Pt., USGS station "Distant 2"; thence, southerly to a point offshore and west of USGS station "Bow," north of Village Pt.; thence, southwesterly, encompassing Chaik Bay, Russian Reef, and Whitewater Bay, to a point offshore and west of USGS station "Rocky 20"; thence, southerly, encompassing Wilson Cove, to a point offshore and west of Pt. Wilson; thence, southerly to a point offshore and west of USGS station "Wash 9"; thence, southerly to a point offshore and west of USGS station "Pt. Gardner"; thence, southerly and northeasterly offshore of the southernmost point of Admiralty Island, encompassing a small islet with a navigation light, Surprise Harbor and Murder Cove, to a point offshore and east of Carroll Island; thence, northeasterly to a point offshore and east of Point Brightman on the east coast of Admiralty Island in Frederick Sound; thence, northeasterly, encompassing Herring Bay and Chapin Bay, to a point offshore and east of Point Napean, USGS station "Pean"; thence, northeasterly, encompassing Eliza Harbor and Liesnoi Island and Woewodski Harbor, to a point offshore and east of Deep Water Pt.; thence, northeasterly, encompassing Little Pybus Bay, to a point offshore and east of Spruce Island; thence, northeasterly, encompassing Pybus Bay and the San Juan Islands, to a point offshore and south of Round Rock; thence, northeasterly, northerly, and

northwesterly, encompassing the Brothers Islands, to a point offshore and east of USGS station "Pybus", south of False Pt. Pybus in Stevens Passage; thence, northerly, encompassing Gambier Bay, to a point offshore and east of Pt. Gambier on Gambier Island; thence, northerly, encompassing Seymour Canal, to a point offshore and east of Point Hugh on the southern shore of Glass Peninsula of Admiralty Island; thence, northerly to a point offshore and east of VABM 11, USGS station "Mid"; thence, northwesterly to a point offshore and east of VABM 17, USGS station "Lite"; thence, northwesterly to a point offshore and East of Midway Point, VABM 29; thence, northwesterly to a point offshore and east of Pt. Glass, VABM 12; thence, northwesterly to a point offshore and east of Twin Pt., VABM 14; thence, northwesterly to a point offshore and east of USGS station "South" on South Island; thence, northwesterly, encompassing South Island, to a point offshore and east of USGS station "Zinc"; thence, northwesterly to a point offshore and east of USGS station "Rock"; thence, northeasterly, northerly, and northwesterly, encompassing Grand Island and Doty Cove, to a point offshore and east of Cove Pt., USGS station "Cove"; thence, northerly to a point offshore and east of Arden Pt.; thence, northwesterly to a point offshore and north of False Arden; thence southwesterly to a point offshore and north of USGS station "New"; thence, westerly, encompassing Green Cove and Oliver Inlet, to a point offshore and north of USGS station "Rain"; thence, northwesterly to a point offshore and north of USGS station "Bright"; thence northwesterly to a point onshore of the north shore of Admiralty Island at Pt. Young, VABM 20, the point of beginning.

The Admiralty Island National Monument Wilderness contains 937,396 acres of National Forest land and 32,168 acres of alienated lands. \*

The above described area has been plotted and elevations obtained from the following U.S. Geological Survey maps, copies of which are enclosed hereto and made part hereof:

Juneau (A-1), Alaska, 15'  
 Juneau (A-2), Alaska, 15'  
 Juneau (A-3), Alaska, 15'  
 Sitka (A-1), Alaska, 15'  
 Sitka (A-2), Alaska, 15'  
 Sitka (B-1), Alaska, 15'  
 Sitka (B-2), Alaska, 15'  
 Sitka (C-1), Alaska, 15'  
 Sitka (C-2), Alaska, 15'  
 Sitka (C-3), Alaska, 15'  
 Sitka (D-1), Alaska, 15'  
 Sitka (D-2), Alaska, 15'  
 Sitka (D-3), Alaska, 15'  
 Sumdum (B-6), Alaska, 15'  
 Sumdum (C-6), Alaska, 15'  
 Sumdum (D-6), Alaska, 15'



**Chart 10: ANGOON TERRITORY**  
 SHOWING ABORIGINAL USE AND OWNERSHIP  
 AND PRESENT (1946) USES

