

**Statement of  
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Bureau of Land Management  
Senate Energy & Natural Resources Committee  
Subcommittee on Public Lands and Forests  
Hearing on  
S. 1354, Cape Fox Land Entitlement Adjustment Act of 2003  
  
March 10, 2004**

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to appear before you today to present the views of the Bureau of Land Management (BLM) on S. 1354, the Cape Fox Land Entitlement Adjustment Act of 2003.

**Background**

Cape Fox Corporation (Cape Fox) is an Alaska Native Village Corporation organized pursuant to Alaska Native Claims Settlement Act (ANCSA) for the Native Village of Saxman, which is located near Ketchikan. Like the other nine southeast villages recognized for benefits under section 16 of ANCSA, Cape Fox received an entitlement of 23,040 acres. All other ANCSA Village Corporations were restricted from making selections within two miles of the boundary of home rule cities. Cape Fox, however, was uniquely affected by the original terms of ANCSA as it was restricted from making selections within six miles of the boundary of the city of Ketchikan. As a result of the six-mile restriction, the only land within Cape Fox's core township available for conveyance is a 160-acre parcel which the corporation does not want. Under current law, the BLM must transfer this parcel to Cape Fox and charge the acreage to the corporation's ANCSA entitlement.

The requirement for village corporations to take title to all available land within their core township is a basic component of ANCSA, applicable to all village corporations. Another basic component of the original settlement is that conveyances to village corporations will be restricted to lands withdrawn for that purpose under the original terms of ANCSA.

**S. 1354**

S. 1354 waives an existing statutory requirement that would compel Cape Fox to use a portion of its entitlement under ANCSA for a remote 160-acre mountainous parcel that is of no economic value to the corporation. The bill also directs the BLM to convey to Cape Fox, the surface estate to a 99-acre tract in the Tongass National Forest that was unavailable to the corporation under the original terms of ANCSA; the subsurface estate of this tract is to be transferred to Sealaska Corporation (Sealaska).

Because S.1354 extends benefits to Cape Fox that were not available under the original terms of ANCSA, the Department of the Interior has carefully considered the merits of this proposal and agrees that the Cape Fox situation is sufficiently unique to warrant the legislative remedy that is provided in S. 1354. However, the Department is concerned about the conveyance deadline in Sec. 4(c) of the bill. If Cape Fox decides to accept title to the lands offered, the BLM must issue conveyance documents within six months of receiving the corporation's selection. Current regulatory requirements for ANCSA conveyances take longer than the six months – typically closer to 12 months – and must include identification of easements to be reserved, issuance of an appealable decision, and public notice of that decision. Unless the legislation specifies otherwise, or the ANCSA conveyance process is changed before then, the 99-acre tract must be conveyed under existing ANCSA regulations. The six month timeframe also could be unnecessarily disruptive to BLM conveyance transactions that are in progress.

The Department of the Interior recommends that Sec. 4(c) of the bill be modified to read as follows:  
*"TIMING-The Secretary of the Interior shall complete the interim conveyances to Cape Fox and Sealaska under this section as soon as practicable after the Secretary of the Interior receives notice of the Cape Fox selection under subsection (a)."* The Department understands the economic importance of this conveyance to Cape Fox and will transfer title as quickly as possible in concert with other existing land transfer plans and commitments.

Adjustment of Cape Fox's selections and conveyances of land under ANCSA requires adjustment of Sealaska's selections and conveyances to avoid the creation of an additional split estate between National Forest System surface lands and Sealaska subsurface lands. Because this adjustment concerns lands administered by the U.S. Department of Agriculture, the Department of the Interior defers to the Secretary of Agriculture for a position on this aspect of S. 1354.